

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

Anchorage, Alaska

July 10, 2007

8:01 a.m.

**MEMBERS PRESENT**

Representative Ralph Samuels, Chair  
Senator Lyman Hoffman, Vice Chair  
Representative Mike Chenault (via teleconference)  
Representative Mike Hawker  
Representative Mike Kelly (via teleconference)  
Representative Mike Doogan  
Senator Bert Stedman (via teleconference)  
Senator Johnny Ellis  
Senator Gene Therriault  
Representative Kevin Meyer (alternate)

**MEMBERS ABSENT**

Senator Lyda Green  
Representative Reggie Joule (alternate)  
Senator Charlie Huggins (alternate)

**COMMITTEE CALENDAR**

APPROVAL OF MINUTES  
AUDIT REQUESTS  
REVISED PROGRAM - LEGISLATIVE (RPLs)  
EXECUTIVE SESSION  
RELEASE OF AUDITS

**PREVIOUS COMMITTEE ACTION**

No previous action to record

**WITNESS REGISTER**

REPRESENTATIVE BETH KERTTULA

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented the audit request regarding the Alaska Energy Authority (AEA), Rural Power System.

PAT DAVIDSON, Legislative Auditor  
Division of Legislative Audit

Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Responded to questions during discussion of the audit request regarding the Alaska Energy Authority (AEA), Rural Power System.

ROGER MAGGARD, Manager  
Statewide Airport Development  
Rural Airports

Department of Transportation & Public Facilities (DOT&PF)  
Anchorage, Alaska

POSITION STATEMENT: Spoke regarding the RPL from the Department of Transportation & Public Facilities (DOT&PF).

JOHN TORGERSON, Deputy Commissioner of Aviation  
Office of the Commissioner

Department of Transportation & Public Facilities (DOT&PF)  
Anchorage, Alaska

POSITION STATEMENT: Spoke regarding the RPL from the Department of Transportation & Public Facilities (DOT&PF).

CYNTHIA M. LITTLE, Engineer/Architect III  
Northern/Interior Region

Statewide Design & Engineering Services  
Department of Transportation & Public Facilities (DOT&PF)  
Fairbanks, Alaska

POSITION STATEMENT: Spoke regarding the RPL from the Department of Transportation & Public Facilities (DOT&PF).

#### **ACTION NARRATIVE**

**CHAIR RALPH SAMUELS** called the Legislative Budget and Audit Committee meeting to order at [8:01:12 AM](#). Representatives Doogan, Chenault (via teleconference), Hawker, Kelly (via teleconference), and Samuels, and Senators Hoffman and Ellis were present at the call to order. Representative Meyer (alternate) and Senators Stedman (via teleconference) and Therriault arrived as the meeting was in progress.

#### **APPROVAL OF MINUTES**

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

[8:02:12 AM](#)

REPRESENTATIVE HAWKER made a motion to approve the minutes of June 5, 2007. There being no objection, the minutes from the meeting of June 5, 2007, were approved.

#### **AUDIT REQUESTS**

[8:02:19 AM](#)

CHAIR SAMUELS announced that the next order of business would be the audit request regarding the Alaska Energy Authority, Rural Power System.

[8:02:45 AM](#)

REPRESENTATIVE BETH KERTTULA, Alaska State Legislature, relayed that about a year ago she'd been approached by some people who had concerns about some of the practices that the Alaska Energy Authority (AEA) engaged in, and that the memorandum requesting the audit indicates that the audit would focus on AEA's practices in terms of competition - particularly sole source procurements, limited procurements, and specifications - in order to ensure that the AEA is not inappropriately limiting competition. She characterized the audit request as a good one, particularly with the current focus on "rural energy." Representative Kerttula offered that Pat Davidson from the Division of Legislative Audit would be able to provide further information.

[8:04:49 AM](#)

PAT DAVIDSON, Legislative Auditor, Division of Legislative Audit, Alaska State Legislature, in response to a question, relayed that Representative Kerttula has accurately summarized the audit request.

SENATOR HOFFMAN asked Representative Kerttula whether she has attempted to address any perceived problem via direct dialog with the AEA.

REPRESENTATIVE KERTTULA said she has not yet done so, though she had considered it; ultimately, she relayed, she thought it just as well to have the audit performed, and didn't think it would be too onerous on the AEA.

MS. DAVIDSON, in response to a question, relayed that it would probably be about six months before the division would be able

to begin the audit, and that a preliminary report would probably be available by the end of the next legislative session.

8:06:51 AM

REPRESENTATIVE KELLY noted that he chairs the House Commerce, Community & Economic Development Finance Subcommittee, which deals with the Alaska Industrial Development and Export Authority (AIDEA), which in turn, he remarked, is "somewhat joined at the hip" with the AEA. He added that [the subcommittee] has, from time to time, given serious consideration to possibly requesting an audit "on the whole shebang."

8:08:11 AM

REPRESENTATIVE HAWKER made a motion to authorize the legislative auditor to conduct the audit of the Alaska Energy Authority's Rural System Upgrade program as outlined in the memorandum before the committee. There being no objection, it was so ordered.

