

# **State of Alaska FY2009 Governor's Operating Budget**

## **Department of Law Civil Division Results Delivery Unit Budget Summary**

## Civil Division Results Delivery Unit

### Contribution to Department's Mission

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

### Core Services

The Civil Division RDU 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 all civil litigation to which the state is a party, and handles legal matters for and provides legal advice to the governor, executive branch agencies, and -- upon request and agreement -- 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 RDU includes 15 budget components: (1) the Deputy Attorney General's Office; (2) Collections and Support; (3) Commercial and Fair Business Practices; (4) Environmental; (5) Human Services; (6) Labor and State Affairs; (7) Legislation and Regulations; (8) Natural Resources; (9) Oil, Gas and Mining; (10) Opinions, Appeals and Ethics; (11) Regulatory Affairs and Public Advocacy; (12) Statehood Defense; (13) Torts and Workers' Compensation; (14) Transportation; and (15) Timekeeping and Support. A short description of each budget component follows.

- (1) The Deputy Attorney General's Office supports the Deputy 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 in the six 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 collection 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 penalties. In 2002, the collections unit began collecting restitution on behalf of victims in criminal and juvenile delinquency proceedings. The child support unit represents the Child Support Services Division (CSSD) in court, provides legal support in matters relating to administrative child support enforcement actions, drafts legislation and regulations, and provides general legal advice to CSSD.
- (3) The Commercial and Fair Business Practices section protects the public by enforcing consumer protection and antitrust laws. It provides legal representation, defense and advice to 15 different divisions, commissions and corporations within the Departments of Revenue, Education and Early Development, and Commerce, Community and Economic Development. It provides legal services to the agencies that monitor insurance companies, and protects the public by handling enforcement actions in occupational licensing cases. The 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, charitable gaming, banking, securities, corporations, and the student loan program and other lending programs. The section also provides counsel concerning review of orders issued by the commission overseeing public utilities. The section acts as legal counsel for the Department of Revenue's Tax division (non-Oil and Gas), Permanent Fund Dividend division, and the Alaska Housing Finance Corporation. Within the Department of

Commerce, Community and Economic Development, the section provides legal services to the Divisions of Insurance, Investments, Banking and Securities, Corporations, Business and Professional Licensing and the Regulatory Commission of Alaska. The section also represents the Alaska Student Loan Corporation, the Alaska Commission on Postsecondary Education and the Professional Teaching Practices Commission in the Department of Education and Early Development.

- (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. It also provides legal advice on environmental matters, including legal representation to state agencies for the defense and prosecution of claims regarding the EXXON VALDEZ oil spill, prosecuting cruise lines that foul Alaska's air and waters, providing legal advice to the Department of Natural Resources on the ACMP and provides advice on water quality issues including permitting for large mines, NPDES primacy, marine vessel wastewater discharges and drinking water. The section's work helps to protect the state's environment; 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; to ensure that homeland security measures can be implemented consistent with Alaska's environmental laws; 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. The section also provides legal advice to DEC on public health issues including food safety, animal health and pesticides.
- (5) The Human Services section provides legal advice and representation to the Department of Health and Social Services on issues arising from the state's health services, social services, childcare licensing, and welfare programs. The section consists of two units, the Child Protection unit and the Human Services unit. Attorneys in the Child Protection unit provide legal assistance to the Department of Health and Social Services, Office of Children's Services (OCS) on issues arising from the state's child protection laws. Attorneys in the section advise OCS social workers and if necessary, engage in litigation to remove children from abusive or neglectful homes. The child protection unit has attorneys located in six separate geographic areas of the state to ensure that communities are better served in child protection cases. Attorneys in the Human Services unit provide legal representation to the Department of Health and Social Services on issues arising from the state's health services, social services and welfare programs. The unit prosecutes foster care, assisted living and adult foster home licensing revocations; establishes senior guardianships and conservatorships; represents the state's psychiatric facility in mental commitments; represents the state in Medicaid recipient/provider hearings and appeals and other Medicaid issues; provides advice on the state's certificate of need program and in public health and public assistance matters. Additionally, at the request of the Division of Health Care Services, the section has taken on the responsibility of enforcing statutory subrogation and lien rights when an individual becomes a Medicaid recipient as the result of the actions of a third party.
- (6) The Labor and State Affairs section provides legal assistance needed for governmental management, including budget, public finance, employment, labor relations, civil rights, procurement, retirement programs, Medicaid rate disputes, investment of treasury and Permanent Fund Corporation funds and homeland security matters. The section 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 virtually every agency in state government on personnel, employment and labor relations' issues. It also provides legal counsel to the Division of Motors Vehicles for revocation of driver's licenses. Agency recipients of the majority of legal services include the Departments of Administration, Community and Economic Development, Education and Early Development, Health and Social Services, Labor and Workforce Development and Military and Veteran's Affairs; the Offices of the Governor and Lieutenant Governor, the Governor's Office of Management and Budget; and quasi governmental entities such as the Alaska Industrial Development and Export Authority and the Alaska Permanent Fund Corporation.
- (7) The Legislation and Regulations Section drafts and edits legislation on behalf of the governor for introduction in the legislature, tracks and reviews all legislation for legal issues before the governor acts on it, and reviews virtually all regulations adopted by the executive branch for compliance with legal requirements. The section assists the governor's office in seeking passage of legislation introduced at the request of the governor. The section coordinates responses to legal questions and requests for information from legislators to the Department of Law. The section provides training on regulations and legislative matters to all state agencies and to assistant attorneys general. The section prepares the Drafting Manual for Administrative Regulations. The section frequently provides advice to state agencies regarding legal requirements for legislation, regulations, public records, and the Open Meetings Act. The regulations attorney serves as the executive branch representative to the National Conference of Commissioners on Uniform State Laws, which formulates model legislation on issues of nationwide concern.

- (8) The Natural Resources section provides legal advice and representation to state departments, boards, and commissions that regulate Alaska's lands, waters, and fish and game. 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. It also provides legal advice to the Agricultural Revolving Loan Fund. The Natural Resources section supervisor also oversees the activities of the Statehood Defense component.
- (9) The Oil, Gas, and Mining section is responsible for litigating oil, gas and mining resource disputes involving the state. It provides legal representation to state agencies for the investigation, defense, and prosecution of claims concerning the state's oil and gas royalty and taxation programs. It protects Alaskans' interests by ensuring that the state receives the royalty and tax revenues to which it is entitled for current and past production. It also defends against challenges to state oil and gas lease sale programs, monitors and protests tariffs charged for transportation of oil and gas production through pipelines, and provides legal advice to state agencies concerning the development of state oil, gas, and mineral resources.

Department attorneys must frequently rely on economists, engineers, and other experts to address these highly technical oil and gas issues. Moreover, due to the complexity, length, and magnitude of major tax, royalty, tariff, and antitrust cases, outside counsel must sometimes be used to help in these disputes. The contracts with outside counsel and expert consultants on large or complex oil and gas cases are also funded by this component, as are the legal services related to lease sales, drafting and interpreting oil and gas statutes and regulations, pipeline right-of-way issues, and oil and gas conservation.

- (10) The Opinions, Appeals and Ethics section provides specialized legal services and expertise to all state departments, commissions, boards and agencies on legal opinions, civil appeals in state and federal court, and executive branch ethics. The section's primary functions include improving the state's advocacy in civil appellate work, improving the quality of Attorney General opinions, providing timely and comprehensive services on executive branch ethics for all state government, and providing specialized legal expertise in certain areas including public records act and Indian law. The attorneys in the section evaluate and make recommendations to the Attorney General on all civil appeals and petitions for review. The section also provides assistance with briefing and case preparation, and handles appeals where the case presents significant constitutional issues.
- (11) The Regulatory Affairs and Public Advocacy section was created in July 2004. The section carries out the Attorney General's responsibility to represent the public interest in regulatory affairs by performing the public advocacy function in utility and pipeline carrier matters that come before the Regulatory Commission of Alaska.
- (12) The Statehood Defense group located in the Natural Resources section 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. The Statehood Defense group works on RS 2477 rights-of-way, access in National Forests and across other federal lands and ANCSA 17(b) and other easements. The unit provides ongoing legal advice to the Department of Fish and Game as it works to implement dual management of subsistence resources and closely monitors the actions of the Federal Subsistence Board. The unit also works on issues arising under the Endangered Species Act, the Pacific Salmon Treaty, the Magnuson-Stevens Fishery Conservation and Management Act, and other federal laws to protect state fishery and wildlife resources and the state's role in managing them. The unit also assists DNR with its' efforts to secure Alaska Statehood Act land entitlements. The unit frequently comments on drafts and amendments to bills before Congress on a wide range of resource related topics and provides advice to state agencies on matters of federal Indian law.
- (13) The Torts and Workers' Compensation 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 defends the state in contested workers' compensation claims, 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.

