

I. DEPARTMENT OF LAW'S MISSION

The mission of the Alaska Department of Law is to protect Alaska's citizens and provide ethical, effective legal services to state government for the benefit of Alaskans.

II. DEPARTMENT OVERVIEW

- DOL employs 283 lawyers and 278 support staff
- Total budget: FY11 - \$86.9 million; FY10 - 85.4 million
- GF budget: FY11 - \$57.3 million; FY10 - \$56.3 million
- DOL offices: Anchorage, Barrow, Bethel, Dillingham, Fairbanks, Juneau, Kenai, Ketchikan, Kodiak, Kotzebue, Nome, Palmer, and Sitka.

III. DEPARTMENT'S CORE SERVICES

- A. Protecting the Safety and Physical and Financial Well Being of Alaskans
- B. Fostering the Conditions for Economic Opportunity and Responsible Development and Use of Our Natural Resources
- C. Protecting the Fiscal Integrity of the State
- D. Promoting and Defending Good Governance

IV. BUDGET ALLOCATION OF DEPARTMENT'S CORE SERVICES

Operating Budget

TOTAL OPERATING BUDGET DISTRIBUTION	GF	FED	OTH	TOTAL	PFT	PPT	NP
FY2010 CURRENT CAPACITY (Management Plan)	\$56,275.3	\$3,881.3	\$25,201.0	\$85,357.6	553	7	0
FY2011 GOVERNOR'S TRANSACTIONS	\$1,054.3	(\$2,285.9)	\$2,792.4	\$1,560.8	2	-1	0
TOTAL FY2011 GOVERNOR'S BUDGET	\$57,329.6	\$1,595.4	\$27,993.4	\$86,918.4	555	6	0

V. SELECTED OVERVIEW OF DEPARTMENT'S CORE SERVICES PERFORMANCE

- A. Protecting the Safety and Physical and Financial Well Being of Alaskans

The Department protects Alaskans' safety and their physical and financial well being by prosecuting criminals, protecting children, and enforcing consumer protection laws; providing legal services to state agencies protecting public health; and prosecuting occupational license cases and state environmental laws.

Protecting Alaskans' Priority Program Budget

TOTAL OPERATING BUDGET DISTRIBUTION	GF	FED	OTH	TOTAL	PFT	PPT	NP
FY2010 CURRENT CAPACITY (Management Plan)	\$33,762.5	\$3,782.0	\$10,358.1	\$47,902.6	374	6	0
FY2011 GOVERNOR'S TRANSACTIONS	\$2,903.8	(\$2,285.9)	\$245.3	\$863.2	3	-1	0
TOTAL FY2011 GOVERNOR'S BUDGET	\$36,666.3	\$1,496.1	\$10,603.4	\$48,765.8	376	5	0

Results of Current Capacity

- ↑ 43% of crimes of sexual abuse of children were resolved with a felony conviction, as compared to 41% the previous year.
- ↑ In FY 2009, the amount (\$2.7 million) in total restitution collections increased over 35% compared to the amount collected in FY 2008.
- ↑ The number of consumer protection investigations and prosecutions increased 41% in FY 2009 over the prior fiscal year, resulting in civil penalties, attorney's fees and costs in the amount of \$2.3 million.
- ➡ 11% of violent felony crimes accepted for prosecution were resolved with a conviction that was not reduced to a lower level felony, remaining unchanged from the previous year.
- ↑ The number of paralegal assistants who have been provided yearly training in general victim-related issues grew to 33 in FY 2009, an increase of 3 over the prior year and continuing a positive trend.

Detailed Results of Current Capacity

1. Criminal Prosecutions

- *Total number of prosecutions and convictions (year to date):*

Felony cases accepted for prosecution: 5,365

Felony cases resulting in felony offense convictions: 1,866

Felony cases resulting in misdemeanor offense convictions: 1,709

Misdemeanor cases accepted for prosecution: 20,992

Misdemeanor convictions: 14,709

- *Appeals.* DOL represented the state in 468 criminal appeals.

2. Child Protection and Child Support

- *Child Protection.* The value of the services provided by the Department in protecting Alaska's children cannot be measured in dollars, but rather quantified only through numbers of children placed into better home situations. The Department participated in 2,526 matters where the welfare of a child was at issue. The Alaska Supreme Court issued decisions in 19 appeals involving termination of parental rights. The court affirmed trial courts' decisions terminating parental rights in all 19 cases. In support of this work the Department expended \$5,236,121.
- *Child Support.* The child support unit in the Department is vital to the successful collection of child support in Alaska and helps Alaskan families. Overall, the child support unit handled over 1,600 child support cases.

