

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672
4570 HES HB 463 - HB 474

*UMDNJ Robert Wood Johnson Medical School (Rutgers) Contact: Lee Laustsen (201) 463-4500

Oct 5-9, 1987 ----- Asbestos Abatement Contractor/Supervisor Course
(Somerset County, New Jersey)
Oct 26-28, 1987 ----- PLM for Asbestos Identification
(Long Island, NY)
Nov 2-6, 1987 ----- Asbestos Abatement for Contractor/Supervisor Course
(Somerset County, New Jersey)
Nov 16-18, 1987 ----- Building Inspector Course
Nov 16-20, 1987 ----- Management Planner Course
Nov 30- Dec 4, 1987 ----- Asbestos Abatement for Contractor/Supervisor Course
(Somerset, New Jersey)
Dec 7-9, 1987 ----- PLM for Asbestos Identification
(Location TBA)
Jan 11-15, 1988 ----- Asbestos Abatement Course for Contractors/Supervisors
(Somerset County, New Jersey)
Jan 11-13, 1988 ----- Building Inspector Course (Rutgers University)
Jan 11-15, 1988 ----- Management Planner Course (Rutgers University)

*Temple University Contact: Lester Levin (215) 787-6479

Sept 28 - Oct 1/2, 1987 ----- Asbestos Abatement Course for Contractors/Supervisors
(Philadelphia, PA)
October 13-15, 1987 ----- Building Inspector Course (Philadelphia, PA)
October 26-28, 1987 ----- Building Inspector Course (Philadelphia, PA)
November 16-18, 1987 ----- Building Inspector Course (Philadelphia, PA)
November 16-20, 1987 ----- Management Planner Course (Philadelphia, PA)
Nov 30 - Dec 4/5, 1987 ----- Asbestos Abatement Course for Contractor/Supervisors
(Philadelphia, PA)

*(Rutgers and Temple University courses for contractors/supervisors are limited to 25 participants in accordance with New Jersey State laws).

The following training programs are EPA-funded. Please phone the contact directly for information and the schedule of course offerings:

Asbestos Abatement Courses for Contractors and Supervisors

Texas A&M University ----- Dr. Charles Flanders (409) 845-6682
University of Cincinnati ----- Susan Millman (513) 872-5733
University of Florida ----- Sandy Scaggs (904) 392-9570

Field Instructor and Worker Training Courses

National Asbestos Council (NAC) ----- Eva Clay (404) 292-0629

(Worker training available on-site, on call)

Committees for Occupational Safety and Health (COSH) Worker Training Courses

Alice Hamilton, Center for Occupational Safety and Health, Washington, D.C. ----- Brian Christopher (202) 543-0005
Director

Los Angeles COSH -----	Judith Linfield	(213) 749-6161
Connecticut COSH -----	Rick Mellita	(203) 789-7783
Main Labor Group on Health -----	Diana White	(207) 289-2770
Massachusetts COSH -----	Nancy Lessin	(617) 277-0097
Southeast Michigan COSH -----	Barbara Boylan	(313) 961-3345
New York COSH -----	Joel Shufro	(212) 627-3900
North Carolina COSH -----	Tobi Lippin	(919) 286-9249
Philadelphia COSH -----	Joan Gibson	(215) 386-7000
Wisconsin COSH -----	Mark Schulz	(414) 643-0928

ASBESTOS INSPECTION AND MANAGEMENT PLAN
ASSISTANCE PROGRAM

FACT SHEET
OCTOBER 1987

On October 17, 1987, \$5 million in grants were awarded to states to assist financially needy school districts conduct asbestos inspections and develop management plans for school buildings in accordance with the Asbestos Hazard Emergency Response Act (AHERA).

To ease the burden on public school districts and private schools to comply with the new AHERA regulations, the Agency developed the Asbestos Inspection and Management Plan Assistance Program (AIMPAP). Five million dollars were made available to assist needy schools in 12 states conduct inspections and develop management plans. The awards range from \$100,000 to \$500,000 per state and may be used by the recipients to: 1) reimburse schools directly to offset the costs they incur for hiring accredited inspectors; 2) reimburse schools directly to offset the costs they incur for hiring accredited management plan developers; 3) purchase the services of accredited persons who will perform inspections or develop management plans for schools; and 4) compensate state employees (who are accredited inspectors) to perform inspections and develop management plans.

The 12 states receiving these awards were selected from among 27 states which applied for approximately \$10 million in federal assistance.

The following states will receive awards to reimburse LEAs for the costs of hiring accredited inspectors:

Kansas

Oregon

The following states will receive awards to reimburse LEAs to offset the costs of hiring both inspectors and management plan developers:

Alaska

Montana

Arkansas

North Dakota

Kentucky

Wisconsin

Three states will use the federal assistance to purchase the services of accredited persons to perform inspections and/or develop management plans on the behalf of schools. They are:

Nebraska . Washington
Virginia

The only state that will compensate state employees to perform inspections and develop management plans for schools in the state is:

Minnesota

For further information, please contact Larry Culleen or Julie Winters. They may be reached at (202) 382-3949.

HAR

467

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

H B

467

HOUSE COMMITTEE REPORT

(7)

Date referred: 2/15/88

FURTHER REFERRALS: Finance

DATE: 2-25-88

The Health, Education and Social Services Committee has considered HB 467

"An Act relating to University of Alaska risk management fund; and providing for an effective date."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

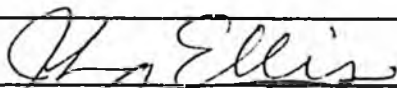
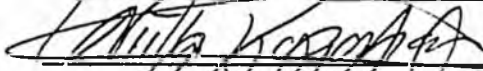
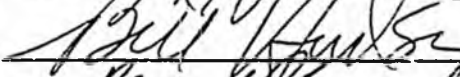
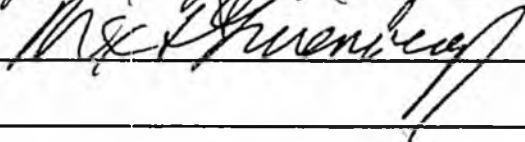
ADOPTS: _____ letter of intent

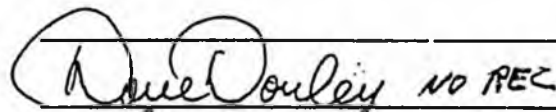

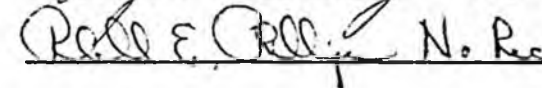
ATTACHES NEW FISCAL NOTE(S):


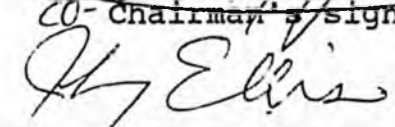
- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:


 CO-Chairman's signature




Brian Rogers
Vice President for Finance
(907) 474-7448

University of Alaska
Fairbanks, Alaska 99775-5260

February 22, 1988

The Honorable Mike Davis
Alaska State Representative
P.O. Box V, Capitol Room 411
Juneau, AK 99811

Subject: House Bill 467, University of Alaska Risk Management Fund

Dear ^{Mike} Representative Davis:

Attached is a revised fiscal note for inclusion with House Bill 467, "An Act relating to the University of Alaska risk management fund." The draft fiscal note given to you two weeks ago listed the expenditure as "capital" in error.

This legislation is modelled after a similar bill which passed into law last year, allowing the Department of Administration to use lapse balances from risk management accounts to build the state's risk management fund. House Bill 467 gives similar authority to the University of Alaska, allowing the university to fund the reserve account created by the legislature two years ago.

The existence of a funded risk management fund will allow the university to essentially self-insure to the \$5 million level for liability and property insurance, thus reducing the amount of insurance which would otherwise need to be purchased. Without such a fund, the university would have to either spend an additional \$300-\$500,000 annually for insurance or to assess campuses for any losses which occur in excess of funded insurance retention levels. A single large loss could wreak havoc with the university's instructional programs without the existence of the risk management fund. Attached are two charts which show the university's current risk management program, and the effect of the risk management fund on that program.

When the legislation creating the fund was proposed two years ago, the university sought an appropriation of \$2.5 million. Due to falling oil revenues, the legislature declined to make the appropriation, but amended the bill to allow the university to place money in the fund through the revised program process through the Legislative Budget and Audit Committee. In late 1987, the university proposed to place \$1,077,000 of interest income earned in prior years into the fund. The Office of

University of Alaska

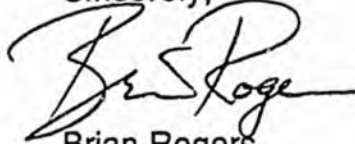
Rep. Mike Davis
February 22, 1988

Page 2

Management and Budget did not forward this request to LB&A, stating that they believed such a deposit should be made by the entire legislature. The fiscal note attached to this bill makes this deposit. The money would be placed in the risk management fund and would be managed by the Department of Revenue. The university could draw upon the account only for risk management losses which exceed the self-insured retention level.

This is an important bill to the University of Alaska, and we appreciate your help in securing passage. If you or your staff have any questions or if I can be of any assistance, please let me know.

