

**HOUSE  
COMMITTEE REPORT**

(11)

Date referred: 4/10/86

FURTHER REFERRALS:

DATE: 4-23-86

The FINANCE Committee has considered SSHB 506

"An Act relating to insurance; and providing for an effective."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with CSSSHB 506 (100)  same title
- individual recommendations  new title

and recommends individual recommendations

further referral to the \_\_\_\_\_ Committee

- and attaches:
- letter of intent
  - first fiscal note
  - new fiscal note 4/22/86
  - zero fiscal note

SIGNING DO PASS:

\_\_\_\_\_  
*[Signature]*  
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SIGNING OTHER RECOMMENDATIONS:

\_\_\_\_\_  
*[Signature]* - No Rec  
\_\_\_\_\_  
*[Signature]* - No Rec  
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*[Signature]* - No Rec  
\_\_\_\_\_  
*[Signature]* - No Rec  
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*[Signature]*  
Chairman

**STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE**

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

**REQUEST**

Bill/Resolution No.: CSSSHB 506 (Jud)  
 Title: Relating to joint insurance arrangements

Sponsor: Judiciary  
 Requester: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected: Commerce & Economic Development  
 BRU: Insurance

Components: Public Protection

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

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-?-	-?-	-?-	-?-	-?-	-?-
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**FUNDING: (Thousands of dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

**POSITIONS:**

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

**ANALYSIS:** Attach a separate page if necessary.

CSSSHB 506 (Jud) may have impact beyond the loss of premium tax revenue. To the extent that pools, which are not financially sound, replace insurance, we may find significant losses going uncompensated. AS 21.75 currently provides for the pooling concept through formation of a financially regulated reciprocal insurance company. Proponents of this

Prepared by: John L. George, Director  
 Division: Division of Insurance

Phone: 465-2515

Date: April 22, 1986

Approved by Commissioner: [Signature]  
 Agency: Commerce and Economic Development

Date: April 22, 1986

Distribution (by Agency preparing fiscal note):

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

## CONTINUATION OF FISCAL NOTE ANALYSIS

For Bill/Resolution No.       CSSSHB 506 (Jud)

legislation do not feel that they should be forced to meet these minimal financial requirements.

To the extent that private enterprise wants to risk their own money on a pool venture after their own highly qualified staff has fully reviewed the ramifications, I have little opposition to the formation of a pool for first party coverage. This legislation does not restrict the types of coverage to be written to first party only. The concern is, will third party claimants be adequately protected. The parties currently looking at this legislation as a vehicle to replace insurance are relying on a consultant whose financial interest is not dependent on the soundness of the pool's financial basis or stability.

I fear that if a municipal or school district (REAA) pool is unable to pay claims, the state may be looked to for a bailout. In the case of the REAA schools, insurance covers state property on loan to the districts. If the pool becomes insolvent, no funds will be available to replace the state-owned facility in the event of loss. In this case I am sure the state would be put in a position where they must replace the school using general fund monies.

A well conceived self disciplined pool will set internal standards for itself which meet or exceed our minimum requirements. If no restraints are placed on pools and if the state is in a position of last recourse for funds we may be financially impacted by future pool insolvencies.

The pure premium tax impact will vary as premium levels change and pools are formed. The tax impact is certainly less than \$5 million and my best guess is a \$1 - \$3 million impact if the pool concept is utilized by a significant segment of eligible entities.

Offered: 4/10/86  
Referred: Finance

Original sponsors: Taylor, Gruenberg,  
Larson, et al

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE  
2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 506 (Judiciary)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to joint insurance arrangements; and  
7 providing for an effective date."

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

9 \* Section 1. AS 21 is amended by adding a new chapter to read:

10 CHAPTER 76. JOINT INSURANCE ARRANGEMENTS.

11 Sec. 21.76.010. AUTHORITY TO ESTABLISH JOINT INSURANCE ARRANGE-  
12 MENTS. (a) The following groups may enter into cooperative  
13 agreements with each other for the purpose of establishing, operating,  
14 or participating in joint insurance arrangements through which the  
15 participating members agree to pool contributions in order to either  
16 assume risks from losses on a group basis or purchase coverage on a  
17 group basis:

18 (1) municipalities;  
19 (2) school districts;  
20 (3) regional educational attendance areas;  
21 (4) unincorporated associations;  
22 (5) regional electrical associations;  
23 (6) entities qualified to do business under the Federal  
24 Risk Retention Act;

25 (7) groups that would be considered valid under this title  
26 for the type of insurance for which the joint insurance arrangement is  
27 established.

28 (b) A joint insurance arrangement may be for any kind of insur-  
29 ance defined by this title except for life insurance and title

1 insurance.

2 (c) A joint insurance arrangement shall be considered an alter-  
3 native or supplement to any other policy or contract of insurance  
4 authorized or required by law, including insurance under AS 21.75.

5 Sec. 21.76.020. REGULATION BY DIVISION OF INSURANCE. A joint  
6 insurance arrangement may not be considered insurance for the purpose  
7 of any other law of the state and is not subject to regulations of the  
8 director except as expressly provided in this chapter.

9 Sec. 21.76.030. GENERAL PROVISIONS OF COOPERATIVE AGREEMENTS. A  
10 cooperative agreement shall provide for the proper operation of the  
11 joint insurance arrangement, and include provisions for

12 (1) administration of the arrangement by a board of direc-  
13 tors, specifying the number of members of the board and other require-  
14 ments necessary for the proper functioning of the board;

15 (2) appointment of an administrator and other persons as  
16 necessary for the proper functioning of the arrangement;

17 (3) organization of the arrangement, including a roster of  
18 participating members and the names of the members of the board of  
19 directors;

20 (4) procedures to establish and promote an aggressive risk  
21 management and program among the members of the arrangement, including  
22 procedures for identifying and reducing the risks that can be reduced  
23 through implementing better safety technologies and improved work  
24 techniques and procedures;

25 (5) enforcing the collection of contributions or payments  
26 in default from members of the arrangement;

27 (6) the addition of new members to the arrangement or the  
28 withdrawal of members from the arrangement;

29 (7) the method of apportioning costs and disposition of

1 excess contributions;

2 (8) transmission of financial statements and audit reports  
3 of the arrangement to participating members;

4 (9) terminating the arrangement and disposing of its as-  
5 sets; and

6 (10) establishing and administering a joint insurance fund.

7 Sec. 21.76.040. FINANCIAL PROVISIONS OF AGREEMENTS. (a) A  
8 cooperative agreement must include a provision requiring an annual  
9 determination by a casualty actuary who is a member of the American  
10 Academy of Actuaries that procedures for establishing reserves for  
11 losses of the joint insurance arrangement are actuarially sound.

12 (b) A joint insurance arrangement shall be subject to an annual  
13 independent audit. The audit shall be conducted in accordance with  
14 generally accepted auditing standards and must include a review of the  
15 actuarial assumptions used for establishing the reserves under (a) of  
16 this section. The audit report must include certification from a  
17 casualty actuary who is a member of the American Academy of Actuaries  
18 that the actuarial assumptions continue to be sound and the level of  
19 the reserves are adequate.

20 (c) A joint insurance arrangement shall use a method of account-  
21 ing that conforms with generally accepted government accounting prin-  
22 ciples.

23 Sec. 21.76.050. CONTRACTING WITH PRIVATE ADMINISTRATORS. A  
24 cooperative agreement may authorize the board of directors to enter  
25 into contracts for services necessary to perform the functions of a  
26 joint insurance arrangement. The person contracting to perform the  
27 functions must be appropriately licensed under this title if this  
28 title so requires.

29 Sec. 21.76.060. DELEGATION OF POWER TO SETTLE CLAIMS. A

1 cooperative agreement may delegate to the board of directors, or  
2 authorize delegation by the board to another person or group, the  
3 power to compromise, arbitrate, or otherwise settle claims on behalf  
4 of the arrangement.

5 Sec. 21.76.070. EXCESS INSURANCE. A cooperative agreement may  
6 authorize the board of directors to purchase excess or catastrophic  
7 insurance on behalf of the joint insurance arrangement. The cost of  
8 the insurance shall be apportioned in the manner specified in the  
9 joint insurance agreement. The board may purchase insurance under  
10 this section only from an insurer authorized to do business in the  
11 state or from an unauthorized insurer if the insurance is placed  
12 through a licensed surplus lines broker.

