

ALASKA STATE LEGISLATURE
JOINT COMMITTEE ON LEGISLATIVE BUDGET AND AUDIT

December 6, 2004

2:06 p.m.

MEMBERS PRESENT

Representative Ralph Samuels, Chair
Representative Mike Hawker
Representative Vic Kohring
Representative Reggie Joule, alternate

Senator Gene Therriault, Vice Chair
Senator Ben Stevens

MEMBERS ABSENT

Representative Mike Chenault
Representative Beth Kerttula

Senator Con Bunde
Senator Gary Wilken
Senator Lyman Hoffman

COMMITTEE CALENDAR

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

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

DUANE BANNOCK, Director
Division of Motor Vehicles
Department of Administration
Fairbanks, Alaska
POSITION STATEMENT: Explained RPL 2-5-0164.

MARK LEWIS, Budget Analyst

Education Support Services
Department of Education and Early Development
Juneau, Alaska
POSITION STATEMENT: Explained RPL 5-5-0750.

JANET CLARKE, Director
Division of Administrative Services
Department of Health and Social Services
Juneau, Alaska
POSITION STATEMENT: Explained RPLs 6-5-0169 and 6-6-0179.

JOELLEN HANRAHAN, Director
Division of Administrative Services
Department of Commerce, Community & Economic Development
Juneau, Alaska
POSITION STATEMENT: Explained RPL 8-5-0019.

AL CLOUGH, Deputy Commissioner
Office of the Commissioner
Department of Commerce, Community & Economic Development
Juneau, Alaska
POSITION STATEMENT: Answered questions regarding RPL 8-5-0019.

JOHN CRAMER, Director
Administrative Services Division
Department of Military & Veterans' Affairs
Juneau, Alaska
POSITION STATEMENT: Explained RPLs 9-5-0061 and 9-5-0062.

ROBERTA CARNEY, Staff Officer
Division of Homeland Security/Emergency Management
Department of Military & Veterans' Affairs
Fort Richardson, Alaska
POSITION STATEMENT: Answered questions regarding RPL 9-5-0062.

DAVID TEAL
Legislative Fiscal Analyst
Legislative Finance Division
Juneau, Alaska
POSITION STATEMENT: Provided information on RPL8-5-0019.

BONNIE ROBSON, Consultant
for Joint Committee on Legislative Budget and Audit
POSITION STATEMENT: Provided information regarding the
committee's contract with FERC attorney Mr. Shepler.

PAT DAVIDSON, Legislative Auditor

Division of Legislative Audit
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Suggested that the committee consider changing its policy regarding receipt of audit requests.

ACTION NARRATIVE

TAPE 04-36, SIDE A

Number 0001

CHAIR RALPH SAMUELS called the Joint Committee on Legislative Budget and Audit meeting to order at 2:06 p.m. Representatives Samuels, Hawker, Kohring, and Joule and Senators Therriault and Stevens were present at the call to order.

APPROVAL OF MINUTES

REPRESENTATIVE HAWKER made a motion to approve the minutes of July 8, September 1, September 2, September 28, October 13, and October 14. There being no objection, those minutes were approved.

REVISED PROGRAM - LEGISLATIVE (RPLs)

REPRESENTATIVE HAWKER made a motion for the approval of the following RPLs: 2-5-0164; 5-5-0750; 6-5-0169; 6-5-0179; 8-5-0019; 9-5-0061; and 9-5-0062.

CHAIR SAMUELS objected for discussion purposes.

Number 019

DUANE BANNOCK, Director, Division of Motor Vehicles (DMV), Department of Administration, explained that with RPL 2-5-0164 the \$1,075,300 grant will accomplish two different projects for DMV. The unified network interface (UNI) will allow DMV to electronically communicate with other states and law enforcement agencies. The UNI program is federally mandated and there are no state obligations or matches to the federal funds. The other project funded by this grant is the electronic transmission of citation data, which will move away from triplicate written citations and data entry. This grant will move DMV further into the electronic age.

Number 041

MARK LEWIS, Budget Analyst, Education Support Services, Department of Education and Early Development, explained that RPL 5-5-0750 is for federal funds for the grants programs at the Alaska State Library. Normally, a portion of this grant would've been recorded in fiscal year 2004, but that didn't occur. Therefore, the department is requesting the authority to record two federal grants in fiscal year 2005. This money is used for the inter-library cooperation grants, which are competitive grants. In response to Senator Ben Stevens, Mr. Lewis confirmed that all of the grant is available for the inter-library cooperation grants. However, he noted that there is a small portion that falls in the contractual line, but that goes directly for training in the library.