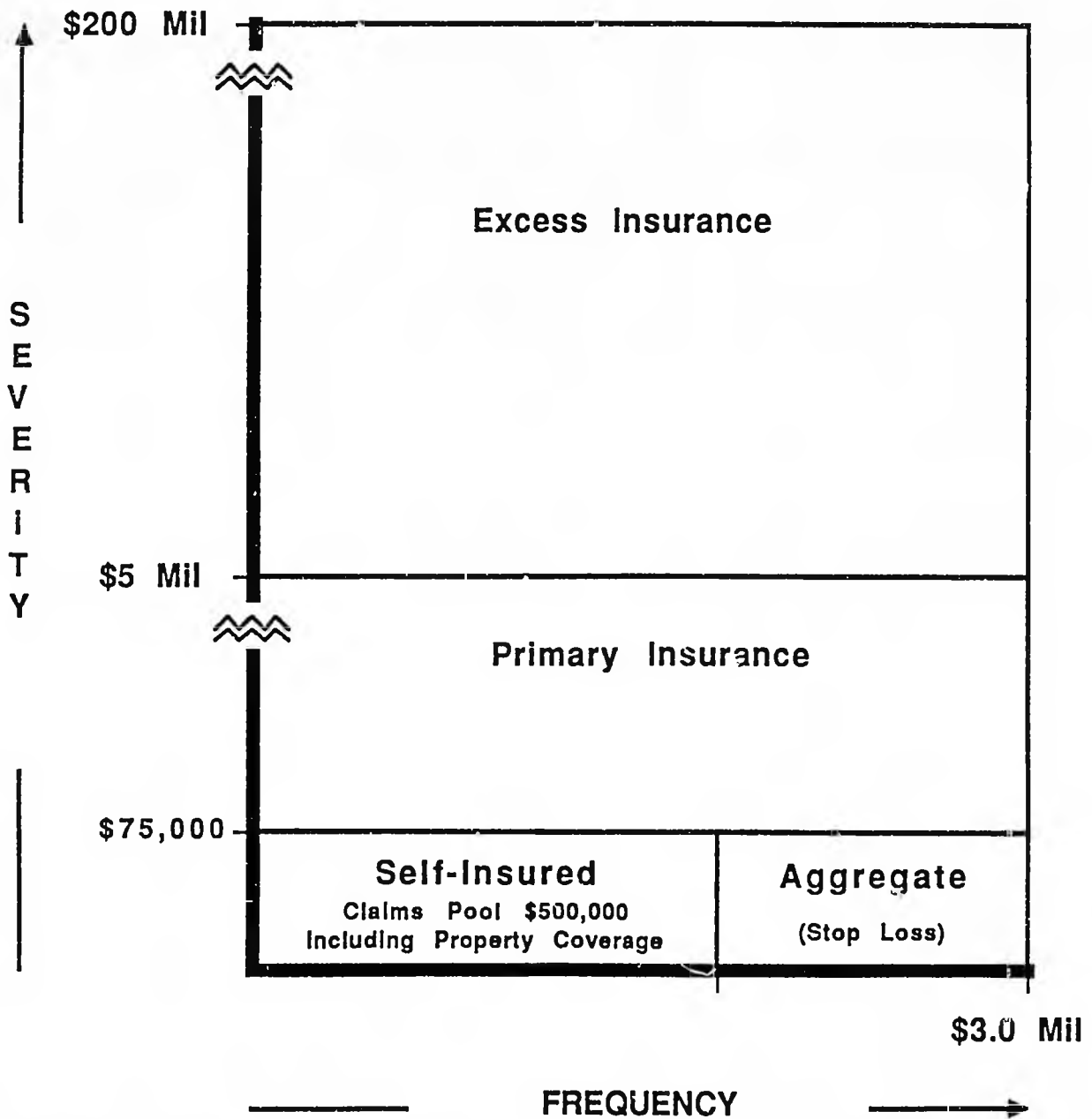
Sincerely,

A handwritten signature in cursive script, appearing to read "B. Rogers".

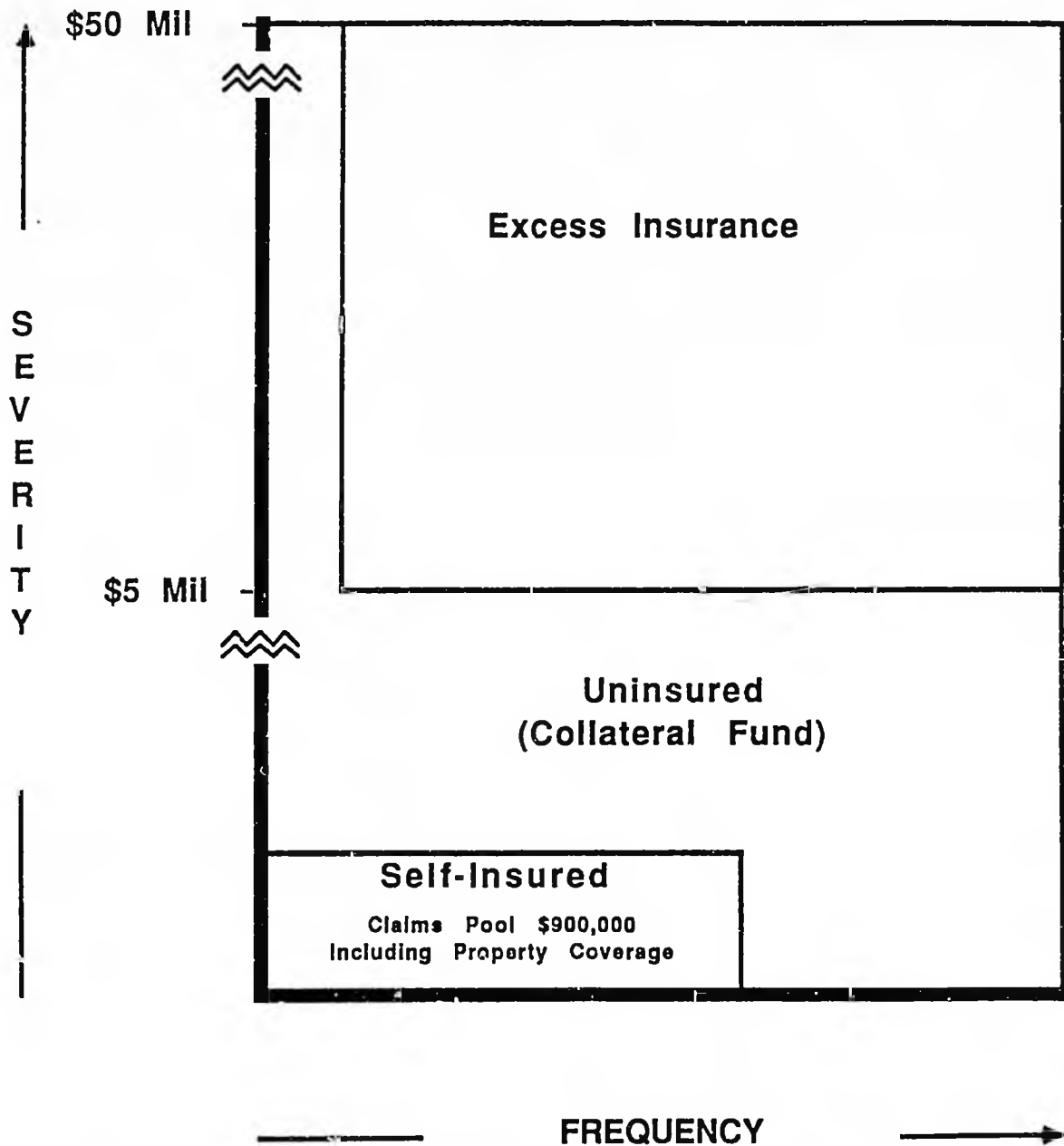
Brian Rogers
Vice President for Finance

Enclosure

**University of Alaska
FY85 General Liability Funding Plan**



University of Alaska
FY88 General Liability Funding Plan



FISCAL NOTE

REQUEST:

Revision Date: 1/28/83
Title: University Risk Management Fund
Sponsor: Rep. Davis
Requestor: _____

Agency Affected: University of Alaska
BRU: Statewide Programs and Services
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS		1,077.0				
TOTAL OPERATING		1,077.0				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER Interest Income		1,077.0				
TOTAL						

POSITIONS:

FULL-TIME		None				
PART-TIME		None				
TEMPORARY		None				

ANALYSIS : (Attach a separate page if necessary)

Prepared by: James F. Lynch, Associate Vice President Phone: 474-7711
Division: University of Alaska Date: 2/15/88
Approved by Commissioner: *Ben Rogers* Date: 2/15/88
Agency: University of Alaska

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

CONTINUATION OF FISCAL NOTE ANALYSIS

For Bill/Resolution No. House Bill 467

Assumptions:

The transfer of interest income to the risk management collateral fund will result in reduced general fund expenditures for claims in future years.

Program Summary:

The university is seeking authorization to transfer revenues into the University Risk Management Collateral Fund, which is held by the Department of Revenue. The transfer will allow additional budget stability for the instructional units by capping loss levels and minimizing the necessity for assessment of instructional units for extraordinary losses and will provide for prompt settlement of uninsured claims. Most importantly, the transfer will provide assurance to excess insurance carriers that claims can be paid promptly, when such payment is necessary.

The purpose of the fund, which was created by the legislature in 1986, was to provide sufficient funding to allow the university to increase its self-insured deductible levels (e.g. general liability deductible from \$75,000 to \$5,000,000) and eliminate high cost primary insurance coverage. The increase in deductibles was done in conjunction with the State Division of Risk Management/university co-marketing program.

Due to declining oil revenues and other funding priorities the \$2.5 million general fund appropriation originally requested has not been available for the risk management collateral fund. Failure to provide funding for the risk management collateral fund limits the university's ability to acquire excess insurance coverages and to maintain cost saving aspects of its co-marketing program with the State Division of Risk Management and may also require large assessments to instructional units for uninsured losses.

Schedules A and B attached indicate the differences in the general liability funding plan resulting from implementation of the collateral fund concept. There is currently no source of funds for payment of uninsured claims which are to be covered by the collateral fund.

Positions

No positions will be effected by this request.

Other Expenditures

Expenditures represent transfer of funds to the Department of Revenue for deposit to the University risk management fund (A.S. 14.40.455) authorized by the legislature in 1986.

Funding

The university has unspent prior period operating fund interest income of \$1,076,917 in the Statewide Programs and Services BRU. The funds were previously scheduled for one-time transitional expenditures in FY87; however, due to significant expenditure reductions these funds were not committed as planned. These funds are now available for one-time expenditure.

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

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

Mary Van Nimwegen

HHESS

2-25-88

8:30 a.m.

H B

468

HOUSE COMMITTEE REPORT

2/17

(7)

Date referred: 2/15/88

FURTHER REFERRALS:

Judiciary
Finance

DATE: 3-17-88

The Health, Education and Social Services Committee has considered HB 468

"An Act providing for the adoption of the Alaska Uniform Transfers to Minors Act; and providing for an effective date."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

[Handwritten signatures]

SIGNING OTHER RECOMMENDATIONS:

[Handwritten signatures]

[Handwritten signature: J. Ellis]

Co Chairman's signature

[Handwritten signature: M. Korman]

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

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

May, 1988

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

Mary Van Nimwegen

H HESS

3-17-88

8:30 a.m.

**STATE OF ALASKA 1988 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: Bill Version: HB 468
Publish Date: 2/15/88

Revision Date: Agency Affected: Alaska Court System
Title: An act providing for adoption BRU: Trial Courts
of the Alaska Uniform Transfers to Minors Act
Sponsor: Sund & Gruenberg Components:
Requestor: HESS

EXPENDITURES/REVENUES:		(Thousands of Dollars)					
OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93	
Personal Services	
Travel	
Contractual	
Supplies	
Equipment	
Land & Structures	
Grants & Claims	
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	
CAPITAL	
REVENUE	

FUNDING:		(Thousands of Dollars)					
General Funds	0.0	0.0	0.0	0.0	0.0	0.0	
Federal Funds	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Other	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	

POSITIONS:							
Full-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Part-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Temporary	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: *Jan Strandberg* General Counsel Phone: 264-8228
Division: Alaska Court System Date: 03/14/88

Approved by: *Arthur H. Snowden, II* Administrative Director Date: 03/14/88
Agency: Alaska Court System

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management & Budget
 - Impacted Agency(ies)
 - Senate Secretary

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act providing for ... Uniform Transfers to Minors Act..."
Sponsor: Representative Sund
Requestor: House HESS

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Prepared by: Richard I. Pegues, Director
Division: Administrative Services
Approved by Commissioner: Grace Berg Schaible, Atty. Gen.
Agency: Department of Law

Phone: 465-3672
Date: March 14, 1988
Date: March 14, 1988

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 468

This bill adds a new chapter to AS 13 to provide for the administration of custodial property held in trust for minors. The administration of such trusts is a matter between private parties, and although involving the civil legal system, it does not involve the Department of Law. Consequently, there will not be a fiscal impact on the department.

