

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

October 31, 2019
10:04 a.m.
Anchorage, Alaska

MEMBERS PRESENT

Representative Chris Tuck, Chair
Senator Click Bishop, Vice Chair
Representative Neal Foster
Representative Andy Josephson
Representative Ivy Spohnholz

Senator Bert Stedman
Senator Natasha von Imhof
Senator Cathy Giessel
Senator Lyman Hoffman
Representative Jennifer Johnston (alternate)

MEMBERS ABSENT

Representative Mark Neuman
Senator Peter Micciche (alternate)

OTHER LEGISLATORS PRESENT

Representative Bryce Edgmon
Senator John Coghill

COMMITTEE CALENDAR

APPROVAL OF MINUTES
ALASKA DIVISION OF LEGISLATIVE AUDIT COMPENSATORY TIME POLICY
APPROVAL OF RPL(S)
EXECUTIVE SESSION
PRELIMINARY AUDIT RELEASE
TUSTUMENA AUDIT REQUEST APPROVED FEBRUARY 2014

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

KRIS CURTIS, Auditor

Legislative Audit Division
Legislative Agencies and Offices
Juneau, Alaska

POSITION STATEMENT: Spoke to the issue of proposed changes to the Legislative Audit Division's compensatory time policy; explained a memorandum related to the Tustumena Audit Request.

DAVID TEAL, Director
Legislative Finance Division
Legislative Agencies and Offices
Juneau, Alaska

POSITION STATEMENT: Discussed the revised programs legislative (RPLs) before the Legislative Budget and Audit Committee.

SYLVAN ROBB, Director
Division of Administrative Services
Department of Corrections
Juneau, Alaska

POSITION STATEMENT: Responded to questions related to RPL 20-2020-0050.

TAMARA VAN WYNE, Director
Educator and School Excellence Division
Department of Education & Early Development
Juneau, Alaska

POSITION STATEMENT: Answered questions during discussion of RPL 05-2020-0045.

RUTH KOSTIK, Acting Director
Administrative Services
Department of Environmental Conservation (DEC)
Juneau, Alaska

POSITION STATEMENT: Answered a question regarding RPL 18-2020-0369.

GORDON BURTON, Facility Manager
Anton Anderson Memorial Tunnel
Department of Transportation & Public Facilities (DOT&PF)
Anchorage, Alaska

POSITION STATEMENT: Answered questions regarding RPL 25-2020-8718.

ACTION NARRATIVE

[10:04:37 AM](#)

CHAIR CHRIS TUCK called the Legislative Budget and Audit Committee meeting to order at 10:04 a.m. Present at the call to order were Representatives Josephson, Foster, Spohnholz, Johnston (alternate), and Tuck and Senators von Imhof, Stedman, Giessel, Hoffman, and Bishop. Also in attendance were Representative Edgmon and Senator Coghill.

APPROVAL OF MINUTES

[10:04:59 AM](#)

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

[10:05:06 AM](#)

SENATOR BISHOP made a motion to approve the minutes of the Legislative Budget and Audit Committee of May 15, 2019, and August 16, 2019. There being no objection, the minutes from the meetings of May 15, 2019, and August 16, 2019, were approved.

ALASKA DIVISION OF LEGISLATIVE AUDIT COMPENSATORY TIME POLICY

[10:06:14 AM](#)

CHAIR TUCK announced the next order of business would be proposed changes to the Alaska Division of Legislative Audit Compensatory Time Policy.

[10:06:33 AM](#)

KRIS CURTIS, Auditor, Legislative Audit Division, Legislative Agencies and Offices, directed attention to a memorandum ("memo") she had sent to the Legislative Budget and Audit Committee, dated 10/9/19, which describes proposed changes to the division's compensatory time policy and read as follows [original punctuation provided]:

At the September 5, 2012, Legislative Budget and Audit Committee meeting, the Committee approved a comp time policy for the Division of Legislative Audit and the Division of Legislative Finance. The policy authorized no more than 150 hours of comp time during a 12 month period. The 150 hours represents four weeks at a 37.5 hour workweek. At the April 12, 2019, Legislative Budget and Audit Committee meeting, the Committee approved a 40 hour workweek for supervisory auditors.

