

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

Anchorage, Alaska

June 25, 2010

2:05 p.m.

MEMBERS PRESENT

Senator Kevin Meyer, Chair
Senator Charlie Huggins
Senator Linda Menard
Senator Bert Stedman
Representative Mark Neuman
Representative Bill Stoltze
Representative Chris Tuck (Alternate)

MEMBERS ABSENT

Representative Mike Hawker, Vice Chair
Senator Lyman Hoffman
Representative Bill Thomas
Representative Mike Doogan
Senator Donald Olson (Alternate)
Representative Nancy Dahlstrom (Alternate) (Resigned 5/31/10)

COMMITTEE CALENDAR

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

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

AMANDA RYDER, Fiscal Analyst
Legislative Finance
Juneau, Alaska

POSITION STATEMENT: Explained the RPLs before the committee.

MICHELLE RIZK

University of Alaska
(No address provided)

POSITION STATEMENT: During discussion of RPL 07-0-1148, answered questions.

ALLISON ELGEE, Assistant Commissioner
Department of Health and Social Services
Juneau, Alaska

POSITION STATEMENT: During hearing of RPL 06-1-0102, answered questions.

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

POSITION STATEMENT: Provided information on the audit request.

DENISE LICCIOLI, Staff
Senator Olson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided information on the audit request regarding the Alaska Coastal Management Program.

BOB PAWLOWSKI, Staff
Senator Meyer
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Offered information regarding the contract amendments and the reimbursable service agreement.

DICK MYLIUS, Director
Division of Mining, Land and Water
Department of Natural Resources (DNR)
Anchorage, Alaska

POSITION STATEMENT: Discussed the RSA request for DNR.

TINA CUNNING, Subsistence & Federal Issues
Division of Sport Fish
Alaska Department of Fish & Game (ADF&G)
Anchorage, Alaska

POSITION STATEMENT: Discussed the RSA request for ADF&G.

ACTION NARRATIVE

[2:05:42 PM](#)

CHAIR KEVIN MEYER called the Legislative Budget and Audit Committee meeting to order at 2:05 p.m. Senators Meyer, Huggins (via teleconference), Menard, and Stedman and Representatives Stoltze and Tuck (Alternate) were present at the call to order. Senator Olson and Representative Neuman arrived as the meeting was in progress. Also in attendance were Senator Stevens and Representative Ramras.

APPROVAL OF MINUTES

2:07:28 PM

CHAIR MEYER announced that the first item of business would be approval of the minutes from the prior meeting.

2:07:36 PM

REPRESENTATIVE STOLTZE made a motion to approve the minutes of May 14, 2010. There being no objection, the minutes from the meeting of May 14, 2010 were approved.

REVISED PROGRAM - LEGISLATIVE (RPLs)

2:07:53 PM

CHAIR MEYER announced that the next item of business would be various Revised Program - Legislative (RPLs). Chair Meyer reminded the committee that the RPLs would be introduced. Those RPLs without objection will be approved and those RPLs with an objection would be set aside and taken up at the end of the RPLs.

2:08:43 PM

AMANDA RYDER, Fiscal Analyst, Legislative Finance, began with RPL 06-0-0600 from the Department of Health and Social Services (DHSS). The request is for \$450,000 of Statutory Designated Program Receipts (SDPR) in the Women, Infants and Children (WIC) allocation because the amount of the manufacturers' rebates that were to be received in fiscal year (FY) 2010 from infant formula was underestimated. Federal law requires that all manufacturers' rebates be used to offset federal payments. This request will provide sufficient SDPR authorization to comply with federal law.

2:09:57 PM

CHAIR MEYER asked if there were any objections to RPL 06-0-0600. There were no objections.

