

State of Alaska
FY2018 Governor's Operating Budget

Department of Law
Civil Division
Results Delivery Unit Budget Summary

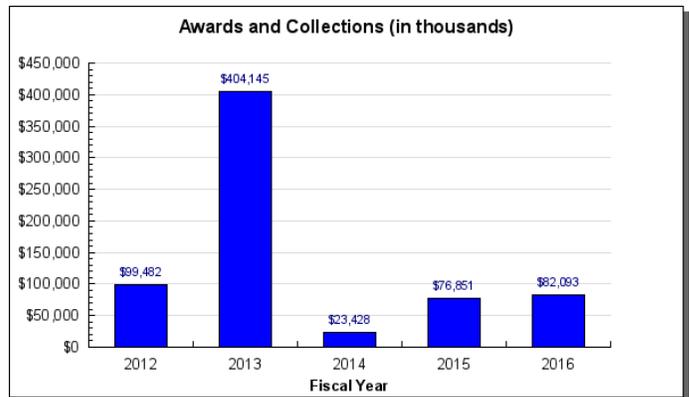
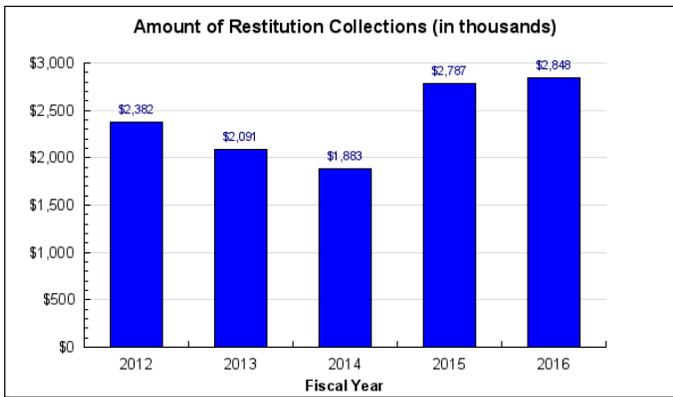
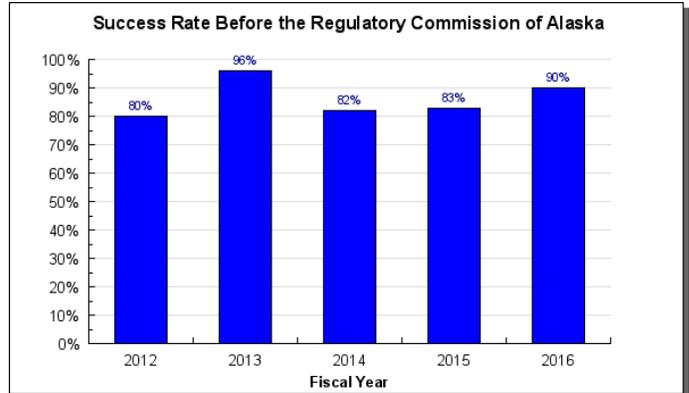
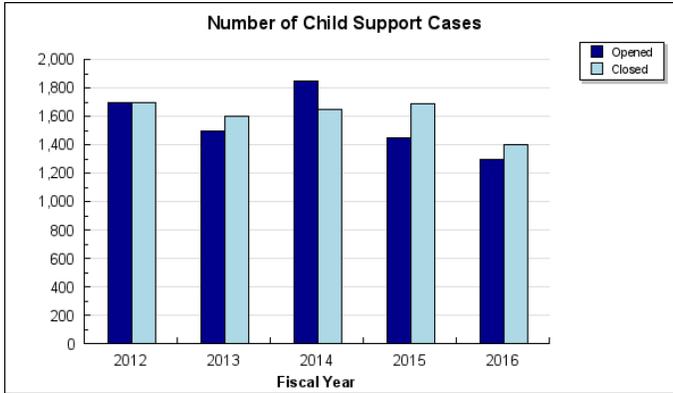
Civil Division Results Delivery Unit

Contribution to Department's Mission

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

Results

(Additional performance information is available on the web at <https://omb.alaska.gov/results>.)