- (14) The Transportation section provides legal advice to and representation of the Department of Transportation and Public Facilities. The section assists the Department of Transportation with project development and operation of 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.
- (15) 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.

End Result	Strategies to Achieve End Result
<p><b>A: Improve Client-Agency Decision Making</b></p> <p><u>Target #1:</u> 5% reduction per year in legal challenges to final agency decisions in which the state does not prevail</p> <p><u>Measure #1:</u> % reduction in legal challenges to agency decisions per year in which the state does not prevail</p>	<p><b>A1: Increase agency training</b></p> <p><u>Target #1:</u> 1 training per agency per year</p> <p><u>Measure #1:</u> # of agencies receiving one training per year</p> <p><b>A2: Implement review of existing agency regulations to ensure clarity and statutory consistency</b></p> <p><u>Target #1:</u> 2 reviews per year</p> <p><u>Measure #1:</u> # of reviews completed per year</p> <p><b>A3: Reduce time for legal reviews of agency approved regulations</b></p> <p><u>Target #1:</u> 100% on-time response</p> <p><u>Measure #1:</u> % response delivered within mutually agreed time</p> <p><b>A4: Increase public awareness of agency regulation adoption process</b></p> <p><u>Target #1:</u> Hold 1 informational meeting for the public per year</p> <p><u>Measure #1:</u> Number of informational meetings held per year</p> <p><b>A5: Encourage and facilitate agency use of alternative dispute resolution</b></p> <p><u>Target #1:</u> Train two agencies in ADR use per year</p> <p><u>Measure #1:</u> # of agencies trained in ADR use per year</p> <p><b>A6: Increase communication between client agencies and Department of Law</b></p> <p><u>Target #1:</u> Implement annual senior staff meetings with each agency</p> <p><u>Measure #1:</u> # of agency senior staff meetings per year</p> <p><b>A7: Enhance compliance with state ethics laws</b></p> <p><u>Target #1:</u> Train 3 agencies in ethics per year</p>

	<p><u>Measure #1:</u> # of agencies trained each year</p> <p><u>Target #2:</u> 5% increase in informal advice to agencies on ethics</p> <p><u>Measure #2:</u> % increase in informal responses to questions about ethics.</p> <p><u>Target #3:</u> Increase timeliness of response in ethics matters</p> <p><u>Measure #3:</u> % responses delivered within established timeframe.</p>
End Result	Strategies to Achieve End Result
<p><b>B: Enhance the Welfare of Children</b></p> <p><u>Target #1:</u> Increase the percentage of cases in which a permanent legal resolution is obtained for children in the custody of the Department of Health and Social Services, Office of Children's Services</p> <p><u>Measure #1:</u> % of cases in which a permanent legal resolution is obtained for children in state custody.</p> <p><u>Target #2:</u> Increase the percentage of Child in Need of Aid cases that are eligible for federal reimbursement.</p> <p><u>Measure #2:</u> % of Child in Need of Aid cases that are eligible for federal reimbursement.</p> <p><u>Target #3:</u> Increase the percentage of child support cases successfully resolved</p> <p><u>Measure #3:</u> % of child support cases successfully resolved</p>	<p><b>B1: Increase the number of Petitions for Termination of Parental Rights or Petitions for Guardianship when a child has been in the custody of the department for 15 of the most recent 22 months when adoption or guardianship is the plan for the child</b></p> <p><u>Target #1:</u> Two training sessions per year for AGO staff and OCS staff.</p> <p><u>Measure #1:</u> # of training sessions completed each year</p> <p><u>Target #2:</u> File Petitions for Termination of Parental Rights within the timeframe mandated by statute in the cases in which the filing of such petitions is statutorily required</p> <p><u>Measure #2:</u> % of petitions filed within the statutorily mandated timeframe</p> <p><u>Target #3:</u> File Petitions for Guardianship with 60 days in the cases in which guardianship has been identified as the permanent goal for the child</p> <p><u>Measure #3:</u> % of petitions filed with within 60 days after guardianship has been identified as the permanent goal</p> <p><b>B2: Increase the number of child support orders that comply with state child support guidelines</b></p> <p><u>Target #1:</u> Take action in 90% of child support modification files within 30 days of receipt of file from CSSD</p> <p><u>Measure #1:</u> % of modification files in which action is taken within 30 days of receipt by this office.</p> <p><b>B3: Improve administrative decision-making at the administrative review and formal hearing level</b></p> <p><u>Target #1:</u> Complete one training session per year for establishment and modification personnel at CSSD</p> <p><u>Measure #1:</u> # of training sessions completed each year</p> <p><u>Target #2:</u> One annual meeting with CSSD's senior staff</p> <p><u>Measure #2:</u> # of meetings with CSSD's senior staff each year</p> <p><u>Target #3:</u> Provide monthly report to CSSD summarizing supreme court decisions relating to child support and recommending changes to CSSD regulations, policies, or</p>

	<p>procedures as a result of those decisions  <u>Measure #3:</u> # of monthly reports completed each year</p> <p><b>B4: Increase the use of civil enforcement remedies in cases where routine administrative collection actions have failed</b></p> <p><u>Target #1:</u> Conduct four meetings with CSSD enforcement personnel each year to discuss screening and investigating cases for complex civil enforcement remedies  <u>Measure #1:</u> # of meetings held with CSSD enforcement personnel each year</p> <p><u>Target #2:</u> Increase the number of cases accepted for complex civil enforcement action – including civil contempt, fraudulent transfer, piercing the corporate veil, seek work orders, or license enforcement – by 2% per year  <u>Measure #2:</u> % increase in the number of cases referred by CSSD that are accepted for complex civil enforcement</p> <p><b>B5: Increase in number of cases in which appropriate judicial findings are contained in the initial court order and in permanency orders in Child-in-Need of Aid cases</b></p> <p><u>Target #1:</u> Two training sessions per year for AGO staff and OCS staff  <u>Measure #1:</u> # of training sessions completed each year</p> <p><u>Target #2:</u> 100% Quality assurance review of all initial court orders prepared by AGO staff within 5 business days of receipt  <u>Measure #2:</u> % of initial court orders reviewed within 5 days of receipt</p> <p><u>Target #3:</u> 100% of deficient court orders remedied within 30 days of notification by DHSS  <u>Measure #3:</u> % of cases in which deficiencies have been remedied within 30 days of notification</p>
End Result	Strategies to Achieve End Result
<p><b>C: Enhance The Protection of Victims of Crimes and Delinquent Acts</b></p> <p><u>Target #1:</u> Reduction in complaints from victims of crimes and delinquent acts submitted to the Office of Victims Rights, the Attorney General's Office, the State Ombudsman, or the Office of the Governor.  <u>Measure #1:</u> Change in the number of complaints submitted by victims to the offices designated above.</p>	<p><b>C1: Increase collection of restitution on behalf of victims</b></p> <p><u>Target #1:</u> Request disbursement of 90% of all restitution payments to victims within 10 business days after receipt of the payment, excluding the 30-day hold for personal checks  <u>Measure #1:</u> % of disbursements that are requested within 10 business days of receipt of payment, not including the 30-day hold for personal checks</p> <p><u>Target #2:</u> Increase the overall restitution collections by 5% each year  <u>Measure #2:</u> % increase in total restitution collections each year</p>