13 Sec. 21.76.080. JOINT INSURANCE FUND. (a) A joint insurance  
14 arrangement shall establish a joint insurance fund. The fund consists  
15 of money

16 (1) contributed by members of the joint insurance arrange-  
17 ment through budgetary appropriations or transfers from a self-insur-  
18 ance reserve;

19 (2) contributed by officers and employees of members of the  
20 joint insurance arrangement under an employee benefit plan; and

21 (3) collected by the joint insurance arrangement through  
22 subrogation of a claim paid from the fund to a member of the arrange-  
23 ment.

24 (b) An expenditure may be made from a joint insurance fund only  
25 to pay claims, losses, or benefits, including interest on them, and  
26 the administrative and adjustment expenses incurred in connection with  
27 them, involving the types of protection for which the fund provides  
28 coverage as specified in the joint insurance agreement.

29 (c) The administrator shall keep the fund separate from other

1 funds of a member of a joint insurance arrangement.

2 (d) For each type of protection offered by the joint insurance  
3 arrangement, the method of accounting must show the order, source,  
4 date, and amount of each payment from the fund.

5 (e) Within 60 days of the end of the fiscal year, the adminis-  
6 trator shall furnish a detailed report of the operation and condition  
7 of the fund to the board of directors and the director of insurance.  
8 The report furnished to the director of insurance shall be available  
9 for public inspection.

10 (f) Money held by a fund as reserves and money not needed for  
11 daily operations may be invested by the board of directors.

12 (g) A fund may not be terminated unless the administrator certi-  
13 fies that an amount of money sufficient to pay accrued and contingent  
14 expenditures has been placed in a fully collateralized escrow account.

15 Sec. 21.76.090. FILING OF AGREEMENT. The board of directors  
16 shall file a copy of the cooperative agreement with the director of  
17 insurance at least 60 days before the effective date of the agreement.  
18 The agreement shall be available for public inspection.

19 Sec. 21.76.100. REGULATIONS. A cooperative agreement may au-  
20 thorize the board of directors to adopt regulations not inconsistent  
21 with law for the fair and equitable administration of the joint insur-  
22 ance arrangement and the joint insurance fund.

23 Sec. 21.76.110. SUBROGATION. A joint insurance arrangement has  
24 a cause of action for reimbursement of money paid to a participating  
25 member for a loss or injury if the participating member recovers money  
26 for the loss or injury from a third party. The joint insurance ar-  
27 rangement also has a direct cause of action for reimbursement against  
28 a third party responsible for loss or injuries sustained by a partic-  
29 ipating member if the joint arrangement has paid money to the

1 participating member for the loss or injuries.

2 Sec. 21.76.900. DEFINITIONS. In this chapter

3 (1) "adjustment expenses" means expenses for investigative,  
4 processing, legal, actuarial, arbitration, and settlement services  
5 incurred in the adjustment of losses, claims, or benefits;

6 (2) "administrator" means a person or group appointed by  
7 the board of directors to administer a joint insurance arrangement or  
8 a joint insurance fund;

9 (3) "board" or "board of directors" means the board of  
10 directors provided for in a cooperative agreement;

11 (4) "cooperative agreement" means a written agreement  
12 entered into by two or more entities described in AS 21.76.010 for the  
13 purpose of establishing, operating, or participating in a joint insur-  
14 ance arrangement;

15 (5) "fund" or "joint insurance fund" means a fund estab-  
16 lished under AS 21.76.080;

17 (6) "joint insurance arrangement" means a joint insurance  
18 arrangement authorized under AS 21.76.010.

19 \* Sec. 2. AS 21.36.190 is amended by adding a new subsection to read:

20 (e) This section does not apply to insurance coverage under a  
21 joint insurance arrangement authorized by AS 21.76.

22 \* Sec. 3. AS 21.39.155(a) is amended to read:

23 (a) The director may require carriers, except a reciprocal  
24 insurer formed by and insuring only a group of municipalities or  
25 nonprofit public utilities under AS 21.75 or a joint insurance ar-  
26 angement formed under AS 21.76, as a condition of writing a line of  
27 insurance dealing with workers' compensation, to participate in an  
28 assigned risk pool if the director finds that mandatory carrier part-  
29 icipation is in the public interest.

1 \* Sec. 4. AS 21.80.180(5) is amended to read:  
2 (5) "insolvent insurer" means an insurer  
3 (A) authorized to transact insurance in this state,  
4 except an assessable reciprocal insurer formed by and insuring  
5 only municipalities or nonprofit public utilities, a joint insur-  
6 ance arrangement formed under AS 21.76, the Medical Indemnity  
7 Corporation of Alaska, and the Health Care Providers Joint Under-  
8 writing Association established under AS 21.88, either at the  
9 time the policy was issued or when the insured event occurred,  
10 and  
11 (B) determined to be insolvent by a court of competent  
12 jurisdiction;

13 \* Sec. 5. AS 21.80.180(6) is amended to read:  
14 (6) "member insurer" means a person, except an assessable  
15 reciprocal insurer formed by and insuring only municipalities or  
16 nonprofit public utilities, a joint insurance arrangement formed under  
17 AS 21.76, the Medical Indemnity Corporation of Alaska, and the Health  
18 Care Providers Joint Underwriting Association established under  
19 AS 21.88, who  
20 (A) writes any kind of insurance to which this chapter  
21 applies under AS 21.80.020 including the exchange of reciprocal  
22 or interinsurance contracts, and  
23 (B) is licensed to transact insurance in this state;

24 \* Sec. 6. This Act takes effect immediately in accordance with AS 01.-  
25 10.070(c).

# Alaska MUNICIPAL League

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105 MUNICIPAL WAY, SUITE 301  
JUNEAU, ALASKA 99801

To: Representative Mike Milier, Chairman  
Members of the House Judiciary Committee

From: Scott A. Burgess, Executive Director

Date: March 26, 1986

Subject: CSHB 506 - Insurance Pooling

The Alaska Municipal League, representing 116 direct member municipalities, strongly supports legislation (CSHB 506) that would enable municipalities to pool their insurance costs, and losses. Currently, municipal insurance pools, sponsored by state municipal leagues, are operating in 23 states. Never has any municipal insurance pool gone into default. Never has any municipal insurance pool been unable to pay a claim. All have been very successful.

Municipal insurance pooling lowers costs, and increases availability of insurance to municipalities. Pools offer municipalities a chance to pay premiums based solely upon loss history. In addition, municipalities in an insurance pool can recoup a portion of that premium through a year-end dividend payment, based upon their success at controlling losses. Under a pool, the availability of insurance to municipalities would no longer be subject to the cycles of the general insurance market.

If legislation allowing the formation of a municipal insurance pool were passed, the AML would most likely obtain reinsurance from the National League of Cities, which will begin offering reinsurance on May 1 of this year through a reinsurance pool supported by the 23 state municipal league pools currently in operation. In addition, several other reinsurance opportunities would be available to an Alaska Municipal League insurance pool, due to the success, and past performance, of the League's current insurance program. Though not a pool, the League currently sponsors a program which is providing insurance to over 80 municipalities and school districts in the State for worker's compensation, general liability, business auto, and errors and omissions coverage for law enforcement, public officials, and school board members.

The Alaska Municipal League urges you to pass CSHB 506.

Thank you for your consideration of this important issue. If the League may be of further assistance in any way, please call. Attached, please find a listing of state municipal league insurance pools currently in operation, a listing of Alaska municipalities and school districts currently obtaining their insurance through the Alaska Municipal League, testimony presented to the House Labor and Commerce Committee on behalf of AML member municipalities, a copy of the AML resolution on the insurance crisis facing the State of Alaska, and a sample survey of insurance rate increases for Alaska municipalities.



