

SB

212

SEVENTEENTH LEGISLATURE  
SENATE JUDICIARY COMMITTEE BILL FILE

BILL NUMBER: SB 212  
ABBREVIATED TITLE: MICA Death -

SPONSER: L & C By Request ORIGINAL RECEIVED: April 8, 1991  
WRITTEN REQUEST TO SCHEDULE REC'D: 4-20-91 FROM: Parsons  
SPONSER'S STATEMENT REC'D: \_\_\_\_\_ FROM: \_\_\_\_\_  
SECTIONAL ANALYSIS RQST'D: \_\_\_\_\_ FROM: \_\_\_\_\_  
SECTIONAL ANALYSIS RECEIVED: \_\_\_\_\_

FISCAL NOTE (ORIGINAL)  
RQST'D OF: \_\_\_\_\_ REC'D FROM: Commerce DATE: with file  
RQST'D OF: \_\_\_\_\_ REC'D FROM: \_\_\_\_\_ DATE: \_\_\_\_\_  
RQST'D OF: \_\_\_\_\_ REC'D FROM: \_\_\_\_\_ DATE: \_\_\_\_\_

FISCAL NOTE (C.S.)  
RQST'D OF: \_\_\_\_\_ REC'D FROM: \_\_\_\_\_ DATE: \_\_\_\_\_  
RQST'D OF: \_\_\_\_\_ REC'D FROM: \_\_\_\_\_ DATE: \_\_\_\_\_  
RQST'D OF: \_\_\_\_\_ REC'D FROM: \_\_\_\_\_ DATE: \_\_\_\_\_

FIVE DAY NOTICE GIVEN: \_\_\_\_\_ NOTICE OF HEARINGS GIVEN: \_\_\_\_\_  
COMMITTEES OF REFERRAL: FIRST: L & C SECOND: Jud THIRD: \_\_\_\_\_

COMMITTEE ACTION Legislative Draftsman

DATE: 4-5-91 Moved on Ind Rec -  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PERSONS TO BE NOTIFIED OF HEARING

- 1. SPONSOR Div Insurance -
- 2. AGENCY Dove Walsh -
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_
- 5. \_\_\_\_\_
- 6. \_\_\_\_\_
- 7. \_\_\_\_\_
- 8. \_\_\_\_\_
- 9. \_\_\_\_\_
- 10. \_\_\_\_\_

Involved Question: Fed Taxation of State Entities -

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. SB 212

Revision Date: \_\_\_\_\_ Department Affected: Commerce & Economic Dev.  
 Title: An Act relating to the Medical BRU: Insurance  
Indemnity Corporation of Alaska Component: \_\_\_\_\_  
 Sponsor: Senate L & C  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 

|  |  |  |  |
|--|--|--|--|
|  |  |  |  |
|--|--|--|--|

Expenditures/Revenues: (Thousands of Dollars)

| OPERATING         | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 | FY 97 |
|-------------------|-------|-------|-------|-------|-------|-------|
| 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 |
|---------|---|---|---|---|---|---|

|         |   |   |   |   |   |   |
|---------|---|---|---|---|---|---|
| REVENUE | 0 | 0 | 0 | 0 | 0 | 0 |
|---------|---|---|---|---|---|---|

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 |   |   |   |   |   |   |

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: David Walsh, Director Phone: 465-2515  
 Division: Insurance Date: 3/20/91  
 Approved by Commissioner: Glenn A. Olds *Whellon* ASST Commr.  
 Agency: Department of Commerce & Economic Development Date: 3/20/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

May 2 - MICA 212

Dave Walsh -

Keith Campbell - Board of MICA -

25% of MDs are uninsured.

There should be 1 1/2 M left. It will go to

Those who paid premiums -

Moved on Red Rec -

# Alaska State Legislature

Senator Drue Pearce, Chair  
Senator Virginia Collins, Vice Chair  
Senator Dick Ellason  
Senator Rick Halford  
Senator Jay Kerttula



WHILE IN JUNEAU  
P.O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-3844

3111 C STREET, SUITE 150  
ANCHORAGE, ALASKA 99504  
(907) 561-2018

## SENATE LABOR AND COMMERCE COMMITTEE

TO: Senator Rick Halford, Chair  
Senate Judiciary Committee

FROM: Senator Drue Pearce, Chair  
Senate Labor & Commerce

A handwritten signature in cursive script that reads "Drue Pearce".

RE: SB 212 - MICA

DATE: April 19, 1991

Senate Bill 212, relating to the Medical Indemnity Corporation of Alaska, was moved from the Senate Labor & Commerce Committee on April 3rd.

This legislation, sponsored by the Senate Labor & Commerce at the request of the Division of Insurance, removes from statute provisions that pertain to MICA, an entity that the state no longer owns. This legislation also clarifies responsibility for the filing of federal tax reports.

I urge you to schedule this bill for a hearing at your committee's earliest convenience.

Thank you.

