

STATE OF ALASKA  
LEGISLATIVE BUDGET AND AUDIT COMMITTEE  
ANNUAL REPORT  
2023

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

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Member	Senator Bill Wielechowski	District K
Member	Senator Lyman Hoffman	District S
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Member	Representative Frank Tomaszewski	District 34
Member	Representative Andy Josephson	District 13
Alternate	Representative Mike Cronk	District 36

LEGISLATIVE AUDITOR  
Kris Curtis, CPA, CISA

LEGISLATIVE FISCAL ANALYST  
Alexei Painter

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# 33<sup>rd</sup> Alaska State Legislature

## Legislative Budget & Audit Committee

January 16, 2024

Members of the Legislature

Fellow Members:

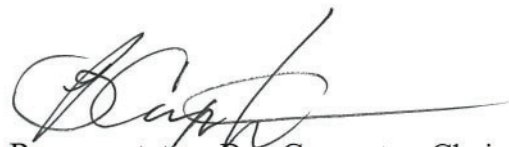
In accordance with AS 24.20.311, we are transmitting the 2023 annual report of the Legislative Budget and Audit Committee. This report summarizes the audit reports issued during the year.

Copies of each audit report released during 2023 are on file in the senate and house chambers the Division of Legislative Audit, various libraries throughout the state, and at <http://legaudit.akleg.gov>. We encourage all legislators to utilize this valuable information.

The Legislative Budget and Audit Committee wishes to thank the legislature for its support in 2023.

Respectfully submitted,

Legislative Budget and Audit Committee



Representative Ben Carpenter, Chair



Senator Bert Stedman, Vice Chair

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# ORGANIZATION AND FUNCTION

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The Legislative Budget and Audit Committee is a permanent interim committee of the Legislature. It was established in 1955 as the Legislative Audit Committee. The committee is composed of 10 members and two alternates: the chairpersons of the senate and house finance committees; one member selected from each of the senate and house finance committees and appointed by the President of the Senate and the Speaker of the House, respectively; and three members and an alternate appointed from each house by the respective presiding officer. If the chairperson of a finance committee chooses not to serve, the presiding officer appoints a replacement from the finance committee. Alternate members are also appointed from the finance committees.

The committee has the responsibility for providing the legislature with fiscal analysis, budget reviews, audits and performance reviews of state government agencies, and for approving requests from the governor to revise the Appropriations Act. As a result of the passage of Ch. 18, SLA 1980, the committee has authority to monitor lending and investment activities of the State.

To provide the necessary technical assistance to accomplish the purposes, two permanent staff agencies have been created: the Division of Legislative Finance and the Division of Legislative Audit. These divisions report directly to the Legislative Budget and Audit Committee and are independent of executive and judicial agencies. The committee also has several authorized positions to assist with committee activities.

## Division of Legislative Finance

One of the primary responsibilities of a state legislative body is to research, draft, and enact revenue and appropriation measures. The Legislative Finance Division has the following statutorily assigned responsibilities to support the legislative budget process:

1. Analyze the budget and appropriation requests of each department, institution, bureau, board, commission, or other agency of state government.

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2. Analyze the revenue requirements of the State.
  3. Provide the legislative finance committees with comprehensive budget review and fiscal analysis services.
  4. Cooperate with the Office of Management and Budget in establishing a comprehensive system for state program budgeting and financial management as set out in the Executive Budget Act (AS 37.07).
  5. Complete studies and prepare reports, memoranda, or other materials as directed by the Legislative Budget and Audit Committee.
  6. With the governor's permission, designate the legislative fiscal analyst to serve ex officio on the governor's budget review committee.
  7. Identify the actual reduction in state expenditures in the first fiscal year following a review under AS 44.66.040 resulting from that review and inform the Legislative Budget and Audit Committee of the amount of the reduction. [Repealed, effective July 1, 2023.]
  8. Not later than the first legislative day of each first regular session of each legislature, conduct a review in accordance with AS 24.20.235 of the report provided to the division under AS 43.05.095.

The Legislative Finance Division reviews proposed changes to the operating budget and provides the Budget and Audit Committee with an analysis of proposed "revised programs" for committee decisions.

The Legislative Finance Division is staffed by the legislative fiscal analyst (director), fiscal analysts, information technology staff, and an administrative officer. Division staff also includes the finance committee secretaries and, for budgetary purposes, the finance aides assigned to committee members.



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## **Division of Legislative Audit**

In accordance with the Constitution of the State of Alaska and Title 24 of the Alaska Statutes, the legislative auditor and staff conduct the post-audit function in the budget cycle. The Division of Legislative Audit was created in 1955.

All audits performed by the division are external audits; that is, they are performed by an auditor who is independent of the executive head of the government unit or agency being audited. The three major types of audits performed by the division are financial-compliance, performance, and special reports.

### **1. Financial-Compliance Audit**

A financial-compliance audit determines (a) whether financial operations are properly conducted; (b) whether the financial reports of an agency are presented fairly; and (c) whether the entity has complied with applicable laws, regulations, administrative policies, and legislative intent.