**REVISED PROGRAM - LEGISLATIVE (RPLs)**

8:08:39 AM

CHAIR SAMUELS announced that the next order of business would be RPL 25-8-2001 from the Department of Transportation & Public Facilities (DOT&PF) regarding the Nome Airport rehabilitation project.

8:08:53 AM

ROGER MAGGARD, Manager, Statewide Airport Development, Rural Airports, Department of Transportation & Public Facilities (DOT&PF), relayed that the DOT&PF had previously requested \$4,240,000 for the Nome [airport] paving project, but that amount proved to be inadequate. Shortly after the cost estimate was sent to headquarters, the cost estimate increased significantly and, inadvertently, the department did not request an amendment [to the capital budget]. Thus the RPL before the committee today entails a request for \$5,517,500 to cover that cost increase. The [new] cost estimate for Stage II of the project is \$9,757,500, he added.

MR. MAGGARD, in response to a question, indicated that Stage II of the project will hopefully be the final stage of the project.

REPRESENTATIVE CHENAULT asked why the cost estimate increased.

MR. MAGGARD offered his recollection that it was due to cost inflation for the pavement, a determination that additional excavation was needed for a "sub-grade" that was deteriorating, and a decision to replace that sub-grade with gravel. In response to questions, he said that the project has not been bid on yet, that the department is currently advertising and expects to open bids within a week, and that the original cost estimate was made around May 2006.

REPRESENTATIVE CHENAULT questioned whether approving this RPL will set a precedent wherein the DOT&PF will simply wait until the interim to request [most] of the funding for all its future projects.

8:13:00 AM

REPRESENTATIVE KELLY said he has the same concern. He asked how much of the cost increase will be paid for by the state and how much will be paid for by the federal government.

MR. MAGGARD said that the match ratio for airport improvement projects is 95 percent federal and 5 percent state.

SENATOR HOFFMAN asked how the cost increase will affect the DOT&PF's remaining Federal Aviation Administration (FAA) projects.

MR. MAGGARD indicated that it wouldn't, and that the department has been carrying this project at its current cost estimate since November 2006, at which time it adjusted its spending plan to account for the cost increase. If the cost increase hadn't occurred and the department had obtained another \$5.7 million, the department would have allocated that money to another project. In response to a question, he confirmed that the money being requested via this RPL is unallocated and will not affect any other existing projects for this fiscal year; those projects have been "moved back" to the department's federal fiscal year 2008 (FY 08) program.

SENATOR HOFFMAN said he would like to receive more information on those projects that have been pushed back.

MR. MAGGARD, in response to questions, relayed that the project was advertised on June 27; that bid openings are scheduled for

July 19; that the project was advertised before all the funding authorization had been approved; and that if the funding authorization is not approved, the department will probably just cancel the bid opening.

SENATOR THERRIAULT asked whether it was the cost for Stage II of the project that increased.

MR. MAGGARD said, "Primarily, yes."

SENATOR THERRIAULT said he shares the concern of other members, and suggested that the department send the committee a letter with more details regarding what in particular drove the cost estimate up.

CHAIR SAMUELS said he too is questioning how the cost estimate could be more than 100 percent off. He asked who makes cost estimates.

MR. MAGGARD said that in this case it was the department's northern region aviation design engineers.

[8:17:58 AM](#)

REPRESENTATIVE DOOGAN asked whether the department has a system in place for reviewing estimates that are so far off, and, if so, what the system is.

MR. MAGGARD said there is no formal system specifically, but internally the regional director or the commissioner could review any cost estimate they want.

CHAIR SAMUELS asked whether having a cost estimate "this far off" is the norm.

MR. MAGGARD explained that it is not particularly unusual.

CHAIR SAMUELS characterized that as a depressing statement.

MR. MAGGARD acknowledged that having cost estimates increase [so much] does create problems in programming.

[8:18:57 AM](#)

REPRESENTATIVE HAWKER asked why the cost estimate is over 100 percent off.

MR. MAGGARD offered that between 2004 and 2006, the Associated General Contractors (AGC) estimated that there has been approximately a 43 percent inflation factor in construction costs - though that is not to say that that is the reason, in this short a time period, for the cost estimate for this project to be "this far off" - and that there was additional excavation and inflation regarding paving. He said he would be willing to research the issue and provide more details to the committee.

CHAIR SAMUELS asked when would the project actually start to get built.

MR. MAGGARD said the department is currently hoping to get it built this year, though obviously the "construction weather window" for paving in Nome is being pushed because ideally one would be paving in July and yet the earliest the department will be paving is late July; furthermore, a delay in the approval of project's funding could force the paving to occur next year, though paving might be delayed until next year anyway.

SENATOR HOFFMAN opined that given the logistics in rural Alaska, there is no way that the project could be constructed this year unless there is an existing contractor already in Nome.

MR. MAGGARD relayed that there are contractors in Nome doing paving projects, and that the contractor doing Stage I of the project is still there.

