

LEG. FINANCE - BILLS

1983 - 1984

1797

HB 18 / 9997 / 17 / SSB / 10

SSHB 7 - HB 8

1797

Sec. 28.20.430.

DEFAULT BY NONRESIDENT INSURER.

If an insurance carrier not authorized to transact business in this state, but qualified to furnish proof of financial responsibility in this state, defaults in an undertaking or agreement, the department shall not accept as proof a certificate of the carrier whether previously filed or thereafter tendered as proof, so long as the default continues.

HISTORY (Sec. 45 ch 163 SIA 1959)

Sec. 28.20.440.

MOTOR VEHICLE LIABILITY POLICY.

(a) In this AS 28.20.010 - 28.20.640, "motor vehicle liability policy" means an "owner policy" or an "operator's policy" containing an agreement or endorsement as provided in this section, or certified as provided in AS 28.20.410 or 28.20.420 as proof of financial responsibility for the future, and issued, except as otherwise provided in AS 28.20.420, by an insurance carrier authorized to transact business in this state, to or for the benefit of the person named as insured.

(b) The owner's policy of liability insurance shall

(1) designate by description or appropriate reference all vehicles which it covers;

(2) insure the person named and every other person using the vehicle with the express or implied permission of the named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of the vehicle within the United States of America or the Dominion of Canada, subject to limits exclusive of interests and costs, with respect to each vehicle, as follows: \$25,000 because of bodily injury to or death of one person in any one accident, and, subject to the same limit for one person, \$50,000 because of bodily injury to or death of two or more persons in any one accident, and \$10,000 because of injury to or destruction of property of others in any one accident;

(3) contain coverage in the amounts set out in (2) of this subsection for the protection of the persons insured under the policy who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury or death arising out of the ownership, maintenance or use of the uninsured motor vehicle, except that this coverage may be waived in writing by the insured on or before the effective date of the policy.

(c) The operator's policy of liability insurance shall insure the person named as insured against loss from the liability imposed upon him by law for damages arising out of the use by him of any motor vehicle not owned by him, within the same territorial limits and subject to the same limits of liability as are required for an owner's policy of liability insurance. -

(d) The motor vehicle liability policy shall state the name and address of the named insured, the coverage, the premium charges, the policy period and the limits of liability, and shall contain an agreement or an endorsement that insurance is provided in accordance with the coverage defined in AS 28.20.010 - 28.20.640 for bodily injury and death or property damage, or both, and is subject to all the provisions of AS 28.20.010 - 28.20.640.

(e) The motor vehicle liability policy need not insure liability under a workers' compensation law nor liability for damage to property owned by, rented to, in charge of or transported by the insured. (f) Every motor vehicle liability policy is subject to the following provisions but these provisions need not be contained in the policy.

(1) The liability of the insurance carrier becomes absolute whenever injury or damage covered by the policy occurs; the policy may not be cancelled or annulled as to this liability after the occurrence of the injury or damage; no statement made by the insured or on his behalf and no violation of the policy defeats or voids the policy.

(2) The satisfaction by the insured of a judgment for injury or damages is not a condition precedent to the right or duty of the insurance carrier to make payment on account of injury or damage.

(3) The insurance carrier may settle a claim covered by the policy, and if settlement is made in good faith, the amount of settlement is deductible from the limits of liability specified in (b) of this section.

(4) The policy, the written application for the policy, if any, and every rider or endorsement which does not conflict with the provisions of AS 28.20.010 - 28.20.640 constitute the entire contract between the parties.

(g) A policy which grants the coverage required for a motor vehicle liability policy may also grant lawful coverage in excess of or in addition to the coverage specified for a policy and the excess or additional coverage is not subject to the provisions of AS 28.20.010 - 28.20.640. With respect to a policy which grants excess or additional coverage the term "motor vehicle liability policy" applies only to that part of the coverage which is required by this section.

(h) A motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of AS 28.20.010 - 28.20.640.

(i) A motor vehicle liability policy may provide for proration of the insurance with other valid and collectible insurance.

(j) The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carriers which together meet the requirements.

(k) A binder issued pending the issuance of a motor vehicle liability policy fulfills the requirements for a policy.

HISTORY (Sec. 46 ch 163 SLA 1959; am sec. 2 ch 146 SLA 1966; am sec. 4 ch 202 SLA 1975; am sec. 60 ch 94 SLA 1980)

Sec. 28.20.450.

NOTICE OF CANCELLATION OR TERMINATION OF CERTIFIED POLICY. When an insurance carrier certifies a motor vehicle liability policy under sec. 410 or sec. 420 of this chapter the insurance certified may not be cancelled or terminated until at least 10 days after a notice of cancellation or termination of the insurance is filed with the department, except that a policy subsequently procured and certified shall, on the effective date of its certification, terminate for the purpose of this chapter the insurance previously certified for a vehicle designated in both certificates. HISTORY (Sec. 47 ch 163 SLA 1959)

Sec. 28.20.460.

CHAPTER NOT TO AFFECT OTHER POLICIES.

(a) This chapter does not apply to or affect a policy of automobile insurance against liability which may now or hereafter be required by any other law of this state, except that the policy, if it contains an agreement or is endorsed to conform with the requirements of this chapter, may be certified as proof of financial responsibility under this chapter.

(b) This chapter does not apply to or affect a policy insuring solely the insured named in the policy against liability resulting from the maintenance or use by persons in the insured's employ or on his behalf of vehicles not owned by the insured.

HISTORY (Sec. 48 ch 63 SLA 1959)

Sec. 28.20.470.

BOND AS PROOF.

Proof of financial responsibility may be evidenced by the bond of a surety company authorized to transact business in this state. The bond shall be conditioned for payment of the amounts specified in sec. 230 of this chapter. The bond shall be filed with the department and shall not be cancellable except after 10 days' written notice to the department.

HISTORY (Sec. 49 ch 163 SLA 1959)

Sec. 28.20.480.

ACTION ON BOND. If a judgment given against the principal on a bond is not satisfied within 30 days after it becomes final, the judgment creditor may, for his own use and benefit and at his sole expense, bring an action in the name of the state against the company executing the bond. HISTORY (Sec. 50 ch 163 SLA 1959)

Sec. 28.20.490.

MONEY OR SECURITIES AS PROOF.

Proof of financial responsibility may be evidenced by the deposit of \$25,000 in cash, or securities which are legal investments for saving banks or trust funds having a market value of \$25,000. The department shall not accept a deposit unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the recording district where the depositor resides. HISTORY (Sec. 51 ch 163 SLA 1959; am sec. 15 ch 214 SLA 1975)

Sec. 28.20.500.

OWNER MAY GIVE PROOF FOR OTHERS.

(a) The owner of a motor vehicle may give proof of financial responsibility on behalf of his employee or a member of his immediate family or household. The furnishing of proof in this manner permits the person for whom it is given to operate a motor vehicle covered by the proof. The department shall endorse appropriate restrictions on the face of the license held by a person for whom proof is given by another, or may issue a new license containing these restrictions.

(b) The department, upon receiving satisfactory evidence of the violation of a restriction, may suspend the license until a certificate is filed showing a policy issued to the driver which covers the driver as operator or owner of the vehicle operated in violation of the restriction. -

Sec. 28.20.510.

SUBSTITUTION OF PROOF.

The department shall consent to the cancellation of a bond or certificate of insurance, or the department shall return money or securities to the person entitled to it, upon the substitution and acceptance of other adequate proof of financial responsibility under this chapter.

HISTORY (Sec. 54 ch 163 SLA 1959; am sec. 16 ch 214 SLA 1975)

Sec. 28.20.520.

OTHER PROOF MAY BE REQUIRED.

Whenever proof of financial responsibility filed under this chapter no longer fulfills the purpose for which it is required, the department shall require other proof as required by this chapter and shall suspend the license pending the filing of other proof.

HISTORY (Sec. 55 ch 163 SLA 1959)

Sec. 28.20.530.

APPLICATION OF DEPOSIT. The department shall hold the deposit to satisfy, in accordance with this chapter, any execution on a judgment issued against the person making the deposit for damages, including damages for care and loss of services because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use of it, resulting from the ownership, maintenance, use or operation of a vehicle subject to registration under the laws of this state after the deposit is made. Money or securities deposited are not subject to attachment or execution unless the attachment or execution arises out of a suit for damages specified in this section. HISTORY (Sec. 52 ch 163 SLA 1959; am sec. 17 ch 214 SLA 1975)

Sec. 28.20.540.

DURATION, CANCELLATION AND RETURN OF PROOF.

(a) The department shall, upon request, consent to the immediate cancellation of a bond or certificate of insurance, or shall return to the person entitled to it money or securities deposited as proof of financial responsibility, or shall waive the requirement of filing proof, in any of the following events:

(1) at any time after three years from the date proof is required when, during the three year period preceding the request, the department has not received record of a conviction or a forfeiture of bail which would require or permit the suspension or revocation of the license or registration of the person by or for whom the proof was furnished; or

(2) upon the death of the person on whose behalf the proof was filed or the permanent incapacity of the person to operate a motor vehicle; or

(3) if the person who has given proof surrenders his license to the department.

(b) The department shall not consent to the cancellation of a bond or the return of money or securities if an action for damages upon a liability covered by the proof is pending or a judgment upon the liability is unsatisfied, or if the person who filed the bond or deposited money or securities has within one year immediately preceding the request been involved as a driver or owner in a motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of these facts, or that he is released from all of this liability, or has been finally adjudicated not to be liable for the injury or damage is sufficient evidence in the absence of evidence to the contrary in the records of the department.

(c) Whenever a person, whose proof has been cancelled or returned under (a) (3) of this section applies for a license within a period of three years from the date proof was originally required, the application shall be refused unless the applicant reestablishes the proof for the remainder of the three-year period.

HISTORY (Sec. 56 ch 163 SLA 1959; am sec. 18 ch 214 SLA 1975)

Sec. 28.20.550.

TRANSFER OF REGISTRATION TO DEFEAT PURPOSE OF CHAPTER PROHIBITED.

(a) If an owner's registration is suspended under this chapter, the registration shall not be transferred nor the vehicle registered in any other name until the department is satisfied that the transfer of registration is proposed in good faith and not for the purpose or with the effect of defeating the purposes of this chapter.

(b) This section does not affect the rights of a conditional vendor, chattel mortgagee or lessor of the vehicle registered in the name of another as owner who becomes subject to this chapter.

(c) The department shall suspend the registration of a vehicle transferred in violation of this section. HISTORY (Sec. 57 ch 163 SLA 1959)

Sec. 28.20.560.

SURRENDER OF LICENSE AND REGISTRATION, AND FALSE AFFIDAVITS.

(a) A person whose license or registration is suspended under any provision of this chapter, or whose policy of insurance or bond, when required under this chapter, is cancelled or terminated, shall immediately return his license or registration to the department. If a person fails to return the license or registration to the department, the department shall immediately direct a peace officer to obtain possession of it and to return it to the department.

(b) A person who wilfully fails to return a license or registration as required in (a) of this section or who knowingly gives an affidavit required by this chapter which is false is punishable by a fine of not more than \$500, or by imprisonment for not more than 30 days, or by both. HISTORY (Sec. 58 ch 163 SLA 1959)

Sec. 28.20.570.

FORGED PROOF.

A person who forges or, without authority, signs any evidence of proof of financial responsibility for the future, or who files or offers for filing evidence of proof of financial responsibility for the future, knowing or having reason to believe that it is forged or signed without authority, is punishable by a fine of not more than \$1,000, or by imprisonment for not more than one year, or by both.

HISTORY (Sec. 59 ch 163 SLA 1959)

Sec. 28.20.580.

ASSIGNED RISK PLANS. After consultation with the insurance companies authorized to issue motor vehicle liability policies in this state, the director of the division of insurance shall approve a reasonable plan, fair to the insurers and equitable to their policyholders, for the apportionment among these companies of applicants for motor vehicles policies and other vehicle coverages who are in good faith entitled to but are unable to procure policies through ordinary methods. When a plan is approved, all the insurance companies shall subscribe to it and participate in it. An applicant for an assigned risk policy, a person insured under an assigned risk plan, and an insurance company affected may appeal to the commissioner of commerce and economic development from a ruling or decision of the authority designated to operate the plan. Failure to adopt an assigned risk plan does not relieve any person from responsibility under this chapter. HISTORY (Sec. 60 ch 163 SLA 1959; am sec. 16 ch 144 SLA 1977)

Sec. 28.20.585.

REINSTATEMENT FEE. If an operator's license is suspended under the provisions of this chapter, the department shall charge a person who applies for reinstatement of the operator's license a reinstatement fee of \$50. HISTORY (Sec. 8 ch 78 SLA 1982)

Sec. 28.20.590.

PAST APPLICATION OF CHAPTER. This chapter does not apply to any accident or judgment arising from an accident or violation of the motor vehicle laws of this state, occurring before September 1, 1959. HISTORY (Sec. 61 ch 163 SLA 1959)

Sec. 28.20.600.

CHAPTER DOES NOT PREVENT OTHER PROCESS. This chapter does not prevent the plaintiff in an action from relying for relief upon other processes provided by law. HISTORY (Sec. 62 ch 163 SLA 1959)

Sec. 28.20.610

PROVISIONS OF CHAPTER APPLY THROUGHOUT STATE.

The provisions of this chapter apply upon highways and elsewhere throughout the state. HISTORY (Sec. 63 ch 163 SLA 1959)

Sec. 28.20.620.

APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.

Repealed by sec. 4 ch 140 SLA 1977.

Sec. 28.20.630.

DEFINITIONS

In this chapter unless the context otherwise requires

- (1) Repealed by sec. 20 ch 214 SLA 1976.
- (2) Repealed by sec. 2 ch 135 SLA 1977.
- (3) "judgment" means a judgment which is final by expiration without appeal of the time within which an appeal may be taken, or final by affirmation on appeal, given by a court of any state or of the United States, upon a cause of action arising out of the ownership, maintenance, or use of a vehicle of a type subject to registration under the laws of this state, for damages, including damages for care and loss of services, because of bodily injury to or death of a person, or for damages because of injury to or destruction of property, including the loss of use of property, or upon a cause of action on an agreement of settlement for such damages;
- (4) Repealed by sec. 2 ch 135 SLA 1977.
- (5) Repealed by sec. 20 ch 241 SLA 1976; sec. 2 ch 135 SLA 1977.
- (6) Repealed by sec. 2 ch 135 SLA 1977.
- (7) Repealed by sec. 2 ch 135 SLA 1977.
- (8) Repealed by sec. 2 ch 135 SLA 1977.
- (9) Repealed by sec. 2 ch 135 SLA 1977.
- (10) Repealed by sec. 2 ch 135 SLA 1977.
- (11) Repealed by sec. 2 ch 135 SLA 1977.
- (12) Repealed by sec. 2 ch 135 SLA 1977.
- (13) Repealed by sec. 2 ch 135 SLA 1977.
- (14) Repealed by sec. 2 ch 135 SLA 1977.
- (15) Repealed by sec. 20 ch 241 SLA 1976.

