

**HOUSE AND SENATE  
JOINT JOURNAL SUPPLEMENT**

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**February 8, 2017**

**Wednesday**

**No. 3**

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**State of the Judiciary Address**

**by**

**The Honorable Craig Stowers**

**Chief Justice**

**Alaska Supreme Court**

**Before a Joint Session**

**of the**

**First Session of the**

**Thirtieth Alaska State Legislature**

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**February 8, 2017**

**Juneau, Alaska**



**The following was submitted for publication:**

President Kelly, Speaker Edgmon, Senators and Representatives, Honored Guests, Fellow Alaskans. Good morning everyone. I am honored to have the opportunity to speak with you today and thank you for your invitation to share some brief but heartfelt thoughts with you.

I want to congratulate all Senators and Representatives who recently won your election contests; I congratulate the new leadership in the Senate and House; and I welcome all of you, the 30th Legislature, to Juneau to do the peoples' business. I do so with a strong sense of hope and expectation that this Legislative session will be remembered by history as having accomplished remarkable things as Alaska continues to face grave financial and other challenges.

I will say candidly that I had a similar hope and expectation when I delivered my State of the Judiciary address last year to the 29th Legislature. It seems like such a short time ago. I spoke with your predecessors about the value of courage in the face of adversity; I explained that fear undermines the capacity for leadership and greatness. I quoted Churchill and encouraged them to seek wisdom. I told them I believed in them and in their ability to create solutions. All of what I said then remains true for you today. But things are different today in the sense that you have – Alaska has – less time to find the way forward to an effective and fair solution to the financial challenges we face. So today I want to add to what I said last year and talk about the value of time and teamwork.

As I age I have come to realize that time is passing by much faster than it did when I was younger. A few of you in this chamber probably have experienced this also. So when I tell you the next year is going to come and go very, very quickly, you will understand what I mean.

Time is our most valuable commodity; it is precious; it is a non-renewable resource; and we must take advantage of every moment we have to use the time we have as wisely and productively as we possibly can. Every day when we awaken, we must commit anew to doing our utmost to honor the trust placed in us by the citizens of our

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great State to lead and serve their collective well-being. This is our constitutional duty and our sacred responsibility. There is a book somewhere that says "you are called for such a time as this." And you are called. But you have to answer the call. And your answer will be measured not so much by what you say as by what you do.

I say this in recognition that you have a very difficult journey ahead of you this session, and you have fewer options available to you than your predecessors did: Alaska's savings pour out daily just as the sand in an hourglass marks the unceasing passage of time. But unlike lost time, Alaska's financial affairs can be restored; they must be restored. And in this moment in time, only you can accomplish this vital undertaking.

Thankfully, it is not my place to advise you on how you should solve Alaska's budget challenges. But with great respect and in sincere friendship I will suggest that, as a matter of first principles in the art of democratic leadership, the solution — whatever you make it — must be one founded upon true and honest communication; a sense of shared respect; and a willingness to compromise for the greater good on all things that do not violate core values. Remembering always that the chief core value is to faithfully accomplish your constitutional duty as the elected leaders and representatives of all Alaskans.

Abraham Lincoln famously warned: "A house divided against itself cannot stand." Expressing the same idea John F. Kennedy exhorted: "In a time of crisis, men [and women] of good will . . . should be able to unite regardless of party or politics." I say to you: even though you may have strong differences of opinion and belief, you are not adversaries. You are the collective, elected team of leaders that we Alaskans have entrusted to work together for our common good.

I share these thoughts with you to encourage your unwavering collaborative focus on solving the urgent and existential financial challenges you face. The stark reality is that Alaska is quickly depleting its savings; new revenue is going to be very difficult to generate; relying solely on cutting state government will not solve the problem; postponing hard decisions will needlessly squander what time remains; and there is great controversy about every option you

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face. I believe that with determined courage and true leadership, you will focus your minds on what is really important, you will make those very hard but necessary decisions that do not disproportionately harm your constituents or state government, and you will create solutions that serve the best interests of all Alaskans.

As I said here last year, now, more than at any time in Alaska's history, we Alaskans need smart, wise, effective leadership. We need the kind of leadership that the delegates to Alaska's Constitutional Convention exercised. Notwithstanding vast differences in political philosophy and ideas about the proper role of government, the delegates to the Constitutional Convention met and conferred, they exchanged ideas and debated, and they collaboratively created a constitution that has become a model for the world. The new State of Alaska faced economic challenges at least as daunting as those you face. But the delegates had a vision of what the government of Alaska should be, and what it could do in the future to protect and advance the best interests of Alaskans. Alaskans have benefitted from their vision and work in countless ways.

You are our leaders today, and we Alaskans need your leadership and wisdom and collaborative efforts as never before in our history. I have no doubt that with wisdom and good faith and courage, you will rise to the occasion and make history, just as the delegates to the Constitutional Convention did.

