

MINUTES
SENATE FINANCE COMMITTEE
March 14, 2006
9:02 a.m.

CALL TO ORDER

Co-Chair Lyda Green convened the meeting at approximately [9:02:39 AM](#).

PRESENT

Senator Lyda Green, Co-Chair
Senator Gary Wilken, Co-Chair
Senator Con Bunde, Vice Chair
Senator Fred Dyson
Senator Bert Stedman
Senator Lyman Hoffman
Senator Donny Olson

Also Attending: GEORGE WUERCH, Chair, Knik Arm Bridge and Toll Authority; BILL GREENE, Project Counsel, Knik Arm Bridge and Toll Authority; RYAN MAKINSTER, Staff to Senator John Cowdery; TOM MAHER, Staff to Senator Therriault; PAT DAVIDSON, Director, Division of Legislative Audit; BARBARA MASON, Executive Director, Alaska Council on Domestic Violence and Sexual Assault; BRENDA STANFILL, Executive Director, Interior Alaska Center for Nonviolent Living, and Chair, Alaska Network on Domestic Violence and Sexual Assault;

Attending via Teleconference: From Anchorage: STEVE WALLACE; JAMES CANTOR, Chief Assistant Attorney General, Statewide Section Supervisor, Transportation Section, Civil Division, Department of Law; From an offnet location: STEPHANIE KESLER, Government Hills Community Council; DAN COFFEY, Attorney representing Diamond Parking; JOHN TORGERSON, Deputy Commissioner, Department of Transportation and Public Facilities

SUMMARY INFORMATION

SB 303-KNIK ARM BRIDGE AND TOLL AUTHORITY

The Committee heard from the Knik Arm Bridge and Toll Authority, the Department of Transportation and Public Facilities, the

Department of Law, and affected residents. An amendment was adopted and the bill was reported from Committee.

SB 304-AIRPORT PARKING SHUTTLES/AIRPORT CHARGES

The Committee heard from the sponsor, the Department of Transportation and Public Facilities and a parking lot vendor. The bill was reported from Committee.

SB 250-DOMESTIC VIOLENCE/SEXUAL ASSAULT COUNCIL

The Committee heard from the sponsor, the Division of Legislative Audit, the Council on Domestic Violence and Sexual Assault, and the Network on Domestic Violence and Sexual Assault. The bill was reported from Committee.

#SB303

[9:03:05 AM](#)

CS FOR SENATE BILL NO. 303(TRA)

"An Act amending the Knik Arm Bridge and Toll Authority Act and the powers and authority of the authority to finance construction and maintenance of the Knik Arm Bridge, to set and collect tolls, and to carry out its duties, and making conforming changes to statutes relating to issuance, renewal, or reinstatement of driver's licenses and to levy on permanent fund dividends; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

GEORGE WUERCH, Chair, Knik Arm Bridge and Toll Authority (KABATA), testified that the legislation passed in 2003 establishing the toll authority was one of the best bills of its kind in the nation. However, some improvements could be made to address issues identified in other areas of the country. Additionally, a provision in the current statute requires the Authority to obtain from the legislature a "debt ceiling" of a proposed \$500 million, which is requested in this legislation.

[9:05:33 AM](#)

BILL GREENE, Project Counsel, Knik Arm Bridge and Toll Authority, informed he is retained under contract by the Alaska Attorney General's office. He noted he had provided the Committee with information pertaining to this bill, including a statement of the purpose of the bill and a sectional analysis.

Mr. Greene reminded that the Legislature enacted a law in 2003 that created the Authority to construct a bridge across the Knik Arm, linking the Matanuska-Susitna Borough and the Municipality of Anchorage to improve the transportation system and infrastructure in the Upper Cook Inlet area and to support the growth and development of the state.

Mr. Greene disclosed that over the past two years, KABATA has consulted with financial consultants, transportation departments of other states, other toll authorities, the Federal Highway Administration, and others. The Authority has learned that the financing sectors require significant specificity, more than is currently provided in statute. This legislation is the culmination of these efforts. It is a housekeeping bill intended to clarify and specify the powers of KABATA.

[9:09:10 AM](#)

Mr. Greene acknowledged that federal funding is available for this project. However, regardless of the amount of that funding, private sector funds and other public funds would be necessary to finance the project. KABATA requests the authority to engage in securing this financing. This bill would provide the Authority the ability to enter into public and private partnerships for equity financing and debt financing. KABATA would also have the ability to establish the amount of the toll charges and to collect those tolls and other fines.

[9:10:45 AM](#)

Mr. Greene stressed the importance of the provision in the bill that would allow the Authority to set the limit of the amount of revenue bonds it could issue. Existing statute provides KABATA must request this authorization from the Legislature.

[9:11:29 AM](#)

Co-Chair Green recalled discussions in another legislative committee about the reason this bill is necessary. She requested

an explanation of the "shortcomings or inequities or lack of authority" of the current statute.

