

ALASKA LEGISLATURE COMMITTEE FILES 1983 - 1984 86/2

2624 SLC SB 177 - SB 184 (FILE 1)

2624



Alaska National INSURANCE COMPANY

A policy of service and protection

LEGISLATIVE POSITION PAPER

LEGISLATION

Senate Bill - 17/ (Josephson)

PURPOSE

An act providing for freedom to choose providers under medical, hospital or health insurance policies.

SUBSTANCE

Would allow an insured under a group or individual medical, hospital or health insurance policy including group, service or indemnity contracts to have free choice of provider.

BACKGROUND

There are basically two types of insurance contracts or insurance related contracts which this measure would affect. The first kind of contract are pure indemnity insurance contracts such as issued by stock insurance companies on an individual or group basis providing a schedule of benefits for persons using services of a physician, a hospital or using pharmaceuticals or prosthetics. These contracts typically pay a percentage of reasonable and customary cost for these services and also place no restriction on the providers that are utilized except most contracts provide that services must be provided by a licensed physician as opposed to a chiropractor, or by a licensed hospital as opposed to a clinic or licensed health care facility.

This legislation would permit a person to decide whether to use the services of a physician, osteopath, chiropractor or a nurse midwife to provide coverage services which the policy anticipated would be provided only by a physician or other permitted practitioners.

The second type of contract is the prepaid service contract. Today there are several forms which prepaid contracts now take; Blue Cross, Blue Shield, Kaiser Permanente, HMO's Preferred Provider Contract and so forth, are typical of the prepaid contract. They all have at least one common denominator, which is, the service corporations providing the benefits have entered into service contracts with specific providers, either specific hospitals, specific physicians or specific health care practitioners of a different classification. It is the nature of those service companies to be able to provide less expensive coverage because of special contracts with the providers.

It should be noted that these types of contracts are governed by Chapter 87 of the Insurance Code (AS 21.87) which fully regulates these types of health care service organizations, but which specifically permits and in fact anticipates that the Health Service Corporation would enter into a provider contract and that those subscribing to those services would use the providers with whom the service corporation has contracted.

The proposed amendment would seem to prohibit the types of activities which are now contemplated in Chapter 87.

RENDED TITLE:
AN ACT PROVIDING FOR FREEDOM TO CHOOSE PROVIDERS UNDER
MEDICAL, HOSPITAL OR HEALTH INSURANCE POLICIES,
AND PROVIDING FOR AN EFFECTIVE DATE
PRIME SPONSOR: JOSEPHSON.

CO-SPONSORS:
CURRENT STATUS: 3/08/84 RET (S) RULES

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/15/83	01	0393	FIRST READING -- COMMITTEE REPORTS
04/19/83	02	0742	HESS -- CS03, NR01
04/19/83	03	0743	HESS F/NOTE EQUALS ZERO
05/23/83	04	1079	L&C -- DP02, NR01
03/05/84	05	2253	RLS -- HESS CS03, NR01, OTHER04 TAKEN UP IMMEDIATELY RULES
03/05/84	06	2255	SECOND READING
03/05/84	07	2255	POSTPONED UNTIL 03/07/84 BY UNAN CONSENT
03/07/84	08	2279	POSTPONED UNTIL 03/08/84 BY UNAN CONSENT
03/08/84	09	2294	RECOMMITTED TO RLS BY UNAN CONSENT
***	**	**	*** **

COMMITTEE REPORT

SENATE

FURTHER:

4/22/93

Date: 4/22/93

Mr. President:

The Committee on LABOR has had 6/377

The following bill was introduced and referred to the committee on Labor, and the committee on Labor has the honor to report the same to the Senate with the following recommendations:

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Handwritten signature]

[Handwritten signature]

 CHAIRMAN

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
POSITION PAPER

CSSB 177 (HESS): An act relating to insurance trade practices: and providing for an effective date.

The Administration supports this bill. This bill is aimed at preventing unfair discrimination by an insurance company between different kinds of health care providers who are, within the scope of their license, able to perform a service covered by the insurance company's policy. The CS substantially tracks language provided by this department.

 4/26/83

Richard A. Lyon
Commissioner

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: CSHB 177 (HESS)
 Title: Insurance trade practices
 Sponsor: HESS Committee
 Requestor: Senate L&C

II. FISCAL DETAIL

Agency Affected: Commerce & Ec. Dev.
 Program Category Affected: Public Prot.
 BRU, Program of Subprogram(s) Affected: Division of Insurance

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING		0	0	0	0	0
100 PERSONAL SERVICES		0	0	0	0	0
200 TRAVEL		0	0	0	0	0
300 CONTRACTUAL		0	0	0	0	0
400 COMMODITIES		0	0	0	0	0
500 EQUIPMENT		0	0	0	0	0
600 LAND & STRUCTURES		0	0	0	0	0
700 GRANTS, CLAIMS, ETC		0	0	0	0	0
TOTAL OPERATING		0	0	0	0	0
CAPITAL		0	0	0	0	0
REVENUE		0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS		0	0	0	0	0
OTHER (Specify Source)		0	0	0	0	0

POSITIONS:

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

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Kenneth C. Moore, Director
 Division: Insurance

Phone: 465-2515

Date: 4/22/83

Approved by Commissioner: Richard A. Lyon
 Department: Commerce & Economic Development

Date: 4/26/83

Distribution:

Original to Legislative Finance
 Copy to Office of Management and Budget (for Legislature introduced bills)
 Copy to Department (for Governor introduced bills)
 Copy to Sponsor
 Copy to Requestor (if different from Sponsor)

3/8/83



KEITH B. GODFREY, D.C.
PRESIDENT
ADRIAN BARBER, D.C.
VICE PRESIDENT
KENNETH D. KETZ, D.C.
SEC.-TREAS.

December 18, 1972

INSURANCE EQUALITY

Q: What is insurance equality?

A: It requires that all insurance contracts written or renewed in the state which include physician's services must also mandatorily include chiropractic services under the policy.

Q: Why insurance equality?

A: This will provide the policy holder with his constitutional right to freedom of choice (congress guaranteed in Section 1802) to select a licensed and state approved health provider of his own choice.

Q: Will chiropractic inclusion increase the insurance premium?

A: No, insurance companies which write policies including chiropractic benefits have stated in writing that chiropractic benefits do not increase their premiums.

Q: How many states have enacted "insurance equality laws"?

A: There are now 26 states that have enacted such "insurance equality" laws. These 26 states include 64% of the entire American population, according to a chiropractic statement before a Committee on Finance, U.S. Senate Feb. 1, 1972

Q: How does chiropractic differ in health management?

A: Chiropractic offers a distinct, unique and alternate philosophy, Science, Art and Technology in health management.



ALASKA CHIROPRACTIC SOCIETY

Box 4-1949

ANCHORAGE, ALASKA 99509

December 18, 1972.

KEITH B. GOODFREY, D.C.
PRESIDENT
ADRIAN BARBER, D.C.
VICE PRESIDENT
KENNETH O. KETZ, D.C.
SEC.-TREAS.

Insurance Equality Cont. Pg. 2

FACTS ABOUT INSURANCE EQUALITY

1. At least 550 insurance companies now pay claims for chiropractic treatment in their health and accident policies.
2. Medicaid coverage including chiropractic has been extended to 24 states.
3. Medicare benefits include chiropractic as of July 1, 1973.
4. General Motors and Mansanto Company, a leading American chemical producer include chiropractic services in their own employee health plans.
5. Studies of Workmen's Compensation records demonstrate conclusively that;

- (a) Chiropractic care is more effective than medical care in the treatment of industrial back injuries.
- (b) Chiropractic care reduces treatment costs:

	<u>Medical</u>	<u>Chiropractic</u>
Iowa (1966)	\$118.74	\$68.24
Iowa (1969)	\$210.86	\$79.28
Oregon (1969-71)	\$298.52	\$72.92
Kansas (1971)	\$102.53	\$65.69

- (c) Chiropractic care reduces work time loss.
6. A survey and analysis of the treatment of sprain and strain injuries of the back and neck in industrial cases in Florida revealed the following:
 1. Treatment costs (by a medical doctor) averaged 27.5 % more!



ALASKA CHIROPRACTIC SOCIETY

BOX 4-1949

ANCHORAGE, ALASKA 99509

December 18, 1972.

KEITH B. GODFREY, D.O.
PRESIDENT
ADRIAN BARBER, D.O.
VICE PRESIDENT
KENNETH G. KETZ, D.O.
SEC. TREAS.

Insurance Equality Cont. Pg. 3

2. Compensation costs (under care by a medical doctor) averaged 311% more!
3. Worktime losses (under care by a medical doctor) averaged 300% more!

Ref. Chiropractic's "White Paper" May 1969

LEGAL DEPARTMENT
INTERNATIONAL CHIROPRACTORS ASSOCIATION

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DAVENPORT, IOWA 52808
TELEPHONE (319) 322-4447

JAMES D. HARRISON, COUNSEL
777 CHAMBER OF COMMERCE BUILDING
INDIANAPOLIS, INDIANA 46204
TELEPHONE (317) 639-4511

February 5, 1973

Trevor V. Ireland, D.C.
Alaska Chiropractic Clinic, Inc.
Klatt Box 10045
Mile 7 Seward Highway
Anchorage, Alaska 99502

Dear Dr. Ireland:

To the best of my knowledge almost all of the Insurance Equality Laws have been subject to some abuses. As long as we are trying to make some portions of the insurance industry do what they do not choose to do, we shall have problems.

If you can choose your own terminology in obtaining an Insurance Equality Law, I would suggest something like the following:

Notwithstanding any provision of any policy or contract of insurance or health benefits issued after the effective date of this act, whenever such policy or contract provides for payment or reimbursement for any service which may be legally performed by a person licensed in this state for the practice of osteopathy, optometry, chiropractic or podiatry, such payment or reimbursement under such policy or contract shall not be denied when such service is rendered by a person so licensed. Terminology in such policy or contract deemed discriminatory against any such person or method of practice shall be void.

I believe the above is about as tight as you can make an Insurance Equality Law. There may be law suits to determine the constitutionality of some such statutes. In addition to this, Blue Shield has found it possible to delete certain services which are those most often performed by doctors of chiropractic. Whether such action can be declared discriminatory, will depend to a great extent upon the courts in your state or upon the attitude of your department of insurance.

Enactment of the Insurance Equality Statute will do a world of good for chiropractic. The results may not be 100%.

In the event the above suggestion may not encompass your Workman's Compensation Act, you may wish to include some wording for that purpose. Another thing which you should consider is whether we have the inclusions you desire, namely, osteopathy, optometry, chiropractic and podiatry. You may wish to add to or delete from this list.

We certainly hope you are successful in this legislative effort.

Kindest regards,

James D. Harrison/cv
James D. Harrison

JDH/cv

SAFECO LIFE INSURANCE COMPANY
HOME OFFICE
SAFECO PLAZA
SEATTLE, WASHINGTON 98185

TELEPHONE (206) 545-5000

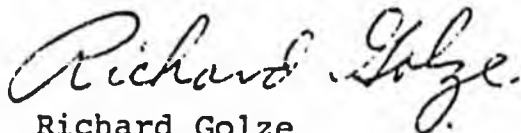
May 28, 1975

Senator William S. Day
Washington State Senate
Olympia, Washington

Dear Senator Day:

In reference to the question as to whether the inclusion of benefits for services performed by licensed chiropractors has had any significant effect on our claims experience for health care service, we find that while SAFECO Life's claims statistics do not separate out payments for chiropractic services from payments made to other licensed practitioners, there does not appear to be any significant increase of claims costs attributable to payments for services by licensed chiropractors which would require any increase in our competitive health insurance premiums.

Cordially yours,



Richard Golze
SAFECO Life Counsel
ah



SAFECO INSURANCE COMPANY OF AMERICA
SAFECO LIFE INSURANCE COMPANY
SAFECO ACCIDENT AND HEALTH INSURANCE COMPANY
SAFECO NATIONAL FIRE INSURANCE COMPANY

May 26, 1975

Dr. Kenneth Luedtke
1930 Monroe Street
Madison, WI 53702

Dear Dr. Luedtke:

FOHL 8/22/75

You have asked for the experience on the Washington State Group Medical Plan:

<u>Period Covered</u>	<u>Coverage Enrollment</u>	<u>Chiropractic Expenses</u>	<u>Total Expenses</u>
7/72-6/73	17,918	\$179,307	\$6,789,299
7/73-6/74	13,922	\$214,294	\$6,922,857
7/74-1/75	16,922	\$156,140	\$4,280,875

These figures represent our Plan I which is a basic first dollar plan plus major medical.

If I may be of further assistance, please do not hesitate to call.

Sincerely,

E. W. Lahn
Benefits Supervisor

cc: Wisconsin Chiropractic Assoc.
Paul Grovert

4/5/11

CONNECTICUT

Substitute for House Bill No. 4305. Public Act No. 852. AN ACT CONCERNING UNFAIR INSURANCE PRACTICES. Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 38-61 of the general statutes is amended by adding subdivision (7) as follows: Notwithstanding any provision of any policy of insurance, certificate or service contract, whenever such insurance policy or certificate or service contract provides for reimbursement for any services which may be legally performed by any person licensed under the provisions of chapter 372, reimbursement under such insurance policy, certificate or service contract shall not be denied because of race, color or creed nor shall any insurer make or permit any unfair discrimination against particular individuals or persons licensed under said chapter.

Sec. 2. This act shall take effect with respect to contracts issued after the effective date hereof.

