

HOUSE FINANCE COMMITTEE
February 2, 2010
1:36 p.m.

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CALL TO ORDER

Co-Chair Hawker called the House Finance Committee meeting to order at 1:36 p.m.

MEMBERS PRESENT

Representative Mike Hawker, Co-Chair
Representative Bill Stoltze, Co-Chair
Representative Bill Thomas Jr., Vice-Chair
Representative Allan Austerman
Representative Mike Doogan
Representative Anna Fairclough
Representative Neal Foster
Representative Les Gara
Representative Reggie Joule
Representative Mike Kelly
Representative Woodie Salmon

MEMBERS ABSENT

None

ALSO PRESENT

Daniel S. Sullivan, Attorney General, Department of Law; Craig Tillery, Deputy Attorney General, Civil Division, Department of Law; Richard Svobodny, Deputy Attorney General, Criminal Division, Department of Law; Chris Christensen, Deputy Administrative Director, Alaska Court System.

PRESENT VIA TELECONFERENCE

Rhonda McLeod, Chief Financial Officer, Alaska Court System.

SUMMARY

HB 300 APPROP: OPERATING BUDGET/LOANS/FUNDS

HB 300 was HEARD and HELD in Committee for further consideration. The following departments presented overviews:

Department of Law
Alaska Court System

HB 302 APPROP: MENTAL HEALTH BUDGET

HB 302 was HEARD and HELD in Committee for further consideration.

#hb300
#hb302

HOUSE BILL NO. 300

"An Act making appropriations for the operating and loan program expenses of state government, for certain programs, and to capitalize funds; making supplemental appropriations; making appropriations under art. IX, sec. 17(c), Constitution of the State of Alaska; and providing for an effective date."

HOUSE BILL NO. 302

"An Act making appropriations for the operating and capital expenses of the state's integrated comprehensive mental health program; and providing for an effective date."

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DEPARTMENT OF LAW OVERVIEW

DANIEL S. SULLIVAN, ATTORNEY GENERAL, DEPARTMENT OF LAW, emphasized that the budget for the Department of Law (DOL) is principally personnel driven; the budget increases indicate the addition of attorneys or support staff. He complimented personnel at the department.

Mr. Sullivan pointed to the one-page summary of his presentation on a handout (copy on file), noting that the first item gives a sense of the size of the department:

- I. Department Overview
 - DOL employees: 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.

Mr. Sullivan believed that the second item summarizes DOL core services and was the most important for the Finance Committee:

- II. 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

Mr. Sullivan believed sub-item (A) was most important and that (B) was not usually associated with DOL. He noted that the department had recently intervened in three cases that it believes are critical to (B) related to the Southeast timber harvest and to outer continental shelf (OCS) exploration plans in the Chukchi Sea.

Mr. Sullivan maintained that sub-item (C) related to protecting the fiscal integrity of the state; he gave the Mercer case as an example. He explained that (D) related to issues including legal and regulatory work with the legislature on legislation such as certifying citizen initiatives.

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Mr. Sullivan turned to the Item III on the summary sheet, a table outlining the budget allocation of the department's core services. He opined that the numbers on the chart were apportioned correctly, particularly with the "Protecting Alaskans" as the majority of the budget.

Co-Chair Hawker clarified that the analysis was prepared by the department before the "other" fund designation had been changed, which was why the short form did not reconcile to the short-form totals. He pointed out that the "other" fund would be high (\$24 million) due to the nature of the department's work; roughly \$4 million would move to the designated other category.

Mr. Sullivan turned to the next item:

IV. Return of Investment

- Department's ROI [Return on Investment] based on entire budget: 6 to 1.
- Department's ROI based on general fund: 10 to 1.
- Civil Division sections that generate revenue ROI: 35 to 1.

Mr. Sullivan emphasized that much of what DOL does cannot be quantified; however, much of what the civil division does can be quantified. In the prior year, the state received approximately \$560 million in collections and awards. He believed the return on investment for the state would be of interest to the committee.

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Mr. Sullivan listed the cases the department is currently focused on that will impact the budget either positively or negatively depending on the outcomes:

- V. Litigation Update
 - Mercer
 - Cruise Ship
 - Carlson
 - BP Corrosion

Mr. Sullivan stressed the department's desire to keep the committee updated on the cases. He added that some updates would have to be given in executive session.

