

HOUSE FINANCE COMMITTEE  
February 24, 2023  
1:32 p.m.

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CALL TO ORDER

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

MEMBERS PRESENT

Representative Bryce Edgmon, Co-Chair  
Representative DeLena Johnson, Co-Chair  
Representative Julie Coulombe  
Representative Mike Cronk  
Representative Alyse Galvin  
Representative Sara Hannan  
Representative Andy Josephson  
Representative Will Stapp  
Representative Frank Tomaszewski

MEMBERS ABSENT

Representative Neal Foster, Co-Chair  
Representative Dan Ortiz

ALSO PRESENT

Treg Taylor, Attorney General, Department of Law; Cori Mills, Deputy Attorney General, Office of the Attorney General, Department of Law; John Skidmore, Deputy Attorney General, Criminal Division, Department of Law.

SUMMARY

HB 39        APPROP: OPERATING BUDGET/LOANS/FUND; SUPP

HB 39 was HEARD and HELD in committee for further consideration.

HB 41        APPROP: MENTAL HEALTH BUDGET

HB 41 was HEARD and HELD in committee for further consideration.

FY 24 BUDGET OVERVIEW: DEPARTMENT OF LAW

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Co-Chair Johnson reviewed the meeting agenda.

#hb39

#hb41

HOUSE BILL NO. 39

"An Act making appropriations for the operating and loan program expenses of state government and for certain programs; capitalizing funds; amending appropriations; making reappropriations; making supplemental appropriations; making appropriations under art. IX, sec. 17(c), Constitution of the State of Alaska, from the constitutional budget reserve fund; and providing for an effective date."

HOUSE BILL NO. 41

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

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^FY 24 BUDGET OVERVIEW: DEPARTMENT OF LAW

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TREG TAYLOR, ATTORNEY GENERAL, DEPARTMENT OF LAW, introduced himself. He provided a PowerPoint presentation titled "Department of Law: Department Overview," dated February 24, 2023 (copy on file). He began on slide 2 with an overview of the department's management team. He reviewed the mission of the department on slide 3 to provide legal services to state government and prosecute crime for the protection and benefit of Alaska's citizens. He advanced to slide 4 titled "Operating Budget Comparison: Department of Law: FY2022 - FY2024." The department's operating budget was flat. He noted the small decrease from FY 23 management plan to the FY 24 governor's request was the difference in the multiyear statehood defense funds. The department was not asking for the funds in FY 24.

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Representative Josephson referenced Attorney General Taylor's statement that the department was not asking for anything in FY 24. He thought there had been a request for FY 24. He considered that perhaps the funding was going to the governor's office instead of the Department of Law (DOL).

Attorney General Taylor agreed. The funding was not reflected in the DOL budget. He explained it was a reflection of the realization that statehood defense began much earlier than litigation. He elaborated it would give the Department of Fish and Game (DFG), Department of Environmental Conservation (DEC), and Department of Natural Resources (DNR) the ability to prepare for the litigation coming down the road by conducting the correct science or whatever else needed to be done. The governor's office would distribute the funds to the departments as necessary.

Representative Hannan referenced a couple of the current statehood defense cases that had been discussed in the press. She asked where the funds had been included for the abortion pill litigation and the tribal land and trust litigation. She asked if the funds were housed in an agency in order for research to be done or within DOL.

Attorney General Taylor replied that unfortunately the abortion pill issue had been misreported and the state was not involved in litigation. He informed committee members that DOL had joined an amicus brief that pointed out statehood rights in relation to the issues prevalent in the specific litigation and supported that each state should have the ability to decide on the rules. He clarified that it did not seek to change the rules in Alaska and the state's involvement defended the rules set up in Alaska. He relayed that [the abortion pill litigation] was not part of the statehood defense budget.

Representative Hannan requested a copy of the amicus brief. She remarked that the issue had been reported in the press very differently.

Attorney General Taylor agreed to provide the document to the committee.

Co-Chair Johnson asked for clarification on the request.

Attorney General Taylor clarified Representative Hannan's request for a copy of the amicus the state had signed onto in support of Texas' litigation.

Co-Chair Johnson asked for the information to be sent to her office for distribution to the committee.

Representative Hannan asked if the funding for the tribal land and trust litigation was funded through statehood defense via DNR, the governor's office, or DOL.

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Attorney General Taylor responded that the item was not part of the statehood defense funds. He asked Ms. Cori Mills for verification that his answer was accurate.

CORI MILLS, DEPUTY ATTORNEY GENERAL, OFFICE OF THE ATTORNEY GENERAL, DEPARTMENT OF LAW, agreed.

Representative Hannan asked where the tribal land and trust litigation was funded.

Ms. Mills confirmed that the litigation was being handled through funds appropriated to DOL's general fund. She was not sure which component it fell under because the Appellate Section was doing much of the work.

Co-Chair Johnson asked if Representative Hannan was referring to the amicus brief related to Texas [litigation]. Alternatively, she wondered if Representative Hannan was referring to something else.

Representative Hannan clarified it was a separate case. She had asked about a filing on a piece of property in downtown Juneau transferred to the Tlingit and Haida Tribe Central Council. She elaborated that DOL had filed litigation to the [U.S.] Department of Interior about clarifying transfers of land into trust.

Attorney General Taylor clarified that neither of the cases were funded through the statehood defense funds.

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Attorney General Taylor discussed the FY 23 management plan budgeted versus filled permanent full-time positions by division on slide 5. The chart showed positions broken out by the department's various divisions. He noted that recruitment and retention was one of the department's highest priorities since he had taken the helm. He stated that the department had a great plan and was seeing the fruits of the plan. He believed DOL was in the best position in recruitment and retention since his arrival at the department four years prior. The presentation included additional details on the topic later on.

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Ms. Mills discussed the core services of the Civil Division on slide 6. She addressed recruitment and retention and reported that one year ago there had been about 24 open attorney positions within the division. The gap had been greatly reduced and the number of vacant attorney positions was down to four. The division was currently recruiting for eight vacant paralegal and law office assistant positions. She noted the number was better than it had been the previous year. She elaborated that the division had been having chronic problems with its law office assistants the previous year. She detailed that the division had undergone a class study for the law office assistant position that enabled the department to have a promotional track for the position and to make the salary more commensurate with other similar positions. Consequently, the division was seeing a reduction in agencies across the board.

Ms. Mills reported that the increase in pay from HB 226 [legislation passed in 2022] had helped. The department had also been working on a promotional track for attorneys. Additionally, the division had increased its training opportunities and had created a Professional Development and Public Services Section to oversee professional development and conduct monthly training to enable attorneys to fulfill their legal continued education credits and to teach agency attorney skills. She noted that the division had seen a turnover of close to 90 percent in the past decade. She believed the skills and training had boosted recruitment and retention and had created a deeper bench of experience within the department.