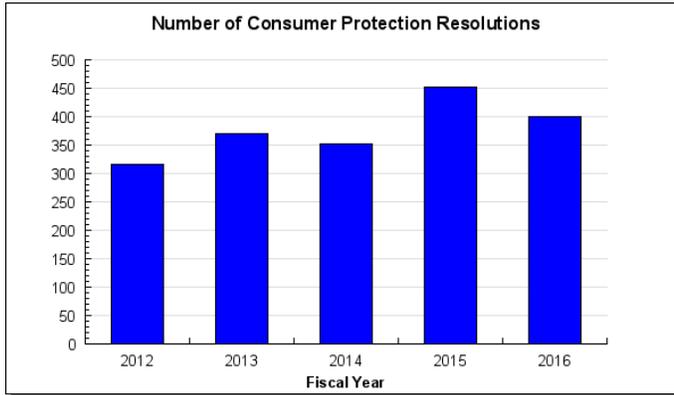
Core Services

- Protecting the Safety and Physical and Financial Well-being of Alaskans
- Protecting the Fiscal Integrity of the State of Alaska
- Promoting Good Governance

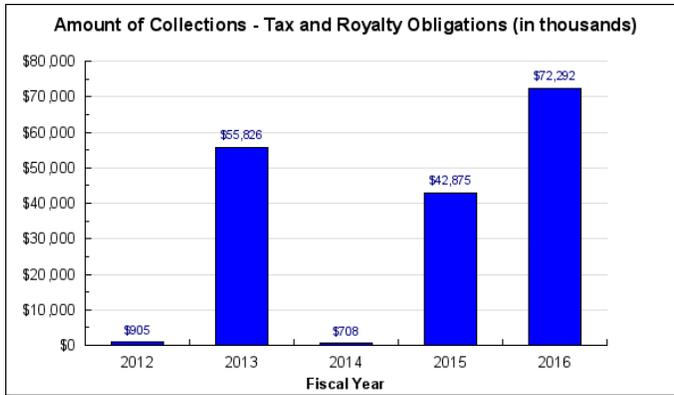
Measures by Core Service

(Additional performance information is available on the web at <https://omb.alaska.gov/results>.)

1. Protecting the Safety and Physical and Financial Well-being of Alaskans



2. Protecting the Fiscal Integrity of the State of Alaska



3. Promoting Good Governance



Major RDU Accomplishments in 2016

Protecting the Safety and Physical and Financial Well-being of Alaskans

- Child Protection. The Alaska Supreme Court affirmed the Office of Children's Services' [in the Department of Health and Social Services (DHSS)] in 22 appeals and reversed in one.

- Collections. In FY2016, the Collections Unit in the Collections and Support component collected about \$12.8 million. Of the total, \$2.8 was for crime victims and the remainder went to the general fund, Department of Corrections, Department of Public Safety, and the Public Defender Agency in the Department of Administration.
- Human Services. Advised in the passage of SB 74 (Medicaid Reform), which is estimated to save the state millions of general fund dollars in the coming fiscal years.
- Human Services. Handled more than 150 contested evidentiary hearings statewide related to guardianships, conservatorships and mental commitments.
- Consumer Protection. Participated in settlement of four major multi-state and local consumer protection matters resulting in injunctive relief prohibiting conduct in violation of state consumer protection statutes, and collected approximately \$3.3 million in payments to the state for costs, attorney's fees, consumer protection enforcement and education, and in restitution for consumers.
- Consumer Protection. Processed 436 consumer complaints. Of those, 400 were resolved through the informal complaint process, launching of a formal investigation, or referral to other appropriate state and federal agencies.
- Consumer Protection. Registered 3,800 charitable organizations, paid solicitors and telemarketers, and collected in excess of \$160,000 in registration fees.
- Commercial and Fair Business Practices. The section was a major contributor to the successful implementation of the marijuana initiative allowing for the cultivation, testing and sale of marijuana or marijuana products in the state. This effort involved working closely with the marijuana board's executive director and staff to formulate and draft over 140 pages of regulations.
- Labor and State Affairs. Represented the Alaska Industrial Development and Export Authority (AIDEA) in acquiring Pentex Alaska Natural Gas Company, LLC, which is the parent company of the natural gas utility in Fairbanks. The acquisition was in furtherance of the Interior Energy Project and enabled AIDEA to immediately lower the gas rates charged Fairbanks homeowners by approximately 13%.
- Regulatory Affairs and Public Advocacy. The section's advocacy yielded approximately \$13 million in quantifiable consumer benefits in FY2016. This quantification is based on refunds issued or the difference between the amounts requested by utilities in their respective revenue requirement proposals and the amounts ultimately awarded to them by the Regulatory Commission of Alaska (RCA).

