



ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Finance

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MEMORANDUM

DATE: February 1, 2021

TO: Senator Bert Stedman, Senate Finance Co-Chair
Senator Click Bishop, Senate Finance Co-Chair
Helen Phillips, House Finance Assistant

FROM: Alexei Painter 
Director of Legislative Finance Division

SUBJECT: Agency Responses to FY21 Legislative Intent Language

This memorandum restates FY21 legislative intent (*italics*) for each agency and provides agency responses (indented) to our request for status reports. Responses indicating non-compliance, partial compliance, and indeterminate compliance have been identified using bold font and yellow highlighting.

DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT

Department of Commerce, Community and Economic Development

Operating/Capital Budget (CCS HB 205)

It is the intent of the legislature that the Department of Commerce, Community, and Economic Development submit a written report to the co-chairs of the Finance Committees by October 1, 2020, that reports: (1) the amount each community in the state that participates in the National Flood Insurance Program paid into the program in 2019, the amount that has been paid out of the program for claims in 2019, and the average premium for a home in a special flood hazard area in Alaska; and (2) for 2019, the number of individual properties in a special flood hazard area in each community in Alaska.

The Department of Commerce, Community, and Economic Development (DCCED) worked with the Federal Emergency Management Agency (FEMA) to gather the information requested and provided a written report to the legislature on October 1, 2020.

DEPARTMENT OF CORRECTIONS

Administration and Support/ Office of the Commissioner
Operating/Capital Budget (CCS HB 205)

It is the intent of the legislature that the department prioritize recruitment efforts in order to reduce overtime.

The Department of Corrections (DOC) has continued to prioritize recruitment of all vacant positions, specifically correctional officer (CO) positions, to assist in reducing overtime costs. The DOC is maintaining a continuous open CO recruitment allowing interested persons to apply for these positions at any time. This process has resulted in more than 1,000 applicants statewide since January 2020.

While DOC has continued to focus on its recruitment efforts and is seeing success, these efforts have not yet resulted in decreased overtime costs due to new officer training requirements, COVID-19 pandemic impacts, and required mandatory leave for institutional staff. The DOC continues to identify solutions to reduce and contain overtime expenditures.

Administration and Support/ Recruitment and Retention
Operating/Capital Budget (CCS HB 205)

It is the intent of the legislature that the Department centralize the recruitment and retention office and that the office have a minimum of three support staff. It is further the intent of the legislature that the Department submit a report to the co-chairs of the finance committees and Legislative Finance by January 15, 2021 that outlines the results of the recruitment and retention efforts.

The Department of Corrections has worked with the Department of Administration, Division of Personnel, to establish three new positions within the new centralized Recruitment and Retention Unit established in FY2021. The requested report will be submitted by January 15, 2021.

Legislative Fiscal Analyst Comment: The Department submitted timely and comprehensive reports detailing augmented recruitment and retention effort. Please note that \$536.8 UGF and 3 PFT positions were added in FY21, and the agency has consolidated recruitment-related resources and personnel under a new Recruitment and Retention allocation within the Administration and Support appropriation. The agency's report reflects changes in the number of filled positions between December 30, 2019, and December 31, 2020, including adult probation officers, medical and mental health personnel, critical support positions, and correctional officers. The Department has made significant progress in filling vacant positions and addressing staffing shortages.

DEPARTMENT OF EDUCATION & EARLY DEVELOPMENT

Alaska State Libraries, Archives and Museums/ Online with Libraries (OWL)
Operating/Capital Budget (CCS HB 205)

It is the intent of the legislature that the Department of Education and Early Development evaluate cost-efficiency measures that preserve access to the Alaska Online with Libraries (OWL) Program; considering the use of alternative equipment or technologies that accommodate equitable access to the video conference system, while saving unrestricted general funds.

It is also the intent of the legislature that the Department of Education and Early Development consult with all users of the Alaska Online with Libraries (OWL) Program to evaluate implications of eliminating the video conference services. The Department of Education and Early Development shall ensure that if the Alaska Online with Libraries (OWL) Program is eliminated, then alternative equipment or technology is provided. The Department of Education and Early Development shall prepare a report summarizing the results from those consultations and the proposed cost-efficiency measures and submit the report to the Finance co-chairs, and the Legislative Finance Division on or before January 1, 2021, and notify the legislature that the report is available.