SENATOR HOFFMAN asked whether the contract contains any requirements that the project be completed this year, thus giving the current contractor an unfair advantage and an ability to drive the cost upward.

MR. MAGGARD said no.

[8:22:38 AM](#)

REPRESENTATIVE HAWKER asked when was it that the department became aware of the cost estimate increase.

MR. MAGGARD said it was in November 2006.

REPRESENTATIVE HAWKER queried, "Before we went through an entire budget cycle?"

MR. MAGGARD concurred.

REPRESENTATIVE HAWKER asked whether the department kept the information secret from the administration.

MR. MAGGARD said, "No, no; it was a simple oversight in not ... submitting a budget amendment."

8:23:35 AM

REPRESENTATIVE HAWKER sought confirmation from committee members that the committee has experienced this same problem - bad bidding, bad planning, bad management - with the DOT&PF on another occasion, in an audit of previous contracts. "Haven't we addressed this business of how we manage cost overruns," he questioned. He then asked why "this project" is considered to be a state responsibility.

MR. MAGGARD remarked:

Well, it's a state airport. The runway is destabilizing. We have had a ... project underway to repair it, now, ... since last year. It's a "Part 139" certificated airport with jet traffic - they're quite sensitive to ... uneven runways - so we like to keep those runways in good condition or the jets will stop coming there.

REPRESENTATIVE HAWKER surmised that it's a state responsibility because it's a state airport. He questioned, then, whether there is a difference between state airports and state highways. If state highways and state roads are not a state responsibility, why are airports a state responsibility?

MR. MAGGARD offered his understanding that both state airports and state highways/roads are the state's responsibility.

REPRESENTATIVE HAWKER offered his belief, though, that in the governor's veto [letter], the governor indicated that the state hasn't any responsibility for maintaining state roads. And if such is the case, he queried, why should the Nome airport get priority over the safety of the people in his district.

MR. MAGGARD spoke about the fact that the airport has large airplanes landing at great speeds, and remarked that having an airplane go off the runway is a heavy responsibility.

REPRESENTATIVE HAWKER argued that there are school buses full of children traveling down the roads in his district, adding that

one school bus was hit by a vehicle at an intersection that is on a state road that the governor claims is not a state responsibility. "Can you explain this inconsistency to me," he asked.

MR. MAGGARD said he could not.

[8:26:51 AM](#)

REPRESENTATIVE DOOGAN asked Mr. Maggard what he meant in saying that the runway is destabilizing.

MR. MAGGARD said that there are frost heaves and sinking, and the sub-grade is thawing, all of which makes the runway surface uneven.

REPRESENTATIVE DOOGAN surmised that the contractor will dig up that material, dump in a lot more gravel in the hopes that that will keep the problem from happening again, and then repave it.

MR. MAGGARD concurred.

REPRESENTATIVE DOOGAN asked whether, if that work doesn't happen during the current construction season, the runway will be usable until that work can happen.

MR. MAGGARD offered his understanding that it will be, but added that it is hard to estimate what will happen with regard to future destabilization. The runway is currently being used, and until the airlines decide that the runway is too destabilized to land on, they will continue to use it, he surmised.

CHAIR SAMUELS asked whether the runway is currently in a marginal state.

MR. MAGGARD said, "Yes."

CHAIR SAMUELS remarked:

It's in a marginal state and [the DOT&PF] knew there was a problem in November, before the entire budget cycle. They didn't approach the legislature to get a capital appropriation to fix it even though the project is half-way done, Stage I is done, and [the DOT&PF] did not come forward to get the money into the budget until July. And to follow up on what Senator Hoffman's question was, now you're going to have the

screws put to you by somebody who has an asphalt machine ... in Nome and now you have to use that company, and you're going to come and ask us for \$5 million more. ... Well, I'm just shocked that the price of the project went up.

8:29:02 AM

SENATOR THERRIAULT asked whether there will be an increase in operating costs at the airport if the runway is not fixed.

MR. MAGGARD indicated that such might be the case; for example, when a runway is in marginal condition, friction tests must be performed on it before each aircraft lands.

SENATOR THERRIAULT, remarking on the need to look out for the safety of those using the airport, said that although he is willing to vote to approve the RPL, he wants to know what part of the process broke down.

CHAIR SAMUELS agreed.

MR. MAGGARD, in response to a question, relayed that in Nome, the airport has what he termed, "a crosswind runway situation," and that a portion of one runway was repaved last year, with the focus of the project being discussed being to pave the other runway as well as the portion of the one runway that was not paved last year.

REPRESENTATIVE DOOGAN surmised, then, that if it were actually possible to make the wind only blow from a specific direction, Stage II of the project would not need to be completed right away.

MR. MAGGARD concurred.

8:32:34 AM

REPRESENTATIVE HAWKER asked whether the actual hydrocarbon base for the asphalt must be brought into Nome.

MR. MAGGARD surmised that it would.