SENATOR BEN STEVENS asked if there is a listing of the libraries that have received this type of grant program prior to this year.

MR. LEWIS answered that he didn't believe so, but offered to do so. In further response to Senator Ben Stevens, Mr. Lewis confirmed that the \$966,000 new balance available for pending 2005 grants is carryover money. He clarified that the \$232[,000] would be the remaining balance, unallocated federal authority. The new grant is anticipated to be approximately \$733,000, with which this RPL would provide enough authority to record the new federal grant.

SENATOR THERRIAULT inquired as to why the federal grant wasn't recorded in time for fiscal year 2004.

MR. LEWIS explained that every year one federal grant is received and then there is a balance [remaining] for the unobligated portion of it in order to handle any carry forward funds for that year. He further explained:

What really has occurred is that we would've recorded the '03 grant when we received it in '03, a portion of that grant would've been spent in '03 and then we come into ... the state fiscal year of '04 we would have a remaining balance of that '03 grant to spend in '04 and that money did get spent. And so what happened is at the end of the fiscal year they went through a reconciliation process and they were looking at what federal money they would have available to spend. So, what we have is a program that would know how much money they had in the federal program to spend and they would try to put those grants on line. During

the reconciliation, they saw that we didn't have enough authority because we haven't received the federal grant dollars. And so, what would've taken place is they would've said, "Well, all this money is restricted and they wanted to find out why." And the reason for that was because the ... documentation that the fiscal section would need to record that grant didn't make it to our office in time. So, we had passed completely through the reappropriation period, the grant documentation showed up, and that's when we realized that we had a serious problem. And so, this is really the only timely and efficient and appropriate way to fix this problem is to come before you with this request to allow us to go ahead and record both grant awards in fiscal year (FY) '05.

MR. LEWIS, in further response to Senator Therriault, specified that the documentation ended up in a file in a field office and didn't arrive at the central fiscal section until after the fact. He mentioned that the individuals involved with handling the information were fairly new to handling federal grant documentation. Since this, it has been made very clear that when the original federal grant documentation arrives, it must be forwarded to the fiscal section to be properly recorded.

SENATOR THERRIAULT pointed out the notation from the legislature's fiscal analyst that says "No additional federal authority is available for transfer within this appropriation." Therefore, there was no free federal authorization that could be used for this purpose, which is why there is this request for an increase in the authorization.

MR. LEWIS agreed.

Number 117

JANET CLARKE, Director, Division of Administrative Services, Department of Health and Social Services (DHSS), turned to RPL 6-5-0169. She explained that DHSS is requesting the authority to receive and expend \$200,000 in federal receipts for the Payment Error Rate Measurement (PERM) grant. The aforementioned grant is a grant from the Centers for Medicaid and Medicare services. The department was awarded the grant to participate in the pilot program that the federal government will initiate in FY 05. "This is in anticipation of a nationwide mandate for all states to begin a Payment Error Rate Measurement ... program for their Medicaid programs next October 1, 2005," she informed

the committee. Alaska will be one of several states participating in the pilot program, the purpose of which is to measure the payment error rate of the Medicaid program in an in-depth manner. "This is going to be fairly complicated for all states," she remarked. The department applied for the federal funds July 16, 2004, and were awarded the funds in September 29, 2005. She mentioned that states are a bit concerned with this federal mandate, which isn't going to be 100 percent funded next year when it's mandated for all states. However, this [pilot] program will allow DHSS to get started and ramp up with some of the tools and processes in order to meet the federal requirements next fiscal year.

REPRESENTATIVE HAWKER recalled that the Legislative Audit Division completed its own analysis of Alaska's Medicaid programs. That report indicated that there may be some problems with proper payment authorizations. Will some of this money be used to help address some of the issues raised in that report, he asked.

MS. CLARKE replied yes. She explained that the program is based on a random sample and will allow feedback into the system if processing problems or other errors are seen. In further response to Representative Hawker, Ms. Clarke related her belief that [the department] is required to report any suspected fraudulent activity to the Medicaid fraud unit.

Number 167

SENATOR STEVENS pointed out that the project manager position will become permanent October 1, 2005, which is the beginning of FY 06. However, the information provided specifies that all funds received will be expended by FY 05. He asked if the state would have to incur the cost of that full-time position going into FY 05.

