

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

February 8, 2007

8:35 a.m.

MEMBERS PRESENT

Representative Ralph Samuels, Chair
Representative Mike Chenault
Representative Mike Hawker
Representative Mike Kelly
Representative Mike Doogan
Representative Kevin Meyer (alternate)

Senator Lyman Hoffman, Vice Chair
Senator Lyda Green
Senator Bert Stedman
Senator Johnny Ellis
Senator Gene Therriault
Senator Charlie Huggins (alternate)

MEMBERS ABSENT

Representative Reggie Joule (alternate)

COMMITTEE CALENDAR

COMMITTEE ORGANIZATION
APPROVAL OF MINUTES
STATUS OF CONTRACTS
COMMITTEE PROCEDURES
AUDIT REQUESTS

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

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

POSITION STATEMENT: Presented committee procedures; answered questions regarding the Department of Environmental Conservation, Division of Spill Prevention and Response Audit Request, and the System Security Audit Request.

ACTION NARRATIVE

CHAIR RALPH SAMUELS called the Legislative Budget and Audit Committee meeting to order at [8:35:51 AM](#). Representatives Doogan, Kelly, Samuels, and Meyer (alternate), and Senators Green, Stedman, Ellis, Therriault, Huggins (alternate), and Hoffman were present at the call to order. Representatives Chenault and Hawker arrived as the meeting was in progress.

COMMITTEE ORGANIZATION

[8:36:49 AM](#)

REPRESENTATIVE HAWKER made a motion to appoint Representative Samuels as Chair of the Legislative Budget and Audit Committee. There being no objection, it was so ordered.

[8:37:30 AM](#)

CHAIR SAMUELS made a motion to appoint Senator Hoffman as Vice-Chair of the Legislative Budget and Audit Committee. There being no objection, it was so ordered.

APPROVAL OF MINUTES

[8:37:46 AM](#)

REPRESENTATIVE HAWKER made a motion to approve the minutes of July 13, 2006 and December 15, 2006. There being no objection, the minutes from the meetings of July 13, 2006 and December 15, 2006 were approved.

STATUS OF CONTRACTS

[8:38:01 AM](#)

CHAIR SAMUELS explained that the contracts held by the committee had an original termination date of December 31, 2006; however, he and Senator Therriault extended these contracts until February 15, 2007. This extension was to allow time for the committee to discuss the future of the aforementioned contracts. He stated his intention to extend the termination date to March 15, 2007, as additional time is needed. He explained that the Don Shepler and Greenberg Traurig contracts are currently active, advising the legislature regarding ongoing Federal Energy Regulatory Commission (FERC) litigations. Additionally,

he said, the Administration has requested that Mr. Shepler assist in analyzing legislation "from a FERC perspective." A "sharing agreement" has been drafted which allows this.

CHAIR SAMUELS, in response to a question from Representative Chenault, stated that the Administration will cover the cost of the Shepler and Greenberg Traurig contracts while the aforementioned analysis is taking place.

[8:41:10 AM](#)

SENATOR STEDMAN expressed concern regarding the possibility of losing "key consultants."

CHAIR SAMUELS noted that the contract with Mr. Shepler began two years earlier, adding that it was difficult to find a FERC attorney that did not have a conflict of interest.

[8:42:11 AM](#)

SENATOR THERRIAULT, regarding the aforementioned "sharing agreement," explained that if a document is produced as a result of Mr. Shepler's work, the legislature will have access to any written correspondence between [the Administration and Mr. Shepler]. He said "Now, that begs the question, I guess, of how much is being put on paper, and how much just might be ... transacted verbally. But, whatever is put on paper, we will have access to."

[8:42:59 AM](#)

SENATOR HOFFMAN inquired as to whether the "sharing agreement" is a verbal or written document.

CHAIR SAMUELS replied that it is a written document, and is included in members' packets.

SENATOR STEDMAN expressed concern regarding possible confidentiality requirements the Administration may apply to Mr. Shepler's work, as a result of conflicting viewpoints between the legislature and the Administration.

CHAIR SAMUELS agreed with this concern. He explained that the "sharing agreement" contains a "key clause" regarding confidentiality. While he feels Mr. Shepler has done a "fine job," he is in the process of finding an additional FERC

attorney to look over the legislation, if this is the wish of the committee.

