

ALABAMA LEGISLATIVE COUNCIL FILED 1900-1900

3287 HJUD HB 115 - HB 117

163



# RECORDS CERTIFICATION



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

James O. Smith  
Signature of Camera Operator

7/25/89  
Date

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STATE OF ALASKA  
THE LEGISLATURE

POUCHY - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE REFERENCE LIBRARY

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary 2/5/85 1:30 pm

COMMITTEE REPORT  
HOUSE

*affirmed  
on today  
11/20/85  
JTB*

( 7 )

FURTHER:

1/25/85

Date: 2-5-85

The Committee on JUDICIARY has had HB 115

"An Act relating to setting of venue by supreme court rule."

under consideration and recommends:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for HB 115 (jud)  same title  
 new title
- and recommends DO PASS
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation  Zero Fiscal Note Attached
- referred to the \_\_\_\_\_ ittee

MEMBERS SIGNING  
DO PASS

*W. W. ...*  
*WOOD E. ...*  
*...*  
*...*  
*...*  
*...*  
*...*  
*...*  
*...*  
*...*

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

*...* - *NOTE*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*W. W. ...*  
 CHAIRMAN

UNFINISHED BUSINESS

HB 115

The Speaker waived the Judiciary Committee referral on HOUSE BILL NO. 115 (setting of venue by supreme court rule) at the request of the Chairman.

HB 115 was sent to the Rules Committee for placement on the calendar.

HB 199

The Speaker waived the Judiciary Committee referral on HOUSE BILL NO. 199 (relating to motor vehicles) at the request of the Chairman.

HB 199 was sent to the Rules Committee for placement on the calendar.

HCR 16

Representative Gruenberg added his name as co-sponsor to HOUSE CONCURRENT RESOLUTION NO. 16 (relating to the longevity bonus program).

HB 146

Representative Davis added his name as co-sponsor to HOUSE BILL NO. 146 (relating to housing loans for the permanently disabled).

ENGROSSMENT

HCSSJR 14(Res) was engrossed, signed by the Speaker and the Chief Clerk and transmitted to the Senate for consideration.

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

**REQUEST**

Bill/Resolution No.: HB 115  
 Title: An Act Relating to  
Setting of Venue  
 Sponsor: \_\_\_\_\_  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected: Alaska Court System  
 Program Category Affected: \_\_\_\_\_  
Administration of Justice  
 BRU, Program or Subprogram(s) Affected: \_\_\_\_\_  
Trial Courts

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		-0-	-0-	-0-	-0-	-0-

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:**

**ANALYSIS: Attach a separate page for analysis**

Prepared By: Robert D. Fisher, Fiscal Officer Phone: 264-0561  
 Division: Alaska Court System Date: 2/4/85  
 Approved by Commissioner: *[Signature]* Date: 2/4/85  
 Agency: Alaska Court System

**Distribution (by Agency preparing fiscal note):**

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

# Alaska House of Representatives

## MEMO



Phone: 465-3725  
Room: 214 Capitol

From the desk of CHIEF CLERK

TO: Judiciary                      DATE: 3/6/85

Please return the committee copies  
of HB 199 and HB 115 to the Chief Clerk  
They are being waived to Rules.

# Alaska State Legislature



## House of Representatives House Judiciary Committee

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4990

Act Snowden, Executive Director for the Court System  
comments on the bill HB 115.

Our feeling was that we are just trying to put it in one place instead of seven separate places. It is hard for litigants, it is hard for juries, it is a pretty pro forma thing. If you would rather do it it is fine with us.

Question: Is this an erosion of legislative power and handing it over to the judiciary? Answer: we probably think it is a procedural thing and probably inherent in the power of the courts anyway but we're not pushing for it. If you really think it is important it certainly is not going to give us indigestion. We thought it would be best for the litigants and the attorneys. It is a very non-political thing. Venue is set by the Supreme Court opinion based on the Constitution and the transportation lines and the ethnic background of the community, more than anything else. And it would probably be easiest for us to do it, and we'd be glad to do it. But if it is certainly not the legislature's will it is not a bill we are willing to fight for.

major type of taxation which was not covered by this bill? Representative Martin stated those directly related to the individuals.

Number 375

Chairman Miller thanked Martin for his presentation and stated that the committee would keep the bill for further consideration. He then announced that the next item of business was consideration of HB 115. He stated that since the Senate had passed an identical bill, that HB 115 would be considered conceptually and that the committee would act on the Senate bill. In response to Representative Gruenberg, he stated that a bill from the Senate has to go to a standing committee before being referred to Rules and placement on the calendar. He further explained that the reason HB 115 was being reconsidered after committee approval at a prior meeting was that there appeared to be a technical problem in the statutory references AS 22.10. The problem could be solved by a letter to the Revisor asking for a change of title in the AS 22.15.080 to "Change of Venue". After this explanation, Representative Gruenberg withdrew his previously prepared amendment.

Number 440

Representative Sund stated he was concerned about the transfer of power from the legislature to the Supreme Court. Representative Phillips wondered whether a sunset provision would be appropriate. Representative Gruenberg stated that venue is a technical problem within the court's expertise and a non-political issue. He felt it would be easier for the court's to amend/change venue than for the legislature.

Number 486

Chairman Miller called on Art Snowden, Executive Director for the Court System to comment on the bill. Mr. Snowden stated that reasoning behind the bill was that consideration of seven different references, including venue maps, facility studies, travel, judge assignment, etc. was necessary prior to a decision on venue. Venue was difficult for citizens to understand, it was best for litigants and attorney and easier for the court if the court decided venue. He felt it was a procedural thing, but that the court system was not willing to "fight" over this bill. In response to Miller's

Karla Forsythe, General Counsel for the Alaska Court System. In response to Representative Phillips' question as to why HB 115 was introduced. (He asked why we were doing it. Also, the statutes had been changed quite a bit last year).

"Right now the venue statutes provides that venue in criminal cases is situated in an urban area ... within a judicial district and then within a Senate Election district. The Senate Election District creates the problem. Every time that the State is reapportioned, that means that our venue setting must change. That has an impact on jury selection, on transportation of defendants. The thought would be what the mechanism that we could use that will still achieve the constitutional goals and objectives for venue setting. And at the same time be easy to administer. The thought would be that the court can keep on top of it rather than having to worry about changing statute every time the state is reapportioned. The particular problem arises in right now in two locations of the state. The one that has been of the most concern is criminal cases out in Bethel. Because of the way the judicial district cuts, the people who should go to Bethel who, if you read that statute strictly would have to go to Nome. Last year we did request an amendment, I believe its a new paragraph g that lets the Chief Justice by order provide for exceptions to the venue statute. That, we think, has gotten us over, we hope it has gotten us over any constitutional challenges in the meantime. But what this means that is to figure out venue is properly situated for a case, you have to look at seven separate documents. Various things - court orders, the statutes, court rules, the thought was to put it all in one place. In one place where it can easily be found and to put that in the Supreme Court rules."

Regarding effective date of January 6

"Mr. Gruenberg suggested that to me prior to the meeting. I don't really, I would say that's something the court system on its own suggested, I do think it's a good idea. We do need some time to get the venue maps together. I'm sure ... it may not be a year depending on when this measure passes. I had suggested six months. I don't know when the magic date would be. I think we could probably do it in three months - it would normally be the case, but I am certainly welcome to suggestions to give us a little more time."

In response to Representative Taylor's question that the committee be assured that the Supreme Court will modify.

"We have on the administrative staff a rules attorney, who name is Don Bellarmine who is infinitely involved in this, he is ready to go the moment this legislation passes, he will get to work on a venue map. So, I feel comfortable assuring you that will happen."

Regarding an earlier date, what date would she like.

"It doesn't really matter to me. Part of depends on when this measure passes. If we can assume that its going to be relatively noncontroversial, we won't have to wait until May, so ... August. ... I don't think so. I think it might just be easier to stick with the three months. We'll have it done by then. And if we don't, we'll certainly have it done, I'm sure there have been other effective dates that have been passed by one or two days. But, .... (Representative Gruenberg suggested the first of September because he was concerned about there being venue regulations.) That would certainly be satisfactory."

Representative Gruenberg suggested an amendment. That a new section two be added reading "This act ... or the usual language, I guess ... This act takes effect September 1... become effective September 1 ... whatever the normal language is, September 1, 1985."

Representative Clocksin asked "I'm not quite clear from your discussion how long it's going to take for a rule to be submitted. I've often advocated for maximum public, or at least attorney involvement, in the adoption of Supreme Court rules. The concern is that if this legislature gets out in the middle of May and they have till September the first to adopt a rule that will find a shortage of public involvement in the adoption of a Supreme Court rule. How long does it take to get a Supreme Court rule approved?"

Karla Forsyth responds: "It can take from one day to forever but I... in this instance I think that probably what would happen is a couple of weeks to set it up and it's not as if it is a new idea. There is a person on staff who is already thinking about it, who's already been talking to the area court administrators. I would say a couple of weeks to draft, run it by the Supreme Court, I would circulate it to the bar assuming that that's what the Supreme Court wants to do and they've wanted to do that with every rule change recently. I would say that it can be accomplished in three months."

Question: You mentioned something about a constitutional test. What is the issue?