Ms. Mills discussed the core services provided by the Civil Division on slide 6. She explained that the Civil Division

provided legal services to state government. She read the division's core services listed on the slide:

To protect Alaskans' safety and financial well-being, foster conditions for responsible development of our natural resources, protect the fiscal integrity of the State, and promote good governance.

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Ms. Mills turned to the proposed restructuring of the Civil Division on slide 7. The division's budget had been reduced from 15 components to five in order to increase transparency and help with the division's administrative burden that had lacked flexibility in terms of how to structure its sections over time. The five sections included: legal support services, statehood defense and resource development, protective legal services, government services, and torts and other civil defense litigation.

Ms. Mills skipped slide 8 and briefly highlighted an organizational chart on slide 9. She reviewed each of the division's sections beginning with statehood defense and resource development on slide 10. The section covered the department's advice to the Department of Fish and Game (DFG), DNR, Department of Transportation and Public Facilities (DOT), and DEC.

Representative Galvin asked why oil and gas would not be under DNR.

Ms. Mills replied that it had gone back in forth. She explained that there had been a separate section or team [for oil and gas] and it had also been outside of DOL. The work performed by the oil and gas team was for DNR and the Department of Revenue (DOR). The section did all of the tax and royalty work for the state, which required specific expertise and was different than project permitting and the mining arena that was done by the natural resources group and represented the other half of the work for DNR. She explained that the sections did not all fit neatly within one department because of the broad range of the work conducted by departments and DOL tried to group by the type of work. She elaborated that DOL's natural resources section covered DFG and DNR, including mining, project permitting, state historic preservation, and the Forestry Division. The Transportation Section covered everything

done by DOT. The Environmental Section did all of the work for DEC including dealing with hazardous waste discharge, contaminated sites, clean up and recovery costs, enforcement actions (e.g., for violations of clean air regulations), and Clean Water Act issues.

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Representative Hannan looked at the organizational chart on slide 9. She referenced a governor's budget request for an attorney for parental rights litigation. She stated her understanding that the position would be housed in consumer protection. She asked where it would appear in the organizational chart.

Ms. Mills believed the [proposed] position was currently in the budget under the legal support services component, but she did not believe the location was accurate. The Consumer Protection Section fell under the government services component, which also included education attorneys. She stated the department was still trying to determine whether the position should be housed with the education attorneys or consumer protection. The purpose of the position was to allow a specific position to receive complaints from the public, a parent, or through the Department of Education and Early Development (DEED). She reported that DOL was currently receiving requests from DEED about twice a week for information relating to parental rights and what the law said and whether a school district was in compliance. The idea was to have a specific position to deal with the school districts and parents who may be upset and need help navigating the system. Additionally, the position would work with DEED to ensure everyone was in compliance with policies.

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Representative Hannan thought it seemed there may be two state attorneys litigating against each other. She provided a scenario where a parental rights complaint came in against DEED. She considered that there would also be an assistant attorney general defending DEED. She wondered if she was envisioning the potential situation incorrectly.

Ms. Mills did not want to conflate consumer protection and education, which were two different things. She relayed that the complaints the division envisioned or had received

were not in relation to things DEED was doing. She explained that DEED was generally just providing funding. She clarified that the complaints were related to policies school districts had to enact. She detailed that parents did not always know where to go or what their rights were under the law. The position would provide parents with a resource where they could learn about those things. Additionally, the position could help school districts understand compliance requirements. The position would potentially receive complaints and grievances, but it was not like the consumer protection section that had subpoena and investigative authority. She likened the position to an ombudsman working through process and helping people understand the laws. The position would also work with school districts and advise DEED as it received issues. The division currently had two full-time education attorneys and their workloads were extremely high. The work would not fit into their existing cases.

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Representative Josephson thought it sounded like he would be wise to encourage his school district to be prepared to have more billables from its general counsel to respond to the enquiries. He thought it would be a logical result of implementing the position.

Ms. Mills replied that it could be, depending on the number of complaints. She noted the division was seeing a lot of questions. She elaborated that it was the division's hope that issues could be resolved by communicating with the school district. She highlighted an example where an issue had been resolved when the department had communicated with a school district and that district was now in the process of adopting a policy to comply with the law. She stated that if compared to consumer protection, most of the cases were resolved amicably through a process of education. She stated it was how she saw most of the situations going.

Representative Josephson asked if the department would be prepared to tell parents the law was complied with and they had no grievance the law recognized.

Ms. Mills answered it got a little sticky because DOL's client who it provided attorney-client privileged advice to would be DEED. The position would provide parents with an avenue to come to DOL to learn about the law and a

potential resolution. She did not foresee DOL providing parents with private legal advice.

Representative Galvin asked what the considerations were about whether it made more sense to use an ombudsman versus attorneys in terms of helping parents navigate problems.

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Ms. Mills responded that the department was trying to work within its current parameters. She explained that setting up an ombudsman office would be a statutory change. The department was trying to fill a resource gap based on a number of complaints and issues that continued to arise. The goal was to provide an avenue for people to know where they could go to get information to understand the system and hopefully DOL could also connect with DEED and the school district.

Representative Galvin asked if another avenue would be for the ombudsman to choose to take up a specialty around helping families navigate issues related to the Office of Children's Services (OCS) or education.

Ms. Mills responded that she did not know whether the ombudsman had the authority to look into school districts. The ombudsman had the authority to look into state agencies, which would cover OCS. She did not know whether the office had the same statutory authority at the municipal level.

Ms. Mills turned to slide 11 and discussed the individual sections under the Protective Legal Services Section of the Civil Division. The Human Services Section was responsible for all of the work for the Department of Health and the Department of Family and Community Services with the exception of OCS, which was covered by the Child Protection Section. Human Services did all of the work for the protection of vulnerable adults and civil commitments. The Child Protection Section conducted all of the Child in Need of Aid (CINA) proceedings around the state and was the largest section within the Civil Division. The Commercial and Fair Business Section was responsible for occupational licensing and child support recovery. The state had a statutory duty to represent the public interest before the Regulatory Commission of Alaska (RCA) ensuring utility rates were proper and within the allowable calculations.

She explained that the Regulatory Affairs and Public Advocacy Section went before the RCA to ensure the rates were in the right ranges.

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Ms. Mills reviewed the six sections within the Government Services Section on slides 12 and 13. She noted the section contained the broadest array of the division's work. The Opinions, Appeals, and Ethics Section housed all of the division's appellate attorneys that went before federal and state appellate courts. The Public Corporations and Government Services Section represented all of the public corporations in the state, the retirement systems, state health plans, and DEED (the division's education attorneys were currently housed under the section). The Special Litigation Section included high profile, expedited, and complex litigation including constitutional challenges and elections matters. The section also housed the division's consumer protection unit because it addressed a substantial amount of large multistate antitrust complex litigation and it made sense to house them with the litigation expertise. The Labor and State Affairs Section represented the governor and lieutenant governor's offices, the Division of Elections, the Department of Administration (DOA), Department of Labor and Workforce Development (DLWD), and the Department of Military and Veterans Affairs (DMVA).