### **2. Performance Audit**

A performance audit is conducted to provide the legislature with an evaluation on the manner in which administrators of an agency have faithfully, efficiently, and effectively administered a program. Faithfulness refers to whether or not programs have been administered in accordance with promises made to the legislature and the expression of legislative intent. Effectiveness refers to whether or not planned program objectives have been achieved. Efficiency refers to whether or not program accomplishment has been achieved by using the least-cost combination of resources with a minimum of waste.

The 1977 legislature passed a “sunset law” which requires the division to conduct performance audits of boards, commissions, and agency programs subject to termination under AS 44.66. The audit report, along with other reports and testimony, is considered when determining if there is a public need for a board, commission, or program.

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### **3. Special Audit Report**

All special audits are conducted at the request of the committee. Any member of the legislature may request a special audit through the committee. A special audit can cover many things. It can be an audit that is restricted to one part of an agency's operations or it can be an audit reviewing financial transactions for a period of time shorter or longer than a fiscal year.

The Division of Legislative Audit also facilitates performance reviews as required by HB 30, enacted by the Alaska State Legislature in 2013. Performance reviews are systematic assessments of the appropriateness, effectiveness, and efficiency of a department; and are meant to provide information for policy makers, executive branch management, and the public. Performance reviews were defunded beginning in 2017.

# ALASKA STATE LEGISLATURE

## LEGISLATIVE BUDGET AND AUDIT COMMITTEE

### Division of Legislative Audit



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SUMMARY OF: State of Alaska, Single Audit for the Fiscal Year Ended June 30, 2022

### PURPOSE OF THE REPORT

This report summarizes our review of the State of Alaska's basic financial statements and the State's compliance with federal laws and regulations in the administration of approximately \$6.1 billion of federal financial assistance programs. The audit was conducted in accordance with auditing standards generally accepted in the United States of America and *Government Auditing Standards*, issued by the Comptroller General of the United States. It also complies with the federal Single Audit Act Amendments of 1996 and the related United States Office of Management and Budget Uniform Guidance.

The report contains opinions on the basic financial statements of the State of Alaska for FY 22, findings and recommendations on financial and compliance matters, auditor's reports on internal controls and compliance, the Schedule of Expenditures of Federal Awards, and the Summary Schedule of Prior Audit Findings.

### REPORT CONCLUSIONS

The Alaska International Airports Fund FY 22 audit was not available at the time the State's financial statement opinions were issued. As a result, we were unable to obtain evidence that the major enterprise fund's amounts are properly reported as included in the statement of financial position, changes in financial position, and cash flows. Further, the General Fund expenditures and Note 2 relating to the State's Constitutional Budget Reserve Fund were found to be misstated.

With the exception of the Supplemental Nutrition Assistance program cluster, the Education Stabilization Fund, the Temporary Assistance for Needy Families program, the Children's Health Insurance program, and the Medicaid cluster, the State has substantially complied with the applicable laws and regulations in the administration of its major federal financial assistance programs. We were unable to obtain sufficient appropriate audit evidence supporting the State's compliance with Period of Performance requirements applicable to the Low-Income Home Energy Assistance program. The report does contain findings regarding

material noncompliance with the provisions of laws and regulations, and material weaknesses and significant deficiencies in the State’s internal control over financial reporting and internal control over federal compliance.

## FINDINGS AND RECOMMENDATIONS

This report contains 84 findings, of which 39 are unresolved issues from last year. Some of the recommendations made in this report require significant changes in procedures, additional resources, or a shifting of priorities and, therefore, may take more than one year to implement. The Summary Schedule of Prior Audit Findings in Section III identifies the current status of prior financial and federal program related audit findings not resolved as of June 30, 2022.

# Report Highlights

## Why DLA Performed This Audit

An audit was requested due to concerns that LAW's spending on outside counsel for matters relating to *Janus* violated state law.

## What the Legislative Auditor Recommends

1. The legislature should consider whether judicial review and/or ratification is necessary.

# A Special Audit of the Department of Law, Spending on Contracts Related to *Janus*

May 19, 2023


Audit Control Number 03-30101-23

## REPORT CONCLUSIONS

The audit's opinions on whether the legislature's restrictive Civil Division appropriations were legally constructed and whether the Department of Law's (LAW) expenditures on matters related to *Janus v. AFSCME (Janus)* were allowable per state law are based on an evaluation of opposing legal arguments made by the Alaska Legislative Affairs Division of Legal and Research Services (Legislative Legal) and the attorney general. The basis for the audit's opinions is included in this report; however, it is important to recognize that a final legal determination can only be made by the appropriate court.

