

SENATE FINANCE COMMITTEE

March 3, 2022

1:04 p.m.

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CALL TO ORDER

Co-Chair Bishop called the Senate Finance Committee meeting to order at 1:04 p.m.

MEMBERS PRESENT

Senator Click Bishop, Co-Chair
Senator Bert Stedman, Co-Chair
Senator Natasha von Imhof
Senator Bill Wielechowski

MEMBERS ABSENT

Senator Lyman Hoffman
Senator Donny Olson
Senator David Wilson

ALSO PRESENT

Adam Crum, Commissioner, Department of Health and Social Services; Stacie Kraly, Director, Civil Division, Department of Law; Sylvan Robb, Assistant Commissioner, Department of Health and Social Services; Mike Cline, Director, Corporate Strategy, Gaffney Cline; Nick Fulford, Director, Gas and Energy Transition, Gaffney Cline.

PRESENT VIA TELECONFERENCE

Joshua Morgan, self, Fairbanks; Joey Tillson, ASEA Member, Ketchikan; Robin O'Donoghue, Alaska Public Interest Research Group, Anchorage; Andree McLeod, Self, Anchorage.

SUMMARY

EXECUTIVE ORDER 121 - DIVIDE DEPARTMENT OF HEALTH AND SOCIAL SERVICES INTO DEPARTMENT OF HEALTH AND DEPARTMENT OF FAMILY AND COMMUNITY SERVICES

PRESENTATION: COMPETITIVENESS OF ALASKA'S OIL AND GAS REGIME [continuation]

^EXECUTIVE ORDER 121 - DIVIDE DEPARTMENT OF HEALTH AND SOCIAL SERVICES INTO DEPARTMENT OF HEALTH AND DEPARTMENT OF FAMILY AND COMMUNITY SERVICES

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Co-Chair Bishop relayed that it was the first hearing Of Executive Order 121 (EO 121). He relayed that it was the intent of the committee to hear from the Department of Health and Social Services (DHSS) and the Department of Law (DOL). He referenced the names of those who would present invited testimony.

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ADAM CRUM, COMMISSIONER, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, introduced himself. He relayed that in addition to a presentation, the member's packets contained a Sectional Summary, support letters, stakeholder engagement list, and metrics and measures to evaluate the potential success of the split (copy on file). Additionally, the packets contained the DOL's response to the Division of Legal and Research Services' memo dated February 14, 2022, and other supporting materials (copy on file).

Commissioner Crum believed the conversations in other legislative committees had helped clarify that splitting DHSS was good for the department and stakeholders. He asserted that splitting the department was best accomplished by an executive order, and EO 121 complied with authorities granted to the governor in the constitution.

Commissioner Crum addressed a presentation entitled "Alaska Department of Health and Social Services - Executive Order 121 - DHSS Reorganization" (copy on file). He showed slide 2, "Serving Alaskans in all stages of life."

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Commissioner Crum showed slide 3, "DHSS today":

DHSS Today

- FY2022 Management Plan Budget: \$3,441,891.3*
- Positions (PFT): 3,259
- Programs/Services

- o Over 100 programs that serve Alaskans directly
- Major Categories of Services
 - o Regulatory/Claims Processing/Eligibility for Services
 - o Public Health Services
 - o Protecting Vulnerable Alaskans, Children, Families (Service/Provider/Provider Based)
- * Does not include COVID funds

Commissioner Crum explained that federal partners referred to DHSS as a "mega agency." He asserted that the work the department did was performed by multiple departments in other states. He cited that in South Dakota, the programs and work done by DHSS was spread across four state departments. He cited that Wyoming, that had a smaller population than Alaska, spread the work across two departments. He emphasized that it was the number of programs delivered, multi-faceted services, and vulnerability of the primary beneficiaries that indicated how complex the department was and why the structure needed to be evaluated. He relayed that the presentation would further define the challenges due to the number of programs, staff, and budget size, as well as discuss the proposed solutions and work throughout the past year.

Commissioner Crum spoke to slide 4, "DHSS is Much Larger Than Most State Departments," which showed a data table with employee counts for some DHSS divisions, and a bar graph depicting employee counts for other departments. He cited that DHSS had as many employees as five other departments, the Legislature, and the governor's office combined. There were multiple DHSS divisions that had more employees than other departments, and all the large divisions answered to a single commissioner's office.

Commissioner Crum displayed slide 5, "DHSS budget is more than 12 state agencies combined," which showed a graphic of a set of scales with DHSS on one side weighed against all other agencies on the other. He cited that the budget of DHSS (\$3,441,891.3) was greater than the combined total of 12 other departments, the Legislature, the Office of the Governor, and the Judiciary (\$3,300,674). The DHSS budget was nearly 30 percent of the statewide FY 23 budget.

Commissioner Crum turned to slide 6, "Alaska Department of Health and Social Services," which showed a flow chart of

the department. He queried what could be done to reduce the span of control, narrow the focus of management and staff, as well as be more responsive over time to stakeholders and employees.

Commissioner Crum discussed slide 7, "Executive Order Vision":

Executive Order Vision
The Reorganization of DHSS

Goal: Provide proactive, efficient leadership and management of programs to achieve better outcomes for Alaskans

Align Current Functions & Programs

1. Direct Care and Services to Alaskans in State Administered Programs
2. Eligibility for Alaskans & Payment to Providers Focus

Management to Improve Outcomes

1. Innovation
2. Work Processes

Commissioner Crum turned to slide 8, "Reorganization for DHSS":

Department of Health & Social Services

- Commissioner's Office
- Finance & Management Services
- Health Care Services
- Behavioral Health
- Senior & Disabilities Services
- Public Assistance
- Public Health
- Alaska Psychiatric Institute
- Juvenile Justice
- Alaska Pioneer Homes
- Office of Children's Services

Department of Health

- Commissioner's Office
- Finance & Management Services
- Health Care Services
- Behavioral Health
- Senior & Disabilities Services

- Public Assistance
- Public Health

Department of Family & Community Services

- Commissioner's Office
- Finance & Management Services
- Alaska Psychiatric Institute
- Juvenile Justice
- Alaska Pioneer Homes
- Office of Children's Services

Commissioner Crum explained that the nine public facing divisions would have no leadership change or footprint change but would be aligned accordingly. The alignment of payments, processes, and programs proposed for The Department of Health (DOH) would allow further innovations such as value-based care and focusing on chronic health prevention efforts. The Department of Family and Community Services (DFCS) would consist of the facility-based divisions as listed on the slide. The change would align the divisions that provided direct care and would make time for specific attention on issues such as Office of Children's Services (OCS) recruitment and retention and other topics. He mentioned community discussions on future investment in Pioneer Homes, and issues with deferred maintenance and licensing concerns.

