

**State of Alaska
FY2004 Governor's Operating Budget**

**Department of Law
Civil Division
Budget Request Unit Budget Summary**

Civil Division Budget Request Unit

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BRU Mission

The mission of the Civil Division is to protect the human, financial, and natural resources of the state.

BRU Services Provided

The Civil Division BRU supports the Civil Division of the Department of Law. The Civil Division serves the interests of Alaska's citizens by providing legal counsel to the executive branch in all civil actions. The division defends and prosecutes civil litigation to which the state is a party; handles legal matters for and provides legal advice to the governor, executive branch agencies, and -- upon request -- the legislative and judicial branches; reviews regulations prepared by executive agencies; drafts legislation for introduction by the governor; and reviews all legislation before it is acted upon by the governor.

Activities of the Civil Division help protect the financial and natural resources of the state, defend Alaskans' access to the state's land and natural resources, and ensure that the laws and regulations that govern businesses, individuals, and government agencies are constitutional. The division takes action to protect children from abuse and neglect, enforce child support obligations, guarantee that state programs are administered fairly and that money owed to the state is collected, defend the state's interests relative to the federal government, and defend the state from unreasonable demands for payment of costs of lawsuits, personnel actions, and personal injuries. It protects the state's financial resources by advising agencies on decisions that might lead to financial claims, defending against unreasonable claims, and facilitating reasonable settlements or other appropriate resolution of issues.

The Civil Division BRU includes components supporting the following sections: (1) the Deputy Attorney General's Office; (2) Collections and Support; (3) Commercial; (4) Environmental Law; (5) Fair Business Practices; (6) Governmental Affairs; (7) Human Services; (8) Legislation and Regulations; (9) Natural Resources; (10) Oil, Gas and Mining; (11) Special Litigation; (12) Transportation; and (13) Timekeeping and Support.

(1) The Deputy Attorney General's Office supports the Deputy Attorney General for the Civil Division as the deputy assists the Attorney General and the department in carrying out its statutorily prescribed functions. The deputy serves as the chief operating officer for the division and is responsible for leading, managing, and coordinating the activities of the attorneys and paraprofessionals in each of the sections of the four locations of the division.

(2) The Collections and Support section consists of two units: the collections unit and the child support unit. The section protects the state's financial resources by collecting outstanding civil and criminal debts, and protects Alaska's children by establishing paternity and ensuring compliance with child support orders. The collections unit collects unsecured debts owed to the state. The majority of these debts are criminal judgments, but the unit also collects various civil judgments and civil penalties. Effective January 1, 2002, the collections unit began collecting restitution on behalf of victims in criminal and juvenile delinquency proceedings. The child support enforcement unit represents the Child Support Enforcement Division (CSED) in court, provides legal support in matters relating to administrative child support enforcement actions, drafts legislation and regulations, and provides general legal advice to CSED.

(3) The Commercial section provides legal services on revenue and commercial matters; protects the integrity of the state's public finances through fair interpretation, implementation, enforcement, defense, or adoption of statutes and regulations governing state revenue, the permanent fund dividend, the employment security program, and lending programs; and protects public health and safety through fair interpretation, implementation, enforcement, defense, or adoption of statutes and regulations governing occupational licensing, alcoholic beverage control, banking, securities, and corporations. The section serves the Income and Excise Audit Division, Permanent Fund Dividend Division, Alaska Housing Finance Corporation, Alcoholic Beverage Control Board, Occupational Licensing Division, Investments Division, Banking, Securities and Corporations Division, Office of the Commissioner of Commerce, Employment Security Division, Alaska Commission on Postsecondary Education, Alaska Student Loan Corporation, and the Agricultural Revolving Loan Fund. The section also protects the student loan program by providing legal services and advice to the agencies that direct the program.

(4) The Environmental Law section provides legal representation to state agencies for the investigation, defense, and prosecution of claims regarding contaminated sites around the state as well as legal advice on environmental matters. It also provides legal representation to state agencies for the defense and prosecution of claims regarding the EXXON VALDEZ oil spill and the expenditure of restoration funds. It provides legal services to help recover the state's contribution to the Trans-Alaska Pipeline Liability Fund. The work of the Environmental Law section helps to protect the environment of the state, to ensure that the costs of contaminated site cleanup are borne by the responsible parties, to minimize the state's exposure to claims for damages relating to environmental problems, and to ensure that the costs of the available restoration funds from the EXXON VALDEZ settlement are expended in accordance with the law and for the maximum benefit of the Alaska environment. It serves Alaskans by helping to protect the environment and restore already-damaged sites and by making sure that those who are responsible for environmental damage are required to pay the costs of remediation. The component is also involved in prosecuting cruise lines that have fouled Alaska's air and waters and advising DEC on implementation of Alaska's cruise ship oversight program.

