### State of Alaska FY2011 Governor's Operating Budget

Department of Law Opinions, Appeals and Ethics Component Budget Summary

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### **Component: Opinions, Appeals and Ethics**

#### **Contribution to Department's Mission**

The Opinions, Appeals and Ethics Section provides specialized legal services and representation to state government on all legal opinions, civil appeals in state and federal court, all executive branch ethics and Indian law.

### **Core Services**

- The Opinions, Appeals and Ethics Section provides legal services and expertise to departments and agencies, including attorney general opinions on all subjects and appeals of civil cases in state or federal court. The section serves all departments, boards, and commissions on Executive Branch Ethics Act matters. The section provides advice and representation on specialized areas of the law, including Indian law and the public records act.
- The section's primary functions are to improve the state's civil appellate work, improve the quality of attorney general opinions, provide more timely and comprehensive services on executive branch ethics for all of state government, and provide specialized legal expertise in certain areas. Attorneys in the section evaluate and make recommendations to the attorney general and deputy attorney general on all civil appeals and petitions for review.
- The section also provides assistance with appellate briefing and case preparation, and handles appeals where the
  case presents significant constitutional issues or where matters of statewide implication are involved. The section
  handles all of the state's appellate cases concerning child abuse and neglect.
- The section is responsible for attorney general opinions, and in carrying out that function it both prepares opinions on significant legal issues, and reviews opinions generated by others in the department. As with the appellate function, the section's opinion function has improved the substance, quality, and consistency of the written legal advice issued by the department.
- The section is assigned the Executive Branch Ethics function for state government. This focus has improved the timeliness and quality of ethics advice being rendered to all state agencies. An Assistant Attorney General in the section serves as the designated ethics supervisor for the Department of Law, and handles professional ethics issues involving both department staff and outside counsel.
- The section also reviews briefs and makes recommendations to the attorney general on participation in United States Supreme Court cases as an amicus or "friend of the court."

### **Key Component Challenges**

The Opinions, Appeals and Ethics Section currently oversees the work of the civil division on over 100 active appeals pending in state and federal court. At any given time, the civil division has between 90 and 110 civil appeals pending, about 25 of which are "Child-in-Need-of-Aid" (CINA) cases, involving child abuse and neglect. The section is currently handling all of the CINA appeals statewide. We also handle appeals in other cases that concern constitutional and legal issues of particular import. A key challenge for the section is to be involved in the briefing and preparation of all civil appeals.

The section also prepares or reviews Attorney General Opinions. A key challenge in this area has been to develop protocols to ensure the section is involved early in the opinion process so that the department can render timely and high quality advice to state agencies, which improves agency decision making. Section members developed a department policy on opinions that will help the department issue higher quality opinions in a more timely manner.

Ethics is another key challenge for the section. The section handles scores of ethics issues, investigations, opinions, and oral and written advice. These issues come up literally every day from all over state government. It is important that ethics advice be rendered promptly and in a consistent manner. Opinions and advice often require significant factual and legal research. The section also provides ethics training for state agencies. Better and more frequent training should reduce the number of ethics problems that arise and improve agency action and decision making on these issues.

Indian law issues continue to impact virtually every area of state government's responsibilities. The section is working to provide advice on a wide variety of issues including civil and criminal jurisdiction and authority, Indian gaming, waivers of sovereign immunity, Indian country, tribal status, the Indian Child Welfare Act, Public Law 280, and many more. We anticipate this area of law and legal services to be a continuing challenge for the section.

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#### Significant Changes in Results to be Delivered in FY2011

The ethics attorneys have recently drafted regulations to implement reimbursement of attorney's fees of state officials who have needed legal representation in professional conduct proceedings and who have been exonerated. The attorneys also have drafted other ethics regulations and continue to try to clarify the requirements of the ethics law and to educate state officials about it. They anticipate providing a significant amount of training to other state agencies and boards and commissions in the coming year. The section also continues to respond to an ever-growing number of Indian law issues. In addition, public records work has increased many times over since last year, which has required substantial attorney resources to be utilized and has posed a challenge for attorneys in the section.

