

SB

12

<TARGET><BILL>SB 12</BILL><SUBJECT>SB
12</SUBJECT><COMM>SFIN28</COMM></TARGET>

SENATE FINANCE COMMITTEE REPORT

DATE: 2/6/13

FURTHER:

DATE TURNED
IN TO OFFICE: _____

Finance Committee considered SENATE BILL NO. 12

SB 12-PUBLIC PROCUREMENT

"An Act relating to state and public entity procurement, including the State Procurement Code, procurement preferences, contract awards, the use of small procurement provisions for certain amounts of leased space, the Alaska business license requirement for Alaska bidder and other procurement preferences, the proof of registration of construction contract bidders and offerors, the establishment and maintenance of lists of persons who want to provide supplies or services to the state, state agencies, and state instrumentalities, electronic bids and proposals, the chief procurement officer, small procurements, and writings; relating to the meaning of 'Alaska bidder'; and providing for an effective date."

and recommends:

- be replaced with CS _____ (_____) Same Title New Title
- adopt previous CS _____ (_____) Same Title New Title
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

Dept Abbr.	
ADM	LWF
CED	LAW
COR	LEG
CRT	MVA
EED	DNR
DEC	DPS
DFG	REV
GOV	DOT
DHS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
ADM			✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	DO NOT PASS	No REC	AMEND
	Hoffman	✓			
	Bishop	✓			
	DUNCANSON	✓			
	OLSON			✓	
	FAIRCLOUGH	✓			
CO-CHAIR:	Meyer	✓			
CO-CHAIR:	Kelly	✓			

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: SB 12
Fiscal Note Number: 1
(S) Publish Date: 2/6/13

Identifier: SB012-DOA-PUR-1-23-13
Title: PUBLIC PROCUREMENT
Sponsor: FAIRCLOUGH
Requester: Senate State Affairs

Department: Department of Administration
Appropriation: General Services
Allocation: Purchasing
OMB Component Number: 60

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2014 Appropriation Requested	Included in Governor's FY2014 Request	Out-Year Cost Estimates					
			FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes
If yes, by what date are the regulations to be adopted, amended or repealed? 01/31/14

Why this fiscal note differs from previous version:

Not applicable, initial version

Prepared By: Vern Jones	Phone: (907)465-5684
Division: General Services	Date: 01/23/2013 03:52 PM
Approved By: Curtis Thayer, Deputy Commissioner	Date: 01/23/13
Department of Administration	

FISCAL NOTE ANALYSIS #1

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. SB 12

Analysis

This bill makes changes to simplify, clarify and modernize the State Procurement Code to encourage broader competition and allow the state to achieve efficiencies and take advantage of today's technology. The bill reorganizes and provides consistent language for procurement preferences, increases small procurement thresholds, and makes other changes to improve the effectiveness of state procurement, while reducing barriers to Alaskan vendors. The Department of Administration, Division of General Services does not anticipate any fiscal impact from the proposed legislation.

Fiscal Note

State of Alaska
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Prepared By:	<u>Vern Jones</u>	Phone:	<u>(907)465-5684</u>
Division	<u>General Services</u>	Date:	<u>01/23/2013 03:52 PM</u>
Approved By:	<u>Curtis Thayer, Deputy Commissioner</u>	Date:	<u>01/23/13</u>
	<u>Department of Administration</u>		

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Alaska State Legislature

Senator Anna Fairclough — Senate District M

Sponsor Statement

Senate Bill 12

"An Act relating to state and public entity procurement, including the State Procurement Code, procurement preferences, contract awards, the use of small procurement provisions for certain amounts of leased space, the Alaska business license requirement for Alaska bidder and other procurement preferences, the proof of registration of construction contract bidders and offerors, the establishment and maintenance of lists of persons who want to provide supplies or services to the state, state agencies, and state instrumentalities, electronic bids and proposals, the chief procurement officer, small procurements, and writings; relating to the meaning of 'Alaska bidder'; and providing for an effective date."

Senate Bill 12 makes changes to the state's procurement code. Collectively, these changes streamline the procurement code to ensure consistent application of the law, resulting in a more understandable, efficient procurement process. These changes are needed to prevent failed procurements and provide modern procurement tools and techniques for the state's business partners as well as our employees who conduct procurements.