Karla Forsyth responds: The Supreme Court decision *State v. Aldorado* basically provides that the jury must be composed of a cross-section from the area in which the crime was committed. The Supreme Court used language in that case suggesting that it is an appropriate way to figure out whether you've got a cross section would be to use a senate election district, which worked for a couple of years and then got us into problems. The problem in Bethel is people whose community ties are with Bethel are having their trial conducted in Nome. So the intercultural disparity might lead to a Constitutional challenge. That issue has not been litigated in Alaska... Right now the problem occurs in Bethel and also in Southeast. And I believe a strict reading of the statute would and you can correct me on this, Representative Taylor, is that cases from Sitka would go to Cordova. And it is just a totally irrational result. The problem is using the word senate election district.

Representative Taylor stated that you technically could have a case arising in Yakutat that would be tried in Sitka. And literally, it could occur that you could have a case in Metlakatla tried in Yakutat. It is a complete distortion, but it is possible under those rules. What has really happened over the years is that the major urban centers, of course, that's where all the jury trial, nobody goes out in the bush and tried jury trials. So, as a consequence, venue is always grabbed by the District Attorney who would then file in the major metropolitan area for a crime that may have occurred way out. And, then the DA would assist that everything would have to be tried in Anchorage, Ketchikan and Juneau or whatever, though the events may have occurred among a group of people that have no relationship to all, so to speak, with that city. I think allowing the Supreme Court to come up with something is probably a better shot than what we had under the old Senate district, but we are giving up something and we need to be aware of it. And that is the political boundary line which at least assisted in requiring the court to adhere to certain ethnic and geographically similar groups of people when we select a jury panels. We are giving that up, but I have

faith that these people will do a good job in coming up with a better statute than we have. distortion of

that the legislature might be totally surrendering its prerogative to set venue and asked why the court couldn't address venue under existing statutes.

Ms. Forsythe stated that currently venue was established with reference to statutes, Court Rules, election district maps, availability of facilities, presiding judge orders and transportation orders (routes) and that it was not flexible enough to meet the requirements of the Eldorado case.

Number 348 Representative Clocksin commented that the Supreme Court was under no legal obligation to get input and that venue was not a matter of procedure but a matter of substance.

Number 410 Representative Sund moved the bill with the amendment, adding an effective date of January 1, 1986 with individual recommendations. The motion was passed unanimously.

Number 416 Chairman Miller introduced the next item of business: HB 116, an act relating to judicial vacancy.

Number 431 Fran Bremson, Chairman Judicial Council, testified in favor of the bill, stating it would allow the council to start its work earlier in the event of a judicial vacancy.

Committee members questioned Mr. Bremson about the difference of a vacancy caused by nonfiling for electional approval and a retirement or death.

Mr. Bremson and Representative Taylor gave examples from personal experience of the time involved in appointing judges.

Number 534 After discussion about the openness of the title, Chairman Miller suggested that the bill be moved out, but that the title be amended. He stated staff would check with all members before filing the retitled bill.

Number 540 Representative Gruenberg moved the bill be passed with an amended title, with individual recommendations. There were no objections and the bill was passed out.

Number 550 Chairman Miller introduced the bill dealing

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 6, 1985

SUBJECT: Venue of court actions - House Bill 115

TO: Representative M. Mike Miller  
Chair, House Judiciary Committee

FROM: Billy G. Berrier *BGB*  
Director  
Division of Legal Services

You have asked whether if House Bill 115 which provides that venue for court actions shall be set under rules established by the Supreme Court is adopted will the requirement of Section 15, Article IV of the constitution then require a two-thirds vote to change the statute.

In my opinion it will not.

The court in practice has repeatedly treated the statute governing venue as matters of substance and therefore not subject to the requirement of Section 15. The effect of this bill is to allow the court to establish venue.

The mechanism of the court's action is by court rule but the question involved is not the mechanism but whether the subject matter is substantive or procedural. This bill does not, nor cannot, affect that question. Therefore the vote requirement for changing the law adopted by the bill is the same as that required to enact it, a single majority of the full membership.

BGB:ojb  
J11/058

117  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to setting of venue by supreme court rule."

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

\*Section 1. AS 22.10.030 is repealed and re-enacted to read:  
Sec. 22.10.030. Where actions are to be brought, venue for all actions shall be set according to rules established by the Alaska Supreme Court.

Sec. 22.10.030. Where actions are to be brought: (a) All actions in ejectment or for the recovery of the possession of, quieting title to, for the partition of, or the enforcement of liens upon, real property shall be commenced in the superior court in the judicial district in which the real property, or any part of it affected by the action, is situated.

(b) If, in a civil action other than one specified in (a) of this section, a defendant can be personally served within a judicial district of the state, the action against that defendant shall be commenced in that judicial district or in the judicial district in which the claim arose.

(c) All prosecutions for crimes and offenses shall be commenced in the judicial district in which the crime or offense was committed.

(d) Subject to AS 22.10.040, a trial and any precedent or antecedent hearings in an action shall be conducted in a senate district within the judicial district at a location which would best serve the convenience of the parties and witnesses. However, if there is any part of more than one senate district within the boundaries of a borough, the trial and related hearings shall be conducted within the borough's boundaries at a location which would best serve the convenience of the parties and witnesses. If the presiding judge of the district determines that there are no facilities, reasonably suited to the purpose, available for the trial or related hearings in the senate district specified in this subsection, the presiding judge may direct the proceedings to be held in the nearest senate district with reasonably suitable facilities.

(e) Actions in cases not covered by this section may be commenced in any judicial district of the state.

(f) Failure to make timely objection to improper venue waives the requirements of this section.

(g) The chief justice of the supreme court may make exceptions to the requirements of this section if, consistent with the state and federal constitutions, the chief justice determines that transportation facilities reasonably require venue in an urban center in an adjoining judicial or senate district. (§ 17(2) ch 50 SLA 1959; am § 1 ch 126 SLA 1971; am § 1 ch 66 SLA 1972; am § 1 ch 137 SLA 1984)

**Cross references.** -- For judicial district in which action may be brought to compel compliance with surface coal mining laws, see AS 27.21.950(d); for commencement of civil actions by persons adversely affected by failure to comply

with Alaska Surface Coal Mining Control and Reclamation Act, see AS 27.21.950(d).

**Effect of amendments.** -- The 1984 amendment, effective July 3, 1984, added subsection (g).

14-0393  
Ford  
1/18/85✓

JAN 19 1985

BY THE JUDICIARY COMMITTEE  
(For the Chief Justice of  
the Alaska Supreme Court)

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IN THE HOUSE

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to setting of venue by supreme court  
rule."

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

\* Section 1. AS 22.10.030 is repealed and reenacted to read:

Sec. 22.10.030. WHERE ACTIONS ARE TO BE BROUGHT. Venue for all  
actions shall be set under rules established by the supreme court.

# Alaska State Legislature



## House of Representatives House Judiciary Committee

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4990

February 15, 1985

Mr. David Dierdorff  
Revisor of Statutes  
Division of Legal Services  
Court Bldg., Room 601  
Juneau, Alaska 99811

Re: "Venue" heading, AS 22.15.080

Dear Mr. Dierdorff:

The House Judiciary Committee, in considering HB 115, "An Act relating to setting of venue by supreme court rule", noted that the section heading of AS 22.15.080 is misleading and should be changed by the Revisor of Statutes.

The section is titled "Venue" but the subject of the section is change of venue. Similar language to that in AS 22.15.080 is also in AS 22.10.080, which is titled "Change of Venue." "Change of Venue" would be the appropriate title for AS 22.15.080.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Miller".

M. Mike Miller, Chairman  
House Judiciary Committee

MMM/ks



## Alaska Court System

State of Alaska

303 "K" STREET  
ANCHORAGE, ALASKA  
99501

ARTHUR H. SNOWDEN II  
ADMINISTRATIVE DIRECTOR

(907) 274-8611

HB 115

March 13, 1985

Representative Mike Miller  
Capitol Building, Room 122  
Juneau, Alaska 99811

Re: CS HB 115 (Jud)

Dear Representative Miller:

I am writing on behalf of the Alaska Supreme Court to clarify the court's intent in requesting passage of HB 115, an act relating to setting of venue.

Venue is the particular court location in which a case will be heard. As you know, this bill would permit the supreme court to set venue by rule. Venue is now established by statute. Because the Alaska Constitution requires a fair cross section of jurors, the statute sets venue in a senate district within the judicial district where the crime occurred. The statute also requires consideration of whether facilities are available to hold a trial, including housing for the judge and jurors and space which can be used as a courtroom. Finally, as a result of an amendment last session adding AS 22.10.030(g), transportation routes for jurors, parties and witnesses can be considered, but only by special order of the chief justice.

To determine proper venue under existing law, a person must review AS 22.10.030, Criminal Rule 18.1, the current election district map, the recommendation of the administrative director to the presiding judge of the judicial district about available facilities, the presiding judge's order upholding or overturning the administrative director's recommendation, and an order of the chief justice establishing certain transportation exceptions pursuant to AS 22.10.030(g). These documents must be reviewed in each case, because facilities and transportation routes frequently change.

