

LEG. FINANCE - BILLS 1983 - 1984 2131
SB 490 cont. - SB 491 2131

VECR
.37-399

BURR, PEASE & KURTZ, INC.
810 N STREET
ANCHORAGE, ALASKA 99501

TELEPHONE
AREA CODE 907
276-6100
TELEX NO.
(090) 26-405

1305 State of Alaska

December 19, 1983
Page 3
Inv. No. 21243

1 Judicial Misconduct

Grand Total

57,744.81

PAY THIS AMOUNT

57,744.81



Commission on Judicial
Conduct

303 K STREET
ANCHORAGE, ALASKA 99501
264-0528

March 9, 1984

Senator John Sackett
Co-Chairman
Senate Finance Committee
Pouch V (Mail Stop 3100)
State Capitol
Juneau, Alaska 99811

Dear Chairman Sackett:

The Commission on Judicial Conduct has exhausted its FY84 funding and is unable to meet the obligations imposed by Art. 4, §10 of the Alaska Constitution. The following budget breakdown is provided for our supplemental request for \$50,744.00 for FY84 to provide for our continued operation. These funds are necessary to meet our constitutional obligations under Art. IV, §10.

There are currently thirty complaints that are pending with the Commission. In one of these complaints, a probable cause determination has been made and formal charges have been filed. An attorney has been retained to prosecute these charges but there are no funds to pay for these services and no funds remain to conduct the Commission's formal proceedings in this matter. In order to avoid a major disruption of Judicial activities by extending these proceedings, it is necessary to schedule a hearing at the earliest possible date.

Five of the pending complaints require extensive travel and investigative time. Additionally, the lack of available funds will result in cancellation of the April 20, 1984 Commission meeting in Juneau.

Our FY84 budget was based on our former low level of activity due to a lack of quorum because of a gubernatorial appointment backlog. Additionally we have processed four complaints to the probable cause stage. This was not predictable because it had not occurred since 1975.

The following funds are necessary to cover the cost of our formal proceedings.

PROFESSIONAL SERVICES

Attorney to provide Prosecutorial Services - \$100/hour plus expenses

- Estimate 80-100 hours in Formal Case 83-004	10,000
- Case No. 83-003 actual billings (not budgeted)	7,744
TOTAL	\$17,744

PROFESSIONAL SERVICES

Staff Attorney to Commission - \$75.00/Hour	
Estimate 200 hours	
Formal Cases 83-001, 83-003 and 84-001	\$15,000

TRAVEL AND PER DIEM

Commission and Staff:

Fairbanks - Ketchikan (three 2-3 day trips)	
Anchorage - Ketchikan (five 2-3 day trips)	
Juneau - Ketchikan (two 2-3 day trips)	
Fairbanks - Anchorage (two 2-3 day trips)	
Juneau - Anchorage (two 2-3 day trips)	
Anchorage - Juneau - Sitka - Wrangell - Petersburg (one 5 day trip)	
TOTAL	\$14,000

Advertising (for meetings) and Transcripts of Proceedings

Estimate	4,000
TOTAL	<u>\$50,744</u>

<u>YEAR (FISCAL)</u>	<u>AMOUNT FUNDED</u>	<u>AMOUNT USED</u>	<u>AMT. UNUSED</u>
1980	27,600.00	8,117.32	19,482.68
1981	35,000.00	20,181.27	14,818.73
1982	55,400.00	29,265.59	26,134.41
1983	66,700.00	46,707.16	19,992.84
AMOUNT RETURNED TO TREASURY (TOTAL) FROM 1980-1983:			80,428.66

-100 DUE PROCESS

JUDICIAL QUALIFICATN JUDICIAL QUALIFICATN Current Yr. Appropriation

6/30/83

FUND 100 ACCOUNT 7200	BUDGET COMPONENT	0.65.05.36.00	ALASKA COURT SYSTEM	JUDICIAL QAUECATONS
AVEL AND MOVING	12,200.00			
NSTATE TRANSPORTATN		3,257.99		3,257.99
NSTATE PER DIEM		1,276.15		1,276.15
NSTATE TRANSPORTATN		402.00		402.00
NSTATE TRANSPORTATN		70.00-		70.00-
NSTATE PER DIEM		337.50		337.50
UTSIDE TRANSPORTATN		750.19		750.19
UTSIDE PER DIEM		1,236.17		1,236.17
NSTATE TRANSPORTATN		100.00		100.00
TAL TRAVEL AND MOVING	12,200.00	7,290.00		7,290.00
NTRACTUAL SERVICES	54,500.00			
ESSENGER SERVICE		241.50		241.50
DVERTISING		2,683.19		2,683.19
UBSCRIPTN/INFO SVC		1,000.00		1,000.00
ENTS & LEASES		240.25		240.25
UDITING & MANAGEMNT		228.00		228.00
ROFESSIONAL SVC NCE		31,168.92		31,168.92
ONFERENCE REGISTRAT		445.00		445.00
REIGHT EXPRESS/CART		239.75		239.75
EDISTRIBUTION OVRHD		3,029.00		3,029.00
ITAL CONTRACTUAL SERVICES	54,500.00	39,275.61		39,275.61
IPPLIES & MATERIALS		141.55		141.55
STATIONERY & SUPPLYS		141.55		141.55
ITAL SUPPLIES & MATERIALS		141.55		141.55
ITAL JUDICIAL QUALIFICATN	66,700.00	46,707.16		46,707.16
JN				
> 200	12,200.00	7,290.00		7,290.00
> 300	54,500.00	39,275.61		39,275.61
> 400		141.55		141.55
ITAL JUDICIAL QUALIFICATN	66,700.00	46,707.16		46,707.16

F483

4,910.00

15,224.39

141.55-

19,992.84

4,910.00

15,224.39

141.55-

19,992.84

P R I O R Y E A R A U T H O R I Z A T I O N B A L A N C E S
 PERIOD 7/01/79 THRU 08/31/80

	AUTHORIZATION	DISBURSEMENTS	TRANSFERS OUT	EXPENDITURES	RESTRICTIONS	BALANCE
ALASKA COUP SYSTEM						
PRIOR YEAR 6/30/80	354,249.20		279,803.55	279,803.55	18,417.00	56,028.65
DIVN TOTAL CAPITAL IMPROVEMENTS	354,249.20		279,803.55	279,803.55	18,417.00	56,028.65
41-65-4-100 DUE PROCESS JUDICIAL QUALIFICATN JUDICIAL QUALIFICATN						
FUND 100 ACCOUNT 7200 BUDGET COMPONENT 06.65.05.06.00 ALASKA COURT SYSTEM JUDICIAL QUALFCATONS						
200 TRAVEL AND MOVING	5,000.00					
211 INSTATE TRANSPORTATN		6.00		6.00		
212 INSTATE PER DIEM		21.00		21.00		
231 INSTATE TRANSPORTATN		527.85		527.85		
232 INSTATE PER DIEM		447.00		447.00		
291 TRANSPORTATION		282.50		282.50		
292 PER DIEM		50.00		50.00		
PRIOR YEAR 6/30/80	5,000.00	1,158.80		1,158.80		3,861.20
CURRENT YEAR 08/31/80		195.55		195.55		195.55-
TOTAL TRAVEL AND MOVING	5,000.00	1,334.35		1,334.35		3,665.65
300 CONTRACTUAL SERVICES	22,600.00					
325 ADVERTISING		74.54		74.54		
326 SUBSCRIPTH/INFO SVC		36.83		36.83		
387 APPOINTED ATTORNEY		4,787.84		4,787.84		
389 PROFESSIONAL SVC NCE		568.50		568.50		
396 MEMBERSHIP DUES/FEES		1,000.00		1,000.00		
PRIOR YEAR 6/30/80	22,600.00	6,467.76		6,467.76		16,132.24
TOTAL CONTRACTUAL SERVICES	22,600.00	6,467.76		6,467.76		16,132.24
400 SUPPLIES & MATERIALS						
481 STATIONERY & SUPPLYS		315.21		315.21		
PRIOR YEAR 6/30/80		315.21		315.21		315.21-
TOTAL SUPPLIES & MATERIALS		315.21		315.21		315.21-
FGRP TOTAL JUDICIAL QUALIFICATN	27,600.00	8,117.32		8,117.32		19,482.68
DIVISION						
GROUP 200	5,000.00	1,334.35		1,334.35		3,665.65
GROUP 300	22,600.00	6,467.76		6,467.76		16,132.24
GROUP 400		315.21		315.21		315.21-
PRIOR YEAR 6/30/80	27,600.00	7,921.77		7,921.77		19,678.23
CURRENT YEAR 08/31/80		195.55		195.55		195.55-
DIVN TOTAL JUDICIAL QUALIFICATN	27,600.00	8,117.32		8,117.32		19,482.68

	AUTHORIZATION	PERIOD 7/01/80 DISBURSEMENTS	THRU 08/31/81 TRANSFERS OUT	EXPENDITURES	RESTRICTIONS	BALANCE
ALASKA COURT SYSTEM						
GROUP K "		18,853.55	9,226.28	28,079.83		28,079.83-
GROUP 400		419.68		419.68		419.68-
GROUP 500		16,284.73		16,284.73		16,284.73-
GROUP 600	2,321,400.00	197,242.02	22,306.15	219,548.17		2,101,851.83
PRIOR YEAR 6/30/81	2,321,400.00	232,799.98	31,532.43	264,332.41		2,057,067.59
ELEM TOTAL SLA80/HB60	2,321,400.00	232,799.98	31,532.43	264,332.41		2,057,067.59
DIVISION						
GROUP 300		18,853.55	9,226.28	28,079.83		28,079.83-
GROUP 400		419.68		419.68		419.68-
GROUP 500		16,284.73		16,284.73		16,284.73-
GROUP 600	2,351,164.07	197,242.02	22,539.63	219,781.65	5,970.39	2,125,412.03
PRIOR YEAR 6/30/81	2,351,164.07	232,799.98	31,765.91	264,565.89		2,086,598.18
CURRENT YEAR 08/31/81					5,970.39	5,970.39-
DIVN TOTAL CAPITAL IMPROVEMENTS	2,351,164.07	232,799.98	31,765.91	264,565.89	5,970.39	2,080,627.79
41-65-4-100 DUE PROCESS						
FUND 100 ACCOUNT 7200 BUDGET COMPONENT						
.65.05.06.00 ALASKA COURT SYSTEM JUDICIAL QUALFCATONS						
200 TRAVEL AND MOVING	7,400.00					
221 INSTATE TRANSPORTATN		7.25		7.25		
222 INSTATE PER DIEM		120.00		120.00		
231 INSTATE TRANSPORTATN		2,961.60		2,961.60		
232 INSTATE PER DIEM		1,403.00		1,403.00		
233 OUTSIDE TRANSPORTATN		2,987.62		2,987.62		
234 OUTSIDE PER DIEM		575.00		575.00		
241 INSTATE TRANSPORTATN		286.00		286.00		
242 INSTATE PER DIEM		469.00		469.00		
291 TRANSPORTATION		91.95		91.95		
292 PER DIEM		536.00		536.00		
PRIOR YEAR 6/30/81	7,400.00	9,168.42		9,168.42		1,768.42-
CURRENT YEAR 08/31/81		269.00		269.00		269.00-
TOTAL TRAVEL AND MOVING	7,400.00	9,437.42		9,437.42		2,037.42-
300 CONTRACTUAL SERVICES	27,600.00					
322 PRINTING & BINDING		3,405.00		3,405.00		
325 ADVERTISING		396.48		396.48		
326 SUBSCRIPTR/INFO SVC		1,000.00		1,000.00		
389 PROFESSIONAL SVC NCE		4,980.37		4,980.37		
394 CONFERENCE REGISTRAT		75.00		75.00		
399 CONTRACTUAL FEES NCE		887.00		887.00		
PRIOR YEAR 6/30/81	27,600.00	8,751.85		8,751.85		18,848.15
CURRENT YEAR 08/31/81		1,992.00		1,992.00		1,992.00-
TOTAL CONTRACTUAL SERVICES	27,600.00	10,743.85		10,743.85		16,856.15
FGRP TOTAL JUDICIAL QUALIFICATN	35,000.00	20,181.27		20,181.27		14,818.73

