

**ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86 / 2**

**3512 HLAB HB 511 - HB 522**

388

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## Alaska House of Representatives

### MEMORANDUM

Date: January 30, 1986  
To: Representative Mike Navarre  
Chairman, House Labor and Commerce Committee  
From: Representative Terry Martin  
Subject: House Bill 511

"An Act relating to certified professional secretaries"

This bill will reward secretaries employed by the State of Alaska who pass all portions of the Certified Professional Secretary Examination and receive the certificate of Certified Professional Secretary (CPS).

As you may be aware, the CPS exam is a rigorous test of a number of business, techniques and knowledge of behavioral science in business, business law, economics and management, accounting, office administration and communication, and office technology. There are minimum requirements for secretarial experience, including the requirement that the applicant be employed as a secretary, with credit given for higher education.

Because the test is so difficult (I have attached sample questions from the CPS exam), any secretary achieving the CSP rating demonstrates superior skills and professional commitment. Knowledgeable employers in the private sector often give hiring preference to job applicants with the CPS; correspondingly, most employers will do their best to retain their CPS's.

I see twofold benefits to this bill: 1) Secretaries who achieve the CPS rating will be financially rewarded in recognition of their hard work and superior achievement; and, 2) the State of Alaska will benefit in employing professional secretaries who view their jobs as worthwhile careers, bringing a higher caliber of job performance and commitment to the workplace.



January 30, 1986

Finally, it should be recognized that Alaska rates first in the nation in terms of certified professional secretaries per capita.

The fiscal impact of this bill will be low. Of the 5,754<sup>1</sup> secretaries in Alaska, 437 (or 7.6%) are employed by the State of Alaska.<sup>2</sup> There are 149 CPSs in Alaska<sup>3</sup>, so only 2.6% of all secretaries in Alaska are CPSs. 2.6% of 437 = 11.4--so only 11½ secretaries employed in State government are likely to be affected.

Although there are several salary ranges for the various secretaries employed by the State, an average range would be Secretary II, at a Range 11. Over half of all the secretaries in state government, regardless of range, are at a Step C or below. So we are assuming the average CPS would be paid at a Range 11-C at the time they receive their rating. Range 11-C pays \$2072 per month. A one step salary increase (to 11-D) would bring this wage to \$2135 per month--an increase of \$63 a month, or \$756 per year.

Therefore, the fiscal note on this bill should be  $\$756 \times 11.5 = \$8,694$  per year for the estimated 11.5 secretaries affected. To be incredibly generous and assume that twice the estimated number of CPS's are or will be employed by the State at Range 11-C and subsequently stepped up to Range 11-D, for a total of 23 CPS's, would bring the annual fiscal note to \$17,388.

The bill also gives hiring preference to CPS's, and authorization to hire a CPS at an advanced step.

As you can see, this bill will not have a large financial impact on the budget; at least not visibly. The invisible impact on the State's operating budget will likely be this: the State will have to invest less time and money in retraining secretarial personnel, because when it hires a CPS, it hires a person with commitment to a profession; a person likely to bring more stability, skills, professionalism and longevity to the job being filled.

I strongly urge you to pass HB 511. If you have any questions, I'd be happy to respond.



Representative Terry Martin

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attachments

<sup>1</sup> "Alaska Occupational Information", Alaska Department of Labor, page 25, table II-1, published January, 1985.

<sup>2</sup> Alaska Department of Administration, Division of Personnel.

<sup>3</sup> Patti Rizer, Anchorage Community College, Office Occupations Department.

## QUALIFICATIONS CHECKLIST FOR APPLICANTS

- A. When secretarial experience is completed before taking the examination, one (1) year of the required experience must have been for twelve (12) months continuous with one employer in the past five (5) years and the total required experience within the past twenty-five (25) years. Current employment will be computed through December 31 prior to the examination. When these criteria are met, one of the following educational and experience requirements shall apply:
1. If a high school graduate, equivalent or less, six (6) years of verified secretarial experience.
  2. If one (1) year of post high school formal education, equaling 30 credit hours, five (5) years of verified secretarial experience.
  3. If two (2) years of post high school formal education, equaling 60 credit hours, four (4) years of verified secretarial experience.
  4. If three (3) years of post high school formal education, equaling 90 credit hours, three (3) years of verified secretarial experience.
  5. If four (4) years or more of post high school formal education, equaling 120 credit hours, two (2) years of verified secretarial experience.
- B. A full-time employed secretary or college/university student may take the CPS<sub>®</sub> Examination prior to meeting the foregoing requirements; however, all educational and satisfactory secretarial experience must be obtained before certification is granted.
1. All requirements must be met within six (6) years of the date of approval of the application to take the examination.
  2. Full-time employed secretaries must submit verification of current secretarial employment with the application; and all experience and educational verification available.
  3. Proof of any remaining balance of experience and education must be received in PSI Headquarters by June 1 in order to be processed for the current year. Candidates who have passed all six (6) parts of the examination and who submit proof of education and experience after June 1 will be certified the following year.

### General Qualifications Information

Membership in Professional Secretaries International is not a requirement.

Business educators must submit verification of a minimum of 12 months of accumulative secretarial experience within the past 25 years and a letter of employment verification from school where currently employed.

For the purpose of evaluating experience, no period of less than 2 months of continuous employment will be counted. Part-time and/or volunteer secretarial experience is acceptable provided at least 20 hours a week are worked.

## PREPARATION POINTERS FOR THE EXAMINATION

Every effort is made in the CPS<sub>®</sub> Examination to adhere to the common office experience familiar to any good secretary. Secretaries who have already passed it assist in its preparation.

However, some of the examination is necessarily based on information which must be obtained by the secretary through formal education and informal reading. The Institute believes that a top-level secretary should have basic knowledge of economics, business organization, psychology, accounting, and business law from which to draw as required on the job. Courses offered in many schools and review of basic texts in the fields of the examination will probably be essential if you are to pass the various parts.

Finally, the examination is predicated on the premise that any competent secretary will be thoroughly familiar with modern developments in secretarial practices and procedures, will be aware of developments in office management and technology, will be competent in

transcription and composition skills (although these skills are not tested in the examination by the recording of notes and transcribing them on a typewriter) and know how to apply the principles of good human relations.

To assist candidates, the Institute for Certifying Secretaries has prepared material which may be ordered using the coupon below. Of course, study of the recommended material does not guarantee that you will pass, but it should certainly guide your intelligent preparation for the examination.

### SIX STUDY REVIEW MANUALS FOR THE CPS EXAMINATION

Parts I, II, IV available in October; Parts III, V, and VI available in December.

Contact: Marketing Manager, Occupational Publishing Division, John Wiley & Sons, 605 Third Avenue, New York NY 10158.

## TO ORDER CPS<sub>®</sub> STUDY MATERIALS FROM PSI

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# A sampling of questions



## certified professional Secretary. EXAMINATION

**Certified Professional Secretary**, CPSE, is the registered service mark for the rating that has become the recognized standard of the measurement of secretarial proficiency.

Since the first Certified Professional Secretary Examination in 1951, 17,257 have achieved the CPSE rating.

To attain the CPSE rating, a secretary must meet certain education and work experience requirements, and pass the two-day examination. The six-part examination is administered annually in May by the Institute for

Certifying Secretaries, a department of Professional Secretaries International. Although advantageous, membership in PSI is not required to become a CPSE.

The CPSE Examination covers six parts: behavioral science in business, business law, economics and management, accounting, office administration and communication, and office technology.

For additional information and application to sit for the examination request a free copy of Capstone from PSI. The 1984 CPSE Examination will be administered May 4 and 5. Deadline for application is December 1.

### Preface

The sampling of questions from the CPSE Examination battery was prepared for CPSE candidates to provide a general overview of the objective parts of the examination. The questions are intended to be representative of the content which the examiners intend to demonstrate the format in which the questions are used.

The number of questions in the sample tests is not commensurate with that in the CPSE Examination. The following hints suggest that familiarity with the sample questions will insure a candidate success on the entire CPSE Examination battery.

The Institute for Certifying Secretaries does recommend

that taking objective examinations be an important part of any CPSE study program. Use of this sample will be a worthwhile experience for candidates and a good guide for instructors who wish to develop other examinations for their study courses.

Each item consists of a question or of an incomplete

statement followed by four choices. For each item you are to decide which one of the four choices best answers the question or completes the statement; then on the answer sheet you are to blacken the space having the letter of that choice. The answer key is included for your grading.

## ANSWER SHEET For Sampling of Test Items

For each item you are to decide which one of the four choices BEST answers the question or completes the statement; then on this answer sheet you are to blacken the circle having the letter of that choice.

PART I				PART II				PART III				PART IV				PART V				PART VI			
A	B	C	D	A	B	C	D	A	B	C	D	A	B	C	D	A	B	C	D	A	B	C	D
1	○	○	○	1	○	○	○	1	○	○	○	1	○	○	○	1	○	○	○	1	○	○	○
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6	○	○	○	6	○	○	○	6	○	○	○	6	○	○	○	6	○	○	○	6	○	○	○
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9	○	○	○	9	○	○	○	9	○	○	○	9	○	○	○	9	○	○	○	9	○	○	○
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No claim is made that study of this material will ensure the passing of the examination.

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## BEHAVIORAL SCIENCE IN BUSINESS

- A readiness or inclination to react favorably or unfavorably to objects or symbols in the environment is called a (an)
  - attitude.
  - group norm.
  - perceptual norm.
  - prejudice.
- Attainment of immediate satisfaction about a desired goal or purpose through the use of imagination is called
  - fantasizing.
  - idealization.
  - identification.
  - sublimation.
- Last week I came home from work upset because a project I had just completed was changed drastically by my supervisor, requiring everything to be redone. Then I found my husband eating a piece of the cake I had baked for our PTA bake sale. I flew off the handle. This is an example of
  - displacement.
  - regression.
  - projection.
  - sublimation.
- The leadership characteristic considered MOST important for the successful functioning of a group is the ability to
  - become a member of the group being led.
  - recognize and utilize the attitudes and needs of the group.
  - transmit the organizational objectives to the group.
  - understand what motivates the members of the group.
- In a learning situation, a sense of personal progress and accomplishment as well as encouragement provided by an outsider such as a supervisor is an example of
  - motivation.
  - negative feedback.
  - reinforcement.
  - repetition.
- The MOST effective type of communication for overcoming resistance to change
  - is downward to all employees who will be affected by the change.
  - is downward and upward among all involved in the change.
  - is upward from all employees in the company.
  - involves using the grapevine to inform employees of the change.
- The tendency to attribute our own feelings and attitudes to others is called
  - compensation.
  - compulsion.
  - projection.
  - rationalization.
- Which one of the components of the personality theory developed by Freud would be most likely to help her make a rational approach in a crisis situation?
  - Ego
  - Id
  - Psyche
  - Super-ego
- Under which one of the following types of leadership are hostility and apathy MOST likely to appear?
  - Autocratic
  - Democratic
  - Participative
  - Representative
- An employee is motivated extrinsically by
  - financial rewards.
  - interests.
  - needs.
  - the nature of the work to be done.
- The skill that increases in importance as one moves from the supervisory level to middle management is
  - conceptual.
  - experimental.
  - organizational.
  - technical.
- In group dynamics, research indicates that
  - achievement-motivated people will work only with their friends.
  - groups produce fewer ideas than individuals working alone.
  - leaders have difficulty accepting their right to influence others.
  - the task leader and social leader are generally two different people.
- In a pre-employment test, Jo is given a stack of materials to read, analyze, and mark for action. This type of training is called
  - an action technique.
  - an achievement test.
  - competency test.
  - in-basket technique.
- A formula developed by Robert Gunning to determine the educational level of written material is the
  - California Readability Formula.
  - Comprehension Index.
  - Fog Index.
  - Readability Ease Formula (REF).
- In an employment interview, Jim said, "I had to assume responsibility in my present job." The interviewer responded with, "Exactly how did you do this?" This is what type of question?
  - Leading
  - Loaded
  - Mirror
  - Probing

## Part II

### BUSINESS LAW

- Burke contracted to work as a pharmacist for the Beebe Pharmacy for four years. This was an oral agreement made in the presence of others. Beebe Pharmacy discharged Burke six months after hiring her. May Burke retain her job?
  - No. The contract could not be completed in one year and should have been in writing.
  - No. A pharmacist's services are not unique.
  - Yes. The agreed upon period had three and one-half years to run.
  - Yes. Assuming the witnesses can be produced, the evidence is supportable.
- Mason, a ghost writer, agrees to prepare a speech for Pepping. Mason cannot complete the speech and, without Pepping's consent, turns the work over to another writer to complete. Under these circumstances, which of the following statements is TRUE?
  - All of the following statements are true.
  - Pepping is not obligated to pay because this is a voidable contract.
  - Pepping is obligated to pay because this is an automatic assignment.
  - Pepping is not obligated to pay because contracts for personal services cannot be assigned.
- Alderman borrowed \$300 from Vidals and signed a five-month promissory note. Three months after Alderman wrote the note, he painted Vidals' house and submitted a bill for \$500. Vidals endorsed the note to Behrens, a holder in due course. Under proper presentment by Behrens, Alderman refused to pay the face of the note, claiming he owed only \$300. Behrens may collect from Alderman the full amount of the note because
  - a counterclaim is a personal defense not good against a holder in due course.
  - a counterclaim is a real defense good against a holder in due course.
  - a holder in due course has superior rights.
  - Vidals endorsed the

