

**1/27/03**

**OVERVIEW:**

**OMB, LAW**

**LABOR &**

**WORKFORCE**

**DEV.**

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**FILE**

1-27-03  
Agency - Law  
Overview

**STATE OF ALASKA  
DEPARTMENT OF LAW  
FY2004 Overview  
House Finance Committee**

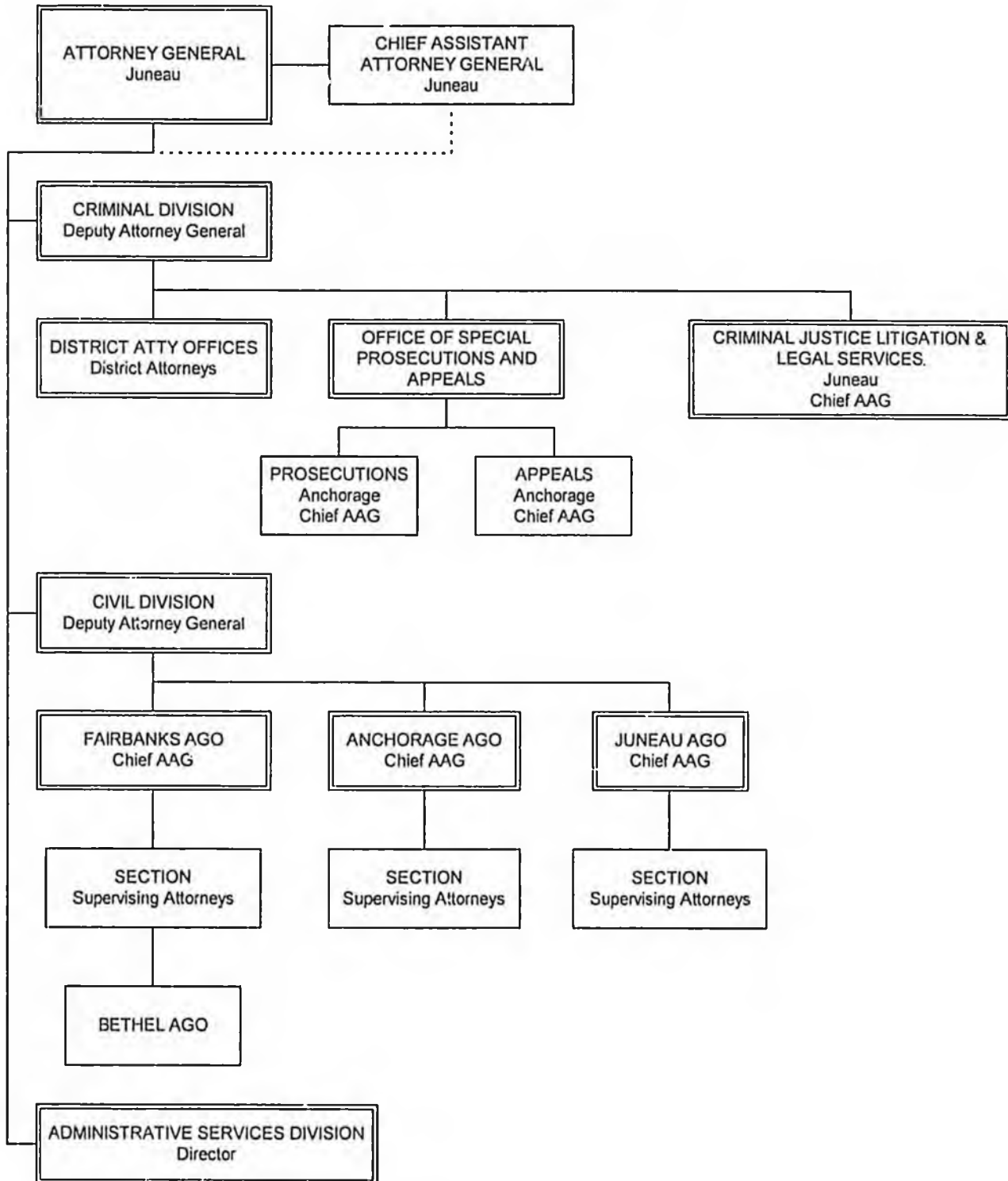
**January 27, 2003**



**Gregg D. Renkes, Attorney General**

**Department Mission:** The mission of the Department of Law is to provide legal services to state government and to prosecute crime.

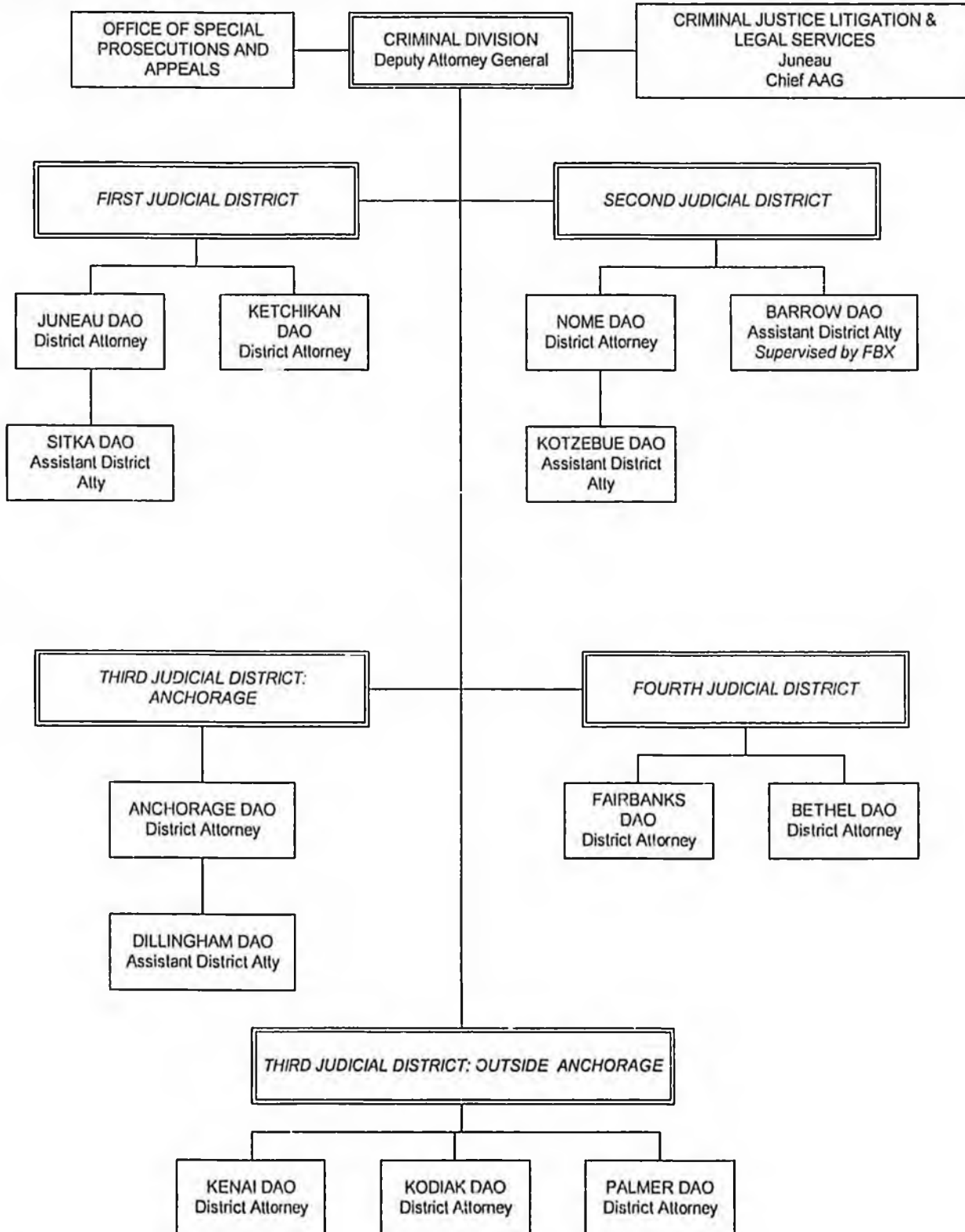
**MANAGEMENT ORGANIZATION CHART**



**Criminal Division Budget Request Unit**

**BRU Mission**

The mission of the Criminal Division is to assure safe and healthy communities by prosecuting and convicting criminal offenders in urban and rural Alaska.



## BRU Services Provided

1. The Criminal Division prosecutes all violations of state criminal law committed by adults, and a large portion of the serious crimes committed by juveniles. Prosecution services protect the public by convicting criminals and placing them under appropriate controls. Without these services, Alaskans would not be able to live in safe and healthy communities.

In the fiscal year ending June 30, 2002, over 28,000 cases (including 7,500 felony, 21,000 misdemeanor, and 1,500 other cases) were sent to the Criminal Division by police or probation agencies. This is an increase of roughly 40 percent in felonies and 10 percent in misdemeanors in the 1990s.

2. The Criminal Division provides assistance to victims and witnesses of crimes such as preparation for testimony in court, travel and per diem expenses, court-mandated witness fees, and information about court procedures, domestic violence restraining orders and violent crime compensation procedures. Demands on the victim-witness assistants have increased substantially over the last several years as a result of victims' rights laws enacted in 1989 and 1991, the Victims' Rights Amendment to the Alaska Constitution approved by the voters in 1994, and the Domestic Violence Prevention and Victim Protection Act of 1996. Two-thirds of the Criminal Division travel budget is used to bring victims and witnesses to court.
3. The Criminal Division represents the state in all criminal appellate proceedings and state and federal post-conviction and habeas corpus proceedings. These post-trial procedures are constitutionally required; when convicted criminals file such actions there must be a response by the state. Without these functions, the efforts of criminal justice agencies to detect and punish crime through investigation, trial, and conviction would be nullified. In addition, the BRU also handles civil litigation challenging statutes related to criminal justice, such as sex offender registration, victims' rights, and physician-assisted suicide.
4. The Criminal Division provides basic legal services to the Departments of Corrections and Public Safety, consisting of verbal and written advice, representation in civil litigation and administrative proceedings, and assistance with drafting legislation, regulations, policies, and procedures. The division also provides advice to the legislature on criminal justice matters, and handles all appeals of administrative license revocations by the Division of Motor Vehicles in the Department of Administration.
5. The Criminal Division activities are carried out in fifteen offices across the state. Thirteen regional prosecution offices provide day-to-day criminal prosecution services, as set out in paragraphs 1. and 2. above. An office in Anchorage handles appellate matters in the Court of Appeals, the Alaska Supreme Court and the federal courts, as described in paragraph 3. An office in Juneau is responsible for representing criminal justice system agencies and providing legislative advice, as described in paragraph 4. In addition, the Anchorage offices also have special units for:
  - a. narcotics prosecution (funded by the Department of Public Safety with federal money)
  - b. environmental crime (funded by the Department of Environmental Conservation)
  - c. child support enforcement (funded by the Department of Revenue)
  - d. welfare fraud (funded by the Department of Health and Social Services with federal money)
  - e. Medicaid provider fraud (75% federally-funded with a required 25% general fund match)
  - f. selected fish and game prosecution (funded by the Fish and Game Fund)
  - g. white collar and other special prosecution (general fund)

## Key BRU Issues for FY2003 – 2004

Issue No. 1: How to Respond to Increased Enforcement of Child Abuse Laws

Child abuse cases (both sexual and physical abuse) are among the most difficult to prosecute. Although sexual abuse cases are routinely reported and prosecuted, it is believed that child physical abuse cases are not as well reported or investigated. Recent attention focused on child physical abuse cases is likely to result in an increase in the number of such cases sent to prosecution offices for review and prosecution.

Issue No. 2: How to Respond to Increased Enforcement of Domestic Violence Laws

The Domestic Violence Prevention and Victim Protection Act of 1996 requires arrests to be made in all cases of domestic violence. Even before this requirement became law, many police agencies voluntarily adopted mandatory arrest policies, and the number of domestic violence cases grew to over half of all misdemeanor assaults and a large percentage of all felony assaults and murders. In the year following enactment of the 1996 Act, the percentage of misdemeanor assaults related to domestic violence increased to 65 percent, or nearly two out of every three, and has remained at that level. In the last year the Criminal Division handled 3,000 cases of misdemeanor domestic violence, including assaults, harassment, violating domestic violence orders and destruction of property.