	AUTHORIZATION	PERIOD 7/01/80 DISBURSEMENTS	THRU 08/31/81 TRANSFERS OUT	EXPENDITURES	RESTRICTIONS	BALANCE
ALASKA COURT SYSTEM DIVISION	.....	.....	.....	.....	.....	.....
GROUP 200	7,400.00	9,437.42		9,437.42		2,037.42-
GROUP 300	27,600.00	10,743.85		10,743.85		16,856.15
PRIOR YEAR 6/30/81	35,000.00	17,920.27		17,920.27		17,079.73
CURRENT YEAR 08/31/81		2,261.00		2,261.00		2,261.00-
DIVN TOTAL JUDICIAL QUALIFICATN	35,000.00	20,181.27		20,181.27		14,818.73
41-65-5-345 DUE PROCESS	**UNDEFINED NAME**	DILNGHM CT CLK NC81				
FUND 100 ACCOUNT 7200 BUDGET COMPONENT 06.65.05.07.01 ALASKA COURT SYSTEM CH50 SLA80						DLGHAM COURT CLERK
100 PERSONAL SERVICES	5,800.00					
PRIOR YEAR 6/30/81	5,800.00					5,800.00
TOTAL PERSONAL SERVICES	5,800.00					5,800.00
FGRP TOTAL DILNGHM CT CLK NC81	5,800.00					5,800.00
DIVISION						
GROUP 100	5,800.00					5,800.00
PRIOR YEAR 6/30/81	5,800.00					5,800.00
DIVN TOTAL **UNDEFINED NAME**	5,800.00					5,800.00
41-65-9-220 DUE PROCESS	JUDICIAL COUNCIL	JUDICIAL COUNCIL				
FUND 100 ACCOUNT 7200 BUDGET COMPONENT 06.65.05.05.01 ALASKA COURT SYSTEM JUDICIAL COUNCIL OPERATIONS						
100 PERSONAL SERVICES	235,200.00					
111 REGULAR COMPENSATION		185,672.03		185,672.03		
143 LEAVE PAY OUT		1,375.39		1,375.39		
181 AK SUPPLMNTL BENEFIT		8,874.79		8,874.79		
182 PUBLIC EMPLOYEE RET		24,334.55		24,334.55		
184 UNEMPLOYMENT INS.		1,738.51		1,738.51		
185 GROUP HEALTH INS.		8,596.38		8,596.38		
186 WORK COMP INSURANCE		2,379.66		2,379.66		
189 TERMINAL LEAVE CHRGE		651.12		651.12		
PRIOR YEAR 6/30/81	248,200.00	221,275.11		221,275.11		26,924.89
ADJUSTMENT	13,000.00-					13,000.00-
PRIOR YEAR ADJUSTED	235,200.00	221,275.11		221,275.11		13,924.89
CURRENT YEAR 08/31/81		12,347.32		12,347.32		12,347.32-
TOTAL PERSONAL SERVICES	235,200.00	233,622.43		233,622.43		1,577.57
200 TRAVEL AND MOVING	65,000.00					
215 INSTATE PROG TRANS		2,856.96		2,856.96		
216 INSTATE PROG PR DIEM		402.00		402.00		
221 INSTATE TRANSPORTATN		16,505.33		16,505.33		
222 INSTATE PER DIEM		23,011.75		23,011.75		
223 OUTSIDE TRANSPORTATN		1,998.12		1,998.12		

AUTHORIZATION PERIOD 7/01/81 THRU 08/31/82
 DISBURSEMENTS TRANSFERS OUT EXPENDITURES RESTRICTIONS BALANCE

ALASKA COURT SYSTEM	.....	.....	.....	.....	.....
SUBELEMENT					
GROUP 300		6,709.65		6,709.65	6,709.65-
GROUP 400		26.55		26.55	26.55-
GROUP 500		3,142.49		3,142.49	3,142.49-
GROUP 600	9,969,000.00	2,889,515.39		2,889,515.39	7,079,484.61

PRIOR YEAR 6/30/82 9,969,000.00 2,899,394.08 2,899,394.08 7,069,605.92

SELM TOTAL ANCH COURT ADDITION	9,969,000.00	2,899,394.08		2,899,394.08	7,069,605.92
ELEMENT					
GROUP 300		8,532.80		8,532.80	8,532.80-
GROUP 400		386.55		386.55	386.55-
GROUP 500		4,520.39		4,520.39	4,520.39-
GROUP 600	10,207,100.00	2,948,107.64		2,948,107.64	7,258,992.36

PRIOR YEAR 6/30/82 10,207,100.00 2,961,547.38 2,961,547.38 7,245,552.62

ELEM TOTAL SLA81/HB50 10,207,100.00 2,961,547.38 2,961,547.38 7,245,552.62

DIVISION					
GROUP 000	1,908,623.11				1,908,623.11
GROUP 300		13,353.25	46.19	13,399.44	13,399.44-
GROUP 400		5,567.26		5,567.26	5,567.26-
GROUP 500		75,543.15		75,543.15	75,543.15-
GROUP 600	10,379,104.68	4,091,921.96	70,174.64	4,162,096.60	6,217,008.08

PRIOR YEAR 6/30/82 12,287,727.79 4,186,385.62 70,220.83 4,256,606.45 8,031,121.34

DIVN TOTAL CAPITAL IMPROVEMENTS 12,287,727.79 4,186,385.62 70,220.83 4,256,606.45 8,031,121.34

41-65-4-100 DUE PROCESS JUDICIAL QUALIFICATH JUDICIAL QUALIFICATH

FUND 100 ACCOUNT 7200 BUDGET COMPONENT 06.65.05.06.00 ALASKA COURT SYSTEM JUDICIAL QUALFCATONS

200 TRAVEL AND MOVING	7,900.00				
212 INSTATE PER DIEM		50.25		50.25	
221 INSTATE TRANSPORTATH		641.00		641.00	
231 INSTATE TRANSPORTATH		1,113.50		1,113.50	
232 INSTATE PER DIEM		660.25		660.25	
241 INSTATE TRANSPORTATH		668.10		668.10	
242 INSTATE PER DIEM		731.00		731.00	
243 OUTSIDE TRANSPORTATH		798.92		798.92	
244 OUTSIDE PER DIEM		408.25		408.25	
PRIOR YEAR 6/30/82	7,900.00	5,021.27		5,021.27	2,878.73
CURRENT YEAR 08/31/82		100.00		100.00	100.00-

300 TOTAL TRAVEL AND MOVING 7,900.00 5,121.27 5,121.27 2,778.73

300 CONTRACTUAL SERVICES 47,500.00

	AUTHORIZATION	PERIOD 7/01/81 DISBURSEMENTS	THRU 08/31/82 TRANSFERS OUT	EXPLNDITURES	RESTRICTIONS	BALANCE
ALASKA COURT SYSTEM						
312 LOCAL SERVICE TELE		48.30		48.30		
316 MESSENGER SERVICE		48.30		48.30		
325 ADVERTISING		10,005.83		10,005.83		
326 SUBSCRIPTN/INFO SVC		1,052.40		1,052.40		
331 RENTS & LEASES		153.75		153.75		
381 AUDITING & MANAGEMNT		152.50		152.50		
389 PROFESSIONAL SVC NCE		9,664.63		9,664.63		
394 CONFERENCE REGISTRAT		50.00		50.00		
393 CONTRACTUAL FEES NCE		2,463.96		2,463.96		
PRIOR YEAR 6/30/82	47,500.00	21,351.27		21,351.27		26,148.73
CURRENT YEAR 08/31/82		2,288.40		2,288.40		2,288.40-
TOTAL CONTRACTUAL SERVICES	47,500.00	23,639.67		23,639.67		23,860.33
400 SUPPLIES & MATERIALS						
481 STATIONERY & SUPPLYS		3.70		3.70		
PRIOR YEAR 6/30/82		3.70		3.70		3.70-
TOTAL SUPPLIES & MATERIALS		3.70		3.70		3.70-
500 MACHINERY/EQUIPMENT						
552 OFFICE FURNITURE		211.00		211.00		
555 OTHER OFC MACH/EQUIP		289.95		289.95		
PRIOR YEAR 6/30/82		500.95		500.95		500.95-
TOTAL MACHINERY/EQUIPMENT		500.95		500.95		500.95-
FGRP TOTAL JUDICIAL QUALIFICATN	55,400.00	29,265.59		29,265.59		26,134.41
DIVISION						
GROUP 200	7,900.00	5,121.27		5,121.27		2,778.73
GROUP 300	47,500.00	23,639.67		23,639.67		23,860.33
GROUP 400		3.70		3.70		3.70-
GROUP 500		500.95		500.95		500.95-
PRIOR YEAR 6/30/82	55,400.00	26,877.19		26,877.19		28,522.81
CURRENT YEAR 08/31/82		2,388.40		2,388.40		2,388.40-
DIVM TOTAL JUDICIAL QUALIFICATN	55,400.00	29,265.59		29,265.59		26,134.41
41-65-9-220 DUE PROCESS			JUDICIAL COUNCIL	JUDICIAL COUNCIL		
FUND 100 ACCOUNT 7200 BUDGET COMPONENT 06.65.05.05.01 ALASKA COURT SYSTEM					JUDICIAL COUNCIL	OPERATIONS
100 PERSONAL SERVICES		222,300.00				
111 REGULAR COMPENSATION			161,322.74	161,322.74		
181 AK SUPPLMNTL BENEFIT			8,373.25	8,373.25		
182 PUBLIC EMPLOYEE RET			18,912.85	18,912.85		
184 UNEMPLOYMENT INS.			1,764.82	1,764.82		
185 GROUP HEALTH INS.			7,351.72	7,351.72		
186 WORK COMP INSURANCE			1,802.53	1,802.53		
189 TERMINAL LEAVE CHRGE			1,263.54	1,263.54		
199 PERSONAL SVC TRANSFR			6,837.09	6,837.09		
PRIOR YEAR 6/30/82	192,000.00	189,307.87		189,307.87		2,692.13
ADJUSTMENT	30,300.00					30,300.00

Filing a Complaint

To file a complaint, contact the Commission office in person, by telephone, or in writing. The address and telephone number is on the back of this brochure.

Investigating a Complaint

The Commission will review the complaint, a step which usually involves an interview by Commission staff with the person who filed the complaint. The person who has alleged the misconduct must submit facts surrounding the incident to the Commission. No complaint will be decided solely on the basis of claims made by the complainant. All allegations will be thoroughly investigated.

The Commission has the authority to initiate its own inquiry into possible judicial misconduct.

After the initial inquiry, the Commission may dismiss the complaint or conduct a full investigation, including formal hearings. A complaint against a judge may be dismissed by the Commission at any time during the investigation, if the charge is found to be without merit.

Complaints filed with the Commission and all Commission inquiries, investigations, and hearings are confidential. They become public when Commission recommendations are filed with the Supreme Court.