Fostering the Conditions for Economic Opportunity and Responsible Development and Use of Alaska's Natural Resources

- Labor and State Affairs. Assisted AIDEA on its loan to BlueCrest Energy, Inc. to finance the purchase and transport of a high horsepower drilling rig.
- Natural Resources. Defended DOR's 2015 Trans-Alaska Pipeline System (TAPS) property tax valuation methodology before the State Assessment Review Board in May of 2015. The section also represented the DOR in litigation over the TAPS 2006 through 2014 property tax assessments. The state has received tens of millions of dollars in additional property taxes as a result of the superior court decisions in the 2006-2009 tax appeals, which have resulted in favorable Alaska Supreme Court decisions. A subsequent settlement agreement executed among all interested parties should add consistency and stability in TAPS property tax assessments for at least five years.
- Environmental. In FY2016, the section recovered \$6,539,622 for state costs and penalties related to violations of state environmental laws.
- Transportation. Section attorneys are defending the state against an attempt by environmental groups to halt a road project through the Tongass National Forest, and continue to assist in an ongoing dispute with the United States Forest Services over rights-of-way throughout Southeast Alaska.

Protecting the Fiscal Integrity of the State

- Labor and State Affairs. Successfully defended the state as intervenor in *Corvias Air Force Living v. Fairbanks North Star Borough*, in which the superior court held that the state and its local governments may tax private leasehold interests located within Alaska's federal military enclaves because Congress gave the state concurrent jurisdiction over such enclaves in the Alaska Statehood Act, and because there is no federal law prohibiting such local taxation.
- Labor and State Affairs. In a decision which will save the state's general fund millions of dollars every year, the section successfully obtained reversal of a superior court decision before the Alaska Supreme Court in a case where the Ketchikan Gateway Borough challenged the constitutionality of the mandatory municipal contribution for education funding after the superior court ruled partially in the borough's favor. Successfully obtained an award of attorneys' fees for the state.
- Natural Resources. Represented the Department of Revenue (DOR) in negotiating settlement of a number of corporate income tax, production tax and property tax disputes, which resulted in a total of about \$72 million in additional taxes, penalties and interest received in FY2016.
- Natural Resources. Helped the Department of Natural Resources evaluate a major dispute over production allocation worth tens of millions of dollars at the Northstar Unit.
- Regulatory Affairs and Public Advocacy. Successfully contested the inclusion of approximately \$700 million in costs from being factored into TAPS tariff rates. This decision, if upheld on appeal, will reduce tariff rates and increase production taxes and royalties paid to the state over the TAPS' lifespan.
- Special Litigation. Section attorneys working on a natural resources navigability case (Mosquito Fork) obtained a ruling from the federal district court that federal attorneys had acted in bad faith in pursuing defenses, resulting in an award of approximately \$600,000 in attorney fees against the federal government.
- Transportation. Defended multiple contractor claims filed against the Department of Transportation and Public Facilities, Administration and Natural Resources. Included among the larger cases were claims arising from the King Cove Road project and the Tustumena Ferry refurbishment.