[9:11:59 AM](#)

Mr. Wuerch reiterated the proposed changes are the result of "lessons learned" from the experiences of other toll authorities. The Federal Highway Administration has enacted a new financing program, the Transportation Infrastructure Finance and Innovation Act (TIFIA), to finance loans, lines of credit or investment equity for projects. Some toll authorities that received this financing were sued with the charge alleging that the authorities did not have authorization from their state legislatures to borrow from the federal government. As a result, changes to the TIFIA rules now provide that unless a state's statute specifies the TIFIA program with regard to the toll authority, the authority's application for funding would not be accepted.

Mr. Wuerch gave the Tacoma Narrows Bridge in the state of Washington as an example. Funding for construction of a new span from private investors was nearly secured when the governing authority was found to not have authorization from the Washington Legislature to secure the federal funding also necessary for the project. He provided other examples with similar situations.

[9:14:27 AM](#)

Mr. Wuerch remarked that the estimated cost of the Knik Arm crossing is \$600 million. Governor Frank Murkowski submitted a request to the legislature to appropriate \$94 million in federal funding and approximately nine percent of that amount in matching State general funds to total about \$100 million. If appropriated, the Authority would need to raise the remaining \$500 million to fund the project. Preliminary discussions indicate this would be possible. If it were found within the next 12 months to not be possible and that additional public funding was necessary, an appropriation request would be submitted the following legislative session.

Mr. Wuerch predicted that a toll fee of \$3 would generate \$1.5 billion over the 30 years. The revenue stream would justify financing the \$500 million KABATA was requesting the legislature authorize it to borrow.

[9:15:55 AM](#)

Co-Chair Green asked if this legislation would enable KABATA to "more easily arrange for funding, borrowing and security for the project."

Mr. Wuerch answered that the assessment was correct.

[9:16:07 AM](#)

Senator Hoffman asked the State's liability in the event the Authority was unable to repay the bonds issued to fund the project.

[9:16:36 AM](#)

Mr. Wuerch deferred to the Department of Revenue.

[9:16:54 AM](#)

TOM BOUTIN, Deputy Commissioner, Department of Revenue, responded that the bonds issued for this project would be "a typical standalone revenue bond structure". The expectation would be that no bonds associated with the state of Alaska would default. This has never occurred. However, protections are included in the structure such as a requirement for a feasibility study by a nationally recognized consulting firm that deals solely with toll road projects. This study would determine whether adequate revenue would be generated to fund a debt service reserve, fund operations and other requirements. Additionally, fund insurance would be purchased from a financial guarantor to protect, not the State, but rather the bondholders. This structure is similar to that employed for bonds issued to fund international airport projects.

[9:18:48 AM](#)

Senator Hoffman understood the structure. He again asked that if the Authority, for whatever reason, was unable to repay the bonds, whether the State would be liable for the \$.5 billion.

[9:19:17 AM](#)

Mr. Boutin replied that the bondholders would have no legal claim on any State resources, apart from the bridge and its revenues.

[9:19:41 AM](#)

Senator Stedman asked if the "financial layout" would include any provision to protect the purchaser of those bonds.

[9:19:59 AM](#)

Mr. Boutin answered yes; that financial guarantee insurance would likely be purchased utilizing a portion of bond proceeds. Providers of this insurance would research the project and determine whether it was an acceptable risk. The project would be undertaken only after a due diligence was performed.

[9:21:24 AM](#)

Senator Bunde understood that the tolls are anticipated to cover operating costs. However, should the tolls not cover those costs, he predicted that the State would be under pressure to supplant the bridge costs under threat that the bondholders would repossess the bridge.

[9:22:11 AM](#)

Mr. Wuerch agreed the concern is to implement a method to insure that the facility would continue to operate and serve the public. The bridge would be the asset of KABATA, and therefore this effort would be essential. Discussions were underway with the Department of Transportation and Public Facilities to determine the delineation of the State's responsibility and the Authority's. The Governor was requesting funding to pave the road in the Mat-Su Borough leading to Port McKenzie, the proposed bridge site. This 13 and one-half mile road, owned by the Borough, would serve the bridge. The Borough has entered into an agreement with the Department to assume maintenance responsibilities of the road once it is upgraded. This arrangement would lessen the burden of the Authority. Similar arrangements could be discussed for roads on the eastern landing of the bridge.

[9:23:34 AM](#)

Co-Chair Green instructed the Committee to limit questions to those specific to the legislation, and to not "revisit history".

[9:23:52 AM](#)

Co-Chair Wilken characterized the bridge as a "project for the next generation", which he was "generally" in support. However, he was concerned that the proposed "massive" bridges would be constructed at the expense of needed infrastructure in the remainder of the state.

[9:25:25 AM](#)

Co-Chair Wilken had understood that until July 2004, the Knik Arm Bridge crossing and the Gravina Island Bridge to be located in Ketchikan would be funded with "added money" not included in the normal federal allocation for highways. Changes to the appropriation were made and these funds would be included in the normal allocation. He asked for clarification that the funds would be provided "in total" and that the Legislature would have the responsibility to allocate "as we see fit", as traditionally done.

[9:27:07 AM](#)

Mr. Wuerch emphasized that the State and the Legislature have complete authority to allocate the funds. The funds originally "earmarked" for the two bridge projects do not require State matching funds, under the normal formula system. However, the Department has opted to request treatment of them as such and request State general funds to supplant the federal funding.

