

LEG. FINANCE - BILLS 1979 - 1980 1265

SB 103 thru SB 104am 1265



RECORDS



CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

3/23/90
Date

COMMITTEE REPORT
SENATE

2/2/79

FURTHER: None

Date: March 19, 1979

Mr. President:

The Committee on FINANCE has had SB 103

authorizing advisory vote by qualified voters of state amending Constitution of United States to require a balanced federal budget except in the event of a national emergency

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the Subcommittee Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

H. L. ...

Gene ...

John A. ...
CHAIRMAN

Introduced: 2/2/79
Referred: Finance

1 IN THE SENATE

BY MULCAHY

2 SENATE BILL NO. 103

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing an advisory vote by the qualified
7 voters of the state on amending the Constitution of the
8 United States to require a balanced federal budget
9 except in the event of a national emergency."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. The lieutenant governor shall place before the qualified
12 voters of the state at the next statewide election the question advisory to
13 the legislature of whether the Constitution of the United States should be
14 amended to require a balanced federal budget except in the event of a
15 national emergency. The question shall appear on the ballot in substantially
16 the following form:

17 "QUESTION

18 Do you support amendment of the Constitution of the United
19 States to require a balanced federal budget, except in the
20 event of a national emergency?

21 Yes [] No []"

22

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RECORDS CERTIFICATION



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James O. Smith
Signature of Camera Operator

3/23/90
Date

(11)

COMMITTEE REPORT

HOUSE

2/6/80

FURTHER:

Date: 2/7/80

Mr. Speaker:

The Committee on FINANCE has had SB 104am

"An Act establishing the court of appeals; eff. date."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for SB 104 (ind) same title
 new title
- and recommends that it do pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

**MEMBERS SIGNING
DO PASS**

[Signature]

[Signature]

Request DO PASS on APPEAL

[Signature]

[Signature]

**MEMBERS HAVING
OTHER RECOMMENDATIONS:**

[Signature]

[Signature]

[Signature]

CHAIRMAN

Original sponsors: Ziegler, Bradley,
Meland, et al

Offered: 2/6/80
Referred: Finance

1 IN THE SENATE BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 104 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the judiciary; establishing a court
7 of appeals; amending the jurisdiction of the supreme
8 court, the superior court, and the district court;
9 clarifying and amending the sentence appeal and other
10 appellate jurisdiction of the superior court; changing
11 the qualifications of justices and judges; providing
12 that justices and judges may serve as delegates to
13 constitutional conventions; amending the time period in
14 which the judicial council is to provide information to
15 the public concerning judicial officers standing for
16 retention election; changing Rule 21, Rules of Appel-
17 late Procedure and Rule 7, District Court Criminal
18 Rules; and providing for an effective date."

19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

20 * Section 1. AS 22 is amended by adding a new chapter to read:

21 CHAPTER 07. THE COURT OF APPEALS.

22 Sec. 22.07.010. ESTABLISHMENT. There is established the court of
23 appeals, consisting of three judges. The court of appeals is a court of
24 record.

25 Sec. 22.07.020. JURISDICTION. (a) The court of appeals has
26 appellate jurisdiction in actions and proceedings commenced in the
27 superior court involving:

- 28 (1) criminal prosecution;
29 (2) post-conviction relief;

1 (3) children's court matters under AS 47.10.010(a)(1) includ-
2 ing waiver of children's court jurisdiction over a minor under AS 47.10;

3 (4) extradition;

4 (5) habeas corpus;

5 (6) probation and parole; and

6 (7) bail.

7 (b) The court of appeals has jurisdiction to hear appeals of
8 sentences of imprisonment imposed by the superior court on the grounds
9 that the sentence is excessive or too lenient and, in the exercise of
10 this jurisdiction, may modify the sentence as provided by law and the
11 state constitution.

12 (c) An appeal to the court of appeals is a matter of right in all
13 actions and proceedings within its jurisdiction, except that the state
14 has no right of appeal in criminal cases except to test the sufficiency
15 of the indictment or information or to appeal a sentence on the ground
16 it is too lenient.

17 (d) The court of appeals may in its discretion (1) review a final
18 decision of the superior court on an appeal from a district court in an
19 action or proceeding involving criminal prosecution, post-conviction
20 relief, extradition, probation and parole, habeas corpus or bail; (2)
21 review the final decision of the superior court on appeal of a sentence
22 imposed by the district court. In this subsection "final decision"
23 means a decision or order, other than a dismissal by consent of all
24 parties, that closes a matter in the superior court.

25 (e) The court of appeals may issue injunctions, writs and all
26 other process necessary for the complete exercise of its jurisdiction.

27 (f) A final decision of the court of appeals is binding on the
28 superior court and on the district court unless superseded by a decision
29 of the supreme court.

1 Sec. 22.07.030. REVIEW BY SUPREME COURT. A party may apply to the
2 supreme court for review of a final decision of the court of appeals in
3 accordance with AS 22.05.010 and rules adopted by the supreme court.
4 Review is in the discretion of the supreme court as set out in AS 22.-
5 05.010(c). In this section, "final decision" means a decision or order,
6 other than a dismissal by consent of all parties, that closes a matter
7 in the court of appeals.

8 Sec. 22.07.040. QUALIFICATIONS OF JUDGES. A judge of the court of
9 appeals shall be a citizen of the United States and of the state, a
10 resident of the state for five years immediately preceding his appoint-
11 ment, have been engaged for not less than eight years immediately pre-
12 ceding his appointment in the active practice of law, and at the time of
13 appointment be licensed to practice law in the state. For purposes of
14 this section, the active practice of law is the same as defined for the
15 justices of the supreme court in AS 22.05.070.

16 Sec. 22.07.050. OATH OF OFFICE. Each judge of the court of
17 appeals, upon entering office, shall take and subscribe to the oath or
18 affirmation of office required of all officers under the constitution.

19 Sec. 22.07.060. APPROVAL OR REJECTION. Each judge of the court of
20 appeals is subject to approval or rejection as provided in the Alaska
21 Election Code (AS 15). The judicial council shall conduct an evaluation
22 of each judge before his retention election and shall provide informa-
23 tion to the public about the judge and may provide a recommendation
24 regarding his retention or rejection. The information and any recommen-
25 dation shall be made public at least 60 days before the election. The
26 judicial council shall also provide the information and any recommenda-
27 tion to the office of the lieutenant governor in time for publication in
28 the election pamphlet as required by AS 15.57.025. If a majority of
29 those voting on the question rejects the candidacy of a judge, he may

1 not for a period of four years thereafter be appointed to fill a vacancy
2 in the supreme court, the court of appeals, the superior court, or the
3 district court of the state.

4 Sec. 22.07.070. VACANCIES. (a) The governor shall fill a vacancy
5 or appoint a successor to fill an impending vacancy in the office of
6 judge of the court of appeals within 45 days after receiving nominations
7 from the judicial council, by appointing one of two or more persons
8 nominated by the council for each actual or impending vacancy. An
9 appointment to fill an impending vacancy becomes effective upon the
10 actual occurrence of the vacancy.

11 (b) The office of a judge of the court of appeals becomes vacant
12 90 days after the election at which he is rejected by a majority of
13 those voting on the question or for which he fails to file his declara-
14 tion of candidacy to succeed himself. Upon the occurrence of (1) an
15 actual vacancy; (2) the certification of rejection following an elec-
16 tion; or (3) the failure of a judge to file a declaration of candidacy
17 to succeed himself, the judicial council shall meet within 45 days and
18 submit to the governor the names of two or more persons qualified for
19 the judicial office; however, the 45-day period may be extended by the
20 judicial council with the concurrence of the supreme court. In the
21 event of an impending vacancy other than by reason of rejection or
22 failure to file a declaration of candidacy, the judicial council may
23 meet at any time within the 90-day period immediately preceding the
24 effective date of the vacancy and submit to the governor the names of
25 two or more persons qualified for the judicial office.

26 Sec. 22.07.080. RESTRICTIONS. A judge of the court of appeals
27 while holding office may not practice law, or engage in the conduct of
28 any other profession, vocation or business for profit or compensation,
29 which conduct would interfere with his performance of his judicial

1 duties, nor may he hold office in a political party, or hold any other
2 office or position of profit under the United States, the state or its
3 political subdivisions. A judge of the court of appeals filing for
4 another elective public office other than delegate to a constitutional
5 convention of this state or the United States forfeits his judicial
6 position.

7 Sec. 22.07.090. COMPENSATION. (a) The monthly salary of a judge
8 of the court of appeals is equal to Step E, Range 29 of the salary
9 schedule in AS 39.27.011(a) for Juneau, Alaska. The compensation of a
10 judge may not be diminished during his term of office, unless by general
11 law applying to all salaried officers of the state.

12 (b) A salary warrant may not be issued to a judge of the court of
13 appeals until he has filed with the state officer designated to issue
14 salary warrants an affidavit that no matter referred to the judge for
15 opinion or decision has been incompleated or undecided by him for a
16 period of more than six months.

17 Sec. 22.07.100. PROCESS. Process of the court of appeals shall be
18 in the name of the State of Alaska, signed by the clerk of the court or
19 his deputy, dated when issued, sealed with the seal of court, and made
20 returnable according to rule prescribed by the supreme court.

21 * Sec. 2. AS 22.05.010 is repealed and re-enacted to read:

22 Sec. 22.05.010. JURISDICTION. (a) The supreme court has final
23 appellate jurisdiction in all actions and proceedings. However, a party
24 has only one appeal as a matter of right from an action or proceeding
25 commenced in either the district court or the superior court.

26 (b) Appeal to the supreme court is a matter of right only in those
27 actions and proceedings from which there is no right of appeal to the
28 court of appeals under AS 22.07.020 or to the superior court under
29 AS 22.10.020 or AS 22.15.240.

1 (c) A decision of the superior court on an appeal from an adminis-
2 trative agency decision may be appealed to the supreme court as a matter
3 of right.

4 (d) The supreme court may in its discretion review a final deci-
5 sion of the court of appeals on application of a party under AS 22.07.-
6 030. The supreme court may in its discretion review a final decision of
7 the superior court on an appeal of a civil case commenced in the dis-
8 trict court. In this subsection "final decision" means a decision or
9 order, other than a dismissal by consent of all parties, that closes a
10 matter in the court of appeals.

11 (e) The supreme court may issue injunctions, writs and all other
12 process necessary to the complete exercise of its jurisdiction.

13 * Sec. 3. AS 22.05 is amended by adding a new section to read:

14 Sec. 22.05.015. TRANSFER OF APPELLATE CASES. (a) The supreme
15 court may transfer to the court of appeals for decision a case pending
16 before the supreme court if the case is within the jurisdiction of the
17 court of appeals.

18 (b) The supreme court may take jurisdiction of a case pending
19 before the court of appeals if the court of appeals certifies to the
20 supreme court that the case involves a significant question of law under
21 the Consitution of the United States or under the constitution of the
22 state or involves an issue of substantial public interest that should be
23 determined by the supreme court.

24 (c) A case filed in the supreme court or in the court of appeals
25 may not be dismissed by one court on the ground that it is within the
26 jurisdiction of the other court. The case shall be transferred to the
27 proper court.

28 * Sec. 4. AS 22.05.060 is amended to read:

29 Sec. 22.05.060. SEALS OF COURT. The seal of the supreme court is

1 a vignette of the official flag of the state with the words "Seal of the
2 Supreme Court of the State of Alaska" surrounding the vignette. The
3 supreme court shall prescribe by rule the seals of court for the court
4 of appeals and for the superior and district courts.

5 * Sec. 5. AS 22.05.070 is amended to read:

6 Sec. 22.05.070. QUALIFICATIONS OF JUSTICES. A justice of the
7 supreme court shall be a citizen of the United States and of the state,
8 a resident of the state for five [THREE] years immediately preceding his
9 appointment, have been engaged for not less than eight years immediately
10 preceding his appointment in the active practice of law, and at the time
11 of appointment be licensed to practice law in the state. The active
12 practice of law includes

13 (1) sitting as a judge in a state or territorial court;

14 (2) being actually engaged in advising and representing
15 clients in matters of law;

16 (3) rendering legal services to an agency, branch, or depart-
17 ment of a civil government within the United States or a state or terri-
18 tory of the United States, in an elective, appointive or employed capac-
19 ity;

20 (4) serving as a professor, associate professor, or assistant
21 professor in a law school accredited by the American Bar Association.