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Senator von Imhof appreciated the information on slide 8. She understood that by splitting DHSS into two agencies, there would be a greater focus on a smaller number of programs to make it more manageable. She thought the commissioner had identified measurable benchmarks. She asked if the presentation would address how the changes would work.

Commissioner Crum said "yes." He informed that there would be a slide showing metrics and an overview of some near-term items the department would pursue.

Commissioner Crum addressed slide 9, "Department of Family & Community Services," which showed the proposed organizational chart for DFCS. He asserted that the plan was done in a way to minimize disruption to services, beneficiaries, or payments to providers. He noted that to keep services aligned, the Designated Evaluation and

Treatment Services (DET) would be moved from Division of Behavioral Health to DFCS in order to stay closely aligned with the Alaska Psychiatric Institute (API) and help coordinate Title 47 (involuntary commitment patient movement between facilities). The change aligned with pointing the statutes for oversight by DFCS.

Commissioner Crum continued that the primary changes in the reorganization would occur in the internal Division of Finance and Management Services (FMS), and staff would be divided to cover each department. That change would involve sections such as Internet Technology (IT), grants and contracts, and finance and budget. The department was asking for some new and reclassified positions to fill out FMS staff and commissioner's office staff.

Commissioner Crum addressed slide 10, "Department of Health," which showed an organizational chart of DOH that highlighted the commissioner's office and the deputy commissioner's (FMS) office. He noted that the change was designed to not disrupt service or payment delivery, with no change in leadership or footprint for public facing divisions.

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Commissioner Crum advanced to slide 11, "Improved Services for Alaskans":

- More regular checks in with stakeholder groups
- Improved employee experience and support
- Easier for the legislature to oversee
- More interaction with federal partners to better manage programs and seek flexibilities that benefit Alaska
- Better ability to manage crises and focus effort on long-range, strategic planning

Commissioner Crum emphasized that with the current structure of DHSS, issues that reached the commissioner's office required "all hands on deck." He posited that with the additional proposed commissioner's office and a focused span of control, leadership would be able to more effectively work with stakeholders and employees to address concerns before problems grew. He recounted that the administration had worked on many crises and referenced a lack of resources. He used the examples of the Division of

Public Assistance (DPA) backlog of over 15,000 applications, and multiple letters of correction from federal partners. He asserted that with new leadership, capital support, and innovation, the department had been able to work through the problem and create administrative efficiencies to get rid of the backlog. He discussed the Covid-19 pandemic response and taking on new funding sources.

Senator von Imhof mentioned the cost of new employees. She looked back at slide 7, which asserted that there would be focus on management to improve outcomes, and innovation in work processes. She asked the commissioner if the innovation and work processes would begin when the proposed split occurred or if the changes had already started.

Commissioner Crum affirmed that the department was currently trying to implement innovative ideas and efficiencies and would hit a crescendo after the proposed split. He referenced the size of the divisions and the support needed for employees to correct action. He referenced the need for conversations with federal partners and other changes that required a lot of managerial support.

Senator von Imhof thought it was important to be mindful of the proposed additional financial investment. She understood the need to spend money to improve outcomes. She hoped the commissioner could address the benchmarks and how he hoped to keep costs down for a department that grew higher than the cost of inflation.

Commissioner Crum stated affirmed that he would address the topic.

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Commissioner Crum continued to address slide 11. He recounted that in addition to DPA, the commissioner's office and policy staff had taken a great deal of time to address the Covid-19 pandemic over the previous two years. He mentioned the goal of providing resources to healthcare providers around the state and updating guidance to the public and industry partners. He emphasized the non-emergent issues in the department, which had not gotten the same time and attention. He directed attention to the graphic at the bottom of the slide that showed sticky notes

with urgent issues including: Covid-19, OCS staff retention, Pioneer Homes maintenance, Opioids, API, Medicaid, Provider Payments, Birth and Death certificates, Public Assistance Backlog, and Cyberattack.

Commissioner Crum acknowledged that there were always issues and crises and there was never a "good" time for a move such as the one proposed, but emphasized the importance decisive action. He emphasized that future events were unknown and explained that much of the proposed change was from division leaders with many years in the system. He did not think the state was putting enough energy into innovating for the future in facilities, programs, quality of care, and other issues since the state was stuck in crisis mode all the time. He asserted that more bandwidth for each commissioner's office and policy staff would mean more meaningful engagement, which took time. He stressed the importance of more meaningful engagement and innovation.

Commissioner Crum looked at slide 12, "Why an Executive Order?":

Use of an EO is the proper Governor's authority for administrative changes under Article III, Section 23 of the Alaska Constitution

The governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration.

Commissioner Crum asserted that executive orders were a useful tool that were specifically contemplated by Alaska's Constitutional Convention.

Commissioner Crum showed slide 13, "Why Not Legislation?":

- This is not substantive law change
- More certainty on programs remaining unchanged
- Definitive timeline
- Executive Order is a more concise document
- Less disruptive

Senator von Imhof referenced the legislative report from the Division of Legal and Research Services dated February 14, 2022 (copy on file) that listed some challenges

presented by the EO, and a response by DOL dated February 18, 2022 (copy on file).

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STACIE KRALY, DIRECTOR, CIVIL DIVISION, DEPARTMENT OF LAW, had seen the concerns raised by the legislative legal division with respect to EO 121, and referenced the response by the department. She stated that DOL did not believe that the issues raised by Legislative Legal Services rendered the EO unconstitutional in any way, shape, or form, but believed that the EO was well within the governor's authority. She continued that the more ministerial concerns that were raised, which she characterized as simple wordsmithing issues, were not flaws to the EO. The department believed the decisions that were made and the crafting of the EO was consistent with previous EO's. she cited that there had been well over 100 EO's in the history of the state.