The bill simplifies the procurement process by standardizing complex and confusing preference language and increasing the small procurement thresholds so that more procurements are conducted with less formality. Small procurement procedures are easier for businesses to understand and less expensive for them to comply with, and they are faster and more efficient for the state to conduct.

These changes will encourage broader competition and allow the state to achieve efficiencies and take advantage of today's technology. This bill modernizes the procurement code, allowing for electronic receipt of bids and signatures. The bill also eliminates the requirement to maintain outdated vendor lists in a time when commerce is moving online.

The bill makes application of the preferences uniform – currently, preferences do not contain the same language so they must be applied differently. It also clarifies which preferences are cumulative and those that may not be combined.

The bill clarifies now complex requirements such as qualification for preferences and clearly explains when an Alaskan Business license is required to qualify for award of a contract. The bill modernizes and streamlines state procurement by elimination of outdated requirements such as bidders lists, and it allows for electronic bidding.

It has been many years since our procurement code has been modernized. These changes will reduce barriers to Alaskan businesses, especially small and rural based firms, and will decrease costs, and increase the effectiveness of state employees who procure and administer contracts for goods and services

I appreciate your support and consideration of this legislation.



Alaska State Legislature

Senator Anna Fairclough — Senate District M

Senate Bill 12 - Sectional Analysis

*** Section 1:** Amends AS 24.55.275

Updates a citation to reflect the renumbering of a preference.

*** Section 2:** Amends AS 36.15.050(a)

Amends the local agricultural preference to grant a seven percent cost preference to the qualifying bid rather than to the low bid, making this preference consistent with other procurement preferences.

*** Section 3:** Amends AS 36.15.050(b)

Amends the local fisheries preference to grant a seven percent cost preference to the qualifying bid rather than to the low bid, making this preference consistent with other procurement preferences.

*** Section 4:** Amends AS 36.15.050 by adding a new subsection (h)

Amends the local agricultural and fisheries preferences to disallow a bidder from being granted both a local agricultural/fisheries preference and an Alaska product preference under another statute.

*** Section 5:** Amends AS 36.30.010

Amends the salary of the Chief Procurement Officer from range 27 to range 25 due to changes made to the position, which will no longer serve as Director of the Division of General Services.

*** Section 6:** Amends AS 36.30.015(e)

Updates a citation to reflect the renumbering of a preference.

*** Section 7:** Amends AS 36.30.015(f)

Updates a citation to reflect the renumbering of a preference.

*** Section 8:** Amends AS 36.30.015(h)

Updates a citation to reflect the renumbering of a preference.

*** Section 9:** Amends AS 36.30.020

Updates a citation to reflect the renumbering of a preference.

*** Section 10:** Amends AS 36.30.030

Updates a citation to reflect the renumbering of a preference.

*** Section 11:** Amends AS 36.30.080(f)

Increases the threshold limit for small procurements of leased space from 3,000 square feet to 7,000 square feet, consistent with section 18.

*** Section 12:** Amends AS 36.30.110(b)

Clarifies Alaska business license requirements for competitive sealed bids and qualification for the Alaska bidder preference. This change requires bidders to show proof of their Alaska Business License prior to award, but requires the license at the time of bid submission in order to qualify for the Alaska bidder preference.

*** Section 13:** Amends AS 36.30.130(a)

Eliminates reference to a procurement officer's use of vendor lists, reflecting the repeal of the statute establishing the vendor lists, consistent with section 33.

*** Section 14:** Amends AS 36.30.170 by repealing and reenacting

Updates a citation to reflect the renumbering of the Alaska bidder preference.

*** Section 15:** Amends AS 36.30.210(b)

Clarifies construction contractor registration requirements, now explicitly requiring registration before award of a contract.

*** Section 16:** Amends AS 36.30.210(e)

Clarifies Alaska business license requirements for competitive sealed proposals and qualification for the Alaska bidder preference using language consistent with that used in section 12.

*** Section 17:** Amends AS 36.30 by adding a new section 36.30.290

Adds a new section allowing an agency to accept electronic bids and proposals.

*** Section 18:** Amends AS 36.30.320(a)

Increases the threshold under which a state agency may use informal procurement process to \$100,000 for goods and professional services, to \$200,000 for construction, and 7,000 square feet for lease of space.