DELAWARE

§ 717. CHIROPRACTIC PRACTITIONERS ELIGIBLE FOR COMPENSATION FROM INSURANCE

For purposes of disability insurance, standard health and accident, sick, and other insurance policies, a Chiropractic physician shall be entitled to compensation for his services.

MARYLAND

Section 489 Title, "Insurance"

7. "For the purposes of health and accident, sickness and other insurance policies, a chiropractic physician, duly licensed to practice in the State of Maryland, shall be entitled to compensation for THOSE services WHICH HE IS LICENSED TO PERFORM UNDER THE PROVISIONS OF ARTICLE 43 AND WHICH HE HAS rendered to any insured."

Section 2. And be it further enacted, That this Act shall take effect June 1, 1967.

MICHIGAN

ENROLLED HOUSE BILL NO. 2712

The People of the State of Michigan enact:

Section 1. Section 3475 of Act No. 218 of the Public Acts of 1956, as added by Act No. 56 of the Public Acts of 1963, being section 500,3475 of the Compiled Laws of 1948, is hereby amended to read as follows:

Sec. 3475. Notwithstanding any provision of any policy of insurance or certificate, whenever such insurance policy or certificate provides for reimbursement for any service which may be legally performed by a person licensed in this state for the practice of chiropractic or podiatry, reimbursement under such insurance policy or certificate shall not be denied if such service is rendered by a person licensed to practice chiropractic or podiatry within the statutory provisions provided in his individual practice act.

This act is ordered to take immediate effect.

MONTANA

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING DISABILITY INSURANCE AND WORKMEN'S COMPENSATION POLICIES TO PROVIDE THE INSURED SHALL HAVE FULL FREEDOM OF CHOICE IN THE SELECTION OF ANY DULY LICENSED PHYSICIAN, OSTEO-PATH, CHIROPRACTOR, OPTOMETRIST, CHIROPDIDIST FOR TREATMENT OF ILLNESS OR INJURY; PROVIDING AN EFFECTIVE DATE; AND CONTAINING A REPEALING CLAUSE;"

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. All policies of disability insurance, including individual, group and blanket policies, and all policies insuring the payment of compensation under the workmen's compensation act shall provide the insured shall have full freedom of choice in the selection of any duly licensed physician, osteopath, chiropractor, optometrist or chiropdidist for treatment of any illness or injury within the scope of his practice.

Section 2. Nothing in this act shall be construed as enlarging the scope of practice of any of the licensed professions enumerated in Section 1; nor shall this act be construed as amending, altering or repealing any statutes relating to the licensing or use of hospitals.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

NEW JERSEY

A supplement to "An act concerning health and accident insurance, supplementing chapter 38 of Title 17 of the Revised Statutes, and repealing section 17:18-7 of the Revised Statutes," approved August 2, 1939 (P.L. 1939, C.305).

Be it enacted by the Senate and General Assembly of the State of New Jersey:

1. Notwithstanding any provision of a policy or contract of group accident, group health or group accident and health insurance, hereafter issued or delivered in this State, whenever such a policy or contract provides for reimbursement for any service which is within the lawful scope of practice of a licensed chiropractor, a person covered under such group accident, group health and group accident and health policy or contract shall be entitled to reimbursement for such service, when the said service is performed by a licensed chiropractor.

2. This act shall take effect immediately.

(Senate, No. 363 covering individual policies; Senate, No. 364 covering accident and sickness insurance; and Senate, No. 365 covering Workmen's Compensation were also enacted at this time.)

NEW MEXICO

AN ACT RELATING TO INSURANCE AND TO THE SUBMISSION, PROCESSING AND PAYMENT OF PROOFS OF CLAIM THEREUNDER AND PROHIBITING DISCRIMINATION IN CONNECTION THEREWITH, AND DEFINING HOSPITAL CARE AND LICENSED PRACTITIONER OF THE HEALING ARTS. (SENATE CORPORATIONS COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 138; APPROVED MARCH 22, 1963)

Be It Enacted by the Legislatura of the State of New Mexico:

Section 1. Within the area of and limits of coverage offered an insured and selected by him in the application for insurance, the right of any person to exercise full freedom of choice, in the selection, of any hospital for hospital care as that term is hereinafter defined, or of any licensed practitioner of the healing arts for treatment of any illness or injury within his scope of practice, shall not be restricted under any new policy of sickness or accident insurance, contract or health care plan issued after January 1, 1964, in this state or in the processing of any claim thereunder. Any

New Mexico Law - continued

person insured or claiming benefits under any such sickness and accident insurance policy, contract or health care plan providing within its coverage for payment of service benefits or indemnity for hospital care, or treatment of persons for the cure or correction of any physical condition, shall be deemed to have complied with the requirements of such policy, contract or health care plan as to submission of proof of loss upon submitting written proof supported by the certificate of any hospital currently licensed by the state department of public health, or any practitioner of the healing arts licensed as such under the laws of the state of New Mexico.

"Hospital care" as herein used means hospital service provided through a hospital which is maintained by the state or any political subdivision of the state, or place, which is currently licensed as a hospital by the state department of public health, and has accommodations for resident bed patients, a licensed professional registered nurse always on duty or on call, a laboratory and an operating room where surgical operations are performed, other than a convalescent or nursing or rest home.

"Licensed practitioner of the healing arts" as herein used means any person holding a license provided for in Section 67-1-3 New Mexico Statutes Annotated, 1953 Compilation, authorizing the licensee to offer or undertake to diagnose, treat, operate on or prescribe for any human pain, injury, disease, deformity, or physical or mental condition.

OHIO

(Amended Senate Bill No. 240)

To enact section 3923.041 of the Revised Code relative to guaranteeing full protection and recompense for insured risk under sickness and accident insurance contracts providing for reimbursement of sickness and bodily injury claims.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 3923.041 of the Revised Code be enacted to read as follows:

Sec. 3923.041. Notwithstanding any provision of any policy of insurance issued or amended after the effective date of this act, whenever such policy provides for reimbursement for any service which may be legally performed by a person licensed in this state for the practice of osteopathy, optometry, chiropractic, or podiatry, reimbursement under such policy shall not be denied when such service is rendered by a person so licensed.

ALLEGRETTI, NEWITT, WITCOFF & McANDREWS, LTD.

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February 14, 1983

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 PAUL K. BERGHOFF
 JERRY A. RIEDINGER

Trevor V. Ireland, D.C.
 Ireland Clinic of Chiropractic
 541 West 36th Avenue
 Anchorage, Alaska 99503

Dear Trevor:

Thank you for your letter of February 11, 1983. I have carefully reviewed your letter of February 8, 1983 to Ms. Rebecca Branchflower. I believe your case was well presented.

I am not familiar with your briefs in the Supreme Court of Alaska. Possibly you included the following excerpt from the Report of the Royal Commission of Inquiry on Chiropractic in New Zealand that studied chiropractic in five western nations, including the United States, and issued a 377 page report in October of 1979:

"33. The idea that in some matters a medical practitioner will have to defer to the chiropractor may seem at first sight outrageous. It is not outrageous at all. It is simply a question of the scope of professional training. You go to a dentist, not a doctor, for repairs to your teeth. There is nothing surprising in that. Doctors are not experts in dentistry; nor are they experts in spinal manual therapy. So it is right and proper that they should feel the need to defer to those who are experts.

"34. The Commission has found it established beyond any reasonable degree of doubt that chiropractors have a more thorough training in spinal mechanics and spinal manual therapy than any other health professional. It would therefore be astonishing to contemplate that a chiropractor, in

Trevor V. Ireland, D.C.

February 14, 1983

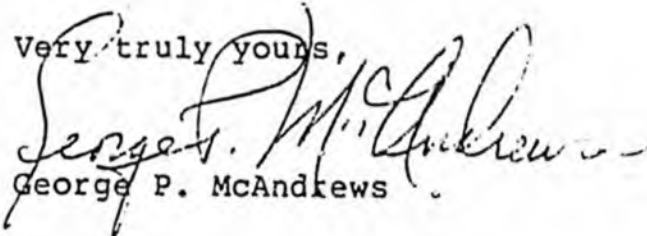
Page Two

those areas of expertise, should be subject to the directions of a medical practitioner who is largely ignorant of those matters simply because he has had no training in them."

It would seem that the above two quoted paragraphs sum up your argument.

Please let me know the outcome of your appeal.

Very truly yours,



George P. McAndrews

GPMCA/gc



TREVOR V. IRELAND, D.C. (U.S.A.), I.C.A., A.C.C., M.C.A.S.A.
DOUGLAS J. MOSHER, D.C. (U.S.A.), I.C.A., A.C.C.
PHILIP L. WANER, D.C. (U.S.A.), I.C.A., A.C.A.
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February 23, 1983

Ms. Rebecca Branchflower
Chief of Adjudications
State of Alaska, Department of Labor
Division of Workers' Compensation
3301 Eagle Street, Pouch 7-019
Anchorage, Alaska 99510

Re: Gloria Weinberger and Trevor V. Ireland vs. Matanuska-Susitna School
District Case No. 100798

Dear Ms. Branchflower,

On February 8, 1983, I responded to your letter addressed to Dr. Godfrey (President, Board of Chiropractic Examiners). Copies of this response were mailed to numerous people.

George P. McAndrews, Esq. responded with some objective and pertinent data. I have attached a copy of his letter with a summary of the "Chiropractic in New Zealand" report. (This 1979 report was presented to the House of Representatives by Command of His Excellency the Governor-General).

Please review this material in the correct "spirit of intent". My objective is simply to inform you of factors that you may be unaware of.

Should you require a copy of the 377 page book, I will gladly obtain one for you, at your request.

Sincerely yours,

TREVOR V. IRELAND, D.C.

cc:

Commissioner Jim Robison
Department of Labor
P.O. Box 1149
Juneau, Alaska 99811

February 23, 1983

Ms. Rebecca Branchflower

Re: Gloria Weinberger and Trevor V. Ireland Vs.
Matankuska-Susitna School

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Anchorage, Alaska 99503

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American Chiropractic Association
1916 Wilson Boulevard
Arlington, Virginia 22201

James D. Harrison, Esq.
International Chiropractor's Assn.
Legal Offices
777 Chamber of Commerce Building
Indianapolis, Indiana 46204

Attachment: 1) Letter dated February 14, 1983 from George P. McAndrews, Esq.
2) Summary of the New Zealand report.

EXECUTIVE OFFICES
INTERNATIONAL CHIROPRACTORS ASSOCIATION
741 BRADY STREET - DAVENPORT, IOWA 52808
—
TELEPHONE 322-4447

February 4, 1977

Dr. Woody Waldroup
Alaska Chiropractic Society
P.O. Box 4-1949
Anchorage, Alaska 99509

Dear Dr. Waldroup:

Thank you for your letter of January 28 inquiring about background for an insurance equality law for the state of Alaska.

I am enclosing copies of six state insurance equality laws which should serve as a cross section of such laws as they exist in the various states. If you so desire we can supply you with copies of these laws from virtually all states that currently have them on the books.

As you may know, there have been attempts by some carriers to circumvent the intent and/or language of insurance equality laws. These usually take the form of excluding from coverage "adjustment or manipulation of the spine" no matter whether preformed by M.D.'s, D.C.'s, D.O.'s, etc. (sometimes the policy will state such a practice is covered only when preformed in a hospital setting). This approach weakens the chiropractor's argument that discrimination is being shown. With this in mind, I am quoting below what might be called additional "model language" that is designed to help avert the problem encountered by some states. Mr. Harrison prepared the language.

"Terminology in such policy or contract deemed discriminatory against any such person or method of practice shall be void. Any policy provision excluding the methodology or technique of osteopathy, chiropractic, optometry,

Dr. Woody Waldroup
Page 2
February 4, 1977

psychology or podiatrics without eliminating
the illness, injury or condition for which
the service is provided shall be null and void."

I hope these materials are helpful to you and that you will
let us know if you have any further questions.

Best wishes.

Sincerely,


J. F. MCANDREWS, D.C.
Executive Director

JFM/dl

cc: Mr. James D. Harrison
Dr. Keith B. Godfrey

Enclosure

Insurance Equalization Act

Act No. 92

Public Acts of 1966
Approved by Governor
June 15, 1966

passed

**STATE OF MICHIGAN
73RD LEGISLATURE
REGULAR SESSION OF 1966**

Introduced by Rep. Ryan

ENROLLED HOUSE BILL No. 2712

AN ACT to amend section 3475 of Act No. 218 of the Public Acts of 1956, entitled "An act to revise, consolidate and classify the laws of the state of Michigan relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers and immunities and to prescribe the conditions on which other persons, firms, corporations and associations engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations, and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on the business of surplus line agents; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide penalties for the violation of this act and to repeal certain acts," as added by Act No. 56 of the Public Acts of 1963, being section 500.3475 of the Compiled Laws of 1948.

The People of the State of Michigan enact:

Section 1. Section 3475 of Act No. 218 of the Public Acts of 1956, as added by Act No. 56 of the Public Acts of 1963, being section 500.3475 of the Compiled Laws of 1948, is hereby amended to read as follows:

Sec. 3475. Notwithstanding any provision of any policy of insurance or certificate, whenever such insurance policy or certificate provides for reimbursement for any service which may be legally performed by a person licensed in this state for the practice of chiropractic or podiatry, reimbursement under such insurance policy or certificate shall not be denied if such service is rendered by a person licensed to practice chiropractic or podiatry within the statutory provisions provided in his individual practice act.

This act is ordered to take immediate effect.
Approved June 15, 1966.

HOUSE No. 4421

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, May 6, 1968.

