

ALASKA STATE LEGISLATURE
JOINT COMMITTEE ON LEGISLATIVE BUDGET AND AUDIT

September 28, 2004

9:03 a.m.

MEMBERS PRESENT

Representative Ralph Samuels, Chair
Representative Mike Chenault
Representative Mike Hawker
Representative Beth Kerttula
Representative Reggie Joule, alternate

Senator Gene Therriault, Vice Chair
Senator Ben Stevens
Senator Con Bunde
Senator Lyman Hoffman

MEMBERS ABSENT

Representative Vic Kohring

Senator Gary Wilken

COMMITTEE CALENDAR

APPROVAL OF MINUTES
REVISED PROGRAMS (RPLs)
EXECUTIVE SESSION
CONSIDERATION OF AUDITS
AUDIT REQUESTS
OTHER COMMITTEE BUSINESS

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

KAREN REHFELD, Deputy Commissioner
Department of Education and Early Development (EED)
Juneau, Alaska
POSITION STATEMENT: Explained RPL 05-5-0655.

CHERYL FRASCA, Director
Office of Management & Budget (OMB)
Office of the Governor

Juneau, Alaska

POSITION STATEMENT: Presented RPL 05-5-6002 to the Joint Committee on Legislative Budget and Audit.

SHELIA KING, Finance Officer
Postsecondary Education Commission
Department of Education and Early Development
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding RPL 05-5-6002.

STEPHANIE BUTLER, Director Operations/Outreach
Postsecondary Education Commission
Department of Education and Early Development
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding RPL 05-5-6002.

DICK MYLIUS, Deputy Director
Division of Mining, Land and Water
Department of Natural Resources
Anchorage, Alaska

POSITION STATEMENT: Answered questions regarding RPL 10-5-5046.

DAVID TEAL
Legislative Fiscal Analyst
Legislative Finance Division
Juneau, Alaska

POSITION STATEMENT: Provided information to the Joint Committee on Legislative Budget and Audit, testifying on RPL 10-5-5046.

PAT DAVIDSON, Legislative Auditor
Division of Legislative Audit
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided information on the audit requests for the Alaska Railroad Corporation rolling stock procurement and the Alaska Aerospace Development Corporation financial controls.

ACTION NARRATIVE

TAPE 04-28, SIDE A

Number 0001

CHAIR RALPH SAMUELS called the Joint Committee on Legislative Budget and Audit meeting to order at 9:03 a.m. Representatives Samuels, Chenault, Hawker, Kerttula, and Joule (alternate) and

Senators Therriault, Ben Stevens, Bunde, and Hoffman were present at the call to order.

APPROVAL OF MINUTES

SENATOR BUNDE made a motion to approve the minutes of the July 28 and 29, and August 18 meetings. There being no objection, the minutes from those meetings were approved.

REVISED PROGRAMS (RPLs)

SENATOR BUNDE made a motion for RPL 05-5-0655, Additional Federal Authority for US Department of Education Funds, to be approved by the committee.

CHAIR SAMUELS objected.

Number 015

KAREN REHFELD, Deputy Commissioner, Department of Education and Early Development (EED), reminded the committee that EED is requesting approval of approximately \$37.4 million in additional federal authorization in the current year. These would be pass-through funds to school districts. Ms. Rehfeld thanked David Teal for his analysis and additional comments regarding this RPL. The federal education funding for No Child Left Behind has been increasing since fiscal year 2002. She explained that [the department] hasn't requested enough authorization in the budget to allow those funds to enter and be granted to the school districts. Ms. Rehfeld highlighted that these are all direct education program dollars that go to school districts.

SENATOR HOFFMAN asked if this additional request is the result of unexpected underachieving students.

MS. REHFELD explained that these funds are coming from the US Department of Education for various title programs. Those increases at the federal level aren't specifically related to the number of students who are or are not achieving rather it's related to the number of children targeted under the specialized programs, including migrant students, economically disadvantaged students, and special education students.

