

HOUSE FINANCE COMMITTEE
March 11, 2019
1:32 p.m.

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CALL TO ORDER

Co-Chair Wilson called the House Finance Committee meeting to order at 1:32 p.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair
Representative Tammie Wilson, Co-Chair
Representative Jennifer Johnston, Vice-Chair
Representative Dan Ortiz, Vice-Chair
Representative Ben Carpenter
Representative Andy Josephson
Representative Gary Knopp
Representative Bart LeBon
Representative Colleen Sullivan-Leonard
Representative Cathy Tilton

MEMBERS ABSENT

None

ALSO PRESENT

Kevin Clarkson, Attorney General Designee, Department of Law; Kelly Tshibaka, Commissioner Designee, Department of Administration; Lacey Sanders, Budget Director, Office of Management and Budget; Anna Kim, Administrative Services Director, Department of Law; Doug Wooliver, Deputy Administrative Director, Alaska Court System;

PRESENT VIA TELECONFERENCE

Representative Kelly Merrick

SUMMARY

CONSIDERATION OF GOVERNOR'S APPOINTEE: KEVIN CLARKSON, ATTORNEY GENERAL DESIGNEE, DEPARTMENT OF LAW

CONSIDERATION OF GOVERNOR'S APPOINTEE: KELLY TSHIBAKA,
COMMISSIONER DESIGNEE, DEPARTMENT OF ADMINISTRATION

FY 20 BUDGET OVERVIEW: DEPARTMENT OF LAW

FY 20 BUDGET OVERVIEW: JUDICIARY

Co-Chair Wilson invited Mr. Clarkson to the table.

^CONSIDERATION OF GOVERNOR'S APPOINTEE: KEVIN CLARKSON,
ATTORNEY GENERAL DESIGNEE, DEPARTMENT OF LAW

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KEVIN CLARKSON, ATTORNEY GENERAL DESIGNEE, DEPARTMENT OF LAW, introduced himself and provided a brief description of his background. He was born in Salem, Oregon and was a product of a law enforcement family. He attended Oregon State University before going to Willamette University Law School. After graduating he interview with law firms in Portland and Seattle with the intention of staying in the Northwest. However, the law firms he interviewed with had filled their positions in the Northwest. The Law Firm of Perkins Coie had an opening in their Anchorage office and asked if he was interested. He figured he could work in Anchorage for a couple of years and return to the Northwest. He had been in Alaska since 1985. He reported having 4 children, all born in Alaska, and 5 grandchildren. He provided additional information about his family.

Attorney General Designee Clarkson had been practicing law in Alaska for 34 years. The first 10 years of his career were with Perkins Coie and Brena, Bell, and Clarkson. In 1995 he joined the law firm of Brena, Bell, and Clarkson and worked there for 24 years before moving to his current position as attorney general.

Attorney General Designee Clarkson had heard some concerns over the previous couple of months that his experience was limited to working on controversial constitutional issues in cases that involved controversial social issues. However, that type of work represented only about 10 percent of his practice. The other 90 percent involved civil litigation work. He explained he had had the opportunity to work for a wide variety of clients giving him a broad scope of experience. He had grown to appreciate a depth of experience from having to learn new things every

case. He represented clients ranging from individuals, small businesses, Fortune 500 corporations, boroughs, municipalities, electrical utilities, the Alaska Legislature, groups of legislators, and the State of Alaska. He had represented native corporations from a variety of regions and air carriers, large and small. He had represented the Alaska Bar Association and participated in and chaired disciplinary and free arbitration panels for the association. He continued to provide information regarding his background in law.

Attorney General Designee Clarkson had not sought out the position of attorney general. Prior to the election he had been asked to help create a list of potential attorney general candidates - he had not included his own name. After the election the governor spoke to him at length and urged him to take the position. He had been moved by the governor's vision of what he wanted to accomplish for Alaska. The governor wanted to protect Alaska's interest and to protect public safety which he was moved by because his dad had been a police officer. He thought it was an opportunity to give back to the state. He asked members for the honor of his confirmation.

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Vice-Chair Ortiz thanked Attorney General Designee Clarkson for coming before the committee and for his willingness to be considered for the position. He noted the Attorney General Designee Clarkson having discussed his extensive experience. He wondered if there was anything in his background lacking that might be needed for the position of attorney general.

Attorney General Designee Clarkson responded that he had never worked as a prosecutor. Part of his duties as attorney general was to supervise and manage the Criminal Division of the Department of Law. In that respect, he was not different than any other attorney that had come to the job. However, he had managed a significant number of people. The Department of Law was basically the largest law firm in Alaska. He suggested that he was not applying for the position of a line prosecutor but rather, the attorney general. He felt comfortable with his management skills and the talent within the Criminal Division. He reiterated his lack of experience as a prosecutor.

Vice-Chair Ortiz asked what his main duties were as attorney general.

Attorney General Designee Clarkson responded that the duties of the attorney general were set in statute. The delegates to the constitutional convention who created Alaska's constitution did not include the attorney general. The first legislature was left to create the position of attorney general. When the legislature created the position, the duties were defined as the legal advisor of the governor and other state officers, advising the heads of the departments and the governor (the chief executive of the state). The statutes provided a list of commands for the attorney general. His job was to represent the state in all civil actions in which the state was a party, to prosecute all cases involving the violation of state law, and to defend and prosecute actions for the collection of revenues for the state. There were other duties that would arise as a matter of common law. He was basically the attorney for the State of Alaska and for the Office of the Governor. He was not the governor's personal attorney but represented him in his official capacity as the chief executive of the State of Alaska.

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Representative Josephson indicated he respected Attorney General Designee Clarkson. He referred to a case that he frequently used as an example when he taught constitutional law, the Smith Decision. The case was out of Oregon and had to do with the use of Peyote. Justice Scalia stated that laws of general applicability, not aimed at prejudice against any single group, should be respected and that nothing relative to first amendment rights necessarily had to accommodate that. He recalled that Justice O'Connor did not like that; she wanted something more receptive to individual rights. Justice Scalia specified that nothing in the constitution prevented Oregon from banning Peyote even for a religious purpose. He was providing background because a number of decisions Attorney General Designee Clarkson worked on had taken a different tact than Justice Scalia. For instance, when the Municipality of Anchorage took the position that landlords should not discriminate against unmarried couples, he represented the opposing view. Given the Smith Decision, he wondered how Attorney General Designee Clarkson would evaluate his reasoning in

the matter. He referred to the Swanner Decision and the Thomas Decisions.

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Attorney General Designee Clarkson replied that he had been the attorney for the landlords. The arguments that they were making were wholly consistent, in his view, with Employment Division versus Smith. The other controlling case was, Church of the Lukumi Babalu Aye, Inc. versus the City of Hialeah. At the time the case was initiated, the Swanner case and the beginning of the Thomas case, there was a federal statute called the Religious Freedom Restoration Act, which had been congress' response to the Smith Decision. In the Smith Decision, the majority decided that if a law was generally applicable and was neutral towards religion, the law was valid. However, there was a part of the Smith case that created exceptions to the rule and lead to the application of heightened scrutiny in analyzing whether the law was allowed under the First Amendment Free Exercise Clause.

