

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

March 3, 2022

5:02 p.m.

MEMBERS PRESENT

Senator Natasha von Imhof, Chair
Representative Chris Tuck, Vice Chair
Senator Peter Micciche
Senator Lora Reinbold
Senator Bert Stedman
Representative Ivy Spohnholz
Representative Andy Josephson
Representative James Kaufman
Senator Click Bishop (alternate)
Representative Dan Ortiz (alternate)

MEMBERS ABSENT

Senator Lyman Hoffman
Representative Neal Foster

OTHER LEGISLATORS PRESENT

Senator David Wilson

COMMITTEE CALENDAR

APPROVAL OF MINUTES
EXECUTIVE SESSION: PROCUREMENT
STATUS UPDATE
SPECIAL AUDIT REQUEST DIVISION OF WORKERS' COMPENSATION

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

REPRESENTATIVE MATT CLAMAN
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided information on the audit request.

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

POSITION STATEMENT: Provided information on the audit request.

ACTION NARRATIVE

[5:02:09 PM](#)

CHAIR NATASHA VON IMHOF called the Legislative Budget and Audit Committee meeting to order at 5:02 p.m. Representatives Tuck, Spohnholz, Josephson, Kaufman, and Ortiz (alternate) and Senators von Imhof, Micciche, Reinbold, and Bishop (alternate) were present at the call to order.

Approval of Minutes

[5:02:48 PM](#)

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

[5:02:56 PM](#)

REPRESENTATIVE TUCK moved that the Legislative Budget and Audit Committee approve the minutes for the January 17, 2022, and January 27, 2022, meetings as presented. There being no objection, the minutes were approved.

Executive Session: Procurement

[5:03:22 PM](#)

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

[5:03:30 PM](#)

REPRESENTATIVE TUCK moved that the Legislative Budget and Audit Committee go into Executive Session under Uniform Rule 22(b)(3) for the discussion of matters that may, by law, be required to be confidential. He asked that the following persons remain in the room or online: Megan Wallace; Kris Curtis, Legislative Auditor, and necessary staff for the auditor; any legislators

not on the committee; and staff for legislators who are members of the committee. There being no objection, it was so ordered.

[5:04:03 PM](#)

The committee took an at-ease from 5:04 p.m. to 5:50 p.m. for the purpose of executive session.

[5:50:46 PM](#)

CHAIR VON IMHOF called the meeting of the Legislative Budget and Audit Committee meeting back to order at 5:50 p.m. Representatives Tuck, Spohnholz, Josephson, Kaufman, and Ortiz (alternate) and Senators von Imhof, Micciche, Stedman, Reinbold, and Bishop (alternate) were present at the call back to order. Also present was Senator Wilson and Representative Claman.

[5:51:18 PM](#)

The committee took a brief at-ease.

[5:51:30 PM](#)

CHAIR VON IMHOF stated that during the executive session, the committee discussed confidential legal matters and matters related to procurement.

[5:51:45 PM](#)

REPRESENTATIVE TUCK moved that the Legislative Budget and Audit Committee give approval to the legislative auditor to enter into a contract not to exceed \$350,000 for specialized information technology and expertise. There being no objection, the motion passed.

Status Update

[5:52:06 PM](#)

CHAIR VON IMHOF announced that the next order of business would be a Status Update of the Top 10 Audit Findings & Resolutions and an Office of Information Technology Audit Review.

CHAIR VON IMHOF invited Representative Kaufman to present the top 10 audit findings and resolutions and a proposed oversight process. She stated her intent of ascertaining a sense of the committee based on the findings as presented. She noted that

items 1a and 1b listed in the committee packet item, entitled "iv a2 LBA Oversight Top 10 Audit Issues Summary - With Opinions 3.3.22.pdf," would be tabled for later discussion.