I am requesting that the comp policy approved in 2012 be based on weeks rather than hours to accommodate the different standard work schedule of the different Legislative Audit employees (37.5 hours a week versus 40 hours a week). The revised comp time schedule would be a max of four weeks. All other terms approved in 2012 would remain the same.

MS. CURTIS noted that for those on the 40-hour work week, the maximum comp time would be 160 hours.

[10:07:57 AM](#)

MS. CURTIS, in response to a question from Senator Hoffman, confirmed that comp time must be used within 12 months or the person loses that time. In response to a question from Representative Josephson, she explained that all employees are required to take a minimum of regular leave off per year. That can be waived by written notice of the head of the agency. She said regardless of whether the leave being requested by an employee is regular or comp time leave, she sometimes cannot allow it, for example, during the busiest times of the year. Nevertheless, she said she tries to work out the timing with staff such that they can "take their four weeks, plus their minimum two weeks." She said, "It's been difficult the last two years, but going forward we hope to allow that."

[10:10:18 AM](#)

SENATOR BISHOP made a motion that the Legislative Budget and Audit Committee approve the proposed changes to the Alaska Division of Legislative Audit Compensatory Time Policy to allow for up to 160 hours comp time annually to align with the change to the 40-hour work week approved by the Legislative Budget and Audit Committee during its April 12, 2019, meeting. There being no objection, it was so ordered.

APPROVAL OF RPL(s)

[10:10:53 AM](#)

CHAIR TUCK announced the next order of business would be the approval of revised programs - legislative (RPLs).

[10:12:33 AM](#)

DAVID TEAL, Director, Legislative Finance Division, Legislative Agencies and Offices, directed attention to RPL 08-2020-0105 - a request by the Oil & Gas Conservation Commission for [\$51,196] of federal authorization to receive and spend a grant from the U.S. Environmental Protection Agency (EPA) to perform high-priority oil field inspections and mechanical integrity testing of Class 2 injection in disposal wells. He said those tests and inspections are in compliance with the Underground Injection Control Program that is authorized under the Safe Drinking Water Act, and the Department of Environmental Conservation (DEC) oversees that program on behalf of the EPA. He said, "It has an agreement in place to witness at least 50 percent of the tests." He said RPL 08-2020-0105 supplements existing authorization and provides a total of \$169,200 in federal receipts for the Underwater Injection Control Program. He said the federal funding will offset expenditures of Alaska Oil and Gas Conservation Commission (AOGC) receipts for the program. He stated that the division does not see any technical problems with RPL 08-2020-0105.

[10:14:13 AM](#)

MR. TEAL directed attention to RPL 20-2020-0050 - a request by the Department of Corrections (DOC), "Population Management Institution, Director's Office," for \$150,000 of federal receipts authorized for the Equitable Sharing Program, which provides DOC with a share of assets seized during operations when the department assists federal law enforcement agencies. He said at the time the RPL was posted, [the Legislative Finance Division] had several questions that had not been satisfactorily answered. He allowed that many of the questions were out of curiosity how the program worked. Mr. Teal suggested that the Legislative Budget and Audit Committee members may wish to ask questions of the director of the Division of Institutions, whom he said was present in the room. He said the questions that were asked highlighted the fact that the department had requested insufficient federal authorization in the past and left federal receipts unspent a few years ago. That issue was addressed in the fiscal year 2020 (FY 20) program with approximately \$3 million of federal receipt authority added.