MS. CLARKE specified that the \$200,000 grant is a one-time federal grant, which will be used for federal fiscal year 2005. In federal fiscal year 2006, which begins October 1, 2005, the federal government has already created a legal requirement for this program to continue. She pointed out that the efforts put forth the pilot program will have to be ramped up 100 percent. Therefore, the one-time federal money is being used to start the program, which requires a program manager. That program will continue in state fiscal year 2006 when the federal government will pay for 50 percent of that position and the state will pay 50 percent of that position. States are concerned that this is

a federal mandate, but the federal government is only paying 50 percent of the share when this is an ongoing federal mandate. However, they are providing 100 percent to get the program started.

SENATOR STEVENS asked if it would be correct to anticipate additional full-time positions in the future. He also asked if this co-mingles responsibility with the Medicaid fraud unit.

MS. CLARKE clarified that it wouldn't be co-mingled with the Medicaid fraud unit. She confirmed that once the program is at the [fully mandated level] there will be other positions required because this is very expensive and intensive to do. The department's FY 06 budget will include additional positions [for DHSS].

Number 222

REPRESENTATIVE JOULE inquired as to the cost of this through the next budget cycle.

MS. CLARKE said that she could answer that after the governor announces the budget.

REPRESENTATIVE JOULE asked if the \$200,000 will be enough to take the program through the year.

MS. CLARKE replied yes and reiterated that it will be expensive next year. The department has proposed an incremental request to the governor for the FY 06 budget.

SENATOR STEVENS asked if anything in the federal regulations specify that there have to be results.

MS. CLARKE related that typically the federal programs she has seen, such as the food stamp error rate, compare every state and if a state doesn't meet the national average, there might be financial penalties or technical assistance to get the state into compliance. While all the federal rules aren't totally determined, this program will probably follow the aforementioned model. Therefore, the federal government will encourage states to calculate the rate, although there will probably be some help from the federal government in the first few years.

CHAIR SAMUELS, following the food stamp model, surmised then that half the states would fall below the average and be penalized.

MS. CLARKE specified that a state is penalized in a proportional amount to the amount that state is away from the national average. She reiterated that she isn't sure what the federal government will do with this program since the regulations haven't been finalized.

Number 273

MS. CLARKE turned to RPL 6-5-0179, which requests approval to receive and expend \$500,000 in additional federal authority for the Women, Infant, and Children (WIC) component. This would be additional federal authority from the U.S. Department of Agriculture for the WIC portion of the program. These funds are necessary to cover an increase in the cost and the number of clients using the WIC program, a food nutrition program for pregnant women and children. This request is before the committee because in the later part of the last fiscal year there was an increase in the food costs associated with this program and the department can't cover the cost projections with the existing federal authority. Although there is some excess federal authority for some time, before the end of this fiscal year the department will need an additional \$500,000 to pay for the WIC costs.

REPRESENTATIVE HAWKER turned to a comment from the Legislative Finance Division regarding that with the transfer of the \$700,000, DHSS could delay the need for this RPL until the legislature considers the supplemental budget request. He asked if Ms. Clarke had any recommendations.

MS. CLARKE said that if this RPL is approved then DHSS won't request supplemental federal authority for the supplemental budget for this. Either way, the \$500,000 is necessary and the department felt it was prudent to approach the committee once the problem was identified.

Number 320

JOELLEN HANRAHAN, Director, Division of Administrative Services, Department of Commerce, Community & Economic Development, addressed RPL 8-5-0019. The department is requesting authority to receive and expend \$300,000 in federal funds to assist the Alaska Rural Visitor industry in its product development. This money is from the Capacity Building program with the U.S. Department of Commerce & Economic Development. The purpose of the program is to stimulate business and jobs in the visitor

industry in rural areas. She noted that the department is coordinating with the Alaska Department of Fish & Game to assist communities with wildlife viewing areas and other partnerships with agencies and development organizations will be formed as well. The plan is to do this in four to six regions or a community cluster in order to demonstrate successful product development and job expansion initiatives that can be applied in other locations while maximizing local opportunity. Ms. Hanrahan highlighted that this is a matching grant for which the matching funds will come from within the Office of Economic Development.

REPRESENTATIVE HAWKER related his understanding that the matching funds [from the Office of Economic Development] are existing appropriated, encumbered funds, and won't require any additional general fund expenditure.

MS. HANRAHAN confirmed that Representative Hawker is correct that no additional general funds will be required. In response to Representative Joule, Ms. Hanrahan explained that ADF&G will be a partner that will be funded through an RSA to help promote wildlife-viewing areas.

Number 359

SENATOR STEVENS turned attention to Attachments A & B regarding the scope of work. He asked if the two ADF&G personnel would be existing personnel.

MS. HANRAHAN confirmed that the two personnel are existing personnel.

