

ALASKA STATE LEGISLATURE
JOINT COMMITTEE
LEGISLATIVE BUDGET AND AUDIT
November 13, 2002
1:15 P.M.

MEMBERS PRESENT

Senator Gene Therriault, Chair
Senator Dave Donley
Senator Randy Phillips

Representative Hugh Fate, Vice Chair
Representative John Harris
Representative Reggie Joule (teleconferenced)
Representative Ken Lancaster (teleconferenced)
Representative Eldon Mulder (teleconferenced)
Representative Bill Williams (teleconferenced)(alternate)

MEMBERS ABSENT

Senator Lyman Hoffman
Senator Jerry Ward
Senator Gary Wilken (alternate)

Representative John Davies

COMMITTEE CALENDAR

APPROVAL OF COMMITTEE MINUTES
October 3rd, 2002

REVISED PROGRAMS (RPLs)
11-3-6599
25-3-6599
31-3-0002
41-3-9011

EXECUTIVE SESSION

AUDIT REPORTS
Release of Final Audits to Public

OTHER COMMITTEE BUSINESS
Contract Approval

WITNESS REGISTER

HEATHER BRAKES, Legislative Assistant to
Senator Gene Therriault
Alaska State Legislature
Capitol Building, Room 121
Juneau, Alaska 99801-1182

Telephone: (907) 465-6590

DAVID TEAL, Director
Legislative Finance Division
Alaska State Legislature
P.O. Box 113200
Juneau, Alaska 99811-3200
Telephone: (907) 465-3795
POSITION STATEMENT: Addressed the RPL

PAT DAVIDSON, Director
Legislative Audit Division
Alaska State Legislature
P.O. Box 113300
Juneau, Alaska 99811-3830
Telephone: (907) 465-3830
POSITION STATEMENT: Introduced the audit reports

KEVIN BROOKS, Director - Teleconferenced
Division of Administrative Services
Department of Fish and Game
P.O. Box 25526
Juneau, Alaska 99811-5526
Telephone: (907) 465-5999
POSITION STATEMENT: Introduced RPL #11-3-0561

NANCY SLAGLE, Director - Teleconferenced
Division of Administrative Services
Department of Transportation and Public Facilities
3132 Channel Drive
Juneau, Alaska 9801-7898
Telephone: (907) 465-3911
POSITION STATEMENT: Introduced RPL #25-3-6599

FRANK RICHARDS, Chief -(Teleconferenced from Salt Lake City)
Division of Statewide Design & Engineering Services
Department of Transportation and Public Facilities
3132 Channel Drive
Juneau, Alaska 99801-7898
Telephone: (907) 465-2960
POSITION STATEMENT: Testified on RPL #25-3-6599

KARLA SCHOFIELD, Deputy Director
Accounting - Legislative Administrative Services
Legislative Affairs Agency
State Capitol
Room 222 - Terry Miller Building
Juneau, Alaska 99801-1182
Telephone: (907) 465-3852
POSITION STATEMENT: Introduced RPL #31-3-0002

SUZANNE DI PIETRO
Judicial Education Coordinator
Alaska Court System

820 West 4th Avenue
Anchorage, Alaska 99501-2005
Telephone: (907) 264-0785
POSITION STATEMENT: Introduced RPL #41-3-9001

TAPE LBA 02-11, SIDE A

CHAIR GENE THERRIAULT called the Joint Committee on Legislative Budget and Audit meeting to order at 1:15 P.M. on November 13, 2002. Members present at the call to order were Senators Therriault, Phillips and Donley, and Representatives Fate and Harris. Members present on teleconferenced line were Representatives Joule, Williams, Mulder and Lancaster.

REVISED PROGRAM RECEIPT

RPL Number: 11-3-0561

Department of Fish and Game
Ice Seal Bio-Monitoring in the Bering Sea Region

\$444,000 Federal Receipts - Operating Budget

VICE CHAIR FATE MOVED that the Committee approve RPL No. 11-3-0561.

