

**ALASKA STATE LEGISLATURE  
HOUSE RULES STANDING COMMITTEE**

April 11, 2013  
9:03 a.m.

**MEMBERS PRESENT**

Representative Craig Johnson, Chair  
Representative Kurt Olson, Vice Chair  
Representative Mike Chenault  
Representative Mike Hawker  
Representative Bob Herron  
Representative Wes Keller  
Representative Max Gruenberg

**MEMBERS ABSENT**

All members present

**OTHER LEGISLATORS PRESENT**

Representative Shelley Hughes  
Representative Mark Neuman  
Representative Lance Pruitt

**COMMITTEE CALENDAR**

HOUSE BILL NO. 23(RLS)

"An Act creating the Knik Crossing Development Corporation as a subsidiary corporation of the Alaska Housing Finance Corporation and relating to bonds of the Knik Crossing Development Corporation."

- MOVED 2D CSHB 23(RLS) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 23

SHORT TITLE: KNIK ARM CROSSING; AHFC

SPONSOR(S): REPRESENTATIVE(S) NEUMAN, HUGHES

01/16/13	(H)	PREFILE RELEASED 1/7/13
01/16/13	(H)	READ THE FIRST TIME - REFERRALS
01/16/13	(H)	TRA, FIN
02/28/13	(H)	TRA AT 2:00 PM BARNES 124
02/28/13	(H)	Heard & Held

02/28/13 (H) MINUTE(TRA)  
 03/12/13 (H) TRA AT 1:00 PM BARNES 124  
 03/12/13 (H) Heard & Held  
 03/12/13 (H) MINUTE(TRA)  
 03/21/13 (H) TRA AT 1:00 PM BARNES 124  
 03/21/13 (H) Moved Out of Committee  
 03/21/13 (H) MINUTE(TRA)  
 03/22/13 (H) TRA RPT 5DP 2AM  
 03/22/13 (H) DP: LYNN, JOHNSON, GATTIS, ISAACSON,  
 P.WILSON  
 03/22/13 (H) AM: FEIGE, KREISS-TOMKINS  
 03/28/13 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
 03/28/13 (H) Heard & Held  
 03/28/13 (H) MINUTE(FIN)  
 04/02/13 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
 04/02/13 (H) Moved CSHB 23(FIN) Out of Committee  
 04/02/13 (H) MINUTE(FIN)  
 04/03/13 (H) FIN RPT CS(FIN) 3DP 1NR 6AM  
 04/03/13 (H) DP: NEUMAN, T.WILSON, STOLTZE  
 04/03/13 (H) NR: THOMPSON  
 04/03/13 (H) AM: KAWASAKI, HOLMES, MUNOZ, EDGMON,  
 GARA, COSTELLO  
 04/08/13 (H) RETURNED TO RLS COMMITTEE  
 04/09/13 (H) RLS TO CALENDAR PENDING REPORT  
 04/09/13 (H) IN RULES  
 04/09/13 (H) RLS AT 9:30 AM CAPITOL 120  
 04/09/13 (H) Heard & Held  
 04/09/13 (H) MINUTE(RLS)  
 04/10/13 (H) RLS TO CALENDAR PENDING REPORT  
 04/10/13 (H) IN RULES  
 04/10/13 (H) RLS AT 9:00 AM CAPITOL 120  
 04/10/13 (H) - Cont' 3:05 p.m. Today from 4/9 Mtg. -  
 04/10/13 (H) MINUTE(RLS)  
 04/11/13 (H) RLS AT 9:00 AM BARNES 124

**WITNESS REGISTER**

ALEX VITERI, Senior Transportation Engineer; Major Projects  
 Manager  
 Alaska Division  
 Federal Highway Administration  
 Juneau, Alaska  
**POSITION STATEMENT:** During hearing of HB 23, answered  
 questions.

KRISTIN CURTIS, Legislative Auditor  
 Division of Legislative Audit

Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** During hearing of HB 23, discussed the KABATA audit.

DAN FAUSKE, CEO/Executive Director  
Alaska Housing Finance Corporation (AHFC)  
Department of Revenue (DOR)  
Anchorage, Alaska

**POSITION STATEMENT:** During hearing of HB 23, provided comments and answered questions.

JOSHUA WALTON, Staff  
Representative Mia Costello  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Reviewed the provisions of Amendment 2 to HB 23.

JEFF STARK, Chief Assistant Attorney General - Statewide Section Supervisor  
Transportation Section  
Department of Law;  
General Counsel, KABATA  
Anchorage, Alaska

**POSITION STATEMENT:** During hearing of HB 23, expressed concerns with Amendment 2.

KEN VASSAR, Of Counsel  
Birch Horton Bittner & Cherot;  
Bond Council  
Alaska Housing Finance Corporation  
Anchorage, Alaska

**POSITION STATEMENT:** During hearing of HB 23, answered questions.

STACY SHUBERT, Director  
Governmental Affairs & Public Relation  
Alaska Housing Finance Corporation  
Department of Revenue  
Anchorage, Alaska

**POSITION STATEMENT:** During hearing of HB 23, answered questions.

NOLA CEDERGREEN, Director  
Administrative Services  
Alaska Housing Finance Corporation

Department of Revenue  
Anchorage, Alaska

**POSITION STATEMENT:** During hearing of HB 23, provided information regarding AHFC's procurement process.

**ACTION NARRATIVE**

[9:03:32 AM](#)

**CHAIR CRAIG JOHNSON** called the House Rules Standing Committee meeting to order at 9:03 a.m. Representatives Chenault, Herron, Keller, Olson, and Johnson were present at the call to order. Representative Gruenberg arrived as the meeting was in progress. Also in attendance were Representatives Hughes and Neuman.

**HB 23-KNIK ARM CROSSING; AHFC**

[9:04:12 AM](#)

CHAIR JOHNSON announced that the first order of business would be HOUSE BILL NO. 23, "An Act relating to bonds of the Knik Arm Bridge and Toll Authority; relating to reserve funds of the authority; relating to taxes and assessments on a person that is a party to an agreement with the authority; and establishing the Knik Arm Crossing fund." [Before the committee was CSHB 23(FIN).]

[9:05:04 AM](#)

REPRESENTATIVE KELLER withdrew Amendment 1, labeled 28-LS0141\O.24, Martin, 4/8/13, which was left pending from the April 9, 2013, meeting.

[9:05:15 AM](#)

REPRESENTATIVE KELLER, noting his understanding that there would be an objection to the motion and discussion, moved to adopt Amendment 2, labeled 28-LS0141\O.30, Martin, 4/10/13. [The text for Amendment 2 can be found at the end of these minutes.]

CHAIR JOHNSON announced that there would be objection and discussion.

[9:06:21 AM](#)

CHAIR JOHNSON inquired as to what impact on federal funds, if any, will moving the Knik Arm Bridge and Toll Authority (KABATA) under the Alaska Housing Finance Corporation (AHFC) cause.

9:06:36 AM

ALEX VITERI, Senior Transportation Engineer; Major Projects Manager, Alaska Division, Federal Highway Administration, stated that the [Knik Crossing Development Corporation (KCDC)] would have the same standing as any other applicant or interested party at the current point. Although he opined that there wouldn't be any affected interest, the concern is that there is a credit worthy financial plan that is submitted with a letter of interest. The Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA) office would review the plan and if selected, would request the applicant submit a letter of application. Then TIFIA would review the application and process it normally. The KABATA is in the same situation now, he noted.

9:07:25 AM

CHAIR JOHNSON surmised then that Mr. Viteri is saying that the change proposed in [Amendment 2] wouldn't jeopardize the TIFIA funds or any other future highway funds.

MR. VITERI replied yes. However, he clarified that submitting a letter of interest/application doesn't guarantee a TIFIA loan. There is fair competition with all parties and if someone from a different state precedes either applicant, they may receive the funding. Therefore, haste is important, he said. In further response to Chair Johnson, Mr. Viteri confirmed that [KCDC] would be starting at the same point as KABATA and [the proposal encompassed in Amendment 2] isn't jeopardizing anything.

9:08:25 AM

REPRESENTATIVE KELLER inquired as to when the closing is anticipated for the loan under KABATA as it currently exists. He related his understanding that funds will be available to begin construction and closing is anticipated, as he has heard, within nine months.

MR. VITERI deferred to KABATA. As the Major Projects Manager for the Alaska Division, he related his understanding that KABATA's intent is to secure a reserve account through HB 23 and

submit a letter of interest to TIFIA. If TIFIA requested it, then the process would begin.

9:10:18 AM

KRISTIN CURTIS, Legislative Auditor, Division of Legislative Audit, Alaska State Legislature, began by assuring the committee that the audit was conducted in accordance with generally accepted government auditing standards and the formal procedures adopted by the Legislative Budget and Audit Committee. "I stand behind the report 100 percent," she stated. She informed the committee that KABATA's response to the audit was reviewed as part of the formal audit process. However, nothing contained in KABATA's response caused the division to change the audit's recommendations or conclusions. Ms. Curtis said she is present today to reaffirm those recommendations and conclusions in the audit.

9:11:02 AM

CHAIR JOHNSON surmised then that Ms. Curtis is comfortable with the audit's outcome and stands by the findings.

MS. CURTIS replied yes.

9:11:24 AM

REPRESENTATIVE KELLER inquired as to what adjectives, such as inaccurate or exaggerated, Ms. Curtis would use to describe KABATA's response.

MS. CURTIS explained that auditing standards require that when an agency doesn't agree with report conclusions and recommendations, the auditor is to respond and it's included in the report. She reiterated that the division did review KABATA's response and the division's conclusions, including the areas of disagreement, are included in the last two pages of the report.

9:12:08 AM

MS. CURTIS, in response to Representative Keller, stated that the division's conclusion regarding that [Knik Arm Crossing (KAC) toll and revenue projections are] "overly optimistic" is based on the number of deficiencies found, which are outlined in recommendation 1. The conclusion is also based on the evidence obtained through the contractor and the division's research

based on information from the Department of Transportation & Public Facilities (DOT&PF), the Department of Labor & Workforce Development (DLWD), the Institute of Social and Economic Research, and review of the Matanuska-Susitna planning documents. Therefore, it's a collective analysis and summary conclusion.

[9:12:53 AM](#)

REPRESENTATIVE HERRON inquired as to why the Public-Private Partnership (P3) agreement isn't part of the audit findings.

MS. CURTIS informed the committee that one of the original audit objectives was to outline the balance of risks and rewards that are embodied in the P3 agreement. The division did begin that process, obtain the P3 agreement, and began the procurement process to obtain extra assistance. Through that process and interactions with KABATA, the division found that the P3 agreement wasn't final and subject to change. Therefore, the P3 agreement isn't ripe for audit and one can't audit a moving target. At that point, the division discussed with KABATA that the division wouldn't be reviewing the P3 agreement. The aforementioned is considered a scope limitation and auditing standards require that scope limitations be discussed in the audit report, which was done in the objective scope and methodology and on page 17 of the report conclusions.