Legislative Fiscal Analyst Comment: The Department provided the required report.

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Environmental Health/ Environmental Health

Operating/Capital Budget (CCS HB 205)

It is the intent of the legislature that the Division of Environmental Health rename the Dairy Program to Dairy Safety.

The Division of Environmental Health will be integrating this change going forward.

It is the intent of the legislature that the Alaska Department of Environmental Conservation continue to inspect and test Alaska dairies as well as implement a fee schedule to help pay for these functions.

The Department of Environmental Conservation continues to inspect and test Alaska dairies in accordance with AS 17.20.005(4). Additionally, the Department reviewed potential fee schedules for dairy farms, milk processing plants, and container manufacturers in accordance with the requirements of AS 44.46.025(a)(1). The Department worked with industry to determine a reasonable fee structure for the next several years, which will be collected under the Division of Environmental Health's statutory designated program receipt authority.

Water/ Water Quality, Infrastructure Support & Financing

Operating/Capital Budget (CCS HB 205)

It is the intent of the legislature that the Department of Environmental Conservation manage the environmental compliance of commercial passenger vessels operating in Alaska waters.

The Department of Environmental Conservation continues to register, permit, monitor, and inspect commercial passenger vessels operating in Alaska waters in accordance with AS 46.03.460-490. The Department took advantage of the limited number of commercial passenger vessel voyages in the summer of 2020 to develop an inspection protocol for vessels and draft a new contract for additional vessel inspection support for the 2021 early cruise season. The atypical cruise season created a unique opportunity for the Department to gather water quality data from destination ports and common corridor areas without passenger vessels present, to better inform decision-making on cruise vessel permits and compliance conditions in the future.

OFFICE OF THE GOVERNOR

Office of the Governor/ Office of Management and Budget
Operating/Capital Budget (CCS HB 205)

It is the intent of the legislature that the Office of Management and Budget evaluate whether the letter and intent of ch. 21 SSLA 2018 are being met by the current use of funds from the Restorative Justice Account. OMB shall produce a report summarizing the use and balance of 1171 Restorative Justice funds across all departments and provide recommendations for continued use.

Funds received through the Restorative Justice Fund 1171 were appropriated to the Departments of Health and Social Services, Public Safety, and Corrections. Funds were also appropriated to the Legislature. In FY2021 the Legislature was appropriated \$607.3 from fund 1171.

The Department of Health and Social Services (DHSS) received \$144.8 in FY2021. FY2020 was the first time DHSS received this fund source and allocated it to Behavioral Health Treatment and Recovery Grants to issue grants related to services for adults with mental illness. Funds were fully expended in FY2020. In FY2021, these funds were allocated to providers for COVID-related individualized service programs. As of November 2020, DHSS has encumbered or expended 69% (or \$100.0) of their FY2021 budget.

The Department of Public Safety (DPS) received \$144.8 in FY2021 allocated to the Council on Domestic Violence and Sexual Assault (CDVSA). FY2020 was the first time CDVSA received this fund source. (During the 2018 session HB216 passed re-routing some of the distribution.) CDVSA was not able to carry out planned activities due to COVID-19 complications but plans to use FY2021 funding to enhance and increase support for perpetrator rehabilitation programming, a significantly underfunded and much needed programming initiative. Enhanced perpetration rehabilitation is one of CDVSA's Four Key Strategic Initiatives for its five-year (2020-2024) strategic plan. DPS recommends continuation for FY2022 forward.

The Department of Corrections (DOC) received \$12,139.1 in FY2021 allocated to Physical Health Care medical costs for inmates including staffing, outside medical care, as well as medical and pharmaceutical supplies. DOC fully expended its appropriations from this fund in FY2019 and FY2020. As of November 2020, DOC has expended 15% (or \$1,799.1) of its FY2021 budget. DOC recommends the continuation of these funds for FY2022 to support the physical health care costs for the inmates under DOCs custody. If the funds are not continued, an increase of general funds will be needed to meet budgetary needs.