KEVIN BROOKS, Director, Division of Administrative Services, Department of Fish and Game, explained that the Department of Fish and Game had been awarded additional grant funds from the National Oceanic and Atmospheric Administration (NOAA) for a new project, Ice Seal Bio-Monitoring in the Bering Sea and for continued Stellar Sea Lion recovery investigations. Senator Ted Stevens through the Department of Commerce had earmarked funding for these grants for Alaska.

Mr. Brooks continued, the major emphasis of the Ice Seal project would be to establish a monitoring program, which could assess the status and detect changes within the tropic levels of the Bering and Chukchi Seas by monitoring health, condition, prey items, and population indices of ice seals that are harvested there. The emphasis of the sea lion recovery project would be to evaluate the hypothesis that endangered western stock of the stellar sea lions is currently declining because of nutritional stress, which heavily impacts the juvenile animals up to three year olds.

CHAIR THERRIAULT noted that all funds would be incoming federal money and would require no State match and no future State funding.

KEVIN BROOKS acknowledged that was correct.

There being NO OBJECTION, RPL #11-3-0561 was approved.

RPL Number: 25-3-6599

Department of Transportation & Public Facilities
Southcentral Flood & Interior Earthquake
Transportation Repairs

\$35,000,000 Federal Receipts - Capital

VICE CHAIR FATE MOVED that the Committee approve RPL No. 25-3-6599.

NANCY SLAGLE, Director, Division of Administrative Services, Department of Transportation and Public Facilities, offered to speak to the request.

CHAIR THERRIAULT noted that he had distributed photos received from David Teal. He thought that the dollar amount requested seemed high.

NANCY SLAGLE explained that the amount represents what the anticipated total need might be. Since the RPL has been submitted, the Department received a Presidential Declaration indicating disasters from the flood and earthquake.

The Department is still undertaking assessments, attempting to gather related information. Some current estimates are indicating that the permanent repair could go as high as \$48 million dollars just for the road. The Department is not seeking the full authority, as it will not be needed at this time. She commented that the Department could come forward with a supplemental budget or funding through the Capital Budget. The Department does not know how much funding will be covered by the Federal Emergency Management Agency (FEMA) and/or the Federal Highway Commission. Another uncertainty is whether a general fund match requirement would be needed.

Ms. Slagle continued, the emergency money that was spent within the first 180 days after the event was fully federal funds with no State match required. However, beyond that amount, the State could move into a general fund match requirement. The proposed numbers are estimates at this time. There now is a need to deal with the emergency repairs. The immediate need is around \$10 - \$12 million dollars for temporary repairs. She reiterated that

additional dollars would be needed for the more permanent repairs.

CHAIR THERRIAULT questioned if reference to Federal highway money would come from the State's regular Federal highway allocation.

NANCY SLAGLE replied that it would probably be a combination of Federal highway and emergency money. She added that the Federal government is trying to move more funding into the emergency pot for Alaska during this emergency time.

In response to concerns voiced by Chair Therriault, Ms. Slagle explained that from the emergency funding, there would need to be no State match. Beyond the emergency funding, the regular State match could be required.

VICE CHAIR FATE questioned how the amount of \$35 million dollars had been determined.

NANCY SLAGLE explained that the Department had provided assessments. She noted that the statewide engineer, Frank Richards, was available via teleconference to answer questions regarding that concern. The \$10 million dollar request for the flood is accurate number. The \$25 million dollar estimate for the earthquake is based on information gathered at the time of the quake. The Department is still gathering information. With the after-shocks, the situation has been aggravated, causing cracks in those areas that temporary repairs had already been made.

FRANK RICHARDS, (Teleconferenced), Division of Statewide Design & Engineering Services, Department of Transportation and Public Facilities, explained the earthquake specifics. The Department has assigned teams to address concerns from the earthquake. At present time, the Department has provided their best estimate for restoration of damages. He reiterated that there continues to be damages with the after-shocks and the replacement of bridges.

SENATOR PHILLIPS asked if the sixteen-mile 'shut off' would continue into the spring. He questioned how the traveling public would be moving through that.