*** Section 19:** Amends AS 36.30 by adding a new section 36.30.321

Adds a new section consolidating the Alaska bidder preference, Alaska veterans' preference, and other preferences formerly at AS 36.30.170(b). This section also simplifies the qualification for the disability and employment program preferences, eliminates the seldom used employers of people with disabilities preference, and excludes real estate leases from application of procurement preferences.

*** Section 20:** Amends AS 36.30.322(a)

Modifies the use of local forest products statute to grant a seven percent cost preference to the qualifying bid rather than to the low bid, making this preference consistent with other preferences.

*** Section 21:** Amends AS 36.30.336 by repealing and reenacting

Clarifies which preferences are cumulative and which may not be combined. (example: bidders cannot claim both an employment program preference and a disabled bidder preference)

*** Section 22:** Amends AS 36.30.655

Eliminates reference to the removal of debarred or suspended persons from vendor lists, reflecting the repeal of the statute establishing the vendor lists, consistent with section 33.

*** Section 23:** Amends AS 36.30.990 by adding a new paragraph

Moves the definition for "Alaska bidder" (formerly contained in 36.30.170(b)) and adds new definitions for "in writing" and "written" to include information in electronic form.

*** Section 24:** Amends AS 36.90.049(a)

Updates a citation to reflect the renumbering of a preference.

*** Section 25:** Amends AS 38.35.017(a)

Updates a citation to reflect the renumbering of a preference.

* **Section 26:** Repeals AS 36.30.050, which established the vendor lists, repeals AS 36.30.175, which established the veteran preference, because it has been relocated to AS 36.30.321(f), repeals AS 36.30.250(b), because competitive sealed proposals preference application language is now included in section 19 (AS 36.30.321), and repeals AS 36.30.335 because language outlining application of certain preferences is now included in section 21 (AS 36.30.336).

* **Section 27:** Amends the uncodified law of the State of Alaska

Clarifies the application of this bill to pending solicitations during the transition period.

* **Section 28:** Effective Date

This bill is effective immediately



217 Second Street, Suite 200 • Juneau, Alaska 99801

Tel (907) 586-1325 • Fax (907) 463-5480 • www.akml.org

February 5, 2013

Honorable Anna Fairclough
Alaska State Senate
Alaska State Capitol Building, Room 514
Juneau, Alaska 99801

RE: SB 12

Dear Senator Fairclough,

On behalf of the Alaska Municipal League, we would like to thank you for the submission of SB 12. It is refreshing to see bills that actually intend to fix a problem that affects how Alaska deals with businesses and accomplishes goals.

This bill appears to reach a broad spectrum of business in the State of Alaska and can hopefully raise our position in national polls. Alaska's municipalities realize that without successful projects and business, our communities will not succeed. We hope to support what we can to make that happen. Due to our higher costs in Alaska, we must find ways to allow Alaska's businesses to have every advantage.

The Alaska Municipal League supports SB 12.

Sincerely,

Kathie Wasserman
Executive Director
Alaska Municipal League

January 28, 2013

The Honorable Anna Fairclough
Senator, Alaska State Senate
Alaska State Capitol, Room 514
Juneau, AK 99801

Re: Senate Bill 12

Dear Senator Fairclough:

The mission of the Alaska State Chamber of Commerce (Alaska Chamber) is to promote a positive business environment in Alaska. The Alaska Chamber represents hundreds of businesses and local chambers from across Alaska. These member businesses share the goal of improving Alaska's low "business friendliness" rankings in national polls. Often government regulations erect unnecessary barriers to doing business. Senate Bill (SB 12) streamlines and clarifies the State's procurement code removing rather than adding barriers.

The Alaska Chamber supports SB 12. During its board meeting last week the Alaska Chamber Board of Directors affirmed a position similar to one that membership has advanced for the past several years. In part it states that the Alaska Chamber supports ensuring that the preferences currently in Alaska's procurement regulations are protected and continue to provide a competitive advantage to Alaska-based or Alaska-owned businesses.

Alaska Chamber members believe the State of Alaska has an interest in maintaining competitive procurement advantages for Alaska-based and Alaska-owned businesses. Alaska's private sector businesses create the jobs and livelihoods that fuel Alaska's economy and population growth.

Alaska businesses face more challenges compared to outside institutions. Outside firms have a lower cost of doing business and the preference currently in statute and regulation help offset the advantage outside firms have over Alaska businesses. The intent of these preferences is that when all factors are equal, a preference is provided to businesses located within Alaska. By advantaging Alaskan-based businesses over outside interests, that State of Alaska works to keep Alaskan companies from relocating to outside markets with larger labor pools and greater customer bases. SB 12 streamlines and clarifies Alaska bidder preferences in statute.

