

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

Anchorage, Alaska

October 7, 2015

9:05 a.m.

MEMBERS PRESENT

Representative Mike Hawker, Chair
Senator Anna MacKinnon, Vice Chair
Representative Kurt Olson - via teleconference
Representative Lance Pruitt
Representative Steve Thompson
Representative Sam Kito
Senator Lyman Hoffman
Senator Cathy Giessel

MEMBERS ABSENT

Senator Bert Stedman
Senator Click Bishop
Representative Mark Neuman
Senator Pete Kelly

OTHER LEGISLATORS PRESENT

Representative Seaton
Representative Saddler

COMMITTEE CALENDAR

REVISED PROGRAM - LEGISLATIVE (RPLs)
EXECUTIVE SESSION
RELEASE OF PERFORMANCE REVIEWS

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

CHRIS MAISCH, Director
Division of Forestry
Department of Natural Resources
Fairbanks, Alaska

POSITION STATEMENT: Presented RPL 10-6-5006.

DAVID TEAL, Director
Legislative Finance Division
Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: Offered a technical opinion on RPL 10-6-5006.

DUANE MAYES, Director
Division of Senior and Disability Services
Department of Health & Social Services
Juneau, Alaska

POSITION STATEMENT: Presented RPL 06-6-0217.

JACQELLI ZIEGENFUSS, Admin Operations Manager
Division of Senior and Disabilities Services
Department of Health & Social Services
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding RPL 06-6-0217.

MEGAN WALLACE, Attorney
Legislative Legal and Research Services
Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding RPL 06-6-0217.

JEFF JESSE, Chief Executive Officer
Alaska Mental Health Trust Authority
Department of Revenue
Anchorage, Alaska

POSITION STATEMENT: Answered questions regarding RPL 06-6-0217.

DAVID TEAL, Director
Legislative Finance Division
Legislative Affairs
Juneau, Alaska

POSITION STATEMENT: Offered a technical opinion on RPL 06-6-0217.

ACTION NARRATIVE

[9:05:49 AM](#)

CHAIR MIKE HAWKER called the Legislative Budget and Audit Committee meeting to order at 9:05 a.m. Representatives Kito, Olson, Thompson, and Hawker and Senators Giessel, Hoffman and MacKinnon were present at the call to order. Representative

Pruitt arrived as the meeting was in progress. Also in attendance were Representatives Seaton and Sadler.

REVISED PROGRAM - LEGISLATIVE (RPLs)

9:09:07 AM

CHAIR HAWKER announced that the first order of business would be RPL 10-6-5006, Department of Natural Resources, Fire Suppression, Land & Water Resources.

9:09:10 AM

CHRIS MAISCH, Director, Division of Forestry, Department of Natural Resources, advised that this is a "Challenge Cost Share Agreement Between The Alaska Division of Forestry and The USDA, Forest Service Pacific Northwest Region State and Private Forestry." He explained that the Division of Forestry (ADOF) has been a participant in the Tongass Advisory Council (TAC) for the last several years, and this cost share agreement is the recommendation of TAC to the United States Forestry Service (USFS) on how best to transition from old growth timber harvest to young growth timber harvest in the Tongass National Forest while maintaining a viable timber industry. He stressed that the state has an interest in maintaining Southeast Alaska's current industry together with opportunities to re-grow as the young growth volume in the Tongass National Forest becomes available. The agreement, he noted, is divided into two major tasks [referring to the handout within the committee packets] and pointed to Attachment A of the agreement, page 1, Task 1.

CHAIR HAWKER asked Mr. Maisch to give the committee an opportunity to locate the documentation within their packets.

9:12:58 AM

MR. MAISCH continued that Task 1A, B, and C, are different parts of the project that will provide technical assistance to the Forest Service including: field crew working with their staff; agreement on protocol to perform the work; and testing new procedures, particularly on Task 1B which is timber between 40-55 years of age. He referred to the project as a merger between two organizations with two different corporate cultures and two ways of performing technical work, and said they have worked to come to an agreement regarding how to proceed in the field next summer. The goal of this, he noted, is to identify the amount

of young growth available for timber sales over the next 15 years, to help support the industry in Southeast Alaska.

9:14:26 AM

CHAIR HAWKER questioned whether the purpose of the RPL is to accept \$4 million of federal U.S. Forest Service funding, and whether it is a grant or contract with ADOF to perform these services. He further questioned whether the information gained is strictly proprietary to the state in that it is federally funded.

MR. MAISCH responded that the information will be available as public information and is not proprietary. He then confirmed that Chair Hawker's description of the project is correct, that within the \$4 million cost share agreement ADOF does have a match requirement to do this work to help meet the mutual primary goal of sustaining the timber industry in Southeast Alaska.

9:15:50 AM

MR. MAISCH referred to Task 2, [page 4] and advised \$2.5 million is allocated to Task 1, and \$1.5 million is allocated to Task 2 of the \$4 million agreement. He pointed to Task 2A, B, and C, and said 2A is to provide workforce development and employment opportunities for residents of rural communities; 2B is to improve infrastructure across the various land ownerships in Southeast including, state, private, municipal, or other land. He advised that 2C is to complete a forest resources assessment and provide financial assistance for other land owners in Southeast Alaska. He expressed that \$1.5 million is not a lot of money to perform 2A, B, and C, but ADOF has detailed tasks associated with each with no individual allocation of money, and much of the work will be performed by third-party contractors through an RFP process.