[2:10:14 PM](#)

MS. RYDER continued with RPL 06-1-0101, which is a request from DHSS for \$1,518,700 in American Recovery and Reinvestment Act of 2009 (ARRA) funds for the transfer and implementation of the State Agency Model (SAM) management information system. The system will replace the agency's legacy WIC system. Although this is a FY 11 request, DHSS believes that waiting until the next Legislative Budget and Audit Committee meeting will cause further delay in procuring contractors. Furthermore, delay may make it difficult to expend the funding prior to the September 30, 2011, deadline. The total cost of the project is \$3.3 million and the department still needs \$354,700 for the project. However, DHSS anticipates receiving future federal funding.

[2:11:12 PM](#)

CHAIR MEYER asked if there were any objections to RPL 06-1-0101. There were no objections.

[2:11:30 PM](#)

MS. RYDER turned to RPL 06-1-0102 in which DHSS is requesting \$30,500 of ARRA funds in the chronic disease prevention and health promotion allocation to develop a chronic disease self-management program (CDSMP) specifically for seniors. The program will be housed in four senior centers in the Anchorage Borough. This FY 11 finding is being requested now since DHSS is required to initiate activities within 120 days of the notice of the grant award. The August 20, 2010, scheduled JBUD meeting is past that deadline. She noted that receipt of these funds isn't expected to impact future general funds.

[2:12:20 PM](#)

REPRESENTATIVE STOLTZE inquired as to which four senior centers in Anchorage this RPL targets.

[2:12:38 PM](#)

CHAIR MEYER announced that RPL 06-1-0102 would be held.

[2:12:52 PM](#)

MS. RYDER moved on to RPL 06-1-0103 through which DHSS is requesting \$2.3 million of ARRA funds in the Work Services allocation for the Alaska Temporary Assistance Program (ATAP). This federal emergency funding is available to states that have experienced an increase in their Temporary Assistance for Needy Families (TANF) caseloads. She explained that this FY 11 funding is being requested now because DHSS would like to provide funding to the Department of Labor & Workforce Development for the Summer Youth Employment Program. She highlighted that no general funds (GF) will be used and no GF match is required to receive these funds.

[2:13:40 PM](#)

CHAIR MEYER asked if there were any objections to RPL 06-1-0103. There were no objections.

[2:13:54 PM](#)

MS. RYDER continued with RPL 07-0-1149, a request from the Department of Labor & Workforce Development (DLWD) for \$18,200. The U.S. Department of Education increased the maximum Title IV Pell Grant award to postsecondary students in FY 10 and recently authorized a second Pell Grant award for those students who received a Pell Grant award earlier this year. The department is requesting the aforementioned funding in order to accommodate the increased award amount because Alaska Vocational Technical Center (AVTEC) doesn't have enough authorization in its budget. Ms. Ryder pointed out that since this funding simply passes through AVTEC to postsecondary students, the request won't increase operating costs. Furthermore, there are no current or future GF impacts.

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CHAIR MEYER asked if there were any objections to RPL 07-0-1149. There were no objections.

[2:15:03 PM](#)

MS. RYDER then addressed RPL 45-0-1148 in which the University of Alaska is requesting \$321,434 of ARRA funding in order to proceed with a contract for the NSF: NASA: "Operation Ice Bridge." She noted that no GF will be used and no match is required to receive this funding.

[2:15:36 PM](#)

REPRESENTATIVE STOLTZE inquired as to which campus this funding is intended.

MS. RYDER, upon a quick scan of RPL 07-0-1148, said that it appears the funding is for the University of Alaska Fairbanks campus.

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MICHELLE RIZK, University of Alaska, confirmed Ms. Ryder's understanding that the funding is for the University of Alaska Fairbanks.

REPRESENTATIVE STOLTZE requested that the university provide easier identification as to which campus the funds are intended in future requests.

MS. RIZK offered to do so. She offered to ensure that the campus is in the title of future requests.

[2:18:15 PM](#)

CHAIR MEYER, upon determining there were no objections, announced that RPL 07-0-1148 would be approved.

[2:18:28 PM](#)

CHAIR MEYER then returned the committee's attention to RPL 06-1-0102, which was held over for response to a question from Representative Stoltze.

