

**ALASKA STATE LEGISLATURE
LEGISLATIVE BUDGET AND AUDIT COMMITTEE**

March 30, 2005

5:23 p.m.

MEMBERS PRESENT

Senator Gene Therriault, Chair
Representative Ralph Samuels, Vice Chair
Senator Ben Stevens
Senator Bert Stedman
Senator Lyda Green
Representative Mike Chenault
Representative Mike Hawker
Representative Beth Kerttula
Senator Gary Wilken, alternate
Representative Reggie Joule, alternate

MEMBERS ABSENT

Senator Lyman Hoffman
Representative Pete Kott
Representative Kevin Meyer, alternate

COMMITTEE CALENDAR

APPROVAL OF MINUTES
EXECUTIVE SESSION
AUDIT REQUESTS
OTHER COMMITTEE BUSINESS

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

JOE BALASH, Staff to Senator Therriault
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Offered information on gas pipeline related contracts.

PAT DAVIDSON, Legislative Auditor
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Offered information on preliminary audits and audit requests.

ACTION NARRATIVE

CHAIR GENE THERRIAULT called the Legislative Budget and Audit Committee meeting to order at [5:23:44 PM](#). Senators Therriault, Stedman, Wilken, and Green, and Representatives Samuels, Chenault, Hawker, and Kerttula were present at the call to order. Senator Ben Stevens and Representative Joule arrived as the meeting was in progress.

^APPROVAL OF MINUTES

[5:24:44 PM](#)

CHAIR THERRIAULT announced that the first order of business would be the approval of the committee minutes.

REPRESENTATIVE SAMUELS made a motion to approve the minutes of January 26, 2005. There being no objection, the minutes from the meeting of January 26, 2005, were approved.

^EXECUTIVE SESSION

[5:25:10 PM](#)

CHAIR THERRIAULT announced that the next order of business would be an executive session.

REPRESENTATIVE SAMUELS 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 [5:25:21 PM](#).

SENATOR THERRIAULT brought the committee back to order at [5:36:44 PM](#).

[5:36:56 PM](#)

REPRESENTATIVE SAMUELS made a motion for the preliminary audit for the Department of Transportation & Public Facilities Force Account Projects to be released to the appropriate agency for response. There being no objection, it was so ordered.

^OTHER COMMITTEE BUSINESS

[5:37:19 PM](#)

CHAIR THERRIAULT announced that the next order of business would be consideration of the Donald Shepler contract.

[5:37:33 PM](#)

JOE BALASH, Staff to Senator Therriault, explained that the Legislative Budget and Audit Committee entered into a contract for the representation of Donald Shepler for the purpose of negotiating the Federal Energy Regulatory Commission (FERC) issues, specifically the open season regulations that were promulgated by FERC. The contract was authorized for up to \$75,000 and expired February 28, 2005. He related there has been the suggestion that the committee enter into a new contract through Mr. Shepler's new place of employment, Greenberg Traurig, LLP, which will specify Mr. Shepler at his existing rates under his original scope of work.

[5:38:50 PM](#)

CHAIR THERRIAULT added, on behalf of the Legislative Budget and Audit Committee Mr. Shepler continues to have interaction with FERC on its rulings and submits responses for "request for rehearing" on the gas pipeline tariffs, expansion, rate setting methodologies, et cetera. He highlighted that another reason for the continuation of Mr. Shepler's work is the discussion of FERC having a follow-up meeting in Alaska. Mr. Shepler has agreed to continue his rates, which are below the standard rate charged by his law firm, he noted.

[5:39:57 PM](#)

REPRESENTATIVE SAMUELS made a motion to authorize the Chair to enter into a professional services contract with the Greenberg Traurig, LLP, for an amount not to exceed \$125,000. There being no objection, it was so ordered.

^AUDIT REQUESTS

[5:42:03 PM](#)

CHAIR THERRIAULT announced that the next order of business would be legislative audit contracts.

[5:42:27 PM](#)

PAT DAVIDSON, Legislative Auditor, Alaska State Legislature, requested the authority of the Legislative Budget and Audit Committee to enter into two contracts. The first contract would be for audit services to procure additional assistance to conduct three sunset audits for the Board of Optometrists, the Board of Physical and Occupational Therapy, and the Board of Chiropractic Examiners. The second contract is an award not to exceed \$50,000 to hire engineering consulting services. The Department of Transportation & Public Facilities uses no national benchmarks for identification, and therefore it's prudent to procure engineering consulting services to identify points of comparison and evaluate comparable projects between the state and other jurisdictions.

[5:43:46 PM](#)

REPRESENTATIVE SAMUELS made a motion for the committee to authorize the legislative auditor the authority to solicit and award a contract for audit services not to exceed \$35,000. There being no objection, it was so ordered.

