

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

Anchorage, Alaska

August 19, 2011

1:34 p.m.

MEMBERS PRESENT

Representative Mike Hawker, Chair
Senator Bert Stedman, Vice Chair (via teleconference)
Representative Mark Neuman
Representative Kurt Olson
Representative Bill Thomas (via teleconference)
Representative Mike Doogan
Senator Hollis French
Senator Linda Menard
Senator Thomas Wagoner (via teleconference)

MEMBERS ABSENT

Senator Lyman Hoffman
Representative Scott Kawasaki (alternate)
Representative Bill Stoltze (alternate)
Senator Kevin Meyer (alternate)

OTHER LEGISLATORS PRESENT

Senator Alan Austerman
Representative Max Gruenberg

COMMITTEE CALENDAR

APPROVAL OF MINUTES
REVISED PROGRAM - LEGISLATIVE (RPLS)
EXECUTIVE SESSION
AUDIT RELEASES
AUDITS - FOLLOW UP ON FINDINGS AND RECOMMENDATIONS
AUDIT REQUEST CONSIDERATION
OTHER COMMITTEE BUSINESS

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

DAVID TEAL, Legislative Fiscal Analyst

Main Office
Legislative Finance Division
Legislative Agencies & Offices
Juneau, Alaska

POSITION STATEMENT: Provided information to the Legislative Budget and Audit Committee regarding the RPLs before it.

CURTIS THAYER, Deputy Commissioner
Office of the Commissioner
Department of Commerce, Community & Economic Development (DCCED)
Juneau, Alaska

POSITION STATEMENT: Introduced speakers during the audit follow up on findings and recommendations.

JoELLEN HANRAHAN, Director, Juneau Office
Division of Administrative Services
Department of Commerce, Community & Economic Development (DCCED)
Juneau, Alaska

POSITION STATEMENT: Offered a report of the findings and recommendations of DCCED.

DON HABEGER, Director
Juneau Office
Division of Corporations, Business, and Professional Licensing
Department of Commerce, Community & Economic Development (DCCED)
Juneau, Alaska

POSITION STATEMENT: Testified during the follow up on findings and recommendations regarding occupational licensing issues.

JOHANNA BALES, Deputy Director
Anchorage Office
Tax Division
Department of Revenue (DOR)
Anchorage, Alaska

POSITION STATEMENT: Presented a follow up on audit findings and recommendations.

TIM COTTONGIM
Fish Group Manager
Juneau Office
Tax Division
Department of Revenue
Juneau, Alaska

POSITION STATEMENT: Answered questions during the follow up on findings and recommendations related to the seafood taxes and assessments audit.

PAT DAVIDSON, Legislative Auditor
Legislative Audit Division
Legislative Agencies & Offices
Juneau, Alaska

POSITION STATEMENT: Provided information during the audit request consideration for the Alaska Film and Television Production Incentives.

SENATOR JOHNNY ELLIS
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as the requestor of the audit of the Alaska Film and Television Production Incentives.

RENA DELBRIDGE, Staff
Representative Mike Hawker
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Talked about a proposal to contract with Wood Mackenzie and Pedro Van Meurs for educational programs to be presented to the legislature.

ACTION NARRATIVE

[1:34:47 PM](#)

CHAIR MIKE HAWKER called the Legislative Budget and Audit Committee meeting to order at 1:34 p.m. Representatives Neuman, Olson, Thomas (via teleconference), Doogan, and Hawker, and Senators French, Menard, and Stedman (via teleconference) were present at the call to order. Senator Wagoner (via teleconference) arrived as the meeting was in progress.

Approval of Minutes

[1:36:52 PM](#)

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

[1:37:04 PM](#)

REPRESENTATIVE OLSON made a motion to approve the minutes of July 19, 2011. There being no objection, the minutes from the meeting of July 19, 2011, were approved.

Revised Program - Legislative (RPLs)

1:37:30 PM

CHAIR HAWKER announced that the next order of business would be the consideration of RPLs.

1:38:59 PM

DAVID TEAL, Legislative Fiscal Analyst, Main Office, Legislative Finance Division, Legislative Agencies & Offices, explained that RPL 45-1-1012 is being submitted by the University of Alaska as a request for \$1 million in federal receipt authority to cover federal aid students at the University of Alaska Fairbanks (UAF). He emphasized that this is a fiscal year 2011 (FY 11) RPL. He said the money has already been distributed to students. Students apply for aid on their own, and the University of Alaska Fairbanks has no control over who applies or how much money they get. He said a similar RPL was approved last year, because federal aid is less predictable than it has been in the past as a result of changing rules. Mr. Teal stated that the alternative to approving this RPL would be to ratify the expenditures in the FY 13 budget process.