[2:18:50 PM](#)

ALLISON ELGEE, Assistant Commissioner, Department of Health and Social Services, clarified that the following three senior centers will participate in the CDSMP: the Anchorage Senior Center, the Chugiak Senior Center, and the Palmer Senior Center. Additionally, the Tribal Elder Senior Center located at the Southcentral Foundation in Anchorage will also participate.

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REPRESENTATIVE STOLTZE made a motion to approve the following RPLS: 06-0-0600, 06-1-0101, 06-1-0102, 06-1-0103, 07-0-1149,

45-0-1148. There being no objection, the aforementioned RPLS were approved.

AUDIT REQUESTS

[2:21:23 PM](#)

CHAIR MEYER announced that the next order of business would be audit requests the committee has received. He informed the committee that it had received a request from Senator Olson to audit the Alaska Coastal Management Program. Additionally, the request included providing the audit sufficient priorities so that the final audit report can be completed and available by the beginning of the next legislative session.

SENATOR OLSON explained that the audit is desired in order to obtain information regarding how the coastal zone management worked prior to 2003 and after the program was revamped in 2003. This last session there was legislation regarding the coastal zone management program that was fairly divisive. The aforementioned coupled with the oil spill in the Gulf of Mexico has prompted the audit request. Senator Olson related that the few [coastal zone management] plans that have been approved were performed with a fair amount of difficulty.

CHAIR MEYER remarked that Senator Olson's audit request seems to be fairly specific, and therefore he asked if that's fairly typical.

[2:25:25 PM](#)

PAT DAVIDSON, Legislative Auditor, Division of Legislative Audit, Alaska State Legislature, told the committee that she had the opportunity to work with Senator Olson's staff in terms of asking preliminary questions on the draft request. Therefore, she opined that the division has a good understanding of the issues that Senator Olson's request is targeting. However, she said the committee may want to consider that the 2005 legislation that passed included a repealer of the Alaska Coastal Management Program statutes. Those repealers take effect July 1, 2011. Oftentimes, a sunset review is requested for boards, commissions, and programs. However, the Alaska Coastal Management Program doesn't include the automatic sunset review and thus the committee may wish to consider whether there are other questions that are typically included in the sunset review that the committee may want to include in the report because it's likely that legislation will be introduced next

session that would require members to vote on whether to extend the program in its entirety.

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SENATOR STEDMAN remarked that the more information that's available, the better. He then asked if Ms. Davidson spoke with Senator Olson regarding any standard questions that are asked during a sunset review. If such a dialogue occurred, he asked what the outcome was.

MS. DAVIDSON specified that there are 11 factors she typically includes in a sunset review. She explained that when she discusses issues with those who request an audit, she tries not to direct the discussion. However, she said she did discuss with Senator Olson's aide the fact that the entire program will be terminated unless the legislature acts next session. She said she did ask whether the requestor wanted to add the [sunset review] criteria.

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SENATOR OLSON explained that he wanted to ensure that the request could be performed as efficiently as possible.

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DENISE LICCIOLI, Staff, Senator Olson, Alaska State Legislature, related her understanding that the audit request was formulated as it was because although the program is going to sunset, the sunset didn't require an audit. Upon discussions with Ms. Davidson, some of the 11 factors typically considered in a sunset review were determined to be relevant and thus were included in the audit request. There were also areas of specific concern that Senator Olson wanted to be reviewed more deeply than would otherwise be the case. Therefore, the audit request was written to obtain information that would be helpful in terms of the path for the future, particularly if the program is continued.

2:31:23 PM

SENATOR OLSON, in response to Chair Meyer, reiterated that he wanted specific areas highlighted during the review. While other [factors] could be included, he indicated the need not to encumber the auditors and allow the review to occur in a timely fashion.

MS. LICCIOLI related that in her discussion with the Legislative Audit Division, the division said it could review all 11 factors. However, some of the 11 factors may not be as applicable in this situation and would take more time. Therefore, in the interest of time the request specifies those factors of most importance, although Ms. Liccioli said the audit requestor wouldn't object to the division reviewing what it feels should be reviewed.