Senator von Imhof asked if there had been over 100 executive orders.

Ms. Kraly answered "yes."

Senator von Imhof asked if there had been over 100 executive orders bifurcating departments.

Ms. Kraly and answered "no," and relayed that the constitution allowed for the governor to change how the government was structured through executive order. She referenced examples such as moving the Alaska Pioneer Homes to DHSS in 2004 and moving the Division of Corrections from DHSS to its own department.

Senator von Imhof mentioned that there was some disagreement between Legislative Legal Services and DOL and wondered if there were remaining technical items that needed to be addressed. She asked if DOL was comfortable potentially doing accompanying "clean up" legislation to address some gray areas in the EO or items that were seen differently by Legislative Legal and DOL.

Ms. Kraly thought that many executive orders in the past had companion legislation that had addressed some technical corrections, that were done concurrent with the EO or in subsequent legislative sessions. She stated that such

legislation was a possibility if there were questions that the department or members of either body thought needed to be addressed. She continued that additionally, many of the EOs had been accompanied by a revisor's bill. She referenced some examples provided along with DOLs response to the memo from the Division of Legal and Research Services. She summarized that some things could be "tightened up." She continued that the department did not believe there were any items that needed corrective action but was not adverse to working with either body or putting forth legislation itself. She added that the department had wanted to ensure the EO would happen before making any decisions about concurrent or companion legislation.

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Senator Wielechowski was not sure why the matter was an executive order. He stated that subject had come before the legislature the previous year and there had been significant and justified concern by bipartisan legislators. He questioned why the governor had not introduced a bill on the topic. He thought a split was probably in order. He considered the 100-page EO and referenced language by legislative attorneys that mentioned that the EO greatly exceeded the length and scope of prior executive orders that split or merged executive branch departments. The language went on to say that the EO contained a number of drafting errors, introduced ambiguity into statutes, and amended statutes in a manner that could be considered substantive.

Senator Wielechowski continued to address the memo from DOL quoted page 3, which indicated EO 121 contained several dozen sections that warranted the legislature's consideration. The memo cited that Section 35 re-enacted 26 statute sections that were currently codified, and many of the reenactments were problematic. He listed other references to the EO in the memo, including items that made substantive changes to law. He opined that the proposed changes were inappropriate for an executive order. He asserted the EO would prompt lawsuits which would generate additional cost. He asserted that the EO was an unconstitutional a violation of the separation of powers.

Senator Wielechowski thought the EO was the governor's attempt to pass laws. He pointed out that the EO relied on Article 3, but failed to cite Article 3 Section 22, which

stated that all executive and administrative offices, departments, and agencies of the state government and their respective powers and duties shall be allocated by law among and within not more than 20 principal departments. He thought the proposed creation of a new organization and allocation of powers, functions and duties was a clear violation of Article 3, Section 22.

Senator Wielechowski thought there were multiple violations of the constitution and law within the EO. He recalled that the previous year the administration had avowed to work closely with the legislature, yet he had not been contacted by the administration to discuss the proposed change. He questioned the inability to amend the EO. He reiterated that it was probably not a bad idea to split the department, but thought the method was unconstitutional. He hoped to hear from legislative attorneys on the matter. He thought the EO would cost the state a great deal and disrupt the lives of many Alaskans that depended upon the department for services.

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Co-Chair Bishop asked if Senator Wielechowski wanted a response from the administration or the Division of Legislative Legal and Research Services.

Senator Wielechowski deferred to Co-Chair Bishop. He thought the committee could speed hours on the topic. He lamented the lack of opportunity to make changes through the committee process. He questioned why the administration did not submit a bill rather than an EO.

Commissioner Crum understood that the advice from DOL indicated that it was within the purview of the administration to go forward with the EO under the constitution. He commented on the certainty of an EO, knowing that there was a fixed timeline with a positive or negative vote. He relayed that the EO did not change the way programs were administered, and the EO was brought forward out of sensitivity to the individuals.

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Co-Chair Bishop hypothesized that the EO passed, and asked if Commissioner Crum anticipated follow-up legislation.

Ms. Kraly stated that in many instances, companion legislation or revisor's bills did follow the EO. She thought it was possible that such legislation would be necessary, and she thought there would need to be some evaluation. She thought the concept of reorganization and management of the executive branch was clearly vested with the governor under the constitution. She emphasized that the EO did not allocate or reallocate anything that was not already allocated to DHSS, but rather was taking a mega-agency and splitting it. She asserted that the EO did not make any substantive changes to any existing statute that had not been passed or vetted through prior legislative action.

Ms. Kraly understood concerns about the size and breadth of the proposal, but wanted to be clear that the constitution did not have a limit on the complexity of an executive order. She thought that Senator Wielechowski had made a good point, but questioned the length of a potential bill if the EO was 100 pages. She emphasized that with a bill, every program would be subject to review and amendment, and everything would be at risk. She echoed the commissioner's comments that the EO was being done for reasons of certainty. She emphasized that no change was being made to any program currently operating within DHSS. She thought a bill that opened programs and services to amendment would be hugely problematic for the people that were served.

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Co-Chair Bishop hoped that the change would inspire and improve efficiencies. He wanted improvements for the working public, parents, and children.

Senator von Imhof understood Ms. Kraly's comments but thought there seemed to be a gray area of misunderstanding that the legislative body would have to work through. She thought spending more time could sometimes save time later. She thought there needed to be more time spent on the matter and hoped there would be communication after the EO was enacted. She thought there were some technical fixes that warranted a revisor's bill.

Commissioner Crum stated that if the EO were to go into effect and become law on March 19, it was the administration's intention to continue to engage with stakeholders and the legislature. He mentioned being

focused on external stakeholders and acknowledged that the administration could have done more direct work in engaging with legislators. He mentioned implementation issues that could be engaged with over the interim and brought to the legislature the following session.