The audit concluded that the legislature, through constructing LAW's FY 21 and FY 22 Civil Division appropriations with specific limitations, effectively restricted LAW's ability to contract with outside counsel for *Janus* related matters. The attorney general interpreted the restrictions to be a violation of the Alaska Constitution's confinement clause and an improper encroachment of the powers of a separate branch of government. Based on the attorney general's opinion, LAW disregarded the legislative restrictions and spent a total of \$315,034 during FY 21 and FY 22 for outside counsel services related to the *Janus* decision. The services included assisting the department with cases involving the *Janus* decision in which the State of Alaska, or an executive of the State, was named as defendant, and filing amicus briefs in support of the State's position.

The attorney general, Legislative Legal, and an attorney hired by the legislative auditor analyzed the legality of the Civil Division's restrictive appropriations. The audit's review of these legal analyses



concluded that a court would likely find that the appropriations did not violate the confinement clause or the doctrine of separation of powers since the appropriation language did not prevent the attorney general from fulfilling statutory duties with in-house attorneys.

The audit also concluded that limiting expenditures for specific legal cases was perceived by some as a legislative attempt to inappropriately influence the attorney general's actions, which increased the risk of litigation.

The audit further concluded that LAW's decision to pay outside counsel for services related to *Janus* from an appropriation that expressly prohibited the expenditures likely violated AS 37.07.080(a) and Article IX, section 13 of the Alaska Constitution.

# Report Highlights

## Why DLA Performed This Audit

The audit was performed to determine if there is a continued need for the board and if its termination date should be extended. The board is set to sunset on June 30, 2024, and will have one year from that date to conclude its administrative operations.

## What the Legislative Auditor Recommends

1. The Division of Corporations, Business and Professional Licensing's director should improve oversight procedures to ensure required licensure documentation is obtained and reviewed.
2. The board should consider whether two private landholder board seats continue to be necessary for effective regulation.

# A Sunset Review of the Department of Commerce, Community, and Economic Development, Big Game Commercial Services Board (board)

June 22, 2023

**Audit Control Number 08-20136-23**

## REPORT CONCLUSIONS

Overall, the audit concludes that the board operated in the public's interest by conducting its meetings in an effective manner, supporting statutory changes when deemed necessary, and actively amending regulations. The audit also concludes that board licenses were not consistently supported by adequate documentation and two private landholder board seats were vacant or had absences for extended periods.

In accordance with AS 08.03.010(c)(9), the board is scheduled to terminate on June 30, 2024. We recommend that the legislature extend the board's termination date six years to June 30, 2030, which is two years less than the eight-year statutory maximum. The reduced extension recommendation reflects the need for more timely oversight in recognition of the audit findings.

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# ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT

COMMITTEE

Division of Legislative Audit



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## MEMORANDUM

**TO:** Members of the Legislative Budget  
and Audit Committee

**FROM:** Kris Curtis, CPA, CISA *KC*  
Legislative Auditor

**DATE:** June 22, 2023

**RE:** Status of State Board of Chiropractic Examiners Audit Recommendations

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In accordance with chapter 17 SLA 2022 (Senate Bill 193), we have determined the status of recommendations contained in our sunset audit of the Board of Chiropractic Examiners (board) dated June 22, 2021 (Audit Control No. 08-20128-21). Recommendations include:

1. The governor should make board appointments in compliance with statutory requirements.
2. The Division of Corporations, Business, and Professional Licensing's (DCBPL) director should allocate sufficient resources to ensure cases are addressed in a timely manner.

Our limited review does not constitute an audit and was not conducted in accordance with auditing procedures. During this limited review, auditors interviewed the board chair and DCBPL staff regarding the status of the recommendations; inquired with the Governor's Office Boards and Commissions staff regarding the status of the board's public member vacancy and the application and appointment process; obtained and reviewed the application submitted for the board public member position; obtained and reviewed relevant board investigative cases for periods of inactivity; obtained and reviewed updated DCBPL Standard Operating Procedures; and obtained documentation to verify disciplinary actions for a specific investigative case were properly reported to other entities as required by law.

Our review concluded both prior sunset audit recommendations have been resolved. Details regarding the status of the sunset recommendations are listed below.

**Implementation Status for Recommendations as of June 2023**

#	Status	Recommendation	Status Detail
1	<b>RESOLVED</b>	The governor should make board appointments in compliance with statutory requirements.	The public member serving at the time of the prior audit was removed from the board in April 2021. An applicant that met the statutory requirements for the public member position was appointed to the board May 30, 2023.
2	<b>RESOLVED</b>	DCBPL’s director should allocate sufficient resources to ensure cases are addressed in a timely manner.	<p>DCBPL management restructured the investigations unit to help with case workload and added one new investigator position. There were a total of 20 investigator positions authorized in FY 23, compared to 19 authorized positions in FY 21. As of June 13, 2023, 18 of the 20 authorized investigator positions were filled.</p> <p>Auditors reviewed the case file related to the prior audit finding. The case was closed in December 2022 with a consent agreement that lapsed the chiropractic license with no option for subsequent renewal in Alaska. The licensing action was properly reported to applicable entities as required by law.</p> <p>In addition, auditors reviewed five cases open over 180 days from February 2021 to March 2023. Of the five cases reviewed, no unjustified periods of inactivity were identified.</p>