

**ALASKA STATE LEGISLATURE
HOUSE TRANSPORTATION STANDING COMMITTEE**

March 21, 2013

1:02 p.m.

MEMBERS PRESENT

Representative Peggy Wilson, Chair
Representative Doug Isaacson, Vice Chair
Representative Eric Feige
Representative Lynn Gattis
Representative Craig Johnson
Representative Bob Lynn
Representative Jonathan Kreiss-Tomkins

MEMBERS ABSENT

COMMITTEE CALENDAR

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."

- MOVED HB 23 OUT OF COMMITTEE

HOUSE BILL NO. 131

"An Act relating to abandoned and derelict vessels."

- MOVED HB 131 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

BILL: HB 131

SHORT TITLE: ABANDONED AND DERELICT VESSELS

SPONSOR(s): REPRESENTATIVE(s) SEATON

02/20/13 (H) READ THE FIRST TIME - REFERRALS
02/20/13 (H) CRA, TRA
03/14/13 (H) CRA RPT 4DP
03/14/13 (H) DP: REINBOLD, OLSON, NAGEAK, LEDOUX
03/14/13 (H) CRA AT 8:00 AM BARNES 124
03/14/13 (H) Moved Out of Committee
03/14/13 (H) MINUTE(CRA)
03/21/13 (H) TRA AT 1:00 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE MARK NEUMAN

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified and answered questions as sponsor of HB 23.

TOM BRICE, Lobbyist

Alaska District Council of Laborers

Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 23.

PAUL GROSSI, Lobbyist

Alaska State Pipe Trades UA Local 375

Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 23.

MICHAEL FOSTER, Chairman

Knik Arm Bridge and Toll Authority (KABATA)

Department of Transportation & Public Facilities (DOT&PF)

Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion of HB 23.

REPRESENTATIVE PAUL SEATON

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified and answered questions as sponsor of HB 131.

STEVE CORPORAN, Director
Ketchikan Port & Harbors
City of Ketchikan; President
Alaska Association of Harbormasters & Port Administrators
Ketchikan, Alaska
POSITION STATEMENT: Testified during the discussion of HB 131.

RACHEL LORD, Statewide Coordinator
Alaska Clean Harbors Program; Outreach and Monitoring
Coordinator Cook InletKeeper
Homer, Alaska
POSITION STATEMENT: Testified in support of HB 131.

ROGER HEALY
Chief Engineer
Department of Transportation & Public Facilities (DOT&PF)
Juneau, Alaska
POSITION STATEMENT: Testified in support of HB 131.

CARL UCHYTIL, Vice-President
Harbormasters and Port Administrators (AAHPA); Port Director
City and Borough of Juneau (CBJ)
Juneau, Alaska
POSITION STATEMENT: Testified in support of HB 131.

ACTION NARRATIVE

[1:02:36 PM](#)

CHAIR PEGGY WILSON called the House Transportation Standing Committee meeting to order at 1:02 p.m. Representatives Feige, Gattis, Johnson, P. Wilson were present at the call to order. Representative Isaacson, Kreiss-Tomkins and Lynn arrived as the meeting was in progress.

HB 23-KNIK ARM CROSSING; AHFC

CHAIR P. WILSON 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."

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REPRESENTATIVE MARK NEUMAN, Alaska State Legislature, said he reviewed the proposed amendments to HB 23 and does not support any of them. First, this bill has undergone extensive review by the Department of Law (DOL) and the Department of Revenue (DOR) since the Knik Arm Bridge and Toll Authority (KABATA) is a state entity. He understood one concern that has been raised is related to population estimates. In particular, the three finalists hoping to partner with KABATA who will have invested \$10 million of private funds will conduct their own traffic analysis. Next, this bill has a zero fiscal note and simply is the mechanism to continue to the next phase, which is for the final design build and construction. Finally, if the financial aspects aren't viable, which are ones similar to the process used any pipeline project coming before the legislature, the bill would just continue to get us down the road. He asked the committee to support HB 23, as is.

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TOM BRICE, Lobbyist, Alaska District Council of Laborers, stated that the Alaska District Council of Laborers is comprised of three unions, including the Public Employees Local 71, Laborers Local 942, and Laborers Local 341. He said he was asked by the business manager to express support for HB 23 and the efforts to build the Knik Arm Crossing (KAC). He encouraged support for the project in terms of creating an alternative route from Anchorage to the Matanuska-Susitna valley in terms of potential economic development. He offered that numerous members live in the valley and work in Anchorage and the bridge project would assist them, as well. He thanked members and encouraged their support for HB 23.

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PAUL GROSSI, Lobbyist, Alaska State Pipe Trades UA Local 375, stated that he represents the statewide ironworkers in Alaska. He said that the ironworkers support this bill in terms of jobs, but also to stimulate the economy and help develop the Knik side of Cook Inlet. He said that the business manager lives in Wasilla and was caught in an eight-hour traffic delay due to an accident. This brought up the safety needs for the residents in Anchorage and the Matanuska-Susitna valley. He urged support for the bill since it would fund a well-needed project.

CHAIR P. WILSON, after first determining no one else wished to testify, closed public testimony HB 23.

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REPRESENTATIVE FEIGE said he is not opposed to the idea of a bridge, which would have certain benefits, but he has concerns about the financing of the bridge.

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REPRESENTATIVE FEIGE moved to adopt Amendment 1, labeled 28-LS0141\A.1, Martin, 3/20/13, which read, as follows [original punctuation provided]:

Page 2, line 6:
Delete "a new subsection"
Insert "new subsection"

Page 2, following line 23:
Insert a new subsection to read:
"(f) The authority may not issue any bonds under this section or enter into an agreement under AS 19.75.111(a)(5) for design or construction of the Knik Arm bridge until the authority or its partner has received a loan for at least 49 percent of the cost of the design and construction of the Knik Arm bridge from the federal government under 23 U.S.C. 601 - 609 (Transportation Infrastructure Finance and Innovation Act of 1998)."

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REPRESENTATIVE GATTIS objected.

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REPRESENTATIVE FEIGE moved to adopt an amendment to Amendment 1. He pointed out a typographical error in Amendment 1. He said the language should be changed from Insert "new subsection" to "new subsections". There being no objection, the amendment to Amendment 1 was adopted.

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REPRESENTATIVE FEIGE explained that the KABATA asked the state to financially support the project through availability payments. Future legislatures would essentially be required to provide financial backing to repay the loans through the Transportation Infrastructure Financing Innovative Act of 1998

(TIFIA) program and bonds that are issued minus revenue generated by the project. The committee is being asked to make a decision today that essentially moves the project forward with the state's backing without knowing the level of the state's financial backing. The financial plan presented to the committee is based upon the assumption that half the financing for the KAC will be part of the TIFIA program. According to TIFIA, "The program's fundamental goal is to leverage federal funds by attracting substantial private and other non-federal co-investment and critical improvements to the nation's surface transportation system." TIFIA was created because state and local governments seeking to finance large-scale transportation projects often have experienced difficulty in obtaining financing at reasonable rates due to the uncertainties due related to these revenue streams. Tolls and other project-based revenues are difficult to predict, particularly for new facilities. He emphasized that the legislature is responsible for the spending made by the state. He said he does not feel comfortable moving the project forward when the legislature has no idea how much the state will need to repay the loans and bonds and particularly since it would subject future members of the legislature on whether to appropriate money for a project or risk damaging the excellent credit rating the state enjoys because of the prudent spending decisions our predecessors have made.. This amendment says the project may not go forward unless the federal funding under TIFIA is received as stated in the financial plan submitted to the legislature for review as justification for the possibility of future appropriations by the state.

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MICHAEL FOSTER, Chairman, Knik Arm Bridge and Toll Authority (KABATA), Department of Transportation & Public Facilities (DOT&PF), in response to the comment that the state would be responsible for repayment of the loans and bonds, said that was incorrect. He stated that the state's responsibility on the project through the public-private partnership (P3) is the contractual obligation to pay the availability payment, which is the payment to the developer. He explained that the term "availability payment" means the availability for traffic, such that the state would make a payment to the private partner if the bridge is available for traffic. He emphasized that the state's responsibility is only for the contractual payment terms the state agrees to at the end of the proposal process. Specifically, KABATA cannot control what TIFIA will or will not finance. The KABATA's models are based on a 49 percent and 33

percent funding mechanism; however, it is more likely that TIFIA will fund at 33 percent [of the project's cost] so the 49 percent bar would be an unrealistic goal. Granted, the TIFIA funding is important, but it isn't the only financing mechanism available to finance the project. If KABATA was not successful in obtaining the TIFIA loan, the private activity bonds (PAB) would be an option, as well as other financing options. He offered his belief that to tie this project to TIFIA would not provide KABATA's private partners opportunities to consider other types of financial models.