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Senator Wielechowski affirmed that the governor had the right to reorganize but did not have the right to reallocate, and cited Section 22. He asserted that the EO was a violation of the constitution and was a fundamental reallocation of the duties and powers of DHSS. He addressed the assertion that a bill was not introduced in order to avoid changes by the legislature. He emphasized that the administration could not avoid the constitutional obligation to file a piece of legislation because of worry over legislative changes, which was the legislature's constitutional authority. He referenced having the same conversation one year previously. He thought the EO was replete with drafting errors and mistakes, as well as substantive changes to the law.

Senator Wielechowski continued his remarks. He reiterated that the departmental split was not a bad idea and thought there would be a lot of support in the legislature for the concept. He qualified that legislators did not like the fact that the EO was a violation of law and the constitution. He thought the EO was a heavy-handed attempt to put something in place without going through the appropriate process of the legislature.

Commissioner Crum referenced slide 14, "Executive Orders":

Used over the years to realign state agencies to better serve the public:

- EO 108 moved the Alaska Pioneer Homes and regulation of child-care facilities to DHSS (2003).
- EO 55 created the Department of Corrections, moving the duties from DHSS (1984).
- EO has been used by many Governors Egan, Sheffield, Murkowski, Walker, (etc.)

Commissioner Crum cited that EO 55 was originally disapproved in the year prior to its passage, after being worked on and then reintroduced and passed into law. The legislature had provided input and changes were made, which he thought

highlighted that the process worked. He mentioned an idea that perhaps the legislature could consider putting the commissioner of DFCS as a statutory advisor to the Alaska Mental Health Trust Authority (AMHTA). He mentioned EO 119, which had pertained to adding a second seat to some statutory advisory boards.

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Commissioner Crum turned to slide 15, "Timeline for the Executive Order":

- Executive Order 121 was introduced the first day of session January 18, 2022.
- The legislature has 60 days to come together in a joint session to disapprove the reorganization.
- Upon approval, DHSS will continue to implementation plans.
- Effective Date: July 1, 2022

Commissioner Crum considered slide 16, "Stakeholder Engagement: Lessons Learned":

- Meaningful engagement takes time: Leadership needs to spend more time with both internal and external stakeholders
- Tribal partners recommended Tribal liaison roles in each Commissioner's office
- Stakeholders recommended transition liaison positions in each commissioner's offices
- Q and A from stakeholders provided valuable input which will be utilized in the implementation process
- Repeated engagement ensures better communication and dispels misinformation

Commissioner Crum emphasized the work done by DHSS to meet with stakeholders that represented services provided by the department.

Co-Chair Bishop asked if bullet 2, a tribal liaison, would be implemented and how it would work.

Commissioner Crum described the title as a role rather than a certain individual. He recounted having the conversation with the Alaska Native Health Board, which had asked the same question as Co-Chair Bishop. He pondered whether the role would be filled by a single person, or whether the

role be part of a position's job as a policy advisor. He described that DOH had a robust tribal reclaiming unit within the Medicaid section, which had consistent communication with tribal partners. He mentioned the Indian Child Welfare Act and Tribal Compact Liaisons within DFCS as examples. He summarized that there would be an individual liaison position within DFCS, while in DOH it would be viewed as a role.

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SYLVAN ROBB, ASSISTANT COMMISSIONER, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, displayed slide 17:

Department of Family & Community Services

- Office of Children's Services
- Division of Juvenile Justice
- Alaska Psychiatric Institute
- Pioneer Homes

Full Time Positions 1847

Total Budget: \$441,319.0

Department of Health

- Medicaid
- Public Health
- Public Assistance
- Behavioral Health
- Health Care Services
- Senior & Disabilities

Full Time Positions 1446

Total Budget: \$3,071,214.4

Strategic Investment

GF Match - \$668.7

Federal - \$470.2

I/A - \$1,188.9

Total = \$2,327.8

New PCNs = 13

Reclassified PCNs = 10

Ms. Robb noted that the proposed new departments did not split evenly in terms of the number of positions, and in a similar manner the budgets did not split evenly. She drew attention to the investment needed to achieve the reorganization, listed under "Strategic Investment." She noted that two of the proposed 13 new positions included

two positions that technically resided in other departments: an administrative services director, and a department technology officer.

Ms. Robb highlighted slide 18, "DFCS, Departmental Support Services -7.5 New Positions -- \$1,195.0 total," which showed a table of new 7.5 positions being proposed for DFCS. She added that the .5 position was a result of a combined total of three on-call IT support persons slotted to work a few months throughout the year. The cost of new positions for DFCS was just under \$1.2 million.

Ms. Robb looked at slide 19, "DFCS, Departmental Support Services - 9 Reclassified Positions -- \$397.9 total*," which showed a table with new positions being proposed for reclassification. She detailed that many of the positions in question would provide support for the IT team or administrative support. The only division proposed to be split was the support division, which resulted in a need to backfill in a few places.

Ms. Robb addressed slide 20, "Department of Health, Departmental Support Services - 5.5 New Positions -- \$692.6 total," which showed a table with the 5.5 new positions proposed for DOH. The half position was achieved in the same way as described for DFCS, with very part-time IT positions that were meant to backfill when staff were on leave or there was a vacancy.

Co-Chair Bishop commented on a position in Fairbanks.

Ms. Robb noted that there had been an on-call IT positions in Fairbanks for DFCS as well.

Co-Chair Bishop commented on the importance for coverage.

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Ms. Robb advanced to slide 21, "Department of Health, Departmental Support Services - 1 Reclassified Position -- \$42.3 total," which showed a table with the one reclassified position for DOH.

Senator Wielechowski asked if the EO was shared with anyone in the legislature before it was introduced.

Commissioner Crum answered in the affirmative.

Senator Wielechowski asked who the EO was shared with and when it had been shared.

Commissioner Crum informed that the administration had submitted the EO to Senator Wilson's in late October in order to engage with the Division of Legislative Legal and Research.

Senator Wielechowski asked if the EO had been shared with any additional legislators.