22 * Sec. 6. AS 22.05.100 is amended to read:

23 Sec. 22.05.100. APPROVAL OR REJECTION. Each supreme court justice
24 is subject to approval or rejection as provided in the Alaska Election
25 Code (AS 15.05 - 15.60). The judicial council shall conduct an evalua-
26 tion of each justice before his retention election and shall provide to
27 the public information about that justice and may provide a recommenda-
28 tion regarding his retention or rejection. Such information and any
29 recommendation shall be made public at least 60 [30] days before the

1 retention election. The judicial council shall also provide such infor-
2 mation and any recommendation to the office of the lieutenant governor
3 in time for publication in the election pamphlet under AS 15.57.025. If
4 a majority of those voting on the question rejects his candidacy, he
5 shall not be appointed to fill any vacancy in the supreme court, court
6 of appeals, [OR] superior court, or district courts [COURTS] of the
7 state for a period of four years thereafter.

8 * Sec. 7. AS 22.05.130 is amended to read:

9 Sec. 22.05.130. RESTRICTIONS. A supreme court justice while
10 holding office may not practice law, nor engage in the conduct of any
11 other profession, vocation or business for profit or compensation, which
12 conduct would interfere with his performance of his judicial duties, nor
13 may he hold office in a political party, or hold any other office or
14 position of profit under the United States, the state [,] or its poli-
15 tical subdivisions. A supreme court justice filing for another elective
16 public office other than delegate to a constitutional convention of
17 this state or the United States forfeits his judicial position.

18 * Sec. 8. AS 22.10.020(a) is amended to read:

19 (a) The superior court is the trial court of general jurisdiction,
20 with original jurisdiction in all civil and criminal matters, including
21 but not limited to probate and guardianship of minors and incompetents.
22 The jurisdiction of the superior court extends over the whole of the
23 state. The superior court and its judges may issue injunctions, writs
24 of review, mandamus, prohibition, habeas corpus and all other writs
25 necessary or proper to the complete exercise of its jurisdiction. A
26 writ of habeas corpus may be made returnable before any judge of the
27 superior court. The superior court has jurisdiction in all matters
28 appealed to it from a subordinate court, or administrative agency when
29 appeal is provided by law. Appeals are a matter of right, but no appeal

1 from a subordinate court may be taken by the defendant in a criminal
2 case after a plea of guilty, except on the ground that the sentence was
3 excessive, as further provided by this section. The state has no right
4 to appeal in criminal cases [NO APPEAL MAY BE TAKEN BY THE STATE],
5 except to test the sufficiency of an indictment or information or to
6 appeal a sentence on the ground it is too lenient. An appeal to the
7 superior court may be taken on the ground that a sentence of impri-
8 sonment of 90 [180] days or more was excessive and the superior court in
9 the exercise of this jurisdiction has the power to reduce [MODIFY] the
10 sentence [APPEALED FROM UPWARD OR DOWNWARD]. When a sentence is ap-
11 pealed by the state on the ground it is too lenient, the court may not
12 increase the sentence but may express its approval or disapproval of
13 the sentence and its reasons in a written opinion. The hearings on
14 appeal from a final order or judgment of a subordinate court or adminis-
15 trative agency shall be on the record unless the superior court, in its
16 discretion, grants a trial de novo, in whole or in part.

17 * Sec. 9. AS 22.10.090 is amended to read:

18 Sec. 22.10.090. QUALIFICATIONS OF JUDGES. A judge of the superior
19 court shall be a citizen of the United States and of the state, a resi-
20 dent of the state for five [THREE] years immediately preceding his
21 appointment, have been engaged for not less than five years immediately
22 preceding his appointment in the active practice of law, and at the time
23 of appointment be licensed to practice law in the state. The active
24 practice of law shall be as defined for justices of the supreme court in
25 AS 22.05.070.

26 * Sec. 10. AS 22.10.150 is amended to read:

27 Sec. 22.10.150. APPROVAL OR REJECTION. Each superior court judge
28 is subject to approval or rejection as provided in the Alaska Election
29 Code (AS 15.05 - 15.60). The judicial council shall conduct an evalua-

1 tion of each judge before his retention election and shall provide to
2 the public information about the judge and may provide a recommendation
3 regarding his retention or rejection. Such information and any recom-
4 mendation shall be made public at least 60 [30] days before the reten-
5 tion election. The judicial council shall also provide such information
6 and any recommendation to the office of the lieutenant governor in time
7 for publication in the election pamphlet under AS 15.57.025. If a major-
8 ity of those voting on the question rejects his candidacy, he shall not
9 for a period of four years thereafter be appointed to fill any vacancy
10 in the supreme court, court of appeals, [OR] superior courts, or district
11 courts of the state.

12 * Sec. 11. AS 22.10.180 is amended to read:

13 Sec. 22.10.180. RESTRICTIONS. A superior court judge while
14 holding office may not practice law, nor engage in the conduct of any
15 other profession, vocation or business for profit or compensation,
16 which conduct would interfere with his performance of his judicial
17 duties, nor may he hold office in a political party, or hold any other
18 office or position of profit under the United States, the state or
19 its political subdivisions. A superior court judge filing for an-
20 other elective public office other than delegate to a constitutional
21 convention of this state or the United States forfeits his judicial
22 position.

23 * Sec. 12. AS 22.15.160(a) is amended to read:

24 (a) A district judge shall be a citizen of the United States and
25 of the state, at least 21 years of age, a resident of the state for at
26 least five years [ONE YEAR] immediately preceding his appointment, and
27 (1) have been engaged in the active practice of law for not less than
28 three years immediately preceding his appointment and at the time of his
29 appointment licensed to practice law in the State of Alaska; or (2)

1 have served for at least seven years as a magistrate in the state. The
2 supreme court may prescribe additional qualifications.

3 * Sec. 13. AS 22.15.195 is amended to read:

4 Sec. 22.15.195. APPROVAL OR REJECTION. Each district court judge
5 is subject to approval or rejection as provided in the Alaska Election
6 Code (AS 15.05 - 15.60). The judicial council shall conduct an evalua-
7 tion of each judge before his retention election and shall provide to
8 the public information about the judge and may provide a recommendation
9 regarding his retention or rejection. Such information and the recom-
10 mendation shall be made public at least 60 [30] days before the elec-
11 tion. The judicial council shall also provide such information and any
12 recommendation to the office of the lieutenant governor in time for
13 publication in the election pamphlet under AS 15.57.025. If a majority
14 of those voting on the question rejects his candidacy, he shall not for
15 a period of four years thereafter be appointed to fill any vacancy in
16 the supreme court, court of appeals, superior courts or district courts
17 of the state.

18 * Sec. 14. AS 22.15.210(a) is amended to read:

19 (a) A district judge [,] while holding office [,] may not practice
20 law, nor engage in the conduct of any other profession, vocation or
21 business for profit or compensation, which conduct would interfere with
22 his performance of his judicial duties, nor may he hold office in a
23 political party, or hold any other office or position of profit under
24 the United States, the state or its political subdivisions, except that,
25 with the approval of the chief justice of the Alaska Supreme Court, a
26 [THE] district judge may be appointed deputy clerk of the superior court
27 and may hold the office of United States magistrate. A district judge
28 who files for another elective public office other than delegate to a
29 constitutional convention of this state or the United States forfeits

1 his judicial position.

2 * Sec. 15. AS 22.15.240 is amended to read:

3 Sec. 22.15.240. APPEAL. (a) Either party may appeal a judgment
4 of the district court in a civil action to the superior court [WHEN THE
5 SUM IN CONTROVERSY IS NOT LESS THAN \$50, OR FOR THE RECOVERY OF PERSONAL
6 PROPERTY OF THE VALUE OF NOT LESS THAN \$50 EXCLUSIVE OF COSTS IN EITHER
7 CASE, EXCEPT WHEN THE SUM IS GIVEN BY CONFESSION OR FOR WANT OF AN
8 ANSWER].

9 (b) The defendant may appeal a judgment of conviction given in the
10 district court in a criminal action to the superior court. When the
11 judgment is given on a plea of guilty, no appeal may be taken by the
12 defendant except on the ground that a sentence of imprisonment of 90
13 [180] days or more was excessive [; HOWEVER, THE SUPREME COURT BY RULE
14 MAY FURTHER PROVIDE FOR REVIEW OF A JUDGMENT GIVEN ON A PLEA OF GUILTY].
15 The state has no right of appeal in criminal actions for which judgment
16 is given in the district courts, except to test the sufficiency of the
17 information or to appeal a sentence on the ground it is too lenient.
18 When a sentence is appealed by the state on the ground it is too le-
19 nient, the court may not increase the sentence but may express its ap-
20 proval or disapproval of the sentence and its reasons in a written
21 opinion.

22 (c) An appeal from the district court shall be taken within 30
23 days from the date of entry of the judgment. All appeals shall be on
24 the record [UNLESS THE SUPERIOR COURT, IN ITS DISCRETION, GRANTS A TRIAL
25 DE NOVO, IN WHOLE OR IN PART].

26 (d) The supreme court shall prescribe further rules for the pro-
27 cedure for appeals from district courts.

28 * Sec. 16. AS 22.20.010 is amended to read:

29 Sec. 22.20.010. JUDICIAL OFFICER DEFINED. The term "judicial

1 officer" means a supreme court justice, including the chief justice,
2 a judge of the court of appeals, a judge of the superior court, a dis-
3 trict judge and a magistrate.

4 * Sec. 17. AS 22.20.110 is amended to read:

5 Sec. 22.20.110. DUTY OF THE COMMISSIONER IN THE COURT OF APPEALS,
6 THE SUPERIOR COURT AND DISTRICT COURTS. When required by the supreme
7 court, the commissioner shall serve and execute all process issued by
8 the court of appeals, the superior court and the district courts, attend
9 to and wait upon grand and petit juries, maintain order, attend the
10 sessions of the courts, and exercise the power and perform the duties
11 concerning all matters within the jurisdiction of the courts as may be
12 assigned to him. The commissioner is the executive officer of the court
13 of appeals, the superior court and district courts.

14 * Sec. 18. AS 22.25.010(g) is amended to read:

15 (g) The word "justice" means a supreme court justice, and the word
16 "judge," unless the context clearly indicates otherwise, means a judge
17 of the court of appeals, a superior court judge or district court judge.

18 * Sec. 19. AS 22.30.080(2) is amended to read:

19 (2) "judge" means a justice of the supreme court, a judge of
20 the court of appeals, a judge of the superior court, or a judge of the
21 district court who is the subject of an investigation or proceeding
22 under sec. 10, art. IV, Constitution of the State of Alaska and this
23 chapter.

24 * Sec. 20. AS 11.56.900(2) is amended to read:

25 (2) "judicial officer" means a supreme court justice, in-
26 cluding the chief justice, a judge of the court of appeals, a judge of
27 the superior court, a district court judge, or a magistrate;

28 * Sec. 21. AS 15.15.030(10) is repealed and re-enacted to read:

29 (10) A separate nonpartisan judicial ballot shall be desig-

1 nated for each judicial district in which a justice or judge is seeking
2 to succeed himself. The ballot shall be divided into four parts and
3 each part shall bear a heading indicating the court to which the candi-
4 date is seeking approval. Within each part the question of whether the
5 justice or judge shall be approved or rejected shall be set out in
6 substantially the following manner: (A) "Shall be re-
7 tained as justice of the supreme court for 10 years?"; (B) "Shall . . .
8 be retained as judge of the court of appeals for eight years?";
9 (C) "Shall be retained as judge of the superior court for
10 six years?"; or (D) "Shall be retained as judge of the
11 district court for four years?" Provision shall be made for marking
12 each question "Yes" or "No".

13 * Sec. 22. AS 15.35 is amended by adding new sections to read:

14 Sec. 15.35.140. APPROVAL OR REJECTION OF A JUDGE OF THE COURT OF
15 APPEALS. Each judge of the court of appeals is subject to approval or
16 rejection at the first general election held more than three years after
17 his appointment. If approved, he is thereafter subject to approval or
18 rejection in a like manner every eighth year.