9:17:32 AM

SENATOR MACKINNON referred to Task 2, and noted there was supposed to be a meeting in July, with a final work product on August 15th, and asked whether that meeting was held and the work product produced. In the event it was held, questioned why the committee did not have specifics.

MR. MAISCH answered that the meeting was held, but due to this year's fire season, many of the same people on the project were

engaged in dealing with fire situations in Alaska and the lower-48. He reiterated that this is the merging of two different corporate cultures with a number of follow-up meetings, and while they are making good progress, do not have a final agreement on how it will actually be done.

MR. MAISCH, with regard to the match, referred to page 1, following Attachment A, which is a series of work-sheets. He advised that page 1, refers to Forest Service contributions and cooperator contributions.

MR. MAISCH responded yes, to Chair Hawker's question regarding the upper right side of page 1, which read: OMB 0596-0217. He explained the sheet documented what the Forest Service fiscally is bringing to the table, both in hard dollars and in-kind contributions. The spreadsheet also depicts the cooperator (state) contributions, and the state's match is approximately \$1.4 million. The match ratio is 75 percent federal, and 25 percent state. The state matches are in-kind, with some salary and travel, but the majority of the match is in the "other line items," and \$1.3 million is being matched by infrastructure improvements the state is making in Southeast Alaska. He pointed out that in this particular case a CIP project is constructing the Downer Bay Road on Gravina Island to a section of state forest and Forest Service owned land. He offered that both will have timber sales associated with them in the future. He related that the match is sufficient to meet the required match for this and, in fact, it slightly exceeded the match. He commented that this project comes at good time for the division with the FY2015 budget reductions, as the division will use long-term non-perms, and short-term non-perms to help conduct field work and oversee this project.

[9:21:26 AM](#)

CHAIR HAWKER surmised the approximately \$1.4 million in state match for this project is a non-cash requirement other than it is money that is already in the state budget, and Mr. Maisch will not ask for any additional support at any time to support this project.

MR. MAISCH responded, that is correct. The money is already either in-kind, which is the salary and labor, or actually a cash contribution. He explained it is a CIP appropriation previously made, and offered that the Downer project is not under construction yet but is close to being let out for construction. No additional funding is required, he said.

[9:22:10 AM](#)

SENATOR MACKINNON noted that the allocation of \$21,000 to this project from the current travel budget line item indicates that those funds would not be available to be used for other travel opportunities.

MR. MAISCH replied, that is correct.

SENATOR MACKINNON inquired as to whether the division or department will come back and ask for a supplemental request.

MR. MAISCH answered no, because a lot of the travel is to Southeast Alaska where he can combine his duties on this project with other state duties; therefore, it is counted as an in-kind contribution.

[9:23:27 AM](#)

DAVID TEAL, Director, Legislative Finance Division, Legislative Affairs Agency, said the Legislative Finance Division has no technical issues with the RPL, and noted the department originally submitted it as a capital project. When asked why capital as opposed to operating, the division chose to re-submit it as an operating RPL. He explained it does lean toward operating and that means the department will have to do some work in the 2017 budget process, but it is nothing the committee should be concerned about as it works either way.

CHAIR HAWKER noted that multiple year appropriations have, historically, been made through the operating budget rather than a capital budget.

[9:24:39 AM](#)

SENATOR MACKINNON moved and asked unanimous consent that the committee approve the following RPL:

10-6-5006 Department of Natural Resources, Fire
Suppression, Land & Water Resources \$4,000,000 Federal
Receipts as a multi-year operating budget item FY16-
FY18.

CHAIR HAWKER stated seeing no objection, [RPL 10-6-5006] was approved. Chair Hawker noted that the documentation behind the

RPL was one of the most thorough he has seen in a very long time and congratulated Mr. Maisch's folks in putting it together.

9:25:48 AM

CHAIR HAWKER announced that the next order of business would be RPL 06-6-0217, Department of Health & Social Services, Senior and Disabilities Services, General Relief/Temporary Assisted Living Client Functional Assessment.

9:26:18 AM

DUANE MAYES, Director, Division of Senior and Disability Services, Department of Health & Social Services, explained the General Relief Assistance (GRA) Program has been in existence since 2004-2005, and within the Division of Senior and Disability Services is the component "Adult Protective Services (ATS)" that protects the vulnerable senior population throughout the state. He offered that when the division receives a report of harm, it is investigated, and the division then confirms the individual is at risk. Subsequent to the confirmation of risk and the agreement of the individual, the division will remove the individual from that location and place them into an assisted living home under the General Relief Assistance (GRA) Program. He described it as an emergent need, a safety net, for vulnerable populations. He explained, the division then develops an exit strategy to either return the individual where they came from, or to other locations. Over time, the division has taken in referrals into the general relief program from the Alaska Psychiatrist Institute (API), the Department of Corrections, and the Office of Public Advocacy (OPA). He described the program as a general relief program with \$8.1 million in funding last year, and through the last session and governor's budget the program took an approximate \$800,000 reduction, approximately nine percent. He advised the division is working with Behavioral Health and the Alaska Housing Finance Corporation to develop this proposal that was approved through HUD, the "811" program, to increase exit strategies for individuals on general relief into permanent supportive housing. He noted that the program they have is temporary in nature. There are approximately 600 individuals currently on general relief and with the "811" project paying subsidies, the division would remove approximately 60 individuals from general relief and place them into permanent supportive housing entities throughout the state within the first year.

