

LEG. FINANCE - BILLS 1981 - 1982 1662

SB 282 - SB 291

1662

Alaska State Legislature



Senate

SENATOR
ARLISS STURGULEWSKI

COMMITTEES
CHAIRMAN
Legislative Budget & Audit
Community & Regional Affairs
Finance
Resources

2957 SHELDON JACKSON
ANCHORAGE, ALASKA 99504
DISTRICT 10-H

While in Juneau
POUCH V
JUNEAU, ALASKA 99811
(907) 465-3818

April 7, 1981

RE: SENATE BILL 282

The general design of the state interest-rate law is that of a relatively low interest-rate ceiling (10.5%), with exceptions.

The first exception is that the lender and borrower can contract for an interest rate higher than 10.5 percent. However, this rate cannot be more than five percentage points above the Federal Reserve Discount Rate. (The "Discount Rate" is the rate at which banks (those banks which are members of the Federal Reserve System) can borrow from the Federal Reserve Bank. Ostensibly, the only occasion for borrowing from the Federal is to meet statutory reserve requirements.)

The second exception is for contracts and loan commitments over \$100,000 for which no interest limits apply.

The third exception would be created by this bill. This exception only applies to the "broker loan rate," which is the rate at which broker-dealers lend money to customers who buy securities on margin. ("On margin" means that the customer purchases stock partially in cash and borrows the remainder of the price of the stock from the broker.)

In considering this bill, the following points should be kept in mind:

- A. Brokers are not in the business to make money on their loans to margin customers. Traditionally, they mark up their own cost of funds enough to cover expenses and charge the customer that rate.
- B. The cost of money to broker-dealers is generally very close to the prime rate. It is nearly always within one percentage point of the prime rate.
- C. A formula of "discount rate plus 8%" would have allowed brokers to charge at about their cost of money; a formula of "discount plus 5%" would not.
- D. Persons buying stock on margin are supposed to be a fairly sophisticated group. They know enough to shop for the best rate, and free market competition helps regulate broker loan interest rates.

In addition to the State law outlined on the typewritten sheet, there is a set of Federal laws which take precedence.* There is no guarantee that this list is conclusive, but the following are the highlights:

- A. No usury limit on residential mortgages.
- B. No usury limit on business and agricultural loans over \$1,000^{**}.
- C. All Federally-insured financial institutions are eligible for the "Most-Favored-Lender-Doctrine," for loans up to \$25,000. At present, that doctrine, in conjunction with the State of Alaska's Small Loans Act, allows these institutions to lend at up to the Discount Rate plus 8%.
- D. ~~subject only to a ceiling of the Discount Rate~~^{**} subject only to a ceiling of the Discount Rate plus a "charge" plus a "surcharge." All three of these are set by the Federal. At present, the three are 13 plus 5 plus 3.

*This is called Federal preemption. If the State does certain things by April 1, 1983, the State will gain control of the usury limits and Federal Preemption will no longer apply.



Office of Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY SB 282:

Amends AS45.45.010, (trade practices, legal rate of interest)
A broker-dealer registered under AS45.55 may charge a margin account customer interest up to eight percentage points above the annual rate charged member banks by the 12th Federal Reserve District that prevailed on the day the loan or commitment was made.

FOSTER & MARSHALL INC.

INVESTMENT BANKERS AND BROKERS

205 COLUMBIA STREET
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MIDWEST STOCK EXCHANGE, INC.
CHICAGO BOARD OPTIONS EXCHANGE

March 25, 1981

Senator Bob Mulcahy
Pouch V
Juneau, AK 99811

Dear Senator Mulcahy:

Mr. Fred Koken has sent me the amendment to Senate Bill No. 282 from the Labor and Commerce Committee as it relates to broker-dealers. This legislation will allow us to offer a competitive interest rate to our Alaskan clients without losing money. As you know, we were concerned that we may have been put in the position of eliminating the extension of credit to our margin clients because of the negative financial impact.

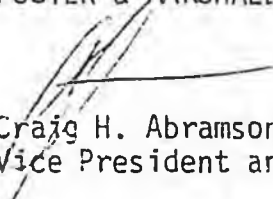
In the state of Washington we are trying to have similar legislation enacted because of a 12 percent usury ceiling, even though we have temporary relief from the Federal legislation. The difficulty we're having in Washington is that legislators believe that without a usury ceiling lenders will charge exorbitant rates for credit extended. It's curious to me why those concerned don't consider the strong impact the competitive forces of supply and demand have on the prevailing interest rate. At least in our industry margin credit is easy to obtain, and if there is a disparity of more than one-half of a percentage point, clients would easily find a new outlet.

In reviewing the wording in the proposed legislation we want to be certain that the rate of interest that can be charged our margin account customers is not tied in any way to the rate that prevailed when the loan was initially established, anywhere from one day to five years prior to the current date. We realize that the wording of the amendment is very similar to that of the original law, and would appreciate your contacting either Mr. Koken or myself if your intention is not to allow our interest rate to fluctuate with the current annual rate charged member banks by the 12th Federal Reserve District.

Thank you very much for your attention to our problem; I now hope that it will be accepted and enacted. If I can be of any additional assistance please don't hesitate to contact me.

Sincerely,

FOSTER & MARSHALL INC.


Craig H. Abramson
Vice President and Controller

CHA:jb

cc: Mr. Fred Koken
Mr. Ralph Papetti

FOSTER & MARSHALL INC.

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<u>DATE</u>	<u>FEDERAL DISCOUNT RATE</u>	<u>BASE RATE</u> [*]	<u>OUR COST</u>
10/28 - 11/2	11%	10%	14 %
11/3 - 11/5	11%	10%	14 1/2%
11/6 - 11/16	11%	10%	15 1/2%
11/17	12%	10%	16 3/4%
11/18 - 11/23	12%	10%	17 1/4%
11/24 - 11/27	12%	10%	17 3/4%
11/28 - 12/4	12%	10%	18 1/2%
12/5 - 12/14	13%	10%	20 %
12/15 - 12/17	13%	10%	21 %
12/18 - 12/22	13%	10%	22 %
12/23 - 12/28	13%	10%	21 %
12/29	13%	10%	20 %
12/30 - 1/27	13%	13%	20 1/2%
1/28 - 2/2	13%	13%	20 %
2/3 - 2/9	13%	13%	19 %
2/10 - 2/20	13%	13%	18 1/2%
2/21 - 2/23	13%	13%	18 %
2/24 - 3/9	13%	13%	17 1/2%
3/10 - 3/11	13%	13%	17 %
3/12 - Present	13%	13%	16 1/2%

* Add 5% for Alaska Usury Limit

Foster & Marshall Inc.
205 Columbia Avenue
Seattle, Washington 98104

RE: Loan for Business Purposes

Dear Sir:

I understand that under the terms of a business loan of over \$25,000 which I have with you, the only loan advances which you make to clients are solely for business purposes. I agree that you may rely on the statements made here concerning my margin borrowing to take advantage of State and Federal exemptions from the usuary provisions of the Revised Code of Washington.

This advance of _____ is for my business purpose of _____
I realize all the provisions of the Customer Agreement and the supplement to the Customer Agreement, which I have previously executed, will continue in effect.

Sincerely,

THIS IS A LETTER THAT IS REQUIRED
FROM EACH OF OUR "BUSINESS LOAN" CLIENTS
BEFORE THEIR DEBIT BALANCE CAN BE
INCREASED. IT IS UNNECESSARY FOR BOTH
US AND THE CLIENT.

J. Marshall

SUPPLEMENT TO CUSTOMER AGREEMENT
FOR MARGIN ACCOUNT CUSTOMERS

In consideration for Foster & Marshall Inc. extending and continuing to extend credit to my margin investment account, I acknowledge the following and agree to the terms and conditions herein:

1. Interest will be charged on any credit extended to or maintained for the account for the purpose of purchasing, carrying or trading in any security. The annual rate of interest which will be charged will depend on the amount of the debit balance in my account and on the New York call money rate charged to Foster & Marshall Inc. THE ACTUAL RATE OF INTEREST CHARGED WILL BE CHANGED WITHOUT NOTICE TO REFLECT EACH ADJUSTMENT IN THE NEW YORK CALL MONEY RATE. A STATEMENT OF THE RATE CURRENTLY IN EFFECT CAN BE OBTAINED FROM MY REPRESENTATIVE AT ANY TIME. The annual rate of interest will vary depending on the size of the average debit balance in the account during the month in accordance with the following schedule:

<u>If the Average Monthly debit balance is</u>	<u>The interest charge over the New York call money rate will be: *</u>
\$25,000 to \$29,999	1 3/4% above average call money rate
\$30,000 to \$49,999	1 1/4% above average call money rate
\$50,000 to \$99,999	3/4% above average call money rate
\$100,000 and up	1/2% above average call money rate

* The New York call money rate charged Foster & Marshall Inc. as of April 22, 1980 was 19 1/2%.

The interest rate charged will not, however, exceed 5 per centum in excess of the discount rate, including any surcharge thereon, on ninety-day commercial paper in effect, from time to time, at the Federal Reserve Bank in the Twelfth Federal Reserve District.

2. My margin account will be opened and carried solely for the purpose of borrowing to purchase, carry or trade investment securities in the account with the intent of increasing my net worth. I will not borrow for the purpose of withdrawing funds from the account for any other uses. I make all investment decisions for my account.

3. All or a portion of any borrowing in the account may be repaid at any time without penalty.

4. This Supplement is a supplement to the provisions of the Customer Agreement which I have previously executed and all of the provisions of such Agreement will continue in effect.

5. I understand that loans to the margin account which exceed \$25,000 in the aggregate will be exempt from any state law limiting the rate or amount of interest charged a loan for business purposes.

6. I understand and agree that my margin loan is a demand loan and that you have demanded payment on May 23, 1980. I hereby authorize Foster & Marshall Inc. to refinance the balance due and owing on my account as of May 27, 1980 with the proceeds of a new margin loan to my account on that date, which new loan will be subject to my Customer Agreement and this Supplement.

I have carefully read and considered the above statement and represent and warrant that my margin account is for my business purposes. I agree that the interest rate charged on the debit balance in my account may be a floating rate based on the New York call money rate charged Foster & Marshall Inc., as set forth above and shall not be subject to any limitation on the rate of interest imposed by state law if the debit balance exceeds \$25,000. I agree that you may rely on this statement of the business purpose of my margin account borrowings to take advantage of state and federal exemptions from any applicable state law.

(date)

(signed)

(city, state)

(signed)

NOTE: If joint account, both parties must sign.

FOSTER & MARSHALL INC.

INVESTMENT BANKERS AND BROKERS

205 COLUMBIA STREET
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MEMBERS

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CHICAGO BOARD OPTIONS EXCHANGE

OFFICES

IN THE PRINCIPAL CITIES OF THE
PACIFIC NORTHWEST AND ALASKA

November 14, 1980

TO OUR WASHINGTON STATE RESIDENT MARGIN CLIENTS:

One of the services Foster & Marshall Inc. provides to you is the financing of security purchases on a margin basis. Historically, the rate of interest charged on margin purchases has varied directly with the brokers' cost of money which is presently approximately 15 1/2%. While the interest rate charged to our clients in other states is based on this cost, we are limited within the State of Washington to a 12% interest rate, except for business loan accounts, because of the usury limitation since we are headquartered within the State. Unlike most of our competition, we have been absorbing this differential for most accounts of Washington residents in the hope that the prime interest rate would drop below 12% or that a bill introduced in the Washington legislature during the last session would exempt margin interest from the State's 12% usury limitation and thereby recognize the true cost of carrying such accounts. While this has been the case throughout most of the country, the State legislature adjourned without taking action, and it appears that an early return to a 12% cost of money unfortunately is not a realistic possibility.

We at Foster & Marshall feel that under the circumstances we cannot indefinitely continue to absorb the increasing loss between our cost of money to finance margin accounts and the rate we have been charging our Washington clients.

A recent amendment to Federal legislation (H.R. 4986) provides an exemption from state usury for loans in excess of \$1,000 which are for business purposes, and the amendment confirms that a margin loan to purchase securities is a business loan. Since economic reality requires that we either charge a higher interest rate or call the margin loans outstanding and limit new loans, we intend to call the outstanding balance of those margin accounts whose debits exceed \$10,000 or convert them to new loans on December 20, 1980, to the extent that they are being made for business purposes in margining the accounts. We may further reduce this requirement to \$5,000 if we are not given relief by the State legislature.

We are enclosing an agreement for you to sign and return to us confirming that your margin loan is exclusively for business purposes and not for personal purposes. This agreement will supplement your Customer Agreement. Clients who sign and return this agreement prior to December 20, 1980, will be charged the standard Foster & Marshall interest rate on margin accounts as is applicable in all other states. A statement showing the methods used to compute interest is also enclosed, and in no event will the interest charge exceed 5 percent in excess of the discount rate, including any surcharge thereon, on ninety-day commercial paper in effect at the Federal Reserve Bank in the Twelfth Federal Reserve District.

Since the funds from an exempt business loan cannot be used for any purposes other than a business purpose, clients will not be able to withdraw any funds from their account which may be deemed to be proceeds of the loan for non-business purposes. After December 20, 1980, no withdrawals may be made from your margin account unless the withdrawal is the proceeds of a sale, a dividend, bond interest, etc., credited to the account that day, or you first provide satisfactory written certification to Foster & Marshall that the funds are to be used solely for a business purpose. If you wish, your account may be set up to automatically send you dividends or bond interest as it is credited to your account.