[9:27:48 AM](#)

Co-Chair Wilken announced he had sent a letter to the Commissioner of the Department of Transportation and Public Facilities approximately six weeks ago stating he would be unable to support these projects until he had received a financial plan indicating how they would be constructed and financed without diverting funds otherwise intended for projects located in the Interior for the next five years. Senator Bunde voiced concerns that if bonds were not sold, expectations would be to finance these projects at the expense of other needed projects.

[9:29:24 AM](#)

Co-Chair Wilken directed attention to language inserted to AS 19.75.111(a)(8), amended through Section 1 on page 2 of the bill. He interpreted the original statutory language and the proposed inserted language to imply that federal funds were not anticipated when the Authority was established.

[9:30:11 AM](#)

Mr. Greene stated that the original bill allowed KABATA to incur indebtedness. In research undertaken since, it has been determined that the proposed language is necessary to comply with the federal TIFIA requirements. The most common problem encountered by other toll authorities is insufficient statutory language to specify authority. This legislation would provide the needed clarity and specificity. It would allow the Authority to secure financial debt to fund this project.

[9:32:28 AM](#)

Senator Stedman counseled on the need for members to deemphasize the impact on one's election district when setting policy for statewide infrastructure. A presentation was given by the Department on the proposed bridges to address the "political agenda" and to show that the predicted impacts in future years were "unrealistic" and would not materialize.

Senator Stedman explained that the federal appropriation would be \$112 million more than was provided in the previous year. These funds are not categorized for surface transportation, nor are they National Highway System "formula dollars". Rather the funds are included in the Highway Priority Projects Program, the Bridge Discretionary Program, the Transportation Improvement Program, and the National Corridor Infrastructure Improvement Program.

Senator Stedman stressed the need to obtain a "clear and accurate representation of what we're faced with" in financing these proposed bridges. Co-Chair Wilken's assertion that the Department is furthering a political agenda was incorrect.

Senator Stedman informed that he has contacted the Division of Legal and Research Services, and the Division of Legislative Finance to assist in understanding the impacts. The Alaska

Congressional delegation had differed from that of the Alaska Department of Transportation and Public Facilities in the assessment of impact. Agreements for most issues have since been reached. However, if Legislative policies were adopted based on political agendas "that are driven deep in the bowels of" the Department, no projects would be undertaken.

[9:35:44 AM](#)

Co-Chair Green returned the discussion to this legislation: a housekeeping bill that would prepare the Authority to enter discussions with TIFIA personnel and private lenders.

[9:36:12 AM](#)

Co-Chair Green referenced inserted language to AS 19.75.111(7) amended through Section 1 of the bill on page 2, line 21 that would extend authority to issue "and refund" bonds. She asked if this is similar to refinancing of bonds.

Co-Chair Green's assessment was confirmed.

Co-Chair Green next directed attention to subparagraphs (11) and (12) of the same section on page 3, lines 10 through 18. She asked if these provisions were specific to the toll and bridge facilities or whether the Authority's ability to bring civil and criminal actions to collect tolls or fees, and obligate revenue generated from the facilities, could be extended to assets not related to the bridge.

[9:37:30 AM](#)

Mr. Wuerch replied these provisions apply solely to the proposed bridge.

[9:37:40 AM](#)

Co-Chair Green asked if other authorities in the state have this ability, such as the Alaska Railroad Corporation.

[9:37:54 AM](#)

Mr. Wuerch clarified that the Alaska Railroad is an entity of the State government. The provision in this legislation is similar to that employed by the Railroad, although the Knik Arm

Bridge and Toll Authority would have more "independence" in bonding activities. This is because KABATA would oversee primarily an infrastructure facility whereas the Railroad entails more operational functions.

[9:38:32 AM](#)

Co-Chair Green asked about the treatment of any excess toll revenues.

[9:38:53 AM](#)

Mr. Wuerch responded that the funds would remain in the possession of the Authority for expenditure on future expansions or major repairs.

[9:39:11 AM](#)

Senator Bunde remarked that KABATA would not pay a dividend to the State. Additionally, adoption of this bill would not commit any federal funding to the project.

Co-Chair Green affirmed.

[9:39:43 AM](#)

Senator Olson asked if this legislation would allow the Authority to change the toll rate. He questioned the conclusion that \$3 would be sufficient to generate revenue to repay debt and fund maintenance and operations. The appropriate toll fee for the Whittier Tunnel was originally calculated at \$1.50; however, the toll is currently \$12.

[9:40:33 AM](#)

Mr. Wuerch responded that lenders and investors are concerned about which entities could change a toll structure. This legislation would provide that only the Authority's board of directors could make such changes.

Mr. Wuerch agreed that \$3 would be inadequate. That figure was calculated using an assumption that \$200 million of public funding would be provided rather than the currently requested \$100 million.