The committee on Insurance, to whom was referred the petition (accompanied by bill, House, No. 1004) of Charles Ohanian and Joseph D. Saulnier relative to discrimination under the provisions of insurance policy certificates or service contracts, report the accompanying bill (House, No. 4421).

For the committee,

A. J. BURKE.

[Representative Mann of Newton dissenting.]

*Dear Jim
Please make
yourself several
copies.*

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Eight.

AN ACT PROHIBITING DISCRIMINATION UNDER THE PROVISIONS OF ANY POLICY OF INSURANCE, CERTIFICATE, OR SERVICE CONTRACT.

*Be it enacted by the Senate and House of Representatives in
General Court assembled, and by the authority of the same, as
follows:*

- 1 Chapter 175 of the General Laws is hereby amended by
- 2 inserting after section 193J, the following section:—
- 3 *Section 193K.* Whenever an insurance policy, certificate or
- 4 service contract provides for reimbursement or payment for
- 5 any services which may be legally performed by any person,
- 6 licensed under the provisions of chapter one hundred and
- 7 twelve, reimbursements or payments under such insurance
- 8 policy, certificate or service contract shall not be denied
- 9 because of race, color or creed nor shall any insurer make or
- 10 permit any unfair discrimination against particular individ-
- 11 uals or persons licensed under said chapter, to whom reim-
- 12 bursement or payment would be due and payable.

FILED APR 4

SENATE FILE 423

By MILLER of Des Moines, HEYING,
NOLTING, NORPEL, BERGMAN,
VAN GILST, TAYLOR, MERRITT,
CARR, TIEDEN, NYSTROM,
GALLAGHER, CULVER, WINKELMAN,
HANSEN, SCHWENGELS, COLEMAN,
NOLIN, GRIFFIN, BRILES,
FULTMAN, LAMBORN, SCOTT,
ROBINSON, MURRAY and CURTIS

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to insurance proceeds payable to physicians.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Chapter five hundred fourteen A (514A), Code
2 1975, is amended by adding the following new section:

3 NEW SECTION. Whenever a policy of health insurance sub-
4 ject to regulation under this chapter provides for payment
5 of a health service, the performance for the insured of such
6 health service by any physician as defined in subsection five
7 (5) of section one hundred thirty-five point one (135.1) of
8 the Code, acting within the scope of his license is
9 compensable, notwithstanding any provision of the policy.

10 The provisions of this Act shall apply only to policies
11 issued or renewed after June 30, 1975.

12 EXPLANATION

13 This bill provides that there can be no differential of
14 reimbursement from insurance between the different licensed
15 health practitioners.

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sentation of facts in the application; (B) chronic and persistent inebriety or chronic drug addiction; (C) moral turpitude; or (D) the practice of criminal abortions; (E) other unethical practices; or (F) public advertising of special methods to cure chronic incurable diseases; or (G) the presentation to the Board of examiners of licenses or certificates that have been illegally obtained or have been signed or issued unlawfully or under fraudulent representation.

The Board may act upon complaint in writing made to it, or upon its own motion. The accused person shall be furnished with a copy of the complaint charged, and shall be afforded an opportunity for hearing before the Board in person or by attorney. As amended 50 Del.Laws, Ch. 325, § 3, eff. June 23, 1965

1965 Amendment 50 Del.Laws, Ch. 325, authorized denial of certificate because of moral turpitude.

Del. Laws

§ 717. Chiropractic practitioners eligible for compensation from insurance

For purposes of disability insurance, standard health and accident, sick and other insurance policies, a chiropractic physician shall be entitled to compensation for his services. Added 54 Del.Laws, Ch. 147, § 2, eff. Oct. 11, 1963.

CHAPTER 9. DEADLY WEAPONS DEALERS

§ 901. Necessity for license; exceptions

No person shall sell or expose to sale, any pistol or revolver, or revolver or pistol cartridges, stiletto, steel or brass knuckles, or other deadly weapon made especially for the defense of one's person, without first having obtained a license therefor, which license shall be known as "Special License to Sell Deadly Weapons". No person licensed or unlicensed shall possess, sell, or offer for sale any switch blade knife.

This section shall not apply to toy pistols, pocket knives, or knives used in the domestic household, or surgical instruments or tools of any kind. As amended 49 Del.Laws, Ch. 77, eff. May 20, 1963.

1963 Amendment 49 Del.Laws, Ch. 77 inserted the sentence in the first paragraph prohibiting the possession, sale or offer for sale of any switch blade knife.

§ 902. Application and fee for license; duration

Whoever desires to engage in the business of selling any of the articles referred to in the first paragraph of section 901 of this title shall apply to the State Tax Department and obtain a license to conduct such business, for which he shall pay the sum of \$50. The a-

An Act

SENATE: BILL NO. 74. BY SENATORS Minister, DeBerard, Stockton, MacManus, Kogovsek, Calabrese, Cisneros, Johnson, Parker, Ruland, and Wunsch; also REPRESENTATIVES Sack, Bishop, Strang, Younglund, Kopel, Mullen, Burns, Baer, Bryant, DeMoulin, and Gaon.

PROVIDING THAT CHIROPRACTIC SERVICES BE REIMBURSED UNDER CERTAIN INSURANCE POLICIES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 72-10-3 (3), Colorado Revised Statutes 19(1971 Supp.), is amended to read:

72-10-3. Form and content of policy. (3) (a) Notwithstanding any provisions of any policy of sickness and accident insurance, whenever any such policy provides for reimbursement for any service which may be lawfully performed by a person licensed in this state for the practice of osteopathy, medicine, optometry, psychology, CHIROPRACTIC, or podiatry, reimbursement under such policy shall not be denied when such service is rendered by a person so licensed. Nothing in this article shall preclude an insurance company from setting different fee schedules in an insurance policy for different professions.

(b) (i) The provisions OF PARAGRAPH (a) of this subsection (b) (3) shall apply:

(i) To all individual sickness and accident policies issued on and after July 1, 1969, except as pertains to optometry, which shall apply to individual policies issued after July 1, 1971, AND EXCEPT AS PERTAINS TO CHIROPRACTIC, WHICH SHALL APPLY TO INDIVIDUAL POLICIES ISSUED AFTER JULY 1, 1973;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of Act.

(iii) to all blanket and group sickness and accident policies issued, renewed, or reinstated on and after July 1, 1971, EXCEPT AS PERTAINS TO CHIROPRACTIC, WHICH SHALL APPLY TO ALL BLANKET AND GROUP SICKNESS AND ACCIDENT POLICIES ISSUED, RENEWED, OR REINSTATED ON AND AFTER JULY 1, 1973.

SECTION 2. Effective date. This act shall take effect July 1, 1973.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

John D. Vanderhoof
PRESIDENT OF THE
SENATE

John D. Fuhr
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Comfort W. Shaw
SECRETARY OF
THE SENATE

Lorraine F. Lombardi
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John A. Love
GOVERNOR OF THE STATE OF COLORADO

AN ACT CONCERNING UNFAIR TRADE PRACTICES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 38-60 of the general statutes is repealed and the following is substituted in lieu thereof: No person shall engage in this state in any trade practice which is defined in section 38-61 as, or determined pursuant to sections 38-62 and 38-63 to be, an unfair method of competition or an unfair or deceptive act or practice in the business of insurance, nor shall any domestic insurance company engage outside of this state in any act or practice defined in [subsection (1), (2), (3), (4) or (5)] SUBSECTIONS 1 THROUGH 5, INCLUSIVE, of section 38-61. The commissioner shall have power to examine the affairs of every person engaged in the business of insurance in this state in order to determine whether such person has been or is engaged in any unfair method of competition or in any unfair or deceptive act or practice prohibited by sections 38-60 to 38-64, inclusive. When used in said sections, "person" means any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds insurer, fraternal benefit society, and any other legal entity engaged in the business of insurance, including agents, brokers and adjusters.

Sec. 2. Section 38-61 of the general statutes, as amended, is repealed and the following is substituted in lieu thereof: The following are defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance: (1) Misrepresentations and false advertising of [policy contracts] INSURANCE POLICIES. Making, issuing or circulating, or causing to be made, issued or circulated, any estimate, illustration, circular or statement, [misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon, or making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies, or making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates, or using any name or title of

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any policy or class of policies misrepresenting the true nature thereof.] SALES PRESENTATION, OMISSION OR COMPARISON WHICH: (a) MISREPRESENTS THE BENEFITS, ADVANTAGES, CONDITIONS OR TERMS OF ANY INSURANCE POLICY; (b) MISREPRESENTS THE DIVIDENDS OR SHARE OF THE SURPLUS TO BE RECEIVED, ON ANY INSURANCE POLICY; (c) MAKES ANY FALSE OR MISLEADING STATEMENTS AS TO THE DIVIDENDS OR SHARE OF SURPLUS PREVIOUSLY PAID ON ANY INSURANCE POLICY; (d) IS MISLEADING OR IS A MISREPRESENTATION AS TO THE FINANCIAL CONDITION OF ANY PERSON, OR AS TO THE LEGAL RESERVE SYSTEM UPON WHICH ANY LIFE INSURER OPERATES; (e) USES ANY NAME OR TITLE OF ANY INSURANCE POLICY OR CLASS OF INSURANCE POLICIES MISREPRESENTING THE TRUE NATURE THEREOF; (f) IS A MISREPRESENTATION FOR THE PURPOSE OF INDUCING OR TENDING TO INDUCE TO THE LAPSE, FORFEITURE, EXCHANGE, CONVERSION OR SURRENDER OF ANY INSURANCE POLICY; OR (g) IS A MISREPRESENTATION FOR THE PURPOSE OF EFFECTING A PLEDGE OR ASSIGNMENT OF OR EFFECTING A LOAN AGAINST ANY INSURANCE POLICY; OR (h) MISREPRESENTS ANY INSURANCE POLICY AS BEING SHARES OF STOCK.

(2) False information and advertising generally. Making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading. (3) Defamation. Making, publishing, disseminating or circulating, directly or indirectly, or aiding, abetting or encouraging the making, publishing, disseminating or circulating of, any oral or written statement or any pamphlet, circular, article or literature which is false or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance. (4) Boycott, coercion and intimidation. Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint

of, or monopoly in, the business of insurance. (5) False financial statements. Filing with any supervisory or other public official, or making, publishing, disseminating, circulating or delivering to any person, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated or delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive; or making any false entry in any book, report or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such insurer is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, wilfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report or statement of such insurer. (6) UNFAIR CLAIM SETTLEMENT PRACTICES. COMMITTING OR PERFORMING WITH SUCH FREQUENCY AS TO INDICATE A GENERAL BUSINESS PRACTICE ANY OF THE FOLLOWING: (a) MISREPRESENTING PERTINENT FACTS OR INSURANCE POLICY PROVISIONS RELATING TO COVERAGES AT ISSUE; (b) FAILING TO ACKNOWLEDGE AND ACT WITH REASONABLE PROMPTNESS UPON COMMUNICATIONS WITH RESPECT TO CLAIMS ARISING UNDER INSURANCE POLICIES; (c) FAILING TO ADOPT AND IMPLEMENT REASONABLE STANDARDS FOR THE PROMPT INVESTIGATION OF CLAIMS ARISING UNDER INSURANCE POLICIES; (d) REFUSING TO PAY CLAIMS WITHOUT CONDUCTING A REASONABLE INVESTIGATION BASED UPON ALL AVAILABLE INFORMATION; (e) FAILING TO AFFIRM OR DENY COVERAGE OF CLAIMS WITHIN A REASONABLE TIME AFTER PROOF OF LOSS STATEMENTS HAVE BEEN COMPLETED; (f) NOT ATTEMPTING IN GOOD FAITH TO EFFECTUATE PROMPT, FAIR AND EQUITABLE SETTLEMENTS OF CLAIMS IN WHICH LIABILITY HAS BECOME REASONABLY CLEAR; (g) COMPELLING INSURED TO INSTITUTE LITIGATION TO RECOVER AMOUNTS DUE UNDER AN INSURANCE POLICY BY OFFERING SUBSTANTIALLY LESS THAN THE AMOUNTS ULTIMATELY RECOVERED IN ACTIONS BROUGHT BY SUCH INSURED; (h) ATTEMPTING TO SETTLE A CLAIM FOR LESS THAN THE AMOUNT TO WHICH A REASONABLE MAN WOULD HAVE BELIEVED HE WAS ENTITLED BY REFERENCE TO WRITTEN OR PRINTED ADVERTISING MATERIAL ACCOMPANYING OR MADE PART OF AN APPLICATION; (i) ATTEMPTING TO SETTLE CLAIMS ON THE BASIS OF AN APPLICATION WHICH WAS ALTERED WITHOUT NOTICE TO,