[5:52:47 PM](#)

REPRESENTATIVE KAUFMAN referred to two committee packet documents: "iv a1 LBA Oversight Top 10 Status Draft 3.3.22.pdf," which contained the heading "3/3/2022: Evaluation of progress and status of the Top 10 Oversight Process:"; and "iv a2 LBA Oversight Top 10 Audit Issues Summary - With Opinions 3.3.22.pdf." He explained that the items listed under "Oversight Step" had been ranked according to "risk ranking criticality analysis" to assign prioritization. He noted for the committee that [step] 1, listed in the status draft/oversight process document, had been split into 1a and 1b [as depicted on the audit issues summary document] due to the divergence between the findings and proposed solutions. Also found on the audit issues summary document are the responses from agencies. He said next steps include communicating with stakeholders for agency and budgetary planning. He drew attention to the fourth column, third row, of the status draft/oversight process document, which read, "House: Met with the Speaker, Majority Leader, one FIN Co-Chair and the affected finance sub-committee chairs" to further demonstrate the process that had been undertaken.

REPRESENTATIVE KAUFMAN drew attention to the priorities listed on the audit issues summary document. He explained that the status of [the fourth priority], identified as "Medicaid Eligibility System - ARIES," was pursuing closure. He drew attention to priority 2 on the list, "State Financial Statement Errors and Timelines," and explained that the columns following captured the actions and provided current status on each of the subsequent findings listed. He stated that many of the audit findings were functionally closed. He highlighted priority 6, entitled "Medicaid Dental Overutilization," for which a letter would be sought from the department as being the current status of that priority. He explained that the priorities which he described as "functionally closed" would be verified as such in a subsequent audit, and that another priority would be addressed with the hiring of additional certified public accountants (CPAs). He drew attention to the status of priorities 9 and 10 to illustrate that these had been closed, and he reminded the committee that items 1a and 1b would require additional work, which he characterized as reasonable.

[5:56:38 PM](#)

CHAIR VON IMHOF asked whether there existed additional audit items to discuss at the current meeting.

REPRESENTATIVE KAUFMAN replied that additional matters would be addressed in the same manner of risk assessment and ranking. He suggested that matters which had been identified as closed pending confirmation following a future audit may, in good faith, be put aside. He concluded by suggesting that a discussion at a future meeting could guide the same process and the process could evolve by including the department stakeholders in the discussion.

[5:58:18 PM](#)

CHAIR VON IMHOF lauded the suggestion to include the department in discussions and complimented the work that had already been done.

[5:58:36 PM](#)

REPRESENTATIVE SPOHNHOLZ shared with the committee that Chair von Imhof and she had met with the commissioner of the Department of Administration, the director of the Office of Information Technology (OIT), and representatives from the Office of the Governor regarding IT security. She stated that there would be information and presentations forthcoming to the legislature. She suggested that an IT security review could be held and that the state audit team was occupied with statewide single audit and comprehensive financial report deadlines during session. She expressed her confidence in the approach and best practices taken by OIT and that there existed more work to be done and additional resources required to achieve the levels of security needed.

[6:00:59 PM](#)

CHAIR VON IMHOF added that her experience in the meeting had been "eye-opening" and stated her belief that the department had been candid in addressing security matters such as the Department of Health and Social Services security breach that had occurred the year prior. She noted that the department had also raised the issue of Russian hackers and noted that the situation in Ukraine may have an effect on the potential risks currently and going forward. She stated that she had suggested

that the department prepare to present to both bodies regarding the approximate \$24 million amended budget request.

[6:02:03 PM](#)

SENATOR MICCICHE asked whether it was appropriate for the committee to consider end-user [cybersecurity] training. He suggested that the higher organizational position an individual held had been shown to be [the demographic most vulnerable to hacking].

[6:02:46 PM](#)

REPRESENTATIVE SPOHNHOLZ shared that OIT conducts regular training, and that most of the security breaches had occurred because of "phishing" e-mails, despite extensive security in place which filtered out the vast majority of threats. She conceded that higher level staff may be more vulnerable due to demands on their time competing with their ability to become properly trained [to identify phishing emails]. She added that [multi-factor authentication] could add security and that it would involve additional time and resources.

[6:04:50 PM](#)

CHAIR VON IMHOF referred to an audit request that had been made by the committee on November 9, 2021, that would proceed, the development of the scope of which would benefit from presentations by the department to the legislature.

[6:05:36 PM](#)

REPRESENTATIVE KAUFMAN suggested that the committee exercise caution in discussing matters of operational security publicly.

[6:06:01 PM](#)

CHAIR VON IMHOF agreed with Representative Kaufman and recalled that the department had also encouraged restraint regarding matters of security.