HISTORY (Sec. 3 ch 163 SLA 1959; am sec. 20 ch 241 SLA 1976; am sec. 2 ch 135 SLA 1977)

Sec. 28.20.640.

SHORT TITLE.

This chapter may be cited as the Motor Vehicle Safety Responsibility Act.

HISTORY (Sec. 1 ch 163 SLA 1959)

END OF DOCUMENT

Introduced: 3/31/83  
Referred: Labor & Commerce, State  
Affairs and Finance

BY HAYES, BARNES, PHILLIPS,  
FURNACE, LINDAUER, ABOOD,  
UEHLING, LISKA, COWDERY,  
SZYMANSKI, FRITZ, PESTINGER,  
AND BUSSELL

1 IN THE HOUSE

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 7

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to motor vehicles; and providing for  
7 an effective date."

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

9 \* Section 1. DECLARATION OF PURPOSE. The legislature is concerned over  
10 the rising toll of motor vehicle accidents and the suffering and loss in-  
11 flicted by them. The legislature determines that it is a matter of grave  
12 concern that motorists be financially responsible for their negligent acts  
13 so that innocent victims of motor vehicle accidents may be recompensed for  
14 the injury and financial loss inflicted upon them. The legislature finds  
15 and declares that the public interest can best be served by the requirement  
16 that the owner of a motor vehicle be required to furnish evidence of the  
17 existence of a motor vehicle liability policy issued in conformity with  
18 AS 28.22.010 when the vehicle registration is made or renewed as a pre-  
19 requisite to the exercise of the privilege of registering and operating a  
20 motor vehicle in the state.

21 \* Sec. 2. AS 28.10.011 is amended by adding a new paragraph to read:

22 (12) a mobile home as defined in AS 45.30.100.

23 \* Sec. 3. AS 28.10.011 is amended by adding a new subsection to read:

24 (b) An owner of a vehicle may not register a vehicle in the  
25 state and may not renew the registration of a vehicle in the state  
26 without providing evidence satisfactory to the department of the  
27 existence of a motor vehicle liability policy that complies with  
28 AS 28.22.010.

29 \* Sec. 4. AS 28.10.021 is amended by adding a new subsection to read:

1 (b) A certificate of registration may not be issued under this  
2 section unless the owner complies with AS 28.10.011(b).

3 \* Sec. 5. AS 28.10.111 is amended by adding a new subsection to read:

4 (c) The department may not renew the registration of a vehicle  
5 under this section unless the owner complies with AS 28.10.011(b).

6 \* Sec. 6. AS 28.10.201(b) is amended to read:

7 (b) The owner of a vehicle described in AS 28.10.011 as being  
8 exempt from registration and the owner of a snowmobile or off-highway  
9 vehicle may not apply for, nor may the department issue, a certificate  
10 of title for such a vehicle. However, the department may issue a  
11 certificate of title to the owner of a vehicle exempt from registra-  
12 tion under AS 28.10.011(3), (6), (7), (11) and (12), [28.10.011(6)]  
13 upon application by that owner.

14 \* Sec. 7. AS 28.15.011 is amended by adding a new subsection to read:

15 (d) Under this section a person's driver's license may be issued  
16 or renewed only on presentation of evidence satisfactory to the de-  
17 partment of the existence of a motor vehicle liability policy that  
18 complies with AS 28.22.010 for all motor vehicles owned by the person.  
19 A person who is the owner of a motor vehicle registered in another  
20 jurisdiction may be issued a driver's license only on presentation of  
21 evidence satisfactory to the department of the existence of a liabil-  
22 ity policy that provides coverage equivalent to that required by  
23 AS 28.22.010 for that person's operation of a motor vehicle.

24 \* Sec. 8. AS 28.15.011 is amended by adding a new subsection to read:

25 (e) The department shall suspend the driver's license of a  
26 person when the department is advised that the person's coverage is  
27 terminated and there has been no written response by the person to a  
28 written thirty-day notice by the department.

29 \* Sec. 9. AS 28.15.081(a) is amended to read:

1 (a) The department shall examine every applicant for a driver's  
2 license. The examination shall include (1) a test of the applicant's  
3 eyesight, (2) a test of the applicant's (HIS) ability to read and  
4 understand official traffic control devices, (3) the applicant's (HIS)  
5 knowledge of safe driving practices, (4) the applicant's knowledge of  
6 the effects of alcohol and drugs on drivers and the dangers of driving  
7 under the influence of alcohol or drugs, (5) the applicant's knowledge  
8 of laws relating to driving while intoxicated, (6) the applicant's  
9 knowledge of laws relating to financial responsibility, and the traf-  
10 fic laws and regulations of this state. The examination [, AND] and  
11 may include a demonstration of ability to exercise ordinary and rea-  
12 sonable control in the driving of a motor vehicle of the type and  
13 general class of vehicles for which the applicant seeks a license.  
14 However, an applicant who has not been previously issued a driver's  
15 license by this or another jurisdiction must demonstrate [HIS] abil-  
16 ity, and must present medical information that [WHICH] the department  
17 reasonably requires to determine [HIS] fitness to safely drive a motor  
18 vehicle of the type and general class of vehicles for which the appli-  
19 cant [HE] seeks a license.

20 \* Sec. 10. AS 28.20.070(a) is amended to read:

21 (a) No policy or bond is effective under AS 28.20.060 unless it  
22 is issued by an insurance company or surety company authorized to do  
23 business in this state, except as provided in (b) of this section, and  
24 if the accident resulted in bodily injury or death, unless the policy  
25 or bond is subject to a limit, exclusive of interest and costs, of not  
26 less than \$100,000 [\$25,000] because of bodily injury to or death of  
27 one person in any one accident and, subject to the same limit for one  
28 person, to a limit of not less than \$300,000 [\$50,000] because of  
29 bodily injury to or death of two or more persons in any one accident,

1 and if the accident has resulted in injury to, or destruction of,  
2 property to a limit of not less than \$50,000 [\$10,000] because of  
3 injury to or destruction of property of others in any one accident.

4 \* Sec. 11. AS 28.20.230(b) is amended to read:

5 (b) The term "proof of financial responsibility for the future"  
6 as used in this chapter means proof of ability to respond in damages  
7 for liability, on account of an accident occurring after the effective  
8 date of proof, which arises out of the ownership, maintenance or use  
9 of a vehicle subject to registration under the laws of this state, in  
10 the amount of \$100,000 [\$25,000] because of bodily injury to or death  
11 of one person in any one accident, and, subject to the same limit for  
12 one person, in the amount of \$300,000 [\$50,000] because of bodily  
13 injury to or death of two or more persons in any one accident, and in  
14 the amount of \$50,000 [\$10,000] because of injury to or destruction of  
15 property of others in any one accident. As used in this chapter the  
16 terms "proof of financial responsibility" or "proof" mean proof of  
17 financial responsibility for the future.

18 \* Sec. 12. AS 28.20.360(a) is amended to read:

19 (a) For the purpose of this chapter, a judgment is satisfied  
20 when

21 (1) \$100,000 [\$25,000] is credited upon a judgment given in  
22 excess of that amount because of bodily injury to or death of one  
23 person as the result of any one accident; or

24 (2) subject to the limit of \$100,000 [\$25,000] because of  
25 bodily injury to or death of one person, the sum of \$300,000 [\$50,000]  
26 is credited upon a judgment given in excess of that amount because of  
27 bodily injury to or death of two or more persons as the result of any  
28 one accident; or

29 (3) \$50,000 [\$10,000] is credited upon a judgment given in

1 excess of that amount because of injury to or destruction of property  
2 of others as a result of any one accident.

3 \* Sec. 13. AS 28.20.440(b)(2) is amended to read:

4 (2) insure the person named and every other person using  
5 the vehicle with the express or implied permission of the named insur-  
6 ed, against loss from the liability imposed by law for damages arising  
7 out of the ownership, maintenance or use of the vehicle within the  
8 United States of America or the Dominion of Canada, subject to limits  
9 exclusive of interests ~~and costs~~, with respect to each vehicle, as  
10 follows: \$100,000 [\$25,000] because of bodily injury to or death of  
11 one person in any one accident, and, subject to the same limit for one  
12 person, \$300,000 [\$50,000] because of bodily injury to or death of two  
13 or more persons in any one accident, and \$50,000 [\$10,000] because of  
14 injury to or destruction of property of others in any one accident;

15 \* Sec. 14. AS 28.20.440(b)(3) is amended to read:

16 (3) contain coverage in the amounts set out in (2) of this  
17 subsection for the protection of the persons insured under the policy  
18 who are legally entitled to recover damages from owners or operators  
19 of uninsured motor vehicles because of bodily injury or death arising  
20 out of the ownership, maintenance or use of the uninsured or under-  
21 insured motor vehicle, except that this coverage may be waived in  
22 writing by the insured on or before the effective date of the policy.

23 \* Sec. 15. AS 28.20.440 is amended by adding new subsections to read:

24 (1) The insurance carrier shall provide notice to the department  
25 of the termination of coverage commenced during the preceding 180 days  
26 under (a) of this section within 10 days of actual knowledge of the  
27 termination or written notice of intent to terminate. The department  
28 may notify the insurance carrier of a person with previous policy  
29 abuses and require notice of termination of coverage for the person

1 after the person is given an opportunity for a department hearing. If  
2 the person whose coverage terminates fails to provide the department  
3 with evidence satisfactory to it of the existence of a motor vehicle  
4 liability policy issued in conformity with this section, the depart-  
5 ment shall suspend the driver's license and all registration certifi-  
6 cates and registration plates issued to the owner of the motor vehicle  
7 until the owner has complied with this section.

8 (m) The insurance carrier authorized to transact business in the  
9 state who issues a motor vehicle liability policy to the owner of a  
10 motor vehicle under this section shall provide the owner with a card  
11 indicating the existence of the policy. The operator of the vehicle  
12 shall at all times carry in the motor vehicle the card indicating the  
13 existence of the policy.

14 \* Sec. 16. AS 28.20.490 is amended to read:

15 Sec. 28.20.490. MONEY OR SECURITIES AS PROOF. Proof of finan-  
16 cial responsibility may be evidenced by the deposit of \$100,000  
17 [\$25,000] in cash, or securities which are legal investments for  
18 saving banks or trust funds having a market value of \$100,000  
19 [\$25,000]. The department shall not accept a deposit unless accom-  
20 panied by evidence that there are no unsatisfied judgments of any  
21 character against the depositor in the recording district where the  
22 depositor resides.

23 \* Sec. 17. AS 28 is amended by adding a new chapter to read:

24 CHAPTER 22. MOTOR VEHICLE LIABILITY INSURANCE.

25 Sec. 28.22.010. MOTOR VEHICLE LIABILITY POLICY. (a) In AS 28.-  
26 10.011 and this chapter "motor vehicle liability policy" means an  
27 "owner policy" or an "operator's policy" containing an agreement or  
28 endorsement as provided in this section and issued by an insurance  
29 carrier authorized to transact business in the state to or for the

1 benefit of the person named as insured.

2 (b) The owner's policy of liability insurance shall

3 (1) designate by description or appropriate reference all  
4 vehicles that it covers;

5 (2) insure the person named and every other person using  
6 the vehicle with the express or implied permission of the named insur-  
7 ed, against loss from the liability imposed by law for damages arising  
8 out of the ownership, maintenance, or use of the vehicle in the United  
9 States or the Dominion of Canada, subject to limits exclusive of  
10 interests and costs, with respect to each vehicle, as follows:

11 (A) \$100,000 because of bodily injury to or death of  
12 one person in any one accident, and, subject to the same limit  
13 for one person, \$300,000 because of bodily injury to or death of  
14 two or more persons in any one accident; and

15 (B) \$50,000 because of injury to or destruction of  
16 property of others in any one accident;

17 (3) contain coverage in the amounts set out in (2) of this  
18 subsection for the protection of the persons insured under the policy  
19 who are legally entitled to recover damages from the owner or operator  
20 of an uninsured or underinsured motor vehicle because of property  
21 damage or bodily injury or death arising out of the ownership, mainte-  
22 nance, or use of the uninsured or underinsured motor vehicle, except  
23 that this coverage may be waived in writing by the insured on or  
24 before the effective date of the policy.

25 (c) The operator's policy of liability insurance shall insure  
26 the person named as insured against loss from the liability imposed on  
27 the operator by law for damages arising out of the use by the operator  
28 of a motor vehicle not owned by the operator, within the same territo-  
29 rial limits and subject to the same limits of liability as are

1 required for an owner's policy of liability insurance.

2 (d) The motor vehicle liability policy shall state the name and  
3 address of the named insured, the coverage, the premium charges, the  
4 policy period and the limits of liability, and shall contain an agree-  
5 ment or an endorsement that insurance is provided in accordance with  
6 the coverage defined in (b)(2) of this section for bodily injury and  
7 death or property damage, or both.

8 (e) The motor vehicle liability policy need not insure liability  
9 under a workers' compensation law nor liability for damage to property  
10 owned by, rented to, in charge of, or transported by the insured.

11 (f) Every motor vehicle liability policy is subject to the  
12 following provisions but these provisions need not be contained in the  
13 policy:

14 (1) The liability of the insurance carrier becomes absolute  
15 whenever injury or damage covered by the policy occurs. The policy  
16 may not be cancelled or annulled as to this liability after the occur-  
17 rence of the injury or damage. No statement made by the insured or on  
18 behalf of the insured and no violation of the policy defeats or voids  
19 the policy.

20 (2) The satisfaction by the insured of a judgment for  
21 injury or damages is not a condition precedent to the right or duty of  
22 the insurance carrier to make payment on account of injury or damage.

23 (3) The insurance carrier may settle a claim covered by the  
24 policy, and if settlement is made in good faith, the amount of settle-  
25 ment is deductible from the limits of liability specified in (b) of  
26 this section.

27 (4) The policy, the written application for the policy, if  
28 any, and every rider or endorsement that does not conflict with the  
29 provisions of this chapter constitute the entire contract between the

1 parties.