COMMENTARY TO THE

PROPOSED

Alaska Uniform Transfers to Minors Act

November 1987

Division of Legal Services
Legislative Affairs Agency
P.O. Box Y - State Capitol
Juneau, Alaska 99811

Preface

The Uniform Transfers to Minors Act (UTMA) revises and restates the Uniform Gifts to Minors Act (UGMA), one of the National Conference of Commissioners on Uniform State Laws most successful products, some version of which has been enacted in every American jurisdiction.

The original version of UGMA was adopted by the Conference in 1956 and closely followed a model "Act concerning Gifts of Securities to Minors" which was sponsored by the New York Stock Exchange and the Association of Stock Exchange Firms and which had been adopted in 14 states. The 1956 version of the UGMA broadened the model act to cover gifts of money as well as securities but made few other changes.

In 1956 and 1966 the Conference revised the UGMA to expand the types of financial institutions which could serve as depositories of custodial funds, to facilitate the designation of successor custodians, and to add life insurance policies and annuity contracts to the types of property (cash and securities) that could be made the subject of a gift under the UGMA.

Alaska adopted the 1966 version of the UGMA in 1967 (AS 45.-60). Many states which adopted the 1956 or 1966 version of the UGMA, have substantially revised their versions of the UGMA to expand the kinds of property that may be made the subject of a gift under the UGMA. A few states permit transfers to custodians from other sources, such as trusts and estates, as well as from lifetime gifts. Some states also permit the transferor to have an option to extend the date the custodial property may be distributed to the minor. As a result, a great deal of non-uniformity has arisen among the states. Uniformity in this area is important, for the Conference has cited the UGMA as an example of an act designed to avoid conflicts of law when the laws of more than one state may apply to a transaction or a series of transactions.

The Alaska Uniform Transfers to Minors act (AkUTMA) follows the expansive approach taken by several states and allows any kind of property, real or personal, tangible or intangible, to be made the subject of a transfer to a custodian for the benefit of a minor (sec. 13.46.990(6)). In addition, it permits such transfers not only by lifetime outright gifts (sec. 13.46.030), but also from trusts, estates, and guardianships, whether or not specifically authorized in the governing instrument (secs. 13.46.040 and 13.46.050), and from other third parties indebted to a minor who does not have a conservator, such as parties against

whom a minor has a tort claim or judgment, and depository institutions holding deposits or insurance companies issuing policies payable on death to a minor (sec. 13.46.060). For this reason, and to distinguish the enactment of this statute from the 1956 and 1966 versions of the UGMA, the title of this Act has been changed to refer to "Transfers" rather than to "Gifts," a much narrower term. Moreover, the AkUTMA permits the transferor or the minor to have an option to extend beyond the age of minority the date the custodial property may be distributed to the minor (sec. 13.46.195).

As so expanded, the AkUTMA might be considered a statutory form of trust or guardianship that may terminate at age 18 or, if the transferor or minor so elects, may be terminated at any age prior to age 25. Note, however, that unlike a trust, a custodianship is not a separate legal entity or taxpayer. Under sec. 13.46.100(b), the custodial property is indefeasibly vested in the minor, not the custodian, and thus any income received is attributable to and reportable by the minor, whether or not actually distributed to the minor.

The expansion of the AkUTMA to permit transfers of any kind of property to a custodian creates a significant problem of potential personal liability for the minor or the custodian arising from the ownership of property such as real estate, automobiles, general partnership interests, and business proprietorships. This problem did not exist under the UGMA under which custodial property was limited to bank deposits, securities, and insurance. In response, sec. 13.46.160 generally limits the claims of third parties to recourse against the custodial property, with the minor insulated against personal liability unless he is personally at fault. The custodian is similarly insulated unless he is personally at fault or fails to disclose his custodial capacity upon entering into a contract.

Nevertheless, the AkUTMA should be used with caution with respect to property such as real estate or general partnership interests from which liabilities as well as benefits may arise. Many of the possible risks can and should be insured against, and the custodian has the power under sec. 13.46.120(a) to purchase such insurance, at least when other custodial assets are sufficient to do so. If the assets are not sufficient, there is doubt that a custodian will act, or there are significant uninsurable risks, a transferor should consider a trust with spendthrift provisions, such as a minority trust under Section 2503(c), Internal Revenue Code, rather than a custodianship, to make a gift of such property to a minor.

Finally, the AkUTMA restates and rearranges rather than amends, the 1966 version of the UGMA. The addition of other forms of property and other forms of dispositions made adherence to the format and language of the prior act very unwieldy. In addition, the 1966 version of the UGMA closely followed the language of the earlier model act, which had already been adopted in several states, even though it did not conform to Conference style. It is hoped that this re-writing and revision of the UGMA will improve its clarity while also expanding its coverage.

ALASKA UNIFORM TRANSFERS TO MINORS ACT

Sec. 13.46.010. SCOPE AND JURISDICTION.

This section has no counterpart in the 1966 version of the UGMA. It attempts to resolve uncertainties and conflicts-of-law questions that have frequently arisen because of the present nonuniformity of the UGMA in the various states and which may continue to arise during the transition from the UGMA to the UTMA.

The creation of a custodianship must invoke the law of a particular state because of the form of the transfer required under sec. 13.46.080(a). This section provides that a choice of the AkUTMA is appropriate and effective if any of the nexus factors specified in subsection (a) exists at the time of the transfer. The AkUTMA continues to govern, and subsection (b) makes the custodian accountable and subject to personal jurisdiction in the courts of Alaska for the duration of the custodianship, despite subsequent relocation of the parties or the property.

Subsection (c) recognizes that residents of Alaska may elect to have the law of another state apply to a transfer. That choice is valid if a nexus with the chosen state exists at the time of the transfer. If personal jurisdiction can be obtained in Alaska under other law apart from the AkUTMA, the custodianship may be enforced in Alaska courts, which are directed to apply the law of the state elected by the transferor.

If the choice of law under subsection (a) or (c) is ineffective because of the absence of the required nexus, the transfer may still be effective under the UTMA of another state with which a nexus does exist. See sec. 13.46.200.

Sec. 13.46.020. NOMINATION OF CUSTODIAN.

This section is new and permits a future custodian for a minor to be nominated to receive a distribution under a will or trust, or as a beneficiary of a power of appointment, or of contractual rights such as a life or endowment insurance policy, annuity contract, P.O.D. account, benefit plan, or similar future payment right. Nomination of a future custodian does not constitute a "transfer" under the AkUTMA and does not create custodial property. If it did, the nomination and beneficiary designation would have to be permanent, since a "transfer" is irrevocable and indefeasibly vests ownership of the intertest in the minor under sec. 13.46.-100(b).

Instead, this section permits a revocable beneficiary designation that takes effect only when the donor dies, or when a

states through nonuniform amendments to the UGMA to permit custodianships to be used as guardianships or conservator substitutes, even though not specifically authorized by the person whose property is the subject of the transfer. It also permits the legal representative of the minor, such as a conservator or guardian, to transfer the minor's own property to a new or existing custodianship for the purposes of convenience or economies of administration.

A custodianship may be created under this section even though not specifically authorized by the transferor, the testator, or the settlor of the trust if three tests are satisfied. First, the fiduciary making the transfer must determine in good faith and in his fiduciary capacity that a custodianship will be in the best interests of the minor. Second, a custodianship may not be prohibited by, or inconsistent with, the terms of any governing instrument. Inconsistent terms would include, for example, a spendthrift clause in a governing trust, provisions terminating a governing trust for the minor's benefit at a time other than the time of the minor's age of majority, and provisions for mandatory distributions of income or principal at specific times or periodic intervals. Provisions for other outright distributions or bequests would not be inconsistent with the creation of a custodianship under this section. Third, the amount of property transferred, (as measured by its value) must be of such relative small amount that the lack of court supervision and the typically stricter investments standards that would apply to the conservator otherwise required will not be important. However, if the property is of significant size, transfer to a custodian may still be made if the court approves and if the other two tests are met.

The custodianship created under this section without express authority in the governing instrument will terminate upon the minor's attainment of the statutory age of majority in Alaska, i.e., at the same age a conservatorship of the minor would end. See sec. 13.46.190 and the Commentary to sec. 13.46.190.

Sec. 13.46.060. TRANSFER BY OBLIGOR.

This section is new and, like sec. 13.46.050, permits a custodianship to be established as a substitute for a conservator to receive payments due a minor from sources other than estates, trusts, and existing guardianships covered by secs. 13.46.040 and 13.46.050. For example, a tort judgment debtor of a minor, a bank holding a joint or P.O.D. account of which a minor is the surviving payee, or an insurance company holding life insurance policy or benefit plan proceeds payable to a minor may create a custodianship under this section.

Use of this section is mandatory when a future custodian has been nominated under sec. 13.46.020 as a named beneficiary of an insurance policy, benefit plan, deposit account, or the like, because the original owner of the property specified a custodianship (and a future custodian) to receive the property. If that custodian (or any alternate named) is not available, if none was nominated, or none could have been nominated (as in the case of a tort judgment payable to the minor), this section is permissive and does not preclude the obligor from requiring the appointment of a conservator to receive payment. It allows the obligor to transfer property to a custodian unless the property exceeds the stated value, in which case a conservator must be appointed to receive it.

Sec. 13.46.070. RECEIPT FOR CUSTODIAL PROPERTY.

This section discharges transferors from further responsibility for custodial property delivered to and receipted for by the custodian. See also sec. 13.46.150 which protects transferors and other third parties dealing with custodians. Because a discharge or release for a donative transfer is not necessary, this section had no counterpart in the UGMA.

This section does not authorize an existing custodian, or a custodian to whom an obligor makes a transfer under sec. 13.46.060 to settle or release a claim of the minor against a third party. Only a conservator, a guardian ad litem, or other person authorized under other law to act for the minor may release such a claim.

Sec. 13.46.080. MANNER OF CREATING CUSTODIAL PROPERTY AND EFFECTING TRANSFER; DESIGNATION OF INITIAL CUSTODIAN; CONTROL.

The 1966 version of the UGMA contained optional bracketed language permitting an adopting state to limit the class of eligible initial custodians to an adult member of the minor's family or a guardian of the minor. This optional limitation has been deleted because it would preclude the use of an individual and uncompensated custodian if no qualified or willing family member is available.

Otherwise, with respect to transfers of securities, cash, and insurance or annuity contracts, this section tracks the cognate provisions of subsection 2(a) of the 1966 version of the UGMA, with one exception. Under sec. 13.46.080(a)(1)(ii), a transfer of securities in registered form may be accomplished without registering the transfer in the name of the custodian so that transfers may be accomplished more expeditiously, and so that securities may be held by custodians in street name. In other words, sec. 13.46.080(a)(1)(i) is not the exclusive manner for making effective transfers of securities in registered form.

In addition, subsection (a) creates new procedures for handling the additional types of property now subject to the Act; specifically:

Paragraph (a)(3) covers the irrevocable transfer of ownership of life and endowment insurance policies and annuity contracts.

