

**MINUTES**  
**SENATE FINANCE COMMITTEE**  
**March 06, 2002**  
**9:08 AM**

**TAPES**

SFC-02 # 29, Side A  
SFC 02 # 29, Side B  
SFC 02 # 30, Side A

**CALL TO ORDER**

Co-Chair Dave Donley convened the meeting at approximately 9:08 AM.

**PRESENT**

Senator Dave Donley, Co-Chair  
Senator Pete Kelly, Co-Chair  
Senator Jerry Ward, Vice Chair  
Senator Lyda Green  
Senator Gary Wilken  
Senator Donny Olson  
Senator Lyman Hoffman  
Senator Loren Leman

**Also Attending:** BOB STALNAKER, Information Systems, Division of Administrative Services, Department of Environmental Conservation; KEVIN BROOKS, Director, Division of Administrative Services, Department of Fish and Game; MIKE NIZICH, Director, Division of Administrative Services, Office of the Governor; JANET KOWALSKI, Director, Division of Elections, Office of the Lieutenant Governor; JANET CLARKE, Director, Division of Administrative Services, Department of Health and Social Services; BARBARA RITCHIE, Deputy Attorney General, Civil Division, Department of Law; DEAN GUANELLI, Assistant Attorney General, Criminal Division, Department of Law; KATHRYN DAUGHHETTE, Director, Administrative Services Division, Department of Law; KAREN MORGAN, Director, Division of Administrative Services, Department of Public Safety

**Attending via Teleconference:** From Anchorage: PATRICK GALVIN, Director, Division of Governmental Coordination, Office of the Governor; RANDY CRAWFORD, Colonial, Director, Division of Alaska State Troopers, Department of Public Safety

**SUMMARY INFORMATION**

SB 292-SUPPLEMENTAL APPROPRIATIONS

The Committee heard from the Department of Environmental Conservation, the Department of Fish and Game, the Office of the Governor, the Department of Law, and the Department of Public Safety. The bill was held in Committee.

#SB292

SENATE BILL NO. 292

"An Act making supplemental and other appropriations; amending appropriations; making appropriations to capitalize funds; and providing for an effective date."

Department of Environmental Conservation

Section 6

Amend the FY 02 appropriation made by Sec. 89. Ch. 61 for implementation of the cruise ship bill to correct the fund source from statutory designated program receipts to the Commercial Passenger Vessel Environmental Compliance Fund.  
\$0.0

BOB STALNAKER, Information Systems, Division of Administrative Services, Department of Environmental Conservation, testified this is a technical item intended to align the appropriation for the commercial passenger vessels environmental compliance program with the funding source.

Department of Fish and Game

Section 8 (a)-(b)

Capital Improvement Projects

\$0.0 Receipt Supported Services to Statutory Designated Program Receipts

KEVIN BROOKS, Director, Division of Administrative Services, Department of Fish and Game, noted the six components in this section. He explained that, in recent years, certain capital budget projects were funded from the Commercial Fisheries Limited Entry Commission (CFEC) fund, which had an estimated income of approximately \$4.9 million. However, he noted that revenues dropped to \$4.3 million and the capital projects were subsequently short-funded \$603,500. As a result of these events, he stated, this request is to change the funding source to statutory designated program receipts (SDPR). He noted three of the six components

relate to deferred maintenance.

- Change fund source on \$28,200 due to shortfall in CFEC collections - Dock replacement in King Salmon.

Mr. Brooks stated this is an ongoing project to repair the facility used by the Department of Fish and Game and the Department of Public Safety.

- Change fund source on \$78,800 due to CFEC shortfall - Statewide facilities repair and maintenance.

Mr. Brooks noted the Department requests funds for these activities annually and the Legislature typically funds ten percent of the identified need. Therefore he stated, a backlog of projects must be addressed, and the fund source change would assist in the efforts.

- Change fund source on \$145,000 due to CFEC shortfall - Upper Cook Inlet and Kuskokwim River Coho projects.

Mr. Brooks reminded the original appropriation for this item was \$500,000 and that two years of fieldwork have since been completed. He expressed the intent is to complete the project in the upcoming summer.

- Change fund source on \$63,000 on FY 01 CIP project due to CFEC shortfall - Copper River (Miles Lake) Sonar.