#### Issue No. 3: How to Respond to the High Volume Of Sexual Offenses

After several years of a relatively stable number of felony sexual offenses being sent to prosecutors for review, the number of these cases increased dramatically to over 700 in FY1993. Cases of rape of adult women increased 16 percent to over 300, while cases of abuse of children increased 21 percent to 400. Those numbers leveled off in FY1994-2002, but there are still nearly 600 felony sexual offenses being sent to Criminal Division offices for review each year. This high level of sexual crimes and the high level of domestic violence are reflected in a growing number of requests for safe housing, reported by the Network on Domestic Violence and Sexual Assault.

#### Issue No. 4: How to Respond to Other Demands for Criminal Division Legal Services

Along with heavy criminal caseloads, the Criminal Division is also called on to defend the legality of new laws. For example, there is a great deal of ongoing litigation over the legality of sex offender registration laws and the Criminal Division recently successfully defended the manslaughter statute as it relates to physician-assisted suicide. Laws relating to victim rights, such as the right not to be secretly recorded by defense attorneys, are being challenged in court. New laws relating to minors consuming alcohol are also being challenged. Criminal Division attorneys are handling all these lawsuits. Criminal Division attorneys have also upheld challenges to the concealed handgun regulations, and annually the division handles dozens of appeals from driver license revocations imposed by the Division of Motor Vehicles in the Department of Administration.

In addition, the Criminal Division is being called on more and more to perform other functions. For example, Criminal Division attorneys spend significant amounts of time providing training to other agencies. The State Trooper Academy in Sitka has several courses each year to train new trooper and police recruits, as well as separate classes for village public safety officers and experienced police officers. Each course contains a component for legal training in the criminal code and criminal procedure, which requires instruction by a trained prosecutor. The Anchorage Police Department conducts similar training for its own recruits. The Department of Corrections has training requirements for correctional officers and probation officers, which also require experience attorneys for instruction. Community groups, such as victim service agencies, often require attorney training as well. In addition, prosecutors and paralegals participate in multidisciplinary teams to combat child abuse, various task forces, and other groups whose goals are to improve the criminal justice system or deal with a particular community problem.

#### Issue No. 5: How to Respond to Drug and Alcohol Offenses

The Criminal Division has participated in planning projects for drug courts, therapeutic courts, mental health courts, and other special programs with the court system. Law enforcement, the Public Defender Agency, and the Department of Corrections.

Everyone recognizes that alcohol is at the root of a number of serious social problems in Alaska. The correlation between alcohol and crime is significant, and alcohol is implicated in an extremely high percentage of criminal and accidental deaths and injuries. In addition, many children are born with FAS or FAE because their mothers consumed alcohol during pregnancy. Experience has shown that the rate of crime can be decreased if alcohol availability is decreased. State law gives municipalities the option of banning or limiting alcohol in their communities, and many villages have voted for that local option. In areas that go completely dry (by banning possession of alcohol), the level of crime falls immediately and significantly, until bootleggers start to return alcohol to the region. Enforcement of local option laws is difficult, but the Criminal Division is actively working with the Alaska State Troopers and federal authorities to deal more aggressively with bootlegging, by increasing our alcohol interdiction efforts through the addition of prosecutors specifically assigned to those cases. An RSA with the Department of Public Safety funds an increased level of federal funding for heightened efforts in the area of alcohol interdiction. As the federal funds are year-to-year, replacement general funds are included in the FY 2004 request in the event they are needed.

## Key Performance Measures for FY2004

**Measure:**

The legislature intends to measure the success of the division in achieving its mission by considering, for each Criminal Division budget component the number of violent felony prosecutions;

Sec 94 (b) (1) Ch 90 SLA 2002(HB 250)

**Alaska's Target & Progress:**

FY 2000 - 1,218      FY 2001 - 1,127      FY 2002 - 1,237

**Background and Strategies:**

The following background is applicable to all the Criminal Division performance measures that follow:

The workload for the Criminal Division is driven by factors largely beyond its control, such as the staffing levels and policies of local police agencies, staffing levels of defense attorneys, whether municipalities control alcohol, and the policies and practices of local courts and local defense attorneys. As such, the division is able to exercise very little control over attorney caseload ratios and no control whatsoever over the volume of work coming in at any given time. Thus available quantitative information often does not show the effectiveness and competency of the work. For example, it is very difficult to draw meaningful conclusions based on conviction rates. More convictions don't necessarily mean that attorneys are doing a better job. Instead it may mean any or a combination of the following: (1) crime is up, (2) the police are conducting better investigations, (3) new laws are more effective, (4) the division is understaffed and therefore plea-bargaining more, (5) the public defender agency is understaffed and they are pleading out more of their clients.

Because Alaska is one of a very few states that handles all types of criminal offenses at the state level, useful comparative data of attorney caseload is impossible to attain. For these reasons, knowing the number of cases handled is the best measure of the division's performance.

**Measure:**

Number of felony drug case prosecutions;

Sec 94 (b) (2) Ch 90 SLA 2002(HB 250)

**Alaska's Target & Progress:**

FY 2000 - 692      FY 2001 - 653      FY 2002 - 625

**Measure:**

Number of misdemeanor domestic violence assault prosecutions;

Sec 94 (b) (3) Ch 90 SLA 2002(HB 250)

**Alaska's Target & Progress:**

FY 2000 - 2,208      FY 2001 - 2,185      FY 2002 - 2,126

**Measure:**

Number of felony property prosecutions;

Sec 94 (b) (4) Ch 90 SLA 2002(HB 250)

**Alaska's Target & Progress:**

FY 2000 - 1,185      FY 2001 - 1,105      FY 2002 - 1,203

**Measure:**

Number of felony drunk driving prosecutions;

Sec 94 (b) (5) Ch 90 SLA 2002(HB 250)

**Alaska's Target & Progress:**

FY 2000 - 239      FY 2001 - 221      FY 2002 - 280

**Measure:****Number of misdemeanor drunk driving prosecutions;**

Sec 94 (b) (6) Ch 90 SLA 2002(HB 250)

**Alaska's Target & Progress:**

FY 2000 - 3,264      FY 2001 - 3,127      FY 2002 - 3,345

**Measure:****Number of felony cases in which charges that were initially accepted for prosecution are later reduced; and**

Sec 94 (b) (7) Ch 90 SLA 2002(HB 250)

**Alaska's Target & Progress:**

FY 2000 - 1,650\*      FY 2001 - 1,630\*\*      FY 2002 - 1,800\*\*\*

**Measure:****Number of misdemeanor cases in which charges that were initially accepted for prosecution are later reduced.**

Sec 94 (b) (8) Ch 90 SLA 2002(HB 250)

**Alaska's Target & Progress:**

FY 2000 - 1,750\*      FY 2001 - 1,750\*\*      FY 2002 - 1,750\*\*\*

**Background and Strategies:**

The following footnotes apply to Sec. 94 (b) 7-8:

\*Estimates based on 97% of felonies and 98% of misdemeanors resolved.

\*\*Estimates based on 97% of felonies and 95% of misdemeanors resolved.

\*\*\*Estimates based on 72% of felonies and 88% of misdemeanors resolved.

**Measure:****Number of new criminal cases reviewed for prosecution;**

Sec 95 (b) (1) Ch 90 SLA 2002(HB 250)

**Alaska's Target & Progress:**

FY 2000 - 371      FY 2001 - 249      FY 2002 - 248

**Measure:****Number of criminal cases resolved;**

Sec 95 (b) (2) Ch 90 SLA 2002(HB 250)

**Alaska's Target & Progress:**

FY 2000 - 313      FY 2001 - 195      FY 2002 - 192

As of 10/07/2002

**Background and Strategies:**

In this context, "resolved" takes the same meaning as "closed".

**Measure:****Number of new appeals and petitions opened;**

Sec 95 (b) (3) Ch 90 SLA 2002(HB 250)

**Alaska's Target & Progress:**

FY 2000 - 338      FY 2001 - 314      FY 2002 - 297

**Measure:**

**Number of appeals and petitions resolved;**  
Sec 95 (b) (4) Ch 90 SLA 2002(HB 250)

**Alaska's Target & Progress:**

FY 2000 - 313      FY 2001 - 227      FY 2002 - 130

As of 10/08/2002

**Measure:**

**Average cost per criminal case reviewed;**  
Sec 95 (b) (5) Ch 90 SLA 2002(HB 250)

**Alaska's Target & Progress:**

FY 2000 - \$3,760      FY 2001 - \$4,490      FY 2002 - \$4,564

**Measure:**

**Average cost per appeal or petition opened.**  
Sec 95 (b) (6) Ch 90 SLA 2002(HB 250)

**Alaska's Target & Progress:**

FY 2000 - \$3,185      FY 2001 - \$3,598      FY 2002 - \$3,849

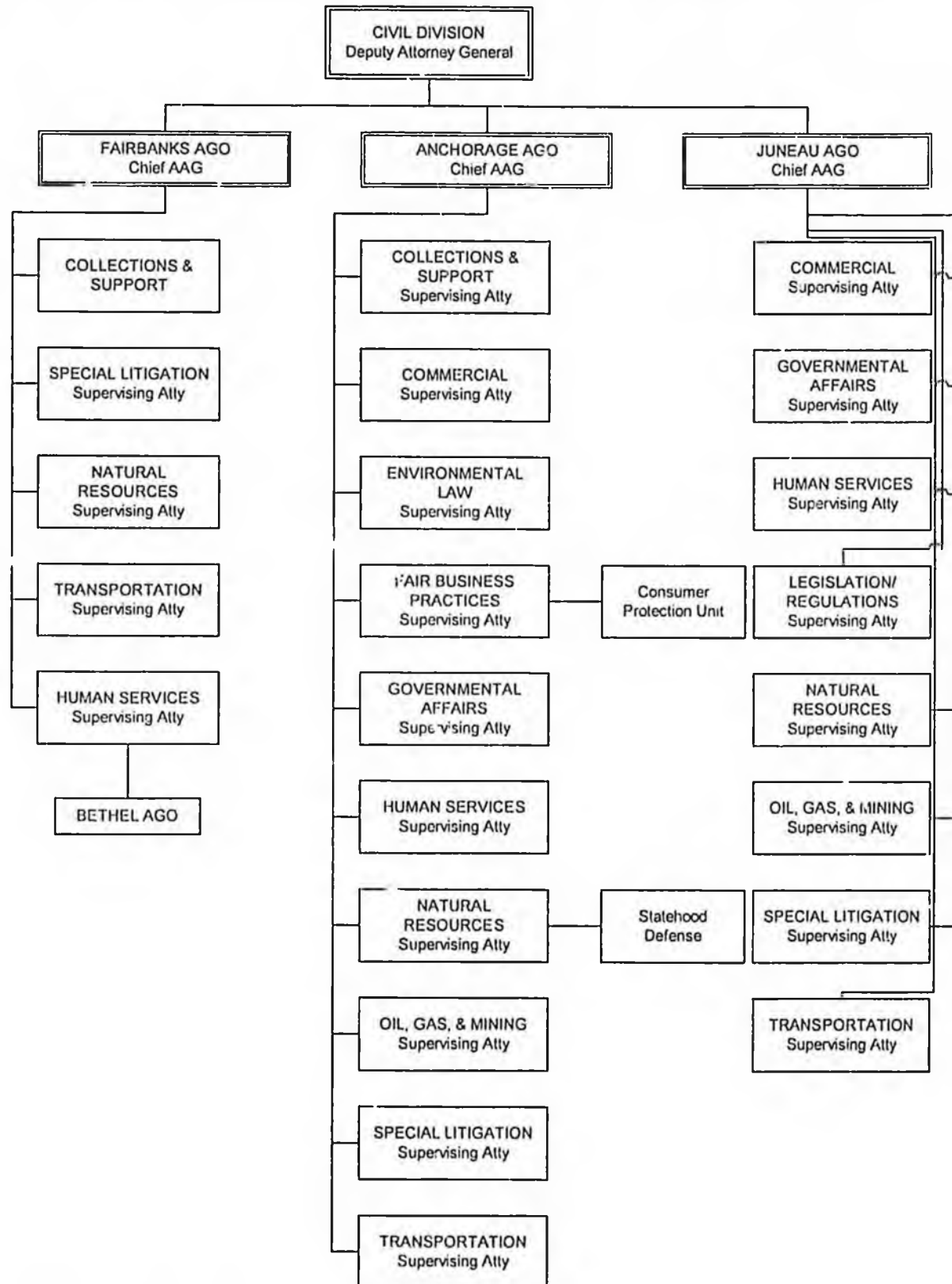
**Background and Strategies:**

Per case costs for appeals and petitions opened will also vary as case numbers fluctuate.

