

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

October 9, 2018

10:00 a.m.

MEMBERS PRESENT

Senator Bert Stedman, Chair
Senator Anna MacKinnon
Senator Cathy Giessel
Senator Click Bishop
Senator Natasha von Imhof (alternate)

Representative Andy Josephson, Vice Chair
Representative Paul Seaton
Representative Ivy Spohnholz
Representative Jennifer Johnston
Representative Dan Ortiz (alternate) (via teleconference)

MEMBERS ABSENT

Senator Lyman Hoffman

Representative Scott Kawasaki

COMMITTEE CALENDAR

APPROVAL OF THE AGENDA
APPROVAL OF MINUTES
APPROVAL OF RPL(S)
APPROVAL OF SPECIAL AUDIT REQUEST
EXECUTIVE SESSION
OTHER COMMITTEE BUSINESS

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

DAVID TEAL, Director
Legislative Finance Division
Juneau, Alaska

POSITION STATEMENT: Spoke to RPL 10-9-5001, DNR, Exxon Valdez Oil Spill (EVOS) Outreach.

FABIENNE PETER-CONTESSE, Director

Central Office
Division of Support Services
Department of Natural Resources (DNR)
Juneau, Alaska

POSITION STATEMENT: Answered questions during discussion of RPL 10-9-5001, DNR, EVOS Outreach.

RANDY RUARO, Staff
Senator Bert Stedman
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Offered information regarding approval of a special audit request regarding Medicaid eligibility and recertification.

KRIS CURTIS, Legislative Auditor
Legislative Audit Division
Legislative Agencies and Offices
Juneau, Alaska

POSITION STATEMENT: Provided information during discussion of the special audit request regarding Medicaid eligibility and recertification.

ACTION NARRATIVE

[10:00:49 AM](#)

CHAIR BERT STEDMAN called the Legislative Budget and Audit Committee meeting to order at 10:00 a.m. Representatives Josephson, Seaton, Spohnholz, Johnston, and Ortiz (alternate) (via teleconference), and Senators Stedman, MacKinnon, Bishop, Giessel, and Von Imhof (alternate) were present at the call to order.

APPROVAL OF THE AGENDA

[10:02:19 AM](#)

CHAIR STEDMAN announced that the first order of business would be the approval of the agenda.

[10:02:26 AM](#)

REPRESENTATIVE JOSEPHSON moved that the Legislative Budget and Audit Committee approve the agenda. There being no objection, the agenda was approved.

APPROVAL OF MINUTES

10:02:40 AM

CHAIR STEDMAN announced that the next order of business would be the approval of minutes.

10:02:45 AM

REPRESENTATIVE JOSEPHSON moved that the Legislative Budget and Audit Committee approve the minutes of the July 12, 2018, meeting as presented. There being no objection, the minutes of the July 12, 2018, meeting were approved.

APPROVAL OF RPL(s)

10:03:31 AM

CHAIR STEDMAN announced that the next order of business would be the approval of a revised program legislative (RPL).

10:03:43 AM

REPRESENTATIVE JOSEPHSON moved that the Legislative Budget and Audit Committee approve RPL 10-9-5001, Department of Natural Resources (DNR), Exxon Valdez Oil Spill (EVOS) Outreach, as presented.

CHAIR STEDMAN objected for the purpose of discussion.

10:04:08 AM

The committee took an at-ease from 10:04 a.m. to 10:05 a.m.

10:05:13 AM

DAVID TEAL, Director, Legislative Finance Division, stated that RPL 10-9-5001, DNR, EVOS Outreach is a request by DNR for authorization to spend \$140,712, provided by the EVOS Trust, so that staff and the parks management and access allocation can develop an outreach program for the thirtieth anniversary of EVOS. He stated that this would be one-time funding, it would have no impact on future budgets, and existing positions would perform the work. Mr. Teal said Legislative Finance has no issues with the RPL but notes this is a new fund source for the parks allocation, and sending money through the Alaska Department of Fish & Game (ADF&G) - the typical recipient of

EVOS money - was "possible but not necessary." He said DNR responded to the comment by saying that setting up a request for application (RFA) would add administrative work to both agencies, with no improvement in results, a statement with which the Legislative Finance Division agreed. He said the Legislative Finance Division has noted that Legislative Budget and Audit Committee members may wish to ask the agency about money freed by using the trust money to replace DNR's normal funding sources. He said the agency responded to that issue to the satisfaction of the Legislative Finance Division. Notwithstanding that, he offered his understanding that the director of [the Division of Support Services], within DNR, was available on line to answer questions.