Mr. Brooks informed that lower water levels the previous fall allowed workers to access the river bottom and perform the necessary concrete work. He remarked this request would enable completion of the river bottom work and the installation of the sonar equipment to complete the project.

- Change fund source on \$88,500 due to CFEC shortfall - Mariculture development program.

Mr. Brooks detailed this project of the Division of Commercial Fisheries to develop fisheries. He told of the planning process undertaken with the fishing industry and other interested stakeholders. He said the requested funds would help complete the process.

- Change fund source on \$200,000 due to CFEC shortfall - Vessel and aircraft repair and maintenance.

Mr. Brooks stated this item is an annual request for the Division of Commercial Fisheries to address the maintenance backlog.

Senator Olson asked how many aircraft the Department operates.

Mr. Brooks replied the Division of Commercial Fisheries has four aircraft.

Senator Olson asked how many are helicopters.

Mr. Brooks answered none.

Section 19  
Miscellaneous Claims  
\$3,761.00 general funds

Mr. Brooks detailed this item is for stale-dated warrants and two-year old invoices. He commented that this item is a fairly routine request each year.

AT EASE 9:15 AM / 9:16 AM

Co-Chair Donley informed that the SDPR code is "invalid" because the funds are actually tobacco bonds. He said the process would not be a fund source change within the Department, but rather a utilization of general funds. He stated the Committee would address the technical matter.

Office of the Governor

Section 9(a)  
Elections  
Redistricting: add carryforward language for the remaining balance of the \$947,400 appropriation made in Sec. 20, Ch. 60, SLA 2001  
\$0.0

MIKE NIZICH, Director, Division of Administrative Services, Office of the Governor, testified this item relates to the election redistricting efforts.

JANET KOWALSKI, Director, Division of Elections, Office of the Lieutenant Governor, explained this request to change the lapse date of the FY 02 appropriation is necessary because of delays in receiving information from the Redistricting Board caused by litigation. She stated information is not expected from the Board until after June 2002. She detailed the process of drawing precinct boundaries and mailing updated voter identifying cards reflecting the new districts and precincts.

Senator Hoffman asked if a delay in mailing voter cards would disrupt the election.

Ms. Kowalski replied a delay would cause confusion for voters. She emphasized the Division is required by law to notify voters of polling place changes.

Senator Hoffman noted that in many villages there is only one location adequate to serve as a polling place.

Ms. Kowalski agreed the problem would more likely affect larger communities.

Section 9(b)

Correct a drafting error in Sec. 36(c), Ch. 61 by adding reference to fiscal year 2001.

\$0.0

Mr. Nizich stated the original intent of this appropriation was to allocate the funds over two fiscal years; however the final draft of the FY 02 budget addressed only FY 02.

AT EASE 9:20 AM / 9:21 AM

Section 9(c)

Governmental Coordination

Change RPL 01-2-8022 Coastal Impact Assistance Program from Operating to Capital

\$0.0

and

Section 9(d)

CIP Governmental Coordination

Additional authorization for the Coastal Impact Assistance Program.

\$3,335,700 federal funds

PATRICK GALVIN, Director, Division of Governmental Coordination, Office of the Governor, testified via teleconference from Anchorage that the request in Section 9(c) is a follow-up of a request from the prior year to accept federal funds from the Coastal Impact Assistance Program. At that time, he noted, the Division was under obligation of federal law to develop a statewide plan to detail how the funds would be spent. He reminded that the Legislature subsequently withheld the funding authorization until the plan was submitted. He stated the plan was completed and presented to the Legislative Budget and Audit Committee in September 2001 with a

request that the funds be added to the FY 03 operating budget. He stated that the request now is to include the funds in the capital budget. He told of the history of determining placement for this funding.

Co-Chair Donley asked for details of the projects.

Mr. Galvin responded it is a three-year project. He continued describing how the Division of Legislative Finance recommended to the Legislative Budget and Audit Committee that the funding be requested in the FY 02 operating budget and then transferred to the capital project.

Mr. Galvin described the capital project as "sort of collection of the projects contained in the Coastal Impact Assistance Plan" approved the previous fall by the US National Oceanic and Atmospheric Administration (NOAA). He pointed out the Legislative Budget and Audit Committee authorized approximately two-thirds of the appropriation and omitted some projects that are included in Section 9(d). He stated the reason for transferring the funds from the operating budget to the capital budget is to allow expenditure over three years.

