

SENATE FINANCE COMMITTEE  
April 12, 2013  
1:42 p.m.

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CALL TO ORDER

Co-Chair Meyer called the Senate Finance Committee meeting to order at 1:42 p.m.

MEMBERS PRESENT

Senator Pete Kelly, Co-Chair  
Senator Kevin Meyer, Co-Chair  
Senator Anna Fairclough, Vice-Chair  
Senator Click Bishop  
Senator Mike Dunleavy  
Senator Lyman Hoffman  
Senator Donny Olson

MEMBERS ABSENT

None

ALSO PRESENT

Greg Cashen, Assistant Commissioner, Department of Labor and Workforce Development; Paul Dick, Director, Employment Security Division, Department of Labor and Workforce Development; Michael Foster, Chairman, Knik Arm Bridge and Toll Authority; Judy Dougherty, Deputy Executive Director, Knik Arm Bridge and Toll Authority; Michael Barnhill, Deputy Commissioner, Department of Administration

PRESENT VIA TELECONFERENCE

Aesha Pallesen, Assistant Attorney General, State of Alaska, Anchorage

SUMMARY

SB 13 KNIK ARM BRIDGE AND TOLL AUTHORITY

SB 13 was HEARD and HELD in committee for further consideration.

SB 90 SCHOOL DISTRICT EMPLOYEE HEALTH INSURANCE

SB 90 was HEARD and HELD in committee for further consideration.

2d CS HB 23(RLS)

KNIK ARM BRIDGE AND TOLL AUTHORITY

2d CS HB 23(RLS) was HEARD and HELD in committee for further consideration.

CS HB 76(FIN)

UNEMPLOYMENT; ELEC. FILING OF LABOR INFO

CS HB 76(FIN) was REPORTED out of committee with a "do pass" recommendation and with previously published fiscal impact note: FN4 (LWF); and previously published zero fiscal note: FN3 (LWF).

CS HB 129(FIN)

OIL & GAS EXPLORATION/DEVELOPMENT AREAS

CS HB 129(FIN) was REPORTED out of committee with a "do pass" recommendation and with previously published fiscal impact note: FN2 (DNR).

#hb129

CS FOR HOUSE BILL NO. 129(FIN)

"An Act relating to approval for oil and gas or gas only exploration and development in a geographical area; and providing for an effective date."

[1:44:11 PM](#)

Vice-Chair Fairclough discussed the fiscal note attached to the bill. She shared that the FY14 request was \$134 thousand in General Fund dollars.

Vice-Chair Fairclough MOVED to REPORT CS HB 129(FIN) out of committee with individual recommendations and the accompanying fiscal note.

CS HB 129(FIN) was REPORTED out of committee with a "do pass" recommendation and with previously published fiscal impact note: FN2 (DNR).

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AT EASE

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RECONVENED

Co-Chair Meyer welcomed Senator Olson to the table.

#hb76

CS FOR HOUSE BILL NO. 76(FIN)

"An Act relating to electronic filing of certain information with the Department of Labor and Workforce Development; relating to fund solvency adjustments, rate increase reduction, prohibition on the relief of certain charges, the unemployment trust fund account, and the offset of certain unemployment compensation debt under the Alaska Employment Security Act; relating to the definition of 'covered unemployment compensation debt' in the Alaska Employment Security Act; and providing for an effective date."

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GREG CASHEN, ASSISTANT COMMISSIONER, DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT, testified that HB 76 would do four things:

- allow for electronic filing of reports
- improve the department's ability to recoup fraudulent unemployment insurance payments
- adopt minor changes to bring the department into compliance with federal law
- change how unemployment tax rates are set in an effort to keep money in the hands of employers and employees; keeping money circulating through the economy while protecting the integrity of the trust fund

[1:49:09 PM](#)

PAUL DICK, DIRECTOR, EMPLOYMENT SECURITY DIVISION, DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT, highlighted the sections of the bill.

Section 1 adds a new section, AS 23.05.055, authorizing the commissioner to allow the use of electronic filing methods in place of paper filing.

Section 2 adds a new section, AS 23.20.021, authorizing the legislature to appropriate money into the unemployment trust fund account.

Section 3 adds a new section, AS 23.20.279, to bring the state into conformity with federal law, Public Law 112-40, by prohibiting the relief of charges to employers when an erroneous payment of unemployment insurance benefits is made due to an established pattern of the employer, or an agent of the employer, for failing to respond timely or adequately to a documented request for information relating to a claim for unemployment compensation. This section defines "erroneous payment" as a payment made that would not have otherwise been paid, but was due to the failure of the employer to respond timely or adequately. This section also defines "pattern of failing" as two or more times or 2% or more of all requests, whichever is greater, during the prior year.