## Civil Division Budget Request Unit

### BRU Mission

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



## BRU Services Provided

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

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

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

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

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

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

(4) The Environmental Law section provides legal representation to state agencies for the investigation, defense, and prosecution of claims regarding contaminated sites around the state as well as legal advice on environmental matters. It also provides legal representation to state agencies for the defense and prosecution of claims regarding the EXXON VALDEZ oil spill and the expenditure of restoration funds. It provides legal services to help recover the state's contribution to the Trans-Alaska Pipeline Liability Fund. The work of the Environmental Law section helps to protect the environment of the state, to ensure that the costs of contaminated site cleanup are borne by the responsible parties, to minimize the state's exposure to claims for damages relating to environmental problems, and to ensure that the costs of the available restoration funds from the EXXON VALDEZ settlement are expended in accordance with the

law and for the maximum benefit of the Alaska environment. It serves Alaskans by helping to protect the environment and restore already-damaged sites and by making sure that those who are responsible for environmental damage are required to pay the costs of remediation. The component is also involved in prosecuting cruise lines that have fouled Alaska's air and waters and advising DEC on implementation of Alaska's cruise ship oversight program.

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

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

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

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

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

(10) The Oil, Gas, and Mining section is responsible for litigating oil, gas, and mining resource disputes involving the state. It protects Alaskans' interests by making sure that the state receives the royalty and tax revenues to which it is entitled for current and past production, defending against challenges to state oil and gas lease sale programs, and protecting the state's title to resource-rich lands. The Oil, Gas, and Mining section supervisors oversee the activities budgeted for in the Oil & Gas Litigation and Legal Services BRU.

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

(12) The Transportation section provides legal advice to and representation of the Department of Transportation and Public Facilities. The section enhances the department's ability to efficiently provide the public infrastructure necessary for the safety and well-being of Alaskans by providing advice and representation on all aspects of the

construction and operation of the state's public facilities, including building, highways, ferries, airports, harbors, communications facilities, and other public works.

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

### BRU Goals and Strategies

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

### Key BRU Issues for FY2003 – 2004

#### CHILD PROTECTION

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

#### GOVERNMENTAL AFFAIRS

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

#### CONSUMER PROTECTION AND ANTITRUST ENFORCEMENT

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

#### OIL AND GAS LITIGATION

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

#### Major BRU Accomplishments in 2002

- **Child Protection:** The division continued its participation in the interagency effort on the Balloon Project to reduce the backlog of children in foster care longer than new state and federal laws permit. As of September 15, 2002, 94 percent of the 662 children in foster care the longest were in a permanent placement, and in another five percent of the cases, the legal work to free these children for adoption is complete. As these oldest cases have been successfully resolved, the next oldest group of cases has been added. The project now has seven phases including nearly 2,300 children, of whom 67 percent now have permanent homes, and another 14 percent are legally free for adoption.
- **Collections:** The division collected over \$3.5 million in FY 2002 in criminal fines, cost of appointed counsel, cost of imprisonment, civil judgments owed the state, and victim restitution.
- **Commercial:** The division successfully settled a major charitable gaming case. Under the settlement, the manager of a charitable gaming operation and her husband were required to pay \$400,000 in cash for distribution by the attorney general to charity. The suit was brought to make the defendants disgorge the money they received through violation of Alaska's charitable gaming laws.
- **Governmental Affairs:** Successfully defended the state at trial in AITC v. State, the case challenging the constitutionality of the state's system for providing rural police protection.
- **Environmental cleanup:** Recovered almost \$1.8 million for state costs and penalties related to violations of state environmental laws and obtained cleanup agreements with polluters with an estimated value of over \$3.3 million for a total benefit to the state of over \$5 million.
- **Alaska Native Law:** Continued efforts to develop the law as it relates to Alaska Natives and the relationship between Alaska Natives and the state, in particular, the law concerning the scope of tribal jurisdiction and authority in the absence of Indian country; developed the department's Consultation Policy with Federally Recognized Tribes of Alaska as next step in implementation of the Millennium Agreement.

- **Oil and Gas:** Continued our work on litigation involving oil and gas bringing into the state treasury approximately \$94 million in back taxes and royalties owed by oil and gas companies.
- **Consumer Protection and Antitrust Enforcement:** Collected \$441,000 in seven consumer protection and antitrust cases (Publishers Clearinghouse, Wade Cook Financial Corp., and Triad Discount Buying Club consumer protection cases; Vitamins, Contact Lens, Nine West, and M... antitrust cases). Under the settlements, the money is to be used for consumer protection and antitrust enforcement (\$200,000); distribution to state agencies and charitable organizations (\$105,000); restitution to state Juicaid/CAMA agency (\$80,000); and deposit into the general fund (\$57,000). In addition, injunctive relief remains in effect against the entities reforming their business practices and thousands of dollars were distributed to Alaska consumers for restitution. We also collected \$50,000 in settlement of a consumer action against a local car dealer for advertising, warranty, and Truth in Lending Act violations.
- **Regulation review:** Conducted legal review of over 2,500 pages of regulations; we also completed and published the 2002 edition of the Drafting Manual for Administrative Regulations and provided extensive training for state employees on regulation drafting.
- **Roadless litigation:** Continued to monitor federal and state activity and litigation on the Forest Service's Roadless Rule in light of the state's pending suit challenging the Rule.
- **Access issues:** Successfully quieted title to the Jualin Mine RS 2477 road and developed public information on public access rights to public waterways and easements.
- **Submerged Lands:** Continued litigation in original action filed in the United States Supreme Court to quiet title to all lands underlying marine waters in Southeast Alaska, including those within Glacier Bay National Park and the Tongass National Forest; filed a major motion for summary judgment with the Special Master appointed by the Court.
- **Transportation:** Successfully settled the claim brought by Alaska Ship and Drydock for \$6 million in additional compensation for refurbishment of the M/V Columbia; the claim settled for \$1.5 million; successfully settled the claim brought by shipbuilder for \$53 million for construction of the M/V Kennicott; the claim settled for \$500,000 from the state and \$750,000 from a bonding company.
- **Special Litigation:** Won Alaska Supreme Court case in which the court upheld the constitutionality of the 1997 Tort Reform Act.

### Key Performance Measures for FY2004

**Measure:**

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

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

**Alaska's Target & Progress:**

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

**Measure:**

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

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

**Alaska's Target & Progress:**

FY 1999 - \$1,500,000

FY 2000 - \$14,500,000

FY 2001 - \$42,018,249

FY 2002 - \$22,888,902

**Background and Strategies:**

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

**Measure:**

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

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

**Alaska's Target & Progress:**

	Amount Collected	Judgments Satisfied
FY 1997	\$2,278,500	Not Available
FY 1998	\$2,469,900	8,569
FY 1999	\$3,111,000	10,125
FY 2000	\$2,769,600	8,805
FY 2001	\$3,993,590	15,981
FY 2002	\$3,574,907	13,526

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

**Background and Strategies:**

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

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

be eligible for dividends; and other agencies or cases with statutory priority to seize dividends before our seizures are possible.

**Measure:**

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

**Alaska's Target & Progress:**

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

**Background and Strategies:**

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

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

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

**Measure:**

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

**Alaska's Target & Progress:**

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

**Background and Strategies:**

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

**Measure:**

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

**Alaska's Target & Progress:**

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

**Background and Strategies:**

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

**Measure:**

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

**Alaska's Target & Progress:**

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

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

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

**Background and Strategies:**

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

The legislation defines the timelines for permanency hearings and termination of parental rights. As previously discussed, in order to achieve those timelines, and in order to eliminate the permanency placement backlog and provide the assistance outlined above, the per attorney caseload must be manageable. Maintenance of our existing

resources for child protection is necessary in order for us to effectively manage this important responsibility. In FY 2002, for example, we had to cut half of an attorney position in the Human Services component due to a reduction in the Balloon Project funding received by DHSS. This cut has had a direct impact on the Anchorage Human Services section, resulting in an increase in the average per attorney child abuse and neglect caseload.

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

**Measure:**

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

**Alaska's Target & Progress:**

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

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

**Background and Strategies:**

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

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

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

**Measure:**

**Number of collections of civil and criminal judgments overseen by the collections unit.**  
Sec 96 (b) (9) Ch 90 SLA 2002(HB 250)

**Alaska's Target & Progress:**

FY 2000 - 76,000 approximately

FY 2001 - 81,565

FY 2002 - 87,439

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**BRU/Component: Statehood Defense****Component Mission**

Mission statement appears at the department summary level.

**Component Services Provided**

**ENDANGERED SPECIES ACT CASES:** These cases involve the efforts of the National Marine Fisheries Service to protect Columbia River fall chinook salmon, listed as endangered under the Endangered Species Act, by restricting chinook salmon harvest in Alaska. The state considers the restriction unreasonable because it will have an insignificant effect on the salmon population, which has been decimated by the dams on the river system. To that end, Alaska promotes the efficacy of the conservation and allocation levels achieved under the Pacific Salmon Treaty abundance-based management, and is working with NMFS to ensure that salmon recovery efforts fairly address the effect of habitat degradation on the productivity of salmon. In addition, the state is actively involved in NMFS' efforts to revise its salmon hatchery policy, both as it relates to listing decisions and recovery efforts.

The state closely follows federal regulations intended to protect the western stock of Steller sea lions, which has been listed as endangered. The National Marine Fisheries Service has imposed dramatic restrictions on fishing in federal waters, especially near-shore areas most accessible to fleets based in coastal Alaska towns and villages, although there is no scientific agreement that such restrictions are likely to have any effect on the sea lion population. The state follows the federal regulations to protect coastal fisheries and the state's authority to manage fisheries that occur in state waters.

**SUBMERGED LANDS CASES:** The State of Alaska took title to all the lands underlying navigable waters within its borders at statehood; under the Equal Footing Doctrine, such lands pass to new states automatically, as a matter of constitutional right. However, in response to the United States' reluctance to recognize the state's title, Alaska has been forced to protect its title in several instances.

**ACCESS CASES:** Because of the patchwork of land ownership in Alaska among the state, the United States, and private landowners, and because of the lack of public infrastructure, access is extremely important to the public. The state recently settled litigation against the United States on an RS2477 right-of-way, the Julian Mine Road, securing a permanent right-of-way in Southeast Alaska. Additionally, the state has several other cases where access is a primary issue, and the state periodically reviews proposed federal Public Use Management Plans to comment on public access issues. The state has also filed suit challenging the Forest Service's "Roadless Rule," regulations that prohibit building roads and timber harvests except in very limited circumstances in all roadless areas of National Forests.

**ANILCA MATTERS:** The department 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.

**PROTECTION OF SALMON RESOURCES:** The department is fighting to protect Alaska's salmon resources on several fronts. First, we provide legal advice to the Department of Fish and Game in the Pacific Salmon Treaty arena. In this capacity, we work closely with Alaska's treaty negotiators to develop strategy for treaty negotiations and implementation within the United States Section and bilaterally with the Government of Canada. Second, we handle litigation that arises out of the Pacific Salmon Treaty. Finally, we remain in litigation against the Pacific Northwest Indian Tribes in *United States v. Washington*. In this case, the Tribes seek a ruling that the treaties they entered with the United States in the 1850's entitle them to a share of the salmon caught in Southeast Alaska. The parties have filed a stipulation to stay the case as a result of the 1999 amendments to the Pacific Salmon Treaty recently agreed upon by the United States and Canada.