Please carefully read and understand the enclosed agreement and execute it if it is satisfactory. Those clients who do not sign and return this agreement either because their margin loans are wholly or partially for non-business purposes or because they do not wish to incur the higher interest rate will be required to deposit cash, liquidate securities, or make other arrangements to repay their margin account balance by December 20, 1980.

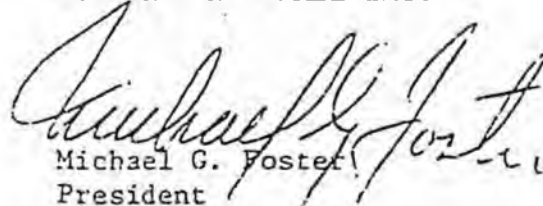
I have explained the background of our present dilemma so that you can understand why Foster & Marshall has been forced to take this action. It is not our desire to affect adversely the investment practices of any of our Washington clients, but rather to put them on the same basis as our clients in other states for interest purposes and to maintain our responsibility to all our clients to remain a viable and well-capitalized organization. We have suffered an increasing loss from this area of our business as long as we reasonably could, but the continued rise of interest rates has given us no alternative.

A copy of the agreement is enclosed for your records as well as a self-addressed, postage-free envelope to return your signed copy.

We value our relationship with you and we hope that you will understand why we have made this decision.

Sincerely,

FOSTER & MARSHALL INC.


Michael G. Foster
President

FOSTER & MARSHALL INC.

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1907-280-5300

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February 2, 1981

Written Testimony: SENATE BILL NO. 19

Submitted By: Fred K. Koken
First Vice President
Foster & Marshall, Inc.

Security brokerage firms and other businesses that extend open lines of credit to their customers finance these loans through borrowings from major banks. The rate that is paid (the broker call rate/prime lending rate) moves up and down or "floats" with money market rates and the policy of the Federal Reserve Bank. In years past these rates have moved in a fairly narrow range and in an orderly manner. However, in the past eighteen months we have seen the broker call rate/prime lending rate make wide swings in very short periods of time. The current Alaska State usury law does not allow the necessary flexibility to keep pace with these interest rate changes and in fact can cause substantial losses to firms that extend open lines of credit.

EXAMPLE: Foster & Marshall is currently extending approximately \$700,000 in credit to Alaska residents. Under current law the maximum that can be charged is 18%. This is 5% above the 13% rate as set by the 12th Federal Reserve District on the 25th day of the month preceding the commencement of the calendar quarter. Our cost of money (the broker call rate) is now 20%. This means we are losing money at an annual rate of \$54,000. Since we normally charge 1% above our cost of money for accepting the risk of these loans and administering them we are actually losing money at an annual rate of \$81,000.

It is not the desire of any legitimate lender to take advantage of the borrower; however neither should the law allow the borrower to take advantage of the lender. In this situation the lender has two alternatives: 1) to continue to carry the loans and incur the loss, or 2) to call the loans and drive Alaska residents outside to do their business.

To correct the current situation two suggestions are offered;

1. Change the existing percentage point spread between the Federal Reserve rate and the usury limit to an eight percentage point spread.
2. Change the language in the existing law that now allows the rate to change only once a quarter and allow the rate to "float". This would mean that when the Federal rate went up so would the usury rate and when the Federal rate goes down so would the usury rate and that the maximum allowed by law would never be more than eight points above the effective annual Federal Reserve rate.

Such a change would allow the usury limit to move or "float" in a constant relationship to the rate charged member banks by the 12th Federal Reserve District.

For suggestions as to specific language changes to SENATE BILL NO. 19 please review the attachment.

1. On line 12 delete the word [FIVE] and insert the word eight.
2. On line 12 insert the word effective between the words "the" and "annual".
3. On line 13 insert a period (.) after the word District.
4. At the end of line 13, through lines 14 and 15 and ending on line 16, delete the words [ON THE DAY ON WHICH THE CONTRACT OR LOAN COMMITMENT IS MADE.]

Note: The objective of suggestions 2, 3, and 4 is to eliminate the possible tying of the usury limit on open lines of credit to some contract date that might have established the open line of credit months or even years earlier.

FOSTER & MARSHALL INC.

INVESTMENT BANKERS AND BROKERS

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1907 581-6000

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NATIONAL ASSOCIATION OF SECURITIES DEALERS
CHICAGO BOARD OF TRADE

OFFICES
IN THE PRINCIPAL CITIES OF THE
PACIFIC NORTHWEST AND ALASKA

February 9, 1981

Written Testimony: SENATE BILL NO. 19

Submitted By: Fred K. Koken
First Vice President
Foster & Marshall, Inc.

In the testimony I submitted to you a week ago and in the discussion which followed it was mentioned that the particular problem our industry faces might be best addressed in separate legislation or a separate section of current legislation. Attached is a copy of legislation currently under consideration in the State of Washington which addresses my industry's particular problem.

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Sec. 45.45.010. Legal rate of interest.

(a) The rate of interest in the state is 10.5 percent a year and no more on money after it is due except as provided in (b) of this section.

(b) No interest may be charged by express agreement of the parties in a contract or loan commitment dated after June 4, 1976 which is more than five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District that prevailed on the 25th day of the month preceding the commencement of the calendar quarter during which the contract or loan commitment is made. A contract or loan commitment in which the principal amount exceeds \$100,000 is exempt from the limitation of this subsection.

(c) Repealed by § 3 ch 84 SLA 1973.

(d) Notice of the annual rate charged member banks for advances by the 12th Federal Reserve District prevailing on the 25th day of the month preceding the commencement of each calendar quarter required for the maximum interest rate computation under (b) of this section shall be provided by the Department of Commerce and Economic Development.

(e) Repealed by § 4 ch 146 SLA 1974.

(f) No bank, savings and loan institution, pension fund, insurance company or mortgage company may require or accept any per cent of ownership or profits above its interest rate.

(g) Loan contracts and commitments covering one- to four-family dwellings may be prepaid without penalty, except federally insured loans that require a prepayment penalty.

(h) If the limitations on interest rates provided for in this section are inconsistent with the provisions of any other statute covering maximum interest, service charges or discount rates then the provisions of the other statute prevail. (§ 25-1-1 ACLA 1949; am § 20 ch 143 SLA 1968; am § 2 ch 69 SLA 1969; am §§ 1, 2 ch 94 SLA 1969; am §§ 1, 2 ch 239 SLA 1970; am §§ 1 — 3 ch 84 SLA 1973; am §§ 1 — 4 ch 146 SLA 1974; am § 1 ch 110 SLA 1976; am § 1 ch 159 SLA 1976; am § 2 ch 107 SLA 1980)

Cross references. — As to rate of interest under Alaska Small Loans Act, see AS 06.20. As to premium finance act, see AS 06.40.120. As to credit union loans, see AS 06.45.060. As to judgments, see AS 09.30.070. As to commercial fishing loans, see AS 16.10.320(a). As to housing development revolving loan fund, see AS 18.54.060. As to Alaska housing finance, see AS 18.56.098. As to insurance policy loans, see AS 21.45.080. As to veterans' loans, see AS 26.15.040. As to residential care facility loans, see AS 44.33.350(b). As to temperate social activities facilities loans, see AS 44.47.340(e). As to retail installment sales, see AS 45.10.120. As to collection of advance interest, see AS 45.45.080. As to Alternative Technology

and Power Resource loans, see AS 88.030(e). As to tourism loans, see AS 45.90.030(c). As to small business loans, see AS 45.95.020. As to historic district loans, see AS 45.98.040(4).

Effect of amendments. — The first 1976 amendment substituted "five percentage points" for "four percentage points" in the first sentence of subsection (b).

The second 1976 amendment rewrote subsection (a).

The 1980 amendment substituted "10.5" for "eight" near the beginning of subsection (a) and deleted the former second sentence of subsection (a), which read: "The rate of interest in the state is six per cent a year and no more on (1)

money received to the use of another and retained beyond a reasonable time without the owner's express or implied consent; (2) money due upon the settlement of matured accounts from the day the balance is ascertained, or (3) money due or to become due when there is a contract to pay interest and no rate is specified."

Editor's note. — Section 4, ch. 107, SLA 1980 provides in part: "The interest rate provided in sec. 2 of this Act applies only to cases filed after the effective date of this Act [July 1, 1980]."

Section 5, ch. 107, SLA 1980 provides: "This Act does not amend Rule 38 of the Alaska Rules of Civil Procedure."

Legislative history reports. — For report on ch. 143, SLA 1958 (HB 707), see House Journal (1968), p. 836. For report on ch. 69, SLA 1969 (HCSCSSB 136), see 1969 House Journal, p. 809. For report on ch. 84, SLA 1973 (FCCS HCSSB 37), see 1973 Senate Journal Supplement, No. 16, p. 1.

This section is not a law prescribing interest on anything. *State v. American Can Co.*, Sup. Ct. Op. No. 41 (File No. 75), 362 P.2d 291 (1961).

It simply fixes a maximum limit on the rate that may be charged in certain instances. *State v. American Can Co.*, Sup. Ct. Op. No. 41 (File No. 75), 362 P.2d 291.

It applies to balances due on corporate subscriptions. *Mountain Timber Co. v. Case (Ore.)*, 133 P. 92, construing the Oregon statute.

1976 amendment not retroactive. — The amendment raising the interest rate on money "due" to eight per cent (now 10.5 per cent) is not to be applied retroactively. *City of Juneau v. Commercial Union Ins. Co.*, Sup. Ct. Op. No. 1906 (File Nos. 4040, 4041), 598 P.2d 957 (1979).

For the period prior to the effective date of the 1976 amendment to this section, a claimant is entitled to recover interest on the judgment at the rate of only six per cent per annum and a court's award of interest for that period of eight per cent is excessive. *Drickersen v. Drickersen*, Sup. Ct. Op. No. 1992 (File No. 4133), 604 P.2d 1082 (1979).

"Due". — Since AS 09.50.280 and former subsection (a)(1) (see now first sentence in subsection (a), as amended) of this section delimit time periods during which interest runs in the same words, they are in pari materia, so "due" should receive the same construction in both statutes. *State v. Phillips*, Sup. Ct. Op. No.

619 (File Nos. 1117, 1124), 470 P.2d 265 (1970).

Whenever any cause of action accrues, the amount later adjudicated as damages is immediately "due" in the sense of AS 09.50.280 and subsection (a) of this section. All damages then, whether liquidated or unliquidated, pecuniary or nonpecuniary, should carry interest from the time the cause of action accrues, unless for some reason peculiar to an individual case such an award of interest would do an injustice. This construction is in accord with the legislative intent manifested in its 1965 amendment to AS 09.50.280. *State v. Phillips*, Sup. Ct. Op. No. 619 (File Nos. 1117, 1124), 470 P.2d 266 (1970).

Whenever any cause of action accrues, the amount later adjudicated as damages is immediately "due" in the sense of AS 09.50.280 and subsection (a) of this section. *National Bank v. J.B.L. & K. of Alas., Inc.*, Sup. Ct. Op. No. 1239 (File No. 2289), 546 P.2d 579 (1976).

Money becomes "due" within the meaning of subsection (a) of this section when the cause of action accrues. *Guin v. Ha*, Sup. Ct. Op. No. 1810 (File No. 3742), 591 P.2d 1281 (1979).

When insurer's obligation to pay post-judgment interest "due". — Since until a valid judgment is rendered against the insured or a settlement agreement is entered into, the insured is not liable to pay damages to the injured party, the sum that the insurance company may eventually pay on behalf of the insured, including post-judgment interest, is not "due" at the time of the injury, but rather at the time of settlement or judgment. *Guin v. Ha*, Sup. Ct. Op. No. 1810 (File No. 3742), 591 P.2d 1281 (1979).

Although an agreement between the insurer and the insured does not obligate the insurer to pay interest accruing after entry of judgment, an obligation to pay post-judgment interest would arise on behalf of the insurer when judgment is rendered against the insured or a settlement agreement is finalized, since upon the occurrence of either event, the insurer would become obligated to make payment under its liability agreement, and the insurer's obligation would therefore become "due" within the meaning of subsection (a) of this section. Thus, the insurer would be responsible for interest accruing after the date of entry of judgment or settlement. *Guin v. Ha*, Sup. Ct. Op. No. 1810 (File No. 3742), 591 P.2d 1281 (1979).

Prejudgment interest. — The legislature's 1965 amendment to AS 09.50.280 evinces an intent that prejudgment interest be awarded more liberally than prior judicial interpretations of this section would have called for. *State v. Phillips*, Sup. Ct. Op. No. 619 (File Nos. 1117, 1124), 470 P.2d 266 (1970); *National Bank v. J.B.L. & K. of Alas., Inc.*, Sup. Ct. Op. No. 1239 (File No. 2289), 546 P.2d 579 (1976).

Failure to award prejudgment interest creates a substantial financial incentive for defendants to litigate even where liability is so clear and the jury award so predictable that they should settle. *State v. Phillips*, Sup. Ct. Op. No. 619 (File Nos. 1117, 1124), 470 P.2d 266 (1970).

Subsection (a) of this section imposes on defendants in tort actions the obligation to pay prejudgment interest computed from the date of injury. *Guin v. Ha*, Sup. Ct. Op. No. 1810 (File No. 3742), 591 P.2d 1281 (1979).