DP:rrm

SENATE COMMITTEE REPORT  
FIRST COMMITTEE OF REFERRAL

DATE: 3/18/91

FURTHER: Judiciary

Date of 5-Day Notice: 3-28-91  
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: \_\_\_\_\_

L&C Committee considered SB 212  
Medical Indemnity Corporation of Alaska; efd.

and recommended:

- replace with \_\_\_\_\_ CS \_\_\_\_\_  same title
- attached amendment(s)  new title
- \_\_\_\_\_ letter of intent adopted
- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to \_\_\_\_\_

ATTACHES NEW FISCAL NOTE(S):

Department(s)/Date:

Department(s)/Date:

fiscal note(s) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

zero fiscal note(s) LABOR/3-20-91  
\_\_\_\_\_  
\_\_\_\_\_

appropriation-no fiscal note

Governor's bill w/fiscal note

SIGNING DO PASS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

OTHER RECOMMENDATIONS:

Bob Hines NO REC  
Rick Halford NO REC  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

John Collier DO NOT PASS  
Chair: Signature and Recommendation

SB 212: "An Act relating to the Medical Indemnity Corporation of Alaska; and providing for an effective date."

The department is in favor of this legislation. Due to the sale of the Medical Indemnity Corporation of Alaska (MICA) on January 1, 1991, the need for an insurance mechanism under state statute for medical providers is nonexistent. The market that has purchased MICA business will be providing coverage to the former insureds of MICA.

  
Glenn A. Olds, Commissioner

Date: 3/21/91

ALASKA STATE

# HOSPITAL & NURSING HOME

ASSOCIATION

April 29, 1991

Senator Rick Halford, Chair  
Judiciary Committee  
Alaska State Senate  
Capitol Building  
Juneau, AK 99811

Re: Support SB 212, MICA Dissolution

Dear Senator Halford and Members  
of the Senate Judiciary Committee:

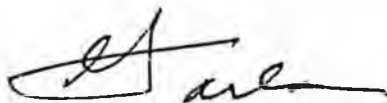
The Alaska State Hospital and Nursing Home Association would like to offer its support of SB 212, allowing for the repeal of statutes creating the Medical Indemnity Corporation of Alaska (MICA).

The Association and its members have followed for the past year the "tax" developments requiring the statutory restructuring of MICA, or its sale to another insurance company.

Hospitals were kept well informed on the tax problem faced by MICA, the options to avoid the tax liability, and the decision to sell MICA to a non-profit physician owned mutual liability insurance company (NORCAL).

Director of Insurance David Walsh, did an excellent job of keeping everyone informed of the sale, and we believe a sound decision has been made. That decision will see Alaska health care providers have access to coverage that will, in the long run, be better coverage at less cost than MICA.

Sincerely,



Harlan R. Knudson  
President/CEO

cc: Members, Senate Judiciary Committee  
Senator Rodey  
Senator Adams  
Senator Collins  
Senator Frank

**MICA** Medical Indemnity  
Corporation of Alaska

ALEUT PLAZA  
4000 OLD SEWARD HWY., SUITE 203  
ANCHORAGE, ALASKA 99503  
(907) 563-3414

DATE: October 22, 1990  
TO: All MICA Policyholders  
FROM: Ron Keller, M.D. *RJK*  
Chairman of the Board of Governors  
Medical Indemnity Corporation of Alaska  
RE: Announcement of quarterly meeting & notice of potential purchase offer for MICA

On November 2nd, MICA's Board of Governors will hold our regular quarterly meeting in Anchorage at the Clarion Hotel beginning at 9 a.m.

I am sending you this quick memo to let you know some good news: It's likely that we will be receiving a formal offer to purchase MICA, and we'll deal with that issue at the meeting. Policyholders are, naturally, invited to attend. But we also invite you--if you've got questions about these developments--to give MICA Executive Director Mary Pierce a call at 563-3414. She'll be glad to answer any questions and fill you in on the recent events since we last contacted you.

Let me give you a quick run down. As you'll recall, MICA's tax exempt status was challenged by the IRS; and as a result MICA cannot continue to operate the way it has been operating since it was established in 1976. The three choices for MICA are to:

- Merge into the state bureaucracy.
- Spin off to become a totally private mutual insurance company.
- Have its assets & liabilities purchased by a private carrier.

Of these options, the MICA Board has unanimously chosen to pursue a purchase.

We have every indication that a physician owned mutual, very closely aligned philosophically with MICA will be making us an offer. This firm has indicated they are willing to meet the tough conditions that the MICA Board has placed on any sale. Those conditions are:

- A 5-year guarantee that all current policyholders who are otherwise acceptable underwriting risks will receive continued coverage.
- No cancellation of existing policyholders without an Alaska-based appeal process.
- No geographical discrimination in underwriting terms & benefits.
- Continuation of current rating classifications, with a special category for family practice docs doing obstetrics.
- Purchaser will keep an Alaska office with both claims adjusting and risk management staff, plus provide an 800 toll-free phone number.
- Certain policyholder benefits will continue, such as the current DDR (free tail); availability of tail policies for purchase; policyholder inception date with MICA used to determine benefits based on length of coverage; and insureds will still have to give written consent to settle any claim.

As you can see, the MICA Board's top priority is safeguarding your interests. We'll be contacting you again once a formal offer is made, and after our meeting on Nov. 2nd. Meanwhile, please feel free to call Mary at 563-3414 to get questions answered or to find out more about where MICA is going.

Thanks.

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

William G. Brock  
Chairman of the Board  
Medical Indemnity Corporation  
of Alaska  
400 Old Seward Highway  
Anchorage, Alaska 99503

Person to Contact:  
Thomas J. Kelly

Telephone Number:  
(202) 566-3506

Refer Reply to:  
CC:FI&P:2 - TR-31-3927-88

Date:

MAR 19 1990

RECEIVED

MAR 21 1990

Dear Mr. Brock:

The Deputy Chief Counsel of the Internal Revenue Service approved your closing agreement on March 15, 1990.