Co-Chair Donley again asked what are the projects.

Mr. Galvin responded the project includes a "Coastal Information System", designed to provide a "single point of entry for users who would like to access the variety of information" currently contained in several state, federal and local government agencies.

Mr. Galvin listed the Coastal Resource Inventory as another related project that would allow identification of the aforementioned information. He stated funds are designated for the Department of Fish and Game to allow continue efforts to catalog anadromous fish streams. Additional funds, he said, are intended for development of regional coastal planning for areas of the State not currently covered by coastal management plans due to absence of a regional planning body. He also noted some funds are reserved for coastal districts to improve existing coastal management plans and a "large amount of money" was set aside for competitive grants to State and nonprofit organizations for a variety of restoration and education programs associated with coastal waters. He noted the competitive grants are specifically addressed in Section 9(d).

Mr. Galvin continued that the Legislative Budget and Audit Committee did not approve two other items included in the plan: funding for an oceans and watershed symposium scheduled in June 2002, and remainder money for implementation of the entire Coastal

Impact Assistance Program. He requested that the funds identified for these projects be transferred to the competitive grant fund. He informed that more requests and proposals were received than were anticipated.

Senator Hoffman assumed the list of the proposals was included as part of the plan submitted to NOAA for approval. He asked if the list includes only the projects approved for funding with the \$4.6 million authorized by the Legislative Budget and Audit Committee or whether the list reflects the \$3.3 million supplemental budget request. He assumed the three-year capital projects would be administered by the Department of Natural Resources.

Mr. Galvin replied that the list submitted to NOAA included a full description of the projects he listed. However, he noted the Division did not have a complete list of the grant proposals at the time the plan was submitted and therefore, NOAA allocated a funding amount. He informed that the individual grant projects must be submitted to NOAA for approval.

Mr. Galvin clarified that the grant program would not be implemented or managed by the Department of Natural Resources, but rather jointly by Department of Community and Economic Development and the Division of Governmental Coordination.

Senator Hoffman requested a copy of the plan submitted to NOAA.

Mr. Galvin agreed to supply the information.

Senator Wilken requested details on the projects authorized by the Legislative Budget and Audit Committee in September 2001.

Mr. Galvin replied that the projects he described above are those approved by the Legislative Budget and Audit Committee and the funds are included in the operating budget. He stated that the federal funds reflected in Section 9(d) were intended for the projects not approved by the Legislative Budget and Audit Committee.

Co-Chair Donley asked if the Division has prioritized the grant proposals.

Mr. Galvin replied the proposals are not yet prioritized, as the proposals were recently received. He noted a process has begun to rank the proposals.

Co-Chair Donley clarified the list reflects all the requests rather than the projects the Division intends to fund. He surmised a

portion of the requested \$3.3 million could be used to fund other projects identified by the Division.

Mr. Galvin committed to funding only those projects contained on the list of grant proposals.

Senator Ward asked the funding amounts requested for each grant proposal.

Mr. Galvin assured this information, as well as total project costs, would be provided.

AT EASE 9:39 AM / 9:41 AM

Senator Wilken and Senator Ward requested details of the five projects included in the \$4.6 million appropriation.

Mr. Galvin agreed to provide this information.

Co-Chair Donley informed that the Legislative Budget and Audit Committee authorized funds for the operating budget because it does not have authority to allocate funds for capital projects. He commented the issue is whether this matter must be addressed as a FY 02 supplemental appropriation or included in the FY 03 capital budget. He recommended including the items in the capital budget process.

Senator Hoffman pointed out that the Legislative Budget and Audit Committee authorized expenditure of up to \$4.6 million and it would be necessary to know how much of that amount would be expended before June 30, 2002.

Department of Health and Social Services

Section 10(a)(1)  
Adult Public Assistance  
Formula program caseload growth  
\$541,000 general funds

JANET CLARKE, Director, Division of Administrative Services, Department of Health and Social Services, reminded that this program provides support for poor, disabled, elderly or blind Alaskans. She noted a low-income participant must be over the age of 64, or at least 18 years of age and have a diagnosed disability. She informed that the program that provides payments to 14,595 individuals each month.