REPRESENTATIVE HAWKER asked whether all the materials for the asphalt are already on location.

MR. MAGGARD said he could not answer that question with any certainty, but he assumes that the materials are not already on location.

8:33:56 AM

REPRESENTATIVE HAWKER asked whether the necessary materials could still be delivered during the current construction season if the funding authority is approved.

MR. MAGGARD indicated that that is what the department is hoping, though he is unable to say whether that will actually occur.

REPRESENTATIVE HAWKER said he has a problem believing the argument that the cost of paving materials has increased by 40 percent given that the folks in the Nome area who "source gravel" have probably not had that same sort of increase [in their costs]. He expressed concern that the material suppliers in Nome might be inappropriately raising prices simply because they have no competition. He suggested that perhaps the state ought to simply wait a year and reopen the bidding on the project to "wide open competitive bid."

MR. MAGGARD said that "it's open to competitive bids right now," though those companies that are already located in Nome obviously have a cost advantage compared with any company that "wants to come in." That's just the way it is in rural Alaska, he remarked, when a company is already established in a particular area; "if they want to underbid the next competitor by one cent, they get the bid, or ... they can gouge you, too."

MR. MAGGARD, in response to questions, explained that the cost estimates were generated by the department's design engineers in its northern region aviation design section, and that he is assuming that they used the bid estimates they received on Stage I of the project to update the costs of Stage II.

REPRESENTATIVE HAWKER remarked, "So you have contractors in place that are telling you what they want to charge you for this phase, and you're asking us to adjust our bid specs to what they're asking for."

MR. MAGGARD said he is assuming that the contractor in place obtained the contract by being the low bidder for the Stage I work, and that the design engineers used the unit costs off the

Stage I project to adjust their cost estimates for the Stage II project.

[8:37:36 AM](#)

REPRESENTATIVE HAWKER said that something is not right with this situation.

CHAIR SAMUELS asked who in the department chooses which other safety-related projects will get delayed as a result of this cost estimate increase.

MR. MAGGARD indicated that he or the deputy director or the commissioner can make those decisions.

CHAIR SAMUELS asked who reviewed the increased cost estimates, what other projects won't get done because of those increases, and who - in this situation - will make those decisions.

MR. MAGGARD replied:

The decision on what needs to be done at Nome is made by the regional design engineers for northern region, and they adjusted their cost estimates based upon what they believed needed to be done. They then ... informed me and the deputy commissioner of their cost increase, and they considered this to be an emergency project when they brought it before the [Aviation Project Evaluation Board (APEB)]. So, based upon that, we left it in the program at the increased cost, and had to move other projects out in order to compensate for the cost increase.

MR. MAGGARD, in response to a question, said he would research which projects were moved out, adding that although he can't quite recall, he thinks that one might have been a project in Cordova.

[8:40:52 AM](#)

REPRESENTATIVE DOOGAN asked whether anyone from the department contacted Nome's legislators once the department was made aware of the cost estimate increase.

MR. MAGGARD said not that he knew of.

REPRESENTATIVE HAWKER questioned why, if the project had been elevated to emergency status, it slipped through the cracks and wasn't even considered as being worthy of being brought forward during the regular budget process.

MR. MAGGARD said that the Stage I project was presented to the APEB as an emergency project; subsequently "they" determined that additional work needed to be done on the crosswind runway, and so the department's northern region brought the Stage II project before the APEB as an [additional] emergency project.

REPRESENTATIVE HAWKER asked what an emergency project means to the department if the department doesn't bother to speak to the local legislators about it or remember to include it in the annual budget process.

MR. MAGGARD said that in terms of a "Part 139" airport, an "emergency" means that [conditions] create a potential risk to life and probably a potential risk that the jet aircraft will no longer use that runway, thereby potentially depriving the community of some of that service.

REPRESENTATIVE HAWKER asked Mr. Maggard whether he would consider the department negligent in not bringing "this" forward and thereby exposing the citizens of Nome to an unnecessary "life-safety" risk.

MR. MAGGARD asserted that the department is trying to address this issue by asking to proceed with the project [via approval of the RPL]. He acknowledged, though, that there was certainly a lapse in not bringing the project forward as a budget amendment as soon as the cost increase was noted.

[8:44:41 AM](#)

REPRESENTATIVE HAWKER asked whether there will be any consequence for the "negligent state personnel who let this fall through the cracks." Is there any accountability within the department for the negligent actions that potentially exposed the community of Nome to unnecessary life-safety danger?

MR. MAGGARD replied:

Well, I don't know that the community has been exposed to life-safety danger if the project goes forward. ... If the project does not go forward and the aircraft [pilots] feel ... that it is not acceptable to land on

the runway, they will just stop landing the runway. As far as somebody being punished for forgetting to do the budget amendment, ... that would be up to the regional director; the people that are responsible for ... developing the budget amendment essentially work for them, and I couldn't speak for them.

REPRESENTATIVE HAWKER opined that in the world of accountability that he is familiar with regarding project management, those project managers would have been looking for a new job a long time ago. This situation certainly speaks very, very poorly of the department, he added.