I have enclosed the signed duplicate of the agreement for your records.

Thank you for your cooperation.

Sincerely yours,  
Assistant Chief Counsel  
Financial Institutions and Products

By:

  
William E. Coppersmith  
Chief, Branch 2

Enclosure:  
Duplicate of closing agreement

Department of the Treasury - Internal Revenue Service

CLOSING AGREEMENT ON FINAL DETERMINATION

COVERING SPECIFIC MATTERS

Under section 7121 of the Internal Revenue Code, the Medical Indemnity Corporation of Alaska (MICA), 4000 Old Seward Highway, Anchorage, Alaska 99503, Employer Identification Number: 92-6017594 and the Commissioner of Internal Revenue make the following closing agreement:

WHEREAS,

(1) An issue has arisen whether MICA's income is not included in gross income under section 115 of the Internal Revenue Code; and

(2) MICA and the Commissioner of Internal Revenue (IRS) desire to settle this issue with respect to all past and present tax years and with respect to future tax years through and including tax year ending December 31, 1992; and

(3) MICA and the IRS desire to identify specific actions that MICA will undertake between the date of execution of this Closing Agreement and December 31, 1992;

IT IS DETERMINED AND AGREED for Federal income tax purposes that:

(1) With respect to all past and present tax years and with respect to future tax years through and including tax year ending December 31, 1991, MICA's income shall not be included in gross income under section 115 of the Internal Revenue Code.

(2) With respect to the tax year ending December 31, 1992, MICA's income shall not be included in gross income under section 115 of the Code only to the extent that MICA establishes that such income is attributable to physicians or other health care providers who, despite a reasonable effort, could not obtain medical malpractice coverage from another insurance company.

**Closing Agreement  
Medical Indemnity Corporation of Alaska**

(3) During the period from the date of execution of this Closing Agreement until December 31, 1992, MICA agrees as follows:

(a) before May 1, 1990, and annually thereafter until December 31, 1992, MICA will send written notice to all insurance companies that now offer medical malpractice coverage in the State of Alaska and also to at least five other companies that write medical malpractice coverage informing them of the existence of the statutory mechanism for the purchase of MICA's business under Alaska Statute 21.88.095 ("Transfer of Corporate Assets and Liabilities"); and

(b) upon receipt of any good faith offer or expression of interest, MICA will make a good faith effort to negotiate an agreement for the transfer of corporate assets and liabilities on the terms authorized by said statute and to obtain the approval of the Director of the Alaska Division of Insurance for such transfer; and

(c) before the end of the current legislative session, which is required by law to end by May 10, 1990, MICA will transmit to the Alaska Legislature a written report that (1) summarizes the provisions of this Closing Agreement, (2) describes the principal statutory changes that may be necessary with respect to MICA's structure and tax status, and (3) alerts the legislature to the need to take legislative action with respect to MICA during the next two-year legislative term, which will begin in January 1991, if the Legislature wishes to preserve MICA's tax-exempt status; and

(d) after the statewide elections in the fall of 1990, MICA will transmit to the newly-elected Governor and to all members of the Alaska Legislature for the 1991-1992 term a written report that (1) summarizes the provisions of this Closing Agreement, (2) describes the principal statutory changes that may be necessary with respect to MICA's structure and tax status, and (3) alerts the legislature to the need to take legislative action with respect to MICA during the 1991-1992 term of the Legislature, if the Legislature wishes to preserve MICA's tax-exempt status; and

**Closing Agreement  
Medical Indemnity Corporation of Alaska**

(e) before the beginning of the next legislative session, which will begin in January 1991, MICA will consult with the newly-elected Governor and will contact key individual legislators for the 1991-1992 legislative term, for the purpose of developing a legislative proposal regarding MICA's future structure and tax status; and

(f) during the 1991-1992 term of the Alaska Legislature, MICA will initiate and maintain regular and ongoing contacts with the Governor's office, with the Director of the Division of Insurance, and with key individual legislators for the purpose of informing them of the need for legislative action with respect to MICA; and

(g) throughout the 1991-1992 term of the Alaska Legislature, as necessary or advisable, MICA will prepare or assist in the preparation of appropriate proposed legislation and will seek to have that proposed legislation introduced as early as possible after the Legislature goes into session in January 1991; and

(h) if appropriate legislation pertaining to MICA is introduced during the 1991-1992 term of the Alaska Legislature, MICA will participate in the legislative hearing process and will otherwise take appropriate action to encourage the passage of the legislation.

(4) Beginning with the tax year ending December 31, 1993, none of MICA's income shall be excluded from gross income under section 115 of the Internal Revenue Code.

(5) However, if MICA's organic statute (Alaska Statute 21.88) is repealed, reenacted or otherwise revised so as to establish MICA as an integral part of the State, MICA's income shall not be subject to federal tax as of the effective date of the statutory change.

(6) If MICA is established as an integral part of the state or MICA's structure is otherwise changed so that MICA no longer claims that its income is excluded from gross income under section 115 of the Code, MICA's obligation under paragraph (3) above shall cease.


**Closing Agreement  
Medical Indemnity Corporation of Alaska**

**This agreement is final and conclusive except:**

- (1) the matter it relates to may be reopened in the event of fraud, malfeasance, or misrepresentation of material fact;
- (2) it is subject to the Internal Revenue Code sections that expressly provide that effect be given to their provisions, notwithstanding any other law or rule of law except for Code section 7122; and
- (3) if it relates to a tax period ending after the date of this agreement, it is subject to any law, enacted after the agreement date, that applies to that tax period.