Powers of the Commission

The Commission only has the power to investigate charges of judicial misconduct or disability. After a formal hearing, the Commission may:

- Exonerate the judge of the charge or charges
- Reprimand the judge publicly or privately.
- Recommend that the Supreme Court take one of the following actions against the judge:

Suspension
Removal
Retirement
Public Censure
Private Censure

Powers the Commission Does Not Have

The Commission does not have the authority to hear an appeal for judicial error, mistake, or other legal reasons for appeals. That is the role of the state's appellate courts.

The Commission cannot supervise any local court administration.

The Commission has no authority to evaluate judges for retention elections.

For Information/ To File a Complaint

Alaska Commission on Judicial Conduct
Boney Memorial Court Building
303 K Street
Anchorage, Alaska 99501
(907) 264-0528



**THE
ALASKA
COMMISSION
ON
JUDICIAL
CONDUCT**

The Alaska Commission on Judicial Conduct

Complaints from the public about the conduct of judges in Alaska are handled by the constitutionally created Alaska Commission on Judicial Conduct. The Commission provides an open channel for any individual who feels he or she has a legitimate complaint about the conduct of any state judge in Alaska.

In addition to reviewing complaints against judges, the Commission helps promote compliance with established codes of conduct for judges.

The Commission consists of nine members:

- Three justices or judges of state courts elected by fellow justices and judges.
- Three attorneys who have practiced law in Alaska at least 10 years. The attorneys are appointed by the Governor from nominations made by the Alaska Bar Association. The appointments must be confirmed by a majority of both houses of the state legislature meeting in joint session.
- Three members of the public who are not attorneys, judges or retired judges. The public members are appointed by the governor and must be confirmed by a majority of both houses of the state legislature meeting in joint session.

Complaints Against Judges

A complaint can be filed by a member of the public against a justice of the supreme court, a judge of the court of appeals, a superior court judge, or a district court judge.

Complaints against magistrates can be filed with Magistrate Services, Boney Memorial Court Building, 303 K Street, Anchorage, AK 99501. These complaints will be referred to the appropriate presiding superior court judge for investigation.

Types of Complaints

The Commission has the authority to handle a wide range of complaints against judges for alleged misconduct both inside and outside the courtroom, or because of a mental or physical disability that seriously interferes with judicial duties.

Judicial Misconduct

Alleged judicial misconduct can include, but is not limited to:

Improper Courtroom Decorum

- Improper consideration and treatment of counsel, witnesses, and others.
- Improper or eccentric bench conduct, such as sleeping or drunkenness.
- Failure or refusal to dispose of judicial business promptly, enter orders, or cooperate in court administration.

Improper or Illegal Influence

- Allowing family, social, or political relationships to influence any judicial decision, making appointments, or other matters relating to the administration of justice, such as transferring cases or reducing charges.
- Conflict of interest.
- Giving or receiving gifts, bribes, loans, or favors.

Impropriety Off the Bench

- Misappropriation or misuse of public employees, property or funds.
- Improper comments, accusations, associations, or connections.
- Interference with or influence on a pending or impending lawsuit.
- Lewd or corrupt personal life.
- Use of judicial position to extort or embezzle private funds.

Other Improper or Illegal Activities

- Conducting proceedings or engaging in discussions involving one side or in the interest of one party only.
- Interfering with the attorney-client relationship.
- Improper use of judicial authority.
- Bias.
- Improper political campaign activities involving the judge or any political candidate.
- Abusing the prestige of the judicial office.
- Obstruction of justice, perjury, filing a false document.
- Criminal behavior.
- Failure to disqualify self.
- Ticket Fixing.

Physical or Mental Disability

Physical or mental disability can include, but is not limited to:

Alcohol or drug abuse
Senility
Serious physical illness
Mental illness

STATE OF ALASKA
COMMISSION ON JUDICIAL CONDUCT
1983 ANNUAL REPORT



BONEY MEMORIAL COURT BUILDING
303 K STREET, SUITE 241
ANCHORAGE, ALASKA 99501
(907) 264-0528

STATE OF ALASKA
COMMISSION ON JUDICIAL CONDUCT
1983 ANNUAL REPORT

BONEY MEMORIAL COURT BUILDING
303 K STREET, SUITE 241
ANCHORAGE, ALASKA 99501
(907) 264-0528



Commission on Judicial
Conduct

303 K STREET
ANCHORAGE, ALASKA 99501
264-0528

LETTER OF TRANSMITTAL

TO: Honorable William Sheffield
Governor of the State of Alaska

Honorable Jalmar Kerttula
President of the Alaska Senate

Honorable Joseph Hays
Speaker of the Alaska House of Representatives

Honorable Edmond Burke
Chief Justice
Alaska Supreme Court

Mary Hughes
President, Alaska Bar Association

This 1983 Report of the Commission on Judicial Conduct is presented to you for your consideration and review. This report is tendered pursuant to Rule 25 of the Commission on Judicial Conduct.

DATED this 6th day of February, 1984.

COMMISSION ON JUDICIAL CONDUCT

FRANK FLAVIN
STAFF ASSISTANT

STATE OF ALASKA
COMMISSION ON JUDICIAL CONDUCT
1983 ANNUAL REPORT

Michael M. Holmes, Juneau, Chairperson Pro Tem
Attorney Member

S.J. Buckalew, Anchorage, Superior Court Judge
Judge Member

Milton Souter, Anchorage, Superior Court Judge
Judge Member

Elaine M. Andrews, Anchorage, District Court Judge
Judge Member

Bruce A. Bookman, Anchorage
Attorney Member

M. Randy Clapp, Fairbanks
Attorney Member

Barbara Dale, Juneau
Public Member

Georgianna Lincoln, Fairbanks
Public Member

Vacant,
Public Member

TABLE OF CONTENTS

Introduction..... 1

I. Jurisdiction of the Commission on Judicial Conduct.... 2

II. Commission Procedures..... 4

III. 1983 Activities..... 6

IV. Budget.....16

V. 1984 Activities.....18

VI. Recommended Legislation.....19

Appendix A

Appendix B

INTRODUCTION

Complaints from the public about the conduct of judges in Alaska are handled by the constitutionally created Alaska Commission on Judicial Conduct. The Commission provides an open channel for any individual who feels he or she has a legitimate complaint about the conduct of any state judge in Alaska.

In addition to reviewing complaints against judges, the Commission helps promote compliance with established codes of conduct for judges.

The Commission consists of nine members:

- Three justices or judges of state courts elected by fellow justices and judges.
- Three attorneys who have practiced law in Alaska at least 10 years. The attorneys are appointed by the Governor from nominations made by the Alaska Bar Association. The appointments must be confirmed by a majority of both houses of the state legislature meeting in joint session.
- Three members of the public who are not attorneys, judges, or retired judges. The public members are appointed by the governor and must be confirmed by a majority of both houses of the state legislature meeting in joint session.

I. JURISDICTION OF THE COMMISSION ON JUDICIAL CONDUCT

A. Judges Subject to Commission Jurisdiction

A complaint can be filed by a member of the public against a justice of the supreme court, a judge of the court of appeals, a superior court judge, or a district court judge.

Complaints against magistrates can be filed with Magistrate Services, Eoney Memorial Court Building, 303 K Street, Anchorage, Alaska 99501. These complaints will be referred to the presiding superior court judge for the applicable judicial district for investigation.

B. Types of Complaints Handled

Misconduct: Alleged judicial misconduct can include, but is not limited to:

Improper Courtroom Decorum

- Improper consideration and treatment of attorneys, witnesses, and others.
- Improper or eccentric bench conduct, such as sleeping or drunkenness.
- Persistent failure or refusal to dispose of judicial business promptly, enter orders, or cooperate in court administration.

Improper or Illegal Influence

- Allowing family, social or political relationships to influence any judicial decision, making appointments, or other matters relating to the administration of justice, such as transferring cases or reducing charges.
- Conflict of interest.
- Giving or receiving gifts, bribes, loans or favors.

Impropriety Off the Bench

- Misappropriation or misuse of public employees, property or funds.
- Improper comments, accusations, associations, or connections.
- Interference with or influence on a pending or impending lawsuit.
- Lewd or corrupt personal life.
- Use of judicial position to extort or embezzle private funds.

Other Improper or Illegal Activities

- Conducting proceedings or engaging in discussions involving one side or in the interest of one party only.
- Interfering with the attorney-client relationship.
- Improper use of judicial authority.
- Bias.
- Improper campaign activities involving the judge or any political candidate.

- Abusing the prestige of the judicial office.
- Obstruction of justice, perjury, filing a false document.
- Criminal behavior.
- Failure to disqualify self.
- Ticket fixing.

Physical or Mental Disability: Physical or mental disability can include, but is not limited to:

- Alcohol or drug abuse
- Senility
- Serious physical illness
- Mental illness

II. COMMISSION PROCEDURES

A. Filing a Complaint

To file a complaint, persons may contact the Commission in person, by telephone (collect if long distance), or in writing at:

Alaska Commission on Judicial Conduct
Boney Memorial Court Building
303 K Street
Anchorage, Alaska 99501
(907) 264-0528

B. Complaint Investigation

The Commission will review the complaint, a step which usually involves an interview by Commission staff with the person who filed the complaint. The person who has alleged the

misconduct must submit facts surrounding the incident to the Commission. No complaint will be decided solely on the basis of claims made by the complainant. All allegations will be thoroughly investigated.

The Commission has the authority to initiate its own inquiry into possible judicial misconduct.

After the initial inquiry, the Commission may dismiss the complaint or conduct a full investigation, including formal hearings. A complaint against a judge may be dismissed by the Commission at any time during the investigation, if the charge is found to be without merit.

Complaints filed with the Commission and all Commission inquiries, investigations, and hearings are statutorily confidential. They become public when Commission recommendations are filed with the Supreme Court.

The Commission only has the power to investigate charges of judicial misconduct or disability. After a formal hearing, the Commission may:

- Exonerate the judge of the charge or charges.
- Reprimand the judge publicly or privately.
- Recommend that the Supreme Court take one of the following actions against the judge:
 - Suspension
 - Removal
 - Retirement
 - Public Censure
 - Private Censure

The Commission does not have the authority to hear an appeal for judicial error, mistake, or other legal reasons for appeals; that being the role of the state's appellate courts.

The Commission cannot supervise any local court administration, and has no authority to evaluate judges for retention elections.

XIII. 1983 ACTIVITIES

A. Summary of Complaints

1. Complaint Filings

1983	Informational Requests	19
1983	Complaints Filed	69
1983	Total Inquiries	88
1982	Complaints Held Over	33
1983	Complaints Closed	44
1982	Complaints Closed in 1983	32
1983	Total Complaints Closed	76
1982	Complaints Pending December 31, 1983	1
1983	Complaints Pending December 31, 1983	25
	Total Complaints Pending December 31, 1983	26

2. Complaint Disposition

Total Complaints Closed in 1983	76
Jurisdiction Complaints Closed	60
Non-Jurisdictional Complaints Closed	16

Breakdown of Closed Complaints

Not Within Commission Jurisdiction	16
Complainant Withdrew or Did Not Pursue	11
After Brief Investigation - Unfounded	29
Investigated More Extensively	14
Informal Action Taken By Judge	3
Dismissed After Probable Cause Hearing	1
Judge Privately Reprimanded	2
TOTAL	76

3. Comparison with Previous Years

Total Complaints Filed

1983	69
1982	88
1981	17
1980	18
1979	11
1978	13
1977	8
1976	8
1975	11

Total Complaints Closed

1983	76
1982	55
1981	17

Jurisdictional Complaints Closed

1983	60
1982	8
1981	(less than 17)

Cases Proceeding to Formal Complaint Status

1983	5
1982	0
1981	0

Cases Proceeding to Formal Disciplinary Hearing

1983	1
1982	0
1981	0

4. Analysis

Although complaint filings were down to 69 in 1983 from 88 in 1982, the majority of these were jurisdictional requiring analysis and investigation. In 1982 only 8 of the 55 complaints closures were jurisdictional but 60 of the 76 complaints resolved in 1983 were jurisdictional.