[10:06:58 AM](#)

SENATOR MACKINNON asked what would be done with the displaced money.

[10:07:23 AM](#)

FABIENNE PETER-CONTESSÉ, Director, Central Office, Division of Support Services, Department of Natural Resources (DNR), answered as follows:

We have four positions that are working in that unit; two will be partially funded by the Exxon Valdez Oil Spill Funding. ... Two of the positions are currently 100 percent soft funded, so they have [capital improvement project] (CIP) receipts, interagency receipts, and statutory designated program receipt funding. That's all soft funding, so ... we are generally looking for money for those positions throughout the year. That may be realizable revenue.

The other two positions: One is 75 percent soft funded, and the other 25 percent is general fund program receipts in the parks components. And the fourth position is 60 percent soft funded [and] 40 percent general fund program receipts. So, there is not necessarily actual money for those positions that will be displaced. As I mentioned, we're always looking for soft funding to fund those positions throughout the year.

[10:09:14 AM](#)

REPRESENTATIVE JOSEPHSON restated the motion that the Legislative Budget and Audit Committee approve RPL 10-9-5001, Department of Natural Resources (DNR), Exxon Valdez Oil Spill Outreach, as presented.

[10:09:40 AM](#)

SENATOR VON IMHOF objected. She indicated that through a different position she holds, she learned that there is a proposal that the EVOS Fund be absorbed by the Alaska Community Foundation. She said she would like to verify that information and find out how far along the process is before the committee approves the RPL, because [the proposal] could change how the fund is being managed and how grants are processed.

[10:10:41 AM](#)

MS. PETER-CONTESSÉ said she was not aware of the EVOS Trust fund being absorbed by any foundation. She said the funding has been approved by the trustee council and via court order 69, which has been weighed in on by DOL and is "in line with how the Exxon Valdez Oil Spill Trust fund should be spent." She reiterated that she is not aware of any other change in how the fund is managed.

[10:11:33 AM](#)

SENATOR MACKINNON recollected that during the last legislative session's capital budget process, the legislature "removed a request for use of these funds, because there was an issue with whether people were competing fairly for the funds." She added, "Those that are in control of these funds have suggested these are the funds that we've denied before."

[10:12:05 AM](#)

CHAIR STEDMAN asked Senator Von Imhof if she maintained her objection.

[10:12:11 AM](#)

SENATOR VON IMHOF answered no.

[The previous objection by Chair Stedman for discussion purposes was treated as withdrawn.]

CHAIR STEDMAN asked Senator Von Imhof to look at her concerns and get back to him regarding them.

[10:12:37 AM](#)

SENATOR MACKINNON said she would not be returning to the legislature in January; therefore, she encouraged committee members to consider how EVOS Trust fund money is being spent to benefit Alaska. She explained that although some of the fund has been used to restore damaged property in coastal areas that were impacted by EVOS, for example, some has been spent to fund federal jobs that are blocking development in some areas of Alaska. She acknowledged the committee may want to cooperate and collaborate regarding Federal Emergency Management Agency (FEMA) issues; however, she has observed "a greater dependency on moving the funds from the State of Alaska to fund federal employees."

[10:13:54 AM](#)

CHAIR STEDMAN said that is a good point that should be passed on to a future chair.

[10:14:06 AM](#)

CHAIR STEDMAN asked if there was any further objection to the motion to approve RPL 10-9-5001, DNR, Exxon Valdez Oil Spill Outreach as presented. There being none, it was so ordered.

APPROVAL OF SPECIAL AUDIT REQUEST

[10:14:14 AM](#)

CHAIR STEDMAN announced that the next order of business would be the approval of a special audit request - Medicaid Eligibility and Recertification.