CHAIR HAWKER concurred with Mr. Teal that the committee has the choice of whether to send this RPL through the budget process as a ratification, or to use the committee's authority to recognize the increment as something over which the University of Alaska had no control. He posited that the latter choice is appropriate.

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SENATOR WAGONER opined that there is no reason the University of Alaska Fairbanks cannot build the acceptance of those projected receipts into its budget and then not make that expenditure until such time as those federal receipts have been received. He suggested the committee send a note to the University to that effect.

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MR. TEAL acknowledged that is the way things used to be done; however, he noted that a couple of years ago the Office of Management & Budget (OMB), within the Office of the Governor, reduced what it considered to be surplus federal authorization. He stated, "From appearances the past couple years, they probably dipped a little too deep in the university receipt

authority, and they've had to come back on numerous occasions for RPLs for additional authority."

CHAIR HAWKER said that having been a co-chair of the House Finance Committee during that period, he knows the legislature desired to minimize the amount of excess federal receipt authority as part of a "truth in budgeting" process. He expressed appreciation for Senator Wagoner's comments. He said he thinks this is an unanticipated level of receipts, and he offered his understanding that those present from the university have been nodding in response to Senator Wagoner's concerns.

SENATOR WAGONER said he understands to a point; however, he stated that being that restrictive on the request for the authorization to receive receipts that are not expected causes more work. He said as a past business officer he did not allow any expenditures to go until a receipt was received. He concluded, "I think we're kind of overreaching by restricting the ability to budget for receipts that way."

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MR. TEAL said RPL 45-1-1013 is similar to 45-1-1012, except that it pertains to the University of Alaska Anchorage, and the request is for \$870,000.

CHAIR HAWKER noted that Chris Christianson is present and is now employed by the University of Alaska.

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MR. TEAL said RPL 2-2-0022 is a request by the Office of Public Advocacy, within the Department of Administration, for \$200,000 in federal receipt authority to cover two, \$100,000 grants for the purpose of paying student loans made to public defenders and prosecutors employed in Alaska. He said although the grants are for two different federal fiscal years, all the money will be available in the state's FY 12. He said the program is new to Alaska, and DOA expects to include a request for a similar grant in the FY 13 budget.

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SENATOR FRENCH noted that although the money is aimed at public defenders and prosecutors, the request comes from Office of Public Advocacy (OPA). He asked if that is any indication of where the money will go.

MR. TEAL offered his understanding that there was some discussion about where the money would go before OPA was chosen. He said within the RPL is a process by which the money will be split fairly between lawyers employed by the Department of Administration, the Department of Law, and local and tribal government employees. In response to a follow-up question, he confirmed that a small board will award the money.

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MR. TEAL stated that RPL 5-2-0028 is a request by the Archives Allocation within the Department of Education and Early Development's libraries and museums appropriation. The request is for [\$109,267] in federal receipts "with the purpose to clean up records associated with the Exxon Valdez oil spill." Mr. Teal said one minor complication with this RPL is that the money requested is for both FY 12 and FY 13; however, money cannot be carried forward into FY 13. He said based on the information provided by the department, the Legislative Finance Division believes that the RPL can be reduced to \$51,521 - the amount the department says it needs for FY 12 - and then another request would have to be made for FY 13. He said no harm would be done by approving the whole amount of the RPL; it would "overstate" the budget and "give them authorization that they are unlikely to spend." He summarized that the committee has the option of reducing the RPL or leaving it as is.

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CHAIR HAWKER announced that in his 9 years serving on the Legislative Budget and Audit Committee, the committee has only approved the amendments to the budget year in process. He further clarified that the request for the additional FY13 amount can be addressed in the ordinary budget process.

CHAIR HAWKER made a motion to amend RPL 06-2-0028, to change the amount to \$51,600, which he said the Legislative Finance Division has indicated is the amount of the RPL appropriate to FY 12. The remaining amount, which would be dispersed in FY 13, would go through a normal legislative review process in next year's budget cycle. He announced that hearing no objection, the motion to amend RPL 06-2-0028 was adopted.

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MR. TEAL confirmed that the amount rounded to \$51,600 is easier for the division to track in the budget.

CHAIR HAWKER said he gives the division the latitude to round that number out to whatever number is appropriate.

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MR. TEAL relayed that RPL 6-2-0088 is a request for \$258,494 in federal American Recovery and Reinvestment Act (ARRA) receipts. The request is being made by the Division of Child Services' Infant Learning program, within the Department of Health & Social Services. He said the money would be used to complete the implementation of a technical assistance model for young children at risk and to support wrap-around services for very young children who are subjected to abuse, neglect, and domestic violence.

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MR. TEAL moved on to RPL 6-2-0089, which is a request for \$268,000 in Mental Health Trust Authority Authorized Receipts (MHTAAR) made by the Division of Behavioral Health, Psychiatric Emergency Services, within the Department of Health & Social Services. The money will fund evaluation, stabilization, and treatment services. Mr. Teal related that this money is available because the department did not spend the \$268,000 of the \$300,000 authorized in [fiscal year] 2011, and the trust has now come forward and authorized use of the unused FY 11 money in FY 12.