SENATOR STEVENS questioned whether, after 8 months, the legislature would anticipate ADF&G designating wildlife viewing areas that excluded other uses of that area.

AL CLOUGH, Deputy Commissioner, Office of the Commissioner, Department of Commerce, Community & Economic Development, said that the language [in the grant] should've referred to wildlife viewing opportunities in order to imply that there is some land-use designation. There is no intent to become involved in land [or resource] management through this program. The hope is to provide a few more jobs in rural Alaska.

Number 396

JOHN CRAMER, Director, Administrative Services Division, Department of Military & Veterans' Affairs, explained that RPL - 9-5-0061 is a \$100,000 request for statutory designated program receipts for operating. Mr. Cramer reminded the committee that Alaska is involved in an Emergency Management Assistance Compact (EMAC) with other states such that individuals in Alaska respond to emergencies when requested. In fact, this past August Alaska sent personnel to aide Florida after the hurricanes. The State of Florida will reimburse the State of Alaska for the monies expended for the assistance. The State of Florida reimburses Alaska with Federal Emergency Management Agency (FEMA) monies it receives.

SENATOR THERRIAULT related his understanding that the department used some of its general fund authority to cover the aforementioned expense and this RPL is requesting federal receipt authority to repay itself.

MR. CRAMER replied yes. In further response to Senator Therriault, Mr. Cramer confirmed that without this RPL, the money would be paid to the general fund and wouldn't flow to the department.

SENATOR THERRIAULT related that the fiscal analyst recommends that in the FY 06 budget that adequate SBPR authority be built in. He asked if the aforementioned has been done.

MR. CRAMER said that will be in the DMVA budget for FY 06.

REPRESENTATIVE HAWKER inquired as to the impact on DMVA if the \$100,000 spent for services to Florida went into the general fund. "Do you have the capacity to absorb these costs this year," he asked.

MR. CRAMER answered that such a situation would result in DMVA requesting a supplemental budget because it doesn't have the funds to absorb these impacts to its budget.

Number 451

MR. CRAMER turned to RPL 9-5-0062, which requests \$13,349,469 in federal receipts. The \$15 million in the original request was what was anticipated and it wasn't until December 3, 2004, that the final numbers were received.

Number 481

REPRESENTATIVE HAWKER made a motion requesting that the amount requested in RPL 9-5-0062 be reduced from \$15 million to \$13,349,469. There being no objection, RPL 9-5-0062 was amended.

MR. CRAMER explained that this additional funding authority is requested for the Homeland Security federal grant appropriation. This additional authority will be used to accept the federal FY 05 Homeland Security Counter-Terrorism Grant Award by the Office of Domestic Preparedness, U.S. Department of Homeland Security. He clarified that the split will be \$10,770,612 and the pass through to communities will be \$2,578,857.

CHAIR SAMUELS inquired as to how much of the \$37.8 [million] has been distributed.

ROBERTA CARNEY, Staff Officer, Division of Homeland Security/Emergency Management, Department of Military & Veterans' Affairs, specified that the total distribution of all the federal funds from '02-'04 is \$31,057,827.44, which is the total of several grants. There is another approximately \$10 million that has also been distributed. Therefore, total awards passed through DMVA amounts to \$41,147,936, of which \$2 million is due to be allocated to state agencies along with "two lines" for critical infrastructure in the amounts of \$712,100,430.83 and \$426,497.10. The latter two pots of funds were from the federal government for response to terrorism incidents at the national level when the national threat level was orange. Those funds remain unallocated and require special approval from the federal government to use those funds for anything else.

CHAIR SAMUELS asked if the split for the \$13.4 million is an administrative decision or does it have strings attached.

MS. CARNEY specified that there is a requirement that the funds pass through the federal pass through grants. She pointed out that this large grant contains several minor grants. She noted that the State Homeland Security program in the amount of \$9,368,591 requires an 80 percent pass through. The Law Enforcement Terrorism Prevention program in the amount of \$3,406,760 also requires an 80 percent pass through. The Citizen Core Grant in the amount of \$118,934 has no pass through requirement this year, but "we" will pass through 80 percent. She turned to the Emergency Management Performance Grant \$1,529,911 and explained that the federal government has passed the FEMA operational grant that DMVA receives every year to Homeland Security, and it has been bundled. Therefore, that

authority resides in DMVA's operating budget and isn't included. The Metropolitan Medical Response System program of \$455,184 is 100 percent pass through to Anchorage and Southeast Alaska for original grants that have been received through DHSS.

Number 628

REPRESENTATIVE JOULE asked if the state has priorities for its share.

