

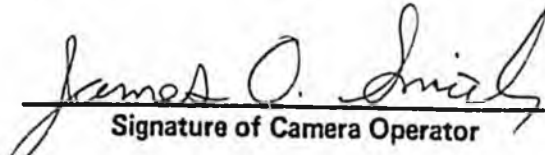
ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

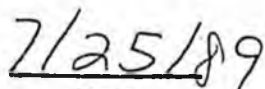
3380 HJUD HB 563 - HB 589 256



RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.


Signature of Camera Operator


Date

H

B

5

6

7

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENCE LIBRARY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary	3/7/86	1:30 pm
" " "	3/26/86	1:30 pm

A M E N D M E N T

Offered in the HOUSE

By Martin

TO: HB 563

Page 1, line 7, after "Conduct" insert:

"and to reprimands of judges"

Page 1, after line 8, insert a new bill section to read:

"* Section 1. AS 15.58.050 is amended to read:

Sec. 15.58.050. INFORMATION AND RECOMMENDATIONS ON JUDICIAL OFFICERS. No later than 75 days before the state general election, the judicial council shall file with the lieutenant governor a statement including information about each supreme court justice, court of appeals judge, superior court judge, and district court judge who will be subject to a retention election. The statement shall reflect the evaluation of each justice or judge conducted by the judicial council according to law and shall contain a brief statement describing each reprimand received by the judge under AS 22.30.011 during the period covered in the evaluation. A statement may not exceed 600 words."

Renumber remaining bill section.

Page 1, line 13, delete "A" and insert:

"Except as provided in (h) of this section, a [A]"

Page 1, after line 13, insert a new bill section to read:

"* Sec. 3. AS 22.30.011 is amended by adding a new subsection to read:

(h) If a judge reprimanded under this section seeks retention in office, the commission shall report to the judicial council for the statement filed by the judicial council under AS 15.58.050 the existence of public or private reprimands received by the judge since the appointment of the judge or since the last retention election of the judge."

- delete private -



alaska judicial council

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

EXECUTIVE DIRECTOR
Francis L. Bremson

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

February 3, 1986

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

CHAIRMAN, EX OFFICIO
Jay Rabinowitz
Supreme Court

Representative M. Mike Miller
Chairman
House Judiciary Committee
P.O. Box V
State Capitol
Juneau, Alaska 99811

Dear Representative Miller:

The Alaska Judicial Council and the Commission on Judicial Conduct, to assist the Judicial Council in its evaluation of judges up for retention, seek to amend Sec. 2. AS 22.30.011(f). The proposed amendment would allow private reprimands to be provided to the Judicial Council by the Commission on Judicial Conduct, enabling the Council to make informed recommendations on questions of judicial retention.

Proposed that Sec. 2. AS 22.30.011(f) be amended to read:

If the commission decides to reprimand a judge privately, the commission shall forward the reprimand to the judge. A copy of the reprimand shall be sent to the chief justice of the supreme court and to the judicial council. A private reprimand is confidential.

Thank you for your assistance. If I can provide any additional information, please do not hesitate to write or call.

SINCERELY,

A handwritten signature in cursive script, appearing to read "Marla N. Greenstein".

MARLA N. GREENSTEIN
STAFF ATTORNEY

MG/jz

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : HB563
 Title : "An Act relating to the duties of
 the Commission on Judicial Conduct"

Sponsor : The Judiciary Committee
 Requestor : The Judicial Council & The Judicial
 Date of Request : 2/3/86 Conduct Commission

FISCAL DETAIL

Agency Affected : _____
 BRU : _____

 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

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

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

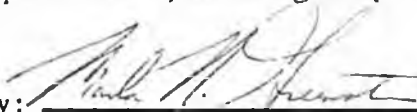
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

This bill has no fiscal impact, as it requires no additional operating expenditures, funding or positions.

Prepared by :  Marla N. Greenstein Phone : (907) 279-2526
 Division : Alaska Judicial Council Date : 3/3/86

Approved by Commissioner : Francis L. Bremson Date : 3/3/86
 Agency : Alaska Judicial Council

Distribution (by Agency preparing fiscal note) :

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

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 322
 Title: "...use of information from fingerprints of members..AK Bar Assoc.
 Sponsor: House Judiciary
 Requestor: House Judiciary
 Date of Request: 5/1/85

FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Administration of Justice
 BRU, Program or Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
900 MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Kathy Niles Phone: 465-4336
 Division: Administrative Services Date: 5/1/85

Approved by Commissioner: [Signature] Date: 5/1/85
 Agency: Public Safety

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

7/1/84

MEMORANDUM

State of Alaska

TO: Mike Miller, Chair
House Judiciary Committee
Alaska State Legislature

DATE: March 27, 1985


FILE NO: 377-033-85

TELEPHONE NO: 279-0428

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: HB 125

By:


Linda M. O'Bannon
Assistant Attorney General
Chief, Consumer Protection Section

Attached is a draft proposed committee substitute for consideration by the committee as requested.

LMO/mf

Attachment

cc: Rep. Don Clocksin
Rep. Max F. Gruenberg, Jr.
Rep. Fritz Pettyjohn
Rep. Randy Phillips
Rep. John Sund
Rep. Robin I. Taylor

Section by Section Analysis to Proposed
Committee Substitute to HB 125

Prepared by: Department of Law
Consumer Protection Section
March 27, 1985

Section 1

New paragraphs (27) and (28)

These two paragraphs are additions to the "laundry list" in 45.50.471(b) of specifically enumerated "unfair or deceptive acts or practices." There is little doubt that violations of either statute referred to in paragraphs (27) and (28) would already be considered "unfair methods of competition and unfair or deceptive acts or practices" under AS 45.50.471(a) as both statutes were enacted to protect consumers. In other words, a violation of AS 45.45.105-110 (paragraph 27) or AS 45.45.120 (paragraph 28) would be a per se violation of AS 45.50.471(a). Nevertheless, it is clearer and provides better notice to the public and the business community to specifically reference the two statutes in paragraphs (27) and (28) in AS 45.50.471(b).

Paragraph (27)

The unordered merchandise provisions, AS 45.45.105-110, were clearly enacted to protect consumers from the unfair business practice of mailing or delivering unordered merchandise to a consumer then demanding payment for that merchandise. AS 45.45.110 provides that "unsolicited merchandise received shall be considered an unconditional gift to the recipient." The enactment of this statute and similar ones in other states greatly reduced this type of consumer fraud for the obvious reason if a consumer can keep the unordered merchandise or throw it in the trash, without owing anything to the merchant - most businesses aren't going to send or deliver unordered merchandise. The practice has not totally disappeared and some consumers spend time and money in an attempt to return unordered merchandise and stop fraudulent billings for the merchandise.

Paragraph (28)

It is already the informal opinion of the Attorney General that violation of AS 45.45.120 with respect to disclosure of funeral costs is an unfair or deceptive act or practice pursuant to AS 45.50.471(a). AS 45.45.120 was enacted to protect consumers in perhaps the most vulnerable time of arranging for the funeral of loved ones. The Funeral Disclosure Act merely requires written disclosures of the itemized costs of specific funeral services listed in the act before the time of rendering the service or providing the merchandise.

Section 2

Section 2 of the bill would clear up an area of ongoing confusion regarding what types of business activities are exempt from the UTP Act under AS 45.50.481(1). This paragraph is in need of amendment because it has been a source of continued controversy due to its "double-negative" language, and because of its (arguable) potential to exempt almost all commercial activities from the UTP Act. Under AS 45.50.481(1), as amended by this bill, the UTP Act would not apply to acts or transactions which are regulated by other laws, only if the other law: (1) prohibits the same type of unlawful practices, (2) does not exempt from regulation the very person who is committing a prohibited act or practice, (3) provides a private cause of action for injured consumer or competitor victims, and (4) provides the state with adequate means to compel compliance with the statute and to recover restitution for injured parties, in the public interest.

This amended exemption section recognizes that while government should not duplicate regulatory efforts, the state also should not exempt a licensed professional or tradesperson from the standard of honest conduct that governs unlicensed, unregulated vendors of a different type of goods or services. It also recognizes that activity should not be exempt from the UTP Act merely because the activity constitutes a crime.

This amendment does not cause "double regulation" of licensed professions or occupations, but rather acknowledges that "regulation" through licensure or certification by a board or commission is not the same type of public law enforcement protection as that provided in the UTP Act. Although some boards have power to prohibit a licensed professional from repeating unlawful practices in the future, most boards do not have authority to order, grant, or even seek restitution for members of the public who were injured by the licensee.

An example of the current confusion that could occur in AS 45.50.481(1) would be that an argument could be made that Barbers and Hairdressers whose professions are regulated in AS 08.13.010-220 are exempt from the UTP Act. The licensing statute does not, however, address any consumer remedies or any enforcement of fraudulent business activities. Thus, a hairdresser could consistently advertise \$15 hair cut prices, but charge each customer in the shop \$25 yet refuse to cooperate in any enforcement efforts under the UTP Act because s/he is "regulated" under the licensing statutes. There are no provisions in the UTP Act that would attempt to regulate the quality of service

of the hairdresser but the UTP Act does prohibit dishonesty, misrepresentations and fraud in business and provides consumer remedies.

This section of the bill would ensure that both private injuries and injuries to the public interest can be corrected, but it does not set up a new "regulatory" scheme.

Sections 3 - 6. Private and Class Actions for Consumers and Businesses

Section 3

Section 3 of the bill amends AS 45.5.531(a) and expands the private and class actions that may be brought by individual members of the public. The new language in subsection (a) makes it clear that any person who purchases or leases any item of value in trade or commerce for use and not for resale (not merely the traditional household or family consumer buying goods or services), may bring a private cause of action against a party who uses an unfair trade practice which harms the purchaser or lessee. Thus a business concern buying airline tickets for employees, or a village corporation buying office photocopier supplies as well as the individual who purchases an automobile for personal use would have UTP Act protection. Another amendment to subsection 531(a) deletes the existing clause specifying in which judicial district the injured person must sue. The general venue laws and rules would apply.

Section 4

Section 4 of the bill amends the private class action portion of the UTP Act (AS 45.50.531(b)) to eliminate the requirement that an injured person wishing to bring a class action on behalf of himself and other similarly situated persons is required first to get the approval of the attorney general. Such a prerequisite is an unfair and perhaps unconstitutional barrier to a private party's right to seek redress from the courts.

Section 5

Section 5 of the bill amends AS 45.50.531(h), which allows Alaska merchants who are found liable for damages in a court action under the Act to seek redress in turn from their manufacturer or supplier of merchandise. The bill amends this provision to enable a retailer also to seek redress from the manufacturer or supplier when the retailer satisfies a customer's claim without legal action. The retailer must give reasonable

notice and an opportunity to satisfy the customer's claim to the manufacturer or supplier, but if the manufacturer or supplier does not do so, the retailer would have a private cause of action to recover the cost of satisfying the customer.

Section 6

Section 6 of the bill amends AS 45.50.531 in a very important way by adding a new provision that a business that is injured by a competitor who commits an unfair or deceptive trade practice has a private cause of action against the competitor. This cause of action may be inferred in the current UTP Act, but, in order to enhance the rights of private business competitors to guard their own place in the market against unfair competition, a clearly spelled out private cause of action for the injured competitor is needed. Businesses who often have the resources to pursue private causes of action should not have to depend on state action to stop unfair practices by their competitors.