Mr. Dick noted that conforming to the federal requirements was necessary for the state to qualify for the 90 percent Federal Unemployment Tax Act (FUTA) credit. He said that the tax credit was 6 percent and that Alaskan employers received a 90 percent credit. He shared that employers paid 10 percent of the tax, .6 percent, rather than the full 6 percent. He warned that losing the credit would result in an additional yearly payment total of \$378, per employee, collectively resulting in a \$115 million hit to Alaska's economy. He said that an additional benefit of the credit was that it required the state to deposit 30 percent of penalty collections into the unemployment insurance trust fund. He explained that currently, 100 percent of the penalties went into the General Fund; the 30 percent provision would result in more money in Alaska's unemployment insurance trust fund, which would ultimately help employers.

Mr. Dick continued with the sectional analysis:

Section 4 amends AS 23.20.290(c) by adding the word "surcharge" following the words "fund solvency adjustment".

Mr. Dick explained that when calculating the unemployment insurance checks the department used a base calculation

that examined the state's benefits over the prior three years. He said that there was additional provision in statute that had a target of 3 to 3.3 percent for the trust fund. He relayed that the two components added together determined the unemployment insurance tax rate for the state. He continued:

Section 5 repeals and reenacts AS 23.20.290(f), replacing a table method for determining fund solvency adjustment surcharges with a more precise calculation method. It also eliminates the 0.3 limitation on fund solvency adjustment surcharge decreases in a single year.

Mr. Dick relayed that the section removed a table currently in statute and replaced it with verbiage that took the calculation of the solvency adjustment for .10 percent to .100 percent. He said that would make the trust fund solvency adjustment consistent with the base rate as calculated to the .100 percent. He added that it would make for more precise calculations and would remove the current 0.3 decrease limitation. He shared that Alaska was one of three states where the employee and the employer paid into the unemployment trust fund. He underscored that the bill would not affect the amount of training funds that went into the Statewide Training and Employment Program (STEP) and the Technical Vocational Education Program (TVEP) training funds.

Mr. Dick continued with the sectional analysis:

Section 6 adds a new section, AS 23.20.291, authorizing the commissioner to suspend, in whole or in part, increases in unemployment tax rates when the "average high cost multiple," a measure of solvency calculated by the U.S. Department of Labor, Employment and Training Administration, is 0.8 or greater and after consultation with the department's actuary.

Mr. Dick explained that the suspension would not be automatic and would require the action of the commissioner to suspend the increase. He said that this would allow for flexibility to adjust rates when the trust fund was healthy. He said that the fund was currently at \$251 million. He noted the sunset date in Section 10.

Mr. Dick continued with the sectional analysis:

Section 7 amends AS 23.20.390(f) to bring the state into conformity with federal law, Public Law 112-40, by removing the department's authority to waive the collection of a penalty established due to misrepresentation and requires that a minimum of 30% of the unemployment insurance penalties collected due to misrepresentation be deposited into the state's unemployment trust fund account.

Section 8 adds new section, AS 23.20.486 to authorize the department to offset unemployment compensation debt against a claimant's federal income tax refund. This section would allow the state to participate in the federal treasury offset program.

Mr. Dick said that the change would allow the state to offset federal tax income tax returns against unemployment insurance liabilities. He shared that the department estimated \$500,000 in additional collections.

Mr. Dick stated that the remaining sections pertained to effective dates:

Section 9 amends AS 23.20.520, by adding a new paragraph to define "covered unemployment compensation debt" in accordance with the federal statutory definition.

Section 10 effective July 1, 2016 repeals AS 23.20.291, added by section 6 of this bill.

Section 11 amends state uncodified law by specifying that AS 23.20.279, added by section 3 of this bill, applies to overpaid benefits established after October 21, 2013.

Section 12 specifies that the department will adopt necessary regulations to implement changes. Regulations will not be effective prior to July 1, 2013.

Section 13 establishes that section 12 takes effect immediately.

Section 14 establishes the effective date for the remaining sections of this Act as July 1, 2013.

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Senator Hoffman asked whether the 30 percent deposit into the unemployment insurance was fixed.

Mr. Dick replied that federal law required a least 30 percent.

[2:00:11 PM](#)

Senator Hoffman wondered whether other states had contemplated a higher percentage.