MR. CRAMER likened it to what the local jurisdictions have to go through. There's guidance that will be sent to agencies who will submit their priorities.

TAPE 04-36, SIDE B

MS. CARNEY, in response to Representative Hawker, said the amount of the Emergency Management Performance Grant \$1,529,911, is in the operating budget, not the capital budget. She confirmed that the aforementioned is already in this year's receipt authority budget.

DAVID TEAL, Legislative Fiscal Analyst, Legislative Finance Division, informed the committee that RPL 8-5-0019 had an incorrect allocation. He explained that the reference to Community Advocacy should be to the Office of Economic Development. Although the aforementioned change was made, the motion should refer to the RPL 8-5-0019 as corrected.

CHAIR SAMUELS removed his objection. There being no further objections, the RPLs were passed.

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 2:55 p.m.

CHAIR SAMUELS brought the committee back to order at 3:25 p.m.

CONSIDERATION OF AUDITS

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

REPRESENTATIVE HAWKER made a motion for the preliminary audits for the special audits on employment opportunities for women engineers, the Alaska sunset process, and selected investigative as well as the preliminary sunset audits on the Board of Public Accountancy; the Board of Registration for Architects, Engineers, and Land Surveyors; the Board of Barbers and Hairdressers; the Board of Social Work Examiners; the Board of Professional Counselors; the Board of Marital & Family Therapy; the Board of Psychologists and Psychological Associate Examiners; the Board of Veterinary Examiners; the Suicide Prevention Council; and the Alaska Seismic Hazard Safety Commission to be released to the appropriate agency for response. There being no objection, it was so ordered.

OTHER COMMITTEE BUSINESS

CHAIR SAMUELS informed the committee that he, Senator Therriault, Mr. Shepler, and Ms. Robson filed a brief with the Federal Energy Regulatory Commission (FERC) before it's rule making. He related that work would continue to be done in the name of the committee. He requested the support of the committee to submit the same comments [provided to FERC] to the Department of Natural Resources to consider during its deliberations over the right-of-way lease for TransCanada. Chair Samuels further informed the committee that the committee has contracted with a FERC attorney, Don Shepler. As the process moves forward the funding necessary for Mr. Shepler's services will go over \$25,000.

Number 708

REPRESENTATIVE HAWKER made a motion that the committee authorize Chair Samuels to amend the committee's existing contract with Don Shepler to an amount not to exceed \$75,000 in aggregate, with no other changes to the contract.

REPRESENTATIVE JOULE inquired as to the duration of the contract.

BONNIE ROBSON, Consultant for Joint Committee on Legislative Budget and Audit, answered that the contract would last to mid-February. She informed the committee that the deadline for FERC to promulgate regulations on open seasons governing the Alaska Natural Gas Pipeline is February 10, 2005.

SENATOR THERRIAULT objected in order to relate that in his private conversations with FERC officials that the report, which was largely the product of Mr. Shepler and Ms. Robson, provided to it was well reasoned. Senator Therriault withdrew his objection.

CHAIR SAMUELS noted that he heard similar comments from various levels of FERC and others. Hearing no further objection, the committee's existing contract with Don Shepler was amended as stated in the motion. Although the original report was created when things were happening fast and wasn't presented as from the committee, he provided the committee members with signature sheets in order to have the report come from the committee.

AUDIT REQUESTS

Number 741

PAT DAVIDSON, Legislative Auditor, Division of Legislative Audit, Alaska State Legislature, informed the committee that after there were a number of questions regarding an audit request at the last hearing, she reviewed the formal procedures for dealing with audit requests. She explained that the committee's formal policies and procedures only require that the audit request be to the chairman's office 24 hours in advance of the meeting. However, after the many questions at the last meeting, she suggested that the committee may want to have audit requests submitted a week in advance in order to distribute the information and obtain answers to questions.

SENATOR THERRIAULT asked if the audit request under discussion at the last meeting was done by the Division of Legislative Audit. He related his understanding that generally people get in touch with the division and if the matter can be addressed without a full-blown audit, the division does it. He also related his understanding that the division works with the audit requestor in order to narrow the scope of the audit. He asked if the last audit went through such a process.

MS. DAVIDSON replied yes.

SENATOR THERRIAULT asked if this matter could be carried forward to the next meeting.

CHAIR SAMUELS agreed.

SENATOR THERRIAULT asked if this suggestion can merely be adopted or would a change in statute be required.

MS. DAVIDSON answered that it would merely be a committee policy.

ADJOURNMENT

There being no further business before the committee, the Joint Committee on Legislative Budget and Audit meeting was adjourned at 3:36 p.m.