**REVIEW OF FEDERAL LEGISLATIVE, REGULATORY, AND ADMINISTRATIVE PROPOSALS:** The department frequently comments on and drafts amendments to bills before Congress on a wide range of resource related topics including amendments to the Alaska Native Claims Settlement Act, the Alaska National Interest Lands Conservation Act, and the Endangered Species Act. The department also assists with state

comments on federal proposals such as the Forest Service Roadless Initiative, and designation of new national monuments in Alaska.

### Component Goals and Strategies

The Statehood Defense group of the Department of Law litigates issues raised by conflicts between state and federal jurisdiction. The group handles a variety of complex cases that will have a profound and lasting impact on management of Alaska's natural resources. The state frequently must defend against encroachment by the federal government into areas traditionally regulated by the state.

1. To protect Alaska's salmon resources in the Pacific Salmon Treaty.
  - Southern U.S. treaty parties adhere to long-term agreement for the sharing of chinook salmon.
  - Southern U.S. treaty parties adhere to the Habitat and Restoration Agreement commitment to protect and restore salmon habitat, and ensure adequate water quality and quantity for the safe passage of salmon to and from their natal streams.
2. To participate in the ESA process as it relates to Pacific salmon and litigate when needed to protect Alaska against unreasonable restrictions on harvest levels of salmon listed under the Endangered Species Act, when Alaska's incidental take has little measurable effect on the number of fish returning to spawn.
3. To protect access to state and private lands and on public waters across Alaska.
  - Alaska continues to litigate title to the RS 2477 rights-of-way.
  - Alaska files suit or otherwise acts to protect access on navigable waters restricted by upland owners.
  - Alaska publishes maps and pamphlets to educate the public about their rights to access public waterways and easements as well as the limits on use of private uplands.
  - Alaskans are able to exercise their rights to access state and private lands through federal lands.
  - Alaska provides information to BLM that convinces it to declare waterways navigable within the survey windows it is completing.
  - Alaska is challenging the Forest Service's Roadless Rule.
4. To litigate to protect the State's title to navigable waters.
  - Alaska continues its suit in the United States Supreme Court to quiet title to the submerged lands underlying the marine waters of the Tongass National Forest and Glacier Bay National Park.
5. To continue to advise the Department of Fish and Game on federal subsistence issues and to provide regular advice on state interaction with the federal subsistence program
  - The federal subsistence program considers the state's comments on proposed regulations, places conservation first, and does not infringe upon the state's regulatory authority or unnecessarily restrict the use of the state's fish and game by qualified subsistence, sport, or commercial users under state law.
  - Protocols are developed to facilitate dual management by the state and federal programs.
6. To litigate or otherwise protect Alaska's jurisdiction to manage, protect, and use its own resources against challenges by or on behalf of the federal government.

- Alaska will be free to regulate activities on navigable waters and on state and private lands without interference from the United States.
- Alaska will work cooperatively as partners with adjacent federal land managers as appropriate.

### Key Component Issues for FY2003 – 2004

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

These counts can be divided into two groups. Counts I and II require a determination of the seaward boundary of the State of Alaska. As a general rule, the United States has confirmed or granted to states title to lands beneath navigable waters within their boundaries. States have no claim to lands seaward of their boundaries, which are part of the Outer Continental Shelf (OCS).

The case also raises the issue of whether the marine submerged lands at issue in this case passed to Alaska at statehood or whether the United States reserved them prior to statehood and intended to defeat the State's title at statehood. Counts III and IV address the marine submerged lands within the exterior boundaries of Tongass National Forest and Glacier Bay National Monument (now Glacier Bay National Park and Preserve).

The Court has appointed a Special Master to oversee the case, Professor Gregory Maggs of George Washington Law School, who has a web site for the case:  
<http://www.law.gwu.edu/facweb/qmaggs/128oriq/docket.htm>

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

2. Subsistence Litigation - Very little remains of the large subsistence caseload of a few years ago. Several of the cases were dismissed, and several went to judgment. The state continues to litigate issues raised by the plaintiffs' claims for attorney fees in two cases, *Quinhagak v. United States*, Ninth Circuit No. 01-35430, and *Katie John v. United States*, District Court No. A90-484-CV (HRH). The state has paid most of the fees in *Quinhagak*, but has on appeal to the Ninth Circuit two issues with over \$100,000 at stake. The plaintiffs in *Katie John* have asked for \$800,000 in fees and costs, plus interest, and litigation on these fees is awaiting decision in the district court.

### Major Component Accomplishments in 2002

On Access to state and private lands and on public waters across Alaska:

- Alaska quieted title to the Jualin Mine RS 2477 road.
- Alaska has continued to provide information and develop pamphlets for public distribution educating the public on its rights to access public waterways and easements, as well as the limits on use of private uplands.
- Alaska has educated individual property owners about public rights of access to public waterways.

On litigation to protect the State's title to navigable waters:

- Alaska continued litigation in its original action in the United States Supreme Court to quiet title to all lands underlying marine waters in Southeast Alaska, including those within Glacier Bay National Park and the Tongass National Forest.

On Protection of Salmon Resources:

- The department has assisted the Department of Fish and Game in providing comments, as a co-manager, on the draft hatchery policy being developed by NMFS. This review and status reviews for the 24 listed ESUs with hatchery components was prompted by the Oregon federal district court decision in Alsea Valley Alliance v. Evans. Alaska continues to be involved in these processes.
- Alaska continues to act as a cooperating agency in the preparation of a Programmatic Environmental Impact Statement (PEIS) addressing the coastwide salmon fishery. The department has recently assisted the Department of Fish and Game in commenting on the Draft PEIS.
- The department continued to advise the Department of Fish and Game on federal subsistence issues and to provide regular advice on state interaction with the federal subsistence program.
- The department successfully petitioned the Federal Subsistence Board for reconsideration of sportfishing restrictions on the Kuskokwim River.
- The department has assisted the Department of Fish and Game in commenting on two major environmental impact statements on federal groundfish fisheries off the Alaska coast, and a biological opinion analyzing the effect of state and federal fisheries on endangered Steller sea lions.
- The department has advised the Department of Fish and Game on the requirements of the federal Marine Mammal Protection Act and the federal Endangered Species Act with respect to commercial fisheries in Alaska.
- The department is in litigation against the United States challenging the Forest Service's Roadless Rule.

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**Oil and Gas Litigation and Legal Services Budget Request Unit**

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**BRU Services Provided**

Most of the state's operating revenues are derived from oil and gas corporate income taxes, production taxes, and royalties on Alaska North Slope ("ANS") crude oil. The value of that crude for production tax and royalty purposes is largely determined by the price that ANS commands in its destination markets, less the costs of transporting it to those markets. The transportation costs, in turn, consist primarily of the tariffs charged by the Trans-Alaska Pipeline System ("TAPS") and the producers' tanker costs. Accurately determining ANS destination values, allowable transportation costs, and corporate income ensures the integrity of the state's fiscal system.

The Oil and Gas Litigation and Legal Services appropriation funds legal services related to these and other oil and gas development issues. These services include tariff monitoring and disputes with the owners of TAPS and other oil pipelines in Alaska, and the assessment and collection of unpaid royalties and taxes from oil and gas producers. The contracts with outside counsel and expert consultants on large or complex oil and gas cases are also funded by this appropriation, 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.

Because legal services related to oil and gas development have a significant effect on that development and the amount of state revenue derived from it, these services are funded separately within the Department of Law's operating budget. This enhances the ability of the governor and the legislature to ensure that an appropriate level of funding is made for these services.

**OIL PIPELINE-RELATED CASES**

The state has expended substantial resources to monitor compliance with the 1985 TAPS settlement. The department performs this function by reviewing and challenging tariff filings by the owners of the pipelines operating in the state. This vigilance can earn the state millions of dollars annually. As production of oil continues to decline in Alaska, this monitoring is becoming more and more important because transportation costs through TAPS are a major component of total transportation costs to destination markets.

A TAPS shipper protested intrastate tariffs before the Regulatory Commission of Alaska. Intrastate and interstate tariffs are set according to the TAPS Settlement Methodologies (TSM), agreed to in 1985. The state has achieved significant benefits from the TSM, both interstate and intrastate, and is contractually obligated to defend the methodologies. While the state regularly monitors tariffs to ensure that the methodologies are correctly followed, the protest raised in this case challenges some of the bases of the TSM methodology. Phase I of this hearing was completed in August, 2001, and a decision is expected any time. Following the decision, Phase II of the hearing will commence. As a major rate case, the matter requires significant assistance from contract counsel and experts.

The department also will finance an annual audit of Alyeska Pipeline Services Company and the major owner companies to determine if certain operating and capital costs are properly included in the TAPS tariff. Information revealed during the audit forms the basis for future tariff protests. Litigation may result if Alyeska and the owners fail to respond adequately to the state's requests for information.

Another case that has not been resolved involves a dispute among TAPS shippers and the state over the effects on tariffs caused by quality bank adjustments, which are adjustments made to compensate for the different qualities of crude oil and refinery return streams flowing through TAPS. This case is currently scheduled for a lengthy administrative hearing to begin in October, 2002.

The state also has begun litigation over the tariffs filed by BP for the Northstar Pipeline, a feeder pipeline to TAPS. This case is scheduled for a hearing before the Federal Energy Regulatory Commission in October, 2003.

Renewal of the TAPS right-of-way lease, which expires in 2004, is a major project that has required and will continue to require significant attention and resources. Together with Alyeska and the federal government, the state has evaluated the TAPS' owners' compliance with the existing lease terms. The commissioner of the

Department of Natural Resources has issued a preliminary determination authorizing a 30-year lease renewal. The department will assist DNR in preparation of the final determination and the lease, and will assist in any challenges or appeals to the agency's action.

#### GAS PIPELINE-RELATED ISSUES

The department will also provide legal assistance to the Departments of Revenue and Natural Resources, among others, in support of the Alaska North Slope natural gas development project. This is likely to include (1) assisting these departments in crafting proposals for changes to the state's tax and royalty regimes in response to producer requests for greater fiscal certainty; (2) drafting legislative or regulatory language necessary to implement any changes to the state's fiscal regime or other state laws that will improve the viability of the project; and (3) assisting DNR and other agencies with their various permitting responsibilities related to the project.

In addition, after the producers file an application for a certificate of public convenience and necessity with the Federal Energy Regulatory Commission, this department will be responsible for representing the state's interests in the project before that agency. Both in-house and outside counsel will be used in this endeavor. Energy legislation currently before the U.S. Congress could influence whether the producers will proceed with a pipeline project during FY 2004, and the timing of design and permitting work.

#### TAX CASES

This department is pursuing millions of dollars in past-due taxes and interest that are owed by oil and gas producers to the state. In some cases, thousands of documents have to be examined and numerous potential witnesses have to be interviewed or deposed in order to prepare for hearing. These hearings can last for weeks. At this time, one tax case is in an intensive discovery stage for a hearing scheduled for August, 2003. There is a strong possibility that at least one more case will also proceed to hearing. Nevertheless, the department will be expending far less money on these cases in FY2004 than it has in the not-too-distant past, as a consequence of its successful efforts to resolve most of the state's major disputes with its oil and gas producers.

The department also anticipates that it may litigate complex property tax cases involving oil and gas properties during FY2004. These cases may require the advice and testimony of expert witnesses, and may require the assistance of contract counsel.

#### ROYALTY CASES

Royalty disputes regularly arise between the oil and gas producers and the state. Although the department handles most of these disputes in-house, assistance from outside counsel and experts is sometimes necessary. For example, producers have reopened negotiations over the previously settled Alaska North Slope royalty disputes based on changes in marketplace value and transportation costs. The department will require assistance from some of the outside attorneys and experts originally involved in the royalty dispute.