3. Consumer Protection

- *Consumer Protection.* As a result of our participation in multistate consumer protection efforts or from consumer protection matters initiated locally, we received civil penalties, attorney's fees and costs in the amount of \$2.3 million at a cost of approximately \$1 million.
- *RAPA.* The Department's work in regulatory affairs benefits the state's citizens by ensuring that matters involving regulated utilities before the Regulatory Commission of Alaska, such as rate changes or changes in service, take the public interest into account. The approximate value to ratepayers of quantifiable instances of advocacy by the Public Advocate is \$ 4.026 million. To achieve this result the Department spent about \$1.5 million.

4. Environmental Protection

- *Environmental Penalties.* The Department collected \$2.28 million in penalties related to violations of state environmental laws. We also obtained cleanup agreements with polluters with an estimated value of

\$4.88 million. To obtain these benefits for the state, the Department expended \$1.7 million.

- *Note:* the monetary value, which is significantly lower than past years, is an anomaly. The Department was forced to divert resources away from the environmental section to address the large number of public records requests. The state generally receives between \$5 - \$10 million in fines and clean-up agreements.

5. Strengthen Social Safety Net

- *Serving the Vulnerable.* The Department spends considerable time ensuring that the state's social safety net remains secure. For example, the Department handled over 100 guardianships and approximately 250 mental commitments statewide. The Department also advised agencies in approximately 260 cases related to assisted living homes, foster homes, and residential childcare facilities.

6. Regulation of Business

- *Licensing cases.* The Department provides legal services to various state agencies that directly protect public health, safety, and the environment by prosecuting licensing and discipline cases for many of the occupational license professions.

FY2011 Change in Capacity

1. Fund Source Change for Sexual Assault Grants

- In the next twelve months, the three federal grants that employ approximately 17 prosecutors and staff are expiring. Twelve of these positions are exclusively devoted to prosecuting sexual assault or domestic violence while the remainder prosecute primarily sexual assault and domestic violence crimes. Substituting a new funding source will allow the department to continue to fund additional attorneys and paralegals in Bethel, Barrow and Anchorage to aid in the prosecution of domestic violence as well as adult and child sexual assault cases.

2. Coordinator to Address Sexual Assault

- The Governor's Sexual Assault and Domestic Violence 10 Year Plan requests the creation of a coordinator position to oversee and implement this initiative. The coordinator's exclusive charge will be

finding ways to end the state's sexual assault and domestic violence epidemic. To achieve this goal, the coordinator will focus on prevention, education, law enforcement, public safety, victim services and offender treatment.

3. Kenai Child Protection Attorney

- The one AAG now located in Kenai currently carries a caseload of 170 children. In addition there are up to 40 children's cases in Homer that should logically be handled from Kenai, but are now handled out of Anchorage as a stopgap measure.

B. Fostering the Conditions for Economic Opportunity and Responsible Development and Use of Our Natural Resources

The Department fosters the conditions for economic opportunity and responsible development of the State's natural resources by defending agency actions that are designed to facilitate economic development and by intervening in lawsuits where natural resource activities are threatened.

Economic Opportunity Priority Program Budget

OPERATING BUDGET DISTRIBUTION	GF	FED	OTH	TOTAL	PFT	PPT	NP
FY2010 CURRENT CAPACITY (Management Plan)	\$3,807.1	\$33.1	\$3,398.0	\$7,238.2	43	0	0
FY2011 GOVERNOR'S TRANSACTIONS	\$61.2	0	(\$123.3)	(\$62.1)	0	0	0
TOTAL FY2011 GOVERNOR'S BUDGET	\$3,868.3	\$33.1	\$3,274.7	\$7,176.1	43	0	0

Results of Current Capacity

- ↑ The Department successfully defended the permits for the operation of the Kensington Mine before the U.S. Supreme Court, preserving hundreds of jobs.
- ↑ The State participated in 100% of cases involving mineral development and exploration permitting decisions in 2009, compared to participation only on the Kensington Mine and Cook Inlet coal prospect cases in the previous year.

Detailed Results of Current Capacity

1. Creating Economic Opportunities Through the Law

- *AGIA*. The Department is a key player on the gasoline team.
- *OCS*. The Department is fully engaged in all aspects of the state's OCS strategy – legislation, public advocacy, and engagement with the federal government.
- *Point Thomson*. DNR's decision to default the Point Thomson's unit has forced Exxon to commit to a \$1.2 billion development plan. Prior to the litigation, Exxon refused to commit to any development. The state also collected \$21 million in penalties and forced Exxon to relinquish 8 leases
- *ESA*. The Department has challenged the listing of the Polar Bear as a threatened species, and is reviewing the Beluga listing. The Department anticipates a large influx in ESA cases since many species may be listed in the near future. Endangered species listings can have severe impacts on the economy of the area where they are found.
- *DOT*. Transportation and infrastructure is a key to economic development in Alaska. The Department's work on transportation issues serves as everyday invisible grease on the wheels of Alaska's infrastructure. Alaska's airports, highways, ferries, and public buildings make commerce and safe movement of Alaskans possible.