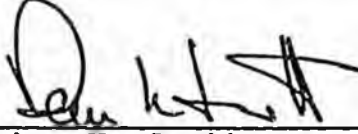
By signing, the above parties certify that they have read and agreed to the terms of this document.

Medical Indemnity Corporation of Alaska

By:   
William G. Brock  
Chairman of the Board

Date signed: Mar. 12, 1990

Commissioner of Internal Revenue

By:   
Peter K. Scott  
Deputy Chief Counsel

Date signed: March 15, 1990

**MICA** Medical Indemnity  
Corporation of Alaska

ALEUT PLAZA  
4000 OLD SEWARD HWY., SUITE 203  
ANCHORAGE, ALASKA 99503  
(907)563-3414

TO: William Brock  
Roger Holmes, Esq.  
Susan Mason, Esq.

FROM: Mary Pierce *MP*

DATE: May 8, 1990

RE: Tax Issue History

The final tax issue history is enclosed for your files. I don't plan on distributing this other than to the three of you at this time. Thanks for you help on this, it may prove to be a good reference in the future.

MP/tmb

# TAX ISSUE HISTORY

## 1988

Sometime in early 1988 as MICA was working with Ernst & Whinney on our reserve issue Tom Koecher advised Mary Pierce, Executive Director, that their office felt there may be a question regarding MICA's tax status due to the change in the 1986 tax law. He said they were looking into it and would get back to us.

March 12 - Executive Committee Meeting. Tom Koecher, Ori Orien of Anchorage and Dave Wilson (Seattle) all of Ernst & Whinney were at the meeting to discuss reserve increases. They told the Executive Committee about the tax status question and that their tax advisor would be attending the next Executive Committee meeting.

March 18 - Executive Committee Meeting. Koecher, Orien and Shelby Stastny explained question of tax status to committee. They explained two prong test to be tax exempt.

- 1) Income must accrue to the State  
and

- 2) Must have a public purpose or "essential governmental function."

The Executive Committee asked them to investigate the question and report back. Brock, Pierce and Koecher would meet with Director Roller on March 25th to advise him of tax exempt status question.

April 26 - Stastny reported to Executive Committee that initial informal discussion with IRS suggested we would not receive a favorable ruling. Suggested we file tax returns and pursue formal tax ruling request. Cost to do research and ruling request est. \$10 - 15,000.

May 6 - Engagement letter from Stastny outlining course of action on request for tax ruling and cost.

May 13 - Board votes to submit formal ruling request to IRS. Estimated cost from E & W is \$20,000.

- June 17 - Paul Roller, Director Division of Insurance and Deputy Director, Jim Jordan present at Board meeting. A draft tax ruling request given to Executive Committee. Stastny asked Arliss Sturgulewski to do some legislative research to help answer legislative intent questions. Letter to be finalized soon.
- June 30 - Memo from Maureen Weeks to Sturgulewski stating she had researched the records of the 1976 session and there was not any specific testimony to create for-the-good-of-the-public issue.
- July 15 - Stastny reports to the Executive Committee that ruling request not sent yet. He is waiting for final information from legislative research. MICA has provided all pertinent back-up from 1975 Governor's Medical Malpractice Insurance Commission and all other historical data.
- July 24 - At Quarterly meeting of the Board, Director Paul Roller tells Board he has spoken to several legislators. They are anxious to help us clear up any misunderstandings about legislative intent and would like our proposed changes by September.
- August 4 - Stastny sends some ideas for proposed legislative changes that may help us win our case to Roger Holmes, Brock and Pierce.
- August 5 - Stastny's research has uncovered three companies very similar to MICA who requested rulings. Sent to Holmes and Pierce. All three received unfavorable rulings.
- August 11-30 - Holmes proposes legislative changes. He believes that these changes will make it clear that our earnings belong to the state.
- August 23 - David Bickerstaff gives us estimate that rates will need to increase 15-17% for 1989 to cover taxes.
- August 24 - MICA sends revenue ruling request to IRS.

- Special Executive Committee meeting on tax status with entire Board of Governors. Koecher and Stastny present.  
They explain problem and that Holmes' proposed legislation could resolve it by making it clear MICA's earnings belong to the state.  
The Board votes to forward Holmes' legislation to Governor and legislature.
- September 7 - Roller (Director) agrees to hand carry the letter to the Governor. The letter explains our dilemma to the Governor and asks if he might sponsor legislative changes.
  - Roller also suggest we purchase an insurance company with net losses to offset our taxes.
- September 16 - Brock receives letter from Stastny advising him that MICA can't use net losses of an acquired corporation (insurance company) to offset income.
  - Executive Committee Meeting. E & W tells committee ruling request filed on 8-24-88 and we will have a response within 90 days. Unfortunately a rate filing must be made by November 1 and a 15% increase is needed to just cover 1989 taxes. Executive Committee votes to file 1-1-89 rate based on pure premium and to then retroactively charge an amount needed for taxes later in year if we don't receive legislative fix.
- September 16 thru 30 - Holmes and Pierce meet with Senator Kelly and Representative Cotten to personally advise them of our problem and show them proposed legislation.
- November 4 - Board has Quarterly meeting. Jim Jordan reports to Board that although the Governor has not released his legislative priorities the informal message is that he will sponsor our legislation.
  - A plan of action to get information to legislators while we are waiting for official response from the Governor is proposed. The Legislative Committee will register as lobbyists for this purpose.