The Alaska Chamber appreciates your work to improve Alaska's business climate and fully supports SB 12.

Sincerely,



Rachael A. Petro
President/CEO



ALASKA STATE
CHAMBER
OF COMMERCE

*The Voice of
Alaska Business*

Headquarters

471 W 36th Ave
Suite 201
Anchorage
AK 99503
(907) 278-2722

Regional Office

3100 Channel Dr.
Suite 300
Juneau
AK 99801
(907) 586-2323

www.alaskachamber.com

Michael Grahek, C.P.M.
Chief Procurement Officer
Phone: (907) 450-8407
Fax: (907) 450-8023
mike.grahek@alaska.edu



UNIVERSITY
of **ALASKA**
Many Traditions One Alaska

208D Butrovich Building
910 Yukon Drive, Ste. 208
P.O. Box 755120
Fairbanks, AK 99775-5120

February 15, 2013

To Whom It May Concern,

On behalf of the University of Alaska Statewide System Procurement Office and the procurement offices located at the MAU's in Fairbanks, Anchorage and Juneau, I would like to express support for Senate Bill 12 (SB 12) relating to the State Procurement Code.

After review and consideration of the proposed changes, it is my opinion that this Bill will benefit the university, along with other public procurement units in Alaska, by helping to make its procurements in a timely, efficient manner while still meeting the needs of its various customers and maintaining fair treatment of the vending community.

The changes will shorten the time necessary to award contracts for space leases and purchases between the old and new thresholds without sacrificing the quality of public notice given to interested parties. Accepting electronic bids and proposals will allow for, and ensure, more timely receipt of competition, and along with the proposed changes to the requirements for Alaska Business Licenses, should stimulate competition. These changes are fair, reasonable, in some cases long overdue, and on the whole very much welcome.

Thank you for considering the passage of this much needed piece of legislation.

Respectfully,

University of Alaska

A handwritten signature in cursive script that reads "Michael Grahek".