#### **Major Component Accomplishments in 2009**

The section evaluated and made recommendations to the attorney general on whether to appeal in 65 cases, and recommendations on whether to join multi-state amicus briefs filed by sister states in 35 cases in the Supreme Court of the United States or federal courts of appeal.

The section worked on appellate briefs in many cases, set up moot courts for 31 cases and participated in oral argument preparation in many of those, and provided consultation on appellate issues for the civil division.

The section prepared and issued several attorney general opinions and assisted with the preparation of many other opinions.

The section worked extensively on reviewing documents in response to public records requests.

The section handled all of the court appeals in CINA cases and nearly all the other appeals from the Department of Health and Social Services.

The section provided legal advice on many ethics issues, provided frequent ethics trainings, rendered several ethics opinions and memoranda of advise on topics such as outside employment, post-state employment, gifts, contracts, etc., investigated and resolved several ethics complaints, and is continuing work on several pending investigations and issues.

The section provided counsel and representation in litigation on a wide variety of Indian law issues including the Indian Child Welfare Act, Indian gaming, sovereign immunity, and tribal jurisdiction in civil and criminal arenas.

### **Statutory and Regulatory Authority**

No statutes and regulations.

### **Contact Information**

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Component — Opinions, Appeals and Ethics

# Opinions, Appeals and Ethics Component Financial Summary

Component Financial Summary					
		All de	ollars shown in thousands		
	FY2009 Actuals	FY2010	FY2011 Governor		
		Management Plan			
Non-Formula Program:					
Component Expenditures:					
	000 7	4 470 4	1 500 0		
71000 Personal Services	223.7	1,478.4	1,522.0		
72000 Travel	29.1	33.6	33.6		
73000 Services	94.6	217.4	217.4		
74000 Commodities	2.1	32.0	32.0		
75000 Capital Outlay	0.0	19.5	19.5		
77000 Grants, Benefits	0.0	0.0	0.0		
78000 Miscellaneous	0.0	0.0	0.0		
Expenditure Totals	349.5	1,780.9	1,824.5		
Funding Sources:					
1004 General Fund Receipts	299.5	1,322.3	1,362.8		
1007 Inter-Agency Receipts	50.0	458.6	461.7		
	50.0	400.0	401.7		
Funding Totals	349.5	1,780.9	1,824.5		

Estimated Revenue Collections									
Description	Master Revenue Account	FY2009 Actuals	FY2010 Conference Committee	FY2010 Authorized	FY2010 Authorized	FY2011 Governor			
Unrestricted									
Revenues									
None.		0.0	0.0	0.0	0.0	0.0			
Unrestricted Total		0.0	0.0	0.0	0.0	0.0			
Restricted Revenues									
Interagency Receipts	51015	50.0	0.0	0.0	458.6	461.7			
Restricted Total		50.0	0.0	0.0	458.6	461.7			
Total Estimated Revenues		50.0	0.0	0.0	458.6	461.7			

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Component — Opinions, Appeals and Ethics

Summary of Component Budget Changes From FY2010 Management Plan to FY2011 Governor All dollars shown in thousands								
	General Funds	Federal Funds	Other Funds	Total Funds				
FY2010 Management Plan	1,322.3	0.0	458.6	1,780.9				
Adjustments which will continue current level of service:								
-Transfer Funds from Labor and State Affairs for Personal Services Vacancy Factor Adjustments	25.0	0.0	0.0	25.0				
-FY2011 Health Insurance Cost Increase Non-Covered Employees	15.5	0.0	3.1	18.6				
FY2011 Governor	1,362.8	0.0	461.7	1,824.5				

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Opinions, Appeals and Ethics Personal Services Information						
Authorized Positions Personal Services Costs						
	Management	FY2011				
	Plan	Governor	Annual Salaries	1,081,737		
Full-time	11	11	Premium Pay	0		
Part-time	0	0	Annual Benefits	491,072		
Nonpermanent	0	0	Less 3.23% Vacancy Factor	(50,809)		
•			Lump Sum Premium Pay	Ó		
Totals	11	11	Total Personal Services	1,522,000		