(5) The Fair Business Practices section, which includes the consumer protection/antitrust unit, protects the public by enforcing consumer protection and antitrust laws and by providing legal services and advice to the agencies that monitor insurance companies and personnel, public utilities, and certified teachers. The section also protects the public by handling enforcement actions in occupational licensing cases. Agencies served by the section include the following: Division of Occupational Licensing, Division of Insurance, Regulatory Commission of Alaska, and the Professional Teaching Practices Commission.

(6) The Governmental Affairs section provides legal assistance needed for governmental management, including budget, public finance, employment, labor relations, civil rights, procurement, retirement programs, Medicaid rate disputes, and investment of treasury and Permanent Fund Corporation funds. It provides legal assistance on problems associated with institutional relationships within state government, the interaction between state and local governments, and the conduct of elections. The section provides legal assistance to the departments of Administration, Community and Economic Development, the Offices of the Governor and Lieutenant Governor, the Office of Management and Budget, the Permanent Fund Corporation, AIDEA, the Alaska Public Offices Commission, the Human Rights Commission, the Division of Elections, the Department of Labor, and the Alaska Court System.

(7) The Human Services section provides legal advice and representation to the departments of Education and Early Development, Labor and Workforce Development, and Health and Social Services. It provides legal services and advice to these agencies regarding the state's education, health services, social services, juvenile justice, public assistance programs, workers' compensation, childcare licensing, and occupational safety and health programs. The section provides representation for the Department of Health and Social Services in all child abuse and neglect cases, juvenile delinquency proceedings, mental commitment proceedings, foster care licensing cases, and public assistance and public health matters, including Medicaid recipient/provider hearings and appeals.

(8) The Legislation and Regulations section drafts and edits legislation on behalf of the governor for introduction in the legislature, and provides legal review of regulations adopted by executive branch agencies for compliance with constitutional and statutory requirements.

(9) The Natural Resources section provides legal advice and representation to state departments, boards, and commissions that regulate Alaska's lands, waters, and renewable natural resources. It protects Alaskans' interests by ensuring that the state's natural resources are managed and allocated by state agencies in a manner that is consistent with the law, defending against legal challenges to actions taken by the state's natural resource agencies, and pursuing legal actions against persons who are illegally using, damaging, or destroying Alaska's lands, waters, or renewable natural resources. It advises state agencies on issues relating to mental health lands and Native allotments and represents the state in legal actions involving those lands. The Natural Resources section supervisor also oversees the activities of the Statehood Defense BRU.

(10) The Oil, Gas, and Mining section is responsible for litigating oil, gas, and mining resource disputes involving the state. It protects Alaskans' interests by making sure that the state receives the royalty and tax revenues to which it is entitled for current and past production, defending against challenges to state oil and gas lease sale programs, and protecting the state's title to resource-rich lands. The former Oil & Gas Litigation and Legal Services separate BRU and components are eliminated in this budget and the funding transferred to this component replacing intraagency receipts that formerly linked the two budget categories. Combining the two interrelated budgets allows for greater flexibility and eliminates the redundancy without changing the nature of the services provided.

(11) The Special Litigation section provides legal defense in tort litigation cases filed against the state, state agencies, and state employees, including personal injury, property damage, and civil rights suits brought under 42 U.S.C. §1983. The section also provides defense in contested workers' compensation claims against the state, and provides advice and training to reduce the state's liability exposure. The section provides legal services to the Division of Risk Management and, through it, to all state agencies.

(12) The Statehood Defense group of the Department of Law litigates issues raised by conflicts between state and federal jurisdiction. The group handles a variety of complex cases that will have a profound and lasting impact on management of Alaska's natural resources. The state frequently must defend against encroachment by the federal government into areas traditionally regulated by the state. Statehood Defense is transferred as a stand-alone BRU to become a component of the Civil Division in this budget.

(13) The Transportation section provides legal advice to and representation of the Department of Transportation and Public Facilities. The section enhances the department's ability to efficiently provide the public infrastructure necessary for the safety and well-being of Alaskans by providing advice and representation on all aspects of the construction and operation of the state's public facilities, including building, highways, ferries, airports, harbors, communications facilities, and other public works.