Attorney General Designee Clarkson explained that the relevant question was whether the law applied to everyone or whether there would be exceptions such that some people did not have to comply with the law, but others did. Another applicable question was whether a religion or religiously motivated people were in the group that had to comply. He indicated that the same argument was made on behalf of the landlords, as the laws in Alaska and Anchorage had exceptions to them. For example, a landlord who was a bigot renting a room in their home or a shared living space in Anchorage could avoid renting to a minority. However, a religious landlord with a religious motivation for not wanting to rent to someone were subject to the law. There was an argument to be made that the law was not generally applicable.

Attorney General Designee Clarkson argued that secondly, if the law affected hybrid constitutional rights (i.e. religion plus speech or religion plus property rights) strict scrutiny would apply. In the case of the landlord, there were multiple ways in which hybrid rights were arguably triggered. He used speech as an example. The laws at issue restricted their ability to speak. They could not legally ask whether a person was married, a religiously motivated question. He also used the Religious Freedom

Restoration act in his argument on behalf of his client which applied as a statutory law of the land. He reported prevailing in front of Judge Holland ruling in favor of the landlords in the summary judgment. The Thomas case went to the Ninth Circuit and he won in front of a three-judge panel. In the Swanner case, he filed a cert petition for Mr. Swanner to the US Supreme Court his clients. They denied cert. However, there was a dissent by Justice Thomas. In his 5-page opinion he indicated that the landlords should have one. He ultimately did not prevail in the Ninth Circuit Court, not because of the merits of the case but because of issue pertaining to standing and ripeness.

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Representative Josephson complimented the attorney general's detailed response. He suggested that, previously, Attorney General Clarkson had revisited certain cases putting resources into them such as medically necessary abortion. He wondered if he would use his authority as attorney general and using state resources to continue to revisit certain issues.

Attorney General Designee Clarkson responded to Representative Josephson's comments regarding returning to certain issues and public funding of abortion. He respectfully thought Representative Josephson was inaccurate. He had represented the Alaska Legislature in the first decision written by Justice Fabe in 2001. The court ruled that there was no obligation for the state to fund elective abortions, non-medically necessary abortions, or non-therapeutic abortions. The Alaska Legislature came back and passed legislation defining medically necessary abortions. He testified on the issue to help them understand the details of the first decision. He had told members that the court decision in its first decision in 2001 used the term, "medically necessary" or "therapeutic abortion" 37 times. It was very focused that the state had to pay for medically necessary abortions. The question was whether the legislature could define what was medically necessary that would trigger a payment of state Medicaid funds. The legislature brought in testifiers, doctors from around the country, to clarify what it would take for an abortion to be medically necessary. The legislature passed the law and he was asked to write an amicus brief.

Attorney General Clarkson responded to the notion of coming back for a bite of the apple on certain cases. He clarified that the one case he could think of was a case involving parental involvement including parental consent and notice.

Attorney General Clarkson looked back to 1997, when the legislature passed a parental consent law, there was no law in Alaska about whether a parental consent law was permissible. The other issue was that there was a decision by the Alaska Supreme Court saying that abortion was protected by the privacy provision of the Alaska Constitution. There were several nuances that followed. The legislature then passed a parental consent statute with overwhelming support. The legislature had to override a veto of Governor Knowles in order to put the law into place. He suggested the law put Alaska in the mainstream because 80 percent of the United States had parental involvement laws. He was hired by the Alaska Legislature to step along side of the Department of Law to defend the statute. There was a summary judgement in the Superior Court and an appeal heard in the Supreme Court. The state won in Supreme Court reversing the original ruling. The Superior Court Judge had thrown the statute out ruling it unconstitutional. Two judges on the Supreme Court, Justice Mathews and Justice Carpeneti thought the law was constitutional and would have upheld it immediately as a matter of law. However, the remaining three judges of the Supreme Court thought a trial was necessary.

Attorney General Designee Clarkson told of going back down to the Superior Court for trial. At the time he was still representing the Alaska State Legislature. He tried the case to present evidence on what the state's compelling interests might have been, and whether those interests were being pursued in the least restrictive means available to the state. Judge Tanigan ruled that the statute was unconstitutional. A second appeal took place in the Alaska Supreme Court - the decision was 3 to 2 against the statute. again Justice Mathews and Justice Carpeneti thought the statute was constitutional. The other three justices determined that the law was not constitutional because they ruled it would be equally effective, but less restrictive, for the state to have a parental notice law in place. The stated in their decision that the Alaska Constitution would permit a statutory scheme that ensured that parents would receive notice so that they would become engaged in their young daughter's decisions regarding the

issues of abortion and pregnancy. The court indicated it was permissible to have a parental notice law in Alaska.

Attorney General Designee Clarkson elaborated that the legislature attempted for two sessions to pass a parental notice law without success. Afterwards, a group of folks got together and by initiative passed a parental notice law. Approximately 59 percent of people in Alaska approved the law. He had been hired by the sponsors to step into the case working alongside the Department of Law to defend the parental notice law, which they did. The court later struck the law down. It was not the law when he started, rather it was the law when he finished because the law was made in the cases he had worked on. He supposed a parental law was permissible in Alaska, but not in the form that was passed previously. He concluded that he came back to issues because there were many avenues to pursue that the court had made available to both the legislature and the people of Alaska.

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Representative Josephson thought Attorney General Designee Clarkson had made a good case that questions had not been posed in any certain way and each matter was unique. He commented that the record was that the Supreme Court had frequently ruled against the attorney general's position. He referenced the Obergefell decision, a case which allowed gay marriage across the country. He cited an example and asked the attorney general whether he would apply resources at every opportunity in order to scratch every itch.

Attorney General Designee Clarkson responded that his job as the attorney general was to defend laws passed by the legislature. He affirmed that it was his job to uphold the law no matter what it was.

Vice-Chair Johnston noted the courts had weighed in on the dividend being an appropriation rather than a transfer. She asked if the attorney general felt the finding had been well established, or whether he felt he would need to take another bite at the apple.

Attorney General Designee Clarkson responded that the court's ruling in the Wielechowski case was currently in Alaska law. He explained that when the money moved from the Earnings Reserve Account to the dividend program, it moved

via appropriation and was subject to a veto based on the decision by the Alaska Supreme Court. He indicated there was a host of questions about how money was moved into and out of the Permanent Fund. There were other accounts that created nuances and questions regarding how money traveled between accounts which might be fair game for analysis. As far as the question addressed in the Wielechowski decision, it was the law.

Attorney General Designee Clarkson continued that if someone did not like the ruling of the court when it interpreted the constitution, the solution would be to amend the constitution. He noted that the governor had put forward an amendment to the constitution that would lock in the calculation of the dividend absent a change by the legislature and then an approval by the people. The other part of the amendment would be that the money would move by a transfer without being an appropriation. If the amendment were to pass, it would be the next bite of the apple. It would change the constitution allowing a transfer of money without an appropriation.

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Vice-Chair Johnston noted that Attorney General Designee Clarkson's tie was purple reminding her of a child from Kotzebue dying far too young. Senator Dan Sullivan had started the Choose Respect movement represented by purple. She inquired whether his office supported the Choose Respect movement and asked if his office would be making the effort the following day to wear purple on behalf of the movement.

Attorney General Designee Clarkson confessed it was a sentimental tie he bought with his wife while traveling. He indicated that one of his priority issues to address was human trafficking. He mentioned that over 43 percent of the state's sexual assault victims were Alaska native women. There was a large number of missing and unaccounted for women in the state. He reiterated that human trafficking was a priority issue for him.

Representative Carpenter relayed that it had been suggested to him that the state had prosecutors that cut deals or were lenient in the plea bargaining process with criminals. He wanted to know what the attorney general could do to restore some respect for the law as it was written. He

asked for Attorney General Designee Clarkson for his comments.

