

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672  
5265 SHES SB 232 - SB 255 857

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F. Note.  
1 Ex. Dir -  
2. othe staff -

5-0794L ✓  
Bradley  
4/29/87

5/6/87

Original sponsors: Josephson, Faiks,  
Uehling, et al.

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 232 ( )

3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to a science, natural resource, and  
7 engineering policy; and providing for an effective  
8 date."

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

10 \* Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that

11 (1) a continuing state effort is needed to ensure the efficient  
12 acquisition, storage, retrieval, transfer, and dissemination of current and  
13 research-derived scientific and engineering knowledge concerning the  
14 natural resources, environments, communities, and human conditions present  
15 in the state;

16 (2) there is no formal organization uniting state, federal  
17 municipal, and university information centers, libraries, and data systems;

18 (3) the state has made a considerable investment in the opera-  
19 tion of information and data systems through its funding of resource man-  
20 agement and scientific enterprise, and the preservation of the information  
21 represents an investment that the state should protect by the inclusion of  
22 the information within an accessible system;

23 (4) it is incumbent on each recipient of state funding, whether  
24 an individual grantee or the administrator of a state program, to make  
25 information available for state purposes;

26 (5) the interagency Council on Northern Resources Information  
27 Management has as its objective the efficient management and sharing of  
28 scientific, natural resource, and engineering information and data;

29 (6) plans for the termination or curtailment of information

not yet  
adopted

1 centers, libraries, and data systems in government and at the University of  
2 Alaska threaten seriously the enhancement and growth of the economy of the  
3 state; the efficient interagency management and sharing of scientific,  
4 natural resource, and engineering information; the capacity of state gov-  
5 ernment to use accumulated information and to make technically correct  
6 decisions involving science, natural resources, and engineering; and the  
7 ability of the public to secure necessary information; and

8 (7) the collective knowledge and information available in li-  
9 braries and information centers in the state represent wealth to the state  
10 and profoundly affect the well-being of the state and its residents.

11 (b) The legislature intends that

12 (1) information resources be efficiently and cost-effectively  
13 managed through appropriate technological systems that unify, combine, or  
14 interconnect the diverse scientific, natural resource, and engineering  
15 information systems and libraries of the state;

16 (2) policies and processes for cooperative management, transfer,  
17 and dissemination of information be developed between federal, state,  
18 municipal, and university systems and libraries;

19 (3) an information network to provide information services to  
20 state, federal, municipal, and university research organizations and the  
21 public and private sectors of the state be promoted and supported;

22 (4) appropriate roles within the information network established  
23 in this Act be designated for state agencies and the University of Alaska.

24 \* Sec. 2. AS 44.19.253 is amended to read:

25 Sec. 44.19.253. STATEMENT OF POLICY. It is the policy of the  
26 state in AS 44.19.251 - 44.19.270 [AS 44.19.251 - 44.19.265,] to  
27 recognize the important role that science, natural resources, [SCIEN-  
28 TIFIC] and engineering research and [SCIENCE] education play for the  
29 people of the state and the entire nation. The policy will make it

1 possible to

2 (1) find, develop, and manage the natural renewable and  
3 nonrenewable resources of the state's land and water economically and  
4 in an environmentally acceptable fashion;

5 (2) manage the unique features of the environment, fauna,  
6 and flora of the state and protect them from harmful man-made and  
7 natural influences;

8 (3) investigate and mitigate the effects of natural hazards  
9 such as earthquakes, volcanic eruptions, avalanches, permafrost, and  
10 other hazards that occur in the state;

11 (4) construct, operate, and maintain transportation sys-  
12 tems, communications, housing, and other facilities suited to the  
13 state's conditions;

14 (5) develop new technologies adapted to the unique con-  
15 ditions and needs of the state;

16 (6) improve the health and well being through the life  
17 cycle of the state's inhabitants; and

18 (7) identify and address future social and economic chal-  
19 lenges facing the state.

20 \* Sec. 3. AS 44.19.257(a) is amended to read:

21 (a) The commission is composed of seven [FIVE] members who have  
22 experience in science or engineering activities related to the duties  
23 of the commission and who are appointed by the governor as follows:

24 (1) one member [IS TO BE] appointed from individuals from  
25 the academic institutions of the state with expertise in areas of  
26 research relating to the state including the physical, biological,  
27 health, environmental, social, and behavioral sciences;

28 (2) one member [IS TO BE] appointed from individuals who  
29 are engaged in activities furthering the welfare of the human and

1 physical environment and who have expertise in areas of research  
2 relating to the state, including the physical, biological, health,  
3 environmental, social, and behavioral sciences;

4 (3) one member [IS TO BE] appointed from state departments  
5 with research needs; [AND]

6 (4) one member [IS TO BE] appointed from individuals famil-  
7 iar with the state and representative of the needs and interests of  
8 private industry;

9 (5) the individual who serves as the senior science advisor  
10 to the governor [IN THE GOVERNOR'S OFFICE], who serves as chairman and  
11 director of the commission;

12 (6) one member appointed from the general public; and

13 (7) one member appointed from individuals with experience  
14 in scientific, natural resource, and engineering information manage-  
15 ment and policy.

16 \* Sec. 4. AS 44.19.263 is amended to read:

17 Sec. 44.19.263. DUTIES OF THE COMMISSION. The commission shall

18 (1) [WITH THE SENIOR SCIENCE ADVISOR,] develop and recom-  
19 mend an integrated state research policy;

20 (2) provide policy information to the governor and the  
21 legislature on matters that have scientific, natural resource, and  
22 engineering significance;

23 (3) receive scientific, natural resource, and engineering  
24 information from the academic and industrial communities;

25 (4) act in an advocacy role for scientific, natural re-  
26 source, and engineering issues and science education important to the  
27 state that might otherwise be overlooked;

28 (5) assist state agencies in assessing research needs and  
29 establishing priorities among them;

1 (6) facilitate cooperation between state agencies and the  
2 University of Alaska and other academic institutions and industry;

3 (7) recommend methods to improve logistical planning and  
4 support for needed state research;

5 (8) suggest methods for improving efficient sharing and  
6 dissemination of data and information in the state among interested  
7 public and private institutions;

8 (9) promote science education and training for young scien-  
9 tists and engineers to pursue careers in the state and the Arctic;

10 (10) cooperate with the Federal Arctic Research Commission  
11 and the Interagency Arctic Research Policy Committee in the formula-  
12 tion of [THE] Arctic research and information policy; and

13 (11) not later than September 30 of each year, present to  
14 the governor the commission's recommended research priorities of the  
15 state for the next fiscal year.

16 \* Sec. 5. AS 44.19.263 is amended by adding new subsections to read:

17 (b) The commission may

18 (1) receive money from private and government sources;

19 (2) award contracts and grants to accomplish the purposes  
20 of AS 44.19.251 - 44.19.265.

21 (c) The commission shall conduct an annual policy review of the  
22 programs of agencies of the state and the University of Alaska con-  
23 cerned with the acquisition, management, transfer, circulation, and  
24 dissemination of scientific, natural resource, and engineering infor-  
25 mation, data, or materials and may develop and recommend appropriate  
26 policies for organizations involved with such activities, including

27 (1) changes in the structure of an agency responsible for  
28 information services and management to increase efficiency, coordina-  
29 tion, or cooperation with agencies of the federal, state, and

1 municipal governments, and universities conducting research on Alaskan  
2 or arctic subjects;

3 (2) means to ensure access to information and data in the  
4 fields of natural resources, science, and engineering;

5 (3) appropriate budgetary allocations by organization or  
6 function.

7 \* Sec. 6. AS 44.19 is amended by adding a new section to read:

8 Sec. 44.19.264. DESIGNATION OF INFORMATION COLLECTION REPOSI-  
9 TORIES. (a) A state agency may join the Council on Northern  
10 Resources Information Management and participate in cooperative infor-  
11 mation and data management sharing and dissemination programs.

12 (b) The commission shall use the Council on Northern Resources  
13 Information Management as an advisory group for the development of  
14 state policy on cooperative interagency information management, shar-  
15 ing, and dissemination.

16 (c) The Alaska state library and the Rasmuson Library of the  
17 University of Alaska-Fairbanks may be designated as primary library  
18 information collection repositories and centers for scientific,  
19 natural resource, and engineering knowledge.

20 (d) Each state agency and each organizational unit of the  
21 University of Alaska shall maintain a listing and description with the  
22 commission and with the Council on Northern Resources Information  
23 Management of the natural resource, scientific, and engineering data  
24 bases that the agency or unit has developed and is maintaining. The  
25 listing shall be revised and submitted to the commission and the  
26 council annually. Proprietary data may be protected under law.

27 (e) The Arctic Environmental Information and Data Center of the  
28 University of Alaska-Anchorage shall provide professional information  
29 acquisition activities, investigations and searches, or information

1 consultation liaison and referral services, or information dissemina-  
2 tion services, under appropriate terms and conditions, to the commis-  
3 sion, any agency of the state or unit of the University of Alaska, or  
4 to the public and to private industry in the fields of natural  
5 resource, scientific and engineering research, management and  
6 development knowledge. The center may acquire and maintain current or  
7 historic information collections, data bases or referral systems, or  
8 directories to accomplish these services and prepare, publish, and  
9 disseminate appropriate books, reports, maps, films, and other media  
10 to meet the needs of governments and the public and private sectors.  
11 The center may also share facilities and offer support services to  
12 appropriate governmental agencies or university units whose missions  
13 are enhanced by, and are compatible with, the operation of the center.  
14 The center shall administer the Alaska State Climate Center estab-  
15 lished under AS 14.40.085 in cooperation with the regional office of  
16 the National Weather Service and the National Climatic Data Center  
17 under cooperative agreements authorized by law.

18 *out*  
*AB*  
*253* \* Sec. 7. ~~AS 44.19 is amended by adding a new section to read:~~

19 Sec. 44.19.264. APPROPRIATIONS. Appropriations made for the  
20 purposes of AS 44.19.251 - 44.19.265 are not one-year appropriations  
21 and do not lapse under AS 37.25.010.

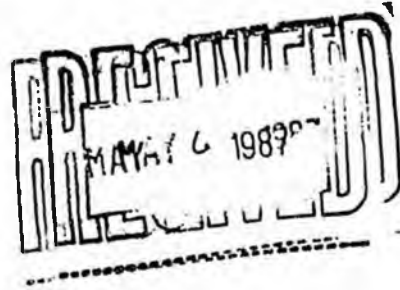
22 \* Sec. 8. AS 44.19.265 is amended to read:

23 Sec. 44.19.265. SHORT TITLE. AS 44.19.251 - 44.19.265 may be  
24 cited as the Alaska Science, Natural Resources, and Engineering  
25 [RESEARCH] Policy Act.

26 \* Sec. 9. Notwithstanding AS 44.19.259, the initial terms of members of  
27 the science and engineering advisory commission appointed under AS 44.19.-  
28 257(a)(6) and (7), enacted by sec. 3 of this Act, are for three years.

29 \* Sec. 10. This Act takes effect immediately under AS 01.10.070(c).

Original sponsors: Josephson, Faiks,  
Uehling, et al.



1 IN THE SENATE

2 CS FOR SENATE BILL NO. 232 (HSS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a state advisory committee on  
7 Alaska-U.S. Arctic information policy; and providing  
8 for an effective date."

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

10 \* Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that

11 (1) a continuing state effort is needed to ensure the efficient  
12 acquisition, storage, retrieval, transfer, and dissemination of current and  
13 research-derived scientific and engineering knowledge concerning the  
14 natural resources, environments, communities, and human conditions present  
15 in the state;

16 (2) there is no formal organization uniting state, federal  
17 municipal, and university information centers, libraries, and data systems;

18 (3) the state has made a considerable investment in the opera-  
19 tion of information and data systems through its funding of resource man-  
20 agement and scientific enterprise, and the preservation of the information  
21 represents an investment that the state should protect by the inclusion of  
22 the information within an accessible system;

23 (4) it is incumbent on each recipient of state funding, whether  
24 an individual grantee or the administrator of a state program, to make  
25 information available for state purposes;

26 (5) the interagency Council on Northern Resources Information  
27 Management has as its objective the efficient management and sharing of  
28 scientific, natural resource, and engineering information and data;

29 (6) plans for the termination or curtailment of information

1 centers, libraries, and data systems in government and at the University of  
2 Alaska threaten seriously the enhancement and growth of the economy of the  
3 state; the efficient interagency management and sharing of scientific,  
4 natural resource, and engineering information; the capacity of state gov-  
5 ernment to use accumulated information and to make technically correct  
6 decisions involving science, natural resources, and engineering; and the  
7 ability of the public to secure necessary information; and

8 (7) the collective knowledge and information available in li-  
9 braries and information centers in the state represent wealth to the state  
10 and profoundly affect the well-being of the state and its residents.

11 (b) The legislature intends that

12 (1) information resources be efficiently and cost-effectively  
13 managed through appropriate technological systems that unify, combine, or  
14 interconnect the diverse scientific, natural resource, and engineering  
15 information systems and libraries of the state;

16 (2) policies and processes for cooperative management, transfer,  
17 and dissemination of information be developed between federal, state,  
18 municipal, and university systems and libraries;

19 (3) an information network to provide information services to  
20 state, federal, municipal, and university research organizations and the  
21 public and private sectors of the state be promoted and supported;

22 (4) appropriate roles within the information network established  
23 in this Act be designated for state agencies and the University of Alaska.

24 \* Sec. 2. AS 44.19 is amended by adding new sections to read:

25 ARTICLE 14B. STATE ADVISORY COMMITTEE ON ALASKA -

26 U.S. ARCTIC INFORMATION POLICY.

27 Sec. 44.19.270. STATEMENT OF POLICY. It is the policy of the  
28 state in AS 44.19.270 - 44.19.290 to recognize the important role that  
29 science, natural resources, and engineering research and education

1 play for the people of the state and the entire nation. The policy  
2 will make it possible to

3 (1) find, develop, and manage the natural renewable and  
4 nonrenewable resources of the state's land and water economically and  
5 in an environmentally acceptable fashion;

6 (2) manage the unique features of the environment, fauna,  
7 and flora of the state and protect them from harmful man-made and  
8 natural influences;

9 (3) investigate and mitigate the effects of natural hazards  
10 such as earthquakes, volcanic eruptions, avalanches, permafrost, and  
11 other hazards that occur in the state;

12 (4) construct, operate, and maintain transportation sys-  
13 tems, communications, housing, and other facilities suited to the  
14 state's conditions;

15 (5) develop new technologies adapted to the unique con-  
16 ditions and needs of the state;

17 (6) improve the health and well being through the life  
18 cycle of the state's inhabitants; and

19 (7) identify and address future social and economic chal-  
20 lenges facing the state.

21 Sec. 44.19.275. ESTABLISHMENT OF THE ALASKA-U.S. ARCTIC INFORMA-  
22 TION POLICY COMMITTEE. (a) The state advisory committee on Alaska-  
23 U.S. Arctic information policy is established in the Office of the  
24 Governor.

25 (b) The committee is composed of seven members.

26 (c) Five members shall be appointed by the governor as follows:

27 (1) one member shall be appointed from the faculty of the  
28 University of Alaska;

29 (2) three members shall be appointed from the state

1 membership of the Council on Northern Resources Information  
2 Management;

3 (3) one member shall be appointed from the general public.

4 (d) The senior science advisor to the governor and the director  
5 of libraries are members of the committee ex officio.

6 (e) The governor shall designate a presiding officer for the  
7 committee.

8 (f) Members of the committee serve terms established under  
9 AS 39.05.060.

10 Sec. 44.19.280. POWERS AND DUTIES OF THE COMMITTEE. (a) The  
11 committee may

12 (1) receive money from private and government sources; and

13 (2) award contracts and grants to accomplish the purposes  
14 of AS 44.19.270 - 44.19.290.