Co-Chair Hawker acknowledged confidentiality parameters and requested allowable background regarding the cases.

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Mr. Sullivan responded that the Mercer case involves the state's former actuarial; the department believes Mercer made mistakes and possibly committed fraud and cover-up that significantly damaged the state's ability to fund the retirement system. The state has sued the company. Recent events created a motion to dismiss a ruling in superior court that he believed was in the state's favor. He referred to a New York Times article about the lawsuit and asserted that DOL was pressing for a July 2010 trial.

Co-Chair Hawker queried the financial stakes. Mr. Sullivan replied approximately \$2 billion. He warned that the outcome is not certain, although the state feels it has a strong case.

Co-Chair Hawker emphasized the significance of the litigation.

Mr. Sullivan described the cruise ship litigation; the cruise ship industry sued the state. He reported that DOL is in the process of discovery and the trial date is scheduled for the beginning of next year.

Mr. Sullivan explained that the Carlson case is a class-action lawsuit that is 25 years old and has been to the Alaska Supreme Court four times. The case involves a class-action suit by out-of-state plaintiffs. Non-resident fishermen sued the state based on in-state and out-of-state differentials with regard to permits and crew fees. He noted that the case would be appropriate for executive session.

Mr. Sullivan reported that final judgment had been received the day before and that the state's liability is very large. He explained that the case is very complicated and has huge financial implications for Alaska.

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Co-Chair Hawker asked for monetary figures. Mr. Sullivan replied approximately over \$70 million.

Co-Chair Hawker clarified that the ruling was against the state, so the state would pay.

Mr. Sullivan detailed the British Petroleum (BP) Corrosion case subsequent to a 2006 spill. He noted that the case involved the federal government and criminal action and that the state was expecting lost revenues and royalties. There had been oral arguments in December 2009 for a motion to partially dismiss some of the claims; the judge in Anchorage had not yet ruled.

Co-Chair Hawker asked whether the ruling would affect the department's need for funds. Mr. Sullivan responded that he could not speculate without access to the ruling.

Mr. Sullivan assured the committee that the department is very focused on the four cases.

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Co-Chair Stoltze referenced other litigation related to fishery trade associations suing the Department of Commerce, Community, and Economic Development over the establishment of personal-use fisheries and violation of the Magnuson-Stevens Act. He queried commitment to protecting Alaska resident fisheries and asked for more information. Mr. Sullivan responded that he had not been briefed on the subject.

CRAIG TILLERY, DEPUTY ATTORNEY GENERAL, CIVIL DIVISION, DEPARTMENT OF LAW, answered that he was also unaware of the status of the case in question.

Co-Chair Stoltze wanted the priority to be protecting Alaskan resident-based fisheries against federal intrusions. He did not want to wait for a Senate resolution and emphasized the importance of timing. He did not want the state to lose the case in federal court due to a missed opportunity. He strongly reiterated the urgency and the importance of the issue to many Alaskans.

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Vice-Chair Thomas asked about court rulings and potential change regarding the interest amount. He believed that the interest was most destructive in the particular [Carlson] case.

Mr. Sullivan responded to Co-Chair Stoltze's question, stating that the department was committed to intervening in the case.

Mr. Sullivan responded to the question posed by Vice-Chair Thomas. He explained that the department was working on a recommended statutory amendment that would address the Alaska Supreme Court ruling in the Carlson case, but noted that the ruling could not be addressed in a retroactive fashion. He opined that the court was wrong regarding its ruling on the 11 percent quarterly-compounded interest. He noted that the earlier number was largely interest. The department had made a recommendation and intended to not let the situation happen again.

Co-Chair Hawker clarified that the answer was yes. Mr. Sullivan emphasized that the ruling cannot be undone.

Vice-Chair Thomas wanted to undo the ruling. He noted that the interest could amount to a great deal of money, almost equivalent to the operating budget. He suggested making the courts pay jointly with the fishermen.

Mr. Sullivan cautioned against the idea. He commended the Alaska Supreme Court and the justice system.

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Representative Gara asked for more information regarding the personal-use fishery case. Mr. Sullivan stated that he was not particularly informed about the case.

Representative Austerman believed the department should answer the committee in writing regarding intentions related to the personal-use fishery case. He thought the Carlson case should have been settled long ago, which would have saved the state a great deal of money.