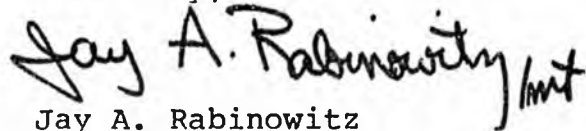
March 13, 1985  
Page Two

A supreme court rule would allow attorneys and the public to determine venue by looking at one document rather than six. Under such a rule the court would create a venue map, and would change venue depending on changes in facilities, populations and transportation patterns. Under the rule, trial would be set in local communities by boundaries resulting from communities of interest and transportation patterns, rather than by senate districts, which do not always reflect these considerations.

Venue setting, unlike jurisdiction, is procedural in nature. Venue setting by supreme court rule is subject to all state and federal constitutional requirements, and in no way usurps the legislature's role in preserving the public's substantive rights. It is our belief that setting venue by court rule will not only streamline this process and reduce the cost to litigants, but will also promote the court's goal of making justice accessible to people throughout Alaska.

Thank you for your consideration of our views.

Sincerely,

A handwritten signature in cursive script that reads "Jay A. Rabinowitz" followed by a small mark that appears to be "mt".

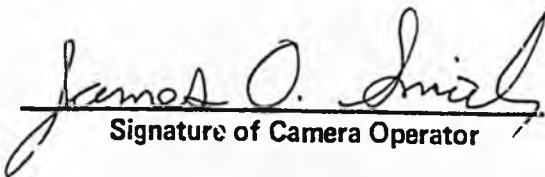
Jay A. Rabinowitz  
Chief Justice

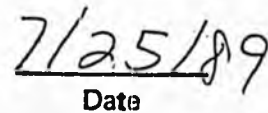


# RECORDS CERTIFICATION



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

  
Signature of Camera Operator

  
Date

H B

H B

STATE OF ALASKA  
THE LEGISLATURE

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907.465-3800

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

*House Judiciary 2/5/85 1:30 pm*

COMMITTEE REPORT

HOUSE

2/8

Rules

( 7 )

FURTHER:

1/25/85

Date: 2-5-85

The Committee on JUDICIARY has had HB 116

"An Act relating to judicial vacancy; 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 HB 116 (Jud)  same title  
 new title
- and recommends it do pass
- 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:

SUND [Signature]

GRUBBERS [Signature]

TAYLOR [Signature]

PHILLIPS [Signature]

CLOCKMAN [Signature]

PETTY JOHN [Signature] no rec

[Signature]  
CHAIRMAN

Original sponsor: Judiciary Committee  
(For the Chief Justice  
of the Alaska Supreme Court)

JAN 23 1985

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 116 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

9 \* Section 1. AS 22.05.080(b) is amended to read:

10 (b) The office of a supreme court justice, including the office  
11 of chief justice, becomes vacant 90 days after the election at [IN]  
12 which the justice is rejected by a majority of those voting on the  
13 question or for which the justice fails to file a declaration of  
14 candidacy [, IF THE JUSTICE FAILS TO FILE A DECLARATION OF CANDIDACY,  
15 90 DAYS AFTER THE FILING DEADLINE]. Upon the occurrence of (1) an  
16 actual vacancy; (2) the certification of rejection following an elec-  
17 tion; or (3) the election following failure of a justice to file a  
18 declaration of candidacy, the judicial council shall meet within 90  
19 [45] days and submit to the governor the names of two or more persons  
20 qualified for the judicial office; except that this 90-day [45-DAY]  
21 period may be extended by the council with the concurrence of the  
22 supreme court. In the event of an impending vacancy other than by  
23 reason of rejection or failure to file a declaration of candidacy, the  
24 council may meet at any time within the 90-day period immediately  
25 preceding the effective date of the vacancy and submit to the governor  
26 the names of two or more persons qualified for the judicial office.

27 \* Sec. 2. AS 22.07.070(b) is amended to read:

28 (b) The office of a judge of the court of appeals becomes vacant  
29 90 days after the election at which the judge is rejected by a

1 majority of those voting on the question or for which the judge fails  
2 to file a declaration of candidacy. Upon the occurrence of (1) an  
3 actual vacancy; (2) the certification of rejection following an elec-  
4 tion; or (3) the election following failure of a judge to file a  
5 declaration of candidacy, [TO SUCCEED] the judicial council shall meet  
6 within 90 [45] days and submit to the governor the names of two or  
7 more persons qualified for the judicial office; however, the 90-day  
8 [45-DAY] period may be extended by the judicial council with the  
9 concurrence of the supreme court. In the event of an impending  
10 vacancy other than by reason of rejection or failure to file a  
11 declaration of candidacy, the judicial council may meet at any time  
12 within the 90-day period immediately preceding the effective date of  
13 the vacancy and submit to the governor the names of two or more  
14 persons qualified for the judicial office.

15 \* Sec. 3. AS 22.10.100(b) is amended to read:

16 (b) The office of a superior court judge becomes vacant 90 days  
17 after the election at which the judge is rejected by a majority of  
18 those voting on the question or for which the judge fails to file a  
19 declaration of candidacy [, IF A JUDGE FAILS TO FILE A DECLARATION OF  
20 CANDIDACY, 90 DAYS AFTER THE FILING DEADLINE]. Upon the occurrence of  
21 (1) an actual vacancy; (2) the certification of rejection following an  
22 election; or (3) the election following failure of a judge to file a  
23 declaration of candidacy, the judicial council shall meet within 90  
24 [45] days and submit to the governor the names of two or more persons  
25 qualified for the judicial office; except that this 90-day [45-DAY]  
26 period may be extended by the council with the concurrence of the  
27 supreme court. In the event of an impending vacancy other than by  
28 reason of rejection or failure to file a declaration of candidacy, the  
29 council may meet at any time within the 90-day period immediately

1 preceding the effective date of the vacancy and submit to the govern  
2 the names of two or more persons qualified for the judicial office.

3 \* Sec. 4. AS 22.15.170(e) is amended to read:

4 (e) The office of a district court judge becomes vacant 90 day  
5 after the election at which the judge is rejected by a majority o  
6 those voting on the question or for which the judge fails to file  
7 declaration of candidacy [, IF A JUDGE FAILS TO FILE A DECLARATION C  
8 CANDIDACY, 90 DAYS AFTER THE FILING DEADLINE]. Upon the occurrence o  
9 (1) an actual vacancy; (2) the certification of rejection following a  
10 election; or (3) the election following failure of a judge to file  
11 declaration of candidacy, the judicial council shall meet within 9  
12 [45] days and submit to the governor the names of two or more person  
13 qualified for the judicial office; except that this 90-day [45-DAY  
14 period may be extended by the council with the concurrence of th  
15 supreme court. In the event of an impending vacancy other than b  
16 reason of rejection or failure to file a declaration of candidacy, th  
17 council may meet at any time within the 90-day period immediatel  
18 preceding the effective date of the vacancy and submit to the govern  
19 the names of two or more persons qualified for the judicial office.

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

116

IN THE LEGISLATURE OF THE STATE OF ALASKA  
FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to judicial vacancy, and providing for an effective date."

BE IT ENACTED by the Legislature of Alaska:

Section 1. AS 22.05.080(b) is amended to read:

(b) Sec. 22.05.080(b). The office of supreme court justice, including the office of chief justice, becomes vacant 90 days after the election [IN] at which the justice is rejected by a majority of those voting on the question [OR, IF THE JUSTICE FAILS TO FILE A DECLARATION OF CANDIDACY, 90 DAYS AFTER THE FILING DEADLINE] or for which the justice fails to file a declaration of candidacy. Upon the occurrence of (1) an actual vacancy; (2) the certification of rejection following an election; or (3) the election following failure of a justice to file a declaration of candidacy, the judicial council shall meet within 45 days and submit to the governor the names of two or more persons qualified for the judicial office; except that this 45-day period may be extended by the council with the concurrence of the supreme court. In the event of an impending vacancy [OTHER THAN BY REASON OF REJECTION OR FAILURE TO FILE A DECLARATION OF CANDIDACY,] the council may meet at any time [WITHIN THE 90-DAY PERIOD IMMEDIATELY] preceding the effective date of the vacancy and submit to the governor the names of two or more persons qualified for the judicial office.

\*Section 2. AS 22.07.070(b) is amended to read:

Sec. 22.07.070(b). The office of a judge of the court of appeals becomes vacant 90 days after the election at which the judge is rejected by a majority of those voting on the question or for which the judge fails to file a declaration of candidacy. Upon the occurrence of (1) an actual vacancy; (2) the certification of rejection following an election; or (3) the election following failure of a judge to file a declaration of candidacy, [TO SUCCEED] the judicial council shall meet within 45 days and submit to the governor the names of two or more persons qualified for the judicial office; however, the 45-day period may be extended by the judicial council with the concurrence of the supreme court. In the event of an impending vacancy [OTHER THAN BY REASON OF REJECTION OR FAILURE TO FILE A DECLARATION OF CANDIDACY,] the judicial council may meet at any time [WITHIN THE 90-DAY PERIOD IMMEDIATELY] preceding the effective date of the vacancy and submit to the governor the names of two or more persons qualified for the judicial office.