Ms. Mills turned to slide 13 and reviewed the last two sections under the Government Services Section of the Civil Division. The Legislation and Regulations Section included a chief regulations attorney who reviewed all regulations to ensure they did not conflict with the constitution of statute. The section was also responsible for drafting all of the governor's legislation. Additionally, the section oversaw the department's interactions with the legislature throughout the legislative session and ensured the legislature received the testimony and attorney expertise needed when reviewing legislation. The Professional Development and Public Service Section was the newest section, which had been created as a recruitment and retention tool. The section oversaw all of the internship, externship, and fellowship programs. She reported that the division had received 145 applications for 18 spots in its internship program in the current year. She noted it was the highest number she had seen. She stated it was exciting to see law students applying to come to Alaska for the

summer internship; the hope was get people interested in coming back. She believed the efforts were working.

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Ms. Mills discussed the Torts and other Civil Defense Litigation on slide 14. She explained that the state had a lot of employees and it was a big player in a lot of ways; therefore, it was sued often. She detailed the department had a lot of torts inmate litigation for the Department of Corrections (DOC). She provided a couple of examples of cases that would fall under the Torts Section. She explained that if a car ran into a guardrail and the driver claimed it was negligent to have the guardrail it would be a lawsuit that came against the state. She detailed that if someone slipped and fell on state property it was a tort. The section also included Workers' Compensation and Corrections. She explained there were many employees within the state system and employees were entitled to workers' compensation if they were injured. The Department of Law represented the Division of Risk Management to oversee workers' compensation claims and defend the state in cases when DOL did not believe the claim was correct.

Ms. Mills reviewed the Legal Support Services Section on slide 16. The section was responsible for all of the work on public records for the state and advised state agencies on how to comply with the Public Records Act, records retention laws, and disclosure of information. The section provided management, training, and maintenance of the statewide data management and processing systems.

Ms. Mills moved to slide 16 titled "State Fiscal Preservation: Examples of FY2022 Revenue Generation and Protection." She remarked that the state was sued often, which resulted in numerous settlements, but there were also areas where the department pursued collections for the state as well. She highlighted areas of revenue recovery beginning with funds recovered from Medicaid fraud. The division's Natural Resources Section collected \$1.4 million in damages associated with the sinking of the Delta Chief barge. The department had obtained \$25 million in a securities fraud settlement under the Public Corporations and Government Services Section. She explained that the division entered into securities fraud litigation on behalf of the Permanent Fund and occasionally the retirement system.

Representative Stapp looked at slide 16. He identified subrogation as an area where the state could potentially get a substantial amount of revenue back. He asked if DOL was requesting any additional positions to ensure they could claw much of the funding back.

Ms. Mills responded there was one attorney responsible for doing the work. She agreed there was always more that could be done, but it was a matter of balancing the resources versus what the department believed it could bring back in.

Representative Stapp was looking at \$13 million in third party liability (TPL) and understood the state only received a portion of the cost depending on Medicaid. He asked how much more potential revenue was out there. He wondered how much more could be brought in if there was an additional attorney doing the work.

Ms. Mills replied that she would follow up.

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Representative Stapp asked if the same attorney was responsible for audit settlements and judgements and trust recovery.

Ms. Mills answered it was a separate person within the division's Human Services Section. There were two or three attorneys that covered the Medicaid issues.

Representative Stapp remarked that much of the Medicaid liabilities could be offset by ensuring the state had the right people targeting the right thing. He would find it very interesting to know if the department could claw back another \$10 million to \$20 million in TPLs that would offset the state general funds.

Representative Coulombe asked about the consolidation. She observed the presentation showed movement of money and people. She asked if there was a cost associated with consolidation and if the work was complete.

Ms. Mills clarified there was no physical consolidation, it was an on paper budget issue. She explained it was about how to best represent the department's budget in a way that

allowed the department to historically look back and did not require constant change.

Representative Coulombe asked for verification the work had all been completed.

Ms. Mills agreed. She stated it was now just up to the legislature to reflect it in the budget.

Representative Josephson asked how the dismissal of the U.S. Department of Education Impact Aid case benefitted Alaska [slide 17].

Ms. Mills answered that the state received a large amount of impact aid from the federal government that went out to Alaska's schools. She explained that a few years back the U.S. Department of Education changed its impact aid calculation to include pupil transportation. She elaborated that it would have greatly decreased the impact aid received by Alaska. The department's education attorneys had worked with outside counsel with expertise in the area and to get the U.S. Department of Education to agree to a different calculation technique to ensure the state would continue to receive the \$80 million to \$86 million in impact aid.

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Representative Cronk asked if the change had occurred fairly recently.

Ms. Mills agreed. She relayed that the department had been working on the issue for about two years and the news had come in the past summer or fall.

Ms. Mills turned to slide 17 and continued to discuss examples of FY 22 revenue generation and protection. Regulatory Affairs and Public Advocacy was responsible for making sure utility rates and costs were reasonable. She detailed that in 2022 the section saw about \$6.2 million in quantifiable consumer benefits, which reflected the amount saved by consumers for rates that were not imposed. The Environmental Section had collected \$1.8 million in settlements and fines in 2022.

Ms. Mills moved to slide 18 titled "Civil Division's UGF vs Other Fund Sources: FY2024 Governor's Proposed Budget." She

explained that about half of the Civil Division's budget was in the budgets of other departments. For example, DNR paid for all of the legal services for the division's Environmental Section. She pointed to a bar chart and explained that the gray portion of the bars represented money the division received from other agencies to pay for legal work for those departments. The blue portion of the bars represented money directly appropriated to the Civil Division. She highlighted the bar reflecting the budget for Torts and Other Civil Defense Litigation and explained that the section was primarily paid for through Risk Management; therefore, the work did not account for a large part of the division's UGF budget. She directed attention to the bar representing Protective and Legal Services and Support and explained that all of the CINA and child protection work came to the division's budget.

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Ms. Mills moved to primary general fund uses for the Civil Division beginning with the Child Protection Section on slide 20. She emphasized that the section was fully staffed for the first time in about five years, which was an amazing accomplishment. She reported the division was incredibly happy that the supervisor was now able to supervise the 24 attorneys in her section without having a larger caseload than normal. The caseload per attorney had also decreased. She detailed that the national caseload average was around 60 and the Child Protection Section caseloads had been between 90 to 100 per attorney. The division hoped the caseloads would stabilize. She explained that the after effects of the pandemic would become more clear now that mandatory reporters were seeing children; therefore, the division anticipated the reports would increase. The division was still conducting most of its hearings remotely via Zoom or phone, which was working well and enabled attorneys to be more efficient and get through more hearings in a day. There had been an initiative to move back to in-person hearings, but the division was not supportive of the idea in relation to CINA proceedings. She believed in-person hearings were more effective for the Criminal Division. The Child Protection Section was getting through its COVID-19 pandemic created backlog, but it was not completely finished.