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CHAIR P. WILSON asked Mr. Foster to identify the additional 66 percent of project funding, if 33 percent of the project is funded through the TIFIA loan.

MR. FOSTER responded that one option for the private partner would be private activity bonds (PABs). Additionally, the private partner's equity will be approximately 10 percent of the project but other financial opportunities in the marketplace also exist. He clarified that the private partner is responsible for financing the project and therefore KABATA will not direct the private partner on how to finance the project.

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REPRESENTATIVE FEIGE asked what the availability payment is based on and for the amount of the payment.

MR. FOSTER answered that the model presented is based on the private partner [obtaining a TIFIA loan]. He stated that he did not have the availability curve with him today; however, it has previously been submitted to the committee, in terms of the availability structure. Additionally, the amount of the availability payment will not be known until the competitive process is completed and proposals are submitted.

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REPRESENTATIVE FEIGE asked whether it is safe to say the availability payments will depend heavily on the interest rate of the project's financing.

MR. FOSTER answered yes; the financial model will dictate or drive the availability payment structure.

REPRESENTATIVE NEUMAN added that the interest rate [falls within payments] for a 30-year basis. For example, the Federal Energy Regulatory Commission (FERC) generally considers 12 percent as a common rate on gas pipelines and mega projects, so [the KAC project] rates are in line with most projects financed through the private industry. He characterized [the interest rate] as the standard procedure used.

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REPRESENTATIVE KREISS-TOMKINS understood that Mr. Foster does not think the 49 percent model for TIFIA financing is a reasonable assumption. He asked how that compares to his past statements, with respect to TIFIA financing, and how KABATA's view on the likelihood of obtaining 49 percent TIFIA financing has evolved over the years.

MR. FOSTER answered that he has not changed his previous testimony. He said that KABATA has submitted a letter of interest in [to the U.S. Department of Transportation (DOT)] requesting 49 percent funding. He related that 29 projects are in the queue requested by 17 different states competing for \$17 billion in capacity, although the requests are currently under capacity. After speaking to the Federal Highway Administration (FHWA) and the U.S. Department of Transportation (DOT), KABATA feels confident that the TIFIA projects will likely be funded at the 33 percent level versus the 49 percent level. Even though the KABATA has requested 49 percent funding [in its letter of interest for the TIFIA loan], KABATA's expectation is high that the [private partner] will obtain the TIFIA program funding, but it will be at the 33 percent level. He remarked that if the TIFIA funding came in at 49 percent, it would be a gift.

REPRESENTATIVE KREISS-TOMKINS asked whether KABATA has been more confident in the past that the TIFIA funding would be offered at 49 percent.

MR. FOSTER answered that in the past, the TIFIA funding has been set at 33 percent; however the federal Moving Ahead for Progress in the 21st Century Act (MAP-21) program raised it to 49 percent. He offered his belief that the U.S. DOT was testing the waters on it since the previous allocations were at 33 percent.

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REPRESENTATIVE KREISS-TOMKINS asked for clarification on the previous allocations.

MR. FOSTER responded that the previous FHWA bill is different than the current MAP-21 funding. The prior bill had a capacity of approximately \$1 billion, which used a 33 percent allocation. He said under MAP-21 has a 49 percent and 33 percent option for any Greenfield project, but it appears that most projects will qualify at the 33 percent allocation level. He reiterated that this is the first time the federal funding has been at the 49 percent allocation level

CHAIR P. WILSON understood that no one was able to obtain more than 33 percent prior to this year, but this year due to MAP-21 the allocation was changed.

REPRESENTATIVE NEUMAN remarked that it is always more prudent go on the conservative side of the financing.

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REPRESENTATIVE FEIGE said the sponsor agrees the availability payments are partly based on interest rates. He asked what will happen if the state defaults and refuses to make the availability payments. He further asked for the effect on the bridge and the state's credit rating.

MR. FOSTER answered that the infrastructure will be owned by the state, even during construction. The finished infrastructure will have a national highway system (NHS) designation once it is completed. Thus the bridge will be part of NHS system. If the state did not make the availability payments and defaulted on the payment, it certainly would affect the credit rating of the state, he said.

REPRESENTATIVE NEUMAN said this contract has been closely watched by the Department of Revenue (DOR) and by the Department of Law (DOL). He stated that these departments have frequently reviewed the project financing to ensure that the state's liability does not exceed its capacity.

CHAIR P. WILSON cautioned that she does not want the committee to go too deep into financing since HB 23 has a Finance committee referral, so she asked members to focus on policy issues as much as possible.

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REPRESENTATIVE FEIGE acknowledged the Chair's concerns, but the policy is essentially if the TIFIA loan is not approved, the KABATA would likely incur higher interest rates, which will lead to higher availability payments. He cautioned that the terms do not have an upper limit or any control on the gate once the bill passes. He acknowledged that obtaining the 49 percent TIFIA loan is perhaps more remote than a 33 percent allocation level.

REPRESENTATIVE FEIGE moved to adopt Amendment 2 to Amendment 1 [text provided previously], to change "49" percent to "33" percent. There being no objection, Amendment 2 to Amendment 1 was adopted.

CHAIR P. WILSON restated a portion of Amendment 1, as amended. Amendment 1, as amended would read, as follows [original punctuation provided]:

Page 2, line 6:
Delete "a new subsection"
Insert "new subsections"

Page 2, following line 23:
Insert a new subsection to read:
"(f) The authority may not issue any bonds under this section or enter into an agreement under AS 19.75.111(a)(5) for design or construction of the Knik Arm bridge until the authority or its partner has received a loan for at least 33 percent of the cost of the design and construction of the Knik Arm bridge from the federal government under 23 U.S.C. 601 - 609 (Transportation Infrastructure Finance and Innovation Act of 1998).

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REPRESENTATIVE GATTIS maintained her objection. She offered her belief that this is an unrealistic amendment because the issuance of the TIFIA loan is under the control of the U.S. Department of Transportation (U.S. DOT), although any amount of TIFIA participation that can be secured will be beneficial for this state project.

REPRESENTATIVE FEIGE said he heard Mr. Foster and others testify that if the TIFIA loans were not approved, the likelihood of this project moving forward was not very high. He suggested that it is reasonable control to place on the project.

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REPRESENTATIVE NEUMAN reiterated that HB 23 has a zero fiscal note. This [bill] allows [the project] to move forward. If the financing package that the state wants to sign isn't appropriate or the private partner doesn't want to sign, the project won't go forward. He said, "It's as simple as that."

A roll call vote was taken. Representatives Feige and Kreiss-Tomkins voted in favor of Amendment 1. Representatives Isaacson, Gattis, Johnson, Lynn, and P. Wilson voted against it. Therefore, Amendment 1, as amended, failed by a vote of 2-5.

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REPRESENTATIVE FEIGE moved to adopt Amendment 2, labeled [28-LS0141\A.2, Martin, 3/21/13], which read, as follows [original punctuation provided]:

Page 1, line 1, following "**An Act**":

Insert "**relating to construction of a tollway from the Knik Arm bridge to the Parks Highway;**"

Page 1, following line 5:

Insert new bill sections to read:

"* **Section 1.** AS 19.75.011 is amended to read:

Sec. 19.75.011. Purpose. The purpose of the authority created by this chapter 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 a tollway and related infrastructure from the bridge to the Parks Highway to [AND] connect the Municipality of Anchorage and the Matanuska-Susitna Borough.