FRANK RICHARDS responded that it was the Department's intent to get the road restored for traffic immediately and use the pilot car operations at night. That action will allow the contractor to do the work at night, and would then not be a full-time operation, allowing two-way traffic on the gravel road.

CHAIR THERRIAULT asked if asphalt would be placed on any of the surfaces.

FRANK RICHARDS explained that at this time, the Department does not have an asphalt plan mobilized. With temperatures below freezing, it would be extremely difficult to place a good product.

There being NO OBJECTION to the motion to adopt RPL #25-3-6599, the RPL was approved.

RPL Number: 31-3-0002

Legislative Affairs Council
Legislative Council
2002 Russian Civic Hosting Program

\$6,130 Federal Funds

VICE CHAIR FATE MOVED that the Committee approve RPL No. 31-3-0002.

KARLA SCHOFIELD, Deputy Director, Accounting, Legislative Administrative Services, Legislative Affairs Agency, commented that the Legislature is requesting authority to receive and expend an additional \$6,130 dollars in federal receipts from the Center for Russian Leadership Development, a Library of Congress Program for the Center's 2002 Civic Hosting Program.

The Legislative Budget & Audit Committee (LBA) approved RPL #31-3-0001 in the amount of \$83,281 dollars at the August meeting for a local hosting of up to 20 Russian participants and facilitators for programs on the theme of Federalism. The program coincided with the Alaskan primary and November elections. Costs include the provision of cultural activities, translation of program materials, professional interpretation for issue oriented program activities, air and ground transportation, hotel, per diem and other miscellaneous costs.

Ms. Schofield continued, a portion of the additional money would be used to provide interpreting and translating services. The remainder would be used for a trip to Washington D.C. at the invitation of the Center, for Ronda Tompson and Dan Berkshire. They would be attending the November orientation for delegates.

CHAIR THERRIault inquired if a supplemental request had been made for such a small amount.

MS. SCHOFIELD replied that the costs had run over the anticipated amount and after that the invitation was made to Mr. Tompson and Mr. Berkshire. The invitation costs were not part of the original request.

CHAIR THERRIAULT asked the total amount over the estimates.

MS. SCHOFIELD replied those costs amounted to \$4,200 dollars with other minor adjustments. A spreadsheet for the budget is available. The Federal government will be providing the extra funding. The Agency needs the support of the Legislative Budget & Audit (LBA) Committee to receive and expend the \$6,130 dollars.

CHAIR THERRIAULT asked members if there was an objection.

SENATOR PHILLIPS OBJECTED.

A roll call vote was taken on the motion.

IN FAVOR: Senators Donley & Therriault
 Representatives Harris, Joule, Lancaster,
 Williams, Fate
OPPOSED: Senator Phillips

Senators Hoffman, Ward and Wilken and Representatives Mulder and Davies were not present for the vote.

The MOTION PASSED (7-1).

DAVID TEAL, Director, Legislative Finance Division, asked about the spreadsheet. [Testimony inaudible].

KARLA SCHOFIELD pointed out that a couple different items had been adjusted, changing the original supplemental amount.

VICE CHAIR FATE repeated the MOTION that the Committee approve RPL No. 31-3-0002. There being NO further OBJECTION, the RPL was adopted.

RPL Number: 41-3-9011

Alaska Court System
Trial Courts
Improvements for Handling Domestic Violence Related Cases

\$184,500 Federal Funds

VICE CHAIR FATE MOVED that the Committee approve RPL No. 41-3-9011.

SUZANNE DI PIETRO, Judicial Education Coordinator, Alaska Court System, commented that the Alaska Court System had been awarded a federal grant from the U.S. Department of Justice totaling \$440,886 dollars for a two-year project to improve the way the Anchorage trial courts handle domestic

violence-related cases. The court's request for \$184,500 of the total funding would be used to cover FY 2003.

SENATOR PHILLIPS questioned if there would need to be a State general fund dollar commitment in the future or an increase of State employees to cover the work.