[9:15:11 AM](#)

DAN FAUSKE, CEO/Executive Director, Alaska Housing Finance Corporation (AHFC), Department of Revenue (DOR), acknowledged Representative Gruenberg's concern yesterday regarding not wanting to do anything to harm AHFC, which is an entrepreneurial entity. He informed the committee that he has been [the CEO/Executive Director of AHFC] under four governors and has never been asked to kill legislation rather he has been asked to fix things or make them better. [To that end,] Mr. Fauske said that AHFC looks forward to working with KABATA, if given opportunity to do so, as well as to accept any work that has been done and keep the process moving. There has never been any intention of slowing the process. He reminded the committee that prior to the Alaska Gasline Development Corporation (AGDC) being brought under AHFC, AHFC was a small organization. Mr. Fauske opined that AHFC brings much to the table in support of projects, including its own internal audit and systems that would benefit KABATA. He expressed hope that the language in [Amendment 2] is acceptable as it ensures that AHFC is

safeguarded and isn't onerous to the mission of KABATA, which he characterized as a good mission.

9:18:06 AM

REPRESENTATIVE HERRON surmised then that KABATA has done well but now it's near the end of the process and AHFC is being brought in like a closer to finish the project.

MR. FAUSKE characterized Representative Herron's analogy as one way to look at it. However, Mr. Fauske opined that AHFC could benefit from the arrangement. He highlighted that AHFC is a large organization with a large and diverse staff that would be at the full disposal of KABATA. If AHFC is going to take on this project, it would be AHFC's stated mission and goal to make it a success. The work that has been done has to be reviewed, and thus AHFC will seek a great deal of guidance from those at KABATA. Therefore, it's a meld and blend to reach the goal. He opined that time is money and delays cost nothing but money. In closing, Mr. Fauske related his belief that AHFC brings a benefit to KABATA in terms of helping to complete its mission.

9:20:07 AM

REPRESENTATIVE KELLER commented that he didn't believe anyone is questioning motives and pointed out that Mr. Fauske is present because he was requested to be in attendance. Representative Keller then requested comment regarding that Amendment 2 doesn't accept the state procurement already included in KABATA.

MR. FAUSKE informed the committee that since AHFC's inception it has been excluded from the Administrative Procedures Act and procurement. The AHFC is a self-standing entity owned by the state, although it functions on its own. The debts of AHFC are its own not those of the state. He recalled 10-15 years ago when a great deal of attention was paid to the resources of AHFC and AHFC cautioned folks not to pierce the corporate veil. That is, when entities that operate differently than AHFC are brought into it, the result is the need to explain it to investors. The aforementioned is no small task for AHFC, which is an organization with an AA+ credit rating with billions of dollars on the street. Although AHFC's record is good and it operates similarly to the state, it's an independent entity of the state, which creates unwarranted problems in situations in which an entity is brought on as a subsidiary to AHFC but operates differently than AHFC.

[9:22:21 AM](#)

REPRESENTATIVE KELLER inquired as to whether that decision not to use the state procurement process will cause delay or will cause work that has already been done [by KABATA] to be repeated.

MR. FAUSKE answered that he didn't believe so. In fact, he related his belief that it might expedite the process as AHFC is quick. The AHFC plans to review everything in place, particularly since the statement in [Amendment 2] that all commitments, etcetera must be honored is of concern. In regard to the work going forward, Mr. Fauske opined that AHFC isn't an impediment at all based on AHFC's systems. He noted that AHFC does a lot of work with local contractors and is time driven due to the seasons, and therefore AHFC is quick and effective. With regard to procurement, for new request for proposals (RFPs) or bills AHFC always forms a committee with folks from outside of the corporation to analyze it. Again, Mr. Fauske characterized AHFC's process as an enhancement.

[9:24:27 AM](#)

The committee took a brief at-ease.

[9:25:39 AM](#)

CHAIR JOHNSON directed attention to the highlighted version of Amendment 2, which was provided to the committee.

[9:26:07 AM](#)

JOSHUA WALTON, Staff, Representative Mia Costello, Alaska State Legislature, directed attention to the highlighted and annotated version of Amendment 2 and the key to the highlights at the top of the first page of Amendment 2.

[9:27:30 AM](#)

REPRESENTATIVE GRUENBERG related his understanding that Amendment 2 is a substitute for the entire legislation.

MR. WALTON replied yes.

[9:28:50 AM](#)

MR. WALTON then began his review of Amendment 2, which begins with a title change. The change to Section 1 adds language to the AHFC enabling statutes that establishes the Knik Crossing Development Corporation as a subsidiary corporation and provides that the AHFC Board of Directors will be the KCDC Board of Directors. Section 2 embodies a number of changes to AS 18.56 that establish, enable, and describe KCDC. Section 2(a) is the word-for-word purpose of KABATA from AS 19.75.011, except that all references to KABATA have been changed to KCDC. Section 2(b) is also a provision that applies to KABATA per AS 19.75.021(b) that in Amendment 2 now refers to KCDC. Proposed "**Sec. 18.56.610. Powers and duties.**", paragraphs (1)-(5) and subsection (b) on page 2, lines 3-28, of Amendment 2, specifies additional powers, which are verbatim from the KABATA powers in AS 19.75.111(a) and AS 19.75.111(b) and (b)(5). He then directed attention to proposed "**Sec. 18.65.615. Bonds.**" and the language, "The Knik Crossing Development Corporation may issue bonds in an aggregate amount not to exceed \$600,000,000 plus the cost of issuance," which is [new language] as proposed in CSHB 23(FIN). Although there isn't a direct corollary regarding the language on page 2, line 31 to page 3, line 3, referring to the amount of refunding bonds that may be issued, he recalled that there was discussion and that the powers are very similar to what KABATA would need as well. Section 2(b)-(d) are by-and-large powers that exist in KABATA's enabling legislation. In fact, in most cases the language is taken [from KABATA's enabling legislation] verbatim. He then pointed out that proposed "**Sec. 18.56.620. Capital reserve fund**" is verbatim language from KABATA's enabling language in AS 19.75.221(c), (d), (e), and (h) and can be found on page 3, line 29, through page 5 line 7, of Amendment 2. However, HB 23 adds restrictions regarding the deposits into the reserve fund, which has been included verbatim in Amendment 2 [on page 5, lines 9-14]. On page 5, lines 15-25, the language creates new provisions that establish an "availability payment reserve fund." He highlighted that the language establishing the "availability payment reserve fund" is very similar to the language on page 5, lines 9-14, of Amendment 2. The language in paragraph (f) on page 5, line 26, through page 6, line 2, of Amendment 2 says that the availability payment reserve fund is to be used specifically for the purpose of making the availability payments. Furthermore, once the availability payments are complete and the bridge is drawing revenue, that revenue is deposited in a different fund to be used for other purposes. Mr. Walton then pointed out that the capital reserve fund provisions on pages 3 through the beginning of page 5 of Amendment 2 enable KCDC to establish reserve funds as necessary.

He noted that the language provides quite a bit of latitude for the creation of reserve funds. On page 6 of Amendment 2, paragraph (g) includes reporting requirement language as found in CSHB 23(FIN) with a substantive change in which the language is adjusted such that KCDC has to annually report not later than January 30.

MR. WALTON then pointed out that the moral obligation cap of \$1.4 million that was inserted into CSHB 23(FIN) is retained in paragraph (i) of Amendment 2 on page 6, lines 13-17. Page 6, lines 18-22, of Amendment 2 specifies the definition of "capital reserve fund requirement." Proposed "**Sec. 18.56.625. Exemption from taxation.**" incorporates the exemption of real and personal property of KCDC from state and local taxation. He highlighted that part of the aforementioned provision is in existing statute and part of it is language added by CSHB 23(FIN). He then directed attention to proposed "**Sec. 18.56.630. Exemption from local regulation.**" located on page 7, lines 14-17, of Amendment 2, which embodies powers that KABATA already possesses in AS 19.75.911. The provision embodied in proposed "**Sec. 18.56.635. Liability for payment of tolls.**" is something that KABATA already has in AS 19.75.915. From this point on, most of the changes encompassed in Amendment 2 are conforming changes that remove references to KABATA and replaces them with KCDC. He specified that from page 7, line 23, through page 8, line 8 removes references to KABATA, which would cease to exist. On page 8, Section 4 of Amendment 2, KCDC would be added to the state procurement code exemption. As the language specifies AHFC has always been exempted from the state procurement code. Section 5 repeals the KABATA enabling statutes. Section 6, page 8, line 21, through page 9, line 3, of Amendment 2 is transition language. The transition language transfers all KABATA assets, intellectual property, obligations, debts, etcetera to KCDC and provides that the existing KABATA board would serve in an advisory capacity to the KCDC board for one year and would do so without compensation but would receive per diem and expenses related to their work.

[9:42:29 AM](#)

CHAIR JOHNSON clarified that this committee is only dealing with areas that aren't highlighted as they are new provisions not powers that KABATA already has nor powers granted to KABATA under [CSHB 23(FIN)]. He then related the desire to ensure that the process isn't slowed down and AHFC isn't burdened with something it doesn't want.

9:45:15 AM

JEFF STARK, Chief Assistant Attorney General -Statewide Section Supervisor, Transportation Section, Department of Law; General Counsel, KABATA, began by informing the committee that he has worked as the general counsel for KABATA for about the last two years, but has worked on the Knik Arm Bridge project for the last five to six years. Mr. Stark expressed concern with Amendment 2, as currently drafted. He pointed out that KABATA has been attempting to develop this bridge for 10 years now under a public-private partnership such that a private developer would design, construct, finance construction, and operate and maintain the bridge for 35 years. In return, the private developer would receive a payment from KABATA, which would use the toll revenues to pay the developer. The KABATA has started the process of selecting the developer. In fact, in 2011 KABATA went through a request for qualifications process and short-listed three developers who are interested in building the bridge. For the last two years, KABATA has been working with those groups to put together the agreement that would govern the almost 40-year relationship on which the developers would bid. According to KABATA's schedule, KABATA would like to put out a formal RFP to these three prospective developers this summer, select a developer at the end of the year, and close about a year from now, realizing any number of variables could delay the process. The missing piece to develop the project in that fashion is the language contained in CSHB 23(FIN) relating to the moral obligation. He explained that the moral obligation provision in CSHB 23(FIN) creates a reserve account and a commitment from KABATA to make payments from that reserve account to the developer and maintain that reserve account at a certain level. When the reserve account is depleted there is a commitment from KABATA to request from the legislature and the governor to restore the account. The aforementioned is referred to as a moral obligation because the legislature can't bind future legislatures, and thus there is no legal obligation for the legislature to appropriate funds if KABATA requests it from the legislature. Creation of the moral obligation structure signals to the developers and financial markets that the legislature will appropriate additional funds that KABATA requests. The financial markets will rely on that representation from the legislature. Therefore, the financial markets will react badly if the legislature doesn't appropriate the funds requested from KABATA, which will impact the state's credit rating.