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MR. TEAL stated that RPL 6-2-0090 is a request for \$344,179 in MHTAAR made by Public Health, Health Planning Systems Development, within the Department of Health & Social Services. The money is for the Sharp Program, a loan repayment program for health care professionals. He said apparently the overlap between the state and federal fiscal years caused some problem in aligning the fund sources. The result was that the trust receipts appropriated for this purpose in FY 11 were not fully spent; therefore, the trust has authorized the unspent balance to be used in FY 12, and the department is requesting authorization to do that in this RPL.

CHAIR HAWKER asked Mr. Teal if, other than the one RPL that was amended, the Legislative Finance Committee has identified any

substantive or technical concerns that of which the committee should be aware.

MR. TEAL answered no.

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REPRESENTATIVE OLSON made a motion that the committee approve RPL 45-1-1012; RPL 45-1-1013; RPL 02-2-0022; RPL 05-2-0028, as amended; RPL 06-2-0088; RPL 06-2-0089; and RPL 06-2-0090. There being no objection, the RPLs were approved.

Executive Session

[1:56:11 PM](#)

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

[1:56:22 PM](#)

REPRESENTATIVE OLSON made a motion to move to executive session for the purpose of hearing confidential audit reports under AS 24.20.301.

CHAIR HAWKER called the Legislative Budget and Audit Committee back to order. Present at the call back to order were Representatives Neuman, Olson, Thomas (via teleconference), Doogan, and Hawker, and Senators French, Menard, and Wagoner (via teleconference).

Release of Audits

CHAIR HAWKER announced that the next order of business would be the release of audits.

[3:15:10 PM](#)

REPRESENTATIVE OLSON made a motion for the following final audits to be released to the public for response: Department of Administration, Enterprise Technology Service Division, Telecommunication Services, Selected Issues; Department of Revenue, Seafood Industry Taxes and Assessment Revenues; Department of Commerce, Community & Economic Development, Division of Corporations, Business, and Professional Licensing, Select Occupational Licensing and Enforcement Issues; Department of Natural Resources, Alaska Seismic Hazard Safety Commission;

and Legislative Affairs Agency, State of Alaska's Office of the Ombudsman, Management Operations Review. There being no objection, the audits were released to the public.

[3:16:09 PM](#)

REPRESENTATIVE OLSON made a motion for the following preliminary audit of the Department of Commerce, Community & Economic Development, Division of Corporations, Business, and Professional Licensing, State Medical Board to be released to the agency for response. There being no objection, it was so ordered.

Audits - Follow Up on Findings and Recommendations

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CHAIR HAWKER explained that since two of the aforementioned audits that were released included substantial findings, he had requested the relevant department discuss follow up and recommendations pertaining to the occupational licensing issues and to the [seafood] audits and audit practices. He then invited the Department of Commerce, Community & Economic Development to provide comments.

[3:18:02 PM](#)

CURTIS THAYER, Deputy Commissioner, Office of the Commissioner, Department of Commerce, Community & Economic Development (DCCED), introduced JoEllen Hanrahan and Don Habeger.

CHAIR HAWKER related concerns about the ongoing deficiencies regarding licensing and enforcement issues. He mentioned constituent concerns regarding accounting management practices in operating those boards. He mentioned the reoccurring issue of indirect cost allocations. He asked for thoughts on the audit and the director's hopes for the future.

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JOELLEN HANRAHAN, Director, Juneau Office, Division of Administrative Services, Department of Commerce, Community & Economic Development (DCCED), said the same issues that were before the division when she was its director in 2004 and 2005 were still issues upon her return in 2009. She said she would outline those issues and talk about the collaborative effort being put forth to address them. She emphasized the positive

impact that Mr. Habeger has had on the effort since his arrival to the department in July 2010.

MS. HANRAHAN said one issue that has been "cleaned up" is in regard to personal services. She said she has established a group addressing fees and finances; has allocated an additional position to this effort; and has reclassified a position for training and quality control related to "the sixteen positions that would be impacted by any financial activity" in the division. She relayed that she has recruited an accountant with a background in allocations. She said she has also begun recruitment toward having an overall corporations and professional licensing review of positions. She said the division is in the last phase of validating and verifying standard financial reports used in developing fees. Furthermore, the division has been working diligently with regard to how and where fees are being charged.

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CHAIR HAWKER noted for the record that Ms. Hanrahan had just shown the committee "a very large Excel spreadsheet."

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MS. HANRAHAN said overall the division is happy that the auditors are providing support for these issues to be corrected. She said the division is working diligently to ensure that the next round of fee adjustments will be a more equitable allocation of the administrative costs, and standardized expenditure reports will be used to put those out.