### BRU Goals and Strategies

The BRU's goals and strategies for accomplishing those goals, include:

To ensure the state obtains the full amount of the tax and royalty revenues to which it is entitled from oil and gas development, by assisting the department's client agencies in enforcing the state's oil and gas royalty and taxation statutes, and regulations and agreements.

To ensure the state obtains the full amount of the tax and royalty revenues to which it is entitled from oil and gas development, by monitoring interstate and intrastate pipeline transportation expenses that reduce oil and gas valuation, litigating pipeline transportation cost disputes that cannot be resolved, negotiating reasonable pipeline transportation cost settlements, and enforcing pipeline transportation cost agreements in the event of a breach.

To ensure that state lands are developed in a manner that maximizes the value of the state's oil and gas resources to Alaska's citizens, by defending legislative and agency decisions related to that development from legal challenges.

To ensure that state lands are developed in a manner that maximizes the value of the state's oil and gas resources to Alaska's citizens, by providing client agencies with legal advice and other assistance necessary to enable them to carry out their statutory and regulatory responsibilities related to that development.

### Key BRU Issues for FY2003 – 2004

Appropriations for Oil and Gas Litigation have steadily declined from \$32.9 million in FY 1994, to \$11.9 million in FY 1997, \$4.7 million in FY2002, and to \$4.5 million in FY2003.

The amount requested for this BRU over the last few years reflects a sharp reduction in the use of outside counsel and a major shift of responsibility for major oil and gas litigation from outside counsel to staff attorneys. The department attorneys litigate most tax cases with little or no assistance from outside counsel and consultants. However, the department will continue to require substantial amounts to cover the cost of experts and document handling for these cases, and will use outside counsel for large cases that proceed to hearing.

Although the amounts requested to pursue the state's oil and gas litigation efforts are significant, they will return substantial revenues to the state treasury. The department is careful to ensure that the state's litigation resources are managed to their best advantage. Outside counsel costs are contained by closely supervising their contracts and shifting substantial case responsibility to staff attorneys.

### Major BRU Accomplishments in 2002

- The department, with the Departments of Revenue and Natural Resources, collected approximately \$94 million (including interest) in back taxes and royalties owed by oil and gas companies.
- The department negotiated a settlement with the Alpine Transportation Company in which the parties agreed to a methodology for setting pipeline tariff rates for the Alpine Pipeline, a feeder line to TAPS.
- The department negotiated a settlement with Unocal that significantly increased the royalty value Unocal pays the state for Cook Inlet gas.
- The department assisted the Department of Revenue in resolving several disputes concerning property tax assessments of oil and gas properties.
- The department reviewed a proposed merger and ultimately approved a settlement, along with other states and the federal government, of an antitrust action relating to a merger of two major oil and gas companies.
- The department assisted the Department of Revenue in making significant revisions to regulations involving property and production taxes.
- The department advised the Department of Natural Resources, the Gas Pipeline Office, and other state agencies concerning a proposed natural gas pipeline from the North Slope to Alberta.

1/27/03  
Labor  
Overview

## **State of Alaska**

### **Department of Labor and Workforce Development**

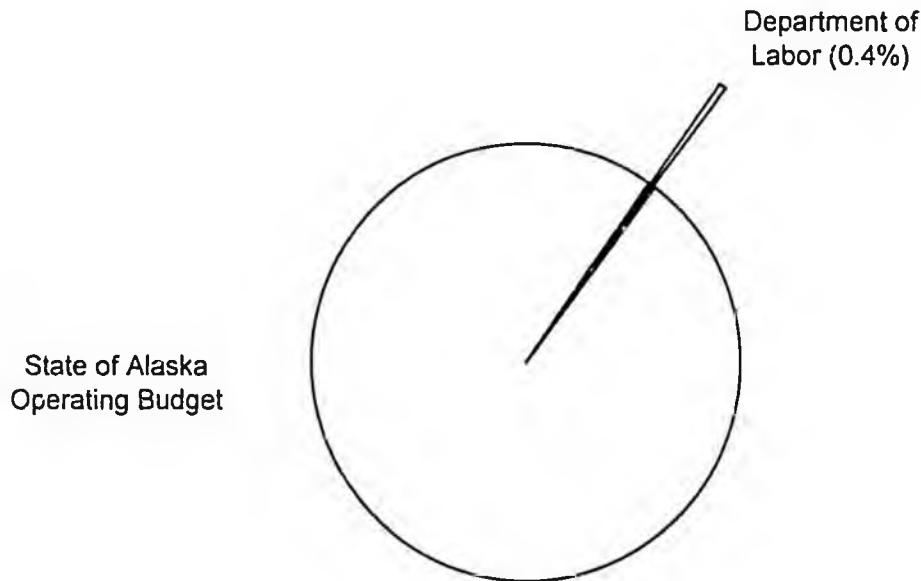
#### **Mission**

***The Department of Labor is responsible to “foster and promote the welfare of the wage earners of the state, improve their working conditions and advance their opportunities for profitable employment.”***

# ALASKA DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

## FY 2003 Management Plan Budget Overview

### FY 03 General Fund Enacted Operating Budget Comparison



The Department of Labor and Workforce Development's mission is to promote safe and fair working conditions and to advance opportunities for employment.

**DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT**

**AGENCY CONTACTS**

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Mark Torgerson, Hearing Examiner Alaska Labor Relations Agency	269-4895 (Anchorage)
Jim Sanders, Executive Director Alaska Workforce Investment Board	269-7490 (Anchorage)
JoEllen Hanrahan, Acting, Director Administrative Services Division	465-2720
Ted Burke, Acting Director Employment Security Division	465-2712
Hali Denton, Acting Director Labor Standards & Safety Division	465-4855
Paul Grossi, Director Worker's Compensation Division	465-2790 -
Dave Quisenberry, Acting Director Vocational Rehabilitation Division	465-2814

State of Alaska

FY 03 Enacted Operating Budget Comparison

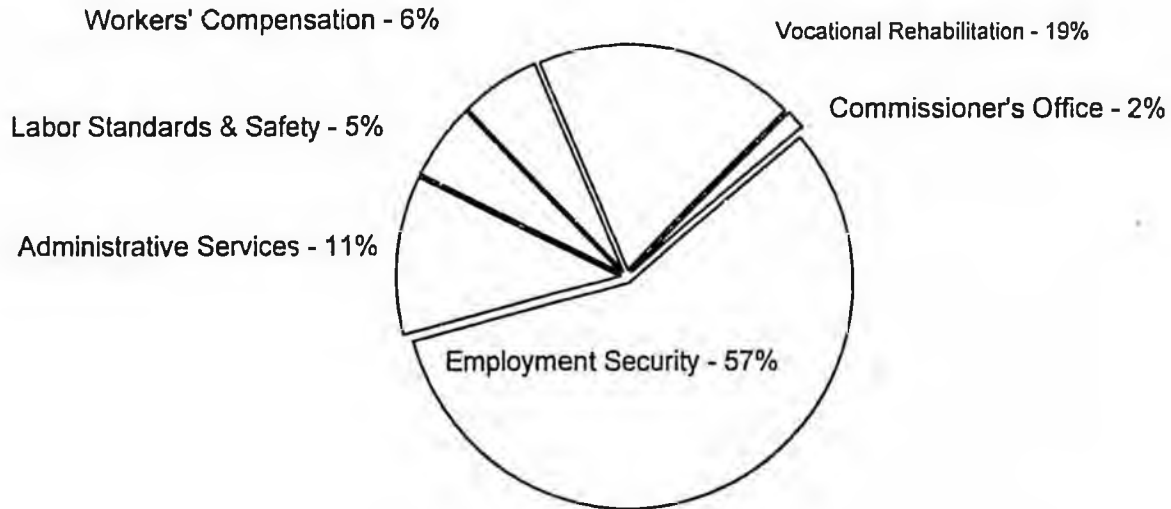
1/17/2003

Source: Legislative Finance Summary dated 8/15/02

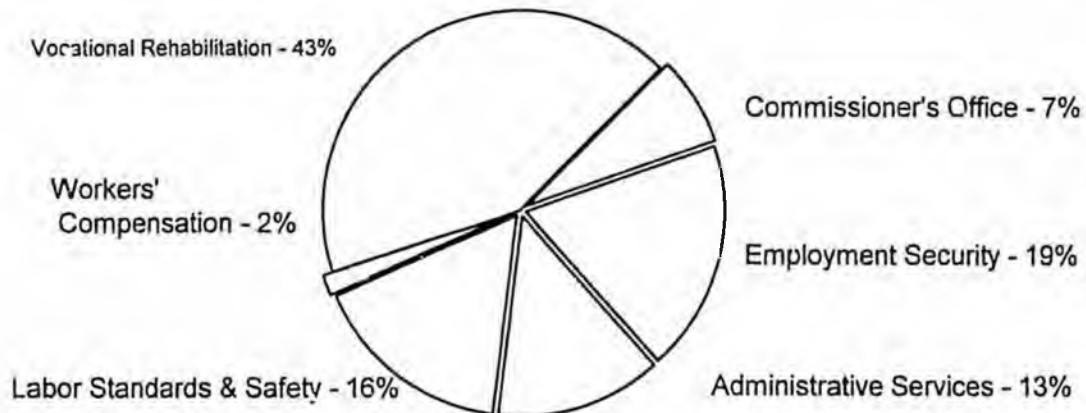
	General Funds	Total Funds	Positions		
			PFT	PPT	Non-Perm
1. Education & Early Dvlp	754,782.9	1,479,442.6	3,554	232	0
2. Health & Social Services	487,670.1	998,971.0	2,980	600	12
3. University of Alaska	205,815.0	611,774.3	2,429	59	30
4. Corrections	154,796.7	351,042.4	1,472	3	0
5. Administration	150,865.3	301,636.0	1,393	111	112
6. Transportation	94,150.1	180,762.2	882	888	141
7. Public Safety	77,649.3	162,102.0	844	59	9
8. Alaska Court System	53,377.0	151,862.9	819	25	45
9. Community & Economic Dvlp	40,551.4	134,873.5	758	20	1
10. Legislature	37,066.8	121,587.8	678	52	26
11. Natural Resources	34,096.2	107,287.7	608	237	99
12. Fish & Game	30,102.6	79,286.3	501	6	0
13. Law	25,390.4	54,256.1	488	10	6
14. Governor	17,776.9	52,402.2	474	18	0
15. Environmental Conservation	12,013.0	47,072.9	412	115	3
16. Labor & Workforce Dvlp	9,756.6	37,891.1	258	3	1
17. Revenue	9,157.6	33,191.5	240	277	0
18. Military & Vet Affairs	7,203.2	21,149.3	177	4	55
<b>Total</b>	<b>2,202,221.1</b>	<b>4,926,591.8</b>	<b>18,967</b>	<b>2,719</b>	<b>540</b>

# Department of Labor and Workforce Development

## FY 03 Management Plan Budget by Division - Budget \$121,587.8



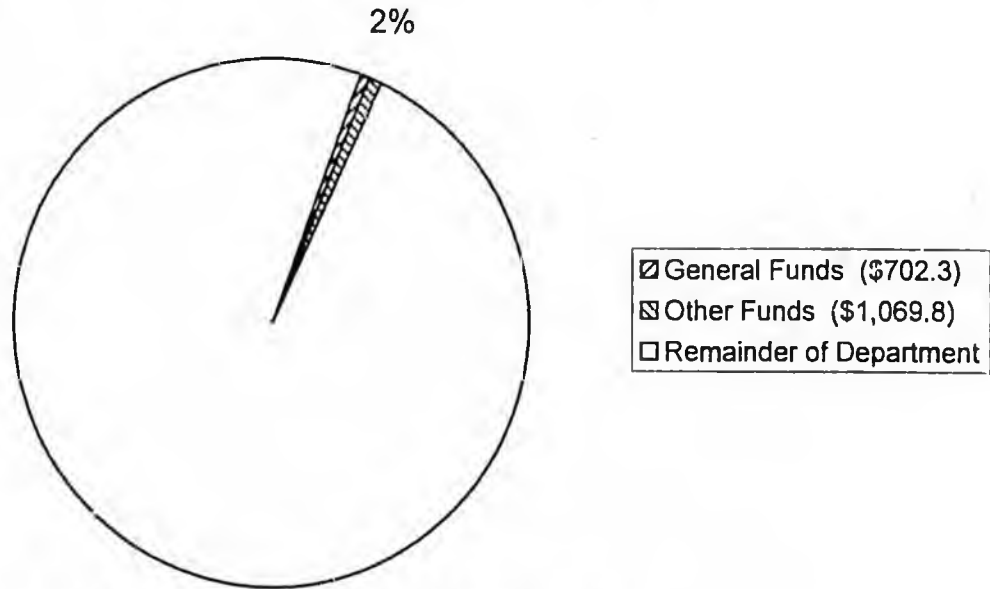
## FY 03 GENERAL FUND Management Plan Budget by Division



