

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
5631 HOUSE HEALTH, EDUCATION & SOCIAL SERVICES 35

Health Care Funding

The Problem

Native Health Services
V.A.
Champus

Public Insured

Medicare

Medicaid

- Uninsurable with:
 - Means
 - No Means
- Insurable with:
 - Means
 - No Means
- Small Groups
 - No Coverage
- Indigent / Subsistence

No Coverage

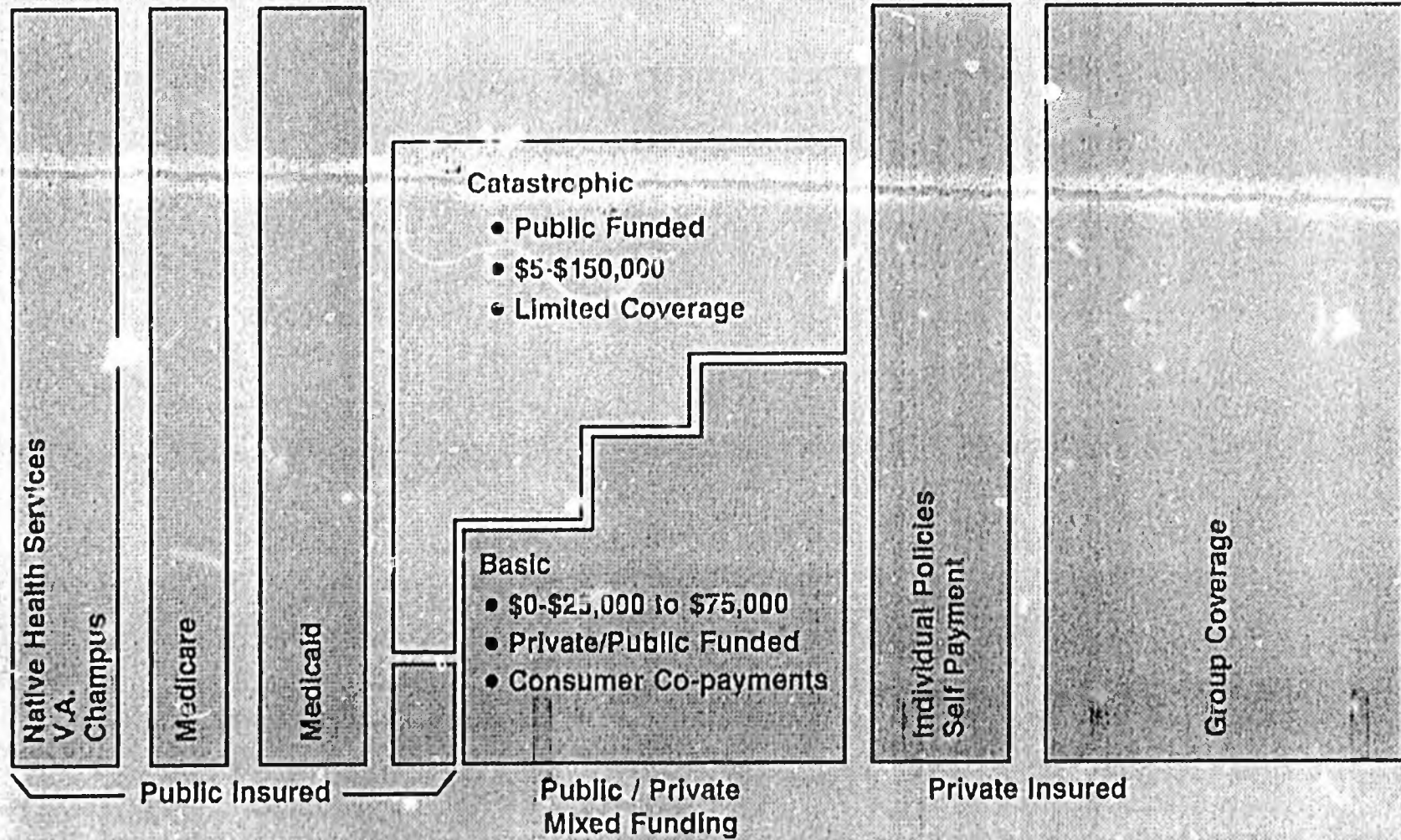
Individual Policies
Self Payment

Private Insured

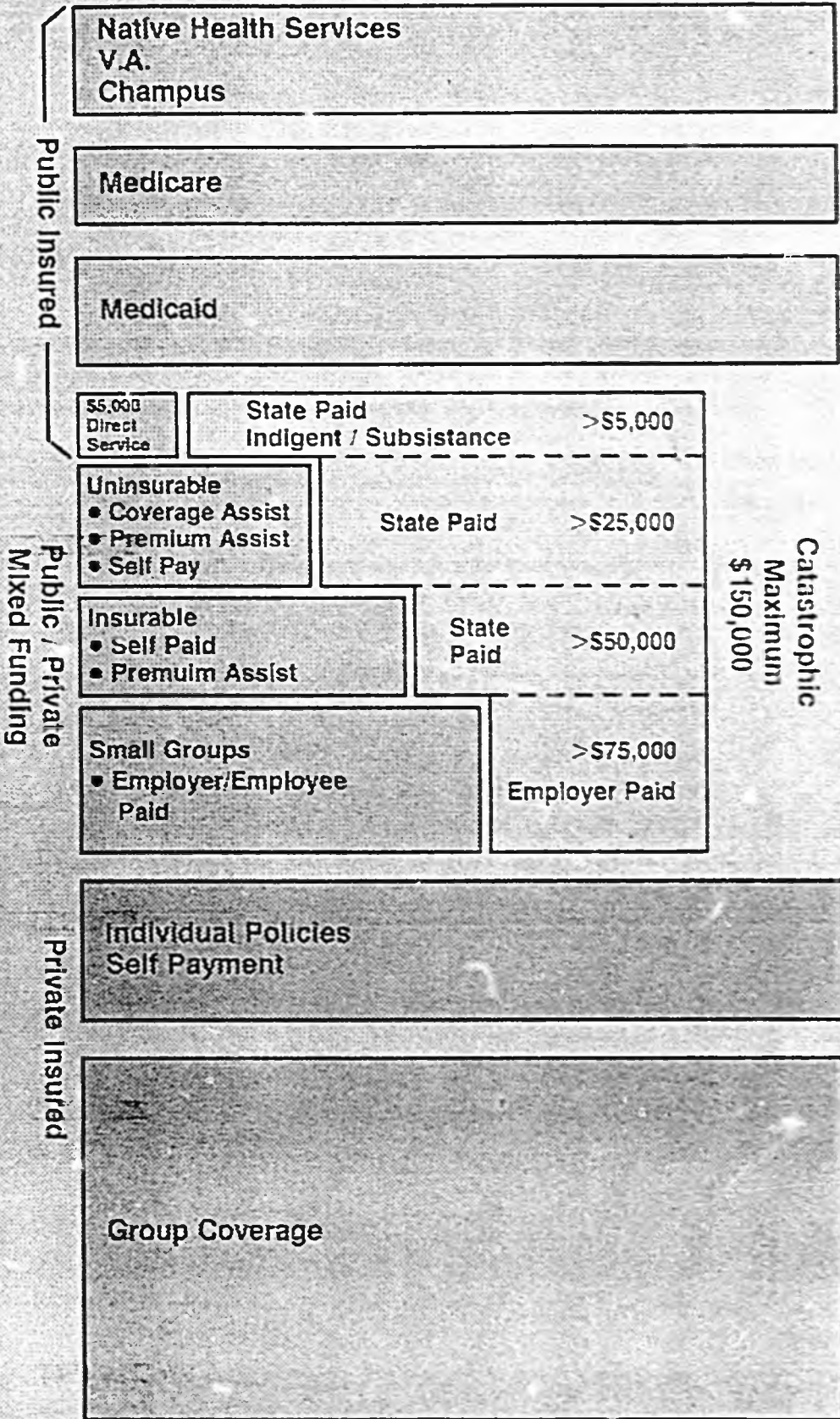
Group Coverage

Health Care Funding

Joint Public/Private Solution



Health Care Funding



March 20, 1989

TESTIMONY TO
ALASKA STATE LEGISLATURE

Bruce Amundson, M.D.
University of Washington, School of Medicine
Area Health Education Center
Associate Director of Community Health Systems

SUMMARY OF OBSERVATIONS
ON RURAL HEALTH CARE

- Many rural communities are in crisis, often confronted simultaneously with multiple problems in their health care systems.
- In spite of this, research at the University of Washington demonstrates that rural communities can successfully stabilize and strengthen their health delivery systems (see attachments).
- Aggressive attention to delivery system problems within the community has been shown to be the most effective use of community resources and energy.
- Our studies show there are enough health care dollars already being spent by most rural communities to support the local health care system, provided that quality services are provided.
- Health care ideally should be managed at the community level to both ensure support for primary health care services and to give communities control of their health care dollars.
- Successful rural community-based health insurance programs have been developed in the northwest.

