

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

Anchorage, Alaska

July 14, 2022

1:02 p.m.

MEMBERS PRESENT

Senator Natasha von Imhof, Chair
Representative Chris Tuck, Vice Chair
Senator Lora Reinbold
Senator Bert Stedman
Senator Lyman Hoffman
Representative Ivy Spohnholz
Representative Andy Josephson
Representative Neal Foster
Representative James Kaufman
Representative Dan Ortiz (alternate)

MEMBERS ABSENT

Senator Peter Micciche
Senator Click Bishop (alternate)

COMMITTEE CALENDAR

APPROVAL OF MINUTES
SPECIAL AUDIT REQUEST
REVISED PROGRAM LEGISLATIVE (RPL)
EXECUTIVE SESSION

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

REPRESENTATIVE MATT CLAMAN
Alaska State Legislature
Anchorage, Alaska

POSITION STATEMENT: Explained the special audit request.

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

Juneau, Alaska

POSITION STATEMENT: Provided information on the special audit request.

ALEXEI PAINTER, Director
Legislative Finance Division
Legislative Agencies and Offices
Juneau, Alaska

POSITION STATEMENT: Presented the RPLs and answered questions.

DOUG VINCENT-LANG, Commissioner
Alaska Department of Fish & Game
Juneau, Alaska

POSITION STATEMENT: Answered questions pertaining to the RPLs.

MEGAN WALLACE, Director
Legislative Legal and Research Services
Juneau, Alaska

POSITION STATEMENT: Offered comments to the committee regarding a contract for legal services.

ACTION NARRATIVE

[1:02:40 PM](#)

CHAIR NATASHA VON IMHOF called the Legislative Budget and Audit Committee meeting to order at 1:02 p.m. Representatives Spohnholz, Josephson, Foster (via teleconference), Kaufman, Tuck, and Ortiz (via teleconference) and Senators Reinbold, Stedman, and von Imhof were present at the call to order. Senator Hoffman arrived as the meeting was in progress. Also present were Senators Revak and Kiehl (via teleconference).

[1:03:43 PM](#)

Approval of Minutes

CHAIR VON IMHOF announced that the first order of business would be Approval of Minutes.

[1:03:53 PM](#)

REPRESENTATIVE TUCK moved that the Legislative Budget and Audit Committee approve the minutes for the March 3, 2022, March 15, 2022, and April 8, 2022, meetings as presented. There being no objection, the minutes were approved.

Special Audit Request

[1:04:22 PM](#)

CHAIR VON IMHOF announced that the next order of business would be the Special Audit Request.

[1:04:52 PM](#)

REPRESENTATIVE MATT CLAMAN, Alaska State Legislature, shared with the committee that the audit request had been refined with input from user groups and the Legislative Audit Division. He stated that the audit would review processes regarding workers' compensation insurance. He stated that his office had collaborated with the Legislative Audit Division for approximately eight months to develop the structure of the audit request.

[1:06:39 PM](#)

KRIS CURTIS, Legislative Auditor, Legislative Audit Division, Legislative Agencies and Offices, acknowledged that there had been extensive collaboration and that the request had been pared down to align with available resources, and she cautioned that some areas of the audit may lack data. When asked by Chair von Imhof, she estimated that work would not begin for at least two years.

CHAIR VON IMHOF stated that it was her intent that the proposed audit should consider both employees and employers and remain fair and balanced.

[1:08:06 PM](#)

REPRESENTATIVE TUCK moved that the Legislative Budget and Audit Committee approve the Special Audit Request for the Division of Workers' Compensation as presented.

MS. CURTIS interjected that there existed a typo on the fourth page, item 7(c), which read, "Evaluate whether injured workers with cognitive disabilities sign releases without or legal counsel" and recommended that the word "or" be deleted.

REPRESENTATIVE CLAMAN expressed his agreement with the recommended change.

[1:09:01 PM](#)

REPRESENTATIVE TUCK move that the Legislative Budget and Audit Committee approve the Special Audit Request for the Division of Workers' Compensation, as amended. There being no objection, it was so ordered.

Revised Program Legislative (RPL)

[1:09:25 PM](#)

CHAIR VON IMHOF announced that the next order of business would be the Revised Program - Legislative (RPL).

[1:09:50 PM](#)

ALEXEI PAINTER, Director, Legislative Finance Division, Legislative Agencies and Offices, stated that all nine of the Revised Programs - Legislative (RPLs) were similar to one another.

CHAIR VON IMHOF asked for summary comments from Mr. Painter as well as an explanation of the reason of the timing of the request, including the reason they were not requested in the budget [process.]