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MS. DAVIDSON concurred with Ms. Liccioli that item 7 of the 11 factors won't be applicable to this program. Item 7, which refers to the extent to which a board or commission that regulates entry into an occupation or profession has presented qualified applicants to the public. With regard to the deadline, Ms. Davidson said that the deadline will be met. Furthermore, she said that the deadline would be met even with the addition of the possibly five other items to the request.

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REPRESENTATIVE STOLTZE questioned how the audit would work. He related his understanding that the administration didn't want the extension. He asked if the communities [involved in the program] would be audited. This doesn't seem like a traditional audit, he said. In fact, usually the administration is supporting extensions of its boards and commissions. Furthermore, the department has made its policy statement through the legislative process. Representative Stoltze said that although he understands what Senator Olson desires, he questioned whether the audit would accomplish it.

[2:35:13 PM](#)

SENATOR OLSON acknowledged that it's not a traditional audit. However, there are outstanding concerns. Senator Olson reminded the committee that the administration isn't in favor of an audit, and therefore he considered that a reason to have an audit to determine if the program has been effective since being revamped. With regard to the technical aspects of the audit, Senator Olson deferred to Ms. Davidson.

MS. DAVIDSON characterized this as an odd situation. She reminded the committee that in 2005 there was an attempt to include an automatic sunset review of the program, but its

placement in the statute would have required this committee to, last year, identify the program and set it up for sunset. Since the committee didn't act last year, the only way for the legislature to consider [the program] is through a special legislative request that would be approved by this committee. She recalled that before one of the Finance Committees the committee staff carrying the 2005 legislation indicated that the legislation automatically triggered an audit and the Legislative Budget and Audit Committee didn't have to act. However, the placement in statute didn't accomplish the aforementioned. Therefore, those who questioned when the audit would occur were told they would have to submit an audit request to the committee.

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REPRESENTATIVE STOLTZE expressed interest in learning how this audit would be performed.

MS. DAVIDSON said she would view this as a classic performance audit that the agency has performed in the past. Therefore, there would be review regarding whether the agency is made in its mission; is the agency performing what it's statutorily designed to do; and is the program as effective under the current statute as it was in a prior statutory regime. Ms. Davidson related that folks in the communities [where the program exists] will be interviewed, meeting minutes will be reviewed, and decisions analyzed. The legislation creating many of these statutes has purposes that provide the legislature's intent regarding what the program is to do. The term "statutory intent" can be a bit vague.

REPRESENTATIVE STOLTZE expressed reluctance with starting a habit of triggering performance audits because [sunset reviews] may be added based on individual legislative prerogative and without much depth of analysis. He said that although he won't oppose this audit request, he didn't want performance audits to become automatic on passed legislation.

SENATOR OLSON remarked that Representative Stoltze has valid concerns and asked whether there is another option besides the classic performance audit.

REPRESENTATIVE STOLTZE reiterated that he wants to simply caution the committee and not have performance audits become a matter of routine.

2:41:54 PM

CHAIR MEYER suggested that the committee move forward and include all 11 audit points.

SENATOR OLSON interjected his understanding that there are only 10 applicable audit points.

MS. DAVIDSON confirmed that of the 11 statutory audit points there are only 10 applicable audit points.

SENATOR HUGGINS noted his support for Senator Olson's request, but pointed out that it's a statewide program and thus must have a statewide perspective in the review.

CHAIR MEYER surmised that including the 10 applicable audit points will achieve a statewide perspective.

SENATOR HUGGINS expressed the need to hear concerns from the various geographic areas.

2:43:44 PM

REPRESENTATIVE STOLTZE made a motion to approve the audit request with the modification that it includes the applicable points in AS 44.66.050(c)(1)-(11). He further made a motion that the report has sufficient priority to ensure that the report is available prior to the next legislative session. There being no objection, the audit request was approved.