OR KNOWLEDGE OR CONSENT OF THE INSURED; (j) MAKING CLAIMS PAYMENTS TO INSURED OR BENEFICIARIES NOT ACCOMPANIED BY STATEMENTS SETTING FORTH THE COVERAGE UNDER WHICH THE PAYMENTS ARE BEING MADE; (k) MAKING KNOWN TO INSURED OR CLAIMANTS A POLICY OF APPEALING FROM ARBITRATION AWARDS IN FAVOR OF INSURED OR CLAIMANTS FOR THE PURPOSE OF COMPELLING THEM TO ACCEPT SETTLEMENTS OR COMPROMISES LESS THAN THE AMOUNT AWARDED IN ARBITRATION; (l) DELAYING THE INVESTIGATION OR PAYMENT OF CLAIMS BY REQUIRING AN INSURED, CLAIMANT, OR THE PHYSICIAN OF EITHER TO SUBMIT A PRELIMINARY CLAIM REPORT AND THEN REQUIRING THE SUBSEQUENT SUBMISSION OF FORMAL PROOF OF LOSS FORMS, BOTH OF WHICH SUBMISSIONS CONTAIN SUBSTANTIALLY THE SAME INFORMATION; (m) FAILING TO PROMPTLY SETTLE CLAIMS, WHERE LIABILITY HAS BECOME REASONABLY CLEAR, UNDER ONE PORTION OF THE INSURANCE POLICY COVERAGE IN ORDER TO INFLUENCE SETTLEMENTS UNDER OTHER PORTIONS OF THE INSURANCE POLICY COVERAGE; (n) FAILING TO PROMPTLY PROVIDE A REASONABLE EXPLANATION OF THE BASIS IN THE INSURANCE POLICY IN RELATION TO THE FACTS OR APPLICABLE LAW FOR DENIAL OF A CLAIM OR FOR THE OFFER OF A COMPROMISE SETTLEMENT. (7) FAILURE TO MAINTAIN COMPLAINT HANDLING PROCEDURES. FAILURE OF ANY PERSON TO MAINTAIN COMPLETE RECORD OF ALL THE COMPLAINTS WHICH IT HAS RECEIVED SINCE THE DATE OF ITS LAST EXAMINATION. THIS RECORD SHALL INDICATE THE TOTAL NUMBER OF COMPLAINTS, THEIR CLASSIFICATION BY LINE OF INSURANCE, THE NATURE OF EACH COMPLAINT, THE DISPOSITION OF THESE COMPLAINTS, AND THE TIME IT TOOK TO PROCESS EACH COMPLAINT. FOR PURPOSES OF THIS SUBSECTION "COMPLAINT" SHALL MEAN ANY WRITTEN COMMUNICATION PRIMARILY EXPRESSING A GRIEVANCE. (8) MISREPRESENTATION IN INSURANCE APPLICATIONS. MAKING FALSE OR FRAUDULENT STATEMENTS OR REPRESENTATIONS ON OR RELATIVE TO AN APPLICATION FOR AN INSURANCE POLICY, FOR THE PURPOSE OF OBTAINING A FEE, COMMISSION, MONEY OR OTHER BENEFIT FROM ANY INSURERS, AGENT, BROKER OR INDIVIDUAL. [(6)] (9) Any violation of any one of sections 38-55, 38-56, 38-57, 38-59, 38-149, 38-150 and 38-172. None of the following practices shall be considered discrimination within the meaning of section 38-149 or 38-172 or a rebate within the meaning of section 38-59: (a) Paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance,

provided any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the company and its policyholders; (b) in the case of policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense; (c) readjustment of the rate of premium for a group insurance policy based on loss or expense experience, or both, at the end of the first or any subsequent policy year, which may be made retroactive for such policy year. [(7)] (10) ✓
Notwithstanding any provision of any policy of insurance, certificate or service contract, whenever such insurance policy or certificate or service contract provides for reimbursement for any services which may be legally performed by any practitioner of the healing arts licensed to practice in this state, reimbursement under such insurance policy, certificate or service contract shall not be denied because of race, color or creed nor shall any insurer make or permit any unfair discrimination against particular individuals or persons so licensed. (11) FAVORED AGENT OR INSURER: COERCION OF DEBTORS. (a) NO PERSON MAY (i) REQUIRE, AS A CONDITION PRECEDENT TO THE LENDING OF MONEY OR EXTENSION OF CREDIT, OR ANY RENEWAL THEREOF, THAT THE PERSON TO WHOM SUCH MONEY OR CREDIT IS EXTENDED OR WHOSE OBLIGATION THE CREDITOR IS TO ACQUIRE OR FINANCE, NEGOTIATE ANY POLICY OR CONTRACT OF INSURANCE THROUGH A PARTICULAR INSURER OR GROUP OF INSURERS OR AGENT OR BROKER OR GROUP OF AGENTS OR BROKERS; (ii) UNREASONABLY DISAPPROVE THE INSURANCE POLICY PROVIDED BY A BORROWER FOR THE PROTECTION OF THE PROPERTY SECURING THE CREDIT OR LIEN; OR (iii) REQUIRE DIRECTLY OR INDIRECTLY THAT ANY BORROWER, MORTGAGOR, PURCHASER, INSURER, BROKER OR AGENT PAY A SEPARATE CHARGE, IN CONNECTION WITH THE HANDLING OF ANY INSURANCE POLICY REQUIRED AS SECURITY FOR A LOAN ON REAL ESTATE OR PAY A SEPARATE CHARGE TO SUBSTITUTE THE INSURANCE POLICY OF ONE INSURER FOR THAT OF ANOTHER; (iv) USE OR DISCLOSE INFORMATION RESULTING FROM A REQUIREMENT THAT A BORROWER, MORTGAGOR OR PURCHASER FURNISH INSURANCE OF ANY KIND ON REAL PROPERTY BEING CONVEYED OR USED AS COLLATERAL SECURITY TO A LOAN, WHEN SUCH INFORMATION IS TO THE ADVANTAGE OF THE MORTGAGEE, VENDOR OR LENDER, OR IS TO THE DETRIMENT OF THE

BORROWER, MORTGAGOR, PURCHASER, INSURER OR THE AGENT OR BROKER COMPLYING WITH SUCH A REQUIREMENT. (b) (i) SUBSECTION (a) (iii) DOES NOT INCLUDE THE INTEREST WHICH MAY BE CHARGED ON PREMIUM LOANS OR PREMIUM ADVANCEMENTS IN ACCORDANCE WITH THE SECURITY INSTRUMENT. (ii) FOR PURPOSES OF SUBSECTION (a) (ii), SUCH DISAPPROVAL SHALL BE DEEMED UNREASONABLE IF IT IS NOT BASED SOLELY ON REASONABLE STANDARDS UNIFORMLY APPLIED, RELATING TO THE EXTENT OF COVERAGE REQUIRED AND THE FINANCIAL SOUNDNESS AND THE SERVICES OF AN INSURER. SUCH STANDARDS SHALL NOT DISCRIMINATE AGAINST ANY PARTICULAR TYPE OF INSURER, NOR SHALL SUCH STANDARDS CALL FOR THE DISAPPROVAL OF AN INSURANCE POLICY BECAUSE SUCH POLICY CONTAINS COVERAGE IN ADDITION TO THAT REQUIRED. (iii) THE COMMISSIONER MAY INVESTIGATE THE AFFAIRS OF ANY PERSON TO WHOM THIS SUBSECTION APPLIES TO DETERMINE WHETHER SUCH PERSON HAS VIOLATED THIS SUBSECTION. IF A VIOLATION OF THIS SUBSECTION IS FOUND, THE PERSON IN VIOLATION SHALL BE SUBJECT TO THE SAME PROCEDURES AND PENALTIES AS ARE APPLICABLE TO OTHER PROVISIONS OF THIS ACT. (iv) FOR PURPOSES OF THIS SECTION, "PERSON" INCLUDES ANY INDIVIDUAL, CORPORATION, ASSOCIATION, PARTNERSHIP OR OTHER LEGAL ENTITY.

Sec. 3. Subsection (b) of section 38-62 of the general statutes is repealed and the following is substituted in lieu thereof: If, after such hearing, the commissioner determines that the [method of competition or the act or practice in question is defined in section 38-61 and that the person complained of has engaged in such method of competition, act or practice in violation of sections 38-60 to 38-64, inclusive,] PERSON CHARGED HAS ENGAGED IN AN UNFAIR METHOD OF COMPETITION OR AN UNFAIR OR DECEPTIVE ACT OR PRACTICE, he shall reduce his findings to writing and shall issue and cause to be served upon the person charged with the violation A COPY OF SUCH FINDINGS AND an order requiring such person to cease and desist from engaging in such method of competition, act or practice AND IF THE ACT OR PRACTICE IS A VIOLATION OF SECTION 38-61, THE COMMISSIONER MAY AT HIS DISCRETION ORDER ANY ONE OR MORE OF THE FOLLOWING: (i) PAYMENT OF A MONETARY PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS FOR EACH AND EVERY ACT OR VIOLATION BUT NOT TO EXCEED AN AGGREGATE PENALTY OF TEN THOUSAND DOLLARS UNLESS THE PERSON KNEW OR REASONABLY SHOULD HAVE KNOWN HE WAS IN VIOLATION OF THIS ACT,

House Bill No. 8446

IN WHICH CASE THE PENALTY SHALL BE NOT MORE THAN FIVE THOUSAND DOLLARS FOR EACH AND EVERY ACT OR VIOLATION BUT NOT TO EXCEED AN AGGREGATE PENALTY OF FIFTY THOUSAND DOLLARS IN ANY SIX-MONTH PERIOD; (ii) SUSPENSION OR REVOCATION OF THE PERSON'S LICENSE IF HE KNEW OR REASONABLY SHOULD HAVE KNOWN HE WAS IN VIOLATION OF THIS ACT.

Sec. 4. Subsection (c) of section 38-62 of the general statutes is repealed and the following is substituted in lieu thereof: Any person who violates a cease and desist order of the commissioner made pursuant to this section [shall, upon proof thereof to the satisfaction of the court, forfeit and pay to the state a sum not to exceed fifty dollars, except that, if such violation is found to be wilful, the amount of such penalty shall be a sum not to exceed five hundred dollars.] AND WHILE SUCH ORDER IS IN EFFECT MAY AFTER NOTICE AND HEARING AND UPON ORDER OF THE COMMISSIONER BE SUBJECT AT THE DISCRETION OF THE COMMISSIONER TO ANY ONE OR MORE OF THE FOLLOWING: (i) A MONETARY PENALTY OF NOT MORE THAN TEN THOUSAND DOLLARS FOR EACH AND EVERY ACT OR VIOLATION; OR (ii) SUSPENSION OR REVOCATION OF SUCH PERSON'S LICENSE.

Certified as correct by

Legislative Commissioner.

Clerk of the Senate.

Clerk of the House.

Approved _____, 1973.

Governor.

LEGAL DEPARTMENT
INTERNATIONAL CHIROPRACTORS ASSOCIATION

EXECUTIVE OFFICES
741 BRADY STREET
DAVENPORT, IOWA 52808
TELEPHONE (319) 322-4447

February 7, 1977

JAMES D. HARRISON, COUNSEL
777 CHAMBER OF COMMERCE BUILDING
INDIANAPOLIS, INDIANA 46204
TELEPHONE (317) 639-4511

Woody Waldroup, D.C.
Alaska Chiropractic Society
Post Office Box 4-1949
Anchorage, Alaska 99509

RE: Insurance Equality Laws

Dear Dr. Waldroup:

Your letter to Mr. Harrison arrived after he left for the Mid-Year Convention in San Francisco. In his absence, I am taking the liberty of addressing myself to the questions which you raised. (My office staff has suggested that I refuse to assist you until you return our temperate weather in exchange for the immoderate cold we have received of late. However, professionalism has triumphed over jealousy.)

All of the insurance equality statutes with which we are familiar follow substantially the same form as Indiana's. Accordingly, I have enclosed a copy of that statute for your examination. Not infrequently, insurance companies such as Blue Cross-Blue Shield will attempt to evade the purpose of such statutes with policy language such as: "services for the detection and correction by manual or mechanical means of structural imbalance, distortion or subluxation in the human body for the purpose of removing nerve interference and the effects thereof where such interference is the result of or related to distortion, misalignment or subluxation of or in the vertebral column." The companies defend this maneuver by pointing out that such language is equally applicable to M.D.s and chiropractors.

When this was attempted in Indiana, we were able to persuade Blue Cross-Blue Shield to withdraw the exception by the use of political pressure. In two other states who have had the same problem, we have suggested including in the statute a provision such as the following:

Woody Waldreup, D.C.
February 7, 1977
Page Two

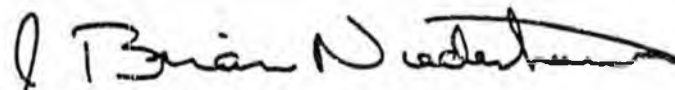
"Terminology in such policy or contract deemed discriminatory against any such person or method of practice shall be void. Any policy provision excluding the methodology or technique of osteopathy, chiropractic, optometry, psychology, or podiatrics without eliminating the illness, injury or condition for which the service is provided shall be null and void."

We are unaware whether any states have enacted such a provision.

We recently corresponded with Lawrence E. Murphy, Suite No. 1, 5625 "O" Street, Lincoln, Nebraska 68510 regarding this issue. Mr. Murphy is the attorney for the Nebraska Chiropractic Physicians Association, and was in the process of compiling information on how the various states handled exclusions from insurance equality laws. We furnished him with this information, and requested that he let us know the results of his efforts. Although he has not done so, it may be that he might respond to the request from you for this information.

If there is anything further we may do to be of assistance, please don't hesitate to let us know.

Very truly yours,


J. Brian Niederhauser

JBN:lmk

CHAPTER

APPROVED

1709

3/15/69

HOUSE ENROLLED ACT No. 1240

AN ACT concerning insurance policies as the same relates to reimbursement for certain services thereunder.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. Notwithstanding any provision of any individual or group policy of accident and health insurance, or any provision of a policy, contract, plan or agreement for hospital or medical service or indemnity, wherever such policy, contract, plan or agreement provides for reimbursement for any service which is in the lawful scope of practice of a duly licensed osteopath, optometrist or chiropractor, the person entitled to benefits or person performing services under such policy, contract, plan or agreement shall be entitled to reimbursement on an equal basis for such service, whether the said service is performed by a physician, osteopath, optometrist or chiropractor duly licensed under the laws of this state.