Commissioner Crum noted that the administration had needed a member in order to engage with Legislative Legal Services. He recounted that Senator Wilson had been present when Co-Chair Bishop had brought forward the idea the previous March. Senator Wilson had communicated to the department that he would be the intermediary.

Senator Wielechowski asked if the EO was shared with only one legislator before it was introduced.

Commissioner Crum stated that the EO was shared with the co-chairs of the House Finance as well as some members of the House Health and Social Services Committee.

Senator Wielechowski asked when the EO had been shared.

Commissioner Crum offered get back to the committee with the information.

Commissioner Crum looked at slide 22, "Measures and Metrics - Benchmarks":

Department of Health

- Make progress in meeting the goals for Healthy Alaskans 2030
- Hire and retain a Finance Officer and full grants and contracts team
- Issue RFP(s) and awards for new coordinated care demonstration projects
- Successfully implement an online application for Medicaid and other public assistance programs
- Improve processing rate for procurement and contracts to under 90 days

Department of Family & Community Services

- Consolidate licensing regulations for longterm care facilities, group homes, and foster homes
- Reduce turnover of front-line OCS by 20% within 12 months
- Achieve full census capability at API within 12 months
- Increase recruitment and retention of Juvenile Justice Officers by 25%
- Improve processing rate for procurement and contracts to under 90 days

Commissioner Crum noted that the slide addressed some of the questions posed earlier by Senator von Imhof regarding measures and metrics. He discussed stability and assured that programs and services would not be disrupted. He cited that from July 1 forward, there would be focused internal alignment. He mentioned grants and contracts staff and finance staff and high turnover rate. He hoped for a fully staffed finance staff in the near term after the EO was enacted. He noted that there were specific items for improvement with identified timelines and the information was in the member's packets. He mentioned designing the system of care, and changes to DOH. He noted that Alaska was one of the last remaining fee-for-service states, and pressure from federal partners to move toward value-based care. He emphasized the importance of working with partners. He mentioned long term health prevention and health savings.

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Co-Chair Bishop mentioned chronic health prevention and reminded that he had asked Commissioner Crum a related question during his confirmation hearing.

Commissioner Crum mentioned Healthy You 2022, which was a department-wide program with different monthly initiatives. He mentioned a tool kit for businesses. The program had features addressing activity, mental health, healthy eating, and long-term healthy choices. He mentioned the importance of physical activity and health in relation to the Covid-19 pandemic.

Commissioner Crum showed slide 23, "Implementation."

Ms. Robb referenced slide 24, which showed a flow chart of ongoing staff and stakeholder engagement and was one of two slides focused on implementation. She assured that there was a detailed plan that covered everything from how to split the department in the state's accounting system down to smaller considerations like the Division of Motor Vehicles issuing state ID's for both new departments. She drew attention to the arrow on the far left, which showed ongoing stakeholder and staff engagement. She commented on the importance of the ongoing engagement. She noted the three time periods shown on the slide, which included the year prior up to introduction of the EO. She mentioned the largest item in the category was submitting the budget for the two departments. Another large item was stakeholder engagement.

Ms. Robb pointed out the "60 day review period" shown on the slide, which was currently in effect. The big focus of the time period had been engaging with the legislature and stakeholder outreach, as well as behind the scenes work preparing for if the EO moved forward. She mentioned meetings with other departments and being prepared to move forward once the 60 days was over. The third time period addressed on the slide was "March 2022 - Post 60-day Consideration."

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Ms. Robb turned to slide 25, which was a continuation of the flow chart on the previous slide. The chart showed the continuing implementation, and she emphasized that the department would be continuing with stakeholder engagement and reaching out to staff. She anticipated that the period of April through the July 1 implementation date would be very busy with preparatory work. She discussed financial closeouts in July and August and moving towards longer term issues in the months beyond. She cited work with the department's 350 different IT applications in use.

Commissioner Crum showed slide 26, "DHSS Reorganization Website - reorg.dhss.alaska.gov," which showed a graphic of the DHSS Reorganization website. He noted that the department had a public-facing website. He asserted that the department had tried to update the website with items that had been submitted to the legislature, including letters of support. He mentioned letters from the Alaska State Hospital and Nursing Home Association, the Alaska

Commission on Aging, the Pioneer Homes Advisory Board, the Governor's Council on Disability and Special Education, AgeNet, and the Alaska Behavioral Health Association. He noted that department had worked with and met with the groups, which were large and diverse.

Commissioner Crum displayed slide 27, "More Questions or Suggestions?":

Questions on how reorganization will impact stakeholders or providers can be sent to:

dhssreorg@alaska.gov

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Co-Chair Bishop OPENED public testimony.

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JOSHUA MORGAN, SELF, FAIRBANKS (via teleconference), spoke in opposition to EO 121, and read from a prepared statement. He did not feel as though the proposed split would address the problems faced by the Division of Public Assistance (DPA). He stated that as a public assistance caseworker, he saw first-hand results of policy decisions. He cited that as of December 2020, there was an average of one caseworker for every 1,400 people on assistance in the state. He listed assistance programs including Medicaid and food stamps. He argued that the number was increasing. He discussed the reduction in caseworkers that approved or denied benefits, which was demoralizing for staff. He emphasized the need for more staff to assist Alaskans. He summarized that the EO added more management rather than adding more needed staff. He referenced an Ombudsman investigation. He did not feel the EO was the right way to deal with issues in the agency.

[2:06:14 PM](#)

JOEY TILLSON, ASEA MEMBER, KETCHIKAN (via teleconference), testified in opposition to the EO. She relayed that she was the chair of the DPA Committee for her union. The committee had been formed due to numerous complaints from employees regarding the reorganization associated with the Covid-19 pandemic.

Ms. Tillson continued her testimony. She mentioned staffing issues and employees working overtime. She referenced organizational charts with vacant positions being deleted. She cited numbers of workers statewide, and that the call center took approximately 1,800 calls per day. She questioned why money was being spent to split the department when it could be spent to strengthen the organization. She referenced a town hall meeting with the commissioner and a town hall meeting with the division director. She complained of a lack of policy information meetings.