	<p><u>Target #3:</u> Increase the number of cases closed by 5% each year due to payment in full of the restitution.</p> <p><u>Measure #3:</u> % increase in restitution cases closed each year.</p> <p><u>Target #4:</u> Increase by 10%the use of civil enforcement remedies in cases where permanent fund dividend attachments have failed</p> <p><u>Measure #4:</u> % increase in number of cases in which one or more of the following actions have been taken: (1) bank sweeps; (2) wage garnishments; and (3) liens recorded</p>
End Result	Strategies to Achieve End Result
<p><b>D: Enhance Consumer Protection in Alaska</b></p> <p><u>Target #1:</u> Increase effective consumer protection enforcement through successful resolution of consumer complaints, enforcement actions and consumer education</p> <p><u>Measure #1:</u> Increase in the number of consumer complaints resolved, enforcement actions taken, and consumer education initiatives completed</p>	<p><b>D1: Increase consumer education</b></p> <p><u>Target #1:</u> At least 4 consumer education initiatives completed per year</p> <p><u>Measure #1:</u> Number of initiatives completed in a year</p> <p><b>D2: Develop stronger consumer protection laws and regulations</b></p> <p><u>Target #1:</u> Propose two consumer protection or antitrust legislative initiatives or regulations per year.</p> <p><u>Measure #1:</u> Number of legislative initiatives submitted and regulations drafted per year</p> <p><b>D3: Effective enforcement</b></p> <p><u>Target #1:</u> 5% increase in investigations and prosecutions</p> <p><u>Measure #1:</u> % increase in number of investigations and prosecutions initiated</p> <p><b>D4: Effective antitrust enforcement</b></p> <p><u>Target #1:</u> Participate in multistate antitrust matters and investigate local matters implicating antitrust issues</p> <p><u>Measure #1:</u> Number of multistate antitrust joined and local antitrust investigations initiated</p> <p><b>D5: Effective implementation of registration laws</b></p> <p><u>Target #1:</u> 100% of annual registration applications processed within one year</p> <p><u>Measure #1:</u> % of actual applications processed within one year</p> <p><b>D6: Effective consumer complaint resolution</b></p> <p><u>Target #1:</u> Increase % of consumer complaints resolved through informal complaint process</p> <p><u>Measure #1:</u> % increase in consumer complaints resolved through informal complaint process</p>
End Result	Strategies to Achieve End Result
<p><b>E: Improve Regulatory Advocacy On Behalf Of The Public</b></p>	<p><b>E1: Increase effectiveness of AG's advocacy of public interest in RCA dockets</b></p>

<p><u>Target #1:</u> 70% success rate in representing the public interest before the RCA  <u>Measure #1:</u> % of cases in which the position of the DOL RAPA section is adopted by decision or settlement</p>	<p><u>Target #1:</u> 5% increase in success rate in representing public interest  <u>Measure #1:</u> % increase in cases in which the AG's public interest position is adopted by decision or settlement</p> <p><b>E2: Enhance operational expertise</b></p> <p><u>Target #1:</u> Provide one training opportunity a year for AAGs and RAPA analyst staff  <u>Measure #1:</u> # of training opportunities provided</p> <p><b>E3: Enhance public awareness of public advocacy role</b></p> <p><u>Target #1:</u> Publish Public Advocate Advisories for cases significantly affecting the public interest  <u>Measure #1:</u> # of Public Advocate Advisories published for cases significantly affecting the public interest</p>
<p><b>End Result</b></p>	<p><b>Strategies to Achieve End Result</b></p>
<p><b>F: Enhance State Revenue From Mineral Resources</b></p> <p><u>Target #1:</u> Increase state revenue from mineral resource development by 20% (adjusted for changes in oil and gas prices) over current baseline projections, over the next ten years  <u>Measure #1:</u> % progress toward increase in state revenue from mineral resource development over current baseline projections, each year over the next ten years</p>	<p><b>F1: Assist state agencies in achieving a project to market Alaska's North Slope Gas</b></p> <p><u>Target #1:</u> Within seven years have a transportation system completed to carry North Slope gas to market  <u>Measure #1:</u> Number of years required for completion of a transportation system to carry North Slope gas to market</p> <p><b>F2: Defend non-discriminatory inter-state TAPS tariff</b></p> <p><u>Target #1:</u> Achieve non-discriminatory TAPS tariff  <u>Measure #1:</u> Successful FERC adjudicatory determination following administrative hearing</p>

<p><b>FY2009 Resources Allocated to Achieve Results</b></p>							
<p><b>FY2009 Results Delivery Unit Budget: \$48,062,700</b></p>	<p><b>Personnel:</b></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding-left: 20px;">Full time</td> <td style="text-align: right;">291</td> </tr> <tr> <td style="padding-left: 20px;">Part time</td> <td style="text-align: right;">8</td> </tr> <tr> <td style="padding-left: 20px;"><b>Total</b></td> <td style="text-align: right; border-top: 1px solid black;"><b>299</b></td> </tr> </table>	Full time	291	Part time	8	<b>Total</b>	<b>299</b>
Full time	291						
Part time	8						
<b>Total</b>	<b>299</b>						

## Performance Measure Detail

### A: Result - Improve Client-Agency Decision Making

**Target #1:** 5% reduction per year in legal challenges to final agency decisions in which the state does not prevail

**Measure #1:** % reduction in legal challenges to agency decisions per year in which the state does not prevail

#### Appeals in Which the State Did Not Prevail

Year	YTD
2007	8

### A1: Strategy - Increase agency training

**Target #1:** 1 training per agency per year

**Measure #1:** # of agencies receiving one training per year

Fiscal Year	YTD
FY 2006	15
FY 2007	24

*Does not include Court System, University, Railroad, or Legislature*

### A2: Strategy - Implement review of existing agency regulations to ensure clarity and statutory consistency

**Target #1:** 2 reviews per year

**Measure #1:** # of reviews completed per year

#### Regulation Review

Fiscal Year	YTD	Target	Variance
FY 2006	5	2	0
FY 2007	41	2	0

### A3: Strategy - Reduce time for legal reviews of agency approved regulations

**Target #1:** 100% on-time response

**Measure #1:** % response delivered within mutually agreed time

#### Regulation Review On Time

Fiscal Year	YTD	Target	Variance
FY 2006	95%	100%	5%
FY 2007	97%	100%	3%

**A4: Strategy - Increase public awareness of agency regulation adoption process**

**Target #1:** Hold 1 informational meeting for the public per year

**Measure #1:** Number of informational meetings held per year

**Informational Meetings**

Fiscal Year	YTD	Target	Variance
FY 2006	45	1	0
FY 2007	48	1	0

*These are meetings held not solely for the public, but public attend to gain information. The meetings consist of the Boards of Fisheries, Game, Big Game Commercial Services Guide Board, Kenai River Working Group, Board of Agriculture and Conservation, Soil and Water Conservation and Development, Board, and the Federal Subsistence Board.*

**Analysis of results and challenges:** The Legislation and Regulations Section has worked closely with the small business regulations coordinator in the Department of Commerce, Community and Economic Development in the implementation of the small business regulations pilot project. The pilot project was authorized by the legislature to facilitate regulations being more responsive to the needs of small business. The Legislation and Regulations section has provided training to, and reviewed materials for the small business regulations coordinator. The small business regulations coordinator has given presentations before small business groups and conferences during fiscal year 2006 to explain the small business regulations pilot project.

**A5: Strategy - Encourage and facilitate agency use of alternative dispute resolution**

**Target #1:** Train two agencies in ADR use per year

**Measure #1:** # of agencies trained in ADR use per year

**Alternative Dispute Resolution**

Fiscal Year	YTD	Target	Variance
FY 2006	2	2	0
FY 2007	0	2	0

*While the Civil Division did not provide specific training during FY07 we did assist agencies in 6 actual alternate dispute resolutions during the year.*

**A6: Strategy - Increase communication between client agencies and Department of Law**

**Target #1:** Implement annual senior staff meetings with each agency

**Measure #1:** # of agency senior staff meetings per year

**Analysis of results and challenges:** FY07 - Labor and State Affairs estimates they conducted over 700 meetings with senior agency staff. Collections and Support and Transportation each reported one meeting during FY07. Human Services section chief and senior AAGs met with senior OCS staff once per month while the Anchorage and Fairbanks AAGs met with OCS supervisors every other month. The Natural Resources section continues to meet with senior agency staff as needed. Attorneys in the Commercial and Fair Business Section met numerous times during the year with senior staff of each agency. The section represents 15 different agencies as well as gives advice to 21 occupational boards and commissions. In particular, section attorneys 1) had at least 15 in-person meetings with senior management at the Department of Revenue on non-oil and gas tax and permanent fund dividend related matters; 2) had weekly telephonic meetings with senior staff at Alaska Housing Finance Corporations on public housing matters and attended seven AHFC board meetings; 3) attended seven scheduled board meetings of Alaska Commission on Postsecondary Education and Alaska Student Loan Corporation; 4) attended and gave advice at regularly scheduled board meetings of various occupational boards including the State Medical Board, Board of Nursing, the Real Estate Commission, the Board of Marine Pilots, the Board of Public Accountancy, and the Board of Dental Examiners, and the Professional Teaching Practices Commission; and 5) attended bi-monthly meetings with senior staff of the Division of Insurance and weekly meetings with Division of Insurance investigators.