Sections 7 - 11. Revised and Expanded Definitions of Who is Protected by the UTP Act; Short Title

Section 7

Section 7 of the bill amends AS 45.50.541, the only section of the UTP Act where it is appropriate to restrict the word "consumer" to mean a person who acquires goods or services for personal, family, or household purposes (as opposed to a business or municipal "consumer" who purchases goods for use in the work place). AS 45.50.541 is concerned with the non-negotiability of the consumer installment contracts or "paper," such as the three-year contract signed by a consumer purchasing a health spa membership or an automobile. The special protections in this section are necessary only for a consumer who finances the traditional type of consumer purchase made for personal, family, or household use. Therefore, a restrictive definition of "consumer" is added to AS 45.50.541 as subsection (d).

Section 8

Section 8 of the bill deals with a similar problem. Presently, AS 45.50.542 contains a provision that "consumers" cannot waive their protections under the Act. To make it clear that this Act covers all types of customers, and not merely a restrictively defined "consumer," the bill amends this section to read that a waiver by any person who is the intended beneficiary of the protections in the Act is contrary to public policy, and is void.

Section 9

Section 9 of the bill, new AS 45.50.560 provides for a short title by which to cite AS 45.50.471 -- 45.50.561, "The Unfair Trade Practices Act." (Normally, of course, this would be the last section in the article; however, in this instance there is no room left after the definition section and before the next article begins.)

Section 10

Section 10 of the bill amends AS 45.50.561 by adding three definitions. The first, AS 45.50.561(10), clarifies that whenever the word "person" is used in the UTP Act, it has the meaning given to it in the general definition section for the Alaska Statutes, AS 01.10.060(7), which is

"person" includes a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person.

The second new definition, AS 45.50.561(11), is a crucial component of this bill. It adds a definition of "trade or commerce" that affects the operative section of the entire Act. AS 45.50.471, which forbids unfair or deceptive practices in "the conduct of trade or commerce." Recent court decisions have limited the coverage of the UTP Act to merely the sale of "goods or services," which would eliminate real property and commercial intangibles, such as commodity futures, from the Act. However, it is the opinion of the attorney general that it was the original intent of the legislature to prohibit all unfair trade practices, not only in the sale of goods or services, but in the conduct of any type of "trade or commerce." The new definition of trade or commerce includes not only a sale or lease, but all advertisements or offers for sale, or the barter or any other type of distribution of any type of goods, services, or any type of property, article, commodity, or other thing of value.

This definition of "trade or commerce" is especially critical in reversing the Alaska Supreme Court's ruling that the UTP Act does not cover the sale of real property. State v. First Nat'l Bank of Anchorage, 660 P.2d 406 (Alaska 1982). Under that ruling and traditional property law, a builder or developer who sells a piece of land with a newly built home on it, may not be covered by the UTP Act because the house and arguably the materials, appliances, and builder services included in its construction are considered to be "real property."

The court's restriction of the UTP Act to "goods or services" also leaves other gaps in the public protection. For instance, Alaskans are often exposed to high pressure offers to buy commodity futures, an item of value in trade or commerce, but which is not regulated by our state securities law, and arguable is not "goods" or "services," under the UTP Act.

Section 10 also adds, as AS 45.40.561(12), a definition of what it means for a person to "willfully" violate the statute. The term "willful" is not relevant in public actions brought by the attorney general, but is the operative language that gives rise to triple damages in private actions brought by consumer victims or honest competitor victims who use their private cause of action against unfair trade practices.

Section 11 of the bill repeals AS 45.50.561(6), the present definition of "consumer." Section 7 of the bill adds a more restrictive definition of "consumer" only to AS 45.50.541, concerning the non-negotiability of consumer paper, where it is appropriate.



Commission on Judicial
Conduct

303 K STREET
ANCHORAGE, ALASKA 99501
264-0528

March 5, 1986

Rep. M. Mike Miller
Chairman, Member,
House Judiciary Committee
Pouch V, Mail Stop 3100
Juneau, Alaska 99811

Re: HB 563

Dear Representative Miller:

The proposed language in HB 563 was considered by the Commission on Judicial Conduct at its January 1986 meeting. The Commission is sensitive to the need of the Judicial Council for such information in its evaluation of judges for retention election and does not oppose sending copies of private reprimands to the Council in addition to the Supreme Court. Presently, only the Supreme Court receives copies of private reprimands.

SUBSTANTIVE IMPACT OF HB 563

The Commission on Judicial Conduct may take one or more of the following actions in regard to judicial discipline matters:

Commission Criticism

- Counseling short of Admonishment
- Private Admonishment
- Private Reprimand
- Public Reprimand

HB563
page two
03/05/86

Recommend Supreme Court Criticism

- Private Censure by Supreme Court
- Public Censure by Supreme Court

Recommend Supreme Court Discipline

- Suspension
- Removal from Office

Counseling and admonishment are Commission actions in the nature of advice or constructive criticism. A reprimand is the lowest level of Commission action which could be considered a significant sanction, as is evidenced by the requirement that the Supreme Court receive a copy of a reprimand. The proposed legislation (HB563) would grant the Judicial Council the same access to private reprimands as the Supreme Court.

The more serious sanctions of censure, suspension and removal from office are carried out by the Supreme Court upon the recommendation of the Commission on Judicial Conduct. The Commission's recommendation is preceded by a statement of Formal Charges which is public information. The Commission has agreed to provide a copy of such charges to the Judicial Council when they are issued.

FISCAL IMPACT

HB563 as presently drafted should not have a significant fiscal impact on the Commission's operations. However, if disclosure were extended to matters that are currently considered "counseling" or "admonishments", or the Judicial Council were required to publish private reprimands, we could expect a significant fiscal impact where matters of constructive criticism are viewed as potentially career-threatening, we can expect that judges will be represented by attorneys, at state expense, at the earliest stages of the Commission's investigation. The investigative process will be both adversarial and costly.

HB 563
03/05/86
page three

SUMMARY

HB563, as drafted, provides useful information to the Judicial Council without a significant adverse substantive or fiscal impact on the Commission on Judicial Conduct.

Thank you for your consideration in this matter.

Sincerely,

Frank Flavin / jsv
Frank Flavin
Executive Director



alaska judicial council

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

EXECUTIVE DIRECTOR
Francis L. Bremson

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

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

March 3, 1986

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

Representative M. Mike Miller
House Judiciary
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

RE: House Bill 563
"An Act relating to the Duties of the Commission on
Judicial Conduct"

Dear Representative Miller:

Enclosed please find a zero fiscal note for the
Judicial Council on H.B. 563. The Council requests your
favorable consideration of this proposed legislation.

This proposed amendment will enable the Judicial
Conduct Commission to provide the Judicial Council with access
to private reprimands issued by the Commission. This
information will be utilized by the Council in performing its
mandated functions of evaluating each judge or justice standing
for retention election (AS 15.58.050).

Currently, the Judicial Council bases its evaluations
on: (1) surveys of all active members of the Alaska Bar
Association and all state peace officers and all probation
officers; (2) narrative questionnaires submitted by counsel who
have appeared before each judge or justice during their term;
and (3) personal questionnaires filled out by the judges. The
Council also reviews health, credit, criminal, civil, judicial
discipline and Alaska Public Offices Commission records.
Under current law, the Council's access to judicial discipline
records is limited to those that are considered public records,
i.e., where formal charges and public sanctions have been
imposed. Since private reprimands are formal sanctions that

Representative M. Mike Miller
March 3, 1986
Page 2 of 2

are not made public, the Judicial Council is not aware of their issuance. Judicial misconduct that warrants a private reprimand may be relevant to a judge's fitness to be retained in office. Though not serious enough to warrant a public sanction, such misconduct should be available to the Judicial Council to consider in conjunction with the other information it receives when recommending whether a judge should be retained in office. By receiving private reprimands, the Judicial Council will be able to formulate informed opinions as to judges' qualifications.

The Judicial Council will maintain the confidentiality of the existence of private reprimands. The proposed amendment to AS 22.30.011(f) will strike an effective balance between the privacy interests of the judge and the public's need for reliable information on which to base informed decisions in judicial retention elections.

Thank you for the opportunity to submit written testimony on this matter. Please let us know if you have questions regarding the Council's position on this legislation.

Sincerely

Francis L. Bremson

FRANCIS L. BREMSON
EXECUTIVE DIRECTOR



Enclosure

cc: Frank Flavin, Commission on Judicial Conduct
Hayden Kaden

STATE OF ALASKA

DEPARTMENT OF LAW
OFFICE OF ATTORNEY GENERAL
CONSUMER PROTECTION SECTION

February 21, 1985

BILL SHEFFIELD, GOVERNOR

XX REPLY TO

- 1031 W 4th SUITE 110
ANCHORAGE ALASKA 99501
PHONE (907) 279-0428
- 1st NATIONAL CENTER
100 CUSHMAN SUITE 400
FAIRBANKS ALASKA 99701
PHONE (907) 456-9588
- 5th FULLER BLDG.
4th & HARRIS SUITE 214
POUCH K
JUNEAU ALASKA 99811
PHONE (907) 465-3632
- STATE COURTHOUSE, ROOM 24
P O BOX 671
VALDEZ ALASKA 99686
PHONE (907) 835-2462

Honorable M. Mike Miller
Chairman
House Judiciary Committee
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Miller:

During the House Judiciary Committee hearing on February 8, 1985, on HB 125, Representatives Pettyjohn and Gruenberg requested a listing of the current litigation cases in the Consumer Protection Section of the Department of Law. I have enclosed that information for the committee's use. In the listing we included all litigation cases that were opened or closed during this fiscal year to date with a very brief summary about the cases. We hope this information is useful to you and the committee members. If we can provide any further information please don't hesitate to contact us.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:

Linda M. O'Bannon
Linda M. O'Bannon
Assistant Attorney General
Chief, Consumer Protection
Section

LMO/ssr
Encl.

SUMMARY OF CASES OPENED, PENDING,
OR CLOSED DURING FY 85
Consumer Protection Section
Department of Law

State v. Marvin L. Hanson 122-679-83

The defendant in this case, a surveyor, allegedly obtained advance payments from some 70 consumers to survey fishing set net sites in the Bristol Bay area and then failed to complete the work promised. This impeded the consumers' efforts to get state shorefishery leases for their sites. The case is still pending, but after long delays the defendant has recently made substantial progress toward completing the surveys.

State v. MD Associates, Inc. and
Donald Burke 122-741-83

The State brought this action against a California corporation and its local distributor who manufactured and distributed an imitation milk beverage, MDA Farms. The State alleged that misrepresentations were made about the nutritional properties of the imitation milk product in comparison with real milk. The State also alleged misrepresentations concerning the cost savings of the product. Allegations were also made about defendants' multi-level marketing plan. The State and the defendants entered into a consent judgment and injunction which was approved by the court. The defendants agreed to pay the State a total of \$5000 in penalties, costs and attorney's fees, and agreed to an injunction prohibiting certain activities in future conduct and providing consumer restitution in the form of refunds to purchasers of the product.

State v. Nugget Properties
d/b/a Brigantine Bay, William
Lange, Ted Hanson, et al. 122-761-84

The State sued the developers of a timeshare project located near Seward, Alaska for various misrepresentations in the sale of timeshares. These misrepresentations included information given to persons solicited to attend timeshare presentations as well as persons who actually attended and purchased timeshares.

The defendants and the State entered into a consent judgment and injunction approved by the court which provided for a payment of \$25,000 in penalties, costs and attorney's fees to the State. Consumers who had relied on the defendant's misrepresentations in the purchase of timeshare units at Brigantine Bay were offered restitution pursuant to the consent judgment.