- note incorrectly.
- The method of making available for the payment of one's debts certain property which is in the possession of a third person is called a
    - garnishment.
    - judgment claim.
    - writ of attachment.
    - writ of execution.
  - Williams, as agent for Murray, enters into a contract with Peters. Williams informs Peters that she is acting as agent for another but does not identify her principal. If Murray fails to fulfill her part of the contract,
    - Murray, as principal, is the only party liable to Peters.
    - Peters has no recourse since Williams informed her that she was acting as an agent for someone else and she does not know the identity of the principal.
    - Williams and Murray, if Murray's identity as principal can be ascertained, are both liable to Peters.
    - Williams, only, is liable to Peters because she failed to disclose Murray was her principal.
  - Alex sued Bill seeking a table lamp that Bill had in his possession. Alex claimed the lamp was made by his great grandfather and was a family heirloom. Alex was successful in the lawsuit, but Bill would not relinquish possession. Alex should seek a
    - writ of sequestration.
    - writ of habeas corpus.
    - writ of mandamus.
    - writ of quo warranto.
  - A tenant, who had a lease for a year, holds over and pays rent which is accepted. The tenant
    - has a periodic tenancy.
    - has a tenancy at sufferance.
    - has a tenancy at will.
    - is a trespasser.
  - Jones purchased a lawn mower from a local store. When he was using it, he was severely cut because the blades were defective. Jones lives in a region which recognizes strict liability; therefore, against whom would he bring suit?
    - All in the chain of supply.
    - The distributor.
    - The local store.
    - The manufacturer.
  - Which of the following is considered to be a "real defense" as opposed to a "personal defense" relating to negotiable instruments?
    - Breach of contract
    - Fraud in the execution
    - Fraud in the inducement
    - Lack of consideration
  - Moore received an unopened book in the mail with an invoice for \$9.95. Which one of the following is TRUE?
    - Moore does not need to pay for the book nor return it.
    - Moore must pay for the book.
    - Moore must return the book if she does not pay for it.
    - Moore must write the company and explain why she does not want the book.
  - An agent may attempt to do an act on behalf of a principal that was not authorized. The principal in such a case may either
    - ratify the act or ignore it. If the principal chooses to ratify the act, which one of the following conditions holds true?
      - The agent is still liable because he acted without authority.
      - The principal must ratify the entire transaction.
      - The principal only need ratify the portion of the act satisfactory to the principal.
      - The principal was not capable of authorizing the act at the time of the transaction, but now has the authority.
    - An injury was sustained by a customer using a cleaning product in the home. The customer wanted to sue the manufacturer for a defect in the product. This is possible if
      - the customer followed instructions on the label.
      - the customer proved the product caused the injury.
      - there was defect in the product which was caused or not removed by the manufacturer.
      - treatment for the injury amounts to \$100 medical expenses.
    - Bates makes an offer to Barnum which he would like to accept with one small exception. Barnum writes to Bates accepting and drawing attention to the point of difference. Do they have a valid contract?
      - No, because it was sent through the mail.
      - No, because the acceptance must have the same content as the offer.
      - Yes, because Barnum sent it back accepting.
      - Yes, a small change has no effect on a binding contract.
  - When one person transfers possession of personal property to another for a specific purpose and the property is to be returned upon accomplishment thereof, the transaction is considered a
    - bailment.
    - conditional sale.
    - consignment.
    - contractual agreement.
  - An agency may be created to perform any act which the principal could lawfully do, such as
    - make application for license.
    - make a will.
    - swear to the truth of documents.
    - testify in court.

## Part III

## ECONOMICS AND MANAGEMENT

- Minimum-wage legislation finds its roots in the concept of
  - Equilibrating Theory.
  - Marginal-Productivity Theory.
  - Standard-of-Living Theory.
  - Supply-and-Demand Theory.
- Workable competition results when
  - a variety of products is purchased by consumers.
  - a willingness to earn representative profits for each unit of output exists.
  - comparable commodities are purchased by well-informed consumers.
  - the size of the firm is small compared to the total demand.
- As a quantitative means for decision making, simulation
  - is used when few variables are present.
  - converges as a systematic trial-and-error approach to complex problems.
  - tests the alternatives only once.
  - uses mathematical formula to calculate the answer.
- A distribution which has the same mean, median, and mode is a
  - negatively skewed distribution.
  - positively skewed distribution.
  - regular distribution.
  - symmetrical distribution.
- In the management-by-objectives approach, when the objectives at each organizational level contribute to those at the next higher organizational level, the outcome is referred to as
  - a division objective.
  - a hierarchy of objectives.
  - measurable goals.
  - the overall product or

service objective.

6. Fiscal policy is a course of government action to stabilize the level of national output through

A careful regulation of the volume of foreign trade.

B encouraging businesses to make investments at certain critical times.

C expanding and contracting the money supply through Federal Reserve controls.

D use of government's taxing and spending powers to control the total volume of purchasing power in the economy.

7. Banks are required to maintain legal reserves

A allow Federal Reserve authorities to control the amount of demand deposits that member banks can create.

B guard against "bank runs."

C insure the public's deposits are safe and liquid.

D prevent commercial banks from becoming too profitable.

8. The best way to solve the problem of information overload is to

A develop and maintain various specialized channels of information.

B filter out some information in accordance with ability.

C hold managers responsible for the information they transmit.

D process information immediately.

9. Which of the following is NOT an advantage of converting to the metric system?

A It is a decimal system.

B It provides for precise measurement.

C It simplifies trade between countries.

D Workers can easily be trained to use the new system.

10. "Multiple expansion of bank deposits," or the creation of money, occurs with the

A acceptance of loan deposits.

B deposit of reserves in Federal Reserve Bank.

C exchange of demand deposits for the IOUs of business and individuals.

D sale of government bonds.

11. Which of the following legislation encouraged union growth?

A Taft-Hartley Act

B Wagner Act

C Fair Labor Standards Act

D Charles-Winters Act

12. Which of the following would be one of Herzberg's motivational factors?

A Growth possibilities

B Job security

C Pleasant working conditions

D Supervision

13. The organizational structure in which the manager in charge has the responsibility for getting results through employees who report directly to another manager or who have dual reporting responsibilities is

A divisionalized structure.

B functional structure.

C matrix structure.

D mechanistic structure.

14. The Program Evaluation Review Technique (PERT)

A illustrates the relationship between costs and benefits of projects.

B provides a means of

obtaining a probability estimate of time to complete activities.

C provides the ability to predict changes in profits under various operating conditions.

D shows clearly the effect of sales beyond the break-even point on profit.

15. Having fewer machines or women in a particular job classification (one or a group of jobs having similar content, wage rates, and opportunities) than would reasonably be expected by their availability is known as

A affirmative action.

B racial discrimination.

C systemic discrimination.

D underutilization.

PART IV

ACCOUNTING

1. A corporation with a net capital loss

A is entitled to deduct all of the loss.

B is entitled to deduct 50 percent in the same year.

C must deduct it from other income first.

D must first carry it back three years, then forward five years and deduct it from any capital gains of those years.

2. One advantage of a partnership is

A income taxes are paid by the partnership from the revenues earned.

B limited personal liability for the debts incurred.

C personal rights to the assets contributed are retained.

D the opportunity to bring together sufficient capital and skills.

3. A lump-sum write-off of part or all of the remaining cost of an intangible asset with limited legal life

A is justified if the company is in a loss position.

B is required when the asset is sold or other-

wise acquired by another company through merger or acquisition.

C is required when the remaining amortization schedule is no longer representative of the intangible's contribution to future revenues.

D should be debited to Retained Earnings if the value of the asset has become impaired.

4. The cost actually incurred by a company in acquiring an asset is known as the

A book value.

B carrying value.

C historical cost.

D replacement cost.

5. What rule is followed when a small loss is involved in plant asset exchanges and there is a negligible effect on periodic net income?

A Objectivity principle

B Present-value concept

C Principle of materiality

D Realization principle

6. When a note receivable is dishonored,

A it is charged back to the maker's account.

B it is debited to cash.

C it is impossible to attempt further collection.

D the maker is relieved of obligation.

7. An example of a revenue expenditure is a

A battery for the company automobile.

B piece of new machinery.

C piece of second-hand machinery.

D truck.

8. To minimize the possibility of inefficiency, errors, and fraud, assignment of a sequence of related operations should be the responsibility of

A one department within the company.

B one individual.

C the owner of the company.

D two or more persons.

9. What is the effect if Alan Company gives a note to a creditor instead of paying the account with cash?

A Debit Accounts Payable and credit Notes Payable.

B Debit Cash and credit Accounts Payable.

C Debit Notes Payable

- and credit Accounts Payable.
- D Note grants indefinite extension of time for payment of account.
10. When a corporation buys bonds at premium, the effective rate of interest earned will be  
 A less than the contract rate of interest stated on the bonds.  
 B more than the contract rate of interest stated on the bonds.  
 C the face value divided by the interest accrued.  
 D the face value divided by the original cost.
11. The establishment of specific goals for future operations and periodic comparison of actual results are essential to  
 A break-even analysis.  
 B budgeting.  
 C determining operating income.  
 D unit costing.
12. If an employer wanted protection against losses incurred due to the dishonest acts of his/hur employees, the employer would purchase  
 A contract bonds.  
 B fidelity bonds.  
 C maintenance bonds.  
 D surety bonds.
13. A Statement of Changes in Financial Position is also commonly called  
 A cash provided from operations.  
 B a consolidated income statement.  
 C a funds statement.  
 D working capital flow.
14. The items below are included in the January 1 opening balance sheet of Elizabeth Good, proprietor of Good's Bakery:  
 Accounts Receivable \$ 100  
 Accounts Payable 750  
 Accrued Salaries 75  
 Cash on Hand 700  
 Equipment 4,350  
 Accumulated Depreciation 500
15. When the units in the ending inventory are priced at the average unit cost of the merchandise on hand during the entire fiscal period, the company is said to be using the  
 A FIFO method.  
 B LIFO method.  
 C perpetual method.  
 D weighted average method.

**PART V**

**OFFICE ADMINISTRATION AND COMMUNICATION**

1. As soon as the secretary learns her employer is planning a trip, she should begin to  
 A accumulate pertinent information and material and place it in a folder--all correspondence, memos, and other related papers.  
 B make plans for redesigning the filing system and catching up on work she hasn't had time to do.  
 C make reservations and prepare a tentative itinerary.  
 D mark it on the calendar and contact a travel agency.
2. If the time limit set by the airline for redeeming unused tickets has expired, the ticket can still be redeemed for a properly cancelled reservation at  
 A the airline ticket office.  
 B the main office of the airline.  
 C the travel agency arranging the trip.  
 D all of the foregoing.
3. A passport is valid for  
 A six months.  
 B one year.  
 C five years.  
 D trip that it was issued for only.
4. The vertical file in a public library is  
 A a collection of bulletins, pamphlets, and reprints.  
 B frequently not as current as information appearing in a book on the subject.  
 C so-called because the materials are kept in folders on shelves.  
 D all of the foregoing.
5. Terminal-digit filing is  
 A characterized by a combination of letters and numbers.  
 B an expansion of a numeric system.  
 C an entirely new filing system.  
 D to read from left to right.
6. In a bibliography, the proper sequence of information for an article appearing in a magazine is  
 A Chamberlain, J., "Your Writing Can Get Action," *Nation's Business*, 45:62-5, September, 1969.  
 B Chamberlain, J., *Nation's Business*, "Your Writing Can Get Action," 45:62-5, September, 1969.  
 C *Nation's Business*, 45:62-5, September, 1969, Chamberlain, J., "Your Writing Can Get Action."
7. Which of the following considerations is PRIMARY in the preparation of business correspondence?  
 A Conciseness  
 B Company policy  
 C Reader orientation  
 D Sentence structure
8. If a conference reporter is employed, which one of the following responsibilities does he assume for the secretary?  
 A Organizing and editing the papers and dictation following their presentation.  
 B Processing the report.  
 C Securing copies of papers presented.  
 D Securing mailing addresses of conference participants who want a conference report.
9. Information to be included in the notes of a stockholder's meeting is determined by the  
 A articles of association.  
 B bylaws of the corporation.  
 C code of ethics of the corporation.
- D legal department of the corporation.
10. You have been asked to gather data on "Zero-Basis Budgeting." To determine what publications, if any, have been written on this subject, you should first consult which one of the following?  
 A Cumulative Book Index  
 B Guide to Reference Books  
 C How and Where to Look It Up  
 D Information Please Almanac
11. *Thesaur's International Rogatus* classifies words according to  
 A kinds, parts of speech, synonyms, antonyms.  
 B synonyms only.  
 C synonyms with pronunciation.  
 D all of the foregoing.
12. To learn about a company's history, facilities, products, officers, and income statements, the secretary would consult  
 A Harvard Business Review.  
 B MacFae's Blue Book.  
 C Moody's Bank and Finance Manual.  
 D Sources of Business Information.

## SUCCESSFUL STATE RECOGNITION TO DATE

- Florida -- Director of Personnel incorporated CPS in class specifications of Secretary III through Executive Secretary III, and placement on registers for consideration for promotion without further testing. Memorandum issued May 20, 1971.
- Illinois -- University Civil Service System added CPS in class specifications. In 1979 the Illinois Department of Personnel stated recognition of significant attainment and determined that for certain state positions requiring college training or experience in the business administration field, certification as a professional secretary can appropriately be recognized as being equal to the completion of two years of college training. This was implemented on April 1, 1979.
- Indiana -- The minimum qualifications required in applying for jobs will be modified to reflect the importance of the CPS Program and allow employees to qualify for promotions as of February 1, 1979. The State Personnel Division is pursuing the possibility of awarding additional recognition and/or monetary rewards.
- Iowa -- Iowa has two merit systems in state employment. The Iowa Merit Employment Department, in 1978, incorporated CPS in class specifications of Secretary I through Administrative Assistant I and II, and Administrative Officer I. It was stated that the Extra Meritorious Increase ruling would be relevant to the pay issue.
- The Iowa Board of Regents Merit System has included CPS in class specifications of Secretary III and IV, and Office Coordinator I and II. Effective July 1, 1979.
- Kentucky -- One-step increase for CPS rating granted by Department of Personnel--1975.
- Montana -- States recognition of CPS Program, and directs that a system be developed to "provide opportunity for merit pay or productivity bonuses, based upon demonstrated superior job performance; and to implement the system to encourage employee initiative in gaining increased relevant job knowledge such as demonstrated by professional certification." Joint resolution passed in 1979.
- North Dakota -- Bill passed the legislature in 1977, commending CPS in government employment as well as in business and private industry.
- Nebraska -- Director of Personnel gave directive granting merit increase on presentation of certification--1976.
- Tennessee -- 1972 legislation giving automatic two-step increase on CPS certification.
- Virginia -- 1975 legislation giving consideration for promotion for CPS.