(14) The Timekeeping and Support section, which is comprised of those cost elements of the Civil Division support pool that are division-wide rather than section-specific, includes the costs of law office management (for the Juneau, Anchorage, and Fairbanks offices), case management, and division timekeeping and billing. The section provides day-to-day support to the legal staff by ensuring that resources necessary to perform their jobs are available. The section is responsible for maintaining work management and timekeeping records, providing accurate and timely billing to client agencies, and ensuring that office operations flow efficiently and unencumbered while state and department policies are followed and consistently applied.

BRU Goals and Strategies

- Provide effective legal advice to and representation of the state.
- Protect Alaska's children and youth by handling child abuse, neglect, and juvenile delinquency cases expeditiously.
- Ensure the state receives its correct share of oil and gas taxes and royalties; clarify and improve the rules governing taxpayers to reduce disputes and litigation.
- Resolve questions of state versus federal control and management of natural resources, lands, and waters.
- Increase collections of money owed the state by businesses and individuals for child support, fines, loans, and other unpaid obligations.
- Ensure that the department's legal review of regulations projects continues to be efficient, timely, and responsive to the needs of agencies and the public.

Key BRU Issues for FY2003 – 2004

CHILD PROTECTION

Child protection workloads continue to be of concern to the department. Statutory changes at the state and federal level have necessitated changes in how long children may remain in the child protection legal system, and when certain actions must occur, and they define parental responsibility more concretely. These changes move cases to conclusion faster to ensure that when reunification with the family is not in the child's best interest, the child can be made legally eligible for placement in a permanent home more quickly. The accelerated schedules severely impact attorney workloads. Maintenance of our existing resources for child protection is necessary in order for us to effectively manage this important responsibility. Another key issue for this component is the need for paraprofessional support to assist our Fairbanks Human Services section.

GOVERNMENTAL AFFAIRS

The Governmental Affairs section is representing the state in two major cases with potential significant budget impacts. The first case involves a claim that the state discriminated against rural school districts in the manner used to fund school facilities. This case also involves claims that the state breached fiduciary obligations when it changed the public school trust from a land-based trust to a money-based trust. The second case involves a sweeping claim by tribal organizations that the state has discriminated against 165 isolated Native villages in the way in which it provides police protection through the Alaska State Troopers and village public safety officer program. The latter case was decided favorably to the state in the trial court and it is expected that an appeal to the Alaska Supreme Court will be briefed, argued and decided during the upcoming fiscal year.

CONSUMER PROTECTION AND ANTITRUST ENFORCEMENT

Alaska is a target state for many types of consumer fraud. Under the Consumer Protection Act, the attorney general is authorized to investigate and bring enforcement action against businesses that engage in unfair or deceptive trade practices. Given the current funding and staffing level and the large areas of enforcement the office is responsible for, we are still forced to turn away many legitimate cases of consumer fraud. Enforcement activities are directed to situations affecting a large number of consumers or involving large dollar amounts, and often there are not enough resources for even those cases. We continue to increase enforcement activity because of additional statutory designated program receipt resources appropriated to this component beginning in FY 2000 and increased again for FY2003. The division will continue to take appropriate steps to ensure receipt of statutory designated program receipts on a regular basis in FY 2004 to help fund the consumer protection program. In addition, the division continues to refine and expand its consumer protection web page that assists consumers in identifying and protecting against fraud. The web page continues to increase the number of consumer complaints received and handled by the division.

OIL , GAS, & MINING

Appropriations for Oil and Gas Litigation have steadily declined from \$32.9 million in FY 1994, to \$11.9 million in FY 1997, \$4.7 million in FY2002, and to \$4.5 million in FY2003. The amount requested for this effort over the last few years reflects a sharp reduction in the use of outside counsel and a major shift of responsibility for major oil and gas litigation from outside counsel to staff attorneys. The department attorneys litigate most tax cases with little or no assistance from outside counsel and consultants. However, the department will continue to require substantial amounts to cover the cost of experts and document handling for these cases, and will use outside counsel for large cases that proceed to hearing. Although the amounts requested to pursue the state's oil and gas litigation efforts are significant, they will return substantial revenues to the state treasury.

STATEHOOD DEFENSE

The stand-alone Statehood Defense BRU is eliminated and the component transferred into the Civil Division BRU in this budget. The Statehood Defense group of the Department of Law litigates issues raised by conflicts between state and federal jurisdiction. The group handles a variety of complex cases that will have a profound and lasting impact on management of Alaska's natural resources. The state frequently must defend against encroachment by the federal government into areas traditionally regulated by the state.