State v. John Jarrett
d/b/a Kennelly and Associates,
Inc. 122-486-85

This case involves a contractor who used an illegal pre-printed form contract from the State of Washington to contract with Alaskan consumers. Alaska's door-to-door solicitation statute allows a consumer five business days in which to cancel or revoke an offer to purchase. The defendant's contract stated a three day cancellation period. Further the defendant contracted with several Alaskan consumers, received consumer down payments and in some cases, payments in full for the work to be done and never performed the work. One Alaskan consumer paid \$10,000 to the defendant and to date has not seen or heard from him again. In several cases in Fairbanks, this same contractor received full payment from consumers and failed to pay the supplier. The supplier sent "notice of right to lien" to these consumers forcing these consumers to hire attorneys to protect their homes from liens. Another consumer paid to have work completed on their home and the work was not done in a professional manner and some of the work agreed upon was not done at all. The consumer used his home as collateral for a loan from the contractor to do the work and the contractor has since assigned that deed of trust to a third party. The consumer can not now stop paying for the work that was not done for fear that the third party will foreclose on his home. We have just recently obtained service and are awaiting defendant's answer. Defendant is believed to be now residing in Louisiana.

State v. Brunner J22-122-82

This litigation involves misrepresentations made to consumers who hired defendants for guided hunting in Alaska.

State v. George Smith
d/b/a A and M Associates 122-420-84

The State filed this action against the defendant tax preparer after he did not return to his business premises after April 16, 1983. Defendant had taken consumer deposits for tax preparation work. Not only did consumer tax returns not get filed by defendant as promised but consumers could not obtain their tax records in order to complete their tax preparation or have another tax preparer complete their tax preparation. There was a court hearing in this case and the court entered a preliminary order requiring the defendant to

give notice to all his clients as to his present location and how they could go about obtaining their tax documents. In addition certain consumer deposits were ordered to be refunded. No time has been set for an action on a permanent injunction. The case is still pending but apparent compliance with the court's order and each of further violations suggests the case may be closed without requirement of actually going to trial.

State v. American Home Furnishings,
Olympus Waterbed, Mike Ryan,
Mitchell Ryan, Valley Home
Furnishings, American Waterbeds,
et al. 122-687-84

The State filed this action to halt false advertising claims made by defendants in their various going out-of-business sales. It was alleged that defendants moved merchandise from location to location during the sales. Further it was alleged that advertising of going out-of-business sales was deceptive because although the various stores were owned by the same person their different names suggested they were in competition with each other, coupled with the fact that rather than actually having a going out-of-business sale that would liquidate the entire stock of a particular retail outlet the stock was just transferred from location to location. Defendants entered into a consent judgment with the State and agreed to pay the State \$5000 in costs, attorney's fees and penalties.

State v. Alaska Towing and
Wrecking 122-917-84

The State and Alaska Towing and Wrecking entered into an Assurance of Voluntary Compliance which was approved by the court. Alaska Towing and Wrecking agreed to refrain from asserting any lien rights not granted them by statute. By statute Alaska Towing and Wrecking is entitled to a lien on a motor vehicle for towing and storage charges. Alaska Towing and Wrecking had been implying that they also had a lien for other charges such as a Department of Motor Vehicle title or ownership search or other administrative costs.

State v. Saleh, Baghdadi,
and Enus d/b/a National
Chemical Co. 122-089-85

The defendant and the State of Alaska entered into a

Voluntary Assurance which was approved by the court. Defendants were selling a home cleaning fluid for approximately \$68 per gallon. Defendants agreed to comply with Alaska's door-to-door sales law and to refrain from misrepresentations about the product in the future as well as pay the State \$1000 in investigative costs. Further defendants agreed not to represent that the cleaning fluid was safe around food and food preparation areas.

State v. Mary O'Brannon
d/b/a Alaska Directory
Service, Inc.

122-209-85

The State of Alaska and the defendant entered into an Assurance of Voluntary Compliance in which she agreed to return consumer business deposits for advertising in a telephone directory that was never published.

State v. United Financial
Incentives

122-735-85

The State sued this Pennsylvania corporation for operation of a chain referral sales plan which is a violation of the Unfair Trade Practices Act. The plan was the United Financial Incentives Grocery Tape Purchase Plan. The defendant offered distributorships promising \$20,000 per month income for collecting grocery tape receipts. Defendant entered into an Assurance of Voluntary Compliance with the State, agreeing not to conduct a chain referral or chain distributor plan in Alaska and to pay the State \$1000 in costs and investigative fees. The corporation ultimately went out of business.

State v. Alaska Financial
and Insurance Co. d/b/a
Stepp Brothers Lincoln/
Mercury

122-959-84

This Assurance of Voluntary Compliance entered into by the State of Alaska and Michal D. Stepp, president, on June 4, 1984, requires the defendant to conduct repossession sales in a "commercially reasonable manner". It had been alleged previously that in the course of repossessing vehicles, for whatever reason, defendant had not followed the standards set out by federal or state law in regards to notice provisions and timeframes within which the dispossessed owner would have an opportunity to redeem. Further it was alleged that defendant did not have a public sale whereby it sold the repossessed vehicle to the highest bidder as required by law.

State v. Northwest Trade
Corporation

122-383-80

This case involved a health club which rented temporary quarters and began a advertisement campaign to stimulate the purchase of memberships. After a large number of memberships were sold in the Anchorage area, the Northwest Trade Corporation closed its doors with the money and did not re-open. This has been indicative of a number of national health clubs which will open temporary branches, obtain money and then close their doors claiming they are going out of business. In the case of Northwest Trade Corporation we were unable to obtain restitution for all consumers involved.

State v. David Pillott et al. 122-740-83

This case involved an outside distributor who began advertising Necchi sewing machines for sale. Alaska law, federal law, and Alaska Retail Advertising Regulations state that you cannot misrepresent the price of goods, the manufacturer's suggested retail price, or the regular price in an effort to mislead consumers into thinking they are buying at a discounted price. The defendant advertised that the sewing machines were regularly sold at \$729 and \$629 and that he was offering them for sale for \$399 and \$299 respectively. The truth of the matter was that these sewing machines cost substantially less than the price for which they were being sold and were not worth near the \$629 and \$729 as stated in the advertisement. Further defendant indicated that it was a public sale and that these were "unclaimed school orders" and "must be sold" creating the impression of special or circumstances forcing a sale when in fact this was not the case. Consumers were misled and deceived into thinking that they were buying a certain quality sewing machine when in fact they were buying a lesser quality sewing machine. The State obtained injunctive relief and civil penalties in the amount of \$500.

State v. Capetti d/b/a
Capetti and Associates

122-258-85

This case involved a concert promoter who scheduled a program for the Sullivan Arena. When he saw that the attendance was not going to be as he hoped it would be, he cancelled the show but failed to refund money to consumers. He had received approximately \$9000 from consumers and consumers were unable to contact him for refunds. Alaska

law requires a concert promoter to refund money within 10 days after the date of a program which has been cancelled and also to place on the tickets an address where the promoter can be reached for refunds. The concert promoter in this case failed to provide consumers with the necessary information for refunds and failed to refund monies to consumers. The State obtained an Assurance of Voluntary Compliance and full refunds for all consumers.

STATE OF ALASKA THE LEGISLATURE

HOUSE STATE CAPitol
BUILDING ALASKA 99501
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 13, 1985

SUBJECT: House Bill 125 and Alaska Rule of
Civil Procedure 89

TO: Representative M. Mike Miller
Chairman, House Judiciary Committee

FROM: Theresa L. Bannister *TB*
Legislative Counsel

You have requested the following:

1. an opinion whether Section 1 of HB 125 conflicts with Alaska Rule of Civil Procedure 89 and how a conflict should be addressed in the bill; and
2. a draft of new language for Civil Rule 89 conforming it to HB 125.

From my review of the pertinent authorities, it is my opinion that the ability to apply for pre-judgment attachment of property is a matter of substance rather than a matter of procedure. "[S]ubstantive law creates, defines and regulates rights, while procedural law prescribes the method of enforcing the rights." Ware v. City of Anchorage, 439 P.2d 793, 794 (Alaska, 1968). The remedy of pre-judgment attachment gives the plaintiff a substantial right, that of preventing the defendant from exercising defendant's normal rights over its property during the pendency of the action. The court in Nolan v. Sea Airmotive, Inc., 627 P.2d 1035, 1042-43 (Alaska 1981), used as the criteria for distinguishing between procedure and substance, whether the matter was more related to judicial rule-making power or to the making of public policy. The right of one party in a court action to restrict the other party's use of its property during the action appears to me to be a matter of policy to be set by the legislature rather than a rule of procedure to be set by the court system. It creates a new right in one party and removes a right in the other party.

Representative M. Mike Miller
February 13, 1985
Page 2

The basic authority to seek pre-judgment attachment comes from AS 09.40.010(a). That statute lists the areas in which the remedy is available. In addition to contract matters, AS 09.40.010(a) gives the remedy to a state in the collection of its state taxes or license fees. The source of the remedy is statute, not court rule. Civil Rule 89 sets up the procedure for obtaining the remedy.

With regard to the relationship between § 1 of the bill and Civil Rule 89, it is my opinion that Section 1 of the bill does not conflict with Civil Rule 89. Part (a) of civil Rule 89 indicates that the right of pre-judgment attachment given in AS 09.40.010-110 is to be pursued in accordance with the provisions of Civil Rule 89. In other words, the substantive matter in the statute is to be handled by the procedure in the rule.

The addition, of another cause of action that is entitled to seek pre-judgment attachment relief, to AS 09.40.010 cannot conflict with the rule as it is now worded. Part (b)(1)-(3) of Civil Rule 89 apparently was designed only for the contracts portion of AS 09.40.010, since it does not apply to state taxes or license fees. The Rule could use some re-working, and the court system may want to do so, but it is unnecessary for the legislature to re-write it because of HB 125. Re-writing the problematical language of Civil Rule 89 (b) (1)-(3) may also create a problem with Article IV, Section 15 of the Alaska Constitution. Since Part (b) establishes the form and contents of a document to be submitted for the relief, it is very possible that it would be held to constitute a rule for the internal administration of the court and, therefore, not available for amendment by the legislature.

In light of the above, I have not re-worked the court rule. However, if you still wish that to be done, please so advise.

TLB:ojb
J11/083



RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

7/25/89
Date

H B

5 8 2

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : HR582
 Title : "An Act relating to multiple convictions ... vehicle theft and joyriding."
 Sponsor : Rep. Koponen & Gruenberg
 Requestor : H. Judiciary
 Date of Request : _____

FISCAL DETAIL

Agency Affected : Public Safety
 BRU : Alaska State Troopers
 Components : Detachments and CIR

EXPENDITURES/REVENUES : (Thousands of Dollars)

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

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

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

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

No fiscal impact is anticipated.

K. Allen

Prepared by : Francis C. Allan
 Division : Alaska State Troopers

Phone : 269-5691
 Date : 2/25/86

Approved by Commissioner : *[Signature]* R. J. Sundberg
 Agency : _____

Date : 2/26/86

Distribution (by Agency preparing fiscal note) :

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

DEPARTMENT OF PUBLIC SAFETY

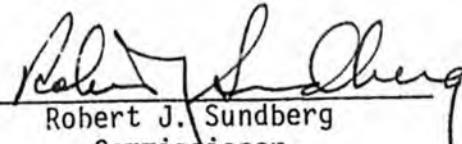
POSITION PAPER

Opposed

February 25, 1986

HB582 - "An Act relating to multiple convictions for propelled vehicle theft and joyriding."

Our interpretation of the intent of this legislation is lessen the impact of the multiple convictions statute (AS 11.46.484 (c)).

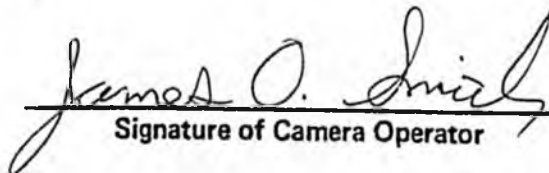

Robert J. Sundberg
Commissioner

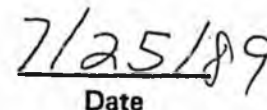


RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.