National League of Cities  
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 Cable: NLCITIES

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 Alan Beas

GROUP SELF-INSURANCE POOLS  
 SPONSORED BY STATE MUNICIPAL LEAGUES

<u>State</u>	<u>Type of Risk Covered</u>				
	<u>Health &amp; Accident</u>	<u>Workers Compensation</u>	<u>Liability</u>	<u>Unemployment Compensation</u>	<u>Property</u>
Alabama		x			
Arkansas	x	x	x		
Connecticut		x	(1)		
Florida	x	x	x		
Georgia		x			
Illinois		x	x		x
Iowa		x			
Kentucky		x		x	
Louisiana (3)		x	x		
Maine	x	x	(1)	x	
Massachusetts		x(2)			
Michigan		x	x	x	x
Minnesota	x	x	x		x
New Hampshire	x			x	
New Mexico		x			
North Carolina	x	x	(1)		
Oklahoma (3)	x	x	x		
South Carolina (3)	x	x			
Tennessee	x	x	x		
Texas		x	x		
Utah	x	(1)			x
Vermont		(1)		x	
Virginia		x			

- (1) Pool being developed (as of 8/85)  
 (2) Fronted safety group program rather than pure pool  
 (3) Not participating in NLC/RMPSP

Prepared by: National League of Cities  
 December, 1985

ALASKA MUNICIPAL LEAGUE PARTICIPANTS

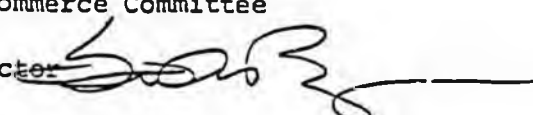
ADAK REGION S/D	CITY OF HUSLIA	CITY OF OUZINKIE
CITY OF AKUTAN	CITY OF HYDABURG	CITY OF PALMER
CITY OF ALEKNAGIK	CITY OF KACHEMAK	CITY OF PORT HEIDEN
CITY OF ANVIK	KASHUNAMIUT S/D	PRIBILOF S/D
CITY OF BARROW	CITY OF KAKE	CITY OF RUBY
CITY OF BETHEL	KENAI PENINSULA BOR. & S/D	CITY OF RUSSIAN MISSION
CITY OF BREVIG MISSION	CITY OF KETCHIKAN	CITY OF ST. MARY'S
BRISTOL BAY BOR. & S/D	KETCHIKAN GATEWAY BOR. & S/D	CITY OF ST. MICHAEL
CHATHAM S/D	CITY OF KIANA	CITY OF ST. PAUL
CITY OF CHIGNIK	KING COVE S/D	CITY OF SAND POINT
CITY OF COLD BAY	CITY OF KING COVE	SAND POINT CITY S/D
COPPER RIVER S/D	CITY OF KLAWOCK	CITY OF SAVOONGA
CITY OF CORDOVA	KLAWOCK CITY S/D	CITY OF SAXMAN
CITY OF CRAIG	CITY OF KOBUK	CITY OF SEWARD
CRAIG CITY S/D	CITY OF KOTZEBUE	CITY OF SHISHMARF
CITY OF DILLINGHAM	LAKE & PENINSULA S/D	CITY OF SKAGWAY & S/D
CITY OF EAGLE	CITY OF LARSEN BAY	SOUTHWEST REGION S/D
CITY OF EMMONAK	CITY OF LOWER KALSKAG	CITY OF TELLER
CITY OF FORT YUKON	NATANUSKA SUSITNA BOR. & S/D	CITY OF THORNE BAY
CITY OF GALENA	CITY OF MCGRATH	CITY OF TOKSOOK BAY
CITY OF GAMBELL	CITY OF NENANA	CITY OF UNALASKA
CITY OF GOLOVIN	CITY OF NEMHALEN	CITY OF WALES
HAINES BOROUGH & S/D	CITY OF NIKOLAI	CITY OF WASILLA
CITY OF HAINES	CITY OF NOORVIK	CITY OF WHITTIER
CITY OF HOONAH	CITY OF NUIQSUT	CITY OF YAKUTAT
CITY OF HOOPER BAY	CITY OF NUNAPITCHUK	YUPIIT S/D
CITY OF HOUSTON	CITY OF OLD HARBOR	

Alaska  
MUNICIPAL  
League

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To: Representative Mike Navarre, Chairman  
Members of the House Labor and Commerce Committee

From: Scott A. Burgess, Executive Director 

Date: February 17, 1986

Subject: Legislation Addressing The Insurance Problem

On behalf of the Alaska Municipal League, thank you and all the members of the 14th Legislature for recognizing that an insurance crisis exists, and for taking on, what has already proven itself to be, a difficult issue. The League, on behalf of the 116 municipalities it represents, directly, and all local governments in Alaska, offers its assistance in finding short-term and long-term solutions.

Attached is a copy of an AML resolution on the insurance and tort reform issue from the 1986 Policy Statement which was sent to you at the beginning of the year. Also, the following policy appears on page 8 of the Statement:

F. TORT REFORM

The League urges the Legislature to review tort reform and to work for a viable municipal insurance system.

These policies came out of the discussions and actions at the annual conference in Fairbanks. The Board of Directors chose finding solutions to the availability and affordability of insurance for municipalities as one of its top four legislative priorities for this year. While the League has been working for several years to assist municipalities with their insurance needs, it has been unable to address and fully understand the current crisis.

The League is in support of legislation allowing municipalities to create a self-insured risk pool. The current statutes allowing for municipalities to form reciprocals is unnecessarily burdensome and expensive. It requires municipalities to essentially create an insurance company rather than contracting with existing insurance and financial agencies; requires a heavy surplus deposit over and above the current high premiums; and, is subject to unnecessary regulation by the Division of Insurance.

The League is already helping municipalities with their insurance needs. The League has pursued setting up a self-insurance pool program for several years but have been thwarted by interpretations of existing law, and our attempts to change it. The League has a group insurance program which is providing insurance coverage to over 70 municipalities for workers compensation, general liability, business auto, and errors and

omissions coverage for law enforcement, public officials, and school board members. However, because of the market and our inability to pool, we are unable to improve the program and offer the coverage desired.

The League has not been able to research the current tort reform issue well enough to commit to supporting all the recommended changes to the Statutes, or to make the direct connection between tort reform and the current insurance problem. Like you, local elected officials are equally concerned for both today's plaintiff and tomorrow's taxpayer. The Board of Directors is unsure whether the fault for the current insurance problems rest with a reckless society, the insurance industry, the justice system or State laws, or a combination of all. Therefore, the League is asking the Legislature for help to analyze the problem and develop reasonable solutions. Tort reform should be evaluated on whether it is good policy, and on the long term effects, not just as a possible solution to the current problem.

There is a problem. Municipalities, and others who will appear before you, are unable to obtain or afford insurance to protect themselves, their investments, and the public. The problem faced by municipalities is unique. Municipalities are regarded as high risk clients by insurance companies because they have a greater potential for being sued; therefore, they have, historically, been victims of paying higher premiums. This, itself, is not unique because the same applies to doctors. However, the fact that municipalities are in the business of providing high risk public services, such as fire and police, that they cannot stop providing just because of the cost or risk, is unique to municipalities. Secondly, municipalities are the victims of the "deep pocket" theory. Municipalities are named in suits, directly or indirectly, regardless of the degree of fault because there is a perceived unlimited ability to pay. A claim is not limited by the amount of insurance coverage but by assets, and juries perceive that municipalities need only raise taxes to pay the claim.

The League is currently collecting information through a survey of its 116 members on their recent insurance experiences. The survey is not complete; however, attached is the information from the communities that have responded to date. Also included is information from other municipalities in the AML Insurance Program, provided by our broker Frank B. Hall & Co. of Alaska.

Several bills are before the Legislature attempting to address the insurance problem in Alaska. We support the concept of allowing municipalities to form self-insured risk pools. An AML Legislative Subcommittee has reviewed the bills introduced this session and before your committee, and has no problem with the tort reform measures most completely covered in HB 532. However, the Subcommittee and the staff will follow the hearings and your deliberations closely to better understand all concerned before recommending any specific bill. The League, of course, is available to help you in any way we can to find short and long term solutions to the insurance problems faced by municipalities and others.

RESOLUTION OF THE ALASKA MUNICIPAL LEAGUE

RESOLUTION NO. 86-13

A RESOLUTION OF THE ALASKA MUNICIPAL LEAGUE  
URGING THE STATE LEGISLATURE TO INVESTIGATE  
TORT REFORM AND THE REASONS BEHIND THE  
UNAVAILABILITY OF CERTAIN LINES OF INSURANCE.

WHEREAS, insurance rates have increased astronomically and this has caused businesses to close and has created a financial burden on taxpayers in Alaska, and

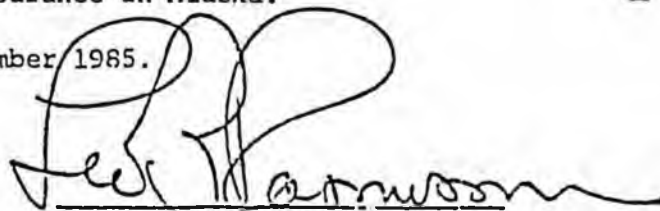
WHEREAS, municipal insurance rates have increased as much as 500% in some areas, and

WHEREAS, day care operators, air carriers, truckers, contractors, CHAPP-affiliated businesses, doctors, and architects are in many cases unable to obtain any insurance, and

WHEREAS, the Alaska Municipal League feels strongly that an investigation into causes should be made and a solution to this problem must be found this year;

NOW, THEREFORE, BE IT RESOLVED by the Alaska Municipal League that the Office of the Governor and the Alaska State Legislature are urged to immediately pursue all avenues available to solve this problem and find a way to provide insurance in Alaska.