Additionally, one complaint in 1983 proceeded to a formal disciplinary hearing requiring a great deal of staff time as well as the retention of outside counsel to act as a "prosecuter" in the disciplinary proceedings.

B. Commission Meetings

Through Legislative Resolve No. 36 the 1981 Legislature placed a proposed constitutional amendment (Ballot Measure No. 3) before the public at the November 1982 general election which proposed changing the name and composition of the Commission on Judicial Qualifications.

Ballot Measure No. 3 was approved by the voters and the name of the commission became the Commission on Judicial Conduct. The new commission consists of three judge members elected by their fellow judges, three attorney members nominated by the members of the Bar and confirmed by the Legislature, and three public members appointed by the Governor and confirmed by the Legislature. The election was certified November 24, 1982. The commission members determined at their November 12, 1982 meeting that the terms of office for all attorney and judicial representatives would expire when the election was certified. As there was only one remaining public member, the Commission had no quorum as of November 24, 1982.

Due to factors beyond the control of the Commission and its staff, the appointment of new commissioners took many months and a quorum (5 commissioners) was not available until May 1983. At that time the three public members had still not been appointed. One public member position remained vacant on December 31, 1983.

Consequently, the traditional (Rule 1A of the Commission Rules of Procedure) January and April meetings were not convened. The first meeting in 1983 was held on June 10th in Fairbanks. Other regular meetings were then held on July 15th and September

30th in Anchorage. The two public members were available for the first time at the September 30th meeting.

In addition to the regular commission meetings, a hearing to consider formal charges filed against a judge was held in Juneau on November 3rd and 4th, 1983. A follow up meeting to deliberate on this hearing was held on December 3rd, in Anchorage.

C. Outreach

For the past three years the Commission has recognized that public perception of the role and functioning of the Commission on Judicial Conduct has been minimal. This is due to the narrow jurisdiction in which the Commission functions (judges - misconduct) and the procedural confidentiality necessary for handling disciplinary matters.

In late 1981 the Commission produced and televised public service announcements explaining the functioning of the Commission. The public service announcement led to a dramatic increase in complaint filings beginning in 1982. (See Paragraph IIIA 3 of this report.

Unfortunately the momentum generated by the 1981 public service broadcast was largely dissipated by the six months of Commission inactivity. This inactivity was due to the passage of the Constitutional Amendment reconstructing the Commission and the extensive delay in securing new appointments.

An additional problem has been the lack of jurisdictional focus of many complaints filed with the commission. Many people file complaints concerning magistrates or attorneys over which the commission has no authority. Many others have sought reversal of judicial decisions which are the proper subject of appeal.

As pointed out in Paragraph IIIA 4 of this Report, in 1982 only eight complaints out of the fifty-five closed were jurisdictional complaints. In recognition of this factor and the lingering identity problem, the Commission in 1983 authorized the development of a new Commission brochure, poster and public service announcement. All were produced and distributed or broadcast statewide.

As a result of the outreach campaign, complaint filings increased and complaints were better focused. The eight jurisdictional complaints resolved in 1982 increased to sixty in 1983.

The Commission plans to continue distribution of the developed educational materials throughout 1984.

D. Staff Manual

In 1983, the Commission adopted guidelines to govern staff in the investigation of complaints. The following are the guidelines which govern the general approach taken by the staff in the conduct of its investigations and interviews:

1. The staff assistant or investigator shall initially identify him or herself to the witness.

2. Where applicable, reference shall be made to the authority by which the commission conducts its investigations, specifically, Alaska Const., Art. IV, §10, and AS 22.30.011

3. Clear and emphatic reference shall be made to the strict confidentiality of the investigation, and reference made to the prohibition imposed on the commission and its staff regarding disclosure of the existence or content of the investigation.

4. A request shall be made that the witness, in turn, keep the interview confidential.

5. No admission is to be made by the investigator regarding the subject of the investigation and the witness is to be admonished that no inference regarding the subject of the investigation should be drawn from the questions asked.

6. The investigator shall indicate that the statement given by the witness will remain confidential as a part of the commission's investigative file until such time, and only if and when, the commission files a formal complaint pursuant to Rule 10E(4) of the commission's Rules of Procedure.

7. Further caution shall be given that in the event of an ensuing hearing, the witness may be called to testify and the present statement given by the witness could be used to refresh his or her recollection or point out any material contradiction in his or her later testimony.

8. Unless otherwise approved by the commission, only those witnesses who are believed to have specific knowledge of the subject matter of the investigation are to be contacted and interviewed.

9. During the course of the interview, generalized questions shall be employed regarding the alleged misconduct of a particular judge, which would not reveal the source of previously supplied information.

10. During the course of the interview, factual or leading questions shall be employed only for the purpose of attempting to refresh the recollection or seek clarification of a prior contradictory response.

11. The interview shall be immediately terminated upon the expression of the witnesses' reluctance or refusal to participate in the interview or to answer further questions.

12. Generally, the investigation should be limited to the initial scope of the inquiry.

13. If there is indication of possible criminal involvement, the witness should be advised that the commission may refer the matter to the proper law enforcement authority for further investigation.

14. All witnesses may be interviewed by members of the Commission staff or by other individuals appointed in writing by the Commission or its Staff Assistant.

15. In an interview with the Respondent, counsel for the Respondent may be present during the course of the interview if the Respondent so desires.

16. A witness may be accompanied by legal counsel during the course of an interview.

17. If deemed necessary, an interview can be preserved by means of a stenographic record or taped recording, subject to the prior approval of the staff assistant and with the initial indication to the witness that the interview will be so preserved.

18. Under normal circumstances, a witness is to be interviewed at a location convenient to the witness.

19. An investigative report should contain a summary of all pertinent facts.

20. Staff investigations are to be completed as expeditiously as possible with cumulative evidence sought only where necessary to establish a continuing pattern of misconduct.

21. In analyzing judicial conduct, the staff assistant and investigator(s) shall be guided by Article IV §10 of the Alaska Constitution and AS 22.30.011.

E. Staff

The Commission does not employ a full time staff. Staff counsel and legal assistant services are provided on a contract basis by attorney and former Ombudsman, Frank Flavin.

IV. BUDGET

A. Budgetary Projections

It has proven difficult to project the budgetary needs of the Commission for two primary reasons:

1. The expanding public knowledge of the Commission's existence and functioning with commensurate increases in workload.
2. The impossibility of predicting when serious complaints requiring full disciplinary hearings and a large expenditure of funds may arise.

Until 1982, the existence and function of the Commission was unknown to most of the public. The Commission maintained a low profile and received and processed only a dozen or so complaints each year.

Since 1982, the number and seriousness of complaint filings has increased demanding greater and greater expenditures to investigate and resolve complaints.

It is also impossible to predict when a complaint requiring a full disciplinary hearing may arise. When this occurs, procedural due process requires that the Commission retain an independent attorney to prosecute the case at the disciplinary hearing and potentially before the Supreme Court. As the Commission's budget is small (less than \$100,000 annually) the expense of proceeding with formal charges could conceivably exceed 50% of the Commission's entire budget.

To date, the Commission has operated on a total budget less than that required for a full time experienced staff attorney. This situation cannot continue given the rapid increase in workload.

B. FY 83 Budget

For FY83 the Commission had an authorized budget of \$66,700.00. Actual expenditure in FY83 amounted to \$61,500.00. Expenditures in FY83 were very low due to the impossibility of holding commission meetings between December 1982 and June 1983 due to the lack of a quorum. (See Paragraph IIIB of this report).

C. FY 84 Budget

The Commission's authorized budget for FY84 is \$59,500.00. Based on the first six months of operation, the total expenditures of the Commission to meet its Constitutional mandate is \$95,244.00. The budgetary shortfall of \$35,744 dollars is due to three factors:

1. A low budget projection due to the inactivity of the Commission in FY83 because of a lack of a quorum resulting from appointment delays.
2. The filing of formal charges and resultant formal hearing requiring hiring outside counsel and extensive travel expenses for the entire Commission.

3. The increase in jurisdictional complaint workload from 8 in 1982 to 60 in 1983.

The Commission is required to investigate and resolve citizen complaints pursuant to Alaska Constitution, Article 4, §10 and AS 22.30. The Commission is requesting a supplemental appropriation in the sum of \$35,744 to accomplish its constitutionally mandated duties for the remainder of FY84.

D. FY85 Budget

Due to the increase in jurisdictional complaint filings in 1983 and the increased knowledge of the Commission existence and functioning, the Commission anticipates budgetary needs of \$105,400 in FY85. This will also allow the Commission to establish an office outside the Anchorage court building which will eliminate security problems and improve the public perception of Commission independence.

V. 1984 ACTIVITIES

A. Commission Meetings

January 28, 1984	Anchorage
April 20, 1984	Juneau
July 1984	Date and Location to be Announced
October 1984	Date and Location to be Announced

B. Projects

The primary administrative project to be undertaken by the Commission in 1984 is the rewriting and distribution of the Commission Rules of Procedures. These changes are necessary to improve their internal consistency and to provide for procedural due process and efficiency in resolving complaints.

C. Outreach

In 1984, the Commission will continue distributing and broadcasting educational materials explaining its function. An attempt will also be made to communicate the Commission's functions and ethical/conduct standards and problem areas to the Alaska Judicial Council, Bar Association and the various judicial conferences and meetings.

VI. RECOMMENDED LEGISLATION

A. Housekeeping Legislation

Appendix A contains legislation proposed by the Commission to update the Commission's enabling legislation AS 22.30 due to passage of the 1982 constitutional amendment. AS 22.30 contains the wrong name (Commission on Judicial Qualifications), the wrong composition, and does not provide for staggered terms for the newly appointed commissioners.

The proposed legislation also provides for the confidential sharing of Commission findings with the Alaska Judicial Council. Valid complaints filed with the Commission on Judicial Conduct do

reflect on the competency of a judge as evaluated by the Alaska Judicial Council. Present law does not provide for sharing complaint information with the Judicial Council.

B. Supplemental Appropriation

Appendix B proposes a supplemental appropriation to cover the Commission's funding shortfall in FY84 so that the Commission can discharge its constitutional duties under Act 4, §10 of the Alaska Constitution.

APPENDIX A

IN THE _____

_____ BILL NO _____

IN THE LEGISLATURE OF THE STATE OF ALASKA

_____ LEGISLATURE - _____ SESSION

A BILL

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

*Section 1. AS 22.30.010 is amended to read:

Sec. 22.30.010. Commission on Judicial [Qualifications] Conduct. The Commission on Judicial [Qualifications] Conduct shall consist of nine members as follows: [one justice of the supreme court, elected by the justices of the supreme court; three judges of the superior court, elected by the judges of the superior court; one judge of the district court, elected by the judges of the district court;] three persons who are justices or judges of state courts, elected by the justices and judges of the state courts; [two] three members who have practiced law in this state for ten years, appointed by the governor from nominations made by the governing body of the organized bar and subject to confirmation by a majority of the members of the legislature in joint session, and [two citizens] three persons who are not judges, retired judges, or members of the state bar, appointed by the governor and subject to confirmation by a majority of the members of the legislature in joint session. Commission membership terminates if a member ceases to hold the position

that qualified that person for appointment. No person may serve on the commission and on the Judicial Council simultaneously. The Commission shall elect one of its members to serve as chairman for a term prescribed by the commission. A vacancy shall be filled by the appointing power for the remainder of the term.