Attorney General Designee Clarkson responded that although it was not his job to approve every plea bargain, the Criminal Division had a set of standards by which it operated. There were very talented folks in key positions within the Department of Law. He mentioned John Skidmore, Director of the Criminal Division; Ron Henderson, the Deputy Director of the Criminal Division; and the district attorney. They oversaw the plea bargaining process. He referred to the Justin Snyder case and reported that any plea bargaining from a sexual offense down to a non-sexual offence required his approval.

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Representative Tilton asked for the attorney general's thoughts on restructuring the Ninth Circuit Court and what that might mean for resource development in the state.

Attorney General Designee Clarkson responded that he had not considered the issue in his current position. He understood the issue and thought Senator Sullivan and Senator Murkowski had raised the issue on a number of occasions. He suggested that it was a question for congress to address. He could not do more than comment as any other person might. The Ninth Circuit Court was the largest circuit in the country, encompassed the largest number of states and the largest territory, and handled the largest number of cases than any other circuit in the country. There were several arguments as to why to split it up as well as several historical reasons why it had been held together. He did not have a personal position on the issue.

Representative Tilton asked about his take on federal overreach and how he could help Alaska.

Attorney General Designee Clarkson replied that there were a number of cases where Alaska was working cooperatively with the federal government. There were also areas where the federal government stepped on the right of the state and what Alaska was promised when it became a state. Some of the areas of federal overreach related to the development and control of Alaska's natural resources and its land. He thought it was very important for Alaska's rights to control its resources and for its lands to be

protected. He would not hesitate to step up to protect Alaska's interest in those cases. He indicated Governor Dunleavy shared his sentiments.

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Representative Josephson noted there were several attorneys that were not retained after the election. He asked how Attorney General Designee Clarkson viewed the issue of the First Amendment.

Attorney General Designee Clarkson believed very strongly in the First Amendment. He had worked on First Amendment and free speech related cases in the past. He explained that public employees had a right to free speech. However, there were limits to that free speech. They had to be speaking on their own behalf not on behalf of the state or within the course and scope of their duties as an attorney for the state. They had to be speaking on an issue of public concern. He also believed there was such a thing as conduct unbecoming of an assistant attorney general. A person could be exercising their right to free speech but conducting themselves in a way that was absolutely dishonorable and reflected poorly on the Department of Law. He thought it was fair to take such things into account. He thought public employees had the right to free speech but, there were responsibilities that accompanied it.

Representative Josephson mentioned that the Department of Law used to have a robust oil and gas division, but it was now under the Department of Natural Resources. It had a synergistic staff that worked on complicated issues. He wondered if the attorney general had any concern that the Department of Law lacked such capacity, particularly if there were to be litigation regarding the governor's bill on property and equipment tax.

Attorney General Designee Clarkson indicated that in the prior week the department had decided to re-form the oil and gas division within the Department of Law. The action would be a reversal of the action taken by the previous attorney general, Attorney General Richards, when he eliminated the oil and gas division and combined them within DNR. He was going to re-staff the division, as it was an important area for Alaska to have very qualified people within the Department of Law representing the state's interest.

Co-Chair Wilson reminded members that signing the report for Attorney General Designee Kevin Clarkson in no way reflected an individual's approval or disapproval of the appointee. The committee's report would accompany the nominations that would be forwarded to the full legislature for confirmation or rejection. In accordance with AS 24.60.130 the House Finance Committee, having reviewed the qualifications for the governor's appointment of attorney general, would move Mr. Clarkson's name to the full legislature for confirmation.

^CONSIDERATION OF GOVERNOR'S APPOINTEE: KELLY TSHIBAKA, COMMISSIONER DESIGNEE, DEPARTMENT OF ADMINISTRATION

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KELLY TSHIBAKA, COMMISSIONER DESIGNEE, DEPARTMENT OF ADMINISTRATION, was born and raised in Anchorage. Most of her family still lived in Alaska. She spent many winter weekends in the Conoco Philips Tower as a child helping her mom with projects. Her mom would have her look through long spools of paper with holes on the side highlighting any number above a certain amount. That was the start of her training as an auditor. Her mom taught values for accountability and fiscal responsibility. Her father was an electrician with ATU which became ACS. He was a labor worker with IBEW. Her father taught her the values resulting from a team staying united and how to challenge authority in a respectful way. She loved growing up in Alaska. She played hockey, hunted, and ate moose tongue sandwiches. She took classes at the University of Alaska Anchorage and was in several theatre productions. She was a pitcher of a softball team winning a championship one summer. In that summer she learned that no position was more valuable than any other position on a team because the only way to win was by working together.

Commissioner Designee Tshibaka continued that after graduating from Steller she attended Texas A and M University and, for a summer she worked for Senator Ted Stevens on the U.S. Senate Appropriations Committee. She then attended Harvard Law School and, after law school she joined the Department of Justice, Office of Inspector General (OIG). Her career had been in the OIGs in Washington D.C. She explained that the OIGs were in just about every federal agency. They did internal affairs

looking for waste, fraud, and abuse. They helped the agencies become more efficient and effective primarily through investigations and audits and multi-disciplinarian reviews. At the Department of Justice she worked on complex cases like the abuse of Arabs and Muslims detained after the September 11th terrorist attacks. She led that review and eventually, the case was heard before the United States Supreme Court.

Commissioner Designee Tshibaka relayed that she also oversaw audits and investigations of Department of Justice programs and operations and she assisted in managing more than 400 employees nationwide. After the Department of Justice OIG she joined the Office of the Director of National Intelligence (ODNI) just after it was starting up. After the 911 Commission found that the intelligence community needed an agency that oversaw the 17 agencies in the intelligence community. She explained that the reason 911 happened was because the intelligence agencies did not coordinate together.

Commissioner Designee Tshibaka suggested that the way to solve a bureaucracy problem was by creating more bureaucracy. As a result ODNI was established. It included agencies like the Department of Defense, the CIA, the NSA, the NGO, the FBI, the NRO, the State Department, and others. At ODNI she served as the legal counsel for the OIG and helped to start up the office. In her role she investigated misconduct by presidential appointees, participated in projects like improving the process for putting peoples names on the terrorist watch list, and she evaluated the ODNI culture, efficiency, and effectiveness at its startup. She briefed the Director of National Intelligence about projects and successfully advocated for the legislation that eventually established the intelligence community and Inspector General in statute. It was a 5-year project that required coordinating the Inspectors General across the intelligence community as well as the general counsels, White House staffers, and the congressional oversight committees.

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Commissioner Designee Tshibaka continued that following the ODNI OIG, she joined the ODNI's Civil Liberties and Privacy Office as a lawyer. She participated in developing guidance for the entire intel community on how to collaborate in

electronic environments on civil liberties and privacy issues, how to use social media in trying to find known and suspected terrorists, and how to work on research projects knowing where the limits were and the civil liberties and privacy limits in the research projects.

Commissioner Designee Tshibaka shared that afterword she joined the Federal Trade Commission (FTC) where she served as the chief investigator and legal counsel. She eventually became the acting inspector general for the trade commission. She led her team to complete high-risk, core mission reviews at an agency that had a \$300 million budget and 1,200 employees. There she examined how the FTC was doing at its mission of protecting consumers. Her team also investigated allegations made by Chairman Darrell Issa when he was the head of the House Oversight and Government Reform Committee. He alleged that FTC attorneys conspired to fabricate evidence to increase the FTC's successful enforcement options. In addition her team performed security audits, financial statement audits, performance inspections, and investigations of misconduct. It was the bread and butter of OGI work.