11.1% of GNP
to health care

sufficient resources

SAMPLE OF ACCOMPLISHMENTS AND PROGRAMS IMPLEMENTED
IN
SIX RURAL COMMUNITIES

1. New Nursing Homes in Two Communities
2. Successful Nurse Recruitment Programs in Two Communities
3. Two Community Health Care Foundations Established
4. Improved Emergency Medical Systems
5. Hospital Financial Status Improved in Five of Six Sites
6. Four Communities Added Primary Care Physicians
7. Strategic Planning Cycle Completed in All Communities
8. Five New Management Information Systems in Hospitals
9. New Technology added - Mammography, Ultrasound, Etc.
10. Wide Community Leader Participation in Health System Decisions
11. Two Community PPO's Initiated
12. Increased Scope of Health Services in Several Communities
13. Successful Conflict Resolution in Three Communities
14. Improved Mental Health and Pharmacy Services
15. Nursing Home and Hospital Trustee Skills Greatly Increased
16. Direct Intervention with Impaired Professionals

Background -- Statement
Jim Gingerich, Chairman
Health Assn of Alaska

Before House HES Committee
March 20, 1989

COST OF LIVING

MEDICAL COSTS

Mr. Gingerich is
Administrator, Fairbanks
Memorial Hospital

"If you have your health you have it all," is more true than ever. For those less fortunate, medical costs can result in catastrophic financial burdens for themselves and their families; even employers, insurance firms, and government assistance programs are reeling under the burden. Locally, the State of Alaska must periodically ask for additional appropriations to cover health insurance overruns and tries to prepare for a pending crisis as the State's young population grows older and requires more medical services.