9:50:18 AM

CHAIR JOHNSON questioned whether those funds are already [included] in the legislation.

MR. STARK replied yes the language is in Amendment 2, but not in a form that works for a P3 agreement. In further response to Chair Johnson, Mr. Stark stated that it's a fixable problem if the original HB 23 is used. The moral obligation language in HB 23 would work for a P3 project, whereas the language in Amendment 2 won't work. He directed attention to subsection (e) on page 5, line 15, of Amendment 2 and specified that the "availability payment" is the problem. The name and the substantive language in subsection (f) are problematic. He clarified that the availability payment is only one of the payments that will be owed to the developer under the contract. He then directed attention to subsection (f) on page 5, line 26, of Amendment 2, which read: "All money held in the availability payment reserve fund shall be used solely for the payment of annual availability payments ...." As mentioned earlier, the developer is going to design, build, operate, maintain, and finance the bridge. The developer will put in \$80-\$100 million of its own funds into the project and will borrow the remainder, which he estimated to be \$600-\$700 million, in return for which the developer will receive the availability payment monthly and will only receive it if all goes well. There is the chance that everything won't go well and two other types of payments that could arise under this type of agreement with the developer. One payment is a relief event, which is an event that could happen under the regular structure of the agreement that is they are cost risks borne by the developer, but will be shifted back to KABATA because it will be more cost effective to do so. In some cases, although the risk is small/unlikely, it's simply too large for the developer. For example, earthquakes and other force majeure events could be a risk the developer couldn't handle but the state could because the damage would likely be such that there would be federal aid and damage to the bridge would be the least of the problems. Therefore, such risk should be shifted back to KABATA.

[9:55:49 AM](#)

CHAIR JOHNSON surmised then that such language could be placed into Amendment 2 and still function.

MR. STARK answered yes, and pointed out that the original language of HB 23 includes such language that works well. Returning to the situation in which all doesn't go well with the

project, Mr. Stark noted that there are also termination payments.

[9:56:17 AM](#)

REPRESENTATIVE CHENAULT inquired as to whether the [moral obligation] language has changed in the various versions of HB 23.

MR. STARK specified that the only change in the [moral obligation] language from the original HB 23 [to CSHB 23(FIN)] is the addition of a cap in the amount of the moral obligation. There was concern with the original legislation in which there was an unlimited moral obligation. Therefore, the legislation was changed to include a \$1.14 billion cap in CSHB 23(FIN) in order to cover the termination payment. If the agreement is terminated at the worst moment, the total amount that might be payable to the developer plus the amount of the previous availability payments could reach \$1.14 billion. If a developer builds the bridge and the agreement is terminated for convenience of the state because of a state default, default by the developer, or by order of the court, the bridge will always belong to the state. Therefore, if the agreement is terminated, the state will have to pay something to the developer and the amount paid will be dependent upon the reason for the termination. For instance, in a situation in which the state terminated the agreement due to its own default or for convenience, the state will pay a lot. However, if the agreement is terminated due to developer default, the state will pay much less. When marketers/developers look at this project, one has to cover all three of those payments in the P3 project otherwise no developers will be interested and it will be difficult to find anyone willing to finance the project.

CHAIR JOHNSON asked whether this language could be addressed and [KCDC] still housed under AHFC.

MR. STARK replied yes, clarifying that it's not a problem with AHFC but rather with the language of Amendment 2.

CHAIR JOHNSON announced his intention to take the input of Mr. Stark and develop a committee substitute (CS) to present to the committee this afternoon. He then expressed the need to fix what can be fixed [in Amendment 2] and determine whether Amendment 2 has [provisions] that can't be fixed or passed.

MR. STARK opined that inherent in transferring the project to AHFC the project will be slowed down. If the desire is to proceed in a P3 process, the transfer will cause a slowdown because KABATA is in the midst of a procurement now. Transferring the project to AHFC will effectively end procurement. He noted that he suggested to AHFC language that would transfer that procurement to AHFC, but AHFC expressed extreme concern about that. Therefore, he surmised that AHFC isn't interested in taking on the project under those terms.

[10:01:29 AM](#)

REPRESENTATIVE OLSON inquired as to how many attempts there have been to obtain P3 funding.

MR. STARK related that although KABATA began the process in 2008 when the project wasn't as mature as it is now, there were some outstanding environmental permitting issues that have since been resolved. Furthermore, the financial collapse of 2008 changed the entire financial world, including the P3 agreement world. Therefore, KABATA has spent the last several years solving the permitting issues and revamping the agreement. The agreement, he noted, is substantially different than it would've been in 2008. He stated that the project is at a point of being virtually ready to go.

[10:02:53 AM](#)

REPRESENTATIVE HERRON inquired as to what happens to the process if HB 23 isn't passed out of the House.

MR. STARK answered that if HB 23 falters and there is no moral obligation provision, KABATA will be delayed for a year. The problem with delay, in part, relates to interest rates that currently are extremely favorable. Such a favorable environment in terms of interest rates would have to last for two years as the project won't close for a year. Furthermore, delay increases construction costs. Mr. Stark emphasized that one of the biggest risks relates to TIFIA as there is a limited amount of TIFIA funds that are given, upon qualification, on a first-come first-served basis. There are a lot of projects nationwide that are lining up for about \$17 billion in TIFIA funds. Although it's possible that more funds could be appropriated to TIFIA, there is no guarantee and it's entirely possible that all those TIFIA funds would be allotted if another year goes by. Moreover, TIFIA funds are a great deal for this project and might be what makes this project financially viable. The TIFIA

funds certainly are advantageous to the state and delaying the project does place TIFIA funds at risk.

10:05:28 AM

CHAIR JOHNSON recalled testimony that [the KABATA project] was number four on the list for TIFIA.

MR. STARK related his understanding that really only one project has been invited to submit a TIFIA application, everyone else has submitted letters of interest. That one project isn't KABATA, he stated.

10:06:17 AM

REPRESENTATIVE HERRON asked whether Amendment 2 would be a good option rather than taking the risk of HB 23 faltering.

MR. STARK characterized it as a policy call and that it's not appropriate for him to answer.

REPRESENTATIVE HERRON stressed, however, that many are depending on DOL to help the legislature make that policy call.

MR. STARK related his assumption that if Amendment 2 passed and the moral obligation language was fixed, AHFC would first have to study the project and determine whether it's appropriate to proceed on the P3 process path KABATA has begun or to change the path. Although he couldn't predict how much time such [study and determination] would require, he opined that it would take a considerable amount of time as it's a large, expensive, and complicated project. On the other hand, if the project proceeded through the P3 process and KABATA's current procurement isn't preserved, then the project would start over at square one for the procurement that is the selection of the developer. The aforementioned will delay the project, he opined. The first step for a P3 procurement is a request for qualifications. A project following the P3 procurement can't be opened to everyone because it's so expensive to bid that no one would bid. The cost to put together a bid is about \$10 million, and therefore bidders need to know that with three short-listed proposers they have a reasonable chance of winning the bid and will put up the money to bid. The aforementioned process will be a delay of six months.

CHAIR JOHNSON related his understanding that the request for qualifications is already out.

MR. STARK replied yes, but clarified that if Amendment 2 is enacted that already done work would be lost and the process would have to start over. In further response to Chair Johnson, Mr. Stark explained that the work that's already done is under a KABATA procurement and KABATA will no longer exist.

CHAIR JOHNSON inquired as to why that's the case if all of KABATA's assets, obligations, etcetera are rolled into AHFC.

MR. STARK explained that's because it's a process not an asset. As mentioned earlier, Mr. Stark said that he had suggested language to AHFC that would make it clear that the [procurement work] goes to AHFC. However, AHFC wasn't interested in that language and as he understood it, AHFC didn't want to adopt KABATA's procurement.

CHAIR JOHNSON surmised then that if the procurement matter was addressed in Amendment 2, then the statements regarding delay wouldn't be accurate.

MR. STARK agreed that part [of the delay] wouldn't be accurate, but there will still be some delay due to AHFC taking over and trying to get its arms around the project.

[10:12:18 AM](#)

REPRESENTATIVE OLSON asked whether KABATA has made previous attempts to obtain TIFIA funding that weren't via a P3 [procurement] submission.

MR. STARK confirmed that in the past KABATA has submitted applications for TIFIA that were rejected. However, when those applications were submitted KABATA was aware that its project wasn't as mature as others, there were limited funds in TIFIA, there were competing projects, and the chances of obtaining the TIFIA funds were remote. The KABATA felt it was worthwhile to submit the applications because the chances of obtaining TIFIA funds weren't zero. Furthermore, the selection process at the time included subjective criteria and KABATA felt it was best to place the project in front of TIFIA to receive feedback that could be helpful so that they would have a much better chance of obtaining the TIFIA funds when the project was mature. Since those prior applications, the TIFIA process has been amended, the selection process is much different, and more money is available. At this point, KABATA has good reasons to believe that if the moral obligation language can be adopted, TIFIA

financing will be available. Although the TIFIA funding isn't a given, it looks very favorable. In further response, Mr. Stark recalled that KABATA submitted applications to TIFIA four times.

[10:14:31 AM](#)

REPRESENTATIVE KELLER related his understanding that AHFC is unwilling to take on the agreements of KABATA under the state procurement code, including the developer short list. He then inquired as to whether there are other items besides the short list that would not be picked up by AHFC.

MR. STARK said he didn't believe so. He pointed out that one of AHFC's options is to simply scrap the P3 [procurement] process and build the bridge in another manner. At that point, AHFC would be starting from scratch and he didn't know how long that would take.

CHAIR JOHNSON interjected that he didn't want to conjecture about what AHFC will do.

MR. STARK clarified that what is being discussed is a P3 procurement, but there are other ways to develop this project outside of a P3 procurement. Without speculating how long another process would take, he said that another process would mean AHFC is starting over. If AHFC were to continue with the P3 process and kept the three short-listed proposers, then AHFC would simply be stepping in where KABATA is now and there isn't a lot left to do. If the short list of proposers is lost, there is a lot more work to be done, he opined.

[10:18:47 AM](#)

REPRESENTATIVE HERRON related his understanding that the sponsor of HB 23 holds Mr. Stark in the highest regard and has told him that if Mr. Stark can make [Amendment 2] work, he may be amenable to accepting the amendment. He then asked whether Mr. Stark and others can work with AHFC so that there "is a huge potential of this process acquisition."

MR. STARK surmised that Representative Herron is asking whether legislation can be crafted that would allow AHFC to take KABATA's project as-is, including the current procurement, and move forward. Mr. Stark, in response, related his belief that the answer is yes. However, he expressed concern that even with language in statute specifying that the procurement passes to AHFC, there might be an attempt to challenge [the transfer]

because it's a KABATA procurement proceeding under KABATA's regulations that were crafted and adopted to this process and AHFC is exempt from the procurement code and has no regulations. On the other hand, there would be an excellent argument if the statute was crafted properly to overcome that risk.

[10:21:04 AM](#)

REPRESENTATIVE GRUENBERG inquired as to whether Mr. Stark has any other problems with this [proposal].