19 Sec. 15.35.150. FILING DECLARATION BY JUDGE OF THE COURT OF
20 APPEALS. Each judge of the court of appeals seeking to succeed himself
21 in office shall file with the lieutenant governor a declaration of
22 candidacy not less than 90 days before the date of the general election
23 at which approval or rejection is requisite.

24 Sec. 15.35.160. REQUIREMENT OF FILING FEE FOR COURT OF APPEALS.
25 At the time the declaration is filed, each candidate shall pay a filing
26 fee to the lieutenant governor. The filing fee for a candidate for the
27 court of appeals is \$100.

28 Sec. 15.35.170. PLACING NAME OF JUDGE OF THE COURT OF APPEALS ON
29 BALLOT. The lieutenant governor shall place the name of a judge of the

1 court of appeals who has properly filed a declaration of candidacy on
2 the judicial ballot in each judicial district of the state for the
3 general election at which approval is sought.

4 * Sec. 23. AS 15.57.025 is amended to read:

5 Sec. 15.57.025. INFORMATION AND RECOMMENDATIONS ON JUDICIAL OFFI-
6 CERS. No later than 60 days before the applicable state election, the
7 judicial council shall file with the lieutenant governor a statement
8 including information about each supreme court justice, court of appeals
9 judge, superior court judge, and district court judge who will be sub-
10 ject to a retention election, following the evaluation of each such
11 justice or judge conducted by the judicial council according to law.
12 Each such statement may not exceed 300 words.

13 * Sec. 24. AS 15.57.040(2) is amended to read:

14 (2) judicial officer other than supreme court justice or
15 court of appeals judge, \$50 each.

16 * Sec. 25. AS 24.55.330(2) is amended to read:

17 (2) "agency" includes a department, office, institution,
18 corporation, authority, organization, commission, committee, council or
19 board of a municipality or in the executive, legislative or judicial
20 branches of the state government, and a department, office, institution,
21 corporation, authority, organization, commission, committee, council or
22 board of a municipality or of the state government independent of the
23 executive, legislative and judicial branches; it also includes an offi-
24 cer, employee or member of an "agency" acting or purporting to act in
25 the exercise of his official duties, but does not include the governor,
26 lieutenant governor, a member of the legislature, justice of the supreme
27 court, judge of the court of appeals, a superior court judge, [OR]
28 district court judge, magistrate, member of a city council or borough
29 assembly, elected city or borough mayor, or a member of an elected

1 school board;

2 * Sec. 26. AS 39.20.310(1) is amended to read:

3 (1) members of the state legislature, the governor, the
4 lieutenant governor, and justices and judges of the supreme and superior
5 courts and of the court of appeals, but nothing in AS 39.20.220 -
6 39.20.330 may be construed to diminish the salaries fixed by law for
7 these officers by reason of absence from duty on account of illness or
8 otherwise;

9 * Sec. 27. AS 39.35.680(21)(C)(vi) is amended to read:

10 (vi) justices of the supreme court or judges of the
11 court of appeals or of the superior or district courts of
12 Alaska;

13 * Sec. 28. AS 39.50.200(2) is amended to read:

14 (2) "judicial officer" means a person appointed as a justice
15 to the supreme court or as a judge to the court of appeals, superior
16 court, district court, or magistrate court.

17 * Sec. 29. AS 12.55.120(a) is amended to read:

18 (a) A sentence of imprisonment lawfully imposed by the superior
19 court for a term or for aggregate terms of [EXCEEDING] one year or more
20 may be appealed to the court of appeals [SUPREME COURT] by the defendant
21 on the ground that the sentence is excessive. By appealing a sentence
22 under this section, the defendant waives the right to plead that by a
23 revision of the sentence resulting from the appeal he has been twice
24 placed in jeopardy for the same offense.

25 * Sec. 30. AS 12.55.120(b) is amended to read:

26 (b) A sentence of imprisonment lawfully imposed by the superior
27 court may be appealed to the court of appeals [SUPREME COURT] by the
28 state on the ground that the sentence is too lenient; however, when a
29 sentence is appealed by the state and the defendant has not appealed the

1 sentence, the court is not authorized to increase the sentence but may
2 express its approval or disapproval of the sentence and its reasons in a
3 written opinion.

4 * Sec. 31. AS 12.55.120 is amended by adding a new subsection to read:

5 (d) A sentence of imprisonment lawfully imposed by the district
6 court for a term or for aggregate terms exceeding 90 days may be ap-
7 pealed to the superior court by the defendant on the ground that the
8 sentence is excessive. By appealing a sentence under this section, the
9 defendant waives the right to plead that by a revision of the sentence
10 resulting from the appeal he has been twice placed in jeopardy for the
11 same offense. A sentence of imprisonment lawfully imposed by the dis-
12 trict court may be appealed to the superior court by the state on the
13 ground that the sentence is too lenient; however, when a sentence is
14 appealed by the state, the court may not increase the sentence but may
15 express its approval or disapproval of the sentence and its reasons in a
16 written opinion.

17 * Sec. 32. A judge of the court of appeals is not required to contribute
18 to the retirement system under AS 22.25.011 if, at the time of his appoint-
19 ment to the court of appeals, he holds a judicial office to which the retire-
20 ment benefits of AS 22.25 apply and to which he was appointed before July 1,
21 1978.

22 * Sec. 33. Notwithstanding the effective date of this Act, operations of
23 the court of appeals shall begin on a date determined by the supreme court
24 after all judges of the court of appeals have taken office.

25 * Sec. 34. Cases pending in the supreme court on the date on which the
26 operations of the court of appeals begin which have been heard by or sub-
27 mitted to the supreme court on the briefs shall be retained by the supreme
28 court for decision. The supreme court may transfer to the court of appeals
29 all other pending cases within the jurisdiction of the court of appeals.

1 * Sec. 35. It is the intent of the legislature that the court of appeals
2 begin operations as soon as possible after the effective date of this Act.
3 The administrative director of courts shall immediately take necessary action
4 to provide suitable facilities for the court of appeals. When advised by the
5 supreme court, the judicial council shall meet and submit nominations to the
6 governor for the initial vacancies for judge of the court of appeals.

7 * Sec. 36. The amendments enacted in secs. 5, 9 and 12 of this Act apply
8 only to justices and judges appointed on or after the effective date of this
9 Act.

10 * Sec. 37. Sections 8, 15 and 31 of this Act have the effect of changing
11 Rule 21, Rules of Appellate Procedure and Rule 7, District Court Criminal
12 Rules by amending AS 22.10.020(a), AS 22.15.240, and AS 12.55 to provide that
13 a sentence of 90 days or more imposed by the district court may be appealed.

14 * Sec. 38. Section 29 of this Act has the effect of changing Rule 21,
15 Rules of Appellate Procedure by enacting and amending AS 12.55.120(a) to
16 provide that a sentence of one year or more may be appealed.

17 * Sec. 39. This Act takes effect immediately in accordance with AS 01.10.-
18 070(c).

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THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. SB 104
 Title An Act Establishing the Court of Appeals
 Requested by House Finance Date _____

II. FISCAL DETAIL
 Agency Affected Alaska Court System
 Program Category Affected Administration of Justice
 BRU, Program, or Subprogram(s) Affected Alaska Court System
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES		419.1	461.0	507.1	557.8	613.6
200 TRAVEL		35.2	38.7	42.6	46.8	51.5
300 CONTRACTUAL		129.9	142.9	157.2	172.9	190.2
400 COMMODITIES		10.0	11.0	12.1	13.3	14.6
500 EQUIPMENT		25.0			5.0	5.0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		619.2	653.6	719.0	795.8	874.9

FUNDING (Thousands of Dollars)

GENERAL FUND		619.2	653.6	719.0	795.8	874.9
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		10	10	10	10	10
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See attached Budget Detail.

IV. DATE January 28, 1980 PREPARED BY Richard Barrier
 AGENCY Alaska Court System
 PHONE 264-0545
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

Category: Administration of Justice
 Agency: Alaska Court System

BRU: Alaska Court System

The FY 81 budget request for the Alaska Court System is \$23,494,100, an increase of 11.0 percent over the FY 80 authorization.

SURPEME COURT

The caseload of the Supreme Court has more than doubled in the past five years. The backlog of cases and delay has grown to the point that most appeals require nearly two years for resolution from the date they are filed with the Supreme Court. This budget request includes legal research assistance and word processing equipment to aid the court in speeding up its disposition of cases. Another major item is funding for the development of patterned criminal jury instructions. With the implementation of the new criminal code, these patterned instructions will be critical if the court is to avoid an onslaught of costly criminal appeals. Additionally, funding is requested for a reporter to the Sentencing Guidelines Committee and for travel of this and other committees appointed by the Chief Justice.

TRIAL COURTS

The Trial Courts' component is comprised of all superior and district courts in the state, including magistrate posts; is present in 60 locations across the state; and represents 80 percent of the total Court System budget. Approximately 60 percent of the addition level of funding will be needed by the trial courts in FY 81 to provide the same level of service that is presently being provided. This is a result of additional workloads and increases in various costs in excess of inflation. The remaining 40 percent of the addition level is for improvement in trial court operations or facilities. Most of the addition level of funding is requested for new positions. A total of 37 positions are requested, or a 10 percent increase over the currently authorized 365 positions. These positions are listed in this document and explained and justified in the budget work book.

CATEGORY: ADMINISTRATION OF JUSTICE
 AGENCY: ALASKA COURT SYSTEM

PROGRAM: ALASKA COURT SYSTEM

COMPONENT DESCRIPTION	FY80 ATH	FY80 SUP	CONT	REQUEST	GOV AMD	GOVERNOR	HOUSE	SENATE	F.C.C.	BILLS	LEG.REC.
SUPREME COURT	1608.1		1685.4	1992.2		2003.4					
TRIAL COURTS	16794.3		16968.1	18336.4		18434.3					
POSITION OVERFLOW											
ADMINISTRATION & SUPPORT	2757.7		2834.0	3165.5		3179.1					
** TOTAL	21160.1		21487.5	23494.1		23616.8					
** CHANGE VERSUS FY80 ATH				11.0%	-100.0%	11.6%	-100.0%	-100.0%	-100.0%		
OBJECT DESCRIPTION											
PERS. SERV.	12549.1		12444.2	13507.6		13630.3					
TRAVEL	542.9		645.5	760.0		760.0					
CONTRACTUAL	4792.7		5085.1	5624.3		5624.3					
COMMODITIES	322.2		406.5	412.5		412.5					
EQUIPMENT	161.1		65.1	300.8		300.8					
LANDS/BLDGS	2402.5		2375.2	2423.0		2423.0					
MISC.	389.6		465.9	465.9		465.9					
FUNDING SOURCE											
GENERAL FUND	21017.1		21344.5	23351.1		23473.8					
OTHER FUNDS	143.0		143.0	143.0		143.0					
** GENERAL FUND CHANGE VS. FY80 ATH				11.1%	-100.0%	11.6%	-100.0%	-100.0%	-100.0%		
POSITIONS											
FULL-TIME	448.0		448.0	489.0		489.0					
PART-TIME	14.0		15.5	27.5		27.5					
TEMPORARY	3.3		1.3	5.3		5.3					