SEC. 2. The provisions of this Act shall not apply to any policy, contract, plan or agreement in effect prior to the effective date of this Act.

SEC. 3. All laws and parts of laws in conflict herewith are hereby repealed.

SEC. 4. Whereas an emergency exists for the immediate taking effect of this Act, the same shall be in full force and effect on and after May 1, 1969.

Birch, Jermain, and Horton
Attorneys at Law

1034 West Fourth Avenue
Anchorage, Alaska 99501

November 9, 1972

Dr. Adrian Barber
Alaska Chiropractic Clinic
Klatt Box 10045.
Anchorage, Alaska

Dear Dr. Barber:

You asked that I ascertain the necessary amendments to incorporate an insurance equalization law into our existing health insurance statutes.

As a preliminary matter, I suggest to you that this particular session of the Alaska State Legislature will be difficult for the chiropractic profession. With the return of Dr. Milo Fritz, chiropractors may expect some rough sledding. It is probable that Dr. Fritz will again introduce his bill which would ban the use of the word "doctor" from all professionals except those who have graduated from an accredited medical school. Additionally, he would strongly oppose an insurance equalization law. Tom Fink, whose voice bears great weight on matters such as these, has indicated to me that he would neither oppose nor strongly support an insurance equalization amendment.

To accomplish your objective, two amendments would be necessary, one to the general Insurance Code, and one to Chapter 87, which deals specifically with hospital and medical service corporations.

A.S. 21.87.330 (8) provides that: "participant physician" means a doctor, dentist, osteopath, optometrist, chiropractor or other licensed health care practitioner who has entered into a service agreement with a service corporation.

A.S. 21.87.160 (c) provides that: No contract may restrict the subscriber's right to free choice of physician or hospital, but shall restrict benefits to be provided on a service basis to services rendered by participant physicians and participant hospitals.

Dr. Adrian Barber
November 9, 1972
Page Two

I would suggest an amendment to 21.87.160 (c), so that it would now read: "whenever any policy of insurance issued in this state provides for reimbursement for any service which is within the lawful scope of practice of a duly licensed medical physician, dentist, osteopath, chiropractor, optometrist, podiatrist or other licensed health care practitioner the insured or other person entitled to benefits under such policy shall have full freedom of choice in selecting their doctor and be entitled to reimbursement for such services."

A.S. 21.12.070 (14) (b) needs also to be amended by the sentence "All reimbursement provision of such policies shall be governed by A.S. 21.87.160 (c)."

I have attached for your consideration a draft bill.

With best wishes.

Cordially,

BIRCH, JERMAIN AND HORTON

Ron Birch
Ronald G. Birch

Enclosure

INSURANCE EQUALIZATION LEGISLATION

AN ACT to provide that insureds or other beneficiaries of insurance policies, subscribers to or other beneficiaries of medical, hospital or hospital and medical service plans and contracts, workmen's compensation policies, and beneficiaries under public assistance programs, shall when such services are offered, have full freedom of choice in the selection of any duly licensed Medical Physician, Dentist, Osteopath, Chiropractor, Optometrist, Podiatrist or other licensed health care practitioner in the performance of services which are within the lawful scope of their respective professional practices.

Section 1 - BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA, that Alaska Statutes 21.87.160 (c) and Alaska Statute 21.12.070 (14) (b) are hereby amended to read as follows:

A.S. 21.87.160 (c) "Whenever any policy of insurance issued in this state provides for reimbursement for any service which is within the lawful scope of practice of a duly licensed medical physician, dentist, osteopath, chiropractor, optometrist, podiatrist, or other licensed health care practitioner the insured or other person entitled to benefits under such policy shall have full freedom of choice in selecting their doctor and be entitled to reimbursement for such services."

A.S. 21.12.070 (14) (b) "Provision of medical, hospital, surgical, and funeral benefits, and of coverage against accidental death or injury as incidental to and part of other insurance as stated under (a) (1), (2), (4), and (10) of this section, shall for all purposes be considered to be the same kind of insurance to which it is incidental, and shall not be subject to provisions of this title applicable to life or disability insurances. All reimbursement provision of such policies shall be governed by A.A. 21.87.160 (c).

Section 2 - BE IT FURTHER enacted that nothing in this Act shall be construed as enlarging the scope of practice of any of the licensed professions enumerated in Section 1.

Section 3 - BE IT FURTHER ENACTED that all acts and parts of acts in conflict herewith are hereby repealed.

Section 4 - BE IT FURTHER ENACTED that this Act shall take effect from and after its passage.

POSITION PAPER
SENATE BILL NO. 177

For a Bill entitled "An Act providing for freedom to choose providers under medical, hospital or health insurance policies; and providing for an effective date."

This Bill amends AS 21.42 to require health insurance companies to allow policy holders to receive care; and be reimbursed accordingly, from any health professional they select for services covered in the terms of their policies.

DISCUSSION

The Department of Health and Social Services has identified three issues that inhibit clear interpretation and implementation of this Bill. Section 1 defines providers that a policy holder may obtain services from to include; "physicians, dentists, osteopaths, optometrists, chiropractors, nurse midwives, clinics, hospitals or other licensed health care facilities or health care practitioners.

Current Alaska Statutes (AS 21.31.355), incorporates coverage of the cost of services provided by nurse midwives. It is unclear as to the intent of including nurse midwife services in this new section.

The provision of the diagnostic and treatment services by practitioners are prescribed by the scope of their license. The benefits of incorporating the provisions of this Bill to the policy holder is unclear. The impact of Section 1 may result in confusing the consumer in purchase of health care services; both in terms of understanding a practitioner's licensed capabilities and obtaining the desired care.

The intent of health insurance coverage is to assure financial access to health care based upon the shared risk of a pool of policy holders. Within the content of continual escalation of health care cost, the impact of this Bill upon the financing of care is questionable. The stipulations of a policy coverage by type of service and health professionals is calculated to minimize the financial risk to the pool of policy holders and maximize the treatment of health problems within the confines of medical science. Removing the stipulation of professional coverage has the potential to increase the cost of health care.

POSITION

In consideration of the previously identified issues and lack of legislative intent of purpose of amending AS 21.42, the Department of Health and Social Services cannot support the Bill at this time.

Recommended by: E. S. Rabeau
E. S. Rabeau, M.D., Director
Division of Public Health

Date: 4/7/83

Approved by: Robert London Smith
Robert London Smith, Ph.D.
Commissioner
Department of Health & Social Services

Date: 4/8/83

STATE OF ALASKA
FISCAL NOTE

Revision Date 4/6, 1983

I. REQUEST
 Bill/Resolution No.: SB No. 177
 Title: "Providing freedom of choice"
 Sponsor: Josephson
 Requestor: HESS Labor

II. FISCAL DETAIL
 Agency Affected: No anticipated impact
 Program Category Affected: _____
 BRU, Program of Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LANDS & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
	0	0	0	0	0	0

POSITIONS:

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

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Dwayne Peoples *WGP* Phone: 465-3105
 Division: Public Health Date: 4/6/83
 Approved by Commissioner: Robert Gordon Smith Date: 4/8/83
 Department: Health and Social Services

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3/8/83

M E M O R A N D U M

DATED: May 2, 1983

TO: Sheila Peterson, Staff
Senate Labor & Commerce Committee

FROM: Martin Tirador, Manager *MGT*
Alaska Provider & Government Relations

SUBJECT: CS for SB 177 (HESS)

Blue Cross of Washington and Alaska is opposed to the Committee Substitute for Senate Bill 177 (HESS) as not being in the interest of the purchasing public. As written, this bill makes possible the mandating of health care benefits by a State agency. Although this would appear to benefit health care providers, the consuming public would be discriminated against by requiring the purchase of coverage they might not desire. The coverage conditions are contained in the policy or contract between the purchaser and the carrier, and should reflect the needs of the purchasers or group. To this conclusion we propose the following:

Line 11 - replace "A" with "No" at the start of the sentence and delete the word "not."

Line 16 - delete the period after the word "license" and add "and is covered by the policy or service contract."

This language provides for the freedom to choose those benefits that reflect the medical-economical needs of the group.

Mandatory benefit legislation can cause a number of incidences not in the interest of the consuming public. Many of these are:

1. Groups and individuals must pay for benefits not needed, not wanted, not available and, therefore, not usable.
2. Mandating benefits can cause an imbalance of coverage whereby the cost of such coverage would be at the expense of broader general coverage.
3. Greater inflation by adding costs, many purchasers may not offer, but still must pay for.
4. Mandated benefit costs can result in decision to reduce or not provide benefits, depending on the fiscal impact on the purchaser.

Sheila Peterson
May 2, 1983
Page 2

Blue Cross understands the wish of government to provide for its citizens, but respectfully suggests this legislation, as written, is not in the interest of the citizens of Alaska. We urge the adoption of the amended language.

Asper
4/28/83✓

Original sponsor: Josephson by request

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 177 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

9 * Section 1. AS 21.36.090 is amended by adding a new subsection to
10 read:

11 (d) A person may not practice or permit unfair discrimination
12 against a person who provides a service covered under a group dis-
13 ability policy that extends coverage on an expense incurred basis, or
14 under a group service or indemnity type contract issued by a nonprofit
15 corporation, if the policy or contract permits the service to be
16 performed by the class of professionals to which the provider belongs
17 and the service is within the scope of the provider's occupational
18 license. In this subsection, "provider" means a state licensed
19 physician, dentist, osteopath, optometrist, chiropractor or nurse
20 midwife.

21 * Sec. 2. This Act takes effect January 1, 1984.

22
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26 proposed, but never discussed
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28
29

Bill Fact Sheet

Date Received 4/19/83

Bill Number SB177 Title Re. Insurance Policies

Fiscal Note - Date Requested 4/19/83 Date Received _____

- Of Whom Katy Waller

Dept. Position Paper - Date Requested 4/19 Date Received _____

- Of Whom Katy Waller

Resource People

Josephson - request back-up - 4/19/83

Initial Hearing - Date _____

People Contacted

HESS (Norma Lang) - 3030 - position paper on C/S 5/16

Follow-up Hearing - Date _____

Final Action _____ Date _____

S

B

182

Bill No. Senate Bill 182

Date March 31, 1983

Title "An Act relating to elevator safety standards."

Contact: Judy Knight
465-2700
Bob Bacolas
465-4870

Every three years, the American Society of Mechanical Engineers revises the safety code for installation and operation of elevators, escalators, dumbwaiters and moving sidewalks to incorporate technological advances. The 1981 code described in this bill is the most recent effort in this regard. The 1978 code presently in effect for the State of Alaska is, therefore, outdated and will not be reprinted by or otherwise be available from the American Society of Mechanical Engineers.

Adoption of the 1981 Elevator Safety Code would bring Alaska's minimum standards into conformity with the Basic Building Code, the National Building Code, the Standard Building Code, and the Uniform Building Code which are commonly accepted and used by industry as minimum standards. These codes are also commonly adopted by political subdivisions as the minimum standards enforced under their building inspection programs.

This bill also provides that municipalities may adopt and enforce their own elevator safety standards as long as the standards are at least as effective as the state standards. This would permit municipalities to extend their self-governing powers to this aspect of public safety if they wished. The Municipality of Anchorage presently has an elevator inspection program and conducts inspections in its jurisdiction.

The 1981 elevator safety code addresses the emergency power source provisions set out in AS 18.60.810. Repeal of this section as proposed in Section 5 of the bill is, therefore, appropriate.

The Department of Labor supports passage of this bill. It would not have any fiscal impact.

APPROVED:

Judy Knight
COMMISSIONER

4/4/83
DATE

POSITION PAPER/Department of Labor

STATE OF ALASKA
FISCAL NOTE

Revision Date: Original, 1983

I. REQUEST

Bill/Resolution No.: Senate Bill 182
 Title: "...elevator safety standards..."
 Sponsor: Senator Josephson
 Requester: Labor and Commerce

II. FISCAL DETAIL

Agency Affected: Labor
 Program Category Affected: Worker Protection
 BRU, Program of Subprogram(s) Affected: Labor Standards and Safety

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not applicable.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: ^{PRC} Robert J. Bacolas, Sr. *R. Bacolas* Phone: 465-4870
 Division: Labor Standards and Safety Date: March 23, 1983

Approved by Commissioner: Jim Robinson *Jim Robinson* Date: March 23, 1983
 Department: Labor

LEG:A:29

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3/3/83

Collateral references. — 26 Am. Jur. 2d, Elevators and Escalators, §§ 1-13.

39A C.J.S., Health and Environment, §§ 20-32.

What is "passenger elevator" within safety statute or regulation. 77 ALR2d 477.

Liability of owner or operator for injury caused by door of automatic passenger elevator. 63 ALR3d 893.

Liability of installer or maintenance company for injury caused by failure of automatic elevator to level at floor. 63 ALR3d 996.

Liability for injury caused by fall of person into shaft, or by abrupt drop, sudden movement, or stopping between floors, of automatic passenger elevator. 64 ALR3d 950.

Liability of installer or maintenance company for injury caused by door of automatic passenger elevator. 64 ALR3d 1005.

Liability of owner or operator for injury caused by failure of automatic elevator to level at floor. 64 ALR3d 1020.

Sec. 18.60.800. Elevator safety standards. (a) The 1978 edition of the American National Standards Institute Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks published by the American Society of Mechanical Engineers is adopted as the minimum elevator safety code in the state.

(b) The Department of Labor shall

(1) adopt or change regulations to carry out the provisions of AS 18.60.800 — 18.60.820;

(2) inspect and certify elevators to meet the safety requirements;

(3) establish, by regulation, fees for inspections performed under AS 18.60.800 — 18.60.820; and

(4) maintain a record of all inspections performed and of all inspection fees collected.