November 11 - A letter is sent to the policyholders explaining 1989 rating structure.

November 22 - Tom Kelley the agent at the IRS has several questions regarding MICA that he asks of Stastny. We respond with a letter to Kelley.

November 25 - A draft letter is composed to have board members send to legislators. This is sent to the Board members along with:

- a ) a fact sheet
- b ) a copy of the letter sent to policyholders on the rates
- c ) a spread sheet of our financials for the last 5 years.

Pierce sends letter to Senator Kelly and Representative Cotten.

December 1 - The Legislative Committee meets to devise plan to distribute information to legislators since told Governor would not sponsor legislation because a) he could not investigate all possibilities in a timely manner and b) he did not feel that the state should be in the insurance business.

December 8 - A special Board meeting is called.

Chairman Brock had met with Director Roller and Stan Garlington. Roller said it was reasonable to assume that legislation will pass and the Governor will not oppose or veto bill. Board votes to approve 10.5% increase for hospitals and 12.6% increase for physicians to be taken for taxes if it is determined we were liable.

Chairman Brock reported we have been asked to meet with the IRS in Washington, D.C. Also Stastny reported the tax accountants in Washington advised us we may be relieved retroactively of taxes. We had previously been told this wasn't possible. The IRS's single question was "do our profits inure to the state." The Board discussed if that could mean fewer legislative changes.

Finally, it was discussed if MICA should even propose legislation considering there was a) a question of our tax liability b) reluctance of Governor to sponsor legislation and c) whether MICA wanted to legislatively bind itself closer to the state. Board agreed to meet after Brock meets with IRS.

Director Roller also approved of us hiring a lobbyist to forward legislation.

- Executive Committee approves Brock to go to Washington, D.C.
- December 14 - Brock, Stastny, Phil Royalty and Ken Tracy from E & W in Washington, D.C. met with Tom Kelley and Kelley's boss, Maura Sullivan and another person Alvin Brown from the insurance section. Brock hopes to at least find out what kind of legislative changes would be needed to maintain tax exemption. IRS not sympathetic and will not give information on legislation. E & W expects we will have ruling by January 1989. We will provide additional information requested by IRS. E & W feels a favorable opinion from Alaska Attorney General regarding state "ownership" could be helpful.
- December 10 thru 16 - The legislative drafter is contacted by Holmes thru Senator Kelly's office to anticipate information from Brock's meeting in D.C. Drafter later informed to hold off on that legislation by Holmes as result of December 14th meeting with I.R.S.
- December 20 - Brock spoke to Jim Jordan about obtaining the AG's opinion. Jim will discuss with Paul Roller and get back to us.
- December 30 - Director Roller prepares request for AG's opinion on disposition of MICA's assets if MICA were to be dissolved.

## 1989

- January 11 - Letter from Stastny to IRS explaining how unique we are, unlike previous adverse ruling cases.
- February 8 - Jeffrey Bush, Deputy Commissioner of Commerce, forwards Director Roller's request for opinion to AG's office.
- February 10 - Board meeting in which Chairman Brock informs board we still have no ruling. Brock tells board that Pierce will be preparing a summary of issues and will forward.
- February 22 - Memo from Pierce to Board outlining all of our choices if tax ruling is favorable or unfavorable.
- February 28 - Stastny calls IRS to get word on ruling. He is informed by Kelley that although Kelley is favorable his boss isn't. This could mean arbitration within IRS. Holmes advises MICA to get tax attorney.
- March 7 - Bruce Gagnon and Sue Mason of Atkinson, Conway & Gagnon meet with Brock, Holmes, Crabtree, Koecher, Stastny and Pierce. Advise us to take an aggressive approach with IRS.
- March 8 - Engagement letter from Atkinson, Conway and Gagnon. Advise MICA that we should propose a resolution to have the legislature clear up question about MICA being an integral part of the state.
- March 8-22 - We talk to Roller and then Deputy Commissioner Jeff Bush and advise them we want to do resolution.
- We contact Cotten in House and Sturgulewski in Senate to see if they might sponsor resolution.
- March 17 - Executive Committee meets and is informed about need for tax attorney. They approve contract with Atkinson, Conway and Gagnon. They will ask Board to approve.

- March 20 - Brock, Pierce and Mason meet in Juneau with Jeffrey W. Bush, Deputy Commissioner of the Department of Commerce and Economic Development, and later with Cotten's aide, regarding proposed legislative resolution.
- March 22 - MICA sends "Background Summary" on tax issue to Cotten.
- House Joint Resolution 40, co-sponsored by Gruenberg and Cotten, is introduced.
- Brock sends a letter to Ron Clarke in Governor's office regarding discussion with Jeff Bush on resolution enclosing copy of proposed legislative resolution.
- March 26 - Gagnon, Phil Royalty & Ken Tracy (E & W, Washington, D.C.) have conference call with Tom Kelly at IRS and learn that a proposed adverse ruling is now being reviewed by Maura Sullivan. Kelly says that the ruling would be based on the Maryland Savings Share case.
- March 28 - Mason writes to AG's office and outlines factors supporting conclusion that MICA's assets would revert to the state upon dissolution.
- April 3 - Senate Joint Resolution 41, sponsored by Sturgulewski is introduced.
- April 13 - A. G. couldn't reach an opinion that was helpful to MICA so request for an opinion was abandoned.
- April 18 - Executive Committee has joint meeting with Underwriting. They are informed that resolution has been forwarded and we expect it to pass. In the meantime Gagnon and Mason advise us not to implement mid-year premium increase because we would be admitting liability.
- April 25 - Mason has telephone discussion with Deputy Commissioner Bush regarding distribution of Joint Legislative Resolution.