\*Section 3. AS 22.10.100(b) is amended to read:

Sec. 22.10.100(b). The office of a superior court judge becomes vacant 90 days after the election at which the judge is rejected by a majority of those voting on the question [OR, IF A JUDGE FAILS TO FILE A DECLARATION OF CANDIDACY, 90 DAYS AFTER THE FILING DEADLINE] or for which the judge fails to file a declaration of candidacy. Upon the occurrence of (1) an actual vacancy; (2) the certification of rejection following an election; or (3)

the election following failure of a judge to file a declaration of candidacy, the judicial council shall meet within 45 days and submit to the governor the names of two or more persons qualified for the judicial office; except that this 45-day period may be extended by the council with the concurrence of the supreme court. In the event of an impending vacancy [OTHER THAN BY REASON OF REJECTION OR FAILURE TO FILE A DECLARATION OF CANDIDACY,] the council may meet at any time [WITHIN THE 90-DAY PERIOD IMMEDIATELY] preceding the effective date of the vacancy and submit to the governor the names of two or more persons qualified for the judicial office.

\*Section 4. AS 22.15.170(e) is amended to read:

Sec. 22.15.170(e). The office of a district court judge becomes vacant 90 days after the election at which the judge is rejected by a majority of those voting on the question [OR, IF A JUDGE FAILS TO FILE A DECLARATION OF CANDIDACY, 90 DAYS AFTER THE FILING DEADLINE] or for which the judge fails to file a declaration of candidacy. Upon the concurrence of (1) an actual vacancy; (2) the certification of rejection following an election; or (3) the election following failure of a judge to file a declaration of candidacy, the judicial council shall meet within 45 days and submit to the governor the names of two or more persons qualified for the judicial office; except that this 45-day period may be extended by the council with the concurrence of the supreme court. In the event of an impending vacancy [OTHER THAN BY REASON OR REJECTION OR FAILURE TO FILE A DECLARATION OF

CANDIDACY,] the council may meet at any time [WITHIN THE 90-DAY PERIOD IMMEDIATELY] preceding the effective date of the vacancy and submit to the governor the names of two or more persons qualified for the judicial office.

\*Section 5. This Act takes effect immediately in accordance with AS 01.10.070(c).

ALASKA CONSTITUTION, ARTICLE IV, SECTION 7

Section 7. Vacancy. The office of any supreme court justice or superior court judge becomes vacant ninety days after the election at which he is rejected by a majority of those voting on the question, or for which he fails to file his declaration of candidacy to succeed himself.

14-0392  
Ford  
1/18/85

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IN THE HOUSE

BY THE JUDICIARY COMMITTEE  
(For the Chief Justice of  
the Alaska Supreme Court)

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to appointment, qualifications and duties of an internal auditor within the Alaska Court System."

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

\* Section 1. AS 22.20 is amended by adding a new section to read:

Sec. 22.20.038. APPOINTMENT, QUALIFICATIONS AND DUTIES OF INTERNAL AUDITOR. (a) The administrative director shall appoint an internal auditor to provide the administrative director with objective information to assist in determining whether Alaska Court System operations are adequately controlled and whether the required high degree of public accountability is maintained.

(b) The internal auditor shall be a certified public accountant of this state, or of another state having requirements equivalent to those of this state, with at least three years of practice in the profession, or the equivalent, before the appointment.

(c) The internal auditor shall

(1) review and appraise the soundness, adequacy and application of accounting, financial and operating controls;

(2) ascertain the extent of compliance with established policies, plans, and procedures;

(3) ascertain the extent to which court system assets are accounted for and safeguarded from losses of all kinds; and

(4) ascertain the reliability of accounting and other data developed within the Alaska Court System.

1 (d) The internal auditor shall have full, free, and unrestricted  
2 access to all public records, all activities of the Alaska Court  
3 System, all Alaska Court System property, all Alaska Court System  
4 personnel, and all policies, plans and procedures, and records per-  
5 taining to expenditures financed by Alaska Court System funds. This  
6 section does not authorize the public disclosure of material that is  
7 confidential or privileged under federal, state or local law, court  
8 rule or order, or materials the public disclosure of which constitutes  
9 an unwarranted invasion of personal privacy.

10 (e) The internal auditor's conclusions and recommendations shall  
11 be reported promptly in writing to the administrative director.  
12 Copies of reports of the internal auditor shall be available for  
13 public inspection at the office of the internal auditor during regular  
14 business hours.

15 (f) The internal auditor shall keep a complete file of all audit  
16 reports and other reports or releases issued by the auditor, and a  
17 complete file of audit work papers and other related supportive  
18 material.  
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STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

**REQUEST**

Bill/Resolution No.: HB 116  
 Title: An Act Relating to  
           Judicial Vacancy  
 Sponsor: \_\_\_\_\_  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected: Alaska Court System  
 Program Category Affected: \_\_\_\_\_  
                                   Administration of Justice  
 BRU, Program or Subprogram(s) Affected: \_\_\_\_\_  
                                   Trial Courts

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		-0-	-0-	-0-	-0-	-0-

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:**

**ANALYSIS:** Attach a separate page for analysis

Prepared By: Robert G. Fisher, Fiscal Officer Phone: 264-0561  
 Division: Alaska Court System Date: 2/4/85  
 Approved by Commissioner: *[Signature]* Date: 2/4/85  
 Agency: Alaska Court System

Distribution (by Agency preparing fiscal note):

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

12/1/83

*Backup for judicial  
vacancy bill.*

JUDICIAL SELECTION PROCEDURES  
OF THE ALASKA JUDICIAL COUNCIL

The Alaska Judicial Council is a constitutionally created state agency which evaluates the applications of persons seeking judicial appointment and refers the names of at least two qualified applicants to the Governor for appointment to fill existing or impending vacancies. The following is a brief summary of the judicial selection process--the steps which an applicant must take in order to be considered for a judicial appointment and the steps which are taken by the Judicial Council to insure that applicants are qualified for such appointment.

A. The Application Process

Applicants must first complete the Judicial Council's "Application for Judicial Appointment," which consists of a questionnaire form and two appendices. These appendices request: (1) a physician's certification of the applicant's good health based upon the results of a complete physical examination, preferably one conducted within one year prior to the date of application; or if this is not possible, a certification from the physician who conducted the most recent complete physical examination of the applicant; and (2) a legal writing sample of 5 to 10 pages in length, prepared solely by the applicant within the past five years.

Applicants must submit eight copies of the completed application and appendices to the Judicial Council on or by the date set forth in the notice of vacancy.

Applicants are also encouraged to review the Code of Judicial Conduct (Alaska Rules of Court, Vol. III) during the evaluation process period.

## B. The Evaluation Process

Once the application deadline has passed, the Judicial Council begins its evaluation process.

### 1) The Bar Poll

The Judicial Council sends the names of all applicants to an independent organization, Policy Analysts, Ltd. (PAL) which prepares a survey to be sent to all active members of the Alaska Bar Association. The Bar Survey asks Bar members to rate each candidate on a five point scale [1 (Poor) to 5 (Excellent)] on 11 qualities, including "legal reasoning ability and knowledge of the law" and "integrity", and also asks respondents to rate each candidate as a potential "Good Judge". Survey respondents are asked to indicate whether their numerical ratings are based upon direct professional experience, other personal contacts or reputation; respondents may also decline to evaluate any candidate due to insufficient knowledge. Respondents are invited to offer narrative comments as well.

Survey responses are returned directly to PAL, which prepares a statistical analysis of all survey responses, including average ratings for each quality for each candidate by range (i.e., excellent, good, acceptable, deficient, poor). Although respondents do not rate candidates in comparison to each other, PAL does prepare an analysis showing relative quantitative rankings among candidates (e.g., 2nd highest average "Good Judge" or "11-item scale" rating out of 10 candidates). (PAL also collates all comments and forwards these in a separate, confidential report to the Council.)

After all applicants have been notified of the survey results, the survey report is released to the public. Survey results are used by the Council members in the evaluative process and each applicant has the opportunity to discuss the survey results with the Council during the interview. [See below, (5)]

2) Letters of Reference

Letters of reference are also considered by the Council in its evaluative process. Reference letters are treated as confidential and may not be viewed by the applicants.

3) Investigation of Applicants

The Council may verify applicants' educational and employment history and investigate medical, criminal, legal civil, credit and professional discipline history. Supreme Court Order 489, effective January 4, 1982, authorizes the Council to review bar applications and bar discipline records. During the course of its investigation the Judicial Council may also seek information on candidate qualifications from such other public or private groups or individuals as may be deemed appropriate. Information gathered during the Council's investigation is treated as confidential and is used only for the purpose of evaluating fitness for judicial appointment.

4) Screening

Following its review of the applications, investigative and survey data, the Council schedules candidate interviews. As a general rule, the Council prefers to interview all candidates; however, the Council may decline to interview any candidate whom it finds to be unqualified. The Council may also decide not to interview candidates who have been recently interviewed for other vacancies, where the Council believes it has sufficient information upon which to base its evaluations. The Council will ultimately review and vote on the qualifications of all applicants, whether or not interviewed.

5) Interviews

The final stage of the evaluation process is a 1/2 hour applicant interview with the full Council. Applicants invited to interview are asked about their judicial philosophy and are given an opportunity to respond to or explain any ratings, reference letters or other information gathered during the investigation.

Following these interviews, the Council submits a panel of nominees to the Governor of those candidates deemed most qualified, provided such panel includes two or more names. (If fewer than two applicants are deemed to be qualified, the Council will decline to submit any names and will re-advertise for the vacancy). Thereafter, the applicants are notified and the Council's nominations are made public. The Governor then has 45 days to appoint a nominee from the list to fill the judicial vacancy.