Special Audit Request Division of Workers' Compensation

[6:06:19 PM](#)

CHAIR VON IMHOF announced that the final order of business would be a Special Audit Request of the Division of Workers'

Compensation. She expressed her preference that a motion on the matter not be taken up by the committee at the current meeting.

6:07:04 PM

REPRESENTATIVE MATT CLAMAN, Alaska State Legislature, read from prepared remarks, as follows:

The Division of Legislative Audit last reviewed the workers' compensation program in 1999, over 22 years ago, and there's actually copies of the 1999 audit here if you'd like them. The 1999 audit was done, in part, to determine whether 1988 statutory changes undertaken to better control —and hopefully lower—workers' compensation rates were effective and whether those changes had negatively affected the interests of injured workers. It's always important to remember that the goal of workers' compensation is timely and effective treatment of workplace injuries with a return to work as soon as possible.

The 90-page audit from 1999 identified problems in the Division of Workers' Compensation. While the '99 audit found that some policy goals to reduce workers' compensation costs had been achieved by the program, other areas of the program needed further improvement. Specifically, the audit found that circumstances had developed that limited the protections provided to injured workers.

The 1999 audit made 12 recommendations. The underlying theme to the recommendations was to rebalance the interests of injured workers and employers, increase operational efficiencies, and improve effectiveness. In Recommendation No. 2, the 1999 audit stated that the "balance between injured workers and employers" had shifted "to the disadvantage of the injured workers." One result of the audit was passage of Senate Bill 130 in 2005, which established the Workers' Compensation Special Investigations Unit.

In 2018, the legislature passed House Bill 79, an omnibus bill introduced by the Walker Administration aimed at modernizing workers' compensation. As enacted, House Bill 79 made one significant substantive change: it provided a detailed definition

of independent contractor. The bill also allowed the continued use of pre-employment health questionnaires, refined who is considered an employee of an LLC, added technical and clean-up language, and created a legislative working group to analyze the Alaska workers' compensation system. Finally, in late 2018, the legislature convened the Legislative Workers' Compensation Working Group that identified the following topics for consideration by the legislature: dispute resolution, permanent partial impairment, or PPI, and death benefits.

The Division of Insurance has advised that workers' compensation's rates have actually gradually dropped since 2007 and dropped over 50 percent since 2012.

What I've learned over the last several years is that the workers' compensation system continues to have problems and that an audit will be distinctly beneficial as we move forward, particularly since the last audit is over 20 years old. Knowing there are problems is not enough information to assess what problems are greater and which are lesser, nor is it enough information to prioritize potential legislation. The purpose of this audit request is to evaluate the workers' compensation program and to assess the agency's administration, enforcement, and functional application of the Alaska Workers' Compensation Act. The goal is for a reasonable audit that will improve the operations of the division, increase public and legislative understanding of the Division of Workers' Compensation, as we actually lack the expertise to assess the program on our own, and provide a fact-based foundation to consider whether new legislation is needed.

In preparing this request, I worked extensively with the Legislative Auditor, Kris Curtis, to narrow and refine the request in light of both the information gained from the 1999 audit and the current workload of... the division of Legislative Audit.

[6:10:53 PM](#)

The request addresses 3 areas:

First, the dispute resolution process. The timeliness of the dispute resolution process is important to both employers and workers. Both parties want timely resolution of disputes because it provides certainty of treatment for workers and reduces overall system costs, which are born by the employers. The request is for review of that process.

Second, the adequacy of current substantive benefits. As noted above, the 2018 Legislative Workers' Compensation Working Group identified permanent partial impairment and death benefits as two areas that merit obtaining further information, and the audit request asks for an overall assessment of all benefits with a focus on permanent partial impairment and Death Benefits. It also asks for a review of whether injured workers lose their employer-sponsored basic health insurance as a result of a workplace injury, which may be impacting worker's families. Since the 1999 audit, the big substantive change on a national level is the Affordable Care Act which has increased the number of workers who have health insurance, and if they lose that insurance as a product of a workplace injury, that has some significant impact.

Third, the reemployment and training program is an area of particular concern. Anecdotal reports suggest that few injured workers make use of the services offered by the program, partly because the training available in the program may not be adequate to meaningfully retrain a person for new work, and partly because the amount of funding available for retraining is not adequate to train an injured worker for a new career. The funding available for retraining is often added to a settlement agreement with the understanding that the injured worker will undertake training on their own. The audit should provide sufficient information to allow the legislature to make a fact-based decision about whether to discontinue the reemployment and retraining program as currently constituted.