It is the intent of the legislature that the Office of Management and Budget exclude the legislature from billing for budget analyst time.

The Legislature has been excluded from the Office of Management and Budget billings for budget analyst time.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Department of Health and Social Services

Operating/Capital Budget (CCS HB 205)

It is the intent of the legislature that the Department of Health and Social Services submit a report of transfers between appropriations that occurred during the fiscal year ending June 30, 2021, to the Legislative Finance Division by September 30, 2021.

INDETERMINATE COMPLIANCE

The Department of Health and Social Services will submit a report of transfers between appropriations in FY2021 by September 30, 2021.

Medicaid Services

Operating/Capital Budget (CCS HB 205)

It is the intent of the legislature that the Department submit the Medicaid Unrestricted General Fund Obligation Report to the co-chairs of the finance committees and the Legislative Finance Division by January 1st, 2021 and subsequently update the report as requested by the legislature

The Department of Health and Social Services will submit the Medicaid Unrestricted General Fund Obligation Report to the co-chairs of the finance committees and the Legislative Finance Division by January 1, 2021. Updates to the report will be provided as requested by the legislature.

Legislative Fiscal Analyst Comment: The Department submitted a Medicaid Unrestricted General Fund Obligation Report which includes obligations through January, 2021.
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Senior and Disabilities Services / Senior and Disabilities Services Administration

Mental Health (SCS CSHB 206 (FIN))

It is the intent of the legislature that the Department of Health and Social Services produce a report on how to move individuals on the 1915 (c) Intellectual and Developmental Disabilities waiver waitlist into the program during FY2021. The report shall analyze how many individuals on the waitlist may be eligible to receive 100% of their services funded by the federal government, the prioritization of low income Alaskans, the impact of changes to service hours

and other benefits to recipients, and to the Department of Health and Social Services' budget. The report shall be submitted to the Legislative Finance Division by September 30, 2020.

In accordance with this intent language, the Department of Health and Social Services submitted the requested report to the Legislative Finance Division on 9/30/2020.

DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

Labor Standards and Safety / Wage and Hour Administration
Operating/Capital Budget (CCS HB 205)

It is the intent of the legislature that the Department maintain fiscal year 2019 levels to sustain or expand investigative capacity in the Wage and Hour Administration Fairbanks Office.

The Labor Standards and Safety Division has three positions in the Fairbanks Wage and Hour office. One position is currently unfilled and in active recruitment. Once filled, fiscal year 2019 levels and investigative capacity will be sustained in the Fairbanks office.

DEPARTMENT OF LAW

Criminal Division

Operating/Capital Budget (CCS HB 205)

It is the intent of the legislature that the Department of Law provide a recruitment and retention plan for prosecutors and support staff to reverse the trend of high turnover to the Legislative Finance Division by January 1, 2021.

The Department of Law recognizes that there have been significant difficulties in the recruitment and retention of qualified staff in the Criminal and Civil divisions over the last several years. This trend appears to be caused by a variety of factors, and the Department continues to work diligently to identify and address these contributing factors in order to reverse the trend. The COVID-19 pandemic added complications to recruitment and retention that will require time to fully evaluate and adapt to. Nevertheless, the Department continues to work to explore avenues that support professional development and certification in order to attract and keep talented employees.

Further information will be provided through the Finance subcommittee process as needed.

NON COMPLIANCE

Legislative Fiscal Analyst Comment: The Legislative Finance Division has not received a recruitment and retention plan as of January 29, 2021.

Civil Division Except Contracts Relating to Interpretation of Janus v AFSCME

Operating/Capital Budget (CCS HB 205)

It is the intent of the legislature that when managing caseloads while making budget reductions the department use staff instead of outside contracts whenever possible; and that the department should not make reductions to contracts if the contract is a possible revenue generator.

INDETERMINATE COMPLIANCE

The Department of Law continues to exercise restraint in the use of outside counsel and remains focused on achieving legal outcomes of the greatest benefit to the state.

Legislative Fiscal Analyst Comment: Compliance cannot be determined based on this response.