15 (b) The committee shall conduct an annual policy review of the  
16 programs of agencies of the state and the University of Alaska con-  
17 cerned with the acquisition, management, transfer, circulation, and  
18 dissemination of scientific, natural resource, and engineering infor-  
19 mation, data, or materials and may develop and recommend appropriate  
20 policies for organizations involved with such activities, including

21 (1) changes in the structure of an agency responsible for  
22 information services and management to increase efficiency, coordina-  
23 tion, or cooperation with agencies of the federal, state, and municipi-  
24 pal governments, and universities conducting research on Alaska or  
25 arctic subjects;

26 (2) means to ensure access to information and data in the  
27 fields of natural resources, science, and engineering;

28 (3) appropriate budgetary allocations by organization or  
29 function.

1           Sec. 44.19.285. DESIGNATION OF MANAGEMENT ROLES IN COOPERATIVE  
2 INFORMATION AND DATA MANAGEMENT FOR AN ALASKA-U.S. ARCTIC INFORMATION  
3 NETWORK. (a) A state agency may join the Council on Northern Re-  
4 sources Information Management and participate in cooperative infor-  
5 mation and data management sharing and dissemination programs.

6           (b) The committee shall use the Council on Northern Resources  
7 Information Management as an advisory group for the development of  
8 state policy on cooperative interagency information management, shar-  
9 ing, and dissemination.

10          (c) The Alaska State Library and the Rasmuson Library of the  
11 University of Alaska-Fairbanks may be designated as primary library  
12 information collection repositories and centers for scientific,  
13 natural resource, and engineering knowledge.

14          (d) Each state agency and each organizational unit of the  
15 University of Alaska shall maintain a listing and description with the  
16 commission and with the Council on Northern Resources Information  
17 Management of the natural resource, scientific, and engineering data  
18 bases that the agency or unit has developed and is maintaining. The  
19 listing shall be revised and submitted to the committee and the coun-  
20 cil annually. Proprietary data may be protected under law.

21          (e) The Arctic Environmental Information and Data Center of the  
22 University of Alaska-Anchorage shall provide professional information  
23 acquisition activities, investigations and searches, information  
24 consultation liaison and referral services, and information dissemina-  
25 tion services, under appropriate terms and conditions, to the commit-  
26 tee, any agency of the state or unit of the University of Alaska, or  
27 to the public and to private industry in the fields of natural re-  
28 source, scientific and engineering research, management and develop-  
29 ment knowledge. The center may acquire and maintain current or

1 historic information collections, data bases or referral systems, or  
2 directories to accomplish these services and prepare, publish, and  
3 disseminate appropriate books, reports, maps, films, and other media  
4 to meet the needs of governments and the public and private sectors.  
5 The center may also share facilities and offer support services to  
6 appropriate governmental agencies or university units whose missions  
7 are enhanced by, and are compatible with, the operation of the center.  
8 The center shall administer the Alaska State Climate Center estab-  
9 lished under AS 14.40.085 in cooperation with the regional office of  
10 the National Weather Service and the National Climatic Data Center  
11 under cooperative agreements authorized by law.

12 Sec. 44.19.290. APPROPRIATIONS. Appropriations made for the  
13 purposes of AS 44.19.270 - 44.19.290 are not one-year appropriations  
14 and do not lapse under AS 37.25.010.

15 \* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).  
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APR 23 1987

37 Glacier. #3  
Fairbanks, Ak 99701

April 21, 1987

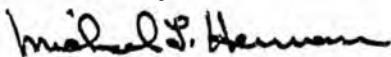
Honorable Paul A. Fischer  
P.O. Box V  
Juneau, Alaska 99811

Dear Senator Fischer,

After having reviewed Senate Bill No. 232, "An Act relating to a science, natural resource, and engineering policy...", with several of my colleagues in the Alaska Library Association, I feel that the bill presents a number of potential jurisdictional and governance problems that should be addressed by the entire community of custodians and deliverers of information before it is adopted. Additionally, I feel that the bill implies a funding commitment on the part of the state that may be difficult to justify and difficult to sustain, particularly when a number of existing information-related programs have been severely curtailed.

I urge you and members of the Senate HESS committee to proceed cautiously with this bill and, in particular, to solicit testimony about its potential impact from the Alaska State Library, from librarians and information deliverers associated with the University of Alaska, and from other information custodians throughout the state.

Sincerely,



Michael L. Herman  
Alaska Library Association  
Governmental Relations Committee

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

**REQUEST:** \_\_\_\_\_

Bill Version: SB 232  
Publish Date: 4/2/87

Revision Date: \_\_\_\_\_ Agency Affected: Office of the Governor  
Title: An Act relating to a science, BRU: Division of Policy  
natural resource and engineering policy...  
Sponsor: Josephson, Faiks, Uehling, .. Components: \_\_\_\_\_  
Requestor: Josephson

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

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		\$225.5				
TRAVEL		20.0				
CONTRACTUAL		40.0				
SUPPLIES		5.0				
EQUIPMENT		25.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>\$315.5</b>				
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING: (Thousands of Dollars)**

GENERAL FUND		\$315.5				
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		<b>\$315.5</b>				

**POSITIONS:**

FULL-TIME		5				
PART-TIME						
TEMPORARY						

**ANALYSIS : (Attach a separate page if necessary)**

Additional professional and administrative staff will be required to perform the expanded duties of the Commission. Contractual, equipment and supplies funding are for publication and meeting-related costs, equipment and furniture for staff. Travel is for seven-member Commission, assumes three three-day meetings/year.

Prepared by: Michael A. Nizich Phone: 465-3616  
Division: Director, Division of Admin. Services Date: 5/4/87

Approved by Commissioner: Carol P. Kurland Date: May 4, 1987  
Agency: Office of the Governor

**Distribution (by preparer):**

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

STATEMENT OF BARBARA SOKOLOV  
IN CONSIDERATION OF SB 232  
BEFORE THE

ALASKA SENATE COMMITTEE ON HEALTH, EDUCATION, AND SOCIAL SERVICES  
APRIL 29, 1987

Chairman Fischer, members of the Committee:

My name is Barbara Sokolov. I am the supervisor of the Information Services Division of the Arctic Environmental Information and Data Center (AEIDC).

With the enactment of the federal Arctic Research & Policy Act of 1984, Washington discovered the Arctic. This federal Act closely links research and the management of data and information. The presidentially appointed Arctic Research Commission and the Governor of Alaska together identified three areas of priority for federal-state cooperation, and the first of these priorities was the management of arctic data and information. The health of arctic peoples and the arctic fisheries resources were the other two priority areas for cooperative efforts.

I have just completed a year long effort, funded by the National Science Foundation, to develop a design plan for a national arctic information network. The objective of the arctic information network is to enable a user to ascertain if information or data on a particular aspect of the arctic exists, and if so how and where to obtain it. Obviously, the State of Alaska has a major stake in a national arctic information network. This bill, with the amendments we offer, or in its original form, designates an official Alaskan representation to serve as a partner in the establishment and governance of a national arctic information network.

The lynchpin of this network is the linking of collectors of arctic information more directly with the users of information: the decision-makers, developers, special interest groups and the general public. AEIDC has provided this key referral service to Alaskans for the past 15 years. This bill brings together, at a policy level, the researchers or collectors of information and the managers of that information and data. It also provides a statutory basis for AEIDC to continue its work in helping to identify, collect and disseminate technical information and data.

Those outside Alaska who are involved with these federal arctic research interests and planning, are unable to understand the current course of action in our State. With the proposed elimination of both the Health Sciences Library and AEIDC, Alaska seems to be moving in the opposite direction of the areas of federal concern in the Arctic. Senate Bill 232 corrects this impression by establishing a basis for Alaska's part in a national arctic information network. We should seize this opportunity to provide leadership and to coordinate with federal efforts for the development of such a network that can so greatly benefit Alaska.

Decisions concerning the Arctic and the management of arctic information are going to be made in Washington in the coming months. If Alaska does not act positively, these decisions of such vital concern to us will be made without our participation and with scant attention to our interests.

STATEMENT OF  
DAVID M. HICKOK  
BEFORE  
THE ALASKA STATE SENATE  
COMMITTEE ON HEALTH, EDUCATION, AND SOCIAL SERVICES  
IN CONSIDERATION OF SB232  
APRIL 29, 1987

Chairman Fischer, members of the Committee, my name is David Hickok. I am director of the University of Alaska's Arctic Environmental Information and Data Center, current president of the Alaska Academy of Engineering and Sciences and past chairman of the Alaska Council on Science and Technology. I have been involved with science policy--particularly arctic science policy since 1964 when I began working with Bob Bartlett on his ideas that U.S. arctic policy should equate with U.S. Antarctic interests. For 21 years I carried this dream forward, virtually alone. In 1968 in my capacity with the Federal Field Committee for Development Planning in Alaska (the post 1964 earthquake reconstruction group), I helped place on President Johnson's desk a United State's policy for arctic interests. The president was ill in the later days of his office and did not sign this policy. In 1981 U.S. arctic policy interests were resurrected in a white paper authored by me and four colleagues entitled U.S. Arctic Science Policy.

This paper was the foundation of legislation sponsored by Senators Murkowski, Stevens, and Jackson--which I also helped prepare and which ultimately became law as the U.S. Arctic Research and Policy Act.

During the Hammond administration I helped establish the Alaska Council on Science and Technology. In all of these involvements, I have been driven by three primary objectives:

First, that the national interest in the arctic deserved greater attention.

Second, that the state of Alaska needed to assert its state interests aggressively in order to counterbalance federal dominance.

Third, that engineering and science knowledge needed to be directly applied to the practical matters of natural resource development, better communities, improved transportation, etc.--that science and technology should serve the needs and aspirations of society.

Perhaps this concept came from years of earlier experience as a farmer, researcher, logger, engineer, and builder.

It is, nevertheless, from this background that I speak to you today.

My essential message to you is:

(1) that federal law links U.S. arctic science policy and programs to foundations of policies and programs in knowledge transfer for the societal objectives of both the nation and the state;

(2) that former Governor Sheffield and U.S. Arctic Research Commission Chairman James Zumberge expressed jointly in their letter of January 31, 1986, that their first science policy priority was the formulation of an Alaska/Arctic information network--they requested action to that end;

(3) that the Alaska science policy statute, unlike federal law, is currently silent on this essential linkage of science and information policy and that this omission in the original statute should be corrected; and

(4) that the opportunity exists, here and now, to pass out SB 232 and to demonstrate Alaska's commitment to U.S. arctic policy interests through partnerships between science and information networking.

Senate Bill 232 was crafted to accomplish the following:

- awareness of the importance of natural resource, scientific, and engineering information to the state;
- that this information and knowledge equates with wealth; it is worth money, both domestically and as an exportable commodity;
- that the Alaska Science and Engineering Advisory Commission can and should be strengthened by linkage between science and information policies and more direct concern with the interreaction between natural resource and science and engineering policy matters;
- that the existing informal considerations of the interagency (federal, state, municipal, university, and private) Council on Northern Resources Information Management (CONRIM) could be greatly strengthened by direct state recognition and relationship;
- that the state's relationship to the U.S. Arctic Research Commission and the U.S. Interagency Arctic Research Policy Committee would be strengthened by the CONRIM connection since CONRIM is envisioned within the National Arctic Information Network Plan as the interagency mechanism, supported equally by federal and state policy input, which will execute information transfer programs; and
- that the planning process for the implementation of a national arctic information network will be expedited greatly by the designation of information policy and management roles within state agencies and the university.

With the linkage of science and information policy vested in the Alaska Science and Engineering Advisory Commission, as proposed by SB 232, the stage is set for the execution of the partnership between the state and the federal government for an Alaska/arctic information network. Without action by Alaska, I fear that the federal agencies will proceed unilaterally in their

advocacy of a five-year arctic research plan before the Congress this summer including the establishment and operation of a national arctic information network. This would indeed be a sad and unnecessary happening and would not bode well for Alaska's interests.

So much for background and reasons. My colleague Barbara Sokolov will tell you a bit more about the National Arctic Information Network, and I will go step by step through SB 232 commenting upon specific proposed changes.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

**REQUEST:**

Bill Version: CSSB 232 ( )  
Publish Date: 4/2/87

Revision Date: 5/6/87  
Title: "An Act establishing a state advisory committee on Alaska-U.S. Arctic..."  
Sponsor: Josephson, Uehling, Faiks  
Requestor: Josephson

Agency Affected: Office of the Governor  
BRU: Division of Policy  
Components: \_\_\_\_\_

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

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		0	0	0	0	0

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE</b>						
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**FUNDING: (Thousands of Dollars)**

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

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS : (Attach a separate page if necessary)**

This revision of SB 232 amends AS.19.252-265, The Arctic Research Policy Act, by adding new sections creating a State Advisory Committee on Alaska - U.S. Arctic Information Policy in the Office of the Governor.

(continued on second page)

Prepared by: Michael A. Nizich, Director Phone: 465-3616  
Division: Division of Administrative Services Date: 5/6/87

Approved by Commissioner: Cecil P. Kastelin Date: May 7, 1987  
Agency: Office of the Governor

**Distributions (by preparer):**

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

FISCAL NOTE

CSSB 232 ( )

Office of the Governor

According to this bill, "The Arctic Environmental Information and Data Center of the University of Alaska-Anchorage shall provide professional information acquisition activities, investigations and searches, information consultation liaison and referral services, and information dissemination services, ... may acquire and maintain current or historic information collections, data bases or referral systems or directories to accomplish these services and prepare, publish, and disseminate appropriate books, reports, maps, films, and other media to meet the needs of governments and the public and private sectors."

It is assumed, then, that there would be no staffing requirements made on the Office of the Governor other than the ex officio membership of the Governor's senior science advisor, and that costs associated with the acquisition, maintenance and reporting functions described in this bill would be borne by the Arctic Environmental Information and Data Center of the University of Alaska-Anchorage (AEIDC).

The bill states that the Committee is "established in the Office of the Governor," that members "shall be appointed by the Governor," that the "senior science advisor to the governor" is an ex officio member of the committee, and that the Governor shall designate a presiding officer for the Committee. It also provides that members of the Committee be eligible for travel and per diem, and that the committee may "(1) receive money from private and government sources; and (2) award contracts and grants to accomplish the purposes of AS 44.19.270 - 44.19.290."

Analysis assumes no extraordinary fiscal impact to the Office of the Governor associated with the appointment of the membership or the participation of the senior science advisor. Responsibility for payment of travel and per diem for Committee members is unclear in the legislation; however, since research and administrative functions appear to be housed with the AEIDC, it is assumed that travel and per diem costs associated with the work of the Committee would also be borne by the AEIDC.

S B

2 3 5

5-0918B  
Ford  
4/27/87

*Draft CS (Hess)*

1 IN THE SENATE

BY KERTTULA

2 ~~SENATOR~~ SUBSTITUTE FOR SENATE BILL NO. 235

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the medical malpractice liability  
7 revolving loan fund."

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

9 \* Section 1. AS 21.88.210 is amended by adding new subsections to read:

10 (e) Interest paid on loans under (b) of this section, including  
11 interest paid on notes purchased by the Department of Revenue under  
12 (d) of this section, shall be deposited in the general fund. The  
13 Department of Administration shall separately account for deposits  
14 made by the corporation or the Department of Revenue under this sub-  
15 section. The annual estimated balance in the account may be appro-  
16 priated by the legislature for the purpose of providing grant funds  
17 for the cost of liability insurance for ~~acute care~~ hospitals with a  
18 patient capacity of not more than 40 acute care beds.