9:30:00 AM

MR. MAYES noted that in order to do that, the division must "get a handle" on the 600 individuals currently in the program. The process of an individual entering the program includes reviewing an application and medical documentation, but a comprehensive functional assessment and housing survey is necessary to clearly understand their needs in order to develop an appropriate exit strategy.

9:30:40 AM

CHAIR HAWKER pointed out the Mr. Mayes did not state what he was asking for.

MR. MAYES replied that the amount requested is Mental Health Trust Authority Authorized Receipts (MHTAAR) funding through the Alaska Mental Health Trust in the amount of \$175,000. He explained the purpose of the money is to hire a contractor to be trained in a Daily Living Activities 20 (DLA) tool that has been validated, verified, and actualized by the State of Georgia. He further explained the division would use this tool to perform the 2-3 hour comprehensive assessment, and the results will give the division information necessary to make appropriate referrals. He reiterated it is a one-time only request for \$175,000 through the Alaska Mental Health Trust Authority. Once the approximate 600 assessment results are accomplished, the division will have the capacity internally to perform on-going assessments using that tool. He expressed that the growth of the vulnerable population continues to rise, and the division is challenged to accomplish 600 assessments.

9:32:30 AM

SENATOR HOFFMAN requested, of the 600 individuals, where they are located throughout the State of Alaska.

MR. MAYES opined that 70-80 percent of the individuals are located in urban areas such as Southcentral Alaska and Fairbanks, with a smaller percent in rural Alaska. He said the contract would be to assess all of the individuals throughout the state.

9:33:03 AM

CHAIR HAWKER surmised that Mr. Mayes is asking for receipt authority for a new other fund source of \$175,000 to complete this activity. Chair Hawker pointed out that the senior

services disability allocation within the budget is \$17.9 million, of which Mr. Mayes has authority to administratively shuffle money as necessary. He questioned whether \$175,000 can be found anywhere in the \$17.9 million budget.

MR. MAYES responded that there are other components, such as the home community based services waiver, and the personal care attendant program where every year the individual is assessed to determine ongoing needs. He described the division as "challenged" by the growth, and over the years there was a backlog on its ability to keep up with the assessments, and the division currently has 17 assessors. He said the division had to get "lean and mean" and revisit its structures, review existing tools, and attempt to streamline. He offered that the division is "hanging on" trying to deal with all of the volume and different components. He said his response to the question is that "we have a challenge to be able to keep up with all of this work."

CHAIR HAWKER advised Mr. Mayes that he did not answer the question and restated, "you cannot find \$175,000 in your almost \$18 million budget to cover this additional cost of a new contractor."

MR. MAYES deferred to Jacquelli Ziegenfuss.

[9:35:27 AM](#)

JACQUELLI ZIEGENFUSS, Administrative Operations Manager, Division of Senior and Disabilities Services, Department of Health & Social Services, [Available for questions.]

CHAIR HAWKER reiterated that this is a request for \$175,000 of new receipt authority in order to hire a third-party contractor to conduct certain assessments. He pointed out that the Senior and Disabilities Services overall budget allocation is \$17,926,800, and asked "do you not have capacity somewhere in that nearly \$18 million to come up with and find a way to shift \$175,000 to this project if it's of sufficient priority?"

MS. ZIEGENFUSS opined that the division does not have sufficient authorization given the reductions that occurred for FY16, as this is a GF program. She said the assessments for several of the waiver components have a federal component; therefore, the division receives a 50 percent federal match, which the division would not be able to utilize federal dollars in initiating the contract for the general relief assessments.

[9:37:26 AM](#)

CHAIR HAWKER asked for clarification of her statement that "if we accept this money from another receipt authority and it's not general funds, we lose 50 percent federal reimbursement that we would get if we found some way to reallocate some general funds for this?"

MS. ZIEGENFUSS answered no, she clarified the other assessments for the waiver programs are for Medicaid services; therefore, 50 percent federal match is received. She said these assessments are different in that the division is assessing clients of a pure GF program; therefore, the division would not receive a federal match. She explained that were the division to re-shuffle, in essence, it would be losing the match.

CHAIR HAWKER again restated the question, "do you have within your \$18 million appropriation, or even within Senior and Disabilities Services, that you have the administrative latitude to allocate as you choose, do you have \$175,000 that you can find to re-prioritize to this activity?"

MS. ZIEGENFUSS answered that it would require re-prioritizing within the division.

CHAIR HAWKER said she is correct.

MS. ZIEGENFUSS responded that the division does not have funds available that have not already been allocated so ...

[9:39:24 AM](#)

CHAIR HAWKER interjected that she made two statements of fact, and asked her to draw a conclusion from those statements.

MS. ZIEGENFUSS answered no.