Fourth, the audit request seeks information on the prevalence of uninsured employers despite the mandatory coverage requirement. With our mandatory coverage requirement, one of the simplest ways to

reduce workers' compensation premiums is to actually have near-universal participation by employers that are required to have coverage. Many apparently do not. Having a better understanding of the level of compliance will be particularly helpful. The request also asks for information on misclassification of employees - with particular emphasis on reviewing independent contractors - and whether the 2018 statutory change in the definition of "independent contractor" has been effective. The audit will also review the effectiveness of the Special Investigations Unit (created in the 2005 legislation) in investigating fraud and holding employers accountable for lapses in the mandatory coverage.

Fifth, the audit ... asks for information of patterns on controversion. Controversion is what occurs when an employer contests a claim for a variety of reasons, from whether the injury is a workplace injury at all, to whether the recommended course of treatment is appropriate. Controverted claims are the part of the system when claims can become extended, are often litigated, and involve some of the greatest expenses. The request includes information on the frequency of controverted claims, the use of employer independent medical exams and board-ordered second independent medical exams, and the frequency that employees retain legal counsel.

[6:14:20 PM](#)

SENATOR STEDMAN suggested that if the committee did not intend to take action on the audit request at the current meeting, then members could work on the request [outside of the meeting].

REPRESENTATIVE CLAMAN continued, as follows:

Sixth, the audit request asks for review of the relationship between workers' compensation and the Division of Insurance, including the frequency of Division of Insurance investigations of frivolous controversion notices.

And seventh, the request seeks additional information about the treatment in workers' compensation of injured workers with significant disabilities, including mental illness, traumatic brain injury, and

post-traumatic stress disorder. We should have information about whether people with known cognitive disabilities have additional difficulties navigating the often complex workers' compensation system.

And finally, the request, if approved, gives the Division of Legislative Audit authority to follow-up on areas of a related concern identified during the audit.

REPRESENTATIVE CLAMAN thanked Kris Curtis for providing her assistance and offered to answer any questions.

[6:15:49 PM](#)

REPRESENTATIVE JOSEPHSON suggested that, should the audit request come before the committee at a subsequent meeting, he would support it. He stated that he had carried House Bill 79 on behalf of former Governor Bill Walker, which was an omnibus bill that benefitted all parties, and the bill had been modified regarding independent contractors. He also noted House Bill 303, pertaining to reemployment training, had been considered. He referred to the committee packet item, entitled "v al LBA Spec Aud Req Workers' Compensation Division Claman 2.28.22.pdf," on page 3, item number 4, labeled "Enforcement and special investigations of uninsured employers and misclassification of employers," and suggested that there exist insufficient resources at the Department of Labor & Workforce Development to investigate such matters. He hypothesized that an audit would conclude the same. He posed the hypothetical question whether there exists a need for both a board and a commission [for workers' compensation]. He stated his appreciation for the efforts of Representative Claman.

[6:17:16 PM](#)

REPRESENTATIVE TUCK expressed his appreciation for Representative Claman bringing the audit request before the committee and asked whether the Workers' Compensation Board was subject to periodic review. He further asked how independent contractors would be audited, and how employers who either did not maintain coverage or maintained inadequate coverage would be investigated.

[6:18:38 PM](#)

KRIS CURTIS, Legislative Auditor, Legislative Audit Division, Legislative Agencies and Offices, answered that the Workers' Compensation Board was not subject to periodic review. She offered that she did not yet know how [enforcement and investigation of employers carrying inadequate, or no workers' compensation insurance would occur]. She stated that there exists a need to conduct research and then develop a scope of the audit, after which the objectives of the audit would be executed on a developed timeline. She stated that the request would be "data intensive" and would likely result in some limitations on the scope of the audit, and that data that would be sought to address some of the questions as put forth may not exist.

[6:19:31 PM](#)

REPRESENTATIVE TUCK asked Ms. Curtis to recap the steps involved in the proposed audit request.

MS. CURTIS explained that the first phase, in compliance with audit standards, is known as the survey phase in which the division reviews the criteria, laws, and regulations, conducts interviews, collects data, and performs a data reliability review. She explained that, following the survey phase, a scope of the audit is then developed and presented, subject to her approval. She added that the budget and staffing needs are then taken into consideration.