Advances in modern medicine have promoted a longer and fuller life, but not without a price. Health care costs have long been outpacing the overall rate of inflation. Since 1980, the cost of medical care nationally has risen twice as fast as the overall inflation rate. The situation has been more severe in Alaska. In Anchorage, for example, medical care cost increases are three times the inflation rate. Although comparable inflation information is not available for Fairbanks, surveys show our medical costs to be nearly twice the national average and on par with both Juneau and Anchorage.

There are no easy solutions to the high cost of health care, but it important to understand the history and ramifications of the problem.

RISING MEDICAL COSTS

Before discussing medical costs, the distinction between costs and prices must be made clear. Costs take into account both usage and price. Health care involves not only medical services but also insurance payments, employee health benefits, and government assistance programs. Increased demands with even stable prices result in higher expenditures which must ultimately be paid for by the consumer.

Only five times since 1951 have annual increases in medical costs for the U.S. City Average of the Consumer Price Index for All Urban Consumers (CPI-U) been below the overall national rate of inflation. The increase of medical costs relative to the overall inflation rate is shown clearly in Figure 31. During the 1970's, inflation rates for medical costs versus all items were roughly similar, although medical costs maintained a consistently higher increase. By the 1980's, any similarity between the rise in medical costs to the overall inflation rate was lost. While the overall rate of inflation has moderated in recent years, medical care costs have continued at the high pace established in the mid-1970's.

By December 1987, expenditures toward medical care caused it to be given a weight of 5.8% of the CPI-U, a full percentage point higher than in 1979. This is a further indication of the growing contribution of medical costs toward overall inflation.

This extreme picture is mirrored closer to home in the inflation data for Anchorage (Figure 32). The all items component, which measures overall inflation, has risen 43.6% nationally and 27.0% in Anchorage between 1980 and 1988. In contrast, medical care costs have escalated 85% for both the U.S. City Average and Anchorage during the same period (Table 44). However, due to the higher cost of living in Alaska, the 85% increase in medical costs in Anchorage involves a much larger dollar figure.

In 1988, medical care costs rose 6.4% in Anchorage and 6.5% nationwide. During the same period the all items index rose 4.1% for the U.S. City Average and only 0.4% in Anchorage. The picture is somewhat distorted in Anchorage because of sharply decreasing shelter costs. If the current anti-inflationary effect of the housing crisis in Anchorage is eliminated through the use of the All Items Less Shelter component, medical costs there increased at more than twice the adjusted inflation rate.

ALASKAN MEDICAL PRICES

Is the situation in Fairbanks as serious as that in Anchorage? Before responding to this question, it is necessary to understand that there are no similar CPI data available for Fairbanks. However, it is possible to look at various other surveys of health care to compare Anchorage and Fairbanks prices.

The first documentation of comparative medical costs resulted from the Community Research Center's participation in the American Chamber of Commerce Researchers Association (ACCRA) inter-city cost of living survey. The first ACCRA health care index for Fairbanks (determined from a survey conducted in the second quarter of 1986) was 232.9 compared to an average of 100 for the 249 participating communities. Anchorage had an index of 188.9 for health care in the same quarter.

The first quarter of 1988 is the last time that Anchorage participated in the survey and is thus the most recent period in which costs for Fairbanks and Anchorage can be compared. In that quarter, the composite index for Fairbanks was 130.9 for all 59 items and the health care index was 191.4. Anchorage had an overall index of 129.5 and a health care index of 188.4. Decreases in the health care index for both communities from the 1986 values quoted earlier were due more changes in data collection specifications than changes in relative costs between Alaska and Outside. The ACCRA data suggest that health care costs in both cities are not only quite comparable but also absolutely higher than the national average. Only Juneau, with a health care index of 196.4, nearly twice the national average, had a higher index among the 256 participating cities.

The health care component of the ACCRA survey is based on only four items: a semi-private hospital room, an office visit to a general practitioner, a dental exam and cleaning, and a bottle of aspirin. These items are not meant to provide comprehensive health care cost information, rather they were chosen to be indicative of the full range of medical care costs. Their choice for the ACCRA survey resulted from their uniformity and ease in data collection, not that hospital room rates and medical visits convey the true cost of health care. Taken individually, however, it is clear how their costs in Fairbanks compare to other communities (Table 45).

In January 1988, Fairbanksans paid an average of \$305 for the hospital room, \$49.33 for a standard physician office call, \$85.22 for the dental work, and \$3.37 for the aspirin. Among the 256 communities nationwide participating in the survey, the average hospital room cost \$216.42, the general practitioner office call \$26.30, the dental exam and cleaning \$34.19, and the aspirin \$3.43.

Prices in Fairbanks were not uniformly the highest in the nation. Thirteen other communities including Anchorage and Juneau paid more for the hospital room and residents of Washington, DC, paid more for the doctor visit. No one, however, paid more for the dental exam and cleaning. The high expenses for professional medical services found in the ACCRA data for Alaska are supported by insurance company reimbursements. Blue Cross of Washington and Alaska determined that prices in Alaska are higher than

those in Washington by 46% in medicine, 28% in surgery, 72% in laboratory, and 35% in radiology fields.