2 (g) A policy that grants the coverage required for a motor  
3 vehicle liability policy may also grant lawful coverage in excess of  
4 or in addition to the coverage specified for a policy and the excess  
5 or additional coverage is not subject to the provisions of this chap-  
6 ter. With respect to a policy that grants excess or additional cover-  
7 age the term "motor vehicle liability policy" applies only to that  
8 part of the coverage that is required by this section.

9 (h) A motor vehicle liability policy may provide that the in-  
10 sured shall reimburse the insurance carrier for any payment the insur-  
11 ance carrier would not have been obligated to make under the terms of  
12 the policy except for the provisions of this chapter.

13 (i) A motor vehicle liability policy may provide for proration  
14 of the insurance with other valid and collectible insurance.

15 (j) The requirements for a motor vehicle liability policy may be  
16 fulfilled by the policies of one or more insurance carriers who to-  
17 gether meet the requirements.

18 (k) A binder issued pending the issuance of a motor vehicle  
19 liability policy fulfills the requirements for a policy.

20 (l) The insurance carrier shall provide notice to the department  
21 of the termination of coverage commenced during the preceding 180 days  
22 under (a) of this section within 10 days of actual knowledge of the  
23 termination or written notice of intent to terminate. The department  
24 may notify the insurance carrier of a person with previous policy  
25 abuses and require notice of termination of coverage for the person  
26 after the person is given an opportunity for a department hearing. If  
27 the person whose coverage terminates fails to provide the department  
28 with evidence satisfactory to it of the existence of a motor vehicle  
29 liability policy issued in conformity with this section, the

1 department shall suspend the driver's license and all registration  
2 certificates and registration plates issued to the owner of the motor  
3 vehicle until the owner has complied with this section.

4 (m) The insurance carrier authorized to transact business in the  
5 state who issues a motor vehicle liability policy to the owner of a  
6 motor vehicle under this section shall provide the owner with a card  
7 indicating the existence of the policy. The operator of the vehicle  
8 shall at all times carry in the motor vehicle the card indicating the  
9 existence of the policy.

10 Sec. 28.22.020. REQUIREMENTS OF POLICY. (a) A policy is not  
11 effective under AS 28.22.010 unless it is issued by an insurance  
12 company or surety company authorized to do business in this state,  
13 except as provided in (b) of this section, and unless it complies with  
14 the limit requirements established in AS 28.22.010(b)(2).

15 (b) A policy is not effective under AS 28.22.010 with respect to  
16 a vehicle not registered in the state or a vehicle that was registered  
17 in another jurisdiction at the effective date of the policy or the  
18 most recent renewal of it, unless the insurance or surety company  
19 issuing the policy is authorized to do business in the state, or if  
20 the company is not authorized to do business in the state, unless it  
21 executes a power of attorney authorizing the director of the division  
22 of insurance to accept service on its behalf of notice or process in  
23 an action upon the policy arising out of the accident.

24 Sec. 28.22.500. DRIVING VEHICLE WITHOUT EVIDENCE OF MOTOR VEHI-  
25 CLE LIABILITY POLICY. (a) A person may not drive or move nor may an  
26 owner knowingly permit to be driven or moved on a highway or vehicular  
27 way or area a vehicle required to be insured under a motor vehicle  
28 liability policy that complies with AS 28.22.010 unless a motor vehi-  
29 cle liability policy is in effect for the motor vehicle.

1 (b) If a peace officer has probable cause to believe a motor  
2 vehicle was used in the commission of an offense under (a) of this  
3 section, a citation will be issued as prescribed in AS 28.05.151 for a  
4 bail amount of not less than \$250. The charge and fine will be dis-  
5 missed and bail amount refunded if evidence is presented to the court  
6 within five days showing insurance policy coverage as required by  
7 AS 28.22.010 was in effect at the time the citation was issued.

8 (c) A person who violates (a) of this section commits a class B  
9 misdemeanor. The court shall impose a fine of not less than \$250 and  
10 may impose up to the maximum fine established by AS 12.55.035 for a  
11 person convicted of a class B misdemeanor. The court may not suspend  
12 the minimum fine imposed under this subsection. Imposition of a  
13 sentence imposed under AS 12.55.135 may not be suspended except upon  
14 the condition that the fine is paid in accordance with AS 12.55.-  
15 051(a).

16 (d) In addition to the sanctions for a violation of (a) of this  
17 section established by (b) of this section, the court shall impose the  
18 following sanctions on a person who is convicted of violating (a) of  
19 this section:

20 (1) For a person not previously convicted of an offense  
21 under (a) of this section;

22 (A) suspension of that person's driver's license for  
23 up to 30 days;

24 (B) suspension of the registration of the subject  
25 motor vehicle until proof of compliance with AS 28.10.011 is  
26 furnished to the department.

27 (2) For a person once previously convicted of an offense  
28 under (a) of this section within 10 years;

29 (A) suspension of that person's driver's license

1 without limited license privileges for a minimum of 30 days and  
2 up to 90 days;

3 (B) suspension of the registration of the subject  
4 motor vehicle which will be impounded for a minimum of 90 days  
5 and thereafter until proof of compliance with AS 28.10.011 is  
6 furnished to the department. A motor vehicle may not be im-  
7 pounded under this section until an opportunity for a judicial  
8 hearing is allowed any person indicated on the vehicle certifi-  
9 cate of title or who has a lien interest in the motor vehicle.

10 (3) For a person twice or more previously convicted of an  
11 offense under (a) of this section within 10 years;

12 (A) suspension of that person's driver's license  
13 without limited license privileges for a minimum of 90 days and  
14 up to one year;

15 (B) forfeiture of the person's motor vehicle under  
16 AS 28.22.520.

17 Sec. 28.22.510. IMPOUNDMENT OF MOTOR VEHICLE; EXCEPTIONS. (a)

18 If a peace officer has probable cause to believe a motor vehicle was  
19 used in the commission of an offense under AS 28.22.500, that motor  
20 vehicle may be impounded by the peace officer or released to a person  
21 with a right to possess the vehicle. When the motor vehicle is re-  
22 leased under (c) or (d) of this section, the owner or person with the  
23 right to possess the motor vehicle shall pay the necessary costs of  
24 impounding and storing the vehicle before it may be released.

25 (b) Impoundment of a motor vehicle under this section is

26 (1) until the owner submits proof of insurance if the driver  
27 has not previously been convicted of violating AS 28.22.500;

28 (2) minimum of 30 days up to 90 days if the driver has been  
29 once previously convicted of violating AS 28.22.500 within the last 10

1 years.

2 (c) Upon impoundment of a motor vehicle under this section a  
3 notice and an opportunity for a hearing under AS 28.05.131 shall be  
4 provided to the driver of the motor vehicle at the time of the im-  
5 poundment, to the person with the right to possess the motor vehicle,  
6 and to any other person who has an ownership interest in the motor  
7 vehicle. The motor vehicle shall be released to the owner or person  
8 with the right to possess the motor vehicle if it is determined after  
9 the hearing that the impoundment was improper or that at the time of  
10 impoundment the motor vehicle was being driven

11 (1) by a person other than the owner or person with the  
12 right to possess the motor vehicle; and

13 (2) without the consent of the owner or person with the  
14 right to possess the motor vehicle.

15 (d) A motor vehicle impounded under this section shall be re-  
16 leased to the owner or person with the right to possess the motor  
17 vehicle if

18 (1) the driver is not charged within 10 days of impoundment  
19 with an offense under AS 28.22.500 related to the impoundment;

20 (2) the charge of an offense under AS 28.22.500 related to  
21 the impoundment is dropped or dismissed; or

22 (3) the driver is acquitted of all offenses under Af  
23 22.500 related to the impoundment.

24 (e) If an impounded motor vehicle is not released under (c, or  
25 (d) of this section, a motor vehicle lienholder may repossess for sale  
26 and shall pay the impoundment fee from the sale proceeds.

27 Sec. 28.22.520. FORFEITURE OF MOTOR VEHICLE. (a) Upon convic-  
28 tion of an offense under AS 28.22.500 the court may order the forfei-  
29 ture of the motor vehicle involved in the commission of the offense if

1 the convicted person was previously convicted twice or more in this  
2 jurisdiction of violating AS 28.22.500 or in another jurisdiction  
3 convicted of violating twice or more a statute similar to AS 28.22.500  
4 within the last 10 years.

5 (b) Upon forfeiture of a motor vehicle the court shall require  
6 the surrender of the registration and certificate of title of that  
7 motor vehicle for delivery by the court to the department.

8 (c) If not released under AS 28.22.530(c), a motor vehicle  
9 forfeited under this section may be disposed of by the department by  
10 sale under AS 09.35.140 - 09.35.180. A motor vehicle lienholder may  
11 make a minimum bid in the amount of the lien.

12 Sec. 28.22.530. REMISSION OF FORFEITURES. (a) Upon ordering  
13 forfeiture of a motor vehicle under AS 28.22.520, the court shall  
14 within five days provide to every person who has an ownership or  
15 security interest in the motor vehicle written notice of the forfei-  
16 ture that includes

- 17 (1) a description of the motor vehicle;  
18 (2) the time and place of the forfeiture;  
19 (3) the legal authority under which the motor vehicle was  
20 forfeited;  
21 (4) notice of the right to file a petition for remission of  
22 interest in the forfeited motor vehicle.

23 (b) Upon receipt of a petition for remission of interest in a  
24 forfeited motor vehicle the court shall hold a hearing on the question  
25 and shall order remission of the interest if the petitioner shows that

- 26 (1) the petitioner has an interest in the motor vehicle  
27 acquired in good faith;  
28 (2) a person other than the petitioner was convicted of the  
29 offense that resulted in the forfeiture;

1 (3) before parting with the motor vehicle the ownerpeti-  
2 tioner did not know or have reasonable cause to believe that it would  
3 be used in the commission of an offense.

4 (c) An order for remission under this section may provide for

5 (1) reimbursement of the petitioner's interest in the motor  
6 vehicle; or

7 (2) the petitioner's repossession of the motor vehicle and  
8 that petitioner may obtain title to the motor vehicle from the depart-  
9 ment.

10 Sec. 28.22.540. UNUSED MOTOR VEHICLES. A person may terminate  
11 or suspend a motor vehicle liability policy covering a vehicle that is  
12 unused. A person exercising this option shall remove the unused  
13 vehicle plates and deliver them to the nearest department office.  
14 When the vehicle is to be used the person shall present evidence  
15 satisfactory to the department of a motor vehicle liability policy  
16 that complies with AS 28.22.010 covering the vehicle and person, at  
17 which time the department shall reissue vehicle plates to the person.

18 Sec. 28.22.550. ANNUAL REPORT. Beginning in 1986, the Depart-  
19 ment of Commerce and Economic Development shall submit a report to the  
20 legislature no later than February 1 of each year on the administra-  
21 tion of this chapter. The report shall include

22 (1) a review of this chapter's effect on the number of  
23 uninsured motorists before and after it was adopted;

24 (2) the administrative problems and costs of enforcing this  
25 chapter for the courts and involved departments; and

26 (3) the effect of the program on motor vehicle liability  
27 premiums in the state.

28 \* Sec. 18. AS 21.89.020(a) is amended to read:

29 (a) A motor vehicle [AN AUTOMOBILE] liability policy that

1 [WHICH] insures an owner or operator of a motor vehicle against loss  
2 resulting from [HIS] liability for bodily injury or death, or for  
3 property injury or destruction, or both, which is sold in the [THIS]  
4 state after June 30, 1983 [JANUARY 1, 1969], by an insurance carrier  
5 authorized to transact business in the [THIS] state, shall comply with  
6 AS 28.22.010 [CONTAIN LIMITS IN AT LEAST THE AMOUNT PRESCRIBED FOR A  
7 MOTOR VEHICLE LIABILITY POLICY IN AS 28.20.440(b)(2), AND MEET THE  
8 REQUIREMENTS OF AS 28.20.440(b)(3) UNLESS WAIVED AS PROVIDED IN THAT  
9 PARAGRAPH].

10 \* Sec. 19. Section 7 of this Act takes effect January 1, 1985.

11 \* Sec. 20. Except for section 7, this Act takes effect July 1, 1984.

Offered: 4/25/83  
Referred: Judiciary and Finance

Original sponsors: Hayes, Barnes,  
Phillips, et al

1 IN THE HOUSE BY THE LABOR AND  
AND COMMERCE COMMITTEE  
2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 7 (L&C)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 THIRTEENTH LEGISLATURE - FIRST SESSION  
5 A BILL  
6 For an Act entitled: "An Act relating to motor vehicles; and providing for  
7 an effective date."  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
9 \* Section 1. DECLARATION OF PURPOSE. The legislature is concerned over  
10 the rising toll of motor vehicle accidents and the suffering and loss in-  
11 flicted by them. The legislature determines that it is a matter of grave  
12 concern that motorists be financially responsible for their negligent acts  
13 so that innocent victims of motor vehicle accidents may be recompensed for  
14 the injury and financial loss inflicted upon them. The legislature finds  
15 and declares that the public interest can best be served by the requirement  
16 that the owner of a motor vehicle be required to furnish evidence of the  
17 existence of a motor vehicle liability policy issued in conformity with  
18 AS 28.22.010 when the vehicle registration is made or renewed as a pre-  
19 requisite to the exercise of the privilege of registering and operating a  
20 motor vehicle in the state.  
21 \* Sec. 2. AS 28.10.011 is amended by adding a new paragraph to read:  
22 (12) a mobile home as defined in AS 45.30.100.  
23 \* Sec. 3. AS 28.10.011 is amended by adding a new subsection to read:  
24 (b) An owner of a vehicle may not register a vehicle in the  
25 state and may not renew the registration of a vehicle in the state  
26 without providing evidence satisfactory to the department of the  
27 existence of a motor vehicle liability policy that complies with  
28 AS 28.22.010.  
29 \* Sec. 4. AS 28.10.021 is amended by adding a new subsection to read:

1 (b) A certificate of registration may not be issued under this  
2 section unless the owner complies with AS 28.10.011(b).

3 \* Sec. 5. AS 28.10.111 is amended by adding a new subsection to read:

4 (c) The department may not renew the registration of a vehicle  
5 under this section unless the owner complies with AS 28.10.011(b).