Commissioner Designee Tshibaka relayed that most recently she founded and established the Office of the Chief Data Officer for the United States Postal Service OIG. As the chief data officer she served on a 9-person executive team responsible for overseeing the United States Postal Service. The postal service did \$70 billion in revenue every year, had more than 620,000 employees, and over \$13 billion in contracts. In contrast, the OIG had over 1,000 employees and \$270 million. It was impossible to do effective oversight of the postal service with the small number of employees. Her team found a way do conduct oversight through analytics. Through using data analytics, her team was able to find cost savings and efficiencies and know how to look for misconduct and risk. In the previous year, the team's analytics led to \$1.9 billion in financial impact, \$179 million in cost avoidances, 225 criminal case outcomes, and were able to do more with less. One of the things the team accomplished was to use analytics to start finding opioids in the mail. She noted Alaska's opioid problem and her excitement to see what Alaska could do with data analytics. Her team was able to start developing models to see opioids moving in 5 billion parcels coming into U.S. borders every year.

Commissioner Designee Tshibaka indicated that her OIG background had shaped how she would approach being commissioner at the Department of Administration. She would promote efficiency and effectiveness, pursue innovations and cost savings, and achieve results.

Commissioner Designee Tshibaka relayed that on a personal note she met her husband in law school and, they moved to Washington D.C. together. Their initial goal was to pay off law school debt and become powerful lawyers but, their hearts were changed in the early years. They became Christians and their faith took a very different form. Instead of becoming leaders, they became servants. They became pastors and started a church in all of their free time. They decided to focus on developing leaders, healing people from trauma and addiction, focusing on orphans, refugees, and helping women and children who were victims of human trafficking. They had vision for people beyond where they were and would like to help them become who they wanted to be. Whether people or organizations, she loved helping people become who they had always wanted to be. She noted seeing organizations of collections of people with a shared purpose. She enjoyed helping organizations become who they have always wanted to be. In preparing for the confirmation hearings she had the opportunity to meet with members of the committees ahead of time. The meetings had given her a chance to learn about the issues important to them and answer questions on a wide range of topics.

Commissioner Designee Tshibaka conveyed that one of the common questions asked by House Finance Committee members was why she wanted the job. She believed Alaska was an extraordinary place filled with extraordinary people. She thought Alaska and Alaskans were facing an extraordinary crisis. She was inspired to go home because of a visionary leader who wanted to make Alaskans safer, more prosperous, and fiscally healthy; a leader who really wanted to turn Alaska's extraordinary crisis into an extortionary comeback. That was why, after Governor Dunleavy won the election, she sent her resume into the office. She wanted to go home and help the state that she loved.

Commissioner Designee Tshibaka recalled that initially she was brought onboard in January as a policy advisor to the governor to do reviews of different policies, programs, and operations in the state that could become more efficient and effective. However, later she was humbled and honored

when the governor asked her to serve as the Commissioner of the Department of Administration. She believed her skill set and experience could add greater value in the role as the Commissioner. She loved Alaska and its residents. She came home to help and to serve. As the commissioner of the Department of Administration she would help the department to become the best it could be. By doing so, the agencies of the State of Alaska would be better able to serve Alaskans. She thanked the committee and was available for questions.

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Representative Sullivan-Leonard shared the commissioner's love for moose tongue sandwiches. She thanked the commissioner for taking the time to visit her legislative office. She reported that in her district in the Mat-Su Borough the local government had faced a significant cyber-attack leaving the Mat-Su Borough government at a standstill. In order to fight the attack, the borough had to spend millions of dollars to fix a very complicated situation. She was aware of cyber-attacks happening all over the U.S. She wondered how the commissioner would challenge the Department of Administration to address cyber-attacks.

Commissioner Designee Tshibaka thought that the information security environment that the state had needed to be strengthened. She had met with the chief information security officer recently to discuss where the state was and what steps would be taken going forward. He had done a thorough assessment of where the state was. She thought the state would have to make investment in the area of security and, the state would need additional man-power. She thought Alaska had a way of maturing itself in security.

Vice-Chair Ortiz thanked the commissioner for coming to the table. He was impressed with her experience, especially at the federal level. He queried how she would bring efficiency and results to DOA. He asked her to define results.

Commissioner Designee Tshibaka had gone through the department's measurements and objectives used by the Office of Management and Budget to decide budgets and results. She intended to meet with her directors to discuss and clarify what the department was going to achieve. She thought they

were thin. She wanted to map out a strong strategic plan for DOA to define what the department was going to do. She wondered if the department would pursue cost savings by cutting and trimming, provide better services to Alaskans, or cut down on the unfunded obligations in Division of Retirement and Benefits. She continued that she would look at whether or not the Public Defender's Agency was cutting down on the backlog of cases, providing better services. There were several things that could be measured. She thought it was important to figure out what was being measured and how. It took energy to measure things. She suggested that sometimes measuring came at the cost of doing things. She thought one or two measures for each of the divisions was not sufficient enough to consider it a result. She had some ideas but, she did not want to impose them on her directors. It had to be a buy-in process. She returned to her softball analogy indicating the team had to work together.

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Vice-Chair Ortiz noted her comments about being in a time of extraordinary crisis. He asked her to clarify her meaning.

Commissioner Designee Tshibaka replied that when she looked at where the state was financially and saw the state had so little reserves along with a great need for spending she considered it a financial crisis. She also looked at the state's ratings compared to other states. She was concerned that Alaska ranked 50th in several areas. It was not what she wanted for Alaskans. She also suggested the state was in a cultural crisis, as many of the Native Alaskan cultures were dying out. It was more than a linguistics crisis, it was a cultural crisis. She suggested that across the board the state was in crisis. She highlighted other areas in crisis including public safety and education. Considering the amount of resources the state had to work with of between \$10 billion to \$11 billion to spend on a population of about 750,000 she thought Alaskans should be living like royalty. It was a math problem that did not add up to her. She thought the state could turn its boat around with some tweaks and modifications to certain programs and operations. She was energized rather than discouraged. She thought the problem could be solved easily. The goal was to figure out how to solve the problem.

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Vice-Chair Johnston believed everyone's crisis was someone's opportunity. She wanted to say that presently Alaska had great opportunities to make changes. She felt that the Department of Administration was the fabric of the State of Alaska's government. She liked the idea of enlarging the state's dashboards and potentially having public input about improvements and efficiencies. She mentioned that the commissioner had said something while in her office about transformation. She was always looking for transformation. She recalled Commissioner Designee Tshibaka stating that her approach to transformation was customer service. She asked her to provide detail on her previous comment and how it would move the state.

Commissioner Designee Tshibaka explained that DOA existed to provide efficient and effective support services to the rest of the agencies within the State of Alaska so they could better serve Alaskans. She believed the first thing the department needed to focus on was improving its customer service. She did not think customer service had been consistent or proven effective. She elaborated that when the state improved its customer services it would build trust with all of the other agencies. When trust was established it would be much easier to do things such as getting the departments to give all of their resources for the shared services model, for example. The state had intended for years to build an example of a model government platform which minimalized the redundancy of effort existing within travel, procurement, mail, and other services. Centralizing the services within DOA would result in cost savings and efficiencies. However, it had not been effective, in part, because the customer service return from DOA had not been present. She argued the importance of customer service.