Mr. Dick responded that he was not aware what other states were doing.

[2:00:18 PM](#)

Senator Hoffman queried why the minimum of 30 percent had been chosen.

Mr. Dick deferred the question to Ms. Pallesen.

[2:00:44 PM](#)

AESHA PALLESEN, ASSISTANT ATTORNEY GENERAL, STATE OF ALASKA, ANCHORAGE (via teleconference), understood that the 30 percent amount was chosen because that was the number necessary to meet federal requirements. She said that she had advised the department to choose 30 percent in order to meet federal compliance.

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Senator Hoffman probed the additional benefits if the state paid a higher percentage.

Ms. Pallesen was unsure that increasing the percentage rate of what went into the trust fund would result in the state receiving additional federal monetary benefits.

[2:02:28 PM](#)

Senator Hoffman thought that if the funds went into the trust fund, rather than the general fund, there could be more dollars for the STEP and TVEP programs.

Ms. Pallesen responded that under the federal regulations the 30 percent of penalties collected could not go into the general fund.

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Senator Hoffman responded that he understood. He believed that if the percentage were to be raised then there would be more money to invest in training programs, instead of going into the General Fund, which would benefit the state's workforce.

Ms. Pallesen deferred the question to the Department of Labor and Workforce Development.

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Senator Hoffman restated his question.

Mr. Dick stated that the training program funds came from the employee contributions and that the monies under discussion were penalty funds.

Senator Hoffman asked where the 30 percent would go.

Mr. Dick replied that currently, all of the money collected just on the penalties went into the General Fund. Under the legislation, 30 percent of the collections would go into the unemployment insurance trust fund, and 70 percent would go to the General Fund.

Senator Hoffman asked if employer rates could be reduced.

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Mr. Dick responded in the affirmative. He said that an increase in the rate would increase revenues into the trust fund and mitigate the tax rates.

[2:06:03 PM](#)

Senator Bishop asked which section of the bill the department could live without.

Mr. Dick responded the department felt that all of the provisions of the bill were critical.

[2:07:10 PM](#)

Co-Chair Meyer asked if there was a time constraint on the legislation.

Mr. Dick replied that state conformance was required by October 21, 2013.

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Vice-Chair Fairclough asked how long the state had been out of compliance.

Mr. Dick replied that the state was not out of compliance until October 21, 2013. He stated that the federal government understood that the changes would need to go through the legislative process and gave states 2 years to meet compliance.

[2:08:29 PM](#)

Co-Chair Meyer wondered what would happen if the state did not comply.

Mr. Dick responded that the state would lose the FUTA tax credit, which was 90 percent of the tax rate and equated to \$378 per employee, per year.

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Co-Chair Meyer OPENED public testimony.

Co-Chair Meyer CLOSED public testimony.

[2:10:02 PM](#)

Vice-Chair Fairclough discussed the two fiscal notes attached to the bill. She noted the increase in \$500,000 FY14 through FY19. She wondered if the note should be updated to reflect the changing of the sunset date to 2016.

Vice-chair Fairclough MOVED to REPORT CS HB 76(FIN) out of committee with individual recommendations and the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CS HB 76(FIN) was REPORTED out of committee with a "do pass" recommendation and with previously published fiscal impact note: FN4 (LWF); and previously published zero fiscal note: FN3 (LWF).

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AT EASE

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RECONVENED

#sb13

SENATE BILL NO. 13

"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."

#hb23

2d CS FOR 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."

[2:21:07 PM](#)

Vice-Chair Fairclough noted that there were varying opinions on the audit that was before the committee. She stated that the Division of Legislative Audit (DLA) had full support from legislative auditors and had worked within the parameters that had been requested by the legislature. She relayed that the Knik Arm Bridge and Toll Authority (KABATA) board had worked diligently to move the project forward. She offered support for the legislation and expressed an obligation to protect the audit staff that had been working on behalf of the legislature.

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MICHAEL FOSTER, CHAIRMAN, KNIK ARM BRIDGE AND TOLL AUTHORITY, introduced his support staff. He recognized the work that had been done by the DLA committee and the

legislature on the audit. He stated that KABATA had concerns with the models that were used in the findings to predict population and social economic and demographic numbers.