MR. MAYES added that as a result of where the division is today compared to last year, the staff was reduced by 24 positions and consequently all of the functions of the 24 staff are absorbed within the division. He said the division is doing business lean and attempting to reconfigure how it will meet workload demands. He said he would like to respond that the division could probably find [\$175,000], but it is looking at all of the division's components to determine whether additional funding can be found to meet needs throughout the division.

[9:40:54 AM](#)

SENATOR MACKINNON asked whether the 24 positions he referred to were all filled positions and asked him to give the committee an idea of actual workload transition. She acknowledged that his team works very diligently to accomplish services important to each Alaskan.

MR. MAYES responded that the 24 positions were filled, and noted that for a long time he will remember meeting individually with each of the individuals to give them their pink slip.

[9:42:09 AM](#)

SENATOR MACKINNON surmised that individuals were hired to process applications for Medicaid expansion.

MR. MAYES said the 24 positions were throughout the division and some were "that, yes," and others within the Quality Assurance unit ... with a variety of components, two positions within the Child Protective Services unit, and scattered throughout the division.

[9:42:49 AM](#)

SENATOR MACKINNON noted that Mr. Mayes let 24 go, and asked how many individuals were then hired to implement Medicaid expansion, because that was a choice. She opined that some legislators said it was a choice that would impact seniors and people with disabilities.

MR. MAYES questioned whether Senator MacKinnon was speaking to bringing on additional positions for Medicaid expansion.

SENATOR MACKINNON asked whether she was correct in stating that this administration did that.

MR. MAYES said, that's correct.

SENATOR MACKINNON inquired as to whether it was more or less than 24 positions.

MR. MAYES advised that he could not answer that question.

[9:43:32 AM](#)

CHAIR HAWKER pointed out that the roll of the Legislative Budget and Audit Committee is advisory, and that Mr. Mayes has the authority after 45 days of submitting notice to the committee of the RPL to move forward and do with the RPL as [the administration] will, regardless of the committee's opinion. He asked whether Mr. Mayes would commit to respecting the opinion of this committee in not going forward should the committee not approve it today.

MR. MAYES said he was not aware that after a certain number of days the division can move forward with the RPL regardless of the decision made today.

CHAIR HAWKER expressed surprise that Mr. Meyer was not aware of the process by which Medicaid expansion occurred.

MR. MAYES said he was stating "what I know."

[9:44:34 AM](#)

REPRESENTATIVE PRUITT asked if there is someone who can speak to this. He referred to a memo from Legislative Legal and Research Services, page 1, paragraph 3, referencing a statute that provides for an increase of an appropriation item based on additional federal or other program receipts, and said that in this case, the discussion does not pertain to federal funds, which was the Medicaid expansion. He asked whether this RPL, being from the Mental Health Trust Authority, then falls within the designation of other program receipts.

CHAIR HAWKER advised Representative Pruitt that the answer to his question is, yes.

[9:45:21 AM](#)

MEGAN WALLACE, Attorney, Legislative Legal and Research Services, Legislative Affairs Agency, responded that Chair Hawker is correct, the Mental Health Trust Authority Authorized Receipts (MHTAAR) funds are considered program receipts and; therefore, are subject to the RPL process.

REPRESENTATIVE UITT surmised that if this were general fund money that wouldn't be the case.

MS. WALLACE answered, that is correct.

REPRESENTATIVE PRUITT asked whether statutorily designated receipts of programs such as, DNR forestry with certain designated receipts ... if it was an expansion of that program and utilizing those receipts, would the committee have the ability to say yes or no, and then after 45 days could the governor approve the utilization of those monies.

MS. WALLACE explained that if the additional program receipts referred to had not already been appropriated then yes, he would be able to utilize that program. Although, she noted the legislature does already appropriate some program receipts in the budget so it would have to be additional program receipts received that the legislature did not anticipate or previously appropriate.

[9:47:08 AM](#)

REPRESENTATIVE PRUITT surmised that the only thing the governor cannot override the legislature on, after 45 days, is specifically general fund money. He further surmised that should the governor find it in "some other pocket" he can use it.

MS. WALLACE stated as long as it is federal or other program receipts that have not previously been appropriated then, yes, he can make the request through the RPL process. She offered a caveat that each RPL must be taken as they come and examine each one, but generally yes, that is correct.

[9:47:52 AM](#)

REPRESENTATIVE KITO referred to the \$175,000, and noted that should the department attempt to receive that money from another portion of the division, that would mean \$175,000 of matched funding for federal Medicaid receipts would not be available and thereby turning back another \$175,000 of Medicaid receipts. He said with regard to additional program receipts, the legislature doesn't always anticipate all of the available program receipts for various programs. In the event more money is received than anticipated, he pointed out, that this process provides the opportunity to consider that money and then allow for that money to be utilized to provide state services." He noted, that for clarification should the division take \$175,000 out of another place in the division, it would jeopardize "our" ability to bring in some federal Medicaid receipts. Representative Kito asked whether he was correct.

MR. MAYES deferred to Jeff Jesse.

9:49:29 AM

JEFF JESSE, Chief Executive Officer, Alaska Mental Health Trust Authority, Department of Revenue, in response to Representative Kito's question, advised it is a question for the fiscal folks.