C. Timing of Judicial Selection Procedures

From the time the Council receives notice of a vacancy to the final applicant interviews, the judicial selection process takes a minimum of 10 weeks. Once the names of the nominees have been submitted, the Governor has up to 45 days to appoint.

The outline below describes the timing of the major procedures followed during the judicial selection process:

1) Written notice of the vacancy is received by the Council. (Day 1).

2) Within 3 days, the position is announced to all members of the Bar Association and the application process begins. (Day 4).

3) The deadline for receiving applications is approximately three weeks after the announcement of the position. (Day 25). The deadline for filing for the current vacancy is January 25, 1985.

4) The names and biographies of applicants are made public immediately after the filing deadline. (Day 25)

5) The Judicial Council begins its investigation process, requesting letters of reference, disciplinary histories for each applicant, and such other records as may be deemed appropriate. (Day 25).

6) The Bar Poll is mailed out to all members of the state Bar within three days. (Day 28).

7) Bar members have approximately three weeks to complete and return the Bar Poll. (Day 49). The Bar Polls for the current vacancy must be returned by February 18, 1985. The results are tabulated and analyzed within 14 days following the survey return deadline. (Day 63).

8) The candidates are advised of the bar survey results and the report is made public. (Day 63).

9) Applicant files are screened and applicants selected are advised of the time, date and place of their interviews. (Day 63)

10) Interviews are ordinarily held within the next 30 days (Day 70-93). Interviews for the current judicial vacancy are tentatively scheduled to be held on March 27-28, 1985. Council members vote following the interviews. The Governor and the candidates are immediately notified of the Council's vote and a press release is then issued.

11) The following day, the names of nominees are formally submitted to the Governor, along with copies of nominees' applications and a copy of the Bar Survey. The Governor then has up to 45 days to make an appointment from the list.



# alaska judicial council

1031 W. Fourth Avenue, Suite 301, Anchorage, Alaska 99501 (907) 279-2526

EXECUTIVE DIRECTOR  
Francis L. Bremson

NON-ATTORNEY MEMBERS  
Mary Jane Fate  
Robert H. Moss  
Renee Murray

January 28, 1985

ATTORNEY MEMBERS  
James B. Bradley  
James D. Gilmore  
Barbara L. Schuhmann

CHAIRMAN, EX OFFICIO  
Jay A. Rabinowitz  
Chief Justice  
Supreme Court

Representative Mike Miller  
Chairman, House Judiciary Committee  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Representative Miller:

Identical provisions of AS 22.05.080(b); 22.07.070(b); 22.10.100(b); and 22.15.170(e) require the Judicial Council to meet within 45 days of the occurrence of actual vacancies in the offices of justice of the supreme court or judge of the court of appeals, superior court or district court to submit nominations to the governor to fill such vacancies. While this 45 day selection period was deemed adequate at the time such provisions were originally enacted, the Council's adoption of bar survey, investigation, interview and related procedures in recent years has rendered compliance with the 45 day requirement nearly impossible. Although the statutes provide a mechanism for obtaining an extension of the deadline upon request, an extension is realistically required in every case. (Attached is a summary of current Judicial Council selection procedures, including an estimate of the minimum number of days currently required, i.e., 70-93, to fill judicial vacancies.)

Therefore, the Judicial Council hereby formally requests that the House Judiciary Committee consider an amendment to the above four statutes changing the 45 day period to a 90 day period. In each of these four sections, the same change would be required and would appear twice, to-wit:

"....the judicial council shall meet within [45] 90 days and submit to the governor the names of two or more persons qualified for the judicial office; except that this [45] 90-day period may be extended by the council with the concurrence of the supreme court."

Page Two  
Rep. Mike Miller  
January 28, 1985

Recently, the House Judiciary Committee introduced House Bill 116 by request of the Chief Justice to amend certain other provisions of the same four statutes to conform the language of such statutes to the language of the Alaska Constitution. Because that bill is already before your Committee, we would hope that this proposed further amendment to the same four sections requested by the Council could be considered by your Committee at the same time House Bill 116 is considered. I would be happy to appear in person or by teleconference at that time to testify in support of these proposed amendments.

Thank you in advance for your consideration of our request. If further information is required, please let me know.

Sincerely,



FRANCIS L. BREMSON  
EXECUTIVE DIRECTOR

FB/kf

Enclosure

cc: Senate Judiciary Committee  
House Judiciary Committee  
Judicial Council  
Roger Lewis  
Hayden Kaden  
Art Snowden  
Karla Forsythe

JUDICIAL SELECTION PROCEDURES  
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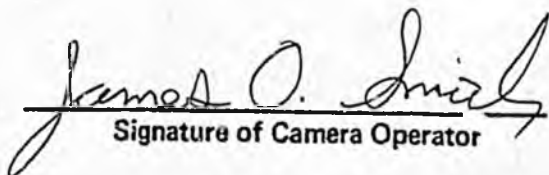
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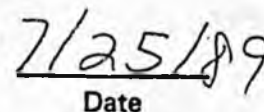


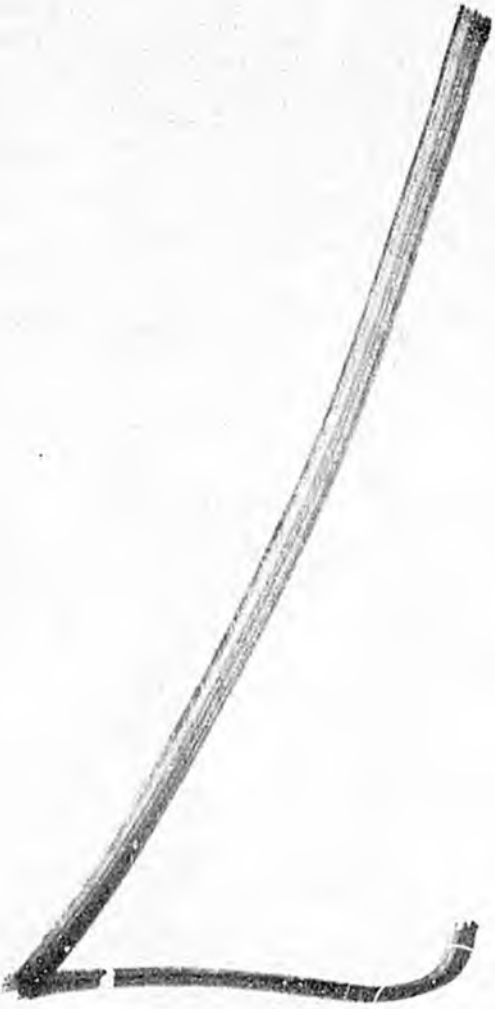
# RECORDS CERTIFICATION



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

  
Signature of Camera Operator

  
Date



# STATE OF ALASKA THE LEGISLATURE

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

## LEGISLATIVE AFFAIRS AGENCY

### LEGISLATIVE REFERENCE LIBRARY

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary	2/5/85	1:30 pm
" "	2/6/85	1:30 pm
" "	3/28/85	1:30 pm

COMMITTEE REPORT  
HOUSE

3/29

( 7 )

FURTHER: FINANCE

1/25/85

Date: 3-28-85

The Committee on JUDICIARY has had HB 117

"An Act relating to appointment, qualifications and duties of an internal auditor within the Alaska Court System."

under consideration and recommends:

- do pass  do not pass
- do pass with attached amendments(s)  same title
- replace with CS for \_\_\_\_\_  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

[Signature]

[Signature]

[Signature]

[Signature]

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MEMBERS HAVING  
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

[Signature]  
CHAIRMAN

IN THE LEGISLATURE OF THE STATE OF ALASKA  
FOURTEENTH LEGISLATURE - FIRST SESSION

117

A BILL

For an Act entitled: "An Act relating to appointment, qualifications and duties of an internal auditor within the Alaska Court System."

BE IT ENACTED BY THE LEGISLATURE OF ALASKA:

Section 1. AS 22.20 is amended by adding a new section to read:

Sec. 22.20.038. INTERNAL AUDITOR. (a) Appointment. The administrative director shall appoint an internal auditor to provide the administrative director with objective information to assist in determining whether Alaska Court System operations are adequately controlled and whether the required high degree of public accountability is maintained.

(b) Qualifications. The internal auditor shall be a certified public accountant of this state, or of another state having requirements equivalent to those of this state, with at least three years of practice in the profession, or the equivalent, before the appointment.

(c) Duties. The internal auditor shall have the following duties:

1. to review and appraise the soundness, adequacy and application of accounting, financial and operating controls;
2. to ascertain the extent of compliance with established policies, plans and procedures;
3. to ascertain the extent to which court system

assets are accounted for and safeguarded from losses of all kinds; and

4. To ascertain the reliability of accounting and other data developed within the Alaska Court System.

(d) Access to Records. The internal auditor shall have full, free and unrestricted access to all public records, all activities of the Alaska Court System, all Alaska Court System property, all Alaska Court System personnel, and all policies, plans and procedures and records pertaining to expenditures financed by Alaska Court System funds. This section shall not authorize the public disclosure of material that is confidential or privileged under federal, state or local law, court rule or order, or materials the public disclosure of which constitutes an unwarranted invasion of personal privacy.