*Section 2. AS 22.30.011 is amended to read:

Sec. 22.30.011. Powers and duties of the commission.

(a) The commission shall on its own motion or on receipt of a written complaint inquire into an allegation that a judge

(1) has been convicted of a crime punishable as a felony under state or federal law or convicted of a crime that involves moral turpitude under state or federal law;

(2) suffers from a disability that seriously interferes with the performance of judicial duties and that is or may become permanent;

(3) within a period of not more than six years before the start of the current term, committed an act or acts that constitute

(A) wilful misconduct in office,

(B) wilful and persistent failure to perform judicial duties,

(C) conduct prejudicial to the administration of justice, or

(D) conduct that brings the judicial office into disrepute, or

(E) conduct in violation of the code of judicial conduct; or

(4) is habitually intemperate.

(b) The commission may hold a hearing on an allegation under (a) of this section. A hearing under this section is a hearing under [AS 44.62.310(c)(2)], AS 44.62.310(d) and is private unless a public hearing is requested by the judge.

(c) A judge appearing before the commission at the hearing is entitled to counsel, may present evidence, and may cross-examine witnesses.

(d) The commission may, after a hearing held under (b) of this section,

(1) exonerate the judge of the charges;

(2) reprimand the judge publicly or privately;

(3) refer the matter to the supreme court with a recommendation that the judge be suspended, removed, or retired from office or publicly or privately censured by the supreme court.

(c) A decision by the commission to reprimand a judge publicly or privately may be appealed by the judge to the supreme court.

(f) If the commission decides to reprimand a judge privately, the commission shall forward the reprimand to the judge. A copy of the reprimand shall be sent to the chief justice of the supreme court. A private reprimand is confidential.

(g) If the commission exonerates a judge, a copy of the proceedings and report of the commission may be made public on the request of the judge.

(h) The commission may provide pursuant to section 60 of this chapter for the confidential informal admonishment or counseling of a judge.

Section 3. AS 22.30.015 is amended to read:

Sec. 22.30.015. Term of office. The term of office for a commission member is four years, except that to achieve staggered terms from the commission members appointed subsequent to January 1, 1983, one justice or judge, one attorney and one public member appointed shall serve for six years, as shall be determined by lot.

*Section 4. AS 22.30.050 is amended to read:

Sec. 22.30.050. Validity of acts of the commission. No act of the commission is valid unless concurred in by a majority of its appointed or elected members.

*Section 5. AS 22.30.060 is amended to read:

Sec. 22.30.060. Rules. (a) The commission shall make rules implementing this chapter and providing for confidentiality of proceedings.

(b) All proceedings, records, files, and reports of the Commission shall be confidential and no disclosure shall be made except as follows:

(1) Upon waiver in writing by the judge at any stage of the proceedings;

(2) In cases in which the subject matter or the fact of the filing of charges has become public, if deemed appropriate by the Commission, it may issue a statement in order to confirm the pendency of the investigation, to clarify the procedural aspects of the proceedings, to explain the right of the judge to a fair hearing, or to state that the judge denies the allegations;

(3) Upon filing of formal charges, in which case only the charges shall become public.

(4) Upon inquiry by the Alaska Judicial Council in regard to the appointment or retention of a judge. In such cases only materials relating to the actual admonishment, reprimand, disqualification, suspension, removal, retirement or censure of a judge may in the discretion of the Commission be disclosed to the Judicial Council. The Alaska Judicial Council shall maintain the confidentiality of any private admonishment or reprimand provided pursuant to this section.

*Section 6. AS 22.30.066 is amended to read:

Sec. 22.30.066. Inquiry. (a) The commission may subpoena witnesses, administer oaths, take the testimony of any person under oath, and require the production for examination of documents or records relating to its inquiry under AS 22.30.011. (b) In the course of an investigation of judicial misconduct or mental or physical disability of a judge, the commission may request the judge to submit to a physical or mental examination. If the judge refuses to submit to such examination the issue of physical disability shall be determined adversely to the judge.

*Section 7. AS 22.30.080(1) is amended to read:

Sec. 22.30.080(1) "commission" means the Commission on Judicial [Qualifications] Conduct provided for in Section 10, art. IV, Constitution of the State of Alaska and this chapter;

*Section 8. This Act Takes Effect July 1, 1984.

APPENDIX B

Introduced:
Referred:

IN THE _____ BY THE _____ COMMITTEE

_____ BILL NO. _____

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act making a supplemental appropriation to the Alaska Court System for the operations of the Alaska Commission on Judicial Conduct (Alaska Const. Art. 4. §10; AS 22.30); and providing for an effective date."

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

*Section 1. The sum of \$50,744.00 is appropriated from the general fund to the Alaska Court System for the operation of the Alaska Commission on Judicial Conduct (Alaska Const. Art. 4 §10; AS 22.30) for the fiscal year ending June 30, 1984.

*Sec. 2. The unexpended and unobligated portion of the appropriation made by this Act lapses into the general fund June 30, 1984.

*Sec. 3. This Act takes effect immediately in accordance with As 01.10.070(c).

Introduced: 2/14/84
Referred: Judiciary and
Finance

Funding Information
General Fund \$50,744
Other Funds -0-
\$50,744

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2

SENATE BILL NO. 490

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act making a supplemental appropriation to the
7 Alaska Court System for the operations of the Alaska
8 Commission on Judicial Conduct; and providing for an
9 effective date."

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

11 * Section 1. The sum of \$50,744 is appropriated from the general fund
12 to the Alaska Court System for the operation of the Alaska Commission on
13 Judicial Conduct (Alaska Const., art. IV, sec. 10; AS 22.30) for the fiscal
14 year ending June 30, 1984.

15 * Sec. 2. The unexpended and unobligated portion of the appropriation
16 made by sec. 1 of this Act lapses into the general fund June 30, 1984.

17 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
18 10.070(c).

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU


February 13, 1984

The Honorable Jalmar Kerttula
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Senator Kerttula:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill making a supplemental appropriation of \$50,744 to the Alaska Court System for fiscal year 1984 operations of the Alaska Commission on Judicial Conduct.

Sincerely,


Bill Sheffield
Governor



Commission on Judicial
Conduct

303 K STREET
ANCHORAGE, ALASKA 99501
264-0528

March 9, 1984

Senator Don Bennett
Co-Chairman
Senate Finance Committee
Pouch V (Mail Stop 3100)
State Capitol
Juneau, Alaska 99811

Dear Chairman Bennett:

The Commission on Judicial Conduct has exhausted its FY84 funding and is unable to meet the obligations imposed by Art. 4, §10 of the Alaska Constitution. The following budget breakdown is provided for our supplemental request for \$50,744.00 for FY84 to provide for our continued operation. These funds are necessary to meet our constitutional obligations under Art. IV, §10.

There are currently thirty complaints that are pending with the Commission. In one of these complaints, a probable cause determination has been made and formal charges have been filed. An attorney has been retained to prosecute these charges but there are no funds to pay for these services and no funds remain to conduct the Commission's formal proceedings in this matter. In order to avoid a major disruption of Judicial activities by extending these proceedings, it is necessary to schedule a hearing at the earliest possible date.

Five of the pending complaints require extensive travel and investigative time. Additionally, the lack of available funds will result in cancellation of the April 20, 1984 Commission meeting in Juneau.

Our FY84 budget was based on our former low level of activity due to a lack of quorum because of a gubernatorial appointment backlog. Additionally we have processed four complaints to the probable cause stage. This was not predictable because it had not occurred since 1975.

The following funds are necessary to cover the cost of our formal proceedings.

PROFESSIONAL SERVICES

Attorney to provide Prosecutorial Services - \$100/hour plus expenses

- Estimate 80-100 hours in Formal Case 83-004	10,000
- Case No. 83-003 actual billings (not budgeted)	7,744
TOTAL	\$17,744

PROFESSIONAL SERVICES

Staff Attorney to Commission - \$75.00/Hour	
Estimate 200 hours	
Formal Cases 83-001, 83-003 and 84-001	\$15,000

TRAVEL AND PER DIEM

Commission and Staff:

Fairbanks - Ketchikan (three 2-3 day trips)	
Anchorage - Ketchikan (five 2-3 day trips)	
Juneau - Ketchikan (two 2-3 day trips)	
Fairbanks - Anchorage (two 2-3 day trips)	
Juneau - Anchorage (two 2-3 day trips)	
Anchorage - Juneau - Sitka - Wrangell - Petersburg (one 5 day trip)	
TOTAL	\$14,000

Advertising (for meetings) and Transcripts of Proceedings

Estimate	4,000
TOTAL	<u>\$18,744</u>

If you have any questions please contact any of the following individuals:

In Juneau: Michael Holmes, Chairperson
Faulkner Banfield Doogan & Holmes
P.O. Box 1150
801 W. 10th St. Suite 300
Juneau, Alaska 99802-1150
Phone 586-2210

or: Barbara Dale, Commissioner
1003 B Street
Juneau, Alaska 99801
Phone 586-4347

In Anchorage: Jane Rosenquist, Legal Assistant
Phone 264-0528 - M W F 9:00 a.m. to Noon

The Commission appreciates your efforts in expediting this supplemental appropriation so that we can continue our FY84 operations. Thank you.

THE COMMISSION ON JUDICIAL CONDUCT

By: Michael M. Holmes
Michael Holmes
Chairperson

COMMITTEE REPORT
SENATE

FURTHER:

FINANCE

2/14/84

Date March 5, 1984

Mr. President

The Committee on JUDICIARY considered SB 490

supplemental appropriation to the Alaska Court System for the operation of the Alaska Commission on Judicial Conduct; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

1 2

1 McKenna

MEMBERS HAVING
OTHER RECOMMENDATIONS

2 Allyn no rec

1 Bill Ray
Chairman
DO PASS
Chairman recommendation

COMMITTEE REPORT
HOUSE

(11)

FURTHER:

4/13/84

Date: 4 17 84

The Committee on FINANCE has had CS SB 490 (Fin)

"An Act making supplemental appropriation; and providing for an effective date."

under consideration and recommends:

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

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]
CHAIRMAN

Offered: 4/11/84
Referred: Rules

Original sponsor: Rules/Governor

Funding Information

General Fund	\$769,044
Other Funds	-0-
	<u>\$769,044</u>

1 IN THE SENATE BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 490 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making supplemental appropriations; and
7 providing for an effective date."

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

9 * Section 1. The sum of \$50,744 is appropriated from the general fund
10 to the Alaska Court System for the operation of the Alaska Commission on
11 Judicial Conduct (Alaska Const., art. IV, sec. 10; AS 22.30) for the fiscal
12 year ending June 30, 1984.

13 * Sec. 2. The sum of \$718,300 is appropriated from the general fund to
14 the Department of Fish and Game, division of fisheries rehabilitation,
15 enhancement and development, for the cost of full-year operations of state
16 hatchery facilities at Klawock, Beaver Falls, Cannery Creek, and Main Bay
17 for the fiscal year ending June 30, 1984.

18 * Sec. 3. The unexpended and unobligated portions of the appropriations
19 made by secs. 1 and 2 of this Act lapse into the general fund June 30,
20 1984.

21 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
22 10.070(c).