[10:22:22 AM](#)

CHAIR JOHNSON recessed the committee to the call of the chair.

[1:34:48 PM](#)

CHAIR JOHNSON called the House Rules Standing Committee back to order at 1:34 p.m. Upon reconvening, Representatives Hawker, Herron, Keller, Olson, and Johnson were present. Representatives Chenault and Gruenberg arrived as the meeting was in progress. Also in attendance was Representative Pruitt.

[1:34:52 PM](#)

MR. STARK, regarding Representative Gruenberg's question, said that his major concerns with Amendment 2, as written, were discussed this morning. However, he noted the following minor points. On page 2, line 27, of Amendment 2 the reference to "department" comes from Title 19 [of the KABATA statutes] and is defined as the Department of Transportation & Public Facilities whereas he wasn't sure whether the term is even defined in Title 18 and if it is it refers to the Department of Revenue. On page 3, line 16, subsection (d) of Amendment 2, the language applies to KCDC's bonding authority and requires an agreement that would be part of bond issuance and contain a covenant that KCDC "will at all times maintain fees, rents, tolls, rates, or other charges sufficient" to pay all operation and maintenance costs, debt service costs, and various other expenses of the bridge. If the project is developed as a P3 [procurement] project, then that language doesn't come into play. However, if KCDC intends to finance the project more conventionally by issuing bonds itself, it may be difficult to impossible to set tolls at a rate that allows payment of all those expenses, at least in the early years. He related that KABATA had intended to obtain an appropriation to cover the early, lean years and set the tolls not at the revenue maximizing rate but rather at a rate that

makes sense for drivers and would allow for traffic to build over time. Mr. Stark opined that perhaps AHFC should provide input as to whether they believe the aforementioned is a problem. He then expressed concern with page 5, line 29 through page 6, line 2, of Amendment 2 because under federal law if any federal financing is used, including TIFIA funds, those revenues will have to be used for projects eligible for Federal Highway Administration (FHWA) funds, and thus can only be used for highway projects. Although the aforementioned language doesn't preclude that, he said it's unclear to him why one would want to put the funds in a reserve fund. Furthermore, Mr. Stark opined that it's important for people to understand that no matter where the funds go, it will have to have a limited purpose for its use.

[1:41:38 PM](#)

CHAIR JOHNSON suggested that the language "designated for" could address Mr. Stark's last concern.

MR. STARK agreed that the concern can be addressed by either eliminating the requirement or by indicating the reserve fund will be used only for appropriate purposes under federal law.

[1:42:02 PM](#)

MR. STARK, adding to his list of concerns, informed the committee that he always has concerns with legislation like HB 23, which is complex and has been introduced late.

[1:43:08 PM](#)

REPRESENTATIVE GRUENBERG inquired as to whether Mr. Stark is prepared to specify how high the tolls should be to meet the requirements of subsection (d) on page 3 of Amendment 2.

MR. STARK replied no. However, he offered his understanding that KABATA is looking at revenue shortfalls in the first couple of years in the range of \$30 million. Perhaps AHFC can arrange financing that reduces the debt service and the amount [of revenue shortfalls]. Mr. Stark opined that it's not clear to him that AHFC could reduce it enough to allow tolls to cover all of their debt service and operating expenses at the rates KABATA was considering. He reiterated that he couldn't speculate how high the rates would have to be to do so.

[1:44:24 PM](#)

REPRESENTATIVE GRUENBERG inquired as to whether KCDC would be eligible for bankruptcy protection.

MR. STARK surmised that AHFC would create KCDC as a nonprofit corporation, and thus he doesn't see any reason why it wouldn't be eligible for bankruptcy protection. In further response to Representative Gruenberg, Mr. Stark explained that AHFC is a public corporation and probably would file for bankruptcy differently. Moreover, he said he wasn't prepared to offer comments regarding the impact bankruptcy of KCDC would have on AHFC. However, since KCDC would be a separate subsidiary corporation, presumably the bankruptcy of KCDC wouldn't drag AHFC into bankruptcy.

[1:46:08 PM](#)

REPRESENTATIVE GRUENBERG, referring to subsection (f) on page 5 of Amendment 2, asked whether the federal requirement that the project must be eligible for FHWA funds would limit the viability of KCDC and the entire project. If the aforementioned is the case, he inquired as to how it would limit it.

MR. STARK answered that he didn't see how the federal requirement would limit KCDC. The toll revenues, which are clearly eligible for FHWA funds, would be used on the bridge project. Once the bridge is fully paid for or there is a surplus of toll revenues, then one would have to determine for what purpose one would use that surplus and it would be limited to projects eligible for FHWA funds. He stated that it doesn't impact KCDC's ability to do or finance the project.

[1:47:33 PM](#)

CHAIR JOHNSON inquired as to whether the aforementioned federal requirement is necessary to be in the legislation since it's already law.

MR. STARK responded that it's probably not necessary to include it in the legislation so long as KCDC is aware of the law and abides by it.

[1:48:03 PM](#)

REPRESENTATIVE HERRON observed that if HB 23 isn't amended, it could be difficult to pass the House, although the chair has been working very hard to get around that hurdle.

1:49:24 PM

REPRESENTATIVE GRUENBERG asked whether the transfer to AHFC changes any of the financial structures such as using a public-private partnership, P3, from the existing legislation.

MR. STARK pointed out that KABATA is a public corporation of the state and is able to procure the Knik Arm Bridge project through a P3 process. Therefore, he said he couldn't think of any reason why KCDC, as a subsidiary of a public corporation of the state [AHFC] couldn't do so as well.

1:50:39 PM

REPRESENTATIVE KELLER requested further explanation of the letter of interest that is submitted to TIFIA, particularly regarding whether KABATA has submitted it already. He then inquired as to the significance of the ranking [of the project] in terms of [testimony he recalled indicating KABATA] "is fourth on the list." He also requested explanation of the preliminary investment grade rating that KABATA has received, including the time and cost it took to obtain the rating.

MR. STARK explained that the first step in applying for a TIFIA loan is a letter of interest, which KABATA has submitted. The letter of interest includes an indicative rating from a nationally recognized bond-rating firm. The TIFIA responded that before KABATA could be invited to submit an actual application, it would need the moral obligation language contained in [CSHB 23(FIN)] as well as an appropriation that would fund the reserve account that's part of that moral obligation. With regard to comments that KABATA is fourth in line, he guessed that KABATA may have been fourth to submit a letter of intent. He informed the committee that a number of entities have submitted letters of intent and the total value of those projects is approaching the total amount of TIFIA funding available. If this project shifts to KCDC under AHFC, they would have to submit a letter of intent and indicative rating, the process for which takes a couple of months. At that point, as Mr. Viteri testified, unless KABATA would've been able to submit its application because it obtained the moral obligation language, [KCDC] would be at the same point as KABATA. To add further clarity, Mr. Stark explained that once KABATA receives the moral obligation [language], it would then resubmit to TIFIA and there is a good chance it would be invited to apply for TIFIA financing. Assuming KABATA qualifies, the project would

be eligible for TIFIA financing. If KABATA remains the developer of the project, the moral obligation [language] is included, and some seed money is placed in the reserve account, there is a good chance that KABATA could get in line in very short order. On the other hand, KCDC would have a few steps to go through before reaching the aforementioned point.

[1:55:03 PM](#)

CHAIR JOHNSON inquired as to why the letter of interest wouldn't be included in the transfer of assets and etcetera.

MR. STARK specified that it's because KCDC is a different entity and from speaking with FHWA, he understood it wanted a new letter of interest.

[1:55:30 PM](#)

REPRESENTATIVE HAWKER asked if Mr. Stark, when referring to the first step in qualifying for TIFIA funds, meant [KABATA] having the authority to avail itself of a moral obligation of the state or having it funded to some degree. If it's to fund the moral obligation, he inquired as to the amount at which it needs to be funded.

MR. STARK answered that the authority for the moral obligation in [CSHB 23(FIN)] is necessary, which is the first step. He related that TIFIA has also indicated the need for funds [in a reserve account] as well. The current capital budget includes \$10 million, which Mr. Stark characterized as a bit small, although KABATA believes it's a sufficient amount. Mr. Stark opined that a larger amount would be better.

[1:56:50 PM](#)

REPRESENTATIVE OLSON inquired as to whether the four previous KABATA submissions included moral obligation clauses.

MR. STARK replied no, the moral obligation clause wasn't part of KABATA's applications in the past. In further response, Mr. Stark explained that the moral obligation is important for TIFIA and because the developers are insisting on it if they are going to put forth \$700-\$800 million of their own funds. That hasn't changed and in the past KABATA has attempted to obtain the moral obligation language. In terms of TIFIA, the process has changed. The letter of intent from KABATA was submitted and

TIFIA specified that a moral obligation is necessary in order to be invited to submit an application.

1:58:10 PM

CHAIR JOHNSON asked if he understood Mr. Stark's earlier testimony correctly that [KABATA] would have to request \$30 million annually from the legislature to make up for the shortfall from the tolls.

MR. STARK explained that KABATA's financial plan by the time the bridge opens includes a total appropriation in the amount of \$150 million, which would go into the reserve account. All future tolls and revenues of KABATA would go into the reserve account as well. With that \$150 million, KABATA believes it might not ever have to come back to the legislature and ask for funds. If KABATA did have to return to the legislature for further funding, it would be several years later when it's time to expand the capacity of the bridge. The aforementioned would only occur when the bridge is a success. Mr. Stark clarified that KABATA isn't planning on making \$30 million requests to the legislature annually, but rather planning on getting the seed money upfront and running with it. However, that assumes the toll revenues are what KABATA expects them to be, and thus if toll revenues fall short, then KABATA would request from the legislature additional funds.

1:59:43 PM

CHAIR JOHNSON asked whether the aforementioned is based on KABATA's projections, not including what the audit predicts.

MR. STARK explained that KABATA normally discusses a base case, which is considered the 50 percent likely level of tolls. The KABATA has also done projections based on a 95 percent likely level of tolls, which means toll [receipts] are very low. Although it still would take a few years for KABATA to run out of the \$150 million under the 95 percent likely level of tolls, KABATA would still seek funds from the legislature and likely do so repeatedly.

2:01:03 PM

MR. FAUSKE related that although he is supportive of Amendment 2, as written, he would like to defer to Mr. Vassar regarding the moral obligation language.

2:01:38 PM

KEN VASSAR, Of Counsel, Birch Horton Bittner & Cherot; Bond Council, Alaska Housing Finance Corporation, informed the committee that he has reviewed the two types of reserve funds that were in the original HB 23. There is the more typical bond-debt service fund and a farther-reaching reserve fund, the second of which Mr. Stark mentioned earlier today. In the course of preparing the amendment that would facilitate the transfer of KABATA from a state-owned public corporation to a subsidiary corporation owned by AHFC there was some confusion about the second reserve fund and the best language for it. Mr. Vassar related that [AHFC] has no objection to using the second reserve fund, using the language in HB 23, and conforming the amendment to reflect that language with one small exception. He related his understanding that Mr. Stark had discussed the exception with other assistant attorneys general and has agreed that the one change won't hurt KABATA. Therefore, for the second reserve fund, he said [AHFC] is agreeable to a change that would return the language to the original HB 23 language for that reserve.