(e) Reports. The internal auditor's conclusions and recommendations shall be reported promptly in writing to the administrative director. Copies of reports of the internal auditor shall be available for public inspection at the office of the internal auditor during regular business hours.

(f) Audit Records. The internal auditor shall keep a complete file of all audit reports and other reports or releases issued by the auditor, and a complete file of audit work papers and other related supportive material.

14-0418  
 Levy  
 1/18/85 ✓

JAN 18 10 05

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE  
 (For the Chief Justice of  
 the Alaska Supreme Court)

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the small claims jurisdictional  
 7 limitation and the duties of magistrates; and  
 8 providing for an effective date."

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

10 \* Section 1. AS 22.15.040 is amended to read:

11 Sec. 22.15.040. SMALL CLAIMS. When a claim for relief does not  
 12 exceed \$5,000 [\$2,000] exclusive of costs, interest and attorney fees,  
 13 and request is so made, the district judge or magistrate shall hear  
 14 the action as a small claim unless important or unusual points of law  
 15 are involved. The supreme court shall prescribe the procedural rules  
 16 and standard forms to assure simplicity and the expeditious handling  
 17 of small claims.

18 \* Sec. 2. AS 22.15.120 is amended to read:

19 Sec. 22.15.120. LIMITATIONS ON PROCEEDINGS WHICH MAGISTRATE MAY  
 20 HEAR. A magistrate shall preside only in cases and proceedings under  
 21 AS 22.15.040, 22.15.100, and 22.15.110, and as follows,

22 (1) for the recovery of money or damages only when the  
 23 amount claimed, exclusive of costs, interest, and attorney fees, does  
 24 not exceed \$5,000 [\$1,000];

25 (2) for the recovery of specific personal property when the  
 26 value of the property claimed and the damages for the detention do not  
 27 exceed \$5,000 [\$1,000];

28 (3) for the recovery of a penalty or forfeiture, whether  
 29 given by statute or arising out of contract, not exceeding \$5,000

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[\$1,000];

(4) to give judgment without action upon the confession of the defendant for any of the cases specified in this section, except for a penalty or forfeiture imposed by statute;

(5) to give judgment of conviction upon a plea of guilty by the defendant in a criminal proceeding within the jurisdiction of the district court;

(6) to hear, try, and enter judgments in all cases involving misdemeanors, if the defendant consents in writing that the magistrate may try the case;

(7) to hear, try and enter judgments in all cases involving infractions under AS 28 and violations of ordinances of political subdivisions. [;

(8) REPEALED]

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

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: HB 117  
 Title: An Act Creating an  
Internal Auditor  
 Sponsor: \_\_\_\_\_  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Alaska Court System  
 Program Category Affected: \_\_\_\_\_  
Administration of Justice  
 BRU, Program or Subprogram(s) Affected: \_\_\_\_\_  
Appellate Courts, Trial Courts,  
Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES		85.4	90.5	95.9	101.7	107.8
200 TRAVEL		7.5	8.0	8.5	9.0	9.5
300 CONTRACTUAL		3.5	3.7	3.9	4.1	4.3
400 SUPPLIES		2.0	2.1	2.2	2.3	2.4
500 EQUIPMENT		7.2				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		105.6	104.3	110.5	117.1	124.0
<b>CAPITAL</b>						
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)

GENERAL FUND		105.6	104.3	110.5	117.1	124.0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		105.6	104.3	110.5	117.1	124.0

POSITIONS:

FULL-TIME		2.0	2.0	2.0	2.0	2.0
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Robert G. Fisher, Fiscal Officer Phone: 264-0561  
 Division: Alaska Court System Date: 1/15/85

Approved by Commissioner: [Signature] Date: 1/15/85  
 Agency: Alaska Court System

Distribution (by Agency preparing fiscal note):

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

12/1/83

ALASKA COURT SYSTEM  
FISCAL NOTE ANALYSIS

JUDICIAL INTERNAL AUDITOR

PERSONNEL:	SALARY	BENEFITS	TOTAL COST
INTERNAL AUDITOR (Range 20A)	\$40,932	\$11,790	\$52,722
ASSISTANT (Range 12B)	24,516	8,116	32,632
			-----
Total Personnel Costs			85,354
TRAVEL			7,500
CONTRACTUAL			3,500
SUPPLIES			2,000
EQUIPMENT (one-time item)			7,200
			-----
TOTAL FY 86 COST			\$105,554 =====

Subsequent fiscal years adjusted to reflect 6% inflation.

A REPORT ON THE  
ALASKA COURT SYSTEM

For the Fiscal Year Ended June 30, 1984

Audit Control Number

41-1176-85-F

Chief Justice of the  
Alaska Supreme Court

Administrative Director

Jay A. Rabinowitz

Arthur H. Snowden, II

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## PURPOSE OF THE REPORT

In accordance with the provisions of Title 24 of the Alaska Statutes, an examination of the Alaska Court System was conducted to determine:

1. If the financial statements appearing in the State's Annual Financial Report for the fiscal year ended June 30, 1984, are fairly presented.
2. If the Alaska Court System has complied with applicable State statutes and regulations governing fiscal activities.

## ORGANIZATION AND FUNCTION

The Alaska Court System is the Judicial Branch of State government whose authority is granted under Article IV of the Constitution of Alaska and Title 22 of the Alaska Statutes.

The Court System has two major organizational components, judicial and administrative.

### Judicial

The appellate courts consist of a five-member Supreme Court and a three-member Court of Appeals. The trial courts include superior courts and district courts. The trial courts are organized into four geographic districts. In each trial court district the presiding judge is responsible for administration of the courts in addition to his or her duties as a judge. Each presiding judge is assisted by an area court administrator who supervises day-to-day court operations. There are 27 Superior Court judges, 18 District Court judges and 64 magistrates in 59 locations statewide.

### Administrative

The Chief Justice of the Supreme Court is the administrative head of the Court System. However, by court rule, administrative responsibilities have been delegated to the Administrative Director of the courts, subject to general guidelines set forth by the Supreme Court. The Administrative Director is assisted by a deputy director for operations and a deputy director for services. Operations include centralized accounting, purchasing and supply, data processing, and electronic engineering. Services cover personnel, magistrate training, and the law libraries.

The Court System also includes two independent agencies. The Commission on Judicial Conduct investigates allegations of misconduct by judges, and the Alaska Judicial Council makes recommendations for judicial appointments, evaluates judges standing for retention, and conducts studies of the justice system.

In FY 84, the Court System's operating budget totalled \$36,395,700 and funded 74 full-time positions. The legislature also amended Title 22 to add one Superior Court judge and enacted legislation that moved certain duties of the public administrator from the Court System to a newly-created Office of Public Advocacy in the Department of Administration.

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## FINDINGS AND RECOMMENDATIONS

### Recommendation No. 1

The Court System should improve trust accounting procedures and should report trust investment balances.

The Court System has not developed procedures to account for court-ordered investment of trust money held pending case disposition. After a disbursement has been made for a trust investment, no other accounting is made for the investment asset although it remains in the Court's custody. Because these assets have not been accounted for in the individual trust account balances, they were not reported as a part of the total year-end trust balance prior to FY 84.

Although trust investment transactions represent a relatively small number of Court System transactions, they represent a material amount of the total trust balance. Reported trust investments at June 30, 1984, were \$2.8 million. Also, if trust money is reinvested when the investment matures, the transaction is reported as a receipt and disbursement each time reinvestment occurs. This results in overstatement of trust activity.

In addition, procedures for identification of old or unclaimed balances have not been implemented. Disposition of a trust balance is generally initiated by court order with the payee requesting payment, but in instances where bail is forfeited to pay a fine, the State or Municipal government does not initiate action and trust money may not be transferred in a timely manner. Trust balances should be reviewed regularly to ensure prompt disposition.

Generally accepted accounting principles require all assets, whether cash or not, to be properly recorded and reported. The Court System should improve its trust accounting procedures to eliminate overstatement of activity due to reinvestment and to provide for timely disposition of old or unclaimed balances, and it should develop a system of accounting for trust investment transactions. To ensure that all investments are reported, investment securities in the Court's custody should be periodically inventoried, and inventory records should be reconciled to accounting records.

### Recommendation No. 2

The Court System should strengthen internal controls and improve accounting and management procedures.

Internal controls comprise the plan of organization and the coordination of methods and measures adopted within an organization to safeguard its assets; check accuracy and

reliability of its accounting data; promote operational efficiency; and encourage adherence to prescribed managerial policies, administrative regulations, and applicable statutes. As a matter of course, we made a study and evaluation of the internal controls of the Alaska Court System.