Civil Division Except Contracts Relating to Interpretation of Janus v AFSCME

Mental Health Budget (SCS CBHB 206 (FIN))

It is the intent of the legislature that this appropriation not be used to fund contracts related to interpretation of the Janus v AFSCME decision.

The Department of Law continues to exercise restraint in the use of outside counsel and remains focused on achieving legal outcomes of the greatest benefit to the state.

Legislative Fiscal Analyst Comment: The Governor vetoed all funding and intent under the Department of Law in the Mental Health Budget, and is therefore not obligated to respond to this intent.

Department of Law

Mental Health Budget (SCS CBHB 206 (FIN))

It is the intent of the legislature that the amount appropriated in the Personal Services line should be used exclusively for Personal Services and that appropriated funds lapse if the actual vacancy rate exceeds budgeted vacancy rate.

While the Department of Law strives to use funds appropriated for personal services exclusively on personal services, the Department manages its appropriations to meet the Department’s mission and ensure other critical business needs are met.

Legislative Fiscal Analyst Comment: The Governor vetoed all funding and intent under the Department of Law in the Mental Health Budget, and is therefore not obligated to respond to this intent.

DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS

Military and Veterans' Affairs

Operating/Capital Budget (CCS HB 205)

It is the intent of the legislature that the Department of Military and Veterans' Affairs (DMVA) submit a report to the Legislative Finance Division by January 1, 2021 as to the status of the transfer of the Alaska Land Mobile Radio (ALMR) and the State of Alaska Telecommunications System (SATS) into the Department of Military and Veterans' Affairs. The report shall include a review of operational and administrative challenges, the transfer's impact on carrying out the Department's mission, and the Department's long-term plan for ALMR and SATS.

The Department of Military and Veterans Affairs will evaluate and provide to the Alaska Legislature by January 1, 2021 a report that analyzes the status of the transfer of the Alaska Land Mobile Radio (ALMR) and the State of Alaska Telecommunications Systems (SATS) into the Department of Military and Veterans' Affairs. The report will contain DVMA's:

- Review of operational and administrative challenges
- Statement on the impact of the transfer on carrying out the Department's mission
- Long-term plan for ALMR and SATS

Legislative Fiscal Analyst Comment: The Department provided the required report on December 21, 2020.
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DEPARTMENT OF PUBLIC SAFETY

Department of Public Safety

Operating/Capital Budget (CCS HB 205)

It is the intent of the legislature that the Department of Public Safety work to implement the recommendations of the 2019-2020 Village Public Safety Officer Working Group and report to the Legislative Finance Division by January 1, 2021 as to what efforts have been taken by the Department of Public Safety to meet those recommendations.

The Village Public Safety Officer (VPSO) Working Group recommendations and findings were released on January 24, 2020. The Department of Public Safety (DPS) continues to work towards implementing these findings with a goal of revamping and structurally improving the VPSO program. While many of the recommendations exceed the Department's current statutory authority, DPS has taken steps towards honoring the spirit of the recommendations where possible. The Department looks forward to continued collaboration with the Legislature and stakeholders to fully realize the working group's goal of improving the VPSO program, working in partnership to better address the public safety needs of our communities.

DPS believes in the importance of rural law enforcement and believes alternative solutions to the current structure of the VPSO program may provide better services, with more oversight, and at a reduced cost. DPS welcomes an open and objective dialogue to look at all solutions to ensure adequate and sustainable law enforcement services exist for rural communities.

DPS will submit a report to the Legislative Finance Division by January 1, 2021 addressing the working group's recommendations in detail.

<p>Legislative Fiscal Analyst Comment: The Department provided a timely and comprehensive report, detailing the recommendations of the VPSO working group, and any efforts to address them. The report noted that the majority of the recommendations require statutory changes.</p>

It is the intent of the legislature that the Department of Public Safety, prioritize the deployment of law enforcement resources to non-urbanized areas that lack organized governments, and when placing added trooper positions, prioritize adding a second trooper to existing one-trooper posts.