REPRESENTATIVE MEYER expressed hope that such a lapse won't occur in the future.

8:47:43 AM

SENATOR HOFFMAN asked whether any of the cost estimate increase was for an expansion of the scope of work that would be performed during Stage II, or whether it was for cost overruns occurring during Stage I.

MR. MAGGARD offered that a portion of the cost estimate increases probably are due to increases in the scope of the work to be done [during Stage II]; for example, the amount of excavation that actually needs to be done was not anticipated at the time the cost estimate was originally developed.

REPRESENTATIVE KELLY remarked that this situation ought to have been presented to the committee by someone with more knowledge and authority, and that the department should be doing everything it can to ensure that such a situation doesn't occur again. He added that he is tempted to vote "no" on approving the RPL.

8:50:54 AM

REPRESENTATIVE DOOGAN said he is pretty irritated to have been put in this situation: "We're backed into a corner where, basically, either we approve this or we tell the people in Nome, 'Well, if the wind's not right, you're going to have to walk to Nome,' which is not a realistic alternative." Furthermore, the committee has not yet been given detailed information regarding how necessary it is for this project to go forward this season or why the department is now having to ask for [more than \$5.5 million over] the original cost estimate. He suggested that the

department write a detailed report complete with documentation regarding how this situation came to be and distribute it as a learning tool to all the state's design engineers and "estimators" illustrating how not to calculate a cost estimate and how not to deal with the legislature when that estimate "comes unstuck." He added that if this situation involved general funds (GF), he would be voting "no" regardless of what might then occur in Nome.

CHAIR SAMUELS remarked that he will ultimately be voting to approve the RPL, but he is tempted to not even entertain a motion on the issue because although the department is claiming the RPL needs to be approved for "safety" reasons, the department hasn't bothered to provide any backup material whatsoever. The people who will bear the brunt of this situation will be those living in communities that have had their safety-related projects delayed because of the department's mistake in this matter. Furthermore, the department can't guarantee that the project will be done this year even if funding is approved today. He offered his belief that if the situation in Nome is truly as dire as the department is intimating, Alaska Airlines would have made it known long ago that something needed to be done.

CHAIR SAMUELS surmised that all members would prefer to vote "no" on the RPL and instead request an audit on this particular project to determine the sequence of events that led up to the current situation and why the original cost estimate was off by over \$5.5 million. He too spoke of the recent veto process wherein the funding for several capital projects was vetoed as not being a state responsibility, noting that now the department has come asking for more than \$5.5 million claiming that it's for "safety" reasons. He said he will certainly be requesting an audit of this project, and expressed concern that departments will start trying, under the guise of it being for "safety" reasons, to get their projects funded in the same manner rather than going through the regular budget process.

[8:55:09 AM](#)

SENATOR HOFFMAN pointed out that the chairs of the finance subcommittees overseeing the department are both from Nome, and surmised that if the Legislative Budget and Audit Committee doesn't bail out the department by approving the funding for this project, the department will not be viewed favorably by those chairs during next year's budget process.

8:56:11 AM

SENATOR THERRIAULT suggested that the committee take up this issue later in the meeting and proceed with its other business, thus giving the department some time to gather more information for the committee.

CHAIR SAMUELS noted that the department knew about the shortfall back in November, adding that he will still be requesting an audit of the project.

REPRESENTATIVE HAWKER pointed out that the committee is under no obligation to approve the RPL, particularly given the department's lack of documentation that the project really does address a safety issue. Characterizing the department's testimony and preparation as inadequate, he said that although the committee is willing to fix the problem, that needn't entail simply acquiescing. The department has sent out a sacrificial lamb in the person of Mr. Maggard, Representative Hawker remarked, instead of the people who need to be held accountable. He said he will be voting "no" on this RPL, adding that the committee could have another meeting on this RPL on very short notice and take care of it at that time. He offered his belief that approving the RPL at this time would be irresponsible given the lack of information brought forth.

8:58:30 AM

SENATOR HOFFMAN made a motion to approve RPL 25-8-2001. He opined that the project is justified despite the department's incompetence in this matter, adding that the department's problem does need to be addressed but not at the expense of the citizens of Nome.

REPRESENTATIVE MEYER objected to the motion for the purpose of discussion. He asked whether the committee would be willing to instead address the RPL later in the week after the department has provided the committee with more information.

CHAIR SAMUELS asked Mr. Maggard what such a delay would do to the department's timeline.

MR. MAGGARD remarked that the department won't go forward with the project before the bid opens and that is currently scheduled for July 19; therefore, if it is the committee's desire to have other department personnel come before it and present additional

information, as long as the bid opening is not delayed, then the project's timelines shouldn't be affected.

[9:00:15 AM](#)

SENATOR THERRIAULT again suggested simply addressing this issue later in the meeting in order to give the department time to possibly provide acceptable answers. However, the breakdown in the process still warrants further investigation regardless of whether or when the RPL is approved.