April 26 - Mason has telephone discussion with Shari Kochman, Assistant to Bob Evans in the Governor's Office, regarding Joint Legislative Resolution.

April 28 - Quarterly Board meeting and board advised we still have not heard from the IRS.

Board told that tax attorneys will be working with the Governor to draft an appropriate letter to our Congressional delegation. We are hopeful that the congressional delegation can assist us to consult with someone of a higher stature in the IRS. We aren't getting anywhere at level we are at.

Roller and Jordan attend the meeting but only for their report.

Board increases budget to cover legal and audit counsel expenses on our tax issue.

Board votes not to take rate increases for taxes.

The Board has a lengthy discussion that the tax issue has been more complicated than anticipated. Since this tax liability is shown on our financial statements it will continue to accumulate. The Board feels that we need a long term solution.

Chairman Brock points out that if we receive an adverse ruling we can litigate. However, that litigation would take time and be costly and our tax liability would continue to accumulate.

- Legislative Committee meets and is informed that the resolution should pass.

May 5 - Senate Joint Resolution 41 passes the House.

May 8 - Brock sends Ron Clarke a draft of a proposed letter from the Governor to the Congressional delegation enclosing copies of Senate Joint Resolution 41 and "Background Summary".

May 12 - Senate Joint Resolution 41 transmitted to Governor from Legislature.

- May 25 - Pierce talks to Clarke to confirm letters will be sent soon.
- June 2 - Governor Cowper sends letters to Young, Murkowski and Stevens, enclosing Senate JR 41 and requesting they assist MICA on tax issue.
- Cowper sends copy of letters to his special assistant, John Katz in Washington, D.C. office to ask him to assist.
- June 12 - Phil Royalty (E & W) discussed MICA with Tom Kelley of IRS and learned that a decision had been made to issue an adverse ruling; Maura Sullivan is no longer involved and Bill Coppersmith is Kelley's new supervisor, and MICA will have an opportunity to meet with him before the ruling is issued. Kelley says that the basis for the decision is that MICA is insuring private interests. Royalty requests copies of Joint Legislative Resolution and of Governor's letters to the Congressional delegation.
- June 13 - Bob Evans of the Governor's Office tells Mason he has discussed the situation with John Katz and that MICA should contact Katz.
- June 16-21 - The Governor signs Legislative Resolve #38. Copy of it and letters Governor sent to congressional delegation sent from Mason to Royalty. Ask Royalty to give to IRS.
- June 19 - Mason and Gagnon discuss situation by telephone with John Katz, who offers the assistance of Eric Ostrovsky in his office.
- June 21 - Special Board meeting. Holmes, Mason and Stastny in attendance to discuss tax issue with the Board. Stastny and Mason advise Board to withdraw revenue ruling request until we can meet with the IRS and advise them of the Legislative Resolve. Board gives them authority to pull request if they deem necessary.

- June 22 - Mason talks by telephone to Ostrovsky regarding possible meeting with IRS to include representatives from Katz's office and from Stevens' office and regarding possible federal legislation.
- June 27 - Chuck Konigsberg from Senator Stevens' office calls to offer us help to meet with IRS attorneys and with Office of Tax Policy in the Treasury Department.
- July 18 - Mason receives letter from Pierce advising that Konigsberg is setting up a meeting with the Department of the Treasury for the week of August 7.
- July 19 - Royalty sends copy of Legislative Resolve #38 to IRS. He tells them we will be meeting with the Department of the Treasury in August. He asks that if they determine before then that we should have an adverse ruling to advise us so we can pull the request.
- July 21 - MICA meets with Roller to advise him of our progress.
- July 26 - Konigsberg sends letter to following for 8-8-89 meeting with Department of the Treasury: Brock, Mason, Pierce, Royalty and partner Dave Bierenson from E & W, and Eric Ostrovsky from the Alaska State Office in Washington, D.C.
- August 8 - Meeting with Department of Treasury in Washington, D.C. Attendees: Brock, Pierce, Mason, Konigsberg, Royalty, with Kay Gouwans rather than Eric Ostrovsky from Governor's office. This group meets at Senator Stevens' office prior to the meeting at the Treasury Department, to be briefed on what kind of questions we might be asked.

Treasury meeting chaired by Dana Trier, Deputy Assistant for Tax Policy, Treasury Department. His assistants Evelyn Brody and Cathlyn Farrow are also present and Bill Coppersmith, Tom Kelley's supervisor from the IRS, is also there.

Mr. Trier seems favorably disposed toward MICA. They are fearful if they allowed MICA to remain tax exempt that they will create a "slippery slope" which would allow others to structure themselves like us. We try to convince them that we are unique. We end with the agreement that we will submit supplemental information regarding MICA's history and current business to the IRS.

August 9 - The same core group meets again in Senator Stevens' office, this time with Ostrovsky from the Governor's Office rather than Gouwans. Our purpose is to prepare for a meeting with the Senate Finance Committee aides to evaluate if seeking federal legislative relief is an option.