(c) Inspections of elevators by the department shall be performed in accordance with the procedures set out in the American National Standards Institute's Practice (Inspector's Manual — ANSI 17.2), as approved May 29, 1973.

(d) In AS 18.60.800 — 18.60.820, "elevator" includes elevators, dumbwaiters, escalators and moving walks, (§ 1 ch 44 SLA 1976; am § 1 ch 20 SLA 1979)

Effect of amendments. — The 1979 amendment, in subsection (a), substituted "1978 edition of the American National Standards Institute Safety Code" for "Department of Labor shall adopt the 1971 edition of the American National Stan-

dard Safety Code" and "elevator safety code in" for "elevator safety standards of" and inserted "is adopted"; in subsection (b), deleted "and" from the end of paragraph (1) and added paragraphs (3) and (4); and added subsections (c) and (d).

Sec. 18.60.810. Emergency power source. All elevators which do not have an alternate power source shall be equipped with an emergency power source which will produce sufficient power to provide lights inside the elevator and a ringing alarm which can be heard in the building for five hours. (§ 1 ch 44 SLA 1976)

Repeal

§ 18

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NOTE (Rule 210.13): See also ANSI A117.1, Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped.

deals with topic repealed
in Sec. 5

**SECTION 211
EMERGENCY OPERATION AND
SIGNALING DEVICES**

Rule 211.1 Car Emergency Signaling Devices

Elevators shall be provided with the following signaling devices:

(a) In all buildings, the elevator shall be provided with the following:

(1) An audible signaling device, operable from the emergency stop switch and from a switch marked "ALARM" which are located in or adjacent to each car operating panel. The signaling device shall be located inside the building and audible inside the car and outside the hoistway. One signaling device may be used for a group of elevators.

(2) Means of two-way conversation between each elevator and a readily accessible point outside the hoistway. (Telephone, intercom, etc.)

If the audible signaling device, or the means of two-way conversation, or both, are normally connected to the building power supply, they shall automatically transfer to a source of emergency power within 10 sec after the normal power supply fails. The power source shall be capable of providing for the operation of the audible signaling device for at least 1 hr and the means of two-way conversation for at least 4 hr.

(b) In buildings in which a building attendant, building employee, or watchman is not continuously available to take action when the required emergency signal is operated, the elevators shall be provided with one of the following additional emergency signaling devices:

(1) A telephone connected to a central telephone exchange system.

(2) A weatherproof audible signaling device with a minimum sound rating of 80 dB operated from the alarm switch and the emergency stop switch inside the car and identified "ELEVATOR EMERGENCY—CALL POLICE", in letters not less than 2 in. (51 mm) high. The device shall be mounted on the outside of the building near the main entrance and located so that the sign can be read from the entrance sidewalk. Only one outside signal is required if operable from all cars of all elevators of the type specified in the building.

An emergency power system shall be provided conforming to the requirements of Rule 211.1(a).

(3) Means within the car for communicating with or signaling to an approved emergency service which operates 24 hr each day.

Rule 211.2 Emergency Power

An elevator may be powered by an emergency power system provided when operating on such emergency power there is conformance with the requirements of Rules 207.8 and 210.10.

EXCEPTION (Rule 211.2): Where the emergency power system is designed to operate only one elevator at a time, the energy absorption means, if required, may be located on the power side of the elevator power disconnecting means, provided all other requirements of Rule 210.10 are conformed to when operating any of the elevators the system might serve.

Other building loads such as power and light that may be supplied by the emergency power system shall not be considered as a means of absorbing the regenerated energy for the purpose of conforming to Rule 210.10 unless such loads are using their normal power from the emergency power system when it is activated.

Rule 211.3 Operation of Elevators Under Fire or Other Emergency Conditions

All elevators having a travel of 25 ft (7.62 m) or more, above or below the designated level shall conform to the requirements of Rule 211.3.

NOTE (Rule 211.3): See Section 3 for definition of "designated level."

211.3a Phase I and II Operation

(1) Phase I Emergency Recall Operation

(a) A three position (on, off, and by-pass) key-operated switch shall be provided only at the designated level for each single elevator or for each group of elevators. The key shall be removable only in the "on" and "off" positions.

When the switch is in the "off" position, normal elevator service shall be provided and the smoke detectors required by Rule 211.3a(1)(b) shall be functional. When the switch is in the "by-pass" position, normal elevator service shall be restored independent of the smoke detectors required by Rule 211.3a(1)(b).

When the switch is in the "on" position:

(1) All cars controlled by this switch and which are on automatic service shall return nonstop to the designated level and the doors shall open and remain open.

(2) A car traveling away from the designated level shall reverse at or before the next available floor without opening its doors.

(3) A car stopped at a landing shall have the in-car emergency stop switch rendered inoperative as soon as the door is closed, and the car starts toward

OTIS ELEVATOR COMPANY

Far West Region

Bayview Commercial Center

619 Warehouse Avenue, Suite 202, Anchorage, Alaska 99501 (907) 278-4575

May 2, 1983

Senator Joe Josephson
Alaska State Legislature
Pouch V (MS-3100)
Juneau, Alaska 99811

Subject: Senate Bill No. 182 - Referred by the Department of Labor
and Commerce - March 17, 1983

Dear Senator Josephson:

Complimenting our letter of April 12, 1983, we feel compelled to further clarify Section 1 - AS18.60.800 (a) and Section 2 - AS18.60.800 (b) (2).

We feel our previous letter may have implied that the Municipal Inspections are not being handled competently when in actuality what we wished to emphasize was that the State Inspections make requirements upon owners of elevators in accordance with the most current codes regardless of the age of the equipment and are adverse to the concept of "Grandfather rights."

Conversely, Municipal Inspections take into account the time of the installation and existing building conditions that may not comply with codes most recently adopted.

Subsequently, a more lenient approach or consideration is given to owners within the Municipality and we feel that some sort of compromise must be reached so that we have fairness distributed evenly to owners of elevators no matter where they occur in the state.

We can see the objectives and thinking within the Inspection Divisions of both the Municipality and State and can agree as well as disagree with both to some degree but we feel a common policy should occur.

By adoption of Senate Bill 182 you further separate the two entities and "double standards" may unfairly apply.



Subsidiary of

**UNITED
TECHNOLOGIES.**

OTIS ELEVATOR COMPANY

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May 2, 1983

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Subsidiary of

**UNITED
TECHNOLOGIES.**

Senator Joe Josephson
Subject: Senate Bill No. 182
05/02/83
Page 2

We further note that Section 1 - AS18.60.800 (a) is an attempt to change the inspection periods from those mandated by the ANSI Code because of insufficient number of inspectors to make the inspections during the time dictated. We do not believe that the National Code should be changed on a local basis because of budgetary restraints considering the number of passengers that must be transported every day.

Both the State of Alaska and the Municipality of Anchorage are currently behind in their inspections because of the number of installations within their areas and this number is increasing weekly. It is the writers opinion that we cannot arbitrarily change the law for the convenience of a few to the detriment of many.

Should you wish to discuss the implications of this bill further we would ask that you contact the writer for further explanations.

Very truly yours,

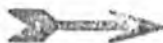
OTIS ELEVATOR COMPANY



J. D. Verlinde
Manager - ALASKA

cc: Senator John Sackett
Senator Don Bennett
Senator Pat Rodey
Senator Richard Eliason
Senator Bob Mulcahy
Duane Houck, Department of Labor
John Bishop, Municipality of Anchorage
Mike Smith, Municipality of Anchorage

THIS



JDV/mjr

OTIS ELEVATOR COMPANY

Far West Region

Bayview Commercial Center

619 Warehouse Avenue, Suite 202, Anchorage, Alaska 99501 (907) 278-4575

April 12, 1983

Senator Joe Josephson
Alaska State Legislature
Pouch V (MS-3100)
Juneau, AK. 99811

Subject: Senate Bill No. 182 - Referred by the Department of Labor
and Commerce - March 17, 1983

Dear Senator Josephson,

We have reviewed Senate Bill No. 182 and must express our concern regarding the change to the elevator safety standards.

Section 2 - AS18.60.800 (b)(2) permits inspections to be made in a Municipality at the option of the Municipal Inspection Division.

OTIS Elevator installs the majority of all elevators within and outside the Municipality of Anchorage and have found that the State of Alaska Elevator Inspection Division is most competent, fair and thorough although somewhat short handed.

Inspections for new installations have to be scheduled in advance (two to six weeks) to assure that an Inspector is available at the time the project is completed.

The code you are adopting does not permit the operation of the elevator without the approved inspection tests, which we feel is appropriate.

However, due to the number of installations we install and maintain, the single inspector the State has is extremely pressed to make all the additional annual safety inspections.

Moreover, we express our concern within the Municipality of Anchorage because of the degree of sophistication of the elevator equipment and the large population of people using this type of equipment.

In the last several years the State has given over the inspection duties to the Municipality on the assumption that all inspections would be made in accordance with the ANSI code and will be at least as stringent if not more so than State Inspections.



Subsidiary of

**UNITED
TECHNOLOGIES.**

Senator Joe Josephson
Subject : Senate Bill No. 182
Page 2

The State at that time kept the right to make spot checks on Municipal elevators should it be determined that safety hazards and other considerations be involved.

It is the writers opinion that current inspections being made by the Municipality are not as indepth as those made by the State.

Certain requirements being forced upon owners outside the Municipality are not being requested on similar installations within the Anchorage area.

Every nine days OTIS Elevators alone move the equivalent of the worlds population and we are exposed to tremendous liabilities. Subsequently, we encourage professional safety inspections by both our service mechanics, installation crews and the appropriate inspection agency to ensure that all aspects of the installation are within the ANSI guidelines.

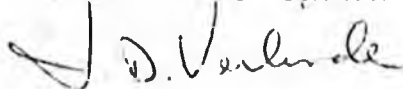
By the same token we would encourage the Municipality to become more stringent in their inspections as we fear that any new competitors that come into our State may take shortcuts in installation and maintenance services to provide more attractive pricing with their products or services.

Although we realize the section indicates that it is up to the Commissioner to determine that the inspection and certification by the Municipality adequately protect the public we feel that this is a provision which will be ineffectively regulated and enforced. We feel the Commissioner is not intimately familiar with elevator systems and unless the inspectors are in constant training they themselves will not be able to understand the "workings" of the new computerized equipment.

We respectfully request that you reconsider your Senate Bill and not ammend Section 2 AS18.60.800 (b)(2).

Respectfully submitted,

OTIS ELEVATOR COMPANY



J. D. Verlinde
Manager - Alaska

CC: Senator John Sackett
Senator Don Bennett
Senator Pat Rodey
Senator Richard Eliason
Senator Bob Mulcahy

THIS

SB 182 TITLE & SPONSOR SUMMARY

16:16 6/04/84 PAGE 1 OF 3

AMENDED TITLE:

AN ACT RELATING TO ELEVATOR SAFETY STANDARDS

PRIME SPONSOR: JOSEPHSON.

CO-SPONSORS:

CURRENT STATUS: 6/27/83 CHAPTER 0031 SLA 83

SB 182 SENATE ACTION

16:16 6/04/84 PAGE 2 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/17/83	01	0418	FIRST READING -- COMMITTEE REPORTS
04/06/83	02	0590	L&C --- DP02, NR01
04/06/83	03	0590	L&C F/NOTE EQUALS ZERO
04/12/83	04	0669	RLS -- OTHER04 TAKEN UP IMMEDIATELY
04/12/83	05	0671	SECOND READING
04/12/83	06	0671	ADVANCED TO 3RD READING BY UNAN CONSENT
04/12/83	07	0671	THIRD READING
04/12/83	08	0672	PASSED BY DIV 19-00-01
06/15/83	15	1330	TRANSMITTED TO GOVERNOR
06/27/83	16	1620	SIGNED BY GOVERNOR-CH0031, EFF 07/27/83
XXXX	XX	XX	XXX XXX XXX

SB 182 HOUSE ACTION

16:16 6/04/84 PAGE 3 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
4/13/83	09	0839	FIRST READING -- COMMITTEE REPORTS
4/27/83	10	1102	L&C -- DP06, NR01
5/14/83	11	1710	SECOND READING
6/14/83	12	1710	ADVANCED TO 3RD READING BY UNAN CONSENT
6/14/83	13	1710	THIRD READING
6/14/83	14	1710	PASSED BY DIV 40-00-00
XXXX	XX	XX	XXX XXX XXX

SENATE LABOR AND COMMERCE
STANDING COMMITTEE
April 5, 1983
1:35 p.m.

Members Present: Senator Dick Eliason, Chair
Senator Bob Mulcahy
Senator Pat Rodey

Members Absent: Senator Don Bennett
Senator John Sackett

COMMITTEE CALENDAR

SB 182

"An Act relating to elevator safety standards."

SJR 20

"Supporting passage of J.R. 1176 and S. 137 in the Congress of the United States, amending the Internal Revenue Code to allow certain home mortgage bonds to continue to be tax-exempt."

SB 188

"An Act relating to bank holding companies."

WITNESS REGISTER

(SB 182)

Judy Knight, Special Assistant to the Commissioner
Dept. of Labor
P. O. Box 1149
Juneau, Alaska 99802
465-2700

Position statement: Department supports SB 182.

(SB 188)

Willis Kirkpatrick, Director, Division of Banking, Securities and
Corporations, Dept. of Commerce and Economic Development
Pouch D
Juneau, Alaska 99811
465-2521

Position statement: Knows of no opposition to SB 188.