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 13, 1984

The Honorable Jalmar Kerttula
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Senator Kerttula:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill making a supplemental appropriation of \$50,744 to the Alaska Court System for fiscal year 1984 operations of the Alaska Commission on Judicial Conduct.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield
Governor

COMMITTEE REPORT
SENATE

FURTHER:

FINANCE

2/14/84

Date 3/15/84

Mr. President

The Committee on LABOR AND COMMERCE considered SB 491

weights and measures; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 491 (L+C)
- new title
- same title and recommends do pass
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING

DO PASS

MEMBERS HAVING

OTHER RECOMMENDATIONS

[Signature]
[Signature]
[Signature]
[Signature]

[Signature]
 Chairman
[Signature]
 Chairman recommendation



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

sk 491

February 13, 1984

The Honorable Jalmar Kerttula
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Senator Kerttula:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill amending the Weights and Measures Act, AS 45.75.

In 1982, the overweight and oversize motor vehicle program was transferred from the Department of Public Safety to the Department of Commerce and Economic Development. This transfer included the duties of operating vehicle weighing stations, issuing permits for overweight and oversize vehicles, and enforcing the vehicle size, weight, and load limits established by the Department of Transportation and Public Facilities (DOT/PF). (Ch. 77, SLA 1982)

The 1982 transfer of duties was accomplished only by adding a paragraph (25) to the general duties of the Department of Commerce and Economic Development listed in AS 44.33.020. This bill completes the transfer by also adding those duties to the Weights and Measures Act (secs. 2 and 4 of the bill). The bill also decreases the frequency of required inspections and tests of all weights and measures from semiannual to annual (sec. 8 of the bill). More frequent inspections and tests can still be made in problem areas, however.

Section 13 of the bill clarifies that the commissioner of commerce and economic development may authorize department employees to arrest or issue citations to persons who violate the DOT/PF vehicle size, weight, and load limits, the provisions of an overweight or oversize vehicle permit, or department regulations. This eliminates an ambiguity and loophole left after the 1982 transfer of enforcement authority to the department.

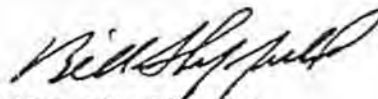
Section 26 of the bill amends AS 45.75.380 to increase the current maximum penalty for all weights and measures offenses from a \$200 fine (or five cents a pound for overweight vehicle offenses) and three months imprisonment, to a \$5,000 fine and one year imprisonment (see AS 12.55.-035(b)(3) and 12.55.135(a)). This change conforms to the new Criminal Code (AS 11) and the Code of Criminal Procedure (AS 12) and will provide a more effective deterrent to weights and measures violations. Currently, many people, particularly truck drivers, are too willing to risk citation for violations because of the low maximum penalties.

Most of the bill, including secs. 1 -- 3 and 5 -- 26, clarifies a confusing approach taken by the 1961 legislature which first enacted the Weights and Measures Act. For reasons which are not now clear, and which no longer apply, AS 47.75.030 states that the commissioner of commerce and economic development is the director of weights and measures and throughout the chapter many references are made to the director. To avoid confusion with the director of the division of measurement standards which is currently assigned to administer the Act, this bill changes all of those references to the director to be references to the commissioner.

The bill also makes "housekeeping" amendments to clean up outdated language and to correct several citations.

All of these changes in the Weights and Measures Act will increase the effectiveness and efficiency of implementation of the Act, especially the overweight and oversize vehicle program. Therefore, I urge your passage of this bill.

Sincerely,



Bill Sheffield
Governor

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: 491
 Title: Relating to weights and measures; and effec. date
 Sponsor: Governor
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Commerce & Economic Development
 Program Category Affected: Protection
 BRU, Program or Subprogram(s) Affected: Measurement Standards

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Joseph Swanson, Director Phone: 345-7750
 Division: Measurement Standards Date: 2/10/84
 Approved by Commissioner: Richard A. Lyon Date: 2/10/84
 Agency: Commerce and Economic Development

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

Introduced: 2/14/84
Referred: Labor and Commerce
and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 491

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to weights and measures; and provid-
7 ing for an effective date."

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

9 * Section 1. AS 45.75.030 is amended to read:

10 Sec. 45.75.030. STATE DIRECTOR AND INSPECTORS OF WEIGHTS AND
11 MEASURES. The commissioner of commerce and economic development is ex
12 officio state director of weights and measures. The commissioner may
13 delegate this authority, and [DIRECTOR] may appoint state inspectors.

14 * Sec. 2. AS 45.75.040 is amended to read:

15 Sec. 45.75.040. GENERAL POWERS AND DUTIES OF COMMISSIONER
16 [DIRECTOR]. The commissioner [DIRECTOR] is the custodian of the state
17 standards of weight and measure and of the other standards and equip-
18 ment provided for by this chapter, and [THE DIRECTOR] shall keep
19 accurate records of the standards and equipment. The commissioner
20 [DIRECTOR] shall operate motor vehicle weigh stations; establish fees
21 for and issue overweight and oversize vehicle permits; enforce this
22 chapter; implement AS 44.33.020(25); and [HE SHALL] supervise the
23 weights and measures offered for sale, sold, or in use in the state.

24 * Sec. 3. AS 45.75.050(a) is amended to read:

25 (a) The commissioner [DIRECTOR] shall adopt [ISSUE] regulations
26 for the enforcement of this chapter in accordance with the Administra-
27 tive Procedure Act (AS 44.62). These have the effect of law.

28 * Sec. 4. AS 45.75.050(b) is amended by adding a new paragraph to read:

29 (5) provisions governing the enforcement of the size,

1 weight, and load limitations established under AS 19.10.060; the
2 issuance of, and the enforcement of the terms of, permits for over-
3 weight and oversize vehicles; and the operation of weigh stations.

4 * Sec. 5. AS 45.75.050(d) is amended to read.

5 (d) The specifications, tolerances, and regulations for commer-
6 cial weighing and measuring devices, together with amendments to them,
7 as recommended by the National Bureau of Standards and published in
8 National Bureau of Standards Handbook 44 and supplements to it, or in
9 any publication revising or superseding Handbook 44, are the specifi-
10 cations, tolerances, and regulations for commercial weighing and
11 measuring devices of the state, except as specifically modified,
12 amended, or rejected by a regulation adopted [ISSUED] by the commis-
13 sioner [DIRECTOR].

14 * Sec. 6. AS 45.75.060 is amended to read:

15 Sec. 45.75.060. OFFICE AND FIELD [WORKING] STANDARDS AND EQUIP-
16 MENT. The commissioner [STATE] shall maintain [SUPPLY THE DIVISION OF
17 WEIGTHS AND MEASURES WITH] a duplicate set of state standards of
18 weight and measure, referred to in this chapter as office standards.
19 The commissioner [STATE] shall also supply field standards and the
20 equipment which is necessary to carry out this chapter. The office
21 standards and field standards must [SHALL] be verified upon their
22 initial receipt and at least once each year afterward. The office
23 standards must [SHALL] be verified by direct comparison with the state
24 standards. The field standards must [SHALL] be verified by comparison
25 with the office standards.

26 * Sec. 7. AS 45.75.070 is amended to read:

27 Sec. 45.75.070. TESTING AND INSPECTION OF LOCAL STANDARDS AND
28 WEIGHTS AND MEASURES AT STATE-SUPPORTED INSTITUTIONS. (a) At least
29 once every five years, the commissioner [DIRECTOR] shall test the

1 standards of weight and measure obtained by a city which has appointed
2 a sealer of weights and measures, and shall approve them if they are
3 correct. The commissicner [DIRECTOR] shall inspect the standards at
4 least once every two years.

5 (b) The commissioner [DIRECTOR] shall from time to time test all
6 weights and measures used in checking the receipt or disbursement of
7 supplies in every institution maintained by money appropriated by the
8 legislature, and shall report the commissioner's [HIS] findings, in
9 writing, to the supervisory board and to the executive officer of the
10 institution concerned.

11 * Sec. 8. AS 45.75.080(a) is amended to read:

12 (a) The commissioner [DIRECTOR] may inspect and test, to ascer-
13 tain if they are correct, all weights and measures kept, offered, or
14 exposed for sale. The commissioner [DIRECTOR] shall, at least annu-
15 ally [SEMIANNUALLY AND MORE OFTEN AS HE CONSIDERS NECESSARY], inspect
16 and test, to ascertain if they are correct, all weights and measures
17 commercially used

18 (1) in determining the weight, measurement, or count of
19 commodities or things sold, or offered or exposed for sale, on the
20 basis of weight or of measure;

21 (2) in computing the basic charge or payment for services
22 rendered on the basis of weight or of measure or count; or

23 (3) in determining weight or measurement when a charge is
24 made for this determination.

25 * Sec. 9. AS 45.75.090 is amended to read:

26 Sec. 45.75.090. INVESTIGATIONS. The commissioner [DIRECTOR]
27 shall investigate complaints of violations of this chapter, and shall
28 [, UPON HIS OWN INITIATIVE,] conduct other [THE] investigations which
29 the commissioner [HE] considers appropriate and advisable to develop

1 information on prevailing procedures in commercial quantity determ-
2 ination and on possible violations of this chapter; and to promote the
3 general objective of accuracy in the determination and representation
4 of quantity in commercial transactions.

5 * Sec. 10. AS 45.75.100 is amended to read:

6 Sec. 45.75.100. INSPECTION OF PACKAGES. (a) The commissioner
7 [DIRECTOR] shall, from time to time, weigh or measure and inspect
8 packages or amounts of commodities kept, offered, or exposed for sale
9 to determine whether they contain the amounts represented and whether
10 they are kept, offered, or exposed for sale in accordance with law.
11 When packages or amounts of commodities do not contain the amounts
12 represented, or are kept, offered, or exposed for sale in violation of
13 law, the commissioner [DIRECTOR] may order them off sale and may mark
14 or tag them to show they are illegal. The commissioner [DIRECTOR] may
15 use recognized sampling procedures. Compliance of a given lot of
16 packages must [SHALL] be determined on the basis of the result ob-
17 tained on a sample selected from and representative of the lot.

18 (b) No person may

19 (1) sell, or keep, offer, or expose for sale in intrastate
20 commerce a package or amount of commodity that has been ordered off
21 sale or marked or tagged as provided in this section until the package
22 or amount of commodity has been brought into full compliance with all
23 legal requirements; or

24 (2) dispose of a package or amount of commodity that is
25 ordered off sale or marked or tagged as provided in this section and
26 that does not meet legal requirements, except with the specific ap-
27 proval of the commissioner [DIRECTOR].

28 * Sec. 11. AS 45.75.110(a) is amended to read:

29 (a) The commissioner [DIRECTOR] may issue stop-use orders,

1 stop-removal orders, and removal orders for weights and measures used
2 or capable of being used commercially. The commissioner [DIRECTOR]
3 may issue stop-removal orders and removal orders for packages or
4 amounts of commodities kept, offered, or exposed for sale whenever the
5 commissioner [HE] considers it necessary or expedient in enforcing
6 this chapter.

7 * Sec. 12. AS 45.75.120 is amended to read:

8 Sec. 45.75.120. DISPOSITION OF CORRECT AND INCORRECT APPARATUS.
9 (a) The commissioner [DIRECTOR] shall approve for use and seal or
10 mark with appropriate devices the weights and measures which the
11 commissioner [HE] finds upon inspection and test to be correct as
12 provided in AS 45.75.050, and shall reject and mark or tag as "re-
13 jected" the weights and measures which are found [HE FINDS], upon
14 inspections or testing [TEST], to be incorrect as provided in AS 45.-
15 75.050 but which in the commissioner's [HIS] best judgment may be
16 satisfactorily repaired [ARE SUSCEPTIBLE OF SATISFACTORY REPAIR].
17 This sealing or marking is not required for weights and measures
18 exempted by regulation [OF THE DIRECTOR].