[2:09:32 PM](#)

ROBIN O'DONOGHUE, ALASKA PUBLIC INTEREST RESEARCH GROUP, ANCHORAGE (via teleconference), spoke in opposition to the EO. His organization had closely followed the process of EO 121. He shared the primary concern of lack of public participation, both from users and from organizations that worked with DHSS. He thought there was consensus that there were many problems with the department, but thought it was unclear whether the restructure would address the problems. He cited the cost of the proposed split. He pondered how the split would benefit Alaskans that were having trouble navigating the system.

Mr. O'Donoghue thought it had been confusing to follow the department's testimony and cited changing numbers of new positions. He referenced Commissioner Crum's testimony regarding the consultation of staff. He mentioned that nonprofit service providers had not received any outreach. He urged members of the legislature to review the EO and ensure that it was thoroughly vetted.

[2:11:51 PM](#)

ANDREE MCLEOD, SELF, ANCHORAGE (via teleconference), testified in opposition to the EO. She asserted that she relied on DHSS programs. She thought the EO would negatively affect people. She thought the EO went against legislative authority. She asserted that there did not need to be a new department in order for directors to collaborate. She did not think there was a need for two commissioners. She thought there had not been enough public input. She mentioned the Alaska Psychiatric Institute (API). She supported a full legislative process.

[2:14:54 PM](#)

Co-Chair Bishop CLOSED public testimony.

Co-Chair Bishop asked Commissioner Crum to come back to the table. He thought it sounded as though there were some departmental employees that had testified. He suggested that the commissioner follow up with the employees. He stressed the importance of employees.

Commissioner Crum agreed. He stated that he had worked with each division over the previous two years and had done two town hall meetings regarding the EO. He cited that a number of employee concerns outside the topic of the EO were brought forward, and there had been two separate town hall meetings with staff at DPA. He cited the primary goal of addressing staff concerns.

Co-Chair Bishop set the EO aside.

Executive Order 121 was HEARD and HELD in committee for further consideration.

Co-Chair Bishop handed the gavel to Co-Chair Stedman.

[2:16:34 PM](#)

AT EASE

[2:24:35 PM](#)

RECONVINED

^PRESENTATION: COMPETITIVENESS OF ALASKA'S OIL & GAS REGIME
[continuation]

[2:24:41 PM](#)

Co-Chair Stedman explained that the committee would continue to address presentation from earlier in the day. There was an addendum slide presentation (copy on file) that would address discussion and questions from the morning meeting.

[2:25:29 PM](#)

MIKE CLINE, DIRECTOR, CORPORATE STRATEGY, GAFFNEYCLINE, introduced himself.

NICK FULFORD, DIRECTOR, GAS AND ENERGY TRANSITION, GAFFNEYCLINE, introduced himself.

[2:25:40 PM](#)

Mr. Cline noted that at the meeting earlier in the day, there had been a discussion about the fiscal comparison slides. There had been questions as to whether the slides accurately reflected some of the applicable fiscal components. After some consideration, he had found the issue. The original slide assumed an oil price of \$70/bbl, and \$40/bbl in profit to use as a comparison for government take components. He thought the calculation had been distorted. He had prepared a slide that had greater clarity.

Mr. Cline addressed a slide entitled "Response on Comments on Fiscal Comparison":

- As noted, the fiscal comparison slide assumed \$70/bbl
In order to focus on the allocation of income, rather than revenue, we removed costs (\$30/bbl) focusing on the \$40/bbl of profit.
 - If the \$40/bbl income is used as the denominator rather than \$70/bbl, the Government Take elements appear to be disproportionately high (i.e. higher than the expected outcome).
 - In fact, the current royalty and tax percentages were accurately reflected.
 - The following slide may help resolve the confusion.
- In our work, we also looked at a \$50/bbl case and this can be extended into broader price scenario analysis.
- If there are further questions, we are happy to take them.

Mr. Cline showed slide 3, "Fiscal Comparison":

- Chart illustrates general \$/bbl cash breakdown and tax burden for select jurisdictions over an oil & gas development's life cycle
 - Assumes characteristics with new development in Alaska, including constant cost environment

- In reality each jurisdiction will have numerous unique characteristics (development timeframe, cost environment, infrastructure/market proximity etc.)
- Alaska has relatively high government take compared to select jurisdictions
- Worth noting that some fiscal elements are considered more burdensome than others
 - Non-Income based taxes, such as royalty, carry elevated risk to investors because of timing and it is not responsive to development/operating costs
- Many other competing jurisdictions, particularly non-western, implement asset level contracts
 - Popular for oil and gas dependent governments
 - Allows for fiscal terms specific to assets and reflecting current economic conditions
 - Often contains various risk mitigations including fiscal stabilization

[2:29:30 PM](#)

Senator Wielechowski asked who Mr. Cline had consulted with in making changes to the slide.

Mr. Cline explained that he had consulted with Gaffney Cline's petroleum economist. He noted that the slide had been previously presented for a longer presentation, but it had been simplified for the purposes of the morning meeting.

Senator Wielechowski was trying to understand how the state was shown to have a higher production and property severance tax than in the Lower 48, which he assumed was dominated by North Dakota and Texas. He asked about the standard production tax rate in North Dakota and Texas.

Mr. Cline did not have the answer but offered to get back to the committee with the information.

Senator Wielechowski asked about royalties. He had heard over the years that the standard royalty rate in North Dakota and Texas was 25 percent. He was curious what royalty rate was being reflected in the slide for the Lower 48.

Co-Chair Stedman suggested that the numerics of the slide be presented in dollars or percentages for greater clarity.

Senator Wielechowski wanted to see an apples-to-apples comparison and agreed with Co-Chair Stedman's idea. He thought Mr. Cline had suggested that Alaska had relatively high government take compared to select jurisdictions. He had seen many charts over the years and had seen charts of other jurisdictions similar to Norway. He asked if there were other large basins that had net profit tax systems that had higher taxes than Alaska, and if Gaffney Cline could provide a chart with the information.

Co-Chair Stedman asked if Senator Wielechowski wanted to get information for jurisdictions over the whole planet.