Prejudgment interest is substantive right. — Prejudgment interest is not a "remedial" or "procedural" device, but it is a substantive right of an injured party, to allow that party to recover for economic loss occasioned by his inability to use the award of damages between the injury and judgment. *City of Juneau v. Commercial Union Ins. Co.*, Sup. Ct. Op. No. 1906 (File Nos. 4040, 4041), 598 P.2d 957 (1979).

The purpose of prejudgment interest is to place an injured plaintiff in the same position as if he had been compensated immediately for his loss. *City of Juneau v. Commercial Union Ins. Co.*, Sup. Ct. Op. No. 1906 (File Nos. 4040, 4041), 598 P.2d 957 (1979).

Prejudgment interest in the nature of compensation damages. *National Bank v. J.B.L. & K. of Alas., Inc.*, Sup. Ct. Op. No. 1239 (File No. 2289), 546 P.2d 579 (1976).

Prejudgment interest is an item of compensatory damages. *Guin v. Ha*, Sup. Ct. Op. No. 1810 (File No. 3742), 591 P.2d 1281 (1979).

And is subject to insurance contract liability limitations. — Classified as an item of compensatory damage, prejudgment interest falls within the liability damage clause in an insurance contract and is subject to the amount limitation contained therein. Thus, when an insurer pays on behalf of its insured the limits of liability coverage to an injured third party, it discharges its obligation under the insurance policy. *Guin v. Ha*,

Sup. Ct. Op. No. 1810 (File No. 3742), 591 P.2d 1281 (1979).

Thus, insurer is not liable for prejudgment interest exceeding policy limits. — An insurer is not liable for prejudgment interest which, when added to liability damages, exceeds the limitation on liability under the applicable insurance contract. *Guin v. Ha*, Sup. Ct. Op. No. 1810 (File No. 3742), 591 P.2d 1281 (1979).

Public policy does not require insurers to assume liability for prejudgment interest exceeding policy limits regardless of the terms of the insurance contract. *Guin v. Ha*, Sup. Ct. Op. No. 1810 (File No. 3742), 591 P.2d 1281 (1979).

Although it will be liable for such interest not exceeding limits. — While the insurer will not be liable for prejudgment interest in excess of the applicable damage limitation, the insurer will be liable for any prejudgment interest which, when added to damages rendered against the insured, does not exceed the limitation on liability. Thus, the insurer may be obligated to pay prejudgment interest assessed against its insured despite the absence of a clause specifically addressed to prejudgment interest in the insurance contract. *Guin v. Ha*, Sup. Ct. Op. No. 1810 (File No. 3742), 591 P.2d 1281 (1979).

Interest may not be allowed on unliquidated claims. *Danzas, Ltd. v. National Bank of Alaska*, 222 F. Supp. 671 (D. Alas. 1963).

Allowance of interest prior to date of judgment held error. — Where there was no due date fixed for the repayment of several loans which the plaintiff claimed he made to the defendant, and it was not even determined until the trial of the case that the defendant and not someone else was liable to the plaintiff for the moneys he advanced, it was error to allow interest on the loan claim for any time previous to the date of the judgment. *Chirikoff Island Cattle Corp. v. Robinette Aero Enterprises, Inc.*, Sup. Ct. Op. No. 85 (File Nos. 97, 98), 372 P.2d 791 (1962).

This section cannot be construed as authorizing compound interest. *Thompson v. Gregory*, Sup. Ct. Op. No. 709 (File No. 1164), 487 P.2d 59 (1971).

Fees and charges for expenses incurred by a savings and loan association in making a loan are not considered "interest" within the meaning of the usury law. *Fikes v. First Fed. Sav. &*

Loan Ass'n, Sup. Ct. Op. No. 1131 (File No. 2011), 533 P.2d 251 (1975).

If a loan fee is either substantially similar to interest in all material respects or unreasonably large, the loan fee, or a portion thereof, could well be treated as an interest charge in computing the effective interest rate for purposes of this section. *Fikes v. First Fed. Sav. & Loan Ass'n*, Sup. Ct. Op. No. 1131 (File No. 2011), 533 P.2d 251 (1975).

Factual questions germane to determining whether loan fee to be treated as interest charge. — See *Fikes v. First Fed. Sav. & Loan Ass'n*, Sup. Ct. Op. No. 1131 (File No. 2011), 533 P.2d 251 (1975).

A third-party loan cloaked in the form of a lease is within the purview of the usury laws. *McGalliard v. Liberty Leasing Co. of Alaska, Inc.*, Sup. Ct. Op. No. 1138 (File No. 2003), 534 P.2d 528 (1975).

Factors in determining whether usurious loan involved. — In determining whether a purported lease or sale arrangement involves a usurious loan, several indicia are frequently relied on by the courts. These include, but are not limited to, the following: (1) intention of any of the parties to create a loan or extension of credit; (2) discussion between the vendor and vendee of financing possibilities or efforts by the vendee to seek financing elsewhere; (3) existence of a close relationship between a vendor and a financier; (4) proof of a normal business practice to assign paper shortly after a transaction is consummated; (5) relation of the price the vendor receives for his paper and his cash selling price; and (6) computation of the excess (time-price) charges in a manner in which loan interest is usually computed. *McGalliard v. Liberty Leasing Co. of Alaska, Inc.*, Sup. Ct. Op. No. 1138 (File No. 2003), 534 P.2d 528 (1975).

In its efforts to determine whether a purported lease or sale arrangement involves a usurious loan, the trial court must look to the essential relationship of the parties and the substance of the transaction, rather than to one isolated aspect of the transaction. *McGalliard v. Liberty Leasing Co. of Alaska, Inc.*, Sup. Ct. Op. No. 1138 (File No. 2003), 534 P.2d 528 (1975).

In usurious transactions the parties are usually trying to disguise what

they have done. It is to be expected that they will try to mold their deal so that it appears to be a legitimate sale and repurchase. *Metcalf v. Bartrand*, Sup. Ct. Op. No. 752 (File No. 1334), 491 P.2d 747 (1971).

Hence, a court must look squarely at the real nature of the transaction, thus avoiding, so far as lies within its power, the betrayal of justice by the cloak of words, the contrivances of form, or the paper tigers of the crafty. A court is interested not in form or color but in nature and substance. *Metcalf v. Bartrand*, Sup. Ct. Op. No. 752 (File No. 1334), 491 P.2d 747 (1971).

The presumption that a deed absolute is complete on its face, and that clear and convincing evidence is needed to overcome that presumption, is simply not applicable when it appears that there is usury involved. *Metcalf v. Bartrand*, Sup. Ct. Op. No. 752 (File No. 1334), 491 P.2d 747 (1971).

Transaction held usurious under this section. — See *Metcalf v. Bartrand*, Sup. Ct. Op. No. 752 (File No. 1334), 491 P.2d 747 (1971).

AS 45.45.010(b) not pre-empted by PL 93-501 which sets usury ceilings on business and agricultural loans. 1975 Ops. Atty. Gen.

It is unlawful for a bank to charge or collect "points" which when in combination with the interest charged for a loan, would exceed usury ceiling established by AS 45.45.010(b). 1979 Ops. Atty. Gen.

Arbitration award of 12 per cent interest on late progress payments and retainage was an express violation of law where the contract between the parties provided that any moneys not due when paid would bear interest "at the legal rate in force." *Alaska State Hous. Auth. v. Riley Pleas, Inc.*, Sup. Ct. Op. No. 1765 (File No. 3208), 586 P.2d 1244 (1978).

Applied in *Soby v. Johnson*, 270 F.2d 193 (9th Cir. 1959); *Sam Macri & Sons, Inc. v. United States*, 313 F.2d 119 (9th Cir. 1963); *Moran v. Kenai Towing & Salvage, Inc.*, Sup. Ct. Op. No. 1056 (File Nos. 1924, 1934), 523 P.2d 1237 (1974); *Western Airlines v. Lathrop Co.*, Sup. Ct. Op. No. 1146 (File No. 2236), 535 P.2d 1209 (1975); *A & G Constr. Co. v. Reid Bros. Logging Co.*, Sup. Ct. Op. No. 1244 (File Nos. 2360, 2385), 547 P.2d 1207 (1976).

Quoted in *Slaymaker v. Peterkin*, Sup. Ct. Op. No. 997 (File Nos. 1958, 1965), 518 P.2d 763 (1974).

Cited in *Werner v. Lorentzen*, 3 Alaska 275 (1907); *Grant v. Pilgrim*, 9 Alaska 241, 95 F.2d 562 (9th Cir. 1938); *Northern Com. Co. v. Lindblom*, 162 F. 250 (9th Cir. 1908); *Washington-Alaska Bank v. Stewart*, 184 F. 773 (9th Cir. 1911).

Sec. 45.45.020. Higher rate of interest prohibited. No person may, directly or indirectly, receive in money, goods, or things in action, or in any other manner, a greater sum or value for the loan or use of money, or upon contract founded upon a bargain, sale, or loan of wares, merchandise, goods, chattels, lands, and tenements, than is prescribed in AS 45.45.010 — 45.45.070. (§ 25-1-2 ACLA 1949)

Jurisdictions including "sale" in usury laws. — Alaska, Iowa and the Virgin Islands are the only United States jurisdictions in which the usury laws include the word "sale." *McGilliard v. Liberty Leasing Co. of Alaska, Inc.*, Sup. Ct. Op. No. 1138 (File No. 2003), 534 P.2d 528 (1975).

What is deemed usury. — As a general rule any benefit or advantage exacted by the lender from the borrower, whatever be its name or form, which, added to the interest taken or reserved, would yield to the lender a greater profit upon his loan than is allowed by law, is deemed usury. *Fidelity Sec. Corp. v. Brugman (Ore.)*, 1 P.2d 131, construing similar Oregon statute.

Requisites for the presence of usury are (1) an unlawful intent; (2) the subject-matter must be money or money's equivalent; (3) a loan or forbearance; (4) the sum loaned must be absolutely, not contingently, repayable; and (5) there must be an exaction for the use of the loan of something in excess of what is allowed by law. *Lorber v. Marshall (Ore.)*, 264 P. 438, construing similar Oregon statute.

One of the requisite elements of a usurious contract is a corrupt intent to take more than the legal rate of interest for the sum loaned. *Fidelity Sec. Corp. v. Brugman (Ore.)*, 1 P.2d 131, construing similar Oregon statute.

The essential elements of usury are: (1) an agreement to lend money or its equivalent or to forbear requiring repayment for a period of time; (2) a borrower's obligation to repay absolutely, not upon some contingency; (3) greater compensation for making the loan or agreeing to forbear than allowed by the applicable state constitution or usury

Am. Jur. and ALR references. — 30 Am. Jur., Interest, § 1 et seq.; 55 Am. Jur., Usury, § 1 et seq.

General characteristics and essentials of usury, 21 ALR 797; 53 ALR 743; 63 ALR 823; 105 ALR 795.

statute; and (4) an intention to violate the usury prohibition. *Fikes v. First Fed. Sav. & Loan Ass'n*, Sup. Ct. Op. No. 1131 (File No. 2011), 533 P.2d 251 (1975).

A third-party loan cloaked in the form of a lease is within the purview of the usury laws. *McGilliard v. Liberty Leasing Co. of Alaska, Inc.*, Sup. Ct. Op. No. 1138 (File No. 2003), 534 P.2d 528 (1975).

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In its efforts to determine whether a purported lease or sale arrangement involves a usurious loan, the trial court must look to the essential relationship of the parties and the substance of the transaction, rather than to one isolated aspect of the transaction. *McGilliard v. Liberty Leasing Co. of Alaska, Inc.*, Sup. Ct. Op. No. 1138 (File No. 2003), 534 P.2d 528 (1975).

Introduced: 3/13/81
Referred: Labor & Commerce and
Finance

1 IN THE SENATE

BY THE LABOR AND COMMERCE COMMITTEE

2 SENATE BILL NO. 282

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the legal rate of interest."

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

8 * Section 1. AS 45.45.010(a) is amended to read:

9 (a) The rate of interest in the state is 10.5 percent a year and
10 no more on money after it is due except as provided in (b) and (i) of
11 this section.

12 * Sec. 2. AS 45.45.010 is amended by adding a new subsection to read:

13 (i) Notwithstanding (a) and (b) of this section, a broker-dealer
14 registered under AS 45.55 may charge a margin account customer interest
15 up to eight percentage points above the annual rate charged member
16 banks by the 12th Federal Reserve District that prevailed on the day
17 the loan or commitment was made.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. SB 282
 Title An Act relating to the legal rate of interest
 Requested by S. Labor & Commerce Date 3/17/81

II. FISCAL DETAIL
 Agency Affected Department of Commerce & Economic Development
 Program Category Affected Consumer Protection
 BRU, Program, or Subprogram(s) Affected Financial Institutions
 (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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Fund Source)	0	0	0	0	0	0

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

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

IV. DATE 3/17/81 PREPARED BY Willis F. Kirkpatrick, Director of Banking
 AGENCY Dept. of Commerce & Economic Development
 Original: Legislative Finance PHONE 465-2521
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

COMMITTEE REPORT
SENATE

3/13/81

FURTHER: Finance

Date: FEB 1, 1982

Mr. President:

The Committee on JUDICIARY has had SB 289
increasing the number of superior court judges

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 289 (Jud) same title
 new title

and recommends HAS INDIVIDUAL RECOMMENDATIONS

AND attaches a "Letter of Intent" New Fiscal Note

reports it back without recommendation

referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

v. Bill Kay - No REC
v. Charles ...

[Signature]
CHAIRMAN

DO PASS

Original Sponsors: Ferguson and Kerttula Offered: 2/2/82
Referred: Finance

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 289 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act increasing the number of superior court judges."