DPS was provided 15 additional trooper positions for FY2021. As proposed, placement of those positions will be prioritized for rural areas and the new positions are in the process of being established; however, there is significant delay between establishing positions and filling the new positions in understaffed or new posts. Existing vacant positions must be filled before the Department can fill new positions, as pulling from existing posts to fill new

positions could lead to critical staffing shortages at existing posts. It takes two to three years to hire and train new troopers.

DPS is partnering with experts to conduct research to aid the Department in making data-driven decisions, specifically around staffing level needs and housing needs. DPS partnered with the University of Alaska's Justice Center to conduct two staffing studies, one completed in 2018 for the B Detachment, and one completed in July 2020 for the C Detachment. The Justice Center recommended a staffing increase of 58% and 22%, respectively. That is an increase of 40 troopers just in those two detachments to staff existing posts. These studies do not include calculations to significantly decrease caseloads to meet appropriate levels placed on a single trooper. For perspective, an Anchorage Police Department Special Victims Unit detective carries a caseload of under 20 sexual assault cases. Troopers in the Department's Violent Offenders team in Bethel carry caseloads of as much as 100 cases. Additionally, existing housing options preclude DPS from significantly increasing staffing in many rural locations. To get a comprehensive understanding of the housing needs for troopers around the state, DPS is partnering with the Alaska Housing Finance Corporation to conduct a housing needs assessment. The assessment will assess existing housing in current communities with DPS posts, as well as what future housing projects may be needed to adequately staff existing or new posts.

Considering the staffing needs of DPS, it will be important for the policy discussions to also include a comprehensive evaluation of where and how resources (troopers) are deployed. Specifically, DPS is charged with provided public safety services to communities without other law enforcement resources. DPS is looking forward to continuing discussion with the Legislature on future funding prioritization.

Alaska State Troopers

Operating/Capital Budget (CCS HB 205)

It is the intent of the legislature that no funds should be moved outside of the personal services line of any allocation within the Alaska State Troopers appropriation.

PARTIAL COMPLIANCE

DPS makes effort to ensure that expenditures on personal services align with the budgeted amount and has complied with the intent of the Legislature.

Legislative Fiscal Analyst Comment: Three Line Item Transfers moved a total of \$89.1 out of Personal Services in various allocations, but the agency also moved \$2,771.6 in to the Personal Services line, with only the Alaska Wildlife Troopers Marine Enforcement allocation having a net negative effect of (\$10.1) for Personal Services. While this didn't meet the word of the intent, it does by and large meet the spirit of the intent. The largest LIT occurred in Alaska State Trooper Detachments, where a total of \$2,100.0 was transferred to Personal Services from the Travel and Services lines.

Ultimately, a final compliance determination cannot be made until the receipt of FY21 Actuals in late 2021.

Alaska State Troopers / Alaska State Trooper Detachments

Operating/Capital Budget (CCS HB 205)

It is the intent of the legislature that the Department of Public Safety seek to fill vacant positions within the Alaska State Troopers appropriation, and reduce overtime in order to better manage within the authorized budget. The Department should provide a report to the Legislative Finance Division by January 1, 2021 that details monthly hiring and attrition, as well as overtime costs by category, and describes any contributing factors.

Legislative Fiscal Analyst Comment: The Department submitted a timely and effective report, detailing monthly hiring and attrition as well as categories of premium pay by fund source and month of expenditure.

Statewide Support/ Information Systems

Operating/Capital Budget (CCS HB 205)

It is the intent of the Legislature that the Department of Public Safety not implement a new Anchorage Emergency Communications Center without legislative approval.

The 9-1-1 and Dispatch Consolidation Working Group, of which DPS is a voting member, is tasked with developing recommendations for public safety communications policy regarding 9-1-1 and Dispatch Consolidation. The work group will be putting forth its recommendation in a report on December 1, 2020.

DPS looks forward to reviewing the work group's final recommendations and developing a plan for implementation in conjunction with the Legislature.

INDETERMINATE COMPLIANCE

Legislative Fiscal Analyst Comment: Inconclusive. The 9-1-1 and Dispatch Consolidation Working Group submitted a report outlining concerns and requirements for effective implementation of this program. It is unclear how the Department will proceed, given those recommendations.