Adopted this 16th day of November 1985.



LEO B. RASMUSSEN, President

ATTEST:



SCOTT A. BURGESS, Executive Director

<u>MUNICIPALITY</u>	<u>LAST YEAR PREMIUM/COVERAGE</u>	<u>THIS YEAR PREMIUM/COVERAGE</u>	<u>% of budget</u>	<u>JOIN/ SUPPORT POOLING</u>
ALAKANUK	UNINSURED	UNINSURED	4%	YES
ALEKNAGIK	\$ 4,500	\$15,000	13%	MAYBE
BARROW	\$ 4,100/\$ 1 million	\$10,000/\$500,000		
BETHEL	\$350,000	\$600,000	10%	YES
CORDOVA	\$ 21,000/\$ 1 million	\$ 31,850/\$500,000		
EAGLE	\$ 3,365/\$500,000	\$ 8,739/\$500,000	6%	YES
FAIRBANKS	\$212,876/\$20 million	\$514,167/\$5 million	2.5%	NO
GALENA	REPEATED CANCELLATIONS/PREMIUMS UP 200%		3%	MAYBE
GAMBELL	\$ 19,300/\$1 million	\$ 15,617/\$500,000		
HAINES BOROUGH	\$ 25,000	\$ 34,797	3.5%	NO
HOONAH	\$ 6,484/\$1 million	\$ 11,640/\$500,000		
HOUSTON	\$ 23,906	37,444	16%	MAYBE
JUNEAU	\$518,000	\$1,253,900	2%	YES
KAKE	\$ 10,617/\$1 million	\$ 7,080/\$500,000		
KENAI	\$ 85,000/\$10 million	\$320,000/\$10 million		NO
KODIAK	\$ 90,083/\$500,000	\$155,725/\$500,000	5%	YES
KOTZEBUE	\$140,000	\$280,000	5%	YES
LOWER KALSKAG	\$ 2,500/\$1 million	\$ 5,000/\$500,000		
McGRATH	\$ 13,596	\$ 41,063	7.5%	YES
NULATO	\$ 4,500/\$500,000	\$ 12,000/\$500,000	5%	YES
PALMER	\$138,000/\$10 million	\$219,000/\$1.5 million		YES
PELICAN	\$ 7,457/\$500,000	\$ 15,908/\$300,000	11.5%	YES
RUSSIAN MISSION	\$ 2,580/\$1 million	\$ 5,000/\$500,000		
St. MARY'S	\$ 4,200/\$1 million	\$ 5,000/\$500,000	10%	YES
SAND POINT	\$ 45,000	\$ 80,000	9%	YES
SITKA	\$ 53,753/\$10 million	\$131,628/\$5 million	3%	YES
SKAGWAY	\$ 31,883/\$1 million	\$ 55,806/\$ 1 million	6%	MAYBE
SOLDOTNA	\$110,000/\$10 million	\$270,000/\$10 million	6%	YES
TENAKEE SPRINGS	\$ 13,670	\$ 42,000	16%	YES
UNALASKA	\$131,124/\$14 million	\$ 99,468/\$4 million	10%	YES
WALES	\$ 11,663	UNINSURED		YES
WASILLA	\$ 11,000/\$6 million	\$19,000/\$1.5 million	2%	MAYBE

\*\* ALL INFORMATION COMPILED BY THE ALASKA MUNICIPAL LEAGUE BY SURVEY. BACK-UP IS  
AVAILABLE THROUGH THE AML 105 Municipal Way, Suite 301, Juneau, Alaska 99801

# Alaska Independent Insurance Agents & Brokers, Inc.

SEND REPLY TO:



Dianne M. Leighton  
A.I.I.A.B.  
P.O. Box 775303  
Eagle River, AK 99577

March 20, 1986

Rep. M. Mike Miller, Ch.  
House Judiciary Committee  
Pouch V  
Juneau, AK 99811

RE: CSHB 506, referred to Jud. 3/20/86

Dear Representative Miller:

We are pleased to see that the Labor & Commerce committee has split this HB in to two sections and offerd a substitute. They have left one detail up to your committee , however.

We are concerned that this pooling arrangement would appear to not be regulated by any entity other that a board of directors.

As we understand it, this arrangement would not be subject to regulation by the director of insurance nor the federal McCarran-Ferguson Act.

While we are confident today that the administrators would be responsible, it is very possible that in a period of time the administration would change. It is a pooling for insurance purposes and we feel that there should be some type of review by the Division of Insurance.

Also, we cannot seem to find any provision for insolvency of the pool ie, if there comes a time when there is not enough money to pay the claims, and the public entities cannot raise enough money due to fixed budgets, who provides the additional funds?

We are concerned that the state will end up bailing out the pool and wonder if there should be some wording in the bill to clarify this.

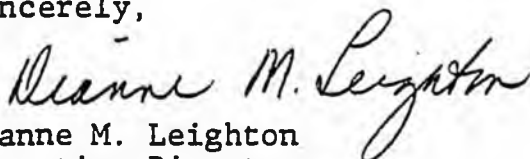
Those are some of our major concerns. There are others but clearly this seems to be a reasonable way to handle the short term insurance crisis.

The long term aid will of course be the tort reform package aka HB 532 including all substitutes.

Because the HB 506 is short term, should there be a sunset clause on the end - say three years?

This is more of a one-sided discussion to simply raise a few questions before your committee takes action.

Sincerely,

A handwritten signature in cursive script that reads "Dianne M. Leighton". The signature is written in dark ink and is positioned above the typed name and title.

Dianne M. Leighton  
Executive Director

cc: Committee members

Offered: 4/10/86  
Referred: Finance

Original sponsors: Taylor, Gruenberg,  
Larson, et al

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 506 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to joint insurance arrangements; and  
7 providing for an effective date."

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

9 \* Section 1. AS 21 is amended by adding a new chapter to read:

10 CHAPTER 76. JOINT INSURANCE ARRANGEMENTS.

11 Sec. 21.76.010. AUTHORITY TO ESTABLISH JOINT INSURANCE ARRANGE-

12 MENTS. (a) The following groups may enter into cooperative  
13 agreements with each other for the purpose of establishing, operating,  
14 or participating in joint insurance arrangements through which the  
15 participating members agree to pool contributions in order to either  
16 assume risks from losses on a group basis or purchase coverage on a  
17 group basis:

18 (1) municipalities;

19 (2) school districts;

20 (3) regional educational attendance areas;

21 (4) unincorporated associations;

22 (5) regional electrical associations;

23 (6) entities qualified to do business under the Federal  
24 Risk Retention Act;

25 (7) groups that would be considered valid under this title  
26 for the type of insurance for which the joint insurance arrangement is  
27 established.

28 (b) A joint insurance arrangement may be for any kind of insur-  
29 ance defined by this title except for life insurance and title

1 insurance.

2 (c) A joint insurance arrangement shall be considered an alter-  
3 native or supplement to any other policy or contract of insurance  
4 authorized or required by law, including insurance under AS 21.75.

5 Sec. 21.76.020. REGULATION BY DIVISION OF INSURANCE. A joint  
6 insurance arrangement may not be considered insurance for the purpose  
7 of any other law of the state and is not subject to regulations of the  
8 director except as expressly provided in this chapter.

9 Sec. 21.76.030. GENERAL PROVISIONS OF COOPERATIVE AGREEMENTS. A  
10 cooperative agreement shall provide for the proper operation of the  
11 joint insurance arrangement, and include provisions for

12 (1) administration of the arrangement by a board of direc-  
13 tors, specifying the number of members of the board and other require-  
14 ments necessary for the proper functioning of the board;

15 (2) appointment of an administrator and other persons as  
16 necessary for the proper functioning of the arrangement;

17 (3) organization of the arrangement, including a roster of  
18 participating members and the names of the members of the board of  
19 directors;

20 (4) procedures to establish and promote an aggressive risk  
21 management and program among the members of the arrangement, including  
22 procedures for identifying and reducing the risks that can be reduced  
23 through implementing better safety technologies and improved work  
24 techniques and procedures;

25 (5) enforcing the collection of contributions or payments  
26 in default from members of the arrangement;

27 (6) the addition of new members to the arrangement or the  
28 withdrawal of members from the arrangement;

29 (7) the method of apportioning costs and disposition of

1 excess contributions;

2 (8) transmission of financial statements and audit reports  
3 of the arrangement to participating members;

4 (9) terminating the arrangement and disposing of its as-  
5 sets; and

6 (10) establishing and administering a joint insurance fund.