19 (f) When an appropriation is made under (e) of this section, the  
20 director shall provide notice of the availability of the grant funds  
21 and an application to each hospital in the state with a patient  
22 capacity of not more than 40 acute care beds. The grant funds shall  
23 be disbursed among those applicants applying within 30 days after  
24 receiving notice of the availability of the grant funds from the  
25 director. Each eligible applicant shall receive a percentage of the  
26 total grant funds available that corresponds to that applicant's  
27 percentage of the total number of acute care beds of all eligible  
28 applicants. An applicant may not receive under this subsection an  
29 amount of money greater than its cost of liability insurance for the

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current year.

**M I C A**

**1985  
Tenth Annual Report**

**Medical Indemnity Corporation of Alaska**

# CORPORATE DIRECTORY

## Board of Governors

David J. Frazier  
Chairman of the Board  
William G. Brock  
First Vice Chairman  
Robert D. Whaley, M.D.  
Second Vice Chairman  
David S. Grauman, M.D.  
Frederick R. Hood, M.D.  
Renee Murray  
Mary A. Pierce  
Jane Sabes  
Kim C. Smith, M.D.

## Board of Governors Committees

**Executive Committee**  
David J. Frazier - Chairman  
William G. Brock - 1st Vice-Chairman  
Robert D. Whaley, M.D.  
2nd Vice-Chairman

**Audit Committee**  
David S. Grauman, M.D. - Chairman  
Kim C. Smith  
Frederick R. Hood, M.D.

**Claim Committee**  
Renee Murray - Chairman  
Frederick R. Hood, M.D.  
Robert D. Whaley, M.D.

**Computer Committee**  
Robert D. Whaley, M.D. - Chairman  
Frederick R. Hood, M.D.  
David S. Grauman, M.D.

**Finance & Investment Committee**  
William G. Brock - Chairman  
Mary Pierce  
Jane Sabes

## Underwriting Committee

Mary Pierce - Chairman  
David S. Grauman, M.D.  
Renee Murray  
Jane Sabes  
Robert D. Whaley, M.D.

## Legislative Committee

Kim C. Smith, M.D. - Chairman  
Robert D. Whaley, M.D.  
William G. Brock

## Risk Management Committee

Frederick R. Hood, M.D., - Chairman

### Advisory Panel:

William Compton, M.D.  
Scott Emery, M.D.  
Hedric Hanson, M.D.  
Kitchener Head, M.D.  
Burton Janis, F.  
Warren Jones, J.D.  
Ron Keller, M.D.  
Lorraine Kottra, M.D.  
Scott Sims, M.D.

## Corporate Office

Alaska U.S.A. Office Building  
4000 Credit Union Drive, Suite 525  
Anchorage, Alaska 99503

## Administration

Peter J. Volpe, Director  
Vice President  
Marsh & McLennan, Incorporated  
720 Olive Way  
Seattle, Washington 98101  
(206) 223-1240

## Local:

Arthur M. Stanford  
Manager/Assistant Director  
4000 Credit Union Drive  
Anchorage, Alaska  
(907) 563-3414

Janet Sloan Johnston, R.N., M.S.N.  
Assistant Director

## Staff

Donnette Olsen Norman  
Office Manager

Joe McKay  
Amy Murphy  
Herriett Larson

## Actuaries

David R. Bickerstaff, F.C.A.S.  
Milliman & Robertson, Incorporated  
251 South Lake Avenue, Suite 400  
Pasadena, California 91101

## Auditors

Ernst & Whinney  
301 W. Northern Lights Blvd., Suite 601  
Anchorage, Alaska 99501  
(907) 279-1411

## Corporate Counsel & Secretary

Roger F. Holmes, Esq.  
BISS & HOLMES  
705 Christensen Drive  
Anchorage, Alaska 99501

## Assistant Corporate Secretary

Patricia Baker  
3120 Bettles Bay Loop  
Anchorage, Alaska 99502

## Data Services

Mark Bolzern  
General Computer Services  
200 W. 34th Avenue, Suite 798  
Anchorage, Alaska 99503  
(907) 563-2707

## Investment Consultants

Donald E. Boyd  
Vice President  
Wells Fargo Investment Advisors  
P.O. Box 44029  
San Francisco, California 94144  
(415) 396-6436

## Reinsurance Intermediary

Kendel Lyman - Vice President  
Marsh & McLennan, Incorporated  
720 Olive Way  
Seattle, Washington 98101  
(206) 223-1240

Cravens & Company, S.I.S.  
800 5th Avenue, #378  
Seattle, Washington 98104

## Reinsurers

Certain underwriters at Lloyds,  
British Companies

## Domestic:

Health Providers Insurance Co.  
211 E. Ontario  
Chicago, Illinois 60611

## Risk Management Consultant

Robert S. Brittain, M.D.  
President  
Medical Liability Consultants Program  
Bldg. 2, Suite 199  
6825 E. Tennessee  
Denver, Colorado 80224  
(303) 321-3884

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# CLAIMS

The graph to the right illustrates the continuing escalation of claims reported by MICA policyholders since the company's incorporation in 1976.

We have added a new column for 1985 entitled, "Suspense Files" as distinguished from reported claims. This new category relates to incidents reported to MICA which have some elements realistically associated with a legitimate claim, but no claim has actually been made to date. Although these potential claims are thoroughly investigated to provide the best possible defense to our insureds, they continue to be termed "suspense" files until the patient or the patient's attorney actually makes a demand for compensation. An exception to this rule is to open a claims file when the medical misadventure resulted in serious consequences and in our judgement, will most likely result in a demand for compensation at some future date.

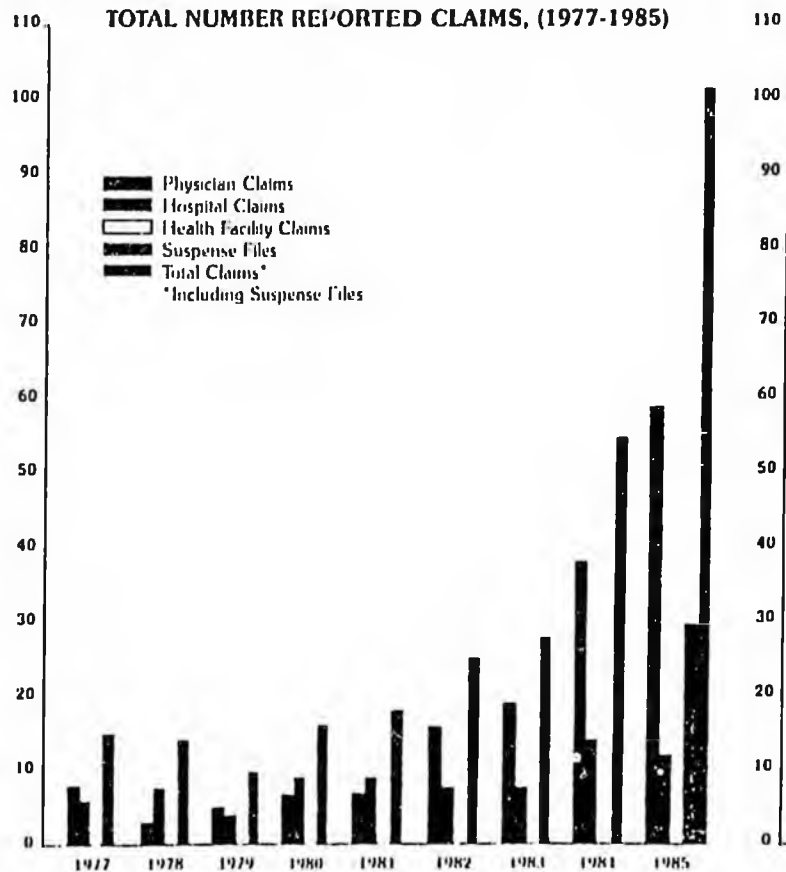
MICA remains the only medical malpractice insurance carrier in Alaska with a local, "in-house" Claims Department. Our Claims Department is staffed by a registered nurse who conducts all initial investigations of potential claims. She is supported and assisted by MICA's manager who has a background of over 30 years of casualty claims experience. She also draws upon the medical expertise of the physicians on the MICA Board of Governors and Risk Management Committee.

The first steps taken by MICA's Claims Administrator on a newly reported claim are to conduct an in-

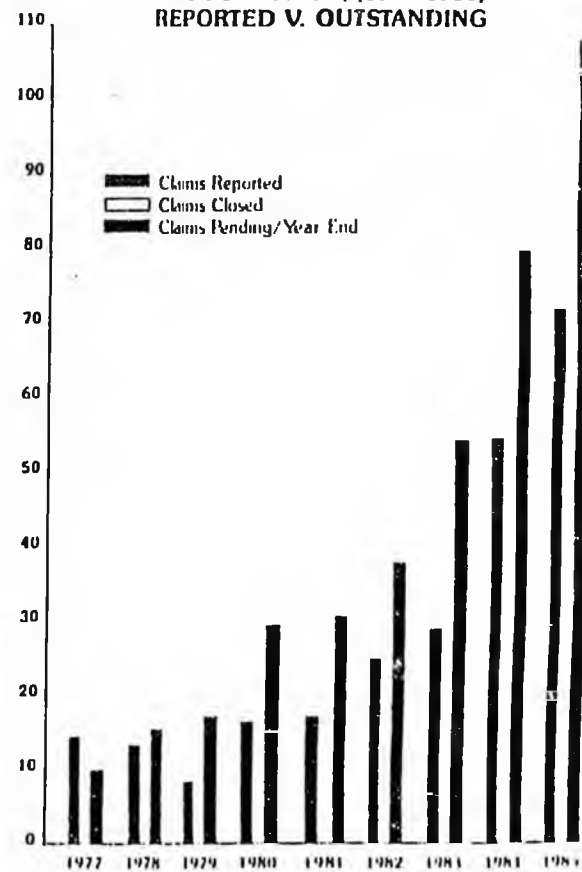
depth review of the factual situation with the policyholder, and to consolidate all of the available medical records on the case. This initial information and documentation is provided to one or more physicians of the same medical specialty as our insured, for an opinion on whether the facts indicate the standard of care was met under the circumstances. This initial investigation and post-review opinion provides a swift and solid foundation upon which the defense of the case can be built. Conversely, it can also provide the basis for prompt settlement if the facts prove the claim to be meritorious.

MICA's unique ability to respond to the urgent needs of our policyholders when a real or potential claim arises, cannot be overemphasized. Our claims staff knows Alaska, they know our physicians, they know our entire health care provider community, and most importantly, MICA is recognized as the dominant writer of medical malpractice insurance in Alaska that will vigorously resist the demands of its adversaries all the way to the jury, if necessary, on frivolous and non-meritorious claims.

TOTAL NUMBER REPORTED CLAIMS, (1977-1985)



CASE SUMMARY, (1977-1985) REPORTED V. OUTSTANDING



# RISK MANAGEMENT

**R**isk Management at MICA had its real beginning in December 1983 with the hiring of Janet Johnston, R.N., M.S.N., as the MICA staff person charged with the responsibilities of investigation/resolution of claims along with the institution of a Risk Management program. Ms. Johnston's experience in clinical nursing and as a nursing administrator and consultant, was further augmented by MICA's exclusive Alaska contract with Dr. Robert Brittain of Denver, Colorado, a nationally recognized pioneer and leader in the field of medical malpractice Risk Management. In 1984, MICA's Risk Management Committee was formed, bringing together seven physicians from the Alaskan medical community, each recognized as a leader in his or her field of medical practice. Three other physicians have since joined the Committee, and several others have been asked to serve from time to time to meet special needs and to provide special expertise to the Committee and the Risk Management program.

The initial thrust of the Risk Management Committee was to begin educating itself by reviewing past as well as new claims in an attempt to delineate those risk management factors which were involved. In addition, the members of the Risk Management Committee were able to meet with and to review their efforts with Dr. Brittain.

Risk Management is primarily an educational venture, one of identifying those factors which are instrumental in either provoking or preventing claims and, once identified, of educating physicians as to those factors and as to the means of either countering them or

using them to provide a viable defense. To this end, the Risk Management Committee has been involved in the following:

1. Seminars, utilizing both medical and legal personnel: in one instance to speak to relevant Risk Management issues as viewed from both the plaintiff's and defendant's side of the issue and in another, to discuss the proper management of the litigation process itself from the physician's standpoint.

2. Individual presentations to the medical and nursing staffs of our insured hospitals, using the services of Ms. Johnston and one or more members of the Risk Management

Committee.

3. Circulation of a growing library of videotapes of the seminars and of tapes made for MICA by Dr. Brittain on specific topics of Risk Management importance.

4. MICA Risk Management Bulletins featuring articles on Risk Management written by Ms. Johnston and members of the Risk Management Committee or reprinted from other Risk Management periodicals published by the insurance industry.

Unfortunately, the principle of "tell 'em, tell 'em again, then tell 'em what you told 'em," though valid in concept,

is just not enough!

Recently, the MICA Board of Governors' Chairman wondered aloud as to whether the Risk Management program was reaching the point of diminishing returns. While it is premature to attempt to judge the effects of a risk management program (barely 21 months old), claims continue to occur, often as the direct result of the failure to observe basic risk management principles, while other claims prove indefensible in the face of good medicine for the very same reasons.

While no claim is the sole result of a single factor, it is estimated that in excess of 40% of the claims presently





# UNDERWRITING

Determining adequate premium levels as well as establishing and maintaining criteria for insurability are the key functions of the Underwriting Department and they form the financial foundation upon which a fiscally sound insurance company is built.

Each year MICA carefully analyzes the balance between its income derived from earned premiums (and secondarily from investment return) as opposed to both actual and anticipated expenditures. These include: claims settlements, reinsurance costs, plus normal operating expenses in addition to incurred liabilities in reserving the estimated costs of pending claims.

In 1985, MICA's expenditures exceeded income from all sources, and policyholder surplus was utilized to offset this deficiency. The other alternative would have been to implement mid-term premium increases which the MICA Board of Governors rejected in favor of subsidizing MICA's policyholders' rates through the use of surplus.

At the close of 1985 it was apparent that premium increases were required to correct the imbalance of expenditures and incurred liabilities exceeding income. Additionally, a sufficient amount of income would have to be generated in the future to replenish policyholder surplus which acts as a financial cushion to absorb unexpected and catastrophic claims experience or other unanticipated expenses.

MICA's rate levels are not arbitrar-

ily created by the company. The fact is, that domestic insurance carriers, such as MICA, are one of the most highly regulated industries in the United States.

All rate increases must first be supported by actuarially sound documentation and then reviewed by the MICA Board of governors. The rates are then filed with the Alaska Division of Insurance for approval by the Director who can reject the filing if he determines that the rates are excessive or inadequate. Thus, rate increases must be fully supported by a need and thoroughly evaluated by the MICA staff and the MICA Board of Governors, as well as approved by the state regulatory agency before they are implemented.

MICA's underwriting guidelines were created to provide an equitable and uniform basis upon which to determine insurability. Careful underwriting is the method utilized to control the cost of insurance for the majority of our policyholders who present a normal exposure to loss. Conversely, prudent underwriting would mandate rejecting an application by a particular physician who most likely would cause other policyholders to support, to an unfair degree, that physician's claims costs.

Ultimately, the beneficiary of prudent underwriting is the physician who is professionally qualified, without a history of medical misadventures. Proper underwriting often involves very painful decisions which are taken very seriously by the MICA staff and your Board of Governors. However,

without underwriting criteria, the financial integrity of the corporation would clearly be impaired which patently would not serve the best long term interests of the corporation or our policyholders.