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

8 * Section 1. AS 22.10.120 is amended to read:

9 Sec. 22.10.120. NUMBER OF JUDGES. The superior court consists of
10 26 [23] judges, five [FOUR] of whom shall be judges in the first judicial
11 district, three [TWO] of whom shall be judges in the second judicial
12 district, 13 [12] of whom shall be judges in the third judicial district,
13 and five of whom shall be judges in the fourth judicial district. At
14 the time of submitting the names of nominees to the governor to fill a
15 vacancy on the superior court bench, the judicial council shall also
16 designate the district in which the appointee is to reside and serve.

Introduced: 3/13/81
Referred: Judiciary and
Finance

1 IN THE SENATE

BY FERGUSON AND KERTTULA

2 SENATE BILL NO. 289

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act increasing the number of superior court
7 judges."

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

9 * Section 1. AS 22.10.120 is amended to read:

10 Sec. 22.10.120. NUMBER OF JUDGES. The superior court consists
11 of 25 [23] judges, four of whom shall be judges in the first judicial
12 district, three [TWO] of whom shall be judges in the second judicial
13 district, 13 [12] of whom shall be judges in the third judicial
14 district, and five of whom shall be judges in the fourth judicial
15 district. At the time of submitting the names of nominees to the gover-
16 nor to fill a vacancy on the superior court bench, the judicial council
17 shall also designate the district in which the appointee is to reside
18 and serve.

ALASKA STATE LEGISLATURE

Legislature FIRST Session

SENATE BILL NO. 289...

By FERGUSON AND BERTTELLA.....

"An Act increasing the number of superior court judges."

Introduced in the Senate 3/13, 1981

HISTORY IN THE SENATE

19 81	Read first time and referred to Committee on Judiciary and Finance												
3 13	Reported back with recommendation that <i>jud - replace 1 do</i>												
2 1	<i>pass - I no like to finance</i>												
	Read second time and												
	Read third time and												
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	Reported correctly engrossed Signed by President Sent to House												

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19 82	Read first time and referred to Committee on												
	Reported back with recommendation that												
	Read second time and												
	Read third time and												
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Reconsideration													
PASS	Effective Date												
Yeas	Yeas												
Nays	Nays												
Absent	Absent												
Excused	Excused												
	Reported correctly engrossed Signed by Speaker Returned to Senate												

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19	Received from House
	To enrolling
	Reported correctly enrolled
	Sent to Governor
 by Governor
	Filed with Lt. Governor
	Chapter No.



Official Business

Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

FEBRUARY 1, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

Legislation Before Committee:

SB 289 - "An Act increasing the number of superior court judges."

SJR 6 - Proposing an amendment to the Constitution of the State of Alaska relating to sessions of the legislature.

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:35 P.M. Committee members present were: Senators Rodey, Parr, and Ray. Senators Bennett and Hohman were absent.

The first item on the agenda was SB 289. Senator Kerttula, prime sponsor of SB 289, testified stating his support for this legislation.

Senator Ferguson, a sponsor of SB 289, was brought before the committee to give his testimony. He expressed his support and asked that the committee's intent to place the court in Barrow be clarified. Chairman Rodey indicated that it was the committee's intent that the additional superior court position be for Barrow and that the Finance Committee could direct the location.

Chairman Rodey next called Senator Zeigler to testify before the committee. He proposed that the committee adopt a substitute for SB 289 to include a superior court position for the Wrangell/Petersburg area in the first judicial district.

Rick Berrier, of the Alaska Court System, testified, stating that the Court System does not have a strong stance either for or against the addition of the Wrangell/Petersburg position. In answering committee questions he did state that the Superior Court could take over all duties of the district court in the Wrangell/Petersburg area.

After brief discussion, Senator Ray moved that the committee adopt the committee substitute for SB 289. There was no objection. Senator Ray next moved that CSSB 289 be passed with committee with individual recommendations. There was no objection. Senator Rodey signed do pass. Senators Ray and Parr signed no recommendation.

Chairman Rodey next brought before the committee SB 594 relating to the Administrative Procedures Act. The Chairman discussed the problems with the Act and problems associated with its revision.

Senator Ray expressed the need for revision and requested a letter be drafted to President Kerttula stating the problems with the Act and requesting assistance to both the Judiciary and Transportation committees.

After committee discussion, no further action was taken.

SJR 6 was not brought before the committee today as scheduled.

Chairman Rodey adjourned the meeting at 2:25 P.M.



1 of 3
Matanuska-Susitna Borough

BOX 2, PALMER, ALASKA 99645 • PHONE 746-2801

DEPARTMENT OF ADMINISTRATION

January 29, 1987

The Honorable Patrick H. Roday
Chairman, Senate Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Roday:

Re: Superior Court Judgeship in Palmer

By any traditional criteria for establishing a Superior Court Judgeship ~~followed in Alaska in the past 20 years~~ the Matanuska-Susitna Valley would have been entitled to Superior Court Judgeship some years ago.

At this time, there are 14 attorneys practicing in the Palmer--Wasilla area. This is a number probably in excess of the number of lawyers practicing in any of the following areas each of which have a Superior Court judge: Ketchikan, Sitka, Kodiak, the Kenai area, the Bethel area and the Nome area.

This part of Alaska is growing very rapidly. We currently have approximately 22,000 population. Over the past 20 years we have more than doubled population each decade. If we have 22,000 in 1980 we are almost certain to have 30 to 40,000 population in 1990.

The absence of a Superior Court judge creates additional cost and delay for local lawyers, businessmen and others who must, from time to time, find their recourse in the courts.

Although I would anticipate that a new Superior Court judge would be fully loaded with a case load from the very beginning, if there should be any slack time, as there occasionally is in some of the other judicial districts, it would be a fairly simple matter for the Palmer Superior Court judge to render assistance to the Anchorage bench.

Sen Kertula & J. C. (2)

I would think that the Matanuska-Susitna Valley would meet any criteria that might be reasonably established for establishment of a new judgeship. If you have any questions regarding population growth, housing starts, etc. that might throw light on the total volume of activity that engenders a need for a Superior Court judgeship in this area, please let me know and we will furnish it.

Sincerely,

Gary Thurlow
Gary Thurlow
Borough Manager

er

cc: Senator Jalmar Kerttula
Representative Pat Carney

Sen. Roddey

The Honorable Patrick M. Roddey
Chairman, Senate Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

re: Superior Court Judgeship, sitting in Palmer, Alaska,
House Bill #269

Dear Senator Roddey:

At its Board of Directors' meeting on January 27, 1982, after review of statistics afforded by the Katsenuks Bar Association, and serious consideration of the needs of the citizens of the city of Palmer and its surrounding communities, the Greater Palmer Chamber of Commerce unanimously agreed that the Katsenuks Valley society needs a Superior Court judge sitting at Palmer, Alaska.

As such, I have been authorized and instructed as president of the Greater Palmer Chamber of Commerce to submit the following resolution to you:

BE IT RESOLVED:

That the president of the Greater Palmer Chamber of Commerce advise the chairman of the Senate Judiciary Committee, Senator Walter Kertola, and Representative "Sci" Carney of its overwhelming support for Senate Bill #269, which provides for the appointment of a Superior Court Judge sitting at Palmer, Alaska.

Your serious consideration of this Chamber's resolution would be greatly appreciated.

Sincerely,

GREATER PALMER CHAMBER OF COMMERCE

by

WILLIAM F. TULL
President

Alaska State Legislature

SENATOR
ROBERT H. DINGLER, SR.
207 BAWDEN STREET
NOME, ALASKA 99561

POUCH V
JUNEAU, ALASKA 99801



Senate

VICE CHAIRMAN
ADMINISTRATIVE REGULATION REVIEW
SENATE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

MEMBER
SENATE RULES COMMITTEE
SENATE COMMERCE AND LABOR COMMITTEE
STEERING COUNCIL FOR ALASKA LANDS
U.L. SOLAX TASK FORCE

WESTERN STATES LEGISLATIVE
FORESTRY TASK FORCE
EXECUTIVE COMMITTEE,
WESTERN CONFERENCE COUNCIL
OF STATE GOVERNMENTS
COUNCIL OF STATE GOVERNMENTS
COMMITTEE ON SUGGESTED STATE LEGISLATION

January 18, 1982

The Honorable Patrick M. Rodey,
Alaska State Senator
Chairman, Senate Judiciary Committee
Room 125 Capitol Building
Juneau, Alaska

Re: Proposed Committee Substitute for SB 239,
"An Act increasing the number of superior court
judges."

Good Senator:

This may be a lengthy letter, but I'll do my best to confine my remarks to the factual situation as I believe it to be.

Senators Ferguson and Kerntula introduced SB 239 with the idea in mind of creating Superior Court judgeships in Pt. Barrow and in Palmer. This bill is in your committee.

Before getting more involved, I'd like to express my thanks to you for having indicated your willingness to consider increasing the number of Superior Court Judges from two to three to accommodate Wrangell and Petersburg, which communities are also extremely interested in obtaining a Superior Court Judge for their areas.

Attached to this letter is a proposed committee substitute which I'm told will be the trick if you and a majority of your Judiciary Committee are favorably inclined.

In Pt. Barrow, there are currently two magistrates; there are no District or Superior Court Judges; Senator Ferguson says if he can get a Superior Court Judge, one of the two magistrates can go. Senator Kerntula - and this staggers one's imagination, has only one magistrate currently - no judges of any other type to serve a population estimated to be between 25,000 and 30,000. In Wrangell, Petersburg and Kake there is a District Court Judge, Robin Taylor, with Superior Court services being furnished on occasion by Ketchikan, Sitka or Anchorage Superior Court judges. Judge Taylor, even though he is up for retention or non-retention on this fall's ballot, has advised me he's not reluctant to advocate the elimination of his Court and to substitute a Superior Court in lieu thereof. Were this procedure to be followed, existing District Court personnel could be redesignated and reclassified as Superior Court employees. Accordingly, the only additional expense

Senator Patrick M. Rodey
January 18, 1982
Page Two

involved would be the difference between the two judicial salaries. Judge Taylor will probably run for the new Superior Court position, but he realizes he'll have to get by both the Judicial Council and the Governor. He is prepared to take that chance, acknowledging that if he doesn't make it, the world won't come to an end.

In fairness to Art Snowden, to whom a copy of this letter has been sent, and in candor to you, he feels the Palmer request is fully justified; he does not intend to argue about the Pt. Barrow or Wrangell-Petersburg positions, but he would contend if pressed or asked, the case load of the latter two communities is perhaps insufficient to warrant the new court. If he's not asked, he says, there'll be no objection from the Court System. I have attached a copy of a well-written letter from Mr. Mark Walker which tends to lend justification to the Wrangell-Petersburg request.

I'm available to testify on the bill if you feel it is necessary and if you schedule it for a hearing. A letter of intent can be drafted by your staff (or mine, if you wish) to spell out with particularity exactly what the bill would accomplish.

A fiscal note should be prepared; that shouldn't prove onerous and we'll do that upon request.

Incidentally, Senators Karttula and Ferguson have approved of the contents of this letter.

Finally, on information and belief, Chief Justice Burke will interpose no objection to the above and foregoing.

Very truly yours,

Robert H. Ziegler, Sr.

RHZ:lk

Enclosures

cc: Art Snowden, Administrator,
Alaska Court System w/enc.

Wrangell Inter-Agency Group
P.O. Box 1615
Wrangell, Alaska 99929
January 11, 1982

Honorable Edmond W. Burke
Chief Justice
Alaska Supreme Court
303 K Street
Anchorage, Alaska 99501

Dear Mr. Chief Justice:

The Wrangell Inter-Agency Group consists of representatives from various service agencies within the city of Wrangell who are concerned with the delivery of services to the community. A listing of the membership is attached. We meet monthly to discuss problems of mutual concern and to assist one another as best we can.

For some time we have lobbied our local representatives to have the court in Wrangell/Petersburg upgraded to a Superior/District Court location. Last spring Representative Ernie Haugen sponsored legislation to make this change but hydroelectric projects and other political matters at the close of the session left House Bill 590 locked in Finance Committee. In March of last year Lieutenant Governor Terry Miller came to Wrangell to meet with us and the upgrading of the court was a prime subject of discussion.

Wrangell and Petersburg are not receiving the quality of service that is taken for granted in the other urban areas of this state. We are not being critical of either Judge Schulz or Judge Taylor, both of whom have made extraordinary efforts to make the system work. The jurisdictional barrier between District and Superior Court means that Judge Taylor can't do certain things and we must wait until a Superior Court judge can travel to Wrangell or some special authority is acquired so that Judge Taylor can act. When no emergency exists, things get delayed until a more convenient time.

Last year's statistics show there were approximately 30 felonies, 40 juvenile petitions, 58 divorces/dissolutions and 11 mental health commitments which arose in Wrangell and Petersburg. These figures are an understatement of actual need as many matters simply aren't filed because it takes too long to get something done; the best example being juvenile matters. If we were a Superior/District court location, all of the above cases would be handled locally. The savings in travel costs and especially time for the agencies will more than offset the minimal cost of upgrading the local court. Probably more important than cost is the fact that adequate judicial services will finally be provided to the people of Wrangell and Petersburg.

In your opening statements upon assuming office, you indicated that you wanted to hear from the people in the trenches and wanted to make more efficient the delivery of judicial services. The creation of a Superior/District court judgeship in Wrangell/Petersburg is a small step which will go a long way toward achieving your goals.