Signature of Camera Operator


Date

H B

5 8 9

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENCE LIBRARY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary
" " J

4/18/86

4/22/86

8:00 Am

8:00 Am

HOUSE

COMMITTEE REPORT

(7)

Date referred: 4/8/86

FURTHER REFERRALS: FINANCE

DATE: _____

The JUDICIARY Committee has considered HB 589

"An Act relating to participation in the state group life and health insurance policies by residents; and providing for an effective date."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with _____ same title
- replace with _____ new title

and recommends _____

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - new fiscal note
 - zero fiscal note

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Chairman

Original sponsors: Sund, M.M.Miller,
Hurley, et al

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 589 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to disability insurance; and provid-
7 ing for an effective date."

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

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

10 CHAPTER 55. STATE DISABILITY INSURANCE.

11 ARTICLE 1. COMPREHENSIVE DISABILITY INSURANCE ASSOCIATION.

12 Sec. 21.55.010. CREATION; MEMBERSHIP. There is established a
13 nonprofit incorporated legal entity to be known as the Comprehensive
14 Disability Insurance Association. Membership consists of all licensed
15 hospital or medical service corporations in the state that offer
16 subscriber contracts for major medical coverage and all insurers
17 licensed to transact disability insurance in the state that offer
18 policies for major medical coverage on an expense incurred basis. All
19 members shall maintain membership in the association as a condition of
20 doing disability insurance business, or being able to offer subscriber
21 contracts, in the state.

22 Sec. 21.55.020. BOARD OF DIRECTORS; ORGANIZATION. The board of
23 directors of the association shall be made up of seven individuals
24 selected by participating members, subject to approval by the director
25 of the division of insurance. The director or the director's designee
26 shall serve as a nonvoting ex officio member of the board. In deter-
27 mining voting rights at members' meetings, a member is entitled to
28 vote in person or proxy. The vote shall be as follows:

1 coverage on an expense incurred basis, or the member's subscriber
2 fees, derived from or on behalf of state residents in the previous
3 calendar year, as determined by the director. In approving members of
4 the board, the director shall consider, among other things, whether
5 all types of participating members are fairly represented. Members of
6 the board other than the director or the director's designee may be
7 reimbursed from the association for expenses incurred by them as
8 members, but may not otherwise be compensated by the association for
9 their services. The costs of conducting meetings of the association
10 and its board of directors shall be borne by members of the associa-
11 tion.

12 Sec. 21.55.030. GENERAL POWERS. The association may

13 (1) exercise the powers granted to insurers under the laws
14 of the state;

15 (2) sue or be sued;

16 (3) enter into contracts with insurers, similar associa-
17 tions in other states, or with other persons for the performance of
18 administrative functions;

19 (4) establish administrative and accounting procedures for
20 the operation of the association.

21 Sec. 21.55.040. PLAN OF OPERATION. (a) The association shall
22 submit to the director a plan of operation and any amendments neces-
23 sary or suitable to assure the fair, reasonable, and equitable admin-
24 istration of the association. The plan of operation and amendments
25 become effective upon approval in writing by the director. If the
26 association fails to submit a suitable plan of operation by a date
27 that is 180 days after the effective date of this Act, or if at any
28 subsequent time the association fails to submit suitable amendments to

1 regulations necessary or advisable to effectuate the provisions of
2 this chapter. These regulations shall continue in force until mod-
3 ified by the director or superseded by a plan submitted by the asso-
4 ciation and approved by the director.

5 (b) All members of the association shall comply with the plan of
6 operation.

7 (c) The plan of operation shall

8 (1) establish the procedures whereby all the powers and
9 duties of the association under this chapter will be performed;

10 (2) establish procedures for handling assets of the asso-
11 ciation;

12 (3) establish the amount and method of reimbursing members
13 of the board of directors under AS 21.55.020;

14 (4) establish regular places and times for meetings of the
15 board of directors;

16 (5) establish procedures for records to be kept of all
17 financial transactions of the association, its agents, and the board
18 of directors;

19 (6) provide that any member insurer aggrieved by a final
20 action or decision of the association may appeal to the director
21 within 30 days after the action or decision;

22 (7) establish the procedure whereby selections for the
23 board of directors will be submitted to the director;

24 (8) contain additional provisions necessary or proper for
25 the execution of the powers and duties of the association.

26 Sec. 21.55.050. ADMINISTRATIVE PROCEDURE ACT. The association
27 is exempt from the Administrative Procedure Act (AS 44.62).

28 Sec. 21.55.060. TAX EXEMPTION. The association is exempt from

1 political subdivisions except taxes levied on real or personal proper-
2 ty.

3 ARTICLE 2. STATE DISABILITY INSURANCE PLANS.

4 Sec. 21.55.100. TYPES OF INSURANCE PLANS. (a) The association
5 shall make available to residents who are high risks an individual
6 state plan of disability insurance. The association shall offer three
7 alternatives related to deductibles as described in AS 21.55.120.

8 (b) The association shall make available to residents who are
9 high risks and 65 years of age or older a medicare supplement plan
10 that meets the minimum policy standards and minimum benefit standards
11 established by regulations adopted by the director under AS 21.89.060.

12 (c) The association may not deny coverage under a state plan to
13 a resident who satisfies the requirements of AS 21.55.300 - 21.55.310.
14 The association shall determine whether a person is a high risk in
15 accordance with AS 21.55.500(9) and the director's regulations.

16 Sec. 21.55.110. MINIMUM BENEFITS OF STATE DISABILITY INSURANCE
17 PLAN. Except as provided in AS 21.55.120 - 21.55.140, the minimum
18 standard benefits of a disability insurance plan offered under AS 21.-
19 55.100(a) shall be benefits with a lifetime maximum of \$1,000,000 per
20 individual, for usual, customary, reasonable, or prevailing charges
21 or, when applicable, the allowance agreed upon between a provider and
22 the writing carrier for charges, for the following medical services
23 performed for an individual covered by the plan for the diagnosis or
24 treatment of nonoccupational disease or nonoccupational injury:

25 (1) hospital services;

26 (2) subject to the limitations of AS 21.36.090(d), profes-
27 sional services that are rendered by a physician or by a registered
28 nurse at the physician's direction, other than services for mental or
29

1 (3) the diagnosis or treatment of mental conditions, as
2 defined in regulations of the director, rendered during the year on
3 other than an inpatient basis, up to a yearly maximum benefit of
4 \$4,000;

5 (4) legend drugs requiring a physician's prescription;

6 (5) services of a skilled nursing facility for not more
7 than 120 days in a policy year;

8 (6) home health agency services up to a maximum of 270
9 visits in a calendar year if the services commence within seven days
10 following confinement in a hospital or skilled nursing facility of at
11 least three consecutive days for the same condition, except that in
12 the case of an individual diagnosed by a physician as terminally ill
13 with a prognosis of six months or less to live, the home health agency
14 services may commence irrespective of whether the covered person was
15 previously confined or, if the covered person was confined, irrespec-
16 tive of the seven-day period, and the yearly benefit for medical
17 social services may not exceed \$200;

18 (7) hospice services for up to six months in a calendar
19 year;

20 (8) use of radium or other radioactive materials;

21 (9) outpatient chemotherapy;

22 (10) oxygen;

23 (11) anesthetics;

24 (12) nondental prosthesis and maxillo-facial prosthesis used
25 to replace any anatomic structure lost during treatment for head and
26 neck tumors or additional appliances essential for the support of the
27 prosthesis;

28 (13) rental, or purchase if purchase is more cost effective
29

1 the absence of the condition for which it was prescribed;

2 (14) diagnostic x-rays and laboratory tests;

3 (15) oral surgery for excision of partially or completely
4 unerupted impacted teeth or excision of a tooth root without the
5 extraction of the entire tooth;

6 (16) services of a licensed physical therapist rendered
7 under the direction of a physician;

8 (17) transportation by a local ambulance operated by licen-
9 sed or certified personnel to the nearest health care institution for
10 treatment of the illness or injury and round trip transportation by
11 air to the nearest health care institution for treatment of the ill-
12 ness or injury if the treatment is not available locally; if the
13 patient is a child under 12 years of age, the transportation charges
14 of a parent or legal guardian accompanying the child may be paid if
15 the attending physician certifies the need for the accompaniment;

16 (18) confinement in a licensed or certified facility estab-
17 lished primarily for the treatment of alcohol or drug abuse or in a
18 part of a hospital used primarily for this treatment, for a period of
19 at least 45 days within any calendar year;

20 (19) alternatives to inpatient services as defined by the
21 association in the state plan benefits;

22 (20) second surgical opinions;

23 (21) other services that are medically necessary in the
24 treatment or diagnosis of an illness or injury as may be designated or
25 approved by the director.

26 Sec. 21.55.120. DEDUCTIBLES AND COPAYMENTS. (a) A state plan
27 other than a medicare supplement plan may require deductibles of \$200
28 a person \$500 a person, or \$1,000 a person. The amount of the deduc-

1 basis than when that service is offered on an inpatient basis. Ex-
2 penses incurred during the last three months of a calendar year and
3 actually applied to an individual's deductible for that year shall
4 also be applied to that individual's deductible in the following
5 calendar year. The \$200 maximum, the \$500 maximum, and the \$1,000
6 maximum may be adjusted yearly to correspond with the change in the
7 medical care component of the consumer price index, as adjusted by the
8 director. The base year for the computation shall be the first full
9 calendar year of operation of the association.

10 (b) A state plan other than a medicare supplement plan shall
11 require a maximum copayment of 20 percent for charges for all types of
12 health care in excess of the deductible and 50 percent for services
13 described in AS 21.55.110(3) in excess of the deductible.

14 (c) The sum of the deductible and copayments required in any
15 calendar year under a plan may not exceed a maximum limit of \$2,000
16 per covered individual. Covered expenses incurred after the applica-
17 ble maximum limit has been reached shall be paid at the rate of 100
18 percent of usual, customary, reasonable, or prevailing charges, except
19 that expenses incurred for treatment of mental and nervous conditions
20 shall be paid at the rate of 50 percent. The \$2,000 maximum shall be
21 adjusted yearly to correspond with the change in the medical care
22 component of the consumer price index as adjusted by the director.

23 (d) In this section, "consumer price index" means the consumer
24 price index for all urban consumers for the Anchorage Metropolitan
25 Area compiled by the Bureau of Labor Statistics, United States Depart-
26 ment of Labor.

27 Sec. 21.55.130. PREEXISTING CONDITIONS. (a) A preexisting
28 condition exclusion in a state plan may not exclude coverage of a
29 preexisting condition unless

1 (1) the condition first manifested itself within the period
2 of three months immediately before the effective date of coverage in a
3 manner that would cause a reasonably prudent person to seek diagnosis,
4 care, or treatment; or

5 (2) medical advice or treatment was recommended or received
6 within the period of three months immediately before the effective
7 date of coverage.

8 (b) A policy may not exclude coverage for a loss due to pre-
9 existing conditions for a period greater than six months following the
10 effective date of coverage.

11 (c) A state plan issued to a person whose previous subscriber
12 contract, disability policy, or medicare supplement policy was invol-
13 untarily terminated shall credit the time covered under the previous
14 contract or policy toward an exclusion for preexisting conditions
15 under the state plan if the previous contract or policy had a similar
16 preexisting condition exclusion and the person applies for a state
17 plan within 31 days after termination of the previous contract or
18 policy. If a person covered by this subsection is accepted by the
19 writing carrier and pays a specified premium for retroactive coverage,
20 the state plan is effective retroactively to the date on which the
21 person's previous contract or policy terminated.