CHAIR HAWKER said these issues have been a recurring theme for the last nine years, and he asked what is being done differently now to address these issues.

MS. HANRAHAN said the first difference is the collaborative effort that is "coming from the top down." Another difference is the addition of Mr. Habeger, who has seen the problems and devised a strategy to address them over time. She said Mr. Habeger has restructured positions in personnel and changed the way the division works.

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CHAIR HAWKER asked if Mr. Habeger has sufficient resources with which to accomplish the goal of improving the operability of the Division of Corporations, Business, and Professional Licensing.

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DON HABEGER, Director, Juneau Office, Division of Corporations, Business, and Professional Licensing, Department of Commerce, Community & Economic Development (DCCED), responded that he does not know how to answer that question at this time. Notwithstanding that, he said he would share what he knows to date and explain how management was changed. Some issues, he said, are being reviewed with "a finer-toothed comb."

MR. HABEGER relayed that there used to be a pyramid style management, which seemed to create "choke points" in the management decision-making process and reduced the division's "customer service ability." He said changes were made to address this problem. One change is that there is now an executive team comprised of: program coordinators for professional and business licensing, a traditional chief investigator, and a new administrative officer who has been instructed to work with Ms. Hanrahan and the Division of Administrative Services. The executive team not only manages, but also is asked to be forward thinking. Mr. Habeger said there is also a senior management team, currently comprised of five board executives, with a sixth soon to join them when a new CPA board executive is hired. The senior management team, he said, is instructed to look at where the division is today, define problems, and manage to address the problems. He said resources are still being assessed.

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MR. HABEGER, in response to Chair Hawker, said he generally agrees with the concerns raised and recommendations given in the auditor's report.

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MS. HANRAHAN, in response to Representative Doogan, said the division is tackling the many problems it faces one at a time. She expressed hope the problems will be taken care of in a year, some within the year.

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MR. HABEGER said he is hopeful that there will be vast improvements in a year. Regarding resources, he said the average number of cases that are brought to the investigative unit in a year's time is 45; in FY 11, that number was 1,120, which amounts to approximately 70 cases per investigator. Given the current information, Mr. Habeger said he did not yet know how to increase efficiency, better manage those [cases], and improve the new database, which was supposed to answer a number of questions better in FY 11 and address new problems revealed through the audit within 12 months.

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REPRESENTATIVE DOOGAN commented on the length of time that this problem has existed. He said the legislature needs to know if more money needs to be spent in this direction, or it will spend money elsewhere. He emphasized that today's meeting is an opportunity for the division representatives present to let the legislature know what part it can play in solving the problem.

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MR. THAYER said the Division of Corporations, Business, and Professional Licensing has had the attention of the Office of the Commissioner for the past year and has had the cooperation of that office. He said the goal for progress is set in two- to three-month increments. He related that some of the problems, such as cost allocation and fee scheduling, will require review by outside contractors. Although "that project" was actually undertaken in 1998 and was supposed to be updated in 2008, issues with corporation staff resulted in "an agreement to disagree" and "they walked off the job." He noted that it was not the contractor's fault. Still, the department had to work with the human resource system to take address some personnel issues and bring in a new team to address the problem. He expressed hope that the department can work with the Legislative Budget and Audit Committee and return with a progress report in six months.

MR. THAYER stated that progress has been made regarding annual reports, which are required by statute but have not been made for the past eight years. He said the reports began in May and the department has collected \$600,000 from corporations that it had been previously ignoring. He said, "Some of this is triaged as we go." He said the department has begun a more proactive method of monitoring business licenses; it now sends out reminders, for example.

REPRESENTATIVE DOOGAN said he is not asking for miracles; he just wants to see reasonable progress being made.

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CHAIR HAWKER requested an update from the department before the next legislative session and he said he would be happy to work with the department toward that end.

MR. HARBEGGER agreed that would be feasible.

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REPRESENTATIVE GRUENBERG remarked that there seem to be new issues today. Therefore, he requested that the individual problems with broad resolutions and timeframes be submitted by the department in writing.

CHAIR HAWKER said that could be taken into consideration.

MR. THAYER said, "We are fully supportive."

[3:41:08 PM](#)

CHAIR HAWKER turned next to the Department of Revenue's follow up on audit findings and recommendations. He offered his understanding that Johanna Bales is the current acting tax director. He said the subject at hand pertains to DOR's ability to exercise due diligence in the administration of tax laws and regulations and the proper collection, accounting, and management of the state's various revenue statutes. He said the audit just released has indicated a number of specific concerns regarding fish tax receipts. He said fish tax is a small portion of the state's revenue, but similar issues have been identified with the state's most important revenue sources: oil and gas. Chair Hawker noted that Representative Alan Austerman, who requested this audit, was present at the meeting. He said he would like to hear the department's general response to the audit just released, as well as some assurance that the department is headed toward a solution.