[2:23:54 PM](#)

JUDY DOUGHERTY, DEPUTY EXECUTIVE DIRECTOR, KNIK ARM BRIDGE AND TOLL AUTHORITY, gave a brief overview of her credentials. She relayed that the audit had found nothing wrong with the Knik Arm Crossing project development process or governance and no problems with contracting practices. She said that a DLA auditor had testified earlier in the week that KABATA's draft document could not be audited because they were a "moving target." She explained that in accordance with standard auditing practices a scope change was identified and KABATA was informed. She asserted that a balanced accounting of the general risk/reward calculus of and availability P3 agreement could and should have been included in the report. She addressed the issue of reasonableness. She offered that reasonableness was what had blown the audit out of proportion and damaged the progress of the project. She opined that the auditors contended that the assumptions made for the project model were not supported by independent sources.

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Ms. Dougherty asserted that 6 different traffic demand models had been completed since 2005 that predicted traffic on the Knik Arm Crossing. She referred to "Knik Arm Crossing, Traffic Study FAQs" (copy on file). She pointed out to the committee that Page 2 of the document contained a table detailing the studies. She relayed that the studies were performed for DOT's Highway to Highway project and the AMATS Metropolitan Transportation Plan in addition to KABATA. She asserted that each study had been done with their own set of underlying assumptions, variables and limitations; each study had indicated that 4 lanes would likely be necessary on the crossing on later than 2035. She said that each study had study boundaries that included the crossing location and assumed economic growth in the lower Mat-Su borough as a result of economic "spill-over" from Anchorage once the crossing was constructed. She shared that 3 of the studies could have been used as a basis for comparison analysis by DLA or a qualified consultant. She

felt that the auditors had dismissed the studies and had based their conclusions on a traffic model prepared for a DOT project located near Wasilla; more than 30 miles from the crossing location, and the study boundaries did not include the crossing location. She said that the population and variables used in DLA's selected model were based on the assumption that there would be no change to the traditional population and economic growth in the lower Mat-Su borough as a result of the bridge opening. She furthered that DLA's assumption made no consideration for a change in job growth or population growth, and had used a model that predicted that there would be 30 percent fewer jobs in Port Mackenzie than ISER had predicted would be generated by providing ferry service alone at the crossing site. She contended that the audit findings did not sound reasonable. She said that the crossing project had had traffic studies performed by 2 separate consultants who had arrived at similar traffic volumes on the bridge, but that the information had been dismissed by DLA as not being independent. She thought that varying definitions between auditing standards and professional standards among engineers of how "independent information" was defined could have catered to the problem. She stressed that the professional engineering firms that performed the studies were independent and had no reason to stake their professional integrity for the benefit of KABATA. She said that the concerns of the DLA auditor had been addressed in one-on-one correspondence with KABATA's traffic and revenue consultant who provided insight to local conditions of the project site and variances in population projections.

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Ms. Dougherty cited Page 257 of the "Legislative Budget and Audit Committee Report of the Department of Transportation and Public Facilities Knik Arm Bridge and Toll Authority Knik Arm Crossing Project" (copy on file):

Since both the transportation model and the financial model are computer based, performing "what if" changes in underlying assumptions and data, and evaluating their effect on outcomes should not be overly burdensome.

Ms. Dougherty relayed that KABATA agreed with the statement. She said that over 2,000 simulations of key traffic control revenue variables had been performed in 5

year increments and used as input to the financial risk analysis previously presented by David Livingstone of CITI Bank. She furthered that. She opined that the auditors failed to recognize that the traffic volumes projected by DLA's "what if" scenario had been accounted for in the range of risk analysis when the risk analysis was evaluated. She asserted that KABATA's consultants represented the industry's "who's who" in transportation engineering, financing, traffic and toll revenue forecasting and contract development legal support and had been involved in nearly every successfully delivered toll road financing P3 project in the country.

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Vice-Chair Fairclough remarked that she was Chair of the Legislative Budget and Audit (LB&A) Committee. She informed the committee that the audit had been requested by the previous LB&A chair.

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Co-Chair Meyer wondered when the auditors had contacted KABATA for information about the project.

Ms. Dougherty replied that she was not sure. She stated that management letter number 1 had been received on February 1, 2013. She said that the strong language used in the response to the report was due to the fact that KABATA had been rushed in their response; they had been given ten days to respond and the legislative session was already underway. She felt that there was a lack of understanding between KABATA and DLA.

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Vice-Chair Fairclough felt that the lack of understanding stemmed from a different understanding of the P3 agreement.

Ms. Dougherty thought that there was a concern regarding "toll friction." She said that toll friction could reduce the traffic count on a bridge because people had to be willing to pay the toll. She stated that a community was going to develop in the Mat-Su quickly and that the borough had establish several pound sites in anticipation.