7 Sec. 21.76.040. FINANCIAL PROVISIONS OF AGREEMENTS. (a) A  
8 cooperative agreement must include a provision requiring an annual  
9 determination by a casualty actuary who is a member of the American  
10 Academy of Actuaries that procedures for establishing reserves for  
11 losses of the joint insurance arrangement are actuarially sound.

12 (b) A joint insurance arrangement shall be subject to an annual  
13 independent audit. The audit shall be conducted in accordance with  
14 generally accepted auditing standards and must include a review of the  
15 actuarial assumptions used for establishing the reserves under (a) of  
16 this section. The audit report must include certification from a  
17 casualty actuary who is a member of the American Academy of Actuaries  
18 that the actuarial assumptions continue to be sound and the level of  
19 the reserves are adequate.

20 (c) A joint insurance arrangement shall use a method of account-  
21 ing that conforms with generally accepted government accounting prin-  
22 ciples.

23 Sec. 21.76.050. CONTRACTING WITH PRIVATE ADMINISTRATORS. A  
24 cooperative agreement may authorize the board of directors to enter  
25 into contracts for services necessary to perform the functions of a  
26 joint insurance arrangement. The person contracting to perform the  
27 functions must be appropriately licensed under this title if this  
28 title so requires.

29 Sec. 21.76.060. DELEGATION OF POWER TO SETTLE CLAIMS. A

1 cooperative agreement may delegate to the board of directors, or  
2 authorize delegation by the board to another person or group, the  
3 power to compromise, arbitrate, or otherwise settle claims on behalf  
4 of the arrangement.

5 Sec. 21.76.070. EXCESS INSURANCE. A cooperative agreement may  
6 authorize the board of directors to purchase excess or catastrophic  
7 insurance on behalf of the joint insurance arrangement. The cost of  
8 the insurance shall be apportioned in the manner specified in the  
9 joint insurance agreement. The board may purchase insurance under  
10 this section only from an insurer authorized to do business in the  
11 state or from an unauthorized insurer if the insurance is placed  
12 through a licensed surplus lines broker.

13 Sec. 21.76.080. JOINT INSURANCE FUND. (a) A joint insurance  
14 arrangement shall establish a joint insurance fund. The fund consists  
15 of money

16 (1) contributed by members of the joint insurance arrange-  
17 ment through budgetary appropriations or transfers from a self-insur-  
18 ance reserve;

19 (2) contributed by officers and employees of members of the  
20 joint insurance arrangement under an employee benefit plan; and

21 (3) collected by the joint insurance arrangement through  
22 subrogation of a claim paid from the fund to a member of the arrange-  
23 ment.

24 (b) An expenditure may be made from a joint insurance fund only  
25 to pay claims, losses, or benefits, including interest on them, and  
26 the administrative and adjustment expenses incurred in connection with  
27 them, involving the types of protection for which the fund provides  
28 coverage as specified in the joint insurance agreement.

29 (c) The administrator shall keep the fund separate from other

1 funds of a member of a joint insurance arrangement.

2 (d) For each type of protection offered by the joint insurance  
3 arrangement, the method of accounting must show the order, source,  
4 date, and amount of each payment from the fund.

5 (e) Within 60 days of the end of the fiscal year, the adminis-  
6 trator shall furnish a detailed report of the operation and condition  
7 of the fund to the board of directors and the director of insurance.  
8 The report furnished to the director of insurance shall be available  
9 for public inspection.

10 (f) Money held by a fund as reserves and money not needed for  
11 daily operations may be invested by the board of directors.

12 (g) A fund may not be terminated unless the administrator certi-  
13 fies that an amount of money sufficient to pay accrued and contingent  
14 expenditures has been placed in a fully collateralized escrow account.

15 Sec. 21.76.090. FILING OF AGREEMENT. The board of directors  
16 shall file a copy of the cooperative agreement with the director of  
17 insurance at least 60 days before the effective date of the agreement.  
18 The agreement shall be available for public inspection.

19 Sec. 21.76.100. REGULATIONS. A cooperative agreement may au-  
20 thorize the board of directors to adopt regulations not inconsistent  
21 with law for the fair and equitable administration of the joint insur-  
22 ance arrangement and the joint insurance fund.

23 Sec. 21.76.110. SUBROGATION. A joint insurance arrangement has  
24 a cause of action for reimbursement of money paid to a participating  
25 member for a loss or injury if the participating member recovers money  
26 for the loss or injury from a third party. The joint insurance ar-  
27 rangement also has a direct cause of action for reimbursement against  
28 a third party responsible for loss or injuries sustained by a partic-  
29 ipating member if the joint arrangement has paid money to the

1 participating member for the loss or injuries.

2 Sec. 21.76.900. DEFINITIONS. In this chapter

3 (1) "adjustment expenses" means expenses for investigative,  
4 processing, legal, actuarial, arbitration, and settlement services  
5 incurred in the adjustment of losses, claims, or benefits;

6 (2) "administrator" means a person or group appointed by  
7 the board of directors to administer a joint insurance arrangement or  
8 a joint insurance fund;

9 (3) "board" or "board of directors" means the board of  
10 directors provided for in a cooperative agreement;

11 (4) "cooperative agreement" means a written agreement  
12 entered into by two or more entities described in AS 21.76.010 for the  
13 purpose of establishing, operating, or participating in a joint insur-  
14 ance arrangement;

15 (5) "fund" or "joint insurance fund" means a fund estab-  
16 lished under AS 21.76.080;

17 (6) "joint insurance arrangement" means a joint insurance  
18 arrangement authorized under AS 21.76.010.

19 \* Sec. 2. AS 21.36.190 is amended by adding a new subsection to read:

20 (e) This section does not apply to insurance coverage under a  
21 joint insurance arrangement authorized by AS 21.76.

22 \* Sec. 3. AS 21.39.155(a) is amended to read:

23 (a) The director may require carriers, except a reciprocal  
24 insurer formed by and insuring only a group of municipalities or  
25 nonprofit public utilities under AS 21.75 or a joint insurance ar-  
26 angement formed under AS 21.76, as a condition of writing a line of  
27 insurance dealing with workers' compensation, to participate in an  
28 assigned risk pool if the director finds that mandatory carrier part-  
29 icipation is in the public interest.

1 \* Sec. 4. AS 21.80.180(5) is amended to read:

2 (5) "insolvent insurer" means an insurer

3 (A) authorized to transact insurance in this state,  
4 except an assessable reciprocal insurer formed by and insuring  
5 only municipalities or nonprofit public utilities, a joint insur-  
6 ance arrangement formed under AS 21.76, the Medical Indemnity  
7 Corporation of Alaska, and the Health Care Providers Joint Under-  
8 writing Association established under AS 21.88, either at the  
9 time the policy was issued or when the insured event occurred,  
10 and

11 (B) determined to be insolvent by a court of competent  
12 jurisdiction;

13 \* Sec. 5. AS 21.80.180(6) is amended to read:

14 (6) "member insurer" means a person, except an assessable  
15 reciprocal insurer formed by and insuring only municipalities or  
16 nonprofit public utilities, a joint insurance arrangement formed under  
17 AS 21.76, the Medical Indemnity Corporation of Alaska, and the Health  
18 Care Providers Joint Underwriting Association established under  
19 AS 21.88, who

20 (A) writes any kind of insurance to which this chapter  
21 applies under AS 21.80.020 including the exchange of reciprocal  
22 or interinsurance contracts, and

23 (B) is licensed to transact insurance in this state;

24 \* Sec. 6. This Act takes effect immediately in accordance with AS 01.-  
25 10.070(c).

Offered: 3/26/86  
Referred: Judiciary and  
Finance

Original sponsors: Taylor, Gruenberg,  
Larson, et al

1 IN THE HOUSE

BY THE LABOR AND  
COMMERCE COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 506 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

9 \* Section 1. AS 21 is amended by adding a new chapter to read:

10 CHAPTER 76. JOINT INSURANCE ARRANGEMENTS.

11 Sec. 21.76.010. AUTHORITY TO ESTABLISH JOINT INSURANCE ARRANGE-  
12 MENTS. (a) Municipalities, school districts, and regional educa-  
13 tional attendance areas may enter into cooperative agreements with  
14 each other for the purpose of establishing, operating, or participat-  
15 ing in joint insurance arrangements through which the participating  
16 members agree to pool contributions and

17 (1) assume risks from losses on a group basis; or

18 (2) purchase coverage on a group basis.