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Ms. Mills discussed promoting good governance on slide 21, which covered other areas where the Civil Division received general funds directly and was not funded through other departments including appeals and ethics, special litigation, legislation, employment cases, advising the governor, and elections. She noted the division had a designated ethics attorney who helped advise all state agencies in complying with the Ethics Act.

Ms. Mills discussed the Civil Division's charge to defend the state's management and ownership rights over natural resources on slide 22. The division received some funding from DNR, DFG, and DEC, but the primary statehood defense litigation was mainly paid for through the division's budget. She relayed that the main area where the division had received budget increases in recent years was statehood defense. She highlighted that the legislature had given the division \$6.5 million in multiyear appropriations over the past two years. The funding did not lapse on an annual basis, the department could hold onto the funds for four years for use in statehood defense cases. Cases included defending Alaska's right to statehood, the management of its resources, or the protection of its natural resources.

Representative Josephson asked for verification the division was not asking for anything in "this category."

Ms. Mills shook her head in agreement.

Representative Josephson referenced monies the governor wanted to prep cases. He asked how the cases would have been funded previously.

Ms. Mills replied that the funds probably would have been in each department's budget and the departments would have had to resource depending on the amount available to do field studies. The work included surveying, field studies, navigability (i.e., floating a river to make sure it was navigable). She explained it was prepping in terms of determining the science, what was on the ground, and whether the state agreed with what the federal government was representing as the science. Historically the work had been handled by each individual department.

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Representative Hannan stated that the department had been given \$6.5 million and the Legislative Finance Division reported there was \$3 million remaining. She requested to see the list of litigation funded by the expenditure. She referenced the governor's request for an additional \$10 million. She asked if the other allocation would be used if the \$6.5 million was expended. He referred to the Kenai Refuge Rule and asked who made the decision on whether the case was appealed. She remarked that some of the litigation described by Ms. Mills was initiated by the department, whereas it was unclear where some litigation had come from. She highlighted litigation pertaining to submerged lands at Mendenhall Lake as an example and explained she had been unable to get an answer on where the lawsuit had come from.

Ms. Mills turned to a table on slide 26 showing the multiyear statehood defense funding. The slide represented all of the cases currently being funded with the existing \$6.5 million. She specified that \$500,000 of the \$6.5 million had to be reserved for Tongass related issues. The list represented cases the Civil Division was currently litigating, what the money was being used for, and anticipated cost. She noted that the division tried to estimate anticipated costs on the high end. She explained that litigation could often cost more than anticipated and the estimate included a buffer to account for the potential of going through trial. The slide showed the current anticipated costs were around \$9 million.

Ms. Mills turned to anticipated litigation on slide 27 including RS 2477 cases, a PM 2.5 plan for Fairbanks, federal management plans, Endangered Species Act, and the Tongass Roadless Rule. She noted the items would likely fall under the funding as well. She stated that costs would be well over the \$6.5 million previously appropriated to the division. She remarked that some of the cases may end early, which would keep costs down. She added that the division may be able to do motions for judgment that would kick the cases out faster. The division's cost estimates were cautious. She addressed how the division decided to initiate litigation. She explained it was generally done in consultation with whatever department was involved.

Ms. Mills referenced the Mendenhall Lake case mentioned by Representative Hannan. She explained that DNR had a unit that looked at navigability type issues. She detailed that

the state wanted to set precedent in the navigability realm that would give the state and the federal government rules so the state did not have to go one by one on each river to determine whether it was under the purview of the state or federal purview. The state's strategy was to pick large families of rivers that were easy. She explained the division's effort to get the caselaw and go forward to determine the boat and draft needed. The division had been trying to work with the federal government on the recordable disclaimer of interest process, but the federal government had not been moving to resolve the cases. Therefore, the state was litigating the issues in the hope of setting forth the foundational law to bring the state and federal government to the table to resolve the cases in a cheaper and easier way.

Ms. Mills referred back to the Mendenhall Lake case and explained that the federal government was asserting it was a pre-statehood withdrawal. The state disagreed and believed there was an example of a case where the federal government was conflicting with itself. The Mendenhall Lake case was less about navigability and more about the question of pre-statehood withdrawal. She relayed it was a good case to use to determine the caselaw. The division was anticipating a motion to dismiss the case filed by the federal government, which should allow the division to get to the heart of the legal question.

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Representative Hannan referenced the Kenai Refuge Rule shown on slide 26. She believed the state had appealed the case and had in essence lost its argument of controlling the means and methods of hunting in the refuge. She asked what the current status was. She thought it was a situation where the state had likely been better off before the appeal. She stated her understanding that the game managers did not want the state to appeal, but it had done so, and consequently the game managers had less control over game management.

Ms. Mills answered that the problem had been that the state had lost at the district court as well. She clarified that the state "had a court order regardless." She was not quite certain how the situation would have been much better. She considered that perhaps it would have been a little better. She pointed out there was also a National Park Service rule

that was being instated on much broader refuges. She stated it was not ending and the situation would not be done until the U.S. Supreme Court decided on whether to take the state's cert case. She elaborated that ten states had filed an amicus brief in Alaska's support because the court had completely ignored congressional authority and had stated that because the U.S. Constitution had a property clause, the federal government "can do this." She relayed that the court had ignored the Alaska National Interest Lands Conservation Act (ANILCA) altogether. She explained that other states were also seeing that the court gave no recognition to the rights of states given by Congress to manage fish and game hunting means and methods. She noted that Chief Justice John Roberts had worked on Alaska issues in the 1990s and had an understanding of the rules and why Alaska was unique. The department was hopeful the U.S. Supreme Court would take the case up on its merits. She stated the decision was detrimental.

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Representative Josephson noted that there had been a conversation on the topic in a finance subcommittee meeting the previous week. He thought if Alaska people saw "this" many would be elated. He remarked that some Alaskans would think that in every instance where there was an opportunity to support a reduction in emissions or support the right of trails to have some setbacks or to say there would not be black bear baiting near a highway, or that dogs would not be used to hunt black bears. He stated that the federal government did not want dogs to be used to hunt black bears on federal land and the state was saying that it wanted to use dogs to hunt black bears. He considered that perhaps he could take solace from the fact that in every other instance not listed [on slide 26] there was theoretically no challenge; therefore, the federal government's vision for an intact ecosystem for the environment or clean air was fine for the state. He remarked that the only example on the slide to indicate whether an item was an interest in environmental preservation or more liberality in terms of industrial development, air quality, and other, was the increment labeled "former federal site cleanup." He highlighted it was the only instance on the list where the state was saying it was upset that Alaska's land was not clean enough. He remarked that it worked out strategically to the state's benefit because it was "the bad federal government." He recognized that he would likely see the

situation differently if he was in Attorney General Taylor's seat. He stated that he had talked about the issues with Ms. Mills the previous week and he recalled she had noted that the state aggressively went after fellow Alaskans if they were polluters. He was left not knowing who was looking after the natural environment of Alaska. He shared that he was born in Alaska, and it was all he knew. His concern was that Alaska had an incredible intact wilderness and he wanted to know who was defending it.

