

Original sponsor(s): REP. DONLEY, Gruenberg, Boyer

1 IN THE HOUSE BY THE LABOR & COMMERCE COMMITTEE  
2 CS FOR HOUSE BILL NO. 350 (L&C)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the medical malpractice revolving  
7 loan fund; creating the Alaska medical malpractice  
8 matching fund; and providing for an effective date."

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

10 \* Section 1. SHORT TITLE. This Act may be known as the Alaska Child-  
11 birth Care Incentive Act.

12 \* Sec. 2. FINDINGS AND PURPOSE. (a) The legislature finds that

13 (1) it is in the best interest of the state that physicians be  
14 insured in order to provide adequate compensation in cases of medical  
15 malpractice and to ensure that physicians providers are not required to  
16 bear unreasonable financial risks imposed by an uninsured claim;

17 (2) due to the cost of medical malpractice insurance some physi-  
18 cians have chosen to become uninsured, which exposes the physician and  
19 patients to unreasonable risk, forces some physicians to cease their med-  
20 ical practice, and also acts as a general disincentive to practicing medi-  
21 cine in the state;

22 (3) the number of physicians in the state on a per capita basis  
23 is among the lowest in the nation, particularly in the rural communities,  
24 and that the shortage of physicians is increasing; and

25 (4) in rural communities of the state the high cost of medical  
26 malpractice insurance poses a serious threat to public health and safety.

27 (b) It is the purpose of this Act to provide immediate and substan-  
28 tial relief to physicians by making adequate malpractice insurance avail-  
29 able, while the legislature continues to develop legislation intended to

1 reduce the cost of medical malpractice insurance.

2 \* Sec. 3. AS 21.88.210(b) is amended to read:

3 (b) Loans may be made from the fund to the corporation upon  
4 certification by the director that a loan is necessary and under the  
5 following circumstances:

6 (1) to provide surplus in respect to policyholders that  
7 [WHICH] may not exceed a total of \$3,000,000 outstanding at any time;  
8 these obligations shall be subordinated to all other obligations of  
9 the corporation; loans made under this paragraph shall be repaid to  
10 the fund in annual installments of at least 25 percent of the excess  
11 of premiums earned over the total of claims, reserves, expenses, and  
12 assessments made by the association, if any; interest may not be  
13 charged [SHALL BE PAID] on the outstanding balance [AT A RATE EQUAL TO  
14 SEVEN PER CENT A YEAR];

15 (2) if the director determines that the corporation is  
16 unable to procure reinsurance from a private casualty insurer or  
17 reinsurer for any liability incurred by contracts issued by it, addi-  
18 tional loans up to an aggregate of \$6,000,000 when taken together with  
19 loans made under (1) of this subsection to compensate for fluctuations  
20 in loss experience; loans made under this paragraph shall be in parity  
21 with all other obligations of the corporation except that they shall  
22 be subordinated to obligations of policyholders and claimants for  
23 indemnity of loss; these loans shall be repaid within five years;  
24 interest may not be charged on the outstanding balance [AT AN ANNUAL  
25 INTEREST RATE OF SIX PER CENT].

26 \* Sec. 4. AS 21.88 is amended by adding a new section to article 3 to  
27 read:

28 Sec. 21.88.310. MEDICAL MALPRACTICE MATCHING FUND. (a) The  
29 Alaska medical malpractice matching fund is established within the

1 Department of Commerce and Economic Development. The fund consists of  
2 legislative appropriations.

3 (b) The corporation shall administer the fund. Money in the  
4 fund may be expended to pay the cost of medical malpractice insurance  
5 incurred by physicians who are eligible under (c) of this section and  
6 to pay the cost of administering the fund.

7 (c) A physician who purchases at least the minimum malpractice  
8 insurance policy offered by the corporation is eligible to receive a  
9 payment from the fund. The amount a physician is eligible to receive  
10 is equal to a percentage of that portion of the physician's annual  
11 malpractice insurance premium that provides coverage for obstetrics  
12 and gynecology as follows:

13 (1) 25 percent, if the physician practices in an urban  
14 community;

15 (2) 100 percent, if the physician practices in a rural  
16 community and acts as the attending physician in at least one but  
17 fewer than 20 births a year, or provides prenatal care to at least one  
18 but fewer than 20 patients a year;

19 (3) a percentage equal to the number of births at which the  
20 physician acts as the attending physician in a year, subtracted from  
21 120; this paragraph applies only if the physician practices in a rural  
22 area and acts as the attending physician in at least 20 births, but  
23 fewer than 70 births a year;

24 (4) 50 percent, if the physician practices in a rural  
25 community and acts as the attending physician in 70 or more births a  
26 year.

27 (d) If a physician eligible to receive a payment under (c) of  
28 this section practices in both a rural and an urban community, the  
29 amount the physician receives shall be prorated under guidelines

1 established by the corporation. The corporation may not pay an insur-  
2 ance surcharge imposed on a physician's medical malpractice insurance.

3 (e) The corporation shall establish procedures for applying for  
4 matching funds provided under this section.

5 (f) The state shall indemnify the corporation for any legal  
6 costs, attorney fees, or judgments that result from the administration  
7 or operation of the fund.

8 (g) In this section,

9 (1) "physician" means a person licensed to practice medi-  
10 cine under AS 08.64;

11 (2) "rural community" means a community with less than  
12 5,000 permanent residents and less than 10,000 permanent residents  
13 within a radius of 20 miles from the U.S. Post Office nearest to the  
14 center of the community;

15 (3) "urban community" means a community with 5,000 or more  
16 permanent residents or 10,000 or more permanent residents within a  
17 radius of 20 miles from the U.S. Post Office nearest to the center of  
18 the community.

19 \* Sec. 5. AS 21.88.310 is repealed July 1, 1993.

20 \* Sec. 6. This Act takes effect immediately under AS 01.10.070(c).