HOSPITAL COSTS

To describe their costs, it is necessary to understand the structure of the hospitals, the type of care provided, and their profit motivation. Fairbanks Memorial Hospital (FMH) is a 138-bed institution owned by the Greater Fairbanks Community Hospital Foundation. The hospital is leased to the Lutheran Hospitals and Homes Society (LHHS), a not-for-profit management corporation. Although not intended to return a profit, the corporation must meet its expenses and provide for the replacement of equipment and facility upgrades. Any excess revenues beyond expenses are put back into the hospital rather than being distributed among share holders. Substantial donations by community individuals and businesses to FMH result in readily accessible, low cost health care for Interior residents.

In contrast to the situation in Fairbanks, over half of the non-government hospital beds in Anchorage are in privately owned institutions. These profit oriented hospitals are Humana Hospital-Alaska with 238 beds, Charter North Hospital with 80 beds, and the Horizon Recovery Center with 34 beds. Only Providence Hospital with 337 beds is a not-for-profit establishment. Unlike FMH, however, Providence Hospital is wholly church owned.

The health care services which the Anchorage facilities provide also differ from FMH. Providence Hospital provides the most extensive services in the state. On the other hand, Humana Hospital, while almost twice as large as FMH, provides a mix of services very similar to FMH. Because Charter North Hospital and the Horizon Recovery Center specialize in resolving alcoholism or chemical dependency and providing psychiatric services as opposed to the acute care, they are not suitable for comparison with FMH. Thus only Providence and Humana will be considered in any comparisons made to Anchorage in determining whether the hospital situation in Fairbanks is as serious as in Alaska's largest city.

One of the most common medical procedures is child birth. Blue Cross of Washington and Alaska found the average maternity charge in Alaska to be \$3,500 while in Washington state it was only \$2,600. At FMH, the average charge for normal obstetrical care with a well baby was \$2,237.41 (Table 46). By way of comparison, the average charge in Anchorage was \$2,646.52 at Providence Hospital and \$3,398.03 at Humana Hospital-Alaska. A caesarian section with a well baby was \$4,748.95 locally, \$4,870.64 at Providence, and \$8,249.85 at Humana. This procedure averaged \$5,745 in Alaska and \$4,070 in Washington. While some medical costs in Fairbanks are high, local hospital rates appear to compare favorably with Washington.

The following are some of the underlying reasons for the price differences. Increased severity of illnesses treated and the greater the number of services provided result in a higher rate being charged by the hospital to cover the more extensive overhead in facilities and equipment. Both Anchorage hospitals offer a wider range of medical care than FMH, especially Providence Hospital which acts as a hub for Alaskan medical care. In order to make these capabilities available, every patient using Providence pays a premium rate. Records indicate that FMH is treating sicker Medicare patients than Humana but less severe than Providence. Humana Hospital, on the other hand, has three factors which contribute to its higher costs: (1) it must show a profit, (2) it provides a broader range of acute care than FMH, and (3) it has a lower occupancy rate and must therefore charge more to cover its capital investment.

CAUSES OF MEDICAL CARE COST INCREASES

What has prompted the rise in medical costs? Insurance companies, hospitals, and the medical profession have each presented the reasons from their perspective. A recent *New York Times* article presented the recurring themes in order of increasing importance as: (1) malpractice, (2) catastrophic cases, (3) technological advances, (4) increased utilization, (5) cost shifting, and (6) a seemingly redundant factor called medical inflation. In discussing the meaning of each of these causes, examples will be given from Fairbanks Memorial Hospital.

Insurance premiums for medical malpractice have escalated dramatically. At the same time hospital administrative legal fees have soared; at FMH they rose 240% between 1985 and 1987 and are quickly approaching one million dollars annually. Also, to avoid the threat of malpractice, physicians may practice "defensive" medicine and use expensive tests and procedures which might not otherwise be warranted.

The cost of catastrophic cases is the next inflationary factor. Modern medicine can now overcome conditions that were fatal only a few years ago, but the intensive nature of this intervention does not come cheaply. At FMH it is not the heroic procedures themselves which result in large medical bills but rather long term health care of patients with special problems such as burns. The accumulated costs can easily exceed full financial resources of the patient and thus must be spread out by the hospital over the prices charged for all its other services.

Technological innovations themselves, while enhancing the health and well being of individuals, add enormous costs. New diagnostic devices, such as ultra-sound, which can look within the body without the use of surgery, have become basic medical equipment. When not sufficiently utilized, however, the cost of these devices must be covered by increased fees for all patients whether they use them or not. FMH has a diagnostic radioisotope facility, a neonatal intensive care unit, and a computer tomographic (CT) scanner. Fairbanks does not have an intensive cardiac care unit, an open heart surgery facility, a burn unit, a cardiac catheterization laboratory, a full range of radiation therapy, magnetic resonance imaging, or hemodialysis. These are found at Providence Hospital, which serves specialized needs for the entire state.

Greater usage of medical care has resulted from its increased accessibility and public awareness of the scope of services available. Increasing demand affects not only health care providers, but also insurance companies and assistance programs. Usually economies of scale recognized by the health care industry do not make up for the additional expenditures by corporate, government, or individual payers and total costs continue to increase.