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JOHANNA BALES, Deputy Director, Anchorage Office, Tax Division, Department of Revenue (DOR), reported that the division was pleased with this audit report as compared to findings on some

other tax types. She said this program has automated systems in place that help in examination and processing of returns. Furthermore, over the last couple of years the department has put in place a system of filing and permitting that is shared with the Alaska Department of Fish & Game. She said the program allows those in the fisheries industry to [pay their taxes] on line, and she offered her understanding that over 70 percent of the applicants use the system. Further, the division has automated tax returns, which will notify the division if someone has not filed or has filed incorrectly.

MS. BALES said this particular audit focused on the division's audit program, in which the representatives from the division go out in the field to audit taxpayers. Currently, that job is done by one person whose position was granted by the legislature in 2004, at the time that the salmon product development (SPD) tax credit was put into effect. She said the program related to that tax credit is decent; however, it is lacking regulation. Ms. Bales opined that it was remiss of the division to miss the two-year sunset provision expiration and fail to adopt regulations. She informed the committee that there are written draft regulations that have been vetted through the first level of review and which will be ready to be examined by the Department of Law (DOL) at the end of this month, after which they will be released for public comment. Concurrently, the division is addressing other issues related to those regulations, which means the project has ballooned.

MS. BALES expressed appreciation for the legislative audit because sometimes the division develops a narrow vision of the programs, especially when there are limited resources. She stated that the division will follow up the audit by making an effort to use the fish tickets more actively, as well as [focusing on] the core report. She further thanked those in the legislature who supported funding a revenue management system for the department, which she opined will help in managing data and revenue.

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REPRESENTATIVE AUSTERMAN expressed concern that DOR is not putting enough emphasis on the audit of the tax returns and what the processors are filing with the State of Alaska. He offered his understanding that the department does not audit any of those returns; therefore, the department has no idea whether the filing is being done correctly or not. He related that he has talked with a number of organizations, including the Alaska

Seafood Marketing Institute, but no one can say distinctly how much fishermen are being paid. He said there is no way for the department to audit if it does not know what fishermen are being paid. He opined that while fish tax is small compared to oil and gas taxes, it is still an important part of the state's economy. Representative Austerman then asked Ms. Bales if she has any thoughts related to improving what the division is doing.

MS. BALES replied that the division needs more resources in order to get its job done. In terms of having automated systems, she noted that the oil and gas production tax is an entirely manual system, as well as the biggest risk area because of the amount of revenue involved. She pointed out that in the past several years there has been the implementation of new tax types, such as the tax on commercial passenger vessels, gambling, and vehicle rental, and fees on tires, and audit resources have been used to help develop those programs. Although the division concurs with the audit findings, Ms. Bales opined that there are not enough resources available to work on the fish tax. She expressed hope that as the division goes forward in automating other systems, it will be able to place more focus on auditing than on program implementation and tracking.

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REPRESENTATIVE AUSTERMAN questioned whether only reallocating assets in the department is the best plan. He explained that he is frustrated by Ms. Bales' response because nowhere within it has she indicated that the division is looking at solutions other than increased funding.

MS. BALES said Representative Austerman's point is well taken, but reiterated that it would be nice to have more resources. She offered her belief that regulations would help.

REPRESENTATIVE AUSTERMAN said the regulations are only on the tax credit, and he clarified that he is referring to the audit of the tax itself.

MS. BALES replied, "Well, actually ... the regulations also deal with some of the ambiguities in the tax itself. So, we're working on that as well." She offered her understanding that the ability to look at the fish tickets in the core reports will actually help in "identifying people to go out and audit." She relayed that even with only one auditor in the field the

division will be expanding into audits of things other than the credits. She noted that the division also uses its tax examiners in other programs. Now that on line licensing and processing in the automated system is "pretty much complete for those tax types," the division can use resources of those tax technicians to help the auditor.

REPRESENTATIVE AUSTERMAN asked whether the department is taking the time to figure out how to bridge confidentiality issues and dealing with government-to-government relationship, in order to have the available basic information before conducting an audit.

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TIM COTTONGIM, Fish Group Manager, Juneau Office, Tax Division, Department of Revenue, responded that the division has scheduled meetings with ADF&G to discuss the ability to have direct upload of that department's fish ticket data. Currently, the division requests a fish ticket report from ADF&G on a case-by-case basis, which he indicated is demanding on ADF&G's resources. Regarding federal information, he said he asked legal counsel whether there was any way DOR could have access to "their" transfer information for at-sea processors that are transferring in state, and he found out that not only does the law not allow this because DOR is not directly involved in the licensing of fish and game, it also does not allow DOR to enter into any memorandum of understanding or "any other type of an outside arrangement that would authorize us access." He stated that from that point the division performed a compliance project, pulling the federal permits from a database and sending out letters to all those known to be processing in federal waters. The result was a verification that the majority of [processors] were filing landing returns, while many had filed permits they never used. He said the department would have to request through the state's congressional delegation that the state's laws be changed in order for DOR to have access to federal data.