Ms. Clarke recalled the original budget request reflected a \$1.8

million increase to the program based on the Department's estimates of need. She reminded that the Legislature had funded \$630,000 of the requested increase, which would have underfunded the program \$1.2 million. However, she pointed out this supplemental request is considerably less than that amount, which is due to an overestimation of the need, as well as \$60,000 dividends paid to shareholders of the Cook Inlet Regional Native Corporation (CIRI). This, she stated, resulted in a caseload reduction and she noted many participants who received this dividend have not returned to the program.

Section 10(a)(2)  
Board on Alcohol & Drug Abuse  
Cost of co-locating with AK Mental Health Board  
\$40,900 Mental Health Trust Authority Authorized Receipts  
(MHTAAR)

Ms. Clarke relayed that an opportunity arose to co-locate the two boards in Juneau. She stated that some clients are served by both boards and that efficiencies could be realized.

Section 10(a)(3)  
Bureau of Vital Statistics  
Increased receipt supported services authority so general funds can be transferred to Community Health/Emergency Medical Services for two-way radio costs.  
\$75,000 receipt supported services

Ms. Clarke pointed out that the Bureau is generating more revenue than budgeted and this request would release general funds that could then be used within the same appropriation for the Emergency Medical Services (EMS) System. She told of an "issue" of the past four to five years with increasing chargebacks to the Department of Administration. She noted the EMS is funded primarily with general funds and there is no funding flexibility.

Ms. Clarke explained that in the 1980s, when the State invested in EMS communications, the State was required to pay the chargebacks to allow the system to continue operations. However, she stated that other users of the communication system, including the University of Alaska and the Alaska Railroad, discontinued payment to the system, although the fixed costs remain. She stated that rates have increased 40 percent and that a proposal to hold the State harmless and freeze the rates did not materialize.

Ms. Clarke emphasized the EMS communication system is "for the protection of the public" and that there is no option to reduce services.

Section 10(a)(4)  
Foster Care Special Needs  
Shortfunding of formula program from caseload growth  
projections  
\$304,000 general funds

Ms. Clarke explained this program reimburses foster care parents for one-time expenditures for "special items", particularly for children with special needs. She gave as example helmets for children who cannot control their head movements.

Ms. Clarke reminded that the Legislature funded \$557,000 less than the requested amount although a portion has been offset by declines in other foster care program expenditures. She stated the reductions are a result in the increased base rate paid to foster care families.

Ms. Clarke shared that the Department is continuing to review foster care program forecasts and noted additional savings could be realized in March 2002, when the calculations are completed.

Section 10(a)(5)  
General Relief Assistance  
Formula program growth  
\$190,700 general funds

Ms. Clarke stated this program has two main purposes: approximately 76 percent of the funds are utilized for burial of indigent people, and the remaining funds are for emergency services to pay landlords and prevent eviction of qualified indigent residents. She noted this program has been in operation since territorial days. She shared the supplemental request is necessary because the Legislature had established the FY 99 expenditure of \$800,000 as a base, although the average annual expenditure is approximately \$1 million. She stated that in FY 00 and FY 01 the Department was able to transfer excess funds from other programs, but that this is not an option in the current fiscal year. She spoke to the importance of this program and expressed, "Frankly, I'm not sure what we would do if we don't get this money."

Section 19  
Miscellaneous Claims  
\$21,499.91 general funds

Ms. Clarke indicated this is a similar request to that of other departments.

Section 10(b)  
Community Health/EMS  
Correct HB 228 Sale of Tobacco Products fiscal note fund  
source from Tobacco Settlement to Tobacco Use Cessation and  
Education Fund  
(\$487,900) general funds  
\$487,900 Tobacco Use Cessation & Ed fund

Ms. Clarke reminded that the Legislature had established the new fund source the previous year to reflect the decision to expend 20 percent of tobacco settlement funds for tobacco cessation and prevention programs. She surmised that the current accounting was an oversight.

Department of Law

Section 11  
Judgments and Claims \$816,486,8500  
\$631,500 general funds  
\$185,000 PERS Fund

BARBARA RITCHIE, Deputy Attorney General, Civil Division, Department of Law, detailed some of the cases included in this Section as numbered in the supporting documents provided by the Department [copies on file].