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Vice-Chair Fairclough wondered if the auditors had access to the P3 agreement. She understood that it had not been finalized yet and imagined that it would be difficult for an auditor to audit something that was not complete. She wondered what additional information would have been found by the auditor had the P3 agreement been complete.

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Mr. Foster responded that KABATA had provided the draft RFP and draft PPA to the auditor. He relayed that both documents had yet to go through final review. He shared that the governor had legal consultants reviewing the document. He said that he told auditors that the document was confidential because KABATA was engaged in ongoing procurement.

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Co-Chair Meyer handed the gavel to Vice-Chair Fairclough.

Vice-Chair Fairclough noted that the draft was confidential. She was unsure whether the contractor would have been provided anything in the P3 agreement that they could consider as they moved forward with the audit. She said that the auditors had returned to the committee and amended the framework of how they would go forward with the audit.

Mr. Foster deferred legal questions to the Department of Law.

[2:40:18 PM](#)

Ms. Dougherty added that there were a number of benefits and risks associated with the general structure of a P3 agreement that had not been reflected in the report.

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Senator Olson noted several projects that had been invested with millions of dollars and then had been abandoned. He wondered how the crossing project differed. He expressed concern that if the numbers were wrong that the State of Alaska would be left footing the bill.

Mr. Foster responded that there was a need for infrastructure in the area. He stated that the Point Mackenzie area was looking to incorporate and would be the 4th largest city in the state. He said that the increase in traffic in the area reflected the real need for increased infrastructure in the area. He warned that not building the bridge could result in an estimated \$3 billion plus in Glen Highway improvements. He stressed that all the areas in the Mat-Su were expected to grow in population in the future and that the crossing would be the best plan to accommodate the increase.

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Senator Olson remarked that the money for the bridge could be going towards education. He argued that people who were independent of the audit and the legislature were coming up with numbers that were one-third of what KABATA had presented. He noted that on April 2, 2013, Mr. Foster had testified that the Highland Area in 1985 was 33,000; in 2010 the number increased to 53,000. He pointed out to the committee that that was not a doubling of the numbers, but was 63 percent more. He furthered that the numbers offered by KABATA for 2035 showed the area at 110,000, which was more than double the current number. He felt that KABATA's projections presented serious problems. He said that the people contracted by KABATA to come up with the numbers had a reputation of being overly optimistic in their estimates.

Mr. Foster rebutted that he did not believe that that was true.

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Senator Dunleavy believed that this was one of the few projects that he could guarantee, with 100 percent certainty, that once completed would be used. He said that the use would be continual and growing. He quoted Page 1 of the audit:

The risks and rewards in totality as outlined in the P3 agreement could not be evaluated because the agreement has not been finalized and is subject to further changes.

Senator Dunleavy relayed that he did not fault the auditors for their methodology. He did not believe that the project

should be likened to the failed projects mentioned by Senator Olson. He wondered what could be otherwise done to serve the growing area; would it be more cost effective to build more lanes instead. He did not believe that there was any question about whether there would be traffic on the bridge.

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Senator Hoffman directed attention to Page 19:

In August 2012, KABATA management submitted a TIFIA loan request for \$500 million at a 49 percent participation rate in eligible costs. In a letter to KABATA, dated September 25, 2012, the Federal Highway Administration (FHWA) pended reviewing the request stating that:

KABATA's loan request "did not present a compelling justification" for providing assistance above a 33 percent participation level.

Senator Hoffman continued to Page 27, "Findings and Recommendations." He felt that the legislature should address the findings. He wondered whether KABATA would address the findings as the project moved forward. He noted that there was one recommendation:

Recommendation No. 1

Knik Arm Bridge and Toll Authority (KABATA) management should revise traffic and toll revenue projections to address deficiencies.

The audit of key assumptions and inputs used in KABATA's transportation modeling process identified several deficiencies regarding the validity of assumptions and inputs used as a basis for projecting toll revenues. Deficiencies are as follows.

The household levels and growth rate KABATA projected for 2035 were overly optimistic when compared to the household growth rates and levels projected by University of Alaska's Institute of Social and Economic Research and the State's Department of Labor and Workforce Development.

The discrepancy stems from KABATA's economic growth rate projections in the Point MacKenzie region, specifically in the Port MacKenzie (Port) area.