1. The State filed *Alaska v. United States* as an original action in the United States Supreme Court against the United States in November 1999. The State's purpose in filing the suit is to quiet title to the lands underlying marine waters in Southeast Alaska. The State's amended complaint raises four counts.

The parties have filed motions and cross-motions for summary judgment on all four counts in the complaint. Briefing on the motions will be complete in late December, and oral argument will be in February, 2003. Because the Master will have close to 1,000 pages of briefs to review and rule on, a decision on summary judgment is not expected until the summer of 2003. Trial on remaining issues will be scheduled for the summer of 2004.

2. Subsistence Litigation - Very little remains of the large subsistence caseload of a few years ago. Several of the cases were dismissed, and several went to judgment. The state continues to litigate issues raised by the plaintiffs' claims for attorney fees in two cases, *Quinhagak v. United States*, Ninth Circuit No. 01-35430, and *Katie John v. United States*, District Court No. A90-484-CV (HRH). The state has paid most of the fees in *Quinhagak*, but has on

appeal to the Ninth Circuit two issues with over \$100,000 at stake. The plaintiffs in *Katie John* have asked for \$800,000 in fees and costs, plus interest, and litigation on these fees is awaiting decision in the district court.

Major BRU Accomplishments in 2002

- **Child Protection:** The division continued its participation in the interagency effort on the Balloon Project to reduce the backlog of children in foster care longer than new state and federal laws permit. As of September 15, 2002, 94 percent of the 662 children in foster care the longest were in a permanent placement, and in another five percent of the cases, the legal work to free these children for adoption is complete. As these oldest cases have been successfully resolved, the next oldest group of cases has been added. The project now has seven phases including nearly 2,300 children, of whom 67 percent now have permanent homes, and another 14 percent are legally free for adoption.
- **Collections:** The division collected over \$3.5 million in FY 2002 in criminal fines, cost of appointed counsel, cost of imprisonment, civil judgments owed the state, and victim restitution.
- **Commercial:** The division successfully settled a major charitable gaming case. Under the settlement, the manager of a charitable gaming operation and her husband were required to pay \$400,000 in cash for distribution by the attorney general to charity. The suit was brought to make the defendants disgorge the money they received through violation of Alaska's charitable gaming laws.
- **Governmental Affairs:** Successfully defended the state at trial in *AITC v. State*, the case challenging the constitutionality of the state's system for providing rural police protection.
- **Environmental cleanup:** Recovered almost \$1.8 million for state costs and penalties related to violations of state environmental laws and obtained cleanup agreements with polluters with an estimated value of over \$3.3 million for a total benefit to the state of over \$5 million.
- **Alaska Native Law:** Continued efforts to develop the law as it relates to Alaska Natives and the relationship between Alaska Natives and the state, in particular, the law concerning the scope of tribal jurisdiction and authority in the absence of Indian country; developed the department's Consultation Policy with Federally Recognized Tribes of Alaska as next step in implementation of the Millennium Agreement.
- **Oil and Gas:** Continued our work on litigation involving oil and gas bringing into the state treasury approximately \$94 million in back taxes and royalties owed by oil and gas companies.
- **Consumer Protection and Antitrust Enforcement:** Collected \$441,000 in seven consumer protection and antitrust cases (*Publishers Clearinghouse*, *Wade Cook Financial Corp.*, and *Triad Discount Buying Club* consumer protection cases; *Vitamins*, *Contact Lens*, *Nine West*, and *Mylan* antitrust cases). Under the settlements, the money is to be used for consumer protection and antitrust enforcement (\$200,000); distribution to state agencies and charitable organizations (\$105,000); restitution to state Medicaid/CAMA agency (\$80,000); and deposit into the general fund (\$57,000). In addition, injunctive relief remains in effect against the entities reforming their business practices and thousands of dollars were distributed to Alaska consumers for restitution. We also collected \$50,000 in settlement of a consumer action against a local car dealer for advertising, warranty, and Truth in Lending Act violations.
- **Regulation review:** Conducted legal review of over 2,500 pages of regulations; we also completed and published the 2002 edition of the *Drafting Manual for Administrative Regulations* and provided extensive training for state employees on regulation drafting.
- **Roadless litigation:** Continued to monitor federal and state activity and litigation on the Forest Service's Roadless Rule in light of the state's pending suit challenging the Rule.
- **Access issues:** Successfully quieted title to the Jualin Mine RS 2477 road and developed public information on public access rights to public waterways and easements.
- **Submerged Lands:** Continued litigation in original action filed in the United States Supreme Court to quiet title to all lands underlying marine waters in Southeast Alaska, including those within Glacier Bay National Park and the

Tongass National Forest; filed a major motion for summary judgment with the Special Master appointed by the Court.