Paragraph (a)(4) covers the irrevocable exercise of a power of appointment and the irrevocable present assignment of future payment rights, such as royalties, interest, and principal payments under a promissory note, or beneficial interests under life or endowment or annuity insurance contracts or benefit plans. The payor, issuer, or obligor may require additional formalities such as completion of a specific assignment form and an endorsement, but the transfer is effective upon delivery of the notification. (See sec. 13.46.020 and the Commentary to sec. 13.46.020 for the procedure for revocably "nominating" a future custodian as a beneficiary of a power of appointment or such payment rights.)

Paragraph (a)(5) is the exclusive method for the transfer of real estate and includes a disposition effected by will. Under the law of those states in which a devise of real estate vests in the devisee without the need for a deed from the personal representative of the decedent, a document such as the will must still be "recorded" under this provision to make the transfer effective. For inter vivos transfers, of course, a conveyance in recordable form would be employed for dispositions of real estate to a custodian.

Paragraph (a)(6) covers the transfer of personal property such as automobiles, aircraft, and other property subject to registration of ownership with a state or federal agency. Either registration of the transfer in the name of the custodian or delivery of the endorsed certificate in registerable form makes the transfer effective.

Paragraph (a)(7) is a residual classification, covering all property not otherwise covered. Examples would include nonregistered securities, partnership interests, and tangible personal property not subject to title certificates.

The form of transfer document recommended and set out in subsection (b) contains an acceptance that must be executed by the custodian to make the disposition effective. While such a form of written acceptance is not specifically

required in the case of registered securities under (a)(1), money under (a)(2), insurance contracts or interests under (a)(3) or (a)(4), real estate under (a)(5), or titled personal property under (a)(6), it is certainly the better and recommended practice to obtain the acknowledgment, consent, and acceptance of the designated custodian on the instrument of transfer, or otherwise.

A transferor may create a custodianship by naming himself as custodian, except for transfers of securities under (a)(1)(B), insurance and annuity contracts under (a)(3)(B), and titled personally under (a)(6)(B), which are made without registering them in the name of the custodian, and transfers of the residual class of property covered by (a)(7). In all of these cases a transfer of possession and control to a third party is necessary to establish donative intent and consummation of the transfer, and designation of the transferor as custodian renders the transfer invalid under sec. 13.46.100(a)(2).

Note, also, that the Internal Revenue Service takes the position that custodial property is includable in the gross estate of the donor if he appoints himself as custodian and dies while serving in that capacity before the minor attains the age of 21. Rev.Rul. 57-366, C.B. 1957-2, 618; Rev.Rul. 59-357, C.B. 1959-2, 212; Rev.Rul. 70-348, C.B. 1970-2, 193; Estate of Prudowsky v. Comm'r, 55 T.C. 890 (1971), affd. per curiam, 465 F.2d 62 (7th Cir. 1972).

The AkUTMA has been drafted in an attempt to avoid income attribution to the parent or inclusion of custodial insurance policies on a custodian's life in the estate of the custodian through the changes made in the standards for expenditure of custodial property and the custodian's incidents of ownership in custodial property. See secs. 13.46.120 and 13.46.130 and the Commentary to secs. 13.46.120 and 13.46.130. However, the much greater problem of inclusion of custodial property in the estate of the donor who serves as custodian remains. Therefore, despite the fact that this section permits it in the case of registered securities, money, life insurance, real estate, and personal property subject to titling laws, it is generally still inadvisable for a donor to appoint himself custodian or for a parent of the minor to serve as custodian. See, generally Sections 2036 and 2038 Internal Revenue Code and Rulings and cases cited above; with respect to gifts of closely held stock when a donor retains voting rights by serving as custodian, see Section 2036(b), Internal Revenue Code overruling U.S. v. Byrum, 408 U.S. 125 (1972), rehearing denied 409 U.S. 898.

Subsection (c) tracks in substance Section 2(c) of the 1966 version of the UGMA. However, it replaces the requirement

that the transferor "promptly do all things within his power" to complete the transfer, with the requirement that such action must be taken "as soon as practicable." This change is intended only to reflect the fact that possession and control of property transferred from an estate can rarely be accomplished with the immediacy that the term "promptly" may have implied. In the case of inter vivos transfers, no relaxation of the former requirement is intended, since "prompt" transfer of dominion is usually practicable.

Sec. 13.46.085. NATIVE CORPORATIONS; CUSTODIANS.

This section has no comparable provision in the UGMA or the UTMA. This section is derived from AS 45.60.016 which was added to the Alaska Uniform Gifts to Minors Act in 1972 to address the issue of transfers to minors arising under the Alaska Native Claims Settlement Act.

Sec. 13.46.090. SINGLE CUSTODIANSHIP.

The first sentence follows Section 2(b) of the 1966 version of the UGMA. The second sentence states what was implicit in the 1966 version of the UGMA, that additional transfers at different times and from different sources may be made to an existing custodian for the minor and do not create multiple custodianships. This provision also permits an existing custodian to be named as successor custodian by another custodian for the same minor who resigns under sec. 13.46.170 for the purpose of consolidating the assets in a single custodianship.

Note, however, that these results are limited to transfer made under the AkUTMA. Gifts previously made under the Alaska UGMA or under the UGMA or the UTMA of another state must be treated as separate custodianships, even though the same custodian and minor are involved, because of possible differences in the age of distribution and custodian's powers under those other Acts.

Even when all transfers to a single custodian are made under the AkUTMA and a single custodianship results, custodial property transferred under secs. 13.46.050 and 13.46.060 must be accounted for separately from property transferred under secs. 13.46.030 and 13.46.040 because the custodianship will terminate sooner with respect to the former property since the State of Alaska has a statutory age of majority at 18, which is lower than 21. See sec. 13.46.190 and the Commentary to sec. 13.46.190.

Sec. 13.46.100. VALIDITY AND EFFECT OF TRANSFER.

Subsection (a) generally tracks Section 2(c) of the 1966 version of the UGMA, except that the transferor's des-

ignation of himself as custodian of property for which he is not eligible to serve under sec. 13.46.080(a) makes the transfer ineffective. See Commentary to sec. 13.46.080.

The balance of this section generally tracks Section 3 of the 1966 version of the UGMA with a number of necessary, and perhaps significant, changes required by the new kinds of property subject to custodianships. The 1966 version of the UGMA provides that a transfer made under its terms "conveys to the minor indefeasibly vested legal title to the [custodial property]." Because equitable interests in property may be the subject of a transfer under the AkUTMA, the reference to "legal title" has been deleted, but no change concerning the effect or finality of the transfer is intended.

However, subsection (b) qualifies the rights of the minor in the property, by making them subject to "the rights, power, duties and authority" of the custodian under the AkUTMA, a concept that may have been implicit and intended in the 1966 version of the UGMA, but not expressed. The concept is important because of the kinds of property, particularly real estate, now subject to custodianship. If the minor is married, it would be possible for homestead, dower, or community property rights to attach to real estate (or other property) acquired after marriage by the minor through a transfer to a custodianship for his benefit. The quoted language qualifying the minor's interest in the property is intended to override these rights insofar as they may conflict with the custodian's ability and authority to manage, sell, or transfer the property while it is custodial property. Upon termination of the custodianship and transfer of the custodial property to the former minor, the custodial property would then become subject to such spousal rights for the first time.

For a list of the immunities enjoyed by third persons under subsection (c), see sec. 13.46.150 and the Commentary to sec. 13.46.150.

Because of custodianship under the AkUTMA can extend beyond the age of majority in many states, or beyond emancipation of a minor through marriage or otherwise, the Drafting Committee of the UTMA considered the addition of a spendthrift clause to this section. The idea was rejected because neither the 1966 version of the UGMA nor its predecessors had such a provision, because spendthrift protection would extend only until 21 in any event and judgments against the minor would then be enforceable, and because the spendthrift qualification on the interest of the minor in the property may be inconsistent with the theory of the UTMA to convey the property indefeasibly to the minor.

Subsection (d), (e), and (f) are derived from California amendments to the UTMA but are not included in the UTMA. These subsections are included in the AkUTMA to make clear that (1) a person serving as guardian of the estate of the minor (conservator) may also serve as custodian and in this case the custodial property does not become a part of the guardianship estate; and (2) property may be transferred from a guardianship estate to the person who serves as guardian to be held by that person as custodian, and in such case the property is no longer a part of the guardianship estate but instead is governed solely by the AkUTMA. (17 Cal.L.Rev.Comm.Reports 61 (1984)).

Sec. 13.46.110. CARE OF CUSTODIAL PROPERTY.

Subsection (a) expands Section 4(a) of the 1966 version of the UGMA to include the duties to take control and appropriately register or record custodial property in the name of the custodian.

Subsection (b) restates and makes somewhat stricter the "prudent person" fiduciary standard for the custodian, since it is now cast in terms of a prudent person "dealing with property of another" rather than one "who is seeking reasonable income and the preservation of his capital," as under the 1966 version of the UGMA. The rule also adds a slightly higher standard for professional fiduciaries. The rule parallels section 7-302 of the Uniform Probate Code (AS 13.36.075) in order to refer to the existing and growing body of law interpreting that standard. The 1966 version of the UGMA permitted a custodian to retain any security or bank account received, without the obligation to diversify investment. This subsection extends that rule to any property received.

In order to eliminate any uncertainty that existed under the 1966 version of the UGMA, subsection (c) grants specific authority to invest custodial property in life insurance on the minor's life, provided the minor's estate is the sole beneficiary, or on the life of another person in whom the minor has an insurable interest, provided the minor, the minor's estate, or the custodian in his custodial capacity is made the beneficiary of the policies.

Subsection (d) generally tracks Section 4(g) of the 1966 version of the UGMA but adds the provision requiring that custodial property consisting of an undivided interest be held as a tenant in common. This provision permits the custodian to invest custodial property in common trust funds, mutual funds, or in a proportional interest in a "jumbo" certificate of deposit. Investment in property held in joint tenancy with right of survivorship is not permitted, but the AkUTMA does not preclude a transfer of such an

interest to a custodian, and the custodian is authorized under subsection (b) to retain a joint tenancy interest so received.

Subsection (e) follows Section 4(h) of the 1966 version of the UGMA, but adds the requirement that income tax information be maintained and made available for preparation of the minor's tax returns. Because the custodianship is not a separate legal entity or taxpayer, the minor's tax identification number should be used to identify all custodial property accounts.

Sec. 13.46.120. POWERS OF CUSTODIAN.

Subsection (a) replaces the specific list of custodian's powers contained in Section 4(f) of the 1966 version of the UGMA which related only to securities, money, and insurance, then the only permitted kinds of custodial property. It was determined not to expand the list to try to deal with all forms of property now covered by the AkUTMA and to specify all powers that might be appropriate for each kind of property, or to refer to an existing body of state law, such as the Trustee's Powers Act, since such powers would not be uniform. Instead, this provision grants the custodian the very broad and general powers of an unmarried adult owner of the property, subject to the prudent person rule and to the duties of segregation and record keeping specified in sec. 13.46.110. This approach permits the AkUTMA to be self-contained and more readily understandable by volunteer, nonprofessional fiduciaries, who most often serve as custodians. It is intended that the authority granted includes the powers most often suggested for custodians, such as the power to borrow, whether at interest or interest free, the power to invest in common trust funds, and the power to enter contracts that extend beyond the termination of the custodianship.