Commissioner Designee Tshibaka also believed automation was a key to cutting back on lost time and quality. She continued to explain that much of the state's processes were manually intensive and involved paperwork which made it more difficult to track, modify, or apply quality control. There was a huge amount of money lost if everything was not done consistently and electronically. She mentioned automating performance reviews and doing them at the same time of year. Standardized performance reviews at the same time of year would help with recruitment,

retention, efficiencies, and cost savings. She also wanted to focus on doing new employee onboarding in an automated way. She noted the stack of paperwork she personally had to complete upon her employment with the state. She mentioned benefit selection process having to fill out paperwork that, in turn, someone had to input for the state. She could only imagine the benefits of putting such processes into a digital format. as the commissioner wanted to focus on customer service and automation within the department.

Vice-Chair Johnston asked if the department currently had electronic signature an approval capabilities on computers. Commissioner Designee Tshibaka replied that currently the department was implementing DocuSign, an electronic signature, which would result in a significant cost savings to the state.

[2:38:54 PM](#)

Representative Josephson asked, if she was to receive an order of the court to enforce a judgement, whether she would do so or seek a stay appealing the order. He asked if she would do one of the things he mentioned. Commissioner Designee Tshibaka responded that she would either enforce the order or use the legal process to challenge it.

Representative Josephson respected her zeal relative to her work with the Inspector General. He had received something from her office. He read a portion of the communications:

"There are about 6 percent of the State of Alaska employees on Workmen's Comp currently. This presents an opportunity to use data analytics to search out potential fraud issues."

Representative Josephson was concerned that the commissioner's communication viewed state employees in an adversarial way. The state was known for its Veteran population and for its strong public and private union sector. He was alarmed by the email.

Commissioner Designee Tshibaka appreciated Representative Josephson bringing his concerns to her attention. She noted that the day of the email she had gone around and talked with several legislators. She had discussed the potential of doing data analytics with some of them. They had asked in what realm the state would do analytics. In response,

she noted how she had used data analytics successfully in healthcare fraud at the postal service. She had used it in the area of workers' compensation. By no means did she suggest that several people in workers' compensation were committing fraud. There were some people in workers' compensation who committed fraud. She had used data analytics successfully to indicate where fraud was occurring, specifically to target people who committed fraud rather than looking at everyone. The process was more accurate. She could not remember who she had and had not spoken to and wanted to get back with a specific accurate number. She respected state employees. She was just circling back with the specific percentage number that she had discussed in some of her meetings. She continued that a place where she had found hundreds of thousands of dollars in cost savings, through the use of analytics, was in healthcare programs like workers' compensation.

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Representative Knopp had enjoyed his conversation with the commissioner in his office. Since their visit, he had watched the interview in her confirmation hearing in the House State Affairs Committee and she had been asked if she would call someone out if they broached a privacy question. He was concerned about the fact that her response went longer than it needed to without purpose. He was bothered by her response immensely. In light of the fact that the Minority Leader on the House Floor was prepared for a response and other members of House Finance Committee had a copy of the constitution highlighted in advance, he wondered whether she had been a willing and active participant in an organized effort of public shaming of the Co-Chair of the House State Affairs Committee.

Commissioner Designee Tshibaka responded, "Not in any way." She indicated she was very confused by his question because no one would have had any way of knowing what she was going to say.

Co-Chair Wilson directed the members to be very cautious, as a simple misunderstanding had already been addressed in another committee.

Representative Knopp responded that he had perceived the commissioner's reply as very excessive to a situation. He reiterated his concern and did not want the same issue to

arise going forward. He had asked the question because he was unsettled by what he had witnessed.

Co-Chair Wilson relayed that in the second part of the House State Affairs Committee hearing she was impressed by the commissioner designee and Representative Fields being able to take care of their misunderstanding and how they handled the issue publicly.

Representative Tilton had a question regarding public-private partnerships such as the state had with the Division of Motor Vehicles (DMV). She wondered if the commissioner intended to continue or look for other areas in which the state could have such a partnership that would be a cost savings to the state. Commissioner Designee Tshibaka understood the public-private partnership was doing well. She wanted to see data before making any decisions going forward.

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Vice-Chair Ortiz noted her commitment to finding efficiencies including a centralization of services. He asked if she thought the model worked for all of the different departments. He used the Department of Fish and Game (DFG) as an example. He wondered if a department would be impeded in meeting its goals by centralizing services. He asked her to comment.

Commissioner Designee Tshibaka answered that there was an assessment done in 2015 of the services the department had chosen to move into shared services. The ones the department had started on had resulted in great efficiencies and cost savings. The department would continue down the list examining whether there was a benefit in centralizing services. It did not always make sense to centralize certain services. Alaska would have to decide what worked best for Alaska. Presently, the services being centralized made sense.

Representative Josephson mentioned the commissioner wanting to see strong evidence in advance of any effort to privatize any public service. He asked if she would commit to making reports and any evidence as transparent and public as possible. Commissioner Designee Tshibaka responded that if the information was able to be made transparent, it would be made public.

Representative Josephson added that in the instance of DMV, a profit maker, the department considered that while it could be privatized, there might be an advantage to not doing so. He suggested sharing the success of revenue with the general fund.

Co-Chair Wilson asked whether the department had added any new positions. Commissioner Designee Tshibaka asked about a timeline. Co-Chair Wilson responded, "Since January 15th." She clarified that what she meant as a new position was a new Position Control Number (PCN). Commissioner Designee Tshibaka would get back to the committee with a precise answer.

Co-Chair Wilson thanked the commissioner for appearing before the committee and looked forward to working with her. Co-Chair Wilson reminded members that signing the report for Commissioner Kelly Tshibaka in no way reflected an individual's approval or disapproval of the appointee. The committee's report would accompany the nominations that would be forwarded to the full legislature for confirmation or rejection. In accordance with AS 24.60.130 the House Finance Committee, having reviewed the qualifications for the governor's appointment of the Commissioner of Administration, would move Ms. Tshibaka's name to the full legislature for confirmation. She invited testifiers from the Office of Management and Budget to the table for the next presentation.

^FY 20 BUDGET OVERVIEW: DEPARTMENT OF LAW

[2:51:55 PM](#)

LACEY SANDERS, BUDGET DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET, introduced herself.

ANNA KIM, ADMINISTRATIVE SERVICES DIRECTOR, DEPARTMENT OF LAW, introduced herself and began the PowerPoint presentation: "FY 20 Governor's Amended Budget: Department of Law."

Ms. Kim referred to the chart on slide 3: "FY2020 Budget: Department of Law (\$ Thousands)." She explained that the slide showed the Department of Law's budget in general funds, federal funds, and other funds comparing the FY 19 management plan budget to the FY 20 governor's amended

budget. The FY 19 management budget was made up of \$54.5 million in general funds (GF), \$31.3 million in other funds, and \$1.5 million in federal funds. The FY 20 governor's amended budget was made up of \$52.7 million in GF, \$32.0 million in other funds, and \$1.5 million in federal funds.

Ms. Kim moved to slide 4: "FY2020 Budget: Department of Law Snapshot (\$ Thousands)" which provided a snapshot of different budget items in the budget. The first was a fund change for \$750,000 GF reduction and increased interagency (IA) receipts related to billing of legal services in the Civil Division. The second bullet was statewide support; an executive branch travel reduction of 50 percent in the amount of \$190,100 GF. The third item was an increase of \$307,600 GF fully funding the positions added in the previous year in the criminal and civil divisions. The last item on the slide was a one-time item (OTI) removal of \$1.2 million for the North Pole remediation.

