

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
6329 SENATE JUDICIARY

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The complexity of the work performed by judges and justices is of the highest level. Judges must understand and interpret legal principles contained within a myriad of source materials, including state and federal constitutions, state and federal statutes, court rules and vast bodies of caselaw. They must extract relevant legal principles from these materials and apply them correctly to decisions to be made in cases before them. In cases presented to them, they must listen to testimony, evaluate arguments and review documents relevant to the controversies at hand. To adequately execute these responsibilities, judges must engage in constant study and continuing education, since the body of law upon which they rely is constantly changing.

Judges also have supervisory responsibilities. In smaller, single judge court locations, the resident superior or district court judge is responsible for supervising the non-judicial staff and establishing local procedures for court operations. In larger courts (such as Anchorage or Fairbanks) overall managerial authority is vested in a presiding judge, but individual judges must supervise law clerks, in-court clerks, and secretaries as well as control the actions of the attorneys and litigants appearing before the court each day. Each judge must manage his or her caseload, working with attorneys to resolve conflicts, directing the proceedings in the courtroom, and ruling on requests relating to procedural issues in each case. It is also the sole responsibility of each judge to see that all court personnel, attorneys, litigants, witnesses, and spectators conform to the correct procedures of court during court hearings or trials.

The independence of each judge must be high. Each judge must make decisions in each individual case strictly upon the evidence presented in that case, applicable legal precedents, and the judge's interpretation of

statutes and other legal authority. A judge is not permitted to seek advice from outside sources, but rather must make independent decisions based upon how he or she interprets the law, unbiased by outside opinions. A judge does not hold public hearings or conduct polls to determine the fate of a defendant or the resolution of a major civil or constitutional issue. A judge must make decisions alone.

The above analysis of the nature of judicial responsibilities demonstrates the importance and difficulty of a judge's role. While the unique nature of the judiciary makes it difficult to classify judicial positions relative to positions in the executive branch, it is clear that the judicial functions rank high on any scale.

B. Job Qualifications

Not only are judicial responsibilities difficult and important, as outlined in the section above, but those who apply for judicial positions must be highly qualified. An applicant for the supreme court or the court of appeals must have been a resident of Alaska for five years and must have had eight years of experience in the active practice of law immediately preceding his or her application. An applicant for the superior court bench must have five years residency in Alaska and have practiced law for five years immediately prior to his or her application. A district court judge must have been a resident of Alaska for at least five years prior to his or her appointment, and must have practiced law for at least three years, or be a graduate of an accredited law school and have been a state magistrate for at least seven years.

Prior to being appointed to a judicial position, an attorney must be found to be qualified by the Alaska Judicial Council. The criteria used by the council (both for selection and retention election purposes) are based

on national standards and encompass numerous types of skills and talents. (See Table 1, attached, which contains copies of Alaska Judicial Council survey instruments containing these criteria.) The council solicits public input during its evaluation of each applicant, and conducts a comprehensive survey of all attorneys to determine the qualifications of each applicant. Following this screening, the council submits only the names of those whom are deemed most qualified to the governor. To be appointed to a judicial position, therefore, it is not only necessary to meet the minimum statutory requirements, but it is also necessary to have demonstrated a high level of competence in the legal field.

C. Other Considerations in the Establishment of Appropriate Judicial Salaries

In addition to the points raised in Sections A and B relating directly to the setting of judicial salaries, there are other important issues to be considered.

At current salary levels, many appointees to the bench must take an immediate major salary cut to accept a judicial position. (Of course, these applicants have a reasonable expectation that judicial salary levels will experience increases over time in line with increases in costs of living and increases in other individuals' incomes.) Also, since private attorney's earnings generally reach their highest levels in the latter years of an attorney's career, an applicant for a judicial position generally gives up not only current salary but also potential for earning significantly greater sums in his or her later years. Finally, since judicial officers are restricted by the judicial canons in their ability to invest, further reductions in personal income wealth may result. A practicing attorney may earn a substantial proportion of his or her income from other business

in addition to the actual practice of law. Such opportunities are severely restricted for judicial officers. This third point concerning the lack of investment potential for judges is a particularly important consideration when the judicial retirement program is under examination.

III. RANKING OF JUDICIAL SALARIES: A STATE-TO-STATE COMPARISON

One approach to the evaluation of Alaskan judicial salaries is to compare Alaskan salaries with the salaries of judges of courts of comparable jurisdiction in other states. The materials presented in this chapter make these comparisons for the supreme court, the court of appeals, and the superior court. Comparisons cannot be made for the district court. District court jurisdiction varies dramatically from state to state, and any comparison would therefore not be valid. However, it should be noted that the district court in Alaska has broader, more extended jurisdiction than do district courts in most other states.

Since costs of living vary drastically from state to state, a comparison of unadjusted salary figures would not be illustrative of any true ranking.²⁻¹ Therefore, the salaries presented herein have been adjusted by applicable cost of living indices²⁻² so that there is a common basis for comparison.

Another matter of interest is the way that rankings change over time. As judges in particular states are granted salary increases, those judges may rise in relative salary rank as compared with other states' salary levels. The attached materials therefore track the relative ranks of judicial salaries over an ten-year period.

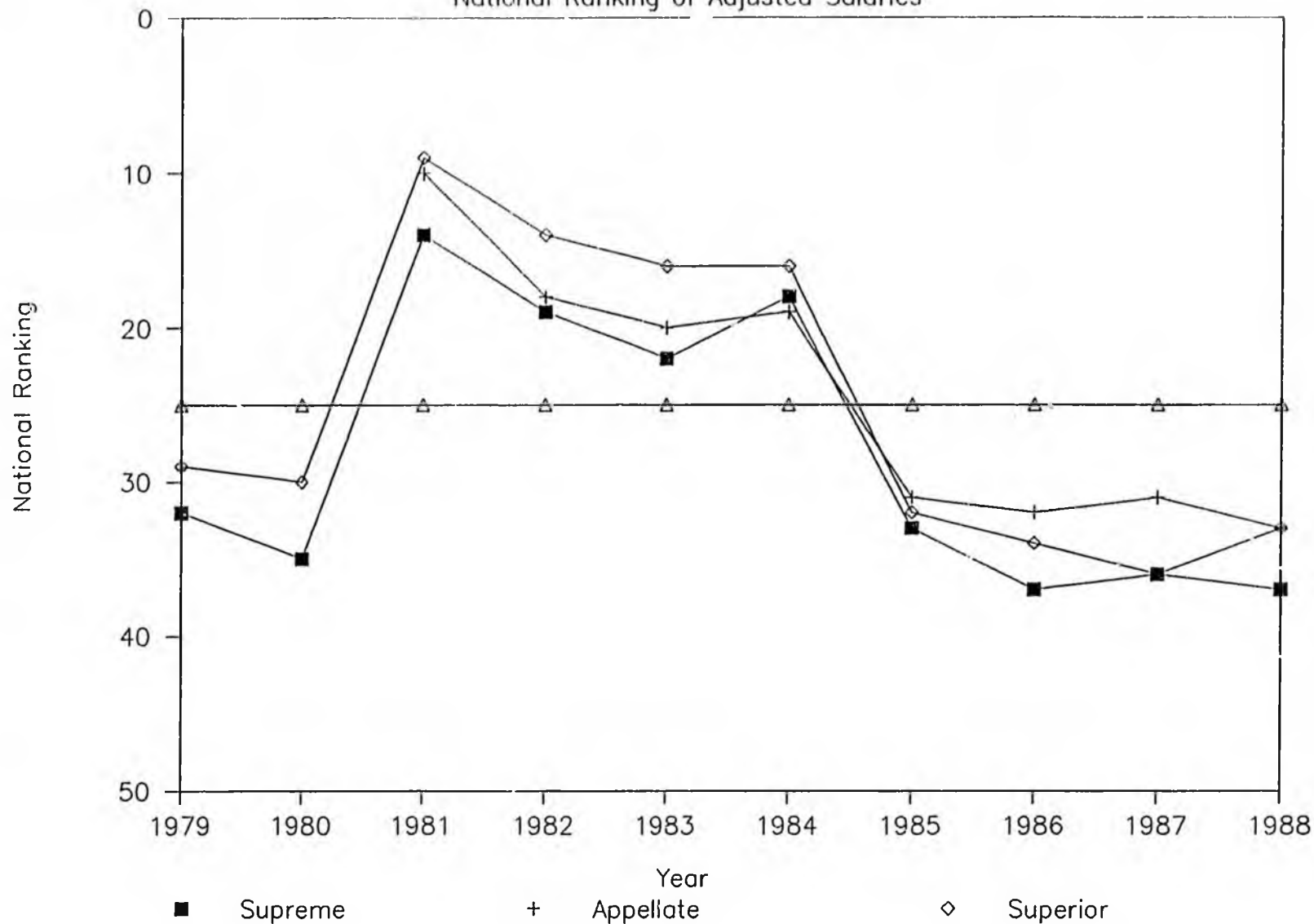
From the attached materials, it can be seen that Alaskan supreme court salaries rank 37th of the 45 states which can be ranked by available cost of living indices in 1988. Similarly, court of appeals salaries rank 33rd of 35 ranked states and superior court salaries rank 33rd of 45 ranked states in 1988. At the supreme court level, this means that at least 36 of the 45 states reported compensate their supreme court justices

with a higher salary (when adjusted for cost of living by a modification based upon the cost of living indices) than does Alaska.

Looking again at the supreme court salary levels (which demonstrate the same general pattern as shown by the other two levels of court), it is clear that the court enjoyed a relative rise in ranking following a salary increase in 1981, when the court's adjusted salary placed it in 14th place. However, more recent increases in other states, coupled with the lack of comparable increases in Alaskan judicial salaries, have caused the court's ranking to drop to 19th (1982), 22nd (1983), 18th (1984), 33rd (1985), 37th (1986), 36th (1987) and finally to 37th place in 1988. This makes 1988 the year of the Alaska supreme court's lowest ranking for the ten years studied (1979-1988).

Alaska Court System

National Ranking of Adjusted Salaries



COMPARISON OF COLA ADJUSTED JUDICIAL SALARIES
SUPREME COURT (associate justice level)

State	----1979----		----1980----		----1981----		----1982----		----1983----		----1984----	
	COLA Salary	Rank	COLA Salary	Rank	COLA Salary	Rank	COLA Salary	Rank	COLA Salary	Rank	COLA Salary	Rank
Alabama	54,275	31	54,771	33	66,106	27	68,096	27	81,116	16	81,309	20
Alaska	52,992	32	52,992	35	74,196	14	74,196	19	77,760	22	81,648	18
Arizona	59,156	26	64,773	22	60,410	32	61,013	38	74,282	27	75,085	29
Arkansas	NA	-	55,240	32	60,554	31	65,192	33	71,734	31	72,649	32
California	81,951	1	86,318	1	89,346	3	95,687	3	97,223	3	102,482	3
Colorado	64,827	18	60,841	24	67,325	26	74,427	18	75,559	26	74,521	31
Connecticut	43,742	43	50,610	40	54,657	39	NA	-	62,685	42	65,127	40
Delaware	NA	-	NA	-	NA	-	NA	-	NA	-	NA	-
Florida	61,310	25	62,920	23	78,929	9	80,140	12	86,712	10	88,801	11
Georgia	64,269	19	67,395	19	68,984	21	72,932	22	75,915	25	78,921	24
Hawaii	NA	-	NA	-	NA	-	NA	-	NA	-	NA	-
Idaho	51,844	33	52,134	36	56,689	38	59,417	39	NA	-	NA	-
Illinois	77,525	2	78,144	4	77,171	10	78,912	13	89,402	7	100,741	4
Indiana	51,194	35	56,587	28	57,832	37	58,057	42	67,575	37	67,241	38
Iowa	62,629	21	67,408	17	69,014	20	73,750	20	80,661	17	79,632	23
Kansas	48,723	37	53,166	34	58,934	35	63,700	36	68,328	35	71,712	33
Kentucky	56,205	28	55,832	29	70,062	19	75,235	17	78,099	21	80,791	22
Louisiana	72,202	8	74,403	7	79,305	7	86,424	8	87,319	8	87,177	13
Maine	42,815	44	NA	-	43,964	44	51,014	44	NA	-	NA	-
Maryland	63,954	20	64,908	21	71,206	17	71,441	24	83,955	14	NA	-
Massachusetts	62,400	22	68,807	15	NA	-	78,473	14	84,144	13	82,902	15
Michigan	74,467	3	77,814	5	79,395	6	90,798	4	92,076	6	98,824	6
Minnesota	66,416	16	70,104	13	75,885	11	73,732	21	73,852	28	89,155	10
Mississippi	65,819	17	66,417	20	64,531	29	65,737	31	63,872	40	82,276	17
Missouri	69,600	9	71,043	10	71,645	16	70,367	25	73,580	29	75,459	28
Montana	49,315	36	51,454	38	53,956	40	59,087	40	63,061	41	64,104	41
Nebraska	61,662	23	60,743	25	67,719	24	67,701	28	68,896	34	78,750	25
Nevada	NA	-	58,200	26	NA	-	58,845	41	75,926	24	75,749	27
New Hampshire	NA	-	NA	-	63,276	30	64,465	34	NA	-	NA	-
New Jersey	69,358	10	68,634	16	71,084	18	96,340	2	98,966	2	94,344	7
New Mexico	55,942	29	51,471	37	58,273	36	67,093	30	72,937	30	74,647	30
New York	68,547	11	82,928	3	97,919	1	105,206	1	106,161	1	103,307	2
North Carolina	66,457	15	70,921	11	75,219	13	80,215	11	79,347	19	82,296	16
North Dakota	46,473	41	55,647	30	NA	-	NA	-	NA	-	NA	-
Ohio	77,888	12	69,136	14	68,177	23	78,434	15	85,616	11	92,089	9
Oklahoma	51,429	34	55,631	31	64,914	28	71,645	23	77,565	23	78,183	26
Oregon	54,922	30	NA	-	67,377	25	68,735	26	67,764	36	70,884	35
Pennsylvania	73,343	5	73,463	8	87,524	4	87,140	5	87,302	9	103,757	1
Rhode Island	NA	-	NA	-	NA	-	NA	-	59,983	43	71,422	34
South Carolina	67,797	13	71,173	9	75,783	12	81,867	10	83,225	15	87,896	12
South Dakota	48,100	39	49,040	42	59,969	34	63,061	37	65,611	38	66,372	39
Tennessee	73,884	4	83,686	2	90,666	2	87,041	6	93,169	5	92,255	8
Texas	72,254	7	77,318	6	79,099	8	87,010	7	93,820	4	99,069	5
Utah	48,190	38	50,767	39	51,249	42	65,702	32	70,313	32	67,486	37
Vermont	43,898	42	43,767	43	48,800	43	51,250	43	56,769	44	60,943	43
Virginia	72,483	6	70,118	12	74,064	15	82,689	9	84,323	12	81,443	19
Washington	61,613	24	NA	-	68,871	22	67,609	29	70,210	33	69,879	36
West Virginia	47,175	40	49,709	41	53,571	41	64,099	35	65,560	39	63,769	42
Wisconsin	66,874	14	67,405	18	80,235	5	77,603	16	78,889	20	80,982	21
Wyoming	58,981	27	58,078	27	60,096	33	NA	-	80,644	18	83,487	14

COMPARISON OF COLA ADJUSTED JUDICIAL SALARIES
 SUPREME COURT (associate justice level)

State	----1985----		----1986----		----1987----		-----1988-----		
	COLA Salary	Rank	COLA Salary	Rank	COLA Salary	Rank	Actual Salary	COLA Salary	Rank
Alabama	94,840	18	113,843	5	112,461	8	78,920	104,075	14
Alaska	81,648	33	85,728	37	85,728	36	85,728	85,728	37
Arizona	93,330	21	87,368	33	100,294	19	75,000	93,479	29
Arkansas	81,414	34	99,803	18	97,443	23	66,010	95,087	27
California	115,846	2	119,857	3	122,476	3	103,469	120,823	3
Colorado	89,985	25	87,385	32	89,049	35	72,000	98,354	20
Connecticut	76,144	39	83,043	40	NA	-	81,920	86,039	36
Delaware	NA	-	98,905	19	108,248	12	84,400	102,243	18
Florida	102,869	9	105,141	13	117,706	4	92,822	117,848	4
Georgia	97,327	16	106,053	11	103,379	16	80,514	105,319	13
Hawaii	NA	-	NA	-	NA	-	78,500	NA	-
Idaho	68,818	43	88,139	30	NA	-	62,738	88,024	34
Illinois	105,012	7	121,778	1	128,112	1	93,266	117,834	5
Indiana	89,322	26	86,049	36	93,775	27	66,000	88,023	35
Iowa	91,673	23	87,520	31	91,968	31	72,900	96,926	25
Kansas	85,233	30	89,144	28	93,059	29	70,142	96,838	26
Kentucky	86,391	29	87,262	34	94,534	26	66,946	91,162	31
Louisiana	93,681	20	103,764	16	106,119	14	74,966	97,471	24
Maine	NA	-	94,543	23	103,777	15	77,300	NA	-
Maryland	94,436	19	96,751	22	101,781	17	86,900	108,103	11
Massachusetts	98,999	12	103,905	15	80,677	40	90,450	84,208	39
Michigan	109,080	4	109,634	6	124,482	2	100,000	126,465	2
Minnesota	98,487	14	101,806	17	100,308	18	76,200	98,286	21
Mississippi	NA	-	81,258	42	84,004	37	70,800	98,800	19
Missouri	110,679	3	116,988	4	115,212	5	81,009	115,409	7
Montano	70,433	42	70,400	46	70,293	44	50,452	69,580	45
Nebraska	38,314	27	90,291	26	89,762	33	63,512	89,790	32
Nevada	81,693	32	80,197	43	92,145	30	73,500	91,875	30
New Hampshire	NA	-	NA	-	NA	-	68,060	71,309	44
New Jersey	92,609	22	86,986	35	99,648	22	93,000	NA	-
New Mexico	76,932	38	81,632	41	81,698	39	62,184	81,178	40
New York	127,066	1	121,189	2	114,284	6	115,000	136,628	1
North Carolina	95,870	17	98,858	20	99,926	20	79,668	103,481	16
North Dakota	NA	-	NA	-	NA	-	59,140	NA	-
Ohio	98,963	13	105,453	12	113,199	7	83,250	111,143	9
Oklahoma	82,428	31	93,491	25	94,944	25	71,406	98,164	22
Oregon	74,408	41	94,499	24	96,412	24	72,362	93,897	28
Pennsylvania	107,905	5	104,448	14	99,662	21	91,500	116,397	6
Rhode Island	77,653	37	NA	-	NA	-	82,967	NA	-
South Carolina	104,875	8	108,872	7	111,465	9	83,883	113,391	8
South Dakota	79,239	35	83,957	39	83,384	38	58,697	79,929	41
Tennessee	99,226	11	97,669	21	93,668	28	65,650	89,491	33
Texas	106,275	6	108,110	9	109,335	11	78,795	103,699	15
Utah	76,097	40	84,485	38	80,073	41	64,000	84,313	38
Vermont	68,283	44	75,022	45	78,333	43	63,900	73,295	43
Virginia	98,215	15	108,187	8	110,855	10	88,286	109,933	10
Washington	90,463	24	90,289	27	90,114	32	82,700	107,851	12
West Virginia	78,969	36	76,978	44	75,135	42	55,000	75,211	42
Wisconsin	100,923	10	107,202	10	106,671	13	76,859	102,823	17
Wyoming	87,121	28	88,342	29	89,385	34	66,500	97,639	23