## Schedule of CPS Review Courses 1983-84

To prepare students for the CPS Examination, Anchorage Community College will offer the following one-credit study courses during the fall and spring semesters. You may register at the first class meeting or at regular registration. *Orientation for the fall semester is September 12 and for the spring semester, January 16.*

### FALL SEMESTER

- **PART I: Behavioral Science in Business**  
Class meets: 10/3, 10/24, 11/7, 11/28
- **PART II: Business Law**  
Class meets: 9/26, 10/17, 11/14, 12/5
- **PART IV: Accounting**  
Class meets: 9/19, 10/10, 10/31, 11/21

### SPRING SEMESTER

(Meeting dates are tentative.)

- **PART V: Communication Applications**  
Class meets: 1/23, 2/13, 3/12, 4/2, 4/23
- **PART VI: Office Administration and Technology**  
Class meets: 1/30, 2/27, 3/19, 4/9
- **PART III: Economics and Management**  
Class meets: 2/6, 3/5, 3/26, 4/16

All classes meet on Mondays from 5 to 8 p.m.

### College Credits for the CPS Rating

Credit for the following courses is granted upon the successful completion of the CPS Examination:

Course No.	Title	Credit
OO 209	Interpersonal Skills	3
or		
Psy 153	Human Relations	3
BA 241	Business Law	3
BA 151	Introduction to Business	3
ACCT 51	Bookkeeping for Business I	3
ACCT 52	Bookkeeping for Business II	3
OO 103	Typing I - Elementary	3
OO 105	Typing II - Intermediate	3
OO 106	Typing III - Advanced	3
OO 131	Comprehensive Business English	3
OO 101	Beginning Shorthand	4
OO 102	Intermediate Shorthand	4
OO 210	Secretarial Procedures	3



Anchorage Community College, 2533 Providence Avenue, provides equal educational and employment opportunities for all, regardless of race, religion, color, national origin, sex, age, handicap, or veteran status.

OFFICE OCCUPATIONS  
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Anchorage, Alaska 99508-4670

## BUSINESS PROGRAMS

at

Anchorage Community College



Prepare to become  
the best you can be

# CERTIFIED PROFESSIONAL SECRETARY

## The Certified Professional Secretary (CPS)

The Certified Professional Secretary, or CPS, is recognized as the *capstone* of the secretarial profession. The CPS rating offers a significant, measurable, and attainable goal for career-oriented secretaries who want to be identified as exceptional.

*The CPS is the least known—and one of the most scarce—of all professionals. Comparatively speaking, the percentage of secretaries who even qualify to sit for the examination is minimal and, of those who do qualify and sit, the percentage who pass all six parts is minute in relation to the number of secretaries working throughout the world. Several years ago research indicated that one in every 4,000 secretaries in America earned the CPS key.*

Congressional Record  
July 17, 1974



## The CPS Examination

Since its inception in 1951, the *CPS Examination* has been continuously developed and administered by the Institute of Certifying Secretaries. Men and women appointed to the Institute include members from top-level business management, from the business education field, and Certified Professional Secretaries who are members of Professional Secretaries International, of which the Institute is a department.

The two-day, six-part examination is administered each year on the first Friday and Saturday in May at Anchorage Community College, as well as at seven other test sites in Alaska.

## Preparation for the CPS Exam and College Credit

To help candidates prepare for the six-part exam, Anchorage Community College conducts several one-credit review courses. Anyone who successfully completes the *CPS Exam* is eligible to apply for up to 38 credits toward an Associate degree through the College.

December 1 is the deadline to submit an application to take the *CPS Exam* the following May 1.

## For More Information

If you would like more information about our CPS offerings or would like an application for the *CPS Exam*, call:

Patti Rizer, CPS (786-1145)  
Donna Bohner, CPS, PLS (786-1141)

## EXAMINATION CONTENT

The examination is based upon an analysis of secretarial work with emphasis on judgment, understanding, and administrative ability gained through education and work experience. It includes skills, techniques, and knowledge in the following areas:

### Part I: Behavioral Science in Business

Tests the principles of human relations and the understanding of self, peers, subordinates, and superiors. Focuses on the fundamentals of personal needs and motivations, the nature of conflict, problem solving techniques, essentials of supervision and communication, leadership styles, and understanding of the informal organization.

### Part II: Business Law

Measures:

- the secretary's knowledge of the principles of business law as they may operate in the work-a-day world (not merely definitions); and
- knowledge of the content and implications of the operation of governmental controls on business.

### Part III: Economics and Management

Consists of two major subject areas: economics (35%) and management (65%). Emphasis is on the understanding of basic concepts underlying United States business operations.

### Part IV: Accounting

Measures knowledge of the elements of the accounting cycle as well as the ability to:

- analyze financial statements;
- perform arithmetical operations associated with accounting, e.g., computing interest and discounts; and
- summarize and interpret financial data.

### Part V: Communication Applications

Measures the secretary's proficiency in preparing communications. Consists of:

- Composing communications from directions given orally at approximately 70-80 wpm (60%); and
- Editing, abstracting, and preparing communications in final format (40%).

### Part VI: Office Administration and Technology

Covers subject matter unique to the secretary's position. Includes traditional and contemporary responsibilities created by data processing, communications media, advances in office management, records management, and office systems.

APPROVED

CHAPTER

STATE OF MAINE

NOV 20 1971

33

BY COMMISSIONER

PUBLIC L.

IN THE YEAR OF OUR LORD NINETEEN HUNDRED SEVENTY-ONE

H. P. 973 — L. D. 1334

AN ACT to Provide an Automatic Pay Increase to Classified State Employees Who Pass the Certified Professional Secretary Examination.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment of the Legislature, unless enacted as emergencies; and

Whereas, examinations will be held in May of 1971 under the certified Professional Secretary Program sponsored by the National Secretaries Association; and

Whereas, persons qualifying in May will be needlessly precluded from the provisions of this Act until October unless passed as an emergency;

Whereas, it is the intention of the Legislature, that facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine, as follows:

§ 1. § 5, P. S. 563, amended. The 2nd paragraph of section 5 of Title 5 of the Revised Statutes is amended by adding after the last sentence the following as sentence 2:

Notwithstanding the prohibition against retroactive pay increases, any person who passes the certified professional secretary examination shall be granted an immediate salary increase at the rate of the applicable plan. This salary increase shall be retroactive to the date of the examination. If necessary, an additional step shall be added to the compensation plan to provide for such increase.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

PUBLIC CHARTER NO. 537

## HOUSE BILL NO. 1619

By Mrs. Fleming, Haddell, Murphy (Davidson),  
McWhorter, Lowe, Howman, Broyles, Miller, Quales,  
Ford (Coske), Stafford, Denton, Byrd, Campbell, Hillis,  
Garnes

Substituted for Senate Bill No. 1470

By Ayres

*All ACT to provide for an automatic pay increase to public employees  
who pass the certified professional secretary examination.*

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
THE STATE OF TENNESSEE:**

**SECTION 1.** Any employee in the state service who passes all parts of the certified professional secretary examination sponsored by the National Secretaries Association shall be granted an automatic two-step salary advancement under the state's basic compensation plan. Such an automatic pay increase shall become effective with the next pay period beginning after the employee's passing grades on all parts of the examination are certified by the Institute for Certifying Secretaries or after the effective date of this Act in the case of state employees who are certified professional secretaries on or before the effective date of this Act. The automatic pay increase provided for in this Act shall not affect any such employee's eligibility for any regular merit increase. If necessary, one or two steps shall be added to the compensation plan to provide for the automatic increase provided for by this Act.

CPSS PER CAPITA IN THE UNITED STATES

<u>Ranking</u>	<u>State</u>	<u>1980 Population (from U. S. Census figures)</u>	<u>Total No. of CPSS in 1983</u>	<u>Percentage of CPSS Per Capita</u>
23	AL	3,742,000	304	.00812%
1	AK	403,000	124	.03076%
4	AZ	2,354,000	307	.01304%
37	AR	2,186,000	101	.00462%
28	CA	22,294,000	1586	.00711%
6	CO	2,670,000	336	.01258%
35	CT	3,096,951	177	.00571%
38	DE	594,711	27	.00454%
27	FL	8,594,000	656	.00763%
15	GA	5,084,000	453	.00891%
45	HI	297,000	29	.00223%
16	ID	878,000	78	.00888%
20	IL	11,243,000	964	.00857%
22	IN	5,374,000	441	.00820%
13	IA	2,895,000	259	.00894%
25	KS	2,848,000	131	.00770%
34	KY	3,398,000	202	.00577%
10	LA	3,966,000	372	.00937%
48	ME	1,125,560	28	.00249%
43	MD	4,143,000	151	.00364%
40	MA	5,725,983	236	.00412%
26	MI	9,189,000	705	.00767%
12	MN	4,008,000	365	.00910%
44	MS	2,404,000	84	.00349%

<u>Ranking</u>	<u>State</u>	<u>1980 Population (From U. S. Census figures)</u>	<u>Total No. of CPSs in 1983</u>	<u>Percentage of CPSs Per Capita</u>
7	MO	4,860,000	576	.01185%
24	MT	783,647	61	.00778%
13	NB	1,565,000	140	.00894%
21	NV	662,000	55	.00829%
49	NH	918,959	7	.00076%
42	NJ	7,327,000	281	.00383%
18	NM	1,212,000	106	.00874%
39	NY	17,748,000	795	.00447%
29	NC	5,577,000	396	.00710%
36	ND	652,222	30	.00551%
30	OH	10,749,000	751	.00698%
3	OK	2,880,000	394	.01368%
9	OR	2,444,000	239	.00977%
47	PA	11,750,000	331	.00281%
31	RI	945,761	58	.00613%
22	SC	2,918,000	177	.00606%
33	SD	587,540	41	.00596%
2	TN	4,357,000	1028	.02359%
5	TX	13,014,000	1652	.01269%
19	UT	1,484,680	125	.00859%
50	VT	511,297	3	.00058%
17	VA	5,142,000	454	.00881%
8	WA	3,774,000	374	.00990%
41	WV	1,860,000	75	.00403%
11	WI	4,679,000	430	.00918%
46	WY	468,909	15	.00319%

13. By which of the following actions may a principal motion be treated?  
 A To commit.  
 B To lay on the table.  
 C To reconsider.  
 D By all of the foregoing.

14. "Coding" in records management terminology is  
 A another name for "classifying" a record.  
 B no longer considered an important part of records management.

- C synonymous with "indexing."  
 D the actual marking of the record to indicate its placement in the file.  
 15. The procedure that is aimed at eliminating

- wasteful motions in work is called  
 A performance leveling.  
 B production recording.  
 C time study.  
 D work sampling.

**Part VI**

**OFFICE TECHNOLOGY**

1. The development of the laser printer is extremely important in the information processing industry because it  
 A allows more typing per line.  
 B creates a light image that indicates where to print the characters as it moves across the page.  
 C enables the line count per page to be increased.  
 D increases production speed considerably as compared to other printing devices.
2. One of the advantages of ultrafiche is that  
 A it is relatively inexpensive.  
 B it makes use of computer technology.  
 C the process of producing it is relatively simple.  
 D very long documents can be stored in very little space.
3. Acoustical panels in an office area  
 A do not absorb unwanted noise.  
 B provide little visual privacy for the intended user.  
 C solve all sound problems.  
 D work only as well as the total environment works.
4. Which of the following dialing systems cannot be accessed from outside the office?  
 A Centmax  
 B PBX  
 C PAX  
 D PBX
5. A teleprocessing system consists of a  
 A central computer with

- off-line data preparation units.  
 B a central computer with remote terminal(s).  
 C computer system with teletype facilities.  
 D minicomputer with acoustic couplers.
6. The term "leased voice-band lines" is associated with  
 A communication systems.  
 B intracompany paging systems.  
 C microwaves.  
 D television circuits.
7. Work simplification can be described as  
 A an evaluation and followup procedure.  
 B decentralization.  
 C systems and procedure analysis.  
 D word processing.
8. A combination telephone and teleprinter that enables a subscriber to dial directly any other subscriber and quickly send or receive a recorded message describes a  
 A Datacom.  
 B Data-phone.  
 C Telemeter.  
 D Telenet.
9. The processing of a batch of transactions in one continuous operation is referred to as a  
 A convention.  
 B cycle.  
 C run.  
 D transaction.
10. The media which provide fast, direct access in a record by computer and do not require a search for a record in sequence are  
 A drums and disks.  
 B magnetic tapes and cores.  
 C microfiches and ultrafiches.

- D punched cards and edge-notched cards.  
 11. In recent years, organizations have begun turning to a functional floor plan which provides a combination of the following: stationary and supplies storage, mail and communications services, filing and records management, secretarial and clerical assistance and information and retrieval and library facilities. Such services are provided by  
 A administrative service centers.  
 B communications centers.  
 C environmental service centers.  
 D futuristic floor plans.
12. Phototypesetting is a printing process that uses  
 A direct impression.  
 B film.  
 C ink.  
 D lead plates.