The Department is comprised of the Commissioner's Office, which includes the Alaska Labor Relations Agency and the Alaska Workforce Investment Board, and five divisions:

- Administrative Services
- Workers' Compensation
- Labor Standards & Safety
- Employment Security
- Vocational Rehabilitation

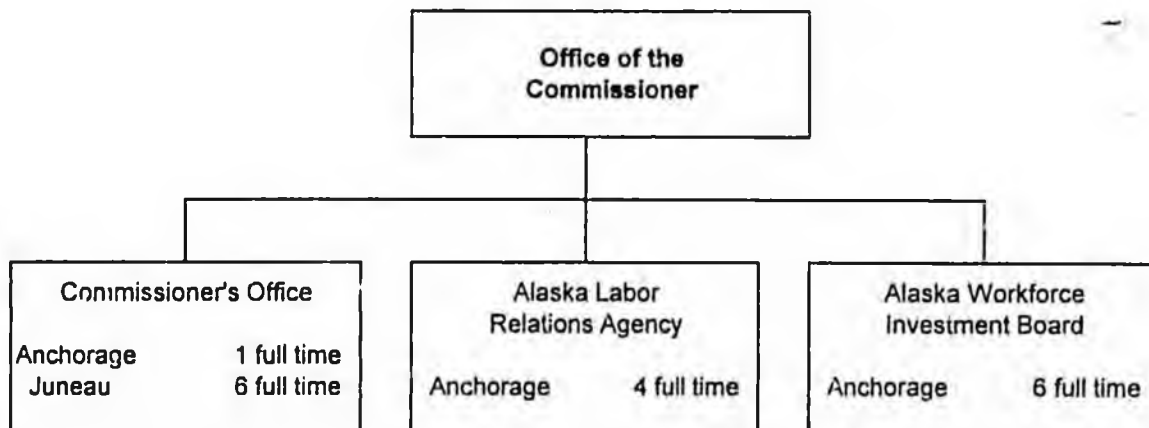
**OFFICE OF THE COMMISSIONER - Budget \$1,772.1**



Department of Labor's FY 03 Management Plan Budget

The Office is comprised of three components:

- Office of the Commissioner - (\$360.3 GF)
- Alaska Workforce Investment Board
- Alaska Labor Relations Agency - (\$342.0 GF)



## **OFFICE OF THE COMMISSIONER**

The mission of the Office of the Commissioner is to provide support and policy direction to divisions within the department.

### **Commissioner's Office**

The Commissioner's Office component provides direction to the department's divisions in the administration of the department's programs to fulfill the mission of providing for the workplace safety and economic welfare of Alaska's workers.

### **Alaska Labor Relations Agency**

The Alaska Labor Relations Agency component facilitates the resolution of disputes between organized labor and public employers in the state. The Agency promotes cooperative relations between government and its employees and protects the public's interest in the provision of uninterrupted government services.

### **Alaska Workforce Investment Board**

The Alaska Workforce Investment Board provides oversight for program coordination among Alaska's human resource investment programs, performs evaluations of program performance, and provides recommendations for human resource investment program improvement to the Governor and the Legislature.

### **Issues**

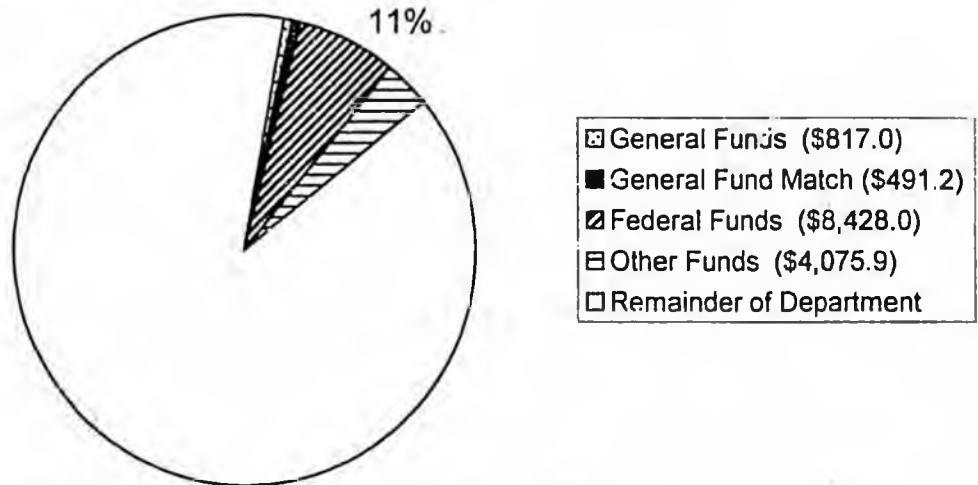
Prepare and plan for the maximum use of Alaska's resident workforce for the construction and operation of any potential Alaska gas line, ANWR development and/or missile defense installation.

Coordinate the employment and job training function for multi-departmental efforts to assist communities experiencing economic distress.

Implement the user fee passed by the Legislature to address the statewide inspection backlogs.

Assist in providing uninterrupted government services to the public by conducting all certification and decertification elections within statutory requirements.

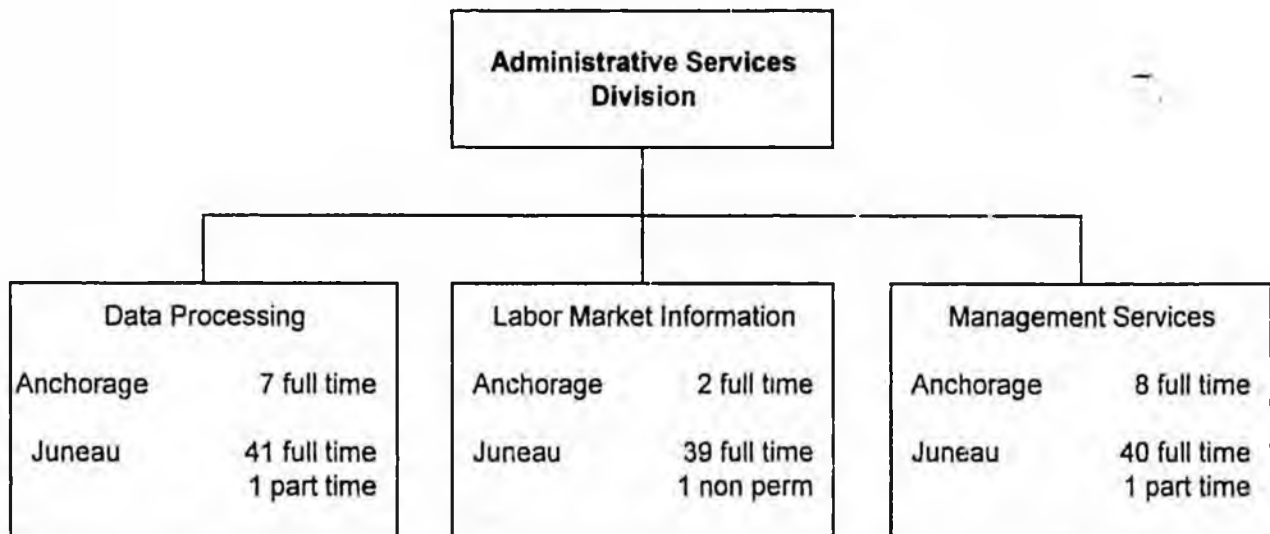
## ADMINISTRATIVE SERVICES DIVISION - Budget \$13,812.1



Department of Labor's FY 03 Management Plan Budget

The Division is comprised of four components:

- Management Services - (\$417.1 GFM)
- DOL State Facilities Rent - (\$246.5 GF)
- Data Processing - (\$114.7 GF)
- Labor Market Information - (\$455.8 GF, \$74.1 GFM)



## **ADMINISTRATIVE SERVICES DIVISION**

The mission of the Division of Administrative Services is to provide support services to departmental programs.

### **Management Services**

The Management Services component provides budget planning, monitoring and reporting; federal, state and unemployment insurance trust fund accounting; publication functions; human resource management; and procurement, mail and office space management to departmental programs.

### **Labor Market Information**

The Labor Market Information component collects, analyzes and publishes information on employment, unemployment, wage rates, occupational injuries, population estimates and forecasts, and other economic and demographic information.

### **Data Processing**

The Data Processing component provides long-range planning, project management, mainframe and distributed systems applications analysis and programming, database and security administration and network services installations and support.

### **State Facilities Rent**

The State Facilities Rent component will fund necessary maintenance and help prevent future deferred maintenance problems in the Fairbanks Regional Office Building.

## Issues

Data processing issues increase as computers become a primary tool to accomplish business internally and externally. Issues include:

- Recruitment and retention of data processing staff continues as a critical problem due to a limited availability of highly trained individuals and the limited salary potential.
- Transitioning to newer technology is an increasing concern as the state reassesses the role of the mainframe and as electronic filing and payment options become mainstream.
- Impacts from meeting new federal mandates, such as the Temporary Extended Unemployment Compensation program. These mandates can require immediate changes to systems resulting in a shift of resources and/or deferment of system development and maintenance. On the horizon is the UI Reforms legislation, and the Health Insurance Portability & Accountability Act of 1996 (HIPPA).
- Security requirements increase as more public access and wireless systems are developed. In many cases, the necessary infrastructure for implementing adequate system security does not yet exist.

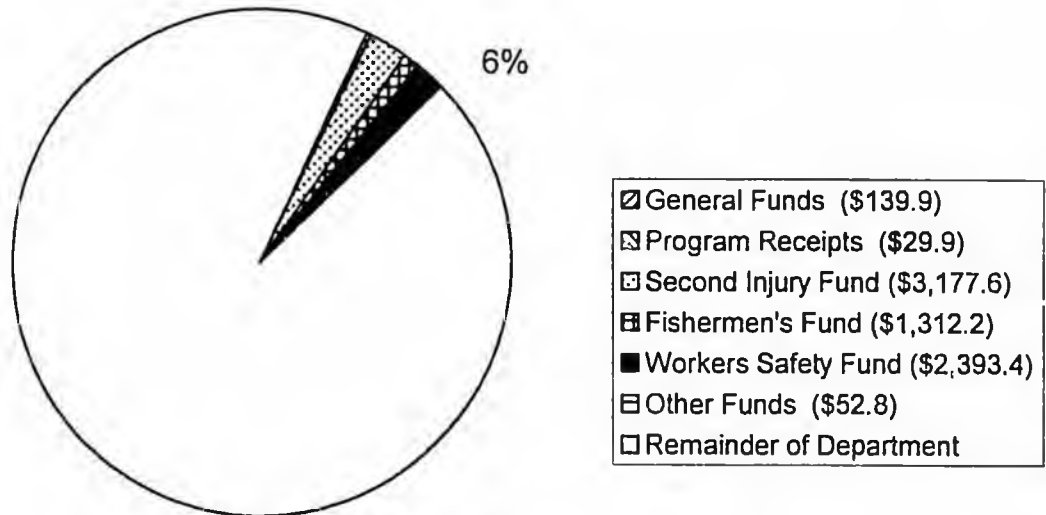
The funding for Labor Market Information is not keeping pace with the growing need for economic information.