CHAIR SAMUELS recalled that one of Mr. Teal's comments was in regard to rounding up this request to \$40 million so that this process doesn't have to be revisited. Therefore, Chair Samuels

asked if there is a reason the department didn't do the aforementioned.

MS. REHFELD said that she didn't have a problem with rounding up the request to \$40 million. However, the desire was to be as specific as possible. She noted that if the authorization isn't needed, the funds would lapse.

REPRESENTATIVE KERTTULA moved that the committee increase RPL 05-5-0655 to \$40 million. There being no objection, it was so ordered.

CHAIR SAMUELS removed his objection to the committee's approval of RPL 05-5-0655. [Therefore, the committee treated RPL 05-5-0655, in the amended amount of \$40 million, as approved.]

Number 045

REPRESENTATIVE HAWKER made a motion for RPL 05-5-6002, College Goal Sunday Grant, to be approved by the committee.

CHAIR SAMUELS objected for purposes of discussion.

Number 048

CHERYL FRASCA, Director, Office of Management & Budget (OMB), Office of the Governor, informed the committee that [OMB] has been awarded. This RPL will provide private sector funding to help host College Goal Sunday, which is held to assist families in applying for financial aide to attend college. She noted that this is a request for statutory designated program receipts.

REPRESENTATIVE HAWKER pointed out that the amount requested on the grant page is \$60,000. However, under the "PURPOSE" heading it says: "The Alaska Commission on Postsecondary Education (ACPE) is requesting authorization to receive and expend Lumina Foundation Grant funds up to \$60,000 for College Goal Sunday (of CGS) each year for a three-year period." Therefore, he questioned whether the request is for \$60,000 or three times that amount.

CHAIR SAMUELS turned attention to [the September 20, 2004, grant approval from Lumina Foundation] for \$210,000, which would be for \$70,000 [each year] for a three-year period. Therefore, he questioned why the amount requested on the RPL is for \$60,000.

Number 065

SHELIA KING, Finance Officer, Postsecondary Education Commission, Department of Education and Early Development, explained that when the RPL was originally completed, the [department] thought the grant would be for \$60,000. However, the award notification specified that the College Goal Sunday would receive \$70,000 each year for a three-year period, which amounts to \$210,000 over the next three years.

MS. FRASCA suggested that the committee amend the RPL to reflect that for this year the amount requested is \$70,000 and the amount will be submitted as part of [OMB's] budget in future years.

REPRESENTATIVE HAWKER made a motion that the amount requested in RPL 05-5-6002 be increased from "\$60,000" to "\$70,000" for this year. There being no objection, it was so ordered.

SENATOR BEN STEVENS highlighted that one seminar is expected to be held in Anchorage, Bethel, Juneau, and Palmer and two seminars are to be held in Fairbanks. He questioned why two seminars would be held in Fairbanks.

Number 082

STEPHANIE BUTLER, Director Operations/Outreach, Postsecondary Education Commission, Department of Education and Early Development, explained that two seminars are being held in Fairbanks because [the department] couldn't find one site large enough to house the number of individuals expected to attend. Therefore, the seminar was divided into two smaller sites in Fairbanks. Ms. Butler, in response to Chair Samuels, clarified that [the department] was able to find larger locations in Anchorage, but not in Fairbanks. She further clarified that [the department] doesn't expect Fairbanks to have twice as many individuals attending as in Anchorage.

Number 095

SENATOR HOFFMAN turned attention to the bullet point on page 5, which specifies that the primary focus is on 19-year-olds. However, Senator Hoffman opined that many 19-year-olds would've already made their decision [regarding college]. He further opined that the target group should be juniors [in high school] and even possibly younger individuals. Therefore, he questioned the reasoning behind targeting 19-year-olds.