[9:42:14 AM](#)

Senator Olson noted that other cost projections for this bridge estimate the amount would be greater than \$1.5 billion rather than the \$600 million claimed by KABATA. Cost overruns incurred during the expansion and upgrade of the Ted Stevens International Airport amount to "hundreds of millions" of dollars more than anticipated. He asked how he could assure his constituents that the project would not stop with the bridge only halfway constructed.

[9:43:43 AM](#)

Mr. Wuerch disclosed that the Board "wrestles with" the issue of whether the cost estimates are accurate. Three engineering firms have been hired and economist projections of population growth have been consulted to achieve the revised \$600 million estimate. This estimate includes \$100 million specifically for inflation. Attempts were made to anticipate and avoid problems. The "investment community" would not participate in this project without sufficient assurances.

[9:46:03 AM](#)

Co-Chair Wilken pointed to language in the bill pertaining to an individual's inability to obtain or renew a driver's license if unpaid tolls or fees were owed. He suggested that the imposition of this provision of 30 days after the due date of the fee or toll should be 60 or 90 days. The shorter time frame could result in undue bureaucracy. Two or three months of overdue remittance would demonstrate intent to avoid payment.

[9:47:02 AM](#)

Mr. Wuerch did not object to extending the period to 60 days.

[9:47:38 AM](#)

Amendment #1: This amendment deletes "30" and inserts "60" to subsection (c) of Sec.19.75.915. Liability for payment of tolls., inserted through Section 9 on page 10, line 22. The amended language reads as follows.

(c) Upon agreement between the authority and the commissioner of administration, a vehicle owner liable for

an unpaid toll or fee due the authority may, after 60 days after the due date, be barred from obtaining or renewing a driver's license or a vehicle registration or license, regardless of whether the vehicle was used at the authority's facilities or incurred the toll or fee, until the toll or fee is paid in full.

Co-Chair Wilken moved for adoption.

There was no objection and the amendment was ADOPTED.

[9:48:00 AM](#)

STEVE WALLACE testified via teleconference from Anchorage that he owns a house located at Erickson Street on Government Hill in Anchorage, which is the proposed site of the eastern landing of the bridge. He is dependant on the expeditious progress of this project to determine whether his property would be condemned and purchased by the Authority. Meanwhile, he is unable to sell his home at a time of high real estate values. KABATA's cost estimates could not be verified; rather a study commissioned by the Department of Transportation and Public Facilities estimates the cost could be as high as \$1.9 billion. The \$600 million projection includes only the bridge and does not include the cost of road infrastructure on both shores.

[9:51:52 AM](#)

Co-Chair Green interrupted to direct the witness to limit his comments to this bill.

[9:52:03 AM](#)

Mr. Wallace stressed that this legislation would make KABATA more independent. The Committee should review the "underlying" cost of the project before granting "free reign" to secure financing. The Authority would be "completely independent" and without "political oversight".

[9:52:58 AM](#)

JAMES CANTOR, Chief Assistant Attorney General, Statewide Section Supervisor, Transportation Section, Civil Division, Department of Law testified via teleconference from Anchorage that he was available to answer questions.

It was determined that the Committee had no questions for this witness.

[9:53:14 AM](#)

STEPHANIE KESLER, Government Hills Community Council, testified via teleconference from an offnet location, that the Legislature has a fiduciary obligation to understand the "true" cost of the proposed bridge. A "fair" comparison must be made of the current estimates to previous estimates, including the differences and items omitted in the updated version.

[9:55:20 AM](#)

Co-Chair Green asked whether any Member had reason to hold the bill in Committee.

[9:55:28 AM](#)

Senator Stedman offered a motion to report CS SB 303 (TRA), as amended from Committee with individual recommendations and accompanying fiscal notes.

Without objection CS SB 303 (FIN) was MOVED from Committee with zero fiscal notes #1 from the Department of Transportation and Public Facilities, and #2 from the Department of Natural Resources.

#SB304

[9:55:49 AM](#)

SENATE BILL NO. 304

"An Act relating to the privileges of airport parking shuttles and to fees or charges imposed on a person who is not a lessee or holder of a privilege to use the property or a facility of an airport."

This was the first hearing for this bill in the Senate Finance Committee.

RYAN MAKINSTER, Staff to Senator John Cowdery, paraphrased the sponsor statement, which reads as follows.

Under Alaska law, commercial vehicles that deliver people to the airport fall into one of six general categories: limos, tour buses, standard bus service, off airport shuttles, off airport car rental shuttles and courtesy vehicles. Depending upon the vehicle's classification, a fee is charged for what is essentially use of the airport's curb and roadway. The authority for the setting of these specific rates can be found in AS 02.15.090, which requires the fees charged to be "reasonable and uniform for the same class of privileges and services.. and (to be established) with due regard to the property and improvements used and the expense of operation by the state."

At present, the rates charged by the Department of Transportation [and Public Facilities] for these different vehicles to utilize the airport curb at the Anchorage International Airport varies from \$50 per year for a courtesy vehicle, taxi, or limo, to \$100 per year for a tour passenger vehicle, up to a maximum of \$1000 per year for a regularly scheduled bus.