Item #2

Case Name: ACLU

Planned Parenthood of Alaska et. all vs.  
Commissioner Perdue/Department of Health and  
Social Services

Description: Challenge to legislative elimination of  
funding for the General Relief Medical Program

Date: 10/9/99; 01/05/01; 09/20/01

Amount: \$236,026.16

Interest: \$ 33,882.51

Total: \$269,908.67

Ms. Ritchie gave a history of the lawsuit relating to the elimination of funding after 1998 for therapeutic or medically necessary abortions for poor women who qualify to receive Medicaid benefits. She explained the three judgments awarded for summary judgment by the superior court, discovery and contempt of court judgments, and the appeal to the Alaska Supreme Court.

Ms. Ritchie informed that the case was brought by Planned Parenthood of Alaska and two medical doctors, who argued that failure to pay for these abortions violates the Alaska

constitutional rights of Medicaid eligible women. She noted the superior court agreed with the plaintiffs and the Alaska Supreme Court affirmed that decision, based primarily on equal protection grounds rather than right to privacy.

Ms. Ritchie noted the State did not prevail on any major issues, although it did prevail on the initial motion for a temporary restraining order, the contempt of court proceedings, as well as reducing the costs claimed by the plaintiffs. She explained the State was unsuccessful in arguing that the doctors in the suit do not qualify as public interest litigants.

Co-Chair Donley asked if the argument was used that the doctors are not public interest litigants because they financially benefit from the performance of the abortion procedures.

Ms. Ritchie affirmed.

Co-Chair Donley explained that the doctors in this case had a financial interest in the outcome. Therefore, he said, the State argued they were not public interest litigants and subject to reimbursement.

SFC 02 # 29, Side B 10:01 AM

Ms. Ritchie noted the court had to determine whether the doctors had significant financial incentive to file the lawsuit, regardless of whether they had issues of "general importance". She stated that the court ruled that the doctors did not have such significant financial interest. She explained that the court found in reviewing the revenues of the practices, that the amount of income generated from the State-funded abortion services accounted for an insignificant percentage of the income and therefore the reason for bringing the lawsuit was not economically motivated.

Item #3

Case Name: Foster, Pepper, Rubini & Reeves

ACLU vs. State

Description: Challenge to 1996 campaign finance reform legislation

Date: 04/27/00; 08/30/01

Amount: \$107,954.28

Interest: \$ 23,706.39

Total: \$131,660.67

Co-Chair Donley commented that this case is the "poster child for

what's wrong with our current [Alaska] Supreme Court as far as it's interpretation of public interest litigants fees". He explained that in this case, the plaintiffs lost approximately 80 to 90 percent of the causes; however, the Court awarded full reimbursement of fees. He noted that federal courts have overruled the Alaska Supreme Court on part of this decision.

Ms. Ritchie agreed with "the sum total" of Co-Chair Donley's assertion, but not necessarily the characterization. She described the case as a challenge to the entire legislation, and although the court upheld the constitutionality of most of the bill, there were some provisions in which the State did not prevail. She stated the superior court then determined that the plaintiff was the prevailing party and subject to reimbursement, which the State appealed. She continued that the State received a memorandum of opinion and judgment, which is not a published opinion and therefore could not be cited as precedent. This memorandum, she said affirmed three justices to one, the decision that the prevailing party was the public interest litigant.

Co-Chair Donley remarked this practice is the result of an earlier court decision finding that if the public interest litigant prevails on any portion of suit the party could receive reimbursement of the entire costs. He asked if any other state operates in this manner.

Ms. Ritchie was unsure.

Co-Chair Donley interpreted the finding as a "massive escalation of costs for public interest litigants". He surmised that other states have "not found [this] necessary". He asserted the Alaska Supreme Court created a new law and "frankly, I think it's an outrage. I think it's an abuse of judicial power and we're stuck with the bills." He opined that public interest litigants should receive fair compensation for the issues in which their party prevails but not for the points lost.

Senator Hoffman asked about the 10.5 percent interest rate, which he surmised is excessive compared to the judgments in the other cases.