Subsection (a) further specifies that the custodian's powers or incidents of ownership in custodial property such as insurance policies may be exercised only in the capacity as custodian. This provision is intended to prevent the exercise of those powers for the direct or indirect benefit of the custodian, so as to avoid as nearly as possible the result that a custodian who dies while holding an insurance policy on his own life for the benefit of a minor will have the policy taxed in his estate. See, Section 2042, Internal Revenue Code; but compare Terriberry v. U.S., 517 F.2d 286 (5th Cir. 1975), and Rose v. U.S., 511 F.2d 259 (5th Cir. 1975).

Sec. 13.46.130. USE OF CUSTODIAL PROPERTY.

Subsections (a) and (b) track subsections (b) and (c) of Section 4 of the 1966 version of the UGMA, but with two significant changes. The standard for expenditure of custodial property has been amended to read "for the use and benefit of the minor," rather than "for the support, maintenance, education and benefit of the minor" as specified under the 1966 version of the UGMA. This change is intended to avoid the implication that the custodial property can be used only for the required support of the minor.

The Internal Revenue Service has taken the position that the income from custodial property, to the extent it is used for the support of the minor-donee, is includable in the gross income of any person who is legally obligated to support the minor-donee, whether or not that person or parent is serving as the custodian. Rev.Rul. 56-484, C.B. 1956-2, 23; Rev.Rul. 59-357, C.B. 1959-2, 212. However, Reg. 1.662(a)-4 provides that the term "legal obligation" includes a legal obligation to support another person if, and only if, the obligation is not affected by the adequacy of the dependent's own resources. Thus, if under local law a parent may use the resources of a child for the child's support in lieu of supporting the child himself or herself, no obligation of support exists, whether or not income is actually used for support, at least if the child's resources are adequate. See, Bittker, Federal Taxation of Income Estates and Gifts Para. 80.44 (1981).

For this reason, subsection (c) has been added to specify that distributions or expenditures may be made for the minor without regard to the duty or ability of any other person to support the minor and that distributions or expenditures are not in substitution for, and shall not affect, the obligation of any person to support the minor. Other possible methods of avoiding the attribution of custodial property income to the person obligated to support the minor would be to prohibit the use of custodial property or its income for that purpose, or to provide that any such use gives rise to a cause of action by the minor against his parent to the extent that custodial property or income is so used. The first alternative was rejected as too restrictive, and the second as too cumbersome.

The "use and benefit" standard in subsections (a) and (b) is intended to include payment of the minor's legally enforceable obligations such as tax or child support obligations or tort claims. Custodial property could be reached by levy of a judgment creditor in any event, so there is no reason not to permit custodian or court-ordered expenditures for enforceable claims.

An "interested person" entitled to seek court ordered distributions under subsection (b) would include not only the

parent or conservator or guardian of the minor and a transferor or a transferor's legal representative, but also a public agency or official with custody of the minor and a third party to whom the minor owes legally enforceable debts.

Sec. 13.46.140. CUSTODIAN'S EXPENSES, COMPENSATION, AND BOND.

This section parallels and restates Section 5 of the 1966 version of the UGMA. It deletes the statement that a custodian may act without compensation for services, since that concept is implied in the retained provision that a custodian has an "election" to be compensated. However, to prevent abuse, the latter provision for permissive compensation is denied to a custodian who is also the donor of the custodial property.

The custodian's election to charge compensation must be exercised (although the compensation need not be actually paid) at least annually or it lapses and may not be exercised later. This provision is intended to avoid imputed income to the custodian who waives compensation, and also to avoid the accumulation of a large unanticipated claim for compensation exercisable at termination of the custodianship.

This section deletes as surplusage the bracketed optional standards contained in the 1966 version of the UGMA for determining "reasonable compensation" which included, "in the order stated," a direction by the donor, statutes governing compensation of custodians or guardians, or court order. While compensation of custodians becomes a more likely occurrence and a more important issue under the AkUTMA because property requiring increased management may now be subject to custodianship, compensation can still be determined by agreement, by reference to a statute or by court order, without the need to so state in the AkUTMA.

Sec. 13.46.150. EXEMPTION OF THE THIRD PERSON FROM LIABILITY.

Sec. 13.46.150 carries forward, but shortens and simplifies, Section 6 of the 1966 version of the UGMA with no substantive change intended. The 1966 version of the UGMA permitted a 14 year old minor to appoint a successor custodian and specifically provided that third parties were entitled to rely on the appointment. Because this section refers to any custodian, and "custodian" is defined to include successor custodians (Sec. 13.46.990(7)), a successor custodian appointed by the minor is included among those upon whom third parties may rely.

Similarly, because this section protects any third "persons," it is not necessary to specify here or in sec.

13.46.100(c) that it extends to any "issuer, transfer agent, bank, life insurance company, broker, or other person or financial institution," as did the 1966 version of the UGMA. See the definition of "person" in AS 01.10.060.

This section excludes from its protection persons with "knowledge" of the irregularity of a transaction, a concept not expressed but probably implied in Section 6 of the 1966 version of the UGMA. See, e.g., State ex rel. Paden v. Currel, 597 S.W.2d 167 (Mo. App. 1980) disapproving the pledge of custodial property to secure a personal loan to the custodian.

Similarly, this section does not alter the requirements for bona fide purchaser or holder in due course status under other law for persons who acquire from a custodian custodial property subject to recordation or registration.

Sec. 13.46.160. LIABILITY TO THIRD PERSONS.

This section has no counterpart in the 1966 version of the UGMA and is based upon Section 5-429 of the Uniform Probate Code (AS 13.26.305), relating to limitations on the liability of conservators. Because some forms of custodial property now permitted under the AkUTMA can give rise to liabilities as well as benefits (e.g., general partnership interests, interests in real estate or business proprietorships, automobiles, etc.) the Drafting Committee for the Uniform Transfers to Minors Act believed it is necessary to protect the minor and other assets the minor might have or acquire from such liabilities, since the minor is unable to disclaim a transfer to a custodian for his benefit. Similar protection for the custodian is necessary so as not to discourage nonprofessional or uncompensated persons from accepting the office. Therefore this section generally limits the claims of third parties to recourse against the custodial property, as third parties dealing with a trust are generally limited to recourse against the trust corpus.

The custodian incurs personal liability only as provided in subsection (b) for actual fault or for failure to disclose his custodial capacity "in the contract" when contracting with third parties. In oral contracts, oral disclosure of the custodial capacity is sufficient. The minor, on the other hand, incurs personal liability under subsection (c) only for actual fault.

When custodial property is subjected to claims of third parties under this section, the minor, the minor's legal representative, if not a party to the action by which the claim is successfully established, may seek to recover the loss from the custodian in a separate action. See sec. 13.46.180 and the commentary to sec. 13.46.180.

Sec. 13.46.170. RENUNCIATION, RESIGNATION, DEATH, OR
REMOVAL OF CUSTODIAN; DESIGNATION OF SUCCESSOR CUSTODIAN.

This section tracks but condenses Section 7 of the 1966 version of the UGMA to provide that the custodian, or if the custodian does not do so, the minor if he is 14, may appoint the successor custodian, or failing that, that the conservator of the minor or a court appointee shall serve. It also covers disclaimer of the office by designated or successor custodians or by nominated future custodians who decline to serve.

The AkUTMA broadens the category of persons who may be designated by the initial custodian as successor custodian from an adult member of the minor's family, his conservator, or a trust company to any adult or trust company. However, the minor's designation remains limited to an adult member of his family (expanded to include a spouse and a stepparent, see sec. 13.46.990(10)), his conservator, or a trust company.

Sec. 13.46.180. ACCOUNTING BY AND DETERMINATION OF
LIABILITY OF CUSTODIAN.

This section carries forward Section 8 of the 1966 version of the UGMA, but expands the class of parties who may require an accounting by the custodian to include any person who made a transfer to the custodian (or that person's legal representative), the minor's guardian of the person, and the successor custodian.

Subsection (b) authorizes but does not obligate a successor custodian to seek an accounting by the predecessor custodian. Since the minor and other persons mentioned in subsection (a) may also seek an accounting from the predecessor at any time, it is anticipated that the exercise of this right by the successor should be rare.

Subsection (a) also gives the same parties (other than a successor custodian) the right to seek recovery from the custodian for loss or diminution of custodial property resulting from successful claims by third persons under sec. 13.46.160, unless that issue has already been adjudicated in an action under that section to which the minor was a party.

This section does not contain a separate statute of limitations precluding petitions for accounting after termination of the custodianship. Because custodianships can be created without the knowledge of the minor, a person might learn of a custodian's failure to turn over custodial property long after reaching majority, and should not be precluded from asserting his rights in the case of such fraud. In addition, the 1966 version of the UGMA has no such preclusion

and seems to have worked well. Other law, such as general statutes of limitation and the doctrine of laches, should serve adequately to protect former custodians from harassment.

Sec. 13.46.190. TERMINATION OF CUSTODIANSHIP.

This section tracks Section 4(d) of the 1966 version of the UGMA and provides that custodianships created by fiduciaries without express authority from the donor of the property under sec. 13.46.050 and by obligors of the minor under sec. 13.46.060 terminate upon the minor's attaining age 18, since these custodianships are substitutes for conservatorships that would otherwise terminate at that time. All other custodianships terminate at the time the minor attains 18 years of age unless the time of transfer of the custodial property is delayed under sec. 13.46.195 to a time after the time the minor attains the age of 18 years. Because property in a single custodianship may be distributable at different times, separate accounting for custodial property by source may be required. See Commentary to sec. 13.46.090.

Sec. 13.46.195. DELAY IN TRANSFER OF CUSTODIAL PROPERTY AFTER MINOR ATTAINS AGE 18.

This section is adopted from the California Uniform Transfers to Minors Act. This section is new. There is no provision for choice as to when custodial property shall be transferred to the minor under the Uniform Transfers to Minors Act or under prior Alaska law. This section gives this choice since most transferors who specifically authorize a custodian wish to preserve the custodianship as long as possible. This is most likely to be the case, for example, where the custodial property is intended to be preserved and used to finance a college education.

A transferor may feel that a particular child at 18 does not have, or will not have, sufficient maturity to manage a substantial gift, particularly when the transferor wishes to make the gift for a particular purpose, e.g. education. A custodian under the Alaska Uniform Gifts to Minors Act must deliver the property to the minor when the minor reaches 18 (AS 45.60.031(d)). Therefore, a testamentary or inter vivos trust may be necessary to achieve the transferor's goals. Continuing the custodianship past the age of 18 permits the transferor donor to avoid the expense of preparing a trust instrument to create a trust that otherwise would be required in order to retain the property under custodial management until the minor reaches the specified age.

The custodian is required to transfer the property to the minor when the minor attains the age of 18 years unless the

transfer under sec. 13.46.080 specifies a later time. See sec. 13.46.190.