REPRESENTATIVE AUSTERMAN said the federal fishery off the state of Alaska is the biggest wild stock fishery in the U.S., and he said he would be interested to know if "we're getting our fair share." He said he would not hesitate to ask the congressional delegation to "look at the Magnusson Stevens Act and figure out how to do that," but he needs to hear from DOR that the department would like that information and is unable to get it on its own.

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REPRESENTATIVE AUSTERMAN said prior to statehood the raw fish tax was 3 percent as it is today. He asked if DOR believes it is the department's place to consider whether the 3 percent tax remains appropriate in 2011.

MS. BALES answered that it is more appropriate for the legislature to approach the department if it desires a change in the tax rate; the department administers the tax.

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CHAIR HAWKER pointed out that the auditor's recommendation did not focus on expansion, but rather diversity; not whether there are enough people, but whether those people are being deployed in the most efficient manner possible. He said the committee understands clearly through the auditor's report that some years ago the department picked up one position in fisheries through a fiscal note on a development credit. However, the question is where, in terms of tax laws, the state can reap the most benefit. He said he wants to know that that was clear to Ms. Bales.

MS. BALES agreed that the division needs to diversify its audits. She talked about the on line licensing and automated system, which is something that both Mr. Cottongim and the auditor have worked on together and has added efficiencies to the program. She concluded, "Dealing with some of those compliance issues first, then doing the "SPD" credit audit, and now absolutely to diversify - we agree with that completely and will do that in the near future."

CHAIR HAWKER then inquired as to how the division is doing in terms of filling positions.

MS. BALES answered that the division continues to have difficulties in recruiting at the higher level; however, it recently filled both its commercial analyst positions. The applicant pool has been better at the entry level, perhaps due to the economy, she ventured. Finding people with oil and gas experience and tax experience still proves difficult, she said.

CHAIR HAWKER remarked that that causes a major impediment in the governor's plan to bring forward requests for tax reform and policy changes. He said there must be a reason that the division is having difficulty in filling those positions, and the division must come to the legislature "forcefully" to

explain what needs to be done, because the stalemate cannot continue.

MS. BALES responded, "Point well taken."

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REPRESENTATIVE AUSTERMAN said one of the notes in the report dealt with year-end bonuses. He asked how DOR knows that when someone is paid a bonus at the end of the year, he/she has actually filed a report.

MR. COTTONGIM answered that the division has no way to know.

REPRESENTATIVE AUSTERMAN said if the division has any ideas for a solution, it would be good for the legislature to hear about them.

MR. COTTONGIM opined that this will require a partnership with some of the fisherman associations.

MS. BALES, in response to Chair Hawker, confirmed that DOR has information sharing agreements with the Internal Revenue Service (IRS); however, the level of detail received through that agreement does not provide enough to determine those types of bonuses that are paid.

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REPRESENTATIVE DOOGAN concluded that the division is saying people are getting more money and being allowed to voluntarily get taxed on it.

MS. BALES responded that that is true. She said one of the fundamental problems with tax enforcement, including individual income taxes paid to the government, is "a lot of it is voluntary reporting."

REPRESENTATIVE DOOGAN disagreed and pointed out that the federal government has the ability to "look at everything you've ever gotten," although the state does not have that ability. He recommended that the way the state determines how much money people are making should be reexamined.

[4:06:21 PM](#)

REPRESENTATIVE AUSTERMAN posited that there is more work to be done.

CHAIR HAWKER reiterated that DOR needs to communicate clearly to the legislature when it needs that body's authority.

[4:06:51 PM](#)

SENATOR MENARD suggested that every commercial vessel could post a laminated sign stating that any bonuses received must be reported for tax purposes. She said the bonus will not be cash, but will be a check. She further suggested that a [vessel owner] who does not post [the sign] should be fined.

MR. COTTONGIM clarified that it is not the fishermen who receive the bonuses but rather the processors who are paying it who need to report that payment. He said this is a "weird tax," and the division relies heavily upon processors to "do the right thing and report correctly."

SENATOR MENARD categorized it as an ethics issue.

[4:10:41 PM](#)

MS. BALES said she thinks everyone is in agreement. She said the division would like more enforcement tools, and she acknowledged Senator Menard's idea of requiring the recipient of the bonus to report.

REPRESENTATIVE NEUMAN mentioned that he is looking at the numbers and pondering the possibilities.

Audit Requests

[4:12:55 PM](#)

CHAIR HAWKER announced that the next order of business was the consideration of an audit request made by Senator Johnny Ellis for Alaska Film and Television Production Incentives.