COMMITTEE PROCEDURES

[8:45:02 AM](#)

PAT DAVIDSON, Legislative Auditor, Division of Legislative Audit, Alaska State Legislature, referring to a handout titled "State of Alaska, Legislative Budget and Audit Committee Handbook, Division of Legislative Audit, Juneau, Alaska" explained that this handbook contains all current statutes associated with the Legislative Budget and Audit Committee, Division of Legislative Audit, and the Division of Finance. Additionally, she said, the committee has adopted formal policies and procedures, which are included in the back of the handbook.

MS. DAVIDSON then explained the following types of audits: Financial-Compliance Audit, Performance Audit [Sunset Review], and Special Audits. Noting that these audits are confidential until released to the public, she explained the process of releasing the audits. She also noted that the Division acts as the fiscal agent for the committee.

[8:50:23 AM](#)

CHAIR SAMUELS added that prior to requesting an audit, legislators are asked to call Ms. Davidson, as answers may already be available and an audit may not be necessary. He asked how far out the audit requests are at this time.

MS. DAVIDSON replied that current audit requests may not begin for 4-6 months. She commented that in the past, it has taken 8-12 months.

CHAIR SAMUELS commented that an audit requested during the current legislative session would not begin until the session is over.

[8:51:38 AM](#)

REPRESENTATIVE DOOGAN noted that final audit reports "may be approved for public release" and inquired as to what type of situation would result in an audit not being released to the public.

MS. DAVIDSON replied that during her 26 years with the Division, only one report was not released to the public. The audits reflect the opinion and work done by the auditors, and may not be the opinion of the committee. She explained that auditors "have certain ways of looking at things," and certain documentation requirements must be met prior expressing an opinion. When the committee disagrees with the Division, letters stating this are distributed with the audit report. The Division is non-partisan. Whether or not an audit is released is a question for the committee.

AUDIT REQUESTS

[8:54:03 AM](#)

REPRESENTATIVE MEYER began by giving a brief history of the Division of Spill Prevention and Response (SPAR), and its funding source. He explained that this program is funded primarily with appropriations from the Oil and Hazardous Substance Release Prevention Account. During the Department of Environmental Conservation (DEC) subcommittee process, he said, it has become apparent that the current appropriations are not adequate. According to the Department, the workload is increasing due to work that is not related to the oil industry. He then offered examples, citing the recent maritime disaster involving the [M/V Selendang Ayu]. The intent of the audit is to discover what is creating the additional costs, and whether the industry responsible for creating these costs should be responsible for the SPAR funding. The audit will also show whether current funds are being used wisely.

[8:57:24 AM](#)

CHAIR SAMUELS clarified that the M/V Selendang Ayu, which was involved in a recent oil spill, was a cargo ship carrying soybeans.

[8:57:44 AM](#)

SENATOR GREEN inquired as to why the normal subcommittee process is not adequate. She said "I don't see why this would require a legislative audit."

REPRESENTATIVE MEYER reiterated that the audit is intended to determine whether or not additional funds are needed, along with determining an appropriate funding source. He pointed out that

the legislature is trying to "limit as much general fund money as possible."

[8:59:26 AM](#)

REPRESENTATIVE HAWKER opined that this is a complex issue which "merits the ... independence and objectivity that the legislative auditor can bring to the review."

SENATOR THERRIAULT inquired as to whether the auditor helped with the "shaping" of the audit questions. He questioned whether the department already has information regarding "the proportion of annual expenditures made by the division for contaminated sites where the state is the designated party."

MS. DAVIDSON replied that she did speak with Representative Meyer's staff. She explained that the audit would have a scope of three-years. Any information that is already available is helpful, as less time is needed in these areas. She stated that once the information is combined in one report, it will give a full picture.

SENATOR THERRIAULT related his experience with the legislation that set forth the original funding for the SPAR program. He explained that the industry was not interested in seeing money diverted into the operating program, and was concerned with the agency "eating up more and more of the nickel." He opined that a portion of the money should remain available to replenish the Oil and Hazardous Substances Release Prevention Account. However, the current problem was anticipated.

[9:04:05 AM](#)

REPRESENTATIVE HAWKER made a motion to approve the audit request for the Department of Environmental Conservation, Division of Spill Prevention and Response, January 19, 2007.

[9:04:28 AM](#)

REPRESENTATIVE KELLY objected for a brief question. He inquired as to the anticipated cost of the audit.

MS. DAVIDSON replied that she is unable to give an accurate estimate at this time. She then explained the various factors which affect the time and cost of the audit.

REPRESENTATIVE KELLY removed his objection.

CHAIR SAMUELS noted that there was no further objection. Therefore, the audit request was approved.

9:05:49 AM

SENATOR THERRIAULT explained that he is requesting an audit to review the state security systems which contain personally identifiable information which, if inappropriately disclosed, may lead to personal identity theft. He noted that he has been working on identity theft legislation, and stated that University and medical records are used to gather personal information.