Senator Wielechowski clarified that he wanted information pertaining to major producers. He thought Alaska was often compared to Norway. He wondered at the comparisons being made when there were other jurisdictions with a much higher government take.

Mr. Cline agreed that Gaffney Cline could provide more benchmarks. He explained that the firm chose the jurisdictions thinking they were good and instructive examples to explain the issue. He qualified that some of the benchmarks were contractual.

[2:33:28 PM](#)

Co-Chair Bishop asked if all oil was equal. He wondered if oil in Alberta was worth the same per barrel as the oil in Alaska. He mentioned oil sands production and asked if it traded on par with Alaska North Slope (ANS) oil.

Mr. Cline stated that the firm had normalized the costs as if they were the same in all jurisdictions so that the fiscal elements could be benchmarked apples to apples. He affirmed that an oil sands project had different costs than other projects. To illustrate the relative position and fiscal terms, it helped to normalize the cost.

Co-Chair Stedman discussed different subsurface ownership and mentioned struggles with whether there were some areas that could be developed with substantial production but without a share of all the portions. He thought there was concern that if there was a policy to stimulate oil production, funds would be used that would not come back to the state.

[2:36:04 PM](#)

Co-Chair Stedman asked about the issue of life cycle. He assumed the slide showed the life cycle of a new development.

Mr. Cline answered affirmatively.

Co-Chair Stedman shared concerns related to the government take and sharing relations for legacy fields. He referenced an earlier discussion and query about the components across different price ranges. He discussed new developments versus old developments, and the blended policy that affected all companies.

Mr. Cline affirmed that there was nuance in the difference between legacy assets and existing assets. He relayed that Gaffney Cline's focus had been the fiscal comparison in the context of new developments, to try and understand the relative competitiveness for Alaska for new projects. He agreed that Gaffney Cline could look at legacy assets and figure out the best way to benchmark them.

Co-Chair Stedman thought much of the work had been done before and only needed to be updated.

Senator Wielechowski commented that the numbers on the "Fiscal Comparison" slide did not add up for Alaska nor for the Lower 48.

Co-Chair Stedman thought the numbers would be clarified with more work with Gaffney Cline.

Senator von Imhof thought there was an additional slide that could address Senator Wielechowski's concerns.

Mr. Cline showed slide 4, "Overview of Current Alaska Tax Burden":

- The overview of indicative range of Alaska Oil and Gas tax burden highlighted to the right:
- Royalty
 - Illustration assumes 12.5% for Existing Assets & the higher 16.67% rate for "New Developments"
 - Property Tax

- 2% of carried asset value
- Property Tax
- 35% of field profit less tax credits, subject to 4% minimum
- State Tax
- 9.4% State Income Tax
- Federal Tax
- 21% Federal Income Tax

Mr. Cline addressed the graph on slide 4, 'Indicative Value per Barrel Breakdown at \$70/bbl.' He explained that the slide showed what data was used in Gaffney Cline's analysis. The slide showed a breakdown of taxes at an oil price of \$70/bbl, for new developments and legacy assets. He noted that the large difference was capital expenditures and property tax.

Co-Chair Stedman asked if the slide still addressed a life cycle. He wondered how the firm addressed the life cycle on the new development versus the other.

Mr. Cline thought the slide addressed the life cycle of a new development, but he needed to check how the existing legacy assets were addressed.

Co-Chair Stedman appreciated the clarification of the slides offered by Gaffney Cline.

[2:40:29 PM](#)

Mr. Cline addressed slide 20, "Alaska Competitiveness Globally":

- Alaska's upstream investment has fared reasonably in line with global trends:
 - Some major Alaska operators, such as Conoco and Hillcorp, have clearly increased Alaska exposure as a percentage of total capital budgets in recent years.
 - Exploration has been healthy in last 10-12 years.
- A key challenge for Alaska and the companies will be maturing discoveries into developments.
- The projects take years to progress to the investment decision and years from that decision to reach production.

- Alaska is entering a critical phase that will be decisive in long-term production trends.

Mr. Cline summarized that Alaska had fared fairly well for an investment destination for oil and gas. He discussed a number of factors that contributed to the critical phase the state was in before opportunity began to diminish, including the time taken for projects to mature and contemporary energy transitions.

Senator Wielechowski thought Mr. Cline was familiar with discussions about oil taxes that the state had over the years. He referenced SB 21, oil and gas legislation passed in 2013, and the promise that the state would receive more jobs, production, investment, and revenue. He noted that the promises had not materialized, nor had the same promises which were made during an initiative the previous year. He cited a decline in jobs and investment, as well as a diminished PFD. He asked how other jurisdictions handled the situation when the industry made promises for tax breaks which it did not live up to.

Mr. Cline thought Senator Wielechowski's question was difficult to answer, because it presupposed that the promises made from a tax policy would necessarily lead to a certain result. He thought oil and gas companies were looking at more than just tax policy. He mentioned other issues such as the regulatory environment, perception of fiscal stability, and the market environment as opposed to having a laser focus on tax policy.

[2:46:32 PM](#)

Senator Wielechowski emphasized that tax policy was the only variable the state could change.

Co-Chair Stedman asked to stay on topic.

Senator von Imhof noted that the committee had asked Gaffney Cline to do an analysis of the costs of the global supply and demand, energy transition, AK LNG, environment, the state's competitiveness, and the state's tax take. She thought that Gaffney Cline was addressing the requested topics.

Co-Chair Stedman explained that the presentation was to address the state's global position. He agreed that there

was much more detail to address in some areas, which could come at a later date.

Mr. Cline continued to address a presentation from the earlier meeting, "State of Alaska - Alaska's Competitive Position" (copy on file). He showed slide 21, "Alaska Oil Moving Forward."

Mr. Cline advanced to slide 22, "Alaska Development Scenarios":

- There is strong potential for major new developments, as well as smaller incremental developments built around existing or new infrastructure hubs.
- To understand the potential contribution of new investments to Alaska state revenues and to gauge the downside risk if new investments are curtailed, indicative profiles have been developed representative of Alaska new investment opportunities:
 - A significant new development justifying a new infrastructure hub, similar to the Pikka or Willow developments.
 - A smaller incremental development tying into an existing infrastructure or infrastructure associated with a new development.
- The evaluation summarizes the estimated 'investor return' and generated 'state revenue' under the current and proposed tax changes as well as under a variety of sensitivities.