2:45:12 PM

CHAIR MEYER announced that the next order of business would be a request for a task force to review the Alcoholic Beverage Control Board (ABC Board). He reminded the committee that last year the committee reviewed the audit for the ABC Board. The audit discussed the policies and procedures and the strategic enforcement plan as well as the direction and focus of the ABC Board. The committee accepted and released the audit. However, the committee didn't follow the auditor's recommendation to grant the board a four-year extension; rather it extended the board for one year. The committee wanted to have additional discussion regarding the best place for the board to be housed, whether it is in the Department of Revenue, the Department of Public Safety, or the Department of Commerce, Community, & Economic Development. The committee wanted to review the aforementioned and consider extending the board after the task

force had an opportunity to review the concerns with the board. The chair and vice chair determined that a task force would be the best way to investigate the issues surrounding the board and make recommendations to the committee.

CHAIR MEYER sought volunteers to serve on the task force.

MS. DAVIDSON categorized the issues in the sunset review of the ABC Board as administrative issues and enforcement issues. With regard to the enforcement issues, the audit found that there was no real strategic plan to allocate resources for enforcement issues. The audit found that wherever the investigators were located was where most of the [enforcement] activities occurred. Therefore, the report recommended the ABC Board review the aforementioned and develop a more strategic decision regarding where the risks lay and apply the enforcement activities accordingly. Ms. Davidson pointed out that in the agency's response to the audit, it indicated that the ABC Board had taken some action in that a plan had been developed and the administrative issues had been addressed as well. In response to Chair Meyer, Ms. Davidson confirmed that some of the administrative issues included the data collection, accounting, book and record keeping, and notification practices.

[2:49:19 PM](#)

CHAIR MEYER noted that Representative Stoltze wants to be a member of the task force.

SENATOR STEDMAN related his understanding, which was confirmed by Ms. Davidson, that the ABC Board will sunset this next year and then legislative action, a one-year sunset, will be necessary. He further surmised, then, that the chair is requesting that the committee establish a subcommittee to make recommendations to the full legislature regarding [the ABC Board].

CHAIR MEYER clarified that the intent would be for the subcommittee to provide its recommendations to the full committee. He asked if another audit would then be performed.

MS. DAVIDSON answered that the discussion was to perform a limited scope review and following up on the prior recommendations.

SENATOR STEDMAN surmised that the committee would likely forward a report to the full legislature.

CHAIR MEYER replied yes. Chair Meyer said that three members on the task force would suffice and that the intent is for those members to meet with the Cabaret Hotel Restaurant & Retailer's Association (CHARR) and the ABC Board.

SENATOR MENARD said that she would serve on the task force if no one else is interested.

OTHER COMMITTEE BUSINESS

2:51:50 PM

CHAIR MEYER announced that the next item on the agenda is other committee business under which the committee would consider the contract amendments and reimbursable service agreement. He specified that the committee would first consider the contract amendments for the three oil and gas consultants: Dr. David Wood working as DWA Energy Limited, Daniel Dickenson, and Logsdon & Associates.

2:52:31 PM

BOB PAWLOWSKI, Staff, Senator Meyer, Alaska State Legislature, informed the committee that the committee packet includes an extension of the DWA Energy for Dr. Wood & Associates. The extension would be to December 31st and change the project director to Mr. Pawlowski from the date of the contract amendment to August 30th at which time Mr. Applebee will return and be the project director until December 31st. There would also be an increase in the contract amount to \$392,750. To date, Dr. Wood has \$78,800 left in his account to perform business through to the end of the year. A reasonable [burn-down rate] would require another \$100,000.

SENATOR STEDMAN expressed a reluctance to short fund this particular project or lose the consultant who developed the economic model for the state's oil basin and the potential upcoming requests for changes from the industry. Senator Stedman said he would like for Dr. Wood to continue his working relationship with the committee and the legislature. He also expressed the need for the committee, in January, to extend [the consulting] agreement with Dr. Wood in order to ensure that the state [maintains a relationship] with the creator of its economic model because the complexity of the issue is immense. Therefore, Senator Stedman stated that he is in favor of extending Dr. Wood's contract.