SENATOR HOFFMAN withdrew the motion to approve RPL 25-8-2001.

CHAIR SAMUELS relayed that the committee would set aside discussion of the RPL 25-8-2001 until later in the meeting in order to give the department time to provide further information.

#### **EXECUTIVE SESSION**

[9:02:08 AM](#)

CHAIR SAMUELS announced that the next order of business would be committee discussion of confidential audit reports during 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 9:02 a.m.

CHAIR SAMUELS brought the committee back to order at 9:52 a.m.

#### **RELEASE OF AUDITS**

[9:52:19 AM](#)

REPRESENTATIVE HAWKER made a motion for the final audit reports for the [State of Alaska single audit for fiscal year ending June, 30, 2006, and for the Department of Commerce, Community, & Economic Development (DCCED), Alaska Aerospace Development Corporation] to be released to the public for response. There being no objection, it was so ordered.

[9:52:43 AM](#)

REPRESENTATIVE HAWKER made a motion for the preliminary audit reports for the Department of Health and Social Services, Alaska Commission on Aging, sunset; for the Department of Commerce, Community, & Economic Development, Real Estate Commission, sunset; and for the Department of Corrections, Community Jail Program to be released to the appropriate agency for response. There being no objection, it was so ordered.

**REVISED PROGRAM - LEGISLATIVE (RPLs)**

9:54:22 AM

CHAIR SAMUELS announced that as the final order of business the committee would return to the discussion of RPL 25-8-2001 from the Department of Transportation & Public Facilities (DOT&PF) regarding the Nome Airport rehabilitation project.

The committee took an at-ease from 9:55 a.m. to 9:57 a.m.

9:57:32 AM

JOHN TORGERSON, Deputy Commissioner of Aviation, Office of the Commissioner, Department of Transportation & Public Facilities (DOT&PF), relayed that Alaska Airlines has raised [the condition of the Nome Airport's runways] as a major concern, and although he has not heard specifically that the company will stop flying into Nome, that is a possibility if runway conditions continue to deteriorate. Also there are already two contractors in Nome completing [Stage I of the] project and the equipment to do Stage II of the project is still there, so if one of those contractors was the successful bidder on Stage II, mobilization costs would not be so high.

MR. TORGERSON, on the issue of not presenting the RPL until now even though the department knew of the cost estimate increase in November of last year, pointed out that the project was already approved for \$4.24 million, and explained that the department's standard policy is to have the APEB review any project that has a cost increase of more than 100 percent or more than \$4 million; this review was completed in February of 2007 and so it wasn't an official project to be submitted to the legislature until that time. He offered his understanding that the project actually was submitted, and surmised that perhaps it was simply overlooked because it had the same name as the current project. With regard to the question of what projects will be delayed, he offered his understanding that a "safety area drainage" project at the airport in Cordova is the project that will be delayed by

one year, and this delay will not cause any problems with the airport itself.

SENATOR THERRIAULT questioned whether the contractors who are on site in Nome will be able to force the department to pay whatever they want to charge regardless that mobilization costs may be lower.

MR. TORGERSON said the cost estimate doesn't account for a possible reduction in mobilization costs, and that he doesn't know that either of the two aforementioned contractors that are already on site will even submit bids or be the low bidders on the project.

SENATOR THERRIAULT asked what caused the cost estimate to increase so dramatically.

MR. TORGERSON surmised that the cost of inflation contributed as did the discovery of four sinkholes on the runway - and that might technically be considered a scope increase - and relayed that Cynthia Little from the department's Statewide Design & Engineering Services section will be able to provide more details once she joins the meeting. He explained that the regional directors and their planners put together the different projects at the state's 261 airports, and then those projects are submitted to the APEB, which is made up of all the regional directors, himself, and the director of statewide maintenance and program management. Once the grant applications are submitted, Mr. Torgerson relayed, Roger Maggard and he approve the grants and send them to the FAA and the federal government for reimbursement.

REPRESENTATIVE HAWKER said it is troubling that this project has been categorized as an "emergency" project. Even if it has been prioritized by the department as an emergency-status project, the department knows when the legislature convenes and when the budget process takes place, and yet the priority status of the project was not relayed to the legislature until now even though the department knew about the cost estimate increase back in November.

[10:07:53 AM](#)

MR. TORGERSON acknowledged the point that this issue should have been dealt with during the legislative session but instead got lost in the process. That does not make it a lesser project, however, and the only option at this time is to have the

Legislative Budget and Audit Committee deal with it now. In response to a question, he reiterated that the "safety area drainage" project at the airport in Cordova is the project that will be delayed as a result of the cost estimate increase for the Nome airport project.

MR. TORGERSON, in response to questions, indicated that Stage I of the project is wrapping up; that the cost estimate increase pertains to Stage II of the project, which deals with the crosswind runway; that he is not aware of contract disputes arising from Stage I; and that the department has a good relationship with the contractors in Nome though that relationship is only contractual in nature. In response to further questions, he confirmed that the cost estimate increase was reviewed and approved by the APEB but was then inadvertently left out of the regular legislative budget process; that the APEB often rejects increases in project costs and doesn't just rubberstamp them; and that from the point that a project is approved, it goes to Roger Maggard who then submits the appropriate language to Nancy Slagle who in turn submits it to the Office of Management & Budget (OMB) and then to the legislature.