FY06 - Staff in the Natural Resources section meet with senior level agency staff an average of 300+ times per

year. The Environmental Section reports three senior staff meetings, Collections and Support reports one meeting. Oil and Gas reports that the section, along with DNR Oil and Gas and Revenue Audit jointly put on a "Royalty Day" presentation for staff from all 3 agencies in order to facilitate a common ground of understanding of lease, litigation, royalty and tax history. We have also participated in informal brown bag lunches with the DNR Oil and Gas division on different oil and gas related topics. Future, similar sessions are planned for other DNR divisions.

### A7: Strategy - Enhance compliance with state ethics laws

**Target #1:** Train 3 agencies in ethics per year

**Measure #1:** # of agencies trained each year

#### Increased Ethics Training

Fiscal Year	YTD	Target
FY 2006	1	3
FY 2007	6	3

**Target #2:** 5% increase in informal advice to agencies on ethics

**Measure #2:** % increase in informal responses to questions about ethics.

#### Informal Responses to Ethics Questions

Year	YTD
2006	227
2007	186

**Analysis of results and challenges:** With the transition in administrations, we have been asked about various ethics issues with respect to post-state employment and conflicts of interest. We have achieved 100% of responses delivered within mutually agreed timeframes.

**Target #3:** Increase timeliness of response in ethics matters

**Measure #3:** % responses delivered within established timeframe.

### B: Result - Enhance the Welfare of Children

**Target #1:** Increase the percentage of cases in which a permanent legal resolution is obtained for children in the custody of the Department of Health and Social Services, Office of Children's Services

**Measure #1:** % of cases in which a permanent legal resolution is obtained for children in state custody.

**Analysis of results and challenges:** The Department of Law has a role in increasing the number of cases in which a permanent legal resolution is obtained for children in state custody by moving forward with termination and guardianship petitions once that specific goal has been identified by the client agency. While OCS is able to provide statistics on the percentages of children achieving permanency, there is no database or mechanism in place that tracks when a permanency goal is changed versus when that permanency goal was achieved. Therefore, it is difficult to quantify improvement or lack thereof in this area. On a general practice level, our office could continue to strive to file timely motions once the permanency goal of adoption or guardianship has been identified.

**Target #2:** Increase the percentage of Child in Need of Aid cases that are eligible for federal reimbursement.

**Measure #2:** % of Child in Need of Aid cases that are eligible for federal reimbursement.

**Analysis of results and challenges:** The Department of Law has a role in increasing the number of children in foster care who are eligible for federal aid by obtaining specific judicial findings at various points in the case. At the very first hearing, attorneys must obtain a finding that it is "contrary to the welfare of the child to remain in the home". Failure to obtain such a finding will keep OCS from ever receiving federal foster care reimbursement

for that child through Title IV E of the Social Security Act. Our office has consistently been meeting this goal over the last few years.

In addition, our office has implemented the use of form orders that are filled out and submitted simultaneously with certain hearings. The use of these form orders has improved the timeliness with which initial and permanency orders are submitted to the court for signature.

Our office has also improved when it comes to obtaining a finding that "reasonable efforts have been made to achieve the permanent plan for the child" within 12 months after the child enters foster care and every 12 months thereafter. This issue has been a topic of discussion at collaborative agency meetings. With the court, Office of Public Advocacy, OCS and the Department of Law working together, an effort is made to schedule these necessary hearings at 10 months instead of 12, increasing the number of cases in compliance and assuring the cases could be counted in a federal audit.

**Target #3:** Increase the percentage of child support cases successfully resolved

**Measure #3:** % of child support cases successfully resolved

**Analysis of results and challenges:** We currently do not have the data to track this measure. However, the section did open over 1,400 support cases in FY07 and closed over 1,500.

**B1: Strategy - Increase the number of Petitions for Termination of Parental Rights or Petitions for Guardianship when a child has been in the custody of the department for 15 of the most recent 22 months when adoption or guardianship is the plan for the child**

**Target #1:** Two training sessions per year for AGO staff and OCS staff.

**Measure #1:** # of training sessions completed each year

**Target #2:** File Petitions for Termination of Parental Rights within the timeframe mandated by statute in the cases in which the filing of such petitions is statutorily required

**Measure #2:** % of petitions filed within the statutorily mandated timeframe

**Analysis of results and challenges:** This information has not been readily available to date. Law hopes that our new case management system at Law will produce this kind of information. However, in both internal and agency partner meetings, specific attention has been given to the issue of timely filing. The court also appears to making it routine to inquire when a petition for termination or guardianship might be filed if the 15 month mark is approaching. On a general practice level, it appears that there may be some improvement. Maintaining full staffing levels is also necessary to effectively monitor statutory deadlines.

**Target #3:** File Petitions for Guardianship with 60 days in the cases in which guardianship has been identified as the permanent goal for the child

**Measure #3:** % of petitions filed with within 60 days after guardianship has been identified as the permanent goal

**Analysis of results and challenges:** This information has not been readily available to date. Law hopes that our new case management system at Law will produce this kind of information. However, in both internal and agency partner meetings, specific attention has been given to the issue of timely filing. The court also appears to making it routine to inquire when a petition for termination or guardianship might be filed if the 15 month mark is approaching. So on a general practice level, it appears that there may be some improvement. Maintaining full staffing is also necessary to effectively monitor statutory deadlines.

## B2: Strategy - Increase the number of child support orders that comply with state child support guidelines

**Target #1:** Take action in 90% of child support modification files within 30 days of receipt of file from CSSD

**Measure #1:** % of modification files in which action is taken within 30 days of receipt by this office.

### Modification Files Opened

Year	YTD
2006	817
2007	691

**Analysis of results and challenges:** Complete data on date of action not readily available.

## B3: Strategy - Improve administrative decision-making at the administrative review and formal hearing level

**Target #1:** Complete one training session per year for establishment and modification personnel at CSSD

**Measure #1:** # of training sessions completed each year

Year	YTD	Target	Variance
2006	1	1	0
2007	0	1	-1

**Analysis of results and challenges:** No formal training sessions were conducted in FY2007. Each assistant attorney general provided informal training to the caseworker and supervisor on specific issues that arose in individual cases.

**Target #2:** One annual meeting with CSSD's senior staff

**Measure #2:** # of meetings with CSSD's senior staff each year

### Meetings Held With CSSD Senior Staff

Year	YTD	Target	Variance
2006	1	1	0
2007	1	1	0

**Target #3:** Provide monthly report to CSSD summarizing supreme court decisions relating to child support and recommending changes to CSSD regulations, policies, or procedures as a result of those decisions

**Measure #3:** # of monthly reports completed each year

### Supreme Court Summary Reports Prepared for CSSD

Year	YTD
2006	5
2007	7

*Supreme court rulings relevant to child support and CSSD are not released every month therefore a summary report may not be needed. We have issued summary reports in all months where relevant rulings were released.*

**B4: Strategy - Increase the use of civil enforcement remedies in cases where routine administrative collection actions have failed**

**Target #1:** Conduct four meetings with CSSD enforcement personnel each year to discuss screening and investigating cases for complex civil enforcement remedies

**Measure #1:** # of meetings held with CSSD enforcement personnel each year

**Meetings with Enforcement Personnel**

Fiscal Year	YTD	Target	Variance
FY 2006	5	4	1
FY 2007	3	4	-1

**Target #2:** Increase the number of cases accepted for complex civil enforcement action – including civil contempt, fraudulent transfer, piercing the corporate veil, seek work orders, or license enforcement – by 2% per year

**Measure #2:** % increase in the number of cases referred by CSSD that are accepted for complex civil enforcement

**Increase CSSD complex civil enforcement cases**

Fiscal Year	YTD
FY 2005	9
FY 2006	27
FY 2007	14

**B5: Strategy - Increase in number of cases in which appropriate judicial findings are contained in the initial court order and in permanency orders in Child-in-Need of Aid cases**

**Target #1:** Two training sessions per year for AGO staff and OCS staff

**Measure #1:** # of training sessions completed each year

**Analysis of results and challenges:** There were no training sessions specifically on this topic although the topic is routinely included in general staff meetings with OCS. Further, the form orders, implemented February 14, 2007 in Anchorage, contain all the necessary findings. There have been at least two training sessions for Anchorage AAGs on the correct use of the form orders in court. It is anticipated the form orders will go statewide this fall.