Then, once hospital rooms and equipment are in place, reduced demands can even result in higher fees necessary to cover high fixed costs. In 1988, FMH had the fewest admissions in ten years and shorter average length of stay (Table 68). Combined with more emergency and outpatient visits, this pattern contributed to large increases in the average charge per hospital day. Despite cutbacks the hospital has made in the number of staff in response to decreases in hospital usage, the average charge per day has increased from \$690 in 1983 when patient days peaked at 42,718 to \$1,182 in 1988 (Table 69).

Another factor contributing to rising costs has been the cost shifting done by hospitals to maintain revenue levels. There has been a rise in uncompensated care resulting from charity, bad debt, or governmental and insurance program reimbursement policies (Table 47). For example, as a result of a recent rate hearing for FMH, Medicaid reimbursement was recently set at only a fraction of charges. In 1988, FMH provided nearly

\$5.2 million in uncompensated care. Bad debt was accounted for 33% of the uncompensated care while unusual circumstances resulted in medicaid being responsible for 29%. Medicare accounted for 17%. Health care providers have effectively shifted these unreimbursed costs to individual and private sector payers.

The largest factor in rising health care costs, however, is simply medical inflation. These are direct costs which the health care providers must pay for increases in supply prices and wages.

Finally, according to Mike Powers, Chief Financial Officer of FMH, some of the recent price changes among Alaskan hospitals are not the result of inflation as much as a more accurate accounting of true costs. This can be seen in the 15% rise in the medical care index for Anchorage in 1986. Strict accounting of service and supply usage that year resulted in apparent medical care inflation twice the normal rate for the CPI-U in the community. A similar result can be seen in the rise in the average charge per hospital day when similar procedures were introduced at FMH in 1987. Regardless of the appropriateness of the new accounting practices, the result is inflation of medical costs from the perspective of users and rate payers.

COST CONTAINMENT

What can be done to keep medical price increases in line? A recent report by the Governor's Interim Commission on Health Care entitled *The Best of Care* discussed the challenges of providing affordable health care to Alaskans. The commission suggested some regulations to contain health costs and recommended the development and funding of home- and community-based care systems for persons in need of long term care as an alternative to more expensive institutional care. However, because a long term solution to the overall problem of increasing health care costs was not found, the report urged continued effort to resolve the many issues involved.

Alaska is in a unique situation. The youthful nature of the state's population results in a lower percentage of expenditures for health care, only 3% in Anchorage according to a 1982-83 survey, than the national average of 4%. However, by age 65 expenditures typically increase to above 10%. As the Alaskan population ages, local health needs will naturally increase and this demand could fuel even higher medical costs if appropriate measures are not in place.

For the moment the fact remains: medical care costs in Fairbanks are high. Individuals can immediately respond by becoming intelligent consumers. Fairbanks is fortunate to have the services of a large number of physicians in a broad range of specialties among whom to choose (e.g., see Table 70). Patients in consultation with their physicians can also explore alternative modes of health care in an effort to contain costs while meeting medical needs.

The Fairbanks Memorial Hospital has internally sought to contain prices by reducing staff, freezing salaries, and obtaining economies through aggregating services and purchases. Being a community owned hospital, individuals can provide input to its management through participation in the Greater Fairbanks Community Hospital Foundation.

It is up to all participants in the health care triangle—the using public, the health care providers, and the government and private underwriters—to seek innovative ways to contain costs. There is an impending crisis if the cost of health care continues to increase at its

present rate. It will take community involvement to insure that Fairbanks maintains its excellent medical facilities and staffs at affordable rates.

health association of alaska

319 Seward St., Juneau, Alaska 99801 • (907) 586-1790
REPRESENTING ACUTE, LONG TERM AND OUTPATIENT FACILITIES

Chairman of the Board
Jim Gingerich
Fairbanks Memorial
Hospital

Chairman-Elect
C. Keith Campbell
Seward General Hospital

Immediate Past Chairman
John Vowall
Wrangell General Hospital

Secretary/Treasurer
Steve Berkshire
Charter North Hospital
Anchorage

Delegate to the American
Hospital Association
Sister Barbara Haase
Ketchikan General Hospital

Alternate Delegate to the
American Hospital Assoc.
Ed Zeine
Cordova Community
Hospital

Delegate to the American
Health Care Association
Tom Bolling
Our Lady of Compassion
Care Center
Anchorage

Alternate Delegate to the
American Health Care
Association
Ronald Oitthoff
Denali Center
Fairbanks

Delegate to the Healthcare
Forum
Ed Malewski
Sitka Community Hospital

Delegate to the National
Congress of Hospital
Governing Boards
Jan Trettner
Seward General Hospital

Government Institutions
Representative
Frank Sutton
Mt. Edgecumbe Hospital
Sitka

Outpatient Facilities
Representative
Avis Hayden
Alaska Treatment Center
Anchorage

Executive Director
Harlan R. Knudson

Monday
March 20, 1989

Health Association of Alaska - Testimony
Cost of Health Care -- House HES Committee

Harlan Knudson, Executive Director (Brief Overview)

Jim Gingerich, Administrator, Fairbanks Memorial Hospital
and Dennis Murray, Administrator Heritage Place Nursing Home,
Soldotna - Review hospital/nursing home costs.