* **Sec. 2.** AS 19.75.111 is amended to read:

Sec. 19.75.111. Powers and duties of the authority. (a) Except as otherwise explicitly made applicable to the authority, the performance of the authority's duties and the exercise of its powers, including its powers to issue bonds and otherwise incur debt, shall be governed exclusively by this chapter. In furtherance of its purposes, the authority may

(1) own, acquire, construct, develop, create, reconstruct, equip, operate, maintain, extend, and improve the Knik Arm bridge, [AND] its appurtenant facilities, **and the tollway access road**;

(2) sue and be sued;

(3) adopt a seal;

(4) adopt, amend, and repeal regulations under AS 44.62 and establish bylaws;

(5) make and execute agreements, contracts, and all other instruments with any public or private person, governmental unit or agency, corporation, or other business entity lawfully conducting business in the United States for the exercise of its powers and functions under this chapter and for the financing, design, construction, maintenance, improvement, or operation of facilities, properties, or projects of the authority, including making and executing contracts with any person, firm, corporation, governmental agency, or other entity for the purpose of

(A) incurring indebtedness, obtaining investments in the authority's projects, acquiring or granting lump sum payments for services in advance or in arrears, grants, and other financing; and

(B) entering into public-private partnerships or service contracts in any form;

(6) in its own name acquire, lease, rent, sell, or convey real and personal property;

(7) issue and refund bonds in accordance with this chapter, in order to pay the cost of the Knik Arm bridge, [AND] its appurtenant facilities, **and the tollway access road**; the authority may also secure payment of the bonds as provided in this chapter;

(8) incur other indebtedness, including lines of credit and indebtedness to the Federal Highway Administration, United States Department of Transportation, under 23 U.S.C. 601 - 610 (Transportation Infrastructure Finance and Innovation Act of 1998), as amended, and secure that indebtedness as provided in this chapter;

(9) apply for and accept gifts, grants, or loans from a federal agency or an agency or instrumentality of the state, or from a municipality, private organization, or other source, including obtaining title to state, local government, or privately owned land, directly or through a department of the state having jurisdiction of the land;

(10) fix and collect fees, rents, tolls, rates, or other charges for the use of the Knik Arm bridge, [AND] appurtenant facilities, and tollway access road, or for a service developed, operated, or provided by the authority; 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, tollway access road, or service;

(11) bring civil actions, refer criminal actions to the appropriate authority, and take other actions or enter into agreements with law enforcement and collection agencies to enforce the collection of its fees, rents, tolls, rates, other charges, penalties, and other obligations;

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

(13) deposit or invest its funds, subject to agreements with bondholders;

(14) procure insurance against any loss in connection with its operation;

(15) contract for and engage the services of consultants, experts, and financial and technical advisors that the authority considers necessary for the exercise of its powers and functions under this chapter;

(16) apply for, obtain, hold, and use permits, licenses, or approvals from appropriate agencies of the state, the United States, a foreign country, and any other proper agency in the same manner as any other person;

(17) perform reconnaissance studies and engineering, survey, and design studies with respect to the Knik Arm bridge, [AND] its appurtenant facilities and the tollway access road;

(18) exercise powers of eminent domain or file a declaration of taking as necessary for the Knik Arm bridge, [AND] appurtenant facilities, and tollway access road under AS 09.55.240 - 09.55.460 to acquire land or an interest in land; the authority's exercise

of powers under this paragraph may not exceed the permissible exercise of those powers by the state;

(19) confer with municipal and other governments, metropolitan planning organizations, and the department, concerning the Knik Arm bridge or tollway access road;

(20) do all acts and things necessary to carry out the powers expressly granted or necessarily implied in this chapter; nothing in this chapter limits the powers of the authority that are expressly granted or necessarily implied.

(b) The authority shall

(1) prepare an annual report of its operations to include a balance sheet, an income statement, a statement of changes in financial position, a reconciliation of changes in equity accounts, a summary of significant accounting principles, an auditor's report, comments regarding the year's business, and prospects for the next year; the report shall be completed by the third day of each regular session of the legislature, and the authority shall notify the governor, the commissioner of the department, the presiding officers of each house of the legislature, and the Legislative Budget and Audit Committee that the report is available;

(2) comply with the provisions of AS 37.07 (Executive Budget Act), except that AS 37.07 does not apply to the activities of the authority that relate to the authority's borrowing of money as provided in this chapter, including the issuing of its obligations or evidence of that borrowing and the repayment of the debt obligation;

(3) establish a personnel management system for hiring employees and setting employee-benefit packages;

(4) establish procedures, rules, and rates governing per diem and travel expenses of the employees of the authority in substantial conformity to statutes, procedures, rules, and rates applicable to state employees of similar state entities;

(5) coordinate the exercise of its powers to plan, design, construct, operate, and maintain the Knik Arm bridge and tollway access road with the department, and with the mayors of the Municipality of Anchorage and the Matanuska-Susitna Borough;

(6) have the exclusive authority to determine and fix fees, rents, tolls, rates, and other

charges, including the tolls for the use of the bridge, [AND] appurtenant facilities, and tollway access road and for the use of all other properties under the control of or owned or managed by the authority.

* **Sec. 3.** AS 19.75 is amended by adding a new section to read:

Sec. 19.75.112. Conditions required to build Knik Arm bridge. (a) The authority may not construct the Knik Arm bridge, or enter into a public-private partnership or service contract to construct the Knik Arm bridge unless

(1) the authority designs, constructs, and operates, or enters into a public-private partnership or service contract to design, construct, and operate, a tollway from the Knik Arm bridge to the Parks Highway;

(2) the authority prepares a financial report showing preliminary costs to design, construct, and operate a tollway from the Knik Arm bridge to the Parks Highway; and

(3) the legislature approves by law the financial report prepared under (2) of this subsection.

(b) The tollway access road constructed under (a) of this section shall

(1) be operated as a limited access toll road;

(2) allow for a speed limit at least equal to the speed limit on the bridge; and

(3) be designed as a two-lane highway that may be expanded to a four-lane divided highway.

(c) The authority may enter into an agreement with the department for use of the rights-of-way necessary for construction of the tollway under (a) of this section.

(d) Notwithstanding another provision of this title, the tollway constructed under (a) of this section may not be part of the state highway system."

Page 1, line 6:

Delete "**Section 1**"

Insert "**Sec. 4**"

Renumber the following bill sections accordingly.

Page 2, following line 23:

Insert new bill sections to read:

**** Sec. 7.** AS 19.75.221(a) is amended to read:

(a) In the discretion of the authority, an issue of bonds may be secured by a trust indenture or trust agreement between the authority and a corporate trustee, by a secured loan agreement or other instrument, or by a resolution giving powers to a corporate trustee, by means of which the authority may

(1) make agreements with the trustee or the holders of the bonds that the authority determines to be necessary or desirable, including agreements as to the

(A) application, investment, deposit, use, and disposition of

(i) the proceeds of bonds of the authority;

(ii) money or other property of the authority; or

(iii) money or other property in which the authority has an interest;

(B) fixing and collecting of fees, rents, tolls, rates, or other charges;

(C) assignment by the authority of its rights in any contract with respect to the Knik Arm bridge or tollway access road or in a mortgage or other security interest created with respect to the Knik Arm bridge or tollway access road to a trustee for the benefit of bondholders;

(D) terms and conditions under which the authority may issue additional bonds;

(E) vesting in a trustee of rights, powers, duties, money, or property in trust for the benefit of bondholders, including the right to enforce payment, performance, and all other rights of the authority or of the bondholders, under a lease, power of contract, contract of sale, mortgage, security agreement, or trust by injunction or other proceeding or by taking possession by agent or otherwise, and operating the Knik Arm bridge and tollway access road and collecting rents or other consideration and applying the same in accordance with the trust agreement;

(2) pledge, mortgage, or assign money, leases, agreements, property, or other rights or assets of the authority either presently in hand or to be received in the future, or both; and

(3) provide for any other matters that affect the security or protection of the bonds.

*** Sec. 8.** AS 19.75.221(b) is amended to read:

(b) Notwithstanding any other provisions of this chapter, the trust agreement must contain an agreement by the authority that the authority 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 tollway access road 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 authority for the marketing of its bonds; and

(3) provide for renewals, replacements, and improvements of the Knik Arm bridge and tollway access road, and to maintain reserves required by the terms of the trust agreement."

Renumber the following bill sections accordingly.

Page 4, following line 13:

Insert a new bill section to read:

"* **Sec. 11.** AS 19.75.251 is amended to read:

Sec. 19.75.251. Pledge of the state. The state pledges to and agrees with the holders of bonds issued under this chapter and with a federal agency that loans or contributes money with [IN] respect to the Knik Arm bridge and tollway access road that the state will not limit or alter the rights and powers vested in the authority under this chapter to fulfill the terms of a contract made by the authority with the holders or federal agency or in any way impair the rights and remedies of the holders until the bonds, together with the interest on them, with interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. The authority may include this pledge and agreement of the state, insofar as it refers to holders of bonds of the authority, in a contract with the holders and, insofar as it relates to a federal agency, in a contract with the federal agency."

Renumber the following bill sections accordingly.

Page 5, following line 8:

Insert a new section to read:

"* **Sec. 13.** AS 19.75.291 is amended to read:

Sec. 19.75.291. State appropriations for Knik Arm bridge, [AND] appurtenant facilities, and tollway not affected. This chapter does not prevent the state from making appropriations for or in aid of the acquisition, design, construction, or operation of the Knik Arm bridge, [AND] its appurtenant facilities, **and the tollway access road.**"

Re-number the following bill section accordingly.