**Target #2:** 100% Quality assurance review of all initial court orders prepared by AGO staff within 5 business days of receipt

**Measure #2:** % of initial court orders reviewed within 5 days of receipt

**Analysis of results and challenges:** The Child Protection Section Chief personally reviews the initial court orders prepared by new AAG staff to make sure they will qualify for federal reimbursement. She generally reviews these orders for 2-3 months after the employment of a new AAG.

**Target #3:** 100% of deficient court orders remedied within 30 days of notification by DHSS

**Measure #3:** % of cases in which deficiencies have been remedied within 30 days of notification

**Analysis of results and challenges:** In the past, OCS has notified the Child Protection Section Chief of deficient or missing courts orders. She then notifies the attorney and asks that they copy her with the order or notify her if the order had already been prepared but just needed to be sent to OCS. The Section Chief kept track of those requests and believed the goal was met. She has not heard of any deficient or missing court

orders for months.

### C: Result - Enhance The Protection of Victims of Crimes and Delinquent Acts

**Target #1:** Reduction in complaints from victims of crimes and delinquent acts submitted to the Office of Victims Rights, the Attorney General's Office, the State Ombudsman, or the Office of the Governor.

**Measure #1:** Change in the number of complaints submitted by victims to the offices designated above.

#### Complaints From Victims

Year	YTD
2006	1
2007	1

### C1: Strategy - Increase collection of restitution on behalf of victims

**Target #1:** Request disbursement of 90% of all restitution payments to victims within 10 business days after receipt of the payment, excluding the 30-day hold for personal checks

**Measure #1:** % of disbursements that are requested within 10 business days of receipt of payment, not including the 30-day hold for personal checks

**Analysis of results and challenges:** Currently, this data is not tracked and cannot be easily obtained. The goal is to track this information when the new collections database is implemented.

**Target #2:** Increase the overall restitution collections by 5% each year

**Measure #2:** % increase in total restitution collections each year

#### Increase in Collections

Fiscal Year	YTD	Target	Variance
FY 2005	1,580,055	Baseline	0
FY 2006	1,554,055	1,604,000	1.5% Decrease
FY 2007	2,251,207	647,207	41.6% Increase

*Increases and decreases from year to year are primarily the result of the size of the permanent fund dividend since the PFD is the primary collection tool.*

**Target #3:** Increase the number of cases closed by 5% each year due to payment in full of the restitution.

**Measure #3:** % increase in restitution cases closed each year.

#### Restitution Cases Closed

Fiscal Year	Adults	Juveniles	YTD	Target
FY 2005	321	127	448	Baseline
FY 2006	409 +27.41%	188 +48.03%	597 +33.26%	470 0%

**Target #4:** Increase by 10% the use of civil enforcement remedies in cases where permanent fund dividend attachments have failed

**Measure #4:** % increase in number of cases in which one or more of the following actions have been taken: (1) bank sweeps; (2) wage garnishments; and (3) liens recorded

**Analysis of results and challenges:** Data not currently tracked or readily available.

**D: Result - Enhance Consumer Protection in Alaska**

**Target #1:** Increase effective consumer protection enforcement through successful resolution of consumer complaints, enforcement actions and consumer education

**Measure #1:** Increase in the number of consumer complaints resolved, enforcement actions taken, and consumer education initiatives completed

**Analysis of results and challenges:** As indicated in the strategies, the consumer protection unit met its target strategies for enhancing consumer protection for FY2007.

**D1: Strategy - Increase consumer education**

**Target #1:** At least 4 consumer education initiatives completed per year

**Measure #1:** Number of initiatives completed in a year

**Consumer Education Initiatives**

Fiscal Year	YTD	Target	Variance
FY 2006	4	4	0
FY 2007	4	4	0

**Analysis of results and challenges:** The CP Unit, in conjunction with the AARP and the Division of Banking, developed the curriculum and helped teach ten two-day seminars to educate consumers about consumer and financial fraud. In addition to two seminars in Anchorage, AAG's from the CP Unit traveled to Kenai, Palmer, Fairbanks, Juneau, and Ketchikan to give presentations on Identity Theft, Common Scams and Frauds, Auto Fraud, Investment Fraud, and Telemarketing Fraud.

The CP Unit also teamed up with Alaska Legal Services' Pro Bono Program to offer a clinic on "Consumer Protection Fundamentals" for consumers in Palmer and Wasilla, and conducted the opening session for Scam Jam 2006, an event sponsored by the BBB.

In addition, the CP Unit teamed up with the FTC and the Indian Arts and Crafts Board and participated in several consumer education efforts relating to Alaska Native arts and crafts. Those efforts included revising and distributing over 32,000 Alaska Native Art brochures throughout the State and on cruise ships heading to Alaska, purchasing advertising space in the Alaska Airlines Horizon magazine to provide consumer information on counterfeit Alaska Native art and crafts, and participating as a guest speaker at the Alaska Native Art Summit held in Anchorage at the fall AFN conference.

Finally, the CP Unit issued 2 consumer education press releases and posted 7 consumer alerts on the Consumer Protection web page containing warnings of scams and other relevant consumer information.

**D2: Strategy - Develop stronger consumer protection laws and regulations**

**Target #1:** Propose two consumer protection or antitrust legislative initiatives or regulations per year.

**Measure #1:** Number of legislative initiatives submitted and regulations drafted per year

**Stronger Consumer Laws**

Fiscal Year	YTD	Target	Variance
FY 2006	2	2	0
FY 2007	2	2	0

**Analysis of results and challenges:** The CP Unit proposed two legislative initiatives, including legislative proposals relating to the use of promotional checks and to the regulation of sellers of travel. The CP Unit worked closely with the Legislature on several important pieces of legislation; (1) we worked closely with the Division of Banking and the mortgage industry to pass the mortgage broker/lender legislation introduced by Representative Lynn; (2) we drafted legislation that changed the requirements for sellers of tobacco products;

and (3) we worked closely with the Legislature and bill sponsors on a comprehensive bill to regulate the use of personal information.

### D3: Strategy - Effective enforcement

**Target #1:** 5% increase in investigations and prosecutions

**Measure #1:** % increase in number of investigations and prosecutions initiated

#### Effective Enforcement

Year	Investigations	Prosecutions	YTD	Target
2005	26	10	36	Baseline
2006	25	12	37	38
2007	39	28	67	40

**Analysis of results and challenges:** FY2007 actions included three complaints filed against pharmaceutical manufacturers that we have associated with outside counsel to assist in prosecuting the cases. In addition, a major investigation and prosecution of a large regional auto dealer doing business in Alaska for consumer protection violations.

### D4: Strategy - Effective antitrust enforcement

**Target #1:** Participate in multistate antitrust matters and investigate local matters implicating antitrust issues

**Measure #1:** Number of multistate antitrust joined and local antitrust investigations initiated

#### Antitrust Cases Joined or Investigated

Year	YTD
2006	10
2007	8

**Analysis of results and challenges:** FY2007 - The CP Unit is currently involved in five multistate antitrust cases. We agreed to participate as the cost share administrator in the Ovcon case, which has partially settled. We are also active in the Dynamic Random Access memory ("DRAM" ) case that is pending in Federal District Court in California. Locally, we are investigating the merger of two global Japanese companies that have fish processing assets in Alaska (Maruha and Nichiro); the merger of two student bus companies (Laidlaw and First Student); and the acquisition of a helicopter company by ERA in Southeast Alaska. The unit continues to monitor and report on retail gasoline issues.