Subsection (c) contains optional language which the donor-transferor may use to allow a minor the option of terminating the custodianship during a six month period beginning on the minor's 21st birthday. In order to exercise this option, a minor must provide written notice of the minor's intention to terminate to the custodian within 6 months of the minor's 21st birthday. This option has been provided so that a transferor may transfer property by irrevocable gift, under sec. 13.46.030, into a custodianship in a manner consistent with Section 2503(c) of the Internal Revenue Code and the Internal Revenue Service's position as put forth in Rev.Rul. 74-43.

Rev.Rul. 74-43 provides, in relevant part, that a gift into a trust for the benefit of a minor, when such a trust contains a provision that the minor has the right to compel distribution at age 21 by giving written notice to the trustee, qualifies as a gift of a present interest, and, therefore, also qualifies for the annual exclusion provided in Section 2503(b) of the Internal Revenue Code.

The use of the optional language contained in subsection (c) that allows a minor to compel delivery of custodial property when the minor reaches the age of 21 should qualify a transfer of property by irrevocable gift under sec. 13.46.030 as a gift of a present interest under Section 2503(c) of the Internal Revenue Code.

Subsection (d) permits the custodianship to continue until not later than the time the minor attains the age of 25 years where the transfer is made under a provision in a will or trust that provides that the custodianship is to continue until the specified age, not later than the time the beneficiary attains the age of 25. A custodianship may be established under a provision in a will or trust that provides that the custodianship is to continue until a specified age after age 18 even though the beneficiary has attained an age older than 18 but younger than the specified age at which the custodianship is to terminate. See sec. 13.46.990(11).

Subsection (e) permits the custodianship to continue until the time the minor attains the age of 25 years where the custodial property is transferred under sec. 13.46.030 if the transfer specifies that the custodianship is to continue until the specified age.

This section does not provide for continuance beyond age 18 of a custodianship created under secs. 13.46.010, 13.46.050,

13.46.060, 13.46.100, 13.46.110 or 13.46.120. These custodianships terminate at age 18 because they are substitutes for a guardianship that otherwise would terminate at that time (see sec. 13.46.150). And, in the cases where this section permits the custodianship to continue after the minor attains the age of 18 years, if the transfer under sec. 13.46.080 does not specify any age, the custodianship terminates when the minor attains 18 years of age. See (f) of this section.

Subsection (g) validates a transfer that specifies a maximum time for the duration of the custodianship that is longer than permitted by this section by reducing the duration of the custodianship to the maximum duration permitted for a custodianship created by that type of transfer.

Because property in a single custodianship may be distributable at different times, separate accounting for custodial property by source may be required. See Commentary to sec. 13.46.090. Also see 17 Cal.L.Rev.Comm. Reports 601 (1984); 84 Cal.S.J. 11794.

Sec. 13.46.200. APPLICABILITY.

This section is new and has two purposes. First, it operates as a "savings clause" to validate transfers made after its effective date which mistakenly refer to Alaska's UGMA rather than to the AkUTMA. Second, it validates transfers attempted under the UGMA of another state which would not permit transfers from the source or of property of that kind or under the UTMA of another state with no nexus to the transactions, provided in each case that Alaska has a sufficient nexus to the transaction under sec. 13.46.010.

Sec. 13.46.210. EFFECT ON EXISTING CUSTODIANSHIPS.

Subsection (a) is new and is based on Section 45-109a of the Connecticut Uniform Transfers to Minors Act which validates gifts of real estate and partnership interests made prior to their inclusion as "custodial property" under that Act. However, this provision goes further and purports also to validate prior transfers of the kind now covered by that Act, i.e., transfers from estates, trusts, guardianships, and obligators.

All states have previously enacted some version of the UGMA, and it will be more orderly to subject gifts or other transfers under the UGMA to the procedures of the UTMA rather than to keep both the UGMA and UTMA in force, presumably for 18 or 21 years until all custodianships created under prior law have terminated. Subsection (b) is intended to apply the AkUTMA to prior gifts and existing custodianships

insofar as it is constitutionally permissible to do so. However, prior custodianships will continue to terminate at the age prescribed by the Act under which the gift or transfer was made.

Subsection (c) is also new and is based upon Section 45-109b of the Connecticut Act. This subsection is intended for adoption in those states that reduced the age of majority to 18, but which adopt the recommended return to 21 as the age at which custodianships terminate. Its purpose is to avoid resurrecting custodianships for persons not yet 21 which terminated during the period that the age of 18 governed termination.

Subsection (d) is also new. This subsection is derived from sec. 27 of the UTMA, relating to the effect of the repeal of the UGMA.

Sec. 13.46.220. UNIFORMITY OF APPLICATION.

No commentary.

Sec. 13.46.990. DEFINITIONS.

To reflect the broader scope and the unlimited types of property to which the AkUTMA will apply, a number of definitional changes have been made from the 1966 version of the UGMA. In addition, several definitions specifically applicable to the limited types of property (cash, securities, and insurance policies) subject to the 1966 version of the UGMA have been eliminated as unnecessary. These include the definitions of "bank," "issuer," "life insurance policy or annuity contract," "security," and "transfer agent." No change in the meaning or construction of these terms as used in the AkUTMA is intended by these deletions.

The definitions of "domestic financial institution" and "insured financial institution" have been eliminated because few, if any, states limit deposits by custodians to local institutions, and the prudent person rule of sec. 13.46.110(b) of the AkUTMA may dictate the use of insured institutions as depositories, without having to so specify.

The principal changes or additions to the remaining definitions are discussed below.

"Benefit Plan" The definition of "benefit plan" is intentionally very broad and is meant to cover any contract, plan, system, account, or trust such as a pension plan, retirement plan, death benefit plan, deferred compensation plan, employment agency arrangement, ~~or~~ stock bonus, option or profit sharing plan.

"Conservator" The term "conservator" rather than "guardian of the estate" has been employed to conform to Uniform Probate Code terminology (AS 13.06 - 13.36). The term includes a guardian of the minor's property, whether general, limited or temporary, and includes a committee, tutor, or curator of the minor's property.

"Custodial Property" The definition of "custodial property" has been generalized and expanded to encompass every conceivable legal or equitable interest in property of any kind, including real estate and tangible or intangible personal property. The term is intended, for example, to include joint interests with right of survivorship, beneficial interest in land trusts, as well as all other intangible interests in property. Contingent or expectancy interests such as the designation as a beneficiary under insurance policies or benefit plans become "custodial property" only if the designation is irrevocable, or when it becomes so, but the AkUTMA specifically authorizes the "nomination" of a future custodian as beneficiary of such interests (see sec. 13.46.020). Proceeds of custodial property, both immediate and remote, are themselves custodial property, as is the case under UGMA.

Custodial property is defined without reference to the physical location of the property, even if it has one. No useful purpose would be served by restricting the application of the AkUTMA to, for example, real estate "located in this state," since a conveyance recorded in the state of the property's location if done with proper formalities, should be effective even if that state has not enacted the UTMA. The rights, duties, and powers of the custodian should be determined by reference to the law of the state under which the custodianship is created, assuming there is sufficient nexus under sec. 13.46.010 between that state and the transferor, the minor, or the custodian.

"Minor" "Minor" is defined as an individual who has not attained the age of 18 years (consistent with AS 25.20.010), except that the term "minor" may include an older individual under some circumstances when the term is used with reference to the beneficiary for whose benefit custodial property is held or is to be held for a period past the age of 18 years. See the Commentary to secs. 13.46.190 and 13.46.195.

"Personal Representative" The definition of the term "personal representative" is based upon the definition in the Uniform Probate Code (AS 13.06.050(30)).

"Transfer" The new definition of "transfer" is necessary to reflect the application of the AkUTMA not only to gifts, but

also to distributions from trusts and estates, obligors of the minor, and transfers of the minor's own assets to a custodianship by the legal representative of a minor, all of which are now permitted by the AkUTMA.

"Transferor" The new definition of "transferor" is required because the term includes not only the maker of a gift, i.e., a donor in the usual sense, but also fiduciaries and obligors who control or own property that is the subject of the transfer. Nothing in the AkUTMA requires that a transferor be an "adult." If permitted under other law of the state relating to emancipation or competence to make a will, gift, or other transfer, a minor may make an effective transfer of property to a custodian for his benefit or for the benefit of another minor.

"Trust Company" Only entities authorized to exercise "general" trust powers qualify as a "trust company"; that is, the authority to exercise only limited fiduciary responsibilities, such as the authority to accept Individual Retirement Account deposits, is not sufficient.

Sec. 13.46.999. SHORT TITLE.

No commentary.

wkmi2/002

HB

470

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

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

May, 1988

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

Mary Van Nimwegen

H HESS 4-8-88 10:00 a.m.

Special Report

More states move toward universal health insurance

Although Sen. Edward M. Kennedy's bill to require employers to provide employees with a minimum level of health-insurance benefits appears to be stalled in the Senate, a small — but growing — number of states seems to be picking up the slack.

In Kennedy's home state, for example, the fate of universal health-



Dukakis

insurance coverage for Massachusetts residents could be determined later this month after the state Legislature completes its debate on a proposal offered

this past summer by Gov. Michael Dukakis.

The Dukakis plan would call for employers to provide basic health-insurance coverage for all employees who work at least 17 hours per week. Such workers and their dependents make up about two-thirds of the 600,000 uninsured people in the state.

The remaining third would be covered by a state-funded insurance plan.

Initially, support for the Dukakis plan was strong. A non-binding statewide referendum in 1986 found that two-thirds of the voters favored the universal health-insurance concept.

However, the plan faces competition from a legislative proposal that would impose an employer-payroll tax to fund health-insurance coverage for *all* uninsured people in the state.

Nonetheless, small-business groups are opposed to both proposals, calling them unaffordable for businesses with fewer than 25 employees.

(continued on page 5)


A handful of states mandate coverage

(continued from page 1)

And although it is in favor of the universal health-insurance concept, the Massachusetts Hospital Association, Burlington, MA, opposes the Dukakis proposal because it includes caps on hospital charges.

The universal health-insurance coverage issue has been debated during the past several weeks in the Massachusetts Senate, with proponents hoping to negotiate a compromise package this month.

But although the Massachusetts proposals have received the most national attention in recent weeks, at least five other states have proposed, considered or passed some form of legislation this year to expand coverage to uninsured people. Here's an update:



Next year in Michigan, the state will institute a health-insurance plan to cover workers who leave state welfare rolls for jobs that do not offer health care coverage. The plan, sponsored as a demonstration project by the

Princeton, NJ-based Robert Wood Johnson (RWJ) Foundation, will require the state, the employer and the employee to share equally in the cost of the coverage.

Michigan's Legislature also created a task force this year to study issues related to access to care for the state's one million uninsured residents. According to John Griffin, a lobbyist for the Michigan Hospital Association, Lansing, MI, the task force "has a wide-open charge to study the issue and to make recommendations on how the state can enact policies to increase access to care."

out of this," he said.

The task force is expected to give its final report in September of 1989.



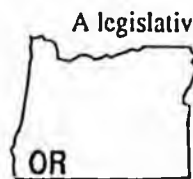
In Wisconsin, the legislature this past spring passed a \$6 million appropriation to fund five pilot projects designed to expand health-insurance coverage for state

residents, but the measure was vetoed by Gov. Tommy Thompson.