[2:56:10 PM](#)

CHAIR MEYER clarified that the contracts would be extended to the end of the year and thus the committee will have an opportunity in December to extend the contracts again or not.

SENATOR STEDMAN added that the administration has a Request for Proposals (RFP) for an extension in excess of \$2 million. The legislature has been frugal in comparison, while retaining the tools necessary to provide the legislature to act.

[2:57:35 PM](#)

REPRESENTATIVE STOLTZE made a motion to amend the DWA Energy Limited contract such that it's increased to an amount not to exceed \$392,740. There being no objection, it was so ordered.

[2:58:23 PM](#)

MR. PAWLOWSKI then turned the committee's attention to the no-cost time extension for Daniel Dickenson. Presently, Mr. Dickenson's contract is for \$207,250 and has an existing balance of \$90,650. Under his current services rate, Mr. Dickenson will still have funds remaining by the end of the year. The proposal before the committee is to amend Mr. Dickenson's contract with a no-cost extension to December 31, 2010, and also changes the project director from the time of signing to August 30 to Mr. Pawlowski and to Mr. Applebee from August 31 through December 31.

[2:59:26 PM](#)

REPRESENTATIVE NEUMAN asked if there is a list of the projects on which Mr. Dickenson is working.

MR. PAWLOWSKI offered to provide such a list to the committee after the meeting.

[2:59:57 PM](#)

MR. PAWLOWSKI, in response to Representative Stoltze, confirmed that this is the third amendment to Mr. Dickenson's contract.

CHAIR MEYER then announced that the amendment to Mr. Dickenson's contract would be approved.

3:00:15 PM

CHAIR MEYER announced that the committee would now address the contract with Logsdon & Associates.

MR. PAWLOWSKI explained that the contract with Logsdon & Associates was originally for \$250,000. Currently, \$173,600 in unexpended funds remains. The request is for a no-cost extension to allow for continued support of the oil and gas work. Mr. Pawlowski pointed out that this would be the first amendment to the contract with Logsdon & Associates.

CHAIR MEYER highlighted that this is also a no-cost extension of the contract. He offered his understanding that most of the work by Logsdon & Associates was performed during this session and thus they may not be doing much at this time. Regardless, the goal is to keep Logsdon & Associates on contract until the end of the year.

MR. PAWLOWSKI interjected that this contract amendment would also include an amendment changing the project director from the time of signing to August 30 to Mr. Pawlowski and to Mr. Applebee from August 31 through December 31, which is consistent with the other two contract amendments.

CHAIR MEYER, upon determining there were no objections, announced that the amendment to the contract with Logsdon & Associates was approved.

3:02:08 PM

CHAIR MEYER directed the committee's attention to the Reimbursable Service Agreements (RSAs) with Alaska Department of Fish & Game (ADF&G) and the Department of Natural Resources (DNR) for navigable waters and the RS2477 access corridors.

3:02:45 PM

DICK MYLIUS, Director, Division of Mining, Land and Water, Department of Natural Resources (DNR), explained that before the committee is a request for a RSA for ADF&G in the amount of \$75,100 and for DNR in the amount of \$73,000. The department has held similar agreements with this committee since 2003. The funds have been a key part of the funding for the navigable waters and RS2477 program. Although in some years the focus of the funding request has been on RS2477s, this year the focus is on navigable water issues that have come to a head. The

department is working on applying for recordable disclaimers of interest (RDI) for navigable waters. In fact, the department received a large grant from the Federal Bureau of Land Management (BLM) to perform historical research on navigable waters. However, those funds aren't available for any administrative overhead for the program, filing the RDIs, or to pay any of the administrative costs to BLM. Therefore, DNR would use its share [of the RSA] for those items for which the BLM funds can't be used. Mr. Mylius noted that DNR is involved in litigation over two navigable waters: the Kotsina River and the Skagway River. Some of the funds requested today will be used to augment those litigation efforts. He then noted that the department is preparing for possible title action on the 40 mile River, which will require a fair amount of funding. Mr. Mylius informed the committee that the [department] lost its funding from BLM that focused on identifying trails to reserve as easements under ANCSA 17(B). Therefore, some of the funding DNR receives will be used to pay for research on an assertion of those properties.