Sincerely,

Mark Walker
Mark Walker
Chairman

cc: Representatives Haugen, Freeman & Gardiner
Senators Eliason & Ziegler
Lieutenant Governor Miller



CITY OF PALMER

COUNCIL-MANAGER GOVERNMENT
P.O. BOX 1358 • PHONE (907) 745-3271
PALMER, ALASKA 99645

November 27, 1981

The Honorable Jalmar Kerttula
Box Z
Palmer, Alaska 99645

Dear Senator Kerttula,

At the City of Palmer regular City Council meeting held on November 24, 1981, the enclosed resolution was passed unanimously.

We believe it is imperative that a Superior Court be established here in the City of Palmer. The mode of operation that includes going to Anchorage creates a tremendous amount of non-productive man days per year, not only for our police force but the Alaska State Police as well. We must all strive for better efficiency.

I commend you and your fellow legislators for your perception in the growing needs to Alaskans.

Should you have any questions, please feel free to contact me.

Yours truly,

David L. Soulak
City Manager
City of Palmer

DLS/cac

Enclosure

CITY OF PALMER, ALASKA

RESOLUTION NO. 475

A RESOLUTION FOR ESTABLISHMENT OF A SUPERIOR COURT IN PALMER.

WHEREAS, the Palmer District Court, Third Judicial District serves an estimated population of 25,000 people in the Matanuska-Susitna Borough, and

WHEREAS, the Palmer District Court has had over sixty felony filings for Superior Court action in 1981 to date, and

WHEREAS, this court has handled over ninety divorce filings, and

WHEREAS, there has been over ninety other civil Superior Court filings, and

WHEREAS, there has been over twenty Superior Court Children Proceeding filings, and

WHEREAS, normal Superior Court matters are held in Anchorage which places an undue hardship upon police personnel and those involved in the matters before the Court, and

WHEREAS, since September 1, 1981 the Palmer District Court has been designated as a Probate Court and to date there has been eleven filings, and

WHEREAS, there has been over 815 other criminal filings in the Palmer District Court to date, and

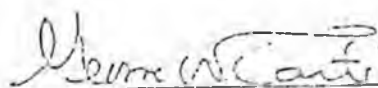
WHEREAS, in addition, there has been over 850 civil filings in district court, and

WHEREAS, the Palmer District Court has handled over 3400 traffic tickets to date,

NOW, THEREFORE, BE IT RESOLVED, the City of Palmer urges the State Legislature during the 1982 session to establish a full-time Superior Court in the Matanuska-Susitna Borough.

BE IT FURTHER RESOLVED, the establishment of a full-time permanent Superior Court in the City of Palmer with support staff will provide a needed service to all Borough residents as well as to many who reside outside of the Borough.

Passed and approved by the City of Palmer, City Council this 24th day of November, 1981.



GEORGE W. CARIE, MAYOR

STATE OF ALASKA -- ELECTION DISTRICT REPORT

7/20/81

DISTRICT 21 BARROW-KOTZEBUE

POSITIONS APPROVED BY FREE CONFERENCE

TITLE	LOCATION	TYPE	APPROVED	SCOST
DEPARTMENT OF ADMINISTRATION				
ATTORNEY IV	BARROW	FULL TIME	1	112.7
LEGAL SECRETARY I	BARROW	FULL TIME	1	27.5
** TOTAL **			2**	140.2**
DEPARTMENT OF LAW				
ATTORNEY IV	BARROW	FULL TIME	1	112.7
LEGAL SECRETARY I	BARROW	FULL TIME	1	27.5
** TOTAL **			2**	140.2**
DEPARTMENT OF HEALTH & SOCIAL SERVICES				
SOCIAL WORKER IV	BARROW	FULL TIME	1	55.3
PROBATION OFFICER II	BARROW	FULL TIME	1	40.0
** TOTAL **			2**	95.3**
DEPARTMENT OF NATURAL RESOURCES				
EMPLOYMENT COUNSELOR II	BARROW	FULL TIME	3	203.4
DEPARTMENT OF PUBLIC SAFETY				
TROOPER	KOTZEBUE	FULL TIME	1	60.5
CLERK TYPIST III	KOTZEBUE	FULL TIME	1	27.5
** TOTAL **			2**	88.0**
DEPARTMENT OF TRANSPORTATION				
HEAVY DUTY MECH. WG III	CHANDALAR	FULL TIME	1	166.4
DEPARTMENT OF COMMUNITY & REGIONAL AFFAIRS				
LOCAL GOV. SPECIALIST II	KOTZEBUE	FULL TIME	1	63.7
CLERK TYPIST III	KOTZEBUE	PART TIME	1	24.0
CLERK TYPIST III	KOTZEBUE	FULL TIME	1	41.8
LOAN EXAMINER II	KOTZEBUE	FULL TIME	1	93.3
** TOTAL **			4**	222.8**
ALASKA COURT SYSTEM				
COURT CLERK I	KOTZEBUE	FULL TIME	1	30.1
MAGISTRATE	BARROW	FULL TIME	1	44.7
JUVENILE INTAKE OFFICER	BARROW	FULL TIME	1	45.3
** TOTAL **			3**	120.1**
*** ELECTION DISTRICT TOTAL ***			19***	1176.4***

STATE OF ALASKA -- ELECTION DISTRICT REPORT

7/20/81

DISTRICT 06 PALMER-WASILLA-MATANUSKA

POSITIONS APPROVED BY FREE CONFERENCE

TITLE	LOCATION	TYPE	APPROVED	\$COST
DEPARTMENT OF HEALTH & SOCIAL SERVICES				
ELIGIBILITY TECHNICIAN II	WASILLA	FULL TIME	1	32.2
CLERK TYPIST III	PALMER	FULL TIME	1	24.6
ELIGIBILITY TECHNICIAN II	PALMER	FULL TIME	1	32.2
ELIGIBILITY WORKER II	PALMER	FULL TIME	1	51.5
SOCIAL WORKER III	WASILLA	FULL TIME	1	40.6
CORRECTIONAL OFFICER III	PALMER	FULL TIME	1	34.4
CORRECTIONAL OFFICER II	PALMER	FULL TIME	6	180.1
** TOTAL **			12**	395.6**
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT				
DAIRY SPECIALIST	PALMER	FULL TIME	1	75.0
DEPARTMENT OF NATURAL RESOURCES				
LOAN EXAMINER III	WASILLA	FULL TIME	1	57.8
CLERK TYPIST III	WASILLA	FULL TIME	1	28.6
AGRONOMIST II	PALMER	FULL TIME	1	43.3
LABORER WG VIII	PALMER	PART TIME	1	7.2
LABORER WG VIII	PALMER	PART TIME	1	7.2
CLERK TYPIST II	PALMER	PART TIME	1	14.8
** TOTAL **			6**	158.9**
DEPARTMENT OF PUBLIC SAFETY				
CLERK TYPIST III	PALMER	FULL TIME	1	14.9
DEPARTMENT OF TRANSPORTATION				
EQUIPMENT OPERATOR	PALMER	FULL TIME	2	70.3
EQUIPMENT OPERATOR	PALMER	FULL TIME	2	66.4
** TOTAL **			4**	136.7**
DEPARTMENT OF ENVIRONMENTAL CONSERVATION				
MICROBIOLOGIST IV	PALMER	FULL TIME	1	79.7
MICROBIOLOGIST I	PALMER	FULL TIME	1	32.4
CLERK TYPIST III	PALMER	PART TIME	1	13.2
LABORATORY ASSIST. II	PALMER	FULL TIME	1	25.3
** TOTAL **			4**	150.6**
ALASKA COURT SYSTEM				
TRAFFIC CLERK	PALMER	FULL TIME	1	24.9
JUVENILE INTAKE OFFICER	PALMER	FULL TIME	1	42.4
** TOTAL **			2**	67.3**
UNIVERSITY OF ALASKA				
SCIENCE TEACHER	PALMER	FULL TIME	1	47.5
MATH TEACHER	PALMER	FULL TIME	1	47.5
ADULT BASIC EDUCATION TEACHER	PALMER	FULL TIME	1	65.0
FACULTY SECRETARY	PALMER	FULL TIME	1	23.7

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSSB 289
 Title "An act increasing the number of Superior Court judges."
 Requested by Sen. Sturqulewski, Senate Finance Date Feb. 23, 1982
Committee

II. FISCAL DETAIL

Agency Affected Department of Law
 Program Category Affected Administration of Justice
 BRU, Program, Or Subprogram(s) Affected Prosecution
 (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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		240.9	260.2	281.0	303.5	327.8
200 TRAVEL		78.0	57.2	61.8	66.7	72.0
300 CONTRACTUAL		57.2	61.8	66.7	72.0	77.8
400 COMMODITIES		19.6	10.4	11.2	12.1	13.1
500 EQUIPMENT		28.4	Ø	Ø	Ø	Ø
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		424.1	389.6	420.7	454.3	490.7

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		424.1	389.6	420.7	454.3	490.7
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		4	4	4	4	4
PART TIME						
TEMPORARY						

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

This bill increases the number of superior court judges from 23 to 26. Preliminary plans call for the establishment of new superior courts at Barrow, Palmer and Wrangell. The establishment of these new courts will have a significant impact on the way the department conducts its business at these localities. Caseload currently originating at these three locations already accounts for approximately four attorneys' time, in the aggregate. It is our belief that at least two attorneys and two legal secretaries must be hired in order to adequately handle the demand for prosecution service which will occur as a result of establishing fulltime and full-spectrum trial services at these new locations.

(See attachments)

Richard I. Fegues

IV. DATE February 26, 1982 PREPARED BY Richard I. Fegues Director, Admin. Svcs.
 AGENCY Department of Law
 Original: Legislative Finance PHONE 465-3672
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

Barrow

The department currently uses two attorneys from its Fairbanks office to serve Barrow. One attorney handles felonies and children's matters and the other attorney handles misdemeanors. Each attorney spends more than one half of his or her time at Barrow and each of these attorneys also handles a caseload in Fairbanks. In order to accommodate a fulltime resident judge in Barrow, and the resultant court calendar which will stretch throughout the month, it will be necessary to base two attorneys at Barrow. During 1981, the department handled 69 felony cases and over 400 misdemeanors which originated at Barrow. Additionally, a growing civil caseload has now reached 100 matters per year. This work will increase steadily and it already equals one third of the time that is spent on felonies.

The 1980 legislature authorized the establishment of an Attorney III position at Nome (PCN 031106) giving that office a staff compliment of two criminal attorneys and one civil attorney, to accommodate the creation of a superior court at Kotzebue. At that time, it was the court system's plan to use the Kotzebue judge to handle the Kotzebue and Barrow caseload and to handle overflow work at Nome. This plan was never realized, due to travel difficulties and a greater than expected workload at Kotzebue. Consequently, the court system continued to handle the Barrow caseload from Fairbanks and we transferred PCN 031106 to Fairbanks to parallel the calendar of Fairbanks judges assigned to Barrow. The 1981 legislature further authorized the creation of a district attorney's office in Barrow, however, the funds provided for this purpose were insufficient to cover personal services and travel expenses, which are primarily used for witness travel and subsistence and other associated litigation support purposes. Using the funding that was available, the department was able to fund a liaison office at Barrow staffed by a paralegal to provide pretrial diversion, witness assistance and liaison services for local law enforcement agencies.

Once fulltime superior court services become available at Barrow, it will become necessary to locate two attorneys in that community to support the courts activities. The current caseload requires the services of approximately one and one half attorneys. Historically, caseloads in communities with large service areas, such as the 88,000 square mile North Slope Borough, grow dramatically when the complete services of the criminal justice system become available. The need for two attorneys is conservative and it is a minimum requirement. The least expensive and most practical way of satisfying this

requirement is to transfer Attorney III PCN 031106 from Fairbanks to Barrow and to create a new Attorney V position at the latter location. It will also be necessary to create a Legal Secretary I position to provide required legal clerical support services. It is not possible to transfer more than one attorney position from Fairbanks due to the Fairbanks caseload which is also being handled by the two attorneys who handle Barrow matters.

Wrangell

In order to accommodate a new superior court at Wrangell it will not be necessary for the department to establish any new positions, given the close proximity of the department's existing district attorney's office in Juneau, Ketchikan, and Sitka, and provided that existing staffing levels in these offices are not reduced. Using these existing resources, the department can adequately support superior court activities; however, additional travel funds will be needed to cover a greatly expanded court calendar and to provide for increased court/witness expenses caused by the availability of fulltime superior court level trial services. We estimate that \$20.0 will be required for additional attorney travel and \$20.0 will be required to cover witness travel and subsistence expenses. Slightly more than 500 cases were filed at Wrangell, Petersburg and Kake during the past year. Due to the department's existing First Judicial District resources and the availability of the area's transportation and communications systems, we do not believe that creating a district attorney's office in Wrangell is warranted at this time. With six attorneys currently in the adjoining area offices, there is sufficient calendar flexibility to handle the Wrangell caseload. Should there be any reduction in this number, however, this flexibility will be gone, making it necessary to establish a Wrangell office, which now accounts for slightly more than one half of an attorney's time. Because basic office costs will far exceed any savings by transferring a position, or eliminating one elsewhere, an office should not be established, absent a demonstrated caseload demand. The cost of establishing and staffing a Wrangell office would exceed \$150,000. This amount is not included in this fiscal note. In terms of long range planning, growth will probably occur first at Ketchikan, in response to construction of the Quartz Hill mine and related facilities.