[10:14:28 AM](#)

RANDY RUARO, Staff, Senator Bert Stedman, Alaska State Legislature, addressed the special audit request, which he said was dated October 3, 2018, and developed with the assistance of the auditor, with subject matter relating to eligibility and recertification of individuals for Medicaid and Children's Health Insurance Program (CHIP) benefits. He related that this is a large program with a great number of beneficiaries and enrollees. He stated, "Alaska also has a very high migratory

population, so we have ... tens of thousands of residents moving in and tens of thousands of people coming in every year, which is important to track and make sure the program's being provided to those ... who are truly eligible."

MR. RUARO advised that the purpose of the audit is to delve into how the department is doing in terms of determining eligibility and recertification to check whether the department's actions are timely and proper documentation is being done. He said the fifth bullet point in the audit extends to best practices. He said he learned from those with expertise in Medicaid eligibility that there is a significant disparity between "states that do a very good job in terms of Medicaid eligibility and states that have larger error rates and maybe aren't using the best practices." He suggested the audit would look not only at the numbers related to how agencies are doing but also at what best practices are working to keep error rates down in other states and how DHSS could use that information. The audit serves the legislatures oversight and should, in the end, provide helpful information for the department to comply with the federal audit. He said errors found through the federal audit can result in penalties levied against the state program.

[10:17:25 AM](#)

REPRESENTATIVE SEATON offered his understanding that 20 positions were added in the last year to deal with backlog. He asked if the audit would reflect prior to and following the addition of those positions.

MR. RUARO responded that he thinks that would be a good way to proceed with the audit, and he said the language of the request is broad enough to do so.

[10:18:35 AM](#)

KRIS CURTIS, Legislative Auditor, Legislative Audit Division, Legislative Agencies and Offices, stated her intent to "start in the spring of next year." She would be looking at fiscal year 2019 (FY 19). She said, "I would like to coordinate it with our federal compliance requirement and testing that program to get the most maximum benefit from the audit." She said the division would be looking at FY 19 perhaps going back to FY 18. She stated that the intent would not be to look at whether the added positions affected the error rate. She said she is not sure the division could ever really identify that as a cause and effect. Instead, the division would be looking at sampling and would

contract out that sample work to an expert. It would also ask the expert to look at best practices of well-performing states and apply those to the State of Alaska. Further, the audit would come up with error rates regarding funds spent inappropriately or inaccurately on ineligible recipients to quantify the impact to the state. She said unless she received specific direction, she would not focus on the impact of specific position control numbers (PCNs) to the error rate.

REPRESENTATIVE SEATON said he thinks it would be important for the committee to know whether the extra positions created were effective in "timeliness compliance."

MS. CURTIS said she thinks the audit would indicate whether there has been improvement in terms of addressing the backlog of work, and the division would be doing inquiries and "know whether it's making a difference," but she does not think the division would have enough time to quantify the difference. She said the audit report certainly would include whether or not the department is moving in the right direction.

[10:23:05 AM](#)

REPRESENTATIVE JOHNSTON remarked that best practices would be in the audit. She said Code for America has chosen the State of Alaska as one of its five pilot states for benefits and is "currently working here with the department on this." She asked Ms. Curtis if the Legislative Audit Division would be assessing the value that [Code for America] is bringing to the department, as well as assessing "the department's coordination and participation with Code for America" to determine whether the state is "getting the best of what we can out of the whole process." In response to Ms. Curtis, she explained that Code for America has "changed [the] application process from 'this' to an iPhone." She added, "In doing so, they've also increased the accountability, the efficiency, and [the] effectiveness of the whole program." She indicated that she was involved in bringing [Code for America] to Alaska. She said she wanted to raise awareness of this as the auditor considers best practices, and she wants "to make sure that ... the division is working well in being part of this opportunity."

[10:25:23 AM](#)

REPRESENTATIVE SPOHNHOLZ said she knows that recommendations come out of an audit. Nevertheless, she said she wanted to state the obvious that there are challenges ahead and the

committee looks to the recommendations from the Legislative Audit Division as to whether objectives are not being met and what can be done about that.

[10:26:21 AM](#)

SENATOR MACKINNON said she supports the request for an audit, but she has concerns. She said DHSS has not always been cooperative in allowing auditors access to information - sometimes that has been because a change in systems was occurring and "it was difficult for them to react." She asked Ms. Curtis if she thinks the division will get the cooperation it needs in order to "appropriately look at the issues that we're trying to quantify."