6 \* Sec. 6. AS 28.10.201(b) is amended to read:

7 (b) The owner of a vehicle described in AS 28.10.011 as being  
8 exempt from registration and the owner of a snowmobile or off-highway  
9 vehicle may not apply for, nor may the department issue, a certificate  
10 of title for such a vehicle. However, the department may issue a  
11 certificate of title to the owner of a vehicle exempt from registra-  
12 tion under AS 28.10.011(3), (6), (7), (11) and (12), [28.10.011(6)]  
13 upon application by that owner.

14 \* Sec. 7. AS 28.15.011 is amended by adding a new subsection to read:

15 (d) Under this section a person's driver's license may be issued  
16 or renewed only on presentation of evidence satisfactory to the de-  
17 partment of the existence of a motor vehicle liability policy that  
18 complies with AS 28.22.010 for all motor vehicles owned by the person.  
19 A person who is the owner of a motor vehicle registered in another  
20 jurisdiction may be issued a driver's license only on presentation of  
21 evidence satisfactory to the department of the existence of a liabil-  
22 ity policy that provides coverage equivalent to that required by  
23 AS 28.22.010 for that person's operation of a motor vehicle.

24 \* Sec. 8. AS 28.15.011 is amended by adding a new subsection to read:

25 (e) The department shall suspend the driver's license of a  
26 person when the department is advised that the person's coverage is  
27 terminated and there has been no written response by the person to a  
28 written thirty-day notice by the department.

29 \* Sec. 9. AS 28.15.081(a) is amended to read:

1           (a) The department shall examine every applicant for a driver's  
2 license. The examination shall include (1) a test of the applicant's  
3 eyesight, (2) a test of the applicant's (HIS) ability to read and  
4 understand official traffic control devices, (3) the applicant's (HIS)  
5 knowledge of safe driving practices, (4) the applicant's knowledge of  
6 the effects of alcohol and drugs on drivers and the dangers of driving  
7 under the influence of alcohol or drugs, (5) the applicant's knowledge  
8 of laws relating to driving while intoxicated, (6) the applicant's  
9 knowledge of laws relating to financial responsibility, and the traf-  
10 fic laws and regulations of this state. The examination [, AND] and  
11 may include a demonstration of ability to exercise ordinary and rea-  
12 sonable control in the driving of a motor vehicle of the type and  
13 general class of vehicles for which the applicant seeks a license.  
14 However, an applicant who has not been previously issued a driver's  
15 license by this or another jurisdiction must demonstrate [HIS] abil-  
16 ity, and must present medical information that [WHICH] the department  
17 reasonably requires to determine [HIS] fitness to safely drive a motor  
18 vehicle of the type and general class of vehicles for which the appli-  
19 cant [HE] seeks a license.

20 \* Sec. 10. AS 28.20.070(a) is amended to read:

21           (a) No policy or bond is effective under AS 28.20.060 unless it  
22 is issued by an insurance company or surety company authorized to do  
23 business in this state, except as provided in (b) of this section, and  
24 if the accident resulted in bodily injury or death, unless the policy  
25 or bond is subject to a limit, exclusive of interest and costs, of not  
26 less than \$100,000 [\$25,000] because of bodily injury to or death of  
27 one person in any one accident and, subject to the same limit for one  
28 person, to a limit of not less than \$300,000 [\$50,000] because of  
29 bodily injury to or death of two or more persons in any one accident,

1 and if the accident has resulted in injury to, or destruction of,  
2 property to a limit of not less than \$50,000 [\$10,000] because of  
3 injury to or destruction of property of others in any one accident.

4 \* Sec. 11. AS 28.20.230(b) is amended to read:

5 (b) The term "proof of financial responsibility for the future"  
6 as used in this chapter means proof of ability to respond in damages  
7 for liability, on account of an accident occurring after the effective  
8 date of proof, which arises out of the ownership, maintenance or use  
9 of a vehicle subject to registration under the laws of this state, in  
10 the amount of \$100,000 [\$25,000] because of bodily injury to or death  
11 of one person in any one accident, and, subject to the same limit for  
12 one person, in the amount of \$300,000 [\$50,000] because of bodily  
13 injury to or death of two or more persons in any one accident, and in  
14 the amount of \$50,000 [\$10,000] because of injury to or destruction of  
15 property of others in any one accident. As used in this chapter the  
16 terms "proof of financial responsibility" or "proof" mean proof of  
17 financial responsibility for the future.

18 \* Sec. 12. AS 28.20.360(a) is amended to read:

19 (a) For the purpose of this chapter, a judgment is satisfied  
20 when

21 (1) \$100,000 [\$25,000] is credited upon a judgment given in  
22 excess of that amount because of bodily injury to or death of one  
23 person as the result of any one accident; or

24 (2) subject to the limit of \$100,000 [\$25,000] because of  
25 bodily injury to or death of one person, the sum of \$300,000 [\$50,000]  
26 is credited upon a judgment given in excess of that amount because of  
27 bodily injury to or death of two or more persons as the result of any  
28 one accident; or

29 (3) \$50,000 [\$10,000] is credited upon a judgment given in

1 excess of that amount because of injury to or destruction of property  
2 of others as a result of any one accident.

3 \* Sec. 13. AS 28.20.440(b)(2) is amended to read:

4 (2) insure the person named and every other person using  
5 the vehicle with the express or implied permission of the named insur-  
6 ed, against loss from the liability imposed by law for damages arising  
7 out of the ownership, maintenance or use of the vehicle within the  
8 United States of America or the Dominion of Canada, subject to limits  
9 exclusive of interests and costs, with respect to each vehicle, as  
10 follows: \$100,000 [\$25,000] because of bodily injury to or death of  
11 one person in any one accident, and, subject to the same limit for one  
12 person, \$300,000 [\$50,000] because of bodily injury to or death of two  
13 or more persons in any one accident, and \$50,000 [\$10,000] because of  
14 injury to or destruction of property of others in any one accident;

15 \* Sec. 14. AS 28.20.440(b)(3) is amended to read:

16 (3) contain coverage in the amounts set out in (2) of this  
17 subsection for the protection of the persons insured under the policy  
18 who are legally entitled to recover damages from owners or operators  
19 of uninsured or underinsured motor vehicles because of bodily injury  
20 or death, or damage to or destruction of property arising out of the  
21 ownership, maintenance or use of the uninsured or underinsured motor  
22 vehicle, except that this coverage or part of it may be waived in  
23 writing by the insured on or before the effective date of the policy.

24 \* Sec. 15. AS 28.20.440 is amended by adding new subsections to read:

25 (1) The insurance carrier shall provide notice to the department  
26 of the termination of coverage commenced during the preceding 180 days  
27 under (a) of this section within 10 days of actual knowledge of the  
28 termination or written notice of intent to terminate. The department  
29 may notify the insurance carrier of a person with previous policy

1 abuses and require notice of termination of coverage for the person  
2 after the person is given an opportunity for a department hearing. If  
3 the person whose coverage terminates fails to provide the department  
4 with evidence satisfactory to it of the existence of a motor vehicle  
5 liability policy issued in conformity with this section, the depart-  
6 ment shall suspend the driver's license and all registration certifi-  
7 cates and registration plates issued to the owner of the motor vehicle  
8 until the owner has complied with this section.

9 (m) The insurance carrier authorized to transact business in the  
10 state who issues a motor vehicle liability policy to the owner of a  
11 motor vehicle under this section shall provide the owner with a card  
12 indicating the existence of the policy. The operator of the vehicle  
13 shall at all times carry in the motor vehicle the card indicating the  
14 existence of the policy.

15 \* Sec. 16. AS 28.20.490 is amended to read:

16 Sec. 28.20.490. MONEY OR SECURITIES AS PROOF. Proof of finan-  
17 cial responsibility may be evidenced by the deposit of \$100,000  
18 [\$25,000] in cash, or securities which are legal investments for  
19 saving banks or trust funds having a market value of \$100,000  
20 [\$25,000]. The department shall not accept a deposit unless accom-  
21 panied by evidence that there are no unsatisfied judgments of any  
22 character against the depositor in the recording district where the  
23 depositor resides.

24 \* Sec. 17. AS 28 is amended by adding a new chapter to read:

25 CHAPTER 22. MOTOR VEHICLE LIABILITY INSURANCE.

26 Sec. 28.22.010. MOTOR VEHICLE LIABILITY POLICY. (a) In AS 28.-  
27 10.011 and this chapter "motor vehicle liability policy" means an  
28 "owner policy" or an "operator's policy" containing an agreement or  
29 endorsement as provided in this section and issued by an insurance

1 carrier authorized to transact business in the state to or for the  
2 benefit of the person named as insured.

3 (b) The owner's policy of liability insurance shall

4 (1) designate by description or appropriate reference all  
5 vehicles that it covers;

6 (2) insure the person named and every other person using  
7 the vehicle with the express or implied permission of the named insur-  
8 ed, against loss from the liability imposed by law for damages arising  
9 out of the ownership, maintenance, or use of the vehicle in the United  
10 States or the Dominion of Canada, subject to limits exclusive of  
11 interests and costs, with respect to each vehicle, as follows:

12 (A) \$100,000 because of bodily injury to or death of  
13 one person in any one accident, and, subject to the same limit  
14 for one person, \$300,000 because of bodily injury to or death of  
15 two or more persons in any one accident; and

16 (B) \$50,000 because of injury to or destruction of  
17 property of others in any one accident;

18 (3) contain coverage in the amounts set out in (2) of this  
19 subsection for the protection of the persons insured under the policy  
20 who are legally entitled to recover damages from the owner or operator  
21 of an uninsured or underinsured motor vehicle because of property  
22 damage or bodily injury or death, or damage to or destruction of  
23 property arising out of the ownership, maintenance, or use of the  
24 uninsured or underinsured motor vehicle, except that this coverage or  
25 part of it may be waived in writing by the insured on or before the  
26 effective date of the policy.

27 (c) The operator's policy of liability insurance shall insure  
28 the person named as insured against loss from the liability imposed on  
29 the operator by law for damages arising out of the use by the operator

1 of a motor vehicle not owned by the operator, within the same territo-  
2 rial limits and subject to the same limits of liability as are re-  
3 quired for an owner's policy of liability insurance.

4 (d) The motor vehicle liability policy shall state the name and  
5 address of the named insured, the coverage, the premium charges, the  
6 policy period and the limits of liability, and shall contain an agree-  
7 ment or an endorsement that insurance is provided in accordance with  
8 the coverage defined in (b)(2) of this section for bodily injury and  
9 death or property damage, or both.

10 (e) The motor vehicle liability policy need not insure liability  
11 under a workers' compensation law nor liability for damage to property  
12 owned by, rented to, in charge of, or transported by the insured.

13 (f) Every motor vehicle liability policy is subject to the  
14 following provisions but these provisions need not be contained in the  
15 policy:

16 (1) The liability of the insurance carrier becomes absolute  
17 whenever injury or damage covered by the policy occurs. The policy  
18 may not be cancelled or annulled as to this liability after the occur-  
19 rence of the injury or damage. No statement made by the insured or on  
20 behalf of the insured and no violation of the policy defeats or voids  
21 the policy.

22 (2) The satisfaction by the insured of a judgment for  
23 injury or damages is not a condition precedent to the right or duty of  
24 the insurance carrier to make payment on account of injury or damage.

25 (3) The insurance carrier may settle a claim covered by the  
26 policy, and if settlement is made in good faith, the amount of settle-  
27 ment is deductible from the limits of liability specified in (b) of  
28 this section.

29 (4) The policy, the written application for the policy, if

1 any, and every rider or endorsement that does not conflict with the  
2 provisions of this chapter constitute the entire contract between the  
3 parties.

4 (g) A policy that grants the coverage required for a motor  
5 vehicle liability policy may also grant lawful coverage in excess of  
6 or in addition to the coverage specified for a policy and the excess  
7 or additional coverage is not subject to the provisions of this chap-  
8 ter. With respect to a policy that grants excess or additional cover-  
9 age the term "motor vehicle liability policy" applies only to that  
10 part of the coverage that is required by this section.

11 (h) A motor vehicle liability policy may provide that the in-  
12 sured shall reimburse the insurance carrier for any payment the insur-  
13 ance carrier would not have been obligated to make under the terms of  
14 the policy except for the provisions of this chapter.

15 (i) A motor vehicle liability policy may provide for proration  
16 of the insurance with other valid and collectible insurance.

17 (j) The requirements for a motor vehicle liability policy may be  
18 fulfilled by the policies of one or more insurance carriers who to-  
19 gether meet the requirements.

20 (k) A binder issued pending the issuance of a motor vehicle  
21 liability policy fulfills the requirements for a policy.

22 (l) The insurance carrier shall provide notice to the department  
23 of the termination of coverage commenced during the preceding 180 days  
24 under (a) of this section within 10 days of actual knowledge of the  
25 termination or written notice of intent to terminate. The department  
26 may notify the insurance carrier of a person with previous policy  
27 abuses and require notice of termination of coverage for the person  
28 after the person is given an opportunity for a department hearing. If  
29 the person whose coverage terminates fails to provide the department

1 with evidence satisfactory to it of the existence of a motor vehicle  
2 liability policy issued in conformity with this section, the depart-  
3 ment shall suspend the driver's license and all registration certifi-  
4 cates and registration plates issued to the owner of the motor vehicle  
5 until the owner has complied with this section.

6 (m) The insurance carrier authorized to transact business in the  
7 state who issues a motor vehicle liability policy to the owner of a  
8 motor vehicle under this section shall provide the owner with a card  
9 indicating the existence of the policy. The operator of the vehicle  
10 shall at all times carry in the motor vehicle the card indicating the  
11 existence of the policy.

12 Sec. 28.22.020. REQUIREMENTS OF POLICY. (a) A policy is not  
13 effective under AS 28.22.010 unless it is issued by an insurance  
14 company or surety company authorized to do business in this state,  
15 except as provided in (b) of this section, and unless it complies with  
16 the limit requirements established in AS 28.22.010(b)(2).

17 (b) A policy is not effective under AS 28.22.010 with respect to  
18 a vehicle not registered in the state or a vehicle that was registered  
19 in another jurisdiction at the effective date of the policy or the  
20 most recent renewal of it, unless the insurance or surety company  
21 issuing the policy is authorized to do business in the state, or if  
22 the company is not authorized to do business in the state, unless it  
23 executes a power of attorney authorizing the director of the division  
24 of insurance to accept service on its behalf of notice or process in  
25 an action upon the policy arising out of the accident.