Co-Chair Wilson referred back to the criminal and civil division positions. She inquired about the purpose of the positions and the problem the legislature was trying to solve. Ms. Sanders responded that her question would get answered further into the presentation.

Ms. Kim continued to slide 5: "FY2020 Budget: Change Summary (\$ Thousands): Maintain capacity to accommodate change in rate structure." She explained that the slide provided more detail about the fund change of \$750,000 reducing GF and increasing IA. She provided a paragraph on the rate calculation and how it was developed. She also provided what the department's rates were in FY 18 and FY 19 for the attorney and paralegal and the department's desired increase in rates.

Ms. Kim addressed the pie chart on slide 6 showing a 50 percent travel reduction for the executive branch. The slide showed how the reduction would affect the department. The slide showed the breakdown of impacts to the criminal, civil, and administration and support divisions.

[2:55:11 PM](#)

Ms. Kim discussed slide 7: "FY2020 Budget: Change Summary (\$ Thousands): Fully Fund Positions from the prior year: Total \$307.6 General Funds." She offered that the slide

showed more detail about the positions being fully funded in the base in the year. The total was \$307,600 GF. She read the list on the slide:

Fully Fund Positions from the prior year: Total \$307.6 General Funds [\$ Thousands]

- 2nd Judicial District - fully fund 1 prosecutor in Kotzebue \$53.7
- 3rd Judicial District - fully fund 2 prosecutors and 1 support staff in Anchorage \$81.4
- 4th Judicial District - fully fund 1 prosecutor and 1 support staff in Bethel \$77.6
- Criminal Appeals/Special Litigation - fully fund statewide drug prosecutor \$41.2
- Commercial & Fair Business - fully fund 1 attorney to perform consumer protection \$53.7

Co-Chair Wilson mentioned the 45 percent of inmates sitting in jail and awaiting prosecution. She wondered if the increases helped to lower the percentage.

Ms. Kim replied that she was unsure if she could fully answer her question. She believed the department was making an impact. In the last couple of years the legislature had provided the department some additional resources including the funding that the department was hoping to receive with SB 32 [Legislation proposed by the governor in 2019 regarding crimes, sentencing, mental illness, and evidence.] She thought the department would continue to make an impact.

Co-Chair Wilson suggested that perhaps someone from the Department of Corrections should answer the question. She pointed out that DOC continued to grow and, individuals that were unsentenced were waiting to find out whether or not they were guilty. She wondered how to reduce the percentage. She would be posing the same question to the court. She wondered if the Department of Law could get back to her with specifics about how the positions helped to lower the numbers in specific areas and about a plan going forward on how to reduce the number further. Ms. Sanders would follow-up with the individual divisions to see if caseloads could be tied to the specific positions and respond back about their impacts. Co-Chair Wilson would appreciate knowing what the money did for the state and knowing what else the state was lacking.

Vice-Chair Johnston referred to slide 5. She asked if the interagency receipt increases were mainly federal funds. Ms. Sanders replied that the receipts were charges that were made to each agency. If the Department of Health and Social Services had federal receipts that might pay for their costs, it would be federal funds. The agency that was being provided the service would utilize the funds from their existing budgets to pay for the services.

Vice-Chair Johnston referred to slide 7. She asked about OMB's reference to being fully funded. She asked for clarity. Ms. Kim replied that the reference was fully funding positions that were provided in the prior year and were 75 percent funded. The numbers reflected the additional 25 percent to be 100 percent fully funded.

Ms. Kim advanced to slide 8 " FY2020 Budget: Change Summary (\$ Thousands): Extend Outside Counsel related to the North Pole Remedial Action." The slide reflected the extension of the outside counsel for North Pole remediation. She explained that the department was proposing to extend the trial date which was currently set in October. She believed the date had been ongoing. She concluded the presentation.

^FY 20 BUDGET OVERVIEW: JUDICIARY

[2:59:42 PM](#)

DOUG WOOLIVER, DEPUTY ADMINISTRATIVE DIRECTOR, ALASKA COURT SYSTEM, introduced the PowerPoint presentation: "Alaska Court System Overview." He began with the court system's mission statement which was to resolve all cases that came before the system in a way that was efficient, fair, and consistent with the law. The Alaska Court System tried to be expeditious in how it carried out its duties and tried to be accessible to all parties.

Mr. Wooliver noted that in lean budget years the areas in which the court system struggled were access and expediency. For example, the court was closed on Friday afternoons leaving the court less accessible. The system had substantially less employees than it used to have taking longer to do things as expeditiously. The mission statement reflected the Alaska Court System's goals and was used as a measure.

Mr. Wooliver turned to slide 2: "Judiciary's Share of Total Agency Operations (GF Only)." He indicated he had a number of charts reflecting where the court system had been and where it was going. The first chart showed the changes in the court system's budget in the last several years. The chart was shown in general fund (GF) dollars. The budget consisted of about 95 percent GF. Many of the charts looked similar. The chart reflected the system's overall budget.

Mr. Wooliver noted there were three main drivers to the increase in the budget over the years. First, over time the legislature had approved additional staff and additional judges as workloads demanded. Another item that had added to the increased budget of the court system was the statewide salary adjustments approved by the legislature over the years. The other area that had resulted in an increase to the budget occurred in 2011. The Co-Chair of the House Finance Committee at the time was Representative Mike Hawker. He decided it made sense to put all of the funding for the Therapeutic Courts within the court system's budget. There used to be funding in the Department of Law for their attorneys, the Public Defender's office for their attorneys, and the Department of Health and Social Services for treatment costs. As the popularity of Therapeutic Courts grew, Representative Hawker thought it made sense to put all of the Therapeutic Court's money in one place to allow for better tracking of what money was being spent. It was not new money but, it all went into the Alaska Court System's budget. In the previous few years beginning in FY 16, the department had smaller and smaller budgets until the prior two years which he would discuss further.

Mr. Wooliver continued to slide 3: "Judiciary: Line Items (All Funds)." He indicated the chart reflected another way to look at the same growth as the previous slide but was broken down by line item. He highlighted that the department was mostly a personnel cost-driven operation.

Mr. Wooliver turned to slide 4: "Judiciary Appropriations (GF Only)." He commented that the chart showed another way of looking at some of the same information. He pointed to the bottom of the slide where he added a line representing the Therapeutic Courts portion represented by the blue line. He highlighted the lines slightly above zero representing the Commission on Judicial Conduct and the Judicial Council. Both were within the judicial branch but

independent of the court system. He suggested the structure was similar to the Office of Victim's Rights being within the legislative branch but separate from what the legislature did. The Commission of Judicial Conduct and the Judicial Council were separate from the court but were within the judicial branch.

[3:04:05 PM](#)

Mr. Wooliver advanced to slide 5: "Judiciary Appropriations (All Funds)," which showed the same chart but with all funds. He reiterated that because the Alaska Court System was almost entirely funded with GF dollars, the charts looked very similar.

Mr. Wooliver reviewed slide 6: "Judiciary: Salary Adjustment Increases and Personal Services Costs (All Funds)." He explained that the slide showed salary adjustments and reflected how much the court system spent on salaries. He noted the primary driver of the cost increase was for additional judges and staff to meet workload demands in various court locations. The blue bar reflected the cost of living adjustments the legislature approved for members of the judicial branch.