[10:14:27 AM](#)

CYNTHIA M. LITTLE, Engineer/Architect III, Northern/Interior Region, Statewide Design & Engineering Services, Department of Transportation & Public Facilities (DOT&PF), in response to questions, explained that she is the engineering manager; that original [project-cost-estimate] submittals are generally based on very little engineering and design information; that [after initial approval of this project], as time progressed, the department conducted fairly extensive drilling to determine why there was so much settling of the sub-grade; that a fair bit of that settling has occurred just in the past year or so; that once that data was gathered, the department then came up with a "much better set of plans" and then developed estimates based on those plans; that in the planning stage, when the department submits budgets for projects and scope, it generally knows very little and simply makes a best guess; that now the department has a lot more detailed information regarding what the project will cost and has since produced a more realistic cost estimate; and that the cost estimate has increased because more detailed information has been gathered.

[10:16:39 AM](#)

SENATOR HOFFMAN sought confirmation that the department had ascertained, as a result of the aforementioned drilling, that more material has to be excavated.

MS. LITTLE replied, "Some areas were slated for excavation, others were not, due to the subsurface, so I don't know that overall ... we ended up excavating more, but we determined there were a lot more areas that needed to be repaved than what we originally thought." In response to a further question, she said it is possible, but not guaranteed, that Stage II of the project will be done this year; she warned that it is difficult to get oil into Nome and there is only a very short season to pave, and that the paving needs to be done before [the end of] August because of weather conditions.

CHAIR SAMUELS asked whether there will be a safety problem or a [reduction in] air service if Stage II is not done this year.

MS. LITTLE said that the airport may have to restrict the type of aircraft that are allowed to fly into Nome, and this could disrupt service somewhat. In response to a question, she indicated that the [project involves] the crosswind runway and the intersection of the two runways, adding that it is much more efficient to repave the intersection when the crosswind runway is paved because the grades on the crosswind runway have to be [matched] and those grades change in the area of the intersection. In response to a further question, she named the two contractors working on Stage I of the project.

[10:19:16 AM](#)

MS. LITTLE, in response to a question, relayed that she is a civil engineer, and that she knows the length requirements for the different aircraft flying in the Nome area; if Stage II does not get done, it could potentially result in having to close sections of the crosswind runway, thus shortening it. In response to further questions, she offered that there are "batch plants" on site in Nome, though she is not sure whether they already have enough oil on site; that if there is not enough oil on site it might preclude getting the paving done by an August 30 deadline; that the department has not yet specified where the gravel would come from but potentially it could be gotten locally; and that although not yet repaved, the intersection is still functioning.

[10:23:22 AM](#)

REPRESENTATIVE HAWKER asked Mr. Torgerson whether he believes the project is a state responsibility.

MR. TORGERSON said he does because the state owns the airport. In response to another question, he said he assumes that state-owned highways/roads are also the state's responsibility.

REPRESENTATIVE HAWKER, referring again to the governor's veto of a capital project involving roads in his district, said he will be voting "no" on the RPL until someone can explain to him why the roads that service the people of his district are not considered a state responsibility.

[10:24:36 AM](#)

REPRESENTATIVE DOOGAN asked how often the crosswind runway is used by Alaska Airlines and whether that use is predictable.

MR. TORGERSON said he doesn't know how often the crosswind runway is used, but pointed out that it is an important runway because, once a plane has flown to Nome, it has no alternative but to use the crosswind runway if there is a strong wind on the mainland.

MS. LITTLE said she would research how often the crosswind runway is used.

[10:25:47 AM](#)

REPRESENTATIVE KELLY said that although the project probably really does need to be done and the RPL does need to be approved, "this thing came in here sliding sideways and I think you know that." This isn't the way to do this, he opined, and somebody ought to be researching how to do it better in the future because it seems like it is not possible lately to get [an accurate] estimate in the early phases of any given project. Furthermore, because there was such a drastic increase in the cost estimate, it should have had commissioner-level attention paid to it.

MR. TORGERSON agreed to work on developing a better process, and acknowledged that the department was not prepared with sufficient answers this time.

[10:29:18 AM](#)

CHAIR SAMUELS said his concern revolves around whether this project really does address a safety issue; because this project didn't go through the regular budget process, "we don't know what the tradeoff is, we don't know if it's really a safety factor ..., we don't how it affects the people of Cordova, ... and now here we are - the poor six of us - going to decide whether ... to have this project." He too opined that the process really broke down in this instance.

MR. TORGERSON concurred.

[10:31:04 AM](#)

SENATOR HOFFMAN again made a motion to approve RPL 25-8-2001.