Mr. Sullivan wondered if the question was whether the state should intervene in the case.

Representative Gara requested a memo listing the pros and cons of intervening.

Co-Chair Hawker thought the issue should be discussed in executive session in order to protect the interests of the state. He recalled past executive meetings dedicated to freely discussing litigation.

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Representative Austerman asked whether or not DOL planned to get involved in the case.

Representative Gara stated that he was sympathetic but needed more information, especially regarding subsistence implications.

Mr. Sullivan requested further clarification regarding the question. He stated that the department would be willing to provide as much information as it could to the committee.

Representative Kelly stated that his need for an executive session had been addressed by an earlier meeting in Anchorage where DOL made a presentation to the committee. He acknowledged that there may be other information that would require an executive session.

Co-Chair Hawker wondered whether the question was if the department would pursue the case.

Representative Austerman agreed; he believed that the committee would want to know if the case is a states-rights issue.

Co-Chair Hawker noted that there had not been a confirmation regarding the attorney general and requested a statement regarding Mr. Sullivan's suitability for the position.

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Mr. Sullivan stated that he had been involved in public service his whole career. He believed his experience has prepared him to be Alaska's attorney general.

Mr. Sullivan detailed that he came to Alaska in 1997 and spent four years in active duty with the Marine Corps. He clerked for a judge in Fairbanks and a chief justice on the Alaska Supreme Court, acquiring a good overview of how the Alaska legal system works. He was in private practice in Anchorage where he focused on small businesses and Native Corporations. He was in the Marine Corps Reserves during the period. He worked in the White House on the National Security Council for three years on economic and energy issues. He spent time in the Middle East serving in the Marine Corps then served as the U.S. Assistant Secretary of State covering energy and global economic issues. He was the President's negotiator at eight summits, a U.S. governing board member at the International Energy Agency, and ran a bureau at the State Department.

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Mr. Sullivan concluded with his current position in the Alaska Department of Law. He emphasized how strongly he believed in the issues. He noted his long involvement in public service.

Co-Chair Hawker stated his confidence in Mr. Sullivan. He was pleased with Mr. Sullivan's application for state service.

Co-Chair Hawker noted that the DOL budget could be primarily characterized as litigation and increments related to oil and gas. Mr. Sullivan agreed.

Co-Chair Hawker queried increments and support in the DOL budget. Mr. Sullivan responded that the large increments involve the department's core mission of protecting Alaskans, including the new sexual assault and domestic violence coordinator position. He highlighted a funding-source change for several prosecutors and support staff due to expiration of a federal grant. The department continues to work with the federal government to get additional funding to decrease the \$2.3 million increment.

Mr. Sullivan pointed to a request for an additional child-protection attorney in Kenai and noted the increment request of an additional attorney in DOL focusing on Endangered Species Act issues.

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Mr. Sullivan explained a \$150,000 capital project request for key card access in Anchorage and Fairbanks to enhance safety.

Co-Chair Hawker discussed supplanting existing federal money with general funds when federal authority expires related to the one-time earmark for domestic violence and sexual assault grants. He referred to a meeting with U.S. Senator Daniel Inouye [Hawaii] who supported earmarks for domestic violence efforts and was a friend to Alaska; Co-Chair Hawker wondered whether the contact would help in retaining the federal funding. Mr. Sullivan replied that he had not spoken to Senator Inouye but had been meeting at senior levels with U.S. Department of Justice officials, including the associate attorney general, and that he had informed them of Alaska's actions regarding the sexual assault and domestic violence issue. He believed progress had been made.

RICHARD SVOBODNY, DEPUTY ATTORNEY GENERAL, CRIMINAL DIVISION, DEPARTMENT OF LAW, detailed that there were challenges with the way the federal government worked related to the budget. He explained that the state could keep applying for different grants or earmarks through Senator Inouye; however the federal government might provide

a six-month "cover" to fund until the next federal fiscal year in October, and then say that they are not going to allow federal grant money to supplant general funds money. He stated that in the past the money has taken two years to get to Alaska from the federal government. The state does not have that two-year leeway.

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Co-Chair Hawker supported pursuing political remedies in Washington D.C.