# INVESTMENTS

Despite declining interest rates and a larger portion of its portfolio in short-term investments, MICA's net investment income reached \$1,158,000 in 1985, exceeding the 1984 figure by more than \$59,000. This increased income was attributable entirely to a 10% increase in earning assets. Additionally, with the decline in market interest rates, MICA's portfolio of notes and bonds increased in market value. At year's end, that market value exceeded by more than \$500,000 the value shown on the company's books.

MICA is entering 1986 in a very liquid position. This reflects recognition by its board of governors of the uncertainties facing the liability insurance business in the present environment, including the cost and terms of reinsurance. Nonetheless, our basic investment policy continues to emphasize high asset quality and stable returns. In 1986, as in the past, MICA's investment income will be an important and dependable supplement to its income from policyholder premiums.

## ASSET COMPOSITION

	<u>Cost</u>	<u>% of Assets</u>	<u>Yield On Cost</u>
Cash Equivalents .....	\$1,123,816	11.4%	7.63%
U.S. Treasury Notes .....	4,919,412	50.1	11.34
Federal Agency Obligations .....	1,113,563	11.3	10.77
Corporate Obligations & Canadian Yankee Issues .....	<u>2,670,618</u>	<u>27.2</u>	<u>11.52</u>
Total Assets .....	\$9,827,409	100.0%	10.90%

## MATURITY

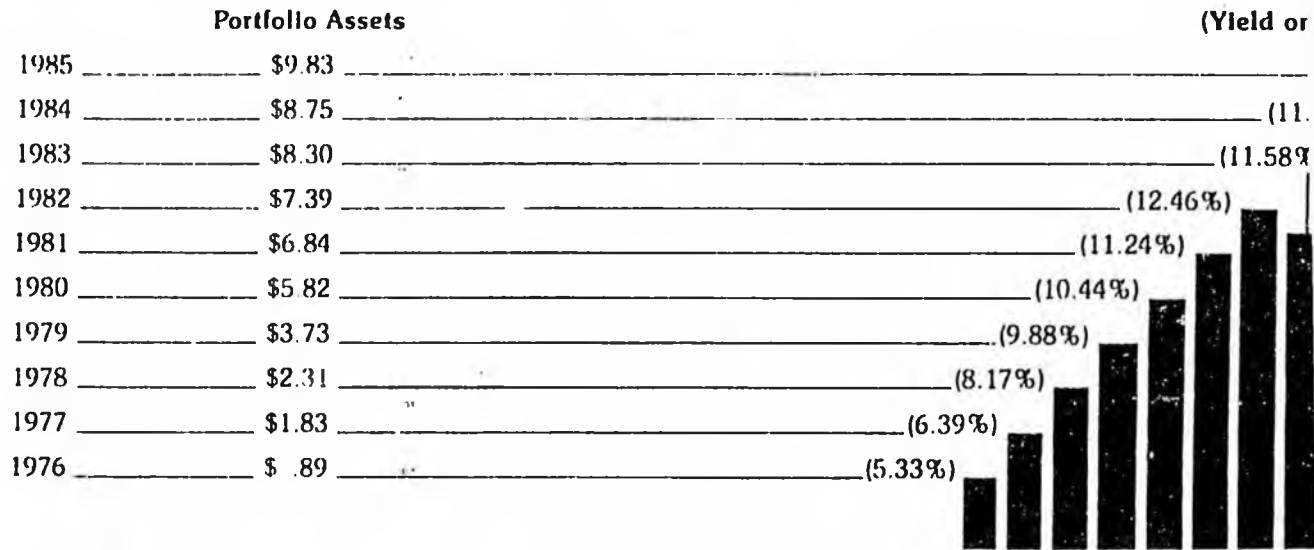
	<u>Cost</u>	<u>% of Assets</u>	<u>Yield On Cost</u>
Immediate Liquidity .....	\$1,123,816	11.4%	7.63%
1986 .....	735,510	7.5	10.93
1987 .....	1,049,203	10.7	9.09
1988 .....	740,344	7.5	11.37
1989 .....	694,472	7.1	10.63
1990 .....	698,828	7.1	12.07
1991 .....	725,203	7.4	13.49
1992 .....	755,375	7.7	11.43
1993 .....	980,398	10.0	11.82
1994 .....	927,344	9.4	12.76
1995 .....	<u>960,969</u>	<u>9.8</u>	<u>10.60</u>
Subtotal .....	\$9,391,462	95.6%	10.90%
	<u>435,947*</u>	<u>4.4</u>	<u>10.75</u>
Total Assets .....	\$9,827,409	100.0%	10.90%

\* Segregated assets held to fund long term liability

# INVESTMENTS

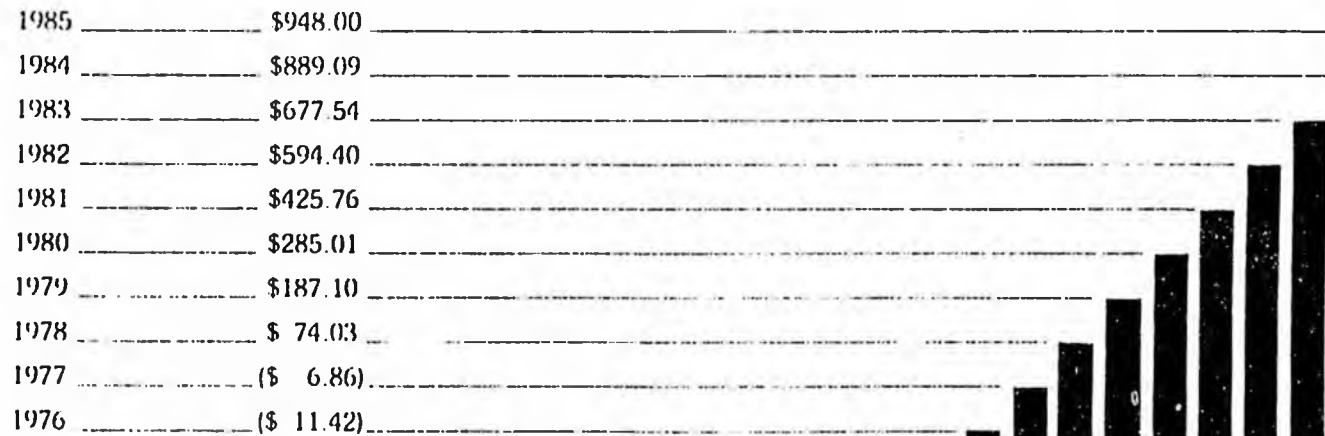
## Investment Yield (Portfolio Assets)

\$ Figures for funds invested represented in millions



## Net Investment Gain – (Investment income less interest expense for State of Alaska loan)

\$ Figures for net investment gain represented in thousands



# FINANCIAL STATEMENTS

Medical Indemnity Corporation of Alaska

Ernst & Whinney

Board of Governors  
Medical Indemnity Corporation of Alaska  
Anchorage, Alaska

We have examined the balance sheets of Medical Indemnity Corporation of Alaska (MICA) as of December 31, 1985 and 1984, and the related statements of operations and changes in policyholders' surplus (deficit) and changes in financial position for the years then ended. Our examinations were made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

As more fully described in Note B to the financial statements, the reserve for unpaid losses and loss adjustment expenses was determined based upon an estimate of the ultimate settlement costs of all losses and loss adjustment expenses. Management believes that the reserve for unpaid losses and loss adjustment expenses is adequate. However, no assurance can be given that the ultimate settlements will not be significantly greater or less than such estimated amounts included in the Corporation's financial statements.

In our opinion, subject to the effects on the financial statements of such adjustments, if any, as might have been required had the outcome of the uncertainty referred to in the preceding paragraph been known, the financial statements referred to above present fairly the financial position of Medical Indemnity Corporation of Alaska at December 31, 1985 and 1984, and the results of its operations and the changes in its financial position for the years then ended, in conformity with generally accepted accounting principles applied on a consistent basis.

*Ernst & Whinney*

Anchorage, Alaska  
February 28, 1986

# FINANCIAL STATEMENTS

## Medical Indemnity Corporation of Alaska

### BALANCE SHEETS

December 31

1985 1984

#### ASSETS

##### Investments—Note C:

U.S. government notes and bonds—designated for retirement of note payable	\$ 606,354	\$ 546,356
U.S. government notes and bonds—undesignated	5,658,313	5,228,156
Canadian government bonds	247,422	246,875
Corporate notes	2,458,178	2,820,288
Short-term demand notes and money market investments	1,113,191	133,699
	<u>10,083,458</u>	<u>8,975,374</u>

Cash	108,953	131,427
Premiums receivable, less allowance for doubtful accounts of \$2,000 in 1985 and 1984	21,298	37,769
Accrued interest receivable	229,036	233,126
Note receivable	22,884	23,184
Account receivable—U.S. government		200,000
Computer equipment, less accumulated depreciation of \$7,418 in 1985 and \$3,548 in 1984	11,933	15,803
	<u>\$10,477,562</u>	<u>\$9,616,683</u>

#### LIABILITIES AND POLICYHOLDERS' SURPLUS

##### LIABILITIES

Unpaid losses and loss adjustment expenses	\$ 6,543,938	\$3,674,773
Deferred premiums—MCM policies		284,000
Deferred premiums—MCM policies—to be refunded	694,416	
Accounts payable and accrued expenses	143,262	150,037
Premiums received in advance	139,075	71,174
Liability to reinsurers	62,000	401,162
	<u>7,582,691</u>	<u>4,581,146</u>

NOTE PAYABLE TO STATE OF ALASKA	3,000,00	3,000,000
POLICYHOLDERS' SURPLUS (DEFICIT)	(105,129)	2,035,537
	<u>\$10,477,562</u>	<u>\$9,616,683</u>

## STATEMENTS OF OPERATIONS AND CHANGES IN POLICYHOLDERS' SURPLUS

	Year Ended December 31	
	1985	1984
Revenue:		
Premiums earned:		
Physicians .....	\$2,510,344	\$1,869,421
Hospitals .....	679,858	714,567
Related health care .....	141,219	109,067
	3,331,421	2,693,055
Deduct (add):		
Reinsurance ceded .....	897,183	1,119,692
Change in deferred premiums .....	410,416	(82,000)
	2,023,822	1,655,363
Interest earned, less investment expenses of \$53,794 in 1985 and \$50,458 in 1984 .....	1,158,190	1,099,093
TOTAL REVENUE	3,182,012	2,754,456
Losses and expenses:		
Losses and loss adjustment expenses .....	4,587,236	2,232,720
Other underwriting expenses—Note F .....	525,442	411,811
Interest expense on note payable to State of Alaska—Note E .....	210,000	210,000
TOTAL LOSSES AND EXPENSES	5,322,678	2,854,531
NET LOSS	(2,140,666)	(100,075)
Policyholders' surplus at beginning of year .....	2,035,537	2,135,612
POLICYHOLDERS' SURPLUS (DEFICIT) AT END OF YEAR	\$ (105,129)	\$2,035,537

See notes to financial statements.

# FINANCIAL STATEMENTS

Medical Liability Corporation of Alaska

## STATEMENTS OF CHANGES

	Year Ended December 31	
	1985	1984
<b>FUNDS PROVIDED</b>		
From operations:		
Net loss .....	\$(2,140,666)	\$ (100,075)
Add (deduct) items not affecting cash:		
Increase in liabilities .....	3,001,545	834,933
Decrease (increase) in premiums receivable .....	16,471	(19,807)
Decrease (increase) in accrued interest receivable .....	4,090	(34,282)
Decrease (increase) in notes and accounts receivable .....	200,300	(167,618)
Purchase of computer .....		(19,351)
Amortization of bond discount .....	(109,857)	(88,075)
Depreciation of computer equipment .....	3,870	3,548
	<b>FUNDS PROVIDED FROM OPERATIONS</b>	<b>409,273</b>
Maturity of investments .....	2,000,000	1,065,000
	<b>TOTAL FUNDS PROVIDED</b>	<b>1,474,273</b>
<b>FUNDS USED</b>		
Purchase of investments .....	3,018,735	1,508,972
	<b>DECREASE IN CASH</b>	<b>(34,699)</b>
Cash and money market investments at beginning of year .....	265,126	299,825
	<b>CASH AND MONEY MARKET</b>	
	<b>INVESTMENTS AT END OF YEAR</b>	<b>\$ 265,126</b>
	<b>\$ 222,144</b>	

See notes to financial statements

# NOTES TO FINANCIAL STATEMENTS

## MEDICAL INDEMNITY CORPORATION OF ALASKA

December 31, 1985

### NOTE A—ORGANIZATION AND OPERATIONS

Medical Indemnity Corporation of Alaska (MICA) is an insurance company created by the Alaska legislature to provide professional liability insurance to Alaskan physicians and surgeons, hospitals, and related health care organizations. MICA commenced business on June 28, 1976.

The daily operations of MICA are managed by an independent consulting firm, which is compensated on the basis of actual costs plus a management fee.

Prior to January 1, 1979, MICA issued "occurrence" basis policies which provide coverage for the policyholder for claims incurred during the policy year regardless of when the claims are reported to MICA. Since January 1, 1979, MICA has issued only "claims-made" policies which provide coverage for the policyholder for claims reported during the policy year to MICA, regardless of when the claims were incurred. Until December 31, 1985, MICA also issued a "modified claims-made" policy ("MCM") which provides coverage for the policyholder for claims reported during the first twelve months subsequent to the policy expiration date and also for claims reported during the policy year.

MICA also offers policyholders who terminate their policy the option of purchasing a "tail" (occurrence) policy which will indemnify the policyholder against future claims that occurred while a MICA policyholder.

MICA was capitalized with a note payable to the State of Alaska.

### NOTE B—SIGNIFICANT ACCOUNTING POLICIES

**Basis of Presentation:** The accompanying financial statements have been prepared in conformity with generally accepted accounting principles which are not significantly different from accounting practices required for statutory purposes. Anticipated investment income is considered in determining if premium deficiencies exist.

**Premiums:** Premiums are earned ratably over the policy period to which they apply. Policies are written on a calendar year basis.

**Deferred Premiums (to be refunded):** Deferred premiums to be refunded are the result of discontinuing the sale of MCM policies. MICA will refund a premium to MCM policyholders at December 31, 1985 based upon the number of years the policy holder has been with MICA.

**Underwriting Expenses:** Underwriting costs are expensed when incurred. Due to the nature of MICA's operations, commissions and premium taxes are not significant.

**Losses and Loss Adjustment Expenses:** The liability for unpaid losses and loss adjustment expenses represents an estimate of the ultimate net cost of all such amounts unpaid at the balance sheet dates. The liability has been determined using case basis evaluations and statistical analyses and projections. The statistical analyses and projections have been determined by independent consulting actuaries using MICA's own historical loss data, giving effect to estimates of trends in claim frequency and severity, and are inherent in MICA's premium structure. These estimated liabilities are continually reviewed and, as adjustments become necessary, such adjustments are reflected in current operations. Although MICA believes the estimate for the liability is reasonable under the circumstances, MICA's actual incurred losses and loss adjustment expenses may vary from the amounts included in the financial statements.

**Depreciation:** Computer equipment is recorded at cost and depreciated over the estimated useful life of the assets using the straight-line method.

### NOTE C—INVESTMENTS

Investments in government and corporate notes and bonds are carried at amortized cost. The market values of these investments were as follows:

	December 31	
	1985	1984
U.S. government notes and bonds	\$6,620,891	\$5,740,791
Canadian government bonds	290,625	260,938
Corporate notes	2,598,776	2,908,001

Short term investments are carried at cost which approximates market value.

Notes with an amortized cost of approximately \$100,000 were pledged to the Alaska Insurance Department to meet statutory requirements.

The Board of Governors has designated US government notes and bonds with an amortized cost of \$606,354 in 1985 and \$546,356 in 1984 for retirement of the note payable to the State of Alaska.