13. Combining physiological and psychological elements to develop an efficient work station is called the science of  
 A ergonomics.  
 B conventional office design.  
 C landscape office design.  
 D office design.
14. The process of examining critically the components of a job in order to determine the conditions and duties to be performed is called  
 A job analysis.  
 B job description.  
 C work analysis chart.  
 D work division.
15. Which one of the following would be most effective in reducing paper handling?  
 A Open office  
 B Ticker file  
 C Work analysis  
 D Word processing equipment

Wiley, November/December 1980

OSP Sample Examination									
ANSWER KEY									
1. A	2. C	3. B	4. A	5. C	6. A	7. C	8. A	9. C	10. D
11. D	12. A	13. C	14. B	15. D	16. D	17. A	18. C	19. D	20. B
21. A	22. D	23. B	24. A	25. A	26. C	27. B	28. A	29. D	30. A
31. B	32. C	33. A	34. D	35. C	36. B	37. A	38. C	39. B	40. D
41. A	42. D	43. B	44. A	45. C	46. A	47. C	48. B	49. D	50. A
51. C	52. B	53. A	54. D	55. C	56. B	57. A	58. C	59. D	60. A
61. A	62. D	63. B	64. A	65. C	66. A	67. C	68. B	69. D	70. A
71. C	72. B	73. A	74. D	75. C	76. B	77. A	78. C	79. D	80. A
81. A	82. D	83. B	84. A	85. C	86. A	87. C	88. B	89. D	90. A
91. C	92. B	93. A	94. D	95. C	96. B	97. A	98. C	99. D	100. A
101. A	102. D	103. B	104. A	105. C	106. B	107. A	108. C	109. D	110. A
111. C	112. B	113. A	114. D	115. C	116. B	117. A	118. C	119. D	120. A
121. A	122. D	123. B	124. A	125. C	126. B	127. A	128. C	129. D	130. A
131. C	132. B	133. A	134. D	135. C	136. B	137. A	138. C	139. D	140. A
141. A	142. D	143. B	144. A	145. C	146. B	147. A	148. C	149. D	150. A
151. C	152. B	153. A	154. D	155. C	156. B	157. A	158. C	159. D	160. A
161. A	162. D	163. B	164. A	165. C	166. B	167. A	168. C	169. D	170. A
171. C	172. B	173. A	174. D	175. C	176. B	177. A	178. C	179. D	180. A
181. A	182. D	183. B	184. A	185. C	186. B	187. A	188. C	189. D	190. A
191. C	192. B	193. A	194. D	195. C	196. B	197. A	198. C	199. D	200. A



# professional Secretaries international<sup>TM</sup>

Matanuska Chapter

Palmer, Alaska

February 6, 1986

Mike Navarre, Chairman  
Labor and Commerce Committee  
House of Representatives  
Box V  
Juneau, AK 99811

re: HB 511/HCR40

Dear Representative Navarre:

I understand that House Bill 511, which recognizes the importance of the Certified Professional Secretary (CPS) rating, will come before your Labor and Commerce Committee on Wednesday, February 12.

The CPS rating, often misunderstood and seldom acknowledged, has brought professionalism to the secretarial profession. House Bill 511 will educate the public about the CPS rating.

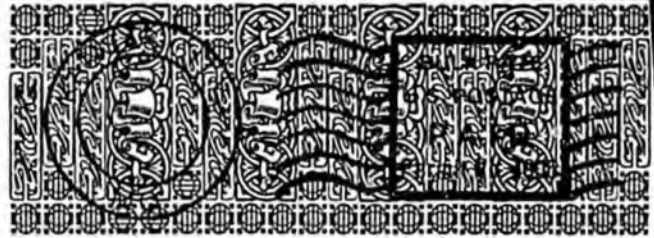
I would appreciate your support of HB 511.

Sincerely,

PROFESSIONAL SECRETARIES  
INTERNATIONAL

A handwritten signature in cursive script that reads 'Melinda Kolivosky'.

Melinda Kolivosky, CPS  
President, Matanuska Chapter  
634 S. Bailey, Suite 201  
Palmer, AK 99645



PLACE STAMP ABOVE



**professional Secretaries international®**

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## For more information about the CPS Examination:

---

- Yes, send my secretary(s) a free copy of Capstone, with additional information and application to sit for the examination.
- Yes, send my secretary(s) the list of colleges and universities who grant credit hours for CPS.
- Yes, send my secretary(s) more information about membership in Professional Secretaries International.

---

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---

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CITY

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# MANAGERS

---

THE KEY TO  
PRODUCTIVITY  
IN YOUR  
OFFICE

---

# CPS

---

CERTIFIED  
PROFESSIONAL  
SECRETARY

---

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## What is the CPS rating?

Certified Professional Secretary®, CPS®, is the registered service mark for the recognized rating that measures secretarial proficiency. The six-part examination is administered annually in May by the Institute for Certifying Secretaries, a department of Professional Secretaries International.

---

## How does a secretary obtain the CPS rating?

The rating is obtained by meeting educational and work experience requirements and passing a six-part, two-day examination.

---

## What are the six parts of the exam?

The six parts of the examination are: behavioral science in business, business law, economics and management, accounting, office administration and communication, and office technology.

---

## What are the common goals of those who seek the CPS rating?

Those who seek the CPS rating have the common goals of pride in their profession, an interest in education, and a desire to develop their skills to a high level.

"Nationwide Insurance has long encouraged pursuit of such professional designations as CLU, CPA, and CPS. Like other professional designations, CPS is an objective indicator of important measurable competences. At Nationwide, CPS is a valuable criterion, though not a requirement, for advancement in the secretarial field. Most of our top executive secretaries are certified and several women with the designation hold significant management positions."

Ohmer O. Crowell  
Senior Vice President,  
Marketing  
Nationwide Insurance  
Columbus OH

---

## How many secretaries have achieved the CPS rating?

Since the first CPS Examination in 1951, 18,398 secretaries have achieved the CPS designation.

---

## How does the CPS benefit you and your company?

The employee in your company who works to attain the CPS rating is investing in a career. Your employee who attains the

"We at Daniel have been pleased in what the CPS program has done for us and our employees. This certification focuses attention on the professional aspects of secretarial work and, in doing so, reminds all of the critical contributions a professional secretary makes to a business enterprise."

Ies McCraw  
President  
Daniel International  
Greenville SC

CPS rating will have a wealth of knowledge to draw upon when faced with difficult office situations and will be able to handle problems as they arise on the job. Your secretary will be prepared to take on broader administrative responsibilities, thus freeing you for executive duties.

---

## What does your company gain from the CPS Examination?

The application of job knowledge and skill gained through preparation for the CPS Examination ensures a knowledgeable, professional member of the management team for you and your company. The benefits will last a career. The effects spread beyond the individuals involved.

## What can you do to promote CPS in your company?

Encourage your secretary to strive for professional development through attainment of the CPS rating. Inform company secretaries about the CPS program by periodically posting information on the bulletin board or putting it in your company publication.

Join the many companies in both the private and public sector which offer tangible forms of encouragement to those aspiring to be a CPS.

## What are common precertification programs?

Precertification encouragement programs most commonly include:

- In-House study program
- Tuition-paid plans for preparatory class studies and review courses
- Books for self-study programs
- Processing and examination fees paid by employer
- Compensated time off for taking the examination
- Educational and professional seminars

"I believe there is no substitute for professionalism in any job in any organization. It is management's responsibility to cultivate this spirit, and the rewards for doing this are the high standards, increased productivity, and personal satisfaction that professionals contribute to a business. The CPS program has my support because it reflects my commitment to promote the secretarial skills and values that are vital to Utah Power and Light Company."

James C. Taylor  
President & Chief Operating Officer  
Utah Power and Light Company  
Salt Lake City UT

## What are typical post certification programs?

Post certification encouragement programs frequently include one or more of the following:

- Automatic annual salary increase for certification
- Bonus for achieving the CPS rating
- Extension of maximum salary range in present position
- Priority consideration for promotion as advanced positions become available
- Continuing education seminars

## What does the American Council on Education recommend?

The American Council on Education recommends 32 semester hours of academic credit for CPS. Many colleges and universities are granting automatic credit hours to those who have attained the CPS rating who enroll in degree programs.

## Are study manuals available?

Individual study manuals and an instructor's manual for all parts of the CPS Examination have been published through a joint venture between Professional Secretaries International and John Wiley & Sons, New York City. For additional information about the manuals, contact: John Wiley & Sons, Inc., Order Processing Department, One Wiley Drive, East Somerset, NJ 08873.

## How does a secretary qualify and take the CPS Examination?

Full-time employed secretaries, experienced secretaries, college/university students, and business educators with previous secretarial experience are those eligible to take the CPS Examination. Membership in Professional Secretaries International is not a requirement.

## When is the CPS Examination given?

The CPS Examination is given annually the first Friday and Saturday in May, concurrently in about 250 examination centers in the United States, Virgin Islands, Puerto Rico, and Malaysia; and nationalized versions are given in Jamaica and Canada, with French language offered in Canada.

## Are there provisions for military employees?

The Institute has entered into a formal agreement with the Defense Activity for Non-Traditional Education Support (DANTES), an educational activity of The Department of Defense, to administer the CPS Examination to military and civilian personnel in military installations overseas and, if feasible, within the United States.

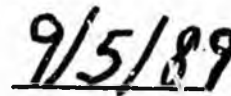


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Signature of Camera Operator

  
Date

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STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST

Bill/Resolution No. : CSHB 517  
 Title : "An Act relating to the private sale and consignment of works of art."  
 Sponsor : Repr. Gruenberg  
 Requestor : House Labor & Commerce  
 Date of Request : February 11, 1986

FISCAL DETAIL

Agency Affected : Department of Law  
 BRU : Legal Services  
 Components : Legal Services Operations

**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						
<b>TOTAL OPERATING</b>		-0-	-0-	-0-	-0-	-0-

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

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

**FUNDING : (Thousands of Dollars)**

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS :**

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

ANALYSIS : Attach a separate page if necessary

-Please see attached analysis.-

Prepared by: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Division Date: 2/12/86  
 Approved by Commissioner: Richard I. Pegues/Fel  
Harold M. Brown, Attorney General Date: 2/12/86  
 Agency: Department of Law

Distribution (by Agency preparing fiscal note):

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



# State of Alaska

## COMMITTEES

HOUSE HEALTH, EDUCATION  
AND SOCIAL SERVICES  
(Co-Chairman)  
HOUSE JUDICIARY  
HOUSE COMMUNITY AND  
REGIONAL AFFAIRS



POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4968

914 CLAY COURT  
ANCHORAGE, ALASKA 99503  
(907) 276-6844

Representative Max F. Gruenberg, Jr.  
District 11  
Spennard, Upper Midtown Anchorage

## MEMORANDUM

TO: HOUSE LABOR AND COMMERCE COMMITTEE MEMBERS

FROM: REPRESENTATIVE MAX F. GRUENBERG, JR.

DATE: FEBRUARY 8, 1986

RE: HB 517 RELATING TO THE PRIVATE SALE AND CONSIGNMENT  
OF WORKS OF ART

THIS BILL WAS ADAPTED FOR ALASKA LAW FROM TWO NEW YORK STATUTES PASSED IN 1966. IT IS INTENDED TO PROTECT ARTISTS IN THEIR DEALINGS WITH ART DEALERS BY PROVIDING THAT ARTWORK DELIVERED FOR SALE CONSTITUTES A TRUST FOR THE BENEFIT OF THE ARTIST AND PROTECTS SALE PROCEEDS FROM THE CREDITORS OF THE ART DEALER. THE BILL WOULD ALSO GUARANTEE REPRODUCTION RIGHTS IN STATE STATUTE.

THE PROPOSED DRAFT COMMITTEE SUBSTITUTE REFLECTS TWO CHANGES RECOMMENDED BY ARTISTS WHO HAVE REVIEWED THE BILL:

1. PAGE 2, LINES 18-20 PROVIDES THAT AN ART DEALER MUST RETURN UNSOLD ARTWORK ON DEMAND TO THE ARTIST IF CONSISTENT WITH ANY WRITTEN AGREEMENTS.
2. PAGE 4, LINE 9 REPEALS AN EXISTING SUBSECTION IN THE UNIFORM CORPORATION CODE WHICH IS SIMILAR TO PROPOSED LANGUAGE IN SECTION 1.

THE BILL HAS BEEN WIDELY DISTRIBUTED BY THE SPONSORS TO ARTISTS AND ART DEALERS IN THE STATE AND HAS RECEIVED POSITIVE FEEDBACK. IT IS SUPPORTED BY THE INSTITUTE OF ALASKA NATIVE ARTS AND THE ALASKA STATE COUNCIL ON THE ARTS.

# State of Alaska

## COMMITTEES

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Representative Max F. Gruenberg, Jr.  
District 11  
Spenard, Upper Midtown Anchorage

### Memorandum

From: Representative Max F. Gruenberg, Jr.  
Re: Draft CS for HB 517, relating to the private sale  
and consignment of works of art  
Date: February 5, 1986

This bill is modeled after two New York statutes passed in 1966, and is designed to offer protections to Alaskan artists in their business relationships with art dealers and their rights to reproduction.

SECTION 1 Provides that works of art delivered to an art dealer are trust property in the hands of the art dealer for the benefit of the artist, and that proceeds from a sale are not subject to a lien or claim against the art dealer.

Provides that subsection (a)(3) of 45.67.020 may be waived if the agreement is clear and agreed to in writing, however, under a waiver the proceeds of a sale are still not subject to a lien against an art dealer.

Provides that unsold artwork must be returned to the artist on demand consistent with any written agreement.

Also provides that the provisions of 45.67.010 - 020 may not be construed to effect an existing contract. Subsection (b) provides that this law will apply to all future dealings between an artist and art dealer notwithstanding the absence of or conflict with any written agreement or provisions of the Uniform Commercial Code.

The Right to Reproduction section (45.67.040) codifies in Alaska statute language similar to federal copyright law.

SECTION 2 Repeals a subsection in the Uniform Commercial Code similar to some language in section one.