Mr. Cline recounted that Gaffney Cline had considered issues of importance, including projects to increase production. The firm had done an analysis of different kinds of developments to understand what the impact might be on state revenue.

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Mr. Cline spoke to slide 23, "Pikka Scale Development":

- Material new developments could create new infrastructure hubs with numerous benefits
 - Development generates material new state revenue, US\$6-7 Billion over 20 years.

- Enables numerous additional incremental developments (in this example Pikka Phase 2 and Quokka) detailed on following slide.
 - Potentially extend TAPS infrastructure life.
- However, developments are more challenging due to:
 - Significant development risks, capital and time during the development period.
 - Up to 20-year time horizon to realize expected economic returns means perceptions of market, fiscal and regulatory risk heightened.

Mr. Cline explained that he had done two different types of analysis, one of which was a major material new development analysis, which was based on a Pikka-sized development. He emphasized the importance of the projects that promoted other incremental developments.

Co-Chair Stedman explained that the committee had seen the slides many times over the years. He asked Mr. Cline to address the chart on slide 23 and discuss the time value of money and tax structures that could delay or advance cash flow over time.

Mr. Cline looked at the bar graph on slide 23, 'Project Cash Flows' and observed the red curve going up, which showed that the initial years of the projects had large investments early on. The capital investments grew smaller over time, and after the fifth or sixth year the projects started to produce a return on investment. He continued that during the same period, the tax receipts should start to increase for the state, and over time the project would plateau and there would be a profitable and productive period for the state and the company. A decline would follow. He thought the graph was a classic profile for a conventional development.

Co-Chair Stedman mentioned the Permian Basin and asked if he could expect to see the same scenario.

Mr. Cline explained that unconventional developments had a different profile and did not have the same investment curve. He noted that such developments were high cost, but once drilling programs were going forward, wells produced at a high level for a shorter time, while more wells had to be drilled going forward.

Co-Chair Stedman compared the unconventional developments to a factory approach.

Mr. Cline agreed.

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Senator Wielechowski considered the upfront costs shown on the graph over years 1, 2, 3, and 4. He asked if the costs assumed the investment was being done by an incumbent producer that would be able to obtain net operating loss credits during the years.

Mr. Cline was not certain how the state's tax code worked under the scenario and restated that the chart showed up-front capital investments.

Co-Chair Stedman wanted to rephrase Senator Wielechowski's question. He thought Senator Wielechowski was asking if the expenditures in the first four years could be taken against current production to lower the tax rate. He thought the question was beyond the scope of the discussion. He thought the slide showed a new entrant to the fields, which would be different than a company that had been in the state for 20 years.

Senator Wielechowski affirmed that Co-Chair Stedman had summarized his question correctly. He was interested about the numbers for existing producers. He thought it was interesting to note that the state take was shown with an accounting for future value loss, where the contractor was discounted for future loss. Further, the loss write-offs were not included in the numbers. He thought the factors would have a significant impact on the numbers for the state and the contractor.

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Mr. Cline referenced slide 24, "Incremental Developments":

- Incremental developments tie into existing infrastructure and benefit from shorter development periods.
- The returns on the assumed incremental development are attractive under current prices.
- Each development of this size could add over US\$150 MM+ per year in peak years and US\$1.5 Bn of total

state revenue.

Mr. Cline relayed that incremental developments could be extremely valuable and could reach economic potential more quickly. In looking at incremental development, he had estimated about 30,000 barrels per day at peak production, which would deliver significant additional revenues to the state. He thought the hub developments and incremental developments had real potential to sustain state revenues for oil and gas.

Mr. Cline turned to slide 25, "Concluding Remarks":

- Alaska oil & gas faces many challenges going forward but it remains an attractive oil & gas province.
- New developments are required to offset the historic downward trend in production and revenues.
 - Without new developments there is also a risk of reaching TAPS minimum production threshold
 - New developments will generate jobs and economic activity throughout value chain
- New developments will be costly and challenging and operators, investors and lenders need regulatory visibility and fiscal stability to support financial decisions for these long-term projects.
- Giant projects are unlikely but new material developments with numerous smaller tie-backs to infrastructure hubs offer a path to reversing the decline.
- The global competition for new investment is fierce and maintaining an attractive fiscal, regulatory and administrative environment will be key.

Senator Wielechowski asked about Mr. Cline's understanding of the TAPS minimum production threshold.

Mr. Cline had heard the figures 250,000 to 300,000 (barrels per day) and thought the operator had made progress in bringing the minimum threshold down. He clarified that he was commenting on what he had read in the public domain.

Co-Chair Stedman commented on keeping TAPS profitably operational.

[3:01:00 PM](#)

Mr. Cline displayed slide 27, "Tax Change Implications":

Upside

- Capturing additional rents from existing production with low risk of discouraging activity.
- Capturing additional rents from new developments but with higher risk (see downside)
- Securing State revenues to support public initiatives, including investment in energy transition.

Downside

- Discouraging new developments, resulting in lower long term State Revenue and lower economic activity.
- Discouraging investments that could prolong the life of mature fields.
- Compromising TAPS viability if production decline continues due to lack of investment.
- Discouraging new exploration which may prevent the discovery of major new hydrocarbon resources.

Co-Chair Stedman reminded that Gaffney Cline had been a consultant for the legislature for a decade or so and helped the legislature through different policy analyses and changes. He explained that the presentation was requested in order to give an overview of the worldwide oil industry and the natural gas market, since the state had a potential to get gas fields to market. The presentation was not intended to be an in-depth comparison of the intricacies of new fields versus old fields, and other nuances of severance tax.

Co-Chair Stedman thanked Gaffney Cline for the work in putting together the presentation, and its patience in answering the member's questions.

Co-Chair Stedman discussed the agenda for the following day.

#

ADJOURNMENT

3:05:46 PM

The meeting was adjourned at 3:05 p.m.