Realized gains and losses, which are not material to the financial statements, are determined on the basis of specific identification and are included in interest income for presentation purposes.

### NOTE D—REINSURANCE

Loss and loss adjustment expenses incurred during 1985 for claims in excess of \$250,000 up to \$2,000,000 per occurrence are 83.5% recoverable under excess of loss reinsurance contracts. MICA remains liable for the 16.5% of excess loss not covered by reinsurance. Additionally, MICA has a deductible of \$831,000 for excess losses under their reinsurance agreements for 1985 claims.

Loss and loss adjustment expenses incurred during 1984 and prior years in excess of \$200,000 up to \$5,000,000 per occurrence are 100% covered by reinsurance agreements.

MICA would remain liable to the extent reinsurance companies are unable to meet their obligations.

Amounts which have been deducted from liability, income, and expense accounts in connection with all ceded reinsurance placed with other companies are as follows:

	1985	1984
Estimated losses and loss adjustment expense to be recovered from reinsurer	\$3,090,000	\$1,775,000
Reinsurance premiums incurred	897,183	1,119,692
Losses paid by reinsurer	1,023,149	546,994
Loss adjustment expenses paid by reinsurer	34,663	6,241

### NOTE E—NOTE PAYABLE TO THE STATE OF ALASKA

The Act which created MICA provided for its capitalization through a loan of \$3,000,000 to the Medical Malpractice Revolving Loan Fund of the State of Alaska. This loan, which may not exceed \$6,000,000, is subordinated to all other obligations of MICA. The remaining \$3,000,000 available under this provision from the State is drawn on if operations demand.

Repayment of the loan is to be made in installments based upon underwriting earnings computed as specified in the Act. No repayment was due December 31, 1985 or 1984. Interest at 7% is payable quarterly.

The remaining \$3,000,000 of the available loan from the Medical Malpractice Revolving Loan Fund requires repayment within five years from the time MICA receives the additional funds. Interest on additional funds is payable at six percent.

### NOTE F—MANAGEMENT AGREEMENT

MICA's daily operations are managed by Marsh McLennan, Inc. on the basis of cost reimbursement plus a management fee.

### NOTE G—INCOME TAXES

MICA has received a ruling from the State of Alaska and a professional opinion that as a not-for-profit corporation created by the State of Alaska it is exempt from income taxes.

### NOTE H—COMMITMENTS

MICA leases office space with an annual rental expense of approximately \$27,000 through December 31, 1985. Rental expense was \$27,000 in 1985 and 1984. MICA has renewed its present lease through December 1986.

# 1985 Medical Malpractice Update

By: Roger F. Holmes, Esq.

1984 was the worst year in the history of the property/casualty insurance industry. In the wake of the 1984 experience, 1985 resulted in the most violent market constriction in the history of the insurance industry. In 1985 underwriting losses continued to mount. 16% of the United States insurance industry is targeted for observation of financial problems and possible insolvencies under an industrywide early warning system.

Between 1975 and 1985 the medical malpractice field as a whole failed to turn an underwriting profit in every year except 1977. Medical malpractice premiums nationwide in 1985 rose an average of 32%. In New York, premiums for all physicians rose an average of 52%. The predictions are for similar rate increases in 1986. Lloyds of London, a substantial medical malpractice underwriter, has threatened to pull out of the United States market completely.

The New Mexico medical malpractice insurance captive which was providing insurance for Wyoming physicians pulled completely out of the State of Wyoming. In Illinois, the average jury verdict against health care providers doubled and the percentage of defense verdicts in medical malpractice cases dropped below 70% for the first time ever to 57.6%. The average jury verdict in medical malpractice cases ten years ago was \$166,000. That average has now reached \$955,000. At least 16% of all physicians nationwide are being sued each year. Of 75 perinatology programs in the United States, 45 now have vacancies. Many attribute this largely to the malpractice climate.

In the face of these dismal statistics, the push for tort reform in the '80s has

become very strong. Physicians in many states have engaged in slowdowns or otherwise refused to perform surgery in an effort to dramatize this situation. It has been estimated that if meaningful tort reform takes place in the medical malpractice field, a billion dollars a year can be saved.

In 1985 Illinois adopted a comprehensive medical malpractice tort reform package. Within very few months, a trial judge struck the entire scheme down as unconstitutional. Similarly in Louisiana and Texas portions of medical malpractice reform legislation were struck down as unconstitutional.

Conversely, the United States Supreme Court affirmed without opinion several decisions from the California Supreme Court upholding various medical malpractice reforms. What sets the 1986 tort reform movement apart from earlier movements is that many of the proposals are not limited to the medical malpractice field. This should give those reforms which are passed a much greater chance of standing constitutional scrutiny.

One short term problem with tort reform can be seen from the 1985 Illinois experience. Prior to the adoption of the medical malpractice reform, 9 to 10 medical malpractice cases were filed a day in Chicago. In the three days before the effective date of the statute, over 1,250 medical malpractice claims were filed in the City of Chicago with 725 of those suits alone being filed in the afternoon prior to the effective date of the statute. Lawyers and their staff members were standing 50 deep in six or more lines waiting to file medical malpractice cases that afternoon in order to have those cases filed before the effective date of the

reform legislation and thus be governed by the prior rules.

The focus of medical malpractice suits continues to center on the hospitals. One very good reason for this is that 80% of all medical malpractice claims arise from events occurring inside the hospital. One favorite attempt by plaintiffs is to try and hold the hospital liable under the doctrine of ostensible agency for emergency room doctors, pathologists, radiologists and other medical specialists whose practice is limited solely to the hospital. The courts are also beginning to hold hospitals strictly liable for injuries which result when equipment fails in the hospital setting resulting in injury to a patient.

An Arizona hospital stabilized an emergency room patient and instead of operating, transferred the patient to a public hospital for surgery. The reason for the transfer was because the patient did not satisfy the hospital's financial requirements for admission. The Arizona Supreme Court held that licensed hospitals were required to accept and render emergency care to all patients who presented in need of such care. The court held that the hospital could not transfer the patient until all medically indicated emergency procedures were completed without consideration of the economic consequences.

Hospitals are now taking a close look at the safety of their parking lots. They are being sued by employees, doctors, patients and visitors not only for defective conditions such as potholes, ice and snow, etc., but also for criminal attacks outside of the hospital but on hospital premises.

Several cases litigated in 1985 in-

volved the patient's refusal to accept blood. In Washington, a Jehovah's Witness refused before a D&C to consent to any blood transfusion if the need arose. The patient signed a waiver form. The court found that this waiver form did not protect the hospital or the doctor where the plaintiff bled to death as a result of negligence during the procedure. The court found that the patient had accepted the risk of no blood, but had not accepted the risk of medical negligence. At least one state supreme court found that a competent adult patient can refuse blood even though it is life threatening. However, where the patient is unconscious courts have ordered the transfusion over the objection of the patient's family. Courts have also ordered transfusion of children over the objections of their parents.

One of the most difficult areas facing hospitals in 1985 involved acquired immunodeficiency syndrome otherwise known as AIDS. The problems facing the hospital involved the emergency room, elective admissions, employee relations, whether to require AIDS screening and if so what to do with positive results. Questions have arisen as to whether or not doctors afflicted with AIDS should be allowed to operate and whether employees with AIDS should be allowed to be involved in patient care.

The consensus seems to be that it is negligent for any blood donation center or hospital not to test blood for AIDS contamination. People who are at risk are being asked not to donate. Since the results of AIDS tests in many instances must be reported to governmental agencies, the blood centers and hospitals now need detailed consent forms from the

donors acknowledging they understand that these results will be so reported.

Psychiatrists have been held liable for injuries inflicted by one of their patients on a third person when they knew that person to be at risk. A similar concern has arisen in the AIDS situation. The question has arisen whether or not there is a duty to warn others who might be at risk from the patient's AIDS condition especially where the patient is a sexually active person. For instance, must the spouse be warned.

AIDS concerns have arisen with the sperm banks. Patients are presenting in hospitals wanting volunteer blood and asking not to be transfused from the general pool. Hospitals which are self insuring all or a portion of their employees' health plan costs are faced with difficult decisions on what screening must be done since the average cost to treat an AIDS patient in 1985 has risen to \$142,000. Doctors and hospitals are faced with being sued a substantial number of years in the future in AIDS related cases because of the long incubation period and the fact that the statute of limitation runs two years from the date of discovery.

At least one case arose in which a hospital nurse sued the admitting physician for not warning her and other nurses that the patient was an AIDS victim. The nurse inadvertently broke the skin on her hand with a needle after giving an injection to the patient.

The hospitals continue to be plagued by lawsuits arising out of the granting or denying of staff privileges. One supreme court held that a hospital may deny staff

privileges. One supreme court held that a hospital may deny staff privileges solely based upon the physician's inability to work with other physicians on the staff. Another supreme court continued the trend of holding that a hospital may revoke staff privileges or deny them for the failure to maintain liability insurance.

California held there was no duty by a proctor to a patient. The proctor was asked by the hospital to oversee the operation by a surgeon who was applying for staff privileges. In the course of that operation the surgeon made an error. The patient sued the surgeon and the proctor alleging that the proctor had an obligation to step in. The court found that the proctor owed no duty to the patient.

Lawsuits involving informed consent continued to make new law. Surgeons continued to be sued for failure to advise their patients of alternatives to surgery. The courts are holding that all major schools of thought need to be conveyed to the patient, not just those that the doctors believe to be the preferred school of thought. In California, a neurologist withheld the correct diagnosis from the patient. The testimony at trial was that it was the community standard to withhold diagnoses when in the clinical judgment of the physician it was necessary. There was no medical testimony to the contrary. The judge instructed the jury that the doctor had a fiduciary obligation to the patient to disclose all risks associated with medical treatment, including all material facts known to the physician regarding the patient's condition and diagnosis. The North Carolina Supreme Court reinforced this by stating that the informed consent requirement supercedes the "best interest rule." The North Carolina Supreme Court

ruled that a physician may have to disclose risks even if he determines disclosure is not in the patient's best interest.

Four states have recently ruled on the issue of emotional distress claims associated with medical malpractice incidents. Only Michigan has allowed these claims. The Michigan court allowed parents to sue for emotional distress arising from circumstances surrounding a still birth.

One physician was held liable for the failure to warn of the possibility of hemophilia prior to birth. The physician did not cause the condition but was sued for the additional medical costs involved in raising the child. The parents claimed they would have aborted the pregnancy had they had the information concerning the possible hemophilia. Illinois rejected the attempt to make a pharmacist liable for not warning the patient that the physician was overprescribing medication. A physician was found liable to the patient's heirs for wrongfully prescribing medication in excessive amounts when the patient was a known drug addict. The patient later committed suicide. Doctors are regularly being sued at the present time for failing to obtain an informed consent before prescribing medication.

In Michigan a doctor was held liable for the injuries sustained by a person in an automobile accident where the driver, an epileptic, was a patient of the physician. The plaintiff claimed that the doctor was negligent in failing to instruct the epileptic to either continue his medication or not to drive after withdrawing from the medication. In New York the court ruled as a matter of law that the prescription of a drug by a physician in an amount ex-

ceeding the dosage recommended by the manufacturer constituted evidence of a deviation from the proper standard of medical care.

In California the court resurrected the captain of the ship doctrine to hold the surgeon liable for the actions of a nurse employed by the hospital. The court held that the nurse was acting under the direction of the doctor at the time of the incident. Several doctors were sued for revealing the identity of mothers who gave up children for adoption. These claims involved a breach of confidentiality. A national jury verdict survey has shown that while plaintiffs recover a favorable jury verdict in only 29% of their cases against general surgeons, they obtain favorable recoveries in 45% of the cases against orthopedic surgeons.

Alaskans did not escape the national trends in 1985. Reported medical malpractice claims nearly doubled in 1985. The nationwide reluctance of reinsurers to get involved in the malpractice market resulted in increased rates and decreased policy limits for many Alaska physicians.

The Alaska Supreme Court ruled in 1985 that plaintiffs may begin discovery in malpractice cases prior to the report of the medical advisory panel even though the statute itself states that discovery must generally await the report of the panel. The court held that plaintiffs would generally be prejudiced if they were required to wait until the panel had issued its report unless the panel report is filed within eighty days of the date the health care provider files an answer to the complaint. In many instances the court has not even appointed a panel within eighty days.

In 1984 the Alaska Supreme court ruled that a health care provider may use a favorable expert panel report in support of a motion asking the court to dismiss the plaintiff's case before trial. Health care providers were able to successfully use that case several times in 1985 to force dismissals of malpractice actions when the plaintiff failed to come forward with expert medical testimony contradicting the panel report.

Two medical malpractice cases were tried in 1985 in the State of Alaska. One case was tried in Anchorage and another in Fairbanks. Both resulted in verdicts in favor of the health care providers. In one case, the health care provider was actually in jail at the time the case was tried.

The MICA board continue to require that all lawsuits be tried which are determined by MICA's physician consultants to be without merit. Nothing that has happened in the legal community either in Alaska, or in the United States as a whole, during the year 1985 should operate to force a change in that policy.

Roger F. Holmes is a veteran defense lawyer of 17 years in Alaska's courtrooms. Holmes specializes in trials and appeals with his partner, Burton C. Biss in the lawfirm of BISS & HOLMES, Anchorage

#### ACKNOWLEDGEMENTS

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Investment Article . . . . . William G. Brock  
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Article . . . . . Frederick Hood, M.D.  
General Editing  
& Writing . . . . . Arthur M. Stanford  
Printer . . . . . Northern Printing

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

**REQUEST:** \_\_\_\_\_

Bill Version : \_\_\_\_\_

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

Revision Date: CSSB 235(HESS)  
Title: Relating to the medical malpractice liability revolving loan fund.

Agency Affected: Commerce & Economic Development  
BRU: Insurance

Sponsor: Kerttula  
Requestor: \_\_\_\_\_

Components: Public Protection

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

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	171.0	306.0	282.0	258.0	234.0	210.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>171.0</b>	<b>306.0</b>	<b>282.0</b>	<b>258.0</b>	<b>234.0</b>	<b>210.0</b>
<b>CAPITAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>REVENUE</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	171.0	306.0	282.0	258.0	234.0	210.0
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>171.0</b>	<b>306.0</b>	<b>282.0</b>	<b>258.0</b>	<b>234.0</b>	<b>210.0</b>

**POSITIONS:**

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

**ANALYSIS : (Attach a separate page if necessary)**

The figures above represent the total interest income on all loans made to the Medical Indemnity Corporation of Alaska to date.

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

Phone: 465-2515  
Date: April 28, 1987

Approved by Commissioner: J. Anthony Smith  
Agency: Commerce and Economic Development

Date: April 28, 1987

**Distribution (by preparer):**

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

**MICA** Medical Indemnity  
Corporation of Alaska

ALASKA U.S.A. OFFICE BUILDING  
4000 CREDIT UNION DR., SUITE 525  
ANCHORAGE, ALASKA 99503  
TELEPHONE (907) 563-3414

MEMORANDUM

TO: Bill Brock  
FROM: Janet Johnston *Just*  
DATE: February 9, 1987

I am responding to your request for information on settlements or verdicts involving both a physician and a hospital defendant. The information is really rather sparse.

CASE:	PAYMENT:	DISPOSITION:
1.	Hospital - \$150,000 M.D. - \$150,000	Settlement
2.	Hospital - \$ 30,000 M.D. - \$170,000	Settlement
3.	Hospital - 0 M.D. #1 - \$ 45,000 M.D. #2 - \$100,000	Settlement
4.	Hospital - \$ 7,750 M.D. #1 - 0 M.D. #2 - 0	Settlement

COMMENTS: This was strictly a nuisance value settlement which was attributed to the hospital policy by mutual agreement of the defendants. I would not suggest considering this as part of the relevant sample.

