

**DEPARTMENT OF LAW
FY17 - Increment Status**

Governor's Budget Item Approved as Requested

Item #	Approp/ Allocation	Description	Amount / Fund Source	FY17 CC Book Comment	GF Dec?	LFD Questions?	Agency Comments
1	Civil Division/ Natural Resources & Regulatory Affairs Public Advocacy (RAPA)	Outside Counsel for Specialized Expertise on Oil, Gas and Mining Issues	Total: \$2,500.0 UGF IncOTI	This request is a partial restoration of \$3 million of FY16 funding in the Oil, Gas and Mining component. The Oil, Gas and Mining section has previously represented the Department of Revenue and the Department of Natural Resources in disputes relating to the collection of oil and gas taxes and royalties, using both department personnel and outside counsel. These activities will now be taken over by the Natural Resources and Regulatory Affairs and Public Advocacy (RAPA) allocations. This increment will fund contracts with outside counsel and consultant expert specialists. <ul style="list-style-type: none"> • Natural Resources -- \$2,125.0 UGF (IncOTI). The issues to be funded include taxes (\$1,184.0) and royalty reopeners (\$941.0). • Regulatory Affairs Public Advocacy (RAPA) -- \$375.0 UGF (IncOTI). These funds will support the Pipeline Tariff Proceeding (\$375.0).		Please provide an update on the use of Outside Counsel in Natural Resources and Regulatory Affairs Public Advocacy. Are contracts currently in place?	Law's Natural Resources component has ten current outside counsel and expert contracts for oil and gas matters, and another one that we will enter into in late January 2017, for a total of eleven. The department also oversees two outside counsel contracts for the AKLNG project, with the law firms of GreenbergTraurig and Milbank, Tweed, Hadley and McCloy, for which we now receive funding from the Alaska Gasline Development Corporation through RSAs (AGDC will seek the funding for these contracts, or use existing funding). RAPA currently has a new contract with Morrison & Foerster that runs through October 25, 2019. The state requires the services of outside counsel because the state is involved in TAPS tariff proceedings before the Federal Energy Regulatory Commission (FERC) in Washington, D.C. These proceedings are extremely important to the state, and involve potentially hundreds of millions of dollars in production tax and royalty payments. The state has relied on outside counsel for FERC advice and representation and may require additional funds for the contract in the future. RAPA is in the process of developing this expertise and the department expects reliance on outside counsel to decrease after several years. Currently, effective state representation on these matters requires outside counsel assistance.

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Fiscal Note

Item #	Bill #	Title	Amount / Fund Source	FY17 CC Book Comment	GF Dec?	LFD Questions?	Agency Comments
2	SB 74 (Chapter 25, SLA16)	Medicaid Reform; Telemedicine; Drug Database	Total: \$365.0 Fed Rcpts: \$273.7 G/F Match: \$91.3 2 PFT positions	<u>Criminal Division/ Criminal Appeals/Special Litigation</u> The passage of this legislation will require attorneys, investigators, and support staff to review complaints and make recommendations as to action necessary under the Medical Assistance False Claim and Reporting Act. The Department anticipates that the work could be done by attorneys in the Medicaid Fraud Control Unit (MFCU) of the Office of Special Prosecutions and Appeals. Two permanent, full-time positions are added to the existing team of ten positions in the MFCU with this fiscal note. The bill allows recovery of attorney fees incurred in prosecuting civil action for Medicaid fraud. Under federal law, fifty percent of attorney fees recovered must be paid to the federal government.		How many active complaints related to the Medical Assistance False Claim and Reporting Act? Have 2 new PFT positions been hired? If so, when were the positions filled? How many positions currently assigned to the existing team? Please provide a short, overall update.	Currently there are no active complaints. The Alaska False Claims Act (FCA) was intended to achieve two goals. First, to encourage individuals with knowledge of waste, fraud, and abuse to come forward with a civil suit with the hope of getting a financial reward. Second, the state would receive a 10% increase in all settlements and awards to the state once the state's FCA was certified by Office of the Inspector General (OIG). Senate Bill 74, however, imposed slightly increased burdens on individuals coming forward with an FCA allegation. As a result, OIG did not certify Alaska's Medicaid FCA thus the state does not receive the financial incentive. There are, however, two false claims act suits currently making their way through the federal system. I believe the fact that there are two existing federal FCA suits is a direct result of the work being done by the MFCU. It is unlikely that we will see any state false claims act cases without a change in the statute passed last year, as most plaintiffs will simply file in federal court. The second objective of Senate Bill 74, was the authorization for DHSS to pass regulations imposing graduated sanctions on providers. This is a very important tool that DHSS sought for many years. MFCU begin working with DHSS on regulations to implement the authorized penalty provisions shortly after Senate Bill 74 went into effect. The regulations are being finalized now for public comment. The Department of Law did not create two new positions but instead opted to re-task two vacant positions that would have otherwise been cut. One position, an attorney, has been filled, and the other, a paralegal, is in the reclassification process.