- Bureau of Labor Statistics federal funding has remained flat even though more sophisticated modeling and sampling procedure are now required, and the steady growth in employers has increased the workload.
- The viability of obtaining demographic and census data is more vulnerable as the state funding mix changes. The public and other state agencies use the demographic and census data regularly. For example, it is used in the allocation of state revenue sharing. When direct general funds decrease, funds must be obtained from other sources such as state agencies.

Compliance with reduced timeframe for submitting federal Unemployment Trust Fund (UTF) reports.

A rate increase for the state Fairbanks Regional Office Building results in a need for additional funds.

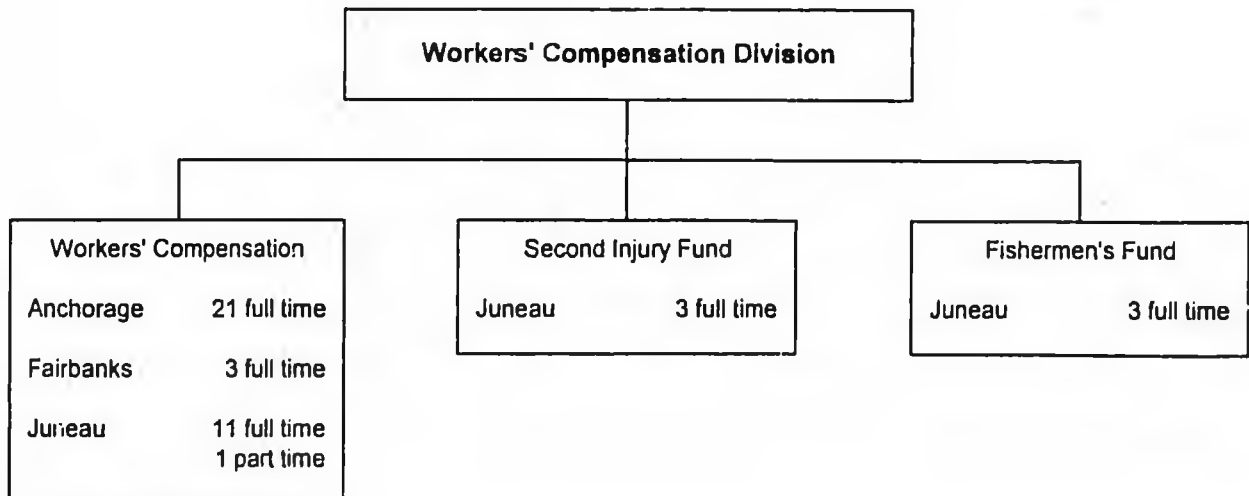
## WORKERS' COMPENSATION DIVISION - Budget \$7,105.8



Department of Labor's FY 03 Management Plan Budget

The Division is comprised of three components:

- Workers' Compensation - (\$139.9 GF, \$29.9 PR)
- Second Injury Fund
- Fishermen's Fund



## **WORKERS' COMPENSATION DIVISION**

The mission of the Division of Workers' Compensation is to ensure that injured Alaska workers receive fair benefits.

### **Workers' Compensation**

Serves as administrative arm to the Alaska Workers' Compensation Board to implement the state's workers' compensation law to ensure that eligible Alaska workers are provided medical care and prompt payment of benefits.

Adjudicate disputes regarding workers' compensation coverage between employees and employers, or their insurers, through mediation or administrative hearings.

Identify and investigate uninsured employers.

Maintain a database of all aspects of worker's compensation activity.

Administer the voluntary reemployment benefits program that offers training to those injured workers who cannot return to their jobs because of their workplace injuries.

Administer the state's self-insurance program.

### **Second Injury Fund**

Reimburses employers for compensation paid to employees involved in a second injury, if eligible.

### **Fishermen's Fund**

Provide assistance with the medical costs of injuries or illnesses due to commercial fishing activities on shore or in Alaska waters.

## Issues

Continue to monitor the Second Injury Fund closely to assure that there are sufficient funds to cover liabilities because of the liberalization of qualifications from the Supreme Court Case of Arctic Bowl v. Second Injury Fund.

Decrease the Workers' Compensation hearing time lag in order to reduce the burden and expense to employers and employees remains a key issue.

Complete and expand the pilot project for electronic data interchange (electronic filing) to increase efficiencies that will allow for more effective use of human resources. A capital project to fund this was approved in the FY 2003 budget.

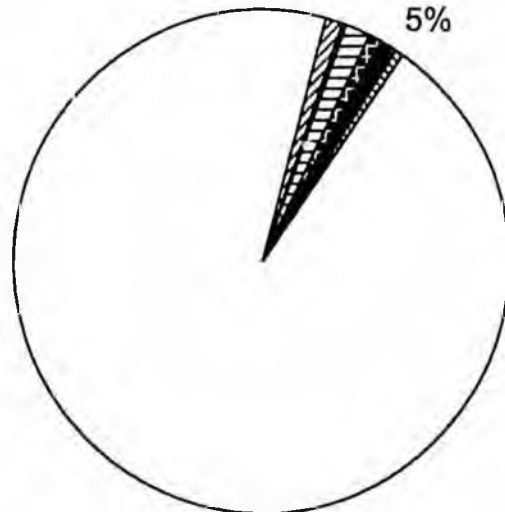
Replace the obsolete Fishermen's Fund computerized database and claims handling system.

Continue efforts to increase Alaska commercial fishermen's awareness of the Fishermen's Fund program through meetings, speaking engagements and availability of literature related to the program.

Continue investigations of potentially uninsured employers in an attempt to eliminate the number of uninsured Alaskan workers that are injured each year.

Investigate potential legislative and administrative possibilities so that uninsured injured workers' can be compensated for their injuries.

## LABOR STANDARDS & SAFETY DIVISION - Budget \$6,628.6

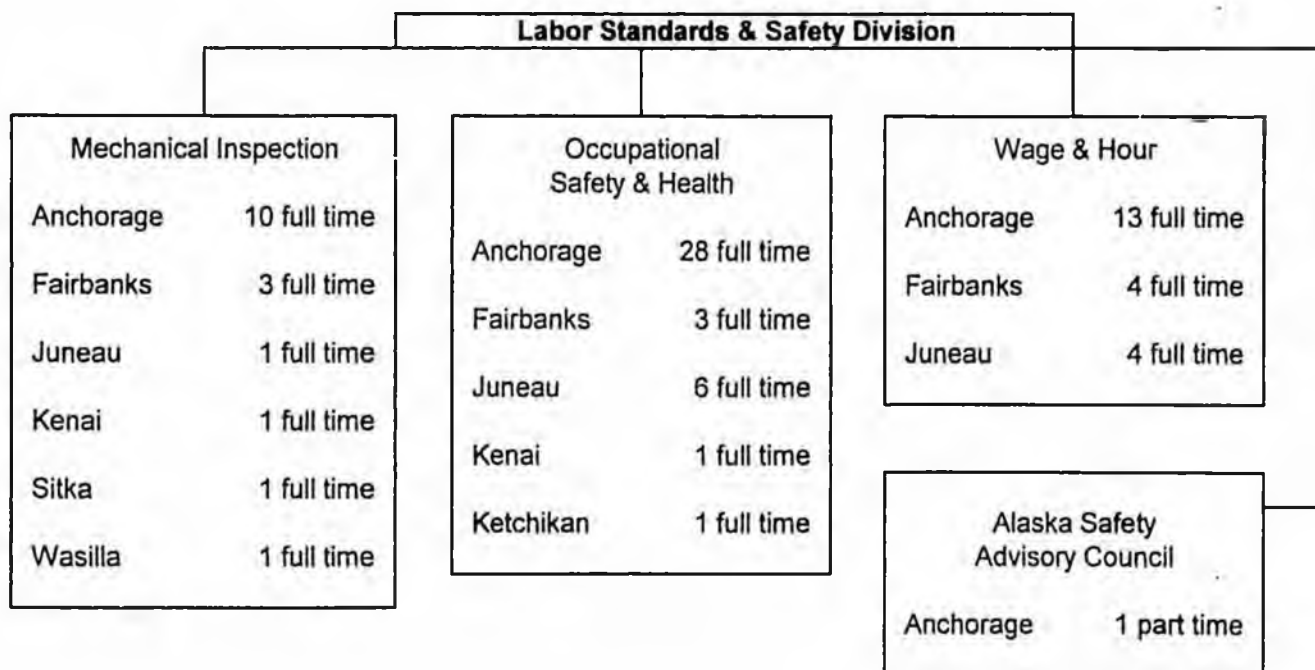


▨	General Funds (\$1,515.0)
▩	Program Receipts (\$89.6)
▤	Federal Funds (\$1,942.3)
▥	Workers Safety Fund (\$1,228.1)
■	Building Safety Fund (\$1,275.8)
▧	Other Funds (\$577.8)
□	Remainder of Department

Department of Labor's FY 03 Management Plan Budget

The Division is comprised of four components:

- Wage & Hour - (\$1,377.3 GF)
- Mechanical Inspection - (\$137.7 GF)
- Occupational Safety & Health - (\$89.6 PR)
- Alaska Safety Advisory Council



## LABOR STANDARDS & SAFETY DIVISION

The mission of the Division of Labor Standards and Safety is to provide for the monitoring of safe and legal working conditions.

### **Wage & Hour**

Establish and enforce protective standards to safeguard minors from abuse and exploitation in the workplace.

Ensure that in accordance with law, Alaska workers receive minimum wages, overtime wages, and return transportation.

Enforce prevailing wage rates and employment preference on public works projects.

Educate employers and employees about Alaska labor laws.

### **Mechanical Inspection**

License electricians, power linemen, plumbers, boiler operators, painters, asbestos abatement workers, and explosive handlers.

#### **Inspect**

- Boilers & pressure vessels for safety
- Elevators, wheel chair lifts, escalators, tramways, ski lifts and amusement rides for safety, proper maintenance and operation.
- New construction, and alterations to existing construction, for compliance with applicable state plumbing and electrical codes.

Work in conjunction with the Department of Community & Economic Development to ensure that electricians, plumbers, construction contractors and electrical and mechanical administrators have proper certificates and/or licenses.

Work in conjunction with Department of Natural Resources, Joint Pipeline Office, in ensuring compliance of safety and electrical TAPS activities.

## **Occupational Safety and Health**

Enforce the state's occupational safety and health laws

- Inspect workplaces, scheduled and unscheduled, to assess workplace safety and health.
- Ensure prompt elimination or restraint of imminent danger situations in the workplace.
- Investigate employee complaints, work related fatalities and catastrophes.
- Protect employees against wrongful discharge or discrimination for exercising their rights under this program.
- Focus on Alaska's high-hazard industries, e.g. construction, logging and seafood processing for compliance with health and safety laws.

Provide consultation and training services to Alaska workers and businesses to encourage safe working conditions and practices

Provide incentive to employers through the Voluntary Protection Program and Safety and Health Achievement Recognition Program.

## **Alaska Safety Advisory Council**

Work with organizations, individuals and groups in the promotion of safety to reduce accidental death and injury.

Organize and sponsor the Annual Governor's Safety and Health Conference.

- Provide certification and continuing education.
- Demonstrations and presentations on safety related products.

Promote the Occupational Safety and Health Voluntary Protection Program and Safety and Health Achievement Recognition Program.