- Transportation: Successfully settled the claim brought by Alaska Ship and Drydock for \$6 million in additional compensation for refurbishment of the M/V Columbia; the claim settled for \$1.5 million; successfully settled the claim brought by shipbuilder for \$53 million for construction of the M/V Kennicott; the claim settled for \$500,000 from the state and \$750,000 from a bonding company.
- Special Litigation: Won Alaska Supreme Court case in which the court upheld the constitutionality of the 1997 Tort Reform Act.

Key Performance Measures for FY2004

Measure:

The legislature intends to measure the success of the division in achieving its mission by considering the monetary value of disputed oil and gas taxes received by the state, whether obtained through court judgment or settlement;

Sec 96 (b) (1) Ch 90 SLA 2002(HB 250)

Alaska's Target & Progress:

FY 1999 - \$62,032,574
 FY 2000 - \$433,079,583
 FY 2001 - \$38,470,447
 FY 2002 - \$71,093,847

Measure:

Monetary value of disputed oil and gas royalties received, whether obtained through court judgment or settlement;

Sec 96 (b) (2) Ch 90 SLA 2002(HB 250)

Alaska's Target & Progress:

FY 1999 - \$1,500,000
 FY 2000 - \$14,500,000
 FY 2001 - \$42,018,249
 FY 2002 - \$22,888,902

Background and Strategies:

The amounts shown in Sec. 96 (b) (1) and (2), will vary from year to year depending on a number of factors including the length of audit cycles, which sometimes cover more than one year, and the number and value of disputed payments.

Measure:

Monetary value of the criminal and civil judgments collected, including indigent defense costs, costs of incarceration for offenders convicted of driving while intoxicated, other fines and costs owed to the state, and the number of civil and criminal judgments satisfied in full;

Sec 96 (b) (3) Ch 90 SLA 2002(HB 250)

Alaska's Target & Progress:

	Amount Collected	Judgments Satisfied
FY 1997	\$2,278,500	Not Available
FY 1998	\$2,469,900	8,569
FY 1999	\$3,111,000	10,125
FY 2000	\$2,769,600	8,805

FY 2001	\$3,993,590	15,981
FY 2002	\$3,574,907	13,526

In the FY 2002 Governor's budget, it was anticipated that FY 2001 collections would be unusually high. As predicted, one of the reasons for the high dollar amount and number of collections related to catching up on a backlog that had built up due to staffing vacancy. Additionally, implementation of the unit's new EXCEL database allowed the capturing of two years of minor offense fines and related court and collection costs that had previously been uncollectable because there was no way to track and match them for the PFD attachment. The unit had projected that FY 2002 collections would be about \$3.5 million. The unit oversees 87,439 unpaid judgments at this time.

Background and Strategies:

The function of the collections unit is to collect money owed to the state in criminal, civil, and some administrative cases. The criminal cases include the cost of imprisonment in driving while intoxicated or refusal cases, cost of appointed counsel in cases where a public defender or public advocate appointment is made to represent a defendant, outstanding fines and bond forfeitures, and victim restitution. While the courts can collect on fines and bond forfeitures (these cases are only transferred to the collections unit if they are overdue to the court) the cost of appointed counsel cases are automatically transferred to the unit. Civil case collections must have a judgment in excess of \$250 entered with the court and the money collected must be free for deposit into the general fund.

There are a number of factors that affect the amount collected. The most important factor is the amount and number of judgments transferred by the courts. If a judgment is not transferred, it is unlikely the unit will receive voluntary payments and cannot seize money from a permanent fund dividend. The second factor is the number and dollar value of voluntary payments made by defendants. The only recourse the department has for nonpayment is the potential to seize the obligor's permanent fund dividend. Additional factors include the actual amount of the permanent fund dividend, the number of defendants applying for dividends; the number of defendants determined to be eligible for dividends; and other agencies or cases with statutory priority to seize dividends before our seizures are possible.