Palmer

The creation of a superior court in Palmer will require the additional services of one Attorney V and a Legal Secretary I. The department has been fortunate in having the services of an extremely productive and hard working attorney who spends three weeks of each month at Palmer to handle misdemeanor cases. Heretofore, Palmer felony cases have all been tried in Anchorage. With the establishment of the superior court in

Palmer, it will be necessary to have a resident district attorney to handle the very heavy caseload and the additional legal work, such as arraignments and other pretrial and post-trial motions, which will be generated when a full level trial court is established. During the past year, the felony caseload reached 75 cases and the misdemeanor caseload exceeded 1,000 cases. Even with the creation of an attorney position at Palmer it will still be necessary to provide some attorney assistance from Anchorage. We estimate that the time of one and one half attorneys is being devoted to Palmer cases. As this caseload grows, justifying a two attorney office, the department will probably transfer a position from Anchorage. Transferring a position at this time, in lieu of creating a new position, is not feasible given the additional work which will simply be generated as a consequence of establishing a new court in an area with the caseload characteristics which occur in Palmer.

Cost Summary

Barrow

Personal Services:

Attorney V (25A)	\$ 93,262
Attorney III (Fbxs/Barrow salary differential)	12,800
Legal Secretary I (10B)	35,541
	<u>\$141,603</u>

Travel:

Attorney transfer costs (2 attorneys \$10.0 each one time)	\$ 20,000
The department already has a \$45,000 authorization for witness/attorney litigation expenses for Barrow. No additional funds will be required for this purpose.	
	<u>\$ 20,000</u>

Contractual:

170 SF of additional rental space at \$3.75 per sq.ft.	\$ 7,650
Communications and copying is estimated at \$500 per month for the two attorneys and \$200 per month for the legal secretary. 1200 x 12 =	14,400
Expert witness fees	10,000
	<u>\$ 32,050</u>

Commodities:

Expendable desk top materials \$100 per month per employee. \$300 x 12 =	\$ 3,600
New employee startup equipment & library (one time)	6,000
Recurrent library expense	1,800
	<u>\$ 11,400</u>

Equipment:

New position equipment \$600 x 3 (one time)	\$ 1,800
Communicating word processor	12,700
	<u>\$ 14,500</u>

Barrow Total \$219,553

Wrangell

Travel:

Increased attorney travel	\$ 20,000
Increased witness travel and subsistence	<u>20,000</u>

Wrangell Total \$ 40,000

Palmer:

Personal Services

Attorney V (25A)	\$ 71,102
Legal Secretary I (10B)	<u>28,153</u>
	\$ 99,255

Travel:

Attorney litigation travel	\$ 3,000
Attorney moving/transfer cost (one time)	\$ 5,000
Witness travel/subsistence	<u>\$ 10,000</u>
	\$ 18,000

Contractual:

Rent at \$2.00 SF x 450 SF =	\$ 10,800
Attorney communications & copying at \$400 per month	4,800
Secretarial communicating & copying at \$200 per month	2,400
Expert witness fees	<u>\$ 7,500</u>
	\$ 25,500

Commodities:

Desk top expendables \$100 per month, per employee	\$ 2,400
New employee start up equipment & library (one-time)	4,000
Recurrent library	<u>1,800</u>
	\$ 8,200

Equipment:

New position equipment \$600 x 2 (one-time)	\$ 1,200
Communicating word processor	<u>12,700</u>
	\$ 13,900

Palmer Total \$164,855

An annual inflation factor of 8% has been applied beyond FY83.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS Senate Bill No. 289

Title "An Act increasing the number of superior court judges."

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Department of Health and Social Services

Program Category Affected Administration of Justice & Social Services

BRU, Program, Or Subprogram(s) Affected Youth Svcs., 2nd & 4th Dist., Soc. Svcs.

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.) So. Reg.

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		44.7	48.7	53.1	57.9	63.1
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES		.4	.4	.5	.5	6
500 EQUIPMENT		14.9				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		60.0	49.1	53.6	58.4	63.7

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		50.0	49.1	53.6	58.4	63.7
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		2.0	2.0	2.0	2.0	2.0
PART TIME		(1.0)				
TEMPORARY						

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

Youth Services, 2nd and 4th Districts of Family and Youth Services, Barrow:

In Barrow the Divisions staff consists of a social work supervisor, two social workers, and one probation officer (new in FY 82). The office handles one of the highest caseloads in the State. In March, 1981 the Division began serving delinquents through the local office rather than on an itinerant basis. Within two months the office had a full caseload of delinquent youth. The addition of a superior court judge would further increase the office workload. The Department feels this increase in workload, along with the already high caseload, necessitates the addition of a Clerk Typist III, as well as a vehicle for the Barrow office.

CONTINUED ON PAGE 2

IV. DATE February 18, 1982

PREPARED BY *John R. Pugh* John R. Pugh, Director

AGENCY Division of Family & Youth Services

Original: Legislative Finance

PHONE 465-3170

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

100
9

Fiscal Year 83 costs are as follows (future years estimates include a 9% inflation factor):

Personal Services

Clerk Typist III, Barrow 8B	\$2,010/mo. x 12 =	\$24,120
	Benefits .1663	4,011
	SBP .0613	1,479
	HI 183 x 12	2,196
		<u>\$31,806</u>

Commodities

General Office Supplies \$ 400

Equipment

DOT Vehicle Purchase \$14,000

Desk	\$580	
Chair	270	
	<u>\$850</u>	
Freight 5%	43	
	<u>\$893</u>	893
		<u>\$14,893</u>

TOTAL COSTS: \$47,099

Social Services, Southern Region, Wrangell:

The addition of a superior court judge in Wrangell would increase the number of legal documents required to be submitted by the Wrangell office of the Division of Family and Youth Services. To meet the increased workload, the existing Clerk Typist III position must be upgraded from part-time to full-time.

Salary	\$1,502/mo. x 6 mos. =	\$ 9,012
Benefits	at .1655 =	1,491
Supp. Benefits	at .0613 =	552
Health Ins.	at \$150/mo. =	1,800
		<u>\$12,885</u>

1	POSITION TITLE Clerk Typist III				RANGE/STEP 8B	BARG. UNIT. GGU	LOCATION Barrow	GOV.	APPROV.	DISAPP.						
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY		FORM 12 PAGE/LINE	LEG.								
3	TYPE OF EXPENDITURE			AMOUNT		JUSTIFICATION:										
	1	2	3													
4	PERSONAL SERVICES: SALARY		24,120		This position will provide the sole clerical support for the Barrow office of the Division of Family and Youth Services, which is presently comprised of four professional staff.											
5	BENEFITS		4,011													
6	FICA		1,479													
7	HEALTH INS		2,196													
8	TOTAL PERSONAL SERVICES		31,806													
9	TRAVEL															
10	CONTRACTUAL															
11	COMMODITIES		400													
12	EQUIPMENT		14,893													
13	OTHER															
14	TOTAL COS:		47,099													
	CODE	FUNDING SOURCE														
15		FED RCPTS.														
16		GF MATCH.														
17		GEN. FUND		47,099												
18		I-A RCPTS.														
19		PGM RCPTS														
20		OTHER														
21	CONTINUATION															
22	ADDITION		FOR B&M USE ONLY													
4A KEY NUMBER				COLUMN NO.												

AGENCY Department of Health and Social Services PROGRAM Administration of Justice

BRU Youth Services

COMPONENT Second and Fourth Districts

13 REQUEST FOR NEW POSITION.

Page 1 of 2

REVISED DATE _____

FY 82

1	POSITION TITLE Clerk Typist III			RANGE/STEP 8B	BARG. UNIT. GGU	LOCATION Wrangell	GOV.	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 6	RP No.	PCN No. 3399	PRIORITY	FORM 12 PAGE/LINE	LEG.		
3	TYPE OF EXPENDITURE			AMOUNT		JUSTIFICATION: The increase of this position from part-time to full-time will be required to provide all clerical support functions for the Family Services office in Wrangell. The increased caseload will result in an additional workload in case record transcription, documents for court hearings, filing, recordkeeping and other related functions.			
	1	2	3						
4	PERSONAL SERVICES:								
	SALARY		9,012						
5	BENEFITS		1,491						
6	SBS		552						
7	FIXED BENEFITS		1,800						
8	TOTAL PERSONAL SERVICES		01	12,885					
9	TRAVEL		02						
10	CONTRACTUAL		03						
11	COMMODITIES		04						
12	EQUIPMENT		05						
13	OTHER								
14	TOTAL COST			12,885					
	RECEIPT CODE	FUNDING SOURCE							
15		FED RCPTS. 1002							
16		GF MATCH. 1003							
17		GEN. FUND 1004		12,885					
18		I-A RCPTS. 1005							
19		PGM RCPTS 1028							
20		OTHER							
21	CONTINUATION	FOR B&M USE ONLY							
22	ADDITION								
4A-KEY NUMBER _____ COLUMN NO. _____									

AGENCY Department of Health and Social Services PROGRAM Social & Econ. Asst. for the Gen. Pop.

BRU Social Services

COMPONENT Southern Region

Page 2 of 2 REVISED DATE _____

13 REQUEST FOR NEW POSITION.

FY 83

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. C.S. for Senate Bill No. 289 (Judiciary)
Title "An Act increasing the number of Superior Court Judges."
Requested by Judiciary Committee Date February 2, 1982

II. FISCAL DETAIL

Agency Affected Department of Health & Social Services
Program Category Affected Offender Confinement, Reformation & Supervision
BRU, Program, Or Subprogram(s) Affected Probation & Community Programs
(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		163.5	175.0	187.2	200.3	214.3
200 TRAVEL		32.9	16.2	17.7	19.3	21.0
300 CONTRACTUAL		44.7	25.0	27.2	29.7	32.3
400 COMMODITIES		3.3	3.6	3.9	4.2	4.6
500 EQUIPMENT		8.9				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	253.3	219.8	236.0	253.5	272.2

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-0-	253.3	219.8	236.0	253.5	272.2
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	-0-	4	4	4	4	4
PART TIME						
TEMPORARY						

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

A. It has been the experience of the Division of Adult Corrections that whenever a new judgeship and court is created at the Superior Court level in a remote location of the state, a full workload for a district probation office is created. Therefore, creating superior court judgeships in Barrow and Wrangell will result in the requirement for new district offices in these two communities. Each office must be staffed with a Probation Officer III, with the clerical support of a Clerk Typist III. Since a district probation office exists in Palmer, no additional staff will be required for the new Superior Court judgeship in the Third Judicial District.

B. First year costs include \$21,800 for the purchase of two vehicles for the Department of Transportation/Public Facilities Highway Working Capital Fund, \$8,900 for office equipment for the four

IV. DATE February 16, 1982 PREPARED BY Roger C. Lange
AGENCY Division of Adult Corrections

Original: Legislative Finance PHONE 465-3376
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

JCC

Bill No. C.S. for Senate Bill 289 (Judiciary) Continuation

positions and \$18,000 for moving promoted employees to Barrow and Wrangell. These one time costs were not carried forward into FY 1984 and subsequent years.

C. Inflation was assumed to be 9% from year to year for all expenditure object groups, with the exception of Personal Services where 7% was used.

D. Personal Services Costs:

Probation Officer III - Barrow

Annual Salary	at \$3917/mo.	\$47,004
Variable Benefits	at 16.63%	7,817
Supplemental Benefits	at 6.13%	2,881
Health Insurance	at \$ 183/mo.	2,196
	TOTAL	<u>\$59,898</u>

Probation Officer III - Wrangell

Annual Salary	at \$2998/mo.	\$35,976
Variable Benefits	at 16.63%	5,983
Supplemental Benefits	at 6.13%	2,205
Health Insurance	at \$ 183/mo.	2,196
	TOTAL	<u>\$46,360</u>

Clerk-Typist III - Barrow

Annual Salary	at \$2010/mo.	\$24,120
Variable Benefits	at 16.63%	4,011
Supplemental Benefits	at 6.13%	1,479
Health Insurance	at \$ 183/mo.	2,196
	TOTAL	<u>\$31,806</u>

Clerk-Typist III - Wrangell

Annual Salary	at \$1570/mo.	\$18,846
Variable Benefits	at 16.63%	3,149
Supplemental Benefits	at 6.13%	1,161
Health Insurance	at \$ 183/mo.	2,196
	TOTAL	<u>\$25,442</u>

TOTAL SALARIES \$163,506

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 289

Title An Act Increasing the Number of Superior Court Judges

Requested by _____ Date 2/17/82

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement & Benefits

Program Category Affected Centralized Administrative Services

BRU, Program, or Subprogram(s) Affected Retirement & Benefits (JRS)

(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
100 RETIREMENT BENEFITS		61.1	65.7	70.6	75.9	81.6
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		61.1	65.7	70.6	75.9	81.6

FUNDING (Thousands of Dollars)

GENERAL FUND		61.1	65.7	70.6	75.9	81.6
FEDERAL FUNDS						
VETERAN'S FUND						
FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND						
CAPITAL FUND						
PERS						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

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

1. It would be necessary for the State to contribute 45.63% of each new judge's base compensation to pay for their future retirement benefits.
2. This fiscal note is based upon:
 - a) increasing the number of superior court judges by 2.
 - b) the current annual base salary of a superior court judge of \$66,900.
 - c) an annual retirement benefit costing \$30,526 per year of service for each judge.
 - d) annual salaries increasing by 7.5%
3. This fiscal note does not include the costs of salaries for these 2 additional judges.