26 Sec. 28.22.500. DRIVING VEHICLE WITHOUT EVIDENCE OF MOTOR VEHI-  
27 CLE LIABILITY POLICY. (a) A person may not drive or move nor may an  
28 owner knowingly permit to be driven or moved on a highway or vehicular  
29 way or area a vehicle required to be insured under a motor vehicle

1 liability policy that complies with AS 28.22.010 unless a motor vehi-  
2 cle liability policy is in effect for the motor vehicle.

3 (b) If a peace officer has probable cause to believe a motor  
4 vehicle was used in the commission of an offense under (a) of this  
5 section, a citation will be issued as prescribed in AS 28.05.151 for a  
6 bail amount of not less than \$250. The charge and fine will be dis-  
7 missed and bail amount refunded if evidence is presented to the court  
8 within five days showing insurance policy coverage as required by  
9 AS 28.22.010 was in effect at the time the citation was issued.

10 (c) A person who violates (a) of this section commits a class B  
11 misdemeanor. The court shall impose a fine of not less than \$250 and  
12 may impose up to the maximum fine established by AS 12.55.035 for a  
13 person convicted of a class B misdemeanor. The court may not suspend  
14 the minimum fine imposed under this subsection. Imposition of a  
15 sentence imposed under AS 12.55.135 may not be suspended except upon  
16 the condition that the fine is paid in accordance with AS 12.55.-  
17 051(a).

18 (d) In addition to the sanctions for a violation of (a) of this  
19 section established by (b) of this section, the court shall impose the  
20 following sanctions on a person who is convicted of violating (a) of  
21 this section:

22 (1) For a person not previously convicted of an offense  
23 under (a) of this section;

24 (A) suspension of that person's driver's license for  
25 up to 30 days;

26 (B) suspension of the registration of the subject  
27 motor vehicle until proof of compliance with AS 28.10.011 is  
28 furnished to the department.

29 (2) For a person once previously convicted of an offense

1 under (a) of this section within 10 years;

2 (A) suspension of that person's driver's license  
3 without limited license privileges for a minimum of 30 days and  
4 up to 90 days;

5 (B) suspension of the registration of the subject  
6 motor vehicle which will be impounded for a minimum of 90 days  
7 and thereafter until proof of compliance with AS 28.10.011 is  
8 furnished to the department. A motor vehicle may not be im-  
9 pounded under this section until an opportunity for a judicial  
10 hearing is allowed any person indicated on the vehicle certifi-  
11 cate of title or who has a lien interest in the motor vehicle.

12 (3) For a person twice or more previously convicted of an  
13 offense under (a) of this section within 10 years;

14 (A) suspension of that person's driver's license  
15 without limited license privileges for a minimum of 90 days and  
16 up to one year;

17 (B) forfeiture of the person's motor vehicle under  
18 AS 28.22.520.

19 Sec. 28.22.510. IMPOUNDMENT OF MOTOR VEHICLE; EXCEPTIONS. (a)  
20 If a peace officer has probable cause to believe a motor vehicle was  
21 used in the commission of an offense under AS 28.22.500, that motor  
22 vehicle may be impounded by the peace officer or released to a person  
23 with a right to possess the vehicle. When the motor vehicle is re-  
24 leased under (c) or (d) of this section, the owner or person with the  
25 right to possess the motor vehicle shall pay the necessary costs of  
26 impounding and storing the vehicle before it may be released.

27 (b) Impoundment of a motor vehicle under this section is

28 (1) until the owner submits proof of insurance if the driver  
29 has not previously been convicted of violating AS 28.22.500;

1           (2) minimum of 30 days up to 90 days if the driver has been  
2 once previously convicted of violating AS 28.22.500 within the last 10  
3 years.

4           (c) Upon impoundment of a motor vehicle under this section a  
5 notice and an opportunity for a hearing under AS 28.05.131 shall be  
6 provided to the driver of the motor vehicle at the time of the im-  
7 poundment, to the person with the right to possess the motor vehicle,  
8 and to any other person who has an ownership interest in the motor  
9 vehicle. The motor vehicle shall be released to the owner or person  
10 with the right to possess the motor vehicle if it is determined after  
11 the hearing that the impoundment was improper or that at the time of  
12 impoundment the motor vehicle was being driven

13           (1) by a person other than the owner or person with the  
14 right to possess the motor vehicle; and

15           (2) without the consent of the owner or person with the  
16 right to possess the motor vehicle.

17           (d) A motor vehicle impounded under this section shall be re-  
18 leased to the owner or person with the right to possess the motor  
19 vehicle if

20           (1) the driver is not charged within 10 days of impoundment  
21 with an offense under AS 28.22.500 related to the impoundment;

22           (2) the charge of an offense under AS 28.22.500 related to  
23 the impoundment is dropped or dismissed; or

24           (3) the driver is acquitted of all offenses under AS 28.-  
25 22.500 related to the impoundment.

26           (e) If an impounded motor vehicle is not released under (c) or  
27 (d) of this section, a motor vehicle lienholder may repossess for sale  
28 and shall pay the impoundment fee from the sale proceeds.

29           Sec. 28.22.520. FORFEITURE OF MOTOR VEHICLE. (a) Upon

1           (2) a person other than the petitioner was convicted of the  
2 offense that resulted in the forfeiture;

3           (3) before parting with the motor vehicle the owner-peti-  
4 tioner did not know or have reasonable cause to believe that it would  
5 be used in the commission of an offense.

6           (c) An order for remission under this section may provide for

7           (1) reimbursement of the petitioner's interest in the motor  
8 vehicle; or

9           (2) the petitioner's repossession of the motor vehicle and  
10 that petitioner may obtain title to the motor vehicle from the depart-  
11 ment.

12           Sec. 28.22.540. UNUSED MOTOR VEHICLES. A person may terminate  
13 or suspend a motor vehicle liability policy covering a vehicle that is  
14 unused. A person exercising this option shall remove the unused  
15 vehicle plates and deliver them to the nearest department office.  
16 When the vehicle is to be used the person shall present evidence  
17 satisfactory to the department of a motor vehicle liability policy  
18 that complies with AS 28.22.010 covering the vehicle and person, at  
19 which time the department shall reissue vehicle plates to the person.

20           Sec. 28.22.550. ANNUAL REPORT. Beginning in 1986, the Depart-  
21 ment of Commerce and Economic Development shall submit a report to the  
22 legislature no later than February 1 of each year on the administra-  
23 tion of this chapter. The report shall include

24           (1) a review of this chapter's effect on the number of  
25 uninsured motorists before and after it was adopted;

26           (2) the administrative problems and costs of enforcing this  
27 chapter for the courts and involved departments; and

28           (3) the effect of the program on motor vehicle liability  
29 premiums in the state.

1 \* Sec. 18. AS 21.89.020(a) is amended to read:

2 (a) An automobile liability policy that [WHICH] insures an owner  
3 or operator of a motor vehicle against loss resulting from [HIS]  
4 liability for bodily injury or death, or for property injury or de-  
5 struction, or both, which is sold in the state [AFTER JANUARY 1, 1969,  
6 BY AN INSURANCE CARRIER AUTHORIZED TO TRANSACT BUSINESS IN THIS  
7 STATE], shall contain limits in at least the amount prescribed for a  
8 motor vehicle liability policy in AS 28.20.440(b)(2), [AND MEET THE  
9 REQUIREMENTS OF AS 28.20.440(b)(3) UNLESS WAIVED AS PROVIDED IN THAT  
10 PARAGRAPH].

11 \* Sec. 19. Section AS 21.89.020 is amended by adding a new subsection  
12 to read:

13 (c) In addition to the coverages and limits required in (a) of  
14 this section, an insurance company offering automobile liability  
15 insurance in this state shall offer coverage, with limits equal to at  
16 least the limit purchased voluntarily to cover the insured persons  
17 liability, for the protection of the persons insured under the policy  
18 who are legally entitled to recover damages from owners or operators  
19 of uninsured or underinsured motor vehicles. The coverage shall be  
20 offered in four parts, one or more of which may be waived under  
21 AS 28.20.440(b)(3) or AS 28.22.010(b)(3). The parts are:

- 22 (1) uninsured motorists, bodily injury;  
23 (2) uninsured motorists, property damage;  
24 (3) underinsured motorists, bodily injury; and  
25 (4) underinsured motorists, property damage.

26 \* Sec. 20. Section 7 of this Act takes effect January 1, 1985.

27 \* Sec. 21. Except for sec. 7, this Act takes effect July 1, 1984.





1 IN THE HOUSE

BY GRUSSENDORF AND BARNES

2

HOUSE BILL NO. 8

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to judicial retention elections; and  
7 providing for an effective date."

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

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

10

CHAPTER 18. RETENTION ELECTIONS.

11

Sec. 22.18.010. APPROVAL OR REJECTION OF SUPREME COURT JUSTICES.

12

Each supreme court justice is subject to approval or rejection as pro-  
13 vided in the Alaska Election Code (AS 15). The judicial council shall  
14 conduct an evaluation of each justice before the retention election  
15 and shall provide to the public information about that justice and may  
16 provide a recommendation regarding retention or rejection. The infor-  
17 mation and any recommendation shall be made public at least 60 days  
18 before the retention election. The judicial council shall also pro-  
19 vide the information and any recommendation to the office of the  
20 lieutenant governor in time for publication in the election pamphlet  
21 under AS 15.58.050. If a majority of those voting on the question  
22 rejects the candidacy of the justice, the rejected justice may not be  
23 appointed to fill a vacancy in the supreme court, court of appeals,  
24 superior court, or district courts of the state for a period of four  
25 years after the rejection.

26

Sec. 22.18.020. APPROVAL OR REJECTION OF COURT OF APPEALS

27

JUDGES. Each judge of the court of appeals is subject to approval or  
28 rejection as provided in the Alaska Election Code (AS 15). The judi-  
29 cial council shall conduct an evaluation of each judge before the

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

1 IN THE HOUSE

BY GRUSSENDORF AND BARNES

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HOUSE BILL NO. 8

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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6 the office of the lieutenant governor in time for publication in the  
7 election pamphlet under AS 15.58.050. If a majority of those voting  
8 on the question rejects the candidacy of the judge, the rejected judge  
9 may not for a period of four years after the rejection be appointed to  
10 fill a vacancy in the supreme court, court of appeals, superior court,  
11 or district courts of the state.

12 Sec. 22.18.030. APPROVAL OR REJECTION OF SUPERIOR COURT JUDGES.

13 Each superior court judge is subject to approval or rejection as pro-  
14 vided in AS 22.18.050 and the Alaska Election Code (AS 15). The judi-  
15 cial council shall conduct an evaluation of each judge before the  
16 retention election and shall provide to the public information about  
17 the judge and may provide a recommendation regarding retention or  
18 rejection. The information and any recommendation shall be made  
19 public at least 60 days before the retention election. The judicial  
20 council shall also provide the information and any recommendation to  
21 the office of the lieutenant governor in time for publication in the  
22 election pamphlet under AS 15.58.050. If a majority of those voting  
23 on the question rejects the candidacy of the judge, the rejected judge  
24 may not for a period of four years after the rejection be appointed to  
25 fill a vacancy in the supreme court, court of appeals, superior court,  
26 or district courts of the state.

27 Sec. 22.18.040. APPROVAL OR REJECTION OF DISTRICT COURT JUDGES.

28 Each district court judge is subject to approval or rejection as pro-  
29 vided in AS 22.18.050 and the Alaska Election Code (AS 15). The

1 judicial council shall conduct an evaluation of each judge before the  
2 retention election and shall provide to the public information about  
3 the judge and may provide a recommendation regarding retention or  
4 rejection. The information and any recommendation shall be made  
5 public at least 60 days before the retention election. The judicial  
6 council shall also provide the information and any recommendation to  
7 the office of the lieutenant governor in time for publication in the  
8 election pamphlet under AS 15,58,050. If a majority of those voting  
9 on the question rejects the candidacy of the judge, the rejected  
10 district judge may not for a period of four years after the rejection  
11 be appointed to fill a vacancy in the supreme court, court of appeals,  
12 superior court, or district courts of the state.

13 Sec. 22,18.050. JUDICIAL RETENTION ELECTION DISTRICTS FOR THE  
14 SUPERIOR AND DISTRICT COURTS. (a) Except as provided in (c) and (d)  
15 of this section, if a judge of the superior or district court seeks  
16 retention in office, the judge shall be voted on by the voters in the  
17 judicial retention election district in which the judge is a resident.

18 (b) For purposes of this section, the judicial retention elec-  
19 tion districts of the state are the election districts as they are  
20 described in art. XIV of the state constitution as it existed on  
21 March 19, 1959.

22 (c) If the judicial council certifies to the director of elec-  
23 tions that the judge seeking retention has routinely and frequently  
24 heard cases that arise in a district outside of the district in which  
25 the judge is resident, the judge will also be voted on for retention  
26 by the voters in that district.

27 (d) If the judicial council certifies to the director of elec-  
28 tions that most of the cases heard by a judge seeking retention in  
29 office do not arise in the district in which the judge is resident,

1 then the judge shall be voted on for retention only by the voters in  
2 the district or districts in which the judge routinely and frequently  
3 hears cases.

4 \* Sec. 2. AS 15.35.090 is amended to read:

5 Sec. 15.35.090. PLACING NAME OF SUPERIOR COURT JUDGE ON BALLOT.

6 The director shall place the name of a superior court judge who has  
7 properly filed a declaration of candidacy for retention on the judi-  
8 cial ballot in the [JUDICIAL] district or districts as provided under  
9 AS 22.18.050 [DESIGNATED IN HIS DECLARATION OF CANDIDACY FOR THE  
10 GENERAL ELECTION AT WHICH APPROVAL IS SOUGHT].

11 \* Sec. 3. AS 15.35.130 is amended to read:

12 Sec. 15.35.130. PLACING NAME OF DISTRICT JUDGE ON BALLOT. The

13 director shall place the name of a district judge who has properly  
14 filed a declaration of candidacy for retention on the judicial ballot  
15 in the [JUDICIAL] district or districts as provided under AS 22.18.050  
16 [DESIGNATED IN HIS DECLARATION OF CANDIDACY FOR THE GENERAL ELECTION  
17 AT WHICH APPROVAL IS SOUGHT].

18 \* Sec. 4. AS 22.05.100, AS 22.07.040, AS 22.10.150, and AS 22.15.195  
19 are repealed.

20 \* Sec. 5. This Act takes effect immediately in accordance with AS 01.-  
21 10.070(c).