In early 2005, the Department of Transportation [and Public Facilities] proposed regulations, which would charge "off-airport valet parking services" a tax equal to 8% of their gross revenues. This change would constitute a drastic shift from the statutory language, which requires that the fees charged be "reasonable and uniform for the same class of privileges and services." While other courtesy services such as free hotel shuttles are charged a \$50 per vehicle fee, the proposal would charge free parking shuttles 8% of gross sales or \$250 annual minimum (whichever is greater). The two services are essentially the same class because both are "a free courtesy"; both offer an airport patron an off-site service and both require the same amount of accommodations on [the] part of the Airport.

The purpose of SB 304 is to clarify the law with regard to the charging of off-airport businesses who simply drop patrons at the curb or pick them up upon return and reflects the sentiment that the Department should set rates, which are based on use and not as a percentage of gross revenues. SB 304 simply and specifically directs the Department that charges for usage must be consistent with other services that receive similar privileges and accommodations, may not

be on a gross revenue basis and shall not have the effect of singling out one type of accommodations because it may currently or in the future compete with the airport.

[9:58:45 AM](#)

Senator Bunde asked if the theory that off-airport parking competes with on-site parking was a factor in this situation.

[9:59:12 AM](#)

Mr. Makinster responded that the Sponsor surmised this could be so. The Department of Transportation and Public Facilities has also suggested that ramp fees and fees assessed on concessions located on-site could increase to offset the loss of revenues to off-site parking facilities. The intent of this bill is to provide equality for all commercial curbside users, regardless of whether the users directly compete with the airport.

[9:59:33 AM](#)

Senator Bunde expressed that if additional costs were incurred, perhaps the fees for all commercial curbside users should be increased.

[9:59:50 AM](#)

Mr. Makinster remarked that regardless of whether the rates are considered too high, those rates should be uniform for all users.

[10:00:07 AM](#)

Senator Olson asked if this issue pertains in any way to federal regulation of international airports.

[10:00:25 AM](#)

Mr. Makinster was unaware of any federal rules related to this issue. State statute provides the airport authority the ability to set fee rates, although statute does not require additional fees be established. Ramp fees must be assessed in an amount adequate to cover bonding fees used to fund the on-site parking structure.

[10:01:13 AM](#)

Senator Olson asked whether additional maintenance costs are incurred from the commercial use of the airport by off-site businesses.

[10:01:30 AM](#)

Mr. Makinster was unsure. The Department had not indicated any specific expenses. The intention of this bill is that if such use incurred additional costs, a reasonable rate should be assessed for all users.

[10:02:03 AM](#)

Co-Chair Wilken asked how the issue of commercial use by off-site businesses is addressed at other airports, such as the Seattle-Tacoma International Airport.

[10:02:16 AM](#)

Mr. Makinster replied that the fees are assessed differently at different airports. Some levy different fees to off-site parking vendors; others have determined that a tax of the percentage of gross sales is an acceptable practice. This legislation proposes to levy a uniform rate on services. Court rulings have found that an assessment of a percentage of gross sales for off-airport parking operations is allowable.

[10:03:08 AM](#)

Co-Chair Green clarified these court cases were filed in other states.

[10:03:11 AM](#)

Mr. Makinster affirmed.

[10:03:15 AM](#)

Senator Dyson relayed concerns about the rate structure expressed by small businesses that transport customers between the Ted Stevens International Airport and outlying communities, such as Eagle River. He asked whether this legislation would alleviate those concerns.

[10:03:47 AM](#)

Mr. Makinster responded that a business that provides parking in such a community and transportation to and from the airport would be subject to the percent of gross sales fee. This legislation would not address the current fee structure of \$50 - \$1000 based generally on vehicle size. It would make the targeting of certain user groups more difficult and would provide bargaining power for all groups.

[10:04:42 AM](#)

Senator Bunde noted the fiscal note for this bill mentions the possibility of increased costs in the event the percent of gross sales were not permitted. He questioned the impact of the off-site parking shuttles to the airport facilities, unless the impact is calculated as a loss of parking revenues to the airport from competition.

[10:05:15 AM](#)

Mr. Makinster stated that this legislation would incur no cost, as the percent of gross tax has not been implemented to date. The explanatory statement accompanying the fiscal note pertains to the anticipated cost of this bill if the proposed regulation was adopted.

[10:05:37 AM](#)

Senator Bunde concluded, "A decrease of an increase is a cut."

[10:05:51 AM](#)

Co-Chair Wilken hypothesized a businessperson contemplating establishing an off-site parking facility. This entrepreneur would likely develop a business plan incorporating the fee structure of the nearby airport. Co-Chair Wilken requested the fee structure for the airports in Portland, Oregon and Seattle, Washington.

[10:06:33 AM](#)

Mr. Makinster indicated he would provide this information.

10:06:36 AM

MIKE NEELY, Regional Vice President, Diamond Parking, testified that the former Mayor Wuerch of the Municipality of Anchorage had been instrumental in facilitating a land swap in which Diamond Parking obtained the site of the Spenard community dump. Although rehabilitated, the use of this land is limited primarily for parking.