Original sponsors: Gruenberg, Goll,  
Koponen, et al

1 IN THE HOUSE

BY THE LABOR AND  
COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 517 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the private sale and consignment  
7 of works of art."

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

9 \* Section 1. AS 45 is amended by adding a new chapter to read:

10 CHAPTER 67. ARTISTS AND WORKS OF ART.

11 Sec. 45.67.010. ARTISTS AND ART DEALER RELATIONSHIPS. (a) When  
12 an artist delivers or causes to be delivered a work of art of the  
13 artist's own creation to an art dealer for the purpose of sale, or  
14 exhibition and sale, on a commission, fee, or other basis of compen-  
15 sation, the acceptance of the work of art by the art dealer is a  
16 consignment, and

17 (1) the art dealer is, with respect to the work of art, the  
18 agent of the artist;

19 (2) the work of art is trust property in the hands of the  
20 art dealer for the benefit of the artist; and

21 (3) proceeds from the sale of the work of art are trust  
22 funds in the hands of the art dealer for the benefit of the artist.

23 (b) A work of art initially received as a consignment remains  
24 trust property notwithstanding the subsequent purchase of the artwork  
25 by the art dealer directly or indirectly for the art dealer's own  
26 account until the consignment price due to the artist is paid in full.  
27 If the work of art is resold to a bona fide third party before the  
28 artist has been paid in full, the proceeds of the resale are trust  
29 funds in the hands of the art dealer for the benefit of the artist to

1 the extent necessary to pay any balance still due to the artist. The  
2 trusteeship continues until the fiduciary obligation of the art dealer  
3 with respect to the transaction is discharged in full.

4 (c) The proceeds due to the artist from a sale or resale of the  
5 work of art are not subject or subordinate to a claim, lien or secur-  
6 ity interest of the art dealer's creditors.

7 Sec. 45.67.020. WAIVER. (a) A provision of a contract or  
8 agreement whereby the artist waives a provision of AS 45.67.010 is  
9 void except as provided in this subsection. An artist may waive the  
10 provisions of AS 45.67.010(a)(3) if the waiver is clear, conspicuous,  
11 and agreed to in writing by the artist. A waiver under this subsec-  
12 tion is not valid with respect to the proceeds of a work of art ini-  
13 tially received as a consignment but subsequently purchased by the art  
14 dealer directly or indirectly for the art dealer's own account.

15 (b) A waiver under (a) of this section may not inure to the  
16 benefit of the art dealer's creditors in a manner that is inconsis-  
17 tent with the artist's rights under AS 45.67.010.

18 Sec. 45.67.030. RETURN TO ARTIST. Unless the artist and art  
19 dealer have otherwise agreed in writing, the art dealer shall return  
20 an unsold work of art on demand of the artist.

21 Sec. 45.67.040. APPLICABILITY. (a) The provisions of AS 45.-  
22 67.010, 45.67.020, and 45.67.030 may not be construed to have an  
23 effect upon a written or oral contract or arrangement in existence on  
24 the effective date of this section, except by the mutual written  
25 consent of the parties.

26 (b) The provisions of AS 45.67.010 and 45.67.020 apply notwith-  
27 standing the absence of, or a conflict with, a written agreement  
28 between the artist and the art dealer concerning any matter covered by  
29 AS 45.67.010 and 45.67.020. In the event of a conflict between

1 AS 45.67.010, 45.67.020, or 45.67.030 and AS 45.01 - AS 45.09 (Uniform  
2 Commercial Code) or other provision of law, the provisions of  
3 AS 45.67.010, 45.67.020, and 45.67.030 govern.

4 Sec. 45.67.050. RIGHT TO REPRODUCE WORKS OF ART. (a) When a  
5 work of art is sold or otherwise transferred by or on behalf of the  
6 artist who created it, or the heirs or personal representatives of the  
7 artist, the right of reproduction is reserved to the grantor until it  
8 passes into the public domain by act or operation of law, unless the  
9 right is sooner expressly transferred by an instrument, ~~note~~, or  
10 memorandum in writing signed by the owner of the right or an author-  
11 ized agent of the owner.

12 (b) When an exclusive or nonexclusive conveyance of a right of  
13 reproduction is made by the holder of the right, or the holder's  
14 authorized agent, ownership of the physical art work is presumed to  
15 remain with and be reserved to the grantor unless expressly trans-  
16 ferred in writing signed by the grantor or the grantor's authorized  
17 agent.

18 (c) This section may not be construed to prohibit the fair use  
19 of a work of art or to conflict with federal copyright law.

20 Sec. 45.67.100. DEFINITIONS. In this chapter, unless the con-  
21 text otherwise requires,

22 (1) "artist" means the creator of a work of art or, if  
23 deceased, the heirs or personal representatives of the creator;

24 (2) "art dealer" means a person engaged in the business of  
25 selling works of art, other than a person exclusively engaged in the  
26 business of selling goods at public auction;

27 (3) "consignment" means that no title to or estate in the  
28 goods or right to possession superior to that of the consignor vests  
29 in the consignee, notwithstanding the consignee's power or authority

1 to transfer and convey, to third person, all of the right, title and  
2 interest of the consignor, in and to the goods;

3 (4) "creditor" has the meaning given in AS 45.01.201;

4 (5) "right of reproduction" means a right to reproduce,  
5 prepare derivative works of, distribute copies of, or publicly display  
6 a work of art;

7 (6) "work of art" means a painting, sculpture, drawing,  
8 work of graphic art, photograph, or craft work, in any medium.

9 \* Sec. 2. AS 45.02.326(e) is repealed.

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# 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

9/5/89  
Date

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**HOUSE  
COMMITTEE REPORT**

(7)  
Date referred: 1/29/86

FURTHER REFERRALS: JUDICIARY

DATE: Apr. 17, 1986

The LABOR & COMMERCE Committee has considered HB 522

"An Act relating to unfair insurance claims settlement practices; and providing for an effective date."

and recommends:

- do pass  
 do not pass  
 do pass with attached amendment(s)  
 no recommendation  
 replace with CS HB 522 (L+C)  same title  
 new title

and recommends do pass

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

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

SIGNING DO PASS: 7/1/86

SIGNING OTHER RECOMMENDATIONS:

Mike Favone  
D.A. [unclear]  
[unclear]  
\_\_\_\_\_  
\_\_\_\_\_  
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Clyde Harley - No Lec  
[unclear]  
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\_\_\_\_\_

Mike Favone  
Chairman

CSHB 522(L&C): "An Act relating to payment of insurance premiums, cancellation of insurance policies, and the provision of medical malpractice insurance for nurse midwives; and providing for an effective date."

The Department favors passage of this proposed legislation.

Sections 1 & 2 of this bill would provide that, for purposes of receiving payment of an insurance premium, a broker is legally considered an agent of the insurance company. This legislation does not give the broker the ability to bind coverage with an insurance company that has not given him that authority. The insurance agent has a direct contractual relationship with the insurance company in which it places business. The effect of this is that when an agent receives premium from an insured, it is the same as though the insurance company had received the funds, even if the insurance company never receives the money.

The situation with a broker is not as clear. The broker by definition represents the insured, not the insurance company. While it is possible that a legal argument could be made to attempt to treat the broker as an agent of the insurer, this must be done in court on a case by case basis.

During the past two years, it has become clear that a similar law is needed for brokers. Two large broker insolvencies have occurred where insureds have paid the broker who in turn has failed to remit those funds to the insurer resulting in cancellation of coverage for nonpayment of premium. The insured then suffers a loss of coverage and monies. In most cases, the insured person did not know in which capacity the producer was acting, let alone understand and appreciate the distinction.

Sections 3 - 10 and 14 address cancellation of commercial insurance policies. Under existing law, there is a limitation on cancellation of personal lines policies such as automobile insurance policies and homeowners insurance policies. A part of this law also establishes minimum amounts of time when a cancellation is issued and requires a reason for any cancellation or nonrenewal of coverage. These minimums and reasons do not currently apply to business or commercial policies.

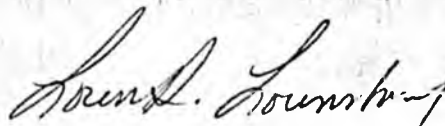
This proposal will provide for a 60 day notice time that a company must give when it cancels an insurance policy, other than personal lines of insurance. It also requires that any unearned premium shall be returned prior to the effective date of cancellation unless cancellation is for nonpayment of premium.

The need for this request arises from the tightening insurance markets. As companies are reducing the amount of insurance they are writing, they are eliminating entire classes of insurance from their book of business and they are often cancelling policies of those insureds who have suffered losses. The Alaskan consumer needs adequate notice in order to be able to find an alternate insurer in the event that his policy is cancelled.

To accomplish this, it is necessary to substantially rearrange AS 21.36.210 - AS 21.36.310. The changes do not revise the impact of those sections of law on personal lines. It does make some of those provisions applicable to business or commercial insurance.

We recommend that the notice period for a nonpayment cancellation remain unchanged. This means removing the change made on page 3, line 24. and changing the 20 days on page 4, line 4 to read 10 days. The logic for this is that a person about to receive notice for nonpayment generally knows that payment has not been made. 10 days is adequate.

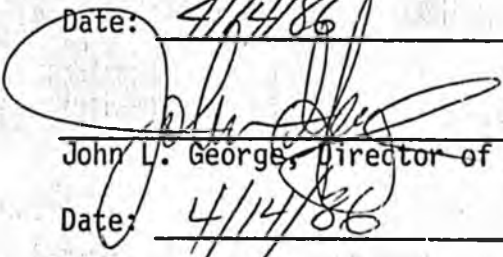
Sections 11 - 13 provide that nurse midwives can purchase medical malpractice insurance from the Medical Indemnity Corporation of Alaska (MICA). This will provide an additional market that the nurse midwife would have available if required. We would recommend that Section 11 on page 7, lines 9 - 29 be omitted. There are 1200 physicians licensed by the state who are conceivably eligible for coverage from MICA while there are only 21 licensed nurse midwives who might be eligible for coverage from MICA with passage of this bill. That is not a reasonable basis for changing the makeup of the governing board of MICA. This feature should remain unchanged.



\_\_\_\_\_  
Loren H. Lounsbury, Commissioner  
Department of Commerce & Economic  
Development

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

4/14/86



\_\_\_\_\_  
John L. George, Director of Insurance

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

4/14/86

Ford  
4/7/86

Original sponsors: Sund, Koponen,  
and Gruenberg

BY THE LABOR AND  
COMMERCE COMMITTEE

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 522 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to payment of insurance premiums,  
7 cancellation of insurance policies, and the provision  
8 of medical malpractice insurance for nurse midwives;  
9 and providing for an effective date."

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

11 \* Section 1. AS 21.27.200(a) is amended read:

12 (a) Except as provided in (c) of this section,

13 (1) a [A] broker, as such, is not an agent or other  
14 representative of an insurer, and does not have power as a broker to  
15 bind the insurer upon any risk or with reference to any insurance  
16 contract; and

17 (2) nothing [. NOTHING] in this section is intended to  
18 alter the common law of agency as applied to transactions under this  
19 title.

20 \* Sec. 2. AS 21.27.200 is amended by adding a new subsection to read:

21 (c) For purposes of determining an insured's entitlement to  
22 coverage, a premium paid to the broker is considered to be received by  
23 the insurer, if the payment to the broker is designated for specific  
24 coverage from a specifically named insurer and is supported by compe-  
25 tent evidence.

26 \* Sec. 3. AS 21.36.210(a) is amended to read:

27 (a) An insurer may not exercise its right to cancel a policy of  
28 personal [AN] automobile insurance [POLICY] except for the following  
29 reasons:

1 (1) nonpayment of premium; or  
2 (2) the driver's license or motor vehicle registration of  
3 either the named insured or of an operator who resides in the same  
4 household as the named insured or who customarily operates a motor  
5 vehicle insured under the policy has been under suspension or revoca-  
6 tion during the policy period or, if the policy is a renewal, during  
7 its policy period or the 180 days immediately preceding its effective  
8 date.

9 \* Sec. 4. AS 21.36.210(d) is amended to read:

10 (d) This section does not apply to

11 (1) the failure to renew a policy, except as to coverage in  
12 force for less than 12 months;

13 (2) a policy that has been in effect less than 60 days at  
14 the time notice of cancellation is mailed or delivered by the insurer.  
15 unless it is a renewal policy;

16 (3) a policy issued under an automobile assigned risk plan  
17 or automobile insurance plan;

18 (4) a policy insuring more than four motor vehicles;

19 (5) a policy covering the operation of a garage; automobile  
20 sales agency, repair shop, or service station; or public parking  
21 place;

22 (6) a policy providing insurance only on an excess basis;

23 (7) any other contract providing insurance to the named  
24 insured, even though the contract may incidentally provide insurance  
25 with respect to motor vehicles.

26 \* Sec. 5. AS 21.36.210(f) is amended to read:

27 (f) An [NOTWITHSTANDING (e) OF THIS SECTION, AN] insurer may not  
28 exercise its right to cancel a policy of personal insurance other than  
29 personal automobile insurance, except for the following reasons [THE

1 TYPE DESCRIBED IN (e) OF THIS SECTION IF ONE OF THE FOLLOWING  
2 CONDITIONS OR CIRCUMSTANCES ARISES]:

3 (1) nonpayment of premiums, including nonpayment of addi-  
4 tional premiums, calculated in accordance with the current rating  
5 manual of the insurer, justified by a physical change in the insured  
6 property or a change in its occupancy or use;

7 (2) conviction of the insured of a crime having as one of  
8 its necessary elements an act increasing a hazard insured against;

9 (3) discovery of fraud or material misrepresentation made  
10 by the insured or a representative of the insured in obtaining the  
11 insurance or by the insured in pursuing a claim under the policy;

12 (4) discovery of a grossly negligent act or omission by the  
13 insured that substantially increases the hazards insured against; or

14 (5) physical changes in the insured property that result in  
15 the property becoming uninsurable.