DEPARTMENT OF TRANSPORTATION

Department of Transportation and Public Facilities

Operating/Capital Budget (CCS HB 205)

It is the intent of the legislature that the State repair the M/V Aurora and place the vessel into service before December 31, 2020.

PARTIAL COMPLIANCE

The steel work that is needed to repair the M/V Aurora is currently underway. The original plan was to have the work completed and the vessel available to operate in October 2020. However, due to discovery of additional steel that needs to be replaced, the repairs are now projected to be completed by December 2020. Following the steel repairs, the vessel will need to complete her annual overhaul and Certificate of Inspection recertification with the U.S. Coast Guard. The Department of Transportation and Public Facilities, Alaska Marine Highway System plans to have the vessel operational by April 2021. While DOT&PF will not be able to satisfy the Legislature's intent language that the Aurora returns to revenue service by the end of 2020, the Department shares the Legislature's goal that the Aurora return to service as soon as safely possible.

Legislative Fiscal Analyst Comment: The department has made efforts to implement the intended repairs, but due to unforeseen factors did not meet the desired December 31st, 2020 deadline.

UNIVERSITY OF ALASKA

University of Alaska

Operating/Capital Budget (CCS HB 205)

It is the intent of the legislature that the University of Alaska update the "Small Scale Modular Nuclear Power: an option for Alaska?" report published by the University in 2011.

The University of Alaska Fairbanks, Alaska Center for Energy and Power (ACEP) is currently finalizing report updates. A final report is expected to be ready for distribution by the end of 2020.

Legislative Fiscal Analyst Comment: The department provided the report on December 31, 2020.

It is the intent of the legislature that the University of Alaska, with the smaller Unrestricted General Fund reduction, limit the transfer of money out of rural campuses through Reimbursable Service Agreements while maintaining services to those campuses.

This legislative intent language accompanied a \$12.5 million unrestricted general fund (UGF) increase for the University of Alaska (UA) in FY2021. The Governor vetoed this increase to keep UA's UGF funding aligned with the three-year (FY2020-FY2022) agreement between the Governor and the UA Board of Regents.

The UA remains committed to the success of its community campuses serving communities and students across the state. The universities have maintained services to the community campuses they support and to the extent possible have limited new charges for those services.

It is the intent of the legislature that the University of Alaska charge not more than 17.5 % for indirect costs to the Future Farmers of America under funding agreements between the University of Alaska and the Future Farmers of America.

The University of Alaska Fairbanks (UAF) through the Institute of Agriculture, Natural Resources and Extension (formerly known as School of Natural Resources & Extension) has never charged any amount for indirect costs on agreements under the Future Farmers of America (FFA) program. Indirect charges would only occur if the FFA sought and received external grant funding to expand programming. In such a scenario, the granting agency would determine the allowable indirect rate and that amount would come from the grant funds, not unrestricted state funding. USDA Smith Lever funding does not allow indirect

charges but does require a 1:1 match by non-federal funds. IANRE supplies the match funds from state and foundation funding.

Legislative Fiscal Analyst Comment: The University provided additional information on the FY16-FY20 budget for FFA Cooperative Extension Services.

STATEWIDE

Sec. 7. ALASKA PERMANENT FUND.

Supplemental Budget (SCS CSHB 234(FIN)(brf sup maj fld))

(j) After the appropriations made in (a) - (i) of this section, the remaining balance of the earnings reserve account (AS 37.13.145), not to exceed \$4,000,000,000, is appropriated from the earnings reserve account (AS 37.13.145) to the principal of the Alaska permanent fund. It is the intent of the legislature that the amount appropriated in this subsection

(1) not include associated unrealized gains; and

*(2) be used to satisfy the inflation proofing requirement under AS 37.13.145(c) for the next **four** [EIGHT] fiscal years.*

The transfer of \$4.0 billion from the Earnings Reserve Account to the Corpus was completed on June 30, at the fiscal year-end 2020, in accordance with the appropriation language. Unrealized gains are allocated pro-rata based on Corpus and Earnings Reserve assets and automatically adjusted with this transfer. No inflation proofing was appropriated in the FY2021 budget in acknowledgement of the \$4.0 billion transfer.