MR. TEAL said the Legislative Finance Division does not see a sense of urgency for this RPL, because the existing receipt authority is probably sufficient to absorb the RPL receipts; however, he acknowledged that the Legislative Budget and Audit Committee has sometimes "counted urgency as an important matter." He remarked that disapproval of the RPL is unlikely to

have any impact on the department. He indicated that if the committee were to approve the RPL, the worst-case scenario would be that the department would have excess federal receipts, and he said the division does not consider that to be a serious issue. He concluded that although RPL 20-2020-0050 "may not be strictly necessary," there is nothing wrong with it.

[10:16:53 AM](#)

REPRESENTATIVE SPOHNHOLZ observed that RPL 20-2020-0050, for the Equitable Sharing Program, will allow for the proceeds of the liquidated assets that have been seized by a drug dog. She questioned why receipt authority is being sought "for something that would be illegal to sell."

[10:17:51 AM](#)

SYLVAN ROBB, Director, Division of Administrative Services, Department of Corrections, responded that much of the proceeds garnered through the Equitable Sharing Program are "drug-related monies" that the division's drug dog, named Koda, finds. She explained that the dog is able to identify money that has been handled by people handling drugs and money.

[10:18:19 AM](#)

REPRESENTATIVE SPOHNHOLZ asked for clarification that "we wouldn't be selling money; we would just be, essentially, receiving the money that was collected."

MS. ROBB confirmed that is correct.

[10:18:29 AM](#)

SENATOR VON IMHOF asked what the policy of DOC is for illegal drugs that have been seized and whether those drugs are disposed of without recouping costs through a secondary market; although, she remarked that she could not imagine what kind of market that would be.

[10:19:01 AM](#)

MS. ROBB answered that illegal drugs are not being sold. She explained that when DOC works with federal entities, it gets "a portion of what was found." Typically cash is found. Sometimes weapons are found, and then the weapons are sold. The federal agencies typically decide what is done with the contraband.

[10:20:04 AM](#)

MR. TEAL moved on to RPL 05-2020-0045 - a request by the Department of Education and Early Development (DEED) for [\$6,507,695] in federal receipt authority to issue grants to the Alaska Comprehensive Literacy State Development Program. The grant will be competitive and apply to children from birth to grade twelve, focusing on economically disadvantaged children. He said RPL 05-2020-0045 will bring the department's total federal authorization to just over \$162 million. He said this grant includes another \$3.5 million annually through FY 24; therefore, he anticipates "an increment for federal authorization" in the FY 21 budget process. Further, he said he expects the department will continue to lapse unspent federal money. He explained the reason the department would ask for federal money when it is lapsing is because the grant, held by several grantees, overlaps in multiple years, and the department is unable to predict when those monies will be spent; therefore, the department must be prepared to release the entire grant in any given year. He relayed that the department currently is reviewing options to create either full-time positions, nonpermanent positions, or to contract out to coordinate this additional grant. He stated that no general funds are required, and the Legislative Finance Division does not see any technical problems with RPL 05-2020-0045.

[10:22:42 AM](#)

SENATOR VON IMHOF emphasized the importance of having a standardized data collection system. She offered her understanding that many school districts use [the Miller Analogy Test] (MAT) for testing, and she said she does not know if that is the right platform for testing the various programs that are going into effect under grant dollars. She emphasized the importance of seeing a growth trend in multi-year programs for reading. She said reports show that Alaska is lagging behind the national average. She asked whether there is a plan for data collection so that programs can be tested for effectiveness.

[10:24:11 AM](#)

TAMARA VAN WYNE, Director, Educator and School Excellence Division, Department of Education & Early Development, related that one of the requirements of the subgrantees is a data collection and reporting system. She said data collection from

districts that get grants for literacy is specific and includes formative and interim assessment measures. That data is reported to DEED, so the department can look at trends and make adjustments over the course of the five-year grant, as well as "make best practice recommendations to other districts, as a result of this project."