KATHRYN DAUGHHETTE, Director, Administrative Services Division, Department of Law, testified the interest rate paid on judgments is defined by statute. She explained the interest rate of 10.5 percent is imposed on cause of actions dated prior to August 1997. She noted that after this date, statute was amended, setting the interest rate at three points above the current federal interest rate.

Senator Hoffman asked if the 10.5 percent interest rate is applicable until the judgment is satisfied.

Ms. Daughette answered yes.

Co-Chair Donley commented that in this case, he agreed with many of the plaintiff's arguments, which the court ruled against and federal courts ruled in favor.

Item #4  
Case Name: Steven D. Smith, P.C.  
Child Support Enforcement Division vs. Ragula  
Description: Child support lien and withholding lien vs. attorney's lien  
Date: 6/30/00; 9/27/01  
Amount: \$2,344.08  
Interest: \$ 268.48  
Total: \$4,612.56

Ms. Ritchie stated the primary issue in this case relates to whether a child support lien and a withholding order took priority over an attorney's lien that was improperly reported. She stated this case was originally heard in district court, and then appealed to the superior court, where the ruling was reversed. She noted the Alaska Supreme Court denied the petition for review and refused to hear the case.

Ms. Ritchie commented that the Department disagrees with the final ruling and is awaiting an opportunity to reargue the merits. She remarked that the issue of competing priorities of different liens and child support obligations is common.

Item #1  
Case Name: Darryl Thompson & Verne Rupright  
Doe vs. Otte  
Description: Challenge to sex offender registration legislation  
Date: 09/04/01  
Amount: \$40,115.37  
Interest: \$ 2,957.55  
Total: \$43,072.92

Ms. Ritchie informed this case has been withdrawn. She reminded that the US Supreme Court recently ruled on a similar matter.

Item #6  
Case Name: Hagas, Ahearn, McLaughlin & Webb

Herold vs. State

Description: Wrongful termination  
Date: 1/2/02  
Amount: \$80,000.00  
Interest: \$0.00  
Total: \$80,000.00

Ms. Ritchie explained this case involves a doctor employed by the Department of Corrections for approximately three months before his employment was terminated. She shared that the former employee claimed whistleblower status, while the Department maintains the doctor engaged in actions without approval of his superiors after specific instructions to do otherwise. She spoke of the difficulty in determining the actual events and motivations in this type of situation and that as a result, the State decided to settle the lawsuit.

Ms. Ritchie noted the Department has subsequently been provided information regarding whistleblower situations and given suggestions on how to operate in future instances.

Co-Chair Donley asked if the Department exercised normal discipline procedures in this case or whether the individual was simply fired.

Ms. Ritchie was unsure.

Co-Chair Donley commented the Department of Law should be educating State managers on employment law and practices to prevent lawsuits. He wanted to know if the correct procedures were followed and if not, whether the supervisor was disciplined for failure to do so.

Ms. Ritchie was unsure and offered to research the matter.

Co-Chair Donley intended to hold another Committee hearing on this case with the manager who made the firing decision present to explain the situation. Requested

Senator Olson asked if the physician's activities suggested malpractice and whether the State medical board is involved.

Ms. Ritchie did not know.

Item #7

Case Name: Alaska Legal Services

Quinhagak vs. State

Description: Substance jurisdiction over navigable rivers  
Date: 09/30/96; 10/24/00  
Amount: \$82,525.07

Interest: \$16,955.56  
Total: \$99,480.63

Ms. Ritchie summarized that this case relates to where federal subsistence authority applies. She gave a history of the lawsuit brought under federal law by the villages of Quinhagak and Good News Bay, the Association of Village Council Presidents, Inc., and individual Yupik seeking the right to harvest rainbow trout for subsistence purposes. She stated that the State prevailed in the claim that federal agencies do not have fisheries management authority over all Alaska waters by virtue of the navigational servitude. She explained that the plaintiffs had argued that the navigable rivers are public lands under the Alaska National Interest Lands Conservation Act (ANICLA) and that the federal government, not the State, has subsistence jurisdiction over those waters. She continued that the federal Ninth Circuit Court of Appeals ruled that the authority of the federal agency extends to navigable waters in approximately half of the State.