Now is the time of favor. If you answer the call, as I know you will, history will smile favorably upon your good work. May Alaska's history testify one day that the 30th Legislature used its time wisely and with great success.

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I will now speak for a few minutes about the State of the Judiciary. Like my conversation with your predecessors last year, my focus will be on the Court System budget and a few of the things we are doing to lead the way in developing innovative approaches to saving money, reducing the size of this branch of government, yet still accomplishing the court's prime directive to provide access to justice and high quality justice services that all Alaskans expect and deserve. I know you have

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heard a lot of doom and gloom from many sources about the financial challenges facing you and Alaska. My discussion with you is not doom and gloom, but rather a report on the positive things we are doing to meet our fiscal and constitutional responsibilities.

As you know, the Alaska Court System is by constitutional design one of Alaska's three separate, independent, and co-equal branches of government. Last year I gave you a brief overview of the Judicial branch: the Alaska Court System operates 39 trial courts and two appellate courts. We employ 65 trial judges, 3 court of appeals judges, and 5 supreme court justices. When I was elected chief justice the Court System employed about 750 court employees not counting judges.

Here is a critical fact I ask you to remember: the Court System's operating budget, when seen as a slice of the State's total operating budget, is a minuscule 1.5%. The Court System's operating budget for FY15 was \$110 million. In FY16 the court's budget was reduced 3.1%, to \$108 million. The court's operating budget for the current FY 17 is \$105 million, a 3.5% reduction from the year before. The supreme court is proposing the same reduction to our budget for next year: we ask that you pass an operating budget for the Court System that is 3.5% or less than what we received in FY 17. A 3.5% cut equals \$3.6 million. With this cut, the Court System will have taken a 10%, or \$11 million, budget reduction over a three-year period.

Why do we propose another 3.5% reduction? Because it is doable and will not inflict long-term damage or disruption to the court's core functions. Our strategy is to make careful, incremental reductions over time; these kinds of reductions are more manageable; and they allow for greater predictability and continuity of core operations.

I must warn, however, that a greater than 3.5% reduction will have a drastic impact on the Court System's ability to provide the core justice services that we are required by law to perform, and will require draconian reductions that will harm the broad cross-section of Alaskans and businesses and government entities that daily demand our services.

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In 2016, 120,500 new cases were filed in the trial and appellate courts. 23,600 jurors reported for service. 299 jury trials were conducted. 2,353 cases were tried by the judge without a jury. 6,700 domestic violence, sexual assault, and stalking protective orders were issued.

670,700 citizens passed through court screening in our larger courts. 871,000 CourtView searches were conducted. The Court System's website had an astonishing 4.7 million hits. 7,000 people without lawyers contacted the Family Law Self Help Center for assistance in litigating their custody cases. 19,000 people made online payments. As you can see, the Court System serves the needs of a very large number of your constituents in a broad range of direct and indirect ways.

Most of the costs to operate the Court System are personnel costs: three fourths of our budget pays for employee salaries and benefits. Drastic reductions in personnel will inevitably lead to drastic reductions in court services. Our strategy avoids drastic, disruptive measures and produces savings while still providing critical core justice services to Alaskans.

You, the legislature, have given clear and consistent direction: you want to see the size and cost of state government reduced. You are right to do so. The government cannot have what it cannot afford. I am proud to say the Alaska Court System has done its part last year to reduce the size and cost of the Judicial branch of government, and will continue to do its part going forward. We have taken our responsibility to be good stewards of the public's money very seriously. But please understand that there is a limit on how much can be cut without doing irrevocable damage to the courts' ability to perform its constitutional duties.

The Court System has significantly reduced the number of its employees, not by laying them off, but by not hiring for many positions as they become vacant due to retirements and resignations from service. As I mentioned, when I became chief a year and a half ago, the Court System employed 750 employees not counting judges. Today we employ 690. One of the ways we will meet our budget target for the next fiscal year is to add additional positions to the long-term vacancy pool: we plan on adding another 10 positions by the end

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of this fiscal year. In real numbers, the Court System has reduced the number of court employees 9.3% since I have been chief.

The obvious consequence of this significant reduction is that we now must manage all of the cases and other tasks the courts are called to perform with fewer staff. So we changed some of the ways we manage the same number of cases with fewer people.

As I highlighted for you last year, one of the innovative ways we have saved a substantial amount of money was to close all courts in the state every Friday at noon. The one exception has been to keep several larger courts open for the limited purpose of having judicial officers available to handle statewide emergency matters such as domestic violence cases, emergency custody petitions in Child in Need of Aid cases, emergency involuntary commitment petitions, emergency elder abuse matters, and criminal arraignments.