2:04:17 PM

REPRESENTATIVE HAWKER inquired as to whether Mr. Vassar is referring to the language in subsection (g) on page 6 of Amendment 2.

MR. VASSAR referred to subsection (d) on page 5 of Amendment 2. He pointed out that subsection (e) on page 5 of Amendment 2 refers to an annual availability payment, which he opined is where HB 23 got off track. Therefore, the [original] HB 23 language could be used for that fund.

2:05:26 PM

MR. VASSAR, in further response to Representative Hawker, proposed deleting all of subsections (e) and (f) [of Amendment 2] and in lieu of those add the language from page 3, starting line 8 of [CSHB 23(FIN)]. He then pointed out that language on page 3, lines 10-21, of [CSHB 23(FIN)] specifies the three things for which the particular fund can be used. However, he noted his understanding from Mr. Stark and others that the language on page 3, lines 14-16, of CSHB 23(FIN) wouldn't carry over. Furthermore, subsection (j) will also need to be incorporated into page 3, lines 27-30 of CSHB 23(FIN).

[2:08:28 PM](#)

CHAIR JOHNSON surmised then that Mr. Vassar is prepared to remove the language and return to the original HB 23 language, which he further surmised wouldn't be of concern for Mr. Stark.

MR. VASSAR replied yes.

[2:09:57 PM](#)

MR. FAUSKE, regarding the potential for delay due to the proposed transition to AHFC, acknowledged that he couldn't ensure the committee that there won't be delays. He noted that he has been advised by some who say there is time and no sense of urgency, rather there is a desire to move the project as quickly as possible. With regard to the sense of urgency, Mr. Fauske said he would have to decline an offer that would require AHFC to accept all contracts, obligations, etcetera of another entity without time to review them. However, Mr. Fauske opined that there is a way to do this with language included in [Amendment 2] that works with the transition and keeps those matters alive that are possible to do so. He related his understanding that the most urgent matter is to address the audit and moving beyond that, which can occur concurrently with going forward.

[2:11:45 PM](#)

REPRESENTATIVE HAWKER recalled that during his tenure with the legislature, it has spent much time studying mega projects as is the case with KABATA. From that [study/review], he opined that the legislature has accepted and respected the counsel it has received on mega projects by the Institute of Project Analysis (IPA). The IPA has offered that successful mega projects can't be schedule driven. Therefore, he expressed concern with driving to meet a schedule as that often results in failure as demonstrated by schedule-driven projects throughout the world.

[2:13:26 PM](#)

REPRESENTATIVE KELLER pointed out that the reference to the urgency of the project is different than the urgency of the issue, which is related to the timing of the session. Although the TIFIA funds alone may not be enough [to drive the project], the significant amount of possible TIFIA funds create a sense of urgency in terms of taking advantage of an opportunity.

2:14:26 PM

CHAIR JOHNSON remarked that the urgency he observes is having a letter before TIFIA in order to keep the project in the mix.

MR. FAUSKE highlighted that AHFC has recently completed a fairly significant phase and project under AGDC, which is a \$7.5 billion project. He noted his agreement with Representative Hawker that there is a way to do and progress these [mega] projects that he has observed firsthand. He stressed that it's proven that when projects go south it's because people didn't adhere to strict policies. He acknowledged that some fear that AHFC is a bureaucratic monstrosity, but he urged folks to review what AHFC did with AGDC, which is a far larger project than the bridge. Mr. Fauske emphasized that he won't be driven by schedules to the point of losing sight of the main goal. Furthermore, until the audit has been answered in a satisfactory manner, he challenged anyone to secure financing; financing that isn't costly. He informed the committee that anytime bonds are issued in the front of the OS there is a section entitled "Significant Events." He indicated that [the audit] certainly qualifies as a significant event and investors, rating agencies, and others will want the facts. He then indicated that [addressing the issues and maintaining sight of the original goal] can occur at the same time.

2:17:37 PM

REPRESENTATIVE KELLER pointed out that the committee has been discussing whether there will be a delay due to the transition from KABATA to AHFC, which presumes urgency. However, discussing whether the delay is appropriate is different.

CHAIR JOHNSON surmised that the committee is asking for a guarantee that there will be no delays, although everyone knows there are no guarantees. However, he expressed the need to do what's possible to avoid creating delays. He then related his understanding that Mr. Fauske isn't discussing creating delays but rather not being held to a [schedule] if issues arise in the future.

2:19:17 PM

STACY SHUBERT, Director, Governmental Affairs & Public Relation, Alaska Housing Finance Corporation, Department of Revenue, regarding the public-private partnership and the short list of potential partners that KABATA has been working with, said that

AHFC sees no reason why there would be any challenges with its procurement process. However, she deferred to Ms. Cedergreen for further comment.

[2:19:26 PM](#)

NOLA CEDERGREEN, Director, Administrative Services, Alaska Housing Finance Corporation, Department of Revenue, began by noting that she's also the chief procurement officers for AHFC. She informed the committee that there is nothing in AHFC regulations that would prohibit AHFC from recognizing the process described earlier as a request for qualification and creating a short list of potential offerors. However, AHFC's regulations do allow it to follow the RFQ process and then issue an RFP process, which under AHFC's regulations would be referenced as a limited procurement to those qualified offerors. Therefore, Ms. Cedergreen didn't expect any problems with the procurement process itself.

[2:20:17 PM](#)

CHAIR JOHNSON related his understanding that when KABATA was building its procurement plans it came to AHFC for guidance as to how to put such plans together.

MS. CEDERGREEN confirmed that was the case, adding that she shared AHFC's procurement regulations with KABATA several years ago. Upon review of KABATA's procurement regulations, Ms. Cedergreen said she found the vast majority to be very similar if not identical to AHFC's procurement regulations.

[2:20:52 PM](#)

REPRESENTATIVE KELLER surmised then that the fact that under Amendment 2, AHFC isn't under the state procurement program won't jeopardize the situation with the short-listed contractors. He related his understanding that [the state] spent \$6 million and the three short-listed contractors are poised to spend millions. He reiterated his understanding that AHFC not following the state procurement code won't prevent AHFC from picking up [the short list] and continuing.

MR. CEDERGREEN replied yes, AHFC routinely issues RFQs and identifies firms that are qualified for performing professional and other services for the corporation and subsequently issues an RFP with specifications and awards [the contract] to an

offeror. Under the provisions of AHFC's procurement regulations it's referenced as limited procurement.

REPRESENTATIVE KELLER surmised then that although AHFC isn't under the procurement of the state AHFC is allowed to fulfill the obligations incurred by KABATA, which were under the procurement standards of the state.

MR. FAUSKE added that Ms. Cedergreen, her staff, and others were instrumental when AGDC was incorporated into AHFC, and thus AHFC is very familiar with how it works.

[2:23:03 PM](#)

REPRESENTATIVE GRUENBERG directed attention to page 3, line 12, of Amendment 2, which specifies a rate of 11 percent rate. He inquired as to why that rate was chosen as he recalled that the state could borrow at about 4 percent.

MS. SCHUBERT pointed out that the language to which Representative Gruenberg referred is [existing statute] relating the powers of KABATA that were provided some time ago.

[2:23:51 PM](#)

REPRESENTATIVE GRUENBERG inquired as to why it remains.

MS. FAUSKE related his understanding that it's a "not to exceed amount" provision.

[2:24:14 PM](#)

MR. VASSAR said he was tasked with bringing to the AHFC statutes those statutes that were unique to KABATA and allowed it to do its work. The referenced statute was identified as such and brought over to AHFC statute; that was the only intent with it. He noted agreement with Mr. Fauske that the language tells KDCD it wouldn't be able to issue bonds if the interest rate exceeded 11 percent. The expectation is that any bonds issued would be at or near the current market rate at the time of issuance. Therefore, today that would fall far below 11 percent.

[2:25:25 PM](#)

REPRESENTATIVE GRUENBERG suggested that the rate should be reviewed again as it seems very high.

CHAIR JOHNSON agreed that it's a high number, but said that he is comfortable with the rate as it's a ceiling not a floor.

2:26:15 PM

REPRESENTATIVE KELLER inquired as to Mr. Fauske's thoughts regarding KABATA's letter of interest to TIFIA and whether AHFC would have to redo that letter and how that would impact the TIFIA qualification.

MR. FAUSKE related his understanding that the TIFIA process is a competitive process that is competitively awarded by the federal government. Applicants obtain a place in line as they put forward projects. He told the committee that it would be AHFC's goal to stick to that schedule in order to adhere to the current schedules and that he hadn't heard that this creates an undue problem. He offered his further understanding that although an applicant may not receive the award at first, it doesn't preclude the applicant from submitting [an application] again.

REPRESENTATIVE KELLER agreed, but he raised the question as to the impact of the change in name and the response to that from TIFIA.

MR. FAUSKE said that the audit has to be corrected/completed, but he didn't know whether it impacts the TIFIA grant. If there has been a question in the audit with regard to overstated revenue from tariffs, he felt it would have an impact. Still, he expressed AHFC's goal to work with the KABATA staff and proceed with the grants in order to avoid undue delay. He stated that AHFC doesn't desire to disrupt the schedule of anything and AHFC will certainly seek guidance from the expertise of KABATA in order to forward the project.

2:29:54 PM

REPRESENTATIVE KELLER asked whether Mr. Fauske foresees any problem with the involvement of DOT&PF.

MR. FAUSKE replied no.

2:30:36 PM

CHAIR JOHNSON requested that his staff, Mr. Fauske, and Mr. Stark work together to address the necessary changes to HB 23, which he saw as minor differences.

MR. FAUSKE agreed that they are very close and should be able to address the differences in short order.

2:31:39 PM

CHAIR JOHNSON, upon determining no one else wanted to testify, closed public testimony.

2:32:13 PM

CHAIR JOHNSON then recessed to the call of the chair.

7:12:06 PM

CHAIR JOHNSON called the meeting back to order at 7:12 p.m. Upon reconvening, Representatives Chenault, Hawker, Herron, Keller, Olson, and Johnson were present at the call to order. Representative Gruenberg arrived as the meeting was in progress. Also in attendance was Representative Hughes.

7:12:18 PM

CHAIR JOHNSON removed his objection to Amendment 2. There being no further objection, Amendment 2 was adopted.