MS. BUTLER explained that 19-year-olds were targeted because this program specifically assists those filling out the paperwork necessary for those individuals to avail themselves of higher education. Ms. Butler informed the committee that this is part of a larger initiative that actually contacts middle school students in an attempt to get them to think about college.

SENATOR HOFFMAN surmised then that Ms. Butler didn't see the need to [target] 17-year-olds which is when students are deciding whether to attend college.

MS. BUTLER pointed out that this service will be provided to anyone, regardless of age. She noted her agreement that the decision is made earlier than age 19, and therefore other initiatives make contact with individuals over the course of the middle school and secondary years.

SENATOR HOFFMAN opined that the primary focus of the [College Goal Sunday] should be a younger age, possibly 16 or 17 years of age.

MS. KING reiterated that the College Goal Sunday grant is meant specifically to assist individuals with the paperwork necessary to receive financial aide. "This particular grant, I don't believe is necessarily seen as one to persuade, but more one to assist them in getting through the paperwork process," she noted.

REPRESENTATIVE KERTTULA asked if there is an expectation that this grant/program will be expanded in the future to include those younger individuals.

MS. KING informed the committee that the [commission] will seek corporate sponsorship for some of the printed materials that will be provided to other age groups. As [the commission] becomes aware of other grant opportunities, those will certainly be pursued. She said that she wasn't aware of any grant opportunities for those outreach functions.

CHAIR SAMUELS removed his objection to RPL 05-5-6002. There being no further objection, RPL 05-5-6002 was approved.

Number 150

REPRESENTATIVE HAWKER made a motion that the committee approve RPL 10-5-5046, BLM [Bureau of Land Management] Recordable Disclaimers.

CHAIR SAMUELS objected for purposes of discussion.

MS. FRASCA explained that this RPL is part of \$2 million that will be received from the Bureau of Land Management to do these recordable disclaimers. This RPL will help free up some funds to be used for the R.S. 2477 work. In federal [fiscal year] 04, approximately \$650,000 will be received. However, only \$500,000 is expected to be spent in Alaska's fiscal year 05.

Number 161

SENATOR THERRIAULT inquired as to the language of the original appropriation because under the "PREVIOUS LEGISLATIVE CONSIDERATION" heading it specifies that funds were to work on navigable waters and R.S. 2477s.

DICK MYLIUS, Deputy Director, Division of Mining, Land and Water, Department of Natural Resources, explained that the appropriation was in Section 22 of the CIP [capital improvement project] for 2003, which was specifically for navigable waters or R.S. 2477 assertions. In further response to Senator Therriault, Mr. Mylius confirmed that the language is clear that the money can flow between the two projects.

SENATOR HOFFMAN inquired as to why this RPL is before the committee rather than being approved in the normal budgetary process. He also inquired as to whether the remainder of the funds would be approved in the normal budgetary process.

MS. FRASCA interjected that the legislature provided some money in previous appropriations. This, she clarified, is new federal money that has become available for this purpose, which is why this RPL is before the committee. She noted that this will be addressed in the fiscal year 06 budget in which a capital project will be requested for the remainder of the dollars in order that the funds can be used over the next several fiscal years.

SENATOR THERRIAULT related that he had a conversation with Cam Toohey, Department of Interior, who relayed that [the Department of Interior] had just released [or taken action] on some new recordable disclaimers. A fair amount of success has occurred

and it's nice that this RPL allows that to be covered with federal dollars and to shift the dollars to R.S. 2477s.

CHAIR SAMUELS noted that the committee does have an update with regard to the progress of the navigable waters team. Although there has been a bit of a roadblock, he opined that it's becoming more streamlined.

Number 194

CHAIR SAMUELS removes his objection to RPL 10-5-5046.

SENATOR HOFFMAN asked if any of the dollars requested in the RPL will be used for new positions.