We meet with Rick Grafmeyer, a minority aide for Finance, and aides; Scott McCloud, a specialist in insurance tax issues, and Mel Thomas a specialist in tax issues from the Joint Committee on Taxation.

We are not encouraged by them to seek federal legislation after we advise them of our plight. There is a thought that a provision dealing with MICA's tax exemption could be attached to a Rural Health Care bill and Konigsberg said he will talk to Senator Stevens about that possibility.

August 17 - Pierce sends memo to Board of Governors summarizing meetings in Washington, D.C.

August 18 - A Supplemental Submission to the IRS is sent to Phil Royalty.

- A thank-you letter is sent to Dana Trier from Konigsberg.

August 22 - Senator Stevens sends a thank-you letter to Trier with MICA's Supplemental Submission attached and a copy of a letter from Royalty explaining why the Maryland Saving Share Ins. Corp. v. U.S. case is different from MICA.

- August 28 - Konigsberg is in Anchorage and Gagnon, Mason, Kathy Crabtree and Pierce meet with him. We discuss unlikely possibility that we would win a court case against the IRS. Konigsberg says he will work on federal legislation but feels that our chances this year are extremely slim. Consensus is that if litigation is necessary, it would be better to obtain adverse ruling than to withdraw the request.
- September 15 - Mason in attendance at Executive Committee meeting. Executive Committee worried about mounting tax assessment. They vote to get revenue ruling whether favorable or not.
- There is discussion of litigating in U.S. District Court (must pay tax first) or in U.S. Tax Court (must wait for IRS to assess deficiency).
- September 20 - Konigsberg informs Mason that he is exploring possibility of federal legislation and is drafting a proposal. He also reports that he has spoken by telephone to Dana Trier. Trier says that the IRS is considering entering into a closing agreement with MICA, which is basically a settlement agreement that can eliminate past and future tax liability for a specified number of years (authorized by Internal Revenue Code 7121).
- September 21 - Mason has conference call with Royalty, Tom Meyer (E & W) and Konigsberg to discuss ramifications of closing agreement.
- September 26 - Konigsberg asks Pierce for information so he can draft federal legislation. Pierce faxes him: - date Governor signed bill, 5-28,76; date legislation effective, 5-29,76, although couldn't write insurance until 6-28-76.

Copy of original statute and current statute sent with major difference between old and new being:

- a) Exclusive and mandatory dropped
- b) Occurrence changed to claims-made
- c) Joint Underwriting Authority (JUA) concept dropped.

October 6 - Konigsberg faxes Mason first draft of proposed federal legislation, and Mason and Gagnon fax Konigsberg revisions after discussing with Royalty.

- Conference call: Mason, Crabtree, Konigsberg, Royalty, Meyerer, Coppersmith, Jim Malloy, and Pete Scott, Acting Chief Counsel of the IRS. Discussed possible closing agreement and agreed to meeting in Washington on October 16.

October 10 - Mason sends notice of meeting with Department of Treasury and IRS on 10-16-89. We have been advised by Konigsberg that IRS may want to propose a closing agreement. We are informed that this is to be treated as very confidential.

- Mason sends Pierce a draft with a review by she and Gagnon of potential federal legislation proposed by Konigsberg.

October 16 - Meeting with IRS and Department of Treasury in Washington, D.C. Core group of Mason, Pierce, Konigsberg, Royalty and Tom Meyerer of E & Y (new player) and Eric Ostrovsky from Governor's Office meet in Senator Stevens' office to discuss closing agreement concept. Pierce informs group that MICA's Executive Committee has been polled and are very interested in this concept.

Meeting at the IRS chaired by Pete Scott, Acting Chief Counsel of the IRS, Jim Malloy, Assistant Counsel for Financial Institutions (Section 115 co's under his jurisdiction) and Bill Coppersmith all from IRS. Dana Trier and Evelyn Brody are there again representing Office of Tax Policy in the Treasury Department.

Scott says we have very sympathetic case. They believe a closing agreement would be in everybody's best interest. We discuss what to do to remain tax exempt and MICA's unique structure again. They ask MICA to submit closing agreement. Scott suggests the following parameters for an agreement: past tax liability eliminated; MICA agrees to try to change structure within specified

period; MICA becomes taxable at end of specified period if no change in structure; MICA must take interim steps toward phasing out or bifurcating; if MICA becomes part of state, problem disappears. In response to a direct question, Scott says that, if a ruling is issued, it will be adverse.

October 23-24 - Mason sends draft closing agreement and copy of federal regulations covering closing agreements to Pierce. Closing agreement proposes elimination of any past tax liability and future tax liability through 1994 with partial or full taxability beginning in 1995, unless MICA has been made an integral part of the state.

October 24 - Pierce sends memo to Board of Governors outlining closing agreement concept and the advantages to MICA. Two major advantages are relief from past tax liability and being tax-exempt for some future period.

October 25 - Brock and Pierce meet with Jim Jordan, Acting Director of Division of Insurance and discuss details of closing agreement. Jordan to discuss with his boss Mercurlieff who will discuss with Governor's office. Jordan approves concept and draft closing agreement, doesn't anticipate problems from anyone else in Administration.

October 26 - Executive Committee and Finance Committee have joint meeting. Mason and Holmes in attendance. Mason explains this is a binding agreement and other details of closing agreement.

October 27 - Quarterly Board meeting with Gagnon, Mason and Orien in attendance.