Dr. Bruce Amundson - University of Washington School of Medicine
- Area Health Education Center. Dr. Amundson is
Associate Director of Community Health Systems.
His topic -- A proposal to strengthen community health
systems.

Many Thanks.....

OVERVIEW OF STATE AND LOCAL PROGRAMS FOR THE MEDICALLY INDIGENT

- I. INTRODUCTION
- II. CHARACTERISTICS OF STATE AND LOCAL MI PROGRAMS
- III. PROGRAMMATIC MODELS
- IV. NEW APPROACHES
- V. SURVEY STATE'S PROGRAM

TRADITIONAL PROGRAMMATIC MODELS

- PATIENT-FOCUSED
 - STATE-ONLY MEDICAID
 - GENERAL ASSISTANCE (GA) MEDICAL
 - CATEGORICAL
 - CATASTROPHIC
 - REGULATORY
 - INSURANCE CONTINUATION &
CONVERSION
 - RISK POOLS FOR "UNINSURABLES"

**EXPANDING PRIVATE COVERAGE FOR
PERSONS NOT LINKED TO WORKPLACE:**

RISK POOLS FOR MEDICALLY UNINSURABLES

- 1 - 2 MILLION UNINSURABLES ESTIMATED (AIDS MAY INCREASE)
- CURRENTLY IN 15 STATES:

CONNECTICUT

FLORIDA

ILLINOIS

INDIANA

IOWA

MAINE

MINNESOTA

MONTANA

NEBRASKA

NEW MEXICO

NORTH DAKOTA

OREGON

TENNESSEE

WASHINGTON

WISCONSIN

FEATURES OF RISK POOLS FOR MEDICALLY UNINSURABLES

- PERSONS REJECTED BY 1 OR MORE INSURERS DUE TO HEALTH STATUS
- PREMIUMS ARE CAPPED AT 125% - 400% OF INDIVIDUAL AGE/SEX-RATED RATE
(WI SUBSIDIZES PREMIUMS FOR POOR)
- TYPICAL INDEMNITY BENEFITS
- OFTEN PRE-EXISTING CONDITION EXCLUSIONS AND WAITING PERIOD
- ALL INSURERS IN STATE MUST PARTICIPATE (NOT SELF-INSURED EMPLOYERS DUE TO ERISA)
- MOST STATES OFFER TAX CREDITS TO INSURERS FOR LOSSES
- CAN BE PART OF A SMALL EMPLOYER INSURANCE STRATEGY

GAO STUDY OF RISK POOL LAWS

- **RISK POOLS REACH A SMALL NUMBER OF PEOPLE**
- **SINCE PREMIUMS ARE CAPPED, THEY ALL OPERATE AT A LOSS (EVEN IN STATES WITHOUT CREDIT, LOSSES ARE UNDER 1% OF PREMIUM INCOMES FOR CARRIERS)**
- **STILL NOT AFFORDABLE FOR MANY PEOPLE**
- **USERS MOST LIKELY TO BE 40-64 YEARS OLD**
- **MORE COSTLY USERS: 30% MORE EXPENSIVE PER CAPITA THAN US AVERAGE**

TRADITIONAL PROGRAMMATIC MODELS

- INSTITUTION-FOCUSED

- OWNING HOSPITALS OR CLINICS

- PAYMENTS TO PRIVATE HOSPITALS OR CLINICS

- REGULATORY

- RATE-SETTING

- CON

- LICENSURE

- ANTI-DUMPING

- TAX EXEMPTION AUTHORITY

NEW APPROACHES TO FINANCING AND DELIVERING INDIGENT HEALTH CARE

- **COMPREHENSIVE STATE HEALTH INSURANCE**
- **NEW FINANCING SOURCES**
- **"COUNTY RELIEF" LAWS**
- **COST-EFFECTIVE DELIVERY APPROACHES**
 - **MANAGED CARE (HMO, PPO)**
 - **INTEGRATED PUBLIC HOSPITAL SYSTEMS**

APPROACHES TO EXPAND PRIVATE SECTOR COVERAGE

OUTLINE

- **REASONS TO SEEK EXPANDED PRIVATE SECTOR
COVERAGE**
- **OBSTACLES TO EXPANDING PRIVATE SECTOR COVERAGE**
- **TARGET POPULATIONS**
- **EXPANDING COVERAGE FOR UNINSURED WORKERS
AND/OR DEPENDENTS**
- **EXPANDING COVERAGE FOR RECENTLY UNEMPLOYED
WORKERS AND DEPENDENTS**
- **EXPANDING PRIVATE INSURANCE COVERAGE FOR
PERSONS NOT LINKED TO WORKPLACE**

REASONS TO SEEK EXPANDED PRIVATE SECTOR INSURANCE

- **STRONG TRADITION OF HEALTH INSURANCE THROUGH
THE WORKPLACE**
- **CAN BE SEEN AS BASIC RESPONSIBILITY OF ALL
EMPLOYERS**
- **NON-INSURING EMPLOYERS CAN BE SEEN AS UNFAIR
COMPETITORS**
- **PLURALISTIC APPROACH TO ADDRESSING THE
UNINSURED**
- **KEEPS COSTS OFF PUBLIC BUDGETS**
- **AS EMPLOYERS' PRICE DEMANDS LIMIT COST SHIFTING,
UNINSURED ACCESS PROBLEMS ARE RELATED IN PART
TO EMPLOYER POLICIES**