7:12:29 PM

REPRESENTATIVE OLSON moved to adopt Amendment 1 to Amendment 2, labeled 28-LS0141\O.40, Martin, 4/11/13, which read:

Page 1, line 11, of the amendment:  
Delete "board shall be the"

Page 1, line 12, of the amendment, following  
"Corporation":  
Insert "shall consist of the members of the board  
of the corporation"

Page 2, line 1, of the amendment:  
Delete "to"

Page 2, line 27, of the amendment:  
Delete "department,"  
Insert "Department of Transportation and Public  
Facilities"

Page 5, lines 6 - 7, of the amendment:

Delete "the property of"  
Insert "accounted for separately and may be appropriated to"

Page 5, line 15, through page 6, line 2, of the amendment:

Delete all material and insert:

"(e) Money in a reserve fund established under (d) of this section

(1) shall be used only for

(A) the payment of monetary obligations, liabilities, and indebtedness of the Knik Crossing Development Corporation, including termination payment obligations, under agreements for the financing, design, construction, maintenance, improvement, or operation of facilities, properties, or projects of the Knik Crossing Development Corporation; and

(B) planning, permitting, design, acquisition, construction, maintenance, improvement, or operation of transportation-related projects, facilities, properties, systems, or equipment of the Knik Crossing Development Corporation or other public entities, including expansions, extensions, and capacity improvements, eligible under applicable federal and state law to be funded from toll revenue;

(2) may not be used for the purpose of planning, permitting, design, acquisition, construction, maintenance, improvement, or operation of projects, facilities, properties, systems, or equipment under (1)(B) of this subsection if the withdrawal would reduce the amount in the reserve fund to less than the reserve fund requirement.

(f) In computing the amount of a reserve fund established under (d) of this section, securities in which all or a portion of the fund is invested shall be valued by a reasonable method established by the Knik Crossing Development Corporation by resolution or established by the terms of the agreement for which the fund serves as security. Valuation must include the amount of interest earned or accrued as of the date of the valuation."

Page 6, lines 6 - 11, of the amendment:

Delete "the availability payment reserve fund established under (e) of this section to an amount sufficient to pay the Knik Crossing Development Corporation's next availability payment. The

legislature may appropriate to the Knik Crossing Development Corporation the amount certified by the chair of the board that is needed to restore the reserve fund to the amount needed for the next availability payment."

Insert "a reserve fund established under (d) of this section to the reserve fund requirement. The duty of the chair of the board to report annually to the governor and the legislature terminates upon the cumulative appropriation to the Knik Crossing Development Corporation, after January 1, 2013, of \$1,140,000,000."

Page 6, lines 13 - 17, of the amendment:  
Delete all material.

Reletter the following subsection accordingly.

Page 6, line 18 of the amendment, following "section,":  
Insert "(1)"

Page 6, line 22 of the amendment, following "security":  
Insert "; and  
(2) "reserve fund requirement" means the amount required to be on deposit in a reserve fund established under (d) of this section on the date of the computation, as determined by resolution of the Knik Crossing Development Corporation or by the terms of the agreement for which the fund serves as security"

Page 8, line 24, of the amendment, following "indebtedness,":  
Insert "obligations, liabilities, commitments,"

Page 8, line 26, of the amendment, following "transferred to":  
Insert "and may be assumed by"

Page 8, line 27, of the amendment, following "Corporation.":  
Insert "Nothing in this section creates a liability or obligation of the Alaska Housing Finance Corporation."

Page 8, following line 27, of the amendment:

Insert a new subsection to read:

"(b) All procurements of the Knik Arm Bridge and Toll Authority that have not resulted in the award of a contract as of the effective date of this Act may be adopted and may continue as procurements of the Knik Crossing Development Corporation."

Reletter the following subsection accordingly.

CHAIR JOHNSON objected for purposes of discussion.

[7:13:07 PM](#)

CHAIR JOHNSON inquired as to the comfort Mr. Stark and Mr. Vassar have with Amendment 1 to Amendment 2 in terms of addressing the problems he has discussed.

MR. STARK responded that he is as comfortable as he is going to be, while maintaining concern that changing entities in midstream will inevitably slow the process. At this point, the language is as good as it will get, particularly in this short time.

MR. VASSAR related that he is completely comfortable with Amendment 1 [to Amendment 2].

[7:14:34 PM](#)

MR. WALTON reviewed the changes encompassed in Amendment 1 to Amendment 2. The changes to page 1, lines 11 and 12 of Amendment 2 specify the membership of the board of KCDC. The change on page 2, line 27, from "department" to "Department of Transportation & Public Facilities" is necessary [to add clarity] because KCDC is housed for administrative purposes under DOR. The change on page 5, lines 6-7, of Amendment 2 addresses concerns regarding the prohibition of dedicated funds and thus specifies that the legislature will appropriate any additional funds rather than it going directly into the development funds. The change on page 5, line 15, through page 6, line 2, of Amendment 2 replaces availability payment reserve fund language with original language from HB 23. The purpose of the aforementioned change is to specify for what the reserve funds shall be used, which is specifically for the obligations, liabilities, and indebtedness of KCDC and costs related to transportation-related projects. The new language stipulates that funds in the reserve fund may not be used if the withdrawal

would reduce the amount in the reserve fund to less than the requirement. The language also specifies that the valuation should be determined using a reasonable method determined by KCDC. The change to page 6, lines 6-11, of Amendment 2 deletes language related to the availability payment reserve fund and replaces it with language restoring the reserve fund moral obligation cap to the language as it was in CSHB 23(FIN). The reserve fund moral obligation language and cap language in Amendment 2 was split into two parts, and thus the deletion proposed to page 6, lines 13-17, of Amendment 2 deletes a now redundant section. The change on page 6, line 22, of Amendment 2 adds a definition for "reserve fund requirement". Page 8, line 24, of Amendment 2, is transition language and is part of the comprehensive list of components that would be transferred from KABATA to KCDC. There is new language that adds that obligations, liabilities, and commitments of KABATA would be transferred to and assumed by KCDC, as specified in the change to page 8, line 26, of Amendment 2. The change on page 8, line 27, of Amendment 2 adds an explicit statement that holds AHFC harmless for liabilities and obligations taken on by KCDC. In response to discussion regarding pending procurements, a new subsection is inserted on page 8, following line 27, of Amendment 2 that clarifies what happens with pending procurements.

[7:21:34 PM](#)

REPRESENTATIVE GRUENBERG asked whether there is any bonding committee oversight in Amendment 1 to Amendment 2.

MR. VASSAR answered that there is no state bond committee oversight of bond issuance in Amendment 1 to Amendment 2 or Amendment 2 itself. In further response, Mr. Vassar said that whether there should be or not is a policy call. With the establishment of the new KCDC as a subsidiary of AHFC, there is competent oversight provided through AHFC. Furthermore, AHFC is very aware of the implications of issuing moral obligation bonds and the impact of that on the state from which he would derive comfort. Again, this is a policy call. He highlighted that the moral obligation when large principle amounts are involved can have an impact on the state's credit rating. If the state determines state bond committee review is appropriate in those circumstances, that's a reasonable policy determination. If the aforementioned determination is made it would require one more step to be completed prior to the issuance of bonds, and thus becomes a timing issue.

7:25:16 PM

REPRESENTATIVE GRUENBERG questioned whether [review of the state bond committee] would avoid the appearance of the conflict of interest in the overall issuance of certain bonds.

REPRESENTATIVE HAWKER, noting that he isn't supporting or opposing the legislation or the amendment before the committee, stated that the point of this legislation, particularly [proposed] AS 18.56.615, is that the legislature is making a policy call that KCDC may issue bonds. He pointed out that through the governance provisions within these amendments KCDC is placed under AHFC, which has issued billions of dollars' worth of bonds, is incredibly competent, and has an obligation to the state for a fiduciary duty and proper performance. Therefore, Representative Hawker said he felt very comfortable that the concern expressed by Representative Gruenberg is addressed in the legislation that the committee would forward.

MR. VASSAR noted his agreement with Representative Hawker. In response to Representative Gruenberg, Mr. Vassar said he couldn't identify a conflict of interest.

7:28:11 PM

REPRESENTATIVE GRUENBERG surmised that the "may" on page 2, line 2, of Amendment 2 designates which agency has the power to do it rather than require it.

MR. VASSAR stated that Representative Gruenberg is correct.

7:29:30 PM

REPRESENTATIVE GRUENBERG asked if the purpose of the deletion of the language "the property of" on page 5, lines 6-7, of Amendment 2 means that the [interest earned on or profit derived from these funds and reserves] aren't automatically the property of KCDC, must be accounted for separately, and may be appropriated.

MR. VASSAR confirmed that is the purpose: to ensure [KCDC] is in compliance with both the state constitutional requirement that money can only be removed from the treasury by an appropriation of the legislature and to avoid creating a question as to whether there is a dedicated fund.

7:31:00 PM

REPRESENTATIVE GRUENBERG inquired as to why the language "termination payment obligations" page 1, line 23 and page 2, line 1, of Amendment 1 to Amendment 2 was added since there could be substantial termination payment obligations.

MR. VASSAR answered that the aforementioned language in Amendment 1 to Amendment 2 returns the language to what was in CSHB 23(FIN) on page 3, line 11.

REPRESENTATIVE GRUENBERG then inquired as to why the phrase was eliminated.

MR. VASSAR explained that it wasn't so much that the phrase was eliminated, but rather that Amendment 2 changed the entire reserve fund language based on advice of an attorney in DOL. He related that AHFC had no preference for the language, and thus it was added in order to address KABATA's concerns as specified by Mr. Stark and return the language to that in CSHB 23(FIN).

[7:34:32 PM](#)

REPRESENTATIVE GRUENBERG then directed attention to the language "or other public entities" on page 2, line 7, of Amendment 1 to Amendment 2. He asked if the aforementioned language gives additional ability to use the money in the fund for some other public entity besides KCDC without any further definition.

MR. VASSAR pointed out that the language in Amendment 1 to Amendment 2 returns the language to that in CSHB 23(FIN), which is what KABATA requested. The particular clause in question describes for what the money in the reserve fund can be used. The money in the reserve fund may be used for planning, permitting, etcetera for transportation-related projects of KCDC or other public entities. Therefore, theoretically, the language could authorize another transportation-related project by an entity other than KCDC and within the general purpose of KCDC to help finance the planning, permitting, design, and etcetera of that transportation-related project.

REPRESENTATIVE GRUENBERG surmised then that so long as the funds were to be used for the planning, permitting, and design of a transportation project, it could [be used] even in a different part of the state.

MR. VASSAR disagreed with Representative Gruenberg's understanding and opined that any power given to KCDC needs to

be read in light of KCDC's purposes in AS 18.56.605. He related that KCDC's purpose is to develop, stimulate, and advance the economic welfare of the state and further public transportation systems in the vicinity of the Upper Cook Inlet with construction of a bridge to span Knik Arm to connect Anchorage and the Matanuska-Susitna Valley. Therefore, Mr. Vassar didn't believe it would be within KCDC's power to choose a random city to finance a project. He highlighted that KCDC's only purpose is to further this transportation system that consists of a bridge spanning the Knik Arm.

CHAIR JOHNSON interjected his understanding that this portion [of financing] has to be [for a project] that's eligible for federal funds.

[7:38:48 PM](#)

REPRESENTATIVE GRUENBERG asked whether the addition of the language "or other public entities" on page 2, line 7, of Amendment 1 to Amendment 2 might cause bondholders/council to have concern if they viewed it as a way in which to diminish their security interests.