Position Classification Summary								
Job Class Title	Anchorage	Fairbanks	Juneau	Others	Total			
Attorney IV	4	0	0	0	4			
Attorney V	3	1	0	0	4			
Attorney VI	1	0	0	0	1			
Law Office Assistant I	1	0	0	0	1			
Law Office Assistant II	1	0	0	0	1			
Totals	10	1	0	0	11			

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## Component Detail All Funds Department of Law

	FY2009 Actuals	FY2010 Conference Committee	FY2010 Authorized	FY2010 Management Plan	FY2011 Governor	FY2010 Managemen FY2011	it Plan vs Governor
71000 Personal Services 72000 Travel 73000 Services	223.7 29.1 94.6	1,478.4 33.6 217.4	1,478.4 33.6 217.4	1,478.4 33.6 217.4	1,522.0 33.6 217.4	43.6 0.0 0.0	2.9% 0.0% 0.0%
74000 Commodities 75000 Capital Outlay 77000 Grants, Benefits	94.0 2.1 0.0 0.0	32.0 19.5 0.0	32.0 19.5 0.0	32.0 19.5 0.0	32.0 19.5 0.0	0.0 0.0 0.0	0.0% 0.0% 0.0% 0.0%
78000 Miscellaneous Totals Fund Sources: 1004 Gen Fund	0.0 <b>349.5</b>	,	0.0 <b>1,780.9</b>	0.0 <b>1,780.9</b>	0.0 <b>1,824.5</b>	0.0 <b>43.6</b> 40.5	0.0% <b>2.4%</b>
1007 I/A Rcpts General Funds Federal Funds	299.5 50.0 <b>299.5</b> 0.0	458.6 <b>1,322.3</b> <b>0.0</b>	1,322.3 458.6 <b>1,322.3</b> <b>0.0</b>	1,322.3 458.6 <b>1,322.3</b> 0.0	1,362.8 461.7 <b>1,362.8</b> 0.0	3.1 <b>40.5</b> <b>0.0</b>	3.1% 0.7% <b>3.1%</b> 0.0%
Other Funds Positions: Permanent Full Time Permanent Part Time Non Permanent	<b>50.0</b> 11 0 0	<b>458.6</b> 11 0 0	<b>458.6</b> 11 0 0	<b>458.6</b> 11 0 0	<b>461.7</b> 11 0 0	3.1 0 0 0	<b>0.7%</b> 0.0% 0.0%

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#### Change Record Detail - Multiple Scenarios With Descriptions Department of Law

Scenario/Change Record Title	Trans Type	Totals	Personal Services	Travel	Services	Commodities	Capital OutlayGra	ants, Benefits	Miscellaneous	Po PFT	ositions PPT	NF
**:	******	*****	***** Changes Fi	rom FY2010 Co	onference Co	mmittee To FY2	2010 Authorized	*****	*****	*****		
FY2010 Conference	e Committee		j									
	ConfCom	1,780.9	1,478.4	33.6	217.4	32.0	19.5	0.0	0.0	11	0	(
1004 Gen Fund 1007 I/A Rcpts	1,32 45	2.3 88.6										
	Subtotal	1,780.9	1,478.4	33.6	217.4	32.0	19.5	0.0	0.0	11	0	(
	*****	*****	******* Changes	From FY2010	Authorized T	o FY2010 Mana	igement Plan ***	******	*****	***		
	Subtotal	1,780.9	1,478.4	33.6	217.4	32.0	19.5	0.0	0.0	11	0	(
Transfer Funds fro	Trin		Change			nt Plan To FY20 ts 0.0	11 Governor **** 0.0	••••••••••••••••••••••••••••••••••••••		** 0	0	
1004 Gen Fund	om Labor and St Trin 2	tate Affairs for 25.0 5.0	Personal Services	s Vacancy Fact 0.0	or Adjustment 0.0	t <b>s</b> 0.0	0.0				0	(
Transfer funds fro FY2011 Health Ins 1004 Gen Fund	om Labor and Si Trin 2 om Labor and Stat urance Cost Inc SalAdj 1	tate Affairs for 25.0 te Affairs to Opin rease Non-Cov 18.6 5.5	Personal Services 25.0 nions, Appeals and I	s Vacancy Fact 0.0	or Adjustment 0.0	t <b>s</b> 0.0	0.0				0	(
1004 Gen Fund Transfer funds fro FY2011 Health Inst	om Labor and Si Trin 2 om Labor and Stat urance Cost Inc SalAdj 1	tate Affairs for 25.0 25.0 te Affairs to Opin rease Non-Cov 18.6 5.5 3.1	Personal Services 25.0 nions, Appeals and B vered Employees 18.6	s Vacancy Fact 0.0 Ethics for persona	or Adjustment 0.0 al services vaca	t <b>s</b> 0.0 ancy factor adjustr	0.0 nents.	0.0	0.0	0	-	