[3:05:18 PM](#)

TINA CUNNING, Subsistence & Federal Issues, Division of Sport Fish, Alaska Department of Fish & Game (ADF&G), informed the committee that in 1997, after a legislative audit, a Navigable Waters and Access team was formed to ensure that the state was working together to assert management and ownership of navigable waters as well as protecting trails' access easements for hunting, fishing, and other uses of public land. The team includes the Department of Law, the Department of Natural Resources, and the Alaska Department of Fish & Game. Therefore, ADF&G works in coordination with DNR in order to ensure there's no redundancies in efforts. She noted that ADF&G performs a lot of the primary research associated with the hunting, fishing, and trapping activities. All of [ADF&G's] workload comes under a prioritization set by the aforementioned team and is in coordination with DNR.

[3:06:20 PM](#)

SENATOR STEDMAN questioned why this matter is before the Legislative Budget and Audit Committee rather than being included in the operating budget.

MR. MYLIUS explained that several years ago, when this effort began, this committee expressed concern that there weren't enough resources being devoted to RS2477s and navigable waters

programs. The agreement, as described by Ms. Cunning, was worked out with the committee and has been carried out in this manner since that time. He pointed out that DNR's budget shows these RSA funds as an interagency receipt as part of the funding for the program. The department, he remarked, has come to depend on this funding as it has become a key component of the funding. The department doesn't receive that much funding for the RS2477 navigable water program in the GF budget.

SENATOR STEDMAN pointed out that over the last several years the legislature had done a lot of budgetary cleanup. He opined that these funds may need to be reviewed in terms of whether it's properly structured and whether it would better fit in the operating budget. He clarified that he wasn't meaning changing or shorting the funding, but rather the mechanics of the budget.

CHAIR MEYER related his agreement that this funding should be incorporated into the operating budget prior to addressing the matter again next session.

[3:09:27 PM](#)

REPRESENTATIVE NEUMAN questioned whether the federal grant mentioned by Mr. Mylius was expected and would've possibly been recognized in the operating budget or was it an unexpected federal grant that could be used to supplement current operating budget expenses.

MR. MYLIUS explained that the request before the committee isn't related to the federal funds. Those federal funds were received last year and [DNR's] budget accounted for those. The budget passed by the legislature included an appropriation that allowed the department to receive those federal funds. However, those federal funds can't be used for this request before the committee because the federal funds were received through BLM specifically for historical research. Those funds can't be used to file recordable disclaimers, pay for administrative costs, or for litigation efforts.

MR. MYLIUS, in further response to Representative Neuman, clarified that both funds are in the department's budget. However, the federal funds can't be used for things for which the RSA funds can be used, and thus the federal funds can't be used to offset the RSA request. He characterized the federal funds as sort of a windfall in that it's money that was secured when U.S. Senator Ted Stevens was in the U.S. Senate for the recordable disclaimer program. The BLM specified that the

department could only receive the funds if they were used for historical research on navigable waters. "So, it's a generous offer from the federal government to essentially do research that we can then use to defend our title in the future, but one of the strings attached is that ... it can only be used for historical research. It can't even be used for our administrative oversight of that research," he related. Most of the funds, he further related, are going to the State Historical Preservation Office or to history and archaeological folks who have a good understanding regarding where to find historical information that can be placed in the state record and used for future challenges.