FY2006 - The CP Unit is currently involved in seven multistate antitrust cases. Locally, we also investigated the Trident/Ocean Beauty merger (merger was called off); completed the Alaska CHARR price fixing review; and completed our investigation of the Crowley Marine/Yukon merger that resulted in a Consent Judgment. The unit continues to monitor and report on retail gasoline issues.

### D5: Strategy - Effective implementation of registration laws

**Target #1:** 100% of annual registration applications processed within one year

**Measure #1:** % of actual applications processed within one year

#### Implementation of Registration Laws

Fiscal Year	YTD	Target	Variance
FY 2006	100%	100%	0
FY 2007	100%	100%	0

**Analysis of results and challenges:** All charitable organizations and paid solicitors registrations that were filed for the 2006 – 2007 registration period were processed timely in FY07.

All telemarketing applications for 2006 were processed timely in FY07. Although there were inquiries regarding registration for sellers of business opportunities, no registrations were submitted.

### D6: Strategy - Effective consumer complaint resolution

**Target #1:** Increase % of consumer complaints resolved through informal complaint process

**Measure #1:** % increase in consumer complaints resolved through informal complaint process

#### Consumer Complaint Resolution

Fiscal Year	Complaints Received	Resolved	% Resolved
FY 2005	369	91	24.6%
FY 2006	353	203	57.5%
FY 2007	341	209	61.2%

**Analysis of results and challenges:** FY2007 resolved cases reported above includes 37 complaints received in FY2007 that were substantially complete, although not closed, as of year end. The CP unit also received 28 fewer complaints than FY 06. Some of that decrease is attributed to the fact the CP unit receives significant amounts of mail from consumers regarding foreign lotteries and sweepstakes scams and counterfeit check solicitations that are handled mostly without formal complaint form. The unit does so because the state remedies with respect to these matters are generally not effective given that many of the players are out of state or out of the country. Instead, the unit focuses on consumer education and increasing consumer awareness to help consumers avoid being duped by these scams. In prior fiscal years, some of the correspondence regarding these scams would have involved formal complaint forms and would have been included in the complaint totals.

### E: Result - Improve Regulatory Advocacy On Behalf Of The Public

**Target #1:** 70% success rate in representing the public interest before the RCA

**Measure #1:** % of cases in which the position of the DOL RAPA section is adopted by decision or settlement

#### Improve Regulatory Advocacy

Fiscal Year	YTD	Target	Variance
FY 2006	88%	70%	18%
FY 2007	82%	70%	12%

*FY06 there were 26 dockets with final decisions, 3 in which RAPA position not adopted. In FY07 there were 9 dockets with final decisions, 2 in which RAPA position not adopted.*

### E1: Strategy - Increase effectiveness of AG's advocacy of public interest in RCA dockets

**Target #1:** 5% increase in success rate in representing public interest

**Measure #1:** % increase in cases in which the AG's public interest position is adopted by decision or settlement

### E2: Strategy - Enhance operational expertise

**Target #1:** Provide one training opportunity a year for AAGs and RAPA analyst staff

**Measure #1:** # of training opportunities provided

**E3: Strategy - Enhance public awareness of public advocacy role**

**Target #1:** Publish Public Advocate Advisories for cases significantly affecting the public interest

**Measure #1:** # of Public Advocate Advisories published for cases significantly affecting the public interest

**F: Result - Enhance State Revenue From Mineral Resources**

**Target #1:** Increase state revenue from mineral resource development by 20% (adjusted for changes in oil and gas prices) over current baseline projections, over the next ten years

**Measure #1:** % progress toward increase in state revenue from mineral resource development over current baseline projections, each year over the next ten years

**F1: Strategy - Assist state agencies in achieving a project to market Alaska's North Slope Gas**

**Target #1:** Within seven years have a transportation system completed to carry North Slope gas to market

**Measure #1:** Number of years required for completion of a transportation system to carry North Slope gas to market

**F2: Strategy - Defend non-discriminatory inter-state TAPS tariff**

**Target #1:** Achieve non-discriminatory TAPS tariff

**Measure #1:** Successful FERC adjudicatory determination following administrative hearing

**Key RDU Challenges****RECRUITMENT AND RETENTION**

The Civil Division is experiencing major challenges in the recruitment and retention of qualified staff to serve as Assistant Attorneys General. This is true in both urban and rural offices. The primary reason for this serious problem is that the state's salaries for attorneys are not competitive with similar jobs in both the private and public sector. Law school graduates often have large student loans and cannot afford to take state legal positions when other public and private sector employers pay higher entry salaries. We are also losing experienced attorneys with many years of state service to jobs with higher pay in other public and private offices. The division needs to address this problem. The hiring and retention of qualified, skilled attorneys directly impacts the state's ability to achieve results beneficial to the state.

**TECHNOLOGY UPGRADE**

The Department continues work on a several-tiered project to enhance the organization and efficiency of legal work through the use of technology. The division has entered into a contract to implement the software application ProLaw for timekeeping, case management, document management as well as to replace and unify our beleaguered collections and restitution databases. Full deployment of case management, and timekeeping and billing may occur by June 30, 2008. It is expected that document management and the collections component will not be fully in place until 2009.

## OTHER CHALLENGES

**Collection and Child Support:** The primary challenge for the child support unit will be addressing the emergence of federally funded IV-D tribal child support agencies within Alaska. In March 2007, the federal Office of Child Support approved the Tlingit and Haida Indian Tribes application to operate a IV-D child support agency. Another Alaska Indian tribe has also applied to the federal government to operate a IV-D child support agency. Due to the unique legal landscape in Alaska concerning native law, the child support unit will be providing additional assistance to the Alaska Child Support Services Division (CSSD) to address legal issues related to tribal child support agencies.

**Commercial and Fair Business:** Alaska is a target state for many types of consumer fraud. Under the authority of the Consumer Protection Act (AS 45.50.471 et seq.), the Commercial and Fair Business Section investigates and brings 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, the section is 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.

**Environmental Law:** The section will investigate and pursue appropriate legal actions to hold BP and others accountable for oil spills from pipeline corrosion and the resulting partial shutdown of the Prudhoe Bay field.

The State of Alaska and the United States have asserted a re-opener claim arising out of the EXXON Valdez oil spill in the amount of \$92 million. The division will continue to pursue this matter.

The division will work with the Alaska Department of Environmental Conservation (DEC) to develop a program and detailed regulations to implement provisions of the Cruise Ship Initiative approved by the voters in the August 2006 primary elections.

The section will investigate and pursue appropriate legal action against federal agencies to obtain cleanup and costs for federally owned contaminated sites in Alaska.

**Human Services - Child Protection:** Statutory changes at the state and federal level have necessitated changes in how long children may remain in the child protection legal system. 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 changes also mandate additional court proceedings in order to ensure that the department is quickly moving to achieve a permanent plan for the child. The accelerated schedules, additional hearings, and appropriate document preparation mean that each attorney carries a significant caseload. Statewide, attorneys continue to prosecute approximately 3,000 ongoing Child-In-Need-Of-Aid (CINA) cases, carrying an average of 125 plus cases, significantly higher than the 100 cases per full time attorney suggested by the U.S. Department of Health and Human Services, Administration for Children and Families.

Maintaining our existing attorney staffing levels and resources for child protection is critical in order for us to effectively manage these important responsibilities. Adequate attorney resources are necessary in order to help the Office of Children's Services meet certain goals for purposes of federal funding of foster care and administrative expenses involved in child protection. Loss of even one attorney position will have a significant negative impact on the section's ability to meet federal and state statutory obligations.

In 2007, DHSS's federal Title IVE funding was reduced. This will result in approximately \$100,000 less funding to the Department of Law and we are requesting general funds of \$100,000 to replace this reduction in interagency receipts.

Maintaining our existing attorney staffing levels and resources for child protection is critical in order for us to effectively manage the important responsibility of protecting Alaska's children.