19 (b) The commissioner [DIRECTOR] shall condemn, and may seize and
20 destroy weights and measures found to be incorrect which, in the
21 commissioner's [HIS] best judgment, cannot be satisfactorily repaired
22 [ARE NOT SUSCEPTIBLE OF SATISFACTORY REPAIR]. Weights and measures
23 which are rejected under (a) of this section may be confiscated and
24 destroyed by the commissioner [DIRECTOR] if not corrected as required
25 by AS 45.75.180 or if used or disposed of contrary to the requirements
26 of AS 45.75.180.

27 * Sec. 13. AS 45.75.130 is amended to read:

28 Sec. 45.75.130. POLICE POWERS AND RIGHT OF ENTRY AND STOPPAGE.
29 (a) In the enforcement of this chapter and any other law dealing with

1 weights and measures, the commissioner [DIRECTOR] has special police
2 powers. The commissioner [HE] may arrest, without formal warrant, any
3 person violating the law, and seize for use as evidence, without
4 formal warrant, incorrect or unsealed weights and measures or amounts
5 or packages of commodity, used, retained, offered, or exposed for
6 sale, or sold in violation of law. In performing his duties, the
7 commissioner [DIRECTOR] may enter, without formal warrant, any struc-
8 ture or premises, and stop any person and require the person to pro-
9 ceed to a specified place.

10 (b) An employee of the Department of Commerce and Economic
11 Development who is authorized by the commissioner to enforce the size,
12 weight, and load limitations adopted by the Department of Transporta-
13 tion and Public Facilities under AS 19.10.060 may arrest or issue a
14 citation to a person who violates (1) any of those limitations, (2)
15 the terms of an overweight or oversize vehicle permit issued under
16 AS 44.33.020(25) and AS 45.75.040, or (3) the provisions of regu-
17 lations adopted under AS 44.33.020(25) and AS 45.75.050(b)(5). Cita-
18 tions issued under this subsection must be treated as specified by
19 AS 12.25.180 -- 12.25.230 for citations issued by a peace officer.

20 * Sec. 14. AS 45.75.140 is amended to read:

21 Sec. 45.75.140. POWERS AND DUTIES OF INSPECTORS [DEPUTY DIRECTOR
22 AND INSPECTOR]. The powers and duties of the commissioner [DIRECTOR]
23 specified in AS 45.75.070, 45.75.080, 45.75.090, 45.75.100, 45.75.120,
24 45.75.130, and 45.75.170 may [, AND 45.75.380 SHALL] also be exercised
25 by [THE DEPUTY DIRECTOR AND] inspectors, when acting under the in-
26 structions and at the direction of the commissioner [DIRECTOR].

27 * Sec. 15. AS 45.75.150 is amended to read:

28 Sec. 45.75.150. APPOINTMENT OF CITY SEALERS AND DEPUTY SEALERS
29 OF WEIGHTS AND MEASURES. (a) A city may appoint a sealer of weights

1 and measures, and the deputy sealers of weights and measures it needs.
2 If the city appoints a sealer, it shall obtain at its expense the
3 standards of weight and measure [WEIGHTS AND MEASURES] and the addi-
4 tional equipment, for use in the enforcement of this chapter in the
5 city, which the commissioner [DIRECTOR] prescribes.

6 (b) When the standards of weight and measure provided by a city
7 are examined and approved by the commissioner [DIRECTOR], they are the
8 official standards for the city. At least every five years, the
9 sealer shall make or arrange to have made comparisons between the
10 sealer's [HIS] field standards and appropriate standards of a higher
11 order belonging to the sealer's [HIS] city or to the state, in order
12 to maintain the field standards in accurate condition.

13 * Sec. 16. AS 45.75.160 is amended to read:

14 Sec. 45.75.160. CITY SEALERS AND DEPUTY SEALERS. The sealer of
15 a city, and the sealer's deputy [SEALER] when acting under the seal-
16 er's [HIS] instructions and [AT HIS] direction, have the same powers
17 and shall perform the same duties within the city as those granted to
18 and imposed upon the commissioner [DIRECTOR] by AS 45.75.080 -- 45.-
19 75.130 and 45.75.380.

20 * Sec. 17. AS 45.75.170 is amended to read:

21 Sec. 45.75.170. CONCURRENT JURISDICTION. In each city having a
22 sealer of weights and measures, the commissioner [DIRECTOR] has con-
23 current authority to enforce this chapter.

24 * Sec. 18. AS 45.75.180 is amended to read:

25 Sec. 45.75.180. DUTY OF OWNERS OF INCORRECT APPARATUS. Weights
26 and measures rejected by the commissioner [DIRECTOR] or a sealer
27 remain subject to the control of the rejecting authority until suit-
28 able repair or disposition of them is made as required by this sec-
29 tion. The owner of a rejected weight and measure shall correct it

1 within 30 days or a longer period authorized by the rejecting author-
2 ity, [;] or [,] may dispose of it in the manner authorized by the
3 rejecting authority. Rejected weights and measures may not again be
4 used commercially until officially re-examined and found to be correct
5 or until specific written permission for their use is issued by the
6 rejecting authority.

7 * Sec. 19. AS 45.75.190(c) is amended to read:

8 (c) The commissioner [DIRECTOR] may adopt [ISSUE] reasonable
9 regulations necessary to assure that amounts of commodity sold are
10 determined in accordance with good commercial practice and are so
11 determined and represented as to be accurate and informative.

12 * Sec. 20. AS 45.75.200(c) is amended to read:

13 (c) Under (a)(1) of this section the commissioner [DIRECTOR]
14 shall, by regulation, establish

15 (1) reasonable variations or tolerances to be allowed, which
16 may include variations below the declared weight or measure caused by
17 ordinary and customary exposure, only after the commodity is intro-
18 duced into intrastate commerce, to conditions that normally occur in
19 good distribution practice and that unavoidably result in decreased
20 weight or measure,

21 (2) exemption as to small packages, and

22 (3) exemptions as to commodities put up in variable weights
23 or sizes for sale to the consumer intact and either customarily not
24 sold as individual units or customarily weighed or measured at the
25 time of sale to the consumer.

26 * Sec. 21. AS 45.75.220 is amended to read:

27 Sec. 45.75.220. MISLEADING PACKAGES. No commodity in package
28 form may be so wrapped, or put in a container so made, formed, or
29 filled as to mislead the purchaser as to the quantity of the contents

1 of the package, and the contents of a container may not fall below the
2 reasonable standard of fill which the commissioner [DIRECTOR] pre-
3 scribes for the commodity.

4 * Sec. 22. AS 45.75.282(b) is amended to read:

5 (b) One of the tickets provided for in (a) of this section shall
6 be retained by the vendor, and the other shall be delivered to the
7 purchaser at the time of delivery of the commodity, or surrendered, on
8 demand, to the commissioner [DIRECTOR, OR THE DEPUTY DIRECTOR,] or an
9 inspector, or a sealer [,] or a deputy sealer, who may [,IF HE WANTS
10 TO] retain it as evidence and, if it is retained, shall issue a weight
11 slip in place of it.

12 * Sec. 23. AS 45.75.290(b) is amended to read:

13 (b) One of the tickets provided for under (a) of this section
14 shall be retained by the vendor and the other shall be delivered to
15 the purchaser at the time of delivery of the fuel, or shall be sur-
16 rendered, on demand, to the commissioner [DIRECTOR, OR THE DEPUTY
17 DIRECTOR] or an inspector, or a sealer or deputy sealer, who may [, IF
18 HE DESIRES TO] retain it as evidence and [, SHALL] issue a weight slip
19 in place of it for delivery to the purchaser. If the purchaser car-
20 ries away the [HIS] purchase, the vendor is required only to give to
21 the purchaser at the time of sale a delivery ticket stating the number
22 of pounds of fuel delivered to the purchaser [HIM].

23 * Sec. 24. AS 45.75.300(3) is amended to read:

24 (3) reasonable tolerances shall be permitted, and these
25 must [SHALL] be included in regulations adopted for the enforcement of
26 this section [THAT ARE ISSUED BY THE DIRECTOR];

27 * Sec. 25. AS 45.75.330 is amended to read:

28 Sec. 45.75.330. INJUNCTION. The commissioner [DIRECTOR] may
29 apply to a court for a temporary or permanent injunction restraining a

1 person from violating a provision of this chapter.

2 * Sec. 26. AS 45.75.380 is amended to read:

3 Sec. 45.75.380. OFFENSES AND PENALTIES. It is a class A misde-
4 meanor for a person to perform any of the following acts or otherwise
5 to violate a provision of this chapter [A PERSON WHO, BY HIMSELF OR BY
6 HIS SERVANT, OR AGENT, OR AS THE SERVANT OR AGENT OF ANOTHER, PERFORMS
7 ANY ONE OF THE FOLLOWING ACTS IS GUILTY OF A MISDEMEANOR AND UPON A
8 FIRST CONVICTION OF THE VIOLATION IS PUNISHABLE BY A FINE OF NOT LESS
9 THAN \$20 NOR MORE THAN \$200, OR BY IMPRISONMENT FOR NOT MORE THAN
10 THREE MONTHS, OR BY BOTH. UPON A SECOND OR SUBSEQUENT CONVICTION, THE
11 PERSON IS PUNISHABLE BY A FINE OF NOT LESS THAN \$50 NOR MORE THAN
12 \$500, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH]:

13 (1) uses or has in possession for the purpose of using for
14 any commercial purpose specified in AS 45.75.080, sells, offers, or
15 exposes for sale, or hire, or has in possession for the purpose of
16 selling or hiring, an incorrect weight or measure or a device or
17 instrument used to or calculated to falsify a weight or measure;

18 (2) uses or has in possession for current use, in buying or
19 selling a commodity or thing, or for hire or award, or in the computa-
20 tion of a basic charge or payment for services rendered on the basis
21 of weight or measurement, or in the determination of weight or mea-
22 surement when a charge is made for determination, a weight or measure
23 that has not been tested and sealed by the appropriate authority
24 within one year, (A) unless written notice is given to the appropriate
25 authority to the effect that the weight or measure is available for
26 examination, or is due for re-examination, as the case may be, (B) un-
27 less specific written permission to use the weight or measure is
28 received from the appropriate authority, or (C) unless the weight or
29 measure is exempt from sealing or annual testing requirements by

1 AS 45.75.080 or by a regulation adopted [OF THE DIRECTOR ISSUED] under
2 AS 45.75.050;

3 (3) disposes of a rejected weight or measure in a manner
4 contrary to law or regulation;

5 (4) removes from a weight or measure, contrary to law or
6 regulation, a tag, seal, or mark placed on it by the appropriate
7 authority;

8 (5) sells, offers or exposes for sale less than the quan-
9 tity he represents of a commodity, thing, or service;

10 (6) takes more than the quantity he represents of a commod-
11 ity, thing, or service when, as buyer, he furnished the weight or
12 measure by means of which the amount of the commodity, thing, or
13 service is determined;

14 (7) keeps for the purpose of sale, advertises, or offers or
15 exposes for sale, or sells a commodity, thing, or service in a condi-
16 tion or manner contrary to law or regulation;

17 (8) uses in retail trade, except in the preparation of
18 packages put up in advance of sale and of medical prescriptions, a
19 weight or measure that is not so positioned that its indications may
20 be accurately read and the weighing or measuring operation observed
21 from some position which may reasonably be assumed by a customer;

22 (9) violates a provision of this chapter or of a regulation
23 adopted under this chapter for which a specific penalty is not pre-
24 scribed;

25 (10) hinders or obstructs the commissioner, an inspector, a
26 sealer, or a deputy sealer in the performance of official duties under
27 this chapter;

28 (11) violates a provision of an overweight or oversize
29 permit;

1 (12) violates a weight, load, or size limitation established
2 under AS 19.10.060 or regulations adopted under AS 19.05.020 or 45.-
3 75.050(b)(5).