MR. VASSAR answered that he didn't believe so. The purchasers of any bonds from KCDC would review KCDC's authorizing statute and upon entering into any contracts, will tailor whatever covenants they need KCDC to make to ensure KCDC's assets aren't diluted or diverted in a manner that jeopardizes their security.

[7:40:19 PM](#)

REPRESENTATIVE GRUENBERG asked whether the insertion of the language "obligations, liabilities, commitments," as specified on page 3, lines 17-18, of Amendment 1 to Amendment 2 would include any contract KCDC might sign.

MR. VASSAR opined that the language is an attempt to have a complete and all-encompassing transfer to KCDC every conceivable thing KABATA has done or to which it has been exposed. With respect to existing agreements and contracts, that language is already included in [Amendment 2]. Therefore, in a substantive sense KABATA isn't going away, rather it's just shifting in total to AHFC.

[7:43:25 PM](#)

REPRESENTATIVE GRUENBERG highlighted the use of "may" in the language on page 3, lines 20-21, and lines 29-31, of Amendment 1 to Amendment 2 and inquired as to what happens to claims that aren't either adopted, continued, or assumed. He further inquired as to whether that language would leave any orphan debts or assets.

MR. VASSAR answered that it's possible something would be left. He related that "may" is used in these instances as it provides KCDC an option to understand what is being transferred to it prior to assuming it. In the absence of anything egregious, he anticipated that KCDC would assume and adopt all of them. However, from AHFC's point of view, it's sort of a mystery bag and the language provides an option for review prior to being firmly and finally committed to them.

REPRESENTATIVE GRUENBERG inquired as to what happens if KCDC decides not to adopt, continue, or assume one or more items. In such a case, who is on the hook for those, he asked.

MR. VASSAR responded that it would depend upon the specific items. For example, some of the commitments are expectations not contract rights at this point. If such items go away, there are really no repercussions other than possibly the disappointment of the involved parties. He pointed out that AHFC has a great deal of experience working with such transactions and agreements with parties, and therefore it may be there is a determination that it's best not to follow through with some of those commitments. The "may" language leaves the aforementioned option open. In terms of the more difficult situation in which there is an actual contract right that KABATA has entered into that is a vested contract and there is a party that has rights that are protected by the contract clause of the U.S. Constitution, Mr. Vassar didn't think KCDC has any other option than to assume those.

[7:49:14 PM](#)

REPRESENTATIVE GRUENBERG pointed out that normally if one purchases property without knowing whether there is some type of recorded claim one would have title insurance in order to know what one is getting or exempted from the policy. Since the aforementioned isn't available in this situation, he inquired as to what protection the state would have against a rogue contractual obligation.

MR. VASSAR explained that the contracts already in place and validly entered into under the authority given to KABATA are in the nature of fait accompli. He reminded the committee that as a general rule validly entered into contracts are protected and the legislature can't change the law later in a manner that would impair those contracts. With regard to those items in place that aren't contract rights, he opined that one of the purposes of this legislation is to help protect the state's interest by transferring this to an entity like AHFC, which has experience in large financing efforts over a great number of years.

REPRESENTATIVE GRUENBERG expressed the hope that AHFC would consider the aforementioned so that people know what they're entering into.

[7:52:20 PM](#)

MS. SCHUBERT read the following statement from Mr. Fauske:

Mr. Chairman, members of the committee, I'd like to compliment and thank you and your staff. When I was asked to consider taking this project on, I said that the assets of Alaska Housing Finance Corporation absolutely must be protected. Our legal counsel has worked with those who represent KABATA, your staff, legislative drafting, and members of the administration. I know it demanded a great deal of time for all those involved in the details, but it was important to get it right. My legal counsel tells me that we've reached that right point with HB 23 and the amendment and the amendment to the amendment that you're considering. On behalf of Alaska Housing Finance Corporation and my team, I'd like to thank your members for the confidence that you have expressed in our ability to help KABATA and the State of Alaska to resolve this issue and advance the project. I assure you if given direction by the legislature, I will give the Knik Arm Bridge Project our utmost attention and we will move expeditiously.

[7:53:52 PM](#)

REPRESENTATIVE GRUENBERG asked whether AHFC sees any risk in this, possibly in terms of unknown/undisclosed claims or contracts. If so, he then inquired as to how AHFC would handle it.

MS. SCHUBERT opined that the audit is what lead to this situation. At this point, AHFC doesn't know what it doesn't know. If HB 23 moves forward and AHFC is asked to take on this project, AHFC will investigate. She reiterated Mr. Fauske's comfort with the legislation, Amendment 2, and proposed Amendment 1 to Amendment 2.

MR. VASSAR emphasized that all activities discussed with the project are going to be done by a subsidiary corporation of AHFC not AHFC itself. Therefore, care was taken with the transition language in Amendment 1 to Amendment 2 so that nothing creates a liability or obligation for AHFC. He reminded the committee that AHFC has created many subsidiaries in the past and the subsidiary corporation's liability is its own so long as all of the procedures and requirements are observed and the parent corporation is protected from the liability of the subsidiary. Mr. Vassar said he is confident that AHFC is protected by the subsidiary corporation process, with which AHFC has experience.

[7:57:25 PM](#)

REPRESENTATIVE GRUENBERG highlighted the language on page 6, line 12, subsection (h) of Amendment 2, which read: "Nothing in this section creates a debt or liability of the state.", which refers to the state not AHFC. He then related his understanding that great pains have been taken to divorce AHFC from the state. He opined that the aforementioned language doesn't appear to insulate AHFC.

MR. VASSAR explained that the subsection (h) language is there because of the moral obligation being created directly above that subsection. He further explained that when statutes create moral obligation debt it's moral obligation of the state not AHFC. However, great care has to be taken in order to avoid creating a general obligation of the state, which would be invalid under the state constitution. The language is present to ensure everyone knows that there is no attempt to create a general obligation of the state and in fact, is denying such. Therefore, it isn't necessary to reference AHFC at that point, he said.

REPRESENTATIVE HAWKER pointed out that Amendment 1 to Amendment 2 would insert the language "Nothing in this section creates a liability or obligation of the Alaska Housing Finance Corporation." to page 8, line 27, of Amendment 2, following "Corporation."

8:00:01 PM

CHAIR JOHNSON withdrew his objection to Amendment 1 to Amendment 2. [There being no further objection, Amendment 1 to Amendment 2 was adopted.]

8:00:21 PM

REPRESENTATIVE OLSON moved to report CSHB 23(FIN), as amended, out of committee with individual recommendations and the forthcoming fiscal notes. There being no objection, 2d CSHB 23(RLS) was reported from the House Rules Standing Committee.

8:00:41 PM

CHAIR JOHNSON announced that Representative Olson is the vice chair of the House Rules Standing Committee.

**Amendment 2 to CSHB 23(FIN)**

Page 1, lines 1 - 4:

Delete all material and insert:

**"An Act creating the Knik Crossing Development Corporation as a subsidiary corporation of the Alaska Housing Finance Corporation and relating to bonds of the Knik Crossing Development Corporation."**

Page 1, line 6, through page through 5, line 30:

Delete all material and insert:

**\* Section 1.** AS 18.56.086 is amended by adding a new subsection to read:

(b) The corporation shall create the Knik Crossing Development Corporation as a subsidiary corporation. The board shall be the board of directors of the Knik Crossing Development Corporation.

**\* Sec. 2.** AS 18.56 is amended by adding new sections to read:

**Article 2A. Knik Crossing Development Corporation.**

**Sec. 18.56.605. Purpose.** (a) The purpose of the Knik Crossing Development Corporation is to develop, stimulate, and advance the economic welfare of the state and further the development of public transportation systems in the vicinity of the Upper Cook Inlet with construction of a bridge to span Knik Arm and connect the Municipality of Anchorage and the Matanuska-Susitna Borough.

(b) The Knik Crossing Development Corporation may not be terminated as long as it has bonds, notes, or other obligations outstanding. Upon termination of the Knik Crossing Development Corporation, its rights and property pass to the state.

**Sec. 18.56.610. Powers and duties.** (a) In addition to powers granted to the Knik Crossing Development Corporation by the corporation under to AS 18.56.086(a), the Knik Crossing Development Corporation may

(1) fix and collect fees, rents, tolls, rates, or other charges for the use of the Knik Arm bridge and appurtenant facilities, or for a service developed, operated, or provided by the Knik Crossing Development Corporation; notwithstanding AS 37.10.050(a), fees, rents, tolls, rates, and other charges fixed and collected under this paragraph may exceed the actual operating cost of the use of the bridge, facility, or service;

(2) pledge, encumber, transfer, or otherwise obligate revenue derived by the Knik Crossing Development Corporation from the ownership, use, or operation of toll facilities, including fees, rents, tolls, rates, charges, or other revenue of the Knik Crossing Development Corporation or money that the legislature may appropriate, except a state tax or license, as security for bonds or other indebtedness or agreements of the Knik Crossing Development Corporation;

(3) perform reconnaissance studies and engineering, survey, and design studies with respect to the Knik Arm bridge and its appurtenant facilities;

(4) exercise powers of eminent domain or file a declaration of taking as necessary for the Knik Arm bridge and appurtenant facilities under AS 09.55.240 - 09.55.460 to acquire land or an interest in land; the Knik Crossing Development Corporation's exercise of powers under this paragraph may not exceed the permissible exercise of those powers by the state;

(5) confer with municipal and other governments, metropolitan planning organizations, and the Department of Transportation and Public Facilities, concerning the Knik Arm bridge.

(b) The Knik Crossing Development Corporation shall coordinate the exercise of its powers to plan, design, construct, operate, and maintain the Knik Arm

bridge with the department, and with the mayors of the Municipality of Anchorage and the Matanuska-Susitna Borough.

**Sec. 18.56.615. Bonds.** (a) The Knik Crossing Development Corporation may issue bonds in an aggregate amount not to exceed \$600,000,000, plus the cost of issuance, in accordance with this chapter in order to build the Knik Arm bridge and its appurtenant facilities. The amount of refunding bonds that may be issued by the Knik Crossing Development Corporation and bond premiums may not be included in the aggregate amount, but may be in addition to the amount authorized under this section.

(b) In addition to the security that may be provided to bonds of the Knik Crossing Development Corporation under the powers granted to the Knik Crossing Development Corporation under AS 18.56.086(a), the Knik Crossing Development Corporation may pledge revenue derived by the Knik Crossing Development Corporation from the ownership, use, and operation of its toll facilities, including money derived from the fees, rents, tolls, rates, charges, and other revenue of the Knik Crossing Development Corporation.

(c) The Knik Crossing Development Corporation may not issues bonds, or a series of bonds, if the effective interest rate over the life of the bonds exceeds 11 percent a year or a rate of interest that is 125 percent of the rate of the Bond Buyer Index of 20 Municipal Bond Average Yields for the week previous to the date of the sale of the bonds, whichever is higher.