9:07:30 AM

SENATOR STEDMAN inquired as to the connection between SB 21, of which Senator Therriault is the prime sponsor, and the audit request. He asked whether this is the result of specific events, or if this is an "exploratory venture."

SENATOR THERRIAULT replied that this is intended to review the current system, and is independent of legislation. He offered his concern that the system is "so leaky that it doesn't take a leak to get access to the information.

SENATOR STEDMAN opined that these are "pretty broad allegations." He requested further detail regarding whether or not there is a breach within the states system.

9:09:09 AM

MS. DAVIDSON explained that financial system reviews look at three aspects: confidentiality, integrity, and availability. She stated that a review of information from the states accounting system, which is public information, revealed personal data that could possibly lead to identity theft. She noted that this situation was dealt with. She explained that the auditors would conduct a survey to identify systems that contain personal information, followed by a risk assessment of these systems. Only those systems which show a risk will be reviewed. She offered her understanding that the University of Alaska recently had a breach of this nature. She went on to say that the state has recently started offering online payment options, and stated that she is unable to ensure that normal audits will cover this. She shared her hope that by bringing

additional awareness to procedures that should be in place, the departments will move forward with the necessary steps.

[9:12:51 AM](#)

SENATOR STEDMAN commented that he is uncomfortable with the timing of the audit. He expressed concern that the audit may be "tied in to a particular political agenda," rather than being a separate issue.

REPRESENTATIVE HAWKER commented that he shares concerns regarding the "right to privacy." He surmised that this audit may have a "huge" scope, and asked how the Division intends to approach this.

MS. DAVIDSON agreed that this audit would have a large scope. She said that the intent is to "whittle it down." She explained that the audit was limited to "critical, personal information." In addition, the Division will perform risk assessments based on issues such as the Departments knowledge of information technology (IT) activities. In regard to whether the Division has the technical expertise on staff, she stated that it does.

[9:18:05 AM](#)

REPRESENTATIVE DOOGAN inquired as to the meaning of "state operated systems."

MS. DAVIDSON replied that the audit request will cover departments, and will not involve the university or "quasi-corporations."

REPRESENTATIVE KELLY expressed concern with the Division's lack of experience with this type of audit. He also shared his concern regarding the scope of the audit.

[9:21:09 AM](#)

MS. DAVIDSON replied that the Division will ask those departments with "particularly sensitive" systems "what do you have in place, that would do that?" If the department has not considered this, it is not adequately controlling the system. One recommendation would be to develop a plan. Systems run on the state's mainframe computer should have security systems in place, and be performing the necessary activities. These activities are not to be performed by the auditor, rather the

auditor would ask how the department tests for security on an ongoing basis.

REPRESENTATIVE KELLY asked whether the Division seeks out help, when needed.

MS. DAVIDSON replied that anytime the Division is not qualified to perform an audit, experts are contracted to perform the work. She stated that professional auditing standards require that auditors who are unable to perform the necessary tasks communicate this.

[9:23:29 AM](#)

CHAIR SAMUELS offered his understanding that [if the contract is over \$25,000, the Division must come before the committee to request this].

SENATOR THERRIAULT inquired as to what audits are currently "in the queue," and asked for an estimate for the start and end of the audit.

CHAIR SAMUELS requested that a list of the audits in queue be submitted to the committee members.

MS. DAVIDSON stated that currently, there are four audits waiting and 11 ongoing audits. She surmised that the two newest requests would start in approximately four months. Depending on detail, the audit in question would most likely take one year to complete.

[9:25:39 AM](#)

REPRESENTATIVE HAWKER made a motion to approve the System Security Audit Request, January 30, 2007.

[9:25:56 AM](#)

SENATOR STEDMAN objected. He stated that he is not sure this issue has "run rampant," adding that he does not feel that the expenditure is warranted at this time.

[9:26:37 AM](#)

A roll call vote was taken. Representatives Doogan, Chenault, Hawker, Kelly, and Samuels, and Senators Green, Ellis, Therriault, and Hoffman voted in favor of the System Security

Audit Request. Senator Stedman voted against it. Therefore, the aforementioned audit request was approved by a vote of 9-1.

CHAIR SAMUELS stated that members are welcome to request that audits are moved to the front of the queue; however, there must be a "pretty good reason" for this.

ADJOURNMENT

There being no further business before the committee, the Legislative Budget and Audit Committee meeting was adjourned at [9:27:58 AM](#).