9:49:46 AM

SENATOR MACKINNON stated her question goes to Medicaid expansion and asked how the legislature can, in the next round, have confidence in the numbers Mr. Jesse brings forward for his receipt authority. She questioned how Medicaid expansion was funded and the administrative costs, without coming to this committee to ask for that transfer, and also making \$175,000 available for something else. She further asked what is remaining, are more funds available to do other things that the legislature may have wanted to weigh in on as far as utilizing those for other benefits the Trust's beneficiaries may need.

MR. JESSE referred to Medicaid expansion and explained that the trustees recognized the challenges that the state would face in implementing Medicaid expansion. He offered their belief that on the whole there would be a net financial benefit not only to the state, but to "literally" thousands of the Trust's beneficiaries who would become eligible under Medicaid expansion. He pointed out that in an effort to assist, the trustees authorized the first year administrative expenses as a way of making the first year a no-cost effort with the idea that the savings that would come from expansion would then offset ongoing administrative expenses. For example, within the Department of Corrections, he personally reviewed the number of eligible inmates, under expansion, that should an inmate go into a hospital for 24-hours or more, would the cost be paid by the Medicaid program, as opposed to currently being paid 100 percent by GF. He expressed confidence that after looking at the data there would be a hard savings of at least \$5 million, so the trustees made the administrative expenses funds available, which was discussed during the session as various bills moved through the process. During the special session the board's view was that the trustees made that money available if the state chose to move forward with expansion and pursue making these folks eligible and trying to improve services and save money over the long run. He pointed out that how the state made that decision was a political decision, in the board's view, involving the legislature and administration with many discussions and

disagreements. He related that it was not the board's job to weigh in on one side or the other on that larger political debate. He remarked that if the court had told the state it couldn't move forward with expansion, the Trust's money would not have been available ...

9:53:53 AM

SENATOR MACKINNON related that the question she had asked was, where the board found new money to make available after the legislature did not act on Medicaid. She asked how many more receipts are still available to be distributed based on what Mr. Jessee presented to the legislature, which was a very different picture on his allocation of receipts.

CHAIR HAWKER additionally requested the Mr. Jessee include a brief summation of how the Mental Health Trust Authority operates, and the legislature's jurisdiction over the funds.

MR. JESSEE advised that the board operates with an asset management policy that is a percentage of market value entity, as to its cash assets that are primarily in the permanent fund with a small portion of reserve income ...

CHAIR HAWKER interjected that those funds are managed by the permanent fund, and that Mr. Jessee must be careful in his description of the permanent fund.

MR. JESSEE clarified that the Trust's cash funds, the corpus, are managed by the Alaska Permanent Fund Corporation as it is similar to a mutual fund in that it pays its share of expenses and it receives its share of their profits or loss. The Trust distributes money from that corpus on a percentage of market value basis, 4.25 percent per year, which goes into a pool available in the following year for administrative expense and the programmatic expenses of the mental health program. In addition, he advised, the Trust land office generates income from its natural resources and lands which is added to the payout from the permanent fund, additionally there are smaller sources of funds coming in each year. The trustees have the ability to spend that money without a legislative appropriation directly making grants to entities in the state, he explained. However, he noted, should the board work through a state agency, it must have receipt authority in order to receive and expend those funds, which are Mental Health Trust Authority Authorized Receipts (MHTAAR). He explained that the legislature is not appropriating trust funds, they are authorizing the receipt of

those funds, such as federal funds. Each year the trustees make budget recommendations based upon its focus areas, collaborations with other state agencies, or legislative initiatives. He offered that during their September meeting, where the budget is set out, the trustees generally do not allocate 100 percent of the projected available income. He said the board usually holds back anywhere from \$600,000 to \$1 million out of approximately \$24 million for a variety of reasons. For example, he said, it may be during conversations with the Office of Management & Budget that an administration would like to pursue an initiative and would like help from the Trust, and due to the unallocated funds the trustees are able upon occasion to assist. Similarly within the legislative process last session, within the discussions of reducing recidivism the board offered \$125,000 of MHTAAR, with \$125,000 of GF, to fund the Alaska Criminal Justice Information Center. Normally, he noted, because it is a state function the trustees can only fund it for a certain period of time, but the trustees did not make that condition for the Alaska Criminal Justice Information Center due to the state's fiscal crisis and the fact that this function must continue for some length of time. He said that general relief is a good example of a well-intentioned program funded exclusively with general funds. In the board's view, it has become a default program to put people in to get them housing. He questioned when general funds are reduced in what manner will those people be served, and advised that the board spoke with the department regarding the reduction of services ...

[10:02:33 AM](#)

SENATOR MACKINNON interjected that Mr. Jessee advised the committee that the board sets aside \$600,000 to \$1 million in unallocated money. She then requested the specific amount the board allocated for administrative costs [for Medicaid expansion] that she believed was \$1.4 million, which is in excess of the money he told the committee was available. She again asked where the funds came from, and how much more unallocated money is available.