22 Sec. 21.55.140. CARE AND SERVICES NOT COVERED. A state plan may
23 not provide benefits for charges for the following:

24 (1) care for an injury or disease either

25 (A) arising out of and in the course of an employment
26 subject to a workers' compensation or similar law or where the
27 benefit is required to be provided under a workers' compensation
28 policy to a sole proprietor, business partner, or corporation
29 officer; or

1 (B) to the extent benefits are payable without regard
2 to fault under a coverage statutorily required to be contained in
3 a motor vehicle or other liability insurance policy or equivalent
4 self-insurance;

5 (2) treatment for cosmetic purposes other than surgery for
6 the prompt repair of an accidental injury sustained while covered or
7 for replacement of an anatomic structure removed during treatment of
8 tumors;

9 (3) travel, other than transportation covered under AS 21.-
10 55.110(17);

11 (4) private room accommodations to the extent it is in
12 excess of the institution's most common charge for a semiprivate room;

13 (5) services or articles to the extent that the charge
14 exceeds the reasonable charge in the locality for the service;

15 (6) services or articles that are determined not to be
16 medically necessary, except for the fabrication or placement of the
17 prosthesis as specified in AS 21.55.110(12) and (2) of this section;

18 (7) services or articles the provision of which is not
19 within the scope of the license or certificate of the institution or
20 individual rendering the services or articles;

21 (8) services or articles furnished, paid for or reimbursed
22 directly by or under any law of a government, except as otherwise
23 provided in this chapter;

24 (9) services or articles for custodial care or designed
25 primarily to assist an individual in the activities of daily living;

26 (10) service charges that would not have been made if no
27 insurance existed or for which the covered individual is not legally
28 obligated to pay;

29 (11) eyeglasses, contact lenses, or hearing aids or the

1 fitting of them;

2 (12) dental care not specifically covered by this chapter;

3 (13) services of a registered nurse who ordinarily resides
4 in the covered individual's home, or who member of the covered
5 individual's family or the family of the individual's spouse;

6 (14) experimental procedures; and

7 (15) services and supplies for which the patient was not
8 charged.

9 Sec. 21.55.150. STATE PLAN PREMIUMS. (a) The association may
10 not charge a rate for coverage issued by or through the association
11 that is excessive, inadequate, or unfairly discriminatory.

12 (b) The association shall use separate scales of premium rates
13 based on age and geographic location of the insured.

14 (c) The five members of the association that insure, or have
15 subscriber contracts with, the largest number of individuals in the
16 state under plans with benefits substantially equivalent to the state
17 plan benefits shall submit to the association an estimate of the rate
18 that would be actuarially sound for a person who is a standard risk
19 for coverage substantially equivalent to the state plan. The premium
20 for a state plan may not exceed 150 percent of the average of those
21 five estimates.

22 ARTICLE 3. ADMINISTRATION OF PLANS.

23 Sec. 21.55.200. SELECTION OF WRITING CARRIERS. The association
24 shall develop bid specifications for members that wish to be selected
25 as a writing carrier to administer a state plan. The selection of the
26 writing carrier shall be based upon criteria including the member's
27 proven ability to handle a large number of disability insurance cases
28 or subscriber contracts, efficient claim paying capacity, and the
29 estimate of total charges for administering the plan.

1 Sec. 21.55.210. DUTIES OF WRITING CARRIERS. (a) The writing
2 carrier shall perform the administrative and claims payment functions
3 required by this section. The writing carrier shall provide these
4 services for a period of three years, unless a request to terminate is
5 approved by the director. The director shall approve or deny a re-
6 quest to terminate within 90 days of its receipt. A failure to make a
7 final decision on a request to terminate within the specified period
8 shall be considered an approval. Six months before the expiration of
9 each three-year period, the association shall invite submissions of
10 policy forms from members of the association, including the writing
11 carrier. The association shall follow the provisions of AS 21.55.210
12 in selecting a writing carrier for the subsequent three-year period.

13 (b) The writing carrier shall provide to all eligible persons
14 enrolled in a state plan an individual policy or certificate, setting
15 out a statement of the insurance protection to which the person is
16 entitled, with whom claims are to be filed, and to whom benefits are
17 payable. The policy or certificate must indicate that coverage was
18 obtained through the association.

19 (c) The writing carrier shall submit to the association and the
20 director on a quarterly basis a report on the operation of the state
21 plans. Specific information to be contained in the report shall be
22 determined by the association.

23 (d) Claims shall be paid by the writing carrier and shall indi-
24 cate that the claim was paid under a state plan. A claim payment
25 shall include a telephone number that can be used for inquiries regar-
26 ding the claim.

27 (e) The writing carrier shall be reimbursed from the state plan
28 premiums received for its direct and indirect expenses for administer-
29

1 reimbursement for that portion of the writing carrier's administra-
2 tive, printing, claims administration, management and building over-
3 head expenses that are assignable to the maintenance and administra-
4 tion of the state plans. The association shall approve cost account-
5 ing methods to substantiate the writing carrier's cost reports consis-
6 tent with generally accepted accounting principles. Direct and in-
7 direct expenses may not include costs directly related to the original
8 submission of policy forms before selection as the writing carrier.

9 (f) The writing carrier shall at all times when carrying out its
10 duties under this chapter be considered an agent of the association.

11 Sec. 21.55.220. OPERATION OF THE PLAN. (a) Upon notification
12 as an eligible person under AS 21.55.320, a person may enroll in a
13 state plan by payment of the appropriate state plan premium to the
14 writing carrier.

15 (b) An employer that has in its employ one or more eligible
16 persons enrolled in a state plan may make all or a portion of a state
17 plan premium payment directly to the writing carrier.

18 (c) Each member of the association shall share the losses due to
19 claims expenses of the state plans for plans issued or approved for
20 issuance by the association, and shall share in the operating and
21 administrative expenses incurred or estimated to be incurred by the
22 association incident to the conduct of its affairs. Claims expenses
23 of the state plan that exceed the premium payments allocated to the
24 payment of benefits shall be the liability of the members. Each
25 member shall share in the claims expense of the state plans and opera-
26 ting and administrative expenses of the association in an amount equal
27 to the ratio of the member's total fees for subscriber contracts or
28 total disability insurance premiums, received from or on behalf of
29

1 disability insurance premiums received by all members from or on
2 behalf of state residents, as determined by the director.

3 (d) The association shall make an annual determination of each
4 member's liability, if any, and may make an annual fiscal year end
5 assessment if necessary. The association may also, subject to the
6 approval of the director, provide for interim assessments against the
7 members as may be necessary to assure the financial capability of the
8 association in meeting the incurred or estimated claims expenses of
9 the state plans and operating and administrative expenses of the
10 association until the association's next annual fiscal year end as-
11 sessment. Payment of an assessment is due within 30 days of receipt
12 by a member of a written notice of a fiscal year end or interim
13 assessment. Failure by a member to tender to the association the
14 assessment within 30 days shall be grounds for revocation of a mem-
15 ber's certificate of authority. A member that ceases to do disability
16 insurance business in the state, or ceases to offer subscriber con-
17 tracts in the state, due to revocation, suspension, or voluntary
18 surrender of its certificate of authority remains liable for assess-
19 ments through the calendar year during which the disability insurance
20 business ceased. The association may decline to levy an assessment
21 against a member if the assessment would not exceed \$10. Assessments
22 paid by a member are a general expense of the member.

23 (e) Net gains, if any, from the operation of the state plans
24 shall be held at interest and used by the association to offset future
25 losses due to claims expenses of a state plan or allocated to reduce
26 state plan premiums.

27 ARTICLE 4. ENROLLMENT IN THE STATE DISABILITY INSURANCE PLAN.

28 Sec. 21.55.300. ELIGIBILITY FOR STATE DISABILITY INSURANCE. (a)

29 Except as provided in (b) of this

1 high risk is eligible to enroll in a state plan described in AS 21.-
2 55.100.

3 (b) A person may not be covered by the state plan while covered
4 by another disability policy or subscriber contract. Upon ceasing to
5 be a resident a person is not eligible to purchase or renew coverage
6 under a state plan, but previously purchased coverage remains in
7 effect for the period covered by payments made while a resident.

8 (c) Additional eligibility requirements may not be imposed by
9 the director, the association, or a writing carrier.

10 Sec. 21.55.310. ENROLLMENT BY AN ELIGIBLE PERSON. A person may
11 enroll in a state plan by applying to the writing carrier. The appli-
12 cation must include the following:

13 (1) name, address, age, and length of time at residence of
14 the applicant;

15 (2) a designation of the plan desired, including deductible
16 option chosen;

17 (3) information relevant to whether the person is a high
18 risk.

19 Sec. 21.55.320. WRITING CARRIER'S RESPONSE. Within 30 days
20 after receiving the certificate described in AS 21.55.310, the writing
21 carrier shall either reject the application for failing to comply with
22 the requirements of AS 21.55.300 and 21.55.310 or forward the eligible
23 person a notice of acceptance and billing information.

24 Sec. 21.55.330. EFFECTIVE DATE OF POLICIES. (a) Except as
25 provided in (b) of this section and AS 21.55.130(c), insurance under a
26 state plan is effective immediately upon receipt of the first
27 quarterly premium, and is retroactive to the date of the application,
28 if the applicant otherwise complies with the requirements of this
29

1 (b) Insurance under a state plan is effective retroactively to
2 the date on which the person's previous contract or policy terminated
3 if the person

4 (1) applies for a state plan within 60 days after the
5 previous contract or policy terminated;

6 (2) is accepted by the writing carrier; and

7 (3) pays a specified premium for the period of retroactive
8 coverage.

9 Sec. 21.55.340. SOLICITATION OF ELIGIBLE PERSONS. (a) The
10 association, under a plan approved by the director, shall disseminate
11 appropriate information to the residents of the state regarding the
12 existence of the state plans and the means of enrollment. Means of
13 communication may include use of the press, radio, and television, as
14 well as publication in appropriate state offices and publications.

15 (b) The association shall devise and implement means of main-
16 taining public awareness of the provisions of this chapter regarding
17 the state plans and shall administer this chapter in a manner that
18 facilitates public participation in the state plans.

19 (c) Selling or marketing of qualified state plans is limited to
20 licensed disability insurance agents.

21 (d) An insurer or hospital or medical service corporation that
22 rejects or applies underwriting restrictions to an applicant for a
23 subscriber contract, a disability insurance policy, or a medicare
24 supplement plan in the state shall notify the applicant of the exis-
25 tence of the state plans, the requirements for being accepted, and the
26 procedure for applying.

27 ARTICLE 5. GENERAL PROVISIONS.

28 Sec. 21.55.400. DUTIES OF DIRECTOR. The director may

1 association and approve the association's contract with the writing
2 carrier including the coverages and premiums to be charged;

3 (2) contract with the federal government or another unit of
4 government to ensure coordination of the state plans with other gov-
5 ernmental assistance programs;

6 (3) undertake directly or through contracts with other
7 persons studies or demonstration programs to develop awareness of the
8 benefits of this chapter; and

9 (4) adopt regulations necessary to administer this chapter.

10 Sec. 21.55.410. STATE NOT LIABLE. The state is not liable for
11 acts or omissions of the association or a writing carrier under this
12 chapter, nor is the state liable for payment of a claim under a state
13 plan issued by a writing carrier.