COMPARISON OF COLA ADJUSTED JUDICIAL SALARIES
APPELLATE COURTS

State	----1979----		----1980----		----1981----		----1982----		----1983----		----1984----	
	COLA Salary	Rank	COLA Salary	Rank	COLA Salary	Rank	COLA Salary	Rank	COLA Salary	Rank	COLA Salary	Rank
Alabama	52,214	25	52,691	24	64,757	20	66,706	24	79,717	12	79,907	15
Alaska	NA	-	NA	-	69,240	10	69,240	18	72,654	20	76,188	19
Arizona	56,665	21	52,045	15	57,866	25	58,444	29	71,699	22	72,473	23
Arkansas	NA	-	51,311	22	56,846	28	62,920	27	69,233	25	70,176	26
California	76,829	1	80,924	1	83,764	3	89,708	4	91,148	3	96,080	2
Colorado	58,999	16	57,361	21	61,939	23	68,473	19	69,514	24	68,559	29
Connecticut	NA	-	NA	-	NA	-	NA	-	NA	-	62,223	32
Delaware	NA	-	NA	-	NA	-	NA	-	NA	-	NA	-
Florida	58,201	19	59,728	19	64,904	19	72,321	11	78,253	14	80,138	14
Georgia	63,571	10	66,612	10	68,234	11	72,140	13	75,091	17	78,065	16
Hawaii	NA	-	NA	-	NA	-	NA	-	NA	-	NA	-
Idaho	NA	-	NA	-	NA	-	58,035	31	NA	-	NA	-
Illinois	70,842	2	71,407	4	70,519	9	72,109	14	82,680	9	94,025	4
Indiana	51,194	26	56,587	20	57,832	26	58,057	30	67,604	27	67,241	30
Iowa	59,149	15	63,969	13	65,493	18	69,986	17	76,564	15	75,588	20
Kansas	47,043	28	51,095	26	54,822	29	61,018	28	65,451	30	68,693	28
Kentucky	53,323	24	52,969	23	67,202	15	72,164	12	74,911	18	77,493	18
Louisiana	68,592	4	70,829	5	75,494	5	82,271	7	83,123	8	82,988	11
Maine	NA	-	NA	-	NA	-	NA	-	NA	-	NA	-
Maryland	60,074	14	60,939	13	67,785	13	68,008	20	80,597	10	NA	-
Massachusetts	58,363	18	61,927	16	NA	49	70,493	16	84,144	7	82,902	12
Michigan	67,877	5	71,447	3	72,899	7	87,166	5	88,393	5	94,871	3
Minnesota	NA	-	NA	-	NA	-	NA	-	NA	-	82,297	13
Mississippi	NA	-	NA	-	NA	-	NA	-	NA	-	NA	-
Missouri	66,120	7	67,491	8	68,063	12	66,849	23	69,961	23	71,764	24
Montana	NA	-	NA	-	NA	-	NA	-	NA	-	NA	-
Nebraska	NA	-	NA	-	NA	-	NA	-	NA	-	NA	-
Nevada	NA	-	NA	-	NA	-	NA	-	NA	-	NA	-
New Hampshire	NA	-	NA	-	NA	-	NA	-	NA	-	NA	-
New Jersey	65,642	8	64,957	12	67,500	14	92,635	2	95,160	1	90,715	5
New Mexico	53,569	23	49,288	27	56,949	27	63,705	25	68,759	26	70,575	25
New York	58,421	17	70,678	7	84,319	2	90,594	3	91,416	2	88,959	7
North Carolina	62,922	11	67,145	9	71,212	8	75,943	8	75,121	16	77,908	17
North Dakota	NA	-	NA	-	NA	-	NA	-	NA	-	NA	-
Ohio	62,564	12	63,714	14	62,830	22	73,025	10	80,180	11	86,672	10
Oklahoma	47,493	27	51,531	25	60,856	24	67,167	21	72,717	19	73,296	22
Oregon	53,614	22	NA	35	65,773	17	67,099	22	66,151	28	69,197	27
Pennsylvania	70,676	3	70,792	6	84,810	1	84,438	6	84,595	6	101,045	1
Rhode Island	NA	-	NA	-	NA	-	NA	-	NA	-	NA	-
South Carolina	NA	-	NA	-	NA	-	NA	-	NA	-	87,896	9
South Dakota	NA	-	NA	-	NA	-	NA	-	NA	-	NA	-
Tennessee	67,727	6	76,713	2	83,111	4	95,111	1	89,586	4	88,706	8
Texas	63,820	9	65,045	11	66,624	16	73,236	9	78,972	13	89,162	6
Utah	NA	-	NA	-	NA	-	NA	-	NA	-	NA	-
Vermont	NA	-	NA	-	NA	-	NA	-	NA	-	NA	-
Virginia	NA	-	NA	-	NA	-	NA	-	NA	-	NA	-
Washington	57,505	20	NA	-	64,324	21	63,146	26	65,574	29	65,266	31
West Virginia	NA	-	NA	-	NA	-	NA	-	NA	-	NA	-
Wisconsin	61,335	13	61,822	17	73,583	6	71,169	15	72,349	21	74,287	21
Wyoming	NA	-	NA	-	NA	-	NA	-	NA	-	NA	-

COMPARISON OF COLA ADJUSTED JUDICIAL SALARIES
APPELLATE COURTS

State	----1985----		----1986----		----1987----		-----1988-----		
	COLA Salary	Rank	COLA Salary	Rank	COLA Salary	Rank	Actual Salary	COLA Salary	Rank
Alabama	93,205	13	112,373	3	111,008	4	77,920	102,756	13
Alaska	76,188	31	79,992	32	79,992	31	79,992	79,992	33
Arizona	90,565	18	84,779	27	96,951	17	72,500	90,363	26
Arkansas	78,642	29	96,405	15	94,126	20	63,763	91,850	23
California	108,607	2	112,368	4	114,822	3	97,003	113,272	4
Colorado	83,557	25	81,143	31	82,688	30	67,500	92,207	21
Connecticut	72,694	33	79,239	33	NA	-	76,172	80,002	32
Delaware	NA	-	NA	-	NA	-	NA	NA	-
Florida	92,832	15	94,884	17	110,782	5	87,362	110,915	5
Georgia	96,578	8	105,238	7	102,583	11	79,931	104,556	9
Hawaii	NA	-	NA	-	NA	-	73,500	NA	-
Idaho	67,363	35	86,664	24	NA	-	61,738	86,620	28
Illinois	96,012	7	114,615	2	120,576	1	87,780	110,903	6
Indiana	81,878	28	78,879	34	86,671	28	61,000	81,354	30
Iowa	87,006	22	83,065	30	87,313	27	69,800	92,804	20
Kansas	82,191	27	85,962	26	89,737	25	67,638	93,381	17
Kentucky	82,865	26	83,700	28	90,675	23	64,213	87,440	27
Louisiana	89,179	20	99,264	12	101,662	12	71,767	93,312	19
Maine	NA	-	NA	-	NA	-	NA	NA	-
Maryland	90,559	19	92,802	21	97,892	15	83,800	104,247	11
Massachusetts	86,417	23	96,160	16	74,664	34	83,708	77,931	34
Michigan	104,716	4	105,249	6	119,502	2	96,000	121,406	2
Minnesota	90,856	16	93,917	18	92,535	22	70,296	90,671	25
Mississippi	NA	-	NA	-	NA	-	NA	NA	-
Missouri	103,046	5	108,920	5	107,266	7	75,447	107,485	8
Montana	NA	-	NA	-	NA	-	NA	NA	-
Nebraska	NA	-	NA	-	NA	-	NA	NA	-
Nevada	NA	-	NA	-	NA	-	NA	NA	-
New Hampshire	NA	-	NA	-	NA	-	NA	NA	-
New Jersey	89,047	21	83,640	29	96,434	18	90,000	NA	-
New Mexico	73,052	32	77,515	35	77,578	32	59,052	77,089	35
New York	120,198	1	114,638	1	108,107	6	102,500	121,778	1
North Carolina	90,769	17	93,608	20	94,624	19	75,432	97,978	15
North Dakota	NA	-	NA	-	NA	-	NA	NA	-
Ohio	93,142	14	98,230	13	105,139	10	77,500	103,466	12
Oklahoma	77,276	30	87,649	23	89,010	26	66,944	92,030	22
Oregon	72,636	34	92,249	22	94,116	21	70,639	91,661	24
Pennsylvania	105,084	3	101,717	10	97,056	16	89,500	113,853	3
Rhode Island	NA	-	NA	-	NA	-	NA	NA	-
South Carolina	99,632	6	103,430	8	105,893	8	79,690	107,723	7
South Dakota	NA	-	NA	-	NA	-	NA	NA	-
Tennessee	95,410	10	93,913	19	90,065	24	63,125	86,049	29
Texas	95,647	9	97,300	14	98,402	14	70,916	93,329	18
Utah	NA	-	NA	-	76,069	33	60,800	80,098	31
Vermont	NA	-	NA	-	NA	-	NA	NA	-
Virginia	93,304	12	102,777	9	105,313	9	83,872	104,437	10
Washington	86,351	24	86,184	25	86,018	29	78,600	102,505	14
West Virginia	NA	-	NA	-	NA	-	NA	NA	-
Wisconsin	94,986	11	100,896	11	100,396	13	72,366	96,812	16
Wyoming	NA	-	NA	-	NA	-	NA	NA	-

COMPARISON OF COLA ADJUSTED JUDICIAL SALARIES
SUPERIOR COURT

State	----1979----		----1980----		----1981----		----1982----		----1983----		----1984----	
	COLA Salary	Rank	COLA Salary	Rank	COLA Salary	Rank	COLA Salary	Rank	COLA Salary	Rank	COLA Salary	Rank
Alabama	37,786	42	47,145	35	49,310	35	50,794	39	67,130	20	67,299	27
Alaska	48,576	29	48,576	30	66,900	9	66,900	14	70,116	16	73,620	16
Arizona	54,174	21	59,318	13	55,323	31	55,875	35	68,469	19	69,209	22
Arkansas	NA	-	51,386	26	56,329	28	60,646	27	66,731	22	67,701	26
California	64,021	3	67,433	3	73,197	5	78,391	5	79,649	6	83,959	5
Colorado	54,520	20	51,159	27	57,226	25	63,263	18	64,225	25	63,343	34
Connecticut	42,102	39	36,060	42	43,170	43	NA	-	56,986	39	59,207	39
Delaware	NA	-	NA	-	NA	-	NA	-	NA	-	NA	49
Florida	55,226	19	56,675	19	61,587	17	69,064	10	74,728	11	76,528	11
Georgia	53,790	22	56,398	20	57,737	23	61,041	25	63,537	27	66,054	30
Hawaii	NA	-	NA	-	NA	-	NA	-	NA	-	NA	-
Idaho	47,751	31	48,018	32	54,053	32	56,653	34	NA	-	NA	-
Illinois	60,149	7	60,629	8	59,874	21	61,224	24	71,253	15	81,245	7
Indiana	35,607	43	47,156	34	48,193	37	48,381	43	57,141	38	56,834	42
Iowa	55,670	17	59,842	11	61,268	19	65,525	16	71,620	14	70,707	20
Kansas	43,851	35	45,111	38	47,970	38	59,007	28	63,293	29	66,428	29
Kentucky	50,440	25	50,106	28	64,342	13	69,093	9	71,723	13	74,196	15
Louisiana	61,372	6	63,680	7	71,684	6	78,119	6	78,928	7	78,800	10
Maine	42,146	38	NA	-	43,277	42	50,218	40	NA	-	NA	-
Maryland	56,863	12	58,250	17	66,518	10	66,737	15	77,910	9	NA	-
Massachusetts	56,265	14	58,486	16	NA	49	67,667	12	80,778	5	79,586	9
Michigan	40,660	41	42,797	40	43,667	41	49,939	41	50,642	43	54,353	43
Minnesota	56,928	11	60,009	10	65,044	11	63,199	19	63,302	28	75,439	13
Mississippi	58,665	10	59,198	14	57,516	24	58,592	32	56,930	40	71,120	18
Missouri	62,640	4	63,939	6	64,481	12	63,331	17	66,341	24	68,070	25
Montana	47,945	30	50,100	29	52,572	33	57,606	33	61,476	31	62,494	35
Nebraska	56,643	13	55,799	21	62,440	15	62,190	22	63,729	26	72,343	17
Nevada	NA	-	52,965	24	NA	-	53,552	38	69,136	18	68,974	24
New Hampshire	NA	-	NA	-	61,621	16	62,778	20	NA	-	NA	-
New Jersey	59,450	9	58,829	15	61,527	18	86,459	2	88,816	1	84,667	4
New Mexico	51,768	24	47,630	33	55,625	30	60,994	26	59,676	37	66,911	28
New York	55,446	18	67,079	4	78,880	1	84,750	3	85,519	3	83,220	6
North Carolina	55,852	15	59,610	12	63,232	14	67,434	13	66,704	23	69,182	23
North Dakota	43,569	36	52,169	25	NA	-	NA	-	NA	-	NA	-
Ohio	43,928	34	44,735	39	44,114	40	54,093	37	61,155	34	75,161	14
Oklahoma	28,968	44	31,984	43	40,571	44	44,778	44	48,478	44	65,152	32
Oregon	49,820	27	NA	-	61,119	20	62,350	21	61,469	32	64,299	33
Pennsylvania	60,008	8	60,106	9	74,632	4	74,306	8	74,444	12	88,160	1
Rhode Island	NA	-	NA	-	NA	-	NA	-	56,789	41	65,733	31
South Carolina	67,797	1	71,173	1	75,783	2	81,867	4	83,225	4	87,896	2
South Dakota	45,351	33	46,238	37	55,785	29	58,834	30	61,205	33	61,941	36
Tennessee	61,569	5	69,738	2	75,555	3	86,465	1	86,002	2	85,158	3
Texas	50,184	26	55,227	22	56,404	27	61,979	23	66,883	21	70,535	21
Utah	45,475	32	48,095	31	48,551	36	54,152	36	63,281	30	60,738	37
Vermont	41,478	40	41,351	41	46,102	39	48,750	42	54,000	42	57,983	41
Virginia	64,510	2	65,911	5	68,975	8	76,831	7	78,281	8	75,507	12
Washington	53,398	23	NA	-	59,777	22	58,682	31	60,939	35	60,652	38
West Virginia	42,457	37	46,439	36	50,893	34	58,866	29	60,208	36	58,563	40
Wisconsin	49,419	28	58,118	18	70,438	7	68,127	11	69,256	17	71,116	19
Wyoming	55,704	16	54,852	23	56,999	26	NA	-	77,469	10	80,200	8

COMPARISON OF COLA ADJUSTED JUDICIAL SALARIES
SUPERIOR COURT

State	----1985----		----1986----		----1987----		-----1988-----		
	COLA Salary	Rank	COLA Salary	Rank	COLA Salary	Rank	Actual Salary	COLA Salary	Rank
Alabama	78,488	25	79,405	27	78,441	33	52,800	69,629	41
Alaska	73,620	32	77,304	34	77,304	36	77,304	77,304	33
Arizona	86,417	13	80,896	25	93,608	13	70,000	87,247	19
Arkansas	75,868	27	93,003	10	90,805	16	61,513	88,609	16
California	94,905	4	98,192	5	100,336	7	84,765	98,982	9
Colorado	77,130	26	74,901	38	76,327	37	63,000	86,060	22
Connecticut	69,244	37	75,002	37	NA	-	72,766	76,425	34
Delaware	NA	-	93,181	9	102,564	5	79,900	96,792	11
Florida	88,652	9	90,611	13	103,858	2	81,902	103,983	4
Georgia	80,068	23	87,254	18	85,058	2	67,158	87,848	17
Hawaii	NA	-	NA	-	NA	-	69,500	NA	-
Idaho	65,908	42	82,607	23	NA	-	58,800	82,498	31
Illinois	84,710	14	97,422	6	103,176	3	75,113	94,899	12
Indiana	69,969	35	67,405	46	79,567	31	56,000	74,686	37
Iowa	81,286	20	77,604	32	81,530	29	66,000	87,752	18
Kansas	74,099	30	77,498	33	80,902	30	60,978	84,186	26
Kentucky	79,339	24	80,138	26	86,916	19	61,481	83,720	28
Louisiana	84,678	15	94,765	7	97,206	10	68,569	89,153	15
Maine	NA	-	92,197	12	99,393	8	73,100	NA	-
Maryland	87,651	11	89,906	16	95,947	11	82,200	102,256	5
Massachusetts	87,938	10	92,314	11	71,678	43	80,360	74,814	36
Michigan	59,994	44	77,040	35	92,394	14	84,600	106,989	3
Minnesota	87,112	12	90,047	15	83,722	17	67,400	86,935	21
Mississippi	NA	-	71,451	42	72,614	41	61,200	85,403	23
Missouri	95,413	3	100,852	3	99,320	9	69,885	99,561	8
Montana	68,662	40	68,623	45	68,518	44	49,178	67,823	45
Nebraska	81,692	19	83,520	21	83,031	27	58,750	83,058	29
Nevada	74,387	29	73,025	40	83,996	26	67,000	83,750	27
New Hampshire	NA	-	NA	-	NA	-	66,281	69,445	43
New Jersey	83,110	17	78,064	30	91,076	15	85,000	NA	-
New Mexico	69,258	36	73,486	39	73,545	40	55,980	73,079	40
New York	112,642	1	107,432	1	101,312	6	95,000	112,867	1
North Carolina	80,602	22	83,125	22	84,020	25	66,972	86,990	20
North Dakota	NA	-	NA	-	NA	-	55,519	NA	-
Ohio	80,772	21	72,950	41	85,162	22	63,250	84,442	25
Oklahoma	68,690	39	77,910	31	77,120	32	59,506	81,805	32
Oregon	67,496	41	85,727	19	81,462	18	65,645	85,181	24
Pennsylvania	91,684	5	88,746	17	84,680	24	80,000	101,768	7
Rhode Island	71,465	34	NA	-	NA	-	74,317	NA	-
South Carolina	99,632	2	103,430	2	105,893	1	79,690	107,723	2
South Dakota	73,918	31	78,409	29	77,874	35	54,808	74,633	38
Tennessee	91,593	6	90,156	14	86,463	20	60,600	82,607	30
Texas	75,712	28	77,020	36	77,892	34	56,135	73,877	39
Utah	68,918	38	78,658	28	74,551	38	57,600	75,882	35
Vermont	64,938	43	71,327	43	74,435	39	60,700	69,625	42
Virginia	91,177	7	100,433	4	102,911	4	81,959	102,055	6
Washington	82,239	18	82,080	24	81,922	28	74,600	97,288	10
West Virginia	71,790	33	69,980	44	71,941	42	50,000	68,374	44
Wisconsin	89,050	8	94,589	8	94,120	12	67,842	90,760	14
Wyoming	83,691	16	84,864	20	85,866	21	63,500	93,234	13

IV. COMPARISON WITH ATTORNEY SALARIES

One of the most practical ways to evaluate levels of judicial salaries is to employ comparisons with attorney salaries. Judges are drawn from the ranks of attorneys. Thus, a valid comparison of salary can be made between that which a judge now earns, and what he or she could reasonably have expected to earn had the judge not chosen to leave active practice for the bench.