The Board discusses the closing agreement and authorizes the draft. Gagnon and Mason feel that state should also approve based on the state's involvement in MICA by statute.

The Board gives the Executive Committee the power to finalize this agreement with Brock.

- Gagnon and Mason meet with Jordan. He agrees to be a signor on closing agreement with Brock.
- October 30 - Closing Agreement hand-delivered to Pete Scott by Royalty.
- November 2 - Mason sends letter to Pierce with a copy of cover letter to closing agreement that Royalty gave to Scott. She also states she had a discussion with Konigsberg and informs Pierce that the President has nominated a new Chief Counsel to replace Acting Pete Scott. The Senate may confirm that replacement before Thanksgiving. Pierce very concerned because new Chief Counsel may not agree to closing agreement between IRS and MICA and we would have to start the process again.
- Letter from Senator Stevens to Pete Scott, attaching closing agreement and requesting his attention.
- November 10 - Pierce calls Royalty requesting his assistance with IRS in approving closing agreement.
- November 30 - Executive Committee meeting in which Pierce informs them that we have no word on agreement.

## 1990

- November 30  
thru  
February 5 - Various phone calls among Pierce, Royalty, Konigsberg and Mason requesting information on status of closing agreement.
- January 2 - Pierce meets with Jordan and discusses closing agreement and MICA's financial stability. Jordan says state should concern itself with MICA staying strong financially because he feels a restructuring and independence are imminent. Jordan says will stay as Acting Director until new Administration (end of year).
- February 5 - Letter to Scott from Royalty referencing Scott's recent conversation with Meyerer and requesting resolution of closing agreement.

- February 16 - Letter to Konigsberg from Pierce explaining crucial deadlines with Convention Statement, NAIC, A.M. Best, etc. that are adversely affecting MICA's financial reputation and stability because of the unresolved tax issue.
- February 20 - Royalty calls Pierce and Mason to inform them that Scott has met with Royalty and Meyerer and proposed a new agreement. He wants to only allow tax exemption through 1990 for MICA to work with legislature to restructure. MICA can only remain tax-exempt if becomes part of state and he wants immediate bifurcation of business.
- February 23 - Letter from Mason to Royalty with new draft closing agreement, proposing elimination of tax liability for past years and through 1992, with full tax liability beginning in 1993 unless MICA becomes integral part of the state.
- Letter from Pierce to Scott summarizing our understanding of his verbal concerns and explaining things we can't control, i.e., length of time necessary to obtain legislative action and upcoming change of administration.
  - Brock, and Pierce and Holmes participating telephonically, meet with new Director, Dave Walsh to explain tax issue. Walsh agrees to sign if agreement remains the same in concept.
- February 28 - Letter to Scott from Brock (with the legal advice of Mason) explaining serious practical problems in carrying out bifurcation.
- March 2 - Royalty and Meyerer meet with Scott and Coppersmith regarding changes IRS wants in closing agreement: exempt through 1991, partially taxable (bifurcation) in 1992, fully taxable beginning 1993 unless become "integral part of state."

- March 5 - Conference call with Brock, Frazier, Keller, Smith (Executive Committee) and Mason to discuss revised closing agreement incorporating Scott's changes. Revised closing agreement approved.
- March 6 - Final draft of closing agreement after agreeing to time deadlines for interim actions to be taken by MICA.
- After rethinking closing agreement Director Walsh feels he should not sign due to potential liability to the state and other agencies similar to MICA.
- At Walsh's request, Assistant Attorney General Alexis Gabay telephones Mason. Mason faxes background information to Gabay. Mason discusses situation with Gabay and (now) Assistant Attorney General Jeffrey Bush by telephone.
- March 7 - Letter from Mason to Alexis Gabay, Assistant Attorney General, enclosing proposed letter from the Director to Brock concurring with MICA's decision to enter into a closing agreement.
- March 8 - Meyerer and Royalty contact the IRS and Director Walsh is removed as signor on closing agreement.
- Director confers with Ron Clarke in Governor's office about MICA's closing agreement and his discomfort with the agreement.
- Holmes sends letter to Walsh explaining history of the tax issue and the involvement of the state in negotiations. Holmes informs Walsh that he has advised the Board to sign the closing agreement.
- March 9 - Closing agreement is to arrive today from the IRS for Brock's signature.
- Walsh confers with Ron Clarke and Clarke is of the opinion MICA shouldn't sign the agreement.
- Mason and Holmes have telephone meeting with Clarke. Clarke then discusses situation with Attorney General, Doug Baily. Clarke agrees MICA

can sign but state will remain neutral. He requests that MICA report to Director Walsh once the agreement is signed.

- Mason faxes to Pierce a summary of conversation with Clarke.
  - Director Walsh sends letter to Brock, who faxes to Pierce, Mason and Holmes, stating state cannot concur with MICA's signing the agreement.
  - Pierce sends letter to Walsh (via fax) stating it was her understanding state taking neutral position and attaching Mason's summary letter regarding conversation with Clarke.
- March 12 - Walsh calls Pierce regarding her letter. They agree on their understanding of state's position which is that the state is not taking a position.
- Pierce sends memo to Brock with copy to Holmes and Mason summarizing above conversation.
- Brock signs Closing Agreement and returns to IRS.
- March 15 - Scott signs Closing Agreement.
- March 19 - Final Closing Agreement received by MICA signed by Scott and Brock.