FY 81 BUDGET DETAIL

Personnel:	3 judges: \$66,000 + \$3,887 benefits	\$209,661
	3 secretaries; range 13: \$21,444 + \$5,895 benefits	82,017
	3 law clerks, range 17: \$27,468 + \$7,343 benefits	104,433
	1 court clerk, range 10: \$17,844 + \$5,120 benefits	<u>22,964</u>
		\$419,075
Travel:	Oral Arguments - Fairbanks (6/year)	\$ 7,200
	Juneau/Ketchikan (4/year)	6,000
	Kenai or Kodiak (1/year)	<u>1,500</u>
	(Assumes 3 judges and 1 clerk, average of 2 1/2 days per diem for each trip.)	\$ 14,700
	Judicial Conferences (outside)	
	Training - 1 week/year/judge	3,000
	Annual State Judicial Conference/Bar Association Meeting - 1 week	1,300
	Administrative travel by Clerk of Court - 7 trips/year	2,000
	Administrative travel by judges (conferring with Chief Justice, serving standing committees such as criminal rules, evidence, forms, etc.)	4,000
	Law Clerk travel - 1 week/year	1,200
	New Employee hire - (each law clerk is hired from law schools in lower 48. These positions turn over each year. Also other positions may be filled by transferring employees within the Court System.	<u>9,000</u>
	Total Travel	\$ 35,200
Contractual:	Space Rental-5,200 sq. ft. at \$1.20 =	\$ 74,880
	Phone:	
	Monthly service charge - (\$450/mo.)	\$ 5,400
	Long distance calls (to Clerks of Court in various Superior courts, to Chief Justice, to litigants, to Superior Court judges).	<u>4,500</u>
		\$ 9,900
	Postage:	
	Mailing of Opinions to subscribers, mail copies of briefs to libraries, serving copies of briefs on Attorney General and other parties, mailing correspondence, copies of orders.	\$ 10,100
Equipment Rental:	Xerox 4,500 at \$945/mo.	\$ 11,340
	3 6442 Information Processors at \$518/mo.	<u>18,648</u>
		\$ 29,988

Other Miscellaneous
Contractual Costs:

Freight charges	\$ 500
Equipment maintenance	1,500
Supplements to Legal Reference Materials and subscriptions to legal periodicals	2,500
Notices and job advertisements	<u>500</u>

\$ 5,000

Total Contractual \$129,868

Commodities: Xerox paper, Xerox supplies (developer, toner), stationery, file folders, pens, pencils, legal tablets, desk supplies, typewriter ribbons, ink, forms, mailing envelopes, recording tapes. \$ 10,000

Equipment: Judge

Desk	\$ 600
Credenza	300
Chair	250
Bookcase (3)	450
Dictating Equip- ment (set)	1,200
Side chairs	<u>400</u>

\$3,200 x 3 judges = \$ 9,600

Secretary

Desk	\$ 400
Chair	100
File Cabinet (Lateral)	600
Side chairs (2)	<u>200</u>

\$1,300 x 3 Secretaries \$ 3,900

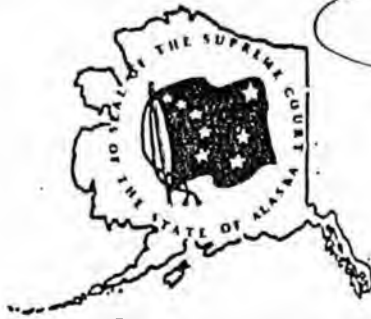
Law Clerk

Desk	\$ 350
Chair	150
File Cabinet	200
Typewriter	700
Side chairs(2)	200
Bookcase (2)	<u>200</u>

\$1,800 x 3 = \$ 5,400

File cabinets - for Central Files (5) 1,000
Legal reference materials (statutes,
rules, administrative code, reporters,
dictionaries). 5,100

Total Equipment \$ 25,000



Supreme Court

State of Alaska

*file: 5.13.104
copy comm. files.*

CHIEF JUSTICE
JAY A. RABINOWITZ

JUSTICES
ROGER G. CONNOR
ROBERT BOOCHEVER
EDMOND W. BURKE
WARREN W. MATTHEWS, JR.

303 "K" STREET
ANCHORAGE, ALASKA
99501
907-274-8611

February 27, 1980

Re: HCSSB 104

Dear Representative:

On previous occasions I have communicated to you regarding the necessity for the legislature's creation of the intermediate appellate court. In addition, Arthur Snowden and his staff have furnished each of you, as well as relevant committees, detailed data pertaining to the need for the creation of such a court. Naturally I wish to reiterate my belief that the establishment of this court is necessary to enable the Alaska Court System to process the expanding volume of appellate litigation and to eradicate delays in the administration of justice.

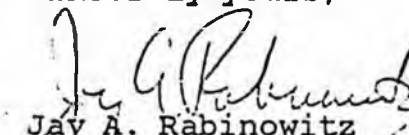
HCSSB 104, now pending before you, in my view serves their goals well. However, after careful scrutiny of the provisions of this proposed legislation, it is my belief, as well as that of my colleagues on the Supreme Court, that two amendments should be made. (The text of these proposed amendments is attached).

Amendment No. 1 concerns the qualifications for appointment as a district court judge. Present law requires a district court judge to be licensed to practice law in Alaska and to have been a resident of the state for at least one year at the time of his appointment. HCSSB 104 now provides that district court judges have practiced law for three years and have been residents of the state for at least five years. Raising these requirements as provided in the present version of HCSSB 104 in my view is likely to deprive the Alaska Court System of the opportunity to attract talented young lawyers to these positions. Many of our most outstanding district court judges, past and present, would not have been eligible for appointment under the proposed new requirements. Therefore, I think an appropriate compromise which serves all interests is embodied in proposed Amendment No. 1, which would establish a two year law practice and residency requirement for district court judges.

Amendment No. 2, attached, involves appeals of district court criminal cases. Under the present bill, these are appealable as a matter of right only to the superior court. This allows for prompt review with minimal costs to the parties. Traditional standards of justice, however, provides that more than one judge be involved in a full appellate review. Thus, district court criminal cases should be appealable from the superior court to the court of appeals as a matter of right. The proposed amendment would balance the need for prompt, inexpensive review with the need to provide a full appellate hearing. While most district court cases go no further than the superior court, the important cases do get appealed. The way should be open for these cases to get full appellate review as a matter of right.

My thanks for your consideration in this matter.

Sincerely yours,


Jay A. Rabinowitz
Chief Justice

A M E N D M E N T #1

Offered in the HOUSE

By:

TO: HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL
NO. 104

Page 10, line 26:

Delete "five" and insert "two" in its place.

Page 10, line 28:

Delete "three" and insert "two" in its place.

A M E N D M E N T #2

Offered in the HOUSE

By:

TO: HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL
NO. 104

Page 2, line 17:

Delete "may in its discretion (1) review" and insert
"has jurisdiction to review (1)" in its place.

Page 2, line 21:

Delete the word "review".

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. SB 104
 Title An Act Establishing the Court of Appeals
 Requested by House Finance Date _____

II. FISCAL DETAIL
 Agency Affected Alaska Court System
 Program Category Affected Administration of Justice
 BRU, Program, or Subprogram(s) Affected Alaska Court System
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)
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TOTAL		619.2	653.6	719.0	795.8	874.9

FUNDING (Thousands of Dollars)

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FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		10	10	10	10	10
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See attached Budget Detail.

IV. DATE January 28, 1980 PREPARED BY Richard Barrier
 AGENCY Alaska Court System
 PHONE 264-0545
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

Category: Administration of Justice
 Agency: Alaska Court System

BRU: Alaska Court System

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 AGENCY: ALASKA COURT SYSTEM

PROGRAM: ALASKA COURT SYSTEM

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FUNDING SOURCE											
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** GENERAL FUND CHANGE VS. FY80 ATH				11.1%	-100.0%	11.6%	-100.0%	-100.0%	-100.0%		
POSITIONS											
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	Juneau/Ketchikan (4/year)	6,000
	Kenai or Kodiak (1/year)	<u>1,500</u>
	(Assumes 3 judges and 1 clerk, average of 2 1/2 days per diem for each trip.)	\$ 14,700
	Judicial Conferences (outside)	
	Training - 1 week/year/judge	3,000
	Annual State Judicial Conference/Bar Association Meeting - 1 week	1,300
	Administrative travel by Clerk of Court - 7 trips/year	2,000
	Administrative travel by judges (conferring with Chief Justice, serving standing committees such as criminal rules, evidence, forms, etc.)	4,000
	Law Clerk travel - 1 week/year	1,200
	New Employee hire - (each law clerk is hired from law schools in lower 48. These positions turn over each year. Also other positions may be filled by transferring employees within the Court System.)	<u>9,000</u>
	Total Travel	\$ 35,200
Contractual:	Space Rental-5,200 sq. ft. at \$1.20 =	\$ 74,880
	Phone:	
	Monthly service charge - (\$450/mo.)	\$ 5,400
	Long distance calls (to Clerks of Court in various Superior courts, to Chief Justice, to litigants, to Superior Court judges).	<u>4,500</u>
		\$ 9,900
	Postage:	
	Mailing of Opinions to subscribers, mail copies of briefs to libraries, serving copies of briefs on Attorney General and other parties, mailing correspondence, copies of orders.	\$ 10,100
Equipment Rental:	Xerox 4,500 at \$945/mo.	\$ 11,340
	3 6442 Information Processors at \$518/mo.	<u>18,648</u>
		\$ 29,988

Other Miscellaneous
Contractual Costs:

Freight charges	\$ 500
Equipment maintenance	1,500
Supplements to Legal Reference Materials and subscriptions to legal periodicals	2,500
Notices and job advertisements	<u>500</u>
	\$ 5,000

Total Contractual \$129,868

Commodities: Xerox paper, Xerox supplies (developer, toner), stationery, file folders, pens, pencils, legal tablets, desk supplies, typewriter ribbons, ink, forms, mailing envelopes, recording tapes. \$ 10,000

Equipment:

Judge

Desk	\$ 600
Credenza	300
Chair	250
Bookcase (3)	450
Dictating Equip- ment (set)	1,200
Side chairs	<u>400</u>

\$3,200 x 3 judges = \$ 9,600

Secretary

Desk	\$ 400
Chair	100
File Cabinet (Lateral)	600
Side chairs (2)	<u>200</u>

\$1,300 x 3 Secretaries \$ 3,900

Law Clerk

Desk	\$ 350
Chair	150
File Cabinet	200
Typewriter	700
Side chairs(2)	200
Bookcase (2)	<u>200</u>

\$1,800 x 3 = \$ 5,400

File cabinets - for Central Files (5) 1,000
Legal reference materials (statutes,
rules, administrative code, reporters,
dictionaries). 5,100

Total Equipment \$ 25,000



Alaska Court System

State of Alaska

303 "K" STREET
ANCHORAGE, ALASKA
99501

ARTHUR H. SNOWDEN II
ADMINISTRATIVE DIRECTOR

(907) 274-8611

February 2, 1979

Honorable Robert H. Ziegler, Sr.
Chairman, Senate Judiciary Committee
Pouch V
Juneau, Alaska 99811

Re: The Court of Appeals

Dear Senator Ziegler:

This is in response to your request for background information concerning the proposed intermediate appellate court.

In 1977 the supreme court became increasingly aware that the appellate workload was growing beyond the court's ability to handle it effectively and efficiently. Since 1970, following the increase in the supreme court's membership from three to five justices, the court's case filings have risen from 217 to 630, an increase of 300%. Though there have been slight increases in clerical staff, and two central legal staff assistants added, the supreme court is operating with essentially the same personnel it had in 1972 when the case filings were only 249.

During recent years the court has instituted a number of improvements designed to speed up the appellate process and to allow the court to handle better the increasing caseload.¹ Yet even with these improvements, the backlog of cases awaiting decision by the court continues to rise. In 1977 the chief justice requested the administrative office to explore additional solutions to the workload problems. A copy of the report prepared by this office is enclosed, but the report may be briefly summarized here.

1. These improvements include delegating routine motions to the Clerk of the Court for decision, establishing a strict policy concerning extensions of time for filing briefs, providing a mechanism for parties to agree to a summary decision of their appeals, establishing a screening function for identifying cases that are amenable to summary decision, improving the case status monitoring capabilities, and increased use of per curiam and memorandum decisions.

Among the possible solutions identified in the report were to (1) increase the membership of the supreme court to seven; (2) limit the right of appeal; (3) have the supreme court hear cases in panels of three, with assistance from superior court judges; (4) increase the law clerk staff; and (5) establish an intermediate court of appeals. After reviewing the report, the supreme court determined that increasing the size of the court would not add significantly to its ability to decide more cases. The increased time required to achieve consensus of among more justices and the time required to review more draft opinions would nearly offset the advantage to be gained by having two more justices writing opinions. Limiting the right of appeal was rejected because it was believed that fairness requires that a party be entitled to one appeal. The court also agreed that the use of panels would not provide a significant workload savings and that such savings as would be achieved would only offer a temporary respite. Additionally, the use of panels, particularly if superior court judges were used on the panels, would unduly dilute the supreme court's law-making function. The court decided that an augmented central legal staff could provide some assistance,² but it also recognized that placing too much reliance on legal assistants is not desirable and runs the risk of having appeals decided essentially by law clerks and not by the court.