19 (b) A joint insurance arrangement may be for any kind of insur-  
20 ance defined by this title except for life insurance and title insur-  
21 ance.

22 (c) A joint insurance arrangement shall be considered an alter-  
23 native or supplement to any other policy or contract of insurance  
24 authorized or required by law, including insurance under AS 21.75.

25 Sec. 21.76.020. REGULATION BY DIVISION OF INSURANCE. A joint  
26 insurance arrangement may not be considered insurance for the purpose  
27 of any other law of the state and is not subject to regulations of the  
28 director except as expressly provided in this chapter.

29 Sec. 21.76.030. GENERAL PROVISIONS OF COOPERATIVE AGREEMENTS. A

1 cooperative agreement shall provide for the proper operation of the  
2 joint insurance arrangement, and include provisions for

3 (1) administration of the arrangement by a board of direc-  
4 tors, specifying the number of members of the board and other require-  
5 ments necessary for the proper functioning of the board;

6 (2) appointment of an administrator and other persons as  
7 necessary for the proper functioning of the arrangement;

8 (3) organization of the arrangement, including a roster of  
9 participating members and the names of the members of the board of  
10 directors;

11 (4) procedures to establish and promote an aggressive risk  
12 management and program among the members of the arrangement, including  
13 procedures for identifying and reducing the risks that can be reduced  
14 through implementing better safety technologies and improved work  
15 techniques and procedures;

16 (5) enforcing the collection of contributions or payments  
17 in default from members of the arrangement;

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19 withdrawal of members from the arrangement;

20 (7) the method of apportioning costs and disposition of  
21 excess contributions;

22 (8) transmission of financial statements and audit reports  
23 of the arrangement to participating members;

24 (9) terminating the arrangement and disposing of its as-  
25 sets; and

26 (10) establishing and administering a joint insurance fund.

27 Sec. 21.76.040. FINANCIAL PROVISIONS OF AGREEMENTS. (a) A  
28 cooperative agreement must include a provision requiring an annual  
29 determination by a casualty actuary who is a member of the American

1 Academy of Actuaries that procedures for establishing reserves for  
2 losses of the joint insurance arrangement are actuarially sound.

3 (b) A joint insurance arrangement shall be subject to an annual  
4 independent audit. The audit shall be conducted in accordance with  
5 generally accepted auditing standards and must include a review of the  
6 actuarial assumptions used for establishing the reserves under (a) of  
7 this section. The audit report must include certification from a  
8 casualty actuary who is a member of the American Academy of Actuaries  
9 that the actuarial assumptions continue to be sound and the level of  
10 the reserves are adequate.

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12 ing that conforms with generally accepted government accounting prin-  
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28 the insurance shall be apportioned in the manner specified in the  
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1 this section only from an insurer authorized to do business in the  
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7 (1) contributed by members of the joint insurance arrange-  
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9 ance reserve;

10 (2) contributed by officers and employees of members of the  
11 joint insurance arrangement under an employer benefit plan; and

12 (3) collected by the joint insurance arrangement through  
13 subrogation of a claim paid from the fund to a member of the arrange-  
14 ment.

15 (b) An expenditure may be made from a joint insurance fund only  
16 to pay claims, losses, or benefits, including interest on them, and  
17 the administrative and adjustment expenses incurred in connection with  
18 them, involving the types of protection for which the fund provides  
19 coverage as specified in the joint insurance agreement.

20 (c) The administrator shall keep the fund separate from other  
21 funds of a member of a joint insurance arrangement.

22 (d) For each type of protection offered by the joint insurance  
23 arrangement, the method of accounting must show the order, source,  
24 date, and amount of each payment from the fund.

25 (e) Within 60 days of the end of the fiscal year, the adminis-  
26 trator shall furnish a detailed report of the operation and condition  
27 of the fund to the board of directors and the director of insurance.  
28 The report furnished to the director of insurance shall be available  
29 for public inspection.

1 (f) Money held by a fund as reserves and money not needed for  
2 daily operations may be invested by the board of directors.

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14 Sec. 21.76.110. SUBROGATION. A joint insurance arrangement has  
15 a cause of action for reimbursement of money paid to a participating  
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18 rangement also has a direct cause of action for reimbursement against  
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23 (1) "adjustment expenses" means expenses for investigative,  
24 processing, legal, actuarial, arbitration, and settlement services  
25 incurred in the adjustment of losses, claims, or benefits;

26 (2) "administrator" means a person or group appointed by  
27 the board of directors to administer a joint insurance arrangement or  
28 a joint insurance fund;

29 (3) "board" or "board of directors" means the board of

1 directors provided for in a cooperative agreement;

2 (4) "cooperative agreement" means a written agreement  
3 entered into by two or more entities described in AS 21.76.010 for the  
4 purpose of establishing, operating, or participating in a joint insur-  
5 ance arrangement;

6 (5) "fund" or "joint insurance fund" means a fund estab-  
7 lished under AS 21.76.080;

8 (6) "joint insurance arrangement" means a joint insurance  
9 arrangement authorized under AS 21.76.010.

10 \* Sec. 2. AS 21.39.155(a) is amended to read:

11 (a) The director may require carriers, except a reciprocal  
12 insurer formed by and insuring only a group of municipalities or  
13 nonprofit public utilities under AS 21.75 or a joint insurance ar-  
14 range ment formed under AS 21.76, as a condition of writing a line of  
15 insurance dealing with workers' compensation, to participate in an  
16 assigned risk pool if the director finds that mandatory carrier part-  
17 icipation is in the public interest.

18 \* Sec. 3. AS 21.80.130(5) is amended to read:

19 (5) "insolvent insurer" means an insurer  
20 (A) authorized to transact insurance in this state,  
21 except an assessable reciprocal insurer formed by and insuring  
22 only municipalities or nonprofit public utilities, a joint insur-  
23 ance arrangement formed under AS 21.76, the Medical Indemnity  
24 Corporation of Alaska, and the Health Care Providers Joint Under-  
25 writing Association established under AS 21.88, either at the  
26 time the policy was issued or when the insured event occurred,  
27 and

28 (B) determined to be insolvent by a court of competent  
29 jurisdiction;

1 \* Sec. 4. AS 21.80.180(6) is amended to read:

2 (6) "member insurer" means a person, except an assessable  
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5 AS 21.76, the Medical Indemnity Corporation of Alaska, and the Health  
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8 (A) writes any kind of insurance to which this chapter  
9 applies under AS 21.80.020 including the exchange of reciprocal  
10 or interinsurance contracts, and

11 (B) is licensed to transact insurance in this state;

12 \* Sec. 5. AS 21.36.190 is repealed.

13 \* Sec. 6. This Act takes effect immediately in accordance with AS 01.-  
14 10.070(c).

Introduced: 2/19/86  
Referred: Labor & Commerce,  
Judiciary and Finance

BY TAYLOR, GRUENBERG,  
LARSON, SUND, SHULTZ,  
KOPONEN AND JENKINS

1 IN THE HOUSE

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 506  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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7 necessary for the proper functioning of the arrangement;

8 (3) organization of the arrangement, including a roster of  
9 participating members and the names of the members of the board of  
10 directors;

11 (4) procedures to establish and promote an aggressive risk  
12 management and program among the members of the arrangement, including  
13 procedures for identifying and reducing the risks that can be reduced  
14 through implementing better safety technologies and improved work  
15 techniques and procedures;

16 (5) enforcing the collection of contributions or payments  
17 in default from members of the arrangement;

18 (6) the addition of new members to the arrangement or the  
19 withdrawal of members from the arrangement;

20 (7) the method of apportioning costs and disposition of  
21 excess contributions;

22 (8) transmission of financial statements and audit reports  
23 of the arrangement to participating members;

24 (9) terminating the arrangement and disposing of its as-  
25 sets; and

26 (10) establishing and administering a joint insurance fund.

27 Sec. 21.76.040. FINANCIAL PROVISIONS OF AGREEMENTS. (a) A  
28 cooperative agreement must include a provision requiring an annual  
29 determination by a casualty actuary who is a member of the American

1 Academy of Actuaries that procedures for establishing reserves for  
2 losses of the joint insurance arrangement are actuarially sound.