Paul B. Arnoldt

ATE February 11, 1982 PREPARED BY Paul B. Arnoldt

1: Legislative Finance AGENCY Division of Retirement & Benefits

Budget and Management PHONE 465-4460

Prime Sponsor (First Legislator Named) Senator Ferguson

Office of the Governor (Keith Specking)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS for Senate Bill 289 (Judiciary)
Title "An Act increasing the number of Superior Court Judges"
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Department of Public Safety
Program Category Affected Administration of Justice
BRU, Program, Or Subprogram(s) Affected Alaska State Troopers
(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						
	-0-	-0-	-0-	-0-	-0-	-0-

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

No fiscal impact is anticipated.

IV. DATE February 11, 1982 PREPARED BY Francis C. Allan

Original: Legislative Finance AGENCY Department of Public Safety
cc: Budget and Management PHONE 269-5691

Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS SB 289
 Title An Act Increasing the Number of Superior Court Judges
 Requested by _____ Date 2/17/82

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement & Benefits
 Program Category Affected Centralized Administrative Services
 BRU, Program, or Subprogram(s) Affected Retirement & Benefits (JRS)

(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
100 RETIREMENT BENEFITS		91.6	98.5	105.9	113.8	122.3
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		91.6	98.5	105.9	113.8	122.3

FUNDING (Thousands of Dollars)

GENERAL FUND		91.6	98.5	105.9	113.8	122.3
FEDERAL FUNDS						
VETERAN'S FUND						
FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND						
CAPITAL FUND						
PERS						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

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

1. It would be necessary for the State to contribute 45.63% of each new judge's base compensation to pay for their future retirement benefits.
2. This fiscal note is based upon:
 - a) increasing the number of superior court judges by 3.
 - b) the current annual base salary of a superior court judge of \$66,900.
 - c) an annual retirement benefit costing \$30,526 per year of service for each judge.
 - d) annual salaries increasing by 7.5%.
3. This fiscal note does not include the costs of salaries for these 3 additional judges.

IV. DATE February 11, 1982 PREPARED BY Paul B. Arnoldt

AGENCY Division of Retirement & Benefits

Original: Legislative Finance PHONE 465-4460

cc: Budget and Management

Prime Sponsor (First Legislator Named) Senator Ferguson

Office of the Governor (Keith Specking)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 289

Title "An Act increasing the number of superior court judges."

Requested by Senate Judiciary

Date Feb. 1, 1982

II. FISCAL DETAIL

Agency Affected Public Defender Agency

Program Category Affected Palmer - Barrow

BRU, Program, or Subprogram(s) Affected Second & Third Districts

(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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES			89.6			
200 TRAVEL			16.0			
300 CONTRACTUAL			18.2			
400 COMMODITIES			5.0			
500 EQUIPMENT			6.7			
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		-0-	135.5			

FUNDING (Thousands of Dollars)

GENERAL FUND			135.5			
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		-0-	2.0			
PART TIME						
TEMPORARY						

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

The Agency established an office in Barrow in October, 1982, so there would be no additional cost incurred by establishing a superior court there. However, establishment of a superior court in Palmer would require placement of a public defender office in that location due to the increased demand for attorney court time which will result from handling felony cases in Palmer. This would include an Attorney IV, a Legal Secretary I, plus travel funds for Glennallen, supplies, office space and equipment for a total of 135.5.

IV. DATE Feb. 4, 1982

PREPARED BY

Dana Fabe

Dana Fabe, Public Defender

AGENCY Public Defender Agency

PHONE 279-7541

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 289
Title An Act Increasing the Number of Superior Court Judges
Requested by Senate Judiciary Committee Date 1/21/82

II. FISCAL DETAIL

Agency Affected Alaska Court System
Program Category Affected Administration of Justice
BRU, Program, Or Subprogram(s) Affected _____
(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		451.4	483.0	516.8	553.0	591.7
200 TRAVEL		15.0	5.0	6.0	7.0	8.0
300 CONTRACTUAL						
400 COMMODITIES		4.0	4.5	5.0	5.5	6.0
500 EQUIPMENT		18.0	-	-	2.0	2.0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		488.4	492.5	527.8	567.5	607.7

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		488.4	492.5	527.8	567.5	607.7
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		6	6	6	6	6
PART TIME						
TEMPORARY						

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

SB 289 establishes Superior Court Judge positions in Barrow and Palmer. The cost of establishing these positions and necessary support positions is provided on the attached budget sheet.

IV. DATE 1/22/82 PREPARED BY Richard P. Barrier
AGENCY Alaska Court System
Original: Legislative Finance PHONE 264-0545
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

FY 83 COST OF IMPLEMENTING SB 289

	<u>BARROW</u>	<u>PALMER</u>
JUDGE		
SALARY	\$ 78,600 (5)	\$ 69,240
BENEFITS:		
JRS, ACCIDENT, W.C., T.L. (106.48)	83,693	73,727
HI	2,196	2,196
SBS	2,188	2,188
TOTAL	<u>166,677</u>	<u>147,351</u>
LAW CLERK		
SALARY (13A)	30,576	23,136
BENEFITS:		
VARIABLE (.1504)	4,782	3,618
SBS	1,874	1,418
HI	2,196	2,196
TOTAL	<u>39,428</u>	<u>30,368</u>
SECRETARY		
SALARY (12B)	29,460	22,440
BENEFITS:		
VARIABLE	4,608	3,510
SBS	1,806	1,376
HI	2,196	2,196
TOTAL	<u>38,070</u>	<u>29,522</u>
TOTAL PERSONAL SVC.	244,175	207,241
TRAVEL (Including Moving Expense)	10,000	5,000
COMMODITIES	2,000	2,000
EQUIPMENT	9,000	9,000
TOTAL FY 83 BUDGET	<u>\$265,175</u>	<u>\$223,241</u>

WRANGELL JUDICIAL UPGRADE TO SUPERIOR COURT JUDGE

JUDICIAL SALARY DIFFERENTIAL:

Superior Court Judge	\$69,240
District Court Judge	<u>59,844</u>
Difference	9,396
Variable Benefits (JRS & variable--1.0648)	10,004
COST TO UPGRADE JUDGE	<u>19,400</u>

CLERK UPGRADE:

Full Time, Range 10	17,196
Part Time, Range 10 (9 months)	<u>12,897</u>
Salary Difference	4,299
Variable Benefits (PERS, SBS, etc.)	936
COST TO UPGRADE CLERK	<u>5,235</u>

TOTAL COST \$24,635

CASE FILINGS - DISTRICT COURTS - NON-TRAFFIC CASES

	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>FY 80/81</u>
Kenai	1406	1648	1875	1915
Kodiak	1692	1528	1474	1376
Palmer	1024	1102	1222	2176

DISTRICT COURT - FELONY FILINGS & DISPOSITIONS FY 80/81

	Felony Filings	Dispositions	Held to Answer/Indict
Kenai	58	36	12
Kodiak	134	74	23
Palmer	68	46	13

DISTRICT COURT & SUPERIOR COURT CIVIL FILINGS 80/81

	Dist. Court Level	Superior Court Level	Total
Kenai	538	467	1005
Kodiak	290	321	611
Palmer	1027	214	1241

BARROW SUPERIOR COURT

TRAVEL TO BARROW - 1981

			<u>Trips</u>
Jan.	Hodges	5 days	1
Feb.	X	5 days	1
March	X	2 days	1
April	X	4 days	2
May	X	3 days	1
June	X	2 days	1
July	X	9 days	3
Aug.	X	14 days	4
	Blair	1 day	1
Sept.	X	1 day	1
Oct.	Hodges	9 days	3
Nov.	X	4 days	2
Dec.	X	4 days	1
		<u>63 days</u>	<u>22 trips</u>

Felony Filings in District Court - 1981 - 79 cases
 Felony Filings in Superior Court - 1981 - 51 cases
 Felony Jury Trials - 1981 - 22

Felony Filings in District Court - 1981 - Nome - 43
 Kotz - 49
 Barrow - 79

Jury Fees - 1981
 Nome - \$11,152
 Barrow - \$21,757

Memorandum

Alaska Court System

TO: Arthur H. Snowden, II
Administrative Director

DATE : January 4, 1982

FROM: Dick Delaplain *RWD*
Manager of Technical Operations

SUBJECT: Review of Petersburg/
Wrangell re. New Superior
Court Judgeship

Pursuant to your request, Leanne Flickinger and I have reviewed the case filings, composition of filings, and judicial travel for Petersburg/Wrangell in comparison with Juneau, Ketchikan, and Sitka and have arrived at the following conclusion:

We can see no immediate need or justification for the creation of a new Superior Court judgeship to serve the Petersburg/Wrangell area.

Our conclusion is based on the following data.

Case Filings - District Courts - Non-Traffic Cases

	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>FY80/81</u>
Juneau	1,698	1,881	2,350	2,880
Ketchikan	1,467	1,374	1,432	1,801
Sitka	1,115	680	783	1,123
Petersburg/Wrangell	516	554	645	757

District Court - Felony Filings & Dispositions FY80/81

	<u>Felony Filings</u>	<u>Dispositions</u>	<u>Held to Answer/ Indicted</u>
Juneau	98	59	33
Ketchikan	106	80	23
Sitka	57	43	0
Petersburg/Wrangell	31	19	5

Ketchikan Superior Court showed a sharp rise (50 cases) in felony filings in FY80/81. Some of these cases could have been indictments of individuals from the Petersburg/Wrangell area. We have no information as to home residence of defendants in these cases. Only 5 cases involved felony preliminary hearings in Petersburg or Wrangell that eventually went on to Ketchikan.

District Court & Superior Court Civil Filings FY80/81

	<u>District Court Civil</u>	<u>Superior Court Civil</u>	<u>Total</u>
Juneau	277	709	986
Ketchikan	64	430	494
Sitka	40	271	311
Petersburg/Wrangell	14	9	23

This data indicates that Petersburg/Wrangell does not generate enough Superior Court level activity to warrant having a full-time Superior Court judge. Felony case processing in Petersburg/Wrangell generated only 5 cases that were held to answer or indicted during processing. An unknown number of indictments could have gone directly to Ketchikan although Ketchikan only pulled one grand jury during 1981, so the number couldn't have been very high. Only 9 Superior Court level civil cases were generated in Petersburg/Wrangell.

Considering that Judge Taylor is also a Superior Court Master for civil matters, it seems unlikely that we would witness a dramatic increase in civil filings in this area if we suddenly had a Superior Court judge to handle civil matters.

We also looked at judicial travel during 1980 and 1981 as it is related to Petersburg/Wrangell. A summary of this data follows.

1980 Superior Court Judicial Support

	<u>Travel to Petersburg</u>	<u>to Wrangell</u>	<u>to Petersburg/Wrangell*</u>
January	-	-	-
February	-	Schultz - 8 days	-
March	-	-	Schultz - 1 day
April	-	-	Schultz - 1 day
May	-	-	-
June	-	-	Schultz - 2 days
July	-	-	Schultz - 3 days
August	-	-	Schultz - 1 day
September	Schultz - 3 days	-	-
October	-	-	-
November	-	-	-
December	-	-	-
	<u>3 days</u> +	<u>8 days</u> +	<u>8 days = 22 days</u>

	<u>1981 Superior Court Judicial Support</u>		
	<u>Travel to Petersburg</u>	<u>to Wrangell</u>	<u>to Petersburg/Wrangell*</u>
January	Stewart - 4 days	Schultz - 1 day	-
February	-	-	Schultz - 2 days
March	Craske - 2 days	-	-
April	-	-	-
May	-	-	Schultz - 2 days
June	Schultz - 1 day	-	-
July	Schultz - 1 day	-	-
August	-	-	-
September	-	-	-
October	-	-	-
November	-	-	-
December	-	-	Schultz - 2 days
	8 days	+ 1 day	+ 6 days = 15 days

The primary Superior Court support for Petersburg/Wrangell has come from Judge Schultz in Ketchikan. A Total of 22 days of judge time was given in 1980 and a total of 15 days days (including 4 by Stewart and 2 by Craske) was given in 1981.

Travel by District Court judges was as follows: Judge Williams spent 2 days in Wrangell in 1980. Judge Keene spent 2 days in Wrangell in 1981. Judge Taylor spent 20 days in Petersburg in 1980 and 22 days in Petersburg during 1981.

*Specific site not identified on travel voucher.

All of our data (even if it were off by 50%) supports the conclusion that there is insufficient Superior Court workload generated in Wrangell and/or Petersburg to warrant the creation of a Superior Court judgeship.

If you have any questions regarding this memo or need additional data please call me.

Data Sources: Annual Report statistics.
Judges travel vouchers '80/'81

cc: Leanne Flickinger
Rick Barrier

POSITION PAPER

SENATE BILL NO. 289

"An act increasing the number of superior court judges."

This bill increases the number of superior court judges from 23 to 25 by locating a superior court in Barrow and Valdez.

Historically, whenever a new judgeship and court is created at the superior level in a remote location of the state, a full workload is created for a district probation office. Probation officers are officers of the superior court and subject to the court's instruction and direction with regards to completing investigations for the court and supervising probationers. Probation itinerant service is acceptable when the judge also travels, but becomes unacceptable service to the court when the judge's position is fixed in one location but without the constant services of a probation officer. The court's policy of taking justice proceedings to the location of the incident to be adjudicated also demands the presence of a probation officer as part of the court retinue.