4 * Sec. 27. AS 45.75.390(4) is repealed and reenacted to read:

5 (4) "commissioner" means the commissioner of commerce and
6 economic development or a designee;

7 * Sec. 28. AS 28.35.230(e) and AS 45.75.360 are repealed.

8 * Sec. 29. This Act takes effect immediately in accordance with AS 01.-
9 10.070(c).

Offered: 3/16/84
Referred: Finance

Original sponsor: Rules/Governor

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE SENATE

2

CS FOR SENATE BILL NO. 491 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to weights and measures; and provid-
ing for an effective date."

7

8

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

9

* Section 1. AS 45.75.030 is amended to read:

10

Sec. 45.75.030. STATE DIRECTOR AND INSPECTORS OF WEIGHTS AND

11

MEASURES. The commissioner of commerce and economic development is ex

12

officio state director of weights and measures. The commissioner may

13

delegate this authority, and [DIRECTOR] may appoint state inspectors.

14

* Sec. 2. AS 45.75.040 is amended to read:

15

Sec. 45.75.040. GENERAL POWERS AND DUTIES OF COMMISSIONER [DI-

16

RECTOR]. The commissioner [DIRECTOR] is the custodian of the state

17

standards of weight and measure and of the other standards and equip-

18

ment provided for by this chapter, and [. THE DIRECTOR] shall keep

19

accurate records of the standards and equipment. The commissioner

20

[DIRECTOR] shall operate motor vehicle weigh stations; establish fees

21

for and issue overweight and oversize vehicle permits; enforce this

22

chapter; implement AS 44.33.020(25); and [. HE SHALL] supervise the

23

weights and measures offered for sale, sold, or in use in the state.

24

* Sec. 3. AS 45.75.050(a) is amended to read:

25

(a) The commissioner [DIRECTOR] shall adopt [ISSUE] regulations

26

for the enforcement of this chapter in accordance with the Administra-

27

tive Procedure Act (AS 44.62). These have the effect of law.

28

* Sec. 4. AS 45.75.050(b) is amended to read:

29

(b) The regulations may include

1 (1) standards of net weight, measure, or count, and reason-
2 able standards of fill, for any commodity in package form;

3 (2) rules governing the technical and reporting procedures
4 to be followed, and the report and record forms and marks of approval
5 and rejection to be used by inspectors of weights and measures in the
6 discharge of their official duties;

7 (3) exemptions from the sealing or marking requirements of
8 AS 45.75.120 with respect to weights and measures of a character or
9 size that sealing or marking would be inappropriate, impracticable, or
10 damaging to the apparatus in question; [AND]

11 (4) with respect to classes of weights and measures of a
12 character that annual retesting is unnecessary to continued accuracy,
13 exemptions from the requirements of AS 45.75.070 and 45.75.080 for
14 annual testing, and schedules fixing the frequency of required retests
15 for classes of devices exempted; and

16 (5) provisions governing the enforcement of the size,
17 weight, and load limitations established under AS 19.10.060; the
18 issuance of, and the enforcement of the terms of, permits for over-
19 weight and oversize vehicles; and the operation of weigh stations.

20 * Sec. 5. AS 45.75.050(d) is amended to read:

21 (d) The specifications, tolerances, and regulations for commer-
22 cial weighing and measuring devices, together with amendments to them,
23 as recommended by the National Bureau of Standards and published in
24 National Bureau of Standards Handbook 44 and supplements to it, or in
25 any publication revising or superseding Handbook 44, are the specifi-
26 cations, tolerances, and regulations for commercial weighing and
27 measuring devices of the state, except as specifically modified,
28 amended, or rejected by a regulation adopted [ISSUED] by the commis-
29 sioner [DIRECTOR].

1 * Sec. 6. AS 45.75.060 is amended to read:

2 Sec. 45.75.060. OFFICE AND FIELD [WORKING] STANDARDS AND EQUIP-
3 MENT. The commissioner [STATE] shall maintain [SUPPLY THE DIVISION OF
4 WEIGHTS AND MEASURES WITH] a duplicate set of state standards of
5 weight and measure, referred to in this chapter as office standards.
6 The commissioner [STATE] shall also supply field standards and the
7 equipment that [WHICH] is necessary to carry out this chapter. The
8 office standards and field standards shall be verified upon their
9 initial receipt and at least once each year afterward. The office
10 standards shall be verified by direct comparison with the state stan-
11 dards. The field standards shall be verified by comparison with the
12 office standards.

13 * Sec. 7. AS 45.75.070 is amended to read:

14 Sec. 45.75.070. TESTING AND INSPECTION OF LOCAL STANDARDS AND
15 WEIGHTS AND MEASURES AT STATE-SUPPORTED INSTITUTIONS. (a) At least
16 once every five years, the commissioner [DIRECTOR] shall test the
17 standards of weight and measure obtained by a city that [WHICH] has
18 appointed a sealer of weights and measures, and shall approve them if
19 they are correct. The commissioner [DIRECTOR] shall inspect the
20 standards at least once every two years.

21 (b) The commissioner [DIRECTOR] shall from time to time test all
22 weights and measures used in checking the receipt or disbursement of
23 supplies in every institution maintained by money appropriated by the
24 legislature, and shall report the commissioner's [HIS] findings, in
25 writing, to the supervisory board and to the executive officer of the
26 institution concerned.

27 * Sec. 8. AS 45.75.080(a) is amended to read:

28 (a) The commissioner [DIRECTOR] may inspect and test, to ascer-
29 tain if they are correct, all weights and measures kept, offered, or

1 exposed for sale. The commissioner [DIRECTOR] shall, at least annu-
2 ally [SEMIANNUALLY AND MORE OFTEN AS HE CONSIDERS NECESSARY], inspect
3 and test, to ascertain if they are correct, all weights and measures
4 commercially used

5 (1) in determining the weight, measurement, or count of
6 commodities or things sold, or offered or exposed for sale, on the
7 basis of weight or of measure;

8 (2) in computing the basic charge or payment for services
9 rendered on the basis of weight or of measure or count; or

10 (3) in determining weight or measurement when a charge is
11 made for this determination.

12 * Sec. 9. AS 45.75.090 is amended to read:

13 Sec. 45.75.090. INVESTIGATIONS. The commissioner [DIRECTOR]
14 shall investigate complaints of violations of this chapter, and shall
15 [, UPON HIS OWN INITIATIVE,] conduct other [THE] investigations that
16 the commissioner [WHICH HE] considers appropriate and advisable to
17 develop information on prevailing procedures in commercial quantity
18 determination, [AND] on possible violations of this chapter and to
19 promote the general objective of accuracy in the determination and
20 representation of quantity in commercial transactions.

21 * Sec. 10. AS 45.75.100 is amended to read:

22 Sec. 45.75.100. INSPECTION OF PACKAGES. (a) The commissioner
23 [DIRECTOR] shall, from time to time, weigh or measure and inspect
24 packages or amounts of commodities kept, offered, or exposed for sale
25 to determine whether they contain the amounts represented and whether
26 they are kept, offered, or exposed for sale in accordance with law.
27 When packages or amounts of commodities do not contain the amounts
28 represented, or are kept, offered, or exposed for sale in violation of
29 law, the commissioner [DIRECTOR] may order them off sale and may mark

1 or tag them to show they are illegal. The commissioner [DIRECTOR] may
2 use recognized sampling procedures. Compliance of a given lot of
3 packages shall be determined on the basis of the result obtained on a
4 sample selected from and representative of the lot.

5 (b) A [NO] person may not

6 (1) sell, or keep, offer, or expose for sale in intrastate
7 commerce a package or amount of commodity that has been ordered off
8 sale or marked or tagged as provided in this section until the package
9 or amount of commodity has been brought into full compliance with all
10 legal requirements; or

11 (2) dispose of a package or amount of commodity that is
12 ordered off sale or marked or tagged as provided in this section and
13 that does not meet legal requirements, except with the specific ap-
14 proval of the commissioner [DIRECTOR].

15 * Sec. 11. AS 45.75.110(a) is amended to read:

16 (a) The commi ioner [DIRECTOR] may issue stop-use orders,
17 stop-removal orders, and removal orders for weights and measures used
18 or capable of being used commercially. The commissioner [DIRECTOR]
19 may issue stop-removal orders and removal orders for packages or
20 amounts of commodities kept, offered, or exposed for sale whenever the
21 commissioner [HE] considers it necessary or expedient in enforcing
22 this chapter.

23 * Sec. 12. AS 45.75.120 is amended to read:

24 Sec. 45.75.120. DISPOSITION OF CORRECT AND INCORRECT APPARATUS.

25 (a) The commissioner [DIRECTOR] shall approve for use and seal or
26 mark with appropriate devices the weights and measures that the com-
27 missioner [WHICH HE] finds upon inspection and test to be correct as
28 provided in AS 45.75.050, and shall reject and mark or tag as "re-
29 jected" the weights and measures that are found [WHICH HE FINDS], upon

1 inspection or testing [TEST], to be incorrect as provided in AS 45.-
2 75.050 but that [WHICH] in the commissioner's [HIS] best judgment may
3 be satisfactorily repaired [ARE SUSCEPTIBLE OF SATISFACTORY REPAIR].
4 Sealing [THIS SEALING] or marking is not required for weights and
5 measures exempted by regulation [OF THE DIRECTOR].

6 (b) The commissioner [DIRECTOR] shall condemn, and may seize and
7 destroy weights and measures found to be incorrect that [WHICH], in
8 the commissioner's [HIS] best judgment, cannot be satisfactorily
9 repaired [ARE NOT SUSCEPTIBLE OF SATISFACTORY REPAIR]. Weights and
10 measures that [WHICH] are rejected under (a) of this section may be
11 confiscated and destroyed by the commissioner [DIRECTOR] if not cor-
12 rected as required by AS 45.75.180 or if used or disposed of contrary
13 to the requirements of AS 45.75.180.

14 * Sec. 13. AS 45.75.130 is amended to read:

15 Sec. 45.75.130. POLICE POWERS AND RIGHT OF ENTRY AND STOPPAGE.

16 (a) In the enforcement of this chapter and any other law dealing with
17 weights and measures, the commissioner [DIRECTOR] has special police
18 powers. The commissioner [HE] may arrest, without formal warrant, any
19 person violating the law, and seize for use as evidence, without
20 formal warrant, incorrect or unsealed weights and measures or amounts
21 or packages of commodity, used, retained, offered, or exposed for
22 sale, or sold in violation of law. In performing the commissioner's
23 [HIS] duties, the commissioner [DIRECTOR] may enter, without formal
24 warrant, any structure or premises, and stop any person and require
25 the person [HIM] to proceed to a specified place.

26 (b) An employee of the Department of Commerce and Economic
27 Development who is authorized by the commissioner to enforce the size,
28 weight, and load limitations adopted by the Department of Transporta-
29 tion and Public Facilities under AS 19.10.060 may issue a citation to