MR. JESSEE advised that in addition to the payout the trustees make each year, the trustees also have an obligation to inflation proof and in any given year the trustees consider the earnings from the permanent fund and how those funds compare to the 4.25 [percent] payout. He commented that a challenge is that it is a perpetual trust; therefore, they cannot go into the principal of the fund. As a result, an income reserve was set

up of four times that payout for the years the permanent fund returns are less than the 4.25 percent payout. In years the permanent fund is greater than 4.25 percent, the first step is filling the reserve to 400 percent, and the second step is inflation proofing. Over time the board tracks inflation proofing and when the reserve is fully funded, and the principal fully inflation proofed, the trustees can review the payout for a potential increase. For example, he said, when the Trust started in 1995 the payout was 3 percent, and after funding the reserve, inflation proofing the original \$200 million, over the years increased the payout to 4.25 percent. He explained that last year, the excess above the payout and reserve was roughly \$30 million, yet approximately \$38 million is needed to catch up with inflation proofing.

[10:07:08 AM](#)

MR. JESSEE advised that the trustees determined that the purpose of inflation proofing is to protect future beneficiaries by ensuring that the principal continues to provide resources for the mental health program then, and not overcommit to the current year's beneficiaries. He stated that when the trustees discussed Medicaid expansion they determined that \$30 million was available for inflation proofing, so the \$1.4 million is coming out of the additional income above the payout and above filling the reserve that would be available for inflation proofing. He commented that the board's argument is that getting "literally" thousands of beneficiaries covered by health insurance now is more valuable to future beneficiaries than what \$1.4 million put into the permanent fund for inflation proofing would generate over that future timeframe. He conveyed that it is an "unusual" action on the part of the trustees, based upon a unique opportunity to protect thousands of beneficiaries for a long time to come. He reiterated that the \$1.4 million is coming out of that additional funds available for inflation proofing, and it leaves the Trust with, instead of approximately \$8 million short of fully inflation proofing the fund it is approximately \$9.4 short. He pointed out that when reviewing the macro level, as the fund revenue and expenses change over time, is a very small percentage of the overall fund. Another reason the trustees took money from that fund was to preserve the unallocated funding and assist such projects as the Alaska Criminal Justice Information Center and this particular RPL, he explained.

[10:10:03 AM](#)

SENATOR MACKINNON stated that Medicaid expansion was a policy choice and not a political choice, in that this administration chose from a policy perspective to expand Medicaid and it had nothing to do with politics. She said, "It is a policy decision and it is not political."

MR. JESSEE apologized and advised he meant "political" in the sense of a separation of powers decision, not that it was partisan. There are two branches of government that had to figure out whether the state would move forward, and the board is just trying to protect the beneficiaries.

[10:11:39 AM](#)

SENATOR HOFFMAN surmised the \$1.4 million was taken out of inflation proofing and not out of a combination of the unallocated \$600,000 to \$1 million.

MR. JESSEE answered yes, it was taken out of what was available for inflation proofing.

SENATOR HOFFMAN asked whether Mr. Jessee is asking this committee to spend \$175,000 out of the unallocated portion of \$600,000 to \$1 million.

MR. JESSEE said yes that's correct, in order to avoid a short term reduction in service. He said the board noted that if the division had to get this one-time funding out of the rest of the program it would reduce direct services, and since it is an administrative function the board would rather supply those funds than have the services to the beneficiaries reduced.

SENATOR HOFFMAN surmised that the decision to spend \$1.4 million was the board's decision, and the [\$175,000] must be allocated by this committee.

[10:13:15 AM](#)

REPRESENTATIVE PRUITT referred to the prior inflation proofing testimony, and said it appears to be over several years that the \$30 million has been built up.

MR. JESSEE responded no, actually that's in the last year.

REPRESENTATIVE PRUITT asked whether that becomes part of the principal.

MR. JESSEE answered that it has in the past, but the trustees have started to put that into a "nominal designation," and for accounting purposes it is considered part of the principal, "but it's not," it is in a category where the trustees could access it if necessary. He described it as a hybrid between income and principal, because once it's in the principal the trustees "can't get at it."

[10:14:30 AM](#)

REPRESENTATIVE PRUITT surmised that the [trustees] have been given the leeway to manage that, in terms of whether they have the ability to touch it at a future timeframe. Or, he questioned, is it like the permanent fund where the legislature places the inflation proofing and it goes into the principal and is not available for appropriation to the legislature. He posed the question, for money from the Mental Health Trust Authority to be expended does it have to have the approval of the board or can the administration utilize that money without going through the board.

MR. JESSEE replied, "Absolutely not," the governor and/or the legislature cannot expend Trust funds without the approval of the board of trustees.

[10:15:44 AM](#)

REPRESENTATIVE PRUITT opined that as the state moves forward in the next couple of years every department, including the Department of Health & Social Services, will feel a pinch. He expressed concern that, with the legislature being the board of directors of the state reviewing the finances of the state, potentially there will be money available out there to be expended and [yet] the legislature does not have the ability to say whether it is an appropriate utilization for the state. He reiterated that because things are changing as a state, it appears there is potentially a lot of money out there available to utilize in manners that the legislature may feel is different from the direction it wants to go.