Some parity of attorney and judicial salaries is important for both the acquisition of talented new judges and the retention of seasoned judges. Seldom is salary the only consideration an individual will take into account when deciding whether to seek a judicial appointment. However, numerous articles and studies have asserted that inadequate judicial salaries may dissuade well-qualified, experienced attorneys from seeking or accepting judicial positions.³⁻¹ Since such attorneys are precisely the type of individuals it is necessary to recruit for the maintenance of a high quality judicial system, it is important that salary levels be set high enough to provide income reasonably comparable that which the attorney could earn in active practice. In a similar vein, inadequate judicial salaries may cause experienced judges to resign and return to practice. As their families expand, their children reach college age, and their other expenses increase, judges may find that they have no choice but to return to the private sector, if judicial salaries are inadequate. In an article published in January 1985, then Chief Justice Warren Burger reported that of the 43 judges to leave the federal bench during his tenure, about 30 of those resignations were in a large part a result of economic considerations.³⁻²

To summarize: It is important to recruit the brightest and the best attorneys, and to retain experienced jurists, to guarantee a competent bench and a high quality justice system. In order to recruit and retain appropriately, it is absolutely necessary to provide adequate compensation. One way to measure judicial compensation for adequacy is to compare jurists' salaries with their counterparts in the private sector, since this comparison is an accurate reflection of what they might expect to earn had they not become judges.

Unfortunately, no data is available about the salaries of Alaskan attorneys. However, a number of studies have reported about attorney salaries on a national basis, using statistics gathered from key cities in the country.

When examining these national statistics, it is important to keep in mind that the cost of living index and per capita income in Alaska are both high. Thus, comparable attorney salaries in Alaska may be expected to be higher in some cases than those listed for other parts of the country.

It is also important to note that many of these national studies give ranges of salaries, based on such factors as the years of experience of the attorney, whether or not the attorney is a partner in the firm, and other such factors. The American Bar Association's publication A Handbook on State Judicial Salaries indicates that an appropriate comparison is to salaries of partners whose incomes are above-average, since judges are expected to possess above-average levels of legal proficiency and experience.³⁻³

As a basis for comparison, the results of two studies published at the end of 1985 are reported below:

Study 1³⁻⁴

ATTORNEYS' LAW PRACTICE INCOMES IN SELECT CITIES

City	Average Income of Partners in Law Firms (nonpatent)	Highest Incomes of Partners in Law Firms (nonpatent)
Atlanta	\$130,000	\$250,000
Boston	\$110,000	\$135,000
Chicago	\$140,000	\$270,000
Cincinnati/Dayton	\$195,000	\$300,000
Cleveland	\$165,000	\$290,000
Dallas/Fort Worth	\$180,000	\$260,000
Denver	\$110,000	\$190,000
Detroit	\$100,000	\$135,000
Houston	\$200,000	\$350,000
Kansas City/St. Louis	\$155,000	\$280,000
Los Angeles	\$145,000	\$210,000
Milwaukee	\$ 99,000	\$200,000
Minneapolis/St. Paul	\$130,000	\$210,000
New York City	\$220,000	\$390,000
Philadelphia	\$195,000	\$300,000
Pittsburgh	\$130,000	\$225,000
San Francisco	\$ 87,000	\$130,000
Washington, D.C.	\$190,000	\$250,000

Source: The Student Lawyer (American Bar Association, November 1985)

Study 2³⁻⁵

PRIVATE LAW FIRM COMPENSATION (SELECTED POSITIONS)

Partners	1985
1st Year	\$ 62,800
3rd Year	\$ 73,700
Aged 40	\$113,300
Aged 50	\$150,000
Aged 60	\$159,300

Source: Survey of approximately 150 law firms employing about 5,000 lawyers, conducted by Cantor & Co., as reported in the ABA Journal, December 1985.

Note: Since Study 2 is organized by age of attorney, the following may be relevant for comparison. Average ages of judges in 1986: supreme court justice - 52, court of appeals judge - 44, superior court judge - 48, district court judge - 44.

One should remember, as comparisons are made, that these attorney compensation figures reflect salary only. It is common practice for attorneys in the private sector to have access to employment perquisites, such as firm automobiles, club and other memberships, tax plans, etc., which are not afforded to those in the public sector. Thus, the salary figures quoted may significantly underestimate the total compensation package values.

It is also important to note (as discussed elsewhere in the paper) that while judges' abilities to avail themselves of investment opportunities are limited by the constraints imposed upon them by the Code of Judicial Conduct, attorneys in active practice are not so curtailed. Thus, attorneys can augment their income through investment strategies and involvement in other businesses much more readily than can members of the judiciary.

V. JUDICIAL RETIREMENT PROGRAM

The retirement program currently in effect for Alaska's judiciary provides a secure retirement for any judge reaching the age of 60. A good retirement program is necessary to offset somewhat the loss of earning potential, particularly in investment opportunities, as discussed above. Since a judge is not likely to develop significant personal resources while performing public service, a liberal retirement program is necessary to assure a satisfactory means of support beyond retirement age.

Regardless of the benefits paid from a retirement program at the end of a 15 or 20 year career, retirement benefits do not affect a judge's ability to pay bills while the judge is working. If judicial salaries are insufficient to allow an attorney to maintain a comparable lifestyle to that which the attorney was maintaining while in active practice, it is unlikely that an attorney will apply for judicial positions just for the prospect of a good retirement plan at the end of his or her career. The retirement program is a definite benefit for appointed judges, but it does not help a new judge make monthly payments, feed and clothe his or her family, send children to college, or meet the other current material needs associated with day-to-day living.

Another public benefit stemming from an adequate judicial retirement system is that such a system provides a pool of retired judges who can return to the bench on a pro tem basis to provide necessary, temporary judicial services at a fraction of the cost of full-salaried judges. Unless the retirement benefits are adequate to provide full support to a judge when he or she leaves the bench, the retired judge may be required to return to the active practice of law, thus rendering the individual unavailable for temporary judicial service.

Alaska's judicial retirement program, while a positive factor in the overall judicial compensation package, is by no means unique. Many states have recognized that the unique nature of a judicial position mandates a strong judicial retirement program. Other states with strong judicial retirement plans include Alabama, Maine, Massachusetts, Tennessee and West Virginia, Connecticut, Maryland, South Carolina, New Mexico, Arizona, and Delaware.⁵⁻¹

VI. DETERMINING AN APPROPRIATE LEVEL OF JUDICIAL COMPENSATION

What is an appropriate level of compensation for Alaska's judges? The materials compiled by the Alaska Court System suggest that current salary levels are inadequate to insure that the bench draws the most qualified lawyers and retains experienced jurists. If a modification of current salary levels is thus justified, what should that modification be?

In December 1986, a federal commission (the Commission on Executive, Legislative and Judicial Salaries) was faced with a similar question concerning the compensation of federal judges, as well as other high-ranking federal officials. (The court system has submitted a copy of the federal commission's report to the State Officers' Compensation Commission.) The federal commission carefully examined many aspects of the judicial compensation question. The commission considered the need to attract qualified candidates to the federal bench and the need to provide those chosen to serve on the bench with a salary sufficient to encourage them to remain. Extensive salary comparisons were made between the salaries of federal court judges and other categories of wage earners, both private and public. Based on the commission's careful review, the commission recommended that federal district court judges be compensated at the salary of \$130,000 per year. However, this recommendation was proffered during a period of time when budgetary restraint was considered an absolute necessity (not unlike the current Alaska climate). Therefore, the proposed salary increase was pared down significantly, to its current level of \$89,500 per annum for federal district court judges. (Other levels of judges were given comparable salary increases.)

The work of the federal salary commission, and the resulting change in the federal judicial pay scale, has considerable significance for the work

of the State Officers' Compensation Commission. The analytical process and the comparisons made by the federal commission can provide a valuable framework for the work of the State Officers' Compensation Commission.

It is useful to focus specifically on the compensation found reasonable for federal district court judges. The responsibilities and jurisdiction of federal district court judges are closely analogous to the responsibilities and duties of Alaska superior court judges. Both courts are trial courts of general jurisdiction, which means that both courts handle a wide variety of both civil and criminal work.* Therefore, the "job descriptions" of a superior court judge and a federal district court judge are remarkably similar.

The District of Columbia recently raised the salaries of its general jurisdiction judges to equal the salaries of judges of federal district court judges. The District of Columbia courts presented the "equivalent job" rationale in support of this change. The District of Columbia courts argued that the same factors and considerations were relevant to the setting of salaries for both types of judges, and the salary statute was amended to make these salary levels identical.

The same rationale and analysis exist for setting Alaska superior court judge salaries equal to federal district court judge salaries. The materials widely available in the literature on this subject would support a higher level of compensation than the current federal levels, based on reasonable compensation for the demands of the job, and the need to acquire and retain experienced, talented jurists. However, the State of Alaska is experiencing the same type of restrained budgetary climate as

*See AS 22.10.020 (state) and 28 USCS § 1330-1362 (federal)

did the federal system at the time the federal commission finished its work. Therefore, in light of all the factors (including the economic position of the State of Alaska at this time), it would seem appropriate to set the minimum salary level for superior court judges at the same level as federal court judges currently earn: \$89,500 per annum.

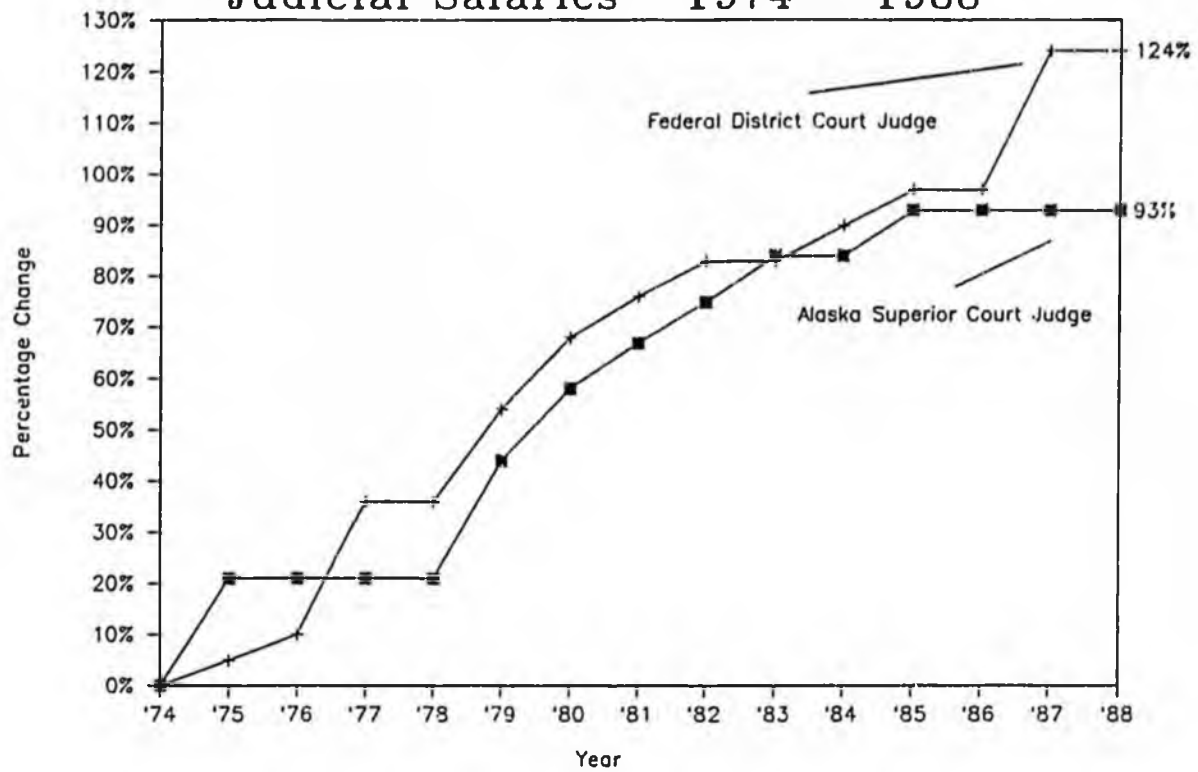
It is not easy to find such close parallels for the other levels of state courts within the federal system. Once one departs from the general jurisdiction trial bench, significant differences in jurisdiction and responsibilities appear. Therefore, an alternative method of setting salaries for the remaining level of state courts would appear to be appropriate.

The court system suggests that the same salary adjustment be made for each level of court to retain the organizational parity which currently exists among the levels of court. A change to \$89,500 per annum for a superior court judge would represent an increase of \$12,196 per annum above the current salary level. Increasing the other levels of court by the same amount (\$12,196) would result in the following salary structure: District court - \$79,012 per annum; Court of Appeals - \$92,188 per annum; Supreme court - \$97,024 per annum.

It should be noted that these proposed increases would by no means make Alaska state salaries extraordinarily high as compared with the judicial salaries in other states. The proposed increase in supreme court salary would only raise the supreme court's salary to the 23rd rank among the ranked states, from its current ranking of 37th, when salaries are adjusted for COLA. The proposed changes in other levels of court would result in the following rankings: Court of Appeals 22nd, Superior 15th.

The chart on page 28 compares superior court salaries and federal district court salaries from 1974 to 1988. Historically, there has been a close relationship between the two categories of salaries. A significant departure from this pattern occurred in 1987, with the increase in federal salaries.

Comparison of Alaska & Federal Judicial Salaries 1974 - 1988



ALASKA COURT SYSTEM Comparison of Judicial Salaries Alaska Superior Court and Federal District Court

<u>Alaska Superior Court Judge</u>		<u>Federal District Court Judge</u>	
Effective Date	Annual Salary	Effective Date	Annual Salary
01/01/74	\$40,000	01/01/74	\$40,000
07/01/75	48,576	10/01/75	42,000
01/01/76	48,576	10/01/76	44,000
01/01/77	48,576	03/01/77	54,500
01/01/78	48,576	01/01/78	54,500
01/01/79	57,500	10/01/79	61,500
01/01/80	63,120	10/01/80	67,100
01/01/81	66,900	10/01/81	70,300
03/16/82	70,116	12/18/82	73,100
01/01/83	73,620	01/01/83	73,100
01/01/84	73,620	01/01/84	76,000
07/15/85	77,304	01/01/85	78,700
01/01/86	77,304	01/01/86	78,700
01/01/87	77,304	01/04/87	89,500
01/01/88	77,304	01/01/88	89,500

ALASKA COURT SYSTEM
Recommendation on Judicial Salaries

<u>Level</u>	<u>Present Salary</u>	<u>Recommended Salary</u>
Supreme Court	\$85,728	\$97,924
Appeals Court	79,992	92,188
Superior Court	77,304	89,500
District Court	66,816	79,012

- 1-1 Commission of Judicial Salaries, Report of the Commission on Judicial Salaries, (November 1984). The 5-member commission was jointly established by the Hawaii Chief Justice, the Governor, the Senate President and the House Speaker.
- 2-1 Unadjusted salary comparisons and rankings are compiled on a regular basis by the National Center for State Courts, and are available from that organization.
- 2-2 Cost of living index was based on American Chamber of Commerce Researchers Association first quarter Inter-City Cost of Living Index, All-Cities Index. A cost of living index was computed for each state based on the average of all reporting cities. Cost-of-living-adjusted salaries were calculated as follows:
- $$\frac{\text{Alaska Average Cost of Living}}{\text{State Average Cost of Living}} \times \text{Actual Salary} = \text{COLA Adjusted Salary}$$
- 3-1 See generally, American Bar Association/Judicial Administration Division, Committee on State Judicial Salaries, A Handbook on State Judicial Salaries, June 1986, with specific attention directed to articles cited in footnotes 1, pg. 1, and footnote 6, pg. 2.
- 3-2 "Q&A with the Chief Justice" 71 A.B.A.J. 91,94 (1985).
- 3-3 Handbook on State Judicial Salaries, supra, pg. 7.
- 3-4 Handbook on State Judicial Salaries, supra, pg. 31.
- 3-5 D. Weston Darby, Jr., "Are You Keeping up Financially?", ABA Journal, The Lawyer's Magazine, Vol 71, 66, December 1985.
- 5-1 Timothy Pyne, Judicial Retirement Plan, American Judicature Society, Chicago 1980.

TABLE I

alaska judicial council

NON-ATTORNEY MEMBERS
Mary Jane Fate
Hilbert J. Henrickson, M.D.
Renee Murray

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

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

SURVEY OF ALASKA BAR ASSOCIATION MEMBERS for EVALUATION OF JUDICIAL CANDIDATES

This survey for evaluation of candidates for the vacancy on the Superior Court, Fourth Judicial District (Bethel) is conducted by Policy Analysts, Ltd., on behalf of the Alaska Judicial Council. The candidates are:

Gail Roy Fraties
James D. Ginotti
L. Ben Hancock

Laurie H. Otto
Bryan Schuler
Timothy H. Stearns

Validation of Responses: A self-addressed, stamped envelope is enclosed for the return of your completed evaluation. Place the completed survey inside the envelope marked "Confidential" and seal the envelope. Then use the self-addressed, stamped envelope, being sure to sign in the space provided. The return envelope **MUST BE SIGNED** in order for your survey to be counted. [In the last bar survey, 12 unsigned surveys were excluded from the tabulation.]

Confidentiality: All responses will be aggregated solely for statistical analysis. The identity of individual respondents will remain strictly confidential. Responses to the demographic questions are also confidential. Demographic data is critical to our analysis; strict guidelines are followed to protect the identities of all respondents.

Return Date: Please complete and return this survey no later than February 28, 1986, to Policy Analysts, Ltd., 20C1 Banbury Circle, Anchorage, Alaska, 99504.