[10:25:13 AM](#)

MR. TEAL introduced RPL 18-2020-0369 - a request by the Department of Environmental Conservation (DEC), Division of Air Quality, requesting authorization to add the \$5 million awarded to the department by the U.S. Environmental Protection Agency (EPA) to an FY 19 capital project to replace residential woodstoves in the Fairbanks area with less polluting heat sources. Mr. Teal said the two existing capital projects for this purpose total approximately \$6.5 million. He said the Division of Legislative Finance was told that all but about \$116,000 of those prior year projects is obligated. Additional authority is needed in order to send out the grants. Grant awards include funding for the borough to conduct outreach and make residents aware of the woodstove "change out" program. The best time to conduct that outreach is during winter when people are using their wood stoves. Waiting to request authorization during a supplemental process would mean missing the winter season and, thus, limiting outreach opportunities, which may result in fewer woodstove replacements. Mr. Teal said the division sees no technical problems with RPL 18-2020-0369.

[10:27:16 AM](#)

SENATOR STEDMAN asked whether the [Fairbanks PM2.5 Nonattainment Area Voluntary Heating Device Change Out Program] is a continuation of a program started several years ago or is an attempt to switch to newer wood stoves.

[10:27:50 AM](#)

RUTH KOSTIK, Acting Director, Administrative Services, Department of Environmental Conservation (DEC), responded that this program is a continuation of previous programs. The first iterations addressed the changing out of wood stoves for "cleaner wood stoves or other devices," whereas the grants of last year and the current year address the changing of wood stoves to heating systems that burn "non-solid fuel," such as oil, hot water, electricity, and natural gas. She said the

grant under RPL 18-2020-0369 can also be spent to connect houses to a street natural gas system.

[10:29:13 AM](#)

MR. TEAL addressed RPL 25-2020-8718 - a request by the Department of Transportation & Public Facilities (DOT&PF) for approval to spend a million dollars to replace two fire trucks at the Anton Anderson Memorial Tunnel ("the Whittier Tunnel"). At twenty years old, the trucks are about five years past their useful life. Failure of fire trucks presents a risk to the state because of tort liability. He explained that the state has the authority to spend \$12.5 million in FY 20 to cover the cost of replacing any equipment in all executive branch agencies, but this amount is insufficient to cover the regular needs of the agencies, as well as the replacement of the fire trucks. He said that revenue is available from other assets; he indicated that there is a fence that is "fully depreciated ... and doesn't need to be replaced for a number of years." Mr. Teal continued:

The FY 20 budget review language for RPLs included the highway equipment capital fund for the first time in FY 20, and the intent of that language was to provide an avenue for the department to access additional ... money for replacement of essential state equipment, and, of course, this RPL falls right in line with that intent language, and we see no technical problem.

[10:31:38 AM](#)

REPRESENTATIVE JOHNSTON asked whether the determination regarding usage of the [fire trucks] is based on age or "what they're able to do."

[10:32:23 AM](#)

GORDON BURTON, Facility Manager, Anton Anderson Memorial Tunnel, Department of Transportation & Public Facilities, answered that consideration is given to the age of the vehicles and the ability to service them. He said the vehicles are being used approximately once every five years. He said no fire has been fought in the tunnel with the current vehicles, but he implied it would be a matter of time before such a need exists. He said the facility would be "stepping down and readjusting to a vehicle that's more in line with our needs." In response to a follow-up question, he offered his understanding that the state

has a program through which other agencies are able to purchase the older vehicles.

REPRESENTATIVE JOHNSTON stated that it seems odd that the vehicles are barely used before they meet their age limit. She suggested there may be other ways to spend the money.

[10:34:02 AM](#)

SENATOR STEDMAN questioned why the issue of the vehicles had not been brought up before the Senate Finance subcommittee, chaired by Senator Bishop, since they have been past their appreciation schedule for five years. He said he thinks that would be a more appropriate way of dealing with the issue.

[10:35:17 AM](#)

MR. BURTON responded that the vehicles were bought through a capital grant, thus were not on any sort of replacement cycle. He said the facility has been approaching the question through its management, and "it's just now come to the surface."