OBSTACLES TO EXPANDING PRIVATE SECTOR COVERAGE

- **RESISTANCE TO GOVERNMENT INTERVENTION
(ESPECIALLY MANDATES)**

- **EMPLOYER CONCERNS ABOUT COSTS AND
ADMINISTRATION**

- **POSSIBLE EFFECTS UPON EMPLOYERS:**
 - **DISEMPLOYMENT**

 - **BUSINESS CLOSURES**

 - **LOSS OF BUSINESS FROM ONE STATE TO ANOTHER**

 - **LOSS OF COMPETITIVENESS ACROSS STATE OR
NATIONAL LINES**

TARGET POPULATIONS

- PERSONS LINKED TO WORKPLACE
 - WORKERS AND DEPENDENTS
 - RECENTLY UNEMPLOYED WORKERS

- PERSONS NOT LINKED TO WORKPLACE
 - HIGH RISK, UNINSURABLES
 - OTHER UNEMPLOYED PERSONS

WHO ARE THE WORKING UNINSURED?

- OVER HALF (55%) OF THE UNINSURED ARE WORKERS
2/3 FULL-TIME AND 1/3 PART-TIME
- ANOTHER 22% ARE THEIR DEPENDENTS
- ANOTHER 12% ARE DEPENDENTS OF INSURED WORKERS
- PRIMARILY LOWER WAGE WORKERS
35% EARN LESS THAN MINIMUM WAGE

OPTIONS FOR EXPANDING PRIVATE SECTOR COVERAGE TO WORKERS

- VOLUNTARY PRIVATE SECTOR OPTIONS
- PUBLIC SECTOR POLICIES
 - MANDATES
 - EMPLOYERS
 - INSURERS
 - INCENTIVES
 - SUBSIDIES
 - ADMINISTRATIVE SUPPORT
 - TAX INCENTIVES

INTRODUCTION

RWJ HEALTH CARE FOR THE UNINSURED PROGRAM

- PURPOSE IS TO DEMONSTRATE NEW PUBLIC AND/OR PRIVATE SECTOR FINANCING AND/OR DELIVERY APPROACHES FOR CARING FOR THE UNINSURED
- 15 PROPOSALS FUNDED IN 1986 AND 1987 (\$16 MILLION)
- GRANT RECIPIENTS ALL FOCUS PRIMARILY ON THE WORKING UNINSURED
- TRYING TO DEVELOP AFFORDABLE INSURANCE PRODUCTS FOR WORKERS IN SMALL FIRMS

STRATEGIES FOR AFFORDABLE INSURANCE

- PROVIDER DISCOUNTS (PPO OR EPO) APPROACH)
 - NEGOTIATE DISCOUNTED FEES WITH HOSPITALS AND/OR PHYSICIANS (IF SUBSCRIBERS USE OTHERS, THEY WILL PAY MORE)
 - GRANTEES
 - MAINE DEPARTMENT OF HUMAN SERVICES
 - DENVER HEALTH AND HOSPITALS ("SCOPE")
 - FLORIDA DEPARTMENT OF HEALTH AND REHABILITATION SERVICES
 - TENNESSEE ASSOCIATION OF PRIMARY HEALTH CENTERS
 - INTERMOUNTAIN HEALTH CARE (UTAH)
(LIMITS HOSPITAL DAYS)
- LIMITING BENEFITS
 - INSURANCE PREMIUMS ARE LOWER IF COSTLY BENEFITS (SUCH AS HOSPITAL CARE) CAN BE LIMITED
 - GRANTEES:
 - UNIVERSITY OF ALABAMA (LIMITS HOSPITAL DAYS AND OUTPATIENT VISITS, BUT INCLUDES DRUG PRESCRIPTIONS WITH COPAYMENT)

STRATEGIES FOR AFFORDABLE INSURANCE

- PROVIDER RISK SHARING (CAPITATION)
 - WHEN PROVIDERS SHARE IN RISK OF HEALTH CARE COSTS, THEY CAN CURB HEALTH CARE USE AND LOWER PREMIUMS (HMO'S SAVE 10% TO 40% OF COSTS COMPARED TO FEE-FOR-SERVICE PLANS BY LOWERING HOSPITAL USE)
 - GRANTEES:
 - TENNESSEE ASSOCIATION OF PRIMARY HEALTH CENTERS
 - UNIVERSITY OF ALABAMA
 - ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)
 - WASHINGTON BASIC HEALTH PLAN
- CASE MANAGEMENT (WITHOUT CAPITATION)
 - REQUIRING ENROLLEES TO GO THROUGH ONE PROVIDER FOR REFERRAL TO CARE IS BELIEVED TO SAVE MONEY
 - GRANTEES
 - INTERMOUNTAIN HEALTH CARE
 - MAINE DEPARTMENT OF HUMAN SERVICES