**Labor and State Affairs:** The Labor and State Affairs section will represent the state in challenges to state election and ballot practices based on the federal Voting Rights and Help America Vote Acts. The claims are that the state is providing inadequate assistance to voters who are Native language speakers and that voting machines should be programmed to provide ballot choices in Native Alaska languages and dialects. In addition, the number of voter initiative petitions is increasing in anticipation of the election in 2008, requiring review and, in many instances, involving litigation, and increased need for assistance to the Division of Elections. Some of the litigation may carry into FY2008.

The section will continue to represent the state in two education cases with potentially 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 education case is a challenge under the Alaska Constitution that public education is inadequately funded and seeks significant additional funds for education. The court issued its decision in the second case in FY 2007, and the state prevailed on most issues. The court retained jurisdiction on one issue—the sufficiency of state oversight of the school districts—and is expected to schedule a hearing on this issue in FY 2009. In addition, an appeal, requiring additional legal services, is anticipated.

The division will pursue an action on behalf of the state and the benefit trust funds concerning the breach of the professional duties of the state's former actuary.

**Natural Resources:** The section advises ADF&G regarding Endangered Species Act (ESA) issues and the North Pacific Fisheries Management Council. The section anticipates that legal work in the area of ESA application will increase significantly.

**Oil, Gas and Mining:** Matters of significance for the section include:

*Oil and gas pipeline related matters*

During FY2009 the Oil, Gas and Mining section will be briefing and participating in post-hearing proceedings stemming from the state's discrimination challenge to the TAPS' 2005 -2006 interstate tariffs. Those proceedings are likely to include the appeal of the Federal Energy Regulatory Commission (FERC) decision to the DC Circuit of the US Court of Appeals. The State will also examine the TAPS carriers' proposed 2009 tariffs and consider whether we will file a protest.

*North Slope gas pipeline-related issues*

The section will continue to assist in arrangements to construct a gasline to transport Alaska North Slope gas to market. The known gas resource on Alaska's North Slope is huge. The potential gas resource on unexplored lands on the North Slope is much larger. Developing this resource is one of the most promising opportunities to strengthen and support Alaska's economic future. The section will continue to work closely with the Governor's office and the Departments of Natural Resources and Revenue to provide legal assistance in implementation of the Alaska Gasline Inducement Act (AGIA) license process, including providing analysis on relevant constitutional and other state law issues.

*Tax Cases*

One of the Departments major cases, which is at the informal conference stage, is an appeal of the department of Revenue's decision to aggregate properties within the Prudhoe Bay Unit for purposes of determining the Economic Limit Factor (ELF). The ELF appeal stems from a January 2005 decision by the Department of Revenue to aggregate six satellite producing areas with the Prudhoe Bay producing areas for purposes of calculating the ELF. The effect of this decision was to increase North Slope production taxes significantly. The impact of this decision was limited to a total of 14 months because the ELF was repealed by the amendments made to the state's production tax laws in 2006.

*Leasing*

The section continues to assist the Department of Natural Resources in multiple litigation resulting from the department's decision to find the lessees of the Point Thomson Unit in default for failure to develop or produce the Unit. The department's decision, which resulted in termination of the unit, was appealed by the lessees to superior court and almost certainly will be appealed to the Alaska Supreme Court.

**Opinions, Appeals and Ethics:** 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.

## Significant Changes in Results to be Delivered in FY2009

The Collections unit continues their efforts to increase the types of judgments, fines and costs collected on behalf of the State of Alaska. The goal is to implement the new collections database and begin collecting other judgments, fines and costs, specifically the Correctional Facility Surcharge and Police Training Surcharge, owed to the State of Alaska that are not currently collected by the unit due to the limited database and limited staff. Our FY2009 request includes the addition of one position to help us reduce backlog and meet the goal to increase collections.

The division anticipates an increase in services to be delivered to the Department of Commerce, Community and Economic Development (DCCED) related to HB 162 that was passed in 2007. This legislation requires the licensing and regulation of persons originating, lending, or brokering mortgage loans and becomes effective July 1, 2008. In the fiscal note for the bill, DCCED provided for increased contractual costs to Law to help draft legal documents, to represent the division at administrative hearings resulting from licensing, revocation, or disciplinary action, and to enforce orders resulting from investigations.

With the passage of expanded ethics legislation in 2007 the ethics attorneys have recently begun a training program for all other state executive branch departments and boards, and is developing an interactive training program for the Department of Law website. This effort will continue into 2009. The division expects a sharp increase in ethics related inquiries and investigations due to the 2007 legislation and accordingly has requested an additional one-half PFT attorney position in its FY2009 budget.

## Major RDU Accomplishments in 2007

**Collections and Support:** The section collected over \$5.8 million in FY2007, an increase of over \$1 million from FY2006. These collections included criminal fines, cost of appointed counsel; cost of imprisonment, civil judgments owed to the State of Alaska, and victim restitution. Of this amount, the division collected and disbursed to victims about \$2.2 million in restitution. This is roughly an increase of over \$250,000 from FY2006.

**Commercial and Fair Business:** The section saw success on many fronts this year in the area of consumer protection. Highlights include:

- Processed 341 consumer complaints. Of those, 172 were resolved through the informal complaint process resulting in either direct or indirect assistance to consumers.
- Successfully investigated, prosecuted, and negotiated settlements in seven separate consumer protection matters that involved violations of state consumer protection laws. In addition to obtaining injunctive relief and/or restitution to consumers in these matters, the state collected \$552,500 for consumer protection enforcement.
- Participated in settlement of six multi-state consumer protection cases in which the state obtained injunctive relief prohibiting conduct in violation of our consumer protection and antitrust statutes, restitution for consumers, and payments to the state of approximately \$320,000.
- Collected \$85,270 in fees for registration of charitable organizations, paid solicitors, and telemarketers.
- Successfully litigated on behalf of the Division of Investments cases involving defaulted loans and obtained judgments totaling \$1,265,842 of which \$477,145 has been collected. Also, successfully collected \$59,800 on behalf of the Division of Investments in vessel foreclosure matters from 11 permanent fund dividend garnishments or assignments and two wage garnishments.
- Successfully litigated or obtained settlements on behalf of the Department of Revenue that resulted in payment of \$8,448,050 in unpaid corporate income taxes. The section also successfully defended eight cases before the Office of Administrative Hearings involving challenges to excise taxes assessed by Revenue, resulting in the affirmance of \$179,821 in taxes.

**Environmental:** In FY2007, the component recovered over \$2,866,647 for state costs and penalties related to violations of state environmental laws and obtained cleanup agreements with polluters with an estimated value of over \$63,640,000 for a total benefit to the state of over \$66,506,647. To accomplish this, the component expended only \$1,772,000.

The component assisted DEC in the continuing investigation of the 2006 BP pipeline spills and shutdowns due to corrosion.

The component worked with state and federal agencies to facilitate various economic development projects including the Kensington mine project. The state intervened in legal challenges to defend some of these projects.

The component represent the State in its role as an amicus on briefs submitted to the U.S. Supreme Court in a Clean Water Act consolidated case in which the Court reviewed the exercise of federal jurisdiction over certain wetlands (*Rapanos and Carabell*). The State of Alaska joined with other amici in also raising the issue of state rights over the management of wetlands within state boundaries where the wetlands have no significant nexus to navigable waters.

**Labor and State Affairs:** The section assisted with the representation of the state in a securities fraud action against AOL Time Warner resulting in the recovery of \$45 million for the state.

**Natural Resources:** The section continued efforts to defend the state's predator control program, including the defeat of a preliminary injunction motion to halt predator control, and briefed motions for summary judgment.

The section also successfully defended Board of Fisheries regulations against a class action lawsuit seeking a declaration that the regulations are a taking of plaintiffs limited entry permits and shore fishery leases without just compensation.

**Oil and Gas:** The section assisted the Governor's office and the Departments of Natural Resources and Revenue in developing complex legislation to induce construction of a natural gas pipeline from the North Slope to markets. The section engaged in researching and drafting legislation, analyzing constitutional and other state law issues relevant to the legislation. The section assisted the departments in implementing the resulting AGIA legislation, researching and assisting in developing a Request for Applications, and implementing regulations.