MR. MYLIUS explained that this would provide funding for an Alaska Department of Fish & Game (ADF&G) position that exists due to funding received from the legislature in the 2003 CIP. Therefore, state funding is being shifted to the federal funding. There will be one new position in DNR as well as part-time hydrologist position. He clarified that there would be one new position between the two departments.

Number 203

DAVID TEAL, Legislative Fiscal Analyst, Legislative Finance Division, directed attention to the legislative fiscal analyst's comment: "The balance from the previous appropriation for navigable waters will be available for redirection at the committee's discretion." He said the aforementioned may be an overstatement because the appropriation in Section 62(a) SLA 2003 actually states the purposes for these contracts. While money appropriated to the Joint Committee on Legislative Budget and Audit for these contracts won't be needed, the money will probably have to lapse because it was appropriated for a specific purpose. Although redirection implies that the funds can be used for anything else, Mr. Teal didn't believe that to be the case.

CHAIR SAMUELS recalled that the original motion included either navigable waters or R.S. 2477s.

MR. TEAL clarified that the funds could be redirected for either contract for either department. However, the funds couldn't be spent on something completely different because the purpose was clearly stated in Section 62.

CHAIR SAMUELS related his assumption that the funds could move from water work to land work.

MR. TEAL said that would be fine.

Number 233

SENATOR HOFFMAN said, "In your explanation you gave is that this is going to supplant some other funds that we've previously appropriated, specifically on at least one position. What are those dollars going to be used for then?"

MR. MYLIUS related the hope that those funds would be used for the R.S. 2477 project.

Number 244

CHAIR SAMUELS reiterated that he removed his objection and asked if there was any further objection. There being no further objection, RPL 10-5-5046 was approved.

EXECUTIVE SESSION

REPRESENTATIVE HAWKER made a motion to move to executive session for the purpose of discussing confidential audit reports under AS 24.20.301. There being no objection, the committee went into executive session at 9:25 a.m.

CHAIR SAMUELS brought the committee back to order at 9:53 a.m.

CONSIDERATION OF AUDITS

REPRESENTATIVE HAWKER made a motion for the sunset audits for the Board of Pharmacy and the Board of Dental Examiners to be released to the appropriate agencies and boards for response. There being no objection, it was so ordered.

REPRESENTATIVE HAWKER made a motion for the fiscal year 03 statewide single audit to be released to the public for response. There being no objection, it was so ordered.

AUDIT REQUESTS

Number 265

PAT DAVIDSON, Legislative Auditor, Division of Legislative Audit, Alaska State Legislature, informed the committee that two

audit requests were submitted to Chair Samuels' office for consideration. The first audit is from Representative Gruenberg who would like the committee to review the decision-making process used by the Alaska Railroad Corporation (ARRC) in the procurement of rolling stock and related large machinery and equipment. The second audit request is from Senator Wilken and it requests an audit of the financial internal controls and investment policy utilized by the Alaska Aerospace Development Corporation.

SENATOR BEN STEVENS addressed the ARRC audit request. He noted his assumption that the ARRC is using federal funds to purchase the rolling stock and the related heavy equipment. Therefore, he questioned whether ARRC would fall under a single audit due to receipt of federal funds. He further questioned why the state would perform an audit that the federal government would do.

MS. DAVIDSON replied that the federal audit would review procurement in-depth from a federal compliance standpoint. This audit request is to review the options and decision-making.

SENATOR BEN STEVENS surmised then that the single audit would specify that there are approved procurement procedures that the board is supposed to follow and the audit would review the procurement procedures adopted by the board.

MS. DAVIDSON agreed that the aforementioned would be reviewed, and added that the audit would also review why the number of options were chosen as well as the waiting criteria utilized.

SENATOR BEN STEVENS said that he disapproves of the ARRC audit request and would call for a vote once the discussion is complete.

REPRESENTATIVE HAWKER related similar concerns. He highlighted that the request specifies the auditor should determine whether the rate of return versus the cost of capital justified the purchases. He characterized the aforementioned as a vague request. Therefore, he inquired as to what Representative Gruenberg's concern is.