Ms. Ritchie spoke of extensive litigation over the issue of attorneys' fees in this case. She detailed the attorney fees related to the 1996 preliminary injunction, noting the State did not intend to pay these fees until the injunction became permanent in the event it did not. She pointed out the injunction was made permanent in October 2000, and that there was additional litigation over the amount of attorneys fees related to this action. She informed the initial request for reimbursement was \$448,000 allocated between the State of Alaska and the United States governments; however the actual amount awarded from the State is \$82,000.

Ms. Ritchie noted that attorneys' fees in the amount of \$70,000 is still "in controversy" and has been appealed to the Ninth Circuit Court of Appeals. She stated this amount is not included in this supplemental budget request.

Senator Hoffman and Ms. Ritchie discussed the designation of rainbow trout as a subsistence species and the dependence of the residents of Quinhagak and Good News Bay on the trout.

Ms. Ritchie noted the emphasis of this case was the question of State or federal management authority over particular rivers and public lands.

Senator Hoffman understood that after the residents were denied subsistence preference for rainbow trout, the lawsuit was filed over management rights. He surmised the entire case could have been avoided if the subsistence rights were granted.

Ms. Ritchie indicated she would research the matter.

Senator Hoffman opined this could be one case where federal management is better than State management.

Section 12(a)  
Law Office Assistant reclassification costs  
\$1,700 federal funds  
\$129,400 Inter-Agency Receipts

and

Section 12(b)  
Fund the \$214,400 general fund portion of the Law Office Assistant reclassification costs with the reapportionment of funds within the Department of Law  
\$0.0

DEAN GUANELLI, Assistant Attorney General, Criminal Division, Department of Law, noted the Department has several offices and operates as a large law firm and subsequently it needs support staff. He told of the high turnover rate for secretarial staff of approximately 40 percent annually, primarily because the Department is not competitive with the private sector. He reminded of a reclassification study of other secretarial positions, which resulted in secretaries without legal experience earning higher salaries than those with legal secretary experience. As a result, he said a union grievance was filed and a reclassification study was conducted for legal secretary positions, which he pointed out, had not been reviewed since 1969. He stated this study recommends salary increases and that these supplemental budget requests are to pay for those increases.

Mr. Guanelli stated this request was not considered during the regular budget process because the study had not been completed. He explained the funds would be reallocated within the Department from the original appropriation for a lawsuit involving the Bank of America.

Section 19  
Miscellaneous claims  
\$27,060.49 general funds

Ms. Daughhette stated this item is for outstanding invoices from prior fiscal years.

Department of Public Safety

KAREN MORGAN, Director, Division of Administrative Services, Department of Public Safety, noted fuel increases affect many components within the Department, many of which are beyond the Department's control.

RANDY CRAWFORD, Colonial, Director, Division of Alaska State Troopers, Department of Public Safety testified via teleconference from Anchorage that the Department has made efforts to mitigate the need for supplemental funding. He listed: maintaining vacant positions, the delayed transfers of ten Alaska State Trooper positions to the next fiscal year, reduced civilian training, identification and elimination of excess telephone data lines, and a vehicle fleet audit resulting in the elimination of ten vehicles. He characterized these efforts as "robbing Peter to pay Paul" in that the funds would be necessary in the following fiscal year. He added that non-critical overtime and travel has been reduced.

Section 15(a)(1)  
Alaska State Troopers  
Increased fuel costs  
\$106,100 general funds

and

Section 15(a)(3)  
Alaska State Trooper  
Increased fuel Costs  
\$125,300 general funds

and

Section 15 (a)(11)  
Fish & Wildlife  
Increased fuel costs  
\$247,400 general funds

Col. Crawford spoke to the \$1.43 per gallon average cost of fuel and stated that although prices were expected to decline, they have not. He noted that barged fuel destined for rural areas is paid in advance.

Senator Hoffman asked if adjustments for the increased fuel costs have been made in the FY 03 budget request.

Ms. Morgan answered yes.

Section 15(a)(2)  
Alaska State Trooper-Prisoner Transport  
Increased prisoner transports based on higher volume of cases  
\$172,900 general funds

Col. Crawford informed that though January 2002 the Department has had a 16 percent increase over FY 01 in prisoner transports within the State. He surmised this increase is a result of more arrests occurring due to federally funded training of Village Public Safety Officers (VPSO) provided by the Department.