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### Personal Services Expenditure Detail Department of Law

Scenario: FY2011 Governor (7749)

**Component:** Opinions, Appeals and Ethics (2716)

**RDU:** Civil Division (35)

Total PCN Funding:

PCN	Job Class Title		Time Status	Retire Code	Barg Unit	Location	Salary Sched	Range / Step	Comp Month s	Split / Count	Annual Salaries	COLA	Premium Pay	Annual Benefits	Total Costs	GF Amount
03-0048	Attorney V		FT	А	XE	Fairbanks	EE	25L / M	12.0		133,221	0	0	55,253	188,474	94,237
03-0187	Law Office Assist	ant II	FT	А	SS	Anchorage	6A	13D	12.0		41,784	0	0	24,783	66,567	0
03-0268	Law Office Assist		FT	А	GP	Anchorage	2A	11A	12.0		32,784	0	0	22,176	54,960	0
03-0295	Attorney V		FT	А	XE	Anchorage	AA	25N / O	12.0		124,142	0	0	52,823	176,965	176,965
03-0308	Attorney V		FT	А	XE	Anchorage	AA	25J / K	12.0		110,988	0	0	49,303	160,291	0
03-0338	Attorney VI		FT	А	XE	Anchorage	AA	26N	12.0		128,412	0	0	53,966	182,378	182,378
03-0367	Attorney IV		FT	А	XE	Anchorage	AA	24F	12.0		95,940	0	0	44,611	140,551	140,551
03-0379	Attorney IV		FT	А	XE	Anchorage	AA	24J / K	12.0		102,184	0	0	46,664	148,848	148,848
03-0380	Attorney V		FT	А	XE	Anchorage	AA	25K / L	12.0		113,070	0	0	49,860	162,930	162,930
03-0384	Attorney IV		FT	А	XE	Anchorage	AA	24K	12.0		103,272	0	0	47,022	150,294	150,294
03-0408	Attornev IV		FT	A	XE	Anchorade	AA	24F	12.0		95.940	0	0	44.611	140,551	140,551
		Total Positions	Ν	ew	Dele	eted								alary Costs: Total COLA:	1,081,737 0	
Ful	I Time Positions:	11		0	C	)							Total Pre	mium Pay::	0	
Part	t Time Positions:	0		0	C	)								al Benefits:	491,072	
	Non Permanent Positions:	0		0	C	)					_					
Position	s in Component:	11		0	C	)								re-Vacancy:	1,572,809	
											_	Minus	Vacancy Ad	justment of 3.23%:	(50,809)	
														st-Vacancy:	1,522,000	
Т	otal Component Months:	132.0										Plus L	ump Sum Pr	emium Pay:	0	
											—	Per	sonal Servic	es Line 100:	1,522,000	
PCN Fund	ling Sources:				Pre-	Vacancy	Post Vacancy		ercent							
	eral Fund Receipts				1	,196,754 376,055	1,158,09 363,90	3 7	76.09% 23.91%							

Note: If a position is split, an asterisk (\*) will appear in the Split/Count column. If the split position is also counted in the component, two asterisks (\*\*) will appear in this column. [No valid job title] appearing in the Job Class Title indicates that the PCN has an invalid class code or invalid range for the class code effective date of this scenario.