MR. PAINTER answered that all nine RPLs would be managed by the Alaska Department of Fish & Game (ADF&G) and would be funded by Exxon Valdez Oil Spill (EVOS) funds. He explained that the proposed projects had been among approximately 70 reviewed by the EVOS Council, the majority of which would be managed by federal agencies and would not be subject to the [state] budgeting process. He noted that there existed six capital projects managed by the state in the FY 22 supplemental budget and in the FY 23 capital budget, and the nine RPLs before the committee would be in addition to those. He noted that the governor had vetoed a \$200,000 EVOS item in the budget and that it was not related to the RPLs before the committee. He stated that the projects had been approved in January and deferred to ADF&G to offer additional explanation on the timing of the request. He stated that the RPLs were submitted as operating [budget] items and, although it would be appropriate for the projects to be part of a capital budget, it would be possible to fund them over multiple years within the operating budgets. He anticipated that the department might request funds under capital projects in the future. He noted that the RPLs were associated with unanticipated revenue. He stated that the

Legislative Finance Division does not have any technical issues with the RPLs.

[1:12:48 PM](#)

CHAIR VON IMHOF asked what amount of funds would remain in the EVOS fund after accounting for the RPLs being considered.

MR. PAINTER offered to follow up with the committee with the requested information.

CHAIR VON IMHOF added that it would be beneficial to know whether the EVOS activities would be ongoing or would be winding down.

[1:13:42 PM](#)

DOUG VINCENT-LANG, Commissioner, Alaska Department of Fish & Game, explained that the EVOS trust fund was created to address issues associated with the Exxon Valdez Oil Spill, and the council consisted of three federal and three state members, of which he is one and the commissioner of the Department of Environmental Conservation (DEC) Jason Brune, and Attorney General Treg Taylor, the other two. He noted that funds to be expended required a unanimous vote of the council. He explained that the functions of EVOS had been reorganized from ADF&G to DEC and it had been assumed that the nine projects were addressed within the DEC budget and were pass-through funds to be distributed to other entities. He explained that the EVOS Council had determined to "spend down" the fund within the next 5 to 10 years. In response to Chair von Imhof, he confirmed that the council had unanimously decided to wind down the fund within the next decade. In further response, he confirmed that ADF&G would monitor and report to the legislature on the effectiveness of the funded projects.

[1:16:58 PM](#)

REPRESENTATIVE TUCK asked, since the projects had been approved [by the EVOS Council] in January, why the projects had not been brought before the legislature prior to now.

MR. VINCENT-LANG explained that ADF&G had assumed that DEC would budget for the projects and DEC had assumed that ADF&G would budget for the projects and therefore they had "slipped through the cracks."

REPRESENTATIVE TUCK expressed that he had raised concerns about the RPL process circumventing the normal legislative process previously and cautioned that it remains an ongoing concern.

MR. VINCENT-LANG offered that the [late] request before the committee had been an error and assured the committee that he would monitor for any such cases in the future.

[1:18:36 PM](#)

REPRESENTATIVE TUCK moved that the Legislative Budget and Audit Committee approve the following RPLs:

- 11-2023-0001, Port Graham Corporation General Restoration & Habitat Protection, \$3,271,353, Exxon Valdez Oil Spill Settlement, (1018 EVOS), Operating
- 11-2023-0002, Kenai Peninsula Stream Watch, \$151,871, EVOS Settlement, (1018 EVOS), Operating
- 11-2023-0003, Status and Trends of EVOS Injured Seabirds, \$354,871, EVOS Settlement, (1018 EVOS), Operating
- 11-2023-0004, Chugach Regional Ocean Monitoring Program, \$892,950, EVOS Settlement, (1018 EVOS), Operating
- 11-2023-0005, Prince William Sound Kelp Mariculture Development for Habitat Restoration and Local Economy, \$1,064,505, EVOS Settlement, (1018 EVOS), Operating
- 11-2023-0006, Social, Cultural, and Economic Assessment of Kelp Mariculture Opportunities for Coastal Villages Within the EVOS Spill Zone, \$1,108,199, EVOS Settlement, (1018 EVOS), Operating
- 11-2023-0007, Community Organized Restoration and Learning Network, \$3,543,600, EVOS Settlement, (1018 EVOS), Operating
- 11-2023-0008, Prince William Sound Natural History Symposium, \$32,729, EVOS Settlement, (1018 EVOS), Operating
- 11-2023-0009, Culture Camp Funding for the Chugach Region, \$719,251, EVOS Settlement, (1018 EVOS), Operating

There being no objection, the RPLs were approved.

Executive Session

[1:21:22 PM](#)

CHAIR VON IMHOF announced that the next order of business would be Executive Session.