MR. JESSEE offered that Representative Pruitt's point is "right on," and the flip side is the opportunity the state, legislature, and administration have to work with the trustees to further what the legislature would like to see accomplished. Frankly, he pointed out, this RPL is part of that as the legislature wants to reduce the cost for this general relief program. Therefore, he related, the board is offering to assist

by paying for an assessment of the 600 people in the program to determine what they need, whether there is a cheaper alternative to serve them, whether other funding sources can be accessed, and whether there is a manner in which to reform this program so not only will the current reductions not harm beneficiaries, but future reductions can be achieved. It's a two-edged sword, he described, in that there is an opportunity for the legislature to work with the board as well, which is why under the settlement the trustees make recommendations to the legislature. In the event the legislature does not agree, the legislature writes a letter to the Trust every year to explain why the legislature did not follow the proposals of the trustees, and what the legislature would like to see done differently. He explained that direct feedback from the legislature and/or governor is an important part of the settlement and offered that the board welcomes the opportunity to be full partners in the reform and budget reduction future Alaska faces. For example, he pointed out, the trustees funded the contract for the Department of Health & Social Services to review reform in the Medicaid program because if that program is not reformed it will not be sustainable. He stated that when it collapses of its own weight, if something is not done collectively the beneficiaries are harmed. He said, "We're very wanting to work collaboratively with the legislature because that's the only way our beneficiaries are going to be successful in the coming challenges that we all face."

[10:19:30 AM](#)

REPRESENTATIVE PRUITT said he appreciates that but it still gets to the point of, there's always a reason to spend money, there's always a good program, and almost everything in the Department of Health & Social Services is a good reason. He highlighted that the issue is that there is a growing amount of money, and if the legislature feels it is not the direction to go forward, the trustees have the ability to disagree with the legislature. The trustees can continue in their direction with a growing pot of money based on the fact that the trustees chose to not put it in the principal of the fund, he stated. He expressed hesitation in that it is still the legislature's ability to make policy related to health and social services but, "I wouldn't say that it's been ... there's the ability to go around it or that it is being done, but I think there's the potential there."

[10:20:58 AM](#)

SENATOR HOFFMAN commented that there are many entities in Alaska that do not fall under the Executive Budget Act that the legislature does not have control over funds. He noted that this fund is even further ... the legislature decides which ones they are and are not under, but the Mental Health Trust Authority Fund is even further protected because it is a settlement under a lawsuit against the state.

MR. JESSEE agreed with Senator Hoffman, and said he understands the Medicaid expansion is very controversial, and described various prior opportunities wherein the partnership between the Trust and the State had been mutually beneficial for many, many years. Notwithstanding the issues around Medicaid expansion, he opined that this system has worked well to everyone's mutual benefit and would like to continue to in the future.

10:23:10 AM

CHAIR HAWKER stressed he would like to make clear that the Mental Health Trust Authority and the money, land, and resources the Trust possesses was established as a result of the finality of a lengthy lawsuit decided by the Alaska Supreme Court.

MR. JESSEE answered that is correct.

CHAIR HAWKER surmised that the money and those assets were in fact, although the Trust is a government entity, specifically by the results of that settlement completely removed from the control of the legislature.

MR. JESSEE responded yes, with the exception that the trust's administrative budget, salaries, must be approved by the legislature to prevent empire building its administrative structure.

CHAIR HAWKER commented that it is only by choice that the Trust provides program funds on behalf of its beneficiaries through the legislature's budget.

MR. JESSEE said that is correct, and pointed out that even though the Trust makes grants outside of the budget process, it has a priority to work in conjunction with the legislature and administration because it does not want to create a separate mental health program when it is trying to integrate a comprehensive mental health program. He noted that in this case, the Trust could have probably assessed these people, but this is a departmental function because it manages the program.

He explained the Trust is trying to transition from a GF dependent system of care to a system of care that is more efficient, effective, and cost less GF.

[10:26:26 AM](#)

CHAIR HAWKER expressed the importance of the legislature confirming members of the Mental Health Trust Authority Board of Trustees as it is the authority the legislature has over this agency and once a member is confirmed, they are in the decision-making role. He noted that occasionally the legislature overlooks the people appointed to this agency in how truly important the role is that they play in the State of Alaska.

REPRESENTATIVE PRUITT expanded that while he understands the Mental Health Trust Authority's separation, its independence, and what it was made for, the [concern] is that there is an entity with the potential to move the legislature and move the direction of policy. As Chair Hawker highlighted, he said, the department is the one that will move forward and do it. In the event there is approval by the trustees and acceptance by the administration, outside of the legislative process, it essentially has the ability to make a state agency accept and move forward on a program the legislature did not initially feel was the direction it wanted to go - for example, Medicaid expansion. He described it as an interesting dynamic with what the institution has and why it is important to not overlook appointees to the various boards.

[10:28:40 AM](#)

REPRESENTATIVE SADDLER referred to Mr. Jessee's statement that the \$1.4 million expenditure was "unusual," and asked whether there has been precedent in which the trustees have decided to use money instead of inflation proofing and restoring the short fall for any other policy priorities. He questioned whether the Trust expects to do this type of transaction more often, what criteria is used, or is this the first time it has happened.

MR. JESSEE opined it may have happened in the past and couldn't recall the circumstances, but the description is accurate that it would be an extraordinary situation where the trustees would look at doing that. The reason being that the system is set up in its normal course to run differently and, he added, under the settlement inflation proofing is discretionary on the part of the board such that, income from the Trust may be used to inflation proof. He said the trustees have taken the position

that in the long run their fiduciary duty to future beneficiaries does require them to prioritize using income for inflation proofing. He said he believed the same is true with the permanent fund but was unsure.