Section 15(a)(4)  
Alaska State Trooper Detachments  
Recruitment Academy Training  
\$125,300 general funds

Col. Crawford spoke of the average 1.5 percent monthly turnover rate of retiring Alaska State Troopers equaling approximately 18 per year. However, he noted that since 1996, almost 50 Troopers are eligible for retirement at any given date and in the previous year, 11 additional Troopers retired.

Col. Crawford emphasized that one year of training is required of new recruits and that positions would remain vacant if students were not attending the Alaska State Trooper Academy.

Section 15(a)(5)  
Alaska State Trooper Detachments  
Standby pay due to heightened security  
\$67,500 general funds

and

Section 15 (a)(6)  
Alaska State Trooper  
Standby pay due to heightened security  
\$15,700 general funds

and

Section 15 (a)(7)  
Village Public Safety Officers  
Standby pay due to heightened security  
\$11,800 general funds

Col. Crawford testified these items are directly related to service cost increases resulting from the events of September 11, 2001 and the incidents of mail containing anthrax spores. He described the

Alaska State Trooper coordination with the Public Health Service and municipal police departments to provide transportation of specimens to the Public Health laboratory. He also told of a six-hour closure of the U.S. Post Office in Fairbanks due to an anthrax "scare".

Col. Crawford told of efforts made to reduce the expenses of addressing these matters including the use of non-overtime eligible supervisor personnel.

Senator Hoffman asked if VPSOs were utilized to address the anthrax situation.

Col. Crawford replied that supervisors stationed in rural locations were made available to receive shipments of specimens destined for the public health laboratory as well as to answer questions. He noted anthrax situations were addressed in Kodiak, Dutch Harbor, and Cold Bay.

Senator Hoffman asked if specific anthrax threats occurred in these communities.

Col. Crawford answered that suspicious packages were shipped to these communities, intercepted by the airlines or by recipients, and transported to the public health laboratory for testing.

Section 15(a)(8)

Alaska State Trooper Detachments

Emergency guard hires needed to guard offenders in areas with no jails.

\$59,000 general funds

Col. Crawford informed this item is related to the increases in prisoner transportation expenses due to a higher arrest rates. He explained that most small communities have no jail facilities and that until the offender could be transported supervision is necessary in the event of a fire, as well as to prevent escape or suicide.

Section 18(a)(9)

Alaska State Trooper Detachments

Medical examinations costs for sexual assault/abuse cases

\$30,000 general funds

Col. Crawford reminded the Committee of the statute enacted in August 2000 that requires that medical expenses related to the forensic examination of sexual assault victims be paid by law enforcement agencies. He noted that before this, some hospitals

billed insurance companies and public health hospitals absorbed the costs. He also relayed that the number of facilities equipped to perform sexual assault forensic examinations has increased. This, he stated, has resulted in an increased number of examinations occurring, although there has not necessarily been an increase in the number of reported sexual assaults. He added that the use of forensic evidence collected during these examinations is helpful in criminal conviction of the offenders.

Senator Hoffman asked the amount requested in the FY 03 operating budget for this activity.

Ms. Morgan answered \$87,500, and noted this supplemental request has been amended to the same amount.

Section 15(a)(10)  
Alaska State Trooper Detachments  
Increased costs for two-way radio circuits  
\$102,400 general funds

Ms. Morgan stated this item is similar to a Department of Health and Social Services request. She detailed that the microwave system that services the State's roadways has become increasingly more expensive. She informed that the rates have increased approximately 40 percent for several reasons. She stressed that both Emergency Medical Services personnel and Alaska State Troopers rely on this service and that there are no other options available.

Section 15(b)  
Batterers  
Fund source change to correct the overallocation of PFD felon funds in FY 02.  
\$63,900 general funds  
(\$63,900) PFD funds

Ms. Morgan explained that when this supplemental request was originally submitted, it was predicted there would be insufficient funds available from the inmates' forfeited permanent fund dividends. However, she informed, it has been determined that adequate dividend funds are available for the necessary program expenses and a general fund appropriation would not be necessary.

SFC 02 # 30, Side A 10:49 AM

Section 19  
Miscellaneous claims

\$293.88 general funds

Ms. Morgan presented this item.

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**ADJOURNMENT**

Co-Chair Dave Donley adjourned the meeting at 10:50 AM