Adult Corrections

The towns of Barrow and Valdez are presently serviced by itinerant probation officers who travel out of Fairbanks and Anchorage respectively. It is not possible for the Division of Adult Corrections to relocate probation officer positions because of the present workloads in Fairbanks and Anchorage.

The department's having to establish probation offices in Nome, Sitka, and Bethel in the past are examples of what this position paper purports.

A workload standard of 65 units per month per officer is considered manageable. Last year's workload figures indicated that the Barrow itinerant officer averaged 33 units per month, and the Valdez itinerant officer averaged about 25 units per month. These figures do not represent the true picture as only mandatory minimum work was completed. No counseling, arranging services or on-going supervision of any significance was offered to probationers or parolees in these two areas.

If a superior court judge position is established in Barrow and Valdez, at least twice as many work units will be assigned within the year.

Youth Corrections

Presently, the Division of Family and Youth Services does not have probation officers in either of these jurisdictions. In Barrow the Division's staff consists of a social work supervisor and two social workers. The office handles an overall caseload of 225 (75 cases per worker). The office has no clerical support and no vehicles.

Recently, due to an increasing probation caseload in Barrow, the Division assigned the social work supervisor to do pre-disposition reports on adjudicated delinquents and to monitor the probationer's, rather than serve Barrow on an itinerant basis out of Fairbanks. In one month this has increased the work-

load in the office by an additional 37 cases.

The addition of a superior court judge in Barrow would further increase the office workload. The Division of Family and Youth Services would probably be assigned the court intake functions (now handled through the Fairbanks court intake office). This, basically, would result in the Division's workers screening every police contact with juveniles to determine the necessity for intervention.

The Department feels this increase in workload, along with the already high caseloads, necessitates the addition of one Probation Officer II and a Clerk Typist III, as well as a vehicle for the Barrow office.

The addition of a superior court judge in Valdez would make less of an impact initially on the Division's services in this area. The Division presently has a half-time social worker position in the Valdez office and has requested an increase of this position to full-time in the Governor's FY 82 budget. In addition, the Division has workers in Giennallen and Cordova. The Department feels it can handle most of the increased workload generated by the court through cross training of these workers to handle probation cases. However, the Department would request a Clerk Typist III and a vehicle to support the position in Valdez.

Recommended by:

Charles F. Campbell
Charles F. Campbell, Director
Division of Adult Corrections

Date:

4-6-81

Recommended by:

John Pugh
John Pugh, Director
Division of Family and
Youth Services

Date:

4/7/81

Approved by:

Helen D. Beirne
Helen D. Beirne, Commissioner
Dept. of Health & Social Services

Date:

4/19/81

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill No. 289

Title "An Act increasing the number of Superior Court judges."

Requested by Ferguson and Kerttula

Date 3/13/81

II. FISCAL DETAIL

Agency Affected Department of Health & Social Services

Program Category Affected Offender Confinement, Reformation & Supervision

BRU, Program, or Subprogram(s) Affected Probation and Community Programs

(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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		158.0	172.2	187.7	204.6	223.0
200 TRAVEL		21.7	14.9	16.3	17.7	19.3
300 CONTRACTUAL		41.0	22.9	25.0	27.2	29.6
400 COMMODITIES		3.0	3.3	3.6	3.9	4.2
500 EQUIPMENT		8.9	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	232.6	213.3	232.6	253.4	276.1

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND	-0-	232.6	213.3	232.6	253.4	276.1
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME	-0-	4	4	4	4	4
PART TIME						
TEMPORARY						

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

- A. It has been the experience of the Division of Adult Corrections that whenever a new judgeship and court is created at the Superior Court level in a remote location of the state, a full workload for a district probation office is created. Therefore, creating superior court judgeships in Barrow and Valdez will result in the requirement for new district offices in these two communities. Each office must be staffed with a Probation Officer III, with the clerical support of a Clerk Typist III.
- B. First year costs include \$20,000 for the purchase of two vehicles for the Department of Transportation/Public Facilities Highway Working Capital Fund, \$8,000 for office equipment for the four positions and

Roger C. Lange

IV. DATE March 24, 1981

PREPARED BY Roger C. Lange

AGENCY Division of Adult Corrections

PHONE 465-3376

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named) M&B Approval *W. Hubbard*

Date 4/8/81

\$8,000 for moving promoted employees to Barrow and Valdez. These one time costs were not carried forward into FY 1983 and subsequent years.

- C. Inflation was assumed to be 9% from year to year for all expenditure object groups.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. Senate Bill No. 289
 Title "An Act increasing the number of superior court judges."
 Requested by _____ Date _____

II. FISCAL DETAIL
 Agency Affected Department of Health and Social Services
 Program Category Affected Administration of Justice
 BRU, Program, or Subprogram(s) Affected Youth Services Juvenile Probation and Parole
 (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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		103.2	112.8	123.0	134.1	146.2
200 TRAVEL		9.0	9.8	10.7	11.7	12.8
300 CONTRACTUAL		32.7	35.6	38.8	42.3	46.1
400 COMMODITIES		1.2	1.3	1.4	1.5	1.6
500 EQUIPMENT		31.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		177.5	159.5	173.9	189.6	206.7

FUNDING (Thousands of Dollars)

GENERAL FUND		177.5	159.5	173.9	189.6	206.7
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		3.0	3.0	3.0	3.0	3.0
PART TIME						
TEMPORARY		36.0	36.0	36.0	36.0	36.0

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

The juvenile offender caseload increases which will result in the Barrow and Valdez areas by the addition of superior court judges require a Probation Officer II and a Clerk Typist III in Barrow (4th District). A Clerk Typist III will be required in Valdez (3rd District) to support the existing part-time Social Worker position which is being made full-time in the Governor's budget. Costs for FY 82 are as follows:

Juvenile Probation and Parole Component

	3rd District	4th District	Total
Personnel Services	\$26.3	\$ 77.2	\$103.5
Travel	3.2	5.8	9.0
Contractual	13.5	19.2	32.7
Commodities	.4	.8	1.2
Equipment	15.0	16.1	31.1
TOTALS	\$58.4	\$119.1	\$177.5

IV. DATE 4/11/81 PREPARED BY John R. Pugh, Director
 AGENCY Division of Family and Youth Services
 PHONE 465-3170
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

Dr. M. M. Anderson
4/8/81

8017708

Travel within the districts is necessary to provide counseling, to monitor juveniles on probation, and travel to the regional office for administrative meetings. Contractual includes communications, copier usage, office space rental, printing and advertising, and lease of a vehicle under the DOT/PF Highway Working Capital Fund. Commodities include expendable general office supplies. Equipment includes office furniture, and the initial vehicle purchase of a DOT/PF vehicle. The vehicles are essential for transporting juveniles.

An inflation factor of 9% has been added to estimated costs for FY 83-86.

Introduced: 3/13/81
Referred: Judiciary and
Finance

1 IN THE SENATE

BY FERGUSON AND KERTTULA

2 SENATE BILL NO. 289

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act increasing the number of superior court
7 judges."

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

9 * Section 1. AS 22.10.120 is amended to read:

10 Sec. 22.10.120. NUMBER OF JUDGES. The superior court consists
11 of 25 [23] judges, four of whom shall be judges in the first judicial
12 district, three [TWO] of whom shall be judges in the second judicial
13 district, 13 [12] of whom shall be judges in the third judicial
14 district, and five of whom shall be judges in the fourth judicial
15 district. At the time of submitting the names of nominees to the gover-
16 nor to fill a vacancy on the superior court bench, the judicial council
17 shall also designate the district in which the appointee is to reside
18 and serve.

Original Sponsors: Ferguson and Kerttula

Offered: 2/2/82
Referred: Finance

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 289 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act increasing the number of superior court judges."

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

8 * Section 1. AS 22.10.120 is amended to read:

9 Sec. 22.10.120. NUMBER OF JUDGES. The superior court consists of
10 26 [23] judges, five [FOUR] of whom shall be judges in the first judicial
11 district, three [TWO] of whom shall be judges in the second judicial
12 district, 13 [12] of whom shall be judges in the third judicial district,
13 and five of whom shall be judges in the fourth judicial district. At
14 the time of submitting the names of nominees to the governor to fill a
15 vacancy on the superior court bench, the judicial council shall also
16 designate the district in which the appointee is to reside and serve.

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STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH WF-STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3795

August 7, 1979

MEMORANDUM

TO: Chairman, Senate Finance Committee
Chairman, House Finance Committee
Chairman, Budget & Audit Committee

FROM: J. H. Hogan, Director
Legislative Finance Division

SUBJECT: SB 291/HB 505

The above referenced bills relate in part to the approval of the monetary terms for collective bargaining agreements for more than one year. In the first paragraph on page 7 of the Senate Journal for August 6 (attached) you will note the Governor suggests the following language be included in future appropriation acts to provide multi-year appropriations:

"There are appropriated in fiscal years 1981 and 1982 moneys sufficient to pay the monetary terms of collective bargaining agreements for the general government unit for the period July 1, 1981, through June 30, 1983."

What the Governor is in essence suggesting is that you make an open-ended appropriation for the increased personnel service costs. To do as he suggests could cost the Legislature a substantial degree of control over the rate of increase in personal service costs throughout State government. For example, how would you apply a vacancy rate in the budget if it were construed that you had already appropriated the full cost of employees under contract?

If the Legislature chooses to pass either of these bills during this special session, you may want to insert in the record some reference to indicate future legislative study of the use of a continuing appropriation to fund collective bargaining agreements. That way you would clearly reserve judgment on the Governor's suggested method.

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SB SENATE BILL NO. 291 by the Rules Committee by request of
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"An Act relating to the effective date of the monetary terms of collective bargaining agreements; to the approval of the monetary terms for collective bargaining agreements for more than one year; to the coverage and exclusion of certain classes of employees from collective bargaining agreements; to the exclusion of covered employees from certain provisions of the personnel laws; and providing for an effective date."

was read the first time and referred to the Labor and Management Committee.

Fiscal note accompanying SENATE BILL NO. 291 is zero.

Governor's transmittal letter follows:

August 6, 1979

The Honorable Clem Tillion
President of the Senate
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of Article III, Section 18, and Article II, Section 9, of the Constitution of the State of Alaska, I am transmitting a bill making certain amendments to the collective bargaining and personnel laws for public employees.

The bill's purpose is to avoid in the future the kind of problem which caused this special session and to eliminate some ambiguities, anomalies, and redundancies in the existing law.

Section 1 does two things. First, it prescribes that new monetary terms of collective bargaining agreements may not go into effect until after they have been approved by way of an appropriation, that is, at the first of the next fiscal year. Henceforth, all financing will be prospective. Because of this, it is my intention to sign the companion appropriation bill before I sign this one so that those appropriations and the monetary terms they finance can be retrospective and will not be affected. Second, section 1 prescribes that multi-year contracts will be financed as a contractual obligation. If the monetary terms are not open to renegotiation during the life of the contract, the moneys are appropriated at the outset and will be paid. As a practical matter, the appropriation bill will contain the first year's money in agency budgets and second and third years' moneys as

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The first amendment in section 2 merely brings the code up to date to say with more precision what it already says, that is, that the Public Employees Relations Act covers the ferry system. The second amendment adds directors, deputy directors, and assistant directors of divisions to the class of persons whom the collective bargaining laws do not cover. These officers are managers. They simply do not belong in the same class as those persons who are covered by collective bargaining.

Section 3 excludes retirement and social security from the subjects of collective bargaining. They are by their nature matters of public policy best left to legislative control.

Section 4 excludes covered employees from the statutory grievance procedures before the personnel board. Covered employees are all afforded grievance procedures under their contracts. Two proceedings are redundant and merely create confusion.

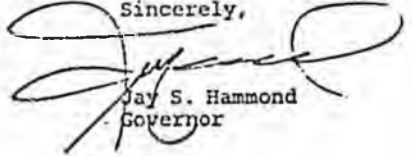
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Finally, delayed effective dates are placed on those sections of the bill which require revision to existing bargaining agreements or other advance preparations.

While modest in scope, these amendments will go a long way toward making the collective bargaining process more workable and fairer for both the employee on the one hand and the public employer on the other. I urge its prompt enactment.

Sincerely,


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LETTER OF INTENT
FOR
SENATE BILL 291

In his letter of transmittal for Senate Bill 291, appearing on pages 6 and 7 of the August 6, 1979 Senate Journal, Governor Hammond recommends that future sessions of the Legislature make open-ended appropriations to fund collective bargaining agreements that span more than one fiscal year.

The Senate Finance Committee wishes to go on record as being opposed to the use of "open-ended" or "continuing" appropriations to fund collective bargaining agreements. It is the Committee's feeling that adoption of this style of appropriation by future legislatures would relinquish legislative control over personal service appropriations throughout state government.

John C. Sackett, Chairman
Senate Finance Committee

STATE OF ALASKA

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BUDGET AND AUDIT COMMITTEE

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POUCH WF-STATE CAPITOL
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August 7, 1979

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Chairman, House Finance Committee
Chairman, Budget & Audit Committee

FROM: J. H. Hogan, Director
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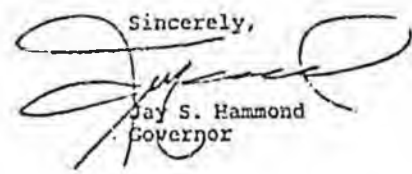
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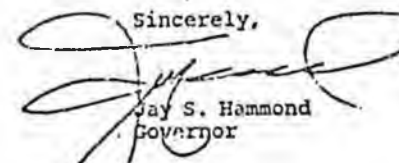
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