

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

November 2, 2007

9:03 a.m.

MEMBERS PRESENT

Representative Ralph Samuels, Chair
Senator Lyman Hoffman, Vice Chair
Representative Mike Chenault
Representative Mike Kelly
Representative Mike Doogan
Senator Lyda Green
Senator Bert Stedman
Senator Johnny Ellis
Senator Gene Therriault
Representative Reggie Joule (alternate)
Senator Charlie Huggins (alternate)

MEMBERS ABSENT

Representative Mike Hawker
Representative Kevin Meyer (alternate)

COMMITTEE CALENDAR

APPROVAL OF MINUTES
OTHER COMMITTEE BUSINESS
AUDIT REQUESTS
EXECUTIVE SESSION
RELEASE OF AUDITS
OTHER COMMITTEE BUSINESS

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

LETA SIMONS, Administrative Services Manager
Central Office
Division of Support Services
Department of Natural Resources (DNR)
Juneau, Alaska

POSITION STATEMENT: Provided comments during the discussion pertaining to the audit request.

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

POSITION STATEMENT: Provided comments during the discussion pertaining to the audit request; provided comments during the discussion of other committee business.

ACTION NARRATIVE

CHAIR RALPH SAMUELS called the Legislative Budget and Audit Committee meeting to order at [9:03:43 AM](#). Representatives Doogan, Chenault, Kelly, and Samuels, and Senators Stedman, Ellis, Huggins (alternate), and Hoffman were present at the call to order. Representative Joule (alternate) and Senators Green and Therriault arrived as the meeting was in progress.

APPROVAL OF MINUTES

[9:04:33 AM](#)

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

SENATOR HOFFMAN made a motion to approve the minutes of September 5, 2007. There being no objection, the minutes from the meeting of September 5, 2007, were approved.

OTHER COMMITTEE BUSINESS

[9:04:57 AM](#)

CHAIR SAMUELS announced that the next order of business - under other committee business - would be a discussion regarding the consulting contracts for Dan E. Dickinson, Steven B. Porter, and Econ One Research, Inc. ("Econ One"). He mentioned that the original contract with Econ One specified that the company would provide consulting services regarding the Alaska Stranded Gas Development Act, and that later then-Chair Therriault [obtained] a ruling allowing Econ One to provide consulting services regarding the production profits tax (PPT) and the Alaska Gasline Inducement Act (AGIA). However, per the advice of the auditor and legal counsel, the Legislative Budget and Audit Committee had a new contract for Econ One drafted. The issue before the committee, Chair Samuels explained, is the question of whether to enter into three \$25,000 sole source contracts - one each for Dan E. Dickinson, Steven B. Porter, and Econ One

Research, Inc. - with none to exceed \$75,000. Should those contracts need to be extended further, he offered, he would bring the issue back before the committee at that time.

9:06:18 AM

SENATOR HOFFMAN made a motion to authorize the chair to enter into a sole source contract or an amendment to a contract in an amount not to exceed \$75,000 with Dan E. Dickinson for professional analysis and expert advice on the petroleum profit tax and other oil and gas related issues as well as historical institutional knowledge about the state's prior actions on these issues.

CHAIR SAMUELS, in response to a question, relayed that the auditor has advised the committee to address the aforementioned contracts as three separate motions.

SENATOR ELLIS objected to the motion, adding that Mr. Dickinson has no credibility with him.

A roll call vote was taken. Representatives Chenault, Kelly, and Samuels, and Senators Green, Stedman, and Hoffman voted in favor of the motion authorizing the chair to enter into a contract with Dan E. Dickinson. Representative Doogan and Senators Ellis and Therriault voted against the motion. Therefore, the motion passed by a vote of 6-3.

9:08:06 AM

SENATOR HOFFMAN made a motion to authorize the chair to enter into a sole source contract or an amendment to a contract in an amount not to exceed \$75,000 with Steven B. Porter for professional analysis and expert advice on the petroleum profit tax and other oil and gas related issues as well as historical institutional knowledge about the state's prior actions on these issues. There being no objection, the motion passed.

9:08:36 AM

SENATOR HOFFMAN made a motion to authorize the chair to enter into a sole source contract or an amendment to a contract in an amount not to exceed \$75,000 with Econ One Research, Inc., for professional analysis and expert economic advice on the petroleum profit tax and other oil and gas related issues as well as historical institutional knowledge about the state's

prior actions on these issues. There being no objection, the motion passed.

AUDIT REQUESTS

9:09:06 AM

CHAIR SAMUELS announced that the next order of business would be the audit request by Senator Green pertaining to the Matanuska-Maid Dairy.