MS. DAVIDSON related her belief that the concern is in regard to whether the federal funds that are available are being used wisely or are merely being spent because they are available. The aforementioned drives the request regarding the rate of return versus the cost of capital. Coupled with that is the

fact that since the ARRC is outside of the Executive Budget Act, its capital appropriations never go through legislative scrutiny.

Number 323

REPRESENTATIVE JOULE asked if Ms. Davidson or anyone else knew of an instance of questionable decision-making that has driven this request.

MS. DAVIDSON replied, "There's something behind the request, somebody's concerned about it." However, she said that she couldn't really articulate the concern. This audit request would probably result in the review of three to four major procurements. She further clarified that the requestor wants to make sure that the ARRC Board of Directors is making wise decisions regarding expenditures.

SENATOR BEN STEVENS acknowledged that the initiation of the request is for a reason. However, without a substantive allegation he questioned the need to review the decision of an independent board appointed by the executive branch.

REPRESENTATIVE HAWKER questioned whether this audit request is a "fishing trip" or if there is enough specificity to define a "work project." For example, the language "related large machinery and equipment" seems to be a broad definition that would include tracks. Therefore, he questioned whether that language would require examination of the proposed rail spur to the Port of Anchorage. Furthermore, the last statement of the audit request seems to essentially request an inquiry of the entire ARRC. The last statement says: "I encourage the Division of Legislative Audit to pursue other issues related to major purchases by the Alaska Railroad Corporation that may come to the Division's attention during the course of the audit."

MS. DAVIDSON informed the committee that there have been two major purchases of locomotives over an eight-year period. The decision to purchase locomotives in recent years relates in some part to which locomotive to purchase in the prior years. Therefore, in discussing this with the requestor, Ms. Davidson felt that it was necessary to go back to the original purchase. With regard to the "rolling stock and the related machinery," the requestor is primarily interested in locomotives and any machinery that had to be purchased because a particular locomotive was purchased. Ms. Davidson informed the committee that the last statement of the audit request regarding "other

issues" was her recommendation. However, she noted that it's up to the committee. Ms. Davidson said that she could ask the requestor to supply the committee with more information.

CHAIR SAMUELS said that this request could be held to the next meeting at which Representative Gruenberg, the requestor, could provide information.

SENATOR THERRIAULT agreed with the aforementioned suggestion.

CHAIR SAMUELS announced that Representative Gruenberg's request would be on the agenda for the next meeting.

Number 437

MS. DAVIDSON moved on to the audit request from Senator Wilken, which requests to perform an audit of the financial internal control and investment policy used by AADC. This request is partly due to the passage of HB 494, which removed AADC out of the Fiscal Procedures Act and allowed it to establish its own accounting system. The legislation moved the management of the funds from the Department of Revenue's Treasury Division into the control of AADC. Regarding whether this audit would duplicate the efforts of AADC's federal compliance audit and financial audit, Ms. Davidson said [this audit] would build on those. She reminded the committee that an internal control audit is more in-depth than reviewing the financial statements. Furthermore, the audit is such that it can't begin until three months after fully moving to the new accounting system. Ms. Davidson noted that AADC will continue to be present on the state's payroll system while moving to its own accounting system.

MS. DAVIDSON, in response to Chair Samuels, commented that the timing should be fine with the balance of those requests waiting. She expressed the need to be sure to maintain contact with AADC in order to ensure that the audit doesn't begin until AADC is completely on its new system.

REPRESENTATIVE HAWKER inquired as to when the first audit, after moving under its own accounting system, would occur.

MS. DAVIDSON explained that the state's accounting system has been used as the original book of entry with duplicate entries into the new system. The transition will occur some time in fiscal year 05, and therefore the first financial statements should be presented with the new accounting system for fiscal

year 05. She related that typically the audits for [AADC] occur in August, September, and October.