[5:44:07 PM](#)

REPRESENTATIVE SAMUELS made a motion for the committee to authorize the legislative auditor the authority to solicit and award a contract for engineering consulting services not to exceed \$50,000. There being no objection, it was so ordered.

[5:44:20 PM](#)

CHAIR THERRIAULT announced that the next order of business would be the request for an audit by Representative Joule.

[5:44:24 PM](#)

MS. DAVIDSON relayed that the audit request by Representative Joule and Senator Olson requests the processes used by the Department of Corrections to determine the bed rates for 15 community jails.

[5:44:43 PM](#)

CHAIR THERRIAULT added that he encourages people to work with Ms. Davidson in order to help answer questions and aid in shaping audit requests.

5:45:04 PM

MS. DAVIDSON said the terms of the audit will focus on the negotiation process the state uses when dealing with communities for the aforementioned particular services.

5:45:30 PM

SENATOR GREEN asked, "When there is an ongoing conflict that's judicial in nature, with one of the entities, is there any reason for us to wait until that's adjudicated before this is begun; could it in any way be conflictive or impact unduly?"

MS. DAVIDSON replied [legislative auditors] typically tend to stay away from issues in litigation; she said she is not implying the court will take [the auditors'] word, however, sometimes the courts do take notice of the findings. She added that auditors try to reach an agreement with audit requestors for postponement until litigation issues are resolved.

5:46:54 PM

REPRESENTATIVE SAMUELS made a motion for the committee to approve the audit request by Representative Joule and Senator Olson [to determine the bed rates for 15 community jails]. There being no objection, it was so ordered.

^OTHER COMMITTEE BUSINESS

5:47:01 PM

CHAIR THERRIAULT announced that the final order of business would be appropriations.

CHAIR THERRIAULT asked the committee for authorization for Representative Samuels and himself, once the supplemental is signed [into law], to enter into contracts with the state agencies to receive the [appropriated] funding. He noted that he was "comfortable" having two signatures in order to approve the funds to the state agencies.

5:48:31 PM

REPRESENTATIVE SAMUELS made a motion to authorize the Chair and Vice Chair to enter into a contract with the Department of Administration, Alaska Oil and Gas Conservation Commission (AOGCC), for reservoir studies and depletion plan evaluations

related to the state gas pipeline and to bringing North Slope natural gas to market in an amount not to exceed \$1.2 million.

[5:48:53 PM](#)

SENATOR GREEN alluded to the fact that the aforementioned amount is a large sum and perhaps all the committee members should review the supplemental to address any problems it presents.

[5:49:25 PM](#)

CHAIR THERRIAULT replied that the state agencies' concern is whether [it is necessary to have] committee action every time money is doled out for billings that need to be covered. He recalled that in previous sessions the committee has authorized the Chair to [issue contracts] for the total amount. He highlighted that the Finance Committee in approving the supplemental [budget] reviews input from the agencies. The Legislative Budget and Audit Committee allows the state more oversight than just allocating those funds to the agencies, he opined.

SENATOR GREEN asked, for clarification purposes, if the \$1.2 million was intended for AOGCC or a variety of agencies and departments.

CHAIR THERRIAULT clarified that the aforementioned motion was to procure AOGCC to perform the specified work.

[5:51:15 PM](#)

REPRESENTATIVE SAMUELS acknowledged that the amount is significantly greater than previous amounts authorized. However, he highlighted the difficulty in reconvening the committee in the interim.

SENATOR GREEN suggested that if the motion is well defined, it would address her concern.

[5:51:52 PM](#)

SENATOR STEDMAN asked how the Chair and Vice Chair signing the appropriations and dispersing the monies is interfaced back to the committee because normally those types of decisions are made at the committee level. He acknowledged that during the interim it's difficult to gather a quorum and/or in a timely manner execute the appropriations. He noted that he is unfamiliar with

the previous authorization procedures used by the Legislative Budget and Audit Committee.

CHAIR THERRIAULT replied that the appropriation can only be spent on the legislation that was passed. He noted that it's somewhat unusual for the legislature to continue to be part of this process. Generally, the legislature passes the budget and supplemental budget and appropriates it to the agencies with no further interaction. The committee has to stay within those confines of the appropriation. As the money is doled out, the committee receives information from the agencies about the expenditures. He noted that the agency's information may only be privy to the committee in executive session because of the sensitivities of the negotiations under the Stranded Gas Act. He reiterated that the committee must [act] within the bounds of the appropriation, which was approved by the full body.

[5:54:20 PM](#)

SENATOR STEDMAN asked about the timeline of meetings during the interim.