[10:27:11 AM](#)

MS. CURTIS answered that she expects 100 percent compliance from the department. She said the division is currently auditing Medicaid and CHIP and all the other major federal programs for FY 18, and the division has had no issues with DHSS.

SENATOR MACKINNON asked if DHSS was the department that was responsible for the Legislative Audit Division not being able to report to the federal government on time last year.

MS. CURTIS responded that issues faced last year had much to do with outside auditors.

SENATOR MACKINNON asked, "Are we certified?"

MS. CURTIS said she has been told that the State of Alaska is certified, although she does not know if the actual documentation has yet been received. She suggested that is an excellent question for the department.

SENATOR MACKINNON said the committee has been told before by the department that it was in compliance and waiting for the paperwork, only to then receive a list of five to fifteen errors pending. She said there is a 5-10 percent rebate that the state is looking for as it does the Medicaid expansion, "with those numbers of having 100 percent coverage from those who might access ... from our tribal communities." She said that is a dollar amount that the committee should be watching for which is in the millions - "a small rebate for the efforts that the governor and this administration put forward in expanding those services out." She concluded, "There's a rebate that you should

be looking for in the millions of dollars if they are, in fact, complying, and it was a request that they had to make for [the] standing of the system."

[10:29:57 AM](#)

CHAIR STEDMAN suggested the committee could send a formal letter to [DHSS] so it would get a formal response. He said both the House and Senate Finance Committees would want that information.

SENATOR MACKINNON proffered, "Part of the problem is that the legislature - from the department's position - short-funded them \$50 million." She expressed concern that some members in the Senate expected the department to reduce its spending by that amount. She said she has seen something from the Legislative Finance Division regarding the shortfalls that the legislature will face based on the administration. She urged Chair Stedman to send the letter. She offered her understanding that [the committee] had been waiting three years, not four. She acknowledged there are challenges. She talked about the challenges of keeping up with information technology (IT) and switching systems. She indicated that it is "a hidden cost to everything we do."

[10:31:52 AM](#)

SENATOR VON IMHOF stated that with Medicaid expansion of 2015, followed by a 2016-2017 economic recession, the role of Medicaid expanded to over 220,000 people, and the backlog worsened; therefore, she opined it is important to address the backlog. She pointed out that there are two types of audits. There is an audit in arrears to determine what has been going on in 2018 and in the past, and there are "audits potentially that can move forward." She explained that Alaska is not alone in its Medicaid eligibility backlog. She said the Foundation for Government Accountability developed draft legislation a few years ago related to eligibility verification called "the Hope Act." The States of Oklahoma, Mississippi, and Missouri have passed legislation under which they hire third-party vendors to help clean up their Medicaid eligibility backlog; they negotiate "pay for performance" contracts. The third-party vendors process all files, and, during the process, they audit the files, ensure they are complete, and then hand them back to the state for final approval. Senator Von Imhof said this allows the state to focus on offering services to Medicaid recipients. She said other states have reported tens of millions, if not hundreds of millions, in savings.

SENATOR VON IMHOF questioned whether 20 employees were actually added in the area of Medicaid eligibility. She said she knows 20 employees were added to the Office of Children's Services (OCS) case management. She said she had the list at hand and could provide that information in a few minutes. She questioned if it made sense to do two audits, one audit in arrears and another audit looking forward in the event that the legislature wants to look Medicaid eligibility. She asked, "Would we be killing two birds with one stone by doing a moving-forward audit instead of an in arrears audit or doing both for that matter?"

10:35:01 AM

CHAIR STEDMAN opined that the in arrears audit would be more applicable. He mentioned Senator Von Imhoff's having expressed that the issue may be ripe for discussion in front of the legislature, in terms of possible statute changes and restructuring and "to work with the audit process and figure the audit outcome." He continued:

I mean, when there's legislation that winds up with a particular audit problem, ... the probability of the legislation going through the system builds up substantially. So, ... my recommendation is we go down the pathway of dealing with this audit; we have discussion of a potential structuring and try to coincide the analytical work with the outcome of the audit, because it's going to take some time for the audit and take some time to actually do the bill work, so we have ... a higher likelihood that we have a successful outcome, whatever that outcome is.