DEMOGRAPHIC QUESTIONS

- Type of Practice (Circle the box that best describes your practice)
Private: 1 Solo 2 Office of 2-5 attorneys 3 Office of 6 or more attorneys
Other: 4 Government 5 Private corporate employee 6 Judge, judicial officer
 - Length of Practice: How many years have you been practicing law? _____ years
 - Length of Residence: How many years have you lived in Alaska? _____ years
 - Cases Handled: The majority of your practice consists of (circle one):
 1 Mainly civil 2 Mainly criminal 3 Mixed civil/criminal 4 Prosecution
 5 Other _____
- Location of Practice: In which judicial district is most of your work conducted?
 1 First District 2 Second District 3 Third District 4 Fourth District

Please consider each of the following candidates. If you do not have sufficient knowledge to evaluate a candidate, please go on to the next candidate.

Basis for Evaluation

Which of the following best describes the basis for your evaluation of this candidate? (Check One)

- Direct Professional Experience
- Other Persons; Contacts
- Reputation
- Insufficient knowledge to evaluate this candidate (go on to next candidate)

PART I: GENERAL CRITERIA

Please rate the candidate on each of the following qualities by circling the number that best represents your evaluation. Candidates should be evaluated on each quality separately. Use the ends of the scale as well as the middle. The tendency to rate an applicant "excellent" or "poor" on every trait should be avoided since each person has strengths and weaknesses. If you cannot rate the candidate on any one quality, leave that one blank.

Professional	1	2	3	4	5
1. <u>Competence</u>	POOR Lacking in knowledge and/or effectiveness.	DEFICIENT Below-average performance occasionally.	ACCEPTABLE Possesses sufficient knowledge and required skills.	GOOD Unusually knowledgeable and effective.	EXCELLENT Meets the highest standards for the profession in knowledge and effectiveness.
2. <u>Integrity</u>	POOR Unconcerned with propriety and/or appearance; or acts in violation of Code of Professional Responsibility.	DEFICIENT Appears lacking in knowledge of Code of Professional Responsibility and/or unconcerned with propriety or appearance at times.	ACCEPTABLE Follows Code of Professional Responsibility; respects propriety and appearance of propriety at all times.	GOOD Above-average awareness of ethics; holds self to higher standards than most.	EXCELLENT Outstanding integrity and highest standards of conduct.
3. <u>Fairness</u>	POOR Often shows strong bias for or against some persons or groups.	DEFICIENT Displays, verbally or otherwise, some bias for or against groups or persons.	ACCEPTABLE Free of substantial bias or prejudice towards groups or persons.	GOOD Above-average ability to treat all persons and groups impartially.	EXCELLENT Unusually fair and impartial to all groups.
How Suitable Is This Candidate's Experience For This Particular					
4. <u>Vacancy?</u>	POOR Has little or no suitable experience.	DEFICIENT Has less than suitable experience.	ACCEPTABLE Has suitable experience.	GOOD Has highly suitable experience.	EXCELLENT Has the most suitable experience possible.

COMMENTS: The Council is particularly interested in your assessment of the candidate's:

- Professional Skills (legal reasoning, knowledge of the law, legal experience, writing and speaking skills);
- Temperament (courtesy, compassion, freedom from arrogance, humility, self-control, sense of humor, tolerance);
- Diligence (conscientiousness, promptness, effective management skills).

Please be candid. All comments are confidential.



alaska judicial council

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

EXECUTIVE DIRECTOR
Francis L. Bremson

NON-ATTORNEY MEMBERS
Mary Jana Fata
Hilbert J. Henrickson, M.D.
Renee Murray

ATTORNEY MEMBERS
William T. Council
James D. Gimore
Barbara L. Schuhmann

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

April 18, 1986

Dear Peace Officer:

The Constitution and laws of the State of Alaska require that each justice and judge periodically "be subject to approval or rejection on a non-partisan ballot". Justices and judges stand for retention at the time of the general election, November 4, 1986.

Pursuant to law, the Alaska Judicial Council evaluates each justice and judge and makes its evaluations and recommendations public prior to the election. Components of this evaluation in 1986 include surveys of Alaska's peace and probation officers and members of the Alaska Bar Association, a review of matters of record concerning each judge's performance, and solicitation of public comment regarding judicial performance. Because the Council seeks information from experienced persons who will be capable of adequately evaluating the complex aspects of judicial performance, it is vital that each peace officer and probation officer respond as completely as possible to these surveys.

The enclosed evaluation questionnaire has been designed in cooperation with the Alaska Peace Officers Association. All phases of the survey administration and analysis will be carried out by the Center for Political Studies at the Institute for Social Research, University of Michigan at Ann Arbor. It is important that each respondent complete all parts of the questionnaire and return it directly to the Institute for Social Research in the enclosed self-addressed stamped envelope. All responses will be aggregated for the sole purpose of statistical analysis; the identities of individual respondents will remain strictly confidential.

On behalf of the Alaska Judicial Council, I wish to thank you for your contribution to the judicial evaluation process. If you have any questions concerning this questionnaire or the other activities of the Judicial Council, please call me collect at 279-2526.

Sincerely,

A handwritten signature in cursive script, appearing to read "Francis L. Bremson".
FRANCIS L. BREMSON
EXECUTIVE DIRECTOR

ALASKA JUDICIAL COUNCIL
EVALUATION OF THE JUDICIARY
SURVEY OF ALASKA PEACE OFFICERS AND PROBATION OFFICERS
P.O. BOX 1248
Ann Arbor, MI 48106

In cooperation with the Alaska Peace Officers Association, the Alaska Judicial Council is sponsoring this survey to obtain information for use in its evaluation of judges facing retention election in November, 1986. Information is also being obtained from members of the Alaska Bar Association.

All responses to this survey will be aggregated for the sole purpose of statistical analysis. The identity of individual respondents will remain strictly confidential. A self-addressed stamped envelope is provided for return of your completed questionnaire. DO NOT sign either the completed questionnaire or the envelope.

IMPORTANT: PLEASE COMPLETE AND RETURN THIS QUESTIONNAIRE NO LATER THAN APRIL 30. It is necessary for you to return the form even if you cannot rate any judge.

SECTION I: Please check the appropriate box or supply the indicated information.

1. My current position in law enforcement is:

1. Correctional officer 4. Federal officer
2. Alaska police officer 5. Other than above
3. Probation/parole officer

2. I have been a peace officer or probation officer in Alaska for ___ years.

3. The majority of my work is conducted in the:

1. First 2. Second 3. Third 4. Fourth Judicial District

SECTION II: In the following pages, please rate only those judges for whom you have a sufficient basis for evaluation. YOUR EVALUATION MAY BE BASED UPON GENERAL REPUTATION AND/OR FIRST-HAND EXPERIENCE. If you believe you have an insufficient basis to make an evaluation, mark the appropriate box.

All questions relate only to the qualities of the judge in the performance of judicial duties. The first set of items on each page asks for your experience before each judge. Please check the appropriate lines beneath the judge's name. For the remaining items which are evaluative criteria, please use the following scale:

1. Unacceptable: Lacking in this quality
2. Deficient: Does not always meet minimum standards of performance for this court
3. Acceptable: Meets minimum standards of performance for this court
4. Good: Often exceeds minimum standards of performance for this court
5. Excellent: Consistently exceeds the minimum standards for this court

SECTION III: For your convenience in locating individual judges whom you can evaluate, the questionnaire has been organized by judicial district as follows:

- Page 3: First Judicial District: Judges Craske & Asper
Page 4: Second Judicial District: Judge Jeffery
Page 5: Third Judicial District: Judges Cutler, Rowland, Andrews & Beckwith
Page 6: Third Judicial District: Judges Hornaday, Stemp, Stewart & White
Page 7: Fourth Judicial District: Judges Hodges, Van Hoomissen, Connelly
Page 8: Fourth Judicial District: Judges Crutchfield, Kauvar & Zimmerman

FIRST JUDICIAL DISTRICT

	SUPERIOR COURT		DISTRICT COURT	
	Judge Duane C. Craske		Judge Linn Asper	
1. Have you had trials, motions or other experience with this judge? (Check all that apply)	Trials	___	Trials	___
	Motions	___	Motions	___
	Other	___	Other	___
	None	___	None	___
2. Nature of your experience with this judge?	Criminal	___	Criminal	___
	Civil	___	Civil	___
	Mixture	___	Mixture	___
	None	___	None	___
3. Amount of your experience with this judge?	Substantial	___	Substantial	___
	Limited	___	Limited	___
	None	___	None	___
For the following questions use this scale, or indicate by checking "Can't Rate" that you have an insufficient basis for evaluation:				
1. <u>Unacceptable</u>	Lacking in this quality			
2. <u>Deficient</u>	Does not always meet minimum standards of performance for this court			
3. <u>Acceptable</u>	Meets minimum standards of performance for this court			
4. <u>Good</u>	Often exceeds minimum standards of performance for this court.			
5. <u>Excellent</u>	Consistently exceeds the minimum standards minimum standards for this court			
	Judge Duane C. Craske		Judge Linn Asper	
	Rating	Can't Rate	Rating	Can't Rate
IMPARTIALITY				
4. Conscientiousness in finding facts and/or interpreting the law without regard to possible public criticism				
5. Equal treatment of all parties regardless of race, ethnic background, sex, social or economic status, and the like				
6. Restraint from favoritism toward either side in any dispute				
7. Restraint from prejudging outcome of the case				
JUDICIAL TEMPERAMENT				
8. Sense of basic fairness and justice				
9. Human understanding and compassion				
10. Freedom from arrogance				
11. Courtesy				
12. Dignity of demeanor on the bench				
13. Conducts self in a manner free from impropriety or the appearance of impropriety				
14. Integrity				
15. Consideration of all relevant factors in sentencing				
16. Talent and ability for cases involving children and families				
ADMINISTRATIVE SKILLS				
17. Ability to maintain proper control over courtroom				
18. Punctuality in opening court and keeping appointments				
19. Willingness to work diligently				
20. Reasonable promptness in making rulings and rendering decisions				
OVERALL JUDICIAL PERFORMANCE				
21. Overall judicial performance				

If you have any comments which you believe would assist the Judicial Council in its evaluations, please note them here. Please identify the judge to whom they refer. These statements are entirely optional and anonymous. If more space is needed, attach an additional sheet of paper.

SECOND JUDICIAL DISTRICT

SUPERIOR COURT

		Judge Michael I. Jeffery	
1. Have you had trials, motions or other experience with this judge? (Check all that apply)	Trials	_____	
	Motions	_____	
	Other	_____	
	None	_____	
2. Nature of your experience with this judge?	Criminal	_____	
	Civil	_____	
	Mixture	_____	
	None	_____	
3. Amount of your experience with this judge?	Substantial	_____	
	Limited	_____	
	None	_____	
<p>For the following questions use this scale, or indicate by checking "Can't Rate" that you have an insufficient basis for evaluation:</p> <p>1. <u>Unacceptable</u> Lacking in this quality</p> <p>2. <u>Deficient</u> Does not always meet minimum standards of performance for this court</p> <p>3. <u>Acceptable</u> Meets minimum standards of performance for this court</p> <p>4. <u>Good</u> Often exceeds minimum standards of performance for this court</p> <p>5. <u>Excellent</u> Consistently exceeds the minimum standards minimum standards for this court</p>		Judge Michael I. Jeffery	
	Rating	Can't Rate	
IMPARTIALITY			
4. Conscientiousness in finding facts and/or interpreting the law without regard to possible public criticism			
5. Equal treatment of all parties regardless of race, ethnic background, sex, social or economic status, and the like			
6. Restraint from favoritism toward either side in any dispute			
7. Restraint from prejudging outcome of the case			
JUDICIAL TEMPERAMENT			
8. Sense of basic fairness and justice			
9. Human understanding and compassion			
10. Freedom from arrogance			
11. Courtesy			
12. Dignity of demeanor on the bench			
13. Conducts self in a manner free from impropriety or the appearance of impropriety			
14. Integrity			
15. Consideration of all relevant factors in sentencing			
16. Talent and ability for cases involving children and families			
ADMINISTRATIVE SKILLS			
17. Ability to maintain proper control over courtroom			
18. Punctuality in opening court and keeping appointments			
19. Willingness to work diligently			
20. Reasonable promptness in making rulings and rendering decisions			
OVERALL JUDICIAL PERFORMANCE			
21. Overall judicial performance			

If you have any comments which you believe would assist the Judicial Council in its evaluations, please note them here. Please identify the judge to whom they refer. These statements are entirely optional and anonymous. If more space is needed, attach an additional sheet of paper.

THIRD JUDICIAL DISTRICT

	SUPERIOR COURT				DISTRICT COURT			
	Judge Beverly W. Cutler		Judge Mark C. Rowland		Judge Elaine Andrews		Judge Martha Beckwith	
1. Have you had trials, motions or other experience with this judge? (Check all that apply)	Trial	_____	Trial	_____	Trial	_____	Trial	_____
	Motions	_____	Motions	_____	Motions	_____	Motions	_____
	Other	_____	Other	_____	Other	_____	Other	_____
	None	_____	None	_____	None	_____	None	_____
2. Nature of your experience with this judge?	Criminal	_____	Criminal	_____	Criminal	_____	Criminal	_____
	Civil	_____	Civil	_____	Civil	_____	Civil	_____
	Mixture	_____	Mixture	_____	Mixture	_____	Mixture	_____
	None	_____	None	_____	None	_____	None	_____
3. Amount of your experience with this judge?	Substantial	_____	Substantial	_____	Substantial	_____	Substantial	_____
	Limited	_____	Limited	_____	Limited	_____	Limited	_____
	None	_____	None	_____	None	_____	None	_____
For the following questions use this scale, or indicate by checking "Can't Rate" that you have an insufficient basis for evaluation:								
1. <u>Unacceptable</u>	Lacking in this quality							
2. <u>Deficient</u>	Does not always meet minimum standards of performance for this court							
3. <u>Acceptable</u>	Meets minimum standards of performance for this court							
4. <u>Good</u>	Often exceeds minimum standards of performance for this court							
5. <u>Excellent</u>	Consistently exceeds the minimum standards minimum standards for this court							
	Judge Beverly W. Cutler		Judge Mark C. Rowland		Judge Elaine Andrews		Judge Martha Beckwith	
	Rating	Can't Rate	Rating	Can't Rate	Rating	Can't Rate	Rating	Can't Rate
IMPARTIALITY								
4. Conscientiousness in finding facts and/or interpreting the law without regard to possible public criticism								
5. Equal treatment of all parties regardless of race, ethnic background, sex, social or economic status, and the like								
6. Restraint from favoritism toward either side in any dispute								
7. Restraint from prejudging outcome of the case								
JUDICIAL TEMPERAMENT								
8. Sense of basic fairness and justice								
9. Human understanding and compassion								
10. Freedom from arrogance								
11. Courtesy								
12. Dignity of demeanor on the bench								
13. Conducts self in a manner free from impropriety or the appearance of impropriety								
14. Integrity								
15. Consideration of all relevant factors in sentencing								
16. Talent and ability for cases involving children and families								
ADMINISTRATIVE SKILLS								
17. Ability to maintain proper control over courtroom								
18. Punctuality in opening court and keeping appointments								
19. Willingness to work diligently								
20. Reasonable promptness in making rulings and rendering decisions								
OVERALL JUDICIAL PERFORMANCE								
21. Overall judicial performance								

If you have any comments which you believe would assist the Judicial Council in its evaluations, please note them here. Please identify the judge to whom they refer. These statements are entirely optional and anonymous. If more space is needed, attach an additional sheet of paper.

THIRD JUDICIAL DISTRICT

DISTRICT COURT

	JUDGE JAMES C. HORNADAY				JUDGE RALPH STAMP				JUDGE DAVID STEVART				JUDGE MICHAEL WHITE			
	Trial	Motion	Other	None	Trial	Motion	Other	None	Trial	Motion	Other	None	Trial	Motion	Other	None
1. Have you had trials, motions or other experience with this judge? (Check all that apply)	___	___	___	___	___	___	___	___	___	___	___	___	___	___	___	___
2. Nature of your experience with this judge?	Criminal ___ Civil ___ Mixture ___ None ___	Criminal ___ Civil ___ Mixture ___ None ___	Criminal ___ Civil ___ Mixture ___ None ___	Criminal ___ Civil ___ Mixture ___ None ___	Criminal ___ Civil ___ Mixture ___ None ___	Criminal ___ Civil ___ Mixture ___ None ___	Criminal ___ Civil ___ Mixture ___ None ___	Criminal ___ Civil ___ Mixture ___ None ___	Criminal ___ Civil ___ Mixture ___ None ___	Criminal ___ Civil ___ Mixture ___ None ___	Criminal ___ Civil ___ Mixture ___ None ___	Criminal ___ Civil ___ Mixture ___ None ___	Criminal ___ Civil ___ Mixture ___ None ___	Criminal ___ Civil ___ Mixture ___ None ___	Criminal ___ Civil ___ Mixture ___ None ___	
3. Amount of your experience with this judge?	Substantial ___ Limited ___ None ___	Substantial ___ Limited ___ None ___	Substantial ___ Limited ___ None ___	Substantial ___ Limited ___ None ___	Substantial ___ Limited ___ None ___	Substantial ___ Limited ___ None ___	Substantial ___ Limited ___ None ___	Substantial ___ Limited ___ None ___	Substantial ___ Limited ___ None ___	Substantial ___ Limited ___ None ___	Substantial ___ Limited ___ None ___	Substantial ___ Limited ___ None ___	Substantial ___ Limited ___ None ___	Substantial ___ Limited ___ None ___	Substantial ___ Limited ___ None ___	
<p>For the following questions use this scale, or indicate by checking "Can't Rate" that you have an insufficient basis for evaluation:</p> <p>1. <u>Unacceptable</u> Lacking in this quality 2. <u>Deficient</u> Does not always meet minimum standards of performance for this court</p> <p>3. <u>Acceptable</u> Meets minimum standards of performance for this court</p> <p>4. <u>Good</u> Often exceeds minimum standards of performance for this court</p> <p>5. <u>Excellent</u> Consistently exceeds the minimum standards minimum standards for this court</p>																
	Rating	Can't Rate	Rating	Can't Rate	Rating	Can't Rate	Rating	Can't Rate	Rating	Can't Rate	Rating	Can't Rate	Rating	Can't Rate	Rating	Can't Rate
IMPARTIALITY																
4. Conscientiousness in finding facts and/or interpreting the law without regard to possible public criticism																
5. Equal treatment of all parties regardless of race, ethnic background, sex, social or economic status, and the like																
6. Restraint from favoritism toward either side in any dispute																
7. Restraint from prejudging outcome of the case																
JUDICIAL TEMPERAMENT																
8. Sense of basic fairness and justice																
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13. Conducts self in a manner free from impropriety or the appearance of impropriety																
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15. Consideration of all relevant factors in sentencing																
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20. Reasonable promptness in making rulings and rendering decisions																
OVERALL JUDICIAL PERFORMANCE																
21. Overall judicial performance																

If you have any comments which you believe would assist the Judicial Council in its evaluations, please note them here. Please identify the judge to whom they refer. These statements are entirely optional and anonymous. If more space is needed, attach an additional sheet of paper.