Our study and evaluation would not necessarily disclose all weaknesses in the various systems of the Court System because it was based on selective tests of the accounting records, related data, and observations. However, our study and evaluation at the various locations we visited disclosed the following conditions that we believe to be significant:

1. Accumulated deposits should be transferred from the Court System's bank account to the Treasury suspense account intact in order to provide a clearer audit trail. All revenues should be properly identified by source and promptly allocated to the appropriate Court System codes and accounts in the State accounting system. The Treasury suspense account balance should be zero at year end. Also, because of the volume and complexity of bank account transactions, procedures should be developed to reduce the potential for clerical errors.
2. Cash control procedures need to be strengthened. Each cashier should count their own cash and include a record of their count with the cash when it is stored in the safe overnight. All checks should be restrictively endorsed when they are received. Deposits should be made promptly and intact, and duplicate bank certified deposit slips should be returned promptly for comparison. Those preparing trust deposits should not also be responsible for preparing trust disbursements.
3. The controlled property inventory should be completed as soon as possible, and inventory records should be updated and reconciled to State accounting records.
4. Systems analysis of both manual and automated procedures should be performed to eliminate duplication of effort whenever possible. Manual revenue accounting in small courts should be streamlined. Automated systems should be programmed to provide exception reports for identification of missing or invalid data.
5. The trial courts' accounting manual should be revised and updated, and all trial court accounting personnel should be instructed in its use. The manual has not been updated since 1977.
6. Draft purchasing guidelines should be finalized and circulated as soon as possible. The Court System has operated without formal purchasing regulations since

it was determined to be exempt from Executive Branch requirements in 1979.

The Court System is a complex environment in which to develop and maintain a system of internal controls. Statewide offices and two separate major organizational components present both geographical and organizational obstacles; interaction between and within the components results in a network of relationships. If responsibilities and authority are unclear, lines of communication can break down causing weaknesses in internal control. The Court System needs to ensure that sound, reliable internal controls are in place and are adhered to at all organizational levels. A well maintained system of internal controls, in conjunction with a clear set of accounting and management procedures, enhances public confidence and promotes operational efficiency.

Recommendation No. 3

The Court System should close out inactive capital projects and should implement a project accounting system for projects underway.

In the past five years, the Court System has received appropriations for nine capital projects. Three have been completed and closed out while six remain. Three of the remaining projects should be closed out.

1. Fairbanks Court Planning -- \$50,000 of the original \$110,000 FY 81 appropriation was expended in the first year for a study of court expansion alternatives; however, there has been no activity since FY 81. The project balance of \$57,532 should be lapsed.
2. Sitka Court Building Remodeling -- \$13,500 of the original \$96,000 FY 81 appropriation was expended for an engineering study by the Department of Transportation and Public Facilities (DOTPF) in FY 81. There has been no activity since then. The project balance of \$81,166 should be lapsed.
3. Kotzebue Court Addition - \$132,345 was appropriated in FY 81, of which \$104,075 was expended for an addition to the building by DOTPF. The balance of \$28,824 was available for remodeling to integrate the old and new parts of the structure. The remodeling contract for \$23,863 was increased to \$38,334 as a result of 17 change orders during the course of the work. Final payment has not been made because of a dispute between the contractor and the Court System. The dispute should be resolved and the project closed out even though it may result in an overexpenditure of as much as \$10,009.

In addition to closing out the projects mentioned above, the Court System should establish a project accounting system to improve control over the three projects currently underway. It should be structured to account for projects by appropriation, and within appropriation by contract, so that progress can be monitored at the individual contract level. This is particularly important when numerous change orders are approved as they were on the Anchorage and Kotzebue remodeling projects. On the Anchorage project some unforeseen costs were charged to a subsequent appropriation for the court building addition, while some of the costs associated with change orders in Kotzebue have resulted in a potential overexpenditure.

The project accounting system should also have the capability to accumulate costs by location which would provide useful management information on both the statewide automated records project and the statewide recording equipment replacement project now underway. An effective project accounting system would assist managers in planning, monitoring, and controlling capital projects.

#### Recommendation No. 4

Plans for further installation of computers under the statewide automated records project should be reevaluated and the system's accounting module should be improved and enhanced.

The Court System received an appropriation for \$933,000 in FY 82 for purchase, development, and installation of a statewide automated records system. Nineteen locations were to be automated using stand-alone microprocessor-based computers and a specially modified software package. The primary purpose of the project was to eliminate all manual statistical reporting of case activity and to provide case indexing and calendaring functions. In addition, all accounting processes were to be automated.

This system developed from the top down. The choice of operating system software was the determining factor in the choice of hardware and together, software and hardware limitations constrained possible applications and output. In addition, installation and training problems have undermined acceptance and full utilization of the systems in some locations.

The accounting module of the Alaska Court Records System (ACRS) does not provide sufficient accounting information nor adequate internal controls in the following ways:

1. Trust accounts are maintained manually.
2. Numerical control over receipt number series is not automated.

3. Separate daily summaries for trial and traffic transactions are unnecessary.
4. Daily totals for deposit by bank account are not provided; instead, totals are by general category of revenue or trust.
5. The capability to print monthly summaries for bank account reconciliation has not been used.
6. Protection against invalid input is not adequately programmed in the system.
7. Exception reports showing missing data are not produced.

Some of the weaknesses noted can be eliminated by simple program modifications; however, the more substantial problems (e.g., trust accounting) will require detailed analysis and major changes in the software.

The accounting module was added to the original software and is not well integrated into the system. Accounting data is stored in the record of actions module, not just in the accounting module which prints receipts and lists and summarizes receipt transactions. Thus, it is important for the record of actions module, which contains case history information, to be complete and accurate as well. However, in some locations, staffing limits and high case volume have slowed data input or resulted in partial input of case information. Also, ACRS was not designed to provide regular standardized management reports for administrators. Instead, ACRS contains a module that allows administrators to design and produce their own individualized reports. To date, one area court administrator has done so.

As of August 1, 1984, eleven systems had been installed in the following locations:

Ketchikan	Seward	Kodiak	Barrow
Sitka	Homer	Bethel	
Valdez	Kenai	Nome	

Ten additional systems have been delivered to Anchorage in anticipation of installation in Juneau, Fairbanks, Palmer, and Anchorage. However, plans to upgrade these systems prior to installation have been postponed because of delays in development of upgraded software by an outside company.

We recommend that the Court System take this opportunity to reassess its plans and perform a comprehensive reevaluation of its needs with regard to both the existing and proposed installations. The analysis should begin with an assessment of user needs. Development of detailed designs for output

should be completed before decisions are made to improve or replace existing software or hardware or to obtain new software or hardware. It may be possible to enhance the ACRS accounting module so that all accounting functions are fully automated in the small courts; however, the higher volume courts in Anchorage, Fairbanks, Palmer, Kenai, Juneau, and Ketchikan may require major changes in hardware and software in order to provide the necessary data processing support for both records and accounting applications.

#### Recommendation No. 5

The Court System should strengthen, expand, and upgrade its internal audit capabilities.

The role of internal audit is to provide an independent appraisal activity within an organization for the review of accounting, financial, and other operations as a basis for service to management. It is a managerial control which functions by measuring and evaluating the effectiveness of other controls. It provides assistance to management by furnishing objective appraisals, recommendations, and pertinent comments concerning activities reviewed.

As a separate branch of government with approximately 575 employees in 59 locations statewide and an operating budget of \$36 million in FY 84, the Court System needs to establish effective internal audit capabilities. Currently, the Court System has one field auditor who is responsible for providing training and assistance to accounting personnel in addition to auditing duties. Recommendation Nos. 1 -- 4 above point to the need for improvements in trust accounting, internal controls, project accounting, and data processing. An enhanced internal audit function would be useful in developing solutions to these problems.

In order to provide the separate higher level of control needed, internal audit should be organizationally independent and should report to the highest administrative level. Duties should include study and evaluation of internal controls as well as substantive tests of detailed transactions and performance reviews. Auditing procedures, documentation, and reporting should be in accordance with professional auditing standards, and personnel should have professional auditing expertise. An effective internal audit capability would strengthen the Court System's ability to review its own operations for the purpose of achieving needed improvements.

#### Recommendation No. 6

The Court System's unrecorded liability for judicial retirement contributions should be eliminated.

Judicial retirement contributions were not properly recorded

at the end of FY 82 when contributions covering the period May 16, 1982, through June 30, 1982, were not recorded before the August 31 cutoff and the funds lapsed. These contributions were recorded in FY 83 and, similarly, the FY 84 expenditures included the May 16, 1983, through June 30, 1983, contributions. This resulted in an unrecorded liability of \$465,946 for judicial retirement contributions representing the last six weeks of Fiscal Year 1984. The Court System should arrange for disposition of this liability and should ensure that all judicial retirement contributions are accounted for properly in the future.

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# STATE OF ALASKA

AUDIT DIVISION  
POUCH W  
JUNEAU, ALASKA 99811

## THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

November 16, 1984

Members of the Legislative Budget  
and Audit Committee:

We have examined the General Fund Statement of Revenues -- Budget and Actual, the General Fund Statement of Expenditures and Encumbrances Compared with Appropriations, and the Statement of Agency Trust Funds for the State of Alaska, Alaska Court System, for the fiscal year ended June 30, 1984. Except as set forth in the following paragraph, our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.


As described in Note 2 to the financial statements, the Alaska Court System's accounting records do not provide sufficient evidence supporting Agency Trust Fund investment activity to permit the application of adequate auditing procedures.

As discussed in Note 3 to the financial statements, encumbrances on the General Fund Statement of Expenditures and Encumbrances Compared with Appropriations are overstated \$73,695 or 11 percent.

As discussed in Note 4 to the financial statements, the Alaska Court System established an encumbrance for \$450,000 which \$194,000 is not adequately supported. The amount of the encumbrance cannot presently be determined, and no provision for any adjustment that may result has been made in the financial statements.