9:09:24 AM

SENATOR GREEN, noting that the administration had at one time requested that the Legislative Budget and Audit Committee conduct an audit regarding the Matanuska-Maid Dairy (Mat-Maid), relayed that she still has questions about the Mat-Maid situation and would like those questions answered via an audit.

SENATOR GREEN then made a motion that the committee approve the audit request regarding the Department of Natural Resources (DNR) and the financial transactions pertaining to the Matanuska-Maid Dairy transition and sale.

SENATOR THERRIAULT indicated he doesn't wish to duplicate any of administration's efforts in conducting its own audit regarding Mat-Maid.

CHAIR SAMUELS noted that the Legislative Budget and Audit Committee's job is to look over the shoulder of the executive branch; therefore, even if the administration is conducting its own audit, he would be in favor of the legislature conducting another one. He relayed that the administration's request for an audit by the committee was later withdrawn.

9:12:13 AM

LETA SIMONS, Administrative Services Manager, Central Office, Division of Support Services, Department of Natural Resources (DNR), explained that the administration had initially asked the committee to conduct an audit because there were still a lot of unanswered questions regarding the Mat-Maid [situation]; however, as timing became an issue, the Creamery Corporation Board itself procured an audit. The field work for that audit began this week, and the scope of that audit pertains to the management practices from January 1, 2005, through June 30, 2007. There have been some questions with regard to some of the

decisions that were made, given the financial and economic forecasting conditions of the "corporation" at that time, so the audit will focus on discretionary spending, retainer contracts, variances in terms of sales - different prices being charged to different customers - and the effectiveness of the "corporation's" sales program. She mentioned that when the new board took control and new management came on board, there were a lot of questions and allegations raised.

MS. SIMONS, in response to a question, provided the committee with the name of the firm that is conducting the current audit, but also clarified that technically what is being conducted is known as an "agreed upon procedures engagement" - or a review engagement - and it is different than an audit and has a different implication, particularly for those doing the work.

SENATOR GREEN, in response to a question, offered her understanding that what is currently being conducted could be considered similar to a "look-back audit," whereas the audit that she is requesting would focus on the [state's] current activities as they relate to Mat-Maid.

PAT DAVIDSON, Legislative Auditor, Division of Legislative Audit, Alaska State Legislature, added that the scope of Senator Green's request has more to do with the actual sale of the assets and the process being used to sell those assets. So although some of the same people may be interviewed, she remarked, different questions will be asked of them.

CHAIR SAMUELS surmised that ultimately the state is responsible for meeting Mat-Maid's financial obligations.

[9:17:35 AM](#)

MS. SIMONS concurred, and offered that from a cash perspective, Mat-Maid has been able to function because its creditors have been very accommodating.

CHAIR SAMUELS expressed support for the requested audit.

SENATOR HUGGINS also expressed support for the requested audit.

REPRESENTATIVE DOOGAN asked whether current law requires the results of the review engagement to be made public.

MS. SIMONS offered her understanding that the results would come in the form of a management report, and said that although she

can't imagine that that report would be kept private, the Creamery Corporation Board does have that prerogative.

REPRESENTATIVE KELLY asked whether the scope of the requested audit is sufficiently broad.

MS. DAVIDSON said that the request does seem to be broad, with the focus being on how assets will be disposed of. If there are concerns regarding past operations, for example, that the committee would like the audit to focus on, the request does not currently specify that authority. However, she added, in the past when something has come to the division's attention as still needing to be addressed, the division has either gone back to the requestor and had a discussion about a possible scope expansion or has made a suggestion to the committee for a future audit. In response to a question, she said that if during the audit process the division notices something that the division feels does have implications with regard to the audit that has been requested, the division will simply investigate that issue.

[9:21:32 AM](#)

SENATOR THERRIAULT referred to the actual audit request, noted that item number 2 says in part, "the recommendations made by the specialists", and asked who those specialists are.

MS. DAVIDSON indicated that they would be appraisers - an appraiser for the real estate, and an appraiser for the equipment - though the term "specialist" was used in the audit request because those appraising the equipment might not actually be called "appraisers."

SENATOR THERRIAULT noted that Phase II of the audit request appears to pertain to activities that have not happened yet. He asked, therefore, whether any determinations that are made with regard to those activities would be considered an audit function or just a monitoring function.

MS. DAVIDSON relayed that those items were included because, according to information available on the DNR's web site, those activities will have occurred during the time the audit is being conducted, and so it seemed appropriate to include them in the audit request. In response to a question, she said that if the division felt the need for a scope expansion, the division would typically either go to the requestor or to the chair of the Legislative Budget and Audit Committee.