2. Supporting Alaskan Businesses and Economic Development

- *Kensington*. The Department's intervention and appeal work played a key role in defeating legal challenges to federal permits for the Kensington Mine project.
- *OCS Exploration*. In *Native Village of Point Hope et. al v. MMS et. al.*, environmental groups sought to enjoin Shell and BP's OCS seismic surveys. The State intervened and played a key role in defeating plaintiffs' request for injunctive relief.
- *Commercial Fishing*. In the *Village of Kasaan v. Alaska Board of Fisheries* case, we successfully defended against a TRO that would have shut down commercial Dungeness crab fishing in the Ketchikan area, resulting in lost commercial fishing opportunity worth at least \$100,000 to \$200,000.

- *Timber Sales.* We are participating in negotiations to settle an appeal of the Logjam timber sale in the Tongass brought by environmentalists. If successful at resolving the matter favorable, we will have helped save 55 jobs at Viking Lumber.

FY2011 Change in Capacity

1. Endangered Species Act

- The Department anticipates legal work involving issues under ESA to significantly increase over the next three years. The most cost-effective way to respond to this need is to obtain an additional Assistant Attorney General. We have challenged the listing of the Polar Bear as a threatened species and are reviewing the Beluga listing. We also anticipate a large influx in ESA cases since many species may be listed in the near future. Endangered species listing can have severe impacts on the economy of the area where they are found.
- Additional resources are necessary so the Department can increase the State's involvement in federal notice-and-comment rulemaking, which enables the state to potentially influence listing petitions, the designation of critical habitat, and creation of habitat conservation plans, and recovery plans.

C. Protecting the Fiscal Integrity of the State

The Department protects the fiscal integrity of the State by ensuring payments of taxes and royalties, recovering monies owed to the state, protecting the State's investments and defending against monetary claims filed against the state.

Fiscal Protection Priority Program Budget

OPERATING BUDGET DISTRIBUTION	GF	FED	OTH	TOTAL	PFT	PPT	NP
FY2010 CURRENT CAPACITY (Management Plan)	\$14,835.4	\$33.1	\$7,221.6	\$22,090.1	90	1	0
FY2011 GOVERNOR'S TRANSACTIONS	(\$1,927.8)	0	\$2,622.1	\$694.3	-1	0	0
TOTAL FY2011 GOVERNOR'S BUDGET	\$12,907.6	\$33.1	\$9,843.7	\$22,784.4	89	1	0

Results of Current Capacity

- ↑ The State prevailed at the Federal Energy Regulatory Commission hearing on the TAPS tariff. The case is presently on appeal before the U.S. Court of Appeals for the D.C. Circuit.
- ↑ Settlements and awards from cases related to oil and gas taxes and royalties generated \$530.0 million for the State.

1. Ensuring Payment of Taxes and Royalties

- *Oil & Gas.* The Department handles a variety of cases relating to the obligations of oil and gas entities in the state to pay taxes and royalties. Settlements or awards from these cases generated for the state more than \$530 million. To obtain these monies the state expended only \$11 million (including the cost of both in-house and outside counsel).

2. Recovery of Monies Owed to the State

- *BP Corrosion.* The department assisted DEC in the investigation of the 2006 BP pipeline spills and shutdowns due to corrosion. The department filed a lawsuit against BPXA in March 2009 seeking recovery of penalties and lost tax and royalty revenue potentially in excess of \$1 billion.
- *Collections.* The state benefits from the Department's collections unit and gets a hefty return on its investment. The unit collected over \$14 million. Of that amount, about \$11-\$12 million resulted from garnishment of the debtor's PFD — funds that most likely would not have been recovered but for the effort of the collections unit. The collections unit does all of this with only eight employees at a cost to the state of \$687,716.
- *Medicaid.* The Department also has a significant role in ensuring that limited monies available for Medicaid programs are properly spent. The Department recovered over \$1 million for Medicaid subrogation and estate and trust recovery claims. This work is handled by one attorney at a cost to the state of \$176,749

3. Protecting State Investments and Accounts

- *Mercer.* The Department investigated and worked with outside counsel to file and litigate a large actuarial malpractice case seeking recovery

of \$2.8 billion in damages to the state pension system for an actuary's negligence and fraud.

- *Permanent Fund.* The Department provides critical legal oversight and advice to the Permanent Fund Corporation.

4. Defending Monetary Claims Against the State

- *Tort Defense.* Because the Division of Risk Management is self-insured, the Department vigorously defends the state in tort actions. The cost to the state for all of the work of the section handling these types of cases is only \$3.1 million.

D. Promoting and Defending Good Governance

The department promotes and defends good governance in areas including Indian law, ethics law, elections law, public records requests and legislation.