FOURTH JUDICIAL DISTRICT

	SUPERIOR COURT				DISTRICT COURT			
	Judge Jay Hodges		Judge Gerald J. Van Hoomissen		Judge Hugh M. Connolly			
1. Have you had trials, motions or other experience with this judge? (Check all that apply)	Trials _____	Motions _____	Other _____	None _____	Trials _____	Motions _____	Other _____	None _____
2. Nature of your experience with this judge?	Criminal _____	Civil _____	Mixture _____	None _____	Criminal _____	Civil _____	Mixture _____	None _____
3. Amount of your experience with this judge?	Substantial _____	Limited _____	None _____		Substantial _____	Limited _____	None _____	
For the following questions use this scale, or indicate by checking "Can't Rate" that you have an insufficient basis for evaluation:								
1. <u>Unacceptable</u> Lacking in this quality	Judge Jay Hodges		Judge Gerald J. Van Hoomissen		Judge Hugh M. Connolly			
2. <u>Deficient</u> Does not always meet minimum standards of performance for this court								
3. <u>Acceptable</u> Meets minimum standards of performance for this court								
4. <u>Good</u> Often exceeds minimum standards of performance for this court								
5. <u>Excellent</u> Consistently exceeds the minimum standards minimum standards for this court								
	Rating	Can't Rate	Rating	Can't Rate	Rating	Can't Rate		
IMPARTIALITY								
4. Conscientiousness in finding facts and/or interpreting the law without regard to possible public criticism								
5. Equal treatment of all parties regardless of race, ethnic background, sex, social or economic status, and the like								
6. Restraint from favoritism toward either side in any dispute								
7. Restraint from prejudging outcome of the case								
JUDICIAL TEMPERAMENT								
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OVERALL JUDICIAL PERFORMANCE								
21. Overall judicial performance								

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FOURTH JUDICIAL DISTRICT

DISTRICT COURT

	Judge H. Ed Crutchfield		Judge Jane F. Kauvar		Judge Christopher Zimmerman				
	Trials	Motions	Trials	Motions	Trials	Motions			
1. Have you had trials, motions or other experience with this judge? (Check all that apply)	Other	None	Other	None	Other	None			
2. Nature of your experience with this judge?	Criminal	Civil	Mixture	None	Criminal	Civil	Mixture	None	
3. Amount of your experience with this judge?	Substantial	Limited	None	Substantial	Limited	None	Substantial	Limited	None
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	Rating	Can't Rate	Rating	Can't Rate	Rating	Can't Rate			
IMPARTIALITY									
4. Conscientiousness in finding facts and/or interpreting the law without regard to possible public criticism									
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alaska judicial council

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

April 18, 1986

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On behalf of the Alaska Judicial Council, I wish to thank you for your contribution to the judicial evaluation process. If you have any questions concerning this questionnaire or the other activities of the Judicial Council, please call me collect at 279-2526.

Sincerely,

A handwritten signature in cursive script that reads "Francis L. Bremson".

FRANCIS L. BREMSON
EXECUTIVE DIRECTOR

ALASKA JUDICIAL COUNCIL
EVALUATION OF THE JUDICIARY
SURVEY OF THE ALASKA BAR ASSOCIATION
P.O. BOX 1248
Ann Arbor, MI 48106

In cooperation with the Alaska Bar Association, the Alaska Judicial Council is sponsoring this survey to obtain information for use in its evaluation of judges facing retention election in November, 1986. Information is also being obtained from Alaska Peace Officers and Probation Officers.

All responses to this survey will be aggregated for the sole purpose of statistical analysis. The identity of individual respondents will remain strictly confidential. A self-addressed stamped envelope is provided for return of your completed questionnaire. DO NOT sign either the completed questionnaire or the envelope.

IMPORTANT: PLEASE COMPLETE AND RETURN THIS QUESTIONNAIRE NO LATER THAN APRIL 30. It is necessary for you to return the form even if you cannot rate any judge.

SECTION I: Please check the appropriate box or supply the indicated information.

1. I have been a member of the Alaska Bar Association for ___ years.
2. My practice is composed of:
 ___% civil work
 ___% criminal work

 100%
3. My practice is composed of ___% litigation and trial work, including preparation for case settlement or trial.
4. The majority of my work is conducted in the

1. First 2. Second 3. Third 4. Fourth Judicial District
5. I am
1. A private practitioner 4. A state court judge
2. An employee of a private business corporation 5. Other than above
3. An employee of a government branch or agency

SECTION II: In the following pages, please rate only those judges for whom you have a sufficient basis for evaluation. YOUR EVALUATION MAY BE BASED UPON GENERAL REPUTATION AND/OR FIRST-HAND EXPERIENCE. If you believe you have an insufficient basis to make an evaluation, mark the appropriate box.

All questions relate only to the qualities of the judge or justice in the performance of judicial duties. The first set of items on each page asks for your experience before each judge. Please check the appropriate lines beneath the judge's name. For the remaining items which are evaluative criteria, please use the following rating scale:

1. Unacceptable: Lacking in this quality
2. Deficient: Does not always meet minimum standards of performance for this court
3. Acceptable: Meets minimum standards of performance for this court
4. Good: Often exceeds minimum standards of performance for this court
5. Excellent: Consistently exceeds the minimum standards for this court

SECTION III: For your convenience in locating individual judges whom you can evaluate, the questionnaire has been organized by judicial district as follows:

Page 3: Supreme Court Justice Moore
Page 4: First Judicial District: Judges Craske & Asper
Page 5: Second Judicial District: Judge Jeffery
Page 6: Third Judicial District: Judges Cutler, Rowland, Andrews & Beckwith
Page 7: Third Judicial District: Judges Hornaday, Stemp, Stewart & White
Page 8: Fourth Judicial District: Judges Hodges, Van Hoomissen, & Connelly
Page 9: Fourth Judicial District: Judges Crutchfield, Kauvar, & Zimmerman

APPELLATE JUDGE	SUPREME COURT	
1. Amount of your experience with this justice?	Justice Daniel A. Moore, Jr.	
2. How many of this justice's opinions have you read?	Substantial ___ Limited ___ None ___	
<p>For the following questions use this scale, or indicate by checking "Can't Rate" that you have an insufficient basis for evaluation:</p> <p>1. <u>Unacceptable</u> Lacking in this quality</p> <p>2. <u>Deficient</u> Does not always meet minimum standards of performance for this court</p> <p>3. <u>Acceptable</u> Meets minimum standards of performance for this court</p> <p>4. <u>Good</u> Often exceeds minimum standards of performance for this court</p> <p>5. <u>Excellent</u> Consistently exceeds the minimum standards for this court</p>	Justice Daniel A. Moore, Jr.	
	Rating	Can't Rate
QUALITY OF WRITTEN OPINIONS		
3. Legal analysis and scholarship		
4. Clarity and precision		
5. Writing style		
6. Restraint from favoritism		
7. Conscientiousness in rendering legal opinions without regard to possible public criticism		
GENERAL CHARACTERISTICS		
8. Dignity of demeanor on the bench		
9. Conducts self in a manner free from impropriety or the appearance of impropriety		
10. Preparation for, and attentiveness to counsel's oral arguments		
11. Integrity		

If you have any comments which you believe would assist the Judicial Council in its evaluations, please note them here. Please identify the judge to whom they refer. These statements are entirely optional and anonymous. If more space is needed, attach an additional sheet of paper.

FIRST JUDICIAL DISTRICT

	SUPERIOR COURT		DISTRICT COURT	
	Judge Duane C. Craske		Judge Linn Asper	
1. Have you had trials, motions or other experience with this judge? (Check all that apply)	Trials Motions Other None	___ ___ ___ ___	Trials Motions Other None	___ ___ ___ ___
2. Nature of your experience with this judge?	Criminal Civil Mixture None	___ ___ ___ ___	Criminal Civil Mixture None	___ ___ ___ ___
3. Amount of your experience with this judge?	Substantial Limited None	___ ___ ___	Substantial Limited None	___ ___ ___
For the following questions use this scale, or indicate by checking "Can't Rate" that you have an insufficient basis for evaluation:				
1. <u>Unacceptable</u> Lacking in this quality 2. <u>Deficient</u> Does not always meet minimum standards of performance for this court	Judge Duane C. Craske		Judge Linn Asper	
2. <u>Acceptable</u> Meets minimum standards of performance for this court				
4. <u>Good</u> Often exceeds minimum standards of performance for this court				
5. <u>Excellent</u> Consistently exceeds the minimum standards minimum standards for this court				
	Rating	Can't Rate	Rating	Can't Rate
LEGAL ABILITY				
4. Legal reasoning ability and comprehension				
5. Knowledge of substantive law, evidence, and procedure				
6. Performance as a motions judge (discovery, suppression, summary judgement, and the like)				
7. Settlement skills				
IMPARTIALITY				
8. Conscientiousness in finding facts and/or interpreting the law without regard to possible public criticism				
9. Equal treatment of all parties regardless of race, ethnic background, sex, social or economic status, and the like				
10. Restraint from favoritism toward either side in any dispute				
11. Restraint from prejudging outcome of the case				
JUDICIAL TEMPERAMENT				
12. Sense of basic fairness and justice				
12. Human understanding and compassion				
14. Freedom from arrogance				
15. Courtesy				
16. Dignity of demeanor on the bench				
17. Conducts self in a manner free from impropriety or the appearance of impropriety				
18. Integrity				
19. Consideration of all relevant factors in sentencing				
20. Talent and ability for cases involving children and families				
ADMINISTRATIVE SKILLS				
21. Ability to maintain proper control over courtroom				
22. Punctuality in opening court and keeping appointments				
23. Willingness to work diligently				
24. Reasonable promptness in making rulings and rendering decisions				
OVERALL JUDICIAL PERFORMANCE				
25. Overall judicial performance				

If you have any comments which you believe would assist the Judicial Council in its evaluations, please note them here. Please identify the judge to whom they refer. These statements are entirely optional and anonymous. If more space is needed, attach an additional sheet of paper.

SECOND JUDICIAL DISTRICT

SUPERIOR COURT

Judge
Michael I.
Jeffery

1. Have you had trials, motions or other experience with this judge? (Check all that apply)	Trials _____ Motions _____ Other _____ None _____
2. Nature of your experience with this judge?	Criminal _____ Civil _____ Mixture _____ None _____
3. Amount of your experience with this judge?	Substantial _____ Limited _____ None _____
For the following questions use this scale, or indicate by checking "Can't Rate" that you have an insufficient basis for evaluation: 1. <u>Unacceptable</u> Lacking in this quality 2. <u>Deficient</u> Does not always meet minimum standards of performance for this court 3. <u>Acceptable</u> Meets minimum standards of performance for this court 4. <u>Good</u> Often exceeds minimum standards of performance for this court 5. <u>Excellent</u> Consistently exceeds the minimum standards minimum standards for this court	Judge Michael I. Jeffery

	Rating	Can't Rate
LEGAL ABILITY		
4. Legal reasoning ability and comprehension		
5. Knowledge of substantive law, evidence, and procedure		
6. Performance as a motions judge (discovery, suppression, summary judgement, and the like)		
7. Settlement skills		
IMPARTIALITY		
8. Conscientiousness in finding facts and/or interpreting the law without regard to possible public criticism		
9. Equal treatment of all parties regardless of race, ethnic background, sex, social or economic status, and the like		
10. Restraint from favoritism toward either side in any dispute		
11. Restraint from prejudging outcome of the case		
JUDICIAL TEMPERAMENT		
12. Sense of basic fairness and justice		
13. Human understanding and compassion		
14. Freedom from arrogance		
15. Courtesy		
16. Dignity of demeanor on the bench		
17. Conducts self in a manner free from impropriety or the appearance of impropriety		
18. Integrity		
19. Consideration of all relevant factors in sentencing		
20. Talent and ability for cases involving children and families		
ADMINISTRATIVE SKILLS		
21. Ability to maintain proper control over courtroom		
22. Punctuality in opening court and keeping appointments		
23. Willingness to work diligently		
24. Reasonable promptness in making rulings and rendering decisions		
OVERALL JUDICIAL PERFORMANCE		
25. Overall judicial performance		

If you have any comments which you believe would assist the Judicial Council in its evaluations, please note them here. Please identify the judge to whom they refer. These statements are entirely optional and anonymous. If more space is needed, attach an additional sheet of paper.

THIRD JUDICIAL DISTRICT

	SUPERIOR COURT				DISTRICT COURT			
	Judge Beverly W. Cutler		Judge Mark C. Rowland		Judge Elaine Andrews		Judge Martha Beckwith	
1. Have you had trials, motions or other experience with this judge? (Check all that apply)	Trials	___	Trials	___	Trials	___	Trials	___
	Motions	___	Motions	___	Motions	___	Motions	___
	Other	___	Other	___	Other	___	Other	___
	None	___	None	___	None	___	None	___
2. Nature of your experience with this judge?	Criminal	___	Criminal	___	Criminal	___	Criminal	___
	Civil	___	Civil	___	Civil	___	Civil	___
	Mixture	___	Mixture	___	Mixture	___	Mixture	___
	None	___	None	___	None	___	None	___
3. Amount of your experience with this judge?	Substantial	___	Substantial	___	Substantial	___	Substantial	___
	Limited	___	Limited	___	Limited	___	Limited	___
	None	___	None	___	None	___	None	___
For the following questions use this scale, or indicate by checking "Can't Rate" that you have an insufficient basis for evaluation:								
1. <u>Unacceptable</u>	Lacking in this quality							
2. <u>Deficient</u>	Does not always meet minimum standards of performance for this court			Judge Beverly W. Cutler	Judge Mark C. Rowland	Judge Elaine Andrews	Judge Martha Beckwith	
3. <u>Acceptable</u>	Meets minimum standards of performance for this court							
4. <u>Good</u>	Often exceeds minimum standards of performance for this court							
5. <u>Excellent</u>	Consistently exceeds the minimum standards of performance for this court							
	Rating	Can't Rate	Rating	Can't Rate	Rating	Can't Rate	Rating	Can't Rate
LEGAL ABILITY								
4. Legal reasoning ability and comprehension								
5. Knowledge of substantive law, evidence, and procedure								
6. Performance as a motions judge (discovery, suppression, summary judgement, and the like)								
7. Settlement skills								
IMPARTIALITY								
8. Conscientiousness in finding facts and/or interpreting the law without regard to possible public criticism								
9. Equal treatment of all parties regardless of race, ethnic background, sex, social or economic status, and the like								
10. Restraint from favoritism toward either side in any dispute								
11. Restraint from prejudging outcome of the case								
JUDICIAL TEMPERAMENT								
12. Sense of basic fairness and justice								
13. Human understanding and compassion								
14. Freedom from arrogance								
15. Courtesy								
16. Dignity of demeanor on the bench								
17. Conducts self in a manner free from impropriety or the appearance of impropriety								
18. Integrity								
19. Consideration of all relevant factors in sentencing								
20. Talent and ability for cases involving children and families								
ADMINISTRATIVE SKILLS								
21. Ability to maintain proper control over courtroom								
22. Punctuality in opening court and keeping appointments								
23. Willingness to work diligently								
24. Reasonable promptness in making rulings and rendering decisions								
OVERALL JUDICIAL PERFORMANCE								
25. Overall judicial performance								

If you have any comments which you believe would assist the Judicial Council in its evaluations, please note them here. Please identify the judge to whom they refer. These statements are entirely optional and anonymous. If more space is needed, attach an additional sheet of paper.

THIRD JUDICIAL DISTRICT

DISTRICT COURT

	DISTRICT COURT							
	Judge James C. Hornaday	Judge Ralph Steep	Judge David Stewart	Judge Michael White				
1. Have you had trials, motions or other experience with this judge? (Check all that apply)	Trials <input type="checkbox"/> Motions <input type="checkbox"/> Other <input type="checkbox"/> None <input type="checkbox"/>	Trials <input type="checkbox"/> Motions <input type="checkbox"/> Other <input type="checkbox"/> None <input type="checkbox"/>	Trials <input type="checkbox"/> Motions <input type="checkbox"/> Other <input type="checkbox"/> None <input type="checkbox"/>	Trials <input type="checkbox"/> Motions <input type="checkbox"/> Other <input type="checkbox"/> None <input type="checkbox"/>				
2. Nature of your experience with this judge?	Criminal <input type="checkbox"/> Civil <input type="checkbox"/> Mixture <input type="checkbox"/> None <input type="checkbox"/>	Criminal <input type="checkbox"/> Civil <input type="checkbox"/> Mixture <input type="checkbox"/> None <input type="checkbox"/>	Criminal <input type="checkbox"/> Civil <input type="checkbox"/> Mixture <input type="checkbox"/> None <input type="checkbox"/>	Criminal <input type="checkbox"/> Civil <input type="checkbox"/> Mixture <input type="checkbox"/> None <input type="checkbox"/>				
3. Amount of your experience with this judge?	Substantial <input type="checkbox"/> Limited <input type="checkbox"/> None <input type="checkbox"/>	Substantial <input type="checkbox"/> Limited <input type="checkbox"/> None <input type="checkbox"/>	Substantial <input type="checkbox"/> Limited <input type="checkbox"/> None <input type="checkbox"/>	Substantial <input type="checkbox"/> Limited <input type="checkbox"/> None <input type="checkbox"/>				
For the following questions use this scale, or indicate by checking "Can't Rate" that you have an insufficient basis for evaluation:								
1. <u>Unacceptable</u> Lacking in this quality	Judge James C. Hornaday	Judge Ralph Steep	Judge David Stewart	Judge Michael White				
2. <u>Deficient</u> Does not always meet minimum standards of performance for this court								
3. <u>Acceptable</u> Meets minimum standards of performance for this court								
4. <u>Good</u> Often exceeds minimum standards of performance for this court								
5. <u>Excellent</u> Consistently exceeds the minimum standards minimum standards for this court								
	Rating	Can't Rate	Rating	Can't Rate	Rating	Can't Rate	Rating	Can't Rate
LEGAL ABILITY								
4. Legal reasoning ability and comprehension								
5. Knowledge of substantive law, evidence, and procedure								
6. Performance as a motions judge (discovery, suppression, summary judgement, and the like)								
7. Settlement skills								
IMPARTIALITY								
8. Conscientiousness in finding facts and/or interpreting the law without regard to possible public criticism								
9. Equal treatment of all parties regardless of race, ethnic background, sex, social or economic status, and the like								
10. Restraint from favoritism toward either side in any dispute								
11. Restraint from prejudging outcome of the case								
JUDICIAL TEMPERAMENT								
12. Sense of basic fairness and justice								
13. Human understanding and compassion								
14. Freedom from arrogance								
15. Courtesy								
16. Dignity of demeanor on the bench								
17. Conducts self in a manner free from impropriety or the appearance of impropriety								
18. Integrity								
19. Consideration of all relevant factors in sentencing								
20. Talent and ability for cases involving children and families								
ADMINISTRATIVE SKILLS								
21. Ability to maintain proper control over courtroom								
22. Punctuality in opening court and keeping appointments								
23. Willingness to work diligently								
24. Reasonable promptness in making rulings and rendering decisions								
OVERALL JUDICIAL PERFORMANCE								
25. Overall judicial performance								

If you have any comments which you believe would assist the Judicial Council in its evaluations, please note them here. Please identify the judge to whom they refer. These statements are entirely optional and anonymous. If more space is needed, attach an additional sheet of paper.