Page 5, line 25:

Delete "Crossing"

Insert "bridge and tollway access road"

REPRESENTATIVE GATTIS objected for the purpose of discussion.

[1:27:56 PM](#)

REPRESENTATIVE FEIGE stated that Amendment 2 would require KABATA to consider financing the road to connect the bridge to the Parks Highway. He said that the KABATA project has been touted as being important to Interior Alaska; however, freight can only move north if a roadway exists to the Parks Highway. Thus, building the KAC means a new road must also be built in order to use the bridge. He suggested this new roadway should be supported with a toll, similar to the bridge. Further, Amendment 2 would also require KABATA to use its toll revenue to help finance the road, which must be built at the same time as the bridge. He understood that the state is somewhat committed to build the road using the State Transportation Improvement Plan (STIP) funds; however, in order to make the bridge generate as much revenue as possible to reduce the cost to the state, means trucks and passenger vehicles must travel to the Interior from Anchorage and use the bridge on their return trips. Therefore, it requires the additional road be in place upon completion of the bridge. If the state pays for this road using STIP funds it will reduce the availability of those funds for other transportation projects throughout the state. The priority of this road is much lower if the bridge is not constructed, he said.

[1:28:25 PM](#)

CHAIR P. WILSON restated that Amendment 1 failed with a vote of 2-5.

[1:28:41 PM](#)

REPRESENTATIVE NEUMAN said he does not support Amendment 2. He explained that the Matanuska-Susitna Borough had originally proposed a road from Big Lake to Burma Road, which was estimated at \$57 million some time ago so he surmised the project would now cost \$80 million. He said he had secured \$250,000 for the Big Lake community to consider a plan and, in fact, the community is currently finalizing that plan. The bridge would traverse Burma Road - currently a dirt road - and either cut left to create a new access road north to Milepost 73 or it would use the 800-foot utility corridor to the port, which is anticipated for use for a proposed gas pipeline. Thus the road could follow that pathway. He offered his belief that this project will save lives, since the Glenn Highway is currently at capacity and it will cost \$4.5 billion to upgrade it. Further, the 33 miles to the port to Mile 73 is all government land except for the last half-mile. Absent the KAC, the state would need to spend \$55 million every five years for rut rehabilitation. Basically, the proposed traffic will be heavy traffic carrying freight that will not need to travel on the Glenn Highway. He recalled Jeff Ottesen, DOT&PF, characterized the KAC as one of the most cost-reducing projects the state could have. Further any excess funds - especially after seven years - could be used to fund other transportation projects. He cautioned that the state is currently facing a \$1 billion shortfall so expanding the opportunities to diversify income and revenue streams is important. He predicted this toll bridge will bring in billions of dollars of excess revenue to the state within the first 35 years. In doing so, the state could fund other STIP programs. Again, a lot of the land necessary for the project is virgin government-owned land, which eliminates land acquisition, and it would take traffic off the Knik-Goose Bay (KGB) Road, which is the second most dangerous highway in the state. Additionally, due to Wasilla's road congestion, it frequently can currently take an hour to travel the 12 miles from Wasilla to the Big Lake cutoff. However, all of this congestion would be eliminated since the trucks would [use the KAC]. In conclusion, he said the KAC will save money and put money back into the general fund revenue.

[1:32:48 PM](#)

REPRESENTATIVE GATTIS highlighted that just yesterday another fatal car accident occurred in the Wasilla area. She emphasized the importance of roads in the Matanuska-Susitna area, which is the fastest growing area in Alaska. She said, "Those of us who live it and drive it - we know that - and for those who don't go there daily, may I remind you that this infrastructure is way behind schedule."

REPRESENTATIVE JOHNSON expressed his concern about making the road a toll road, since it would make it a limited access roadway, which would close off the area to development. Further, it may take an additional road to access subdivisions. He remarked he is not fond of limited access roads so he couldn't support turning the road into a "one way on, one way off" corridor. Finally, he concluded that a lot of opportunity exists between Big Lake and the proposed KAC.

1:34:15 PM

REPRESENTATIVE GATTIS maintained her objection.

A roll call vote was taken. Representatives Feige and Kreiss-Tomkins voted in favor of Amendment 2. Representatives Isaacson, Gattis, Johnson, Lynn, and P. Wilson voted against it. Therefore, Amendment 2 failed by a vote of 2-5.

1:35:00 PM

REPRESENTATIVE FEIGE moved to adopt Amendment 3, labeled 28-LS0141\A.3, Martin, 3/20/13, which read, as follows [original punctuation provided]:

Page 1, line 1:

Following "Act"

Insert "**relating to membership on the board of directors of the Knik Arm Bridge and Toll Authority;**"

Page 1, following line 5:

Insert a new bill section to read:

*** Section 1.** AS 19.75.031(a) is amended to read:

(a) The authority shall be governed by a board of directors consisting of the following:

(1) the commissioner of transportation and public facilities or the commissioner's designee;

(2) the commissioner of revenue or the commissioner's designee;

(3) one public member, appointed by the governor, who is a state resident and United States citizen, and who is not a resident of and does not have a business interest in the Municipality of Anchorage or the Matanuska-Susitna Borough;

(4) one public member, appointed by the governor, who is a resident of the Municipality of Anchorage and who has knowledge of local transportation issues;

(5) one public member, appointed by the governor, who is a resident of the Matanuska-Susitna Borough and who has knowledge of local transportation issues;

(6) one nonvoting member who is a member of the state house of representatives appointed by the speaker of the house and who serves at the pleasure of the speaker of the house; the speaker of the house shall consider the appointment of a legislator elected from a house district that lies entirely or partially within the Municipality of Anchorage or the Matanuska-Susitna Borough for appointment under this paragraph; and

(7) one nonvoting member who is a member of the state senate appointed by the president of the senate and who serves at the pleasure of the president of the senate; the president of the senate shall consider the appointment of a senator elected from a senate district that lies entirely or partially within the Municipality of Anchorage or the Matanuska-Susitna Borough for appointment under this paragraph."

Page 1, line 6:

Delete "**Section 1**"

Insert "**Sec. 2**"

Renumber the following bill sections accordingly.

Page 5, following line 27:

Insert a new bill section to read:

"* **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION. (a) The amendment to AS 19.75.031(a) in sec. 1 of this Act applies to appointments made to the board of directors of the Knik Arm Bridge and Toll Authority when the member currently occupying the seat under AS 19.75.031(a)(3) leaves the board or at the end of the member's term, whichever comes first.

(b) A member appointed under AS 19.75.031(a)(3) may not be reappointed unless the member meets the requirements of AS 19.75.031(a)(3), as amended by sec 1 of this Act."

REPRESENTATIVE GATTIS objected for the purpose of discussion.

1:35:25 PM

REPRESENTATIVE FEIGE stated that this project has been touted by the bill's sponsor and KABATA's staff as a project of statewide significance, yet all of the board members are from Southcentral Alaska. Amendment 3 would change the composition of the board to restrict one public member of the board [from residence or business interest] in the Municipality of Anchorage (MOA) or the Matanuska-Susitna Borough (MSB). The change would not take place until the current unrestricted public member's term expires, he said.

1:35:46 PM

REPRESENTATIVE GATTIS failed to see the value of the Amendment 3 and what it would bring to the bill or the project.

REPRESENTATIVE FEIGE said if this is a statewide project, then the state's interests needs to be represented, not just the interests of the MOA or the MSB. He offered his belief that it seems reasonable to have at least one KABATA board member from outside this area.

REPRESENTATIVE NEUMAN said Senator John Coghill from Fairbanks currently serves on KABATA's board. He suggested that Amendment 3 makes changes that would be unprecedented. Further, the governor's appointees serve at the will of the governor and can be replaced. In fact, having people from the community serve in that capacity is important since local residents can bring the concerns of the community to the board and the local public is most affected by the project. Although the KAC is a statewide project, Senator Coghill serves on the board [and brings a perspective outside the MOA and the MSB to the board].

REPRESENTATIVE LYNN agreed the people close to the bridge would be the most familiar with the bridge and can make the best decisions, plus [Senator Coghill] brings a statewide perspective [to the KABATA board].

[1:37:49 PM](#)

REPRESENTATIVE FEIGE asked the sponsor which seat Senator Coghill holds, since he believes he serves as a non-voting member.

REPRESENTATIVE NEUMAN agreed Senator Coghill is a non-voting member just as he is also a non-voting member; however when the discussions come forth, he and Senator Coghill are able to participate and bring value to the committee. He was unsure anyone who lives outside the communities has expressed any interest in serving on the KABATA board, although the governor could certainly appoint such a person.