Representative Doogan queried the \$2.3 million change in funds on page 2 of the document (DOL Budget Overview, copy on file). He wanted to translate people into money. Mr. Svobodny clarified that the issue was the number of personnel. He stated that the \$2.3 million dollars would ensure employment for DOL staff for a full fiscal year. The goal is to manipulate the funds for greater savings. Mr. Sullivan stated that the \$2.3 million represents the funding lost due to federal grants.

Co-Chair Hawker added that the money currently supported 16 full-time positions and 6 part-time positions. Mr. Svobodny broke the number down further: 8.5 attorneys, 5.5 paralegals, and 3.5 law-office assistants in the criminal division. Mr. Sullivan hoped the numbers would be a bit less.

Representative Kelly referenced Indian Law and Rural Issues on page 10 and wondered whether he could meet with the department regarding the state's position on the matter. He questioned whether an executive session would be appropriate for the discussion.

Co-Chair Hawker stated that he would be happy to entertain any request.

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ALASKA COURT SYSTEM OVERVIEW

CHRIS CHRISTENSEN, DEPUTY ADMINISTRATIVE DIRECTOR, ALASKA COURT SYSTEM, explained that the judicial branch is different than other agencies in that it is small, or about one percent part of the state's operating budget. However, the court system serves more private citizens every day than any other governmental entity. The court system employs 775 permanent full-time and part-time employees, including 70 judges and 48 magistrates, and operates in 44 locations around the state. He referred to a handout with a map indicating the locations ("Alaska Court Locations," copy on file). The court system had operated in about 19 rural

locations as well, but has downsized because of budget changes.

Mr. Christensen continued that the court system handles many things internally rather than delegating them to the executive branch. For example, the court system has its own human resources department to make personnel decisions instead of delegating to the Division of Personnel.

Mr. Christensen remarked that Alaska's judicial system is unique in the United States; like only seven other states, it has a unified judiciary, which means no municipal or county courts but only state courts. The system is efficient and provides consistent results throughout the state. Funding for the court system is derived solely from the legislature as opposed to from municipalities or dedicated funds. The position of the administrative director of the court system was created by the Alaska constitution as opposed to statute or court rule. Justices are appointed based on competency.

Mr. Christensen observed that for budgetary purposes, three things distinguish the court system:

- All actions are mandated by the constitution or by statutes passed by the legislature.
- The courts are almost completely reactive in nature. The courts do not initiate the work; others file cases to create the work.
- All cases must be taken by the court system, while other divisions may show discretion. The law also says how quickly the work must be done; the legislature has passed statutes with timelines.

Mr. Christensen asserted that the primary driver for caseload is population. The caseload will grow as the population grows. Beyond population growth, caseload is affected by the Department of Public Safety (DPS) and municipal police departments putting more officers on the street, by economic changes, by legislative statute, by unfunded federal mandates, and other factors.

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Mr. Christensen reported that there is both good news and bad news when looking at caseloads for FY 09 and the first quarter of FY 10. In FY 09, the courts received about 154,000 new cases, a decrease of about 0.08 of 1 percent from the previous year. The superior court's caseload decreased by about that amount last year, with 20,000 filed. The number included a 7.5 percent decrease in felony filings; there has not been a decrease in felony filings in a decade. While fewer crimes are being committed in the

state, a larger percentage of people committing the crimes are being arrested, the result of more police officers. Even with the recent decrease, the number of felony filings has gone up 70 percent over the past eight years. Felonies now make up 29 percent of the superior court's caseload, which takes more resources, including jury trials and return trials.

Mr. Christensen noted a 15 percent decrease in the juvenile delinquency caseload and about 1 percent decrease in the child-in-need-of-aid caseload. There were increases in specific caseloads including sanity and alcohol commitments, guardianships, and conservatorships. The general civil caseloads (including torts, contracts, and administrative appeals) increased 3 percent. Domestic relations cases (divorces, child custody, marriage dissolutions and support) increased approximately 7 percent. The district courts caseload decreased approximately 0.75 of 1 percent last year. There was a 4 percent decrease in misdemeanors for the first time in years and 1.3 percent decrease in requests for domestic violence restraining orders. There was a 3 percent increase in small claims and 1 percent increase in traffic offenses and fish and game violations.

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Mr. Christensen explained that the department keeps the caseload statistics on a quarterly basis. The bad news is that the statistics for the first quarter of the current fiscal year show a 19.5 percent increase in felonies; in Anchorage alone the felony increase was 31 percent.