REPRESENTATIVE HAWKER asked if the fiscal year 05 internal audit included any evaluation of the control systems of the Timberline system.

MS. DAVIDSON said that it will include that. She noted that the Defense Audit Agency will be included as well. Furthermore, the state's federal compliance opinion is actually qualified because of AADC and its financial reporting to the federal government. Therefore, [the division] will have two places from which to work: the financial audit and the defense audit. She noted that the audit will review the internal controls, which reviews all the users, including management. In further response to Representative Hawker, Ms. Davidson confirmed that there are existing and diagnosed deficiencies with the internal control system at AADC. She recalled that AADC received a qualified federal compliance opinion because of reporting deficiencies. She further recalled that testimony for HB 494 indicated that [AADC] wanted to move off the state system because of the aforementioned and the belief that the new system would better meet the federal compliance reporting requirements.

Number 549

REPRESENTATIVE HAWKER made a motion that the special audit request for AADC be approved by the committee. There being no objection, it was so ordered.

OTHER COMMITTEE BUSINESS

MS. DAVIDSON requested that the committee solicit a contract for audit services. She informed the committee that at the end of the last budget cycle, the audit division was reappropriated its unexpended unobligated balance, which amounted to approximately \$280,000. Ms. Davidson explained that the Division of Legislative Audit is an organization that is primarily personal services. She related her view that this is one-time money, and therefore she wouldn't be doing any hiring. Therefore, the question is in regard to how to utilize the aforementioned resources. She noted that there are many pending audits, [new] audits, recurring audits, and committee-requested audits before the division. Thus, she requested the ability to put out a solicitation for a contract for audit services.

MS. DAVIDSON informed the committee that in the past, contracts were solicited for individual audits, which were typically sunset audits. She explained that sunset audits are very defined in scope and have been reviewed by the division in the past, which makes such audits easy to contract out. However, committee-approved audits are more difficult to contract out. All this has led to the desire to bring in more manpower for the single audit, which is a traditional audit. Ms. Davidson explained that the notion is to rent audit staff based on the cost per hour and the level of experience. The hope is to obtain 2,000-3,000 audit hours to work on the single audit. For example, when a team of auditors goes to the Department of Education and Early Development, instead of the team consisting of three auditors, it will consist of four auditors who will work at the direction of the division. The aforementioned seems to be the most effective manner in which to utilize staff. Furthermore, this will achieve two goals, she opined. First, the division's staff will be free to work on the special audits faster. Second, the division will be able to move the timeline on the single audit back allowing the single audit discussion to occur in June or July rather than September. The federal agencies want to move to a point at which the audit is complete by the end of March with a month for distribution. [With these contractual services], the division can come closer to meeting that goal.

MS. DAVIDSON explained that the process would be such that bids would be obtained from agencies. The auditors would have to meet all of the division's minimum qualifications and will still go through the nonpartisan requirements that exist for current staff.

TAPE 04-28, SIDE B

MS. DAVIDSON indicated that the contract would amount to no more than \$225,000, which would consume most of the carry-forward money.

Number 649

REPRESENTATIVE HAWKER made a motion that the committee authorize the legislative auditor to solicit and award one or more professional services contracts for professional services in an aggregate amount not to exceed \$225,000 for the purposes of assisting in the performance of the statewide single audit for fiscal year 04. There being no objection, it was so ordered.

MS. DAVIDSON reminded the committee that at the last meeting she mentioned that the Office of the Inspector General of the Environmental Protection Agency (EPA) had issued a report reviewing the state Village Safe Water Program audit. The report makes recommendations that oversight from the federal agency be approved. The report has been distributed to the committee, she noted. She offered to provide any additional information if the committee so desired.

ADJOURNMENT

There being no further business before the committee, the Joint Committee on Legislative Budget and Audit meeting was adjourned at 10:23 a.m.