At the time the supreme court reviewed the report in September of 1977 it agreed that an intermediate appellate court was the one solution that offered the best hope of relieving the court's workload while maintaining the supreme court's essential law making function. The court, however, decided to wait one more year before making a final decision whether to seek the establishment of an intermediate appellate court. In the fall of 1978, it was clear that the workload situation on the court had not altered significantly, even though the appellate filings for 1978 increased only slightly over 1977. The court was deciding more cases than in 1977, writing more opinions, and generally working at a killing pace. Yet the backlog was still rising and at the end of 1978 the court had more cases under advisement and awaiting decision than ever before. The inevitable conclusion to be drawn from this is that even at the current rate of appellate filings, the court cannot keep pace. The backlog of cases awaiting

² The court now has two central staff attorneys working under the direction of the Clerk of the Supreme Court.

February 2, 1979

decision will continue to rise and the already significant delay in obtaining a decision on appeal will increase even further, even if appellate filings do not increase. Litigants will find themselves waiting not months, but years, for a decision.

A recent study by this office moreover, shows that there will undoubtedly be an increase in appellate filings over the next ten years. This study found an extremely high historical correlation between population growth and increases in appellate filings. Using the most conservative estimates for population growth (i.e., assuming there is no gas pipeline construction, no increase in litigation from the criminal code, etc.), the appellate filings in the supreme court are projected as follows:

	<u>Expected</u>	<u>High</u>
1981	673	844
1982	729	800
1983	784	856
1984	843	915
1985	906	979
1986	969	1043
1987	1013	1106
1988	1098	1174

Clearly the supreme court cannot handle these anticipated future increases.

We have also recently compared the Alaska Supreme Court's current workload with that of several other supreme courts in the nation at the time that those courts sought and obtained legislation in their states to establish intermediate appellate courts. Although such comparisons are less than totally accurate because courts tend not to measure precisely the same things, it does appear that our supreme court is in very close to the same circumstances as these other courts.

For example, Arizona's intermediate appellate court was established in 1965. During 1964, the Arizona Supreme Court had total appellate filings of 672, slightly more than our court's during 1978. However, the Arizona court, with five justices, terminated only 473 cases in 1964, many fewer than the 560 terminated by our court, and wrote only 177 opinions compared to 237 opinions by the Alaska court last year. Similarly, New Mexico's intermediate court was also established in 1965. During 1964 the New Mexico Supreme Court, also with five justices, disposed of 163 cases by written opinion and terminated a total of 435 cases.

Letter to Honorable Robert H. Ziegler, Sr.
Page 4
February 2, 1979

Although the supreme court clerk's office is still completing its 1978 statistical report, we have attached some preliminary 1978 figures and should have a more complete report shortly. Also attached are reports showing the court's activity during recent years, and a report showing a breakdown of how the 1978 case filings would have been distributed between the proposed court of appeals and the supreme court, based on the proposed criminal jurisdiction of the court of appeals.

The final point of discussion concerning the creation of the court of appeals is its cost versus its benefit to litigants. The projected startup expense for this court for the six month period of January 1, 1980 to June 30, 1980, is \$325,000. The annual operating expense is projected at \$555,000.

Other than the judicial positions and immediate supporting staff, no additional positions are needed, as the clerk's office of the court of appeals will be combined with that of the supreme court.

To a large extent the additional expense associated with the court of appeals will be minimized through cost savings in the supreme court and trial courts. For example, the reduction in workload in the supreme court will eliminate the need for the additional legal research personnel requested in the Fiscal Year 1980 budget. By expediting the appeal process, litigants will experience savings in direct expenses as well as benefiting from the prompt final determination of their cases.

We appreciate very much your assistance with the court of appeals bill. If you wish further information, please let us know.

Sincerely,

Arthur H. Snowden, II

AS/pmr

MEMORANDUM

January 3, 1979

TO: Chief Justice Rabinowitz
Justice Connor
Justice Boochever
Justice Burke
Justice Matthews
Justice Dimond
Arthur H. Snowden, II
Susan Burke
Connie Staska
Jim Babb
Merle Martin
Caroline Hudnall

FROM: Robert D. Bacon, Clerk

SUBJECT: December 1978 Statistics

Attached are preliminary statistical tables for the month of December, 1978.

In a few weeks, this office will issue a more detailed annual statistical report containing information for the full year 1978, including average times that various classes of cases are pending, and making comparisons to prior years.

Some preliminary information revealed by this report: during 1978, there were 630 cases filed or reinstated, up from 613 in 1977. However, the number of appeals declined from 470 to 447, the number of petitions and original applications increased from 143 to 183. During 1978, the court disposed of 560 cases, including 302 on the merits. The comparable figures for 1977 are 450 and 231. At the end of 1978 there were 624 cases pending, an all-time high, and a 12.6% increase over the 554 cases pending on the docket one year ago.

During December, only 24 cases were closed, including only 11 on the merits. These are the smallest numbers for any month in more than two years. The 129 cases under submission and awaiting a draft opinion appears to be the largest number ever.

BH for
RDB

TABLE II
ALASKA SUPREME COURT
December 31, 1978

	Civil Appeals	Criminal Appeals	Sentence Appeals	TOTAL APPEALS	Petitions for Review	Originals	TOTAL ALL CASES
PENDING DECEMBER 31, 1977	265	207	36	508	41	5	554
FILED OR REINSTATED THRU November 30, 1978	230	118	55	403	141	24	568
FILED OR REINSTATED THIS MONTH	26	17	1	44	15	3	62
TOTAL FILED YEAR-TO-DATE	256	135	56	447	156	27	630
Adjustments	+ 1	- 2	+ 2	+ 1		- 1	0
DISPOSITIONS							
A. By Opinion and Mandate/Published							
Affirmed	42	56	23	121	8	2	131
Affirmed in Part/Reversed or Remanded in Part	24	7	2	33	1		34
Reversed	2	7		9	2	1	12
Reversed and Remanded	26	19	2	47	2		49
Remanded Only	11	5	3	19			19
Sentences Forfeited For Disciplinary Action			1	1		2	2
B. By Memorandum Opinion & Judgment							
Affirmed	6	5	1	12			12
Reversed	1	1		2			2
C. By Summary Order							
Affirmed	2	1		3	3		6
Reversed or Reversed & Remanded	8			8	12		20
Other	1	2		3	6	5	14
TOTAL DISPOSITIONS ON MERITS	123	103	32	258	34	10	302
D. Petitions for Review/Originals Denied					85	14	99
E. Dismissals							
By Agreement or by Appellant	69	18	8	95	4		99
By Court	27	9	3	39	12	1	52
On Motion	6	1		7	1		8
TOTAL DENIALS AND DISMISSALS	102	28	11	141	102	15	258
TOTAL CASE DISPOSITION	225	131	43	399	136	25	560
Reasons for Cases Pending December 31, 1978							
Awaiting Record	67	50	8	125			125
Awaiting Briefs	78	70	12	160	14	5	179
With Counsel Staff	5	3		8			8
Awaiting Hearing/Submission	33	10	1	44	2		46
Awaiting Draft Opinion	54	40	22	116	13		129
Draft Opinion Circulating	38	24	6	68	11		79
Awaiting Decision on Granting P/R or Orig					16	1	17
Awaiting Mandate or Decision on Rehearing	11	4	2	17	2		19
Stayed or Remanded	11	8		19	3		22
TOTAL CASES PENDING December 31, 1978	297	209	51	557	61	6	624

TABLE 1
ALASKA SUPREME COURT
1978 STATISTICAL SUMMARY

Total Cases Pending: December 31, 1977	554
Cases Filed or Reinstated, 1978	630
 <u>Dispositions on Merits to Dec. 31, 1978</u>	
By Opinion and Mandate	248 ¹
By Memorandum Opinion & Judgment	14
By Summary Order	<u>40</u>
Total Dispositions on Merits	302
 <u>Other Dispositions to Dec. 31, 1978</u>	
Dismissals	159
Petition or Application Denied	<u>99</u>
Total Other Dispositions	258
Cases Pending Dec. 31, 1978	624
 <u>Reasons for Cases Pending</u>	
Awaiting Record	125
Awaiting Briefs	179
Awaiting Hearing or Submission	54 ²
Submitted/Awaiting Draft Opinion	129
Submitted/Draft Opinion Circulating	79
Awaiting Decision on Granting Petition for Review	17
Awaiting Mandate or Decision on Rehearing	19
Stayed or Remanded	<u>22</u>
Total Pending Dec. 31, 1978	624

*225 + 10
awaiting
decision*

- 1 237 opinions have been published to date. . The numbers differ because in consolidated cases and cross-appeals, more than one case is often disposed of in a single opinion. Moreover, opinions published late in December of one year do not produce case dispositions until the following year.
- 2 Of these cases, eight were pending with the Central Staff.

TABLE I

ALASKA SUPREME COURT CASE FILINGS 1970-1977

	<u>1970</u>	<u>1971</u>	<u>1972</u>	<u>1973</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>
Regular Appeals and Sentence Appeals Filed	172	197	188	195	208	249	364	470
Petitions for Review Filed	33	12	45	49	60	81	86	126
Original Applications Filed	<u>12</u>	<u>6</u>	<u>16</u>	<u>11</u>	<u>22</u>	<u>7</u>	<u>16</u>	<u>17</u>
Total Filings	217	215	249	255	290	337	466	613

INCREASES

		<u>NUMERICAL</u>	<u>PERCENTAGE</u>
Increase	1970-71	-2	--
	1971-72	+34	16%
all	1972-73	+6	2%
	1973-74	+35	14%
Categories	1974-75	+47	16%
	1975-76	+129	30%
	1976-77	+147	32%
Increase	1973-74	+13	7%
Appeals	1974-75	+41	20%
and	1975-76	+115	46%
Sentence	1976-77	+106	29%
Appeals			

TABLE II

ALASKA SUPREME COURT CASE FILINGS 1975-1977

	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>% Increase 1975-1977</u>	<u>% Increase 1976-1977</u>
Appeals					
Civil	151	214	251		
Criminal & Juvenile	76	119	156		
Sentence	<u>22</u>	<u>31</u>	<u>63</u>		
Total Appeals	249	364	470	90%	29%
Petitions for Review	81	86	126		
Original Applications	<u>7</u>	<u>16</u>	<u>17</u>		
Total Filings	337	466	613*	73%	32%

*Case filings for 1977 include 22 reinstated cases.

