

State of Alaska
FY2019 Governor's Operating Budget

Department of Law
Civil Division
Results Delivery Unit Budget Summary

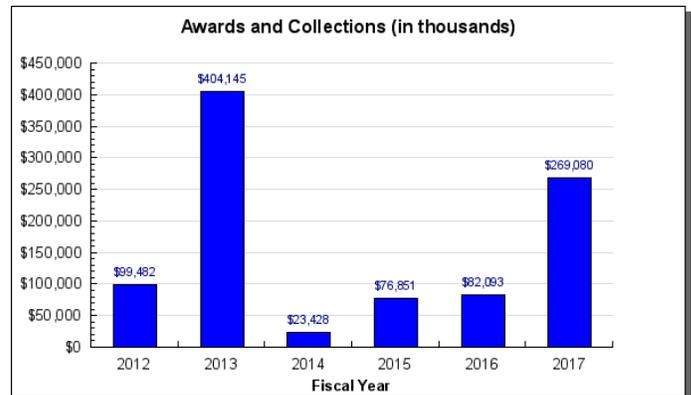
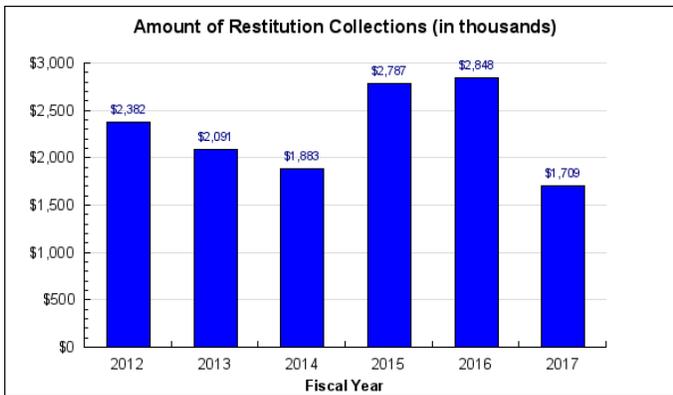
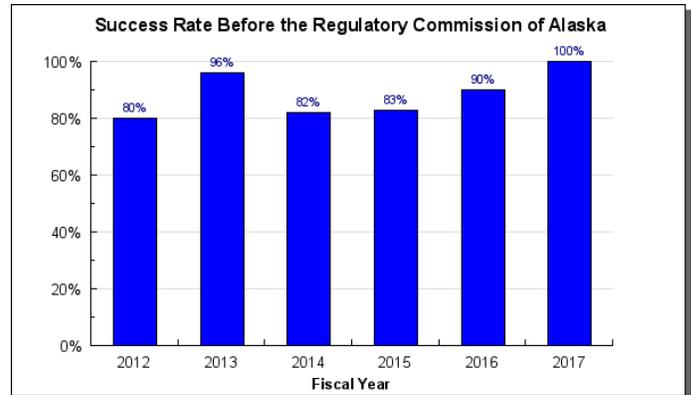
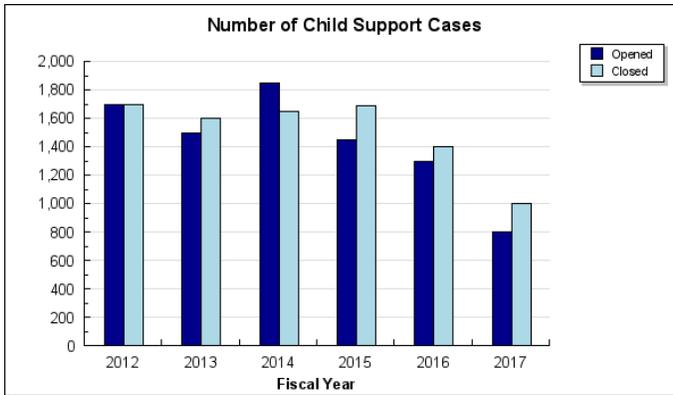
Civil Division Results Delivery Unit

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>.)