SENATOR STEDMAN mentioned an issue the Alaska Marine Highway System has with steel plates, but observed, "I don't see them in front of us."

[10:36:09 AM](#)

SENATOR BISHOP asked for examples of the repair costs of the fire trucks.

MR. BURTON answered that the trucks are specialized; they have infrared sensors that allow them to travel through the tunnel in a dark and smoky environment. He described that one truck was without that sensor package while a package had to be retrofitted. He mentioned switches, latches, and rail gear that are difficult to find for the old vehicles.

[10:38:04 AM](#)

REPRESENTATIVE JOSEPHSON questioned how a legislator can know what federal receipts were available but not talk to the administration.

[10:38:27 AM](#)

MR. TEAL answered that the division publishes fairly detailed reports about the authorized funding available at the allocation level. He said, "So, you know how much was available to them; you also would see what their actual expenditures were." Seeing an entity get close to allowed expenditures would indicate that that entity may be needing RPLs or increased federal authorization in order to avoid coming to the Legislative Budget and Audit Committee. As remarked upon by Senator Stedman, he said legislators sometime prefer that these issues are brought before the Finance committees to be discussed more fully. In the case of DOC, he said it would be difficult for the Legislative Finance Division or legislators to tell "where they are" if DOC is not requesting federal authorization, because when it's not requested, it is not spent and, thus, does not show up in expenditure reports; therefore, the authorization on the books may appear sufficient. He said that is what happened in the FY 20 budget cycle, when federal receipts were left unclaimed. That problem has been addressed, he said, with the addition of \$3 million in federal receipts. He concluded that there is no easy way for the legislature to see what is going on. The only way to spot the problems is through detailed discussions in subcommittee.

REPRESENTATIVE JOSEPHSON said he sees Mr. Teal's point in terms of existing programs, lapsed funds, and existing items. However, he said there are one-time opportunities an agency could seek, and he asked Mr. Teal to comment on that.

MR. TEAL offered an example of a one-time grant given to DEED through a Rasmuson Foundation grant. This was given three or four consecutive years. Finally, DEED - hoping the grants would continue - determined to get them out of the purview of the Legislative Budget and Audit Committee and put them into the budget. He said sometimes it takes a few years of "one-time needs for money" before it is recognized as more than a one-time need.

[10:42:24 AM](#)

SENATOR BISHOP asked Mr. Burton whether he would be deducting annual rent from the tunnel receipts going forward for replacement of the trucks in the future.

[10:42:58 AM](#)

MR. BURTON confirmed that is the intent.

[10:43:03 AM](#)

CHAIR TUCK observed that the operations of the Anton Anderson Memorial Tunnel are contracted, and he asked whether that contractor is also responsible for the operation of the fire trucks.

MR. BURTON answered yes, in terms of the operation of the fire trucks, but not the maintenance.

CHAIR TUCK asked whether the other vehicles, such as pickup trucks, are state-owned or owned by the private contractor.

MR. BURTON answered that the state owns a grader, a blower, and some pickup trucks. He added that the pickup truck that the contractor uses on site belongs to the contractor.

CHAIR TUCK asked out of which fund did the monies come for replacement of the fencing.

MR. BURTON answered from the toll receipts. He described the fence as "a geo-tech net that goes into the crown to control for rock." He said work is being done that will result in an extension of the crown fencing, but "at this point it's not determined."

[10:45:06 AM](#)

SENATOR BISHOP made a motion that the Legislative Budget and Audit Committee approve the following RPLs: RPL 08-2020-0105, U.S. EPA Multipurpose Grant; RPL 20-2020-0050, Equitable Sharing Program; RPL 05-2020-0045, Alaska Comprehensive Literacy State Development Program; RPL 18-2020-0369, Fairbanks PM2.5 Nonattainment Area Voluntary Heating Device Change Out Program; and RPL 25-2020-8718, Whittier Tunnel Fire Truck Replacement. There being no objection, it was so ordered.