Co-Chair Hawker expressed surprise and asked the reason. Mr. Christensen was not sure. He conjectured that the numbers might be a continuation of the increase in felonies over the past few years. He noted that misdemeanor filings had also increased 7 percent during the first quarter. The overall superior court caseload increased 8 percent.

Representative Doogan asked for more information. Mr. Svobodny did not have an explanation, but reported that the Department of Law numbers were less dramatic. He detailed that the court system numbers overall for felonies increased approximately 10 percent over a 10-year period. He did not know what the one-quarter statistics meant. He echoed concerns and wondered if the state of the economy was related. There were no increases in prosecutors. He noted that DOL numbers are higher than the court system numbers because although all cases are referred to the department, but not all of them are filed.

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Representative Foster asked whether more offenses were now being categorized as felonies. Mr. Svobodny replied there seemed to be an increase in certain kinds of felonies. He noted the inception of "three strikes you are out" [three felonies would result in a 99-year sentence], but pointed out that the first sentence did not take place for around eight years. He thought the increases were more related to the economy and the number of police officers on the street.

Mr. Christensen agreed that the number of officers was the largest driver. He also pointed to the inflation of the dollar value of a felony. In the early 1970s, \$500 (the amount set for felony theft) was a lot of money. Now, \$500 is not a lot of money. He referenced several pieces of legislation trying to increase the amount.

Co-Chair Hawker queried the 30 percent increase in felonies in the first quarter of FY 10. Mr. Christensen replied that the [31 percent] number applied to Anchorage; statewide the number was 19.4 percent.

Co-Chair Hawker asked whether the statistic justified the 20 percent budget increase.

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Representative Gara queried legislation to increase [dollar-value] limits for felonies. Mr. Christensen believed Representative Coghill had a proposal related to the inflation rate; \$500 would be worth over \$1200 in current dollars. He added that opposition largely came from the business community.

Mr. Christensen referred to a handout, "FY2010 Authorized Budget Overview, All Budget Units" (copy on file) showing how the current year's money is being spent. He noted that 78 percent ***of the budget is for personnel, which is high; for example, the Department of Public Safety has fewer than 10 percent more employees than the courts, but the DPS budget is 50 percent larger because they are equipment heavy. He maintained that 70 percent of court employees are range 15 or less; most of the work is clerical work. Lower paid employees means more turnover, which means inefficiency, more training costs, and more supervisory costs. He noted that the turnover rate has gone down over the past year, reflecting the economy in general.

Co-Chair Hawker asked the proportions of union and non-union employees. Mr. Christensen responded that the courts have the largest group of non-union employees outside the university. He provided history of past union and legislative action related to pay increases. He noted that the Alaska Public Employees Association (APEA) and Alaska State Employees Association (ASEA) are looking into

organizing employees. He believed that employees were the best judge of whether a union was needed. From a management point of view, he believed a union shop is more expensive, even if the employees are paid the same wage.

Mr. Christensen remarked that the turnover rate was as high as 125 percent in one year, and that it was particularly high in rural Alaska. He explained the travel expense for jury sequestration or for judges who must be flown because of timelines and the lack of judges in some locations.

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Representative Kelly queried turnover detail. Mr. Christensen responded that turnover took place mostly in ranges 15 and below. The largest group of court employees is range 10, who understandably want to do better. He referred to a joke that the court system is the training ground for the North Slope Borough, where people can make more.

Representative Kelly emphasized that the court workers were local residents. He thought it would be more cost-effective to start people at a higher range. Mr. Christensen replied that the legislature has been open to suggestions by the department to raise the salaries of the lowest paid workers. A "G" step had been added for employees in the 14 and below range to increase longevity.

Representative Joule commented that legislators should be familiar with range 10. Co-Chair Hawker pointed out that the workers being discussed were range 10 without per diem.

Mr. Christensen drew attention to a supplemental request. The department has been using Sprint pre-paid phone cards for long-distance communication at considerable savings. However, Sprint sold the service to another company, which raised rates; in addition, the quality of the service declined. Because of its substantial investment in the cards, the court system filed a complaint with the Regulatory Commission of Alaska and received a settlement of \$35,000, the amount of the extra phone costs for the year. The \$35,000 was turned over to the general fund; he hoped to get the amount back through the supplemental request.