[3:13:10 PM](#)

REPRESENTATIVE NEUMAN pointed out that the state faces reductions in federal income to the state. Therefore, he expressed the need to ensure DNR is looking toward the future and not increasing its budget to cover the [federal] losses. He emphasized that the RS2477 program is an extremely important program.

[3:13:42 PM](#)

MR. MYLIUS, in response to Representative Tuck, reiterated that the federal funding is a separate issue from the RSA request and was anticipated. At the time DNR developed its budget it anticipated the federal funding and was expecting the [RSA] funding being requested from this committee. He reminded the committee that the RSA funds are interagency receipts in the departments' respective budgets. Mr. Mylius agreed that going forward it would be an option to place the RSA funding in the departments' operating budgets. However, in the past the committee has had a keen interest in the RS2477 and navigable water programs and wanted to know what was occurring with those two programs while ensuring the [departments] were aggressively asserting those rights. This [RSA] was the mechanism used to provide [legislative] oversight.

[3:16:05 PM](#)

REPRESENTATIVE STOLTZE made a motion to approve the RSA for ADF&G for FY 2011 in the amount of \$75,100. There being no objection, it was approved.

REPRESENTATIVE STOLTZE then made a motion to approve the RSA for DNR for FY 2011 in the amount of \$73,000. There being no objection, it was approved.

[3:17:00 PM](#)

REPRESENTATIVE STOLTZE related his appreciation for Ms. Cunning's work and stated that he has much confidence in placing resources under her supervision.

[3:17:28 PM](#)

The committee took an at-ease from 3:17 p.m. to 3:24 p.m.

EXECUTIVE SESSION

[3:24:42 PM](#)

CHAIR MEYER announced that the committee would prepare to enter into executive session during which the legislative auditor will present the preliminary audits prior to the committee. The departments then have 30 days prior to the audits being made public during which the departments can respond. After returning from executive session the committee will then return to executive session to address Moore v. Alaska. After that executive session, the committee may or may not decide that it's necessary to hire a consultant to address this issue; the aforementioned will be announced during the public portion of the meeting. He estimated that the executive session discussing confidential audit reports will likely take 20-30 minutes and the next executive session could last 30-45 minutes.

[3:27:24 PM](#)

REPRESENTATIVE STOLTZE made a motion to move to executive session for the purpose of discussing confidential audit reports under Uniform Rule 22. There being no objection, the committee went into executive session at 3:27 p.m.

[4:05:57 PM](#)

CHAIR MEYER announced that the committee was back from executive session.

PRELIMINARY AUDITS

[4:06:06 PM](#)

REPRESENTATIVE STOLTZE made a motion that the following preliminary audits be released to the Department of Transportation & Public Facilities for response: Special Report on the Department of Transportation & Public Facilities Alaska Marine Highway System procurement process. There being no objection, the aforementioned preliminary audit was released.

EXECUTIVE SESSION

[4:06:33 PM](#)

CHAIR MEYER announced that the committee would return to executive session to hear from the Department of Law and the Department of Education and Early Development regarding Moore v. Alaska as was requested in the May 14, 2010, meeting. The purpose of the executive session is to obtain clarifying information from the aforementioned departments regarding the request for proposal (RFP) recommendations that were identified at the May 14, 2010.

[4:07:09 PM](#)

REPRESENTATIVE STOLTZE made a motion to move to executive session for the purpose of discussing matters, the immediate knowledge of which may adversely impact the finances of a governmental unit(s). There being no objection, the committee went into executive session at 4:07 p.m.

[5:50:29 PM](#)

CHAIR MEYER announced that the committee was back from executive session. He then announced that the committee would like to have another meeting in July, at which the plaintiffs would be invited to present their side. He noted that the Bush caucus had requested the legislature hire a consultant, attorney, and/or auditor in order to obtain a better understanding of the case as well as the [state's] role. However, the committee is not yet ready to take that route.

[5:52:31 PM](#)

ADJOURNMENT

There being no further business before the committee, the Legislative Budget and Audit Committee meeting was adjourned at 5:52 p.m.