The projects were designed to provide health-insurance coverage for the working poor and for the recently unemployed, and to expand coverage for the elderly, according to Stephen E. Brenton, senior vice president for government affairs for the Wisconsin Hospital Association, Madison, WI.

He said the association supported the legislation that created the projects but was unsuccessful in persuading enough lawmakers to vote to override the governor's veto.

"Given that we already have what some consider a 'Cadillac' Medicaid program and that we now have a very conservative governor, I don't think an expansion of health care coverage will be a high priority with this administration," Brenton said.



A legislative proposal in Oregon that began as mandatory employer-provided health-insurance coverage for all employees became a voluntary program as a result of legislative compromise, according to P.T. Fleissner, president of the Oregon Hospital Association, Lake Oswego, OR.

The final version of the plan, which passed the legislature this past summer, offers small businesses — those with 25 or fewer employees — a tax credit equal to 50 percent of their contributions to

goes into effect early next year, has not attracted the participation of many small businesses to date.

"We don't look for it to be particularly helpful in its present state," he said. "But it could be helpful as an opener for a more comprehensive mandatory package in the next session."



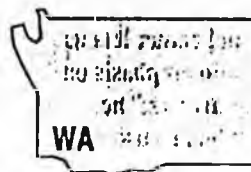
A plan adopted in Arizona this year and begun with seed money from the Robert Wood Johnson Foundation also provides low-cost

health-insurance coverage to members of the working poor through the state's Medicaid program.

Although the Medicaid program performs the actuarial work, develops the plan design and markets the insurance package to small businesses, the costs of the insurance plan are paid entirely by employer contributions, according to John Rivers, president of the Arizona Hospital Association, Tempe, AZ.

"The program is designed to make insurance affordable for employees of companies that currently offer no coverage," he said.

Right now, the plan is offered in only two counties and won't be operational statewide until next month, Rivers said.



In Washington State, proponents of better health-insurance coverage for uninsured

people also were forced to scale down their proposed plan.

This past January, a task force of health care providers, insurers, business leaders and advocates for the poor recommended a plan under which the state would act as an insurance broker for many of the state's 500,000 uninsured, according to Jeff Mero, director of

(WSHIA).

Under the plan, basic health-insurance benefits would be available on a sliding-scale fee basis to residents whose earnings were less than 200 percent of the poverty level but who did not qualify for Medicaid. The subsidy for the plan would come in part from a tax on employers that chose not to offer health-insurance coverage to their employees, thus offering businesses an incentive to insure their workers.

But Mero said the state Legislature approved only pilot projects to insure 30,000 low-income residents in five areas of the state, and he added that the program will be funded by \$19 million in general revenues — not by a tax on employers.

However, Mero also said the WSHA will continue to push for a broader program.

Although a handful of states have had varying amounts of success with initiating and implementing universal health-insurance coverage programs, at least one state — Hawaii — has required employers to provide health insurance to all employees for more than a decade.

The state's 1974 Prepaid Health Care Act requires employers to provide basic health insurance to all employees who work at least 20 hours per week, according to Carol T. Komura, vice president of fiscal service at the Healthcare Association of Hawaii, Honolulu, HI.

Under the law, coverage is required for inpatient acute care, outpatient services and substance-abuse treatment. An advisory committee and a review board also were created under the legislation to enforce the law.

Komura said that to her knowledge, no studies have been done to date on the impact of the law on health care costs or on access to care.

But she added that business groups

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HB 470
PUBLISH DATE: 2/15/88

FISCAL NOTE

REQUEST:

Revision Date: 2/17/88
Title: An Act relating to advisory vote on state catastrophic illness insurance.
Sponsor: SUND
Requestor: House HESS

Agency Affected: Office of the Governor
BRU: Division of Elections
Components: II - Primary & General Elections

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	0	2.2*	0	0	0	0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	2.2*	0	0	0	0

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	2.2*	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

* Costs included cover 2 to 3 additional pages in each Official Election Pamphlet, for printing and typesetting, and costs estimated to cover computer programming requirements for vote (cont.)

Prepared by: Linda Edgeworth
Division: Elections

Phone: 465-4611
Date: 2/17/88

Approved by Commissioner: [Signature] for S. McAlpine
Agency: Office of the Governor, Division of Elections

Date: _____

Distribution (by preparer): 2/19/88
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. _____

counting purposes. However, these costs are based on the assumption that all candidates and issues will fit on three ballot cards, which is the norm. It should be noted, however that should the inclusion of this issue require a 4th ballot to be printed, the cost increase would have to be calculated at 16 cents per ballot x approximately 320,000 voters. The total cost of printing the additional ballot card would be \$51.2.

Under these circumstances the fiscal note would be:

53.4

HB

473

HOUSE COMMITTEE REPORT

3/4 -

(7)

Date referred: 2/15/88

FURTHER REFERRALS:

Judiciary
Finance

DATE: 3-3-88

The Health, Education and Social Services Committee has considered HB 473

"An Act amending the composition and membership of the Correctional Industries Commission; and providing for an effective date."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

J. Ellis
Tim Kozma
James G. ...
James Guley
Max F. ...

SIGNING OTHER RECOMMENDATIONS:

Wesley ... - No Rec
Bill ... - No Rec

J. Ellis
 CoChairman's signature
Tim Kozma

REPRESENTATIVE
C.E. "SWACK" SWACKHAMMER

Alaska State Legislature



House of Representatives

SOLDOTNA
P.O. BOX 417
SOLDOTNA, ALASKA 99669
(907) 262-7663

JUNEAU

BOX V
JUNEAU, ALASKA 99811
(907) 465-2689

MEMORANDUM

TO: All Interested Parties
FROM: Rep. C.E. Swackhammer
DATE: February 12, 1988
TOPIC: House Bill 473

Last session, the 15th Legislature passed a bill keeping Correctional Industries. House Bill 473 has been introduced by me to assure the industries program in corrections remains viable, productive and noncompetitive with private industry and labor in Alaska.

Alaska's economic downswing has made it necessary to address potential problems of the correctional industry negatively impacting free enterprise. To assist in this effort, HB473 changes the composition of the Corrections Industry Commission by adding another member from labor. Currently, the commission calls for one member of organized labor, at this time the member is from the building trades. It is felt that, although corrections industry may impact the construction trades, it is more likely to affect service oriented laborers. For this reason, HB 473 specifically designates that a member from the building trades be supplemented by a representative of the service trades in Alaska.

Corrections and I have had extensive interaction with labor representatives over the past few months. We have come to a consensus that the additional labor member will greatly enhance the industries program, while protecting the "free-world" enterprise.

It is for this reason, I respectfully solicit your support for this piece of legislation.

CORRECTIONAL INDUSTRIES IN ALASKA

The Corrections Industry program started in the Palmer Correctional Center. It is composed of a potato farm which produces potatoes for state institutions. It employs 2 or 3 inmates during the winter and as many as 15 during the summer, through harvest time in October. Palmer also has a body and fender shop which does repairs to state vehicles only; it employs 4 to 6 offenders.

The Palmer area is also the locale of a slaughter house operated by offenders. The facility was reclaimed from private enterprise which had been funded through state loans. The initial reaction to the operation was negative, with the greatest amount of negative input coming from meat processors and cold storage operations in Anchorage. The intent of the slaughterhouse is to primarily provide a service for Alaskan ranchers and dairy cull stock in the Matanuska Valley. The operation has been struggling, the processor "hurdle" has been overcome; they are now purchasing wholesale meats from the corrections operated plants.

Lemon Creek Correctional Center, in Juneau, houses a laundry facility which provides laundry services to the Alaska Marine Transportation System. Prior to its opening, laundry services were provided through a facility in Prince Rupert, British Columbia. It is a state of the art facility which has been operating at a profit. It employs XX offenders.

Two years ago it was suggested that the laundry wholesale laundry in Southeast. Because of negative reaction on the part of organized labor, the idea was scrapped.

Lemon Creek was also the site of a bakery which provided bake goods to the Marine Transportation System. Previous to its opening, the bake goods were provided by a Seattle firm. The bakery no longer exists and has returned to Seattle. A report of the closing of the bakery follows.

Wildwood Correctional Center has a metal fabrication industry which employs as many as 60 offenders. Its primary products are furniture and bear-proof trash containers used by the park service.

Uniquely, the industry received the contract to provide the secure furniture for the new facility soon to open in Seward, Spring Creek Correctional Center.

Wildwood CC Industries also makes top of the line office furniture. At one time it manufactured more than 200 models. There had been no

complaints from the private sector until the major decline in Alaska's economy. Because of slowing sales, statewide retailers asked corrections to reconsider the scope and magnitude of their operations. Through cooperative agreement, corrections reduced its furniture line to less than twenty models.

The Department of Corrections is currently seeking industries for Fairbanks Correctional Center and Spring Creek.

The Department recently received negative press regarding the prospects of doing data processing in the Fairbanks facility. This is not to be an industry program, but the comments were directed at it. The data processing issue has been tabled, with assurances by corrections that nothing would be done without complete support of the Fairbanks delegation.

LEMON CREEK CORRECTIONS BAKERY REPORT: In the Summer of 1987, a steward on the Alaska Marine Transportation System informed the Dept. of Transportation and Public Facilities that he had received information from an undisclosed source that the bakery products were contaminated. This contamination was allegedly human excretions. A large staple was also allegedly been implanted at the facility.

DOT/PF immediately stopped receiving products from Lemon Creek and conducted an investigation. The Alaska State Troopers were called into the investigation. The supervisors and inmates in the bakery industry volunteered to take polygraph tests regarding their activities in the bakery.

There was absolutely no evidence of foul play by staff or inmates; they were exonerated of any charges. The steward never disclosed his source of information.

Because of the negative press and potential spin-off of the accusations, the Department of Corrections has cancelled the bakery industry. The Department is speculating on moving the equipment to Southcentral Alaska to provide bakery goods to correctional facilities in the Anchorage Bowl Area.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act amending the composition and membership."
Sponsor: Rep Swackhammer
Requestor: Gruenbera and Bover

Agency Affected: Department of Corrections
BRU: _____

Components: Correctional Industries -
Production Cost

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

The travel and per diem costs associated with adding a member to the Correctional Industries Commission will be funded through the Correctional Industries Revolving Fund.

Prepared by: Susan E. Knighton, Director Phone: 465-3376
Division: Administrative Services Date: 2-26-88

Approved by Commissioner: Susan Humphrey-Barnett Date: 2-26-88
Agency: Department of Corrections

Distribution (by preparer) :

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

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

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

Mary Van Nimwegen

H4ESS

3-3-88

8:30 a.m.

HB

474

HB 474

Julie Krafft^{P. 2/3} for
Rep. Sam Cotten

There is a certain segment of Alaska residents who are not able to obtain medical insurance due to pre-existing conditions or because their policies have been cancelled.

HB 474 - provides access to disability insurance to all residents of the state who have been denied adequate disability insurance for any reason (other than non-payment of premium) or who are ^{otherwise} considered uninsurable.

Persons eligible for coverage under the program include those who ^{can} provide evidence of rejection for medical reasons, an up-rated premium, a pre-existing condition or involuntary termination within six months of the date of application.