5.	Hospital - \$200,000 M.D. - 50,000	Settlement
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COMMENTS: Reflects our assessment that this case was primarily a result of nursing error.

6.	Hospital - \$1,400,000 M.D. - 550,000	Settlement
----	--	------------

Memorandum  
February 9, 1987  
Page Two

COMMENTS: The physician in this case was insured by MICA and we paid policy limits. The hospital, not a MICA insured, provided a structured settlement that reportedly had a cost value to the hospital of \$1,400,000 but provided benefits to the plaintiff far in excess of that amount. Had the physician had higher policy limits the hospital would not have paid as much. The hospital ended up being the "deep pocket" in a very bad case where the physician did not have adequate limits of coverage.

In addition to those cases listed above, MICA has several claims and suits that involve a MICA insured hospital and one or more MICA insured physicians that have been dropped or taken to trial with a defense verdict. I did not include these since there was no indemnity paid on them.

Another interesting situation that might have some lessons to learn stems from the fact that MICA insures several hospitals where the entire medical staff is included on the hospital policy since the physicians are employees of the hospital. Specifically we have had cases in both Dillingham and Nome where indemnity has been paid under the hospital policy for actions of the physician. Had the physician and hospital been insured under separate policies in these instances, I suspect that the hospital would have been a named defendant as well as the physician because the care rendered involved a patient in the hospital. In most, if not all, of those cases, however, it was the care of the physician that was in question.

Let me point out that in cases 1, 2, 3 and 5 listed above the amount paid for the physician as opposed to the hospital in settlement was a matter of judgment on behalf of the MICA claims staff and claims committee. The allocation to hospital versus physician reflected our judgement as to the relative apportionment of responsibility between the parties. In each of these cases, however, there was a suit involved. Had the case not ended in settlement but gone on to trial I have every reason to believe that jury would have found the physician and hospital defendants pretty much equally liable. Why? Even in a case where the physician defendant admits liability (as was the fact in one of the cases cited above) the argument can be made that professional nursing personnel within the hospital setting had an obligation to do something about it. In fact, the more egregious and indefensible the physician behavior is, the greater

Memorandum  
February 9, 1987  
Page Three

the obligation on a professional nurse to implement existing hospital systems to circumvent a nonresponsive or inappropriately responsive physician. Most claims against physicians occur over care that is rendered to patients in hospitals. Care that is rendered to patients in hospitals does not occur in a vacuum and, normally, there are other professional people involved in the care who should provide a system of checks and balances and who will be held liable in the event that they do not.

One final case of interest should be mentioned. It involves the largest settlement that MICA has ever made on behalf of a hospital (\$750,000). This lawsuit was brought entirely against the hospital and no physician was named as a defendant. In my opinion, physicians involved in the patient's care should have been named as defendants and should have shared in the settlement or judgment. I think jousting on the part of the involved physicians against the hospital caused the family of the deceased to sue only the hospital. I would expect that in a new era where uninsured physician have a vested interest in having the hospital held significantly liable for a bad outcome, there might be more of this kind of behavior.

I hope the above information is of some assistance to you. As I mentioned, there have not been any cases decided under the new joint and several law and the law, as previously constructed, did not cause anyone to ask juries to apportion percentage responsibility between physicians and hospitals.

/jk

## MEDICAL INDEMNITY CORPORATION OF ALASKA (MICA)

A brief history and description.  
Prepared by Rep. John Sund's office;  
Revised March 16, 1987

### CREATION

MICA is an insurance company created by the Alaska Legislature to provide professional liability insurance to Alaskan physicians and surgeons, hospitals and related health care organizations. The company was established in response to the lack of available malpractice insurance in the state in the mid-1970s. MICA commenced business on June 28, 1976.

### STRUCTURE

MICA is administered by a nine-member board appointed by the governor and confirmed by the Legislature. The board consists of four physicians, a hospital administrator, two insurance industry professionals and two persons unrelated to the health care and insurance industries. The board maintains a plan of operation, which is subject to approval by the state director of the Division of Insurance.

The Legislature deliberately set up MICA to be a free-standing corporation with no direct political involvement in its operations. MICA reports to the Division of Insurance in the same manner as all insurance companies operating in the state. However, unlike other insurance companies, the Division of Insurance does have an extended relationship with MICA through approval of the plan of operation and capitalization loans (explained below). The Division is also invited to all MICA board meetings, but does not vote.

MICA is based in Anchorage. The daily operations are managed by the brokerage firm Marsh & McLennan. But the MICA board is moving toward self-management. MICA's actuary is Milliman & Robertson.

The state ruled that MICA is exempt from income taxes. That has not, to date, been challenged by the IRS.

By statute, MICA may be terminated by the director of the Division of Insurance if it posts written premiums for two consecutive years of less than 35 percent of all premiums written in the state for physicians' medical malpractice insurance, or posts premiums for one calendar year of less than 20 percent of all malpractice premiums in the state. The decision to terminate would be made by the director of insurance following public hearings.

## CAPITALIZATION

The Legislature established in the Department of Commerce and Economic Development a medical malpractice liability revolving loan fund to capitalize MICA. The fund is administered by the director of insurance. The original loan was \$3 million, payable at 7 percent interest. MICA is paying interest, but there is no due date on the principal and the state loan is subordinate to all other obligations of the corporation. MICA must make a loan repayment in the event of an underwriting profit, but that has not happened to date. The board intends to pay off the loan in 15 years.

In 1979, the Division of Treasury purchased the \$3 million note from Commerce and Economic Development, thereby putting \$3 million more into the fund for MICA to borrow in the future. In late 1986, MICA requested an additional \$3 million loan to offset losses experienced in 1985 (see explanation below). The director of insurance approved a \$2 million loan which, by statute, is payable in five years at 6 percent interest. The fund balance is now \$1 million.

## FINANCIAL STATUS

Due largely to a reinsurance problem (explained below), MICA posted a \$2.14 million loss in 1985. The company used its entire \$2 million surplus built up in prior years to offset the loss. (Hence the reason for the loan request in 1986.) MICA's assets totaled \$10.47 million at the end of 1985 with \$6.5 million in reserve for claim payments.

## REINSURANCE PROBLEM OF 1985

In late 1984, after MICA had set its policy rates for 1985, the company faced a problem with its reinsurers which led to a financial loss. One of the company's reinsurers denied renewal of MICA's policy while another approximately tripled its premium rate. Not only did the reinsurance cost increase, the coverage diminished, leaving MICA with greater personal risk in claim settlements. Because of the late notice on the reinsurance rates, MICA could not reflect the increase in its premium rates. Thus, 1985 posted a large loss. MICA also had a couple of large claims in 1985 which the reinsurance did not fully cover, adding to MICA's dip into its surplus. MICA obtained better reinsurance in 1986 and for 1987, but the company also has to recoup some of the 1985 losses. As a result, and as a reflection of malpractice insurance in general, MICA's policy rates increased as much as 90 percent from 1985 to 1986.

PRESENT SITUATION WITH HOSPITALS

MICA recently established a new policy requiring that all physicians in MICA-covered hospitals carry \$500,000 liability insurance. Meeting that requirement is causing financial difficulties for at least 7 of the 12 hospitals insured by MICA in 1986:

Wrangell  
Cordova  
Homer  
Petersburg  
Seward  
Sitka  
Palmer

Because of the hardship to the hospitals, MICA then agreed to establish a separate, and higher rate for those hospitals whose physicians are not carrying at least \$500,000 malpractice insurance.

As of this writing, MICA is in the process of setting the new rates and it appears the added cost to the hospitals will be approximately 25 percent of what the physicians' premium would have been. (For example, if the hospital had two doctors without insurance and their insurance would have cost \$20,000 each, the added premium cost to the hospital would be \$10,000.)

Addendum: According to MICA, most claims against hospitals involve doctors and 85.4 percent of MICA's pending claims include hospitals.

MICA Premiums for Wrangell General Hospital

	<u>1985</u>	<u>1986</u>	<u>1987</u>
MICA	\$17,900*	\$58,000*	\$54,000**
Hospital Budget	\$1.9 mill	\$2.0 mill	\$2.0 mill
MICA % of Total Budget	.94%	2.9%	2.7%

\*Coverage in 1985 was \$1 million maximum per occurrence and \$2 million aggregate. Coverage in 1986 and 1987 dropped to \$500,000 per occurrence and \$1 million aggregate.

\*\*Wrangell Hospital's premium rate for 1987 was first quoted at \$81,000 (in January of this year.) MICA just revised the rate to \$54,000. But that rate does not include any surcharge for having a physician in the hospital who does not have medical malpractice insurance. Wrangell has one physician without coverage.

MEDICAL INDEMNITY CORPORATION OF ALASKA

PREMIUMS EARNED AND CLAIMS ANALYSIS (GROSS OF REINSURANCE)

	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	TOTAL
.....												
<b>PREMIUMS:</b>												
PREMIUMS WRITTEN	\$372,404	\$800,969	\$1,050,303	\$1,341,111	\$1,243,110	\$1,804,334	\$1,951,954	\$2,007,096	\$2,775,055	\$2,921,005	\$5,926,076	\$22,281,5
LESS REINSURANCE CEDED				4627,328	\$293,753	4799,641	\$754,338	\$804,167	\$1,119,692	\$897,183	\$1,045,000	\$6,341,1
PREMIUMS EARNED	\$372,404	\$800,969	\$1,050,303	\$713,783	\$949,357	\$1,004,693	\$1,197,616	\$1,202,929	\$1,655,363	\$2,023,822	\$4,881,076	\$15,940,4
.....												
<b>CLOSED CLAIMS:</b>												
LOSS AND LOSS ADJUSTMENT EXPENSE PAID	\$0	\$407,670	\$392,441	\$82,701	\$669,012	\$335,563	\$1,211,946	\$2,369,918	\$1,294,231	\$1,017,591	\$36,960	\$7,800,0
NUMBER OF CLOSED CLAIMS	0	9	11	5	16	16	20	22	27	24	7	1
AVERAGE SEVERITY CLOSED CLAIMS	\$0	\$45,297	\$35,676	\$16,540	\$41,863	\$20,973	\$60,597	\$107,724	\$47,564	\$42,400	\$5,200	\$49,7
.....												
<b>OPEN CLAIMS:</b>												
RESERVES 12/31/86								\$13,619	\$4,726,517	\$6,505,452	\$3,377,640	\$14,701,2
PAYMENTS THRU 12/31/86								\$80,955	\$955,939	\$99,855	\$159,225	\$1,245,9
INCURRED OPEN CLAIMS								\$94,574	\$5,682,456	\$6,605,307	\$3,536,865	\$15,999,2
NUMBER OF OPEN CLAIMS								3	14	26	24	1
AVERAGE SEVERITY OPEN CLAIMS								\$31,525	\$405,890	\$257,127	\$147,369	\$230,7
.....												
<b>TOTAL OPEN AND CLOSED CLAIMS:</b>												
TOTAL PAID AND RESERVED (INCURRED)	\$0	\$407,670	\$392,441	\$82,701	\$669,012	\$335,563	\$1,211,946	\$2,464,492	\$6,966,687	\$7,702,890	\$1,573,025	\$23,000,0
TOTAL CLAIMS	0	9	11	5	16	16	20	25	41	50	31	2
AVERAGE SEVERITY ALL CLAIMS	\$0	\$45,297	\$35,676	\$16,540	\$41,863	\$20,973	\$60,597	\$90,580	\$169,919	\$154,058	\$115,205	\$106,2

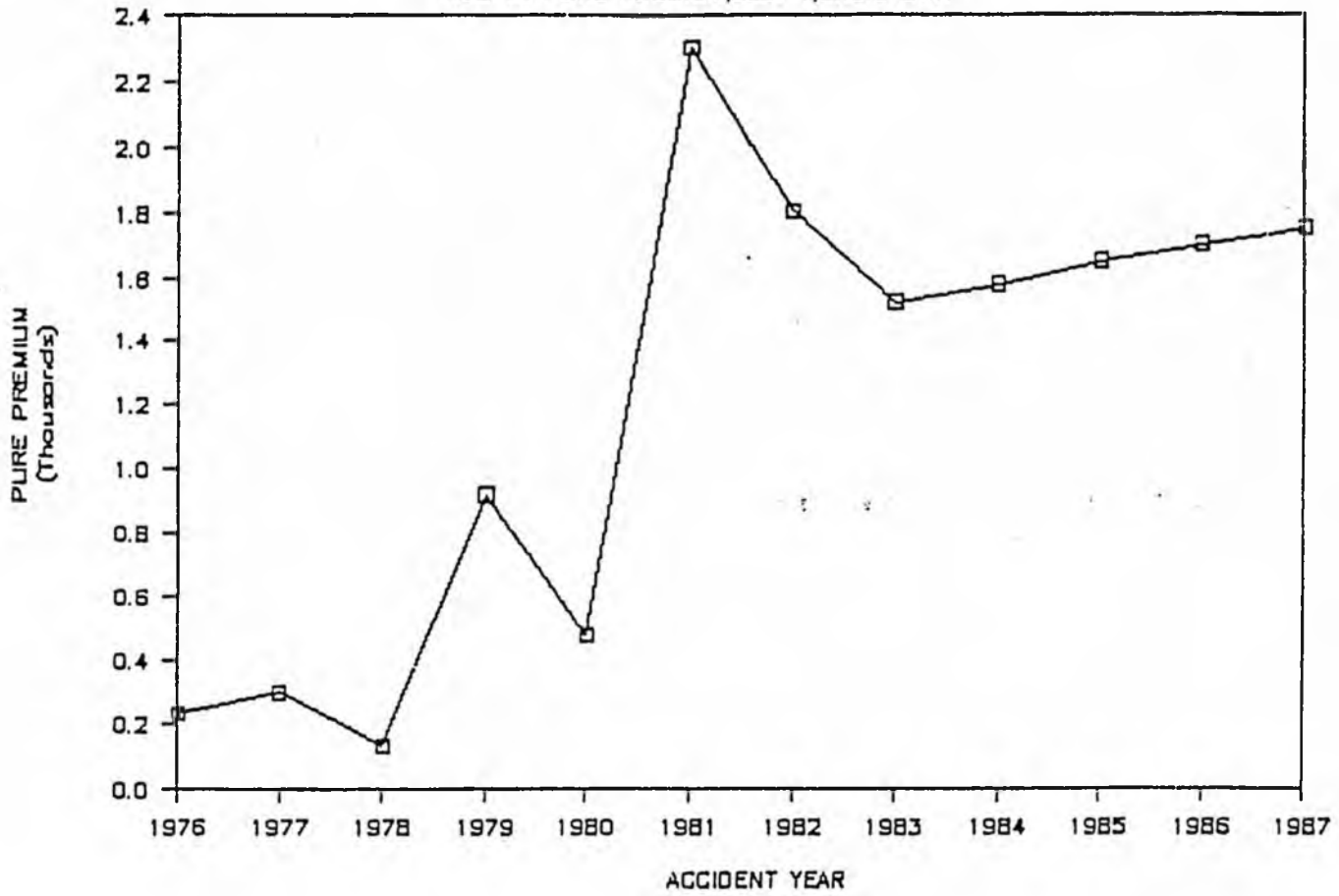
MEDICAL INDEMNITY CORPORATION OF ALASKA

PREMIUMS EARNED AND CLAIMS ANALYSIS (NET OF REINSURANCE)