SENATOR THERRIAULT referred to item number 9 of the audit request - this item read, "According to statute, in which of the four above-mentioned entities should the proceeds of the sale be recorded" - and asked whether the division had asked that that language be added.

MS. DAVIDSON offered her belief that the audit process will be complicated by questions of legalities, and so as such questions arise the division will contact either Legislative Legal and Research Services or the Department of Law (DOL) as appropriate.

CHAIR SAMUELS, noting that there were no objections to the motion, announced that the audit request will move forward.

SENATOR THERRIAULT asked who the biweekly reports referred to in the audit request will be made available to.

CHAIR SAMUELS said he is assuming that the reports will come to the committee; if so, the committee will ensure that they are distributed to members.

MS. DAVIDSON said:

That is a bit of a problem for us. The committee has established policies and procedures for reporting findings. If the committee directs us to make this the top priority, I do have an audit that is wrapping up, and what we would move is that team of auditors on to this in probably the next 10 to 14 days. I can't, right now, under committee procedures, give any briefings. Partly, there's a couple reasons; one of it is, until we get all the evidence, we really suspend drawing conclusions. And that's why the briefing process doesn't really work well with an audit process. However, it has been clear to me that there's a real desire to get information out as fast as possible, and what I can commit to the committee is that I will look at this and, when we do get a piece of work done, maybe issuing a series of reports. And so, rather than a briefing process, when we get a piece of work done, we'll wrap it up as an audit report, bring it before the committee, and be clear on what it is that we were looking at in that context and then what there's left for us to look at. I think that would be the better model to use with the audit process, with existing professional requirements for us as well as the committee policies and procedures.

CHAIR SAMUELS observed that the committee could also schedule short meetings as necessary to consider the aforementioned briefings as they are available.

SENATOR THERRIAULT pointed out, though, that the audit request specifies that the reports shall be provided biweekly.

MS. DAVIDSON indicated that it will not be possible to provide biweekly briefings, particularly given the professional standards under which the division must conduct itself. She said that she had envisioned being able to provide two separate reports, one pertaining to activities that occur before a sale, and one pertaining to the activities that occur after the sale.

SENATOR THERRIAULT surmised, then, that committee members shouldn't expect a biweekly report as outlined in the audit request.

[9:29:18 AM](#)

REPRESENTATIVE JOULE noted that the language in question uses the term "should", not "shall", and surmised that this wording won't make biweekly reports mandatory.

SENATOR GREEN concurred.

CHAIR SAMUELS reiterated that there has been no objection to the motion and so the audit request will move forward. He said he would like to direct the auditor to allocate the necessary resources to start this audit as soon as possible.

MS. DAVIDSON, in response to a question, indicated that there are three pending committee requests for audits that might be impacted by making Senator Green's audit request a priority: frontier community services audit; frontier economic development corporation audit; and the Alaska Energy Authority's rural energy power upgrade audit.

EXECUTIVE SESSION

[9:32:30 AM](#)

CHAIR SAMUELS announced that the committee would next go into executive session.

SENATOR HOFFMAN 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 9:32 a.m.

CHAIR SAMUELS brought the committee back to order at 9:56 a.m.

RELEASE OF AUDITS

[9:56:12 AM](#)

SENATOR HOFFMAN made a motion for the preliminary audit for the Department of Education and Early Development (EED) - Special Education Service Agency - to be released to the appropriate agency for response. There being no objection, the motion passed.

[9:56:27 AM](#)

SENATOR HOFFMAN made a motion for the final audit reports for the sunset review of the Big Game Commercial Services Board; the sunset review of the State Board of Parole; and the University of Alaska Fairbanks - School of Education, selected issues - to be released to the public. There being no objection, the motion passed.

OTHER COMMITTEE BUSINESS

[9:56:52 AM](#)

CHAIR SAMUELS announced that the final order of business - under other committee business - would be a discussion regarding peer review.

MS. DAVIDSON relayed that under professional auditing standards, audit organizations are required to [periodically] undergo peer review, and that because the Division of Legislative Audit belongs to the National State Auditors Association's peer review program, a team of five individuals from Virginia, Arizona, Oregon, New York, and the U.S. Department of Health and Human Services (DHHS) came to the division and conducted a week-long peer review. She said that the upshot of that peer review was, "We have a clean opinion - no recommendations."

[9:57:45 AM](#)

ADJOURNMENT

There being no further business before the committee, the Legislative Budget and Audit Committee meeting was adjourned at 9:57 a.m.