[1:38:40 PM](#)

REPRESENTATIVE JOHNSON said he does not a problem with Amendment 3; however, he expressed concern that it might be difficult to find someone who does not have some type of business interest in the MOA or the MSB. He did not wish to imply that the MOA or the MSB is the center of universe, but the area represents 60-70 percent of the population in the state. He questioned whether someone could be selected.

REPRESENTATIVE GATTIS maintained her objection.

[1:40:01 PM](#)

A roll call vote was taken. Representatives Feige, Kreiss-Tomkins, and P. Wilson voted in favor of Amendment 3. Representatives Isaacson, Gattis, Johnson, and Lynn, voted against it. Therefore, Amendment 3 failed by a vote of 3-4.

[1:40:46 PM](#)

REPRESENTATIVE FEIGE moved to adopt Amendment 4, [labeled 28-LS0141\A.4, Martin, 3/20/13], which read, as follows [original punctuation provided]:

Page 2, line 17:

Following "that":

Insert

"(1) the bonds are rated in one of the two highest rating categories of at least one nationally recognized rating agency without taking into consideration any further appropriations of state money to the authority;

(2)"

Delete "other revenue available to"

Insert "funds held in the name of"

Page 2, line 21:

Delete "and that"

Insert "; and"

(3)"

REPRESENTATIVE GATTIS objected.

[1:40:58 PM](#)

REPRESENTATIVE FEIGE said the state enjoys an AAA bond rating and there is no logical reason for revenue from a project of the state, a subdivision of the state, or an entity financially supported by the state to pay anything but the lowest interest rate. He said the rates for bonds for the KABATA project will be based on the financial position of KABATA and on the analysis of the data KABATA has presented. In essence, this represents the ability that investors believe KABATA will have to repay the debt.

REPRESENTATIVE FEIGE explained that Amendment 4 would change the criteria the state bond committee would use to require KABATA or its partner to secure bonds comparable to those that the state can secure independently. Amendment 4 would also change the requirement that the state bond committee uses to approve the bond offering to include the bridge and private partner's revenue as stated in the bill. This changes the requirement, "other revenue available to the authority" which should only be bridge revenue, and instead insert "funds held in the name of" which means to also consider funds held by the authority. He explained that this would provide the bond committee a process to expect KABATA's funds, presumably appropriated by the state, along with any bridge revenue that will be sufficient to repay the debt without further appropriation by the state. This would place KABATA in a position to have to justify and obtain sufficient funds from the state or other sources in advance, instead of putting future legislators in the position which would necessitate funding moral obligations created by passage of HB 23 in its current form.

REPRESENTATIVE NEUMAN responded. First, this project financing does not go to the state bonding committee. Next, the state is not obtaining the financials since the private partner has the responsibility for funding the project. Since the state will

not finance bonds, Amendment 4 does not make any sense, he said. He referred to page 2, lines 22-23 of HB 23, which relates to payment and principal. He read, "... issuance of the bonds by the authority would not be expected adversely to affect the ability of the state or its political subdivisions to market bonds."

REPRESENTATIVE FEIGE replied he has a different viewpoint.

REPRESENTATIVE GATTIS maintained her objection. She offered her belief that Amendment 4 would prevent KABATA from using the \$600 allocation in private activity bonds (PAB) from the U.S. DOT for the project. She further suggested this would run counter to KABATA's mission to achieve the best value for the state.

[1:44:26 PM](#)

A roll call vote was taken. Representatives Feige and Kreiss-Tomkins voted in favor of Amendment 4. Representatives Isaacson, Gattis, Johnson, Lynn, and P. Wilson voted against it. Therefore, Amendment 4 failed by a vote of 2-5.

[1:45:03 PM](#)

REPRESENTATIVE FEIGE moved to adopt Amendment 5, [labeled 28-LS0141\A.5, Martin, 3/20/13], which read, as follows [original punctuation provided]:

Page 1, lines 1 - 2:

Delete "relating to reserve funds of the authority;"

Page 2, line 24, through page 4, line 13:

Delete all material.

Renumber the following bill sections accordingly.

REPRESENTATIVE GATTIS objected.

[1:45:19 PM](#)

REPRESENTATIVE FEIGE read AS 19.75.211 (c), which states in part:

(c) For the purpose of securing one or more issues of its bonds, the authority 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 authority for the purposes of those funds.

REPRESENTATIVE FEIGE said that existing statute appears to provide an avenue for KABATA to secure bonds through its revenue and other funding sources. Therefore, no reason exists for KABATA to need additional reserve fund authority for operating expenses as indicated on page 3, line 14 of HB 23. He stated that KABATA, in its joint presentation to the joint House and Senate Transportation Committees indicated financing operations and maintenance are the private partner's responsibility. Instead, the private partner should finance operating costs against projected payments to the partner. In fact, KABATA needs operating funds and the state treasury will make funding available through availability payments to the private partner for debt service. The legislature should review KABATA's spending just as it does for any other department of state government, instead of receiving a request for an availability payment.

[1:46:49 PM](#)

REPRESENTATIVE NEUMAN indicated that the reserve fund was established several years ago during discussions about the traffic build up on the north side of the bridge or the Point MacKenzie side. He recalled yesterday a bill passed to allow AHFC to finance stores with housing above them. In fact, housing in Anchorage is not available and is very expensive. Thus, the opportunity to build out the area will increase traffic revenue. He estimated that by year seven [the tolls will be used] to cover the availability payments. He referred to page 3, lines [14-16], to the administration costs and asserted that the state normally covers administrative costs for projects. Finally, the reserve fund would be paid back since it is not a grant, but is a loan. He concluded that he does not support Amendment 5.

MR. FOSTER commented that the reserve fund is being created initially to handle the shortfall in the initial years of the project, which is the primary purpose of the reserve fund. He pointed out that the governor put \$10 million in his FY 14 budget, with an additional \$35 million for the next four years to fund the reserve fund to \$150 million, which is based on KABATA's estimated funds needed to meet the availability payment. After that point, the reserve fund provides the mechanism by which revenue comes into the public corporation of

KABATA. The reserve fund is the mechanism which will be used to transfer revenue for Title 23 services, which will consist of STIP eligible projects statewide. He understood the transportation fund is not yet created; however, ideally a transportation fund would be established to receive the funding, which could be used statewide. He characterized this as an opportunity to forward fund projects and the money flowing into the reserve would eventually end up funding STIP projects.

[1:50:12 PM](#)

REPRESENTATIVE JOHNSON asked if Amendment 5 were to pass, where the governor's requested funds [in the proposed FY 14 Capital Budget] would be directed or whether the funding would be lost.

REPRESENTATIVE NEUMAN answered that any unspent funds are typically swept. He pointed out that the fiscal note for HB 23 is still a zero fiscal note. In short, once the project reaches final design and construction, if the private partner does not agree or the state does not agree, the project won't happen and the funds would be reappropriated or swept.

[1:51:10 PM](#)

REPRESENTATIVE FEIGE referred to the current statute related to a capital reserve fund. He asked whether the bill would create a separate reserve fund or if it will be the same capital reserve fund.

MR. FOSTER answered that it is the same fund. He pointed out the fund will have two components since under the P3 process, part of the fund will be held in a trust to cover the availability payments. Thus, a portion of it would be unsubordinated to the availability payment.

REPRESENTATIVE NEUMAN offered his belief that this represents a capital reserve fund in case capital funds will be deposited to the project fund.

[1:52:18 PM](#)

REPRESENTATIVE FEIGE said he understood. He asked whether it would make more sense on page 2, line 29 of HB 23, to state deposits made to a capital reserve fund or if it is the sponsor's intent to establish a second fund.

MR. FOSTER answered it would be KABATA's intent to establish a reserve fund, which is not yet created. He offered to check with DOR to assess whether the department has any objection to changing the name or keeping it as a reserve fund. The funds being appropriated through the governor's capital budget would be directed to the DOR to be held in trust for the reserve fund.

The committee took an at-ease from 1:53 p.m. to 1:54 p.m.

[1:54:17 PM](#)

REPRESENTATIVE FEIGE referred to AS 19.75.221 (c), which read, as follows:

(c) For the purpose of securing one or more issues of its bonds, the authority 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 authority for the purposes of those funds.

REPRESENTATIVE FEIGE was unsure why an additional fund would be necessary.

REPRESENTATIVE NEUMAN referred to the title, which is related to reserve funds of the authority. He said the intent is to have a reserve fund, but his assumption is that one would not want to mix funding from tolls and other sources. He assumed it would be a mechanism for accounting.

[1:55:47 PM](#)

REPRESENTATIVE FEIGE was unsure of the necessity to establish so many funds. He asked to withdraw Amendment 5. He then said he did not intend to offer amendments in members' packets referred to as A.6 and A.7.