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Attorney General Taylor replied that the department was trying to preserve the legislature's ability to control those policy decisions in Alaska. When DOL saw the federal government encroaching on the legislature's ability to do so, it was a red flag and the department stepped in. The department believed Alaskans should be the ones making the policy decisions on whether or not it was good to have a black bear baiting station next to the highway. It was one of the main components DOL identified when it chose whether to get involved in a case. He stated that when things were not challenged they expanded significantly; therefore, the department had learned to address issues the first time they arose and as if they would be applied to the rest of Alaska. He referenced a question by Representative Hannan about who made the decision to litigate. He responded that DOL deferred to departments on some of the decisions, but ultimately, he made the decision on whether to pursue litigation and whether to settle a case or not.

Co-Chair Johnson thought statehood defense was keeping things contained and preventing things from creeping over into national park lands.

Ms. Mills agreed. She elaborated that if the [federal government] could set the means and methods of hunting on the Kenai Refuge, whether or not a person agreed with bear baiting or not it was a regulation that came through the Board of Game via a public Alaskan process. Traditionally, DOL believed that ANILCA and the Statehood Act gave the fish and game means and methods of hunting to the state. She stated that often it involved sovereigns not agreeing on where the lines were. She stressed that the department represented the state's interests. She clarified that from a policy perspective it meant DOL thought the decisions

should happen with the state, not that they should not happen at all.

[2:32:43 PM](#)

Representative Cronk lived in an area where there was federal encroachment in refuges and parks. He stated the federal government was telling Alaskans what they could and could not do. He elaborated that the federal government was telling Alaska Natives they could no longer harvest bears out of dens when it had been a practice for thousands of years. He appreciated the [state's] fight [for statehood defense]. He asked what was next. He stated there were groups that believed a fishhook hurt fish; therefore, he questioned whether sportfishing would be banned. He thanked the department for the work and was uncertain the governor's \$10 million was sufficient. He wanted to ensure the fights over the issues remained in Alaska and not with someone in Washington D.C. telling Alaskans how to live.

Ms. Mills turned to slide 28 and reported there were a couple of FY 24 governor amended proposed budget changes in the Civil Division. The first was the addition of a new attorney for parental rights in education advocate. The second was the addition of an attorney to lead on tribal law issues. She detailed that the state had been involved in child welfare compacting for the past four to five years. The state was also looking at education compacting with tribes. The division saw numerous civil issues that continued to arise on Indian gaming law, sovereign immunity, government to government consultation, and regulatory actions by the federal government defining what a tribe was. She elaborated that Native corporations were considered tribes for purposes of federal funding and other things and the federal government was starting to change some of those things. The division was having trouble keeping on top of the issues and it was unable to devote the resources to create the relationships and outreach it should be creating because it was so focused on individual cases that arose. The position would coordinate the issues and provide outreach, interaction, and partnerships. She remarked that sovereigns would have clashes, but the position would work to partner and work together on top of all of that.

[2:35:47 PM](#)

Representative Hannan referenced the proposed attorney to lead on tribal law issues. She referred to a lawsuit against the U.S. Department of Interior and tribal lands and whether the attorney would be assigned to the case. Alternatively, she wondered whether the current litigation was covered by a contract attorney outside the state. She noted she had some tribes who had requested an answer to the question. She remarked that it was unclear to her.

Ms. Mills replied that the specific proposed position would not be envisioned to do the work referenced by Representative Hannan. The position would be a coordinator to ensure the division understood all of the issues that touched Native law, but the individual would not be directly involved in the litigation previously mentioned. She clarified that the litigation already had specific attorneys assigned. The position would be an outreach component helping with compacting.

Attorney General Taylor added that the position was largely a cost savings position. He explained that currently the department was reactive, typically in response to litigation. He elaborated that by then it was usually too late to work with the other side to come to an agreement that both sovereigns could agree on. The idea for the position was to prevent some of that litigation. He believed it was a cost savings measure and it was good business when the state had better relations with other sovereigns in the state.

[2:38:06 PM](#)

Representative Tomaszewski returned to the multiyear statehood defense funding on slide 26. He looked at the increment labeled "former federal site cleanup" and asked how many decades the state had been going over the issue. He wondered how many millions of dollars had been spent on the issue and whether anything would ever be accomplished. He understood there had been some progress, but he wondered if there was any way to get the money back that the state was spending and litigating.

Ms. Mills stated that unfortunately in federal court it was not as easy to get attorney's fees even if the state was successful. The Civil Division was hoping to move the needle on getting a plan for what cleanup looked like. She agreed that the situation had been going on "forever" and

the division decided it needed to resort to litigation because the state kept getting promises [by the federal government] with no action. She remarked that the increment was a large expenditure and one of the division's most expensive cases because of the need to go into the contamination on each of the sites. She stated that hopefully the issue could be resolved before spending the full \$2 million, but it would be up to the federal government asserting it needed to do something and thus far it had not demonstrated a willingness to do so.

[2:39:31 PM](#)

Ms. Mills reviewed the governor's proposed budget changes on slide 29 for the Administrative Services Division. The additional \$250,000 request addressed increasing lease costs in facilities occupied by DOL. She expounded that the department had been absorbing the costs over the years, but it finally needed a funding increase in order to avoid impacts to day to day operations.

[2:40:06 PM](#)

JOHN SKIDMORE, DEPUTY ATTORNEY GENERAL, CRIMINAL DIVISION, DEPARTMENT OF LAW, addressed slide 30 and reviewed the division's mission:

The mission of the Criminal Division is to seek justice, promote public safety, and further public respect for government through prompt, effective, and compassionate prosecution of cases.

Mr. Skidmore elaborated that the department had been successful in promoting public safety and crime rates had dropped dramatically in the past several years. The Criminal Division's challenges resided with the ability to promptly and effectively prosecute cases. There was currently a delay in cases within the justice system and the division was focused on working through the backlog and getting things moving more effectively.

Mr. Skidmore turned to slide 31 and explained that the division was not responsible for the prosecution of federal or municipal crimes or the investigation of criminal conduct. He explained that predominately DOL did not have investigators, while most prosecutor's offices in the Lower 48 had investigators to help them follow up on cases. There

was one exception in the Medicaid Fraud Control Unit, which was funded with 75 percent federal dollars and 25 percent state dollars. The unit had six investigators and was responsible for investigating any Medicaid fraud occurring within the state. The unit was also responsible for addressing any criminal prosecution for Medicaid fraud. There was one additional exception [related to investigator positions] that he would address on a later slide.

[2:42:26 PM](#)

Mr. Skidmore discussed the duty of a prosecutor on slide 32. For example, the Canons of professional ethics indicated that the primary duty of a lawyer engaged in public prosecution is not to convict, but to see that justice is done. He explained that the Criminal Division received 25,000 to 30,000 referrals annually, but the referrals did not all result in charges filed because the division determined some referrals did not meet the elements needed for prosecution. The division filed around 20,000 cases annually. He elaborated that the division filed dismissals annually for some cases it had filed because its responsibility was to see that justice was done and not simply to obtain convictions. He referenced a second quote on the slide from a former U.S. Supreme Court justice indicating that while the prosecutor was supposed to prosecute with earnestness and vigor, the prosecutor was not at liberty to strike foul blows that resulted in improper convictions.