Promoting and Defending Good Governance

- Labor and State Affairs. Advised the Office of the Lieutenant Governor regarding the certification of two ballot measures: (1) Permanent Fund Voter Registration (15PFVR), providing legal review and written recommendation as to certification of a ballot measure allowing for voter registration through the PFD application process, and drafting ballot measure language; and a (2) Constitutional Amendment (SJR 2), providing legal review of a joint resolution and drafting ballot language for a constitutional amendment allowing the state to incur debt by issuing general obligation bonds for post-secondary student loans.
- Labor and State Affairs. Successfully defended the state in an action alleging numerous breaches of trust by the state respecting school trust lands in *Citizens Alliance Protecting School Lands v. State of Alaska*, 1JU-13-0058CI.
- Labor and State Affairs. In conjunction with the Special Litigation section, successfully defended the Lieutenant Governor and the Division of Elections (DOE) before the Alaska Supreme Court in an election contest and ballot recount appeal from the 2016 primary election, obtaining a full reversal of the trial court decision which found that malconduct by election officials had changed the outcome of the election in House District 40, and reinstating the original election results as certified by the state.
- Legislation and Regulations. The section conducted legal review of nearly 1,200 pages of regulations during FY2016. Coordinated and prepared approximately 53 bills on behalf of the administration for the 30th legislative session including bills on insurance provisions to address the cost of insuring high-risk residents, to address use of permanent fund earnings for the state budget, to establish proxy procedures for adoption of a child in state

custody, to make needed reforms to the oil and gas production tax and to establish cost savings reforms for medical assistance.

- Special Litigation. During FY2016, the section successfully represented the DOE in emergency litigation challenging Alaska's candidate qualifications statutes brought by the Alaska Democratic Party obtaining early dismissal of the complaint on ripeness grounds. The section also led a team of attorneys in an expedited trial over the constitutionality of Alaska's campaign finance laws in federal district court, resulting in a favorable decision upholding the validity of each contested Alaska law challenged.

Key RDU Challenges

- Child Protection. Caseloads for attorneys in the Child Protection component increased an average of 55% across the state in recent years. Section attorneys carry an average of 89 family cases each, with attorneys in Anchorage and Palmer carrying over 100 cases. The American Bar Association Standards for lawyers representing child welfare agencies recommend no more than 60 family cases per attorney. These high attorney caseloads and shrinking resources lead to longer stays in foster care for children who could otherwise find permanency in their "forever home" and increase costs the state. The limited resources and growing caseloads could also negatively impact the amount of federal Title IV-E dollars the state is entitled to receive in reimbursement for eligible legal services performed in Children In Need of Aid (CINA) cases, thereby increasing the amount of general funds needed to perform the work.
- Consumer Protection. 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. Because of vacancies and current budget constraints, the department's consumer protection enforcement capacity has been significantly limited. The section currently has multiple vacancies for positions that perform consumer protection work. This creates difficulty for participation in local enforcement efforts as well as multi-state enforcement activities involving national companies that have committed unfair or deceptive practices impacting Alaskan consumers and to ensure continued receipt of statutorily designated program receipts. In FY2014, Consumer Protection Unit attorneys spent approximately 3,153 hours on consumer protection investigations and matters. In FY2016, Consumer Protection Unit attorneys spent approximately 1,781 hours on consumer protection investigations and matters. This represents about a 43% reduction in the Unit's consumer protection efforts because of staff reductions.
- Environmental Law. Positions reductions and vacancies have resulted in a drop in cost-recovery of Department of Environmental Conservation (DEC) oversight and cleanup costs for spill response and contaminated sites. Because of the statute of limitations bars on some of these types of costs, the section is unable to recover past costs incurred by DEC. The section has also been unable to pursue cleanup of "lingering contaminated sites" where there is no responsible party undertaking a cleanup. This results in contamination being unaddressed and contaminated sites remaining unclosed, which has impacts on Alaskans wanting to use, sell or develop property. These lingering contaminated sites have a chilling effect on local economies and real estate sales.
- Regulatory Affairs and Public Advocacy. The RAPA section currently handles antitrust matters. It is currently involved in four antitrust multistate matters, but the section is not joining others or initiating local enforcement efforts due to a lack of resources.
- Human Services. Attorney caseloads continue to increase each year, mainly because Alaska has one of the fastest growing aging populations in the nation.
- Human Services. Some public assistance programs (Alaska Heating Assistance Program, Senior Benefits, general assistance) are facing reduced funding and may see increased hearings and/or legal challenges as individuals lose access to the programs.
- Human Services. The child care assistance program is implementing new regulations that significantly revamp the program and create much more extensive requirements for non-licensed providers who wish to participate. This could lead to a significant increase in hearings.