OPERATING BUDGET DISTRIBUTION	GF	FED	OTH	TOTAL	PFT	PPT	NP
FY2010 CURRENT CAPACITY (Management Plan)	\$3,870.3	\$33.1	\$4,223.3	\$8,126.7	46	0	0
FY2011 GOVERNOR'S TRANSACTIONS	\$17.3	0	\$48.4	\$65.7	0	0	0
TOTAL FY2011 GOVERNOR'S BUDGET	\$3,887.6	\$33.1	\$4,271.7	\$8,192.4	46	0	0

Results of Current Capacity

- ↑ The ethics attorney conducted ten ethics trainings in FY 2009 compared to none in FY 2008, and six in FY 2007.
- ↑ None of the ballot initiatives certified by the Lieutenant Governor on recommendation of the Department of Law were challenged in FY 2009. In FY 2008, the State faced three challenges to ballot initiatives certified on recommendation of the Department, and defeated each challenge.

Detailed Results of Current Capacity

1. Ethics

- The Attorney General has responsibility to provide advice to the ethics supervisors for the Office of the Governor, the 14 principal state agencies, the University of Alaska, the 11 public corporations and the

more than 75 statutory boards and commissions. In FY09, the Opinions, Appeals and Ethics Section of the Department of Law issued 17 written advisory opinions and addressed several hundred oral and email requests for advice from the ethics supervisors, current and former state officers, as well as citizens of Alaska and the media. To foster a better understanding of the executive branch code of ethics, the state ethics attorney conducted 10 training sessions for the Office of the Governor and some state agencies and boards. The Attorney General also investigates ethics complaints, not involving the governor, lieutenant governor or attorney general.

2. Indian Law and Rural Issues

- Indian law attorneys provided substantive legal advice to almost all sections in the criminal and civil divisions of the Department of Law throughout the reporting period. State agencies, with assistance of Indian law attorneys, are litigating the issue of tribal initiating jurisdiction in child protection cases before the Alaska Supreme Court and the 9th Circuit Court of Appeals, and they are monitoring cases involving similar issues in the Fairbanks Superior Court. Indian law attorneys are negotiating with tribal entities on memoranda of understanding where litigation can hopefully be avoided, in the areas of child protection, transportation, and child support enforcement. Indian law attorneys are advising the Alaska Governor's office on the state's interest in federal legislation impacting tribal jurisdiction. Indian law attorneys are assisting the criminal division in providing advice about the appropriate role of state agencies in enforcement of tribal domestic violence protective orders. Law attorneys are providing staff support to the Attorney General in his role as chair of the Rural Action Subcabinet and in his role as co-chair of the Alaska Rural Justice and Law Enforcement Commission.

3. Elections and Initiatives

- Initiative petitions timely submitted in a general election year require legal advice and oversight by the AGO for the Division of Elections as to the certification process, including anticipated litigation. In a general election year, there is a heightened need for legal advice to the Division of Elections re: issues related to candidate qualification,

voter registration, question and absentee ballots, election monitoring, election contests and related litigation.

4. Legislation

- The department works with all the other departments of the executive branch on legislation and issues pending before the Alaska Legislature. Each bill that is introduced is assigned to an attorney who is responsible for handling any hearing, performing any research, and drafting any amendments necessary. The department also prepares legislation requested by the Governor, including both operating and capital budget bills.

5. Public Records

- The Department assists state agencies in responding to complex records requests made under the Alaska Public Records Act. The Department works with the agencies to ensure the following: the requests are clear; responsive records are preserved; adequate searches are undertaken; all responsive records are reviewed for privileged and confidential information; records containing information protected from disclosure are logged; the state is reimbursed for the costs of searching for and copying the requested records; and the deadlines for responding to the records requests are met.

In FY 2009, the Department billed thousands of hours—totaling hundreds of thousands of dollars in personnel costs—to work on matters relating to the Public Records Act. The vast majority of these hours were spent reviewing requested records for privileged and confidential information. The state cannot recover the personnel costs of conducting such reviews from the persons who made the requests without an amendment to the Public Records Act.

VI. RESULTS FOR ALASKANS AND RATES OF RETURN ON INVESTMENT

A. Many Departmental Services Cannot Be Monetized

- The value provided to the state of the foregoing services delivered by the Department cannot be monetized: for example, prosecuting sex offenders;

terminating an abusive father's parental rights; defending state sovereignty from federal intrusion; defending the state for tort claims; or negotiating contracts for the Department of Transportation and Public Facilities.

B. Monetized Services Demonstrate Significant Benefits to Alaskans

- In those areas where we can monetize achievements, the Department provides a significant return on investment.

Department's ROI based on entire budget: 6 to 1.

Department's ROI based on the portion of its budget funded by general fund monies: 10 to 1.

Department's ROI based on Civil Division Sections which generate revenue: 35 to 1.