MS. CURTIS said she thinks one of the potential downfalls of moving forward with an audit in arrears is that "people may want to just stop and simply wait for the audit results before moving forward, thereby delaying action on this very significant backlog problem," which would result in people continuing to not be eligible for Medicaid and the state paying for those who should not be eligible. Waiting for the audit to finish could potentially cause a delay of a year or more. Conversely, choosing a forward-looking audit and using a third-party vendor would lessen the chance of the argument stating, "We need to address this sooner rather than later, and this is our best bet."

CHAIR STEDMAN opined that "we should move forward with the audit and then continue this discussion on how we're going to come up with a solution." He said it is difficult to get legislation through the system; therefore, the more the problem and solution are lined up, the higher the probability is in coming up with a solution rather than just holding "internal discussion that goes nowhere in the legislature."

[10:37:26 AM](#)

SENATOR MACKINNON offered her understanding that two years ago legislation was passed which directed the department to hire a contractor "to do exactly what Senator Von Imhoff is saying." She continued:

If we're going to write a letter to the department, we should ask them the status on that, because ... [an] inquiry during last session [revealed that] they still had not brought on that contractor and still were not doing what the legislature had directed them to do.

SENATOR MACKINNON said she had heard the name Maximus [Health Care], and she cautioned that hiring outside contractors "looks really nice up front," and contractors tell the state that hiring will result in savings, "and then you look at what happened when we inserted something like that several years ago in the permanent fund." She said the Permanent Fund [Corporation] has been doing a good job managing the fund and looking for fraud, "and so, the money that we invested with the contractor did not reap the benefits that were sold to the legislature in putting in that contractor." She said paying for performance, as mentioned by Senator Von Imhoff, would be a different tack than the legislature has taken in previous years. She recommended looking at the budget from two years ago, because the department has not hired the contractor the legislature asked it to hire.

SENATOR STEDMAN said the committee would send the letter to the department to "flush that issue out," then continue the discussion to find a fruitful outcome. He surmised that the language to which Senator MacKinnon referred would help Senator Von Imhoff put "a finer point on what needs to be done to move forward."

[10:39:50 AM](#)

SENATOR BISHOP said he concurs with everyone's comments. He opined that the audit needs to go forward to develop a working relationship with the department. He said he can also see another audit following this one "for all the reasons that we've talked about here." He said he thinks the audit would "help the department streamline the execution of their mission."

[10:40:38 AM](#)

CHAIR STEDMAN, regarding the previous comments of Senator Von Imhoff, recommended looking at the language that was in the budget a couple years ago and then having discussions outside of committee on the structure of a forward-looking audit, in an attempt to come up with [a solution]. He recognized the financial challenge of a delay. He opined that "the intended direction" is good, and he advised the committee to "line up our ducks and then execute."

[10:41:33 AM](#)

SENATOR GIESSEL said she appreciates the audit. She said audits take time, and the committee gives Ms. Curtis a huge amount of work to do. She said the issue to which Senator Von Imhoff referred was discussed at a national meeting about two weeks ago "as best practices." She said the states that have hired [Gundersen Health System] to conduct surveillance of eligibility are doing well. She encouraged [the committee] to put forward legislation or somehow move "in that positive direction." She stated, "We don't have to keep reinventing the wheel when other states have found answers to these questions." She said she supports and can substantiate "what Senator Von Imhoff has shared."

[10:42:41 AM](#)

REPRESENTATIVE JOSEPHSON asked Mr. Ruaro if the figure of 86 percent increase includes expansion population or is independent of it.

[10:42:54 AM](#)

MR. RUARO answered that it includes the expansion population.

REPRESENTATIVE JOSEPHSON offered his understanding that the state has spent \$20 million out of the general fund (GF) for Medicaid expansion, and the state has received \$960 million, which he called "a great deal" that has got to be good for the

economy of the state. He asked Ms. Curtis if the audit would "segregate the numbers" to make apparent whether "someone is ineligible as an expansion population vis a vis a regular population."