1,522,000

1,572,809

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100.00%

### Line Item Detail Department of Law Travel

Line Number	Line Name			FY2009 Actuals	FY2010 Management Plan	FY2011 Governor
72000	Travel			29.1	33.6	33.6
Expendit	ure Account	Servicing Agency	Explanation	FY2009 Actuals	FY2010 Management Plan	FY2011 Governor
			72000 Travel Detail Totals	29.1	33.6	33.6
72110	Employee Travel (Instate)		Attorney travel to provide counsel for departments and agencies of state government, including hearings, board meetings and legal counsel in court cases. Investigations and taking depositions for court actions.	28.1	26.6	26.6
72120	Nonemployee Travel (Instate Travel)		Witness travel.	0.0	7.0	7.0
72410	Employee Travel (Out of state)		Travel costs and expenses for professional staff to attend training, conferences and meetings.	1.0	0.0	0.0

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#### Line Item Detail Department of Law Services

Line Number	Line Name			FY2009 Actuals	FY2010 Management Plan	FY2011 Governor
73000	Services			94.6	217.4	217.4
Expendi	ture Account	Servicing Agency	Explanation	FY2009 Actuals	FY2010 Management Plan	FY2011 Governor
			73000 Services Detail Totals	94.6	217.4	217.4
73025	Education Services		Conferences, training, memberships	0.0	2.5	2.5
73075	Legal & Judicial Svc		Expert legal advice, outside counsel, depositions, research costs, expert witnesses and consultants.	84.3	83.7	59.1
73225	Delivery Services		Freight and messenger services. Movement of materials, exhibits, legal documents and courier services.	0.1	5.0	5.0
73675	Equipment/Machinery		Rentals/Leases and Repairs/Maintenance of office equipment - copiers & postage meters.	0.0	20.5	20.5
73750	Other Services (Non IA Svcs)		Printing forms, briefs and legal notices.	0.0	5.0	5.0
73805	IT-Non-Telecommnctns	Administrative Services	RSA Law, Administration - Information Services & Procurement support.	2.4	14.2	14.6
73805	IT-Non-Telecommnctns	Enterprise Technology Services	RSA Administration, ETS - Computer Services EPR	3.1	7.4	8.2
73806	IT-Telecommunication	Enterprise Technology Services	RSA Administration, ETS -Telecommunication EPR.	3.0	14.0	14.0
73809	Mail	Central Mail	RSA Administration, Central Mailroom	0.7	0.7	0.7
73811	Building Leases	Leases	RSA Administration, GS&S - Leased Office Space - AG's Offices in Anchorage, Fairbanks and Juneau.	0.0	58.4	82.1
73812	Legal	Administrative Services	RSA Law, Administrative Services - Timekeeping Administration	0.0	5.0	4.6
73814	Insurance	Risk Management	RSA Administration, Risk Management	0.3	0.3	0.3
73815	Financial	Finance	RSA Administration, Finance Chargeback (AKSAS / AKPAY)	0.6	0.6	0.7
73816	ADA Compliance	Americans With Disabilities	RSA Labor, Americans With Disabilities Act.	0.1	0.1	0.1
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### Line Item Detail Department of Law Commodities

Line Number	Line Name			FY2009 Actuals	FY2010 Management Plan	FY2011 Governor
74000	Commodities			2.1	32.0	32.0
Expendit	ure Account	Servicing Agency	Explanation	FY2009 Actuals	FY2010 Management Plan	FY2011 Governor
			74000 Commodities Detail Totals	2.1	32.0	32.0
74200	Business	E&ED	Library materials including Alaska Statutes, Alaska Code, Advanced Legislative Service and Court Rules; subscriptions, office supplies; software applications, printer cartridges, paper and misc. data processing supplies; computer supplies - desktop refresh, non- capital.	2.1	32.0	32.0