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No.: HB 6  
 Title: Judicial Retention Elections  
 Sponsor: Grussendorf and Barnes  
 Requestor: \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected: AK Judicial Council  
 Program Category Affected: Justice  
 BRU, Program of Subprogram(s) Affected: Judicial Council

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		8.8	-0-	3.0	-0-	3.5
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		8.8	-0-	3.0	-0-	3.5
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		8.8	-0-	3.0	-0-	3.5
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Francis L. Bremson, Executive Director Phone: 279-2526  
 Division: Judicial Council Date: April 27, 1983

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
 Department: \_\_\_\_\_

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

3/8/83

STATE OF ALASKA  
FISCAL NOTE

Revision Date 4-25, 1983

I. REQUEST

Bill/Resolution No.: HB 8  
 Title: Judicial Retention Elections  
 Sponsor: Grussendorf & Barnes  
 Requestor: House Finance

II. FISCAL DETAIL

Agency Affected: Office of the Governor  
 Program Category Affected: Exec. Operations  
 BRU, Program of Subprogram(s) Affected: Division of Elections

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL			91.8		101.4	
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	91.8	-0-	101.4	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

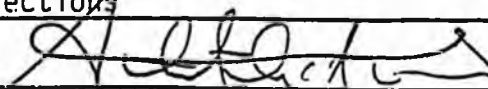
GENERAL FUND	-0-	-0-	91.8	-0-	101.4	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Dana C. Coffman, Deputy Director  
 Division: Division of Elections  
 Approved by Commissioner:   
 Department: \_\_\_\_\_

Phone: 586-6181  
 Date: April 26, 1983  
 Date: 4-26-83

Distribution:

Original to Legislative Finance  
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3/8/83

HOUSE BILL NO. 8

"An Act relating to judicial retention elections"

ASSUMPTIONS:

1. The passage of this legislation will initially affect the 1984 General Election ballots.
2. There will be 24 election districts as were designated in 1959.
3. Necessity of printing 24 separate ballots - one for each of the judicial retention districts.
4. Additional 12% inflation for each of the subsequent election years.

No additional funds are required beyond the Contractual Services area. Additional postage, printing and advertising costs will be required for the printing of 24 separate ballots. There will also be costs associated with printing additional pages in the Official Election Pamphlet, and postage associated with the heavier weight of the pamphlet.

Programming costs related to ballot counting will be substantial.

A Professional Services Agreement will be required in FY 85 (\$10,000) to contract for the production of a cross-reference listing of communities using the 1959 and 1981 reapportionments.

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No.: HB 8  
 Title: Judicial Retention Elections  
 Sponsor: Grussendorf and Barnes  
 Requestor: \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected: AK Judicial Council  
 Program Category Affected: Justice  
 BRU, Program of Subprogram(s) Affected: Judicial Council

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		8.8	-0-	3.0	-0-	3.5
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
<b>TOTAL OPERATING</b>		8.8	-0-	3.0	-0-	3.5
<b>CAPITAL</b>						
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)

GENERAL FUND		8.8	-0-	3.0	-0-	3.5
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Francis L. Bremson, Executive Director Phone: 279-2526  
 Division: Judicial Council Date: April 27, 1983  
 Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
 Department: \_\_\_\_\_

Distribution:

Original to Legislative Finance  
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3/8/83



## Alaska Judicial Council

NON-ATTORNEY MEMBERS  
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JOHN E. LONGWORTH  
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EXECUTIVE DIRECTOR  
FRANCIS L. BREMSON

ATTORNEY MEMBERS  
JAMES B. BRADLEY  
JOSEPH L. YOUNG  
BARBARA L. SCHUHMAN

April 27, 1983

CHAIRMAN, EX OFFICIO  
EDMOND W. BURKE  
CHIEF JUSTICE  
SUPREME COURT

### M E M O R A N D U M

TO: Representative Albert P. Adams  
Chairman, House Finance Committee

FROM: Francis L. Bremson, Executive Director  
Alaska Judicial Council

RE: Fiscal Impact of HB 8

HB 8 would require the Judicial Council to certify to the director of elections that a judge seeking retention has "routinely and frequently heard cases that arise in a district outside of the district in which the judge is a resident" [Sec. 22.18.050(c)]; or that "most of the cases heard by a judge seeking retention in office do not arise in the district in which the judge is a resident" [Sec. 22.18.050(d)].

In order to so certify, the Council would first need to define "routinely and frequently". This determination would be especially important for voters in the 10 election districts not currently served by resident judges (1, 6, 7, 11, 14, 15, 17, 18, 20, 24). Ideally, any such definition would be based on an analysis of caseload and assignment patterns by election district, in order to develop an equitable standard and one which would not effectively disenfranchise voters in the more rural districts. It is estimated that the cost of collecting and analyzing caseload and assignment data and of developing an appropriate standard would be \$6,250, based on 25 days of professional staff time at \$250 per day.



## Alaska Judicial Council

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April 27, 1983

CHAIRMAN, EX OFFICIO  
EDMOND W. BURKE  
CHIEF JUSTICE  
SUPREME COURT

### M E M O R A N D U M

TO: Representative Albert P. Adams  
Chairman, House Finance Committee

FROM: Francis L. Bremson, Executive Director  
Alaska Judicial Council

RE: Fiscal Impact of HB 8

HB 8 would require the Judicial Council to certify to the director of elections that a judge seeking retention has "routinely and frequently heard cases that arise in a district outside of the district in which the judge is a resident" [Sec. 22.18.050(c)]; or that "most of the cases heard by a judge seeking retention in office do not arise in the district in which the judge is a resident" [Sec. 22.18.050(d)].

In order to so certify, the Council would first need to define "routinely and frequently". This determination would be especially important for voters in the 10 election districts not currently served by resident judges (1, 6, 7, 11, 14, 15, 17, 18, 20, 24). Ideally, any such definition would be based on an analysis of caseload and assignment patterns by election district, in order to develop an equitable standard and one which would not effectively disenfranchise voters in the more rural districts. It is estimated that the cost of collecting and analyzing caseload and assignment data and of developing an appropriate standard would be \$6,250, based on 25 days of professional staff time at \$250 per day.

MEMORANDUM

TO: Representative Albert P. Adams  
Chairman, House Finance Committee  
RE: Fiscal Impact of HB 8  
April 27, 1983  
Page -2-

Once the standard has been established, the Council will need to collect certain information which will enable staff to monitor judges' appearances from district to district. Such information may be discernible from a periodic review of travel records and/or court calendars presently maintained by the court system, subject to identification of court location by election district and subject further to analysis of such data in accord with the standard/formula developed earlier. It is estimated that the cost of such monitoring function would be approximately \$2,500 per retention year, based upon 10 days of professional staff time at an average rate of \$250 per day, assuming that certification for each judge would require a review of an average of six years travel/assignment records, and assuming an average of 15 trial judges were seeking election on retention every two years.

Although the legislation does not require modification of the existing retention evaluation procedures, the Council's responsibility to familiarize voters in each district with candidates for retention in such districts would, at a minimum, require tailoring of voter publications and possibly greater localized dissemination of evaluation results. At a maximum, this objective could require development of a public information program as well as increased on-site interviews and evaluations of judge performance, particularly in light of studies on Bush justice which have found that some judges on assignment to the Bush may process cases differently from the way cases are processed in the districts of the judges' residences. Because changes in evaluation procedures are not required by the bill, a zero fiscal note for this function is presented. Nonetheless, if expansion or modification of the process is anticipated, it is estimated that such additional procedures would, at a minimum, require the equivalent of one-half time of one additional staff person every other year or, for FY '84, \$26,000 (based on  $1/2 \times \$40,000 \times 1.3$  fringe benefits).

FLB:ce

The following individuals are expected to testify on  
HB 8:

Representative Ben Grussendorf, prime sponsor

Karla Forsythe, General Counsel, Alaska Court System

Mary Lou Miners, Director, Division of Elections

# Alaska State Legislature



REPRESENTATIVE  
BEN GRUSSENDORF  
P.O. BOX 928  
SITKA, ALASKA 99835  
(907) 747-8458

HOUSE FINANCE COMMITTEE  
SPECIAL COMMITTEE ON FISHERIES

DISTRICT 3  
ELFIN COVE  
PELICAN  
PORT ALEXANDER  
SITKA  
HOONAH  
TENAKEE

WHILE IN JUNEAU  
POUCH V  
JUNEAU, ALASKA  
99811  
(907) 465-3824  
(907) 465-4965

## House of Representatives

April 22, 1983

### MEMORANDUM

TO: Rep. Albert Adams  
FROM: Rep. Ben Grussendorf  
RE: HB 8- Judicial Retention Elections- analysis

#### Section 1

Adds a chapter to Title 22. This section re-enacts existing language now found in separate chapters relating to approval or rejection of judges (AS 22.10.151, Supreme Court Judges, AS 22.07.060, Court of Appeal Judges, AS 22.10.150, Superior Court Judges and AS 22.15.195, District Court Judges).

Sec. 22.18.050 addresses the retention election districts.  
(a) states that the judge shall be voted on in the district in which he lives, except in the cases of (c) and (d) below;

(b) changes the retention election districts to the way they existed on March 19, 1959;

(c) allow voters outside of the district in which a judge lives to vote on the retention of that judge if he routinely and frequently hears cases in that district;

(d) allows that if most cases heard by a judge are outside of the district in which he lives, only those voters in those districts in which he routinely and frequently hears cases shall vote on his retention.

#### Section 2

Amends AS 15.35.090 to allow Superior Court Judges to be on the ballot in more than one district if he hears cases in more than one district.

#### Section 3

Amends AS 15.35.130, same as Section 2, for District Court Judges.

Rep.A. Adams- HB 8  
April 26, 1983  
Page Two

Section 4

Repeals sections now dealing with approval or rejection of judges. ( This same language now appears in Section 1 of this legislation).

Section 5

Effective date clause. Immediate effective date.



Alaska Judicial Council

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EDMOND W. BURKE  
CHIEF JUSTICE  
SUPREME COURT

March 16, 1983

Representative Charlie Bussell  
Chairman, House Judiciary Committee  
State Capitol  
Pouch 5  
Juneau, AK 99811

RE: House Bill 8 and Senate Bill 84

Dear Representative Bussell:

The Alaska Judicial Council wishes to go on record in opposition to House Bill 8 and Senate Bill 84, both of which are currently under consideration by the Alaska State Legislature. Both bills would alter the number and size of election districts for judicial retention purposes and, thereby, the roles and responsibilities of the Judicial Council.

At the Council's meeting in Anchorage on February 15-16, 1983, Council members specified the following statutory, administrative and constitutional bases for its objections to the legislation:

Statutory Reasons:

- The difficulty of the Judicial Council determining, on the basis of vague language ("routinely and frequently"), whether a judge should be subject to election in districts other than the one in which he/she resides;
- The possible conflict created by requiring the Council to determine where a judge must run, while at the same time evaluating the judge for retention purposes.

Representative Charlie Bussell  
March 16, 1983  
Page two

Administrative Reasons

- The possibility that some voters, while within the jurisdiction of one Judicial District, would actually vote for retention purposes for the judge of another Judicial District;
- The confusion occasioned by using different election districts for retention elections than are used for general elections.

Constitutional Reasons

- The possibility that voters in whose election districts no Superior and/or District Court exists may be disenfranchised, either because the election district does not include a court, or because the district is served by one or more judges, none of whom hear matters "routinely or frequently" in such districts.

Should you or any member of your Committee wish to discuss the Council's position with regard to this legislation in further detail, please let me know. I would be pleased to appear before the committee to testify in opposition to this legislation at such time and place as may be convenient.

Thank you for the opportunity to present the Council's position on this matter.

Sincerely,



Francis L. Bremson  
Executive Director

FLB/pjd

cc: Alaska Judicial Council

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y. STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 18, 1982

SUBJECT: Judicial retention elections -- HB 624.

TO: Representative Ramona L. Barnes  
Chairman, House Judiciary Committee

FROM: Richard A. Bradley  
Legislative Counsel *B*

You have asked that I explain the provision of HB 624 that ties judicial retention election districts to the legislative election districts as they existed in 1959: Sec. 22.18.050(b) (as enacted in Sec. 1 of HB 624) provides:

(b) For purposes of the section, the judicial retention election districts of the state are the election districts as they are described in art. XIV of the state constitution as it existed on March 19, 1959.

March 19, 1959 has no particular significance in itself; it is merely the effective date of Chapter 50, SLA 1959, the Act that established the Alaska court system and became the basis for AS 22.

The source of the date is AS 22.10.010, the section providing for the "establishment of the superior court" and establishing the borders of the four judicial districts of the superior court. The language of the section establishes each judicial district with reference to identified election districts, "as said districts are described in art. XIV of the state constitution on March 19, 1959".

Ever since the Alaska court system was established, the jurisdiction of the superior court has been tied to the 1959 election district borders. While the districts for the election of members of the legislature have varied since then, no alteration of the borders of the four judicial districts has occurred.

088

Representative Kona L. Barnes

Page 2

February 18, 1982

I have no idea whether the judicial districts are obsolete in their borders or would benefit from revision. I am aware that there was some interest in that question several years ago but I believe the difficulties that caused the proposals may have been resolved otherwise. But I suggest that this bill should not seek to establish retention districts for judges in terms of the recent reapportionment, for example, without simultaneously altering the judicial districts of the superior court. Since the judicial districts establish lines in which cases may be brought and heard by particular judges, they should also establish the districts in which the judges seek retention.

If I may assist further, please advise. If you wish me to attend your hearing tomorrow, give me a call and I will come over.

RAB:ljb



Alaska Court System  
State of Alaska

KARLA L. FORSYTHE  
General Counsel

OFFICE OF ADMINISTRATIVE DIRECTOR

303 K Street  
Anchorage, AK 99501

April 26, 1983

Representative Albert P. Adams  
Chairman, House Finance Committee  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Representative Adams:

It is my understanding that the House Finance Committee is hearing House Bill 8 on Wednesday, April 27. I have been advised by a committee aide that although testimony from the Alaska Court System will not be necessary, the court system is welcome to submit its comments. This letter is therefore intended to convey to the committee the position of the Alaska Court System regarding House Bill 8.

Proposed sections 22.18.101, .020, .030 and .040 make minor changes to the current statutes dealing with approval and rejection of judges, and consolidate these statutes within one chapter of AS 22. These revisions would have no impact upon the court system.

Proposed section 22.18.050 changes the geographical area for judicial retention elections from judicial districts to the 1959 state election districts. Judges would stand for election in districts where they reside. If the Judicial Council certifies to the director of elections that a judge "routinely and frequently" hears cases that arise outside the district of residence, the judge shall stand for election in that district or districts as well. If "most" of the cases heard by a judge do not arise in a district in which the judge resides, then the judge shall be voted on only by voters in districts where he or she routinely and frequently hears cases.