PREVIOUS ACTION

(In Senate Labor and Commerce only.)
No previous action on any of these measures.

ACTION NARRATIVE

Tape #17
Number 008

Senator Eliason called the meeting to order with members Senator Rodey and Senator Mulcahy present. Senate Bill 182, concerning elevator safety standards. Senator Josephson, prime sponsor, had provided a memorandum on the measure for the information of committee members.

Judy Knight, Special Assistant to the Commissioner of the Department of Labor, provided the department position on the measure. She stated that the department supports SB 182, which adopts the 1981 American National Standards Institute Safety Code, and permits municipalities to adopt and enforce standards at least as strict as those set forth in the Code.

Sen. Mulcahy inquired if it was that case that existing elevator operations will not be affected by passage of this legislation, for example, old elevators will not need to have telephones installed, etc.

Number 100

Judy responded that this was correct. Just future elevator construction will conform to the new safety requirements. This bill will not affect existing elevators. There is one elevator inspector for the state, and Anchorage has one to serve their municipal inspection program. The inspector covers elevators, and amusement rides. There are 886 elevators in the state (425 in Anchorage are covered by the City Inspector), and the inspector is quite busy with 225 inspections per year.

Number 193

Senator Rodey moved that SB 182 be passed out of committee with individual recommendations, his own a "do pass". There being no objection, it was so ordered.

Number 203

SJR 20, concerning the amending of the Internal Revenue Code to allow certain home mortgage bonds to continue to be tax-exempt, was taken up for consideration. Senator Rodey, prime sponsor, described the measure as the companion to House Joint Resolution 37. The committee developed the intention, with Sen. Rodey's agreement, to have the Senate pass HJR 37. Senator Rodey outlined the matters addressed by the resolution. He explained that the savings to the state would be great if the tax-exempt mortgage bonds program is continued. He has heard no opposition to the measure, and feels that the program it supports is desirable, especially in Alaska. Senator Rodey then suggested using the House Resolution as a vehicle to pass the measure. Senator Eliason suggested that the committee pass out SJR 20 and waive referral of HJR 37 in order to expedite its arrival in the Rules Committee.

Senator Rodey moved that SJR 20 be passed out of committee with individual recommendations. There were no objections, it was passed out.

Number 280

Senator Rodey then

addressed SB 188, of which he is also the prime sponsor. The measure relates to bank holding companies. Its purpose is to allow all financial institutions "to be on a level playing field", to establish parity. Sen. Rodey stated that the bill has unanimous support, including from the Div. of Banking, Securities and Corporations.

Number 340

Willis Kirkpatrick, Director of the Division of Banking, Securities and Corporations described the purpose of the measure. The bill makes a single change in the domestic bank holding companies section of the Alaska Banking Code. The problem is that domestic bank holding companies, of which Alaska presently has four, are prohibited from establishing new banks in the state, and recently formed banks are prohibited from establishing domestic bank holding companies. (These prohibitions went into effect as a result of passage of a comprehensive interstate banking bill last session. The problem described above had not been previously detected or anticipated.) Mr. Kirkpatrick knows of no reason why there would be opposition to the measure.

Number 426

Wes Coyner, lobbyist for Alaska Bankers Association, did not testify on the measure, but the committee members asked if he supported the measure. He stated that he did not oppose the measure, he supported it. Senator Rodey moved that SB 188 be passed out with individual recommendations. There being no objections, it was so moved.

Number 435

The meeting adjourned at 2:00 p.m.

TO: Senator Eliason, Chairman
Senate Labor & Commerce

FROM: Senator Josephson

DATE: April 5, 1983

RE: SENATE BILL 132 "An act relating to elevator safety standards."

Mr. Chairman and members of the committee, Senate Bill 182 is before you today as another of those concerns to which we legislators must pay close attention. It is a house cleaning measure.

Every three years, the American Society of Mechanical Engineers revises and adopts the safety code for installation and operation of elevators, escalators, dumb waiters, and moving sidewalks, recognizing the most recent technology in the field. The 1981 code described in this bill is the most recent effort in this state to meet those standards.

Adoption of the 1981 Elevator Safety Code would bring Alaska's minimum standards into conformity with the Basic Building Code, the National Building code, the Standard Building Code, and the Uniform protective devices, alteration, repairs, and/or replacements. Other important features which are incorporated in the code are those regarding venting, as well as the operation of elevators under fire or other emergency conditions. It adopts the current National Safety Practice's inspector's manual as the guide for Department of Labor elevator inspectors.

The bill further permits municipalities to adopt their own standards for safety as long as the minimum standards do not conflict with minimum state standards. Currently, the Municipality of Anchorage has adopted an elevator code and performs inspections within its jurisdiction.

The bill has no fiscal impact.

SB 179 (cont'd)

authority, public corporation, or other unit of state government may assign the duties, powers, and privileges of the membership to a subordinate employee who has status at least equivalent to division director, subject to the approval of the governor. A delegation of membership under this subsection must be in writing and is effective until the principal executive officer revokes the delegation, resigns or otherwise forfeits office, or is no longer qualified to be a member." Does not provide for an effective date (becomes law 90 days after Governor's signature).

Introduced March 15 and referred to Judiciary.

Bering Sea
Herring
Fishery
(stripping
of fish)

SENATE BILL NO. 180, by Senator Ferguson. See House Bill No. 267, page 323, identical.

Introduced March 15 and referred to Resources.

Appropriations
(supplemental)
(Anch. land
deficiency
entitlement)

SENATE BILL NO. 181, by Senators V. Fischer, Faiks, Halford, Josephson, Kelly, Pettyjohn, Rodey and Sturgulewski. Would appropriate a total of \$5 million to the Department of Natural Resources to pay the land deficiency entitlement for the Municipality of Anchorage authorized under AS 29.18.208 for fiscal years 1982 (\$4 million) and 1983 (\$1 million). Unspent portion lapses on July 1, 1983. Effective immediately.

AS 29.18.208 of the 1978 municipal land entitlement settlement (General Land Grant, AS 29.18.201 - 213) provides for cash payments to municipalities in which there is not enough suitable state land to satisfy the land grant. Provides: "A municipality is eligible to receive payment for land deficiency if, after July 1, 1980, the amount of land selected by a municipality which is physically suitable for residential, commercial or industrial purposes amounts to less than one-third acre per capita. . . . A municipality eligible under this subsection is entitled to receive a payment for land deficiency equal to \$1,000 per acre for a number of acres equal to the difference between one-third of the population of the municipality less the number of acres physically suitable for residential, commercial or industrial purposes which has been selected by the municipality." Anchorage was granted 44,893 acres under the municipal land settlement.

Introduced March 17 and referred to Resources and Finance.

Elevator
Safety
Standards

SENATE BILL NO. 182, by Senator Josephson. Would allow municipalities to adopt more stringent elevator safety standards than those required by the state under AS 18.60.800. Would amend law so that the state Dept. of Labor is not required to inspect elevators in a municipality that has adopted its own standards, as long as the Commissioner of Labor "determines that inspection and certification by the municipality adequately protect the public."

Would adopt as the minimum safety code for the state the 1981

SB 182 (cont'd)

edition of the American National Standards Institute Safety Code for Elevators and Escalators (ANSI/ASME A17.1) published by the American Society of Mechanical Engineers. Currently, under AS 18.60.800(a), the minimum code is the 1978 edition of the American National Standards Institute Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks published by the American Soc. of Mechanical Engineers.

Repeals AS 18.60.810, "Emergency Power Source." Requires that all elevators which do not have an alternate power source be "equipped with an emergency power source which will produce sufficient power to provide lights inside the elevator and a ringing alarm which can be heard in the building for five hours."

Amends AS 18.60.800(c) to read: "Inspections of elevators by the department shall be performed in accordance with the procedure set out in the National Safety Practice for the Inspection of Elevators, Escalators and Moving Sidewalks [AMERICAN NATIONAL STANDARDS INSTITUTE'S PRACTICE] (Inspector's Manual -- ANSI/ASME A17.2 [ANSI 17.2]) as approved February 15, 1979 [MAY 29, 1973]."

Does not provide for an effective date (becomes law 90 days after Governor's signature).

Introduced March 17 and referred to Labor & Commerce.

Municipal
Debts for
Judicial
Services
Services
(forgiving)

SENATE BILL NO. 183, by Senator Josephson. Would forgive certain debts owed the state by municipalities for judicial services rendered by the state. The bill provides: "All debts incurred by a political subdivision under AS 22.15.270 before it was amended by sec. 1, ch. 219, SLA 1976, that are unpaid on the effective date of this Act are forgiven by the state."

AS 22.15.270 relates to the retention of fines, etc. by political subdivisions of the state. It provides that in cases handled by the District Courts of the state, all fines, penalties and forfeitures resulting from violations of ordinances of political subdivisions must be returned to the political subdivision whose ordinance is involved. Before it was amended in 1976 it also provided: "The political subdivision shall pay to the state administrative director of the court for transfer to the general fund of the state such sums as will pay for the judicial services rendered to the political subdivision by the district judge or magistrate rendering the services."

Provides for an immediate effective date.

Note: the provisions of SB 183 were amended onto HB 377 last session by the Senate Judiciary Committee and passed the Senate on May 13. May 14 the House voted unanimously to return the bill to the Senate asserting that under the Uniform Rules and Mason's Manual, the amendment to HB 377 was not germane. HB 377 as it initially passed the House established penalties for the crime of "intimidation."

LEGISLATIVE PROPOSAL ANALYSIS

RECEIVED

FEB 15 1983

PUBLIC WORKS
DIRECTORS OFFICE

Subject of Proposed Bill:

"Elevator Safety Standards"

Background Information:

Every three years, the American Society of Mechanical Engineers revises and adopts the safety code for installation and operation of elevators, escalators, dumb waiters, and moving sidewalks, recognizing the most recent technology in this field. Existing elevator installations will not be required to meet the updated standards,

Summary:

The bill amends AS 18.60.800 to adopt the 1981 Safety Code which conforms to 1) the Basic Building Code; 2) the National Building Code; 3) the Standard Building Code; and 4) the Uniform Building Code with respect to fire resistance ratings, earthquake protective devices, alteration, repairs, and/or replacements. Therefore, all codes are uniform in addressing the safety codes for installation of elevators, escalators, etc. Other important features which are incorporated in the code are those regarding venting, as well as the operations of elevators under fire or other emergency conditions. It adopts the current National Safety Practice's inspector's manual as the guide for Department of Labor elevator inspectors.

The bill adds AS 18.60.830, to provide that municipalities may adopt their own standards as long as those standards are at least as stringent as those required under AS 18.60.800. Currently, the Municipality of Anchorage has adopted an elevator code and performs inspections within its jurisdiction. AS 18.60.810 is repealed in Section 4 of the bill. The current safety code adopted in Section 1 of the bill requires an emergency power source for elevators, making AS 18.60.810 unnecessary.

Estimated Fiscal Impact: (FY '83 - FY '87)

To the state: -0-

To others: -0-

Constituent Groups:

Opposed: N/A

In Favor: City of Anchorage

As submitted by Sen. Josephson

Bill Fact Sheet

Date Received 3/17/83

Bill Number SB 182 Title Relating to elevator safety

Fiscal Note - Date Requested Ilene (DOL) Date Received 4/5

- Of Whom 3/17/83

Dept. Position Paper - Date Requested 3/17 Date Received 4/5

- Of Whom Ilene (DOL)

Resource People

Initial Hearing - Date ~~3/17/83~~ 4/5/83
People Contacted

Sen. Josephson - informed 3/29 3/31

Follow-up Hearing - Date _____

Final Action passed ^{L+C} 4/5 Date 4/5/83

S

B

184

1



OFFICIAL BUSINESS

ALASKA STATE LEGISLATURE - SENATE

COMMITTEE ON LABOR AND COMMERCE

SENATOR RICHARD I. ELIASON
CHAIRMAN

POUCH V • JUNEAU, ALASKA 99811
(907) 465-3844

4/14/83

LETTER OF INTENT FOR CS3B 124

During the scheduled hearings in which the Alaska Transportation Commission (A.T.C.) was discussed and reviewed, many problem areas were identified. The Performance Review of the Alaska Transportation Commission conducted by the Division of Legislative Audit, April 1, 1982, concluded that the functions of A.T.C. could be better performed if A.T.C. were to merge with the Alaska Public Utilities Commission.

However, several questions were raised which remain unanswered:

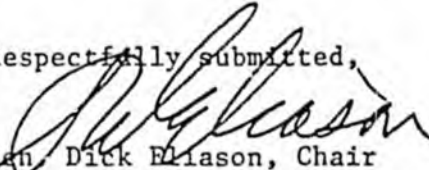
- 1) Is State involvement in the Essential Air Service Program required?
- 2) Does the State want to deregulate surface and air transportation within Alaska?
- 3) What method does the State wish to employ to assure the public that air and motor carriers have sufficient insurance coverage to protect the public's interest?
- 4) What is the role of the Alaska Transportation Commission in regard to a commercial vehicle safety program?
- 5) Would a citizen's board be an appropriate mechanism to perform the oversight functions which are currently the responsibility of the Commissioners of the Alaska Transportation Commission.
- 6) Do the Alaska Transportation Commission's policies regarding light aircraft ensure that innovative competition which could be beneficial to the public is not eliminated?

With the passage of this legislation, it is the intent of the Senate Labor and Commerce Committee that the Office of Management and Budget conduct a thorough performance review of the functions of A.T.C. The review will include, but will not be limited to, the scope of areas previously outlined.

Letter of Intent
CSSB 184, 4-14-83
page 2

The Office of Management and Budget will report back to the Thirteenth Legislature within ten days after the second session convenes in 1984. The report shall outline the findings of the audit as well as specific actions to implement any changes recommended.