16 \* Sec. 6. AS 21.36.220 is amended to read:

17 Sec. 21.36.220. NOTICE OF CANCELLATION. An insurer may not  
18 exercise its right to cancel a personal insurance policy unless a  
19 written notice of cancellation is mailed or delivered to the named  
20 insured, at the address shown in the policy, at least 60 [20] days  
21 before the effective date of cancellation. However, if [ , EXCEPT THAT  
22 WHEN] cancellation is for nonpayment of premium, the notice must  
23 [SHALL] be mailed or delivered to the named insured at the address  
24 shown in the policy at least ~~60~~ 103 days before the effective date of  
25 cancellation, and must [SHALL] include or be accompanied by a  
26 statement of the reason for the cancellation. [THIS SECTION DOES NOT  
27 APPLY TO THE FAILURE TO RENEW A POLICY, EXCEPT AS TO COVERAGE IN FORCE  
28 FOR LESS THAN 12 MONTHS.]

29 \* Sec. 7. AS 21.36.220 is amended by adding new subsections to read:

1 (b) An insurer may not exercise its right to cancel a policy of  
2 business or commercial insurance unless a written notice of cancella-  
3 tion is mailed or delivered to the named insured, at the address show-  
4 in the policy, and to the agent or broker of record, at least 60 day  
5 before the effective date of cancellation. However, if cancellatio-  
6 is for nonpayment of premium, the notice must be mailed or delivere-  
7 to the named insured at the address shown in the policy and to th-  
8 agent or broker of record at least ~~20~~<sup>10</sup> days before the effective dat-  
9 of cancellation, and must include or be accompanied by a statement o-  
10 the reason for the cancellation.

11 (c) If an insurer cancels a policy under (b) of this section, i-  
12 shall return any unearned premium to the agent or broker of record o-  
13 directly to the insured or premium finance company, if applicable  
14 before the effective date of cancellation, except that, if cancel-  
15 lation is for nonpayment of premium, any unearned premium must b-  
16 returned within 45 days after the notice of cancellation is given.

17 \* Sec. 8. AS 21.36.240 is amended to read:

18 Sec. 21.36.240. FAILURE TO RENEW. An insurer may not fail t-  
19 renew a personal insurance policy in force for less than 12 months  
20 An insurer may not fail to renew a policy [IN FORCE FOR 12 MONTHS OR  
21 MORE] unless a written notice of nonrenewal is mailed or delivered to  
22 the named insured, at the address shown in the policy, at least 20  
23 days for a personal insurance policy, and at least 45 days for  
24 business or commercial insurance policy, before the expiration date of  
25 the policy[, ] or of the anniversary date of a policy written for  
26 term longer than one year or with no fixed expiration date. This  
27 section does not apply

28 (1) if the insurer has in good faith manifested in any way  
29 its willingness to renew;

1 (2) in case of nonpayment of premium for the expiration  
2 policy; or

3 (3) if the insured fails to pay the premium as required by  
4 the insurer for renewal.

5 \* Sec. 9. AS 21.36.250 is amended to read:

6 Sec. 21.36.250. NOTICE OF ELIGIBILITY. When a policy of automo-  
7 bile liability insurance is cancelled, other than for nonpayment of  
8 premium, or is not renewed in accordance with [FOR FAILURE TO RENEW  
9 POLICY OF AUTOMOBILE LIABILITY INSURANCE TO WHICH] AS 21.36.240 [AP-  
10 PLIES], the insurer shall notify the named insured of possible eligi-  
11 bility for automobile insurance through the automobile assigned risk  
12 plan, or automobile insurance plan. The notification must [SHALL  
13 accompany or be included in the notice of cancellation or nonrenewal  
14 required by AS 21.36.220 [AS 21.36.230] and 21.36.240.

15 \* Sec. 10. AS 21.36.310 is amended to read:

16 Sec. 21.36.310. DEFINITIONS. In AS 21.36.210 - 21.36.310

17 (1) "business or commercial insurance" means insurance  
18 other than personal insurance, life insurance, disability insurance,  
19 title insurance, or an annuity contract;

20 (2) "nonpayment of premium" means failure of the named  
21 insured to discharge when due any obligations of the named insured in  
22 connection with the payment of premium on a policy, or any installment  
23 of the premium, whether the premium is payable directly to the insurer  
24 or its agent or indirectly under any premium finance plan or extension  
25 of credit;

26 (3) "personal automobile insurance" means insurance not  
27 related to business or commercial activities, covering [(2) "POLICY"  
28 MEANS AN INSURANCE POLICY COVERING THE RISKS AND EXPOSURES LISTED IN  
29 AS 21.36.210(e) OR AN AUTOMOBILE POLICY THAT INCLUDES] automobile

1 liability, uninsured/underinsured motorists [COVERAGE, UNINSURE  
2 MOTORIST COVERAGE], automobile medical payments [COVERAGE], or automo  
3 bile physical damage [COVERAGE], that is delivered or issued fo  
4 delivery in this state [INSURING AS THE NAMED INSURED, ONE INDIVIDUA  
5 OR HUSBAND AND WIFE RESIDENT OF THE SAME HOUSEHOLD], and under which  
6 the insured vehicles are of the following types only:

7 (A) a motor vehicle of the private passenger or sta  
8 tion wagon type that is not used as a public or livery convey  
9 ance, nor rented to others; or

10 (B) any other four-wheel motor vehicle with a loa  
11 capacity of 1,500 pounds or less that is not used in the occupa  
12 tion, profession, or business of the insured, nor used as  
13 public or livery conveyance, nor rented to others;

14 (4) "personal insurance" does not include an annuity con-  
15 tract or a policy of life insurance, disability insurance, or title  
16 insurance; the term means personal automobile insurance, or insurance  
17 covering

18 (A) loss of or damage to real property that is used  
19 predominantly for residential purposes and that does not consist  
20 of more than four dwelling units;

21 (B) loss of or damage to personal property, including  
22 personal effects, household furniture, fixtures and equipment  
23 located in not more than four dwelling units; or

24 (C) legal liability of natural persons for loss of,  
25 damage to or injury to persons or property if the insurance does  
26 not cover liability arising from or in connection with business  
27 or commercial activities;

28 (5) [(3)] "renewal" or "renew" means

29 (A) the issuance and delivery by an insurer of a

1 policy replacing at the end of the policy period a policy  
2 previously issued and delivered by the same insurer.

3 (B) the issuance and delivery of a certificate of  
4 notice extending the term of a policy beyond its policy period or  
5 term, or

6 (C) the extension of the term of a policy beyond its  
7 policy period or term under a provision for extending the policy  
8 by payment of a continuation premium.

9 \* Sec. 11. AS 21.88.030(a) is amended to read:

10 (a) The corporation shall exercise its powers through a board of  
11 governors which is appointed by the governor of the state and con-  
12 firmed by the legislature. Members of the board of governors shall be  
13 Alaska residents as follows:

14 (1) three [FOUR] physicians licensed in the state and  
15 engaged in private practice in the state; no more than two of the  
16 physicians shall practice or live in a municipality having a popula-  
17 tion of more than 100,000, and two of the physicians must be indem-  
18 nified against loss by reason of liability for an act or omission in  
19 the delivery of professional health care by the Medical Indemnity  
20 Corporation of Alaska;

21 (2) one nurse midwife licensed in the state and engaged in  
22 private practice in the state;

23 (3) an administrator or senior executive officer employed  
24 by a hospital licensed in the state;

25 (4) [(3)] two professionals from the insurance industry  
26 who are authorized or licensed to do business in the state;

27 (5) [(4)] two persons who are not health care providers or  
28 financially interested in the field of health care or representatives  
29 of the insurance industry.

1 \* Sec. 12. AS 21.88.050 is amended to read:

2 Sec. 21.88.050. POWERS AND DUTIES OF THE CORPORATION. (a) The  
3 corporation shall

4 (1) in the form approved by the director, issue to all  
5 physicians, nurse midwives, and hospitals who are found to be accept  
6 able risks under standards developed under (5) of this subsection, and  
7 who pay the premiums for it, a contract or contracts indemnifyin  
8 physicians, nurse midwives, and hospitals and their employees who ar  
9 health care providers against loss by reason of liability for covere  
10 claims for an act or omission in the delivery of professional health  
11 care in this state, and agreeing to tender on behalf of the physi  
12 cians, nurse midwives, and hospitals and their employees who ar  
13 health care providers a defense to a covered claim in a proceeding  
14 brought under AS 09.55.530 - 09.55.560; the limits of liability fo  
15 policies issued by the corporation shall be approved by the director  
16 the contract shall cover the defense against but need not indemni  
17 liability for punitive damages arising from a covered claim; at th  
18 option of the corporation, if approved by the director, and for an  
19 additional premium the contract may cover claims against the physi  
20 cian, nurse midwife, or hospital that arise out of professional ser  
21 vices performed by the physician, nurse midwife, or hospital for any  
22 period before the contract is issued, except that coverage will not be  
23 provided for a claim already filed or of which the physician, nurse  
24 midwife, or hospital had or reasonably should have had notice at the  
25 time the retroactive insurance was purchased;

26 (2) charge a premium for the protection provided by the  
27 contracts issued by the corporation which shall be determined by the  
28 board of governors in accordance with AS 21.88.080 and subject to the  
29 approval of the director;

1 (3) comply with or be subject to AS 21.06.090, 21.06.120  
2 21.06.140, 21.06.160, 21.06.250, AS 21.09.130 - 21.09.200, 21.09.250  
3 21.09.280, AS 21.12.020(b)-(e), AS 21.18, AS 21.21, AS 21.24 and A  
4 21.36; and shall be exempt from participation as a member insurer in  
5 the Alaska Insurance Guaranty Corporation;

6 (4) carry out the obligations of the contracts issued by  
7 the corporation by defending all covered claims made against insured  
8 health care providers and by paying all liabilities which are finally  
9 adjudicated against the insured health care provider or which may be  
10 the opinion of the corporation reasonably be expected to be finally  
11 adjudicated against the health care provider to the extent of the  
12 contract obligation;

13 (5) establish standards for the acceptability of risks; in  
14 establishing these standards the corporation may exclude an applicant  
15 for insurance based on individual risk selection factors, but may not  
16 exclude an applicant based only on the classification of the appli-  
17 cant.

18 (b) The corporation may

19 (1) employ or retain persons, individual or corporate, to  
20 discharge its obligations and pay reasonable compensation for these  
21 services; employees of the corporation are not considered state em-  
22 ployees;

23 (2) negotiate for and procure reinsurance from private  
24 casualty insurers or reinsurers for any and all liability incurred by  
25 contracts issued by it;

26 (3) provide coverage to insureds for other hazards custom-  
27 arily included in medical malpractice insurance policies when there is  
28 a finding by the director that this coverage is not available to  
29 insureds of the Medical Indemnity Corporation of Alaska in the private

1 insurance market at a competitive price;

2 (4) borrow or advance funds necessary to carry out the  
3 purposes of the corporation;

4 (5) negotiate and become a party to those contracts as ar  
5 necessary to carry out the purposes of the corporation;

6 (6) sue or be sued in the name of the corporation;

7 (7) provide risk management advice and services to hospi  
8 tals;

9 (8) negotiate and become a party to contracts for manage-  
10 ment services for the corporation;

11 (9) perform all other acts necessary and proper to carry  
12 out the duties of the corporation;

13 (10) in a form approved by the director and for an addition-  
14 al premium determined under AS 21.88.080, issue endorsements which  
15 provide indemnity for claims not yet reported which arise out of  
16 professional services rendered during a period of continuous coverage  
17 under the originally issued contract, to physicians, nurse midwives  
18 and hospitals who pay the premium for it and who are terminating their  
19 original covered claims contract with the corporation for a period of  
20 not less than one year;

21 (11) subject to approval by the director, extend coverage  
22 to a person, entity, or facility that renders health care services in  
23 state under the supervision of a physician.

24 \* Sec. 13. AS 21.88.900 is amended by adding a new paragraph to read:

25 (17) "nurse midwife" means a registered professional nurse  
26 who is certified as an advanced nurse practitioner under AS 08.68.-  
27 410(1) and authorized to practice as a nurse midwife under regulations  
28 adopted in accordance with AS 08.68.

29 \* Sec. 14. AS 21.36.210(c), 21.36.230, and 21.36.300 are repealed.

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\* Sec. 15. This Act takes effect immediately in accordance with AS 01.10.070(c).

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March 11, 1986

Representative Mike Navarre  
Alaska State Legislature  
Pouch V (MS 3100)  
Juneau, Alaska 99811

Re: House Bill 522

Dear Representative Navarre:

I am writing to you on behalf of State Farm Insurance Company and Allstate Insurance Company to register our opposition to House Bill 522. Of all the legislation pending, this legislation, if enacted, would by far have the most significant adverse effect on the insurance industry. We want to explain the reasons why we oppose House Bill 522, as well as what we believe the practical effect of that legislation will be.

The Unfair Claims Settlement Practices Act, as it presently exists, was passed to regulate claims settlement practice. This legislation was introduced by Governor Hammond in 1976, and his intent in introducing this legislation is clear from the letter he sent which accompanied the bill:

The bill gives the director of the division of insurance authority to investigate complaints and issue orders requiring persons to stop acts or practices in violation of the chapter. Once an order is issued, the bill provides that the director may also order a penalty of as much as \$10,000.00 for each violation of the chapter and suspend or

revoke the violator's license. In addition, the bill gives the director authority to seek injunctive relief to aid in the enforcement of the chapter.

This bill is a strong, consumer-oriented measure which gives the director of the division of insurance more power to deal with unfair and deceptive practices than he presently has. The remedies in this bill provide broad relief to the insurance consumer through the insurance director.

Vol. I House Journal 1976, at 24. (Emphasis added).