This provision substantially changes current procedures for retention elections. Under current law, judges face retention election in the judicial districts to which they were originally appointed. If a judge has been assigned or transferred, the

judge seeks approval in the district where the judge has served the major portion of his or her term. The judge designates the appropriate district and the director of elections then places the name of the judge on the ballot in the judicial district designated by the judge. This is a simple and clearcut procedure for determining where a judge will stand for retention election.

In contrast, the proposed legislation provides that the Judicial Council must decide whether a judge has "routinely and frequently" heard cases arising outside the district of residence. This process is confusing, difficult to administer, and legally troublesome.

1. **Constitutional Ramifications.** Article IV, Section 6 of the Alaska Constitution provides that judges shall in the manner provided by law be subject to approval or rejection. Under current procedures, the legislature by law has provided that judges shall seek approval in the districts of their original appointment, or the district in which they have served a major portion of their terms (AS 15.35.080 and .100).

Rather than providing by law for a retention election procedure, the proposed bill delegates to the Judicial Council the task of certifying whether a judge has routinely and frequently heard cases arising outside the district of his or her residence. The phrase "routinely and frequently" is not defined, leaving its interpretation to the Judicial Council.

This approach raises constitutional questions, because it delegates a legislative duty to the judicial branch. Additionally, the manner in which this duty shall be exercised is left to the Judicial Council, and is not "provided by law" as required by the constitution.

It can be argued that the Judicial Council is authorized by the constitution to perform this legislative duty. Article IV, section 9 provides that the council "shall perform other duties assigned by law." However, given the importance of elections and election procedures, it can also be argued that the two sections should not be read together. Thus, the legislature by statute can assign duties to the Judicial Council beyond those listed in the constitution, but the legislature must by statute provide for retention election procedures.

2. **Disenfranchisement of Voters.** A judge will face election in the district of his or her residence, as well as in any district in which he or she routinely and frequently hears cases. However, there are no resident judges in 10 of the 24 districts.

For some of the proposed districts, the lack of a resident judge does not create a problem. As an example, proposed District 11 (Seward) is normally served by the superior judge from Kenai.

However, several districts have neither a resident judge nor one particular judge who "routinely and frequently" hears cases from that district. These districts include District 6 (Haines and Skagway, served by judges from throughout the first judicial district), District 14 (Aleutian chain, served by judges from Anchorage on a rotating basis), and District 15 (Dillingham and Naknek, also served by Anchorage). Additionally, although Judge VanHoomissen provides superior court services to District 18 and 20, district court judges from Fairbanks hear cases in these proposed districts on a rotating basis.

As a result, although cases from these districts are routinely and frequently heard by judges from another district, there is no one judge who routinely and frequently hears cases arising in the district.

If a district is served by more than one judge, none of whom hears matters "routinely and frequently" in the district, there is the possibility that voters in the district would be disenfranchised under the current wording of the legislation.

### 3. Implementation.

- a. The phrase "routinely and frequently" is not defined. Since judicial retention elections are constitutionally required, this phrase may be too vague to survive a constitutional challenge.
- b. The bills provide that a judge may not be appointed for four years "if a majority of those voting on the question rejects the candidacy of the judge." This provision can be interpreted in two different ways. The first thwarts the goal of judicial accountability to the voters. A majority of the voters in District 12 (Kenai and Homer) might reject a judge, while a majority of the voters in another district in which the judge routinely and frequently hears cases might vote for retention (for example, District 11 - Seward). The statute could be interpreted to require the ouster of the judge based on "a majority of those voting" despite the fact that one district wanted to retain the judge. Although current provisions lead to the same result (for example, the Anchorage vote will outweigh votes from outlying third district locations), this outcome is inconsistent with the aim of the bill.

The statute could also be interpreted to require ouster only in those districts in which a majority voted against retention. This interpretation would lead to substantial administrative problems. The judge would be retained in the less frequently served district, and another judge would have to be appointed for the resident district. This interpretation would affect the court system budget for compensation and retirement, and adversely impact caseload efficiency.

- c. It is confusing to use one set of election districts for election purposes, another set of election districts for judicial retention purposes, and the four judicial districts for administrative purposes.

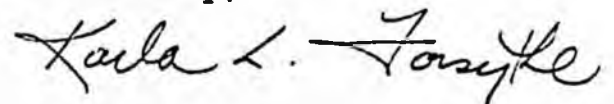
The goal of this legislation as articulated by its proponents is to increase judges' accountability to district residents. The approach outlined in the bill assumes that residents of a circumscribed geographic area will be more familiar with a judge than voters in outlying areas.

There are two difficulties with this assumption. First, voters throughout the state frequently voice concerns about their lack of knowledge regarding even judges in their local courts. Decreasing the size of the voting area will not necessarily increase voters' ability to cast a knowledgeable vote. Second, the decreased voting area has the effect of politicizing retention elections, because issues of the moment rather than overall judicial ability may become the basis for retention or rejection. If the purpose of judicial retention elections is for the electorate to vote based upon a judge's adjudicatory abilities rather than upon the outcome of a sensational case, creating smaller districts increases the risk that politics rather than merit will determine the outcome.

The fundamental principle of accountability to the voters is well served by efficient, workable and constitutionally adequate judicial retention election procedures. The proposed bill falls short of this standard.

The court system will be glad to answer any questions from the committee or to provide additional information.

Sincerely,



Karla L. Forsythe  
General Counsel

cc: Representative Robert Bettisworth, Vice Chairman  
Representative Vernon Hurlbert  
Representative Sam Pestinger  
Representative Ben Grussendorf  
Representative Terry Martin  
Representative Jerry Ward  
Representative Joe Flood  
Representative John Lindauer  
Representative Jim Duncan  
Representative Fred Zharoff  
Chief Justice Edmond W. Burke  
Arthur H. Snowden, II

STATE OF ALASKA  
THE LEGISLATURE

HOUSE OF REPRESENTATIVES  
JUNE 19, 1966  
907-465 3600

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

November 20, 1981

SUBJECT: Judicial retention election districts  
(Work Order No. 12-1852)

TO Representative Ben F. Grussendorf

FROM: Richard A. Bradley **B**  
Legislative Counsel

Enclosed is a bill responsive to your request.

I consider the bill constitutional.

Article IV, sec. 6 explicitly permits the legislature to require that a superior court judge be subject to approval or rejection on a nonpartisan ballot "in the manner provided by law". In my opinion, the present formulas regarding the retention elections for judges of the superior court are not of a constitutional dimension.

Regarding the district court, the procedures for their retention elections (or not) are entirely committed to legislative discretion, assuming only general principles of fairness, since that court is a legislative creation.

As the bill evolved during the drafting and review process, I had initially dealt with southeastern Alaska separately as I had suggested to you that I might. I established separate election retention districts for each of the six election districts that existed in southeastern Alaska as of 1959. Note that the "jurisdiction of the superior court" is cast in terms of the election districts as they existed in 1959. See AS 22.10.010. It makes sense, therefore, to have the retention elections conform to the same districts.

But as I considered the question, it seemed that the logic of the application to this judicial district presented no special or unique questions and that therefore the appli-

cation of the bill should be made statewide. That resolves the problem of "special and local legislation". This has been done and I think that the result is not awkward and is probably reasonable.

It is simply a drafting technique to move the four provisions dealing with "approval or rejection" of judges into one new chapter. Thus you will recognize that new AS 22.-18.010 is essentially identical to present sec. 22.05.100; similarly AS 22.18.020, 22.18.030, and 22.18.040 are AS 22.-07.060, 22.10.150 and 22.15.195, respectively.

Sec. 22.18.050 states the basic goals of your request. The concepts of sec. 50(b) are derived from AS 22.10.010, the section establishing the jurisdiction of the superior court.

The six districts in southeastern Alaska from which judges will be elected are:

1. Prince of Wales;
2. Ketchikan;
3. Wrangell - Petersburg;
4. Sitka;
5. Juneau; and
6. Lynn Canal - Icy Straits.

This results in a general shrinking of the areas in which a judge is voted on, unless he routinely hears cases in another 1959 election district.

The only problem in implementation of the section lies in the responsibility given to the judicial council to determine whether the judge "routinely and frequently" hears cases outside his division of residence. I have intentionally not sought to define the phrase; I consider that it gives an adequate guide to the council and a more precise tool may be undesirable.

As suggested, I have provided that the judge will also be voted on in a district outside the district in which he was a resident if the judicial council certifies to the director of elections that the judge "heard cases routinely and frequently" outside of the district in which the judge was a resident. I consider this provision necessary to deal with those residents of the state who may be outside the district

where judges are resident. If they are excluded from voting on judges where the judge "routinely and frequently" travels to hear cases affecting them, I think problems are created.

You should recognize also that the amendments to AS 15.35.090 and 15.35.130 appear to constitute a reversal of the present law (at present the judge "designates" the judicial district in which he seeks election) and the establishment of a more objective standard than the one stated in existing law to determine where a judge should be voted on. At the same time, recognize that it will have the result of changing the present situation on retention elections in westward Alaska (as in southeastern). I have not sought to anticipate its implications there.

If I may answer any other questions on this matter, please advise.

RAB:ljb

Enclosure

1 IN THE HOUSE

BY GRUSSENDORF AND BARNES

2

HOUSE BILL NO. 8

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to judicial retention elections; and  
7 providing for an effective date."

7

8

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

9

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

10

CHAPTER 18. RETENTION ELECTIONS.

11

Sec. 22.18.010. APPROVAL OR REJECTION OF SUPREME COURT JUSTICES.

12

Each supreme court justice is subject to approval or rejection as pro-  
13 vided in the Alaska Election Code (AS 15). The judicial council shall  
14 conduct an evaluation of each justice before the retention election  
15 and shall provide to the public information about that justice and may  
16 provide a recommendation regarding retention or rejection. The infor-  
17 mation and any recommendation shall be made public at least 60 days  
18 before the retention election. The judicial council shall also pro-  
19 vide the information and any recommendation to the office of the  
20 lieutenant governor in time for publication in the election pamphlet  
21 under AS 15.58.050. If a majority of those voting on the question  
22 rejects the candidacy of the justice, the rejected justice may not be  
23 appointed to fill a vacancy in the supreme court, court of appeals,  
24 superior court, or district courts of the state for a period of four  
25 years after the rejection.

26

Sec. 22.18.020. APPROVAL OR REJECTION OF COURT OF APPEALS

27

JUDGES. Each judge of the court of appeals is subject to approval or  
28 rejection as provided in the Alaska Election Code (AS 15). The judi-  
29 cial council shall conduct an evaluation of each judge before the

1 retention election and shall provide to the public information about  
2 the judge and may provide a recommendation regarding retention or  
3 rejection. The information and any recommendation shall be made  
4 public at least 60 days before the retention election. The judicial  
5 council shall also provide the information and any recommendation to  
6 the office of the lieutenant governor in time for publication in the  
7 election pamphlet under AS 15.58.050. If a majority of those voting  
8 on the question rejects the candidacy of the judge, the rejected judge  
9 may not for a period of four years after the rejection be appointed to  
10 fill a vacancy in the supreme court, court of appeals, superior court,  
11 or district courts of the state.

12 Sec. 22.18.030. APPROVAL OR REJECTION OF SUPERIOR COURT JUDGES.

13 Each superior court judge is subject to approval or rejection as pro-  
14 vided in AS 22.18.050 and the Alaska Election Code (AS 15). The judi-  
15 cial council shall conduct an evaluation of each judge before the  
16 retention election and shall provide to the public information about  
17 the judge and may provide a recommendation regarding retention or  
18 rejection. The information and any recommendation shall be made  
19 public at least 60 days before the retention election. The judicial  
20 council shall also provide the information and any recommendation to  
21 the office of the lieutenant governor in time for publication in the  
22 election pamphlet under AS 15.58.050. If a majority of those voting  
23 on the question rejects the candidacy of the judge, the rejected judge  
24 may not for a period of four years after the rejection be appointed to  
25 fill a vacancy in the supreme court, court of appeals, superior court,  
26 or district courts of the state.

27 Sec. 22.18.040. APPROVAL OR REJECTION OF DISTRICT COURT JUDGES.

28 Each district court judge is subject to approval or rejection as pro-  
29 vided in AS 22.18.050 and the Alaska Election Code (AS 15). The

1 judicial council shall conduct an evaluation of each judge before the  
2 retention election and shall provide to the public information about  
3 the judge and may provide a recommendation regarding retention or  
4 rejection. The information and any recommendation shall be made  
5 public at least 60 days before the retention election. The judicial  
6 council shall also provide the information and any recommendation to  
7 the office of the lieutenant governor in time for publication in the  
8 election pamphlet under AS 15.58.050. If a majority of those voting  
9 on the question rejects the candidacy of the judge, the rejected  
10 district judge may not for a period of four years after the rejection  
11 be appointed to fill a vacancy in the supreme court, court of appeals,  
12 superior court, or district courts of the state.

13 Sec. 22.18.050. JUDICIAL RETENTION ELECTION DISTRICTS FOR THE  
14 SUPERIOR AND DISTRICT COURTS. (a) Except as provided in (c) and (d)  
15 of this section, if a judge of the superior or district court seeks  
16 retention in office, the judge shall be voted on by the voters in the  
17 judicial retention election district in which the judge is a resident.

18 (b) For purposes of this section, the judicial retention elec-  
19 tion districts of the state are the election districts as they are  
20 described in art. XIV of the state constitution as it existed on  
21 March 19, 1959.

22 (c) If the judicial council certifies to the director of elec-  
23 tions that the judge seeking retention has routinely and frequently  
24 heard cases that arise in a district outside of the district in which  
25 the judge is resident, the judge will also be voted on for retention  
26 by the voters in that district.

27 (d) If the judicial council certifies to the director of elec-  
28 tions that most of the cases heard by a judge seeking retention in  
29 office do not arise in the district in which the judge is resident,

1           then the judge shall be voted on for retention only by the voters in  
2           the district or districts in which the judge routinely and frequently  
3           hears cases.

4       \* Sec. 2. AS 15.35.090 is amended to read:

5           Sec. 15.35.090.   PLACING NAME OF SUPERIOR COURT JUDGE ON BALLOT.  
6           The director shall place the name of a superior court judge who has  
7           properly filed a declaration of candidacy for retention on the judi-  
8           cial ballot in the [JUDICIAL] district or districts as provided under  
9           AS 22.18.050 [DESIGNATED IN HIS DECLARATION OF CANDIDACY FOR THE  
10          GENERAL ELECTION AT WHICH APPROVAL IS SOUGHT].