REPRESENTATIVE SAMUELS recalled that last year there were working meetings every six weeks as well as eight days of hearings on the gas pipeline. He added, "During the interim it's an uphill battle, during the session its hard to get the six people in this room together ... it's a practical concern."

[5:55:18 PM](#)

SENATOR BEN STEVENS asked what percentage of the \$1.2 million was the total appropriation and was that percentage a request of the [AOGCC].

CHAIR THERRIAULT replied 50 percent was his understanding. He added that the agency has expressed concern about quarterly releases because it doesn't allow enough flexibility to project enough "access" without further committee interaction.

MR. BALASH clarified that of the four motions, for the four different appropriations, the AOGCC amount is at 100 percent and the others are at 50 percent. The AOGCC amount is fairly well defined and isn't dependent upon the pace of [the gas pipeline] negotiations. The studies on reservoir analysis to set the off-take limits in the fields "needs to be done," he said.

[5:57:22 PM](#)

CHAIR THERRIAULT, in response to Senator Ben Stevens, clarified that 100 percent is allotted for the AOGCC to complete this project, which needs to be done regardless of the pace of the aforementioned negotiations. The full amount will be allocated and the committee can ask the agency for information during the ongoing project.

The committee took an at-ease from [5:59:28 PM](#) to [5:59:40 PM](#).

[5:59:52 PM](#)

CHAIR THERRIAULT reiterated the aforementioned appropriation would be for the full project because it's fairly well defined and the AOGCC needs to complete this study regardless of the gas pipeline negotiations. There being no objection, the motion to authorize the Chair and the Vice Chair to enter into a contract with the Department of Administration not to exceed \$1.2 million passed.

[6:00:13 PM](#)

REPRESENTATIVE SAMUELS made a motion to authorize the Chair and Vice Chair to enter into a contract with the Department of Law's Oil, Gas and Mining Section for work related to the state gas pipeline and to bringing the North Slope natural gas to market and other oil and gas projects in an amount not to exceed \$4.5 million.

[6:00:43 PM](#)

MR. BALASH, in response to Chair Therriault, said the aforementioned amount was for 50 percent of the appropriation.

[6:00:50 PM](#)

SENATOR BEN STEVENS asked, for clarification purposes, if the authorization was to dispense the funds and have the Department of Law report back to the committee or if the Chair and Vice Chair would dispense the funds as the projects are brought forth.

CHAIR THERRIAULT replied the process can be done either way. He noted that often times, additional oversight is desired by the committee members in order to clarify the specifications of the requests.

MR. BALASH added that administration officials want to utilize a standard template for each of the agencies to report their progress, amount, vendor, specific tasks, and application. He mentioned that the aforementioned information could be contained in the contract verbiage with the agency, which could be submitted in monthly reports on activities and progress.

6:03:00 PM

REPRESENTATIVE SAMUELS opined that granting the approval to pay bills is a bit of an "exercise."

6:03:23 PM

SENATOR BEN STEVENS asked, for clarification purposes, if the 50 percent was requested by the agency.

CHAIR THERRIAULT replied the 50 percent is "our number."

MR. BALASH relayed that the Department of Law has bills it needs to pay.

6:04:34 PM

CHAIR THERRIAULT noted that the cash rate burden is fairly high for some of the administration due to the procurement of legal research and consultants for economic modeling. He indicated that he is trying to determine the maximum amount the administration could justify spending between now and the fiscal year.

6:05:32 PM

REPRESENTATIVE CHENAULT related that the intent of the House Finance committee was to give the Legislative Budget and Audit Committee the oversight for the appropriations and to some extent control how it's spent.

CHAIR THERRIAULT related that the committee will have the oversight to ensure the agency is using the appropriations for legitimate reasons concerning gas pipeline issues.

6:07:43 PM

SENATOR BEN STEVENS related his belief that on one hand the legislature has to ensure that the agency's expenditures are justifiable and it has access to the funds. However, on the

other hand, the legislature doesn't want be in the position of holding back the reigns. He related that he envisioned the committee having the oversight to dispense funds after the agency has justified its expenditures and therefore the committee has jurisdiction to allow the agency the continuation of its projects.

CHAIR THERRIAULT related he is not predicting any disagreements between the committee and agency over the expenditures. If such a disagreement occurred and the administration blamed the legislature for "holding things up," the Chair and Vice Chair would involve the committee and relay that the expenditures are not justifiable within the appropriations and therefore is not advisable. He added that this particular motion for appropriations to the Department of Law would go toward paying the bills that have accrued.