CHAIR HAWKER stated that Mr. Jessee is correct, which is why the legislature separately appropriates inflation proofing into the permanent fund each year from the available permanent fund receipts.

[10:30:45 AM](#)

DAVID TEAL, Director, Legislative Finance Division, Legislative Affairs, said the department referred to options in the RPL under Home and Community Based Services Medicaid Reform (1915(i)(k)) of the federal code. He stated the options appear to be irrelevant to this RPL because they are not effective until FY18. He advised that the point does no harm to this RPL which is for immediate money to perform assessments to determine eligibility for housing assistance under AHFC 811 grants and that program may start as early as November with the assessments and housing some time later. He noted the real question was something that wouldn't have come up until recently when there are decrements in the budget. In the event there had been no decrements this RPL probably would have not raised technical questions. However, the governor and legislature did cut this program from the general fund of approximately \$800,000, which lead the division to question whether adding money back to the program would make it appear that this committee was overriding the will of the legislature. He referred to a 10/1/15 memo from Legislative Legal and Research Services wherein it concluded the RPL was a valid request because the request for funding was MHTAAR receipts, and the cut was general funds. Although, the legislature indicated it wanted to cut the program, there was no clear indication the cut was a desire to cut the services as opposed to simply a pressure to reduce the budget. Due to the fact these are a different source of funds not available to the legislature at the time the budget was reviewed, they then appear as additional program receipts making it a valid RPL. Given that, he pointed out, the technical issues go away but clearly there are [two sides of the coin here], and it is purely a decision by the committee.

[10:34:30 AM](#)

CHAIR HAWKER offered that the issue the committee is facing is that there is clearly a legally valid RPL from the

administration, and the concerns raised by Legislative Finance are also quite legitimate. He said, "If we approve this RPL are we contradicting the intent the finance committees." He asked what the committee wants to do, and is the action it takes something that would be condoned, or not condoned, by the larger legislature that the committee represents.

MR. JESSEE disagreed with the statement that 1915(i)(k) is not relevant to the RPL because the issue is reform moving forward and the necessity of assessing 600 people to determine how to shape reform to get them served while minimizing the draw on general funds. He explained that in the short run he would agree, but it is part of a longer term reform strategy to understand more of what these people need and what they might be eligible for that would reduce general funds.

[10:36:32 AM](#)

MR. TEAL agreed with Mr. Jessee, and said he did not mean to imply that they were irrelevant to this RPL because the RPL process is typically seen as a short-term [issue] that the legislature did not have a chance to address. He added that the 1915 options, because they are available beginning FY18, one would expect the full legislature to deal with the issue and the long-term reform aspects. The RPL itself deals only with the AHFC program, he explained.

[10:37:17 AM](#)

SENATOR HOFFMAN added that the \$800,000 cut is still in effect and the additional funds [\$175,000] are one-time funds, and he could not see how this effects the adopted legislative budget.

[10:37:40 AM](#)

The committee took an at-ease from 10:37 to 10:47 a.m.

[10:47:45 AM](#)

CHAIR HAWKER offered appreciation for the committee's participation in the discussions that flushed out a solid grounding for a decision and asked Senator MacKinnon for a motion.

[10:48:11 AM](#)

SENATOR MACKINNON moved and asked unanimous consent that the committee approve the following RPL:

06-6-0217 Department of Health & Social Services,
Senior and Disabilities Services, General
Relief/Temporary Assisted Living Client Functional
Assessment \$175,000 Mental Health Trust Authority
Authorized Receipts as an operating budget item.

CHAIR HAWKER announced that seeing no objection, RPL 06-6-0217 was approved.

EXECUTIVE SESSION

[10:48:57 AM](#)

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

[10:49:09 AM](#)

SENATOR MACKINNON moved and asked unanimous consent, that the Legislative Budget and Audit Committee enter into executive session under AS 24.20.301 to discuss confidential performance review reports.

CHAIR HAWKER announced that seeing no objection, so ordered.

[10:49:34 AM](#)

The committee took an at-ease from 10:49 a.m. to 4:05 p.m.

[4:05:31 PM](#)

CHAIR HAWKER brought the committee back to order at 4:05 p.m. Representatives Kito, Olson, and Hawker and Senators Giessel, Hoffman, and MacKinnon were present at the call to order.

RELEASE OF PERFORMANCE REVIEWS

[4:06:43 PM](#)

SENATOR MACKINNON moved the committee to release the Department of Health & Social Services preliminary performance review reports to the agency for response: behavioral health, long-term care, and administrative structure.

4:07:12 PM

CHAIR HAWKER advised the question before the committee is moving the three preliminary reports: behavioral health, long-term care, and administrative structure to the agency for its comment. There being no objection, it was so ordered.

4:07:38 PM

CHAIR HAWKER ascertained there was no additional business before the committee.

4:07:51 PM

ADJOURNMENT

There being no further business before the committee, the Legislative Budget and Audit Committee meeting was adjourned at 4:07 p.m.