11       \* Sec. 3. AS 15.35.130 is amended to read:

12          Sec. 15.35.130.   PLACING NAME OF DISTRICT JUDGE ON BALLOT.   The  
13          director shall place the name of a district judge who has properly  
14          filed a declaration of candidacy for retention on the judicial ballot  
15          in the [JUDICIAL] district or districts as provided under AS 22.18.050  
16          [DESIGNATED IN HIS DECLARATION OF CANDIDACY FOR THE GENERAL ELECTION  
17          AT WHICH APPROVAL IS SOUGHT].

18       \* Sec. 4. AS 22.05.100, AS 22.07.060, AS 22.10.150, and AS 22.15.195  
19       are repealed.

20       \* Sec. 5. This Act takes effect immediately in accordance with AS 01.-  
21       10.070(c).



1 IN THE HOUSE

BY GRUSSENDORF AND BARNES

2

HOUSE BILL NO. 8

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to judicial retention elections; and  
7 providing for an effective date."

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

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

10

CHAPTER 18. RETENTION ELECTIONS.

11

Sec. 22.18.010. APPROVAL OR REJECTION OF SUPREME COURT JUSTICES.

12

Each supreme court justice is subject to approval or rejection as pro-  
13 vided in the Alaska Election Code (AS 15). The judicial council shall  
14 conduct an evaluation of each justice before the retention election  
15 and shall provide to the public information about that justice and may  
16 provide a recommendation regarding retention or rejection. The infor-  
17 mation and any recommendation shall be made public at least 60 days  
18 before the retention election. The judicial council shall also pro-  
19 vide the information and any recommendation to the office of the  
20 lieutenant governor in time for publication in the election pamphlet  
21 under AS 15.58.050. If a majority of those voting on the question  
22 rejects the candidacy of the justice, the rejected justice may not be  
23 appointed to fill a vacancy in the supreme court, court of appeals,  
24 superior court, or district courts of the state for a period of four  
25 years after the rejection.

26

Sec. 22.18.020. APPROVAL OR REJECTION OF COURT OF APPEALS

27

JUDGES. Each judge of the court of appeals is subject to approval or  
28 rejection as provided in the Alaska Election Code (AS 15). The judi-  
29 cial council shall conduct an evaluation of each judge before the

1 retention election and shall provide to the public information about  
2 the judge and may provide a recommendation regarding retention or  
3 rejection. The information and any recommendation shall be made  
4 public at least 60 days before the retention election. The judicial  
5 council shall also provide the information and any recommendation to  
6 the office of the lieutenant governor in time for publication in the  
7 election pamphlet under AS 15.58.050. If a majority of those voting  
8 on the question rejects the candidacy of the judge, the rejected judge  
9 may not for a period of four years after the rejection be appointed to  
10 fill a vacancy in the supreme court, court of appeals, superior court,  
11 or district courts of the state.

12 Sec. 22.18.030. APPROVAL OR REJECTION OF SUPERIOR COURT JUDGES.

13 Each superior court judge is subject to approval or rejection as pro-  
14 vided in AS 22.18.050 and the Alaska Election Code (AS 15). The judi-  
15 cial council shall conduct an evaluation of each judge before the  
16 retention election and shall provide to the public information about  
17 the judge and may provide a recommendation regarding retention or  
18 rejection. The information and any recommendation shall be made  
19 public at least 60 days before the retention election. The judicial  
20 council shall also provide the information and any recommendation to  
21 the office of the lieutenant governor in time for publication in the  
22 election pamphlet under AS 15.58.050. If a majority of those voting  
23 on the question rejects the candidacy of the judge, the rejected judge  
24 may not for a period of four years after the rejection be appointed to  
25 fill a vacancy in the supreme court, court of appeals, superior court,  
26 or district courts of the state.

27 Sec. 22.18.040. APPROVAL OR REJECTION OF DISTRICT COURT JUDGES.

28 Each district court judge is subject to approval or rejection as pro-  
29 vided in AS 22.18.050 and the Alaska Election Code (AS 15). The

1 judicial council shall conduct an evaluation of each judge before the  
2 retention election and shall provide to the public information about  
3 the judge and may provide a recommendation regarding retention or  
4 rejection. The information and any recommendation shall be made  
5 public at least 60 days before the retention election. The judicial  
6 council shall also provide the information and any recommendation to  
7 the office of the lieutenant governor in time for publication in the  
8 election pamphlet under AS 15.58.050. If a majority of those voting  
9 on the question rejects the candidacy of the judge, the rejected  
10 district judge may not for a period of four years after the rejection  
11 be appointed to fill a vacancy in the supreme court, court of appeals,  
12 superior court, or district courts of the state.

13 Sec. 22.18.050. JUDICIAL RETENTION ELECTION DISTRICTS FOR THE  
14 SUPERIOR AND DISTRICT COURTS. (a) Except as provided in (c) and (d)  
15 of this section, if a judge of the superior or district court seeks  
16 retention in office, the judge shall be voted on by the voters in the  
17 judicial retention election district in which the judge is a resident.

18 (b) For purposes of this section, the judicial retention elec-  
19 tion districts of the state are the election districts as they are  
20 described in art. XIV of the state constitution as it existed on  
21 March 19, 1959.

22 (c) If the judicial council certifies to the director of elec-  
23 tions that the judge seeking retention has routinely and frequently  
24 heard cases that arise in a district outside of the district in which  
25 the judge is resident, the judge will also be voted on for retention  
26 by the voters in that district.

27 (d) If the judicial council certifies to the director of elec-  
28 tions that most of the cases heard by a judge seeking retention in  
29 office do not arise in the district in which the judge is resident,

1 then the judge shall be voted on for retention only by the voters in  
2 the district or districts in which the judge routinely and frequently  
3 hears cases.

4 \* Sec. 2. AS 15.35.090 is amended to read:

5 Sec. 15.35.090. PLACING NAME OF SUPERIOR COURT JUDGE ON BALLOT.  
6 The director shall place the name of a superior court judge who has  
7 properly filed a declaration of candidacy for retention on the judi-  
8 cial ballot in the [JUDICIAL] district or districts as provided under  
9 AS 22.18.050 [DESIGNATED IN HIS DECLARATION OF CANDIDACY FOR THE  
10 GENERAL ELECTION AT WHICH APPROVAL IS SOUGHT].

11 \* Sec. 3. AS 15.35.130 is amended to read:

12 Sec. 15.35.130. PLACING NAME OF DISTRICT JUDGE ON BALLOT. The  
13 director shall place the name of a district judge who has properly  
14 filed a declaration of candidacy for retention on the judicial ballot  
15 in the [JUDICIAL] district or districts as provided under AS 22.18.050  
16 [DESIGNATED IN HIS DECLARATION OF CANDIDACY FOR THE GENERAL ELECTION  
17 AT WHICH APPROVAL IS SOUGHT].

18 \* Sec. 4. AS 22.05.100, AS 22.07.060, AS 22.10.150, and AS 22.15.195  
19 are repealed.

20 \* Sec. 5. This Act takes effect immediately in accordance with AS 01.-  
21 10.070(c).

COMMITTEE REPORT  
SENATE

FURTHER:

FINANCE

5/2/83

Date:

5/11/83

Mr. President:

The Committee on JUDICIARY has had HB 8

Relating to judicial retention elections; eff. date

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

~~do pass~~ <sup>may do not pass</sup>  do not pass

do pass with attached amendments(s)

replace with CS for \_\_\_\_\_  same title  new title

and recommends \_\_\_\_\_

AND attaches a "Letter of Intent"  New Fiscal Note

reports it back without recommendation

referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING

DO PASS

*[Handwritten signatures]*

MEMBERS HAVING

OTHER RECOMMENDATIONS:

*12 in L, D Not P.*  
*Joseph Do Not Pass*

*Bill Ray*  
CHAIRMAN  
*1 DO NOT PASS*



Alaska Court System  
State of Alaska

KARLA L. FORSYTHE  
General Counsel

OFFICE OF ADMINISTRATIVE DIRECTOR

303 K Street  
Anchorage, AK 99501

April 26, 1983

Representative Albert P. Adams  
Chairman, House Finance Committee  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Representative Adams:

It is my understanding that the House Finance Committee is hearing House Bill 8 on Wednesday, April 27. I have been advised by a committee aide that although testimony from the Alaska Court System will not be necessary, the court system is welcome to submit its comments. This letter is therefore intended to convey to the committee the position of the Alaska Court System regarding House Bill 8.

Proposed sections 22.18.101, .020, .030 and .040 make minor changes to the current statutes dealing with approval and rejection of judges, and consolidate these statutes within one chapter of AS 22. These revisions would have no impact upon the court system.

Proposed section 22.18.050 changes the geographical area for judicial retention elections from judicial districts to the 1959 state election districts. Judges would stand for election in districts where they reside. If the Judicial Council certifies to the director of elections that a judge "routinely and frequently" hears cases that arise outside the district of residence, the judge shall stand for election in that district or districts as well. If "most" of the cases heard by a judge do not arise in a district in which the judge resides, then the judge shall be voted on only by voters in districts where he or she routinely and frequently hears cases.

This provision substantially changes current procedures for retention elections. Under current law, judges face retention election in the judicial districts to which they were originally appointed. If a judge has been assigned or transferred, the

judge seeks approval in the district where the judge has served the major portion of his or her term. The judge designates the appropriate district and the director of elections then places the name of the judge on the ballot in the judicial district designated by the judge. This is a simple and clearcut procedure for determining where a judge will stand for retention election.

In contrast, the proposed legislation provides that the Judicial Council must decide whether a judge has "routinely and frequently" heard cases arising outside the district of residence. This process is confusing, difficult to administer, and legally troublesome.

1. **Constitutional Ramifications.** Article IV, Section 6 of the Alaska Constitution provides that judges shall in the manner provided by law be subject to approval or rejection. Under current procedures, the legislature by law has provided that judges shall seek approval in the districts of their original appointment, or the district in which they have served a major portion of their terms (AS 15.35.080 and .100).

Rather than providing by law for a retention election procedure, the proposed bill delegates to the Judicial Council the task of certifying whether a judge has routinely and frequently heard cases arising outside the district of his or her residence. The phrase "routinely and frequently" is not defined, leaving its interpretation to the Judicial Council.

This approach raises constitutional questions, because it delegates a legislative duty to the judicial branch. Additionally, the manner in which this duty shall be exercised is left to the Judicial Council, and is not "provided by law" as required by the constitution.

It can be argued that the Judicial Council is authorized by the constitution to perform this legislative duty. Article IV, section 9 provides that the council "shall perform other duties assigned by law." However, given the importance of elections and election procedures, it can also be argued that the two sections should not be read together. Thus, the legislature by statute can assign duties to the Judicial Council beyond those listed in the constitution, but the legislature must by statute provide for retention election procedures.

2. **Disenfranchisement of Voters.** A judge will face election in the district of his or her residence, as well as in any district in which he or she routinely and frequently hears cases. However, there are no resident judges in 10 of the 24 districts.

For some of the proposed districts, the lack of a resident judge does not create a problem. As an example, proposed District 11 (Seward) is normally served by the superior judge from Kenai.

However, several districts have neither a resident judge nor one particular judge who "routinely and frequently" hears cases from that district. These districts include District 6 (Haines and Skagway, served by judges from throughout the first judicial district), District 14 (Aleutian chain, served by judges from Anchorage on a rotating basis), and District 15 (Dillingham and Naknek, also served by Anchorage). Additionally, although Judge VanHoomissen provides superior court services to District 18 and 20, district court judges from Fairbanks hear cases in these proposed districts on a rotating basis.

As a result, although cases from these districts are routinely and frequently heard by judges from another district, there is no one judge who routinely and frequently hears cases arising in the district.

If a district is served by more than one judge, none of whom hears matters "routinely and frequently" in the district, there is the possibility that voters in the district would be disenfranchised under the current wording of the legislation.

### 3. Implementation.

- a. The phrase "routinely and frequently" is not defined. Since judicial retention elections are constitutionally required, this phrase may be too vague to survive a constitutional challenge.
- b. The bills provide that a judge may not be appointed for four years "if a majority of those voting on the question rejects the candidacy of the judge." This provision can be interpreted in two different ways. The first thwarts the goal of judicial accountability to the voters. A majority of the voters in District 12 (Kenai and Homer) might reject a judge, while a majority of the voters in another district in which the judge routinely and frequently hears cases might vote for retention (for example, District 11 - Seward). The statute could be interpreted to require the ouster of the judge based on "a majority of those voting" despite the fact that one district wanted to retain the judge. Although current provisions lead to the same result (for example, the Anchorage vote will outweigh votes from outlying third district locations), this outcome is inconsistent with the aim of the bill.

The statute could also be interpreted to require ouster only in those districts in which a majority voted against retention. This interpretation would lead to substantial administrative problems. The judge would be retained in the less frequently served district, and another judge would have to be appointed for the resident district. This interpretation would affect the court system budget for compensation and retirement, and adversely impact caseload efficiency.

- c. It is confusing to use one set of election districts for election purposes, another set of election districts for judicial retention purposes, and the four judicial districts for administrative purposes.

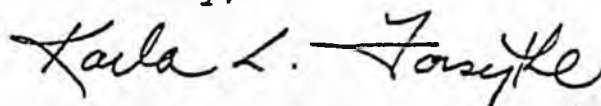
The goal of this legislation as articulated by its proponents is to increase judges' accountability to district residents. The approach outlined in the bill assumes that residents of a circumscribed geographic area will be more familiar with a judge than voters in outlying areas.

There are two difficulties with this assumption. First, voters throughout the state frequently voice concerns about their lack of knowledge regarding even judges in their local courts. Decreasing the size of the voting area will not necessarily increase voters' ability to cast a knowledgeable vote. Second, the decreased voting area has the effect of politicizing retention elections, because issues of the moment rather than overall judicial ability may become the basis for retention or rejection. If the purpose of judicial retention elections is for the electorate to vote based upon a judge's adjudicatory abilities rather than upon the outcome of a sensational case, creating smaller districts increases the risk that politics rather than merit will determine the outcome.

The fundamental principle of accountability to the voters is well served by efficient, workable and constitutionally adequate judicial retention election procedures. The proposed bill falls short of this standard.

The court system will be glad to answer any questions from the committee or to provide additional information.

Sincerely,



Karla L. Forsythe  
General Counsel