3 (b) A joint insurance arrangement shall be subject to an annual  
4 independent audit. The audit shall be conducted in accordance with  
5 generally accepted auditing standards and must include a review of the  
6 actuarial assumptions used for establishing the reserves under (a) of  
7 this section. The audit report must include certification from a  
8 casualty actuary who is a member of the American Academy of Actuaries  
9 that the actuarial assumptions continue to be sound and the level of  
10 the reserves are adequate.

11 (c) A joint insurance arrangement shall use a method of account-  
12 ing that conforms with generally accepted government accounting prin-  
13 ciples.

14 Sec. 21.76.050. CONTRACTING WITH PRIVATE ADMINISTRATORS. A  
15 cooperative agreement may authorize the board of directors to enter  
16 into contracts for services necessary to perform the functions of a  
17 joint insurance arrangement. The person contracting to perform the  
18 functions must be appropriately licensed under this title if this  
19 title so requires.

20 Sec. 21.76.060. DELEGATION OF POWER TO SETTLE CLAIMS. A cooper-  
21 ative agreement may delegate to the board of directors, or authorize  
22 delegation by the board to another person or group, the power to  
23 compromise, arbitrate, or otherwise settle claims on behalf of the  
24 arrangement.

25 Sec. 21.76.070. EXCESS INSURANCE. A cooperative agreement may  
26 authorize the board of directors to purchase excess or catastrophic  
27 insurance on behalf of the joint insurance arrangement. The cost of  
28 the insurance shall be apportioned in the manner specified in the  
29 joint insurance agreement. The board may purchase insurance under

1 this section only from an insurer authorized to do business in the  
2 state or from an unauthorized injurer if the insurance is placed  
3 through a licensed surplus lines broker.

4 Sec. 21.76.080. JOINT INSURANCE FUND. (a) A joint insurance  
5 arrangement shall establish a joint insurance fund. The fund consists  
6 of money

7 (1) contributed by members of the joint insurance arrange-  
8 ment through budgetary appropriations or transfers from a self-  
9 insurance reserve;

10 (2) contributed by officers and employees of members of the  
11 joint insurance arrangement under an employee benefit plan; and

12 (3) collected by the joint insurance arrangement through  
13 subrogation of a claim paid from the fund to a member of the arrange-  
14 ment.

15 (b) An expenditure may be made from a joint insurance fund only  
16 to pay claims, losses, or benefits, including interest on them, and  
17 the administrative and adjustment expenses incurred in connection with  
18 them, involving the types of protection for which the fund provides  
19 coverage as specified in the joint insurance agreement.

20 (c) The administrator shall keep the fund separate from other  
21 funds of a member of a joint insurance arrangement.

22 (d) For each type of protection offered by the joint insurance  
23 arrangement, the method of accounting must show the order, source,  
24 date, and amount of each payment from the fund.

25 (e) Within 60 days of the end of the fiscal year, the adminis-  
26 trator shall furnish a detailed report of the operation and condition  
27 of the fund to the board of directors and the director of insurance.  
28 The report furnished to the director of insurance shall be available  
29 for public inspection.

1 (f) Money held by a fund as reserves and money not needed for  
2 daily operations may be invested by the board of directors.

3 (g) A fund may not be terminated unless the administrator certi-  
4 fies that an amount of money sufficient to pay accrued and contingent  
5 expenditures has been placed in a fully collateralized escrow account.

6 Sec. 21.76.090. FILING OF AGREEMENT. The board of directors  
7 shall file a copy of the cooperative agreement with the director of  
8 insurance at least 60 days before the effective date of the agreement.  
9 The agreement shall be available for public inspection.

10 Sec. 21.76.100. REGULATIONS. A cooperative agreement may au-  
11 thorize the board of directors to adopt regulations not inconsistent  
12 with law for the fair and equitable administration of the joint insur-  
13 ance arrangement and the joint insurance fund.

14 Sec. 21.76.110. SUBROGATION. A joint insurance arrangement has  
15 a cause of action for reimbursement of money paid to a participating  
16 member for a loss or injury if the participating member recovers money  
17 for the loss or injury from a third party. The joint insurance  
18 arrangement also has a direct cause of action for reimbursement  
19 against a third party responsible for loss or injuries sustained by a  
20 participating member if the joint arrangement has paid money to the  
21 participating member for the loss or injuries.

22 Sec. 21.76.900. DEFINITIONS. In this chapter

23 (1) "adjustment expenses" means expenses for investigative,  
24 processing, legal, actuarial, arbitration, and settlement services  
25 incurred in the adjustment of losses, claims, or benefits;

26 (2) "administrator" means a person or group appointed by  
27 the board of directors to administer a joint insurance arrangement or  
28 a joint insurance fund;

29 (3) "board" or "board of directors" means the board of

1 directors provided for in a cooperative agreement;

2 (4) "cooperative agreement" means a written agreement  
3 entered into by two or more entities described in AS 21.76.010 for the  
4 purpose of establishing, operating, or participating in a joint insur-  
5 ance arrangement;

6 (5) "fund" or "joint insurance fund" means a fund estab-  
7 lished under AS 21.76.080;

8 (6) "joint insurance arrangement" means a joint insurance  
9 arrangement authorized under AS 21.76.010.

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

11 CHAPTER 79. ALASKA REINSURANCE FUND.

12 Sec. 21.79.010. REINSURANCE FUND ESTABLISHED. (a) The Alaska  
13 reinsurance fund is established as an account in the general fund.  
14 The fund consists of appropriations made to it by law for the purposes  
15 of this chapter.

16 (b) Money in the fund may be used to

17 (1) make loans to domestic reciprocal insurers, domestic  
18 cooperative insurers, and joint underwriting associations;

19 (2) pay reinsurance claims under the reinsurance coverage  
20 provided under AS 21.79.050; and

21 (3) pay administrative expenses of the division of insur-  
22 ance that are necessary or appropriate to carry out the purposes of  
23 this chapter.

24 Sec. 21.79.020. HEARINGS ON AVAILABILITY OF INSURANCE. (a)  
25 Within 30 days after receiving an application by a manufacturer,  
26 service provider, a group or association representing manufacturers or  
27 service providers, an Alaska domestic reciprocal insurer, domestic  
28 cooperative insurer, or the Medical Indemnity Corporation of Alaska,  
29 the division shall hold a hearing on the availability and rate

1 structures of adequate commercial general liability insurance and  
2 other lines of liability and property insurance for the applicant or  
3 members of the applicant group or association.

4 (b) In addition to hearings under (a) of this section, the divi-  
5 sion may hold a hearing on the availability and rate structure of  
6 adequate commercial general liability insurance and other lines of  
7 liability and property insurance after a finding by the director that  
8 the line of insurance has become unavailable or that rates in the  
9 state are excessive.

10 Sec. 21.79.030. DETERMINATION OF AVAILABILITY OF INSURANCE. (a)  
11 Within 30 days after a hearing under AS 21.79.020, the director shall  
12 determine in writing, by order, based on the hearing record, whether  
13 the insurance at issue in the hearing is, and will be, reasonably  
14 available at rates neither excessive nor inadequate to cover antici-  
15 pated claims of the applicant or applicants.

16 (b) If the director determines under (a) of this section that a  
17 line of insurance is not, or will not be available at rates neither  
18 excessive nor inadequate, the director may implement the provisions of  
19 AS 21.79.040.

20 Sec. 21.79.040. INSURANCE JOINT UNDERWRITING ASSOCIATIONS. (a)  
21 After a determination of unavailability or inadequate or excessive  
22 rates under AS 21.79.030(b), the director may encourage and assist  
23 insurers licensed to operate in the state to join together in joint  
24 underwriting associations for the purpose of assuming, on the terms  
25 and conditions they agree to, a reasonable portion of responsibility  
26 for the adjustment and payment of claims arising from product, ser-  
27 vice, or operationally related property damage, injuries, disabili-  
28 ties, illnesses, and deaths.

29 (b) The director, in accordance with appropriate standards of

1 financial responsibility, accounting, operation, risk of loss, loss  
2 control and underwriting, on application of a party or parties listed  
3 in AS 21.79.020(a) may authorize modification of the capital and  
4 surplus provisions of AS 21.75.010 - 21.75.340, relating to domestic  
5 reciprocal insurers and cooperative insurers.

6 (c) Money from the joint underwriting associations established  
7 under (a) of this section may be used only to pay claims resulting  
8 from product, service, operations, or related actions in excess of  
9 amounts that are established each year by the director as capital and  
10 surplus. The director may establish different amounts for each in-  
11 surer or joint underwriting association based on the needs of the  
12 insureds and joint underwriting association members, and other rele-  
13 vant factors.