Mr. Neely asserted that Diamond Parking sells a service. In this location, customers park their vehicle and Diamond Parking transports them and their luggage to the airport terminal. While not as convenient as parking on-site, the cost is lower. The parking facility is staffed 24 hours a day, 365 days a year by 25 to 30 total employees.

Mr. Neely stated that Diamond Parking must purchase an annual ramp pass for each of the five vehicles at total cost of \$2,500 a year. Now the Airport intends to collect a percentage of the company's revenue as well. This would make the operation unprofitable. Other commercial users are only charged for the ramp pass and the parking businesses would be treated differently. He understood that Diamond Parking must pay something.

10:10:34 AM

Mr. Neely informed that other airports, primarily located on the East Coast and the Midwest levy a fee on the percentage of income. The airport in Spokane, Washington charges \$400 per bus. Most airports in the Pacific Northwest charge per trip, based on the size of the vehicle and the number of passengers the vehicle is equipped to transport.

10:11:39 AM

Mr. Neely had proposed two options to airport officials. One suggestion was to levy a fee for each vehicle parked at the Diamond Parking facility. A customer parking at the facility would be transported once to the airport and once from the airport upon their return, regardless of the number of days their vehicle was on the lot.

Mr. Neely told of another suggestion to charge the company a toll for each trip to the airport. The airport at Salt Lake

City, Utah utilizes a system in which transponders installed on each vehicle emit a signal to a receiver located at the gate to the airport terminal. At the end of each month the total number of trips is calculated and the carrier is assessed a charge based on the number of times its vehicles traveled to the airport. Diamond Parking offered to fund installation of such a system at the Anchorage airport with the capital expenditure deducted from its toll charges until the debt was paid.

[10:13:56 AM](#)

Senator Olson asked if Diamond Parking is being "singled out" or whether other entities would be levied a fee of eight percent of revenues.

[10:14:19 AM](#)

Mr. Neely replied that his company is the only business involved in off-site parking for this airport. It therefore appears that Diamond Parking is targeted. Airport officials claim that the fee would also apply to new similar commercial ventures. However, several hotels located near the airport reserve parking spaces for travelers but would not be subjected to the same charges. If the percent of revenue fee were assessed to these hotels, Diamond Parking would not be singled out.

[10:15:26 AM](#)

Co-Chair Wilken asked if the affect of this legislation would place off-site parking with valet services into the same category as off-airport shuttle services, rather than with off-airport car rentals.

[10:16:20 AM](#)

Mr. Makinster clarified the proposed regulation would categorize off-airport parking and valet services with the off-airport car rental fee structure. The intent of this bill would be to retain off-airport valet parking separately from the car rental group. The legislation would not specify that the parking services would be categorized with the shuttle services, but would provide that the parking services could not be treated significantly differently than other commercial operators.

[10:17:05 AM](#)

Co-Chair Wilken understood that the Department of Transportation and Public Facilities had recommended in "early 2005" that Diamond Parking and other off-site parking facilities should pay fees in the same manner levied to off site car rental businesses.

[10:17:32 AM](#)

Mr. Makinster affirmed.

[10:17:35 AM](#)

DAN COFFEY, Attorney representing Diamond Parking, testified via teleconference from an offnet location about an effort made by the Airport several years ago to impose a tax on the percentage of receipts of car rental businesses. Dollar Rental and other small companies were located off the Airport premises and could not be levied this fee. A "more reasonable" alternative was considered in which a charge was imposed for shuttle services between the airport and the off-site car rental locations. The level and volume of business was so minimal that a flat fee was instead adopted. Currently, off-site car rental companies are the only businesses subject to a percentage of gross revenue charge.

Mr. Coffey stated that at the time of the land trade between the Municipality of Anchorage and Diamond Parking, the Airport determined it would be unable to generate revenue from Diamond Parking operations. Rather than attempt to utilize its on-site parking facilities to compete with the private business, the Airport "went after Diamond" and proposed extending the percentage of revenue charge to parking facilities as well as the car rental businesses. This fee would be "huge" in relation to the curbside access.

Mr. Coffey remarked that Airport officials contend this Diamond Parking facility is dependant upon the Airport. He rejected this argument, stating that off-site parking operators should not be required to subsidize the cost of the entire Airport if they are only utilizing the access roads and curb.

Mr. Coffey requested that off-site parking operators be treated the same as other commercial curbside users. Fees should be commensurate with other off-site airport use.

10:22:49 AM

JOHN TORGERSON, Deputy Commissioner of Aviation, Department of Transportation and Public Facilities, testified via teleconference from an offnet location that this issue is not new. The US Supreme Court ruled in 1998 that the methodology of fees assessed on a percentage of revenue is legal. Other airports nationally and in other countries practice this. Annual operating costs of the airports in Anchorage and Fairbanks are approximately \$65 million. Carriers contribute to funding this expense as leaseholders and through terminal rentals, landing fees and other charges.

Mr. Torgerson informed that the proposed percent of revenue fees that would be imposed on the off-site parking facilities would have no fiscal impact to the Airport. The issue is not between government and the private sector but rather between the private vendors utilizing the airport facilities. The regulations were actually adopted in 1995 and have been subject to administrative appeal. The process was underway to select a hearing officer to determine if the Airport is constitutionally permitted to collect this fee. Twenty-five airlines participated in the residual agreement to establish the fee structure and several other businesses service the airport. Due to time constraints it was unlikely that representatives of these interests would be testifying at this hearing.