	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	TOTAL
PREMIUMS EARNED	\$372,404	\$400,969	\$1,050,383	\$713,783	\$949,357	\$1,004,693	\$1,197,616	\$1,202,929	\$1,655,363	\$2,023	\$4,001,076	\$15,940,4
CLOSED CLAIMS:												
NET LOSS AND LOSS ADJUSTMENT EXPENSE PAID	\$0	\$407,670	\$381,470	\$82,701	\$564,544	\$335,563	\$1,170,585	\$1,270,609	\$837,668	\$922,906	\$16,940	\$6,010,7
NUMBER OF CLOSED CLAIMS	0	9	11	5	16	16	20	22	27	24	7	1
AVERAGE SEVERITY CLOSED CLAIMS	\$0	\$45,297	\$34,679	\$16,540	\$35,284	\$20,973	\$58,529	\$57,755	\$31,025	\$38,458	\$5,200	\$38,2
OPEN CLAIMS:												
RESERVES 12/31/86								\$13,619	\$1,391,517	\$3,771,753	\$3,307,640	\$8,484,5
PAYMENTS THRU 12/31/86								\$80,955	\$955,939	\$99,855	\$159,225	\$1,245,0
INCURRED OPEN CLAIMS								\$91,574	\$2,347,456	\$3,871,608	\$3,466,065	\$9,700,5
NUMBER OF OPEN CLAIMS								3	14	26	24	1
AVERAGE SEVERITY OPEN CLAIMS								\$31,525	\$167,675	\$148,903	\$144,453	\$145,2
TOTAL OPEN AND CLOSED CLAIMS:												
TOTAL PAID AND RESERVED (INCURRED)	\$0	\$407,670	\$381,470	\$82,701	\$564,544	\$335,563	\$1,170,585	\$1,365,183	\$3,105,124	\$4,794,594	\$3,503,825	\$15,791,2
TOTAL CLAIMS	0	9	11	5	16	16	20	25	41	50	31	2
AVERAGE SEVERITY ALL CLAIMS	\$0	\$45,297	\$34,679	\$16,540	\$35,284	\$20,973	\$58,529	\$54,607	\$77,686	\$95,892	\$113,027	\$70,4

# MICA HOSPITALS

ACC YR PURE PREMIUM, CLS. 1, BASIC LIMIT



**MICA** Medical Indemnity  
Corporation of Alaska

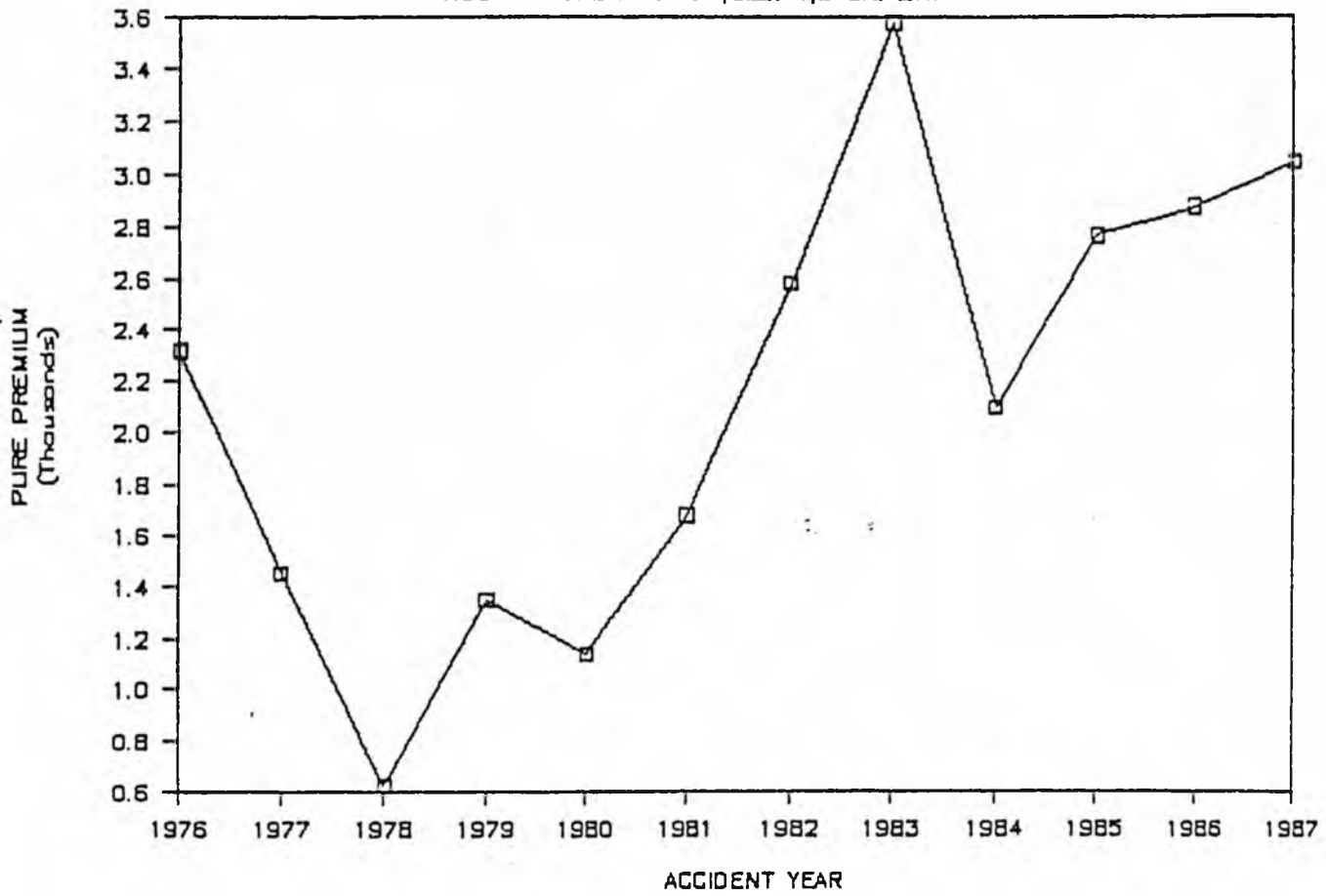
ALASKA U.S.A. OFFICE BUILDING  
4000 CREDIT UNION DR., SUITE 525  
ANCHORAGE, ALASKA 99503  
TELEPHONE (907) 563-3414

MICA POLICYHOLDER PROFILE

<u>YEAR ENDING</u>	<u>PHYSICIANS</u>	<u>HOSPITALS</u>	<u>RELATED HEALTH CARE</u>
12-31-86	336	11	14
12-31-85	364	12	12
12-31-84	300	12	10
12-31-83	213	12	11
12-31-82	200	13	12
12-31-81	161	13	9
12-31-80	138	13	9
12-31-79	104	13	2

# MICA PHYSICIANS AND SURGEONS

ACC YR PURE PREMIUM, CLS. 1, BASIC LIMIT



S B

237

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST: \_\_\_\_\_

Bill Version: SB 237  
Publish Date: \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: "An Act providing that assistance  
...constituting a mitigating factor..."  
Sponsor: Senator Kerttula  
Requestor: Senate HESS Committee

Agency Affected: Department of Law  
BRU: Prosecution  
Components: ALL

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Date: April 28, 1987  
 Approved by Commissioner: Richard I. Pegues / FOR /  
Grace Berg Schaible, Atty. Gen. Date: April 28, 1987  
 Agency: Department of Law

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

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 237

This bill amends AS 12.55.155(d)(12) by adding assistance to authorities to prosecute other persons to the list of mitigators available to a defendant in a criminal sentencing. The bill also amends existing law by broadening the circumstances under which mitigators are granted from providing assistance regarding the offense for which the defendant was charged to providing assistance on any criminal offense. Thus a defendant's sentence could be reduced if he provided information about an offense completely unrelated to the crime for which the defendant was convicted, even if such information could not be verified. Because this bill changes the law regarding sentencing, it will not have a fiscal impact on the Department of Law.

BILL NO: HB 237

DATE: 4/21/87

TITLE: "An Act providing that assistance to authorities to detect, apprehend, or prosecute other persons is conduct constituting a mitigating factor in criminal sentencing."

CONTACT: James D. Vaden  
Deputy Commissioner

DEPARTMENT OF PUBLIC SAFETY

Provides an incentive for persons accused of a crime to provide information to authorities to detect, apprehend, or prosecute other offenders involved in the commission of criminal offenses.

This proposed legislation would assist authorities by encouraging persons involved in or having knowledge of criminal activity to come forward with their information and assist the criminal justice agencies in identifying and prosecuting other offenders. This type of assistance to the criminal justice agencies would be considered by the sentencing court as a mitigator to presumptive sentencing as set out in 12.55.125.

The Department of Public Safety supports this legislation.

  
Arthur English  
Commissioner

STATE OF ALASKA 1987 LEGISLATIVE SESSION

FISCAL NOTE

Bill Version: SB 237

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

REQUEST

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

Agency Affected: Public Safety

Title: "An Act providing that assistance to authorities to detect..."

BRU: Alaska State Troopers

Sponsor: Senator Kerttula

Components: Detachments & CIB

Requestor: Senate HESS

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUNDS		0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

Prepared by: Francis C. Allan *G.C.A.*

Phone: 269-5691

Division: Alaska State Troopers

Date: 4/15/87

Approved by Commissioner: \_\_\_\_\_

Date: 4/15/87

Agency: Public Safety

Distribution (by preparer):

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

*JNR  
4/15/87*

*[Signature]*

Ben Esch

ATTORNEY AT LAW, P.C.

3003 Minnesota Drive  
Suite 301  
Anchorage, Alaska 99503

(907) 272-4475

MAR 25 1987

March 23, 1987

Senator Jay Kerttula, Chairman  
Senate Judiciary Committee  
P. O. Box V  
Juneau, AK 99811

Dear Senator Kerttula:

I would like to bring to your attention a particular problem I am presented with regarding a client. This individual is presently incarcerated awaiting sentencing for an offense committed last year here in Anchorage. He is subject to a presumptive sentence for his offense. Pending sentencing, my client provided substantial help to authorities both in discovering and turning over contraband (a handcuff key) which he was secreted inside the jail in which he was residing and further cooperated with authorities in providing trial testimony against an inmate who had made admissions to my client while he was in the institution. At the time of sentencing, it was discovered that my client had no statutory mitigating factors in his case and both the prosecutor and I began to examine AS 12.55.155. In the course of our review, it appeared to both of us that perhaps in enacting the statutory mitigators, there had been legislative oversight as to one of the mitigating factors. Under that statute, a mitigating factor exists if: "The defendant assisted authorities to detect or apprehend other persons who committed the offense with the defendant." See AS 12.55.155(d)(12). My client provided an equivalent service to the State, but due to the fact the individuals against whom he provided substantial assistance to the State in their prosecution and conviction were not co-defendants in his case, he was denied the application of this mitigating factor.

As I pondered this, I failed to discern any policy difference between a defendant who assists authorities to detect and/or apprehend co-defendants as opposed to someone

March 23, 1987  
Senator Jay Kerttula  
Page 2

who provides information as to third-parties. One result of this situation is that prosecutors are forced to enter "deals" with defendants who wish to provide information in other cases to get this help. Prosecutors are sometimes reluctant to do so given the fact that the existence of this "deal" will be brought out on cross-examination, if and when the informant testifies, thereby possibly weakening the strength of his testimony and resulting in tainting perfectly legitimate evidence by virtue of the fact that it is obtained through a direct quid pro quo transaction involving an individual who is facing charges himself. The current situation involving the star witness in the McKay case is a perfect example of this situation.

I would like to suggest to you for possible consideration of legislation to be introduced by your Committee, an amendment to AS 12.55.155(d) which reads as follows:

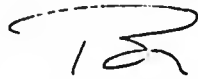
(12) The defendant assisted authorities to detect [or], apprehend, or prosecute other persons who committed [the] an offense [with the defendant].

Such an amendment would allow substantial cooperation with authorities to act as a mitigating factor at the time of sentencing for any individual. This could result in the trial judge being given the latitude to take into account any cooperation with authorities provided by an offender and provide a method of rewarding (or at least providing the opportunity for reward,) individuals who cooperate without creating the potential for any "stigma" to be suggested during cross-examination that this help is provided only in contemplation of a preferential treatment of or deal concerning their own charges. A provision similar to this is included in the new Anti-drug Abuse Act of 1986 on the federal level. There are certain minimum sentences which are required to be given (like presumptive sentences) and these can only be reduced upon a demonstration of "substantial assistance" in the investigation or prosecution of another person who has committed an offense (See § 1007.).

March 23, 1987  
Senator Jay Kerrettula  
Page 3

From the point of view of the prosecutor, I believe the statute solves one problem while providing an inducement to individuals to provide information without the necessity of entering into a specific deal. This will encourage individuals to provide whatever information they have or offer whatever assistance they can give. As such, I see this as an amendment which could benefit many people in general, and my client in particular, if such an amendment is made prior to his mid-June sentencing date. Thank you in advance for your consideration in this matter. I would enjoy hearing your thoughts.

Yours truly,

A handwritten signature in black ink, appearing to be 'Ben Esch', with a stylized flourish above the name.

Ben Esch

BE/cag



# alaska judicial council

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

ACTING DIRECTOR  
Teresa W. Carns

March 19, 1987

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

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

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

## ALASKA FELONY SENTENCES: 1984

The Alaska Judicial Council found that presumptive sentencing caused only part of the increases in court felony trials and prison populations during the early 1980s. A one-hundred percent increase in the number of convicted offenders, and legislative reclassification of drug and sexual offenses contributed equally to high court caseloads and jail overcrowding. The Judicial Council's study was based on data about all 1984 felony case filings that resulted in a conviction and sentence. The data were provided by state agency computerized information systems, especially the Department of Law's PROMIS system. Department of Public Safety and Department of Corrections also contributed data for the report.