Mr. Wooliver scrolled to slide 7 which showed the total position numbers. He highlighted that the position numbers had dropped. He indicated the department was down a number of employees and was asking for additional employees in the FY 20 budget.

Mr. Wooliver moved to slide 8: "Judiciary: Total Funding Comparison by Fund Group." He reported that the slide, like others, showed that the Judiciary budget was almost entirely funded by GF. The other categories of funding were tiny and did not change very much.

Co-Chair Wilson asked when the last time the court system raised its filing fees. Mr. Wooliver responded that the department had changed the court filing fees twice in the recent past. About 2 years ago the fees were raised at the request of the legislature as well as having been raised 2 years prior to that.

Mr. Wooliver advanced to slide 9 without comment.

Mr. Wooliver thought the information on slide 10: "UGF Budget Changes FY 16 - FY 19," was more interesting than the charts. The chart was a lookback. He reminded members that in FY 16 the state started cutting budgets in all departments. The slide showed the budget cuts in FY 16, FY 17, and FY 18. They added up to about \$10.9 million. For the court system's overall budget the cuts were offset by the salary increases that the legislature approved in those years. However, because the salary increase amount matched the amount the department received, the system still needed to find \$10.9 million in savings until FY 19. In FY 19 the department got a .6 percent increase which he would discuss in more detail later.

Mr. Wooliver indicated that slide 11: "Alaskans Served in 2018" was added at the request of the legislature. The court system was asked to look at how it served Alaskans and how many Alaskans it served. He thought there were a number of ways to measure how the department served Alaskans. He wanted to talk about three specific items on the slide. First, he pointed to the 7,022 contacts through the Family Law Self-Help Center. He elaborated that more and more in Alaska and other parts of the country people showed up in court without lawyers. Currently, in the court system's family law cases (Divorce, Dissolution, and child custody cases) over 85 percent had at least one party who was unrepresented by an attorney. He added that for post-judgement motions, such as motions to modify child custody or motions to modify child support, the percentage of people without lawyers was higher than 85 percent. The Family Law Self-Help Center developed several hundred forms and had a call center for people who were unrepresented to help them with their cases. It not only helped the litigants, it was a tremendous benefit to the court system. He informed members that one thing that slowed court cases down for judges was people appearing before the judge unprepared. The Family Law Self-Help Center did a great job in preparing people for court.

Mr. Wooliver moved to the other item on slide 11. He highlighted the 19,256 online payments. He explained that it used to be when a person had a court fine, fee, or traffic ticket to pay, they had to write a check and mail it in or bring it to the court. The state received over 19,000 payments online in the previous year. The online payment option made it easier for citizens having to pay for things as well as for court clerks. Also, the process

was more accurate because few people had to input data. He pointed out that there were thousands of people that downloaded forms off of the court's website. He continued that by having online forms, of which there were several hundred different types, they were much more accessible. People could search for forms online and the court system did not have to print a bunch of them saving money for the state. For example, last year about 30,000 people downloaded the Landlord Tenant Act booklet and, about 20,000 downloaded the court's small claims booklet. Access and printable forms was a cost savings to the court.

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Co-Chair Wilson asked about whether jury selection was based on Permanent Fund Dividend (PFD) applications or other forms of identification. Mr. Wooliver responded that jurors were selected from the applicants of the PFD.

Co-Chair Wilson asked if the criteria was in statute or based on a decision by the court. Mr. Wooliver responded that a little bit of both applied. He explained that the court might be able to expand the list. The statute gave the court the authority to work with the Department of Revenue on the PFD information. In other words, the court had statute to do it in the current way it was being done. However, the court was not limited to doing it in that way.

Representative Carpenter asked when the many forms had been audited last. He wondered who was responsible for doing the audits.

Mr. Wooliver thought the representative's question was a good one. He offered that the court system had three forms attorneys who spend all of their time drafting, editing, and changing forms. There were several forms that had to be changed when legislation changed. For example, with the passage of SB 91 [The omnibus crime passed in 2016] there were several forms that had to be changed in response to the passage of the bill. He indicated having worked on a forms committee. He reported he learned that good forms were enormously helpful. They assisted people in focusing on the information they needed to provide along with focusing judges on the information they needed to review. Forms were updated and reviewed constantly. He noted that the Family Law Self-Help Center also did forms through the forms committee and their attorneys.

Mr. Wooliver moved to slide 12:" Examples of Cost-Savings Measures."

Examples of Cost-Savings Measures

- Between FY16 and FY19, Deleted 44 PFT, 14 PPT, and 2 Temporary Positions for a total of 60 Deleted Positions
- Salary Schedules Capped at "R" Step
- Holding Positions Vacant to Generate Savings
- Friday Afternoon Closures
- E-Distribution Project
- Expanded Use of Videoconferencing

Mr. Wooliver indicated the court had cut 60 positions. He noted that three-quarters of the Judiciary budget was personal services. The department had also capped its salary steps at "R" which is 25 years. Other state agencies had not taken such steps. The department had held positions vacant to meet the 7 percent vacancy rate. He would discuss Friday afternoon closures shortly. He mentioned the E-Distribution project which meant emailing out more of the work the court generated. The court emailed more judgements and opinions than previously. The project resulted in a savings of about \$100,000 annually in paper, postage, and envelopes. The court also found a savings by doing more video conferencing which provided a great benefit to the Department of Public Safety and the Department of Corrections.

Mr. Wooliver also noted that under the American Disabilities Act the court system had to provide sign language interpreters for people who appeared in court who had hearing issues. There were very few certified sign language interpreters in Alaska. Most of them were employed by the school districts or hospitals. The courts needed them occasionally. Routinely the court had to fly interpreters in from other states. Now the service could be provided by video conferencing. In the prior year there were 40 instances where the court video linked with someone outside the state to provide the service at a huge service to the court. He also noted the convenience of scheduling a video conference as opposed to having to schedule someone's travel days in advance. It might take an hour to and hour

and a half to schedule a sign language interpreter for a video conference. It saved money and time.

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Mr. Wooliver advanced to slide 13: "FY 19 Operating Budget Increases." He had mentioned earlier that the court had an increase of .6 percent in its appropriation in the previous year. It was a result of 2 increments funded by the legislature. The first increment for \$510 million covered the increased cost of jury trials. Much of the amount was jury travel in rural Alaska, mostly to Bethel and Dillingham. The second increase was for a full-time position in the Veterans' Court in Anchorage. The court had been borrowing staff from the other Therapeutic Courts but, it had become popular enough that the court system requested a full-time position to support that court.

Mr. Wooliver discussed the FY 20 Governor's Amended Request on slide 14. Initially, the court system had asked for \$393,800 for facilities expenses to pay for increased lease costs from the prior year. He noted that the court system had come to the end of a 20 year lease with the City of Bethel for the court house. The lease was renegotiated. Lease costs had gone up in Bethel and had outpaced the cost of living adjustments built into the previous lease. The renegotiated lease cost the state an additional \$164,000 per year. The Diamond Courthouse in Juneau was in the public building fund and was owned by the State of Alaska. The Department of Administration set the rent for the occupants. The department reassessed the court system's rent up by \$116,000 per year. He reported a few smaller increases in Seward and a couple of other places.

Mr. Wooliver noted that the largest increase to the budget was the cost to re-open court systems on Friday afternoons. He would discuss the increase on the following slide.