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Mr. Christensen informed the committee that the court system currently had a 30-day hiring freeze for all positions; there has been a 6 to 7 percent underfunding rate and jobs need to be open 30 days to make up the amount.

Mr. Christensen maintained that a number of projects have been expanded to increase efficiency and reduce costs and improve service. For example, there is a new jury management

system in Anchorage; the system is planned for the rest of the state as well. The current manual record-keeping for jurors has been automated. In addition, jury questionnaires are being processed electronically through a private-sector company at substantial savings. Another example has been moving communications off the state's wide-area network, which was not adequate for their needs. The court system is now on its own network and is in the process of renegotiating the current contract for doubling the bandwidth for less cost.

Mr. Christensen detailed travel savings through a program that issues free tickets and described a federal grant used to train judges and others in order to decrease trial rates.

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Mr. Christensen highlighted three projects in the FY 11 operating budget:

- No Dark Courtrooms initiative. In some places, there are not enough in-state clerks for all the magistrates. Unlike other states that have two or three personnel in a courtroom, Alaska has historically had only one person operating recording equipment. He described conditions of bail improvements that improve efficiency and public safety because the information is entered in a timely manner.
- Judicial vacancy rate reduction. The overall rate is about 7 percent. In recent years, the number of cases has increased dramatically but judge positions have not. In response, the court system has been filling judicial positions as soon as the old judge retires or resigns. Judges are cooperating by giving six-month notice of their intent to leave. The program (funded at \$250,000 for the last two years and requesting another increment) will allow for the elimination of the vacancy rate for judicial employees. Filling the positions right away in the recent period has forced the system to dramatically increase the vacancy rate of clerical employees.
- Nome Court Building: The current building is shared with other operations and is going to be surplus. The court system will be get the building first as long as there is a budget increment of \$278,000 (the extra cost to operate the building). There would be capital requests over the next two years to renovate the building (approximately \$3.8 million this year and \$4.8 million next year). The court system will have to look for more space if the state does not buy the building.

There is no other space available, so something would have to be built.

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Representative Foster thought the current building would have to be demolished if the court were to move to a new office. He queried what had been done already. Mr. Christensen replied that the federal government had only decided to surplus the building in the past few months. Legislative action was required. The building will be offered to other agencies if the court system does not take it.

Co-Chair Hawker asked whether there were potential environmental issues with the existing structure. Mr. Christensen answered that the building is over 50 years old and has asbestos, which would have to be removed; this would account for a large portion of the capital expenditures.

Co-Chair Hawker relayed historical experience with the federal government abandoning buildings to the state, including the closing of the airbase at Galena. The state acquires everything in the building, including obligations.

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Representative Doogan queried the amount required to repair the building. Mr. Christensen responded that the item was in the capital budget; he believed the increment would be \$3.8 million for the current year and \$4.8 million the following year.

Representative Doogan summarized the cost would be approximately \$8 million for the capital part and that the operating budget would increase as well. Mr. Christensen replied that the court system currently pays the federal government rent of \$183,000 per year (less than it costs to operate the building), which is a bargain; the state would pay an additional \$278,000.

Co-Chair Hawker pointed out that the federal structure was not adequate to meet the court system's need. The Barrow facility was designed by and for the court system in cooperation with the regional corporation that secured financing. Mr. Christensen stated that the court system only wanted an adequate building and stressed that there were time considerations.

Representative Foster queried the deadline to decide about the building. Mr. Christensen responded that the federal government had agreed to wait until after the legislative session to see whether the legislature would fund anything in the current year. In theory, the federal government could

try and find someone else to take the building if the legislature does not act; in that case, the court system would have two years to vacate the premises (assuming the federal government did not completely shut the building down).

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Vice-Chair Thomas relayed experience with the transfer of a building with asbestos issues. He asked whether the state would have to sign a document holding the federal government harmless. Mr. Christensen recalled an incident that taught him about the costs of environmental remediation, especially involving asbestos. He assured the committee that it would be very clear who would be responsible.

Mr. Christensen turned to the final item, which was not in the operating budget but in legislation requesting one new superior court judge in Anchorage. He reminded the committee that the courts had been warning the legislature of the growing need for the position; backup would be provided.