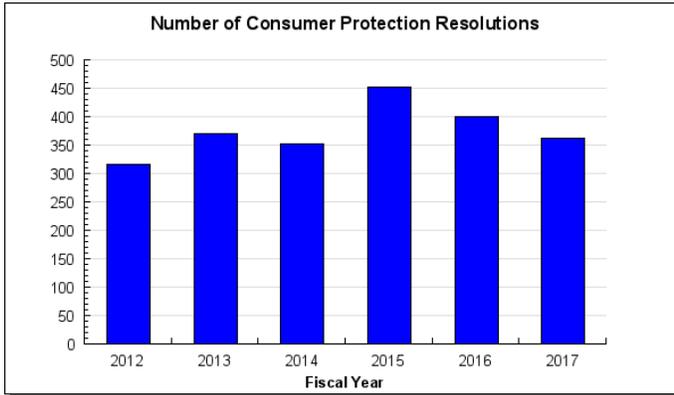
Core Services

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

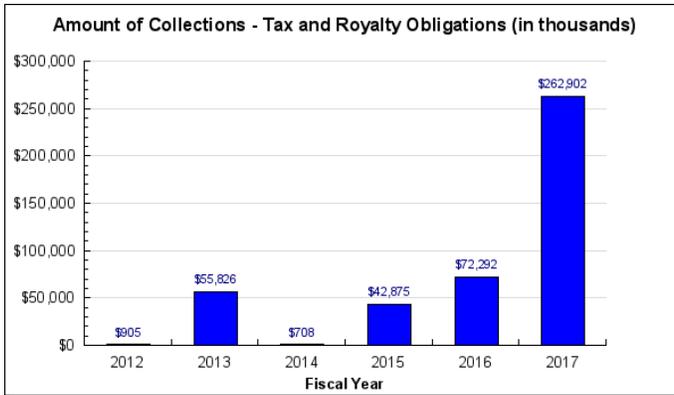
Measures by Core Service

(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 2017

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.
- Human Services. Continued to advise DHSS regarding the implementation 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 hundreds of 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 \$2.7 million in payments to the state for costs, attorney's fees, consumer protection enforcement and education, and in restitution for consumers.
- Consumer Protection. Processed 389 consumer complaints. Of those, 363 were resolved through the informal complaint process, launching of a formal investigation, or referral to other appropriate state and federal agencies.
- Consumer Protection. Registered 4,352 charitable organizations, paid solicitors and telemarketers, and collected in excess of \$180,000 in registration fees.
- Commercial and Fair Business Practices. Successfully prosecuted or negotiated settlements in 32 professional discipline, license denial, license reinstatement, and unlicensed activity matters. These cases resulted in various actions including revocation, surrender, fines, reprimand, suspension, license conditions, or denial of a license.
- Labor and State Affairs. Represented the Alaska Industrial Development and Export Authority (AIDEA) in transactional matters involving the potential sale of Pentex Alaska Natural Gas Company, LLC, which is the parent company of the natural gas utility in Fairbanks. AIDEA previously acquired Pentex in furtherance of the Interior Energy Project, a transaction that enabled AIDEA to immediately lower the gas rates charged to Fairbanks homeowners by approximately 13%.
- Regulatory Affairs and Public Advocacy. The section's advocacy yielded approximately \$21 million in quantifiable consumer benefits in FY2017. 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 with modifying the terms of a \$30 million loan to BlueCrest Energy, Inc. which was used to finance the purchase and transport of a high horsepower drilling rig now in place and drilling near Anchor Point, Alaska.
- Labor and State Affairs. Advised AIDEA regarding its investment in the development of an oil processing facility for the Mustang oil field and helped AIDEA and Brooks Range Petroleum Corporation, the field operator, put a "bridge" financing plan in place to re-work an existing well on the field and get it into immediate production.
- Natural Resources. Filed suit against federal agencies to challenge regulations adopted by the National Park Service and the U.S. Fish and Wildlife Service that prohibit the state from exercising its full authority to manage fish and game within federal parks and refuges and intervened in federal litigation to support Congress's use of the Congressional Review Act to revoke certain federal regulations, including rules affecting the state's management of fish and game in federal refuges.
- Natural Resources. Prosecuted and defended multiple actions involving the Tongass National Forest, including the Roadless Rule, the Big Thorne timber sale, and the Tongass Land Management Plan.
- Natural Resources. Successfully intervened in federal litigation to defend the federal executive order that re-opened areas of the Chukchi and Beaufort Seas to oil and gas leasing and advised the Department of Natural Resources (DNR) in matters relating to the development of the Point Thomson Unit (PTU) and settlement of litigation concerning the PTU.
- Environmental. In FY2017, the section recovered \$1,757,533 for state costs and penalties related to violations of state environmental laws.

- Transportation. Section attorneys are providing legal support for the Department of Transportation and Public Facilities (DOTPF) land acquisition for highway and airport projects throughout Alaska, and in right-of-way acquisitions for major projects on the Parks, Glenn and Seward Highways, and O'Malley Road in Anchorage.