Measure:

Number of new case files opened, categorized by type of case, for each year for the past 10 years;
Sec 96 (b) (4) Ch 90 SLA 2002(HB 250)

Alaska's Target & Progress:

File Type	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002
Oral Advice/Aid to Agency General Litigation	1,826	1,871	1,718	1,842	1,548	1,122	948	899	865	801
Executions	1,638	1,851	1,851	1,559	1,610	1,770	1,523	1,360	1,498	1,483
Torts	62	61	93	98	63	68	40	41	9	31
Child Support Proceedings	127	128	147	130	134	132	127	135	119	144
Children's Proceedings	1,142	1,456	2,222	1,650	1,848	918	998	1,184	1,126	997
Legislative Drafting	1,130	1,154	1,211	1,007	1,063	1,405	1,434	1,350	1,325	1,277
Legislative Review	79	51	55	79	111	61	74	86	102	120
Regulations Review	86	151	115	166	120	148	103	144	111	156
	170	173	146	134	139	168	145	171	156	204
	6,260	6,896	7,558	6,665	6,636	5,792	5,392	5,370	5,311	5,213

Background and Strategies:

Child Support Enforcement file openings decreased when a concerted effort was made to resolve concerns using the administrative hearing process. In recent years, the number of cases opened by Department of Law has once again increased, as a reflection of the growth in this area of state government.

Beginning in FY 1999, Department of Law changed the case opening procedure with respect to mental commitments. Prior to FY 1999, a file was opened for each new respondent in a mental commitment case. Because so few of the cases go to a hearing, in FY 1999, a new file was opened only if the case went to a hearing. This change would have affected General Litigation files.

Some additional factors contributing to changes in file numbers are due to reusing aid-to-agency file numbers rather than opening new files each year, and the recent tendency toward mediation rather than litigation. The count on other types of files has remained relatively steady over past years. The growth in the child protection category would not be detected by an analysis of this type because in general no matter how many times the child reenters the system; the case file opened in the original instance is reused

Measure:

Number of new cases opened relating to protecting children in the state against abuse and neglect;
Sec 96 (b) (5) Ch 90 SLA 2002(HB 250)

Alaska's Target & Progress:

In FY 2002, 505 child protection cases representing 858 Alaskan children were opened statewide.

Background and Strategies:

This represents a 11.9 percent decrease from FY 2001, and a 23.1 percent decrease from FY 2000. Although all three Human Services offices saw a decrease in the number of new cases in FY 2002 over FY 2001, southeast still opened 3.8% more cases in FY 2002 than in FY 2000.

Measure:

Percentage of child abuse and neglect cases completed in the permanency placement backlog;
Sec 96 (b) (6) Ch 90 SLA 2002(HB 250)

Alaska's Target & Progress:

661 children were identified for the Balloon Project as having been in out-of-home care 15 of the prior 22 months as of November 19, 1997. As of 9/15/02, 622 of these children were in permanent placements, and another 31 were legally free for adoption, completing the Department of Law's role in their placement. These children represent 99 percent of the original cases. New phases (Phases II -VII) involving additional children in out-of-home care have been gradually added to the project. The seven phases include more than 2,280 children, and all who were in state custody more than 17 months on July 1, 2002. As of 9/15/02, 1,530 of these children were in a permanent placement, and another 321 were legally free for adoption. These children represent 82 percent of the total project.

Background and Strategies:

See Background and Strategies discussion for Sec. 96 (b)(7).

Measure:

Percentage of other child abuse and neglect cases that are resolved within the statutory deadline of no more than 21 months of out-of-home placement;
Sec 96 (b) (7) Ch 90 SLA 2002(HB 250)

Alaska's Target & Progress:

New statutory deadlines for legal action in child abuse and neglect cases became effective on September 14, 1998; thus the department looked at 164 children's cases opened in October and November of that year as the benchmark. Of 164, 91 percent had the required legal action taken in their cases within 21 months, and 9 percent, the required legal action took 21 months or longer to complete. This year the department looked at 129 children's cases opened in December 1999 and January 2000. Of those cases, 86 percent had the required legal action taken within 21 months of the child's entry into foster care. In 14 percent of the cases, the required legal action took more than 21 months.

The success in meeting statutory deadlines is largely driven by Law's attorney workload. According to the American Bar Association, Center for Children and the Law, a reasonable caseload for child protection attorneys is between 40 and 50 active cases. Caseload statistical data has been developed over the course of the last six years. The following average statewide child protection caseloads of Law's Human Services section are "snapshots in time" and reflect that the success of our efforts in permanency placement for Alaskan children is largely driven by staff levels that result in much more reasonable caseloads per attorney.