KABATA's estimated traffic growth rate of five percent is significantly higher than the actual growth rate of 2.5 percent based on the Department of Transportation and Public Facilities' traffic counts. The differences are partially caused by the anticipated growth in population and employment in the Point MacKenzie area.

A projected 50 percent KAC market share of traffic is unsupported.

The estimate of a 12 percent split for commercial vehicle traffic for the KAC is high compared to actual traffic count data for the Glenn Highway which indicates a split of 4.9 to 6.6 percent. KABATA's 12 percent split is based on DOTPF's 2003 through 2006 traffic data. Since then, DOTPF has improved its traffic data collection methodology and now reports much lower traffic count splits that better reflect the actual count between personal and commercial vehicles.

KABATA's projected 2035 Point MacKenzie area employment level of 14,337 is significantly higher than the level noted in the Matanuska-Susitna Borough plan of 4,515. A majority of KABATA's employment (13,828) is based on projected Port economic development which is inconsistent with the Port's master plan and regulations.

All of the above concerns have the effect of overstating traffic volume. Overstated traffic volume in KABATA's modeling process has the effect of overstating projected toll revenues.

Senator Hoffman highlighted:

The Federal Highway Administration's (FHWA) guidelines for P3s20 state:

Inaccurate or overly optimistic traffic projections and underestimated project costs can lead to the development of pro forma financials that appear to justify the investment decision, but that do not reflect the project's actual ability to repay debt or to meet equity investor's return requirements.

Under KABATA's planned P3 arrangement, lower than expected toll revenues would necessitate the need for additional funding as availability payments must be paid to the private partner regardless of how much the bridge is used.

In recognition of the risk that overstated toll revenues pose to the State, we recommend KABATA management revise the traffic and toll revenue projections to address noted concerns.

Senator Hoffman stated that as a legislator he could not ignore the recommendations of DLA. He queried the timeframe for the KABATA board to address the deficiencies as pointed out by the audit.

Ms. Dougherty responded that the bullet points had been addressed in the KABATA response to the preliminary audit report. She noted that three of the bullets specifically referenced the Point Mackenzie area she did not believe that the model used by the auditor addressed the influx of traffic and economic growth that would be generated by the project.

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Mr. Foster furthered that KABATA's response to the preliminary report could be found on Page 211 of the audit.

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Senator Bishop echoed the comments made by Senator Hoffman. He believed that all involved parties needed to agree on the cost scheduling numbers in order for the project to move forward.

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Senator Olson remarked that the proposed area for the project had a history of expensive and unused projects. He noted that the audit had highlighted that if the toll revenues were lower than expected, the state would be required to make payments to the private partners regardless of how much the bridge was used.

Mr. Foster replied in the affirmative.

Senator Olson contended that there was no reason to support a project that was driven by suspect numbers. He asked Mr. Foster if the speculation concerning the numbers was reasonable.

Mr. Foster agreed that the residents of Alaska should evaluate every proposed project. He denied any ulterior motive on behalf of KABATA to move the project forward. He offered that the decision about whether the project would move forward should be made by the state. He explained that KABATA's job was to provide information to the legislature.

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Mr. Foster referred to Page 37 of the audit report, which contained a table that compared the LB&A numbers to the KABATA population/traffic financial model. He asserted that the auditor's model did not consider the impacts of the crossing.

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Senator Olson stated the state did not have the population to generate the tolls that would pay for the project. He understood that KABATA had been turned down 4 times for low-interest federal loans.

Mr. Foster replied that letters of interest had been submitted 4 times. He said that at the time of application the project had not been a mature as it was currently. He stated that there were now more federal dollars available and the chances of some of them reaching the project were improved.

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Senator Dunleavy commented that approximately 360,000 people were using the one major road in the area of the

proposed project. He reiterated that the bridge would be used immediately upon completion. He stated that having a large project that paid for itself was a worthwhile concept to explore. He suggested that all of the major projects executed by the state should pay for themselves.

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Senator Olson reiterated that if there were lower than expected toll revenues then the state would have to make the inevitability payments to private partners, leaving the state on the hook for billions of dollars.

Mr. Foster replied that there were sideboards on the project which would keep the cost to the state down.

3:10:48 PM

Vice-Chair Fairclough quoted Pages 19 - 20 of the audit:

KABATA's loan request "did not present a compelling justification" for providing assistance above a 33 percent participation level

The request cannot be considered further until the \$150 million reserve fund is appropriated by the State or it becomes clear that the funding is "reasonably likely" to be appropriated.

She noted that the auditors had attempted to provide checks and balances to guide the project forward. She queried the consequence of not acting on the project during the current legislative session.