Mr. Skidmore advanced to slide 33 listed core services on slide 33. The division provided assistance with investigations. He detailed that he had previously worked as a prosecutor for the Anchorage and Dillingham district attorney offices and had gone to homicide scenes every time there was a homicide. The division also provided assistance on search warrants, wire taps, and evaluating cases with tricky elements. He stated they were all activities the division performed that did not get captured in the 25,000 to 30,000 annual referrals. Formal referrals were sent to the division by law enforcement. He remarked that some people mistakenly believed that a referral was automatically sent to the division just because someone called law enforcement and reported a crime.

Mr. Skidmore relayed that law enforcement did not refer everything it received to the Criminal Division for

multiple reasons. For example, the report could be unfounded, law enforcement could not solve the crime, or the incident was not actually a crime. He referenced the Uniform Crime Report (UCR) numbers and explained that the number of prosecutions did not equal the number of crimes reported. The third core service was screening and involved the division's review of cases and decision on whether to file charges. The fourth core service was pretrial litigation and involved motion work. The fifth core service was pretrial resolution related to plea negotiations. He noted that the vast majority of cases were resolved through plea negotiations. He noted the same was true in federal cases and in all other states. The last two core services included trial and post-trial litigation. He explained that the division's job did not stop just because someone was convicted in a jury trial or they had entered a plea. He elaborated that appeals, post-conviction relief, violation of probation, and other items could occur afterwards. There were many types of litigation that occurred even beyond the 25,000 to 30,000 annual referrals.

[2:47:08 PM](#)

Mr. Skidmore turned to slide 34 showing the structure of the Criminal Division. The slide included a map of Alaska indicating the division's office locations. The offices on the slide were color coded to match the individual district attorneys listed on the right of the slide. He pointed out that Utqiagvik was supervised by the Fairbanks district attorney, the Dillingham office was supervised by the Anchorage district attorney, the Sitka office was supervised by the Juneau district attorney, the Nome office was supervised by the Kotzebue district attorney. The slide also included Tamara De Lucia, who headed Appeals and Jenna Gruenstein who headed Special Prosecutions. He relayed that both offices had a statewide presence. He personally worked in the Central Office along with Angie Kemp and legislative assistant Kaci Schroeder. The Central Office provided management and supervision over the division and provided testimony to the legislature.

[2:49:01 PM](#)

Representative Stapp referenced Mr. Skidmore's mention of six attorneys in the Medicaid Fraud Unit. He asked about the caseload compared to other areas. He asked if the number of attorneys was adequate for the unit.

Mr. Skidmore clarified that the six people were investigators, not attorneys. Additionally, there were three attorneys and several other staff assigned to the unit. He would follow up with the caseload numbers.

Representative Stapp remarked that the state had not been able to redetermine Medicaid enrollees for the past several years [during the pandemic]. He asked how fraud had been during that time.

Mr. Skidmore did not know whether there had been an increase in Medicaid fraud during that time. He relayed that not every case resulted in criminal charges or fraud. There were instances where mistakes or errors occurred that did not amount to criminal prosecution. Those things were managed through the Medicaid Office and not the Medicaid Fraud Control Unit. He clarified that just because the fraud unit did not have statistics did not mean there was no action being taken. He offered to follow up with statistics from the fraud unit.

Representative Hannan asked how often a case of Medicaid fraud involved a recipient versus a provider. It was her perception that the fraud was not typically someone receiving services; it was usually about whether treatments should have been covered or provided.

Mr. Skidmore replied that the Medicaid Fraud Control Unit was focused on providers and the billing they submitted to Medicaid, not necessarily the recipients. He explained that if the recipients were engaged in fraud it was welfare fraud, which was handled by a prosecutor under Special Prosecutions. The Medicaid Fraud Control Unit focused on the provider, which was done by regulation or statute.

[2:52:35 PM](#)

Mr. Skidmore turned to slide 35 and discussed recruitment and retention. He stressed that the most valuable resource of the department was its personnel. He relayed that recruitment and retention was an issue for the division and had been a challenge over the past five years. There had been an applicant shortage nationwide in addition to challenges specific to Alaska. The division had seen an attrition rate of approximately 22 to 37 percent over the past five years. Slide 36 provided a snapshot of the

applicant shortage. He noted the specific slide had first been presented to a budget committee in 2020. The slide had been produced by the organization NEOGOV that helped public sector agencies nationwide to evaluate applicants and what was taking place in the industry. The organization had told the department in 2020 that there was a 37 percent gap between the number of open positions and the people applying. There had been an 8 percent decrease nationally in the number of public sector job applicants at the same time that more and more public sector jobs were becoming open. He reviewed statistics on the slide:

- 10,000 Baby Boomers retiring per day = 11% of the workforce per year. (Washington Post)
- 20% of Alaska state workers projected to retire in 1-5 years (Alaska Department of Administration)
- 11% of Alaska state workers eligible to retire in less than 1 year (Alaska Department of Administration)

Mr. Skidmore relayed that the Civil and Criminal Divisions had both seen retirements. He did not believe the rate had been as high as 11 percent in the Criminal Division. He continued to speak to the applicant shortage on slide 37. He reviewed the slide:

- 8% decrease in number of applicants looking for public sector jobs
- Average of 22% fewer applicants per job 2013-2018
- "Legal has suffered the biggest impact in applicants per job, with a 64% decline in applications. Legal jobs saw, on average, 33 fewer applicants per available job in 2018 compared to 2013." (NEOGOV Hiring Trends Report 2019)
- 19% decrease in Alaska applicants over last five years (Alaska Department of Administration)
- 49 prosecutor positions recruited during 2019 with an average of less than 5 applicants per position.

Mr. Skidmore relayed that he had been in Washington D.C. about three weeks ago for a national job fair specifically for prosecutors. There had been an opportunity to talk to members of the federal government who had indicated there had been a decrease in applications nationwide. He shared that a participant from Ohio had explained that in the past he had a thick stack of applications, but he was now lucky if he had a handful. He finished addressing slide 37 and

explained there had been fewer applicants, less experienced applicants, longer recruiting periods, and greater stress on current employees.

2:58:20 PM

Mr. Skidmore turned to slide 38 titled "Improvement in Applicant Numbers." He highlighted that the division currently had guarded optimism related to the number of applicants. He thanked the legislature for the efforts it took the previous year that had made a difference for the division. He explained that attorneys had received an increase in salary beginning in November [2022]. He pointed to a bar graph showing the number of applicants for prosecutor jobs from 2022 to 2023. He highlighted that the number had jumped from 11 applicants in November to 18 in December and 38 by January. He could not say whether the increase in applicants would last, but the salary increase had made a difference thus far.