[6:20:25 PM](#)

REPRESENTATIVE TUCK allowed that action on the audit request would not be taken at the current meeting and asked whether an initial phase could be undertaken to start the process and plan for potential budget and staffing.

[6:21:27 PM](#)

MS. CURTIS stated that [the first phase] would be a big investment. She stated that, once an audit is requested [by the committee], the committee is not consulted further until after completion of the audit so that it remains a nonpolitical, confidential process. She stated her belief that the request before the committee would be a "big lift" audit, and the previous audit of workers' compensation had consisted of over 3,200 hours.

[6:22:12 PM](#)

CHAIR VON IMHOF asked, should the committee approve a request for the audit in April 2022, what the timeframe would be for the delivery of audit results.

[6:22:25 PM](#)

MS. CURTIS estimated that the audit would likely not commence for at least two years and would subsequently likely take a full year to complete.

[6:22:35 PM](#)

CHAIR VON IMHOF asked whether Ms. Curtis had worked with Representative Claman on the memorandum that he had presented to the committee, to which she confirmed she had. She suggested that the request was representative of the potential scope of the proposed audit, and that the committee would be able to take some time over the following month to consider it. She suggested that Representative Claman consult with individual members of the committee to further discuss the request and answer any of their questions.

[6:23:04 PM](#)

REPRESENTATIVE CLAMAN offered that he had worked with Ms. Curtis for two or three months on the request that was before the committee, and Ms. Curtis had requested to be allowed to read the 1999 audit, and he recalled her informing him that she had learned much from the review of that audit. He suggested that the 1999 audit would inform the committee on the potential scope of the requested audit.

[6:23:48 PM](#)

SENATOR BISHOP asked Representative Claman to consult individually with him and that he had ideas to share regarding the request.

[6:24:08 PM](#)

CHAIR VON IMHOF referred to the 2018 review brought to the legislature and that it had contained some discussion on statutory changes that would benefit reemployment benefits in particular. She characterized statutes related to reemployment as "stifling" and not helpful. She suggested that the 2018 report contained useful information and recommendations. She

asked whether the Division of Workers' Compensation tracks the information that may be sought in the audit and suggested that there exists very little data on employers, while there exists more data on employees.

[6:25:37 PM](#)

CHAIR VON IMHOF asked whether the 2018 report contained answers to questions brought forth by Representative Claman. She noted that data contained in the report reflected numbers of employees, moneys collected, and comparative injury rates, and analysis of claim data. She expressed her desire that any audit be balanced to reflect both employees and employers.

MS. CURTIS answered that any audit conducted would be based on the request [submitted by the committee] and that the points raised by Chair von Imhof should be taken into consideration prior to the audit request being made of the division.

[6:27:11 PM](#)

REPRESENTATIVE SPOHNHOLZ referred to the 1999 report's conclusions which illustrated the framework of the previous audit and its six key concepts that had included reasonable costs to employers, laws not construed to either party by the courts, compensation based on merits, among others, to allay some of the concerns of a balanced approach as raised by Senator von Imhof. She suggested that the audit request brought forth had merit, and that, despite no report delivered following the 2108 legislative working group, there existed bipartisan interest in the audit request. She suggested that political transitions had interfered with the final reporting from the 2018 group and that the report would be of benefit to the legislature in addressing policy concerns raised by the working group.

[6:29:02 PM](#)

CHAIR VON IMHOF reminded the committee that, once an audit request is received by the division from the committee, the Division of Legislative Audit would not consult further with the committee until after completion of the audit. She expressed her concern that the request be thoroughly developed, as well as take into consideration the framework from the 1999 audit request for continuity.

[6:29:48 PM](#)

REPRESENTATIVE CLAMAN added that the 2018 legislative report had been required as a provision to House Bill 79 and, despite the report having been completed, it had never been submitted in final draft. He suggested that tight deadlines may have impacted the depth of the report, and he agreed to review and incorporate much of the framework of the 1999 audit into the development of the request.

[6:30:58 PM](#)

ADJOURNMENT

There being no further business before the committee, the Legislative Budget and Audit Committee meeting was adjourned at 6:31 p.m.