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PAT DAVIDSON, Legislative Auditor, Legislative Audit Division, Legislative Agencies & Offices, explained that a financial compliance audit is an audit primarily of financial activities of an operation, in this case Alaska Film and Television Production Incentives. Under statute, before a payment can be

made there must be a certification that the expenditures were reviewed by an Alaska certified public accountant (CPA) to ensure that those expenditures are eligible. The division would look for that certification in addition to reviewing whether there was adequate support for the amount of the credit issued. Ms. Davidson said with a performance audit, the focus would be on what a CPA was looking at and whether or not it is sufficiently robust to ensure that the expenditures really are eligible. The performance audit is a little more in depth and questions if what occurred is appropriate for the circumstances. In response to Chair Hawker, she confirmed that consideration is also given to what is in the best interest of the state, as defined under statute.

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SENATOR JOHNNY ELLIS, Alaska State Legislature, stated that he made the request for both the financial compliance audit and the performance audit based on input from the public and a couple of legislators. He expressed hope that Ms. Davidson would be able to tell the committee what the timeline would be for a financial compliance audit; he said it would be helpful to have those results in time for the next legislative session.

SENATOR ELLIS said on the larger, more comprehensive audit only \$8.6 million of the \$100 million of the five-year project on film and television production incentives have gone out the door, and the Office of the Governor has asked if the intention is to do the comprehensive audit on that \$8.6 million. He said he would support that if that is the way the committee would like to proceed. He noted that the Office of the Governor asked if there may be a preference to audit \$40-\$50 million.

SENATOR ELLIS informed the committee that "Everybody Loves Whales" - a multi-million dollar production - has not yet been approved for credits, although the production has been pre-approved and will premiere on January 12, [2012]. Therefore, if the comprehensive audit is done now, it will be done on the \$8.6 million, and Senator Ellis said the committee "may be missing some of the other ... information that you might want to have." He said he supports the audits either way.

CHAIR HAWKER questioned the spending of money before reviewing the program, and he noted that the program has been in place for four years. He asked whether it would be premature to look at the operations of that program and at a performance audit.

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MS. DAVIDSON said the Legislative Audit Division's priorities are: things that have statutory deadlines, which includes the comprehensive annual report and the statewide single audit; then the audits in order of their approval by the Legislative Budget and Audit Committee. She said currently, the comprehensive annual report is due on December 15 and the single audit will be due the end of March [2012]. In the queue ahead of this audit, she said, is a request by Representative Chenault related to virus-free sweet potatoes. The audit request being made by Senator Ellis would be next in line, she said, unless the committee directs her to change the order. She said in prior conversations with Senator Ellis and his staff, he indicated his priority would be to get the financial compliance review done first, which she said is smaller in scope than the performance audit. She said in the best-case scenario, there would be staff available in December, and she estimated it would take a couple of months to get done. Therefore, after final reviews, the completion date may be as early as March [2012]. In terms of the performance audit, she said the other complicating factor is that as most of the division's staff complete the statewide single audit in February [2012], there will be six boards and commissions up for renewal next year, and under statute, they take priority. Therefore, she estimated that it would be April or May [of 2012] before the division could start on the performance audit.

MS. DAVIDSON, regarding timing, said she does not know if there would be a substantial impact if only a small percentage of those dollars had gone out. She said that it could be by the time the performance audit is up and going, some of those credits would start processing for "Everybody Loves Whales." She said the performance audit might not be made public until the legislature comes back in 2013.

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SENATOR FRENCH said he is in favor of moving ahead on both the financial compliance and performance audits.

CHAIR HAWKER concurred.

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REPRESENTATIVE NEUMAN opined that it is important to include the comprehensive performance audit to ensure that things are being

done the right way. That audit will give the committee baseline information to use in follow-up consideration.

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SENATOR ELLIS stated that it is also his desire to move ahead with both audits. He explained that he had felt obligated to share his conversation with the Office of Governor about the program.

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CHAIR HAWKER asked if there were any further comments.

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REPRESENTATIVE OLSON made a motion to approve Senator Ellis' request for a financial compliance and performance audit of the Alaska Film and Television Production Incentive program. There being no objection, the audit requests were approved.

Other Committee Business

[4:26:18 PM](#)

CHAIR HAWKER announced that the committee would hear other business.

CHAIR HAWKER said one of the biggest issues before the legislature has been the continued debate regarding Alaska's fiscal regime. He said he has been in preliminary conversations with Wood Mackenzie and Pedro Van Meurs to present educational programs to the legislature. He said he will be asking for the committee's authority to contract with both these agencies for an amount not to exceed the statutory limit of \$50,000.