14 Sec. 21.55.500. DEFINITIONS. In this chapter

15 (1) "association" means the Comprehensive Disability Insur-
16 ance Association created in AS 21.55.010;

17 (2) "copayment" means the portion of the eligible expenses,
18 in excess of the deductible, for which the insured is responsible;

19 (3) "deductible" means the portion of eligible expenses for
20 which the insured is responsible in each calendar year under AS 21.-
21 55.120(a);

22 (4) "home health agency services" means any of the follow-
23 ing services provided upon recommendation of a licensed physician as
24 part of a treatment plan:

25 (A) intermittent or part-time nursing services of a
26 registered professional nurse or a licensed practical nurse, that
27 are provided to a person under the continued direction of the
28 person's physician and within the limitation of the nurse's
29

1 (B) nursing services that are provided to a person at
2 the person's residence, including a residential care facility or
3 adult boarding home; a hospital, skilled nursing facility or
4 intermediate care facility is not considered a residence;

5 (C) home health aide services that are prescribed by
6 and under the continued direction of a physician and supervised
7 by a professional nurse;

8 (D) home health aide services that are provided to a
9 person at the person's residence, as described in (B) of this
10 paragraph;

11 (E) physical and occupational therapy services, speech
12 pathology, and audiology services that are prescribed by a physi-
13 cian and provided to a person by or under the supervision of a
14 qualified practitioner; these services may be provided to a
15 person who is a patient in an intermediate care facility or
16 skilled nursing facility;

17 (5) "hospice services" means services provided under a
18 coordinated comprehensive program of palliative and supportive care on
19 a 24-hour, seven days per week basis for persons who have been diag-
20 nosed as terminally ill and their families by an interdisciplinary
21 team of professionals or volunteers under an incorporated central
22 administration that has a physician as medical director;

23 (6) "major medical coverage" means a disability insurance
24 contract, or a subscriber contract, that provides benefits for hospi-
25 tal and medical care with potential lifetime maximum benefits per
26 insured of at least \$10,000;

27 (7) "medical social services" means services rendered the
28 patient under the direction of a physician by a qualified social
29

1 work, including assessment of the social, psychological and family
2 problems related to or arising out of the covered person's illness and
3 treatment, appropriate action and utilization of community resources
4 to assist in resolving the problems, and participation in the develop-
5 ment of treatment for the covered person;

6 (8) "resident" means a person who is physically present in
7 the state, has lived in the state for at least the six consecutive
8 months immediately preceding application for a state plan, and intends
9 to remain permanently in the state; "resident" also includes a person
10 who is not physically present in the state if the person lived in the
11 state for at least six of the nine months immediately preceding appli-
12 cation for a state plan and the person's absence from the state is for
13 medical treatment; a person ceases to be a resident if the person is
14 absent from the state for more than 90 consecutive days for reasons
15 other than for medical treatment or education;

16 (9) "residents who are high risks" means residents who

17 (A) have been rejected for medical reasons after
18 applying for a subscriber contract, a policy of disability insur-
19 ance, or a medicare supplement policy by at least two association
20 members within the six months immediately preceding the date of
21 application for a state plan; or

22 (B) have had a restrictive rider placed on a
23 subscriber contract, a disability insurance policy, or a medicare
24 supplement policy;

25 (10) "state plan" means a policy of insurance offered by the
26 association through a writing carrier;

27 (11) "usual, customary, reasonable, or prevailing charge"
28 means the charge for a medical care procedure, service, or supply item
29

1 (A) the billed amount for the medical service pro-
2 vider's actual charge;

3 (B) the charge usually made by that provider for
4 performing that procedure or service or for providing the supply
5 item; or

6 (C) the customary charge, based on a profile of char-
7 ges made for the same medical procedure, service, or supply item
8 in the same geographical area by other providers that have per-
9 formed the same procedure or service or can provide the same
10 supply item;

11 (12) "writing carrier" means the insurer or insurers select-
12 ed by the association and approved by the director to administer a
13 state plan.

14 * Sec. 2. The association established by sec. 1 of this Act shall make
15 available to residents the plans required by AS 21.55.100, enacted in
16 sec. 1 of this Act, by July 1, 1987.

17 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
18 10.070(c).
19
20
21
22
23
24
25
26
27
28
29

C O R R E C T I O N

Discard HB 589 & Replace with new one
and retain this corrected version.

Introduced: 2/14/86
Referred: Labor & Commerce
Judiciary and Finance

BY SUND, M. M. MILLER, HURLEY,
DUNCAN, NAVARRE, AND DAVIS

1 IN THE HOUSE

2

HOUSE BILL NO. 589

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to participation in the state group
7 life and health insurance policies by residents; and
8 providing for an effective date."

8

9

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

10

* Section 1. AS 39.30.090 is amended to read:

11

Sec. 39.30.090. PROCUREMENT OF GROUP INSURANCE. The Department

12

of Administration may obtain a policy or policies of group insurance

13

covering state employees, persons entitled to coverage under AS 14.-

14

25.168, AS 22.25.090, AS 39.35.535 or former AS 39.37.145, [OR] em-

15

ployees of other participating governmental units, or eligible resi-

16

dents, subject to the following conditions:

17

(1) A group insurance policy shall provide one or more of

18

the following benefits: life insurance, accidental death and dismem-

19

berment insurance, weekly indemnity insurance, hospital expense insur-

20

ance, surgical expense insurance, dental expense insurance, audio-

21

visual insurance, or other medical care insurance.

22

(2) Each eligible employee of the state, the spouse and the

23

unmarried children chiefly dependent on the eligible employee for

24

support, and each eligible employee of another participating govern-

25

mental unit shall be covered by the group policy, unless exempt under

26

regulations adopted by the commissioner of administration.

27

(3) A governmental unit may participate under a group

28

policy if

29

(A) its governing body adopts a resolution authorizing

1 participation, and payment of required premiums;

2 (B) a certified copy of the resolution is filed with
3 the Department of Administration; and

4 (C) the commissioner of administration approves the
5 participation in writing.

6 (4) The Department of Administration shall obtain the
7 insurance policy from an [ANY] insurer authorized to transact business
8 in the state under AS 21.09 and AS 21.90.

9 (5) The Department of Administration shall make available
10 bid specifications for desired insurance benefits to all insurance
11 carriers licensed in the state and qualified to provide the desired
12 benefits. The specifications shall be made available on or before
13 July 1, 1965, and at least once every succeeding five years. The
14 lowest responsible bid submitted by an insurance carrier with adequate
15 servicing facilities shall govern selection of a carrier under this
16 section.

17 (6) If the aggregate of dividends payable under the group
18 insurance policy exceeds the governmental unit's share of the premium,
19 the excess shall be applied by the governmental unit for the sole
20 benefit of the employees.

21 (7) A person receiving benefits under AS 14.25.110,
22 AS 22.25, AS 39.35, or former AS 39.37 may continue the life insurance
23 coverage that was in effect under this section at the time of termina-
24 tion of employment with the state or participating governmental unit.

25 (8) A person electing to have insurance under (7) of this
26 section shall pay the cost of this insurance.

27 (9) For each permanent part-time employee electing coverage
28 under this section, the state shall contribute one-half the state
29 contribution rate for permanent full-time state employees, and the

1 permanent part-time employee shall contribute the other one-half.

2 (10) A person receiving benefits under AS 14.25, AS 22.25,
3 AS 39.35, or former AS 39.37 may obtain auditory, visual, and dental
4 insurance for that person and eligible dependents under this section.
5 The level of coverage for persons over 65 shall be the same as that
6 available before reaching age 65 except that the benefits payable
7 shall be supplemental to any benefits provided under the federal old
8 age, survivors, and disability insurance program. A person electing
9 to have insurance under this paragraph shall pay the cost of the
10 insurance. The commissioner of administration shall adopt regulations
11 implementing this paragraph.

12 (11) An eligible resident may participate if the resident
13 applies on forms provided by the department, pays the cost of the
14 insurance and the administrative fee set by the department, and the
15 commissioner of administration approves the application in writing.

16 * Sec. 2. AS 39.30.095(a) is amended to read:

17 (a) The commissioner of administration shall establish the group
18 health and life benefits fund as a special account in the general fund
19 to provide for group life and health insurance under AS 39.30.090 and
20 39.30.160. The commissioner shall maintain accounts and records for
21 the fund. The fund consists of employer contributions, employee
22 contributions, resident contributions, appropriations from the legis-
23 lature, and interest earned on investment of the fund as provided in
24 (d) of this section.

25 * Sec. 3. AS 23.30.095(b) is amended to read:

26 (b) After obtaining the advice of an actuary, the commissioner
27 of administration shall determine the amount necessary to provide
28 benefits under AS 39.30.090 and 39.30.160 and shall set the rate of
29 employer contribution, resident contribution, and employee contri-

1 bution, if any. The commissioner of administration shall pay premiums
2 and claims in accordance with the insurance policies in effect under
3 AS 39.30.090 and 39.30.160 with money in the fund.

4 * Sec. 4. AS 39.30.100 is amended by adding a new paragraph to read:

5 (4) "eligible resident" means a person who is a resident
6 and who has been a resident, except for absences from the state for
7 military service or necessary medical care, for the 12 consecutive
8 months immediately preceding the date of application.

9 * Sec. 5. By January 1, 1987, the commissioner of administration shall
10 secure a group health and life policy or policies to provide coverage for
11 persons who will become eligible for coverage under amendments made by this
12 Act.

13 * Sec. 6. Sections 1 - 4 of this Act take effect on the date that the
14 commissioner of administration has secured coverage under sec. 5 of this
15 Act.

16 * Sec. 7. Section 5 of this Act takes effect immediately in accordance
17 with AS 01.10.070(c).

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

FISCAL DETAIL

Bill/Resolution No.: CSHB 589 (L&C)
Title: Relating to disability insurance.

Agency Affected: Commerce & Economic Development
BRU: Insurance

Sponsor: Labor & Commerce Committee
Requester: _____
Date of Request: _____

Components: Public Protection

EXPENDITURES / REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL	-0-	10.0	2.0	2.6	3.2	4.0
CONTRACTUAL	-0-	25.0	25.0	25.0	25.0	25.0
SUPPLIES	-0-	2.0	1.0	1.0	1.0	1.0
EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
GRANTS, CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING	-0-	37.0	28.0	28.6	29.2	30.0

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of dollars)

GENERAL FUND	-0-	37.0	28.0	28.6	29.2	30.0
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	37.0	28.0	28.6	29.2	30.0

POSITIONS:

FULLTIME	-0-	-0-	-0-	-0-	-0-	-0-
PARTTIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary.

While there is an increase of the duties of the Director in this legislation, additional positions will not be necessary. Start-up costs cause a higher fiscal impact than subsequent years. The formative needs require more attention by the Director in the form

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

Phone: 465-2515
Date: April 7, 1986

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

Date: April 7, 1986

Distribution (by Agency preparing fiscal note):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 589

of increased travel to attend formation meetings and monitor activities of the Association. Most of the major insurers expected to be involved in the Association are in the east. The fiscal note contemplates that the formation meetings will occur in the east. After the first year the travel necessary for monitoring the Association will probably be on the order of one per year.

The contractual monies are primarily for the purpose of securing actuarial assistance for review of the rate structures that will be subject to review by the Director of Insurance.

The director has the duty to contract with the federal government or another unit of government to ensure coordination of the state plan with other governmental assistance programs and to undertake directly or through contracts with other persons, studies or demonstration programs to develop awareness of the benefits of the proposed legislation. The bulk of this activity is expected to be borne by the Association. The state share of this cost is included in the \$25.0 shown for contractual. The amount needed for this specific area is really a guess, but we believe that, if anything, it is substantially understated.

The supplies amounts are needed to support mailings necessary to insurers when establishing the Association and for advising insurers of their ongoing role and requirements under this legislation.

It is possible that the division may find it necessary to promulgate regulations to facilitate the formation of the Association. If this is necessary, some of the travel will be moved over to the appropriate areas on the theory that it will reduce travel. Addition of a sum for that purpose would be duplicative.