TABLE III

ALASKA SUPREME COURT DISPOSITION OF CASES 1977

	<u>Opinion and Mandate</u>	<u>Summary Disposition by Order</u>	<u>Dismissed by Court or Parties</u>	<u>Review Denied</u>	<u>Total</u>
Appeals					
Civil	120	5	76		201
Criminal & Juvenile	54	1	33		88
Sentence	<u>21</u>	<u> </u>	<u>19</u>		<u>40</u>
Total Appeals	195	6	120		329
Petitions for Review	16	7	13	67	103
Original Applications	<u>3</u>	<u>4</u>	<u>11</u>	<u> </u>	<u>18</u>
Total	214	17	152	67	450

TABLE IV

ALASKA SUPREME COURT
FILINGS, DISPOSITIONS AND PENDING CASELOAD 1977Civil Appeals and Cross Appeals

Pending 12/31/76	218
Filed or Reinstated 1977	<u>251</u>
Total	469

Disposition

By Opinion and Mandate	120
By Summary Order	5
Dismissed	<u>76</u>
Total	201

Pending 12/31/77	268
------------------	-----

Criminal and Juvenile Appeals

Pending 12/31/76	132
Filed or Reinstated 1977	<u>156</u>
Total	288

Disposition

By Opinion and Mandate	54
By Summary Order	1
Dismissed	<u>33</u>
Total	88

Pending 12/31/77	200
------------------	-----

Sentence Appeals

Pending 12/31/76	16
Filed or Reinstated 1977	<u>63</u>
Total	79

Disposition

By Opinion and Mandate	21
Dismissed	<u>19</u>
Total	40

Pending 12/31/77	39
------------------	----

Petitions for Review

Pending 12/31/76	20
Filed 1977	<u>126</u>
Total	146

Disposition

Opinion and Mandate	16
By Summary Order	7
Dismissed or Withdrawn	13
Review Denied	<u>67</u>
Total	103

Pending 12/31/77	43
------------------	----

TABLE IV (Continued)

Original Applications

Pending 12/31/76	5
Filed or Reinstated 1977	<u>17</u>
Total	22

Disposition

Opinion and Mandate	3
By Summary Order	4
Dismissed	<u>11</u>
Total	18
Pending 12/31/77	4

Total Pending Cases December 31, 1976	391
Total Filings and Reinstatements 1977	<u>613</u>
Total	1004
Total Dispositions 1977	<u>450</u>
Total Pending December 31, 1977	554

TABLE V
 ALASKA SUPREME COURT
 REASON FOR CASES PENDING DECEMBER 31, 1977

	C A S E S A W A I T I N G					STAYED	TOTAL
	RECORDS	BRIEFS	HEARING	DECISION	MANDATE		
<u>Appeals</u>							
Civil Appeals	84	54	22	94	4	10	268
Criminal and Juvenile Appeals	47	62	14	70	1	6	200
Sentence Appeals	<u>6</u>	<u>9</u>	<u>—</u>	<u>19</u>	<u>1</u>	<u>4</u>	<u>39</u>
Total Appeals	137	125	36	183	6	20	507
<u>Petitions for Review</u>		12	1	26	2	2	43
<u>Original Applications</u>	<u>—</u>	<u>—</u>	<u>1</u>	<u>3</u>	<u>—</u>	<u>—</u>	<u>4</u>
 TOTAL .	137	137	38	212	8	22	554
% of Total	24.6	24.6	6.9	38.3	1.6	4.0	100%

ALASKA SUPREME COURT PENDING CASELOAD 1961-1977

	<u>Total Cases Pending at Year End</u>	<u>Regular and Sentence Appeals</u>	<u>Petitions for Review</u>	<u>Other</u>	<u>Increase or Decrease</u>
1961	78	76	1	1	
1962	75	73	1	1	-3
1963	99	96	2	1	+24
1964	66	57	2	7	-33
1965	85	78	5	2	+19
1966	93	85	2	6	+8
1967	100	91	5	4	+7
1968	122	107	3	12	+22
1969	114	100	11	3	-8
1970	165	145	15	5	+51
1971	182	175	3	4	+17
1972	211	188	18	5	+29
1973	188	172	14	2	-23
1974	216	193	20	3	+28
1975	258	241	16	1	+42
1976	391	366	20	5	+133
1977	554	507	43	4	+163
		Percent of Increase	1961-1977	600%	
		Percent of Increase	1968-1977	354%	
		Percent of Increase	1976-1977	41%	

TABLE VII

ALASKA SUPREME COURT
MOTION PRACTICE 1977

	TOTAL 1977
Stay Applications Determined by Single Justices	65
Routine Motions Determined by Single Justices	192
Routine Unopposed Motions Determined by Clerk (estimated)*	800
Substantive Motions Determined by Full Court	182
Petitions for Rehearing [Full Court]	<u>35</u>
TOTAL MOTIONS	1274

*Almost all were unopposed motions to extend time to file briefs and other papers.

SUPREME COURT ACTIVITY, 1977

*Master Copy
Clerk's
File
1976 Filings should
be 468
not 466*

The following is the Clerk's annual report of the activity of the Alaska Supreme Court.

I. FILINGS

Total Filings. The total filings in the Alaska Supreme Court increased from 466 in 1976 to 613 in 1977, or an overall increase of 32 per cent. (See Tables I and II for further comparisons.)¹

Appeal Filings. Of the 613 cases filed or reinstated in 1977, 470 were appeals. Of this number, 251 or 53 per cent were civil appeals or cross-appeals. Criminal and juvenile appeals accounted for 156 filings. There were 63 sentence appeals filed.

Petitions for Review and Originals. A total of 126 petitions for review were filed in 1977 as compared to 86 filed in 1976. There were 17 applications for original relief filed in 1977 as compared to 16 filed in 1976.

II. DISPOSITIONS

A total of 450 cases were disposed of by the Supreme Court in 1977. In 1976, 335 cases were disposed of during the year. (See Tables III and IV for details on 1977 case dispositions.)

¹

The increase in filings is a continuing trend. For example, 337 cases were filed in 1975. The 1977 filings mark a 73 per cent increase over 1975.

Of the total 450 cases, 214 (or nearly 50 per cent of dispositions) were disposed of by opinion or mandate.² This figure may be compared with 148 cases disposed of by opinion and mandate in 1976. A total of 17 cases were disposed of by summary order in 1977.

Of the total dispositions in 1977, 152 were cases dismissed by the Court or by the parties. These dismissals represent about one-third of all dispositions and about one-fourth of all 1977 filings. Other dispositions include 67 (or about one-half of filings) petitions for review denied without opinion.

III. PENDING CASELOAD

The pending caseload of the Supreme Court at the end of 1977 was 554 cases. This figure may be compared with 391 cases pending at the end of 1976 and 258 pending at the end of 1975. The pending caseload has almost doubled in two years. (See Tables IV, V, and VI for further analysis of the pending caseload.) The 1976-77 increase in pending cases is more than 40 per cent.

Of the 554 cases pending at the end of 1977, 212 or 38 per cent were awaiting decision. About 25 per cent were awaiting record and another 25 per cent were awaiting briefs. (See Table V for more detail.)

IV. MOTIONS

Over 1,200 motions were processed by the Court in 1977. (See Table VII) Of this number, 182 were substantive motions determined by the full Court and 35 were petitions for rehearing determined by the full Court. A total of 65 stay applications were assigned to individual justices during 1977. The balance of the motions were routine motions determined by a single justice or by the Clerk under the authority of Appellate Rule 14(c).

²

The total of 214 case dispositions by opinion does not match the figure of 189 actual opinions filed in 1977. (See Clerk's report of "Opinions by Justice" dated January 17, 1978.) This is true because the 214 dispositions include a separate accounting of appeals and cross-appeals disposed of in single opinions. Also, the 214 dispositions include some opinions filed in 1976 on which mandates did not issue until 1977.

V. TIME PERIODS FOR DISPOSITION OF APPEALS

For 1977 we have attempted to analyze the time periods for bringing appeals to issue and to decision.

Civil Appeals. For 1977, 101 civil appeal opinions were analyzed. The analysis follows:

3

1. Number of Days From Notice of Appeal to Mandate

Greatest Number	1,006 days
Least Number	150 days
Average Number	485 days (or one year, 120 days)

3

The time periods for resolving appeals in Alaska may be compared to the standards of timely disposition proposed by the American Bar Association in its Standards Relating to Appellate Courts:

Record Preparation	30 days
Briefing	70 days
Argument	(promptly)
Decision	<u>90 days</u>
Total	190 days

The actual time periods may also be compared to the time limits set by appellate rule and by internal procedures:

Record Preparation	40 days
Briefing	80 days
Argument	30 days
Decision	<u>120 days</u>
Total	270 days

2. Number of Days From Notice of Appeal to Certification of Record (Commencement of Briefing)

Greatest Number	497 days
Least Number	1 day
Average Number	120 days
Median	103 days

3. Number of Days From Certification of Record to Completion of Briefing

Greatest Number	354 days
Least Number	5 days
Average Number	135 days

4. Number of Days From Completion of Briefing to Hearing or Submission

Greatest Number	199 days
Least Number	1 day
Average Number	70 days

5. Number of Days From Hearing or Submission to Mandate

A. Number of Days From Hearing or Submission to Circulating Draft Opinion:

Greatest Number	233 days
Least Number	0 days
Average Number	85 days

B. Number of Days From Circulating Draft Opinion to Publication Date:

Greatest Number	189 days
Least Number	6 days
Average Number	65 days

C. Number of Days From Publication Date to Mandate:

Greatest Number	173 days
Least Number	10 days
Average Number	18 days

Criminal Appeals. A less extensive analysis of 54 1977 criminal and juvenile appeals follows:

1. Total Number of Days From Notice of Appeal to Mandate:

Greatest Number	1,076 days
Least Number	294 days
Average Number (or 1 year, 288 days)	593 days
Median Number	578 days

2. Number of Days From Notice of Appeal to Certification of Record (Commencement of Briefing):

Greatest Number	411 days
Least Number	20 days
Average Number	153 days
Median Number	142 days

3. Number of Days From Certification of Record to Completion of Briefing:

Greatest Number	528 days
Least Number	22 days
Average Number	193 days
Median Number	173 days

4. Number of Days From Completion of Briefing to Hearing or Submission:

Greatest Number	220 days
Least Number	4 days
Average Number	65 days
Median Number	49 days

5. Number of Days From Hearing and Submission to Opinion Publication:

Greatest Number	334 days
Least Number	47 days
Average Number	169 days
Median Number	165 days

Sentence Appeals: A total of 21 sentence appeals were classified as follows:

Number of Days From Notice of Appeal to Opinion Publication:

Greatest Number	662 days
Least Number	130 days
Average Number	304 days
Median Number	263 days

VI. TYPE OF DISPOSITION

Civil Appeals. For 1977, 101 civil appeal opinions were classified as to type of disposition. The classification follows:

Cases Affirmed	48
Cases Affirmed in Part, Reversed in Part	18
Cases Reversed	8
Cases Reversed and Remanded	23
Cases Remanded	<u>4</u>
Total	101

Criminal Appeals. For 1977, 54 criminal and juvenile appeal opinions were classified as to type of disposition. The classification follows:

Cases Affirmed	38
Cases Reversed and Remanded	13
Cases Reversed	<u>3</u>
Total	54

Sentence Appeals: The classification of 21 sentence appeal opinions follows:

Sentences Affirmed	15
Sentences Affirmed in Part, Reversed in Part	1
Sentences Reversed and Remanded	4
Sentences Too Lenient	<u>1</u>
Total	21

January 30, 1979

M E M O R A N D U M

TO: Ms. Susan Burke
Deputy Administrative Director

INFO: Mr. Mel Martin
Technical Operations

FROM: Robert D. Bacon
Clerk, Supreme Court

SUBJECT: Caseload of New Intermediate Appellate Court

As you requested, I have brought down to the end of 1978 the statistics which I sent you on December 1, 1978.

	<u>Pending 12/31/78</u>	<u>Filed 1978</u>
CIVIL	297	256
Extradition	3	8
Habeas other than extradition	2	2
Criminal Rule 35	3	3
Civil forfeiture of property used to commit crime	3	3
Civil suit re conditions in prison	1	0
Review proceeding re criminal contempt of District Court	1	1
Other civil	284	239
CRIMINAL	209	135
SENTENCE	51	56
PETITION FOR REVIEW	61	156
Civil	34	104
Criminal	27	52
ORIGINAL	6	27
Civil	4	17
Criminal	2	10
TOTAL	624	630
Within jurisdiction of Court of Appeals*	302	270
Within new jurisdiction of Supreme Court*	322	360

* ^{NOT} We do ~~not~~ at the present time have an accurate count of matters pending in the Supreme Court which originated in the District Court. Furthermore, this would not be the statistic required for these purposes, since it includes only District Court cases which are appealed a second time from the Superior Court to the Supreme Court. The number of "other civil" cases in this

Ms. Susan Burke
January 30, 1979
Page 2

table, all of which are included in the last item on the table as within the new jurisdiction of the Supreme Court, includes a small number of cases which originated in the District Court and would not in fact be within the new jurisdiction of the Supreme Court. If you or Mel is able to get from the Superior Court the number of appeals filed with them, it would be a more useful statistic than any that this office might be able to provide on District Court cases.

RDB

RDB

MEMORANDUM

January 31, 1979

TO: Susan Burke
Merle Martin

FROM: Beverly Haywood

SUBJECT: Annual Report Preview

Bob Bacon asked me to send along the attached copies of statistics which will form part of our annual report. Sort of a sneak preview!