[1:56:43 PM](#)

REPRESENTATIVE FEIGE moved to adopt Amendment [6], [labeled 28-LS0141\A.8, Martin, 3/20/13], referred to as A.8, which read, as follows [original punctuation provided]:

Page 1, line 2, following "**Authority;**":

Insert "**requiring legislative approval of a financial plan before the authority may issue bonds or**

enter into a public-private agreement for construction of the Knik Arm bridge or appurtenant facilities;"

Page 1, following line 5:

Insert new bill sections to read:

"* Section 1. AS 19.75.111(a) is amended to read:

(a) Except as otherwise explicitly made applicable to the authority, the performance of the authority's duties and the exercise of its powers, including its powers to issue bonds and otherwise incur debt, shall be governed exclusively by this chapter. In furtherance of its purposes, the authority may

(1) own, acquire, construct, develop, create, reconstruct, equip, operate, maintain, extend, and improve the Knik Arm bridge and its appurtenant facilities;

(2) sue and be sued;

(3) adopt a seal;

(4) adopt, amend, and repeal regulations under AS 44.62 and establish bylaws;

(5) make and execute agreements, contracts, and all other instruments with any public or private person, governmental unit or agency, corporation, or other business entity lawfully conducting business in the United States for the exercise of its powers and functions under this chapter and for the financing, design, construction, maintenance, improvement, or operation of facilities, properties, or projects of the authority, including making and executing contracts with any person, firm, corporation, governmental agency, or other entity for the purpose of

(A) incurring indebtedness, obtaining investments in the authority's projects, acquiring or granting lump sum payments for services in advance or in arrears, grants, and other financing; and

(B) entering into public-private partnerships or service contracts in any form; **the authority may not enter into a partnership or contract for construction of the Knik Arm bridge unless the authority has obtained the approval of the legislature of a financial plan as provided in (c) of this section;**

(6) in its own name acquire, lease, rent, sell, or convey real and personal property;

(7) issue and refund bonds in accordance with this chapter, in order to pay the cost of the Knik Arm bridge and its appurtenant facilities; the authority may also secure payment of the bonds as provided in this chapter;

(8) incur other indebtedness, including lines of credit and indebtedness to the Federal Highway Administration, United States Department of Transportation, under 23 U.S.C. 601 - 610 (Transportation Infrastructure Finance and Innovation Act of 1998), as amended, and secure that indebtedness as provided in this chapter;

(9) apply for and accept gifts, grants, or loans from a federal agency or an agency or instrumentality of the state, or from a municipality, private organization, or other source, including obtaining title to state, local government, or privately owned land, directly or through a department of the state having jurisdiction of the land;

(10) 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 authority; 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;

(11) bring civil actions, refer criminal actions to the appropriate authority, and take other actions or enter into agreements with law enforcement and collection agencies to enforce the collection of its fees, rents, tolls, rates, other charges, penalties, and other obligations;

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

(13) deposit or invest its funds, subject to agreements with bondholders;

(14) procure insurance against any loss in connection with its operation;

(15) contract for and engage the services of consultants, experts, and financial and technical

advisors that the authority considers necessary for the exercise of its powers and functions under this chapter;

(16) apply for, obtain, hold, and use permits, licenses, or approvals from appropriate agencies of the state, the United States, a foreign country, and any other proper agency in the same manner as any other person;

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

(18) 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 authority's exercise of powers under this paragraph may not exceed the permissible exercise of those powers by the state;

(19) confer with municipal and other governments, metropolitan planning organizations, and the department, concerning the Knik Arm bridge;

(20) do all acts and things necessary to carry out the powers expressly granted or necessarily implied in this chapter; nothing in this chapter limits the powers of the authority that are expressly granted or necessarily implied.

* **Sec. 2.** AS 19.75.111 is amended by adding a new subsection to read:

(c) The authority may not enter into a public-private partnership or service contract for construction of the Knik Arm bridge or appurtenant facilities unless the authority submits to the legislature a financial plan including all projected construction, maintenance, and operation costs for the first 40 years of the project and the financial plan has been approved by the legislature by law."

Page 1, line 6:

Delete "**Section 1**"

Insert "**Sec. 3**"

Renumber the following bill sections accordingly.

Page 2, line 6:

Delete "a new subsection"

Insert "new subsections"

Page 2, lines 6 - 23:

Delete all material and insert:

"* **Sec. 5.** AS 19.75.211 is amended by adding new subsections to read:

(e) Before issuing bonds for the Knik Arm bridge under this section, the authority shall submit to the state bond committee a description of the bond issue, a copy of the resolution of the board of directors of the authority supporting the bond issue, a report setting out the sources and amounts of revenue that will be used for payment of the principal of and interest on the bonds and the effect the issuance of the bonds by the authority would have on the ability of the state or political subdivision of the state to market bonds, and a preliminary prospectus, offering circular, or official statement relating to the bond issue.

(f) Bonds may not be issued unless

(1) the state bond committee finds, based on the information submitted by the authority under this section and other information that is reasonably available to or requested by the committee, that either the Knik Arm bridge revenue and other revenue available to the authority or the revenue of the private person or enterprise under a public-private partnership agreement entered into by the authority under AS 19.75.111(a) can be reasonably expected to be adequate for payment of the principal of and interest on the bonds to be issued and that issuance of the bonds by the authority would not be expected adversely to affect the ability of the state or its political subdivisions to market bonds; and

(2) the authority submits to the legislature a financial plan including all projected construction, maintenance, and operation costs for the first 40 years of the project and the financial plan has been approved by the legislature by law."

[1:56:56 PM](#)

REPRESENTATIVE GATTIS objected.

REPRESENTATIVE FEIGE explained Amendment [6] referred to as A.8. He said the state is responsible for guarantying the KAC project through legislative appropriations so it makes sense that the state should also have the ability to review the KABATA's financial plan. Amendment [6] would require KABATA to submit a

financial plan to the legislature for approval. In fact, this process is the same process TIFIA and other bond users essentially require in order risk funding on projects. [Amendment 6] contains a significant amount of conforming language. He referred page 2, line 7 and page 5, line 6 to substantive language and highlighted that Amendment [6] would delete material beginning on [page 2, lines 6-23 of the bill].

1:58:04 PM

CHAIR P. WILSON asked for clarification on whether Section 3 is being removed or if a new bill section is being inserted.

REPRESENTATIVE FEIGE reiterated the language changes on page 2, line 7 and page 5 of Amendment [6]. He stated page 2, line 7, essentially would place a gate on the construction of the bridge unless KABATA has approval of legislature for a financial plan. The language on page 5, line 6, of Amendment [6] would require KABATA to submit the plan for construction, operating and maintenance costs for the first 40 years of the project.

2:00:02 PM

REPRESENTATIVE FEIGE offered his belief that Amendment [6] would give the legislature the ability to better decide on whether to move forward with the project after it reviews the KABATA's financial plan.

REPRESENTATIVE NEUMAN suggested the legislature needs to keep politics out of projects such as this one. In fact, the legislature doesn't take these actions with projects such as the proposed Alaska Gasline Development Corporation or other projects. However, this process would give final approval of a project planned by the commissioner of DOT&PF, DOR, and DOL and eventually by the governor as the chief administrator of the state. He said, "If we had to bring back projects like this and go through the legislature for financing plans - like this - I don't think we'd ever get anything done. That's why we have experts that look at this, again, through the Department of Law. They are the chief administrators of the state." He continued by explaining that the department heads conduct the business of the state daily, which is one reason commissioners or their designees serve on KABATA's board and review all the materials to ensure everything is in order. He admitted he is not an expert, nor is anyone in the legislature an expert at building roads, or executing bonds for financing. He offered his belief that is the reason for the administration's involvement.

Specifically, KABATA is an entity of the state governed by the Department of Administration, who have experts and monitor [the project]. In conclusion, he said he does not support the Amendment [6].

[2:02:19 PM](#)

REPRESENTATIVE GATTIS offered her belief that the legislature's approval will not work for this project and will create a chilling effect for this project and any other project in the state that private developers are interested in, plus it will set a dangerous precedent. She emphasized that legislators are not the ones to oversee these large projects; instead, the experts should be doing this.

[2:02:55 PM](#)

REPRESENTATIVE KREISS-TOMKINS understood the DOL testified that the state has a moral obligation to make the availability payments. It isn't a question of whether the bridge is available for traffic or whether or not the state pays, but is a question of how much the state must pay. He cautioned that the full faith and credit of Alaska is on the line since the state is morally obligated to make payments. In fact, if he was morally obligated to make payments in the future he would want to know how much he needed to pay and review the financial plan, which would indicate the payment amount. He said the [state's credit] seems very important to him so he will support Amendment [6].