Mr. Torgerson reported that while maintenance costs of the commercial curbside use would be negligible, Diamond Parking operations would result in a loss of revenue to the Anchorage airport. The sponsor of this bill claims it would treat all businesses equally. Instead, businesses located on-site would be required to contribute more to the repayment of the bonds issued for expansion and renovations to offset the lost parking fee revenues. Diamond Parking is the only business to charge customers for off-site airport parking. He agreed that some hotels advertise airport parking, but provide this service free to paying guests.

10:33:02 AM

Senator Bunde empathized with the private businesses and asked if additional income must be generated to operate the airports why all shuttle operations should not be charged.

[10:34:05 AM](#)

Mr. Torgerson surmised that at the time the classifications were established, Airport and Department officials recognized the uses of the airport facility, including maintenance, as well as loss of revenue to the airport, and set fees accordingly.

[10:34:48 AM](#)

Co-Chair Green asked whether the witness supported or opposed this bill.

[10:34:55 AM](#)

Mr. Torgerson responded that the Department, "on behalf of the airlines" was opposed to the bill.

[10:34:57 AM](#)

Senator Olson asked why an eight-percent charge of gross revenues was not levied on all commercial airport users, such as the airline carriers, if such a fee were imposed on off-site parking operations.

[10:35:32 AM](#)

Mr. Torgerson informed that the Airport Board was currently in negotiations with airlines over the fee amounts. Air carriers pay the entire \$65 million in annual operating expenses. As these expenses increase, the fees must be increased as well. Alaska Airlines is the "highest payer" at the Anchorage airport. All carriers contribute to the operating and bond repayment costs.

[10:36:20 AM](#)

Senator Olson then asked why hotels and other businesses that provide airport shuttle service, in addition to parking vendors, would not be assessed a charge based on a percent of revenues.

[10:37:08 AM](#)

Mr. Torgerson replied that hotels are categorized in a "different class" and are charged for their use of the airport

facilities differently. There is no intention to charge hotels a percent of revenue fee.

[10:37:34 AM](#)

Senator Olson expressed concern about expecting "successful" businesses to pay for the cost overruns incurred in the expansion and reconstruction of the Airport. This was unfair to small businesses.

[10:38:22 AM](#)

Mr. Torgerson responded that the proposed percent of revenue fees pertains to operating expenses and has little relation to construction costs. Repayment of the bonds issued to fund the expansion and reconstruction is included in the landing fees and other fees levied to leased space within the terminal. He anticipated the leases would increase to \$52 per square foot for space within the terminal.

Mr. Torgerson stressed the issue of equalization. Recipients of the "benefits that the Airport provides" should contribute. Car rental agencies located on the Airport premises pay ten percent of gross revenue to help support the operating costs of the Airport. If all the car rental companies relocated to off-airport sites, the operating costs must still be paid.

[10:39:48 AM](#)

Senator Olson understood, yet questioned the imposition of high fees on businesses that cause little "wear and tear" to the Airport.

[10:40:10 AM](#)

Senator Olson asked the number of businesses that would be affected by the proposed eight percent of gross revenue fee, and what businesses would not be affected. He also questioned how the Department would audit the records of the affected companies to verify the amount of gross revenue reported. He asked if a search warrant would be required.

[10:41:08 AM](#)

Mr. Torgerson explained that the Department charges on fair market value across Alaska. This is accomplished either through a flat fee or a percentage of gross revenues fee. The federal government allows these different methodologies.

[10:42:22 AM](#)

Senator Olson told of a small business that offers pizza delivery from Anchorage to Bush communities via small air carriers.

[10:43:07 AM](#)

Mr. Torgerson stated that the figure of eight percent is levied on commercial users of all airports in the state.

[10:43:48 AM](#)

Co-Chair Green ordered the bill HELD in Committee.

#SB250

[10:44:06 AM](#)

HOUSE CS FOR SENATE BILL NO. 250(STA)

"An Act extending the termination date of the Council on Domestic Violence and Sexual Assault."

This was the first hearing for this bill in the Senate Finance Committee.

TOM MAHER, Staff to Senator Therriault, read the sponsor statement into the record as follows.

This legislation stems from recommendations contained in the Legislative Audit Report entitled, "Council on Domestic Violence and Sexual Assault Sunset Audit", dated September 23, 2005.

Legislative Audit also recommended that the Legislature amend Council statutes related to the appointment of Council members. Current law requires the Network on Domestic Violence and Sexual Assault (Network), a non-profit corporation, to submit a list of recommended

candidates to the Governor for appointment when a vacancy occurs. Further, statutes require that the Governor fill any unexpired term of a Council member after consultation with the Network.

The Network annually receives a grant from the Council for a legal advocacy project and the appearance of conflict exists when a Council member reviews, evaluates, approves and monitors a grant to the same nonprofit organization that may have been responsible for recommending that individual be appointed to the Council. SB 250 deletes both statutory references that produce this appearance of conflict.