EXECUTIVE SESSION

[10:45:58 AM](#)

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

[10:46:03 AM](#)

SENATOR BISHOP made a motion that the Legislative Budget and Audit Committee go into executive session under Uniform Rule 22(b)(3) discussion of matters that may, by law, be required to be confidential. He asked that the following persons remain in the room or on the phone: the legislative auditor and necessary staff to the auditor; any legislators not on the committee; staff for legislators that are on the committee; and David Teal. There being no objection, it was so ordered.

[10:46:41 AM](#)

The committee took an at-ease from 10:46 a.m. to 12:44 p.m. for the purpose of the executive session.

[12:44:20 PM](#)

CHAIR TUCK called the Legislative Budget and Audit Committee meeting back to order at 12:44 p.m. Present at the call back to order were Representatives Josephson, Foster, Spohnholz, Johnston (alternate), and Tuck and Senators von Imhof, Stedman, Giessel, Hoffman, and Bishop. Also in attendance were Representative Edgmon and Senator Coghill.

PRELIMINARY AUDIT RELEASE

[12:44:32 PM](#)

SENATOR BISHOP made a motion that the Legislative Budget and Audit Committee release the following preliminary audits to the agencies for response: Department of Natural Resources, Alaska Seismic Hazards Safety Commission sunset audit; Department of Corrections, Board of Parole sunset audit; Department of Commerce, Community & Economic Development, Medical Board sunset audit; and Alaska Department of Fish & Game, Board of Game Regulatory Process special audit. There being no objection, it was so ordered.

TUSTUMENA AUDIT REQUEST APPROVED FEBRUARY 2014

[12:45:10 PM](#)

SENATOR BISHOP made a motion that the Legislative Budget and Audit Committee terminate the Tustumena Overhaul and Refurbishment audit, which was approved by the committee February 2014.

[12:45:20 PM](#)

CHAIR TUCK objected for the purpose of discussion. He requested that Ms. Curtis give a brief overview of a memorandum for the benefit of the public.

[12:45:36 PM](#)

MS. CURTIS paraphrased the memorandum she had sent on October 22, 2019, which read as follows [original punctuation provided]:

During the October 31 , 2019, Legislative Budget and Audit meeting, I will be asking for guidance regarding the Tustumena audit request, which was approved by the committee on February 25, 2014. Specifically, I will be asking whether committee members want Legislative Audit to expend resources to address the request or whether the audit request should be terminated. A copy of the audit request is attached to this memo.

Background

The M/V Tustumena began its 2012 annual refurbishment and overhaul in October 2012. Completion of the project was delayed and the vessel did not return to service for over a year. As a result, ferry service to/from many Alaskan communities was disrupted. Representative Austerman requested an audit to examine the Department of Transportation and Public Facilities' management of the project (see attached audit request).

The committee considered the audit request with the knowledge that the State and the contractor would likely enter into litigation. Generally, at issue was the contractor's substandard workmanship, requiring repairs which extended the contract deadline for completion from June to October 2013. The State assessed fines on the contractor who performed the refurbishment and overhaul due to non-performance. The contractor disputed the non-performance fines and asked for additional compensation due to the high number of change orders. The Legislative Budget and Audit Committee approved the audit request with the knowledge that it would not begin until related litigation was completed.

The State and the contractor settled the litigation in January 2017. The audit did not proceed after the litigation ended due to competing priorities, mainly the lack of audit resources due to the implementation of the State's new accounting system.

Continue Audit, Alter Audit Request, or Terminate Audit

Given that over five years have passed since the request was approved, I would like confirmation from the committee that we should move forward with the audit. I would also like to give the committee an opportunity to alter the audit request to ensure the request addresses the committee's current concerns.

[12:47:09 PM](#)

CHAIR TUCK removed his objection. There being no further objection, the termination of the audit was so ordered.

[12:47:29 PM](#)

ADJOURNMENT

There being no further business before the committee, the Legislative Budget and Audit Committee meeting was adjourned at 12:47 p.m.