REPRESENTATIVE HAWKER objected. He remarked:

I think it's real important that the legislature preserve our power to appropriate; that is one of our ... fundamental constitutional duties. In this case, in that we've only got, basically, ... a very limited group up there, their estimators, their bidders, are sitting there today watching this process going, "How much money do they give me, ... how much can I bid." I don't want to give away the farm ... even ... with [the] limited ... bit of competition we may have up there. I think the proper sequence is, bid it, review it, and then fund it; let them know that ... if we review it and we don't feel comfortable with it, it doesn't get appropriated.

I don't like just laying the money out there, and we've seen the failure of the department ... in this issue. What more are they going to do up there but ... bid to the penny what we've got available, and [the department is] ... going to write them a check for it. I just don't think that's diligence. And while I respect the process, ... I still haven't received an answer about why is this a fundamental state responsibility and the safety of the people ... that I represent who travel on state roads is not a state responsibility. And until that conflict is resolved I'm going to have a very difficult time supporting a furtherance of what I think was an absolutely atrocious process, here.

REPRESENTATIVE DOOGAN said he would not be voting to approve the RPL, adding that he doesn't know any more about the project than he did before the committee set this issue aside earlier. Furthermore, the project may still not get done this year even if the money is appropriated, and he still hasn't heard for sure whether the runway in question is going to be unusable between now and when the next regular budget is passed if the RPL doesn't get approved today. He noted that the committee has not heard directly from either of Nome's legislators or from the airline that flies jets into Nome, and thus the committee still doesn't know the scope of need for the project. He said he doesn't believe that the Legislative Budget and Audit Committee was ever set up to be the primary appropriating body, which, he opined, is what it is being asked to do in this instance, and the committee hasn't been given a particularly good explanation of why was it that a problem that the department knew about in February didn't get into the regular budget process. In conclusion, he said he is not willing to believe the people who made the mistake in the first place that this RPL has to be approved right now.

[10:35:06 AM](#)

SENATOR THERRIAULT said he doesn't believe that delaying the Cordova project will put the traveling public in peril. On the issue of the whether roads are a state responsibility, he noted that although legislators sometimes put pressure on the department "to take on roads," the department is reluctant to take what is essentially earmarked money that the department hasn't asked for because if it does so it will be expected to forever maintain a piece of road that it built ditches on, for example. He added:

I don't know the specifics of Representative Hawker's concerns about projects that were vetoed, whether they're subdivision roads, collector roads, main roads that were vetoed, [though] there could be a legitimate question. I know ... in my district there are roads that [the DOT&PF maintains] that there's an ongoing struggle between the local government and the state on whether, in fact, they're a state responsibility or [whether] they should be a local government responsibility. So, being upset about a particular veto, I don't know whether that should drive the decision here on this project.

SENATOR THERRIAULT, on the issue of whether the Legislative Budget and Audit Committee is making a major budgetary decision, pointed out that the member who is also the co-chair of the House Finance Committee and also the person in charge of the capital budget for the House has said that if this project had been included in the capital budget, it probably would have been approved. He remarked on the possibility that if this project is delayed for another year it will cost more. The project most certainly has to be done, he concluded, and it should be done now while the cost is as low as possible rather than later.

[10:38:41 AM](#)

REPRESENTATIVE KELLY, remarking that the DOT&PF has a problem, expressed hope that the new administration will change the current system so as to get better cost estimates, opining that this is an egregious example of how the current system is not working.

[10:39:45 AM](#)

SENATOR HOFFMAN acknowledged that if the RPL isn't approved, the project will potentially be delayed, and surmised that if the motion fails, the committee will simply be meeting again on the issue. The need for the project is there, and the department has acknowledged that there are problems, he remarked.

REPRESENTATIVE HAWKER expressed a concern that those voting on the issue have not been present for the entire debate.

SENATOR HOFFMAN said, "Question."

The committee took a brief at-ease.

A roll call vote was taken. Representatives Chenault, Kelly, and Samuels, and Senators Hoffman and Therriault voted in favor of approving RPL 25-8-2001. Representatives Doogan and Hawker voted against it. Therefore, the motion to approve RPL 25-8-2001 failed by a vote of 5-2.

The committee took an at-ease from 10:42 a.m. to 10:48 a.m.

SENATOR HOFFMAN moved to rescind the committee's action in failing to adopt RPL 25-8-2001. There being no objection, the committee rescinded its action, thus bringing the motion to approve RPL 25-8-2001 back before the committee.

A roll call vote was taken. Representatives Chenault, Kelly, and Samuels, and Senators Hoffman, Stedman, and Therriault voted in favor of approving RPL 25-8-2001. Representatives Doogan and Hawker voted against it. Therefore, the motion to approve RPL 25-8-2001 passed by a vote of 6-2.

CHAIR SAMUELS said he would be working with the Division of Legislative Audit to follow up on this project and the DOT&PF's internal process in an effort to determine where it broke down.

**ADJOURNMENT**

There being no further business before the committee, the Legislative Budget and Audit Committee meeting was adjourned at 10:51 a.m.