Mr. Foster responded that KABATA would still move forward with the RFP process and the PPA agreement. He added that there were permits that were being finalized. He shared that if the legislation did not pass the project would fall further down the Transportation Infrastructure Finance and Innovation Act (TIFIA) list. He thought that the project could be viable for the federal funds in a year, but that would be dependent on how much of the money was allocated within the next year. He said that there was no guarantee that the legislation would put us in the TIFIA pot, but that it could move the state closer. He noted that the

state had been invited to submit the application which meant that Alaska was in line for the federal funding.

[3:14:41 PM](#)

Mr. Foster shared that if the legislation was not passed KABATA would continue to move forward.

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Senator Dunleavy wondered about plans to upgrade the Glenn Highway.

Mr. Foster replied that there was three mile expansion currently occurring, funded by a general obligation bond.

[3:16:59 PM](#)

Senator Dunleavy asked if a toll was being charged for the Glenn Highway expansion.

Mr. Foster replied that a toll could not be required because the road was built using federal highway money. He said that the Glenn Highway could be tolled but it would require a dedicated lane; the commuter must have an option if the road is constructed with federal dollars.

Vice-Chair Fairclough returned the gavel to Co-Chair Meyer.

[3:17:37 PM](#)

SB 13 was HEARD and HELD in committee for further consideration.

2d CS HB 23 (RLS) was HEARD and HELD in committee for further consideration.

[3:19:00 PM](#)

AT EASE

[3:30:15 PM](#)

RECONVENED

#sb90

SENATE BILL NO. 90

"An Act relating to group insurance coverage and self-insurance coverage for school district employees; and providing for an effective date."

[3:30:53 PM](#)

Senator Dunleavy invited the Department of Administration to explain the fiscal notes. He felt that the bill should be held through the interim for further discussion and better understanding.

[3:31:51 PM](#)

MICHAEL BARNHILL, DEPUTY COMMISSIONER, DEPARTMENT OF ADMINISTRATION, offered an analysis of FN#2:

SB 90 introduces a new section to AS 14.20, AS 14.20.137, which extends group insurance coverage under AS39.30.090 to school district employees. It also amends AS39.30.090(a)(2) extending coverage to dependents of school district employees. It is estimated that 18,300 school district employees and 29,000 dependents will become members of the AlaskaCare Employee Health Plan. The addition of these 47,300 new members will quadruple the overall population of the AlaskaCare Employee Health Plan.

PUBLIC EDUCATION FUND -

How the bill works: starting on July 1, 2014, school districts would begin to enroll their employees in the AlaskaCare active employee health plan. That process must be complete no later than July 1, 2015. There are approximately 18,300 school district employees that would likely enroll over FY15-FY16. With dependents, the total population is approximately 47,300 covered lives.

Self-funded insurance pools tend to maintain a reserve of 3-4 months of claim costs. The reserve is available to pay claims in times of claim spikes so that recourse to external funding sources or mid-year premium increases is unnecessary.

We estimate that such a reserve for the 47,000 inbound covered lives would be approximately \$100mm. Having such a reserve in place on July 1, 2014 is important, because this population will begin to incur health

claims immediately, and we need to have funds in place to pay them. The bill contemplates that the \$100mm would be drawn from the Public Education Fund over a 10 year period. The withdrawn funds would be repaid over a 10 year period. The source of the repayment for withdrawn funds would be school districts. The Department would send them a bill for the first 4 months of claims paid; the bill would be repaid over a 10 year period.

The bill contemplates that the health insurance benefit credit the state pays on behalf of all State of Alaska employees (\$1330/mo/ee in FY13; \$1389/mo/ee in FY14) would be paid by school districts on behalf of school district employees. The benefit credit equates to the premium for the AlaskaCare Economy level plan plus the premium for the Preventive Dental plan. The Department would send monthly bills to school districts to collect the benefit credit. These sums would be deposited in the Group Health and Life Benefits fund (AS 36.30.095) and used to pay claims and administer the system.

Mr. Barnhill shared that during a discussion with the Texas Teacher's Retirement System he had learned that Texas had done a similar consolidation several years ago. He said that in that case the state had received access to \$25 million for transitional cash flow purposes and had paid it back without a problem.

[3:36:05 PM](#)

Co-Chair Meyer queried why the Public Education Fund was being used.

Mr. Barnhill asserted that the department was indifferent to where the funds came from, but that money was needed in order to pay the claims.