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST Attached draft of 3/28/86
Bill/Resolution No. CSHB589 (1% C)
 Title: "An Act Relating to
Disability Insurance"

FISCAL DETAIL
 Agency Affected: All State Agencies
 BRU: Retirement & Benefits

Sponsor: Sund, et al
 Requestor: _____
 Date of Request: _____

Components: Retirement & Benefits (GHLB)

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
OPERATING						
PERSONAL SERVICES						
RTMNT & BNFTS						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
TRS MATCH						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

See attached

Prepared By: J.K. Humphreys, Director Phone: 465-4470
 Division: Retirement & Benefits Date: 4/7/86
 Approved by Commissioner: Eleanor Andrews Date: 11/01/86
 Agency: Department of Administration

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Draft CSHB 589 (03/28/86)
Fiscal Note Analysis
Prepared by Division of Retirement & Benefits
Department of Administration

ANALYSIS: The work draft of CSHB 589 (L&C) dated March 28, 1986 creates a Comprehensive Disability Insurance Commission to offer health coverage to residents of the State of Alaska. This proposed bill has no apparent effect on the group health plans offered by the State of Alaska to its employees.

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

<p>REQUEST</p> <p>Bill/Resolution No.: <u>HB 589</u></p> <p>Title: <u>An Act relating to participation in state group life and health insurance</u></p> <p>Sponsor: <u>Sund</u></p> <p>Requestor: _____</p> <p>Date of Request: _____</p>	<p>FISCAL DETAIL</p> <p>Agency Affected: <u>All State Agencies</u></p> <p>BRU: <u>Retirement & Benefits</u></p> <p>Components: <u>Retirement & Benefits (GHLB)</u></p>
---	--

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
OPERATING						
PERSONAL SERVICES		109.4	113.8	118.3	123.1	128.0
RTMNT & BNFTS		13310.0	14374.8	15524.8	16766.8	18108.1
TRAVEL						
CONTRACTUAL		3.9	4.1	4.2	4.4	4.6
SUPPLIES		1.5	5	5	6	6
EQUIPMENT		15.8	16.4	17.1	17.8	18.5
LAND & STRUCTURES						
GRANTS, CLAIMS						
TRS MATCH						
TOTAL OPERATING		13440.6	14509.6	15664.9	16912.7	18259.8
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	12150.3	13116.7	14161.1	15289.1	16506.9
FEDERAL FUNDS	618.3	667.4	720.5	778.0	839.9
OTHER	672.0	725.5	783.2	845.6	913.0
TOTAL	13440.6	14509.6	15664.9	16912.7	18259.8

POSITIONS:

	3	3	3	3	3
FULL-TIME	3	3	3	3	3
PART-TIME					
TEMPORARY					

ANALYSIS: Attach a separate page if necessary

See attached

Prepared By: *D.K. Humphreys* D.K. Humphreys, Director Phone: 465-4470
 Division: Retirement & Benefits Date: 3/4/86

Approved by Commissioner: *Eleanor Andrews* Eleanor Andrews Date: 3/5/86
 Agency: Department of Administration

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

House Bill 589
Fiscal Note Analysis
Prepared by Division of Retirement & Benefits
Department of Administration

March 4, 1986

Analysis: Passage of this bill would allow all Alaskans to take advantage of group rates to obtain the health and life coverage as provided to State of Alaska employees.

The State of Alaska now provides health and life insurance coverage to all permanent employees at no cost to the employee. Permanent part-time employees must pay one-half the cost. This analysis does not address any cost increase due to residents enrolling in the life insurance plan. Without requiring evidence of insurability as a condition of enrollment, the cost could heavily impact premiums. It is therefore assumed that this requirement could be imposed or the bill would be amended to allow health coverage only.

We have identified two large groups in the state that would contain individuals likely to enroll in this coverage:

- 1) Uninsured residents of the state
- 2) Insured residents of the state other than employees who have equal or comparable levels of health coverage.

The uninsured residents would be considered a higher risk group than state employees or employees insured under other group plans. They could range from young, healthy individuals with no interest or need for insurance to older, chronically ill individuals who are unable to obtain insurance elsewhere. For purposes of this analysis we have assumed medical costs to be 100% higher for these individuals than that of state employees.

The insured residents would also be considered a higher risk group than state employees since those who would enroll would probably be after a higher level of benefits than the insurance plan they were covered by. For purposes of this analysis, we have assumed insurance costs for these individuals to be 25% higher than that of state employees.

We have assumed an equal number of each of the above groups would enroll in this coverage. The FY 87 cost to the state due to the resulting increase in premiums for employees is estimated to be \$13.31 million.

House Bill 589
Fiscal Note Analysis
Prepared by Division of Retirement & Benefits
Department of Administration

March 4, 1986

In addition to this premium cost increase would be the necessity of adding three permanent full-time positions to collect premiums, administrative fees, report eligibility, and answer questions on plan coverage.

These FY 87 administrative costs are as follows:

Personal Services:

1 permanent Retirement & Benefit Specialist for 12 months	\$37.2
2 permanent retirement technicians for 12 months	\$72.2

Contractual:

Telephone and other contractual costs for 3 positions	3.9
---	-----

Supplies:

Supplies for 3 positions	1.5
--------------------------	-----

Equipment:

Equipment accommodations for 3 non-permanent positions	<u>15.8</u>
--	-------------

Total FY 87 administrative costs	<u>\$130.6</u>
----------------------------------	----------------

The cost for these positions would be paid by participants as provided in the bill. The assumed enrollment of 16,400 would require an \$8.00 enrollment fee for each participant. This fee could vary with enrollment.

Position Title Retirement and Benefits Specialist I			No. of Positions 1	Range/Step 13A	Barg. Unit GGII	Gov.	Approv.	Disapp
Time Status 1 (PE/FT)	Staff Months 12.0	RP Number 5	Location Bureau		Election District 4	Leg.		
Type of Expenditure			Justification					
			<p>The passage of HB 589 would necessitate the addition of three permanent full-time positions (2 Retirement and Benefits Technicians and 1 Specialist) to collect premiums, administrative fees, report eligibility and answer questions on plan coverage.</p>					
1	2	3						
Salary	27.5							
Benefits	9.7							
Premium Pay								
Other								
Total Personal Services		37.2						
Travel		.0						
Contractual		1.3						
Commodities		.5						
Equipment		6.4						
Other								
Total Cost		45.4						
Receipt Code			Funding Source					
			Federal Receipts 1002					
			G. F. Match 1003					
			General Funds 1004					
			I-A Receipts 1005					
			Program Receipts 1028					
			CIP Receipts 1061					
			Other					
			45.4					
For B&M Use Only								
Key Number _____								

3/6R1/0305-01

**Request For
New Position**

Agency Department of Administration
 BRU Retirement and Benefits
 Component Retirement and Benefits

Page 1 of 1
 Revised Date _____

FY 87

Position Title Retirement and Benefits Technician II			No. of Positions 2	Range/Step 12B	Barg. Unit GGU	Gov.	Approv.	Disapp
Time Status 1 (PE/FT)	Staff Months 12.0	RP Number 5	Location Bureau		Election District 4	Leg.		
Type of Expenditure			Justification					
			<p>The passage of HB 589 would necessitate the addition of three permanent full-time positions (2 Retirement and Benefits Technicians and 1 Specialist) to collect premiums, administrative fees, report eligibility and answer questions on plan coverage.</p>					
1	2	3						
Salary	53.2							
Benefits	19.0							
Premium Pay								
Other								
Total Personal Services		72.2						
Travel		.0						
Contractual		2.6						
Commodities		1.0						
Equipment		9.4						
Other								
Total Cost		85.2						
Receipt Code	Funding Source							
	Federal Receipts	1002						
	G. F. Match	1003						
	General Funds	1004						
	I-A Receipts	1005						
	Program Receipts	1028						
	CIP Receipts	1061						
	Other							
		85.2						
For B&M Use Only Key Number _____								

3/6B1/0305-01/3

**Request For
New Position**

Agency Department of Administration
 BRU Retirement and Benefits
 Component Retirement and Benefits

Page 1 of 1
 Revised Date _____

FY 87

REVISIONS TO CS HB 589 (Judiciary)
(From Version #2 dated April 17, 1986 to Version #2 dated
April 21, 1986)

Prepared by Rep. John Sund's office -- April 21, 1986.

The major changes in the bill are:

1. The plan will be offered on an individual basis only. It will not include group or dependent coverage.

See Sec. 21.55.100; Page 4, lines 4-7; subsection (a).

2. The expanded medicare supplement plan is deleted. The state plan will only offer the minimum medicare supplement plan. The expanded medicare supplement plan for high risk individuals probably would have been cost prohibitive to those on a fixed income.

See Sec. 21.55.100; Page 4, lines 8-11; subsection (b).
The former reference to the medicare plans was Sec. 21.55.120 which has been deleted.

3. Preexisting condition limitation has been lessened to three months back and six months in, meaning, a condition that has occurred or been treated within the three months prior to application will not be covered for the first six months of a plan. The previous limitation was six months back and one year in.

See Sec. 21.55.130; Page 8, lines 1-10.

4. The provision for the association to adopt a plan for coordinating benefits with other insurance coverage has been deleted because other coverage would cause ineligibility for the state plan.

The deleted section was Sec. 21.55.160.
The revision that disallows additional coverage to the state plan is Sec. 21.55.300; Page 14, line 3, subsection (b).

5. Premium rates will be on scales of age and geographic location, which are common rating scales in the industry.

See Sec. 21.55.150; Page 10, line 12, subsection (b).

6. The \$50 referral fee for agents who refer an accepted person to the state plan has been deleted. The incentive

behind the fee could not justify the added administrative costs it would create. In addition, the bill mandates that agents tell those people who were rejected or restricted in a policy about the state plan.

See Sec. 21.55.340; Page 15, lines 21-26, subsection (d).

7. The definition of a high risk person has been changed and placed under the definitions at the end of the bill. A high risk person is now someone who has been rejected, for medical purposes, by at least two association members or has had a restrictive rider placed on a policy. The former criteria of involuntary termination for reasons other than nonpayment, a 50% increase in premium and the list of presumptive conditions have been deleted. This should ease the administrative burden and, therefore, lower the plan costs.

See Sec. 21.55.500; Page 18, lines 16-24.

Former reference was in Sec. 21.55.100; Page 4, lines 14-29 and Page 5, lines 1-12.

CS HB 589 (Judiciary)
Version #2 dated April 21, 1986

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

SECTIONAL ANALYSIS

Prepared by Rep. John Sund's office; April 21, 1986

Section 1

ARTICLE 1

Sec. 21.55.010. Page 1, line 12: creates the Comprehensive Disability Insurance Association, a nonprofit corporation with membership consisting of all licensed disability insurers and licensed hospital or medical service corporations in the state that write on an expense incurred basis. Insurers must be members of the association in order to do business in the state.

Sec. 21.55.020. Page 1, line 22: sets a seven-member board of directors selected by association members and approved by the director of the state Division of Insurance. The director or a designee will be a nonvoting, ex officio member of the board.

Sec. 21.55.030. Page 2, line 12: describes the association's general powers.

Sec. 21.55.040. Page 2, line 21: subjects association articles, bylaws and operating rules to the approval of the director of the Division of Insurance.

Sec. 21.55.050. Page 3, line 26: exempts the association from the Administrative Procedure Act.

Sec. 21.55.060. Page 3, line 28: exempts the association from taxes.

ARTICLE 2

Sec. 21.55.100. Page 4, line 4: offers the state plan, including the medicare supplement plan, on an individual basis to high-risk residents. The association may not deny coverage to any eligible resident.