[6:11:40 PM](#)

REPRESENTATIVE SAMUELS, in response to Senator Ben Stevens, said the largest allocation is \$4.5 million for the Department of Law, the next is \$2.65 million for the Department of Revenue, and lastly \$2.25 million for the Department of Natural Resources. In further response to Senator Ben Stevens, Representative Samuels confirmed that all the [distributions] are 50 percent.

[6:12:15 PM](#)

CHAIR THERRIAULT asked if the aforementioned lower percentage would not cause concern with the administration.

MR. BALASH said he is unaware of any concern, except as mentioned earlier in relation to the Department of Law. In response to Senator Ben Stevens, Mr. Balash relayed that he did not know the amount of the Department of Law's bills.

[6:12:47 PM](#)

SENATOR STEDMAN related his belief that the closer the committee gets to 100 percent [disbursement] the more oversight the committee loses and it all sits on the "shoulders" of the Chair and Vice Chair. He asked if it would be possible to grant a heavier allocation up-front to the Department of Law, while providing the other agencies with a slightly lower allocation in order to have more committee oversight.

CHAIR THERRIAULT reiterated that the motion is for the 50 percent appropriation to the Department of Law, and if the committee wants a lower percentage for the other agencies in order for more oversight, that is possible.

[6:13:31 PM](#)

SENATOR STEDMAN asked if the allocation for the Department of Law could be in 25 percent increments.

CHAIR THERRIAULT replied, "Certainly."

[6:14:13 PM](#)

SENATOR BEN STEVENS related that he is more comfortable with a 30-35 percent increment for the Department of Law and then having oversight meetings.

[6:14:54 PM](#)

CHAIR THERRIAULT said there being no objection, the motion to authorize the Chair and the Vice Chair to enter into a contract with the Department of Law in an amount not to exceed \$4.5 million passed.

[6:15:04 PM](#)

SENATOR BEN STEVENS asked if the other agency requests could be met at a 35 percent allocation.

CHAIR THERRIAULT related that the other agencies aren't as task specific and dollar sure.

[6:15:49 PM](#)

REPRESENTATIVE SAMUELS made a motion to authorize the Chair and Vice Chair to enter into a contract with the Department of Natural Resources for work related to the state gas pipeline and to bringing North Slope natural gas to market for risk analysis, royalty issues, gas pipeline corridor geologic hazards, and resource evaluation in an amount not to exceed 35 percent of the allocation that was in the fast track supplemental budget. There being no objection, it was so ordered.

[6:16:40 PM](#)

REPRESENTATIVE SAMUELS made a motion to authorize the Chair and Vice Chair to enter into a contract with the Department of Revenue, commissioner's office, for work related to the state gas pipeline and to bringing North Slope natural gas to market in an amount not to exceed 35 percent of the allocation that was allocated in the fast track supplement.

[6:17:05 PM](#)

REPRESENTATIVE SAMUELS, in response to Senator Ben Stevens, said the amount allocated would be approximately \$1.7 million. In further response to Senator Ben Stevens, Representative Samuels related there was no allocation motion specified on the vote sheet for the Alaska Natural Gas Development Authority (ANGDA).

CHAIR THERRIAULT said that the committee may have "missed" the ANGDA allocation and will revisit that later in the meeting.

CHAIR THERRIAULT there being no objection, it was so ordered.

[6:18:57 PM](#)

REPRESENTATIVE SAMUELS moved to authorize the Chair and Vice Chair to enter into a contract with the Department of Revenue, commissioner's office, for work related to the state gas pipeline bringing North Slope natural gas to market "relating with ANGDA" in an amount not to exceed 35 percent of the allocation that was allocated in the fast track supplemental.

[6:19:30 PM](#)

MR. BALASH, in response to Senator Ben Stevens, clarified that the Department of Natural Resources conducted the previous in-state demand study. He relayed he was unaware of the additional work ANGDA "has in mind."

[6:20:32 PM](#)

SENATOR BEN STEVENS, in response to Chair Therriault, related that the supplemental [increment] for ANGDA states, "Increased workload for gas pipeline (Funding would go through LB&A w/FY07 lapse date)".

[6:20:53 PM](#)

MR. BALASH stated that he received an email about the right-of-way application from the Palmer to Glennallen spur.

[6:21:07 PM](#)

SENATOR BEN STEVENS said that because of the FY 07 lapse date, a three-year contract with 35 percent upfront would allow the committee oversight, and therefore he said he had no problem with allocating 35 percent "up front".

[6:21:24 PM](#)

CHAIR THERRIAULT said there being no objection, it was so ordered.

ADJOURNMENT

[6:21:51 PM](#)

There being no further business before the committee, the Legislative Budget and Audit Committee meeting was adjourned at 6:21 p.m.