As you can see from this letter, the legislation granted to the Director of the Division of Insurance broad authority to investigate and regulate claims settlement practices. It is significant that even this authority was based upon the premise that a single instance was not itself a violation, but a violation occurs only where the acts are committed with such frequency to indicate a practice.

House Bill 522 would change the focus of the original legislation, and would instead allow a claimant a private civil cause of action based upon a single violation of this act. Furthermore, House Bill 522 would allow a third-party claimant a private civil cause of action based upon a single violation of this act. The practical ramifications of the enactment of House Bill 522 are thus significant, for the Bill would create a private civil cause of action in cases where such a cause of action is not presently recognized.

If House Bill 522 is enacted, virtually every time there is disagreement about liability or damages, there will be the potential for a private civil cause of action based on an alleged violation of the Unfair Claims Settlement Practices Act. That this will occur is evident from a simple examination of the mechanics of the settlement process in a typical liability case. Every case that involves a settlement arises from an occurrence which allegedly caused injury to a third party. In every such case, two questions must be addressed before there can be a settlement: (1) Whether the insured was liable, and if so, the extent of his or her liability; and (2) The damages caused to the third party by the insured. In many cases, the questions of liability and damage are relatively clear, however in many others, those questions are not.

For example, Alaska has adopted judicially the concept of comparative negligence. This concept in essence provides that the party bringing the claim may be at fault as well, and that to the extent that party is at fault, he or she may not recover damages from the other side. The concept of comparative negligence requires a percentage allocation of responsibility to the party bringing the claim if that party was at fault. Many times, whether the defendant was at fault to begin with and if so, the nature and extent of the plaintiff's comparative fault are items which are legitimately and vigorously contested.

The same is true with respect to the question of damages. Since our legal system allows recovery for many types of damage that are not capable of being measured objectively, in many cases we see a significant and legitimate conflict as to the amount of damages the person is entitled to, even when liability is relatively clear. For example, one of the most difficult cases to resolve is a soft tissue neck case, and this is true regardless of whether liability is clear or not. There is no test that can be given to objectively determine the extent of the disability, and most such cases essentially turn on the credibility of the individual involved. This is also true in many other types of cases simply because there is no way to objectively measure certain types of damage such as pain and suffering.

If House Bill 522 is passed, an insurer would be exposed to a lawsuit virtually every single time a settlement offer made by a plaintiff is refused. Examples of such lawsuits in other states are numerous. For example, California has an Unfair Claims Settlement Practices Act which allows a private cause of action. In a recent case there the insurer refused a settlement offer made by the plaintiff, and the case proceeded to trial. Even though the jury ultimately awarded the plaintiff only one-fifth of that amount, the California Court still held the insurer could be found liable for failing to make proper efforts to settle the case.

It is virtually impossible to calculate the cost of such a system, for virtually every case that is settled would be settled under the shadow of an Unfair Claims Settlement Practices Act threat. Frankly, this is just about the worst thing that could be done by the legislature at a time when many insurance carriers have left the Alaska market, and the price of liability insurance has continued to rise. Instead of providing disincentives for insurers to do business in Alaska the legislature should provide incentives.

As our system presently exists, there are tremendous incentives for insurers to expeditiously resolve cases. First of all, prejudgment interest presently runs at a rate of 10.5% per annum, and this alone is a significant incentive for an insurer to expeditiously resolve a case. A second incentive for an insurer to resolve a case is simply the cost of litigation and the cost of claim handling. If an insurer can settle a case for a fair amount promptly, the insurer avoids the cost of having its claims adjustor continue to deal with that case, and furthermore avoids the significant legal fees that occur in the defense of virtually any personal injury lawsuit. A third incentive is the desire of both parties to avoid Rule 82 attorneys fees. Yet an additional incentive is the statutory offer of judgment that parties can file pursuant to AS 09.30.065. If a plaintiff files such an offer of judgment and this offer is not accepted, and the plaintiff then recovers a larger amount than the offer, the plaintiff recovers an additional 2% in interest, for a total of 12.5% per annum, from the time of the occurrence. These are significant incentives which are already present in our system which encourage both parties to expeditiously resolve claims, and frankly the system works well, for only a very small percentage of cases ultimately proceed to the courtroom.

If HB 522 is passed, the legislature in effect will create a new cause of action on the part of plaintiffs directly against insurance carriers. However, the legislature will be doing nothing to encourage plaintiffs to act more fairly and expeditiously in resolving disputes. It takes two parties to settle, and this legislation would govern the conduct of the insured party, but not the other party. If anything, the legislature should provide incentives for all parties, insured or not, to promptly and fairly resolve claims.

We know problems with claims have occurred in the past, and we suspect there will be occasional problems in the future, but disagreement is inherent in the adversarial system of justice. That system is now equally balanced, since neither a plaintiff nor an insured defendant may sue the other side for lack of good faith in negotiation. The passage of HB 522 would change that balance.

The cost and availability of insurance is one of the most significant problems facing the legislature this year. Passage of HB 522 will complicate rather than assist the resolution of this problem. We strongly feel that claims settlement practices should continue to be overseen by the Division of Insurance through the broad powers granted by the

HUGHES THORSNESS GANTZ POWELL & BRUNDIN  
ATTORNEYS AT LAW

present act. We thank you for the opportunity to comment on  
this issue.

Sincerely,

HUGHES THORSNESS GANTZ  
POWELL & BRUNDIN

By: *John J. Frank for*  
Michael L. Lessmeier

MLL/mh  
0419A

cc: Members of the House Labor and Commerce Committee

C O R R E C T I O N

Discard HB 522  
and retain this corrected version.

Introduced: 1/29/86  
Referred: Labor & Commerce  
and Judiciary

BY SUND, KOPONEN AND  
GRUENBERG

1 IN THE HOUSE

2 HOUSE BILL NO. 522

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 unfair insurance claims settle-  
7 ment practices; and providing for an effective date."

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

9 \* Section 1. AS 21.36.125 is amended to read:

10 Sec. 21.36.125. UNFAIR CLAIM SETTLEMENT PRACTICES. A person  
11 may not commit or engage in with such frequency as to indicate a  
12 practice any of the following acts or practices:

13 (1) misrepresent a fact [FACTS] or policy provision [PRO-  
14 VISIONS] relating to coverage of an insurance policy;

15 (2) fail to acknowledge and act promptly on a communication  
16 [UPON COMMUNICATIONS] regarding a claim arising under an insurance  
17 policy;

18 (3) fail to adopt and implement reasonable standards for  
19 prompt investigation of claims;

20 (4) refuse to pay a claim without a reasonable investiga-  
21 tion of all of the available information and an explanation of the  
22 basis for denial of the claim or for an offer of compromise settle-  
23 ment;

24 (5) fail to affirm or deny coverage of a claim [CLAIMS]  
25 within a reasonable time of the completion of a proof-of-loss state-  
26 ment [STATEMENTS];

27 (6) fail to attempt in good faith to make prompt and equi-  
28 table settlement of a claim [CLAIMS] in which liability is reasonably  
29 clear;

1           (7) compel an insured or claimant [INSUREDS] to litigate  
2 for recovery of an amount [AMOUNTS] due under an insurance policy  
3 [POLICIES] by offering substantially less than the amount [AMOUNTS]  
4 ultimately recovered in an action [ACTIONS] brought by the insured or  
5 claimant [THOSE INSUREDS];

6           (8) attempt to make an unreasonably low settlement by  
7 reference to printed advertising matter accompanying or included in an  
8 application;

9           (9) attempt to settle a claim on the basis of an applica-  
10 tion that [WHICH] has been altered without the consent of the insured;

11           (10) make a claims payment without including a statement of  
12 the coverage under which the payment is made;

13           (11) make known to an insured or claimant [INSUREDS OR  
14 CLAIMANTS] a policy of appealing from an arbitration or court award  
15 [AWARDS] in favor of an insured or claimant [INSUREDS OR CLAIMANTS]  
16 for the purpose of compelling the insured or claimant [THEM] to accept  
17 a settlement or compromise [SETTLEMENTS OR COMPROMISES] less than the  
18 amount awarded [IN ARBITRATION];

19           (12) delay investigation or payment of a claim [CLAIMS] by  
20 requiring submission of unnecessary or substantially repetitive claims  
21 reports and proof-of-loss forms;

22           (13) fail to promptly settle a claim [CLAIMS] under one  
23 portion of a policy for the purpose of influencing a settlement  
24 [SETTLEMENTS] under another portion [OTHER PORTIONS] of the policy;

25           (14) fail to promptly provide a reasonable explanation of  
26 the basis in the insurance policy in relation to the facts or applica-  
27 ble law for denial of a claim or for the offer of a compromise settle-  
28 ment; or

29           (15) offer a form of settlement or pay a judgment in a [ANY]

1 manner prohibited by AS 21.89.030.

2 \* Sec. 2. AS 21.36.125 is amended by adding new subsections to read:

3 (b) A claimant or insured who is injured by an act or practice  
4 listed in (a) of this section may bring an action in court to recover  
5 damages for the injury against the person who commits or engages in  
6 the act or practice; in this subsection one occurrence of an act or  
7 practice listed in (a) of this section is sufficient to give the  
8 claimant or insured the right to bring the action.

9 (c) In this section, "claimant" means a person who has been  
10 injured by an insured.

11 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
12 10.070(c).

HB 522

An Act relating to unfair insurance claims settlement practices; and providing for an effective date.

SECTIONAL ANALYSIS

Prepared by Rep. John Sund's office.

Section 1, subsections 1-7, 11-13 and 15 amend AS 21.36.125 so that all prohibited insurance claim settlement practices are listed in the singular instead of the plural.

Section 1, subsection 7 states that a claimant cannot be forced into litigation by an insurer that is offering substantially less than the amount ultimately recovered from an insurance policy. The former language included only the insured in this section.

Section 2 adds a new subsection to AS 21.36.125 that permits an injured claimant or insured to sue an insurance company for acting in bad faith by committing any of the acts listed in section 1. One occurrence of any of the listed acts is enough to bring action.

"Claimant" is defined as a person who has been injured by an insured.

Section 3 makes the Act effective immediately.

HB 522

An Act relating to unfair insurance claims settlement practices; and providing for an effective date.

OVERVIEW

Prepared by Rep. John Sund's office.

Present law recognizes that insureds can be victims of insurers' unfair claims settlements practices, but does not include claimants as potential victims. Moreover, no timely legal recourse is offered for a claimant who is dealing with an insurance company that is acting in bad faith.

If a claimant wants to bring suit against an insurance company for not handling a claim properly, he or she must wait until the claim itself is settled -- in or out of court. That could be a matter of years. Meanwhile, the insurance company could continue acting in bad faith, delaying the settlement and causing further injury to the claimant.

The State Division of Insurance has a consumer protection office, but it takes complaints only from insureds, not claimants who have been injured by insureds. The office also will not handle cases that have been taken to court.

HB 522 would recognize claimants as potential victims of unfair practices.

HB 522 also specifies that a claimant or insured may take legal action against an insurer acting in bad faith. That would allow the legal action at any time, not just after the claim itself has been settled.

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

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

**REQUEST**

Bill/Resolution No.: HB 522  
 Title: An Act relating to unfair claims settlement practices and providing for an effective date.  
 Sponsor: Sund  
 Requestor: Sund  
 Date of Request: February 14, 1986

**FISCAL DETAIL**

Agency Affected: Commerce & Econ. Dev.  
 BRU: Division of Insurance  
 Components: Operations

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

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		75.6	75.6	75.6	75.6	75.6
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>75.6</b>	<b>75.6</b>	<b>75.6</b>	<b>75.6</b>	<b>75.6</b>

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

GENERAL FUND		75.6	75.6	75.6	75.6	75.6
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		<b>75.6</b>	<b>75.6</b>	<b>75.6</b>	<b>75.6</b>	<b>75.6</b>

**POSITIONS:**

FULL-TIME		2	2	2	2	2
PART-TIME						
TEMPORARY						

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

This bill would extend our consumer specialist operations (in Anchorage) to claimants. Only the insured-insurer relationship (with two mirror exceptions) is covered at present.

Prepared by: Paul Troeh, Deputy Director  
 Division: Insurance

Phone: 465-2515  
 Date: February 14, 1986

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

Date: February 14, 1986

Distribution (by Agency preparing fiscal note):

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

Position Title <b>Consumer Complaint</b>		2	No. of Positions <b>16A</b>	Range/Step <b>6</b>	Bag. Unit	Gov.	Approv.	Disapp																																							
Time Status <b>PFT</b>	Staff Months <b>24</b>	RP Number	Location <b>Anchorage</b>		Election District	Leg.																																									
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**Request For  
New Position**

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Agency Commerce and Economic Development  
BRU Insurance  
Component Operations

Page      of       
Revised Date

**FY 87**



# AMERICAN COLLEGE OF NURSE-MIDWIVES

ALASKA CHAPTER, BOX 9416 Hiland Road, Eagle River, AK 99577

March 18, 1986

Representative Mike Navarre  
Chairman, Labor and Commerce Committee  
House of Representatives  
Pouch V (MS 3100)  
Juneau, Alaska 99811

Dear Representative Navarre:

This is a follow-up of my letter to your committee dated February 18th.

I understand that your committee has received a copy of draft legislation from Senator Fahrenkamp's office regarding an amendment to the statute which created the Medical Indemnity Corporation of Alaska (MICA). This amendment would give certified nurse-midwives the opportunity to acquire liability insurance as independent providers. The current statute only allows for coverage of nurse-midwives if they are an employee of a MICA covered physician.

Several nurse-midwives in Alaska work with physicians who have chosen to 'go bare'. These nurse-midwives will be out of business this summer and fall if alternative sources of coverage are not found. Certified nurse-midwives feel a moral and practical obligation to have liability insurance while providing care to childbearing women and infants.