Protecting the Fiscal Integrity of the State

- Torts and Workers' Compensation. Defended the state (as an employer) in numerous workers' compensation matters before the Alaska Workers' Compensation Board (AWCB) and the Alaska Workers' Compensation Appeals Commission (AWCAC), and defended the state, its agencies and employees in numerous state and federal court tort proceedings.
- 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 \$29 million in additional taxes, penalties and interest received in FY2017.
- Natural Resources. Received a favorable decision from the Alaska Supreme Court upholding a decision by DOR in a \$500 million production tax dispute.
- Regulatory Affairs and Public Advocacy. Together with the Natural Resources section, successfully contested the inclusion of approximately \$700 million in costs being factored into TAPS tariff rates. This decision has resulted in state collection of over \$230 million in additional royalty payments that will reduce tariff rates and increase production taxes and royalties paid to the state over the Trans-Alaska Pipeline's lifespan. A recent settlement will protect this recovery if approved by the Federal Energy Regulatory Commission (FERC) and the Regulatory Commission of Alaska.
- 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 road construction projects on the Elliot Highway and Prince of Wales Island, refurbishment of a building at the Fairbanks International Airport, 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 four ballot measures:
 - (1) "An Act providing for protection of wild salmon and fish and wildlife habitat" (17FSHB2): provided legal review and written recommendation to decline certification of a ballot measure on the grounds that it made an unlawful appropriation and usurped legislature's authority, and represented the Lieutenant Governor in subsequent litigation challenging the denial of certification in *Stand for Salmon v. Mallott*, Case No. 3AN-17-9183CI;
 - (2) "Healthcare for Alaskans Act of 2018" or "An Act relating to Alaska's Medicaid and Denali KidCare (17CHAK): provided comprehensive legal review and written recommendation to certify measure that purports to keep Medicaid and Denali KidCare eligibility levels as they are today and ensure that hospitals and doctors continue to receive adequate reimbursement;
 - (3) "Quality Health Insurance for Alaskans Act of 2018" or "An Act relating to health insurance" (17QHIA): provided comprehensive legal review and recommended certification of health care-related initiative, which purports to ensure that quality, comprehensive health insurance coverage continues to be made available on a non-discriminatory basis to all Alaskans by preserving these protections in state law; and,
 - (4) "An Act relating to government accountability to the People of the State of Alaska" (17AKGA): provided legal review and recommended certification of an initiative that would prevent legislators from collecting a per diem if they don't pass a budget, enact conflicts of interest provisions in legislative voting, and enact campaign finance reform measures.

- Labor and State Affairs. Provided extensive legal advice and representation to the Department of Administration (DOA), Division of Retirements and Benefits, in numerous health and benefits appeals and coverage issues under the state's health care plans.
- 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 misconduct 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.
- Opinions, Appeals and Ethics. Provided legal advice on many ethics issues, provided ethics trainings, rendered several ethics opinions and memoranda of advice on topics such as outside employment, post-state employment, gifts, and contracts; investigated and resolved several ethics complaints.
- Legislation and Regulations. The section conducted legal review of nearly 1,600 pages of regulations during FY2017. Coordinated and prepared over 50 legislative bills on behalf of the administration for the 30th legislative session including bills to address the state's opioid epidemic, to approve state sale of royalty-in-kind oil, to improve and streamline the workers' compensation system for both employers and workers, to establish REAL ID to comply with federal requirements, and to further protect vulnerable adults.
- Special Litigation. The section is representing the Division of Elections in renewed litigation challenging Alaska's candidate qualifications statutes brought by the Alaska Democratic Party.

Key RDU Challenges

- Child Protection. Caseloads for attorneys in the Child Protection component increased an average of 48% across the state since FY2014. Section attorneys carry an average of 123 family cases each. 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 to 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 has lost multiple 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 recovery of statutorily designated program receipts.
- Environmental Law. Position reductions and vacancies have resulted in a drop in cost recovery for Department of Environmental Conservation (DEC) oversight and cleanup costs of 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.
- Commercial and Fair Business. The CFB section currently handles antitrust matters. It is currently involved in a number of 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.
- 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.

Significant Changes in Results to be Delivered in FY2019

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.