Michael Grahek, C.P.M.
Chief Procurement Officer

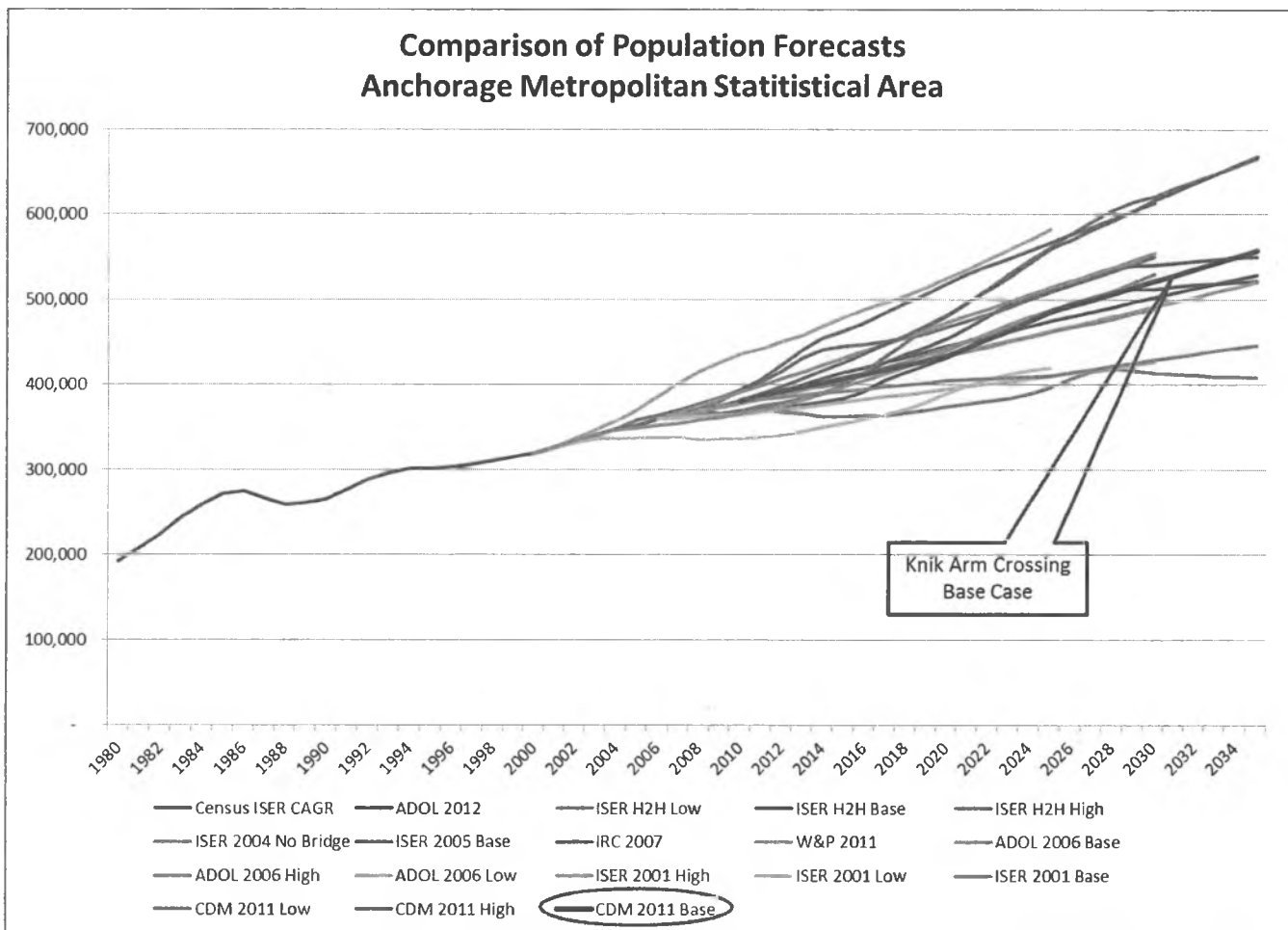
Knik Arm Crossing Traffic Study FAQ's

Who is KABATA?

The Knik Arm Bridge and Toll Authority (KABATA) is a State agency created on September 15, 2003 under Alaska Statute 19.75 to construct a bridge across Knik Arm (the KAC project) connecting the Municipality of Anchorage and the Mat-Su Borough. Using a P3 delivery method is a way to pay for this project over time, rather than paying for it up front like all other transportation projects in the state.

What's happening with growth in the MatSu?

- State forecasts predict that the MatSu Borough population will nearly double in the next 25 years.
- Knik-Fairview area has more residents than Wasilla and Palmer combined, and if incorporated, would be the fourth largest city in Alaska.
- Traffic on Knik-Goose Bay Road (KGB) is growing rapidly. At the KGB/Fairview Loop intersection, traffic volumes doubled between 1998 and 2011. 2-lane KGB currently carries more than half of the 4-lane traffic volume carried by the Glenn Highway at Eklutna, and more than 150% of the Seward Highway 2-lane traffic.



What work has been done to determine how much traffic will be on the bridge?

Since 2005, there have been six travel demand forecasts developed that predict traffic volumes on the KAC. All of these forecasts anticipate the need for 4 lanes on the KAC before 2035.

Knik Arm Crossing Travel Forecasts

Date Published	Purpose	Client	Firm	Socioeconomics	Model Base	Forecast Year	Tolls Incorporated	Bridge Forecast
Oct. 2005	KAC EIS	KABATA	HDR	ISER, 2002 base year data – published 2005	2002 MOA & MSB models	2030	No	46,652 trips/day
Nov. 2005	Preliminary Traffic and Toll Revenue Study	KABATA	WSA	ISER, 2002 base year data – published 2005	2005 KABATA/EIS Model	2039	Yes	42,000 trips/day (39,000 in 2035)
Sept. 2007	Final Traffic and Toll Revenue Forecast	KABATA	WSA	Insight Research Corporation, 2006 base year data	2005 KABATA/EIS Model	2039	Yes	46,400 trips/day (43,400 in 2035)
Sept. 2010	H2H EIS	DOT&PF	HDR/CH2M	ISER Dec. 2009	2005 KAC Model	2035	No	37,200 trips/day
Feb. 2011	KAC TRS Update	KABATA	WSA	IRC & 2010 Census	H2H Model	2035	Yes	36,000 trips/day
May 2012	MOA LRTP	MOA/ DOT&PF	CH2M	ISER Dec. 2009 & 2000 Census	H2H Model	2035	No	37,100 trips/day

Why is an economic and demographic study important to us?