This audit was conducted under revisions made last session to the sunset process. The standard sunset period for occupational boards and non-occupational boards was changed from "not to exceed four years" to "not to exceed eight years". Additionally, to better measure operational performance, two new criteria were added to statute that must be considered in the course of a sunset review by the auditors:

- The extent to which the board, commission, or agency has effectively attained its objectives and the efficiency with which it has operated.
- The extent to which the board, commission, or agency duplicates the activities of another governmental agency or the private sector.

Mr. Maher noted that the Senate Health, Education and Social Services Committee reported this legislation from its committee with no changes. The fiscal note for this bill reflects that implementation would incur no additional costs.

[10:47:44 AM](#)

Senator Hoffman asked about the aforementioned conflicts.

[10:47:55 AM](#)

PAT DAVIDSON, Director, Division of Legislative Audit, responded that the statutory language is "relatively soft"; the governor is required to accept the list of recommendations submitted by the Network. This legislation would not require the governor to

select from those nominees for appointment to the Council on Domestic Violence and Sexual Assault (CDVSA). The governor could appoint others.

Ms. Davidson expressed concern that the Network is a grantee, specifically some of the discretionary grants it receives. A non-profit organization codified in statutes makes that organization "first among equals" and does not appear to be necessary.

[10:49:13 AM](#)

BARBARA MASON, Executive Director, Alaska Council on Domestic Violence and Sexual Assault, provided an overview of the CDVSA as follows.

The Mission of the Council on Domestic Violence and Sexual Assault is to implement a statewide system of services for the protection of individuals and families affected by domestic violence and sexual assault.

The Council is a Governmental entity housed in the Department of Public Safety.

- The Council is made up of seven members consisting of representatives from the departments of Public Safety, Law, Education and Early Development, Health and Social Services, and three public members appointed by the Governor. As the Executive Director it is my job to move forward the work of the Council.
- One of our tasks is to administer the funds received from the State of Alaska and the Federal Government.
- We administer the state certified Batterer Intervention Program (BIPS).
- We also use a proprietary database to capture information from funded CDVSA programs in order to comply with the data requirements from our funding sources.

In conclusion I would like to state that the Council supports SB 250 as written.

Difference between the Council and the Network is really very simple.

CDVSA

- Administers the State and Fed. Funds
- Is a government entity

Network

- Represents the programs receiving the funds
- Is a private non-profit

The common goal between the two is to provide safety and intervention for those affected by DV/SA.

[10:50:46 AM](#)

PEGGY BROWN, Executive Director, Alaska Network on Domestic Violence and Sexual Assault, testified that the nonprofit statewide organization represents over 20 member programs. The Network has historically had a viable working relationship with the CDVSA. Neither the Council nor the Network disputed the "value" of the proposed provision that would allow the Network to provide a list of nominees for the public seats of the Council to the governor.

Ms. Brown quoted testimony provided by the commissioner of the Department of Public Safety to the Senate Health, Education and Social Services Committee: "As a matter of practicality, the governor should consult with the Network before appointing public members to CDVSA."

Ms. Brown asserted the Network should remain codified in statute. The governor "is in no way, shape or form bound by any recommendation" made by the Network. Rather, of the past five recommendations, two had been selected. Additionally, the Network is "first among equals". It is the "expert in this field" for the State, the "voices of the victims" it serves, and provides a service to the governor in making recommendations of knowledgeable persons who are not perpetrators for Council seats. The Network undertakes a screening process in selecting those it recommends for appointment to the Council. In choosing those to recommend, the Network attempts to provide "adequate representation" of rural and urban residents; survivors of domestic violence or sexual assault and those who provide services to victims.

[10:55:01 AM](#)

Ms. Brown pointed out that in addition to the Network and the Council not opposing the nomination process, the governor has not identified a problem either.

[10:55:52 AM](#)

Senator Olson asked if the witness supported or opposed the bill.

[10:56:08 AM](#)

Ms. Brown was against the removal of the Network from statutory language.

[10:56:22 AM](#)

BRENDA STANFILL, Executive Director, Interior Alaska Center for Nonviolent Living, and Chair, Alaska Network on Domestic Violence and Sexual Assault, testified in Juneau that Ms. Brown spoke of behalf of others present at this hearing. Victims must be "heard" on the Council. Because the Council itself is not authorized to appoint public representatives to its Board, the Network provides recommendations of qualified candidates.

Ms. Stanfill requested amending the bill in the event the Network was removed from statute, to provide clear definition of qualifications and representations of the public members.

[10:57:36 AM](#)

Co-Chair Green referenced the recommendations of the Division of Legislative Audit and requested updates on the implementation of these changes.

[10:58:35 AM](#)

Co-Chair Wilken offered a motion to report the bill from Committee with individual recommendations and accompanying fiscal note.

There was no objection and SB 250 was MOVED from Committee with zero fiscal note #1 from the Department of Public Safety.

#

ADJOURNMENT

Co-Chair Lyda Green adjourned the meeting at [10:58:47 AM](#)