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### Line Item Detail Department of Law Capital Outlay

Line Number Line Name			FY2009 Actuals	FY2010 Management Plan	FY2011 Governor
75000 Capital Outlay			0.0	19.5	19.5
Expenditure Account	Servicing Agency	Explanation	FY2009 Actuals	FY2010 Management Plan	FY2011 Governor
		75000 Capital Outlay Detail Totals	0.0	19.5	19.5
75830 Info Technology		Computer equipment, printers and modems.	0.0	19.5	19.5

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## Restricted Revenue Detail Department of Law

Master Account	Revenue Description				FY2009 Actuals	FY2010 Management Plan	FY2011 Governor
51015	Interagency Receipts				50.0	458.6	461.7
Detail Info	ormation						
Revenue Amount	Revenue Description	Component	Collocation Code	AKSAS Fund	FY2009 Actuals	FY2010 Management Plan	FY2011 Governor
51015	Interagency Receipts This section provides se government on all legal	enior level analysis and specialize opinions, civil appeals in state and ian Law. Billable time is charged o	d legal services and repres d federal court, all executive	e branch ethics, public	0.0	458.6	461.7
59040	Revenue Funding for legal service	es provided to Alaska Permanent F	03210533 Fund Corporation (APFC).	11100	50.0	0.0	0.0

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### Inter-Agency Services Department of Law

Expendit	ure Account	Service Description	Service Type	e Servicing Agency	FY2009 Actuals	FY2010 Management Plan	FY2011 Governor
73805	IT-Non-Telecommnctns	RSA Law, Administration - Information Services &	Intra-dept	Administrative	2.4	14.2	14.6
		Procurement support.		Services			
73805	IT-Non-Telecommnctns	RSA Administration, ETS - Computer Services EPR	Inter-dept	Enterprise Technology Services _	3.1	7.4	8.2
			73805 IT-Non-1	Felecommeters subtotal:	5.5	21.6	22.8
73806	IT-Telecommunication	RSA Administration, ETS -Telecommunication EPR.	Inter-dept	Enterprise	3.0	14.0	14.0
				Technology Services			
		73806 IT-Telecommunication subtotal:			3.0		14.0
73809	Mail	RSA Administration, Central Mailroom	Inter-dept	Central Mail	0.7	0.7	0.7
				73809 Mail subtotal:	0.7	0.7	0.7
73811	Building Leases	RSA Administration, GS&S - Leased Office Space - AG's Offices in Anchorage, Fairbanks and Juneau.	Inter-dept	Leases -	0.0	58.4	82.1
				Building Leases subtotal:	0.0	58.4	82.1
73812	Legal	RSA Law, Administrative Services - Timekeeping Administration	Intra-dept	Administrative Services	0.0	5.0	4.6
		Administration		73812 Legal subtotal:	0.0	5.0	4.6
73814	Insurance	RSA Administration, Risk Management	Inter-dept	Risk Management	0.0	0.3	<b>4.0</b> 0.3
				3814 Insurance subtotal:	0.3	0.3	0.3
73815	Financial	RSA Administration, Finance Chargeback (AKSAS / AKPAY)	Inter-dept	Finance	0.6	0.6	0.7
		/		73815 Financial subtotal:	0.6	0.6	0.7
73816	ADA Compliance	RSA Labor, Americans With Disabilities Act.	Inter-dept	Americans With Disabilities	0.1	0.1	0.1
			73816 A	DA Compliance subtotal:	0.1	0.1	0.1
74200	Business	Library materials including Alaska Statutes, Alaska Code, Advanced Legislative Service and Court Rules subscriptions, office supplies; software applications, printer cartridges, paper and misc. data processing supplies; computer supplies - desktop refresh, non- capital.	Inter-dept	E&ED	2.1	32.0	32.0
			-	74200 Business subtotal:	2.1	32.0	32.0
			Opinions,	Appeals and Ethics total:	12.3	132.7	157.3
				Grand Total:	12.3	132.7	157.3

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