Co-Chair Meyer thought that a different fund should be used.

Mr. Barnhill replied that the department had no problem with the legislature identifying some other fund source.

[3:37:14 PM](#)

Vice-Chair Fairclough remarked that some schools did not have the tax base in order to payback the funds.

Mr. Barnhill responded that BSA funds would be used in order to make the payback. He said that the intent of the circulating funds was to hold the Public Education Fund harmless.

[3:38:31 PM](#)

Senator Olson wondered how long the payback had taken in the Texas scenario.

Mr. Barnhill understood that it had not taken very long. He said that the state had premiums coming in from the school districts and that that cash flow had been sufficient to manage the transition.

Co-Chair Meyer handed the gavel to Vice-Chair Fairclough.

Senator Olson wondered if the same model could work for Alaska.

Mr. Barnhill replied that it would be imprudent to suggest that the requested transitional cash flow would not be needed.

[3:40:49 PM](#)

Senator Dunleavy believed that a considerable amount of time should be taken developing the legislation.

Mr. Barnhill stated that the department had been researching the subject in depth. He refused to state if there was a causal link between state healthcare plan pooling and lower benefit credits.

[3:42:32 PM](#)

Vice-Chair Fairclough wondered how other trusts would be affected by a state change in pooling.

Mr. Barnhill responded that the legislation would lead to the eventual closure of the trusts. He said that there would need to be an additional time period because health insurance claims to be incurred in one fiscal year and then not resolved until the following fiscal year. Other trusts

would need to maintain sufficient funds in order to pay the incurred claims until they were finally resolved. He reiterated that the bill called for all employees and dependents that were currently being served by those trusts into the State of Alaska's active pool.

[3:43:50 PM](#)

Vice-Chair Fairclough remarked that there were assets currently in the trusts that were drawing interest that benefit the participants of the plan. She wondered who would have claim to the assets.

Mr. Barnhill responded that the bill did not address private trust funds and what would happen to the trusts once the beneficiaries moved into the state's plan. He suspected that the trust assets would be drawn down in their entirety prior to transition. He said that the bill did address the trust assets of school districts that were self-insured. He relayed that any unencumbered balance at the point of transition would be transferred to the claims fund.

[3:46:44 PM](#)

Senator Olson thought that the NEA Trust was a private trust.

Mr. Barnhill responded that it was a private trust. He said that some self-funded health plans were funded and managed by union trust plans.

[3:47:21 PM](#)

Vice-Chair Fairclough requested further conversation with the trust to gain their perspective on the assets that they held. She said that where there was a contract negotiated that the state had been pay for 100 percent of the cost then the state should have the right to assert some ownership of some of the assets. But in was unclear what the state's right were concerning the interest \that was managed in a private entity.

[3:48:06 PM](#)

Mr. Barnhill interjected that there were two more fiscal notes to be discussed. He spoke to FN#3, which listed the

start-up costs for FY14 at \$237,700 to reprogram computers to accommodate a quadrupling of the pool. He highlighted that every inbound member was already and active member of PERS or TRS. He said that running across the services line was the contractual costs that would be paid to a third party administrator and other vendors. The per member, per month charge would grow by the rate of 4 percent per year. He shared that that the final fiscal note for Retirement and Benefits indicated that 12 new staff members would be needed and would cost \$482 thousand in FY14, and \$964 thousand in FY15 through FY19.

[3:50:34 PM](#)

Co-Chair Meyer wondered how many other state bargaining units had their own trusts.

Mr. Barnhill responded that there was the Alaska State Employees Association (ASEA) Health Trust, which was comprised of 8,800 general governmental unit employees of the state and was the largest piece of the health trust for the state. He added that Public Safety Employees Association (PSEA) had opted out of state insurance and were fully insured by ETNA. He said that the state was fragmented in how health insurance was delivered to employees.

[3:51:23 PM](#)

Co-Chair Meyer understood that the issue reached beyond healthcare for teachers.

Mr. Barnhill replied in the affirmative.

[3:51:27 PM](#)

Vice-Chair Fairclough thought that the rate of return on the assets of the different entities could be examined over the interim.

Senator Dunleavy replied that he would research any outstanding issues.

[3:52:22 PM](#)

Senator Olson wondered asked about the number of dependents for the school district employees.

Mr. Barnhill responded that there were 29,000 dependents.

SB 90 was HEARD and HELD in committee for further consideration.

#

ADJOURNMENT

3:55:48 PM

The meeting was adjourned at 3:55 p.m.