Mr. Skidmore turned to slide 39 and discussed retention efforts taken by the division including salary increases, training, a revamped website, social media presence, expansion of posting locations, and attending job fairs. He reviewed attrition rates for the division:

- Prosecutors in 2018: 36.5% turned over (42 of 115)
- Prosecutors in 2019: 22.3% turned over (27 of 121)
- Prosecutors in 2020: 15.8% turned over (20 of 126)
- Prosecutors in 2021: 20.6% turned over (27 of 131)
- Prosecutors in 2022: 19.0% turned over (25 of 131)

Mr. Skidmore elaborated on the turnover rates and pointed out it was necessary to keep in mind that the division had increased its number of positions during the timeframe. The total number of prosecutor positions had increased from 115 to 131 over the five-year period. He reported that in 2022, 25 attorneys had left the Criminal Division (6 of the 25 had transferred to the Civil Division). He remarked that when treating the Criminal and Civil Divisions exactly the same, it created challenges for the Criminal Division. He explained that prosecution created a harder work-life balance. He elaborated that Criminal Division prosecutors were on-call and had to be present for homicide calls. He pointed out that it was not something the division could easily compensate for; it was necessary to find ways to

address the issues. He cited the number of cases as another challenge. He remarked that two of the 25 prosecutors that left the division in 2022 went to the Public Defender Agency and Office of Public Advocacy. Another three of the 25 had a licensing issue, but the Alaska Supreme Court had reversed the determination earlier in the current week. He explained that a certain score was required to be eligible to take the bar exam in Alaska, but the Alaska Supreme Court had voted to reduce the needed score because it had the highest required score nationwide. The department had effectively persuaded the court to reduce the number from 280 to 270 to put the state with the majority of other states. The change would enable the department to reverse the three people it lost for licensing reasons.

[3:03:32 PM](#)

Mr. Skidmore continued to discuss slide 39. He highlighted that in 2022 the division had lost 25 attorneys and gained 31. He relayed that 13 of the 31 attorneys had experience (including six former employees), which was a change for the division; it had previously been unable to hire attorneys with experience. He shared that every one of the six attorneys cited the salary increase as the reason for their return. He noted that he did not mean to indicate all of the division's problems had been solved. He reported there were currently 24 open attorney positions within the division. He indicated that 14 of those positions were slotted to be filled by applicants who had accepted the division's offer and would begin later in the year. Of the remaining positions, the division had been conducting interviews for six during the current week. The division was making positive progress to close the gap.

Co-Chair Johnson gave a shout out to Representative Josephson because he had made an amendment [the previous session] to increase pay for attorneys, which had made a difference in recruitment and retention. She appreciated the work the division was doing.

[3:05:56 PM](#)

Mr. Skidmore discussed two changes proposed by the governor to the Criminal Division's FY 24 budget on slide 40. The first change pertained to software and storage for audio/visual evidence in criminal cases for approximately \$400,000. He explained that when the division wanted to

prosecute a case there was an investigation and the information was brought to the prosecution. A large portion of the information was digital including cell phone information and audio. He stated that every contact law enforcement had with a witness in a case was recorded audially. Digital evidence included video footage of interviews at the police station, security camera footage, social media accounts, and photos. The division managed the information on an internal drive, but it had presented problems for the division. He elaborated that use of the drive had grown exponentially and it did not allow the division to edit the audio and video; it was not the cleanest way for the division to manage the information. The request would pay for software to increase efficiency. He stressed that the division was about to be inundated with additional video from body cameras. He detailed that the Alaska State Troopers and the Anchorage Police Department were both in the process of implementing a policy for body cameras. He informed members that more than 75 percent of the division's cases came from those two law enforcement agencies.

[3:08:09 PM](#)

Mr. Skidmore continued to review slide 40. He emphasized that the \$400,000 was not for the purchasing of the system. The Criminal Division was prepared to pay for the purchase cost in the current year with funds from its vacancy factor. The funding request would cover the annual subscription and the storage of digital evidence going forward. The division had not yet made a purchase because it did not have the future funding amount authorized. The software would increase efficiency. He reviewed the benefits of the software. The software would provide for a certain number of hours of transcription and would be accessible by prosecutors on computers outside of the state system. He recalled countless times in his past position as a prosecutor where he wanted to be at home and not having to drive 30 minutes back to the office was a huge benefit.

[3:10:34 PM](#)

Representative Galvin asked about the \$400,000 UGF. She appreciated the division was being careful and that it had the funding because of vacancies. She referenced recruitment and retention and the different efforts being made by the division. She asked if the division had

considered using money from vacancies on signing bonuses of a large amount to bring attorneys in from out of state. She noted that other departments had used signing bonuses.

Mr. Skidmore answered that DOL had looked at a host of issues. The department had considered signing bonuses but the increase in salaries had made a substantial difference. He thanked the legislature for the increase. The division did not currently feel the need for signing bonuses. There were other steps the division was evaluating internally to help with recruitment and retention.

Representative Cronk looked at the \$400,000 increment and asked if the division planned to pay for a new system with funding from its vacancies.

Mr. Skidmore answered that with vacancies the division was able to purchase the software. He noted that the cost to purchase the software was closer to \$500,000 or \$600,000 currently. The division could pay for the purchase with the excess funding due to vacancies. The funding from vacancies meant the division would not have to ask for a capital request. The \$400,000 was for future expenses to pay for the storage and operation of the system moving forward.

Representative Hannan remarked that the Department of Public Safety (DPS) needed software, hardware, and staff related to body cameras. She considered the software and storage increment and wondered whether it would be up to individual attorneys to manage the substantial amount of new evidence the Criminal Division would have to store and manage.

Mr. Skidmore responded that he appreciated the question and explained that he did not yet know what would ultimately happen. He did not like to request funding from the legislature until he was certain the money would be needed. He confirmed there would be an increase. The department's first step was to get a system to allow it to store and review the data. He was not prepared to tell the legislature that management of the system would require additional employees. The division would have to start onboarding the new software before he could provide an effective answer to Representative Hannan's question.

[3:15:05 PM](#)

Mr. Skidmore discussed the increment related to internet connectivity on slide 40. He shared that in the past the division had thick, voluminous files that contained all of the information it had to manage. The division had moved from paper to digital files in 2014 with a program called Prosecutor by Karpel (PBK) and had put most of its information in the cloud to connect its various offices including Anchorage, Palmer, Kenai, Juneau, Sitka, and Ketchikan. The division had not been able to do so in its locations with internet connectivity issues such as Dillingham, Nome, Kotzebue, and Bethel. He stated that each of the offices had a version of PBK loaded on a local server used to manage their files. The challenge was that PBK was an internet browser-based system.