Contact Information
<p>Contact: Ed Sniffen, Deputy Attorney General Phone: (907) 269-5100 Fax: (907) 278-7022 E-mail: ed.sniffen@alaska.gov</p>

**Civil Division
RDU Financial Summary by Component**

All dollars shown in thousands

	FY2017 Actuals				FY2018 Management Plan				FY2019 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	3,018.7	81.9	0.0	3,100.6	278.7	10.0	0.0	288.7	278.7	10.0	0.0	288.7
Child Protection	5,702.6	2,812.4	0.0	8,515.0	5,269.9	2,136.7	0.0	7,406.6	5,206.4	2,288.0	0.0	7,494.4
Collections and Support	736.4	1,302.2	0.0	2,038.6	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Commercial and Fair Business	856.3	2,954.1	0.0	3,810.4	994.1	5,149.0	0.0	6,143.1	884.5	5,063.2	0.0	5,947.7
Environmental Law	65.2	712.6	0.0	777.8	528.0	1,160.2	0.0	1,688.2	529.0	1,160.2	0.0	1,689.2
Human Services	1,435.7	1,401.0	0.0	2,836.7	1,398.3	1,505.0	0.0	2,903.3	1,470.6	1,576.9	0.0	3,047.5
Labor and State Affairs	1,862.5	3,400.9	0.0	5,263.4	2,157.8	3,073.8	0.0	5,231.6	2,183.4	3,064.2	0.0	5,247.6
Legislation/Regulations	950.0	231.1	0.0	1,181.1	894.3	234.8	0.0	1,129.1	819.5	335.1	0.0	1,154.6
Natural Resources	2,869.0	5,974.3	0.0	8,843.3	6,829.4	3,512.0	0.0	10,341.4	5,294.7	3,442.5	0.0	8,737.2
Opinions, Appeals and Ethics	584.9	0.0	0.0	584.9	1,255.0	968.0	0.0	2,223.0	1,510.2	1,198.3	0.0	2,708.5
Reg Affairs Public Advocacy	2,298.3	0.0	0.0	2,298.3	2,803.5	138.6	0.0	2,942.1	2,806.5	0.0	0.0	2,806.5
Special Litigation	482.1	0.0	0.0	482.1	952.6	236.4	0.0	1,189.0	953.1	236.4	0.0	1,189.5
Information and Project Support	84.8	1,145.0	0.0	1,229.8	232.5	1,609.6	0.0	1,842.1	212.5	1,532.9	0.0	1,745.4
Torts and Workers' Compensation	0.0	3,365.1	0.0	3,365.1	0.0	4,403.7	0.0	4,403.7	0.0	4,199.2	0.0	4,199.2
Transportation Section	0.0	1,692.7	0.0	1,692.7	0.0	2,561.1	0.0	2,561.1	0.0	2,392.6	0.0	2,392.6
Totals	20,946.5	25,073.3	0.0	46,019.8	23,594.1	26,698.9	0.0	50,293.0	22,149.1	26,499.5	0.0	48,648.6

Civil Division
Summary of RDU Budget Changes by Component
From FY2018 Management Plan to FY2019 Governor

All dollars shown in thousands

	<u>Unrestricted Gen (UGF)</u>	<u>Designated Gen (DGF)</u>	<u>Other Funds</u>	<u>Federal Funds</u>	<u>Total Funds</u>
FY2018 Management Plan	20,757.1	2,837.0	26,698.9	0.0	50,293.0
One-time items:					
-Natural Resources	-1,465.2	0.0	0.0	0.0	-1,465.2
Adjustments which continue current level of service:					
-Child Protection	-63.5	0.0	151.3	0.0	87.8
-Commercial and Fair Business	-109.9	0.3	-85.8	0.0	-195.4
-Environmental Law	1.0	0.0	0.0	0.0	1.0
-Human Services	72.3	0.0	71.9	0.0	144.2
-Labor and State Affairs	25.6	0.0	-9.6	0.0	16.0
-Legislation/Regulations	-74.8	0.0	100.3	0.0	25.5
-Natural Resources	-69.5	0.0	-69.5	0.0	-139.0
-Opinions, Appeals and Ethics	255.2	0.0	230.3	0.0	485.5
-Reg Affairs Public Advocacy	0.1	2.9	0.0	0.0	3.0
-Special Litigation	0.5	0.0	0.0	0.0	0.5
-Information and Project Support	-20.0	0.0	-76.7	0.0	-96.7
-Torts and Workers' Compensation	0.0	0.0	-204.5	0.0	-204.5
-Transportation Section	0.0	0.0	-168.5	0.0	-168.5
Proposed budget decreases:					
-Reg Affairs Public Advocacy	0.0	0.0	-138.6	0.0	-138.6
FY2019 Governor	19,308.9	2,840.2	26,499.5	0.0	48,648.6