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RENA DELBRIDGE, Staff, Representative Mike Hawker, Alaska State Legislature, stated that currently Wood Mackenzie has a petroleum economics course that it presents worldwide, and it would tailor that to Alaska's interest. The proposal would have Wood Mackenzie and Pedro van Meurs come to Alaska for two full days.

MS. DELBRIDGE said the topics covered by Wood Mackenzie during the first day would include: how oil and gas companies globally

make investment decisions, both in terms of exploration and productions; the super major, major, and independent oil companies; the characteristics of varying jurisdictions taken into account when making investment decisions; the concept of fair share in government take; and an overview of the global oil and gas industry and the changes in considerations of investments. On the second day, she related, Wood Mackenzie would cover the following: case studies related to Alaska's current situation; the world view of Alaska in terms of investment attractiveness; a discussion of what sort of jurisdictions around the world should be considered part of Alaska's peer group in terms of international competitiveness and investment capital; and how companies may or may not judge Alaska as competitive.

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MS. DELBRIDGE mentioned a multi-volume product that was purchased by the committee from Mr. Van Meurs' corporation. She said Representative Hawker would like Mr. Van Meurs to present his conclusions in a format that policy makers in Alaska will find useful and to share his expertise regarding what is happening around the world. She said discussions are under way with Mr. Van Meurs to see if he would be available to come give a presentation regarding the strengths and weaknesses of Alaska's fiscal system.

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CHAIR HAWKER said he has preliminary commitments from Wood Mackenzie for a presentation in early November [2011], and is working to schedule Mr. Van Meurs sometime before the next legislative session, with a focus on creating a schedule that will work for the maximum number of legislators possible. He stated, "Each of these entities has ..., within the legislature, their own fans and their own detractors, but they have been the two major sources of information and education that I keep seeing consistently referred to from both the House and the Senate." He said this would be an opportunity for legislators to have one-on-one interaction in an educational forum.

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SENATOR MENARD said there will be other costs involved in addition to the cost of bringing both speakers to Alaska, for example, the cost of legislators attending. Therefore, she

asked if it would be possible to bring one of the speakers up and then wait until another time to bring up the other one.

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MS. DELBRIDGE clarified that the cost would be \$50,000 for each speaker. Regarding Wood Mackenzie, she said, "It's more [economical] to bring them up once for a larger group and really have an intense couple of days."

CHAIR HAWKER pointed out that [under statute] this amount of money being requested cannot be exceeded. He said the cost for Wood McKenzie would come close to \$50,000, while the cost for bringing Mr. Van Meurs would be substantially less overall. He emphasized that the need for information right now is paramount, and providing information appropriately costs money. He said the Legislative Budget and Audit Committee has the statutory budget authority to do this sort of thing.

4:40:25 PM

MS. DELBRIDGE, in response to Senator Menard said the intent is to bring Wood Mackenzie and Pedro Van Meurs up separately. She reiterated the tentative timeframe previously described by Chair Hawker.

SENATOR MENARD opined that it would be "beyond adequate" to offer a scaled-down version of this plan, because 90 percent of the legislators would find one full day of this information valuable.

4:42:50 PM

SENATOR FRENCH said he would agree to \$50,000 for two people from Wood Mackenzie for two days, but not for one person for two days.

CHAIR HAWKER reiterated that he does not think the amount would go near \$50,000 for Mr. Van Meurs, unless there were to be further testimony from Mr. Van Meurs during the legislative session. He recollected that the last time the legislature contracted with Mr. Van Meurs, his day rates were \$3,500, plus out-of-pocket expenses.

SENATOR FRENCH said he thinks it would be worth it. He opined that even if the information is beyond what any one person can absorb, there are 60 legislators and their staff among which the

information would be spread. He said he supports Chair Hawker's effort.

CHAIR HAWKER reiterated that the proposal would be compliant with state procurement. He stated his intent to be as frugal as possible.

[4:44:40 PM](#)

SENATOR MENARD offered her understanding that the travel expenses, housing, and per diem for the legislators who would attend would not be covered in the \$50,000.

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REPRESENTATIVE DOOGAN said this sounds like a good deal.

[4:45:46 PM](#)

REPRESENTATIVE OLSON made a motion and asked for unanimous consent that the chair of the Legislative Budget and Audit Committee be authorized to enter into a contract with Wood Mackenzie to conduct a program on petroleum fiscal systems at a cost not to exceed \$50,000. There being no objection, that authority was granted.

[4:46:21 PM](#)

REPRESENTATIVE OLSON made a motion and asked for unanimous consent that the chair of the Legislative Budget and Audit Committee be authorized to enter into a contract with Pedro Van Meurs to conduct a program on petroleum fiscal systems not to exceed \$50,000. There being no objection, that authority was granted.

[4:47:14 PM](#)

ADJOURNMENT

There being no further business before the committee, the Legislative Budget and Audit Committee meeting was adjourned at 4:47 p.m.