Economic and demographic studies provide insight that anticipates the growth trends for an area. While local planners update their studies every few years to react to the short term changes in the economy, an investment grade study must look at the long term trends to provide confidence to the financial market. We prepared an investment grade study because the financial marketplace requires these robust studies that reflect the long term trends.

Why is the Division of Legislative Audit (DLA) recommending the KAC traffic study be revised?

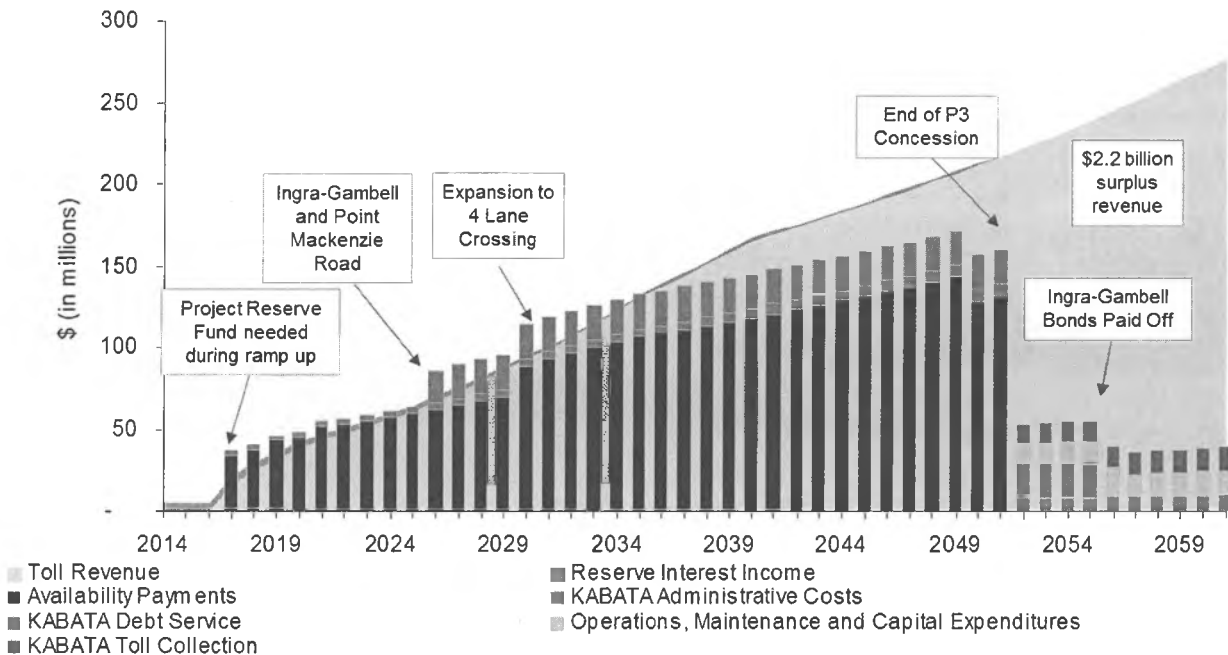
DLA has learned that the MatSu Borough school district recently conducted an economic and demographic study to plan for future schools and public buildings. Their plan assumes that there will be no change to the historical population and economic growth in the Point Mackenzie area after the KAC is built. The traffic model being prepared for an ADOT project in Wasilla also uses the school district economic and demographic study. It does not consider any increased growth in population or jobs in the Point Mackenzie area as a result of the Knik Arm Crossing.

Why did the MSB not consider growth from the KAC in their traffic model? KABATA met with the MSB to discuss the differences between the models. Until the bridge project is certain, they are choosing to assume there is no bridge. Once the bridge is constructed, they can plan accordingly.

Why did KABATA select the base case traffic and revenue forecast?

KABATA and its advisors have utilized the base (expected) revenue forecast for its base financial model and for determining the level of project reserve funding necessary. This case results in the need for a \$150 million project reserve and anticipates additional appropriations totaling around \$37 million will need to be requested in about 2031, when traffic grows to a level that would require widening the road to 4 lanes. Since this is the expected case derived from an extensive traffic and revenue forecasting effort, it is an appropriate basis for a legislative request.

KABATA Projected Obligations and Toll Revenues – Alternate (33% TIFIA)



Impact of KABATA on the State's Credit