The plans will be offered with three deductible options.

Sec. 21.55.110. Page 4, line 16: explains the minimum benefits of the state plan, which is a basic major medical plan. Lifetime maximum benefit is \$1 million.

Sec. 21.55.120. Page 6, line 26: offers deductibles of \$200, \$500 or \$1,000 per person. The maximum copayment by enrollees would be 20% once the deductible is met for all health care

and 50% for mental health care. Maximum annual payments of deductible and copayments cannot exceed \$2,000 per insured. The plan would pay 100% once that limit is reached.

Sec. 21.55.130. Page 7, line 27: excludes coverage for preexisting conditions if the condition began within the three months just preceding the effective date of coverage. Preexisting conditions would not be covered for the first six months of a plan. The limitation can be waived if the insured's previous insurance was terminated and the state plan application is made within 31 days following termination.

Sec. 21.55.140. Page 8, line 22: describes care and services that are not covered by the plan.

Sec. 21.55.150. Page 10, line 9: sets separate scales of premium rates based on age and geographic location of the insured. It also caps the premiums at 150% of the average rate of the plan if it were offered to standard risk people as determined by the five largest disability insurers in the state.

ARTICLE 3

Sec. 21.55.200. Page 10, line 23: sets guidelines for the association's selection of a writing carrier through a bidding process.

Sec. 21.55.210. Page 11, line 1: explains the duties of the writing carrier which will be contracted for three-year terms unless earlier termination is approved by the director.

The carrier will perform the administrative and claims payment functions of the plan and report quarterly to the association. The carrier will be reimbursed for direct and indirect expenses of administering the plan.

Sec. 21.55.220. Page 12, line 11: requires that association members will be assessed to share the claim losses and administrative expenses that exceed premium payments. Each member will contribute to the association an amount based on that member's share of all disability insurance premiums paid in the state. Assessments will be made yearly, unless interim assessments are desired.

A member's failure to pay an assessment within 30 days could cease that member's certification to operate in the state.

Net gains will be held at interest to offset future losses.

ARTICLE 4

Sec. 21.55.300. Page 13, line 28: states that all high-risk residents are eligible for the state plan unless covered by another disability insurance policy. A person loses eligibility upon ceasing residency.

Sec. 21.55.310. Page 14, line 10: explains the enrollment procedure.

Sec. 21.55.320. Page 14, line 19: requires the state plan writer to respond to the applicant within 30 days of receiving the application.

Sec. 21.55.330. Page 14, line 24: sets the policy effective date at the day of application once the first premium is paid. It also permits 60 day retroactive coverage for those individuals whose previous insurance terminated, if premiums are paid for the retroactive period.

Sec. 21.55.340. Page 15, line 9: requires that the state plan be advertised to the public. An insurer who rejects or restricts a policy must tell the applicant about the state plan.

ARTICLE 5

Sec. 21.55.400. Page 15, line 28: explains the duties of the director of the Division of Insurance in regard to the state plan.

Sec. 21.55.410. Page 16, line 10: states the state is not liable for association actions.

Sec. 21.55.500. Page 16, line 14: offers chapter definitions.

Resident is defined as a person who has lived in the state at least six consecutive months prior to application and intends to remain. Absence from the state is permitted for medical and educational reasons.

A high risk resident is defined as someone who has been rejected for disability coverage by at least two association members or has had a restrictive rider placed on a policy.

Section 2. Page 19, line 14: requires that the state plan be available by July 1, 1987.

Section 3. Page 19, line 17: sets an immediate effective date.

MEMORANDUM

TO: House Judiciary Committee members
FROM: Rep. John Sund
DATE: April 17, 1986
RE: HB 589

I have attached two versions of a new CS for HB 589 along with a brief overview of the bill and sectional analyses.

The bill is scheduled in committee tomorrow (April 18).

The bill establishes an association of insurance writers in the state to offer health insurance to residents -- especially those considered to be high risks and unable to get standard insurance. It has undergone many revisions and technically is pretty clean. But we have a question of policy here -- which is the reason for the two versions of the bill.

Version #1 would permit groups and standard risk people to purchase insurance through the state plan, as well as high-risk people. It would also make premium rates actuarially sound.

Version #2 would limit enrollment in the state plan to high-risk individuals and would cap the premium that the association would charge for the coverage.

Testimony has shown that there is a need for high-risk health insurance in the state and that concept is unopposed -- even by the insurance industry. But the industry does oppose the inclusion of standard risk in the belief that it would be a duplication of services already provided and competition with private enterprise.

I believe that ethically the health insurance made available through this association should be offered to all residents. But that is the major decision we face with HB 589.

Thanks for your consideration.

Act relating to disability insurance; and providing for an effective date.

OVERVIEW

Prepared by Rep. John Sund's office; April 17, 1986

Objective

The primary purpose of HB 589 is to ensure medical insurance availability to those Alaskan residents who are considered too high of a health risk for standard insurance in the open marketplace.

What This Bill Does

HB 589 would establish a nonprofit, statewide association of all disability insurers in the state. Participation in the association would be mandatory in order to do business in the state.

The association would offer major medical insurance and medicare supplement insurance as described in the bill to any Alaskan who cannot get standard coverage or has excessive restrictions placed on his or her insurance. Certain eligibility requirements would be set.

The association members would share the cost of claim payments in excess of premium income through periodic assessments. The association would administer the plan under the monitoring of the director of the Division of Insurance. Little cost would be born by the state. (The bill carries a \$37,000 fiscal note that reduces over subsequent years.)

Version #1 versus Version #2

There are two differences between the two versions of this bill. In addition to the high risk coverage, Version #1 would offer insurance to standard risk Alaskans and small groups of up to 25 residents. Version #1 also seeks actuarially sound premium rates and makes no attempt to cap any of the rates.

Version #2, on the other hand, would apply only to high-risk individuals and would cap the premium rate. The cap would be 150% of the average rate of the plan if it were offered to standard risk people as determined by the five largest disability insurers in the state.

Which version to use is a matter of policy. Should a state plan be available to all residents, or should some Alaskans be excluded? And should we risk (in the case of Version #2) that rates will be too high and unaffordable?

Why This Bill Is Needed

Standard disability insurance is often denied people who are considered high risks, such as older individuals and those who are suffering or have suffered from serious illnesses. Comprehensive insurance should be available to these people. Moreover, providing them insurance should eventually decrease costs to society.

CS HB 589 (Judiciary)
Version #1 dated April 17, 1986

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

SECTIONAL ANALYSIS

Prepared by Rep. John Sund's office; April 17, 1986

Section 1

ARTICLE 1

Sec. 21.55.010. Page 1, line 12: creates the Comprehensive Disability Insurance Association, a nonprofit corporation with membership consisting of all licensed disability insurers and licensed hospital or medical service corporations in the state that write on an expense incurred basis. Insurers must be members of the association in order to do business in the state.

Sec. 21.55.020. Page 1, line 21: sets a seven-member board of directors selected by association members and approved by the director of the state Division of Insurance. The director or a designee will be a nonvoting, ex officio member of the board.

Sec. 21.55.030. Page 2, line 11: describes the association's general powers.

Sec. 21.55.040. Page 2, line 20: subjects association articles, bylaws and operating rules to the approval of the director of the Division of Insurance.

Sec. 21.55.050. Page 3, line 25: exempts the association from the Administrative Procedure Act.

Sec. 21.55.060. Page 3, line 27: exempts the association from taxes.

ARTICLE 2

Sec. 21.55.100. Page 4, line 2: specifies the types of insurance plans that will be available through the association: group plan for up to 25 residents; individual plan for standard risks; individual plan for high risks; medicare supplement plan for those 65 years or older who are either standard or high-risk. Each plan will have an option of three deductibles.

Eligibility requirements for the high-risk plan are defined. The association may not deny coverage to any eligible state resident, but may determine whether the individual fits into the high-risk or standard risk group.

Sec. 21.55.110. Page 5, line 24: explains the minimum benefits of the state plan, which is a basic major medical plan. Lifetime maximum benefit is \$1 million.

Sec. 21.55.120. Page 8, line 12: explains two types of medicare supplement plans: a minimum benefits plan which is defined in present regulation and an expanded coverage plan.

Sec. 21.55.130. Page 8, line 26: offers deductibles of \$200, \$500 or \$1,000 per person. The maximum copayment by enrollees would be 20% once the deductible is met for all health care and 50% for mental health care. Maximum annual payments of deductible and copayments cannot exceed \$2,000 for individuals and \$4,000 for families. The plan would pay 100% once those limits are reached.

Sec. 21.55.140. Page 9, line 28: excludes coverage for preexisting conditions if the condition began within the six months just preceding the effective date of coverage. Preexisting conditions would not be covered for the first year of a plan. The limitation can be waived for a 10% additional premium payment, or if the insured's previous insurance was terminated and the state plan application is made within 31 days following termination.

Sec. 21.55.150. Page 11, line 3: describes care and services that are not covered by the plan.

Sec. 21.55.160. Page 12, line 20: requires the association to adopt a plan for coordinating benefits with other insurance coverage.

Sec. 21.55.170. Page 12, line 24: states that premiums must be rated on generally accepted actuarial principles and may not be excessive or discriminatory. The association may set separate scales of rates based on age, group or individual coverage and standard or high-risk coverage. A flat rate would be used for dependents.

ARTICLE 3

Sec. 21.55.200. Page 13, line 9: sets guidelines for the association's selection of a writing carrier through a bidding process.

Sec. 21.55.210. Page 13, line 16: explains the duties of the writing carrier which will be contracted for three-year terms unless earlier termination is approved by the director.

The carrier will perform the administrative and claims payment functions of the plan and report quarterly to the association. The carrier will be reimbursed for direct and indirect expenses of administering the plan.

Sec. 21.55.220. Page 14, line 26: allows enrollment in the state plan to all eligible people and requires that association members will share the claim losses and administrative expenses that exceed premium payments. Each member will contribute to the association an amount based on that member's share of all disability insurance premiums paid in the state. Assessments will be made yearly, unless interim assessments are desired.

A member's failure to pay an assessment within 30 days could cease that member's certification to operate in the state.

Net gains will be held at interest to offset future losses.

ARTICLE 4

Sec. 21.55.300. Page 16, line 14: states that all residents or groups of up to 25 residents are eligible for the state plan. An individual who has voluntarily ended coverage in the state plan, however, cannot reenter the plan for 12 months.

Sec. 21.55.310. Page 16, line 24: explains the enrollment procedure and disallows those people covered under another medical plan as the primary policyholder from enrolling in the state plan. A person loses eligibility upon ceasing residency.

Sec. 21.55.320. Page 17, line 13: requires the state plan writer to respond to the applicant within 30 days of receiving the application.

Sec. 21.55.330. Page 17, line 22: permits 60 day retroactive coverage for those high risk individuals whose previous insurance terminated, if premiums are paid.

Sec. 21.55.340. Page 16, line 1: requires that the high-risk portion of the plan be advertised to the public and that the plan writer pay a \$50 referral fee to every insurance agent who refers an accepted applicant to the state plan. An insurer who rejects or restricts a policy must tell the applicant about the state plan.

ARTICLE 5

Sec. 21.55.400. Page 18, line 26: explains the duties of the director of the Division of Insurance in regard to the state plan.

Sec. 21.55.410. Page 19, line 8: states the state is not liable for association actions.

Sec. 21.55.500. Page 19, line 12: offers chapter definitions. Resident is defined as a person who has lived in the state at least six consecutive months prior to application and intends to remain. Absence from the state is permitted for medical reasons.

Section 2. Page 22, line 1: requires that the state plan be available by July 1, 1987.

Section 3. Page 22, line 4: sets an immediate effective date.