[10:43:47 AM](#)

MS. CURTIS answered that it had never crossed her mind whether there would need to be any distinction between Medicaid expansion and regular Medicaid. She said, "The focus would be on the determination of eligibility and whether they were using all the tools they're required to use to determine eligibility," such as best practice tools and timeliness. Regarding Medicaid expansion and regular Medicaid, she said, "I don't anticipate us differentiating the population."

REPRESENTATIVE JOSEPHSON acknowledged that his understanding of this is rudimentary. He proffered that in terms of expansion, "you're looking at just importunity and inability to afford 'Obama Care.' In the other you might be looking at disability. And so, the eligibility determination might be really a different thing." He said he would like the audit to "get into that."

MS. CURTIS said the Legislative Audit Division could, in a sample, identify different factors in the population to determine whether there are any correlations between errors, "the focus being on ... determinations by [DHSS] staff in the obstacles and challenges." She added that the division could try to find any other "nuances in the population."

[10:45:42 AM](#)

REPRESENTATIVE SEATON noted that the National Conference of State Legislatures (NCSL) had just published an article showing that in those states that have used independent contractors for enrolling, the result was an increase in the cost to the state by two to three times. He suggested the need to consider the financial implications, if the committee were to get into "the conversation for legislation."

[10:47:09 AM](#)

REPRESENTATIVE JOSEPHSON moved that the Legislative Budget and Audit Committee approve the special audit request for Medicaid eligibility as presented. There being no objection, it was so ordered.

[10:47:25 AM](#)

CHAIR STEDMAN stated that the committee would have discussion about applicable legislation and the work that can be done toward a solution, as brought up by Senator Von Imhoff.

EXECUTIVE SESSION

[10:47:54 AM](#)

CHAIR STEDMAN announced that the next order of business would be executive session.

[10:48:04 AM](#)

REPRESENTATIVE JOSEPHSON moved that the Legislative Budget and Audit Committee go into executive session under Uniform Rule 22 of the Alaska Legislature and AS 24.20.301. The purpose of the executive session would be to consider the final audits of the Department of Commerce, Community & Economic Development (DCCED) - Board of Marine Pilots, sunset, and the following preliminary audits: DCCED, Board of Barbers and Hairdressers, sunset; DCCED, Board of Dental Examiners, sunset; DCCED, Board of Nursing, sunset; DCCED, Suicide Prevention Council, sunset; DNR, Matanuska Maid Property Disposal; and Department of Administration (DOA), Statewide Single Audit, fiscal year 2015 (FY 15), reissue.

[10:48:24 AM](#)

CHAIR STEDMAN named the following individuals allowed to remain in the room for executive session: the legislative auditor and staff; necessary staff for Legislative Audit; any legislators not on the committee; and staff for members of the committee.

[There being no objection, the Legislative Budget and Audit Committee entered into executive session.]

[10:48:58 AM](#)

The committee took an at-ease from 10:49 a.m. to 11:33 a.m.

[11:32:46 AM](#)

CHAIR STEDMAN brought the Legislative Budget and Audit Committee back to order at 11:33 a.m. Present at the call back to order

were Representatives Seaton, Spohnholz, Johnston, Ortiz (alternate, via teleconference), and Josephson and Senators MacKinnon, Bishop, Giessel, Von Imhof (alternate), and Stedman.

OTHER COMMITTEE BUSINESS

[11:34:02 AM](#)

CHAIR STEDMAN announced that the final order of business would be other committee business.

[11:34:16 AM](#)

REPRESENTATIVE JOSEPHSON moved that the Legislative Budget and Audit Committee approve the release of the final audit for the Board of Marine Pilots. There being no objection, it was so ordered.

[11:34:35 AM](#)

REPRESENTATIVE JOSEPHSON moved that the Legislative Budget and Audit Committee approve the release of the following preliminary audits to the appropriate agencies for response: the Board of Barbers and Hairdressers; the Board of Dental Examiners; the Board of Nursing; the Suicide Prevention Council; the Matanuska Maid Property Disposal; and the Statewide Single Audit for FY 15, re-issue. There being no objection, it was so ordered.

[11:35:22 AM](#)

CHAIR STEDMAN said the Legislative Budget and Audit Committee would consider meeting in mid-December.

[11:35:59 AM](#)

ADJOURNMENT

There being no further business before the committee, the Legislative Budget and Audit Committee meeting was adjourned at 11:36 a.m.