FOURTH JUDICIAL DISTRICT

	SUPERIOR COURT		DISTRICT COURT			
	Judge Jay Hodges	Judge Gerald J. Van Hoosien	Judge Hugh M. Connelly			
1. Have you had trials, motions or other experience with this judge? (Check all that apply)	Trials Motions Other None	Trials Motions Other None	Trials Motions Other None			
2. Nature of your experience with this judge?	Criminal Civil Mixture None	Criminal Civil Mixture None	Criminal Civil Mixture None			
3. Amount of your experience with this judge?	Substantial Limited None	Substantial Limited None	Substantial Limited None			
For the following questions use this scale, or indicate by checking "Can't Rate" that you have an insufficient basis for evaluation:						
1. <u>Unacceptable</u> Lacking in this quality 2. <u>Deficient</u> Does not always meet minimum standards of performance for this court	Judge Jay Hodges	Judge Gerald J. Van Hoosien	Judge Hugh M. Connelly			
3. <u>Acceptable</u> Meets minimum standards of performance for this court						
4. <u>Good</u> Often exceeds minimum standards of performance for this court						
5. <u>Excellent</u> Consistently exceeds the minimum standards of performance for this court						
	Rating	Can't Rate	Rating	Can't Rate	Rating	Can't Rate
LEGAL ABILITY						
4. Legal reasoning ability and comprehension						
5. Knowledge of substantive law, evidence, and procedure						
6. Performance as a motions judge (discovery, suppression, summary judgement, and the like)						
7. Settlement skills						
IMPARTIALITY						
8. Conscientiousness in finding facts and/or interpreting the law without regard to possible public criticism						
9. Equal treatment of all parties regardless of race, ethnic background, sex, social or economic status, and the like						
10. Restraint from favoritism toward either side in any dispute						
11. Restraint from prejudging outcome of the case						
JUDICIAL TEMPERAMENT						
12. Sense of basic fairness and justice						
13. Human understanding and compassion						
14. Freedom from arrogance						
15. Courtesy						
16. Dignity of demeanor on the bench						
17. Conducts self in a manner free from impropriety or the appearance of impropriety						
18. Integrity						
19. Consideration of all relevant factors in sentencing						
20. Talent and ability for cases involving children and families						
ADMINISTRATIVE SKILLS						
21. Ability to maintain proper control over courtroom						
22. Punctuality in opening court and keeping appointments						
23. Willingness to work diligently						
24. Reasonable promptness in making rulings and rendering decisions						
OVERALL JUDICIAL PERFORMANCE						
25. Overall judicial performance						

If you have any comments which you believe would assist the Judicial Council in its evaluations, please note them here. Please identify the judge to whom they refer. These statements are entirely optional and anonymous. If more space is needed, attach an additional sheet of paper.

FOURTH JUDICIAL DISTRICT

DISTRICT COURT

	Judge M. Ed Crutchfield		Judge Jane F. Kauvar		Judge Christopher Zimmerman	
	Trials	Motions	Trials	Motions	Trials	Motions
1. Have you had trials, motions or other experience with this judge? (Check all that apply)	Trials	_____	Trials	_____	Trials	_____
	Motions	_____	Motions	_____	Motions	_____
	Other	_____	Other	_____	Other	_____
	None	_____	None	_____	None	_____
2. Nature of your experience with this judge?	Criminal	_____	Criminal	_____	Criminal	_____
	Civil	_____	Civil	_____	Civil	_____
	Mixture	_____	Mixture	_____	Mixture	_____
	None	_____	None	_____	None	_____
3. Amount of your experience with this judge?	Substantial	_____	Substantial	_____	Substantial	_____
	Limited	_____	Limited	_____	Limited	_____
	None	_____	None	_____	None	_____
For the following questions use this scale, or indicate by checking "Can't Rate" that you have an insufficient basis for evaluation:						
1. <u>Unacceptable</u>	Lacking in this quality					
2. <u>Deficient</u>	Does not always meet minimum standards of performance for this court					
3. <u>Acceptable</u>	Meets minimum standards of performance for this court					
4. <u>Good</u>	Often exceeds minimum standards of performance for this court					
5. <u>Excellent</u>	Consistently exceeds the minimum standards minimum standards for this court					
	Rating	Can't Rate	Rating	Can't Rate	Rating	Can't Rate
LEGAL ABILITY						
4. Legal reasoning ability and comprehension						
5. Knowledge of substantive law, evidence, and procedure						
6. Performance as a motions judge (discovery, suppression, summary judgement, and the like)						
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IMPARTIALITY						
8. Conscientiousness in finding facts and/or interpreting the law without regard to possible public criticism						
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10. Restraint from favoritism toward either side in any dispute						
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24. Reasonable promptness in making rulings and rendering decisions						
OVERALL JUDICIAL PERFORMANCE						
25. Overall judicial performance						

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Alaska Bar Association

1988 Annual Report

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THE ALASKA BAR ASSOCIATION
Annual Report for the Year 1988

Board of Governors

Larry R. Weeks, President
Jeffrey M. Feldman, President-Elect
Ardith Lynch, Vice President
Andonia Harrison, Secretary
Lew M. Williams, Treasurer
Daniel R. Cooper, Jr.
Kenneth P. Eggers
Elizabeth "Pat" Kennedy
Susan C. Orlansky
Sandra Stringer
Michael A. Thompson
Alex Young

Staff

Deborah O'Regan, Executive Director
Barbara Armstrong, Assistant Director & CLE Director
Virginia Ulmer, Executive Secretary
Geraldine F. Downes, Controller
Debra Roberts, Accounting Clerk
Shaunda H. Hale, Receptionist
Shalese M. Dayton, Lawyer Referral Receptionist

Stephen J. Van Goor, Bar Counsel
C. J. Allen, Assistant Bar Counsel
Mark Woelber, Assistant Bar Counsel
Mary Lou Burris, Discipline & Fee Arbitration Assistant
Norma L. Gammons, Discipline Secretary
Laura Hernandez, Discipline Secretary

INTRODUCTION

On November 4, 1884, some six months after the passage of the Organic Act, three attorneys were admitted to the practice of law in Alaska. In the next two years, the Bar -- practicing before the District Court of the United States in and for the District of Alaska -- increased to thirteen (13) members and, by 1896, there were fifty-nine (59) members. Of that number, approximately twenty-one (21) resided within the State, either in Juneau, Nome, "Wrangle," Sitka, Valdez, "Skaguay," or Berners Bay.

It was those individuals who, in November of 1896, in Juneau, organized the Alaska Bar Association. The governing documents were a Constitution and Bylaws. Its object was "to maintain the dignity of the legal profession, to secure proper legislation for Alaska, to promote the administration of justice, and to cultivate social intercourse among its members."

Membership was voluntary, annual fees were \$1.00 (now they are \$310.00), and six members constituted a quorum. The standing committees were legislation, judiciary, and grievance. The first President was John S. Bugbee.

In 1955, the structure changed somewhat with the passage of the Integrated Bar Act by the Territorial Legislature. Nevertheless, the essential functions and purposes continued, albeit on an expanded, more formal basis.

Currently, the Alaska Bar Association has 2,711 members in the following categories: Active, 2,258; Inactive, 435; Honorary, 1; Retired, 17. Its affairs are governed by a twelve (12) member (attorney and non-attorney) Board currently comprised of the following persons:

Larry R. Weeks, President
Jeffrey M. Feldman, President-Elect
Ardith Lynch, Vice-President
Andonia Harrison, Secretary (public member)
Lew M. Williams, Treasurer (public member)
Daniel R. Cooper, Jr.
Kenneth P. Eggers
Elizabeth "Pat" Kennedy
Susan C. Orlansky
Sandra Stringer (public member)
Michael A. Thomps
Alex Young

Written guidelines for governance are contained in the Integrated Bar Act, the Alaska Bar Rules (promulgated by the Supreme Court of Alaska), the Code of Professional Responsibility, the Association's Bylaws and Regulations, the Board of Governors' Policy Manual, and a Personnel Manual.

The two most important functions of the Bar are the admission and discipline of its members, both of which are carried out under the supervision of the Supreme Court of Alaska.

There are presently 6 standing committees, 15 sections, 4 bar rule committees, and 4 special committees. In addition, the Bar Association participates in a number of adjunct organizations and administers special projects, such as the Statewide Lawyer Referral Service. In excess of half of the membership participates, voluntarily and without remuneration, in the affairs of the Association.

The staff of the Alaska Bar has grown from a part-time, volunteer executive secretary in 1968, to the following 12-1/2 full-time professionals:

Deborah O'Regan, Executive Director
Barbara Armstrong, Assistant Director & CLE Director
Virginia Ulmer, Executive Secretary
Geraldine F. Downes, Controller
Debra Roberts, Accounting Clerk
Shaunda L. Hale, Receptionist
Shalese M. Dayton, Lawyer Referral Receptionist

Stephen J. Van Goor, Bar Counsel
C. J. Allen, Assistant Bar Counsel
Mark Woelber, Assistant Bar Counsel
Mary Lou Burris, Discipline & Fee Arbitration Assistant
Norma L. Gammons, Discipline Secretary
Laura Hernandez, Discipline Secretary

The Association is largely funded through monies garnered from its members through dues, continuing legal education programs, conventions, the Lawyer Referral Service, and interest income. The Association received no public monies in 1988.

I. THE BOARD OF GOVERNORS

The Board of Governors consists of twelve (12) members, nine (9) attorney members and three (3) non-attorney members. The nine active members of the Alaska Bar are elected by their peers to govern the affairs of the Association. Serving three year staggered terms, two attorneys represent the First Judicial District, four are from the Third Judicial District, two serve the Second and Fourth Judicial Districts, and one member is elected at-large. Any vacancy is filled by the Board through appointment until the next election. The three non-attorney members are appointed by the governor and are subject to legislative confirmation. The "public" members also serve staggered three year terms.

The Board generally meets five to six times a year at dates and places designated by the President of the Association; special meetings may be called by the President or three members of the Board of Governors. In 1988 the Board held five (5) meetings (January 8 and 9; March 11 and 12; June 6-8; September 9; and October 21 and 22) and three (3) telephone conference meetings (June 24, October 31 and December 7). The Bar Convention and Annual Business Meeting were held in Anchorage, June 9 through 11. The annual convention held in conjunction with the Annual Judicial Conference had its largest attendance ever, with nearly 300 lawyers and judges attending.

A. Officers

There are five officers (President, President-Elect, Vice President, Secretary and Treasurer), all of whom are elected from among the members of the Board by the active Association members in attendance at the annual meeting held in May or June of each year.

The President of the Bar Association presides at all meetings of the Board and of the Bar Association, and is designated as the official spokesperson for the Association.

The President-Elect of the Alaska Bar Association is required to assist the President in all the President's endeavors and take the place of the President if the President is unable to perform the duties of that office. The President-Elect is also responsible for maintaining good communication with the presidents of the various local bar associations across the State.

The Vice President of the Association acts as liaison to the Bar's fifteen sections and the Secretary is in charge of all of the Association's committee operations. The Treasurer

is responsible for overseeing the fiscal affairs of the Association, including budget preparation, reports to the Board at each meeting, and the annual report to the membership.

B. Purposes, Policies, and Procedures

In order to understand the commitment that each member of the Board of Governors makes, it is appropriate to review the Bylaws and policies of the Association, as well as the Alaska Bar Rules. Article 2, Section 2, of the Bylaws of the Alaska Bar Association sets out the purposes of the Association. They are:

1. To cultivate and advance the science of jurisprudence;
2. To promote reform in the law and in judicial procedure;
3. To facilitate the administration of justice; and
4. To encourage higher and better education for the membership in the profession, and to increase the usefulness and efficiency of the Bar Association.

The workload undertaken by members of the Board of Governors includes admissions, discipline, fiscal responsibility, and service activities. Admissions and discipline are discussed in other sections of this booklet. Illustrative of the other activities of the Board are the following:

1. The Board of Governors is required to approve an annual budget, oversee investment of Association funds, and maintain control of expenditures.
2. The Board approves and publishes all formal ethics opinions which respond to requests for rulings and gives guidance to the membership in the ethical conduct of the profession.
3. The Board of Governors has overall responsibility for defining the powers, duties, and functions of all of the

committees of the Alaska Bar Association. These committees are designated as standing committees, as special committees, and as bar rule committees. The President appoints all members and designates a chairperson for each committee.

The members of all committees serve at the pleasure of the Board and their reports and recommendations must be adopted by the Board of Governors to be binding upon the Association.

4. The Board actively supports education and public relations, including programs in the schools with respect to the justice system, seminars for non-lawyers, institutional advertising, and a statewide lawyer referral service.
5. The Board oversees the administration of the Bar office and its staff, and has developed a personnel manual and job descriptions to guide its employees in the performance of their duties.
6. The Board recommends to the Supreme Court revisions and additions to the Alaska Bar Rules, and reviews and revises the Bylaws of the Association. In addition, the Board has promulgated a Policy Manual which sets forth the guidelines for the operation of the Board in all phases of Association activity.
7. In addition, the Board is directly responsible for all the other projects, programs, and activities described in this booklet.

C. Admissions

The Alaska Bar Rules set forth the responsibilities of the Board of Governors with respect to admissions. They include the following:

1. The Board of Governors shall examine or provide by contract for the examination of all applicants and determine or approve the time, place, scope, form, and content of all bar examinations.
2. The Board of Governors sets the standards for the examinations.
3. Under the Rules, the Board has the power to require the appearance of an applicant before the Board in an instance where there is concern on behalf of the applicant or the Board regarding the application procedure, or to refer the matter to a Master for the purpose of accumulating all of the facts and supplementing the record before a decision is made.
4. Both the Board members and the Master have the power to issue subpoenas, administer oaths and affirmations, and take testimony concerning any application for admission to the Alaska Bar Association.
5. The Board of Governors must develop an appropriate application form requiring the applicant to file the necessary evidence and documents in support of the applicant's eligibility for admission.
6. The Board sets the fees and dates for filing of all documents with the Association.
7. The Board is required to certify the results of each exam to the Supreme Court for the State of Alaska with its recommendations for admission.
8. In the event an applicant is denied an exam permit or is denied certification, the applicant is required to file a verified statement with the Board of Governors and, upon a review of the sufficiency of the verified statement, a hearing may be granted. The burden of proof is upon the applicant to prove material facts that constitute an abuse

of discretion or improper conduct on the part of the Board of Governors, the Executive Director, the Law Examiners Committee, or the Master appointed by the President. Each decision must be supported by findings of fact and conclusions of law, with the Board having the power to adopt the decisions of the Committee or Master in whole or in part, or reject the recommendation and draft its own findings and conclusions of law along with an appropriate order. In each instance, the applicant may appeal the decision of the Board of Governors to the Supreme Court.

D. Discipline

One of the most critical areas of responsibility for the Board of Governors is the discipline of Association members.

Whenever a disciplinary matter is before the Board of Governors, the Board sits as the "Disciplinary Board of the Alaska Bar Association."

In that capacity, it appoints Bar Counsel, supervises the Bar Counsel and Bar Counsel staff, and appoints the Area Discipline Divisions of which there are currently three: one in the First Judicial District, one in the Third Judicial District, and one in the combined Second and Fourth Judicial Districts.

In addition, the Board is charged with overall responsibility for the functioning of the attorney discipline system, and for hearing appeals from the recommendations of the Hearing Committees. The Board administers public and private reprimands and, in the case of disbarment, suspension, probation or public censure, forwards its recommendations to the Supreme Court of Alaska for final action.

The Disciplinary Board generally meets five to six times a year, not including conference telephone calls. Seven (7) members constitute a quorum. Records of disciplinary proceedings are maintained according to the Alaska Bar Rules promulgated by the Supreme Court.

E. The Board of Governors was up for sunset in 1989. the Division of Legislative Audit began conducting the performance audit in November.

II. ADMISSIONS PROCEDURES

In order to practice law in the State of Alaska, membership in the Alaska Bar Association is a necessary prerequisite. In other words, it is an integrated (or unified) bar association.

A. Requirements for Admission

Applicants for admission to the practice of law must 1) be graduates of an accredited law school; 2) pass the Alaska Bar Examination; 3) be determined to be of "good moral character;" and 4) pass the Multistate Professional Responsibility Examination (MPRE). Attorneys who have been admitted in other jurisdictions but who did not graduate from accredited law schools may qualify to take the bar exam if they have been in active practice in another jurisdiction for five years or more.

The Alaska Supreme Court has adopted an admission without examination rule, with reciprocity provisions. (See Part J of this section for details on the amendments to the Alaska Bar Rules.)

The Alaska Bar Examination is intended to assist in the determination of whether applicants possess minimal competence to practice law. This includes the ability to analyze facts, apply the appropriate substantive and procedural law, and to effectively communicate the issues and the proposed solutions.

B. Application Procedure

Information and application forms may be obtained from the Bar office. These include instructions and information on the examination; fingerprint cards; and an application form which includes an affidavit of personal history and an authorization and release form consenting to an investigation of moral character, professional reputation, and fitness for the practice of law. The application fee for first time applicants is \$600.00; for reapplicants (some one who has sat for and failed the Alaska Bar Exam within one year of application), the fee is \$325.00.

The Alaska Bar Association conducts a character investigation on each applicant for admission to the Bar based on information provided by the applicant, contacts initiated by the Bar office with individuals familiar with the applicant, and on other information which may be sought by or come to the attention of the Bar Association. No applicant is certified for admission, regardless of the applicant's score on the

written examination, if he or she is determined not to be of good moral character. The Bar Association may require a formal hearing with the introduction of sworn testimony and other evidence, where it determines that a hearing is necessary or appropriate to assist in its investigation. An applicant may appeal from an adverse determination on character to the Board of Governors and, if necessary, to the Alaska Supreme Court.

C. Bar Examination

The Alaska Bar Examination is conducted twice each year in Anchorage, Fairbanks, Juneau, and Ketchikan and in such other locations as the Board may direct. It consists of: 1) one and one-half days of essay questions on Alaska law prepared by a permanent committee of the Association known as the Alaska Law Examiners; and 2) two half-days of objective, multiple choice questions (the Multistate Bar Examination or "MBE"), prepared by the National Conference of Bar Examiners and administered simultaneously in over forty states.