The section assisted the Department of Natural Resources in issuing its decisions finding the Point Thomson Unit (PTU) lessees in default of the PTU and represented the Department in seven appeals of that decision to the superior court. The section also successfully obtained dismissal with prejudice of ExxonMobil's lawsuit for damages as a result of the PTU termination. Although the lessees appealed the termination decisions to superior court, ExxonMobil dropped its appeal of the portion of the termination decision requiring 29,000 of the 106,000 acres in the PTU to be returned to the state for breach of drilling commitments, and paid the state \$21.5 million for that breach.

The section assisted the Department of Revenue in negotiating a settlement with a major oil and gas producer that resulted in the producer paying over \$11 million in additional production tax and interest to the state.

The section assisted the Department of Revenue in property tax hearings before the State Assessment Review Board that resulted in the owners of the TransAlaska Pipeline System paying \$93 million in additional property taxes.

**Regulatory Affairs Public Advocacy:** During 2007 the section filed several dockets on behalf of the Attorney General. Notable cases included:

*Enstar GSA.* Last fiscal year, RAPA filed expert testimony with the RCA arguing that a gas supply contract between a gas utility and a supplier should not be based upon an outside commodities price index. This fiscal year after a two week hearing, the RCA rejected the proposed contract, essentially accepting RAPA's argument.

*Golden Heart Utilities (GHU).* RAPA filed expert testimony arguing for reductions to GHU's requested increases of 13.3% for water and 12.29% for sewer service. RAPA testimony focused on rate of return and expense items inappropriately included for ratemaking purposes. After a week hearing, the RCA set a new revenue requirement and ordered refunds to consumers. The decision was appealed by GHU to the Superior court. The AG/RAPA has filed a cross-appeal.

**Statehood Defense:** The state's attorneys obtained entry of a consent decree in a case against the United States quieting title to two rights-of-way the state claimed under RS 2477 across BLM land in northern Alaska.

The state succeeded in persuading the Federal Subsistence Board to reverse its customary and traditional use finding for Ninilchik in resident fish in the Kenai River.

The state continued to file new applications with the Bureau of Land Management (BLM) for recordable disclaimers of interest (RDI) for lands underlying navigable waters and has received a number of RDIs from BLM. The state's attorneys persuaded the Department of Interior to overturn an erroneous and detrimental interpretation of when a BLM navigability determination is administratively final. The state has continued to educate landowners about the public's right to use state navigable waters.

**Transportation:** The section provided legal assistance with the development of infrastructure projects such as a Knik Arm Crossing, Ted Stevens Anchorage and Fairbanks International Airports concourse and airfield renovations, a downtown Anchorage parking garage, a Palmer State Office Building, the new Kenai River Bridge, Gravina Island access, Juneau access, Fairbanks and Anchorage fish hatcheries, and the Department of Public Safety Crime Laboratory.

### Contact Information

**Contact:** Craig Tillery, Deputy Attorney General

**Phone:** (907) 269-5100

**Fax:** (907) 278-7022

**E-mail:** [craig.tillery@alaska.gov](mailto:craig.tillery@alaska.gov)

**Civil Division  
RDU Financial Summary by Component**

*All dollars shown in thousands*

	FY2007 Actuals				FY2008 Management Plan				FY2009 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
<b>Formula Expenditures</b>												
None.												
<b>Non-Formula Expenditures</b>												
Dep. Attny General's Office	1,764.4	0.0	0.0	1,764.4	361.3	0.0	0.0	361.3	368.4	0.0	0.0	368.4
Collections and Support	701.2	0.0	1,446.4	2,147.6	777.3	0.0	1,760.5	2,537.8	1,001.8	0.0	1,600.8	2,602.6
Commercial and Fair Business	960.7	0.0	3,437.2	4,397.9	951.9	0.0	3,454.7	4,406.6	942.9	0.0	3,473.8	4,416.7
Environmental Law	263.0	0.0	2,411.9	2,674.9	973.6	0.0	956.9	1,930.5	981.9	0.0	959.2	1,941.1
Human Services/Child Protection	4,923.5	0.0	1,791.8	6,715.3	4,569.6	0.0	1,370.0	5,939.6	4,758.2	0.0	1,375.6	6,133.8
Labor and State Affairs	1,801.1	0.0	4,667.0	6,468.1	2,148.6	0.0	3,141.2	5,289.8	2,331.6	0.0	3,216.3	5,547.9
Legislation/Regulations	706.6	0.0	288.9	995.5	551.8	0.0	248.8	800.6	556.5	0.0	177.7	734.2
Natural Resources	1,189.7	0.0	170.3	1,360.0	854.5	0.0	326.9	1,181.4	860.8	0.0	328.2	1,189.0
Oil, Gas and Mining	6,303.3	0.0	4,220.6	10,523.9	3,146.4	0.0	1,477.0	4,623.4	3,180.7	0.0	11,077.0	14,257.7
Opinions, Appeals and Ethics	208.0	0.0	107.0	315.0	1,039.6	0.0	418.6	1,458.2	1,040.9	0.0	422.3	1,463.2
Reg Affairs Public Advocacy	0.0	0.0	1,233.8	1,233.8	0.0	0.0	1,427.2	1,427.2	0.0	0.0	1,462.1	1,462.1
Statehood Defense	848.1	0.0	0.0	848.1	1,343.2	0.0	0.0	1,343.2	1,002.6	0.0	0.0	1,002.6
Timekeeping & Litigation	0.0	0.0	683.6	683.6	76.1	0.0	1,169.4	1,245.5	351.3	0.0	1,203.7	1,555.0

**Civil Division  
RDU Financial Summary by Component**

*All dollars shown in thousands*

	FY2007 Actuals				FY2008 Management Plan				FY2009 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
Support Torts and Workers' Compensation	0.0	0.0	2,953.1	2,953.1	47.1	0.0	2,981.0	3,028.1	47.1	0.0	3,029.7	3,076.8
Transportation Section	0.0	0.0	1,989.3	1,989.3	38.9	0.0	2,316.5	2,355.4	38.9	0.0	2,272.7	2,311.6
<b>Totals</b>	<b>19,669.6</b>	<b>0.0</b>	<b>25,400.9</b>	<b>45,070.5</b>	<b>16,879.9</b>	<b>0.0</b>	<b>21,048.7</b>	<b>37,928.6</b>	<b>17,463.6</b>	<b>0.0</b>	<b>30,599.1</b>	<b>48,062.7</b>

**Civil Division**  
**Summary of RDU Budget Changes by Component**  
**From FY2008 Management Plan to FY2009 Governor**

*All dollars shown in thousands*

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
<b>FY2008 Management Plan</b>	<b>16,879.9</b>	<b>0.0</b>	<b>21,048.7</b>	<b>37,928.6</b>
<b>Adjustments which will continue current level of service:</b>				
-Dep. Attny General's Office	7.1	0.0	0.0	7.1
-Collections and Support	113.0	0.0	-159.7	-46.7
-Commercial and Fair Business	-9.0	0.0	19.1	10.1
-Environmental Law	8.3	0.0	2.3	10.6
-Human Services/Child Protection	188.6	0.0	5.6	194.2
-Labor and State Affairs	11.2	0.0	75.1	86.3
-Legislation/Regulations	4.7	0.0	-71.1	-66.4
-Natural Resources	6.3	0.0	1.3	7.6
-Oil, Gas and Mining	34.3	0.0	0.0	34.3
-Opinions, Appeals and Ethics	1.3	0.0	3.7	5.0
-Reg Affairs Public Advocacy	0.0	0.0	34.9	34.9
-Statehood Defense	-340.6	0.0	0.0	-340.6
-Timekeeping & Litigation Support	10.0	0.0	34.3	44.3
-Torts and Workers' Compensation	0.0	0.0	48.7	48.7
-Transportation Section	0.0	0.0	-43.8	-43.8
<b>Proposed budget increases:</b>				
-Collections and Support	111.5	0.0	0.0	111.5
-Labor and State Affairs	171.8	0.0	0.0	171.8
-Oil, Gas and Mining	0.0	0.0	9,600.0	9,600.0
-Timekeeping & Litigation Support	265.2	0.0	0.0	265.2
<b>FY2009 Governor</b>	<b>17,463.6</b>	<b>0.0</b>	<b>30,599.1</b>	<b>48,062.7</b>