SUZANNE DI PIETRO advised that was not the intent. The grant provides for the Court System to hire an additional employee for the Domestic Violence facilitator position. That position would be terminated at the end of the grant cycle.

There being NO OBJECTION to the motion to adopt RPL #41-3-9011, the RPL was approved.

EXECUTIVE SESSION

VICE CHAIR FATE made a motion, in accordance with Title 24 and 44, to MOVE into Executive Session for the purpose of discussing confidential items and personnel matters under Uniform Rule No. 22 and for the purposes of discussing confidential audit reports under Alaska Statutes 24.20.301.

There being NO OBJECTION, the Committee went into Executive Session at 1:42 P.M.

CHAIR THERRIAULT requested that David Teal, Director, Legislative Finance Division, the Legislative Finance Staff, Pat Davidson, Legislative Auditor, her staff and LBA Committee Staff, Heather Brakes be present for the Executive Session.

The Committee resumed Open Session at 2:15 P.M.

AUDIT REPORTS

VICE CHAIR FATE MOVED to release the final audit report as public:

- DOTPF/S.E. Region Selected Issues

There being NO OBJECTION, the audit was released for public response.

VICE CHAIR FATE MOVED to release the following preliminary audits to the agencies for response:

- DCED/Board of Marine Pilots
- DEC/Board of Storage Tank Assistance

There being NO OBJECTION, the preliminary audit reports were released for agency response.

OTHER COMMITTEE BUSINESS

Division of Audit Contract with Gross & Burke

VICE CHAIR FATE MOVED that the Committee approve the Contract by the Division of Legislative Audit.

PAT DAVIDSON, Director, Legislative Audit Division, explained that she was requesting approval from the LBA Committee for a professional services contract amendment, which exceeds the original \$25,000 dollars. Specifically, it is an amendment to a legal service contract with the law firm of Gross & Burke for an amount not to exceed \$50,000 dollars. The contract is necessary to provide on-going legal defense for the Division of Legislative Audit in Case No. 3AN-01-13079Ci, Robert Hammond v. State of Alaska, David R. Eberle et al. The initial contract was signed with the law firm in April 2002 for an amount not to exceed \$25,000 dollars. The contract needs to be amended to extend the completion date as well as increase the total contract amount. Since the contract amendment would exceed \$25,000 dollars, legislative procurement requires committee approval. She added that there are sufficient funds in the Division's budget to fund the contract.

SENATOR DONLEY entertained that Representative Berkowitz would be curious why that type of case would exceed \$25,000 dollars. He indicated that the case sounded rather 'simple' for such a large fee.

PAT DAVIDSON interjected that the high cost was partially attributed to the fact that the individual involved does not have "real" money tied up in the case. He is making motions that must be responded to. There has needed to be research provided regarding why the Legislative Audit Division and their reports fell into certain areas of concern.

Ms. Davidson believed that the case was drawing to a close. She requested the Committee's approval for the amount needed to close the case. She did not believe that the case would cost \$50,000 dollars but at present time, it is nearing the \$25,000 dollar mark. Ms. Davidson wanted to guarantee that the State could continue to defend the Division.

Ms. Davidson added that there is a length of time for an appeal for the litigant to repute or file a motion contrary to the State's.

[tape malfunction - inaudible discussion].

SENATOR DONLEY asked why the State did not use internal council for the case.

PAT DAVIDSON explained that at the time of the original response, it was during the Legislative session and the Department of Law had also been named as a litigant. The assistant attorney general recommended that the Division of Legislative Audit find their own counsel. Ms. Davidson added that she had also contacted the office of Tamara Cook, Legislative Legal. They could not handle the claim and recommended the law office of Gross & Burke.

SENATOR DONLEY asked what would happen with any of the left over funding.

PAT DAVIDSON replied that any remaining funds would pass over. She requested that Gross & Burke speak with Tam Cook and then use her office for as much research as possible.

SENATOR PHILLIPS inquired since the litigant was representing himself, why the need for such high legal power from the State.

[inaudible discussion followed].