14 (c) Joint underwriting associations established under this  
15 section may be funded by premiums paid by those entities listed in  
16 AS 21.79.020(a) to insurers or to their attorney in fact approved by  
17 the director. If the director finds, after notice and hearing, that  
18 the premiums charged by the insurers or joint underwriting associa-  
19 tions make the insurance from the joint underwriting associations  
20 unavailable or available at a rate excessive for manufacturers, ser-  
21 vice providers or other entities listed in AS 21.79.020(a), the direc-  
22 tor may amend the terms and conditions of reinsurance under AS 21.79.-  
23 050 to decrease the premiums to be paid, approve loans from AS 21.79.-  
24 010 funds to joint underwriting associations, or take other actions  
25 authorized by law.

26 Sec. 21.79.050. REINSURANCE COVERAGE. (a) After a finding  
27 under AS 21.79.030(b) of unavailability or availability only at exces-  
28 sive rates, the director may take necessary action to make reinsurance  
29 coverage available to the joint underwriting associations formed under

1 AS 21.79.040 or to Alaska domestic reciprocal insurers, Alaska domes-  
2 tic cooperative insurers, or the Medical Indemnity Corporation of  
3 Alaska. The director may also make reinsurance available directly to  
4 insurers that participate in joint underwriting associations estab-  
5 lished under AS 21.79.040 for the portion of their business that is  
6 related to a line of insurance that the director determines is un-  
7 available or available only at excessive rates under AS 21.79.040.  
8 Action authorized under this subsection includes the authority to  
9 enter into a contract with a reciprocal insurer, cooperative insurer,  
10 the Medical Indemnity Corporation of Alaska, or joint underwriting  
11 association for reinsurance coverage based on a premium, fee, or other  
12 charge set by the director, and to approve loans from the reinsurance  
13 fund.

14 (b) The director shall include in a contract or arrangement  
15 under this section the terms the director considers necessary to carry  
16 out the purposes of this chapter and to protect state funds loaned or  
17 entrusted. The reinsurance may be subject to deductibles and other  
18 restrictions and limitations determined by the director to be prudent.  
19 Premiums collected shall be paid into the general fund.

20 (c) The director may not provide reinsurance under this section  
21 to a manufacturer, service provider, insurer, Medical Indemnity Corpo-  
22 ration of Alaska, or joint underwriting association that

23 (1) the director determines to have assets below acceptable  
24 limits of capital or surplus; or

25 (2) has not adopted reasonable protective measures to  
26 prevent loss, consistent with standards adopted by the director under  
27 AS 21.79.100(a).

28 (d) Reinsurance offered under this section shall reimburse an  
29 insurer or joint underwriting association for its total proved and

1 approved claims for covered losses resulting from product, service, or  
2 operationally related property damage, injuries, disabilities, ill-  
3 nesses, and deaths during the term of the reinsurance contract or  
4 other agreement, above the amount of the insurer's or joint underwrit-  
5 ing association's retention of the losses as provided in the reinsur-  
6 ance contract.

7 (e) Reinsurance claims under this section shall be paid from the  
8 fund established in AS 21.79.010 within 90 days of receipt by the  
9 director of proof of loss.

10 Sec. 21.79.060. CONTRACTING WITH INSURANCE COMPANIES. The  
11 director may contract with a licensed insurer, agent, broker, or  
12 insurance service organization to administer a program or programs  
13 established under this chapter, except that the director may not  
14 delegate the responsibilities described in AS 21.79.020.

15 Sec. 21.79.100. GENERAL RESTRICTIONS ON PROGRAMS UNDER THIS  
16 CHAPTER. (a) The director shall ensure that programs operated under  
17 this chapter

18 (1) do not act as disincentives for improvements in product  
19 safety, safe service delivery, or safe operating practices;

20 (2) promote product safety, safe service delivery, and safe  
21 operating practices through the establishment of models and programs  
22 for risk management and loss control that are agreed on by the direc-  
23 tor, joint underwriting associations, insurers, and insureds and  
24 approved by the director as a prerequisite for eligibility for the  
25 programs under this chapter.

26 (b) A manufacturer, service provider, or other entity listed in  
27 AS 21.79.020 that benefits from a program under this chapter, shall  
28 agree that the relevant product or service will remain available to  
29 the public during the period in which the manufacturer, service

1 provider, or other entity participates in the programs.

2 (c) An insurer that benefits from programs under this chapter  
3 shall agree that insurance that is written during the period in which  
4 the insurer or its insured manufacturer, service provider, or other  
5 entity listed in AS 21.79.020, participates in the programs will  
6 charge premiums that are based on an experience rate and that are not  
7 excessive or inadequate when based on reasonable assumptions and  
8 probabilities.

9 Sec. 21.79.110. ENFORCEMENT OF THIS CHAPTER. (a) At the re-  
10 quest of the director, the attorney general shall bring an action in  
11 the appropriate court to recover from a person the amount of an unpaid  
12 reinsurance premium lawfully payable by the insurer to the director or  
13 to the manager selected under AS 21.79.060.

14 (b) An action under this section must be brought within five  
15 years of the date the right to payment accrued. If false or fraudu-  
16 lent conduct warrants, the claim is not considered to have accrued  
17 until its discovery.

18 (c) A recovery under this section shall be deposited in the  
19 general fund.

20 Sec. 21.79.200. PERIODIC REVIEW OF PROGRAMS. The director shall  
21 periodically review the programs operating under this chapter and  
22 annually report to the legislature within the first 10 days of each  
23 regular session, beginning with the Second Session of the Fifteenth  
24 Legislature, concerning

25 (1) whether the programs are effectively making commercial  
26 general liability and other essential lines of liability insurance  
27 readily available to the entities listed in AS 21.79.020;

28 (2) the director's recommendations for revising this chap-  
29 ter in order that it may more effectively achieve its purposes.

1 \* Sec. 3. AS 21.39.155(a) is amended to read:

2 (a) The director may require carriers, except a reciprocal  
3 insurer formed by and insuring only a group of municipalities or  
4 nonprofit public utilities under AS 21.75 or a joint insurance ar-  
5 angement formed under AS 21.76, as a condition of writing a line of  
6 insurance dealing with workers' compensation, to participate in an  
7 assigned risk pool if the director finds that mandatory carrier part-  
8 icipation is in the public interest.

9 \* Sec. 4. AS 21.80.180(5) is amended to read:

10 (5) "insolvent insurer" means an insurer  
11 (A) authorized to transact insurance in this state,  
12 except an assessable reciprocal insurer formed by and insuring  
13 only municipalities or nonprofit public utilities, a joint insur-  
14 ance arrangement formed under AS 21.76, the Medical Indemnity  
15 Corporation of Alaska, and the Health Care Providers Joint Under-  
16 writing Association established under AS 21.88, either at the  
17 time the policy was issued or when the insured event occurred,  
18 and  
19 (B) determined to be insolvent by a court of compe-  
20 tent jurisdiction;

21 \* Sec. 5. AS 21.80.180(6) is amended to read:

22 (6) "member insurer" means a person, except an assessable  
23 reciprocal insurer formed by and insuring only municipalities or  
24 nonprofit public utilities, a joint insurance arrangement formed under  
25 AS 21.76, the Medical Indemnity Corporation of Alaska, and the Health  
26 Care Providers Joint Underwriting Association established under  
27 AS 21.88, who

28 (A) writes any kind of insurance to which this chap-  
29 ter applies under AS 21.80.020 including the exchange of

1 reciprocal or interinsurance contracts, and

2 (B) is licensed to transact insurance in this state;

3 \* Sec. 6. By the fifth day of the First Session of the Fifteenth Legis-  
4 lature, the commissioner of commerce and economic development shall report  
5 to the legislature concerning

6 (1) the nature and extent of anticipated use of the insurance  
7 industry in the delivery of reinsurance under sec. 2 of this Act to  
8 manufacturers, service providers, insurers, and joint underwriting  
9 associations;

10 (2) anticipated costs of providing reinsurance under sec. 2 of  
11 this Act;

12 (3) the identity of applicants that have contacted the depart-  
13 ment about the programs that would be authorized under this Act; and

14 (4) the identity of affected parties that might benefit from  
15 participation in the programs authorized under this Act.

16 \* Sec. 7. AS 21.36.190 is repealed.

17 \* Sec. 8. Sections 1 and 3 - 7 of this Act take effect immediately in  
18 accordance with AS 01.10.070(c).

19 \* Sec. 9. Section 2 of this Act takes effect March 1, 1987.