The bill would establish a nonprofit association whose members consist of all in-state insurers who offer disability insurance policies for major medical coverage. The association would make available an individual state plan of disability insurance to eligible residents. A medicare supplement plan would be available for senior citizens (65 or over).

The association would develop bid specifications for members that wish to be selected as a writing carrier to administer state plan. The bill outlines the duties of writing carriers.

Minimum benefits - \$1 million lifetime maximum per individual
\$4,000 yearly maximum for diagnosis & treatment of mental conditions

- The insurance would cover "usual, customary, reasonable or prevailing" charges. Coverages not included would be injuries covered by worker's compensation, cosmetic surgery, etc.

Deductibles - \$500/\$1000 per person

Persons covered must pay 20% ~~in excess of deductibles not~~ -----

to exceed \$2000 for each calendar year

100% paid after \$2000 (except mental & nervous conditons
- 50%)

Premiums shall not exceed 150% of policies for standard coverage.

Each member of the association shall share the losses due to claims expenses of the state plan and ^{also} share in the operating expenses. Association members will be assessed (annually) their portion of the liability. Each member of the association may credit the assessment against his state premium tax. (The state collected \$3.6 million last year in premium taxes.)

disability only



Health Insurance Association of America

March 17, 1988

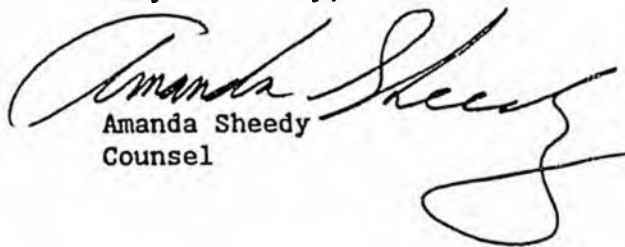
Representative Niilo Koponen
Representative Johnny Ellis
Chairmen House Health Education and
Social Services Committee
P. O. Box V
Juneau, Alaska 99811

Dear Representatives Ellis and Koponen:

I am writing on behalf of the Health Insurance Association of America (HIAA) to register our support for the comprehensive disability insurance plan proposed in Alaska House Bill 474. The HIAA is a national trade association representing 340 commercial insurance companies that are responsible for approximately 85% of the health insurance sold in the United States. We endorse the establishment of state risk pools to address the health care needs of high risk or uninsurable individuals as long as the funding mechanisms for those pools are equitable. HBN 474 provides an equitable funding mechanism by providing insurers with a premium tax offset in an amount equal to their contributions to the pool

Please feel free to contact me or our retained counsel in Juneau, Gordon Evans, if I can be of any assistance supporting passage of this legislation, or if I can provide you with any information you may need regarding state risk pools.

Very sincerely,


Amanda Sheedy
Counsel

AS/cp

VARIATIONS IN ESTIMATES ON THE NUMBER OF UNINSURED

CPS	1986	15.7%
RWJ	1986	9.0%
NMCES	1977	15.5%

The **CURRENT POPULATION SURVEY** is conducted by the U.S. Census Bureau on a monthly basis. Each year the March Supplement contains questions concerning health insurance coverage. This is a probability sample which provides estimates for the nation and for the nine U.S. Census regions.

The **ROBERT WOOD JOHNSON FOUNDATION'S NATIONAL ACCESS SURVEY** is a national telephone survey which oversamples segments of the population (e.g., people who have recently experienced an illness that needed medical attention).

The **NATIONAL MEDICAL CARE EXPENDITURE SURVEY** is a collection of several household surveys based upon a nationwide sample of over 40,000 individuals conducted over an 18-month period in 1977-78. This survey will be conducted again during 1987-88 with results anticipated in 1989. This is the most comprehensive and detailed survey of health insurance status and is the only survey that examines insurance records to verify coverage.

DEFINITIONS

MEDICALLY INDIGENT --

People who cannot afford needed health care because of insufficient income and/or lack of adequate health insurance.

UNINSURED --

People who lack public or private health insurance.

UNSATISFIED --

People with public or private insurance policies that do not cover all necessary medical services, resulting in out-of-pocket expenses that exceed their ability to pay.

Issues Considered When Deciding to Buy
Health Insurance
(Mentioned as Important)

Issue	Employers Who Do Offer Insurance (N=458)	Employers Who Don't Offer Insurance (N=318)	All Employers (N=776)
Too Expensive	48.7%	56.1%	51.7%
Can hire without providing health insurance	34.6	57.5	43.9
Many employees insured elsewhere	22.7	46.5	32.4
Can't find acceptable plan	23.1	24.5	23.7
High employee turnover	20.9	23.2	21.9
Company turned down because too small	20.7	19.2	20.1
Lack of information/ difficulty judging plans	18.7	16.9	18.0
Employees cannot qualify because of preexisting health problems	24.0	8.6	17.7
Employees don't want it	11.0	16.0	13.0
Problems in administering insurance	10.1	12.1	10.9
Company turned down because of type of business	4.4	2.9	3.8
Firm too new	1.1	4.5	2.5

REACTIONS OF SMALL EMPLOYERS
TO PLAN FEATURES
(N=508)

FEATURE	PERCENT HAVING		
	POSITIVE REACTION	NEGATIVE REACTION	NO REACTION
1. \$5 or \$10 copayment for doctor or clinic visit	74.6%	9.4%	15.9%
2. \$1,000 copayment per hospital admission	11.0	56.5	32.5
3. Can use only participating doctors and hospitals	20.1	50.8	29.1
4. Pre-existing conditions not covered for a year	44.7	30.5	24.8

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

REACTIONS OF SMALL EMPLOYERS
TO PLAN FEATURES
(N=508)

PERCENT HAVING

FEATURE	PERCENT HAVING		
	POSITIVE REACTION	NEGATIVE REACTION	NO REACTION
1. \$5 or \$10 copayment for doctor or clinic visit	74.6%	9.4%	15.9%
2. \$1,000 copayment per hospital admission	11.0	56.5	32.5
3. Can use only participating doctors and hospitals	20.1	50.8	29.1
4. Pre-existing conditions not covered for a year	44.7	30.5	24.8

MONTHLY AMOUNT EMPLOYERS WOULD PAY
FOR PLAN DESCRIBED
(N=454)

MONTHLY AMOUNT	PERCENT WHO WOULD PAY
0	6.6%
Up to \$10	5.1
Up to \$20	9.5
Up to \$30	10.1
Up to \$40	6.4
Up to \$50	14.5
Up to \$60	9.5
Over \$60	20.4
Don't know	17.4
<hr/>	
TOTAL	100.0%

PORTION OF PREMIUM PAID FOR FULL-TIME EMPLOYEES
BY SMALL EMPLOYERS WHO DO OFFER HEALTH INSURANCE

<u>Portion of Premium Paid</u>	<u>DENVER Full-Time Employees</u>	<u>Portion of Premium Paid</u>	<u>WISCONSIN Full-Time Employees</u>
None	5.0%	Less than 50%	7.7%
Some	21.4%	51-75%	14.5%
All	73.6%	76-99%	13.0%
		100%	64.8%
TOTAL	100.0%		100.0%

PROPORTION OF SMALL EMPLOYERS OFFERING
INSURANCE TO EMPLOYEES, BY SIZE OF FIRM

DENVER

<u>Number of Full Time Employees</u>	<u>Percent Offering Health Insurance</u>
0 - 1	25.6%
2 - 5	57.4
6 - 10	74.8
11 - 15	82.2
16 and larger	92.6

WISCONSIN

<u>Number of Full Time Employees</u>	<u>Percent Offering Health Insurance</u>
0 - 2	38%
3 - 5	45%
6 - 10	84%
10 and larger	94%

WHAT WE HOPE TO LEARN

- **Is there a market for less comprehensive health plans that are affordable?**
- **Will it be necessary to subsidize either directly or indirectly the premium in order to successfully market health insurance for small employers?**
- **Can voluntary efforts to develop and market health insurance for small employers work or will it be necessary for federal or state governments to mandate such coverage?**
- **Are Multiple Employer Trusts (METs) organized for insurance purposes viable entities? Can affiliation or affinity groups be used to develop and market health insurance?**
- **What marketing strategies are successful in selling insurance to small firms?**

THE GENERIC STRATEGY

1. LIMITING BENEFITS

- PRIMARY MEDICAL CARE
- LIMITED CATASTROPHIC COVERAGE

2. ENCOURAGING EMPLOYER CONTRIBUTIONS

3. SUBSIDIZING THE PREMIUM

- DIRECT: SUBSIDY OF PREMIUM
- INDIRECT: ADMINISTRATIVE & MARKETING ASSISTANCE

4. REDUCING COST OF SERVICES

- DISCOUNTS WITH PROVIDERS
- MANAGED CARE
- PRIMARY CARE NETWORKS

5. REDUCING THE RISK

- SHIFTING POTENTIAL HIGH COST BENEFICIARIES TO STATE RISK POOL
- REINSURANCE FOR VERY COSTLY CASES THAT ARE PAID/SUBSIDIZED BY STATE

(B) APPROACHES BEING DEVELOPED

GRANTEES	USE MANAGED CARE FOR DELIVERY	VERY LIMITED/ PRIMARY CARE BENEFITS ONLY	MEDICAID TIE-IN	VOLUNTARY REFERRAL NETWORK TO TREAT MEDICALLY INDIGENT	INSURANCE BROKER/ REFERRAL SERVICE	HOSPITAL INDIGENT CARE POOL
1. University of Alabama At Birmingham Hospital	X	X				
2. Arizona (AMCCCS)	X		X			
3. San Diego Council of Community Clinics	X	X				
4. United Way of Bay Area, San Francisco					X	
5. City/County of Denver						
6. Florida	0					
7. Maine	X		X			
8. South Cove CHC, Boston	X					
9. Michigan League of Human Services	X		X			
10. New Jersey						X
11. Tennessee Association of Primary Health Care	X		0			
12. Intermountain Health Care, Salt Lake City	0					
13. Health Systems Resources, Seattle	X		0	X		
14. West Virginia	0					
15. Wisconsin						

X = Primary Focus

0 = Secondary Focus

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

(B) APPROACHES BEING DEVELOPED

GRANTEES	USE MANAGED CARE FOR DELIVERY	VERY LIMITED/ PRIMARY CARE BENEFITS ONLY	MEDICAID TIE-IN	VOLUNTARY REFERRAL NETWORK TO TREAT MEDICALLY INDIGENT	INSURANCE BROKER/ REFERRAL SERVICE	HOSPITAL INDIGENT CARE POOL
1. University of Alabama At Birmingham Hospital	X	X				
2. Arizona (AMCCCS)	X		X			
3. San Diego Council of Community Clinics	X	X				
4. United Way of Bay Area, San Francisco					X	
5. City/County of Denver						
6. Florida	0					
7. Maine	X		X			
8. South Cove CHC, Boston	X					
9. Michigan League of Human Services	X		X			
10. New Jersey						X
11. Tennessee Association of Primary Health Care	X		0			
12. Intermountain Health Care, Salt Lake City	0					
13. Health Systems Resources, Seattle	X		0	X		
14. West Virginia	0					
15. Wisconsin						

X = Primary Focus

0 = Secondary Focus