- **Collections.** The primary challenge for the collections unit is to efficiently transfer about 8,500 restitution accounts to the Alaska Court System by the end of FY2017 and over 400,000 non-restitution collection accounts to the Department of Administration once the centralized collections unit is established under the shared services initiative.
- **Child Support.** In FY2018, the child support duties of the Collections and Support section will be merged into the Commercial and Fair Business section. All collections functions performed by the section will cease after FY2017.
- **Natural Resources.** Protecting Alaska's sovereign right to manage fish and game and to exert its sovereignty over statehood entitlement lands and navigable waters against federal government encroachment will continue to be a key challenge for the section.
- **Special Litigation.** This section was a new addition to the Civil Division in FY2017. The section replaced the Civil Division's previous ad hoc approach to team building with a formal structure, with the Special Litigation section at the center. The section provides trial expertise and guidance in cases from the other sections of the Civil Division. The division will continue to evaluate and adapt the role of the Special Litigation section so that the litigation team approach can produce optimal results for our clients and the department.

Significant Changes in Results to be Delivered in FY2018

The department is continuously assessing how it can better provide legal services to state agencies and litigate matters in the public interest. In light of the current environment, the department has made every effort to redirect and consolidate available resources in order to ensure efficiency while preserving effectiveness.

In FY2018, the Alaska Court System will take over collection of restitution for victims from Collections Unit of the Collections and Support section and the unit's remaining collection functions will be subsumed by the shared services initiative. The section's child support duties will be merged into the division's Commercial and Fair Business section to maximize efficiencies. These changes will subsequently remove the Collections and Support component from the Department of Law entirely.

Contact Information
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**Civil Division
RDU Financial Summary by Component**

All dollars shown in thousands

	FY2016 Actuals				FY2017 Management Plan				FY2018 Governor			
	UGF+DGF Funds	Other Funds	Federal Funds	Total Funds	UGF+DGF Funds	Other Funds	Federal Funds	Total Funds	UGF+DGF Funds	Other Funds	Federal Funds	Total Funds
Formula Expenditures												
None.												
Non-Formula Expenditures												
Dep. Attny General's Office	4,273.6	0.0	0.0	4,273.6	276.3	10.0	0.0	286.3	278.7	10.0	0.0	288.7
Child Protection	6,219.5	2,098.0	0.0	8,317.5	5,026.4	2,014.9	0.0	7,041.3	5,084.0	2,136.7	0.0	7,220.7
Collections and Support	829.1	1,492.6	0.0	2,321.7	783.1	1,800.6	0.0	2,583.7	0.0	0.0	0.0	0.0
Commercial and Fair Business	270.6	3,350.9	0.0	3,621.5	803.8	3,511.2	0.0	4,315.0	919.1	5,149.0	0.0	6,068.1
Environmental Law	103.6	893.6	0.0	997.2	508.3	1,243.4	0.0	1,751.7	528.0	1,260.2	0.0	1,788.2
Human Services	1,413.3	658.2	0.0	2,071.5	1,380.7	1,457.4	0.0	2,838.1	1,398.3	1,505.0	0.0	2,903.3
Labor and State Affairs	2,406.4	4,510.5	0.0	6,916.9	2,245.8	2,874.2	0.0	5,120.0	2,252.8	3,073.8	0.0	5,326.6
Legislation/Regulations	824.3	228.0	0.0	1,052.3	863.7	232.7	0.0	1,096.4	874.3	234.8	0.0	1,109.1
Natural Resources	2,819.0	768.6	0.0	3,587.6	6,854.3	3,439.9	0.0	10,294.2	5,430.1	3,512.0	0.0	8,942.1
Oil, Gas and Mining	7,099.2	5,247.7	0.0	12,346.9	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Opinions, Appeals and Ethics	384.0	0.0	0.0	384.0	1,217.9	913.3	0.0	2,131.2	1,255.0	968.0	0.0	2,223.0
Reg Affairs Public Advocacy	1,539.9	0.0	0.0	1,539.9	2,788.7	138.6	0.0	2,927.3	2,803.5	138.6	0.0	2,942.1
Special Litigation	0.0	0.0	0.0	0.0	1,049.9	213.7	0.0	1,263.6	1,072.6	236.4	0.0	1,309.0
Information and Project Support	256.5	899.9	0.0	1,156.4	275.9	1,833.1	0.0	2,109.0	232.5	1,609.6	0.0	1,842.1
Torts and Workers' Compensation	0.0	3,286.9	0.0	3,286.9	0.0	4,004.1	0.0	4,004.1	0.0	4,203.7	0.0	4,203.7
Transportation Section	0.0	2,250.9	0.0	2,250.9	0.0	2,433.9	0.0	2,433.9	0.0	2,661.1	0.0	2,661.1
Totals	28,439.0	25,685.8	0.0	54,124.8	24,074.8	26,121.0	0.0	50,195.8	22,128.9	26,698.9	0.0	48,827.8