Co-Chair Hawker referred to the fiscal note and questioned the need for increased physical facilities. Mr. Christensen did not know about the fiscal note. He noted that capital budget items to remodel the old Boney Courthouse in Anchorage have been vetoed in past years; as the judges move in to the Boney facility, there will be space in the new building.

Co-Chair Hawker requested a history of the past five years of requests for facilities expansion, including what has been appropriated, what has been vetoed, and progress made statewide.

RHONDA MCLEOD, CHIEF FINANCIAL OFFICER, ALASKA COURT SYSTEM (via teleconference), replied that the fiscal note identified courtroom space for the new judge.

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Mr. Christensen referenced the ten-year plan for the courts. He recalled that HB 125 (passed two years ago) had instructed the governor to prepare a ten-year fiscal plan for the executive branch as part of the governor's duties under the Executive Budget Act. The judiciary was not subject to the act and was not required to prepare a plan. However, the finance committees had asked the court system to do so voluntarily; he pointed to the result depicted in a handout ("Alaska Court System Ten Year Expenditure Projection," copy on file).

Mr. Christensen emphasized the difficulty of predicting the future because others decide what the courts will need to

do. Caseload is driven by population changes and other factors, such as the number of police officers, the state of the economy, laws enacted by the legislature, unfunded mandates enacted by Congress, and policy decisions by the attorney general. He recalled a past decision by DOL to ban plea bargaining resulting in the number of cases going to trial rising dramatically.

Mr. Christensen informed the committee that for FY 11, the courts assumed two strategic initiatives: the completion of the No Dark Courtrooms project and the addition of one superior court judge in Anchorage. For future years, the 2.7 percent inflation factor suggested by the Office of Management and Budget (OMB) is used. He noted that the previous year's ten-year plan included one new judge for Anchorage and one new superior court judge in Juneau; Juneau is the busiest superior court location in the state and needs a new judge, although there is not space for the position. He underlined that the Juneau judge had been taken off the plan as the courts have figured out another way to fix the problem. Superior court judgeships have to be created by statute through the legislature; a statute gives the state supreme court the authority to create district judgeships. Two magistrates in Juneau have been funded. The solution is to eliminate the two magistrates and fund a district court judge who can do substantially more.

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Co-Chair Hawker referred to past budget problems with therapeutic court funding. The committee had asked OMB and the court system to aggregate the money under central appropriation to the courts. The courts were willing to administer the money through service agreements with other agencies to accomplish the therapeutic courts. He thought the therapeutic courts had proven a success; part of the strategic plan was to expand them throughout the state. He expressed disappointment and concerns regarding OMB notation on the budget to take the issue to the criminal justice working group.

Mr. Christensen supported consolidating the money in the courts budget so that there is one clear source for the legislature to consider.

Co-Chair Hawker queried historical resistance by judges to therapeutic courts and evolution toward support. Mr. Christensen explained that therapeutic courts were originally started in Anchorage by two judges (one with an alcohol court and one with a mental health court). The model takes more time and effort, but is effective and has changed the approach of judges.

Co-Chair Hawker pointed out that the amount referenced by Representative Gara was only a small part of what has historically been allocated for therapeutic courts throughout a number of agencies.

Representative Gara had heard that the bottleneck for good candidates for therapeutic court was the inability to get people into treatment. Mr. Christensen was unsure about waiting lists, but offered to research the issue. He related that there are many therapeutic courts and a variety of treatment sources. He conjectured that the issue might be lack of treatment facilities in a given community. Regarding the therapeutic court money, he noted that the money in the budget is not kept by the court system but passed through the other agencies. The proposal was to have all the money pass through the courts system.

Representative Gara asked which funds were not passing through the court system currently. Co-Chair Hawker did not know but offered to get more information.

[3:31:16 PM](#)

Co-Chair Hawker referenced \$65,000 going to Partners for Progress, Inc. through the Department of Administration. The outside company helps people in the therapeutic courts with ancillary services.

Representative Gara recommended that the court system provide clearer information about the therapeutic courts.

Representative Kelly queried the comfort level with the dramatic increase in the budget. Co-Chair Hawker stated that he was comfortable with the court's requests. In the past, the agency has asked for more and been refused. He anticipated a substantial reduction in the requests before the process was completed.

ADJOURNMENT

The meeting was adjourned at 3:36 PM.