[1:21:38 PM](#)

REPRESENTATIVE TUCK moved 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 lines:

- The Legislative Auditor, Legislative Legal Services, and Legislative Finance Division and their necessary staff;
- Any legislators not on the committee; and
- Staff for legislators who are members of the committee.

There being no objection, it was so ordered.

[1:22:17 PM](#)

The committee took an at-ease from 1:22 p.m. to 3:38 p.m. for the purpose of executive session.

[3:38:18 PM](#)

CHAIR VON IMHOF called the Legislative Budget and Audit Committee meeting back to order at 3:38 p.m. Representatives Spohnholz, Josephson, Foster, Kaufman, Ortiz (alternate, via teleconference) and Senators Reinbold, Stedman, and von Imhof were present at the call back to order. Also present were Representatives Hannan (via teleconference) and Edgmon and Senators Revak and Kiehl (via teleconference).

CHAIR VON IMHOF explained that the committee had discussed confidential matters related to the release of preliminary audits.

[3:39:11 PM](#)

REPRESENTATIVE TUCK moved that the following Preliminary Audits be released to the agencies for their formal comment:

- o Fiscal Year 21 Single Audit

o Alaska CARES Act Small Business Relief Program -
Special Audit

There being no objection, the preliminary audits were released.

[3:39:37 PM](#)

REPRESENTATIVE TUCK moved and asked unanimous consent that the Legislative Budget and Audit Committee, under the authority of AS 24.20.201(a)(8), authorize a contract for legal services not to exceed \$100,000 to undertake litigation on behalf of the legislature regarding the deposit of certain state taxes and royalties resulting from Federal Energy Regulatory Commission (FERC) decisions into the general fund, as opposed to the constitutional budget reserve, as required under Article IX, Section 17(a) of the Alaska State Constitution. He further moved that the Legislative Budget and Audit Committee authorize the chair to give direction to Legislative Legal Services and outside legal counsel regarding the litigation.

CHAIR VON IMHOF objected for discussion.

REPRESENTATIVE SPOHNHOLZ expressed her support of advancing litigation regarding audit findings over the prior four years that revealed an issue of funds deposited into the general fund (GF) rather than the constitutional budget reserve (CBR). She expressed her hope that a non-adversarial determination on the matter would provide for transparency going forward.

SENATOR STEDMAN explained that the issue had arisen during the prior administration and that disagreement existed regarding an approximate \$1.5 billion amount in question. He stated that the legislature held the belief that the funds should belong in the CBR, and that the administration holds the belief the funds should belong in the GF. He stated that there exists the possibility of future impact and that additional funds may be required to be paid back [to the CBR] and encouraged a final determination and agreement to be made. He stated that there exists no impact on the funds that had already been spent.

REPRESENTATIVE KAUFMAN offered that solving problems should proceed with collaboration. He noted that the "top ten" audit findings that had been brought before the committee would be positively impacted by a final determination on this matter.

[3:45:36 PM](#)

MEGAN WALLACE, Director, Legislative Legal Services, stated that Legislative Legal Services had limited resources and that litigation can result in uncertainty. She expressed her support of the committee seeking outside legal services for the matter and offered the division's operational and coordination support to the committee and outside counsel.

REPRESENTATIVE JOSEPHSON expressed his support for a resolution of the matter and referenced the higher education investment fund regarding the CBR and its requirements. He noted that the prior two administrations had held the belief that the funds in question belonged in the GF. He expressed that there exists a need for a comprehensive fiscal plan and disputes over limited resources should be resolved. He expressed confidence in the Legislative Legal Services and encouraged the hiring of outside counsel to aid in alleviating its workload.

CHAIR VON IMHOF reflected that this matter had existed for four to five years, and additional FERC settlements would be awarded to the state and, in the absence of a resolution of the dispute, the dispute would be ongoing. She encouraged timely action to prevent negative consequences to the state's credit rating and emphasized that the intent of seeking outside counsel was not an adversarial act.

CHAIR VON IMHOF removed her objection to the motion to authorize a contract for legal services not to exceed \$100,000. There being no further objection, the motion passed.

[3:49:25 PM](#)

REPRESENTATIVE KAUFMAN suggested that a framework for the "top ten" audit findings process he referenced earlier be established for the benefit of the current and future members of the committee to approach audit findings in a structured manner.

SENATOR REINBOLD expressed her belief that the timely addressing of the matter is a critical function of the legislature. She encouraged accountability to discourage bad behavior. She stated that she had found the work done by the Legislative Audit Division to be exemplary.

CHAIR VON IMHOF echoed the compliments to the Legislative Audit Division.

[3:53:03 PM](#)

ADJOURNMENT

There being no further business before the committee, the Legislative Budget and Audit Committee meeting was adjourned at 3:53 p.m.