[2:03:48 PM](#)

REPRESENTATIVE JOHNSON said he has a deep philosophical problem with development via the legislature and this project becoming a "political football." He said the legislature has also been considering a potential ballot initiative to approve or disapprove a mine project and when the legislature politicizes development, it creates an environment in which nothing will happen. Granted, [Amendment 6] requires review, but he offered his belief that it would likely mean approval. If so, the approval process would entail a two-year period since any legislator can stall a bill for a year or two. He questioned the wisdom of delaying a project for two years for political purposes. In essence, philosophically the specific project doesn't really matter since the result will have a chilling effect. If the legislature needed to approve every drill rig on the North Slope, wells would never be drilled; so in conclusion,

he said he has a philosophical problem with leaving the final approval with the legislature.

REPRESENTATIVE NEUMAN pointed out that the KABATA provides the legislature with an annual report, which contains the financial information, permitting information, and the future plan.

[2:05:52 PM](#)

REPRESENTATIVE FEIGE offered to entertain an amendment to Amendment [6], to change approval to review. He said the legislature creates statutes and allocate funding. He offered his belief that the [KAC] could become an albatross in terms of the availability payments. He acknowledged the legislature has the option, under the proposal, to not make the payments, but at great peril to the state. In fact, not making the availability payments will severely affect the state's credit rating. He said the legislature should have the best information possible. The legislature will need to commit to the availability payments so it is reasonable to ask the legislature for approval. He emphasized he supports as much resource development and other development in Alaska as possible. However, he cautioned this project would commit the state to a considerable funding without knowing the amount of availability payments necessary or the interest to finance the KAC. Although the state will have future opportunities to curtail the project, he did not think it was unreasonable to ask for a financial plan in order to make the funding decision.

[2:07:53 PM](#)

REPRESENTATIVE JOHNSON said he thinks it is ridiculous to go through this process to build a bridge. He suggested the state should fund the bridge and build it. He did not think this process [Amendment 6] is preferable. In fact, the state is responsible for building roads and public safety so he wondered whether the state was shirking its responsibility by not building the bridge today. The fact that the legislature is at this juncture tells him the state doesn't want to do it.

[2:08:49 PM](#)

REPRESENTATIVE KREISS-TOMKINS offered his belief two different conversations exist for this project. He said, "Maybe I should have worn my I love infrastructure shirt today...." He said he does not have any issue with building bridges or other infrastructure, in fact, he said he loves it. He highlighted

that if the state wants to [build the KAC] the legislature should bring a bill forward to appropriate \$2.5 billion or some dollar figure to build the Knik Arm Bridge. He characterized this bill an example of writing a blank check. He emphasized he would like to know the state's obligation, which is not available under this bill since the financing is unknown. He indicated this is a different question than one in which the state knows the financial obligation. In conclusion, even though he'd like to build infrastructure in Alaska he wants to know the cost first.

[2:10:01 PM](#)

CHAIR P. WILSON remarked she understood KABATA cannot provide the financial answers right now even if it wanted to do so.

REPRESENTATIVE JOHNSON remarked that he first heard about a potential bridge project, [KAC] in 1984. He thought at the time it was a good idea; however, the state still doesn't have a bridge. He said it means something when a project has to go to these lengths to get built. He said he should focus on the amendment, but remarked he is philosophically opposed to projects being decided in the political process. He urged members to build [the bridge].

[2:11:30 PM](#)

REPRESENTATIVE LYNN asked to underscore the previous speaker's comments. He agreed the legislature has been analyzing this project since 1984. He said he is in favor of studying issues, but one can get to the point of "paralysis by analysis." He also urged members to press ahead.

[2:12:04 PM](#)

REPRESENTATIVE FEIGE agreed there are two separate issues. First, he said the issue is whether to build the bridge. Second, the issue is how to finance the bridge project. He acknowledged that he would like to build the [KAC] but he does not want to use financing which is potentially more expensive or at least holds a high degree of unknowns. He contrasted that approach to one in which the state simply takes the funds out of savings to build the bridge. To do so would turn cash in the bank to a solid infrastructure investment that could generate revenue immediately for the state. He acknowledged risks exist, such as construction risks or risks that the population may not support [a toll bridge] but at least the bridge will generate

benefits and tolls. In conclusion, he asserted there are too many unknowns and it is appropriate for a legislature to have some idea of the [cost] prior to committing funds to a project.

[2:13:26 PM](#)

[The committee treated it as though Representative Gattis maintained her objection].

[2:13:31 PM](#)

A roll call vote was taken. Representatives Feige and Kreiss-Tomkins voted in favor of Amendment [6]. Representatives Isaacson, Gattis, Johnson, Lynn, and P. Wilson voted against it. Therefore, Amendment [6] failed by a vote of 2-5.

[2:14:11 PM](#)

REPRESENTATIVE GATTIS suggested the committee move the bill.

REPRESENTATIVE JOHNSON said he has had an opportunity to speak to numerous legislators who served during the 1980s. They regret they didn't build the Susitna Dam and a bridge across Knik Arm. He said he does not want his children or grandchildren to know his biggest regret is the state did not build the Knik Arm Crossing (KAC). He emphasized he does not want to have those regrets. He acknowledged [the KAC] may be risky. The current state funds are generating between 6-8 percent earnings and the bond would be for less than that amount. Bonding makes some sense, but sharing the exposure makes some sense, too. He said he will wholeheartedly support advancing this bill. He said he wants to be here when the first shovel of dirt is turned. In fact, he'd like to be the person who pays the first \$5 to cross the bridge. He concluded that he hopes this project gets done while he is still in the legislature and still alive since it could be 2024 before it happens. "We have to develop this state," he said.

[2:16:05 PM](#)

REPRESENTATIVE JOHNSON moved to report HB 23 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 23 was reported from the House Transportation Standing Committee.

The committee took an at-ease from 2:17 p.m. to 2:19 p.m.

[2:17:21 PM](#)

HB 131-ABANDONED AND DERELICT VESSELS

[2:19:58 PM](#)

CHAIR P. WILSON announced that the final order of business would be HOUSE BILL NO. 131, "An Act relating to abandoned and derelict vessels."

[2:20:03 PM](#)

REPRESENTATIVE PAUL SEATON, Alaska State Legislature, stated that HB 131 relates to derelict vessels. He referred to several additional supportive documents in members' packets, including a resolution from the City of Cordova and the City of Ketchikan. He said that this bill was based primarily on a request from the Alaska Association of Harbormasters and Port Administrators. This bill would address a costly and growing problem of derelict vessels in Alaska. He stated that due to fishery consolidations which occurred in the 1990s, the state has been left with numerous vessels that are now deteriorating or have been sold to parties lacking the financial capability to maintain them. This has led to vessels being abandoned or becoming derelict, which takes up significant room in Alaska's harbors or uses moorage space. Ultimately, municipalities must resolve the problem of abandoned and derelict vessels. For example, a vessel sank in Cordova and it took two years to resolve the issue of the 170-foot landing craft, which ultimately cost the municipality more than \$1.2 million in disposal costs.

REPRESENTATIVE SEATON pointed out a notable example when two seiners sank in Kachemak Bay and the U.S. Coast Guard and DOT&PF spent \$250,000 to dispose of the vessels. He explained the DOT&PF is the entity that originally built the state's harbors so the authority to address derelict and abandoned vessels rests with the DOT&PF. However, he advised that Department of Natural Resources (DNR) has the authority over state waters and state lands. Thus, when a derelict vessel is anchored in state waters and sinks, the DNR has the responsibility; however, the DOT has the authority, yet the USCG oversees any issues related to fuel or petroleum leaks. This bill, HB 131 would attempt to create a multi-agency approach and provide relief for municipalities who own harbors transferred to them. However, many municipalities don't have local authority to address the abandoned and derelict vessels. Thus, HB 131 would coordinate the activities. Additionally, HB 131 would create a requirement that if a vessel was denied entrance into a harbor due to its derelict status,

the vessel may not be stored for more than 14 days without removing any petroleum products and hazardous materials.

[2:24:00 PM](#)

REPRESENTATIVE SEATON emphasized the importance of removing these materials timely rather than wait until the vessel sinks and the materials are released, often during storms, leading to expensive salvage operations. Again, this bill would establish the framework to address abandoned and derelict vessels and clearly lays out the procedures for the state or municipality to handle the vessels. Thus far, he is not aware of any opposition to the bill. He pointed out a March 18, 2013 Seattle Times article, entitled, "Ship Owner Gets More Than He Bargained For - Prison time." He reported that it cost \$22 million to resolve this specific salvage issue. He characterized vessel disposal under the bill as being preventive in nature. He described some difficulties that have arisen in recent times. In response to a question, he stated that the bill has a zero fiscal note.