THE ESSAY EXAMINATION: Essay questions are of the analytical or problem type consisting of a hypothetical case or situation involving one or more principles of law. Answers to essay questions are expected to demonstrate the ability to analyze the facts presented by the questions, to select the material facts, to discern the points upon which the case turns, and to present the response in a logical, well-organized, literate manner.

The essay portion of the Alaska Bar Examination is structured as follows:

One half-day (three hour) session consists of three (3) "long" essay questions which require substantial legal analysis. An answer should reflect an applicant's knowledge and understanding of the pertinent principles and theories of law as applied in Alaska, their relationship to each other, and their qualifications and limitations. Answers should also demonstrate the applicant's ability to apply the law to the facts given and to reason logically -- in a lawyer-like manner -- to a sound conclusion.

One half-day (three hour) session consists of six (6) "short" essays which emphasizes substantive knowledge of the law as applied in Alaska; an answer should reflect an applicant's knowledge and understanding of the pertinent law, but will not require extensive discussion.

The final half-day (three hour) session consists of a research/analysis task (or practicum) which assesses how well an applicant can both evaluate the effect of various facts, statutes, and case law on a client's case and integrate and present the results of that analysis in written form. In this session, the applicant is provided with an array of relevant factual and legal information about the client's case, such as previous cases, statutes, regulations, facts, documents, etc., and is best likened to an "open book" examination in that all the information needed is provided.

All three sessions of the essay examination will consist of essay questions which are to be answered in accordance with principles of law as applied in Alaska and may involve one or more issues on the following subjects:

- Business Organizations
(corporations, partnerships,
associations)
- Civil Procedure
- Constitutional Law
(State and Federal)
- Contracts
(including Chapter 2 of the UCC)
- Criminal Law and Procedure
- Evidence
- Family Law
- Real Property
- Torts
(including Products Liability)

In addition, and if applicable, Remedies may be tested as a part of each of the topics listed above.

The following procedures govern the drafting of the essay questions:

1. At least 2 members of the Law Examiners Committee form a "team" to draft a question.
2. One member of the team is a drafter; the other edits and reviews.

3. A grader's guide must be prepared at the time question is drafted.
4. The team suggests the tentative weights (points) to be assigned to the components of an answer recognized by the grader's guide as pertinent to a minimally competent answer.
5. The entire Law Examiners Committee meets and reviews each question as drafted by the teams.
6. The Committee next reviews each grader's guide to judge whether the Committee agrees that the question raises the same issues identified by the team in its analysis of the question.
7. The Committee reviews and either adopts or revises the tentative weights assigned to the components of each proposed grader's guide on a 100 point scale (no points are left for assignment at the discretion of graders).
8. The questions and proposed grader's guides are finalized and provided to Bar staff seven days prior to exam.

D. Grading of Examinations

All examinations are graded anonymously using a double number coding system. A law examiner who is able to identify a particular applicant's examination paper is required to disqualify himself from the grading of that exam. The following procedures govern the grading of the essay exam:

- (1) A calibration team consisting of at least five members of the Committee is convened for each essay question given on the exam;
- (2) As a group, the team will read two randomly selected applicant answers to that essay question;
- (3) The team will compare and discuss the answers and agree on a ranking of the essay answers they have just read;

(4) The team will then read a third essay answer, compare and discuss this answer with the answers previously ranked, and agree on a ranking of all the answers they have read. The team reads and ranks a total of ten answers;

(5) The team will continue this process for at least 5 more answers and until the team is calibrated and the team selects five benchmarks;

(6) The team reviews the grader's guide and the weights assigned to particular portions of the question to take into account any issues identified during the reading of the applicant answers; the 2 graders are responsible for amending the grader's guide into its final form;

(7) The team selects five benchmark applicant essays; a benchmark is an answer which represents one of the 5 points on the grading scale. ("5" is high, "1" is low.) It is not a model answer, nor a minimally competent answer, but is a representative answer for this particular point on the scale;

(8) From this calibration team, two people, not including any member of the original drafting team, are assigned to independently read and score each applicant's answer to the essay question they have just calibrated;

(9) The two graders submit their scores to the Executive Director;

(10) The Executive Director determines whether a discrepancy of more than one point exists between the rankings given by the two graders to a particular applicant on the question;

(11) If a discrepancy of more than one point is found, the graders must reconcile their differences by reference to the benchmarks and grader's guide. The graders must agree on a score that is the same or no more than one point apart;

(12) The two scores given to a particular applicant's answer are averaged for a final score on that essay;

(13) The scores of the various sections of the essay exam (the short essay, long essay, and research/analysis question) are tabulated, weighted, and combined according to the attached procedures for determining the pass/fail status of applicants; and

(14) A "combined" score of 140 and above shall be passing for the exam.

A passing score on the Alaska Bar Examination is determined by "combining" the scaled score received by the applicant on the MBE with the weighted score he or she received on the essay portion of the bar exam. A combined score of 140 or above is required to pass the Alaska Bar Examination. Applicants who receive a combined score between 139.00 and 139.99 will have appropriate portions of their essay exam reread by the graders before the scores are released. The mathematical procedures by which a combined score for each applicant is derived are performed for the Alaska Bar by the National Conference of Bar Examiners' (NCBE's) Division of Testing and is based on the scaled MBE and weighted essay scores provided to the NCBE by the Alaska Bar for each applicant.

The Multistate Bar Examination objective answer sheets are graded by machine by the National Conference of Bar Examiners. These scores are scaled to compensate for any difference in difficulty of the examination from one administration to another, based on a detailed national statistical analysis, a comparison of performance on repeat questions, and other factors.

In reviewing the examination results before certification, the Board of Governors receives a report on the examination, including irregularities (if any), a compilation of scores by applicant number for each portion of the examination, a sampling of "benchmark" papers, copies of the essay questions, and the grader's analysis for each question. Once the examination results are approved, the names of the passing and failing applicants are disclosed and the names of passing applicants are published. Individual scores are not revealed to the applicants or to the Board unless a review of the examination is requested by a failing applicant or a failing applicant files an appeal.

E. Appeals

An applicant will be granted a hearing in either of two circumstances: 1) denial of an examination permit, or 2) denial of certification to the Supreme Court for admission. The applicant has the burden of alleging and proving an abuse of discretion or improper conduct on the part of the Executive Director, the Law Examiners Committee or the Board of Governors. If the applicant is not satisfied with the action taken on his appeal by the Board of Governors, he or she can appeal to the Alaska Supreme Court.

A failing applicant may obtain copies of the essay questions, his or her answers, the "benchmark" essays, a representative sampling of answers of other applicants who

received overall passing and overall failing scores, and the grader's guides for each of the essay questions. Failing applicants are further afforded an opportunity to review their Multistate Bar Examination questions, answers, and correct answers under a supervised policy which provides for the exam's security.

When a appeal is filed which raises factual issues of whether the Association has abused its discretion or acted improperly, the appeal is assigned to a Master for a hearing. The Master hears testimony, considers other evidence, and then prepares in writing a proposed decision supported by findings of fact and conclusions of law. The Master's report is then submitted to both the applicant and the Board. Thereafter, either the applicant or Bar Counsel may file exceptions and briefs and, upon request, may appear and present oral argument to the Board of Governors. The Board may adopt the decision of the Master in whole or in part, or reject it in its entirety and adopt its own findings of fact, conclusions of law, and issue its own decision.

On the other hand, if there are no factual matters in dispute, the Board may decide the appeal without assigning it to a Master. If there are questions concerning the applicable legal principles, the Board will consider written or oral argument from the applicant and from Bar Counsel and will issue a written decision.

The applicant may appeal any adverse decision by the Board of Governors to the Supreme Court, which is the final authority on admissions questions. The Supreme Court reviews the findings of fact, conclusions of law and recommendations concerning procedure, due process, or other matters which are raised by the applicant, and issues its decision, which if published, establishes precedent for future admissions cases.

In December 1988, the Board directed that hearings be held in early 1989 for two unsuccessful applicants who appealed the July 1988 Bar Examination. The Board directed that the hearings be held on an expedited basis so that the Board's ruling on the appeal could be known in time for the applicants to decide whether to take the February 1989 examination.

F. Assistance to Unsuccessful Applicants

The Board has a procedure for review of the MBE by failing applicants (which has also been reviewed and approved by the National Conference of Bar Examiners). The procedure allows failing applicants, upon request, to have a 3 hour period in which to review a copy of their answer sheet, a copy of the

questions and the correct answers. Applicants are not permitted to take notes, copy any part of the test material or to review the MBE with anyone else.

The Board of Governors and NCBE felt that these procedures were a fair compromise between maintaining the security of the MBE and allowing applicants access to their MBE materials.

As a service to failing applicants, the Bar Association offers several alternatives for assistance. A member of the Tutoring Committee will, upon request, accompany the applicant for the purpose of reviewing the essay exams and assist in identifying the individual causes for failing the Bar Exam.

A failing applicant may also request a member of the Tutoring Committee to assist in preparing for the next bar exam. The tutoring emphasis is on how to write essay exams. Six applicants requested a tutor following the results of the February exam, and thirteen applicants requested assistance after the July exam results were released.

G. Statistical Summary

In 1988, 142 individuals applied for admission to the Bar and 94 were admitted.

1988 Alaska Bar Exam pass/fail statistics for the February and July exams are included in Table 1.

H. The Multistate Professional Responsibility Exam (MPRE)

Passage of the MPRE is required as a condition of certification for admission to insure that persons admitted to the Alaska Bar are prepared to cope with ethical problems in the practice of law. The MPRE is not administered as a part of the bar exam, but is given separately three times a year (March, August, November) by the National Conference of Bar Examiners in cooperation with Educational Testing Services. This examination may be taken at any time by an applicant to the Alaska Bar (e.g., while still in law school; before the bar exam; after the bar exam). Receipt of a scaled score of 80 or above on the MPRE has been determined by the Board of Governors as demonstration of adequate awareness of the ethical responsibilities of the Code of Professional Responsibility and the Code of Judicial Conduct.

I. Ongoing Review of the Exam

The Board of Governors retains the assistance of Stephen P. Klein, Ph.D., who is a consultant to the National Conference of Bar Examiners and many state boards of bar examiners on statistical studies of bar examinations. He is a senior research scientist with the Rand Corporation in Santa Monica, California and a nationally recognized authority on bar examinations. Dr. Klein's assistance in the development of the "All Alaska" Bar Exam, necessitated by the withdrawal of the assistance of the California Bar Examiners effective with the July, 1982 Bar Exam, was invaluable. The essay drafting and grading procedures detailed above in "D" of this Section were developed with his advice and counsel, as was the decision to "combine" the essay and MBE scores after "scaling" the weighted essay scores to the MBE scaled scores.

J. Admission Without Examination

Effective January 1, 1985, the Alaska Supreme Court approved an admission without examination rules, with reciprocity provisions. The amendment to Bar Rule 2 removed the requirement that applicants for admission who have practiced law five or more years must take a bar exam prior to admission. Rather, such applicants would be able to apply for admission "upon motion" and without examination, so long as the applicant met certain requirements outlined below.

First, the attorney seeking admission on motion rather than by examination has to meet a number of general standards required of any applicant for admission (i.e., be a graduate of an accredited law school; be at least 18 years of age; and be of good moral character). In addition, the attorney must also have passed a written bar exam administered by another jurisdiction and have engaged in the active practice of law in one or more reciprocal states for five of the seven years preceding application to the Alaska Bar.

A "reciprocal" state or jurisdiction is one which has a rule providing that attorneys admitted in Alaska may be admitted to that jurisdiction without examination and under prerequisites similar (but not more demanding) than those set forth in Bar Rule 2. A total of twenty-five (25) jurisdictions provide for admission without examination.

In 1988, ten applicants applied for and were admitted by admission without examination.

III. DISCIPLINE OF MEMBERS

The activities of attorneys admitted to practice within the State of Alaska are governed by the Rules of Disciplinary Enforcement promulgated by the Alaska Supreme Court. As will be seen below, the substance and procedure of the rules of the Bar Association and the Supreme Court in regulating the practice of law within Alaska are entirely different from those of agencies of the State of Alaska charged with the regulation of legislatively controlled businesses and professions. For example, a ruling as to a permit or license issued by the Alcoholic Beverage Control Board or the Alaska Transportation Commission is final and binding, subject only to the right of a party to appeal questions of law to the Superior Court and, thereafter, if desired, to the Supreme Court. In matters involving public censure, probation, suspension, or disbarment of attorneys, however, the Supreme Court is the decision maker, acting not as an appellate body but as the final forum with authority to make and enforce its disciplinary decisions.

A thorough revision of the Rules of Disciplinary Enforcement was accomplished by the Board in 1984 and made effective by the Supreme Court on January 1, 1985. The most significant change is the opening of attorney discipline proceedings to the public after a Petition for Formal Hearing is filed. Now, the public is able to attend formal discipline hearings conducted before hearing committees and the Disciplinary Board in the same way as they have been able to attend court or other government proceedings. The following discussion reflects the revised procedures in effect.

A. The Supreme Court's Authority

The Supreme Court has held that an attorney's license to practice law is "a continuing proclamation by the Court that the holder is fit to be entrusted with professional and judicial matters...as an officer of the courts."

Attorneys are, therefore, bound to act in conformity with standards adopted or recognized by the Supreme Court of Alaska. The Supreme Court has also declared that any attorney admitted to practice in Alaska, or who appears or participates in legal matters within the State, is subject to the jurisdiction of the Supreme Court of Alaska and the Disciplinary Board which the Court established.

Due to the vastness of the size of the State of Alaska and the great distance between population centers, the Supreme Court has established three disciplinary areas: 1) the First Judicial District; 2) the combined Second and Fourth Judicial

Districts; and 3) the Third Judicial District. Charges of misconduct on the part of a lawyer are assigned to be heard by members of the hearing committee established for the district in which the attorney lives or practices. Such charges may be based upon a violation of the Code of Professional Responsibility, Ethics Opinions adopted by the Board of Governors, criminal convictions, or misconduct within or arising from disciplinary proceedings themselves. Depending on the severity of the misconduct, violations may result in disbarment, suspension, probation, or public censure by the Court or, in less serious cases, in public or private reprimand by the Disciplinary Board or written private admonition by Bar Counsel.

B. The Disciplinary Board

As has been discussed above, the Board of Governors acts as the Disciplinary Board for the Supreme Court. The day-to-day workings of the disciplinary process have been delegated to Bar Counsel and Assistant Bar Counsel, attorneys hired by the Board, whose functions include assisting the public in the grievance process, maintaining records, investigating, processing, and prosecuting grievances and appeals.

The procedures for disciplinary enforcement begin upon the filing of a grievance by any person alleging misconduct on the part of any attorney. During this stage, grievances against attorneys are confidential by court rule. Bar Counsel reviews the grievance to determine whether it is properly completed and contains allegations which, if true, would constitute grounds for discipline. If Bar Counsel determines that the allegations are inadequate or insufficient to warrant an investigation, an investigation will not be opened. If a grievance is accepted for investigation, the attorney involved is required to provide full and fair disclosure in writing of all the facts and circumstances pertaining to the alleged misconduct.

If Bar Counsel determines that probable cause exists to believe that attorney misconduct as occurred, permission may be requested from a Hearing Committee member to issue a written private admonition (in less serious cases) or to file a Petition for Formal Hearing in serious matters. Once the petition is filed, the proceedings are open to the public.

SUMMARY OF PUBLIC DISCIPLINE ACTIONS IN 1988

The Alaska Supreme Court suspended Roger W. Carlson from the practice of law for two years effective October 4, 1988. The Court ordered a one year suspension of David M. Clower but stayed the suspension and placed him on probation subject to conditions for two years effective March 18, 1988 and further ordered that he be publically censured. On January 13, 1988, the Court interimly suspended Bryan E. Schuler pending further disciplinary proceedings because of a misdemeanor conviction. Finally, the Court ordered the reinstatement of Peter T. Walton on April 1, 1988, and Edward W. Tucker on April 14, 1988.

The Disciplinary Board issued a public reprimand to H. John DeNault, III on June 7, 1988.

1988 DISCIPLINE CASE STATISTICS*

Open cases pending as of January 1, 1988	156
New cases opened in 1988	(+) 111
Cases closed in 1988:	
Closed after disbarment by Supreme Court	0
Closed after suspension by Supreme Court	2
Closed after public censure by Supreme Court	0**
Closed after public reprimand by Disciplinary Board	1
Closed after private reprimand by Disciplinary Board	2
Closed after private admonition by Bar Counsel	23
Dismissed by Bar Counsel	74
TOTAL cases closed.	(-) 102
Open cases as of December 31, 1988	165

STATUS OF OPEN CASES AS OF 12-31-88

Pending Supreme Court	5
Pending Disciplinary Board	2
Pending Stipulation	0
Pending Area Hearing Committee	4
Pending Petition Approval	0
Pending Private Admonition	5
Attorney on Probation	8**
In abeyance pending outcome of related fee arbitration proceeding	1
In abeyance pending conciliation	1
In abeyance pending outcome of civil case	4
Under investigation by Bar Counsel	<u>135</u>
	165

*All numbers reflect individual complaints filed and not the number of attorneys under investigation.

**The Supreme Court issued a public censure to David M. Clower but since Mr. Clower is also on probation, the files relating to him are reflected as open files.

***There are three attorneys on probation: one attorney with four complaints, one attorney with three complaints (this attorney also received a public censure by the Supreme Court), and one attorney with one complaint.

C. The Hearing Committee

Investigations which result in the filing of a Petition for Formal Hearing by Bar Counsel are referred to a Hearing Committee in the relevant geographical area. The attorney may thereafter file a written answer admitting or denying the charges, or setting forth a claim of mitigation. Hearings are then held before the Committee. At the hearing, Bar Counsel prosecutes the case on behalf of the Bar Association. The responding attorney may be represented by counsel. Either party may call, examine, and cross-examine witnesses and otherwise request the production of evidence. The burden of proving misconduct by clear and convincing evidence is placed upon Bar Counsel. The Committee may direct the submission of briefs.

At the conclusion of the hearing, the Committee must file a written report to the Board, together with the recorded transcript, briefs, findings, conclusions and recommendations. If either party appeals from the Committee's recommendation, briefs may be filed with the Board. If desired, the matter may be orally argued to the Board. The Board must then conduct a review of the record and briefs and enter its order or recommendation to the Court.

D. The Recommendation

If the Board's decision recommends either public censure, probation, suspension, or disbarment, the recommendation is filed with the Supreme Court, which makes the final decision. The Board must submit a case record, including the hearing transcript, to the Supreme Court. The parties are required to file briefs in accordance with the Supreme Court rules for regular civil and criminal appeals; oral argument is available. It is only after review of this record by the Court that the Court enters its order relating to the attorney's discipline.