(d) Notwithstanding any other provisions of this chapter, the trust agreement, or other similar document under which the Knik Crossing Development Corporation issues bonds, must contain an agreement by the Knik Crossing Development Corporation that the Knik Crossing Development Corporation will at all times maintain fees, rents, tolls, rates, or other charges sufficient to

(1) pay the costs of operation and maintenance of the Knik Arm bridge and its appurtenant facilities and the principal of and interest on bonds issued under the trust agreement as the bonds severally become due and payable;

(2) provide for debt service coverage as considered necessary by the Knik Crossing Development Corporation for the marketing of its bonds; and

(3) provide for renewals, replacements, and improvements of the Knik Arm bridge, and to maintain reserves required by the terms of the trust agreement or other similar document.

**Sec. 18.56.620. Capital reserve fund.** (a) For the purpose of securing one or more issues of its bonds, the Knik Crossing Development Corporation may establish one or more special funds, called "capital reserve funds," and shall pay into those capital reserve funds the proceeds of the sale of its bonds and any other money that is available to the Knik Crossing Development Corporation for the purposes of those funds. The funds shall be established only if the Knik Crossing Development Corporation determines that the establishment would enhance the marketability of the bonds. All money held in a capital reserve fund, except as provided in this section, shall be used as required solely for the payment of the principal of and interest on bonds or of the sinking fund payments with respect to those bonds, the purchase or redemption of bonds, or the payment of a redemption premium required to be paid when those bonds are redeemed before maturity. However, money in a fund may not be withdrawn from the fund at any time in an amount that would reduce the amount of the fund to less than the capital reserve requirement set out in (b) of this section, except for the purpose of making, with respect to those bonds, payment, when due, of principal, interest, redemption premiums, and the sinking fund payments for the payment of which other money of the Knik Crossing Development Corporation is not available. Income or interest earned by or increment to a capital reserve fund due to the investment of the fund or any other amounts in the fund may be transferred by the Knik Crossing Development Corporation to other funds or accounts of the Knik Crossing Development Corporation to the extent that the transfer does not reduce the amount of the capital reserve fund below the capital reserve fund requirement.

(b) If the Knik Crossing Development Corporation decides to issue bonds secured by a capital reserve fund, the bonds may not be issued if the amount in the capital reserve fund is less than the amount of the

capital reserve fund requirement, if any, established by resolution of the Knik Crossing Development Corporation, unless the Knik Crossing Development Corporation, at the time of issuance of the obligations, deposits in the capital reserve fund from the proceeds of the obligations to be issued or from other sources an amount that, together with the amount then in the fund, will not be less than the capital reserve fund requirement.

(c) In computing the amount of a capital reserve fund for the purpose of this section, securities in which all or a portion of the fund is invested shall be valued by some reasonable method established by the Knik Crossing Development Corporation by resolution. Valuation on a particular date shall include the amount of any interest earned or accrued to that date.

(d) Notwithstanding any other provision of law, the Knik Crossing Development Corporation may establish other funds and reserves as the board of directors may determine reasonable and prudent for the issuance of bonds or for the conduct of the business and affairs of the Knik Crossing Development Corporation. The interest earned on or profit derived from these funds and reserves shall be the property of the Knik Crossing Development Corporation. Deposits made into the reserve fund established under this section must include

(1) revenue derived by the Knik Crossing Development Corporation from the ownership, use, or operation of toll facilities, including fees, rents, tolls, rates, charges, or other revenue of the Knik Crossing Development Corporation;

(2) money that the legislature has appropriated for that purpose; and

(3) other money that may be made available to the Knik Crossing Development Corporation from other sources.

(e) If the Knik Crossing Development Corporation executes a public-private partnership agreement that includes financing by the private partner for the purpose of securing the Knik Crossing Development Corporation's annual availability payment, the Knik Crossing Development Corporation may establish a reserve fund, called the "availability payment reserve fund," and shall pay into that reserve fund

(1) revenue derived by the Knik Crossing Development Corporation from the ownership, use, or

operation of toll facilities, including fees, rents, tolls, rates, charges, or other revenue of the Knik Crossing Development Corporation;

(2) money that the legislature has appropriated for that purpose; and

(3) other money that may be made available to the Knik Crossing Development Corporation from other sources.

(f) All money held in the availability payment reserve fund shall be used solely for the payment of annual availability payments the Knik Crossing Development Corporation is obligated to make under a public-private partnership agreement executed by the Knik Crossing Development Corporation. When the terms of the Knik Crossing Development Corporation's public-private partnership agreement expires, all future revenue derived by the Knik Crossing Development Corporation shall be deposited into a new fund, to be established by the Knik Crossing Development Corporation under (d) of this section.

(g) The chair of the Knik Crossing Development Corporation shall annually, not later than January 30, certify in writing to the governor and the legislature the amount, if any, required to restore the capital reserve fund established under (a) of this section to the capital reserve fund requirement, or the availability payment reserve fund established under (e) of this section to an amount sufficient to pay the Knik Crossing Development Corporation's next availability payment. The legislature may appropriate to the Knik Crossing Development Corporation the amount certified by the chair of the board that is needed to restore the reserve fund to the amount needed for the next availability payment.

(h) Nothing in this section creates a debt or liability of the state.

(i) The Knik Crossing Development Corporation shall maintain a record of the annual certifications made by the chair under (g) of this section. When the total amount certified by the chair of the Knik Crossing Development Corporation as necessary to restore the availability payment reserve fund totals \$1,140,000,000, the duty of the chair of the Knik Crossing Development Corporation to report terminates.

(j) In this section, "capital reserve fund requirement" means the amount required to be on deposit in a reserve fund established under (a) of

this section as of the date of computation, as determined by resolution of the Knik Crossing Development Corporation or by the terms of the agreement for which the fund serves as security.

**Sec. 18.56.625. Exemption from taxation.** The real and personal property of the Knik Crossing Development Corporation and its assets, income, and receipts are declared to be the property of a political subdivision of the state and are exempt from all taxes and special assessments of the state or a political subdivision of the state. Notwithstanding any law to the contrary, rights and interests in real and personal property, assets, income, and receipts, including concession, franchise, leasehold, or other real or personal property rights and interests, held by a private person or enterprise under a public-private partnership agreement entered into under this chapter, except any rights and interests of the private person in property serving a business, commercial, or other purpose not necessary to operate the facilities, properties, or projects of the Knik Crossing Development Corporation, shall be exempt from all ad valorem taxes on real or personal property and special property tax assessments of the state or a political subdivision of the state. All bonds of the Knik Crossing Development Corporation are declared to be issued by a political subdivision of the state and for an essential public and governmental purpose. The bonds, the interest on the bonds, the income from the bonds and the transfer of the bonds, and all assets, income, and receipts pledged to pay or secure the payment of the bonds or interest on the bonds are, at all times, exempt from taxation by or under the authority of the state, except for inheritance and estate taxes and taxes on transfers by or in contemplation of death. Nothing in this section affects or limits an exemption from license fees, property taxes, or excise, income, or other taxes provided under any other law.

**Sec. 18.56.630. Exemption from local regulation.** Notwithstanding any contrary provision of law, the activities of the Knik Crossing Development Corporation are exempt from land use planning, zoning, permitting, or other similar governmental powers of political subdivisions of the state.

**Sec. 18.56.635. Liability for payment of tolls.** The owner of a vehicle using a facility owned,

controlled, or managed by the Knik Crossing Development Corporation for which a toll or fee is imposed is liable for the payment of the toll or fee solely because of the vehicle ownership, unless the vehicle, except a rental vehicle, is used without the owner's knowledge and incurs the toll or fee during operation.

\* **Sec. 3.** AS 36.30.015(f) is amended to read:

(f) The board of directors of the Alaska Housing Finance Corporation, notwithstanding AS 18.56.088, **and** the membership of the Alaska Industrial Development and Export Authority, notwithstanding AS 44.88.085, [AND THE BOARD OF DIRECTORS OF THE KNIK ARM BRIDGE AND TOLL AUTHORITY UNDER AS 19.75.111,] shall adopt regulations under AS 44.62 (Administrative Procedure Act), and the board of trustees of the Alaska Retirement Management Board shall adopt regulations under AS 37.10.240, to govern the procurement of supplies, services, professional services, and construction for the respective public corporation and board. The regulations must reflect competitive bidding principles and provide vendors reasonable and equitable opportunities to participate in the procurement process and must include procurement methods to meet emergency and extraordinary circumstances. Notwithstanding the other provisions of this subsection, the Alaska Housing Finance Corporation, the Alaska Industrial Development and Export Authority, [THE KNIK ARM BRIDGE AND TOLL AUTHORITY,] and the Alaska Retirement Management Board shall comply with AS 36.30.170(b).

\* **Sec. 4.** AS 36.30.850(b)(45) is amended to read:

(45) a subsidiary of the Alaska Housing Finance Corporation created under AS 18.56.086 for the purpose of planning, financing, or constructing in-state natural gas pipeline projects or for the purpose of aiding in the planning, financing, or constructing of in-state natural gas pipeline projects; **or a subsidiary of the Alaska Housing Finance Corporation created under AS 18.56.086 for the purpose of constructing a bridge to span Knik Arm.**

\* **Sec. 5.** AS 19.75.011, 19.75.021, 19.75.031, 19.75.041, 19.75.051, 19.75.061, 19.75.071, 19.75.081, 19.75.111, 19.75.113, 19.75.211, 19.75.221, 19.75.231, 19.75.241, 19.75.251, 19.75.261, 19.75.271, 19.75.281, 19.75.291, 19.75.301, 19.75.311, 19.75.321, 19.75.330, 19.75.332, 19.75.334, 19.75.336, 19.75.338, 19.75.340,

19.75.911, 19.75.915, 19.75.920, 19.75.980, 19.75.990;  
AS 39.25.110(39); and AS 39.50.200(b)(60) are  
repealed.

\* **Sec. 6.** The uncodified law of the State of Alaska  
is amended by adding a new section to read:

TRANSITION. (a) All rights, titles, interests,  
agreements, contracts, instruments, indebtedness,  
investments, leases, real and personal property, lines  
of credit, gifts, grants, loans, fees, rents, tolls,  
civil actions, revenue, funds, insurance, permits,  
licenses, studies, and intellectual property of the  
Knik Arm Bridge and Toll Authority are transferred to  
the Knik Crossing Development Corporation.

(b) For one year following the effective date of this  
Act, the members of the board of directors for the  
Knik Arm Bridge and Toll Authority on the day before  
the effective date of this Act shall serve as a  
nonvoting advisory board to the board of directors of  
the Knik Crossing Development Corporation. While  
serving as a nonvoting advisory board under this  
subsection, the members of the board of directors of  
the Knik Arm Bridge and Toll Authority shall serve  
without compensation but are entitled to per diem and  
travel expenses as provided by the Alaska Housing  
Finance Corporation."

[8:00:59 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House  
Rules Standing Committee meeting was adjourned at 8:00 p.m.