[2:27:24 PM](#)

REPRESENTATIVE FEIGE said he wholeheartedly supports the bill, noting the City of Valdez has brought this issue to his attention. He acknowledged that the City of Valdez has experienced significant issues with derelict vessels. He stated that a derelict vessel can lie on a beach within the municipality and often times the vessel is abandoned when the owner loses his/her job or runs out of money. In those instances the vessel is abandoned in the harbor. Typically, unmaintained vessels sink, especially in Valdez since when the significant snow accumulation is not shoveled off. At that point, it becomes the City of Valdez's problem, including all the costs associated to accomplish the cleanup. He said he supports any efforts the legislature can take to help local government entities address this issue.

CHAIR P. WILSON related the City of Wrangell is also working on this issue and is working to change come of its bylaws.

REPRESENTATIVE SEATON remarked that frequently boats are stored over an extended period of time by tipping them upside down. The bill contains an exception for the traditional practices outside municipalities; and within municipalities, the local government can regulate the practice. Additionally, HB 131 does not apply to vessel storage on private land, but only applies to public land and waters.

2:29:38 PM

REPRESENTATIVE FEIGE asked for clarification on the relationship and responsibilities of the USCG.

REPRESENTATIVE SEATON answered two methods exist to register boats. First, documented vessels are ones that are documented with the U.S. government and in times of war the government could use the vessel. Second, state vessels are under five-ton net weight and are identifiable by the "AK number" listed on the side of the bow. He initially shared Representative Feige's concern over the relationship with the USCG, but the harbor master has not had any issues between documented or undocumented vessels in derelict situations. He pointed out the USCG has responsibility for oil spills, but if the spill is in state waters, the DOT&PF and DNR coordinate pulling the vessel and dismantling it. In further response, Representative Seaton clarified that any vessel used for commercial purposes weighing five tons net or over must be a documented vessel, although he noted that yachts can't be used for commercial purposes.

2:32:00 PM

REPRESENTATIVE ISAACSON asked whether someone wanting to take possession of the vessel would pay the state agency any port fees owed. He wondered whether municipalities must absorb losses if the vessels are sold at auction and the expenses incurred by the municipality are not covered.

REPRESENTATIVE SEATON acknowledged that municipalities often attempt to recover funds. He said if the value is under \$100 municipalities can dispose of vessels without going to the expense of public noticing, which adds costs. In fact, he cautioned against municipalities selling derelict vessels since these vessels may be purchased but end up in the harbor again. Thus, it is often better to dismantle any vessels with low value. However, he related these decisions can be made by the local harbor and this bill would give the local harbor the authority to address abandoned and derelict vessels.

2:34:14 PM

REPRESENTATIVE LYNN recalled seeing vessels along Thane Road in Juneau. He asked whether this bill would cover these vessels.

REPRESENTATIVE SEATON was unsure of specific vessels; however, this bill will provide municipalities the ability to handle vessels within the municipality, but it does not require them to do so.

2:35:00 PM

STEVE CORPORAN, Director, Ketchikan Port & Harbors, City of Ketchikan; President, Alaska Association of Harbormasters & Port Administrators, stated that the sponsor did an excellent job outlining the intent and salient and key factors. He said that the City of Ketchikan has strong statutes regarding abandoned and derelict vessels. This bill, HB 131, will help strengthen state and municipal authority. For example, since Ketchikan is proactive, a derelict vessel often will leave the harbor before it is impounded, but will not travel far. In fact, owners often take the vessels just outside Ketchikan's jurisdiction to state lands, anchor out, and the vessels sink and become expensive salvage jobs. The USCG usually gets involved after the vessel sinks and the cost exponentially increases as compared to costs to remove the vessel prior to it sinking. This bill would help pull the team members together to give them authority to impound the vessels before they sink.

2:37:14 PM

RACHEL LORD, Statewide Coordinator, Alaska Clean Harbors Program; Outreach and Monitoring Coordinator Cook InletKeeper, stated the Alaska Clean Harbors is a voluntary statewide program that works with harbormasters to improve resources and tools for waste management, pollution prevention, and customer service activities. She testified that HB 131 is a strong step forward to improve the ability of Alaska's municipalities and state agencies to effectively address abandoned and derelict vessels along Alaska's vast coastline. She explained that many coastal municipalities lack the legal framework within their municipal codes or to navigate the maritime law to effectively address these vessels. No longer the owner of the majority of Alaska's harbors, the DOT&PF does not have the staffing or mandate to solely manage abandoned or derelict vessels in harbors and state waters as specified in current statutes. She suggested that the state should look to states, such as Washington, who have spent millions of dollars addressing abandoned and derelict vessels on their coasts and rivers. The high cost associated with these vessels has helped spur states on to take legislative action and create coordinated efforts and provide a structure to address these real environmental and financial concerns. This bill, HB

131, will help Alaska begin to move in the right direction with common sense and immediately make useful changes to outdated state statutes. She offered her belief that Alaska has enjoyed a relatively young fleet of actively working vessels. She highlighted that it is increasingly not the case as the fleet ages and she predicted an increase in derelict vessels. She said that these vessels are increasingly littering the coast line and share the waters with commercial, subsistence, and personal use fisheries and shellfish beds. In conclusion the Alaska Clean Harbors strongly supports passage of HB 131.

[2:39:19 PM](#)

ROGER HEALY, Chief Engineer, Department of Transportation & Public Facilities (DOT&PF), provided some background, such that in 1975 the original statute was written at a time when the state had the Department of Public Works (DPW). During Governor Hammond's administration the DPW and the Department of Highways was merged into the DOT&PF. The authority came to the DOT&PF, he said. Since the mid-80s the DOT&PF has transferred authority of approximately 100 harbors to municipalities, which represents approximately 75 percent of the harbors. The authority to address abandoned and derelict vessels is contained within this bill. Others have spoken well about the issue, but this bill is needed now. He offered the DOT&PF's support for HB 131.

CHAIR P. WILSON remarked she recently told a reporter that the wheels of government turn slowly.

[2:41:42 PM](#)

CARL UCHYTIL, Vice-President, Harbormasters and Port Administrators (AAHPA); Port Director, City and Borough of Juneau (CBJ), stated that the AAHPA in its resolution 2012-02 strongly urges support to changes in AS 30.30 for abandoned and derelict vessels. The AAHPA believes that delegation of authority under state statutes to local municipalities is a step in the right direction in turning the tide of abandoned and derelict vessels in the state. He stated that the condition of vessels that operate in Alaska is diverse and ranges from modern yachts and well-maintained 80-year-old wooden trawlers, to relatively but decrepit live aboard vessels to turn of the century abandoned tugboats. The harbormaster has continually sought tools to best manage the harbor facilities while keeping a vigilant eye on vessels with encroach on tidelands. This bill would give the harbormasters throughout the state authority to address the liabilities and hazards of abandoned and derelict

vessels, which is especially important in smaller coastal communities where legal and enforcement resources are not readily available. He explained that the construction of operations and harbors by the DOT&PF resulted in regulations that empowered only DOT&PF to deal with troublesome vessels.

MR. UCHYTIL said that expanding the language to allow not only DOT&PF, but other state agencies and municipalities to address the abandoned and derelict vessels appears to be sound legislation. Further, the proposed delegation of authority to local municipalities would help refine the relationship between the state, city, and borough responsibilities and will enable harbor masters and communities with limited legal resources or limited ordinances to act with competence in prosecuting abandoned and derelict vessels. Additionally, the proposed changes to AS 30.30 in HB 131 appear to provide authority for the state and municipalities to act in a timely manner to dispose of vessels before these vessels sink. He emphasized the importance of this since the disposal cost associated with vessels when afloat is a fraction of the cost once the vessels take on water and become submerged or discharges fuel oil. In conclusion, he said the AAHPA thanks members for their consideration of this important issue for Alaska's coastal communities.

CHAIR P. WILSON characterized this type of legislation as one that can assist communities without adding cost to the state, represents a good opportunity for the state.

[2:45:05 PM](#)

CHAIR P. WILSON, after first determining no one else wished to testify, closed public testimony on HB 131.

[2:45:21 PM](#)

REPRESENTATIVE ISAACSON moved to report HB 131 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 131 was reported from the House Transportation Standing Committee.

[2:46:21 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Transportation Standing Committee meeting was adjourned at 2:46 p.m.