BA

BH

TABLE I
1978 RECAPITULATION

	<u>Civil Appeals</u>	<u>Criminal Appeals</u>	<u>Sentence Appeals</u>	<u>Total Appeals</u>	<u>Petitions for Review</u>	<u>Originals</u>	<u>TOTAL</u>
Pending Jan. 1, 1978	268	200	39	507	43	4	554
Filed	253	133	53	439	156	27	622
Reinstated	3	2	3	8	0	0	8
Adjustments ^a	-2	+5	-1	+2	-2	0	0
Closed	225	131	43	399	136	25	560
Pending Dec. 31, 1978	297	209	51	557	61	6	624

a Accounts for cases converted from one category to another during 1978, and for correction of erroneous classifications of certain cases pending January 1, 1978.

TABLE II

1978 DISPOSITIONS

	Civil Appeals	Criminal Appeals	Sentence Appeals	Total Appeals	Petitions for Review	Originals	TOTAL
A. By Opinion & Mandate:							
Affirmed	42	56	23	121	8	2	131
Affirmed in part/reversed or remanded in part	24	7	2	33	1		34
Reversed	2	7		9	2	1	12
Reversed and remanded	26	19	2	47	2		49
Remanded only	11	5	3	19			19
Sentence too lenient			1	1			1
Bar disciplinary action						2	2
<u>Total Dispositions by Opinion & Mandate</u>	105	94	31	230	13	5	248
B. By Memorandum Opinion and Judgment:							
Affirmed	6	5	1	12			12
Reversed	1	1		2			2
C. By Summary Order:							
Affirmed	2	1		3	3		6
Reversed or reversed and remanded	8			8	12		20
Other	1	2		3	6	5	14
TOTAL DISPOSITIONS ON MERITS	123	103	32	258	34	10	302
D. Petitions for Review/ Originals denied					85	14	99
E. Dismissals:							
By Agreement or by appellant	69	18	8	95	4		99
By court	27	9	3	39	12	1	52
On motion	6	1		7	1		8
TOTAL DENIALS & DISMISSALS	102	28	11	141	102	15	258
TOTAL CASE DISPOSITIONS	225	131	43	399	136	25	560

TABLE III - HISTORICAL^a

	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>
A. FILINGS ^b				
Civil Appeals	151	214	251	256
Criminal Appeals	76	120	156	135
Sentence Appeals	22	32	63	56
<u>Total Appeals</u>	<u>249</u>	<u>366</u>	<u>470</u>	<u>447</u>
Petitions for Review	81	86	126	156
Originals	7	16	17	27
TOTAL	337	468	613	630
B. DISPOSITIONS				
Civil Appeals	> 193	141	201	225
Criminal Appeals		67	88	131
Sentence Appeals	12	33	40	43
<u>Total Appeals</u>	<u>203</u>	<u>241</u>	<u>329</u>	<u>399</u>
Petitions for Review	84	82	103	136
Originals	10	12	18	25
TOTAL	299	335	450	560
C. DISPOSITIONS				
On Merits	c	148	231	302
P/R and Orig. Denied	c	52	67	99
Dismissals	c	135	152	159
TOTAL	299	335	450	560
D. OPINIONS PUBLISHED	122	142	189	237
E. PENDING END OF YEAR				
Civil Appeals	148	210	268	297
Criminal Appeals	76	132	200	209
Sentence Appeals	17	16	39	51
<u>Total Appeals</u>	<u>241</u>	<u>366</u>	<u>507</u>	<u>557</u>
Petitions for Review	16	20	43	61
Originals	1	5	4	6
TOTAL	258	391	554	624

a The figures for cases pending at the end of 1977 plus 1978 filings minus 1978 dispositions do not equal cases pending at the end of 1978 due to reclassifications and corrections. See footnote a to Table I. The same is true from 1975 to 1976.

b Includes reinstatements.

c Breakdown unavailable.

TABLE IV

CASES PENDING: DECEMBER 31, 1978

	<u>Civil Appeals</u>	<u>Criminal Appeals</u>	<u>Sentence Appeals</u>	<u>Total Appeals</u>	<u>Petitions for Review</u>	<u>Originals</u>	<u>TOTAL</u>
Awaiting Record	67	50	8	125			125
Awaiting Briefs	78	70	12	160	14	5	179
With Central Staff	5	3		8			8
Awaiting Hearing/Submission	33	10	1	44	2		46
Awaiting Draft Opinion	54	40	22	116	13		129
Draft Opinion Circulating	38	24	6	68	11		79
Awaiting Decision on Granting Petition for Review or Original					16	1	17
Awaiting Mandate or Decision On Rehearing	11	4	2	17	2		19
Stayed or Remanded	<u>11</u>	<u>8</u>	<u>1</u>	<u>19</u>	<u>3</u>	<u>-</u>	<u>22</u>
TOTAL	297	209	51	557	61	6	624

Original sponsors: Ziegler, Bradley,
Meland, et al

Offered: 2/6/80
Referred: Finance

1 IN THE SENATE BY THE JUDICIARY COMMITTEE
2 HOUSE CS FOR SENATE BILL NO. 104 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL
6 For an Act entitled: "An Act relating to the judiciary; establishing a court
7 of appeals; amending the jurisdiction of the supreme
8 court, the superior court, and the district court;
9 clarifying and amending the sentence appeal and other
10 appellate jurisdiction of the superior court; changing
11 the qualifications of justices and judges; providing
12 that justices and judges may serve as delegates to
13 constitutional conventions; amending the time period in
14 which the judicial council is to provide information to
15 the public concerning judicial officers standing for
16 retention election; changing Rule 21, Rules of Appel-
17 late Procedure and Rule 7, District Court Criminal
18 Rules; and providing for an effective date."

19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

20 * Section 1. AS 22 is amended by adding a new chapter to read:

21 CHAPTER 07. THE COURT OF APPEALS.

22 Sec. 22.07.010. ESTABLISHMENT. There is established the court of
23 appeals, consisting of three judges. The court of appeals is a court of
24 record.

25 Sec. 22.07.020. JURISDICTION. (a) The court of appeals has
26 appellate jurisdiction in actions and proceedings commenced in the
27 superior court involving:

- 28 (1) criminal prosecution;
29 (2) post-conviction relief;

1 (3) children's court matters under AS 47.10.010(a)(1) includ-
2 ing waiver of children's court jurisdiction over a minor under AS 47.10;

3 (4) extradition;

4 (5) habeas corpus;

5 (6) probation and parole; and

6 (7) bail.

7 (b) The court of appeals has jurisdiction to hear appeals of
8 sentences of imprisonment imposed by the superior court on the grounds
9 that the sentence is excessive or too lenient and, in the exercise of
10 this jurisdiction, may modify the sentence as provided by law and the
11 state constitution.

12 (c) An appeal to the court of appeals is a matter of right in all
13 actions and proceedings within its jurisdiction, except that the state
14 has no right of appeal in criminal cases except to test the sufficiency
15 of the indictment or information or to appeal a sentence on the ground
16 it is too lenient.

17 (d) The court of appeals may in its discretion (1) review a final
18 decision of the superior court on an appeal from a district court in an
19 action or proceeding involving criminal prosecution, post-conviction
20 relief, extradition, probation and parole, habeas corpus or bail; (2)
21 review the final decision of the superior court on appeal of a sentence
22 imposed by the district court. In this subsection "final decision"
23 means a decision or order, other than a dismissal by consent of all
24 parties, that closes a matter in the superior court.

25 (e) The court of appeals may issue injunctions, writs and all
26 other process necessary for the complete exercise of its jurisdiction.

27 (f) A final decision of the court of appeals is binding on the
28 superior court and on the district court unless superseded by a decision
29 of the supreme court.

1 Sec. 22.07.030. REVIEW BY SUPREME COURT. A party may apply to the
2 supreme court for review of a final decision of the court of appeals in
3 accordance with AS 22.05.010 and rules adopted by the supreme court.
4 Review is in the discretion of the supreme court as set out in AS 22.-
5 05.010(c). In this section, "final decision" means a decision or order,
6 other than a dismissal by consent of all parties, that closes a matter
7 in the court of appeals.

8 Sec. 22.07.040. QUALIFICATIONS OF JUDGES. A judge of the court of
9 appeals shall be a citizen of the United States and of the state, a
10 resident of the state for five years immediately preceding his appoint-
11 ment, have been engaged for not less than eight years immediately pre-
12 ceding his appointment in the active practice of law, and at the time of
13 appointment be licensed to practice law in the state. For purposes of
14 this section, the active practice of law is the same as defined for the
15 justices of the supreme court in AS 22.05.070.

16 Sec. 22.07.050. OATH OF OFFICE. Each judge of the court of
17 appeals, upon entering office, shall take and subscribe to the oath or
18 affirmation of office required of all officers under the constitution.

19 Sec. 22.07.060. APPROVAL OR REJECTION. Each judge of the court of
20 appeals is subject to approval or rejection as provided in the Alaska
21 Election Code (AS 15). The judicial council shall conduct an evaluation
22 of each judge before his retention election and shall provide informa-
23 tion to the public about the judge and may provide a recommendation
24 regarding his retention or rejection. The information and any recommen-
25 dation shall be made public at least 60 days before the election. The
26 judicial council shall also provide the information and any recommenda-
27 tion to the office of the lieutenant governor in time for publication in
28 the election pamphlet as required by AS 15.57.025. If a majority of
29 those voting on the question rejects the candidacy of a judge, he may

1 not for a period of four years thereafter be appointed to fill a vacancy
2 in the supreme court, the court of appeals, the superior court, or the
3 district court of the state.

4 Sec. 22.07.070. VACANCIES. (a) The governor shall fill a vacancy
5 or appoint a successor to fill an impending vacancy in the office of
6 judge of the court of appeals within 45 days after receiving nominations
7 from the judicial council, by appointing one of two or more persons
8 nominated by the council for each actual or impending vacancy. An
9 appointment to fill an impending vacancy becomes effective upon the
10 actual occurrence of the vacancy.

11 (b) The office of a judge of the court of appeals becomes vacant
12 90 days after the election at which he is rejected by a majority of
13 those voting on the question or for which he fails to file his declara-
14 tion of candidacy to succeed himself. Upon the occurrence of (1) an
15 actual vacancy; (2) the certification of rejection following an elec-
16 tion; or (3) the failure of a judge to file a declaration of candidacy
17 to succeed himself, the judicial council shall meet within 45 days and
18 submit to the governor the names of two or more persons qualified for
19 the judicial office; however, the 45-day period may be extended by the
20 judicial council with the concurrence of the supreme court. In the
21 event of an impending vacancy other than by reason of rejection or
22 failure to file a declaration of candidacy, the judicial council may
23 meet at any time within the 90-day period immediately preceding the
24 effective date of the vacancy and submit to the governor the names of
25 two or more persons qualified for the judicial office.

26 Sec. 22.07.080. RESTRICTIONS. A judge of the court of appeals
27 while holding office may not practice law, or engage in the conduct of
28 any other profession, vocation or business for profit or compensation,
29 which conduct would interfere with his performance of his judicial

1 duties, nor may he hold office in a political party, or hold any other
2 office or position of profit under the United States, the state or its
3 political subdivisions. A judge of the court of appeals filing for
4 another elective public office other than delegate to a constitutional
5 convention of this state or the United States forfeits his judicial
6 position.

7 Sec. 22.07.090. COMPENSATION. (a) The monthly salary of a judge
8 of the court of appeals is equal to Step E, Range 29 of the salary
9 schedule in AS 39.27.011(a) for Juneau, Alaska. The compensation of a
10 judge may not be diminished during his term of office, unless by general
11 law applying to all salaried officers of the state.

12 (b) A salary warrant may not be issued to a judge of the court of
13 appeals until he has filed with the state officer designated to issue
14 salary warrants an affidavit that no matter referred to the judge for
15 opinion or decision has been incompleated or undecided by him for a
16 period of more than six months.

17 Sec. 22.07.100. PROCESS. Process of the court of appeals shall be
18 in the name of the State of Alaska, signed by the clerk of the court or
19 his deputy, dated when issued, sealed with the seal of court, and made
20 returnable according to rule prescribed by the supreme court.

21 * Sec. 2. AS 22.05.010 is repealed and re-enacted to read:

22 Sec. 22.05.010. JURISDICTION. (a) The supreme court has final
23 appellate jurisdiction in all actions and proceedings. However, a party
24 has only one appeal as a matter of right from an action or proceeding
25 commenced in either the district court or the superior court.