In my previous letter, I mentioned that our national organization, the American College of Nurse-Midwives, is attempting to form its own insurance company. I recently received a copy of testimony presented to the United States Senate Committee on Commerce, Science and Transportation. (See enclosed). It is painfully obvious to me that while the ACNM has terrific intentions, they have several barriers to deal with and I do not envision any help for us on the national level this year.

Of the 29 certified nurse-midwives in Alaska, 14 are clinically active and will need continuing liability coverage by September 1. An amendment to the MICA statute is our best answer at present and we ask that you endorse passage of this amendment this session.

Over 1,000 Alaska infants arrived with our help last year and we want to continue to provide our valued service.

Please contact me for further information if needed. I look forward to your reply.

Sincerely,

Marilyn Pierce-Bulger, RN, MN, CNM  
Chairman, Alaska Chapter, ACNM  
wk 265-9245 hm 694-6076

Enclosures

Professional Liability Insurance for  
Certified Nurse-Midwives:  
Cost and Availability

United States Senate  
Committee on Commerce, Science  
and Transportation  
March 4, 1986

Good morning. My name is Karen Ehrnman and I represent the American College of Nurse-Midwives (ACNM). I have been invited to share with you the difficulties which certified nurse-midwives have in obtaining professional liability insurance coverage.

This testimony will chronicle the extensive yet unsuccessful steps the College has taken on behalf of its members to obtain professional liability insurance. Additionally, I shall describe the obstacles resulting from the decision made by the College to study our options to assist nurse-midwives in establishing an independent mutual insurance company.

The impact of this situation on America's small business community is twofold: approximately one-third of our members are in private practice; another segment of our membership either owns or provides most of the health care in the nation's 140 birth centers. Until now, accredited birth centers have been a success story in the small business world. During the first three years of their operation, only eight to ten percent of these centers fail. By contrast, twelve centers have closed in 1985 -- largely as a result of an inability to obtain professional liability insurance.

As a result of the unavailability of insurance from the private sector, the establishment of an insurance company providing professional liability coverage is the only option available to nurse-midwives. Without this company, nurse-midwives will be forced to end their services to mothers and children across the United States. Birth centers will close and private practitioners will seek other livelihoods.

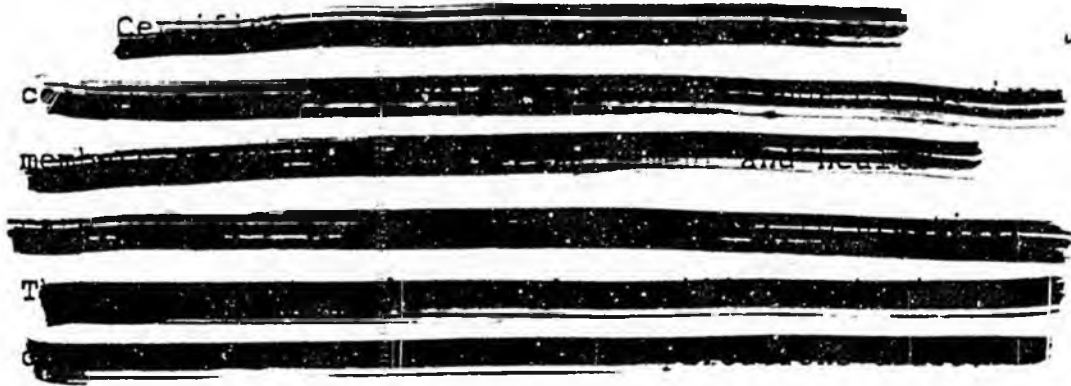
Background on ACNM

The American College of Nurse-Midwives (ACNM) is the professional organization for nationally certified nurse-midwives (CNMs) in the United States. There are approximately 2,500 members of the ACNM, representing close to 85% of the profession. A full 95% of the members carry some type of professional liability insurance coverage.

Certified nurse-midwives are highly trained health professionals. Educated in both nursing and midwifery, they are specialists in maternal and child health care. They are licensed in all fifty states and provide care to the healthy woman before, during and after childbirth. They are experts in normal gynecologic and family planning care. Each member of the College has been officially certified through a national written examination.

The nurse-midwives work in a variety of settings -- such as private practices, university teaching hospitals, city hospitals, rural outreach centers, group health maintenance organizations, and health departments. Nurse-midwives deliver about three percent of the births in the United States. Approximately 75% of the births attended by certified nurse-midwives occur in hospitals, and another 15% occur in accredited birth-centers.

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ACNM also has reached a formal agreement outlining acceptable guidelines for working relationships with the American College of Obstetricians and Gynecologists.

Details of the Current Insurance Crisis

Since July, 1984, about 1400 CNMs have had professional liability insurance under a blanket ACNM policy written by the Mutual Fire, Marine and Inland Insurance Company. The remaining 1100 members of the College are

insured by their employers -- hospitals, health maintenance organizations, etc.

Mutual Fire notified ACNM in May, 1985 that the policy would not be renewed on July 1, 1985. ACNM's insurance was not renewed because of general conditions in the insurance industry -- the unavailability of reinsurance -- and not because of its members' professional performance. Suits have been filed against only six percent of all nurse-midwives -- a number not considered high among medical professionals. By comparison, 66.9 percent of obstetricians have been sued at least once according to the American College of Obstetricians and Gynecologists. In addition to the non-renewal of the blanket policy, over 300 individual certificates of insurance were cancelled this past July. These cancellations accounted for all of the individual certificates of insurance written after December 31, 1984; the remaining 1100 policies expired by December, 1985.

#### History of Insurance Coverage

Since the early 1970's, the American College of Nurse-Midwives has been able to obtain for its members a group policy that would pay up to one million dollars per claim. This one million dollar amount of insurance is the

amount which many hospitals require nurse-midwives to purchase in order to qualify for hospital privileges. It is this amount of insurance we want to make available to our members today.

Mutual Fire Marine and Inland Insurance was the third insurance carrier the ACNM has worked with in the past three years. The change in companies has been the result of three separate situations: 1) the inadequacy of the premium rate charged by one company; 2) the second company's withdrawal from the medical malpractice market; and 3) the nonrenewal of the reinsurance treaties for our most recent policy.

#### Steps Taken to Obtain New Insurance Policy

Early this year when ACNM received word that obtaining the master insurance policy might be difficult, we selected a "seasoned" broker with an excellent history of obtaining professional medical liability insurance. We believed that our broker understood what nurse-midwives are and that he would "market" us appropriately to the insurance industry. In search of a replacement for Mutual Fire we contacted 17 insurance companies in the United States. We were told that this represented most carriers in the U.S. who write professional liability

insurance. We were turned down by all of these companies.

After these 17 formal rejections from major insurance companies, ACNM made personal appeals to several insurance company presidents. We did this for several reasons: to better inform them about the relatively low risk that certified nurse-midwives would place upon their companies; to understand their reason for not insuring nurse-midwives; and to be certain that our request for insurance had been given a full evaluation. The response was still "no".

The American College of Nurse-Midwives again wrote to each of these 17 company presidents asking them to reexamine the decision. Many of these letters went unanswered. The message was clear -- no insurance.

Judging from the response we received from these insurance companies, we learned that many insurance companies had simply stopped writing malpractice policies. We also learned that within the speciality area of obstetrics, a crisis within a crisis was occurring. Insurers claim that the large premium increases which obstetricians and others are experiencing are necessary because of loss of profit resulting from unexpected

large numbers of claims and skyrocketing awards. What was never actually said -- but implied -- was that the premium levels necessary to cover CNMs would be beyond the reach of professionals making an annual salary of \$25,000. Therefore, they offered no coverage at all.

But consumer groups, such as the National Insurance Consumer Organization (NICO), have accused the insurance industry of using misleading statistics in claiming a loss in 1985. Instead, NICO suggests the insurers have earned \$6.6 billion. The ACNM is not an insurance analyst; we do know that nurse-midwives are not part of the malpractice insurance problem because of our very low rate of suits. We believe that it would have been possible for an insurance company to write a policy for nurse-midwives at a reasonable rate and based upon sound actuarial data. In fact, as I shall discuss later in this testimony, our plan is to do just that -- to establish an independent mutual insurance company which will underwrite CNMs at a reasonable rate.

#### State Level Initiatives

Our next course of action was to send nurse-midwives to talk with professional liability insurance companies in their states. The response was still "no". Nurse-

midwives talked to governors, state legislators, and state insurance commissioners. To date only one state out of fifty -- New Jersey -- has been able to offer insurance from a private carrier.

Still focusing at the state level, nurse-midwives investigated joint underwriting authority (JUA) and lobbied state legislators to extend joint underwriting authority to include nurse-midwives. We have been successful in implementing this in a number of states. However, for the most part, either the premiums for this coverage have been excessive or the amount of insurance offered has been less than required.

#### Other Considerations

As we evaluated the situation, nurse-midwives had little hope of obtaining affordable insurance from either the traditional insurers or the state JUAs. While these two options had been under consideration, the College's Board of Directors also commissioned a feasibility study on various options for self-insuring. Although this study indicated that it would be "feasible" for nurse-midwives to form an insurance company, the Board of Directors decided last summer that the insurance business

was beyond the limited resources of nurse-midwives. The Board directed the staff of ACNM to look into working with other groups to self-insure or to join another group's self-insure program. The response to these inquiries was also "no", although ACNM continues to communicate with the American Nurses' Association (ANA) about forming a company for all nurses.

Another option involved asking Congress to consider establishing a nurse-midwife sponsored insurance program. At that time we had interested a primary insurer in writing the first layer of insurance coverage. That company would have written the first \$100,000 of coverage and the federal government would have provided the excess coverage from \$100,000 to one million dollars. Even as we discussed this with members of Congress, however, the primary insurer had a change of heart.

#### The Re-examination of Self-Insure

Consideration of all of the options discussed up to this point utilized an enormous amount of resources. The process also strengthened the resolve of the leaders of the profession that searching for insurance could not become an annual event. Therefore the College's Board of

Directors sought a second opinion on the self-insure options. This second evaluation confirmed the earlier one. In December, 1985, the Board of Directors decided to further study this option.

#### Forming an Insurance Company

The emotion which accompanied the decision to study helping certified nurse-midwives form an independent mutual insurance company was short-lived. Even after hiring consultants and attorneys, the road blocks before us are enormous.

Disregarding the very difficult financial problems, the following are some of the legal and technical complications which hinder the establishment of a company.

#### The Claims-Made Policy

One technical problem is the type of policy currently being written -- a claims-made policy. In the past professionals have been able to purchase occurrence policies. There is a very important distinction between these two types of policies -- a distinction which is critical to nurse-midwives as well as physicians.

An occurrence policy insures for all claims arising out of events which occurred during the covered

period regardless of when the claim is filed. A claims-made policy insures only those claims which are filed during the policy year no matter when the event occurred. Does it matter? Yes.

For example, under an occurrence policy issued in February 1986 - February 1987, the nurse-midwife would be covered for any claim related to a delivery during this calendar year, even if the family did not file the claim until the child entered elementary school or even college. A claims-made policy, on the other hand, would only cover those claims filed during the February 86 - February 87 calendar year. To be covered for claims filed after this time period the professional must purchase "tail coverage". What further complicates all of this is that in this insurance market it is impossible to buy a "tail" for 21 years -- the coverage that nurse-midwives and obstetricians need. In addition, insurance companies will not quote a price on a "tail" until it is needed, but we have been told it is likely to be two to three times the cost of a one year premium -- and can be more. We have been told by the insurance industry that primary insurers are switching to claims-made policies be-

cause reinsurers will not write occurrence policies. Reinsurers argue that it is easier to anticipate costs with a claims-made policy.

Regulatory Roadblocks in Forming an Insurance Company

Simply stated, we have been informed by our legal counsel that under the insurance laws of virtually all of the states, a new insurance company could not write insurance unless it became licensed in each of these states. This is a costly and time-consuming process that takes several years -- time we simply do not have. Also, the capital requirements of a few of the states exceed even our collective resources. Our legal counsel has reviewed the situation to see if exemptions from this licensing process exist, but none is available to us due to the number, size and geographic spread of our membership.

In 1981, Congress realized that this almost identical problem existed for small businessmen affected by the lack of product liability insurance, when it enacted the Risk Retention Act. This Act allowed groups of business to form risk retention groups to collectively insure the product liability risks of the members of the group without first becoming licensed as an insurer in any

jurisdiction other than that of the domicile of the risk retention group itself. In 1985, Congress again realized that a similar problem existed when the House and the Senate passed an almost identical bill (which is part of the Super Fund legislation now before Congress) to provide for risk retention groups for environmental impairment liability insurance.

We ask you to provide us with the same type of legislation to permit formation of [REDACTED] for professional liability insurance for nurse-midwives and birthing centers.

Nurse-midwives Current Status: Temporary  
Insurance Coverage

In considering practicing without insurance, most CNMs, as well as most physicians, feel both a moral and practical obligation to protect their patients and themselves from any unintentional human error. In addition, many CNMs must carry professional liability insurance to retain their employment and/or hospital privileges.

In an attempt to keep practicing, most of our members purchased insurance during this past year from one of two

nursing groups whose policies did not include an exclusion of nurse-midwives. These organizations are the American Nurses' Association (ANA) and the Nurses' Association of the American College of Obstetricians and Gynecologists (NAACOG). The insurers of both of the groups have subsequently written into the policies exclusions of nurse-midwives. An informal survey of our membership indicates that this temporary coverage will begin to run out this spring and by next December no CNMs will have insurance if not provided by their employers or state JUA.

Requested Actions

I am certain you will agree with us that the formation of the insurance company over the next few months is critical. Congress can help. We urge Congress to: amend the 1981 Risk Retention Act; address the problem of the unavailability of reinsurance; and establish the availability of occurrence-type policies.

1) Amend the 1981 Risk Retention Act:

An expansion of this law to allow groups such as ours to establish an insurance company is essential. The idea we seek to implement is after meeting the requirements in a selected state for establishing the company, the company would be able to write insurance in all fifty states. This is the