Mr. Skidmore explained that the program had been based on Internet Explorer (IE); however, Microsoft no longer supported IE and now used a browser called Edge. He shared that about 33 percent of all prosecutors nationwide used PBK; all of those prosecutors now had their files in the cloud with the exception of Alaska. The division had four offices that were not in the cloud because they did not have adequate internet connectivity. The division needed to move the offices into the cloud. He discussed the problems with the current system. He explained that in order to find out what was going on at the Bethel office it was necessary to log onto the Bethel server from a state computer; it was not possible to do the work remotely. The budget request would increase the internet connectivity in rural offices. Nome and Kotzebue were not included because the division believed their offices could be upgraded. He understood there was talk about trying to bring fiber into Bethel. He hoped it happened, but it was not his approach to hope and wish it would work out. The additional \$350,000 increment would enable the division to acquire the hardware and subscription services to provide internet connectivity to division offices that needed it.

[3:19:51 PM](#)

Representative Josephson referenced Mr. Skidmore's statement that he did not like to make [budget] requests unless he was certain the funds were needed. He referred to supplemental funding for the Office of Public Advocacy and the Public Defender Agency because of the lack of staff to handle the serious felonies, particularly on the state's west coast. He had seen a change record detail that

indicated in response to HB 325 ("no means no" legislation), the two agencies were seeking close to \$1 million to vet those cases. The change record detail noted the agencies would require additional positions linked to HB 325 (that had a recent effective date). He asked how those agencies foresaw the need, but the Criminal Division did not have a like request.

Mr. Skidmore replied that when the bill had been introduced the previous session the division had indicated there would be an additional need for positions. The division had requested five attorneys and five support staff. He stated the need continued to exist. He explained that when the law had passed and the fiscal note had not been attached, the division had chosen not to request the positions. He elaborated that the decision had been made because the law had just gone into effect and fiscal notes were always a best guess at what a cost may be. He did not know if it would be the best way to do it or not. He noted that if the workload increased for the Office of Public Advocacy and the Public Defender Agency, it would also increase for the Criminal Division. He remarked that the two agencies did not get assigned cases unless the Criminal Division filed charges. He confirmed the division would have additional need, but he did not yet know exactly how much the need would be. The best guess was the fiscal note from the previous year [associated with HB 325]. He added that at the time the division had been evaluating budget requests in October 2022, it had a significant vacancy factor and had not been able to fill all of the positions it had subsequently filled. He was loathe to request positions from the legislature when it could not fill vacant positions. He stated the division was in a different position now than it had been.

[3:23:20 PM](#)

Representative Josephson thought it sounded like the division had a good problem as it was filling the vacant positions. He considered that the agencies [the Public Defender Agency and the Office of Public Advocacy] had a need and it would have a waterfall effect that would impact the Criminal Division first. He surmised they would have to see how the situation played out.

Mr. Skidmore reviewed an additional request in the governor's amended budget for a full-time investigator

position. The position would serve a dual purpose for election fraud and rural homicide/felony sex offences and other violent crimes. He reported that there were no dedicated investigators for elections fraud in Alaska. He believed there should be investigators for that purpose. He detailed that 25 percent of the position would look at elections cases to decide whether something rose to the level of criminal conduct or not. He stated it was difficult to make the determinations without an investigation. There had been some investigations referred to the division and there were a few charges that would be filed, but to date, the division had not found a significant amount of fraud indicating any reason to believe that any elections results were invalid. He believed the public deserved a right to have someone look and provide definitive answers about whether [election fraud] existed. He explained that 25 percent of the position's work would be related to election fraud because there were state elections every two years.

Mr. Skidmore continued to review slide 41. He detailed that the position would be based in Special Prosecutions and the remainder of the position would focus on domestic violence, sexual assault, and homicide cases in rural Alaska. There were a couple of existing positions that focused on those type of crimes in rural Alaska. He stated that Alaska faced challenges in having enough law enforcement in its rural areas. He indicated that having an investigator to help the division follow up to ensure its cases were in the best possible position for prosecution would be a significant benefit.

[3:27:15 PM](#)

Representative Josephson asked about the portion of the position for election fraud. He referenced Mr. Skidmore's indication that the public was entitled to know [whether fraud existed]. He stated there were 60 cases following the presidential election in 2020 and the public was not satisfied. He relayed that [a portion of] the public continued to not believe the election results. He found the position to be analogous to the parental rights position in that he did not know whether it would calm and deflect the sometimes wild claims or fuel the fire that was not there. He remarked that the last two lieutenant governors (including the current one) had said the elections were

free and fair. He asked if the state really wanted to get into it.

Mr. Skidmore posed a question in response to Representative Josephson's question. He provided a scenario where individuals voted more than once in Alaska or in Alaska and another state. He asked if the individuals should be prosecuted for committing those crimes. He believed the answer was yes. He stated in order to do so, the division needed an investigator to bring the information to the division. Conversely, if someone did not believe the people should be held responsible for the conduct, there would not be a need for the investigator. He thought it created a worse problem when allegations were made and there was no follow up. He reasoned that the decision [to fund or not fund the position] would be made by the legislature.

[3:29:43 PM](#)

Co-Chair Edgmon saw four bullets on slide 41 related to elections. He found it hard to substantiate the need to hire an election investigator. He looked at the skillset that may be needed for election fraud, conflict cases, and rural homicide/felony sex offences and other violent crimes. He wondered how to find one individual to fill the role for all of the categories mentioned. He thought each topic required a unique skill set. He was having a hard time wrapping his head around the need for an election fraud investigator in Alaska.

Mr. Skidmore answered that the skill set the division was looking for was a former police officer who was able to investigate and provide information. He clarified that the individual would not be responsible for handling homicide and sexual assault investigations on their own. The position would be responsible for follow up investigation. He agreed the elections fraud was a different skillset, but the work all pertained to interviewing people, gathering records, and following up on things provided at the direction of the prosecutor's office. He asserted that the skillset would be much more similar than what someone may originally envision.

Co-Chair Edgmon referenced Mr. Skidmore's earlier statements that the division saw 25,000 to 30,000 cases per year and that most resulted in plea deals. He asked if there were issues of election fraud in Alaska that rose to

the level of needing investigating. He could imagine perhaps a small number. He asked if there was a significant number.

Mr. Skidmore replied there were a small number of 60 to 70 cases out of the 25,000 to 30,000 referred. He stated it came down to whether the state thought that people violating the laws should be held responsible. He submitted that they should be. He stated it was a policy decision to be decided by the legislature in its appropriation authority.

Co-Chair Edgmon reasoned that the investigator would likely end up spending a small amount of its time on the election fraud component.

Mr. Skidmore agreed.

[3:33:44 PM](#)

Representative Stapp stated he was interested in saving money and costing the state less money. He wondered if there could be a follow up in writing about vendor management contract negotiations with companies such as Xerox in order to save money in the long term.

Co-Chair Johnson thanked the presenters.

HB 39 was HEARD and HELD in committee for further consideration.

HB 41 was HEARD and HELD in committee for further consideration.

Co-Chair Johnson reviewed the schedule for the following meeting.

#  
ADJOURNMENT

[3:35:22 PM](#)

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