The savings derived from these Friday afternoon closures is \$2 million annually. This is significant in light of the fact that the Court System's operating budget is a mere 1.5% of the total state government operating budget. It is also significant to our court employees. Not counting judicial officers, all court employees have taken a 4 % reduction in pay. Though judicial officers' salaries cannot be similarly reduced because of a constitutional prohibition on reducing judges' salaries during their term of office, some judicial officers, me included, have voluntarily reduced our salaries by 4%, or are taking leave without pay, to help the Court System meet its budget goals.

The Friday afternoon closures have worked very well on every level. I have received positive feedback from court users who report that not having court proceedings on Friday afternoons means that attorneys have this time free now to work on other tasks. Office of Children's Services caseworkers now have Friday afternoons available to meet with children and work with parents. I want to emphasize that judges are required to work on Friday afternoons, or take personal leave; since the courts are closed they now have uninterrupted time to work on preparing written orders and decisions.

I care very much about our court employees, and one of my major concerns was how the Friday afternoon closures might negatively

impact staff morale. Our employees have been nothing short of amazing in how they have expressed their understanding of and support for these closures. They understand that the closures were implemented in part to avoid having to achieve an equivalent amount of savings — \$2 million — through staff layoffs outright. Notwithstanding, I want to acknowledge that the 4% pay reduction is a real sacrifice by many of our employees. This salary reduction, when added to the upcoming significant increase in employee contributions to health care coverage, is a true hardship that those earning more may not appreciate. Many of our employees are clerical employees at or near the bottom of the state government pay scale; some have to work several jobs to make ends meet for their families. Thus I believe that it is critically important to pay attention to employee wellbeing, and to actively demonstrate that we are doing all we can do under the circumstances to support them. I thank all Court System employees for their understanding, support, and personal sacrifice. There are no finer court employees anywhere, and I ask you to honor them for their service and commitment to justice.

But as I mentioned in my address to you last year, there is a direct negative impact on the services that the Court System can provide when we do more with less. For example, the Friday afternoon closures mean that there is a modest reduction in time available during the work week to conduct trials and hearings, so things will take longer to complete. We are finding ways to be more efficient, but there will be some inevitable small delay in resolving some cases. A hearing or trial may have to be continued into the following week to be completed. And with fewer court staff to shoulder the full load of our daily responsibilities, the processing of case filings, data, orders, and judgments will be impacted. However, I am confident that you and the public clearly understand that some delay in service is an inevitable price that will be paid to achieve a significant reduction in the size and cost of government. Nevertheless, the Court System is totally committed to providing the very best quality of public service that we can. We remain a Court System Alaskans can be very proud of.

Another innovative approach we are taking is our Retirement Incentive Program. The supreme court decided to implement this program last year under which we identified employees who are at the

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top of their salary band and are eligible to retire. Many of these employees accepted our offer and the Court System saved the State about \$700,000. Again, I remind you that this is a significant amount of money when you consider how small the Court System budget is compared to other agencies and the overall operating budget for the State.

I want to address some changes that are occurring in a few of our rural courts. There are some courts, mostly in remote rural locations, where we have traditionally employed a full-time magistrate judge and a clerk of court to handle cases from that community and region. In some of those courts the case loads are very small compared to case loads in other courts. Several magistrate judges from these rural courts have retired or left court service in the last year. Given our current fiscal situation, where we are looking at every expense and seeking ways to save money, we have decided not to fill some of these vacancies. We do not want to close those courts outright and hope we will not have to. Instead, we will try to keep a clerk of court available at these rural courts, at least part-time, to receive and process case filings. And the cases filed in these courts can be heard either by a judicial officer who will periodically travel to the rural courts, or the cases can be heard at a different court, with the parties appearing by phone or video-link if they cannot attend in person.

This approach is one that I am saddened to have to employ, because the Court System, with your support, has made great efforts historically to reach out to and serve our rural communities and villages. In many ways, the rural courts have been the only face and presence of the State of Alaska for these citizens. I trust that we will be able to reverse this trend in time. But again, leadership requires hard decisions. Reduction in the size of government necessarily means that the size of government will be reduced. The Court System is determined to do its part as an independent branch of government to help you meet our financial responsibilities. Incidentally, it is possible that the Governor will soon appoint one or as many as three of our magistrate judges to fill current vacancies on the superior courts. If he does, it is certain the Court System will evaluate whether we should fill these magistrate judge vacancies or leave them vacant.