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Mr. Wooliver continued to slide 15: " Policy Change - Full Day Fridays." He explained that the court had not initially asked for the increment. When the budget was put together to present to the legislature, the court administration met with the Supreme Court to discuss their wants, needs, and what the budget should look like. The court system and the Supreme Court considered asking for the funds to re-open on

Friday afternoons but opted not to do so for a couple of reasons. First, the court was aware that the state remained in challenging fiscal times. The preference was just to ask for the increment needed to stay even covering the increased costs, referred to as a maintenance budget. The second reason the court system did not ask for the funds to re-open on Friday afternoons was because, although they had been somewhat impactful, being closed on Friday afternoons had not proven to be a stumbling block in the criminal justice system. Closing on Friday afternoons had not created a bottle neck. The court decided not to ask for anything but a maintenance budget. However, the court system heard from the governor that he was interested in opening on Friday afternoons. The court system consulted with the Office of Management and Budget providing the costs to reopen on Friday afternoons. The governor was supportive as was the legislature. Therefore, the court system added the increment to the budget request.

Mr. Wooliver explained that being closed Friday afternoons had provided certain benefits. It gave judges one afternoon a week when they knew they had bench time - when they would not be in court. The public lawyers, prosecutors, public defenders, and Office of Children's Services employees knew there were no court hearings which provided some benefits. It was popular with court employees as well. Employees worked 8:00 a.m. to 5:00 p.m. Monday through Thursday and 8:00 a.m. to Noon on Fridays. It resulted in 1.5 hours less per week per employee. It corresponded to about a 4 percent reduction in pay and a total savings of \$2 million per year. In addition, in FY 17 the court system reduced its number of employees by 15. Between the 2 cost savings, the court would need the 15 employees back and the full work week to re-open on Friday afternoons. Even though the closing on Friday afternoons has had its benefits, it has led to delays. Closing half of a day a week equated to 26 fewer hearing days per year. Much of the work needed to be done in a court room. Last year the court system had the highest number of felony filings it had ever had in Alaska. In the current year, the court was on track to meet or exceed that number. People expected the court system to be open Monday through Friday during the work week. Many of the lawyers were less enthusiastic about it than the public defenders, assistant attorney generals, and prosecutors. They came to court less often. However, being closed half a day meant that things were put off further and further.

Being closed half of a day per week was starting to catch up with the department.

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Mr. Wooliver reported there were a couple of other budget items that had arisen on slide 16: "Other FY 20 Budget Considerations." He explained that over the years when the legislature approved the negotiated contracts for employees in the executive branch, there was always a similar provision that the legislature and the governor supported for non-covered employees, employees working for the state who were not part of the collective bargaining agreement. The court system was not part of the collective bargaining agreement. In the current session, thus far, there had not been a corresponding increase for non-covered employees. He indicated that the increase was critically important to the court. He suggested that if employees in the executive branch received a raise, but court employees did not, it would make it incredibly difficult to recruit and retain employees. The court system did not want to become the training ground for executive branch employees. For example, the court system had 121 in-court clerks, the clerks that sit in the court room with a judge, and 115 court rooms where there was likely to be a trial. Not many people had to go missing before there would no longer be enough staff to hold court hearings. The court system in Anchorage routinely ran short of staff. The court system had to pull people from various areas to fill in and, it was already stretched thin. The court was asking for 15 new employees to alleviate shortages and to remain open Friday afternoons. All of what he mentioned became more difficult if the court system's employees were paid less than similarly situated employees in the executive branch.

Mr. Wooliver reported that in dealing with the subcommittees and with legislators, there was a growing interest in Therapeutic Courts. He relayed that Therapeutic Courts were not a silver bullet; they were time consuming and not always successful. However, they were more successful than sending people to jail with substance abuse and mental health problems. The department wanted to do a better job with its Therapeutic Courts and was asking for additional funding for additional positions.

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Mr. Wooliver turned to slide 17: "Effectiveness Ratings and Measures." The department looked at how well it did its job. There were a number of ways to measure performance. There were very good alternative dispute resolutions including the Early Resolution Project, a program where divorce cases used a volunteer attorney and mediator. About half of divorce cases currently went through the program and took only an afternoon to settle a divorce case. He reported about 82 percent of the people who had gone through the program had resolved their case in one court hearing. It was a fabulously successful program.

Mr. Wooliver continued to discuss the court system's effectiveness ratings and measures. A Juror survey was a useful tool. He explained that when judges stood for retention elections the Alaska Judicial Council reviewed several data about the state's judges. They looked at comments and surveyed police officers, prosecutors, defense attorneys, court employees, jurors, and others. The juror surveys were slightly different because everyone else they surveyed were regular attendees in court. Jurors typically came into court being unfamiliar with the judicial process and did not know the judges. Jurors' impressions on how well the court system did was slightly different. He reviewed the retention election surveys for 2016 and 2018 general elections. During that time period there were 46 judges who stood for retention. In the surveys he looked at, on a scale of 1 to 5 (5 being the highest) the average was almost 4.9. The lowest score any of the judges received was 4.7. He thought it was a way of showing that everyday Alaskans were impressed with the performance and quality of Alaska's judges.

Mr. Wooliver mentioned electronic efficiencies. He spoke of a project the court was working on with jurors. Similar to a dentist sending out a text reminder to a patient before their appointment, the court system was currently doing it for jurors. He reported that the main reason jurors did not show up for jury duty was because they forgot to call in. The court was presently using texts or an electronic method to send out reminders to potential jurors. In Anchorage, the no-show rate for people who did not receive texts was about 28 percent. Whereas, the no-show with a text message was about 13 percent or about half. It took a bit to set up the text system, but once it was running it proved effective.

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Representative Carpenter asked Mr. Wooliver to return to slide 17. He wondered if the court system used a lean process improvement methodology to find efficiency gains in the court system. Mr. Wooliver responded, "Not that I am aware of."

Representative LeBon asked about the juror selection process. He presented a hypothetical scenario. Mr. Wooliver responded that he would provide an informational sheet. The number of times a person was selected had to do with location.

Co-Chair Wilson communicated that in Fairbanks a person got a year off if they did not serve and 2 years if they did. She noted that in Fairbanks people had to call for a month versus in Anchorage where a person had to call for a week. She thought it would be helpful to know the guideline for different areas. Mr. Wooliver would provide the rules to the committee with additional specifics.

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Mr. Wooliver reported that slide 18 provided a snapshot of how the court was organized and where the court spent its money. He elaborated that there were 4 appropriations within the judicial branch including the court system, Therapeutic Courts, the Alaska Judicial Council, and the Commission on Judicial Conduct. The judicial branch was mostly a trial court organization which was where most things a person thought happened in a court room occurred. It was where most of the employee and judges were. The slide had a significant amount of information. He concluded his presentation.

Co-Chair Wilson asked if the increase in hours on Friday would have an impact on the unsentenced people sitting in Alaska's institutions awaiting trial. Mr. Wooliver did not believe the backlog of people awaiting trial had much to do with the Friday afternoon closure. He thought it had more to do with many of the bills making their way through the legislature and with pre-trial release.

Co-Chair Wilson was concerned about the 45 percent, as she had heard blame being placed on lawyers and the court. She thought the issue should be figured out.

Co-Chair Wilson indicated the following meeting would be held on Tuesday, March 12, 2019 at 1:30 p.m. The committee would be considering the budget overview for the Department of Health and Social Services.

#

ADJOURNMENT

[3:35:19 PM](#)

The meeting was adjourned at 3:35 p.m.