Respectfully submitted,



Sen. Dick Eliason, Chair

ADDITIONAL LETTER OF INTENT TO CSSB 184 (L&C)

BY SENATORS HALFORD, JOSEPHSON AND VIC FISCHER

In the interim it is the intent of the Senate that the Alaska Transportation Commission fulfill its statutory responsibility with concentration on protection of the public.

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: SB 184
 Title: ~~An Act extending the termination date of the Alaska Transportation~~
 Sponsor: The Labor & Commerce Committee
 Requestor: _____

II. FISCAL DETAIL

Agency Affected: Commerce & Economic Dev.
 Program Category Affected: Consumer Protect.
 BRU, Program of Subprogram(s) Affected:
 Alaska Transportation Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES	1356.6	1293.1	1293.1	1293.1	1293.1	
200 TRAVEL	57.7	61.2	64.3	67.5	70.9	
300 CONTRACTUAL	182.5	192.2	201.8	211.9	222.5	
400 COMMODITIES	16.2	16.9	17.7	18.6	19.5	
500 EQUIPMENT	1.2					
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	1614.2	1563.4	1576.9	1591.1	1606.0	
CAPITAL						
REVENUE	145.2	155.2	155.2	155.2	155.2	

FUNDING: (Thousands of Dollars)

GENERAL FUND	1614.2	1563.4	1576.9	1591.1	1606.0	
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	30	28	28	28	28	
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

If fees were increased as recommended in the Legislative Audit, then there would be an increase in revenue to the General Fund.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Francis W. Moran Phone: 561-4216
 Division: Alaska Transportation Commission Date: March 25, 1983
 Approved by Commissioner: Richard A. Lyon Date: 3/29/83
 Department: Commerce and Economic Development

Distribution:

Original to Legislative Finance
 Copy to Office of Management and Budget (for Legislature introduced bills)
 Copy to Department (for Governor introduced bills)
 Copy to Sponsor
 Copy to Requestor (if different from Sponsor)

3/8/83

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: SB 184
 Title: An Act extending the termination date of the Alaska Transportation Comm.
 Sponsor: The Labor & Commerce Committee
 Requestor: _____

II. FISCAL DETAIL

Agency Affected: Commerce & Economic Dev.
 Program Category Affected: Consumer Protect
 BRU, Program of Subprogram(s) Affected: Alaska Transportation Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES	1356.6	1293.1	525.4	525.4	525.4	
200 TRAVEL	57.7	61.2	33.0	34.6	36.3	
300 CONTRACTUAL	182.5	192.2	134.2	140.9	147.9	
400 COMMODITIES	16.2	16.9	7.0	7.3	7.7	
500 EQUIPMENT	1.2					
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	1614.2	1563.4	699.6	708.2	717.3	
CAPITAL						
REVENUE	145.2	155.2	37.7	37.7	37.7	

FUNDING: (Thousands of Dollars)

GENERAL FUND	1614.2	1563.4	699.6	708.2	717.3	
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	30	18	12.5	12.5	12.5	
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: *Travis W. [Signature]*
 Division: Alaska Transportation Commission
 Approved by Commissioner: Richard A. Lyon *[Signature]*
 Department: Commerce and Economic Development

Phone: 561-4216
 Date: March 25, 1983
 Date: 3/29/83

Distribution:

Original to Legislative Finance
 Copy to Office of Management and Budget (for Legislature introduced bills)
 Copy to Department (for Governor introduced bills)
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3/8/83

A. Analysis

SB 184 essentially continues the Alaska Transportation Commission until June 30, 1987. If the bill passes, the fiscal impact will be the continuation of an operating budget of approximately 1,600.0 with yearly inflationary increases of 5% until June 30, 1987.

If SB 184 does not pass, there will still be a financial impact since AS 42.10 and AS 02.05 will still have to be administered. Even if the decision is made to deregulate air and motor commerce in Alaska, it would appear that at least three functions currently performed by the ATC would continue. Those functions are:

1. Coordination of the State's role in the Essential Air Service Program currently administered by the Civil Aeronautics Board;
2. Commercial Vehicle Safety Program;
3. Requirement for insurance registration.

Further, to perform those functions would require that an agency be assigned the responsibility to:

4. Register carriers;
5. Enforcement;
6. Quasi-judicial hearings to effect administrative sanctions for proven violations.

The rationale for indicating the continuation of these functions and tasks is that there will still be a desire to monitor CAB action in the implementation of the Essential Air Service Program provided for in the Federal Air Deregulation Act of 1978 which provides for the State of Alaska to have a role in the selection of EAS Points and service levels. The Act provides that the federal government will cease paying subsidies in 1988 and that it will be up to the States to continue the programs. It would appear obvious that the State would want to maintain its unique role in the EAS program and to evaluate the program and prepare for its assumption in 1988 if the federal government withdraws.

There are currently statutory authority and safety regulations that cover the operation of commercial vehicles of over 4,000 pounds. The regulations cover all vehicles involved in commerce without regard to type of carriage. It is assumed that the State

would continue the inspection of these vehicles and encourage compliance to the safety standard through both voluntary compliance and the levying of civil penalties where necessary. This program can have the direct impact of removing unsafe vehicles from the public roads before accidents or property damage occurs.

The requirement for all carriers offering their services to the public to show proof of adequate liability and property insurance is the cornerstone of protecting the consumer. By requiring the filing of insurance, the public is assured that if a loss occurs, some compensation will be available.

In order to provide for the performance of the three functions, there would be a need for carriers to register with an agency so that the State would be aware of who is holding out to the public to provide service. Without some filing requirement with an agency specifically interested in compliance with those requirements, the State would have no idea who was operating or what operators were not in compliance.

An enforcement effort will be necessary to conduct the safety program and to take action against operators who operate without insurance. It has generally been found more effective to handle the violation through a quasi-judicial administration process than through the court system. Civil penalties can be levied after appropriate hearings if the operator is found in violation. There will always be a percentage of operators who will be out of compliance, and economic sanction is the only effective tool to get them into compliance. In this area of safety violations the quasi-judicial process is especially effective since both the vehicle operator and the carrier can be held responsible to either fix the vehicle or pay a fine depending on the violation or pattern of violations.

B. Program Summary

Following the assumption in Part A, Analysis, if the bill passes, there will be no impact on the program as the ATC will continue to function as the agency responsible for the administration of AS 42.10 and AS 02.05.

Following the assumption that the bill might fail and if it is decided that the three basic functions identified above would be continued, the following program impacts are projected. The basic assumption for program impacts are:

- A. Generally, the same number of people would be needed, no matter what agency has the responsibility.

- B. The CAB coordination function could be separated from the Commercial Vehicle Safety program and insurance registration without serious impact to either program.
- C. To effectively manage the vehicle safety and insurance program, there will be a need for registration and enforcement to include provisions for quasi-judicial proceedings.

To continue the coordination with the CAB on EAS would require about 50% of a full-time professional position with clerical support and legal assistance from the Attorney General's Office. The principle contact person would need an understanding of the EAS program and the transportation patterns existing in rural Alaska. The correct level for the position would probably be at about a Range 21 with a Range 8 Clerk Typist III supporting for 20% of the time and about 10% of an Assistant Attorney General's time. There would be minimal support cost unless the need arose to participate in joint hearings with the CAB or the federal agency ignored the State's role in the EAS program. Actual costs would be:

1/2 Range 21 each year until 1988.		
1/2 X 3,475/non X 12/non	20,850	
Benefits: SBS 20,850 X .0613	1,279	
Variable: 20,850 X .1550	3,232	
Insurance: 6 mo X 240	1,440	
Total Benefits	5,951	
	Total 100	26,801
20% Range 8 Clerk Typist III until 1988		
20% X 1530/mo X 12/mon	3,672	
Benefits SBS 3672 X .0613	225	
Variable 3672 X .1550	570	
Insurance 12 X 240 X .2	576	
Total Benefits	1,371	
	Total 100	5,043
10% Range 24 Assistant Attorney General until 1988		
10% X 4251 X 12 mon	5,102	
Benefits SBS 5102 X .0613	313	
Variable 5102 X .1550	791	
Insurance 12 X 240 X .1	288	
Total Benefits	1,392	
	Total 100	6,444

Total estimated cost of EAS program coordination. 38.3

The estimated program necessary to administer the Commercial Safety Program would vary somewhat based on the salary range of the positions assigned to the task. If the program was placed in the Department of Public Safety, the expense would be greater based on P. S. employee agreements and benefits. For this discussion, we will use Range 16--General Government Employees.

3 Range 16 positions, Anchorage			
3 X 2463 X 12	88,668		
2 Range 16 positions, Fairbanks			
2 X 2838 X 12	68,112		
1 Range 18 position, Fairbanks			
1 X 3309 X 12	39,708		
2 Range 10 Clerical positions, Anchorage			
2 X 1726 X 12	41,424		
1 Range 10 Clerical position, Fairbanks			
1 X 1889 X 12	22,608		
1 Range 21 Supervisor, Anchorage			
1 X 3537 X 12	42,444		
1 Range 24 Hearing Office, Anchorage			
1 X 4251 X 12	51,012		
	<u>354,036</u>		
	Total Salary		
Benefits: SBS 354,036 .0613	21,703		
Variable 354,036 .1550	54,876		
Insurance 11 X 12 X 240	31,680		
	Total Benefits	108,259	
	Total 100		462.3
Travel: To conduct safety inspections throughout the State plus travel necessary to conduct hearings.			
200 days of per diem @ 90/day	18,000		
Air fares, charters, etc.	15,000		
	Total 200		33.0
Contracted: An attempt is only made to estimate the most obvious cost.			
Communication/postage	20.0		
Printing & Advertising, Booklets, Etc.	15.0		
Equipment Rental HWCF			
5 (108D) Sedans Operating rate			
5 X .39 X 850 X 12	19.9		
Fixed fees 5 X 173/mo X 12	10.4		
Copy machine	9.0		

Department of Law - Legal Service	15.0	
Data Process Charge	12.0	
Professional services for additional Hearing officer on a needed basis	10.0	
	Total 300	111.3

Commodities: Misc. office supplcs, protective clothing publications, etc.	Total 400	5.0
	Total Safety Program	611.6

The cost of maintaining a filing of proof of insurance would essentially involve one additional clerical person if assigned as part of the safety program as there could be shared enforcement efforts and hearing procedures.

1 Range 12 GGW position, Anchorage 1 X 1945 X 12	23,352	
Benefits SBS 23,352 X .0613	1,432	
Variable 23,352 X .1550	3,620	
Insurance 12 X 240 X 1	2,880	
	Total 100	31.3

Contractual Service		
Communication	3.0	
Printing and Advertising, Forms	5.0	
Department of Law	3.5	
Data Processing Charge Back	5.0	
	Total 300	16.5

Commodities Office Supplies		2.0
	Total Insurance Program	49.8

The total estimated cost of continuing the three basic functions is \$699.7. This figure does not include any cost of management services that could be caused by relocating the program responsibility. Further, there would be the question of who would review the findings of the Hearing Officer if civil penalties are levied for violations. The current system of having all final orders decided by a majority of three is generally considered the fairest system as a consensus judgment system tends to provide the greatest protection of due process. While a single Commissioner could certainly make the final determination, there is a greater possibility of denial of due process and certainly better grounds for appeal into the Court System based on a claim of prejudicial treatment. To have three full time Commissioners as we now have would add approximately 250.0 to the above cited 699.7. To utilize a single Commissioner would add about 80.0 to the total.

STATE OF ALASKA
FISCAL NOTE

Revision Date 4/6, 1983

I. REQUEST

Bill/Resolution No.: SB 184
 Title: Extending termination of ATC
 Sponsor: Labor & Commerce Committee
 Requestor: _____

II. FISCAL DETAIL

Agency Affected: Commerce & Econ. Development
 Program Category Affected: Consumer Protection
 BRU, Program of Subprogram(s) Affected: Alaska Transportation Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Catherine Wallen *CW*
 Division: Administrative Services

Phone: 465-2504
 Date: 4/7/83

Approved by Commissioner: Richard A. Lyon *R*
 Department: Commerce & Economic Development

Date: 4/7/83

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

SB 184 FISCAL NOTE ANALYSIS

The submitted FY '84 budget request for ATC follows:

Operating Expenditures	FY '83	FY '84
Personal Services	1,356.6	1,293.1
Travel	57.7	61.2
Contractual	182.5	192.2
Commodities	16.2	16.9
Equipment	1.2	-0-
	<u>1,614.2</u>	<u>1,563.4</u>
Capital Expenditures	0	0
Revenue	145.2	155.2

If the legislation fails to pass and ATC sunsets, there will continue to be a financial impact to the State for the administration of the State's share in the Essential Air Services Program and for verification of insurance registration. The reduced responsibilities would be reflected in the FY '85 budget request. In this case, the budget would be as follows:

Operating Expenditures	FY '83	FY '84	FY '85	FY '86	FY '87
Personal Services	1,356.6	1,293.1	69.6	73.8	78.2
Travel	57.7	61.2	0	0	0
Contractual	182.5	192.2	16.5	17.5	18.5
Commodities	16.2	16.9	2.0	2.1	2.2
Equipment	1.2	0	0	0	0
Total Operating	<u>1,614.2</u>	<u>1,563.4</u>	<u>88.1</u>	<u>93.4</u>	<u>98.9</u>
Capital Expenditures	0	0	0	0	0
Revenue	145.2	155.2	0	0	0
Positions (Full-Time)	30	28	2	2	2