I will conclude on several positive notes. I have used the phrase "doing more with less," and we are doing more with less in many ways. I will give you two examples of things we are now doing that are new, that will require substantial time and effort by our employees, and which were not funded; in other words, we are absorbing the costs internally. The first is a public service that was previously provided by the Executive branch. There is a statute that requires the trial courts in criminal cases to issue an order and judgment against convicted defendants requiring them to pay restitution to the victims of crimes. Crime victims receive these restitution judgments; but then what? Although institutional crime victims like businesses may have lawyers, individual victims usually don't; they don't know what to do or how to proceed. The Department of Law has, until recently, operated a Collections Unit to assist these victims obtain restitution. Because of budget cuts in the Executive branch, the Department has discontinued this service and referred crime victims with restitution judgments to the courts. It was foreseeable that these victims were going to come to the courthouses around the state seeking information and assistance, and the court clerks at the front counters were not going to be equipped to respond effectively; this would lead to unhappy crime victims and frustrated court staff.

So the Court System agreed to take on this new responsibility. We have created a centralized Restitution Collections office. We are borrowing two of the positions we had placed in our long-term vacancy pool to provide this service to crime victims; we plan to "repay" these two positions with two other positions as they become available. And crime victims with restitution judgments will receive the same services that the Department's Collections Unit previously provided.

Another example of taking on new responsibilities is the enormous amount of work necessary to implement SB 91. The Court System has devoted thousands of hours to analyzing and providing training about this new and complex criminal justice reform legislation; we have developed new procedures and forms to address the significant changes in law that you have legislated. We are training not only judges and court staff but also state and municipal prosecutors, defense attorneys, and Corrections and parole staff to help all

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stakeholders understand and successfully navigate the new approaches to criminal justice reform implemented by SB 91.

I will mention one last innovation we are making, and that is in the area of remote videoconferencing. The future of the court's ability to efficiently provide access to justice to Alaska's citizens, businesses, and government entities is to fully utilize the best communications services available. Last year, and again this year, we are working with the Department of Corrections and the Department of Public Safety to create videolink connections between the courts and the state's major correctional centers to conduct certain hearings of relatively minor significance, where inmates can participate from jail. We have recently put these programs in place at Anvil Mountain Correctional Center and Goose Creek Correctional Center. The capability to conduct certain hearings from the jail conveniences correctional officers; it also frees State Troopers and Judicial Service Officers from having to transport prisoners to these minor hearings, so that they can attend to other critical public safety needs.

Time does not permit me to share more of the many things the Court System is doing to save money and create efficiencies in our operations. I will leave it to our Deputy Director, Doug Wooliver, and our General Counsel, Nancy Meade, whom you all know, to further discuss these things and answer your questions.

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I began by remarking on how important and valuable time is, and I will conclude in a moment because I know you are very busy and need to return to your duties. But before I take my leave I wish to introduce my colleagues on the Alaska Supreme Court. The supreme court came to Juneau to meet with you earlier this morning and to hear four oral arguments in the Dimond Courthouse tomorrow. I thank all of you who took time away from your pressing responsibilities to talk and visit with the members of the court this morning.

Justice Daniel Winfree is a lifelong, third generation Alaskan from Fairbanks. He has served on the court since 2008. Justice Winfree chairs the supreme court task force on elder law, developing processes to protect the growing population of aging Alaskans from financial

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and physical abuse and neglect. He is a member of the Appellate Rules Committee and is the court's liaison to the National Conference of Bar Examiners. My very good friend Dan Winfree.

Justice Peter Maassen joined the court in 2012 after a long and distinguished private practice, much of which focused on appellate law. Justice Maassen chairs the court's Judicial Education Committee and the court's Access to Civil Justice Committee. My good friend Peter Maassen.

Justice Joel Bolger was appointed to the court in 2013. He has the unique distinction of being the only supreme court justice to have served as a judge at every court level: he was a district court judge in Valdez; a superior court judge in Kodiak; and a court of appeals judge before being elevated to the supreme court. Justice Bolger co-chairs the Criminal Justice Working Group. My good friend Joel Bolger.

Last, I want to introduce you to our newest member, Justice Sue Carney, who was appointed last May to fill the vacancy created by the retirement of Justice Dana Fabe. Prior to her appointment Justice Carney worked in the Fairbanks office of the Office of Public Advocacy, eventually becoming the supervising attorney there. Among her other talents she brings to the court years of experience working in the field of criminal law, juvenile delinquency, and Child in Need of Aid cases. Because of this experience I have appointed her as co-chair of the supreme court's Child in Need of Aid and Juvenile Delinquency Rules Committee. Justice Carney's chambers are in the Rabinowitz Courthouse in Fairbanks, and for the first time in Alaska's history there are two sitting justices in Fairbanks. We are very happy to have Justice Carney as a colleague. My good friend Sue Carney.

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In closing, I want to thank you for your public service and hard work on behalf of all Alaskans. I thank you again for inviting me here to speak with you this morning; it's been a real honor. I look forward to continuing to work together with you for the good of the State of Alaska. Thank you and good morning.

**Please report corrections to the Chief Clerk's office.**