26 (b) Appeal to the supreme court is a matter of right only in those
27 actions and proceedings from which there is no right of appeal to the
28 court of appeals under AS 22.07.020 or to the superior court under
29 AS 22.10.020 or AS 22.15.240.

1 (c) A decision of the superior court on an appeal from an adminis-
2 trative agency decision may be appealed to the supreme court as a matter
3 of right.

4 (d) The supreme court may in its discretion review a final deci-
5 sion of the court of appeals on application of a party under AS 22.07.-
6 030. The supreme court may in its discretion review a final decision of
7 the superior court on an appeal of a civil case commenced in the dis-
8 trict court. In this subsection "final decision" means a decision or
9 order, other than a dismissal by consent of all parties, that closes a
10 matter in the court of appeals.

11 (e) The supreme court may issue injunctions, writs and all other
12 process necessary to the complete exercise of its jurisdiction.

13 * Sec. 3. AS 22.05 is amended by adding a new section to read:

14 Sec. 22.05.015. TRANSFER OF APPELLATE CASES. (a) The supreme
15 court may transfer to the court of appeals for decision a case pending
16 before the supreme court if the case is within the jurisdiction of the
17 court of appeals.

18 (b) The supreme court may take jurisdiction of a case pending
19 before the court of appeals if the court of appeals certifies to the
20 supreme court that the case involves a significant question of law under
21 the Consitution of the United States or under the constitution of the
22 state or involves an issue of substantial public interest that should be
23 determined by the supreme court.

24 (c) A case filed in the supreme court or in the court of appeals
25 may not be dismissed by one court on the ground that it is within the
26 jurisdiction of the other court. The case shall be transferred to the
27 proper court.

28 * Sec. 4. AS 22.05.060 is amended to read:

29 Sec. 22.05.060. SEALS OF COURT. The seal of the supreme court is

1 a vignette of the official flag of the state with the words "Seal of the
2 Supreme Court of the State of Alaska" surrounding the vignette. The
3 supreme court shall prescribe by rule the seals of court for the court
4 of appeals and for the superior and district courts.

5 * Sec. 5. AS 22.05.070 is amended to read:

6 Sec. 22.05.070. QUALIFICATIONS OF JUSTICES. A justice of the
7 supreme court shall be a citizen of the United States and of the state,
8 a resident of the state for five [THREE] years immediately preceding his
9 appointment, have been engaged for not less than eight years immediately
10 preceding his appointment in the active practice of law, and at the time
11 of appointment be licensed to practice law in the state. The active
12 practice of law includes

13 (1) sitting as a judge in a state or territorial court;

14 (2) being actually engaged in advising and representing
15 clients in matters of law;

16 (3) rendering legal services to an agency, branch, or depart-
17 ment of a civil government within the United States or a state or terri-
18 tory of the United States, in an elective, appointive or employed capac-
19 ity;

20 (4) serving as a professor, associate professor, or assistant
21 professor in a law school accredited by the American Bar Association.

22 * Sec. 6. AS 22.05.100 is amended to read:

23 Sec. 22.05.100. APPROVAL OR REJECTION. Each supreme court justice
24 is subject to approval or rejection as provided in the Alaska Election
25 Code (AS 15.05 - 15.60). The judicial council shall conduct an evalua-
26 tion of each justice before his retention election and shall provide to
27 the public information about that justice and may provide a recommenda-
28 tion regarding his retention or rejection. Such information and any
29 recommendation shall be made public at least 60 [30] days before the

1 retention election. The judicial council shall also provide such infor-
2 mation and any recommendation to the office of the lieutenant governor
3 in time for publication in the election pamphlet under AS 15.57.025. If
4 a majority of those voting on the question rejects his candidacy, he
5 shall not be appointed to fill any vacancy in the supreme court, court
6 of appeals, [OR] superior court, or district courts [COURTS] of the
7 state for a period of four years thereafter.

8 * Sec. 7. AS 22.05.130 is amended to read:

9 Sec. 22.05.130. RESTRICTIONS. A supreme court justice while
10 holding office may not practice law, nor engage in the conduct of any
11 other profession, vocation or business for profit or compensation, which
12 conduct would interfere with his performance of his judicial duties, nor
13 may he hold office in a political party, or hold any other office or
14 position of profit under the United States, the state [,] or its poli-
15 tical subdivisions. A supreme court justice filing for another elective
16 public office other than delegate to a constitutional convention of
17 this state or the United States forfeits his judicial position.

18 * Sec. 8. AS 22.10.020(a) is amended to read:

19 (a) The superior court is the trial court of general jurisdiction,
20 with original jurisdiction in all civil and criminal matters, including
21 but not limited to probate and guardianship of minors and incompetents.
22 The jurisdiction of the superior court extends over the whole of the
23 state. The superior court and its judges may issue injunctions, writs
24 of review, mandamus, prohibition, habeas corpus and all other writs
25 necessary or proper to the complete exercise of its jurisdiction. A
26 writ of habeas corpus may be made returnable before any judge of the
27 superior court. The superior court has jurisdiction in all matters
28 appealed to it from a subordinate court, or administrative agency when
29 appeal is provided by law. Appeals are a matter of right, but no appeal

1 from a subordinate court may be taken by the defendant in a criminal
2 case after a plea of guilty, except on the ground that the sentence was
3 excessive, as further provided by this section. The state has no right
4 to appeal in criminal cases [NO APPEAL MAY BE TAKEN BY THE STATE],
5 except to test the sufficiency of an indictment or information or to
6 appeal a sentence on the ground it is too lenient. An appeal to the
7 superior court may be taken on the ground that a sentence of impris-
8 onment of 90 [180] days or more was excessive and the superior court in
9 the exercise of this jurisdiction has the power to reduce [MODIFY] the
10 sentence [APPEALED FROM UPWARD OR DOWNWARD]. When a sentence is ap-
11 pealed by the state on the ground it is too lenient, the court may not
12 increase the sentence but may express its approval or disapproval of
13 the sentence and its reasons in a written opinion. The hearings on
14 appeal from a final order or judgment of a subordinate court or adminis-
15 trative agency shall be on the record unless the superior court, in its
16 discretion, grants a trial de novo, in whole or in part.

17 * Sec. 9. AS 22.10.090 is amended to read:

18 Sec. 22.10.090. QUALIFICATIONS OF JUDGES. A judge of the superior
19 court shall be a citizen of the United States and of the state, a resi-
20 dent of the state for five [THREE] years immediately preceding his
21 appointment, have been engaged for not less than five years immediately
22 preceding his appointment in the active practice of law, and at the time
23 of appointment be licensed to practice law in the state. The active
24 practice of law shall be as defined for justices of the supreme court in
25 AS 22.05.070.

26 * Sec. 10. AS 22.10.150 is amended to read:

27 Sec. 22.10.150. APPROVAL OR REJECTION. Each superior court judge
28 is subject to approval or rejection as provided in the Alaska Election
29 Code (AS 15.05 - 15.60). The judicial council shall conduct an evalua-

1 tion of each judge before his retention election and shall provide to
2 the public information about the judge and may provide a recommendation
3 regarding his retention or rejection. Such information and any recom-
4 mendation shall be made public at least 60 [30] days before the reten-
5 tion election. The judicial council shall also provide such information
6 and any recommendation to the office of the lieutenant governor in time
7 for publication in the election pamphlet under AS 15.57.025. If a major-
8 ity of those voting on the question rejects his candidacy, he shall not
9 for a period of four years thereafter be appointed to fill any vacancy
10 in the supreme court, court of appeals, [OR] superior courts, or district
11 courts of the state.

12 * Sec. 11. AS 22.10.180 is amended to read:

13 Sec. 22.10.180. RESTRICTIONS. A superior court judge while
14 holding office may not practice law, nor engage in the conduct of any
15 other profession, vocation or business for profit or compensation,
16 which conduct would interfere with his performance of his judicial
17 duties, nor may he hold office in a political party, or hold any other
18 office or position of profit under the United States, the state or
19 its political subdivisions. A superior court judge filing for an-
20 other elective public office other than delegate to a constitutional
21 convention of this state or the United States forfeits his judicial
22 position.

23 * Sec. 12. AS 22.15.160(a) is amended to read:

24 (a) A district judge shall be a citizen of the United States and
25 of the state, at least 21 years of age, a resident of the state for at
26 least five years [ONE YEAR] immediately preceding his appointment, and
27 (1) have been engaged in the active practice of law for not less than
28 three years immediately preceding his appointment and at the time of his
29 appointment licensed to practice law in the State of Alaska; or (2)

1 have served for at least seven years as a magistrate in the state. The
2 supreme court may prescribe additional qualifications.

3 * Sec. 13. AS 22.15.195 is amended to read:

4 Sec. 22.15.195. APPROVAL OR REJECTION. Each district court judge
5 is subject to approval or rejection as provided in the Alaska Election
6 Code (AS 15.05 - 15.60). The judicial council shall conduct an evalua-
7 tion of each judge before his retention election and shall provide to
8 the public information about the judge and may provide a recommendation
9 regarding his retention or rejection. Such information and the recom-
10 mendation shall be made public at least 60 [30] days before the elec-
11 tion. The judicial council shall also provide such information and any
12 recommendation to the office of the lieutenant governor in time for
13 publication in the election pamphlet under AS 15.57.025. If a majority
14 of those voting on the question rejects his candidacy, he shall not for
15 a period of four years thereafter be appointed to fill any vacancy in
16 the supreme court, court of appeals, superior courts or district courts
17 of the state.

18 * Sec. 14. AS 22.15.210(a) is amended to read:

19 (a) A district judge [,] while holding office [,] may not practice
20 law, nor engage in the conduct of any other profession, vocation or
21 business for profit or compensation, which conduct would interfere with
22 his performance of his judicial duties, nor may he hold office in a
23 political party, or hold any other office or position of profit under
24 the United States, the state or its political subdivisions, except that,
25 with the approval of the chief justice of the Alaska Supreme Court, a
26 [THE] district judge may be appointed deputy clerk of the superior court
27 and may hold the office of United States magistrate. A district judge
28 who files for another elective public office other than delegate to a
29 constitutional convention of this state or the United States forfeits

1 his judicial position.

2 * Sec. 15. AS 22.15.240 is amended to read:

3 Sec. 22.15.240. APPEAL. (a) Either party may appeal a judgment
4 of the district court in a civil action to the superior court [WHEN THE
5 SUM IN CONTROVERSY IS NOT LESS THAN \$50, OR FOR THE RECOVERY OF PERSONAL
6 PROPERTY OF THE VALUE OF NOT LESS THAN \$50 EXCLUSIVE OF COSTS IN EITHER
7 CASE, EXCEPT WHEN THE SUM IS GIVEN BY CONFESSION OR FOR WANT OF AN
8 ANSWER].

9 (b) The defendant may appeal a judgment of conviction given in the
10 district court in a criminal action to the superior court. When the
11 judgment is given on a plea of guilty, no appeal may be taken by the
12 defendant except on the ground that a sentence of imprisonment of 90
13 [180] days or more was excessive [; HOWEVER, THE SUPREME COURT BY RULE
14 MAY FURTHER PROVIDE FOR REVIEW OF A JUDGMENT GIVEN ON A PLEA OF GUILTY].
15 The state has no right of appeal in criminal actions for which judgment
16 is given in the district courts, except to test the sufficiency of the
17 information or to appeal a sentence on the ground it is too lenient.
18 When a sentence is appealed by the state on the ground it is too le-
19 lenient, the court may not increase the sentence but may express its ap-
20 proval or disapproval of the sentence and its reasons in a written
21 opinion.

22 (c) An appeal from the district court shall be taken within 30
23 days from the date of entry of the judgment. All appeals shall be on
24 the record [UNLESS THE SUPERIOR COURT, IN ITS DISCRETION, GRANTS A TRIAL
25 DE NOVO, IN WHOLE OR IN PART].

26 (d) The supreme court shall prescribe further rules for the pro-
27 cedure for appeals from district courts.

28 * Sec. 16. AS 22.20.010 is amended to read:

29 Sec. 22.20.010. JUDICIAL OFFICER DEFINED. The term "judicial