The Board may order public reprimand by the Board if it decides the matter can be resolved appropriately without referral to the Court. The Board may also consider stipulations of proposed discipline entered into between Bar Counsel and a respondent attorney and enter an order for a private reprimand by the Board or submit its recommendation on the stipulation to the Supreme Court.

As with civil litigation, many of the above procedures may be lengthy or protracted before the issuance of a Hearing Committee report or a Board order. Thus, a need exists -- and

CORRECTION

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

C. The Hearing Committee

Investigations which result in the filing of a Petition for Formal Hearing by Bar Counsel are referred to a Hearing Committee in the relevant geographical area. The attorney may thereafter file a written answer admitting or denying the charges, or setting forth a claim of mitigation. Hearings are then held before the Committee. At the hearing, Bar Counsel prosecutes the case on behalf of the Bar Association. The responding attorney may be represented by counsel. Either party may call, examine, and cross-examine witnesses and otherwise request the production of evidence. The burden of proving misconduct by clear and convincing evidence is placed upon Bar Counsel. The Committee may direct the submission of briefs.

At the conclusion of the hearing, the Committee must file a written report to the Board, together with the recorded transcript, briefs, findings, conclusions and recommendations. If either party appeals from the Committee's recommendation, briefs may be filed with the Board. If desired, the matter may be orally argued to the Board. The Board must then conduct a review of the record and briefs and enter its order or recommendation to the Court.

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As with civil litigation, many of the above procedures may be lengthy or protracted before the issuance of a Hearing Committee report or a Board order. Thus, a need exists -- and

a procedure has been formulated -- whereby either party can make an interlocutory appeal to the Supreme Court for review of the procedures and evidentiary rulings of the Hearing Committee.

E. Interim Suspension

The Rules of Disciplinary Enforcement anticipate situations requiring immediate action against an attorney for protection of the public pending the completion of the full disciplinary process. One such situation exists when an attorney is convicted of a serious crime, such as a felony or when he is convicted of certain other crimes including those relating to interference with justice, false swearing, fraud, deceit, misappropriation or theft.

Conviction of such a crime is conclusive evidence that disciplinary action is necessary. The sole issue for determination is the nature of the final discipline to be imposed. Such a conviction also requires interim suspension, regardless of whether the conviction is based on a jury verdict or a plea of guilty, and regardless of whether an appeal is pending. In the event the conviction is reversed, the suspension is lifted, but formal disciplinary proceedings may nevertheless continue to final disposition.

Further, if Bar Counsel shows that an attorney's conduct constitutes a substantial threat of irreparable harm to his or her clients or prospective clients or where there is a showing that the attorney's conduct is causing great harm to the public by a continuing course of conduct, the Court may impose interim suspension.

An attorney facing disciplinary charges cannot avoid the consequence of his misdeeds by simply leaving the practice of law, thus leaving open the possibility of a future return to the profession. The Rules of Disciplinary Enforcement do permit discipline by consent of attorneys under disciplinary investigation but only upon the free and voluntary admission by the attorney that he is guilty of the charges, and with the consent of Bar Counsel, the Board and/or the Court.

F. The Court's Order

When either disbarment, suspension or probation is ordered by the Court, more is involved than a simple order to that effect. There are various notification requirements to that attorney's clients, to opposing counsel and other jurisdictions in which the attorney is admitted. Sworn proof that these

notification requirements have been met must be filed with the Supreme Court. Proof of compliance with these requirements is a prerequisite to any subsequent reinstatement.

The Bar Rules, however, do not rely solely on notification by the disbarred, or suspended attorney. They also require the Board to publish notice of disbarment and suspension in a newspaper in Anchorage, Fairbanks and Juneau, the official Bar publication and a newspaper serving the community where the attorney practiced. The Board must also advise the presiding judges of all courts within the State and, through the Attorney General, all administrative agencies.

G. Reinstatement

Disbarred or suspended attorneys can, under certain circumstances and procedures, be reinstated to the practice of law. However, in cases of disbarment, a minimum of five years must pass before the attorney can be reinstated.

Petitions for reinstatement are filed with the Supreme Court and served upon the Executive Director for the initiation of reinstatement proceedings.* As with the imposition of discipline, the findings and recommendations of the Hearing Committee -- and thereafter the Board -- are only advisory, and the final determination on reinstatement is made by the Supreme Court. In order to be reinstated, a disbarred attorney or an attorney suspended for more than one year has the primary burden of establishing that he or she possesses the moral qualifications and legal skills required for re-admission to practice and that his reinstatement will not be detrimental to the integrity and standing of the Bar, the administration of justice, or the public interest.

H. Disability

The Rules of Disciplinary Enforcement also anticipate circumstances where the need for protection of the public arises from an incapacitating illness, addiction to drugs or

*Attorneys who have been suspended for one year or less will be automatically reinstated by the Court unless Bar Counsel files an opposition to automatic reinstatement. Attorneys who have been disbarred or suspended for more than one year must appear before an appropriate Area Hearing Committee.

intoxicants, senility, death, disappearance, or judicially declared incompetence of an attorney, rather than actual misconduct by the attorney. Upon a finding by the Supreme Court that such a disability exists, an order is entered transferring the attorney to disability inactive status until further order of the Court during which time the attorney is prohibited from engaging in the practice of law. As with public discipline, notice of the Court's action must be published. Likewise, presiding judges of all courts and administrative agencies are also notified. However, until the Court issues its order, disability proceedings are confidential.

Reinstatement of the right to practice can thereafter only be granted by the Supreme Court upon a showing by the attorney that the disability no longer exists and that he or she is fit to resume the practice of law.

While the above procedures are designed to remove the disabled attorney from active status, it is essential that the interests of the clients of the disabled, deceased or unavailable attorney are also protected. Thus, the Bar Rules provide for appointment by the Superior Court of Trustee Counsel to protect the interests of this unavailable attorney and his clients. Trustee Counsel, on behalf of the unavailable attorney, exercises powers similar to those of a personal representative of a deceased person, but does so only in those matters specifically provided in the rules and allowed by State law.

SUMMARY OF DISABILITY ACTIONS IN 1988

On July 20, 1988, the Court placed H. John DeNault, III on disability inactive status.

I. Alternative Proceedings

Some grievances do not rise to the level of professional misconduct warranting formal discipline. Nevertheless, two other forums are available to review the reasons for a client's dissatisfaction.

If the matter involves a dispute concerning the fee charged by an attorney, it is referred to a Fee Arbitration Panel. If the allegations involve a grievance which is not amenable to either discipline or fee arbitration, it is referred to a Conciliation Panel. Both are more fully discussed in Section VIII of this booklet.

J. Discipline Staff and Budget

The Discipline Section is currently staffed by Bar Counsel, Assistant Bar Counsel, a half-time assistant Bar Counsel, one part time Discipline Assistant, and two Bar Counsel Secretaries. Bar Counsel has the overall responsibility for the review, investigation, prosecution and appeal of attorney grievance cases. This level of staffing is a reflection of the continued commitment by the Board to the efficient and thorough processing of grievance matters.

Expenditures for the Discipline Section totalled \$294,600 in 1988, a substantial commitment of Bar Association resources and a reaffirmation of the Bar Association's goal of service to the public and practitioner alike.

K. Bar Rule Changes in 1988

The Supreme Court corrected a typographical error in Bar Rule 15 and added a new subsection (b) which defines the practice of law for disbarred or suspended attorneys who have been prohibited from practicing law.

The Court added a new Bar Rule 44.1 which permits foreign law consultants to provide legal services concerning foreign law matters within the State of Alaska subject to specific conditions.

Finally, the Court added a new Bar Rule 63 which defines the practice of law for the purposes of the unauthorized practice of law misdemeanor statute found at AS §08.08.230.

All of these changes were effective January 15, 1989.

IV. CONTINUING LEGAL EDUCATION

Continuing Legal Education programs and activities are an important part of the work of the Alaska Bar Association and are in furtherance of its goal of serving and assisting the legal profession in the State of Alaska. Programs and activities presented for Continuing Legal Education (CLE) purposes are for the professional development and enhancement of the membership of the Alaska Bar Association. It is of the utmost importance that the Bar Association provide sufficient CLE seminars to allow attorney members to keep abreast of new developments in the field of law.

The supervisory responsibility for presenting and administering all CLE programs and activities is placed upon the Continuing Legal Education Committee and the Association's Director of Continuing Legal Education. The CLE Committee is composed of 13 Bar Association members: 12 attorney members representing the various geographic areas of the state, and 1 judicial representative. All members serve staggered 3-year terms.

The 15 substantive law sections of the Bar Association are responsible for sponsoring one CLE seminar a minimum of every two years. Most sections sponsor one CLE activity per year, in addition to holding regular monthly section meetings and an annual meeting at the yearly Bar convention.

In 1988 the CLE program sponsored 24 live programs in Anchorage and 1 live program in Juneau with a total member attendance for the year of 2,115. Average attendance at a CLE was 71.* Program income exceeded this year's target; however the general CLE budget, which includes indirect costs of staff time and overhead, experienced a shortfall. This shortfall is significantly lower than in past years. The general fund of the Bar Association covers the indirect costs of CLE programs, including staff time. This financial arrangement allows the bar to offer programs at lesser registration fees than if administrative indirect costs had to be covered by direct program income. The Bar also offers a registration fee credit option of up to 50% to members traveling into Anchorage via commercial carrier for a CLE program.

**This figure does not include 1) 1988 Convention CLE Attendance which is normally far higher than that of a regularly scheduled CLE or 2) the 100 non-bar members who attended the "1991" CLE sponsored by the Alaska Native Law Section.*

Group video replays of live programs are regularly scheduled in Juneau, Fairbanks, and, as of 1988, Kodiak, to meet the educational needs of bar members outside Anchorage, the usual venue for live programs. There is an average attendance of 5 bar members at each of these programs. Bar members receive CLE credit for attending a group video replay. A bar member in each city serves as the volunteer coordinator for these programs and handles scheduling, logistics, and registration. Ketchikan is exploring the possibility of doing group video replays in 1989.

The CLE program received for the first time a \$500 grant from the American Bar Association to assist in presenting a "Special Domestic Relations Issues" CLE sponsored by the Family Law Section in November 1988. The Bar CLE program will continue to apply for this type of grant in an effort to assist the CLE budget.

The draft of a CLE Policy Statement and Guidelines was developed in late 1988 for submission to the Board of Governors for adoption in 1989. This Policy Statement and Guidelines will aid the Bar in administering the CLE program and will provide assistance to the CLE Director, CLE Committee, and Sections in developing CLE activities. The CLE Committee reviewed the policy in 1988 and it was placed on the January 1989 Board agenda.

The CLE Library is now administered by the CLE Assistant and has dramatically improved service to bar members. The library contains videotapes (1/2" VHS) of all live programs, copies of course materials for each CLE, copies of Annual Section Updates, and a small number of audiotapes of short CLE programs. The library receives an average of 5 videotape rental requests per day, and normal response time to the request is 24 hours depending on tape availability. Tape rental is normally \$10.00 per person plus \$25 for course materials. Priority is always given to bar members outside of Anchorage. Library materials are also available for purchase including CLE course materials and Section Annual Updates. Work is progressing on the revised CLE Library Catalog, and for the first time this year we have published a video replay schedule. The replay schedule and live schedule are also printed in the Bar Rag.

In an effort to enhance the image of our CLE programs and create a more identifiable "look" for CLE brochures, as well decrease our printing costs, the CLE program now has a standard brochure designed by a graphic artist, and nearly all brochures are photocopied, rather than offset printed. Response to the new format has been excellent.

Over 100 attorney and non-attorney lecturers served as faculty for the 25 CLE programs presented live in 1988:

1988 CONTINUING LEGAL EDUCATION PROGRAMS

DATE	COURSE	LOCATION	CREDITS
January 23	Civil Jury Instructions	Anchorage	3.3
February 10	Broker Liability	Anchorage	1.8
February 26	Drug Testing in the Workplace	Anchorage	7.5
March 3, 10, & 17	Medical Malpractice Litigation	Anchorage	7.5
March 21-27	Deposition Skills	Hawaii	9.9
April 7	Will & Trust Drafting	Anchorage	7.2
April 13, 10 & 27	Corporate Law Mini-Seminars (2.1 credits each)	Anchorage	6.3
April 15	Lawyer Malpractice	Anchorage	6.6
May 20	Listening & Memory Skills for Judges & Lawyers	Anchorage	7.2
June 9	New Wave Litigation	Anchorage	3.0
June 10	Constitutional Issues	Anchorage	3.0
June 11	Unorthodox Trial Techniques	Anchorage	3.0
June 13-14	Tax Conference, Pt. I	Anchorage	14.7
June 24	Off the Record	Fairbanks	3.0
July 27-29	Bankruptcy Law (ALI-ABA)	Anchorage	18.8
September 9	Lender Liability	Anchorage	7.2
September 16	Tax Conference, Pt. II	Anchorage	8.4
September 23	Maritime Liens & Mortgages	Anchorage	3.9
October 14	Hazardous Waste	Anchorage	8.4

November 4-5	Preserving the Settlement: 1991	Anchorage	12
November 10	Special Domestic Relations Issues	Anchorage	5.4
November 17 & 21	Estate Planning (ALI-ABA Video Replay)	Anchorage	4.4
November 30	Retainers & Trust Accounts	Anchorage	2.4
December 8	Lawyer Trust Accounting	Anchorage	7.2
December 7 & 14	Straight Talk for Attorneys	Anchorage	7.4

A small number of CLE programs each year are presented on a cooperative basis with organizations outside the Bar Association, such as Professional Education Group and ALI-ABA. Generally, Bar CLE programs are developed in-house with volunteer faculty from the Bar Association.

V. ALASKA PRO BONO PROGRAM

The Alaska Pro Bono Program (APBP), jointly sponsored by the Alaska Legal Services Corporation (ALSC) and the Alaska Bar Association, is a State-wide, Direct-Service Pro Bono program involving private and public attorneys in the delivery of free legal services to low-income Alaskans. The APBP is the only Private Bar Involvement program in Alaska, a state twice the size of Texas with a population only half the size of Dallas, and is staffed by a full-time coordinator and a part-time support person. All ALSC staff assist the coordinator in administering the APBP.

Clients with civil law problems approach ALSC for free legal representation. Screening of these individuals by ALSC personnel determines if the client meets federal poverty guidelines and ALSC priorities. The case is then forwarded to APBP for referral to an attorney who has volunteered to take one case per year in his/her area of expertise.

Attorneys who volunteer to become members of APBP agree to take cases in at least one of the following areas of law: consumer finance or bankruptcy; public benefits or health or employment issues; domestic relations; housing; Alaska Native issues; wills and/or probate. When a client from a particular region of the State requires legal assistance, an attorney from that region who has volunteered in that specific area of law, is contacted. If no attorneys are available in that region, the Pro Bono Coordinator attempts to make the next best referral which would be most convenient to both client and volunteer attorney.

If an attorney is available, and accepts the case, the client is referred to him/her for full representation. The attorney is then contacted on a regular basis to ensure that the case is progressing satisfactorily. When the case is completed, the attorney provides APBP with a form summarizing the action taken on the case, the outcome of the case, and itemizes the time spent on the case, as well as expenses incurred, which are reimbursed by APBP.

Currently, APBP has a panel of 836 volunteer attorneys throughout Alaska, or 52.4% of the State's available Bar Association membership, with an open case load of 350 - 400 open cases at any one time. These cases can range from the most complex litigation to emergency death-bed wills to issues facing Alaskan Natives. Table 2 shows in which Alaska communities the APBP operates, the number of panel members in each community, and the numbers of cases closed from 1983 to December, 1988.

The APBP provides free CLE training seminars for its volunteer attorneys, as well as malpractice coverage, cost reimbursement, free depositions, free medical testimony in disability and family law cases, free process service, and free computerized research services. Additional services for the client community includes: free monthly classes to provide assistance to clients who wish to obtain uncontested divorces pro se (without representation by an attorney); pro se custody classes for uncontested custody and support orders for unmarried parents; pro se Chapter 7 Bankruptcy class; weekly advice-only question and answer clinics; Elderlaw projects for low-income clients over 60 years old, offering assistance in the areas of wills, public benefits, and housing. These advice-only and pro se clinics, held in numerous cities throughout Alaska, served well over 1,000 people in 1988. More than 250 elderly received assistance through the Elderlaw Projects last year.

In addition, the APBP has developed a set of Rules to govern the appointment of counsel for pro se parties in U.S. District Court. These new procedures, created in cooperation with the U.S. District Court in Alaska, took effect on January 1, 1989. To date, two cases have been referred to volunteer attorneys through these Rules.

The APBP is also proud to boast that many non-attorney professionals (doctors, court reporters, certified public accountants, translators, private investigators) have joined the program. In 1988, the total number of hours donated to the APBP was more than 7,000.

The APBP received the first grant from the Alaska Bar Foundation from the new Interest on Lawyers' Trust Accounts (IOLTA) program. This grant, in the amount of \$20,500 was given to expand 3 areas of service: the Elderlaw Project, the Tuesday Night Bar Advice-Only Clinics and the Pro Se Clinics, and Landlord-Tenant intake.

VI. STATEWIDE LAWYER REFERRAL SERVICE

The Bar Association operates a Lawyer Referral Service for the purpose of providing the general public with names of active members of the Alaska Bar Association who are in good standing and are willing and able to accept referral clients at a reasonable fee.

Enrollment in the Service is voluntary and all active members of the Association are urged to participate. Each participating lawyer pays an enrollment fee of \$25.00 per category selected for listing in up to five panels in any calendar year. Attorneys who are renewing a panel may pay an enrollment fee of \$10.00

Each caller requesting services is given the names of three lawyers in his/her geographical area who are listed in the category requested. Each lawyer pays a surcharge on each referral made regardless of whether the caller actually contacted the lawyer as a result of the referral. The first half-hour conference may be charged at a maximum of \$35.00. Thereafter the fee is agreed upon by the attorney and the client.

In 1988, 174 attorneys from across the State were enrolled in twenty-eight categories in the Lawyer Referral Service. All lawyers participating in the Service must maintain "Errors and Omissions" insurance of at least \$50,000.

In 1983, the Bar Association installed a Zenith number so that callers statewide could call the Lawyer Referral Service at no charge. In 1985, the Association switched the Lawyer Referral Service to an in-state (800) number. This results in increased convenience to callers who can now dial the service directly, without operator assistance. This also results in a savings of approximately \$238.00 a month to the Bar Association since there is no Zenith line charge now, but only the cost of the phone calls.

The annual call summary shows that the referral service has developed into the public service it was first envisioned. In an average month, the Bar receives 738 requests for referrals.

Calls received by the Alaska Bar Association for Lawyer Referrals were as follows:

	<u>1987</u>	<u>1988</u>
Administrative	235	274
Admiralty	32	31
Arts	0	7