As noted in the second paragraph, the scope of our work was not sufficient to enable us to express, and we do not express, an opinion on the Statement of Agency Trust Funds. In our opinion, except for the matter discussed in the third paragraph, and subject to the effects on the financial statement of the adjustment, if any, as might have been required had the amount of the encumbrance referred to in the fourth paragraph been known, the General Fund Statement of Revenues -- Budget and Actual and the General Fund Statement of Expenditures and Encumbrances Compared with Appropriations present fairly the

revenues earned, appropriations, expenditures, and encumbrances for the State of Alaska, Alaska Court System, for the fiscal year ended June 30, 1984, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year.



Gerald L. Wilkerson, CPA  
Legislative Auditor  
Division of Legislative Audit

STATE OF ALASKA  
ALASKA COURT SYSTEM  
GENERAL FUND  
STATEMENT OF REVENUES -- BUDGET AND ACTUAL  
For the Fiscal Year Ended June 30, 1984

	<u>Final Revised Budget</u>	<u>Actual</u>	<u>Over or (Under) Budget</u>
<u>Unrestricted Revenues</u>			
<u>Charges for Services</u>			
Miscellaneous Revenues	\$ 569,500	\$ 342,298	\$(227,202)
Filing Fees	<u>695,300</u>	<u>587,017</u>	<u>(108,283)</u>
<u>Total Charges for Services</u>	<u>1,264,800</u>	<u>929,315</u>	<u>(335,485)</u>
<u>Fines and Forfeitures</u>			
Fines and Forfeitures	3,148,300	3,173,772	25,472
Court Cost Recovery	<u>105,300</u>	<u>235,518</u>	<u>130,218</u>
<u>Total Fines and Forfeitures</u>	<u>3,253,600</u>	<u>3,409,290</u>	<u>155,690</u>
<u>Other Revenues</u>	<u>-0-</u>	<u>386</u>	<u>386</u>
<u>Total Unrestricted Revenues</u>	<u>4,518,400</u>	<u>4,338,991</u>	<u>(179,409)</u>
<u>Restricted Revenues</u>			
<u>Interagency Revenues</u>	<u>340,800</u>	<u>318,131</u>	<u>(22,669)</u>
<u>Total Alaska Court System Revenues</u>	<u>\$4.859.200</u>	<u>\$4.657.122</u>	<u>\$(202.078)</u>

The Notes to the Financial Statements are an integral part of this Statement.

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STATE OF ALASKA  
ALASKA COURT SYSTEM  
GENERAL FUND  
STATEMENT OF EXPENDITURES AND ENCUMBRANCES  
COMPARED WITH APPROPRIATIONS  
For the Fiscal Year Ended June 30, 1984

	Budget Act Appropriations	Continuations, Supplementals, and Revisions	Total Appropriations	Expenditures	Encumbrances	Balances	
						Continuing Programs	Lapsed
<u>Operating Programs</u>							
Courts, Administration & Support	\$35,931,800	\$1,410,504	\$37,342,304	\$36,250,503	\$669,541	\$ -0-	\$382,260
Courts, Administration & Support - RSA	-0-	340,300	340,800	318,027	104	-0-	22,669
Commission on Judicial Conduct	59,500	50,744	110,244	91,414	-0-	-0-	18,830
Judicial Council	404,400	4,300	408,700	408,516	-0-	-0-	184
<u>Total Operating Programs</u>	<u>36,395,700</u>	<u>1,806,348</u>	<u>38,202,048</u>	<u>37,108,460</u>	<u>669,645</u>	<u>-0-</u>	<u>423,943</u>
<u>Capital Projects</u>							
Chapter 107, SLA 1933	1,410,000	-0-	1,410,000	196,885	-0-	1,213,115	-0-
Chapter 25, SLA 1982	-0-	513,583	513,583	210,296	-0-	303,287	-0-
Chapter 82, SLA 1981	-0-	6,489,087	6,489,087	897,511	-0-	5,591,576	-0-
Chapter 50, SLA 1980	-0-	157,453	157,453	9,059	-0-	148,394	-0-
Chapter 113, SLA 1978	-0-	3,068	3,068	-0-	-0-	3,068	-0-
<u>Total Capital Projects</u>	<u>1,410,000</u>	<u>7,163,191</u>	<u>8,573,191</u>	<u>1,313,751</u>	<u>-0-</u>	<u>7,259,440</u>	<u>-0-</u>
<u>Total Alaska Court System</u>	<u>\$37,805,700</u>	<u>\$8,969,539</u>	<u>\$46,775,239</u>	<u>\$38,422,211</u>	<u>\$669,645</u>	<u>\$7,259,440</u>	<u>\$423,943</u>
<u>By Object</u>							
			Total Appropriations	Expenditures	Encumbrances	Balances	
Unallocated			\$ 6,568,442	\$ -0-	\$ -0-	\$6,568,442	
Personal Services			27,932,207	27,668,216	39,100	224,891	
Travel and Moving			1,036,913	965,126	4,324	67,463	
Contractual Services			8,085,700	7,687,209	549,539	(151,048)	
Supplies and Materials			523,051	535,972	16,044	71,035	
Machinery and Equipment			2,267,210	659,523	6,011	1,601,676	
Capital Outlay			261,716	905,829	43,345	(687,458)	
Unappropriated Disbursements or Transfers			-0-	336	11,282	(11,618)	
<u>Total By Object</u>			<u>\$46,775,239</u>	<u>\$38,422,211</u>	<u>\$669,645</u>	<u>\$7,693,383</u>	

The Notes to the Financial Statements are an integral part of this Statement.

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STATE OF ALASKA  
ALASKA COURT SYSTEM  
AGENCY TRUST FUND  
STATEMENT OF AGENCY TRUST FUNDS  
For the Fiscal Year Ended June 30, 1984

<u>Description</u>	<u>Beginning Balance July 1</u>	<u>Additions</u>	<u>Deductions</u>	<u>Ending Balance June 30</u>
Alaska Court System Trust (Note 2)	<u>\$4,921,213</u>	<u>\$34,790.162</u>	<u>\$31,955.888</u>	<u>\$7,755.487</u>

The Notes to the Financial Statements are an integral part of this Statement.

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STATE OF ALASKA  
ALASKA COURT SYSTEM  
NOTES TO THE FINANCIAL STATEMENTS  
For the Fiscal Year Ended June 30, 1984

Note 1 -- Summary of Significant Accounting Policies

Alaska Statute 37.05.150 requires the State of Alaska to conform to generally accepted accounting principles (GAAP). The following is a summary of the significant policies applicable to the Alaska Court System.

- A. Fund Accounting. The State of Alaska maintains its accounting in accordance with the principles of fund accounting. A fund is a fiscal and accounting entity established by law to segregate and account for designated resources and activities. The Court System's activities are in the General Fund and the Agency Trust Fund.
- B. Basis of Accounting. The financial statements are reported on the modified accrual basis of accounting. Modifications to the accrual basis are as follows:
1. Revenues for operating programs are recorded on an accrual basis, except for revenues not susceptible to accrual which are recorded at the time of receipt.
  2. Expenditures for operating programs are recorded on accrual basis, except for certain types of expenses which are considered expenditures at the time of purchase:
    - a. Inventory type items.
    - b. Prepaid expenses, such as insurance.
  3. Expenditures for capital projects of the General Fund are reported on the cash basis (which is not in accordance with GAAP).
- C. Encumbrances. Encumbrance accounting, under which purchase orders, contracts, and other commitments for the expenditures of monies are recorded in order to reserve that portion of the applicable appropriation, is employed in the General Fund. Encumbrances outstanding at year-end are reported as reservations of fund balances since they are neither expenditures nor liabilities.

- D. Budgetary Control. Except for Trust Fund receipts, all money received is deposited in the State Treasury, and may not be expended without appropriation. An appropriation is an authorization to spend money and incur obligations. It is a legal limit as to purpose, time, and amount. Appropriations are enacted by the Legislature and approved by the Governor. Expenditures are reported at the appropriation level to show compliance with the law.
- E. Interagency Revenues. Intrafund (and interfund) reimbursements for services provided to other State agencies are reported as interagency revenues rather than as reductions in expenditures. The Court System's authorizations and estimated revenues were increased in the amount of the reimbursable services agreements.

Note 2 -- Agency Trust Fund

The Court System has not developed procedures to account for court-ordered investment of trust money held pending case disposition. After a disbursement has been made for a trust investment no other accounting is made for the investment asset although it remains in the Court's custody. Because these assets have not been accounted for in the individual trust account balances, they were not reported as a part of the total year-end trust balance prior to FY 84.

The Court System estimated the investments to be approximately \$2.8 million at June 30, 1984, and reported this amount as FY 84 additions and in the ending balance of the Agency Trust Fund.

Note 3

The Court System established two encumbrances that were not valid obligations at June 30, 1984. Therefore, encumbrances are overstated by \$73,695 or 11 percent on the Statement of Expenditures and Encumbrances Compared with Appropriations.

Note 4

The Court System established an encumbrance for \$450,000 to pay court-appointed attorneys. As of January 15, 1985, about \$256,000 in billings had been liquidated against the balance of the encumbrance. There is no attorney billing system or other support to substantiate the remaining balance of the encumbrance. The remaining balance of \$194,000 represents 29 percent of the total outstanding encumbrances of \$669,645 at fiscal year end.