Civil Division
Summary of RDU Budget Changes by Component
From FY2017 Management Plan to FY2018 Governor

All dollars shown in thousands

	<u>Unrestricted</u> <u>Gen (UGF)</u>	<u>Designated</u> <u>Gen (DGF)</u>	<u>Other Funds</u>	<u>Federal</u> <u>Funds</u>	<u>Total Funds</u>
FY2017 Management Plan	20,895.1	3,179.7	26,121.0	0.0	50,195.8
One-time items:					
-Commercial and Fair Business	0.0	-50.0	0.0	0.0	-50.0
-Natural Resources	-3,590.2	0.0	0.0	0.0	-3,590.2
-Reg Affairs Public Advocacy	-375.0	0.0	0.0	0.0	-375.0
Adjustments which continue current level of service:					
-Dep. Attny General's Office	-7.6	10.0	0.0	0.0	2.4
-Child Protection	57.6	0.0	121.8	0.0	179.4
-Collections and Support	0.6	-101.3	-1,693.5	0.0	-1,794.2
-Commercial and Fair Business	10.3	155.0	1,637.8	0.0	1,803.1
-Environmental Law	19.7	0.0	16.8	0.0	36.5
-Human Services	17.6	0.0	47.6	0.0	65.2
-Labor and State Affairs	7.0	0.0	-0.4	0.0	6.6
-Legislation/Regulations	10.6	0.0	2.1	0.0	12.7
-Natural Resources	41.0	0.0	72.1	0.0	113.1
-Opinions, Appeals and Ethics	37.1	0.0	54.7	0.0	91.8
-Reg Affairs Public Advocacy	2.8	12.0	0.0	0.0	14.8
-Special Litigation	22.7	0.0	22.7	0.0	45.4
-Information and Project Support	-43.4	0.0	-223.5	0.0	-266.9
-Torts and Workers' Compensation	0.0	0.0	199.6	0.0	199.6
-Transportation Section	0.0	0.0	27.2	0.0	27.2
Proposed budget increases:					
-Labor and State Affairs	0.0	0.0	200.0	0.0	200.0
-Natural Resources	2,125.0	0.0	0.0	0.0	2,125.0
-Reg Affairs Public Advocacy	375.0	0.0	0.0	0.0	375.0
-Transportation Section	0.0	0.0	200.0	0.0	200.0
Proposed budget decreases:					
-Collections and Support	-314.0	-368.4	-107.1	0.0	-789.5
FY2018 Governor	19,291.9	2,837.0	26,698.9	0.0	48,827.8