SENATOR DONLEY pointed out that the \$25,000 dollar mark had not yet been reached. He recommended that the requested amount be changed to \$35,000.

PAT DAVIDSON agreed that the point was well taken; however, the approval of entering into a contract with the LBA Committee does not mirror the current contract. She pointed out that discussion had been elaborated upon in the memo she wrote to Committee members.

VICE CHAIR FATE MOVED that the Committee approve the contract as requested by the Division of Legislative Audit.

SENATOR DONLEY MOVED to AMEND the MOTION and limit the authorization to \$35,000 dollars.

CHAIR THERRIault agreed that the smaller dollar amount might be workable. He suggested that then the Committee could reconsider the request at a future date. He asked if there were objections to changing the amount to \$35,000 dollars.

SENATOR PHILLIPS OBJECTED.

A roll call vote was taken on the motion.

IN FAVOR: Senators Donley & Therriault
Representatives Harris, Joule, Lancaster,
Mulder, Williams, Fate
OPPOSED: Senator Phillips

Senator Hoffman, Ward and Wilken and Representative Davies were not present for the vote.

The MOTION PASSED (8-1).

There being NO further OBJECTION, the amended RPL not exceeding \$35,000 dollars, was adopted.

Letter to Commissioner Jay Livey, Department of Health and Social Services

PAT DAVIDSON noted that she had distributed the first draft of a letter to the Commissioner of the Department of Health and Social Services. At the last LBA Committee meeting, Representative Fate had shared his concerns regarding the federal review of the Division of Family and Youth Services (DFYS) and the medical condition of Alaska's children.

Ms. Davidson explained that the draft letter was written to current Commissioner Livey, asking that he or his successor appear before the LBA Committee at the end of next session to review with the Committee, specifically, the procedures that have been put in place and the degree to which the procedures are being complied with.

Ms. Davidson explained that the LBA Committee has shown particular interest in DFYS and wanted to be kept abreast of any changes.

CHAIR THERRIault asked when the expected date for that meeting would be.

PAT DAVIDSON reminded members that the proposed letter was in "draft" form. A date has not been included but now a consideration would be May 2003.

VICE CHAIR FATE noted that he would appreciate being placed as an "alternate" on the new LBA Committee and that he would like to see a date listed in the letter.

Cost Study

CHAIR THERRIault briefed the Committee on the School Cost-Study. Members of that Committee consist of Eddy Jeans, Manger, School Finance and Facilities Section, Department of Education and Early Development, David Teal, Director, Legislative Finance Division, Pat Davidson, Director, Legislative Audit Division, Representative Fate & Senator Therriault.

There have been questions regarding the manner in which data was categorized and stored. At this point, the original contract was due by December 15th. He commented that it could be delayed for a short time to take questions regarding the surveys. [inaudible].

Veteran's Home Study

HEATHER BRAKES, Legislative Assistant to Senator Gene Therriault & the Legislative Budget & Audit Committee, stated that the final legal review had been completed. At the August meeting, the Committee decided to look at a number of issues regarding the study and if a Veteran's home would be feasible. Under current law, the Committee cannot expend any general funds, therefore, no combination of veteran's homes can happen.

Ms. Brakes added that the Committee decided that the contract should look at:

- The current and future demand and needs of the veterans in Alaska;
- How those demands could be met;
- The feasibility of long term health care;
- The projected occupancy trends; and
- The effect of long-term health care facilities and how they might affect other health care facilities in the State.

Ms. Brakes stated that at the Chairman's direction, a copy of the Requests for Proposals (RPF's) was provided to the veteran's service organizations for review. They commented and those comments were forwarded to each of the Committee offices. Basic concerns were voiced about what impacts a veteran's home would have on current existing facilities.

CHAIR THERRIAULT [inaudible]. Spoke to the impacts on the small hospital operations.

TAPE CHANGE LBA 02-11, SIDE B

CHAIR THERRIAULT [testimony inaudible].

ADJOURNMENT

CHAIR THERRIAULT adjourned the Legislative Budget and Audit Committee at 3:15 P.M.