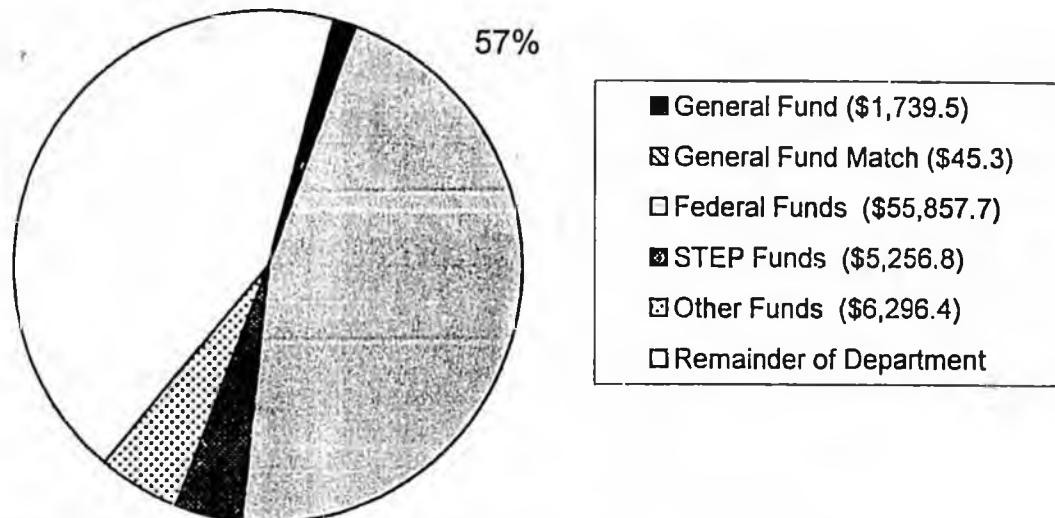
## Issues

The Occupational Safety and Health program will be in the first year of the division's new five-year strategic plan. Meeting the objectives set out in the Federal Fiscal Year 2004 Annual Performance Plan and the five-year Strategic Plan as approved by the Federal Occupational Safety and Health Administration will be a major effort on the part of the program staff.

Efforts to decrease the boiler and pressure vessel inspection backlog continue. It is estimated that the backlog can be eliminated by FY 2006.

Child labor continues to be a major focus of the Wage and Hour Section. Investigative staff travels throughout the state to conduct "on-site" inspections to ensure that minors are being paid properly and are not being required to perform hazardous duties on the job. Child work permits and the associated caseload have increased incrementally over the past decade, with no associated increase in Wage and Hour positions.

## EMPLOYMENT SECURITY DIVISION - Budget \$69,195.7



Department of Labor's FY 03 Management Plan Budget

The Division is comprised of four components:

- Employment Services – (\$45.3 GFM)
- Unemployment Insurance
- Job Training Programs – (\$43.7 PR)
- Adult Basic Education – (\$1,739.5 GF)

Employment Security Division									
Location	Employment Services			Unemployment Insurance			Job Training Programs		Adult Basic Ed
	PFT	PPT	NP	PFT	PPT	NP	PFT	NP	PFT
Anchorage	55	6		76	6		15		
Bethel	4	2	1				3		
Delta Junction								1	
Dillingham		1					1		
Eagle River	3	1							
Fairbanks	23	2		18	3		9		
Glennallen	1								
Homer	3								
Juneau	52			113	13	1	16	2	3
Kenai	15	2		1			3	1	
Ketchikan	8						2		
Kodiak	4								
Kotzebue							1		
Nome	7	1		1			3		
Petersburg		1							
Seward	2								
Sitka	2								
Tok	1								
Valdez	2		1						
Wasilla	12	1							

## **EMPLOYMENT SECURITY DIVISION**

The mission of the Division of Employment Security is to promote employment and economic stability by responding to the needs of employers and job seekers.

### **Employment Services (ES)**

The Employment Services (ES) program promotes economic development by operating a public labor exchange to meet the workforce needs of businesses in Alaska.

Work Services provides a specialized labor exchange and case management service for recipients of both the Alaska Temporary Assistance Program (ATAP) and food stamps to place them in unsubsidized employment. Among the services provided in this program are employability assessment, training, counseling, and placement.

### **Job Training (JT)**

The Balance of State field services delivers direct, or "front line", job training and supportive services through our Job Center staff and grantees.

The Alaska Workforce Investment Office (AWIO) is responsible for planning, administration and grant management specific to the federal Workforce Investment Act of 1998 (WIA), the State Training Employment Program (STEP) and the Welfare-to-Work (WtW) grants provided to states under the Balanced Budget Act of 1997.

The Denali Commission provides funds for employment training related to Denali Commission infrastructure projects.

State Training Employment Program (STEP) provides Alaskan UI claimants access to state and employer sponsored training.

### **Unemployment Services (UI)**

The Unemployment Insurance (UI) program assesses and collects employer contributions for deposit into the UI Trust Fund and pays UI benefits to workers who are temporarily unemployed and looking for work.

### **Adult Basic Education (ABE)**

The Adult Basic Education program provides, through grantees, instruction in basic skills of reading, writing, and math with emphasis on integrating workplace readiness skills into instruction as well as practical life skills. The program also directly assists and prepares Alaskans to take the GED tests.

### **Issues**

The Unemployment Insurance (UI) federal grant for FFY03 was reduced by \$1.4 million from \$20.5 million to \$19.1 million. This raises the question of whether we will have sufficient resources to meet our UI operating expenses. The grant reduction is the result of the new federal Resource Justification Model that was implemented in February 2002 and is now being used to allocate federal funds to support the administrative costs to the state for the UI program.

The UI/ES Reform effort is still active at the national level. The current proposal seeks to reduce FUTA taxes by 75%, with the responsibility of funding the administration of ES and UI being turned over to the state.

Congress will consider a reauthorization of the federal Workforce Investment Act in 2004. Critical issues for Alaska will be potential changes to performance measures; youth program design, One Stop partners, and other program integration and alignments.

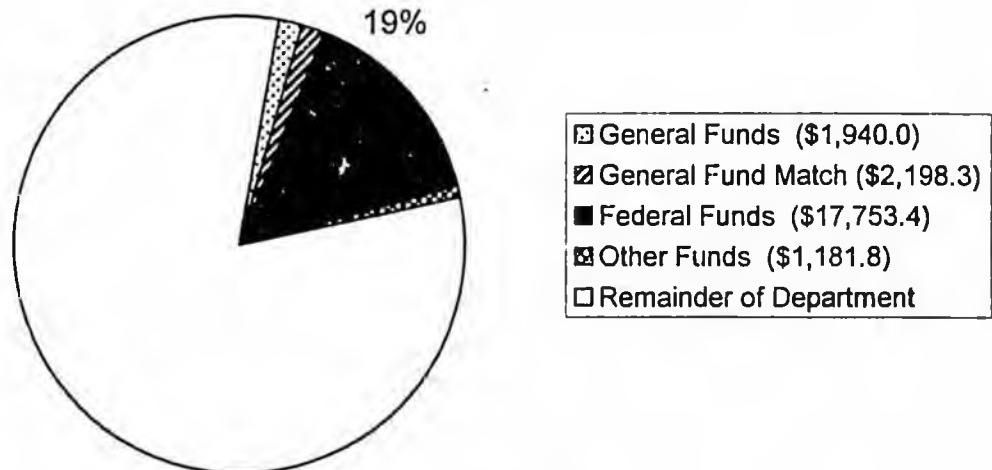
It is expected that enrollment in Adult Basic Education programs will initially increase by up to 25 percent as high school seniors prepare to take the GED or seek instruction in order to pass the Alaska State High School Exit Exam. Current funding levels and local capacity may not be adequate to address this additional demand.

ESD must continue providing employment services to an increasing number of Alaskan employers and job seekers while the Wagner-Peyser grant is in the ninth year of flat funding.

ESD will address the lack of employment opportunities in rural areas by focusing additional WIA resources in local offices and coordinating with other agencies' economic development programs.

Office space continues to be tight and customers have made complaints. ESD will explore the feasibility of redesigning One Stop Job Centers in Fairbanks, Anchorage, and Juneau to allow for more efficiency in workflow and improved customer access to services.

## VOCATIONAL REHABILITATION DIVISION - Budget \$23,073.5



Department of Labor's FY 03 Management Plan Budget

The Division is comprised of eight components:

- Vocational Rehabilitation Administration – (\$171.0 GFM)
- Client Services – (\$1,235.1 GF, \$1,963.9 GFM, \$4.9 PR)
- Federal Training Grant – (\$5.6 GFM)
- Independent Living Rehabilitation – (\$619.1 GF, \$57.8 GFM)
- Disability Determination
- Special Projects – (\$85.8 GF)
- Assistive Technology
- Americans with Disabilities Act

Vocational Rehabilitation Division													
Location	Client Services			Voc Rehab Admin		Independent Living Rehab	Disability Determination		Special Projects		Assistive Technology	Americans with Disabilities Act	
	PFT	PPT	NP	PFT	NP	PFT	PFT	NP	PFT	NP	PFT	PFT	NP
Anchorage	44		1	4		1	28	2	2		1		1
Bethel	1												
Fairbanks	11		1										
Juneau	10			11	1								1
Kenai	4		1						1				
Ketchikan	2		1										
Kodiak	1	1											
Sitka	2												
Wasilla	8								1				

## **Division of Vocational Rehabilitation**

The mission of the Division of Vocational Rehabilitation is to assist individuals with disabilities to overcome barriers to employment and to maintain suitable employment.

### **Client Services**

The Client Services component provides direct services to Alaskans with disabilities. Services are planned and delivered for the purpose of assisting individuals with disabilities who need vocational rehabilitation to prepare for and acquire employment in the competitive labor market. Services are determined on an individualized basis and can include such things as training, physical and mental restoration, assistance with developing and funding self-employment plans, transportation services, and other services needed by the individual and identified as part of the Individual Plan for Employment.

### **Federal Training Grant**

This component provides federal funds for the training and continued education of professional and paraprofessional employees as provided under Section 101(a)(7)(A) of the Rehabilitation Act Amendments of 1998.

### **Vocational Rehabilitation Administration**

The component provides administrative support and oversight for all programs within the division. Services include: grants to individuals and to non-profits, accounting, budgeting, program monitoring and evaluation, planning and policy direction, securing new funding sources, fiscal and statistical reports for the management and for field staff, and liaison with other public and private agencies.

## **Independent Living Rehabilitation**

Independent living services for Alaskans with significant disabilities are funded through grants to Centers for Independent Living and Specialized Service Providers. These individuals are often unable to work and some are forced to live in institutions such as nursing homes and other long-term care facilities. Services may include assistance with locating barrier free housing, accessible transportation, training of personal care attendants, self-advocacy, skills training, and the provision of adaptive equipment and aids. Services enable the individuals to live independently and in some cases to obtain employment.

## **Disability Determination**

Disability Determination Services is 100% federally funded by the Social Security Administration. The component adjudicates claims for individuals alleging disability under Social Security and Supplemental Security Income programs. Medical determinations are made by reviewing past medical records or by purchasing current medical exams for the individuals that will enable the adjudicator to appropriately evaluate the individuals' disabilities. Social Security benefits will be available to individuals who experience a medical disability that meet the requirements of the federal law.

## **Special Projects**

This component includes funding for new and innovative projects, which enhance and support the general mission of the division to provide services to individuals with disabilities. Projects are identified in the division's planning process and include: supported employment services for individuals with the most severe disabilities, interpreter referral services for individuals who are deaf, transition services for students with disabilities moving from school to adult life, and an economic development alliance with private business to assist them with hiring individuals with disabilities.

## **Assistive Technology**

This federally funded component provides services that assist individuals with disabilities of all ages to live more independently through the use of assistive technology services and devices. A comprehensive service delivery system is provided through grants to non-profit organizations so individuals residing in all parts of Alaska will have access. Assistive technology enables these individuals to live more independently and in some cases to become productive members of the workforce. Assistive technology can include many things such as sophisticated talking computers for blind individuals to very simple grab bars for individuals with mobility impairments.

## Americans with Disabilities Act (ADA)

This component provides services to executive branch agencies of state government to assure compliance with Title I and II of the Americans with Disability Act. Services include training for state employees, facility audits for physical barriers, identification of program barriers, technical assistance to all departments, and handling ADA complaints.

### Issues

Provide support and staff training to enable the One-Stop delivery system to effectively serve people with disabilities.

Continue the advancement of Informed Choice in all facets of Vocational Rehabilitation services.

Continue to support counselors in meeting the federal requirements of a Masters Degree.

Increase efficiency and effectiveness under the Unified State Plan prompted by the Workforce Investment Act.

Implement the Ticket to Work program that allows people with disabilities to retain benefits during initial employment.