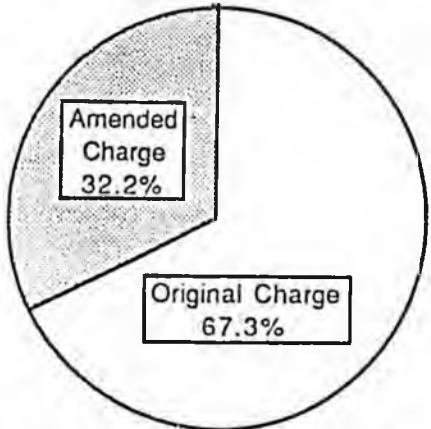
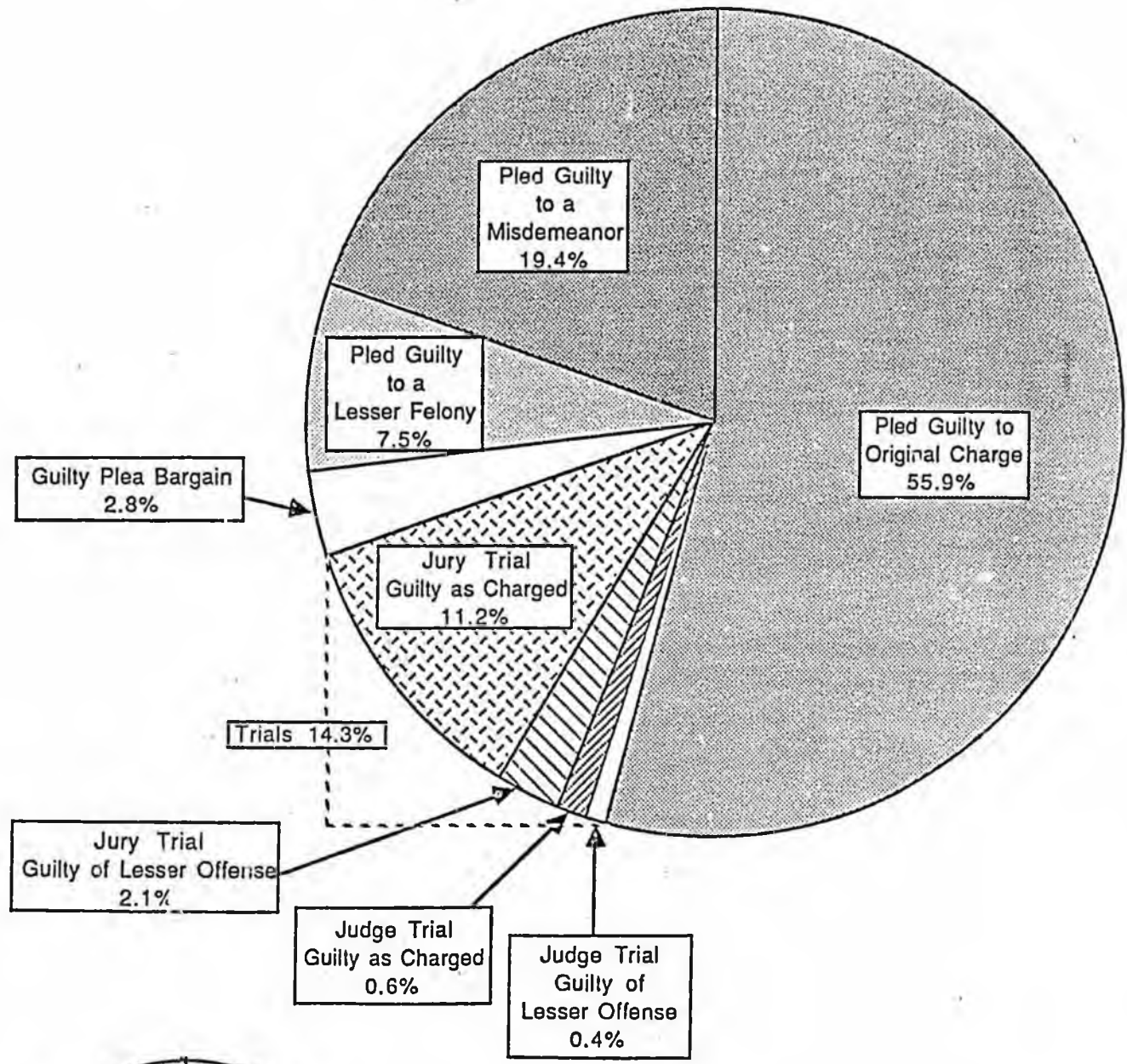
The study found that 14.3% of the offenders had been convicted after a trial. Nearly 20% of the 1984 offenders had a misdemeanor as their final, most serious charge of conviction. Only 2.8% of the convicted offenders pled guilty in a recorded plea bargain as an exception allowed under the Attorney General's prohibition of plea bargaining.

Sentence lengths for offenders were strongly related to the seriousness of the offense. The most serious offenses (Unclassified) received sentences ranging from 87.9 months for sexual abuse of a minor I to 401.3 months for murder I. Class A offenses typically received sentences of about 5 years, Class B offenses were sentenced to about 2 years and Class C offenses to about 1 year. The study found that the presumptive sentencing scheme had, with few exceptions, resulted in consistent sentence lengths for most offenders.

The report found a 100% increase in the amount of prison time imposed between 1980 and 1984. The study estimates that the increased numbers of convictions between 1980 and 1984 accounted for about 40% of the increased prison time in 1984. Legislative changes, including presumptive sentences for first-time felony offenders convicted of Class A offenses and reclassification of sexual and drug offenses, accounted for another 40% of increased prison time. The balance of the increase was due to the fact that a higher percentage of 1984 offenders were convicted of serious crimes than were 1980 offenders.

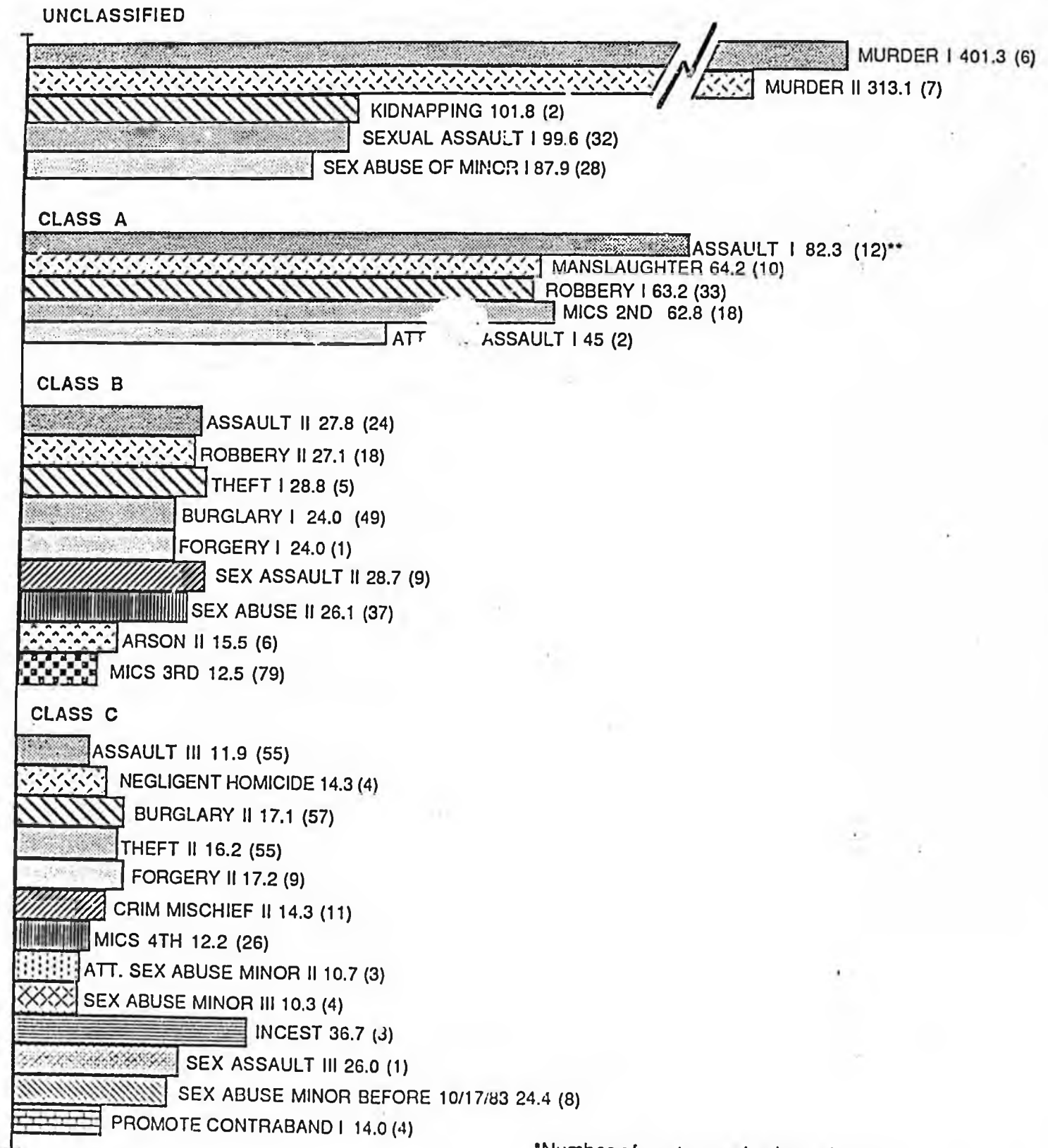
Additional copies of the report are available upon request from the Alaska Judicial Council. Contact: Teresa W. Carns, Acting Director, Alaska Judicial Council, 1031 W. 4th Avenue, Suite 301, Anchorage, Alaska 99501, telephone 279-2526.

**FIGURE 3**  
**(Alaska Felony Sentences: 1984)**  
**Types of Convictions**



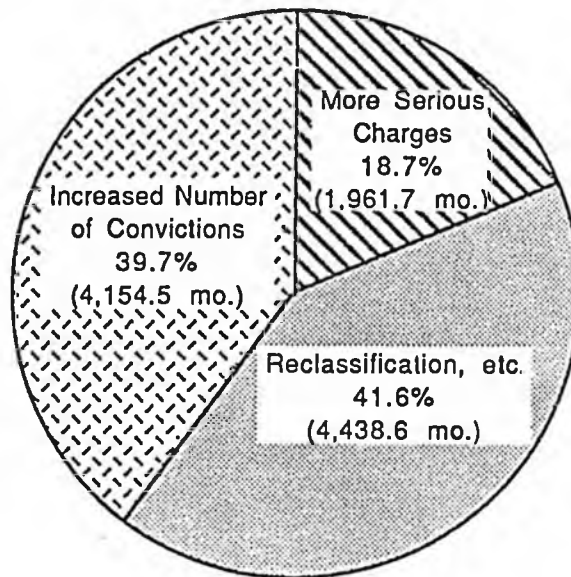
Original vs. Amended Charge

**FIGURE 7**  
**Alaska Felony Sentences: 1984**  
**Comparison of Mean Sentence Length For Selected Offenses**  
**by Class of Offense\***



\*Number of sentences is shown in parentheses.  
 All sentence lengths are in months.  
 \*\*Includes one sentence of 20 years (240 months)

FIGURE 6  
(ALASKA FELONY SENTENCES: 1984)  
Increase in Total Prison Time: Percent of  
Increase Due to Specific Factors



SB

252

No. 290

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: 4-27-87

REQUEST

FISCAL DETAIL

Bill/Resolution No. : SB 252  
Title : Client - Psychologist Confidentiality

Agency Affected: \_\_\_\_\_  
BRU: \_\_\_\_\_

Sponsor : Jospehson  
Requestor : \_\_\_\_\_  
Date of Request : \_\_\_\_\_

Components : \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
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						

**ANALYSIS :**

Prepared by : Senate HESS *St. G. Frick*  
Division : \_\_\_\_\_

Phone : 465 - 3791  
Date : 4/25/87

Approved by Commissioner : \_\_\_\_\_  
Agency : \_\_\_\_\_

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

Distribution (by Agency preparing fiscal note) :

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

SB 252 "An Act relating to communications to a psychologist or psychological associate by a client."

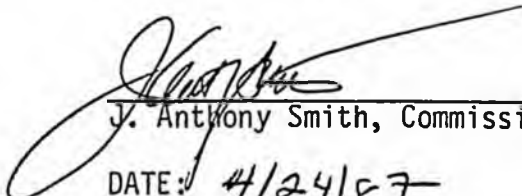
SB 252 provides for exceptions to confidential communications between psychologists or psychological associates and their clients. The Department of Commerce and Economic Development supports both the need for confidential communication and the need for the exemptions identified in this bill. The department would, however, recommend amending Section 1(5) to read:

(5) proceedings conducted by the board or the department where the disclosure of confidential communications is necessary to defend against charges [BY THE CLIENT] that the psychologist or psychological associate has violated provisions of this chapter.

*Accepted*

The word "department" is included in order to clarify that investigators of the department who act on behalf of the board can subpoena records or discuss allegations. The second change which takes out [BY THE CLIENT] is needed in order to exempt confidential communication when someone other than the client has alleged a violation of the chapter. For example, one psychologist may report another psychologist for misconduct.

In summary, the department would support this legislation if Section 1(5) were clarified.

  
\_\_\_\_\_  
J. Anthony Smith, Commissioner  
DATE: 4/24/87

SB

255



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

M E M O R A N D U M

TO: The Honorable Don Bennett

FROM: George Sullivan  
Legislative Liaison  
Office of the Governor

A handwritten signature in cursive script, appearing to read "George Sullivan", written over the typed name.

DATE: May 5, 1987

SUBJECT: SB 255

We discussed SB 255 on Pharmaceuticals/GRM and I recall you expressed concern that the Alaskan Natives that would likely participate in this program would far exceed in costs what we were projecting in savings to the state.

I am attaching a letter from Commissioner Myra Munson for your information. Her best estimate indicates that the state could still save in excess of over 1 million dollars a year by passage of SB 255.

Enclosure

cc: The Honorable Willie Hensley w/enclosure  
The Honorable John Binkley w/enclosure  
The Honorable Fred Zharoff w/enclosure  
The Honorable Paul Fischer w/enclosure

Paul:

Is there any additional information we could provide you to get this bill out of your committee? If so, give me a ring at 3500.

George

# MEMORANDUM

# State of Alaska

TO: George Sullivan  
Legislative Lobbyist  
Office of the Governor

DATE: May 4, 1987

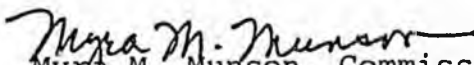
FILE NO:

TELEPHONE NO: 465-3030

THRU:

SUBJECT: Crossover of Natives  
into Medicaid Drug  
Program

FROM:

  
Myra M. Munson, Commissioner  
Department of Health and  
Social Services

It is correct that more Alaskan Natives are likely to participate in a Medicaid-funded pharmacy program than currently participate in the General Relief Medical Assistance (GRM)-funded pharmacy program. However, we have determined that the maximum cost to the state will not exceed \$410,500 and will most likely not cost more than \$135,600. The net effect of passage of SB 255 will be a 1 million dollar savings to the state, even with the crossover of Natives from GRM.

There are currently 24,000 Alaskans eligible for Medicaid. Approximately 10,500 are Natives. To qualify for Medicaid, an individual must be aged, blind, disabled, under age 21, an AFDC parent, or pregnant and impoverished. The addition of pharmacy services to Medicaid will not result in an increase in the number of Medicaid-eligible Natives; however, it is likely to result in an increase in the number of non-IHS pharmacy claims for Medicaid-eligible Natives for which the state must pay 50% of the charge. (Note: as provided under federal rules, the state can claim 100% federal reimbursement for all of the medical bills submitted from IHS facilities.)

15% of Medicaid-eligible Natives are currently recorded as using pharmacy services at a cost of \$260,342 in state funds per year. However, declaration of race on the application is voluntary and experience has shown that as high as 50% of the individuals in the unknown category are, in fact, Native. Nevertheless, the average utilization of pharmacy services by other groups is 69%, so if all 69% of the Medicaid-eligible Natives purchased drugs at non-IHS facilities, it would cost the state a maximum of \$410,333.

It is very unlikely that all Medicaid-eligible Natives will change their pharmacy utilization patterns because:

1. Prior experience has shown that not all Natives will use non-IHS facilities, especially in places like Bethel and Nome; and
2. at least 15% (and probably many more) of the Natives have already crossed over to the State program, especially in those areas where an IHS facility does not exist or is less convenient than private pharmacies;
3. the Native crossover phenomenon did not occur to non-IHS facilities when other, more costly services were moved from GRM to Medicaid in recent years; and
4. the amount paid per prescription will generally be less under a Medicaid drug program, resulting in an overall less expensive drug program for the state.

Finally, as you know, no savings will accrue to the state from passage of this bill until the offset for FY89. The bill's July 1, 1988 effect date allows the department to plan and to implement the changes necessary to administer a Medicaid pharmacy program at a very opportune time. The department is in the process of developing and implementing a new medical payments system that will not be operational until Spring of 1988. It is not feasible or cost-effective to make the necessary changes in the existing payment system with the current contractor while we are in the process of designing a new system with a new contractor. Although it is unfortunate that we can't begin to save money sooner, I believe that the delay carries several advantages. First, it allows the state to hire a pharmacist to assist with designing and testing the new payment system while working with pharmacists throughout the state to ensure that it is a system that they can accept and secondly, it allows the state to claim 75% FFP instead of the current 50% FFP for the actual cost of processing the pharmacy claims.

I appreciate your interest and assistance with this very important issue. If you have any further questions, please contact Kim Busch, Acting Director of the Division of Medical Assistance, at 465-3355 or me.