October 1, 1997	95.2
December 9, 1998	91.0
September 2, 1999	70.0
September 25, 2000	57.6
October 1, 2001	69.3
September 25, 2002	76.0

Background and Strategies:

With the passage of Ch. 99, SLA 98, the new state child protection law and the new federal Adoption and Safe Families Act, important changes were made as to how long children may remain in the child protection legal system, and when certain actions must occur. These new statutory changes at the state and federal level more concretely define parental responsibility and the changes move cases to conclusion faster to ensure that when reunification with the family is not in the child's best interest, the child can be made legally eligible for placement in a permanent home more quickly. The large number of cases placed on the accelerated schedules when the legislation became effective severely impacted attorney workloads.

The legislation defines the timelines for permanency hearings and termination of parental rights. As previously discussed, in order to achieve those timelines, and in order to eliminate the permanency placement backlog and provide the assistance outlined above, the per attorney caseload must be manageable. Maintenance of our existing resources for child protection is necessary in order for us to effectively manage this important responsibility. In FY 2002, for example, we had to cut half of an attorney position in the Human Services component due to a reduction in the Balloon Project funding received by DHSS. This cut has had a direct impact on the Anchorage Human Services section, resulting in an increase in the average per attorney child abuse and neglect caseload.

The gathering of data to supply information for this measure is particularly time intensive as it is not in electronic format and requires a lengthy manual process involving physically retrieving files often stored in archives and tallying them individually. A better reflection of the success of the child protection system as a whole is available by looking at the kind of information that is now available from DFYS new MIS system. It might be more worthwhile to eliminate this performance measure in Law's budget and track it in DFYS.

Measure:

Number of child support enforcement cases completed;
 Sec 96 (b) (8) Ch 90 SLA 2002(HB 250)

Alaska's Target & Progress:

	Number of Closed Files
FY 1999	688
FY 2000	1,425
FY 2001	1,328
FY 2002	1,420

The FY 2000 increase of more than 200% stems from two factors: first, beginning in February 1998, CSED migrated to a new computer system and the ensuing year was a transition period that resulted in far fewer files transferred to Law's child support unit; second, an additional attorney was added to the unit in November of 1999. The end of the computer system transition period at CSED and the attorney added during FY 2000 resulted in a renewed focus on processing these cases.

Background and Strategies:

The child support unit represents the Child Support Enforcement Division (CSED) in court, including paternity establishment and disestablishment, modification of child support orders, employer non-compliance actions, criminal non-support prosecutions, licensing appeals, and miscellaneous other activities related to enforcement of child support orders. In addition, the unit provides legal support in matters relating to administrative child support enforcement actions, drafts legislation and regulations, and provides general legal advice to CSED. A reimbursable services agreement from CSED funds this work in the Department of Law.

The downturn in the number of cases completed in FY 2001 is an indication of the changing nature of CSED cases. Up to the time of the implementation of welfare reform, the bulk of the workload for this unit involved custodial parents and obligors who were on public assistance. Dollars related to these disputes were small, oppositions were rarely filed, very few cases went to hearing so it was possible to close quite a large number of cases quickly. Since welfare reform, there has been a dramatic drop in the number of custodial parents receiving public assistance - which was, after all, one of the intentions of welfare reform. However, as a result dollars in dispute tend to be more significant, the cases are more complicated and frequently oppositions are filed. Before welfare reform, just 10% of the cases went to a hearing, now about 50% do.

The unit is finding that specializing provides some relief. Some paraprofessionals and attorneys just do paternity cases while others handle bankruptcies or appeals. CSED's FY 2003 budget includes sufficient funding to pay for the 8 attorney positions designated to perform this work. At this time, we have been unable to develop a strategy to remarkably increase resolving cases short of adding new staff.

Measure:

Number of collections of civil and criminal judgments overseen by the collections unit.

Sec 96 (b) (9) Ch 90 SLA 2002(HB 250)

Alaska's Target & Progress:

FY 2000 - 76,000 approximately

FY 2001 - 81,565

FY 2002 - 87,439

**Civil Division
BRU Financial Summary by Component**

All dollars in thousands

	FY2002 Actuals				FY2003 Authorized				FY2004 Governor			
	General Funds	Federal Funds	Other Funds	Total Funds	General Funds	Federal Funds	Other Funds	Total Funds	General Funds	Federal Funds	Other Funds	Total Funds
<u>Formula Expenditures</u>	None.											
<u>Non-Formula Expenditures</u>												
Unallocated Reduction	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Dep. Attny General's Office	2,108.6	0.0	284.6	2,393.2	280.8	0.0	0.0	280.8	221.9	0.0	0.0	221.9
Collections and Support	309.6	0.0	1,270.0	1,579.6	522.0	0.0	1,374.5	1,896.5	524.2	0.0	1,385.5	1,909.7
Commercial Section	284.5	0.0	1,836.7	2,121.2	314.0	0.0	1,686.9	2,000.9	347.9	0.0	1,753.5	2,101.4
Environmental Law	516.9	0.0	861.4	1,378.3	600.0	0.0	641.3	1,241.3	625.3	0.0	645.4	1,270.7
Fair Business Practices	410.6	0.0	1,161.6	1,572.2	591.4	0.0	1,441.0	2,032.4	548.2	0.0	1,450.5	1,998.7
Governmental Affairs	1,068.9	0.0	2,404.3	3,473.2	1,033.6	0.0	2,518.2	3,551.8	1,067.3	0.0	2,528.3	3,595.6
Human Services	2,905.7	0.0	1,332.4	4,238.1	3,024.6	0.0	1,004.1	4,028.7	3,041.3	0.0	1,078.3	4,119.6
Legislation/Regulations	345.9	0.0	174.8	520.7	382.7	0.0	130.4	513.1	358.4	0.0	130.8	489.2
Natural Resources	965.1	0.0	218.6	1,183.7	982.8	0.0	328.7	1,311.5	964.6	0.0	331.0	1,295.6
Oil, Gas and Mining	0.0	0.0	2,551.9	2,551.9	0.0	0.0	2,919.1	2,919.1	2,869.1	0.0	1,477.0	4,346.1
Special Litigation	0.0	0.0	2,284.8	2,284.8	2.7	0.0	2,418.5	2,421.2	0.0	0.0	2,439.8	2,439.8
Statehood Defense	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1,057.7	0.0	0.0	1,057.7
Transportation Section	0.0	0.0	1,749.4	1,749.4	1.6	0.0	2,142.2	2,143.8	0.0	0.0	2,051.3	2,051.3
Timekeeping	0.0	0.0	469.7	469.7	15.9	0.0	753.3	769.2	0.0	0.0	847.6	847.6

	FY2002 Actuals				FY2003 Authorized				FY2004 Governor			
	General Funds	Federal Funds	Other Funds	Total Funds	General Funds	Federal Funds	Other Funds	Total Funds	General Funds	Federal Funds	Other Funds	Total Funds
and Support												
Totals	8,915.8	0.0	16,600.2	25,516.0	7,752.1	0.0	17,358.2	25,110.3	11,625.9	0.0	16,119.0	27,744.9

Civil Division

Proposed Changes in Levels of Service for FY2004

A consumer protection attorney is added in the Fair Business Practices component funded from a line-item transfer of statutory designated program receipts added in FY 2003. The attorney will enhance the consumer protection and antitrust efforts of the State by adding more resources to help educate the public about consumer fraud and protection from fraud, and advocating for the public by enforcing existing consumer protection laws. The additional staff resources will also make possible expansion of the State's involvement in class-action consumer protection and antitrust lawsuits that resolve areas of nation-wide public concern. The resolution of these cases often results in settlement monies received by the State which help fund this function in the Department of Law. Currently all such proceeds are earmarked for consumer protection in this agency and the addition of this attorney position is made possible by increases in the level of those receipts.

Civil Division

Summary of BRU Budget Changes by Component

From FY2003 Authorized to FY2004 Governor

All dollars in thousands

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
FY2003 Authorized	7,752.1	0.0	17,358.2	25,110.3
Adjustments which will continue current level of service:				
-Dep. Attny General's Office	-58.9	0.0	0.0	-58.9
-Collections and Support	2.2	0.0	11.0	13.2
-Commercial Section	33.9	0.0	66.6	100.5
-Environmental Law	25.3	0.0	4.1	29.4
-Fair Business Practices	-43.2	0.0	9.5	-33.7
-Governmental Affairs	33.7	0.0	10.1	43.8
-Human Services	16.7	0.0	74.2	90.9
-Legislation/Regulations	-24.3	0.0	0.4	-23.9
-Natural Resources	-18.2	0.0	2.3	-15.9
-Oil, Gas and Mining	2,869.1	0.0	1,386.2	4,255.3
-Special Litigation	-2.7	0.0	21.3	18.6
-Statehood Defense	-56.8	0.0	0.0	-56.8
-Transportation Section	-1.6	0.0	-90.9	-92.5
-Timekeeping and Support	-15.9	0.0	94.3	78.4
Proposed budget decreases:				
-Oil, Gas and Mining	0.0	0.0	-2,828.3	-2,828.3
FY2004 Governor	11,625.9	0.0	16,119.0	27,744.9