STRATEGIES FOR AFFORDABLE INSURANCE

- POOLING TO FORM LARGE GROUPS (MULTIPLE EMPLOYER OR EMPLOYEE TRUSTS)
 - INSURANCE POOLING ARRANGEMENTS AGGREGATE MANY SMALL GROUPS INTO LARGE ONES TO SAVE ADMINISTRATIVE AND MARKETING COSTS AND POOL RISKS
 - GRANTEES:
 - FLORIDA DEPARTMENT OF HEALTH AND REHABILITATION SERVICES (MET)
 - SOUTH COVE COMMUNITY HEALTH CENTER (EMPLOYEE POOL)
 - WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE AGENCY (USING PUBLIC EMPLOYEE MET MODEL FOR SMALL EMPLOYERS)
- HIGH COST SHARING (LARGE DEDUCTIBLES OR COPAYMENTS)
 - TRADITIONAL WAY TO LOWER INSURANCE PREMIUMS (BY BOTH SUBSCRIBER PAYMENT FOR CARE AND REDUCING USE)
 - GRANTEE: DENVER HEALTH AND HOSPITALS

STRATEGIES FOR AFFORDABLE INSURANCE

- EXPLICIT STATE PREMIUM SUBSIDIES
 - SINCE OTHER APPROACHES MAY NOT LOWER PREMIUMS ENOUGH
 - GRANTEES:
 - MICHIGAN LEAGUE FOR HUMAN SERVICES (TARGETING INSURANCE PLANS TO POST-AFDC NEW EMPLOYEES TO KEEP THEM OFF WELFARE)
 - WASHINGTON'S BASIC HEALTH PLAN
 - MAINE DEPARTMENT OF HUMAN SERVICES
- TRADITIONAL INSURANCE APPROACHES TO LOWERING PREMIUMS
 - MEDICAL UNDERWRITING (FL, TN, DENVER)
 - MINIMUM EMPLOYEE PARTICIPATION (AL, FL)
 - MINIMUM EMPLOYER CONTRIBUTION (AL, FL)
 - PRE-EXISTING CONDITION EXCLUSIONS AND/OR WAITING PERIODS (TN, UT, AZ, AL)
 - MINIMUM FIRM LIFE (FL)
 - MINIMUM EMPLOYEE TENURE (AL)

EMPLOYEE INCENTIVES

- SUBSIDIES (WA)
- EMPLOYEE POOLS (SOUTH COVE)
- TAX INCENTIVES
- ADVERSE SELECTION PROBLEM

OPTIONS FOR EXPANDING COVERAGE TO RECENTLY UNEMPLOYED WORKERS

- INSURANCE REGULATION
 - CONTINUATION REQUIREMENTS
 - CONVERSION REQUIREMENTS
 - COBRA

- MAY STILL BE UNAFFORDABLE FOR THE UNEMPLOYED

- ADVERSE SELECTION ISSUES

Comprehensive Health Care for

-Alternative Paths

Financing models:

Comprehensive health program

Canadian model

universal private insurance model

"Massachusetts plan"

expanded private insurance plus public pool

Statewide health insurance pool

pool existing public groups and enroll others into
pool plan

Targeted programs for special populations

workers/dependents, unemployed, mothers,
children, uninsurable

Provider availability issues

CORRECTION

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

Comprehensive Health Care for

Alaska--Alternative Paths

Financing models:

Comprehensive health program

Canadian model

universal private insurance model

"Massachusetts plan"

expanded private insurance plus public pool

Statewide health insurance pool

pool existing public groups and enroll others into
pool plan

Targeted programs for special populations

workers/dependents, unemployed, mothers,
children, uninsurable

Provider availability issues

Canadian Model

Tax-based, publicly funded universal coverage

government pays providers directly
controls costs by setting hospital & MD payments

Issues:

benefits to cover?
cost sharing?
exclude elderly?
expenditures and tax base needed?
effectively eliminates most private insurance

State-Financed Insurance

Tax-based program where state
purchases private insurance

would cover all residents

uses private insurance industry

Issues:

benefits to cover?

cost sharing?

exclude elderly?

expenditures and tax base needed?

less cost control by using private insurance plans

"Massachusetts Plan"

Expanding private insurance through payroll tax and credits

Pool for all uninsured and others that wish to join

to purchase private insurance plan(s) through state

subsidies for low income persons

include Medicaid if it purchases private insurance

Issues:

benefits to cover?

cost sharing?

how to assure dependent coverage in all plans?

size of employers to tax?

rate of employer payroll tax?

if Medicaid included, what about non-covered benefits?

size of public expenditure and tax base needed?

underwriting and adverse selection issues

State Insurance Pool

Create pool of existing insured public employees

- permit all insured and uninsured persons to enroll

- state-chosen plan(s)

- subsidies for low income persons

- include Medicaid if it purchases private insurance

Issues:

- benefits to cover?

- cost sharing?

- how to assure dependent coverage in c'l plans?

- if Medicaid included, what about uncovered benefits?

- size of public expenditure and tax base needed?

- financial viability of public insurance pools?

- underwriting and adverse selection issues

Targeted Programs

Special Populations

Workers and Dependents

- private employer incentives
- public subsidies
- Medicaid "buy in"

Unemployed

- COBRA extensions and subsidies
- special public/private programs

Children, Pregnant Women

- Medicaid expansions
- Medicaid "buy in"
- enhanced private insurance/regulation
- categorical programs

Medically High Risk Uninsurable persons

- risk pools
- Medicaid "buy in"

Non-Financial Access Barriers

Medically Underserved Areas

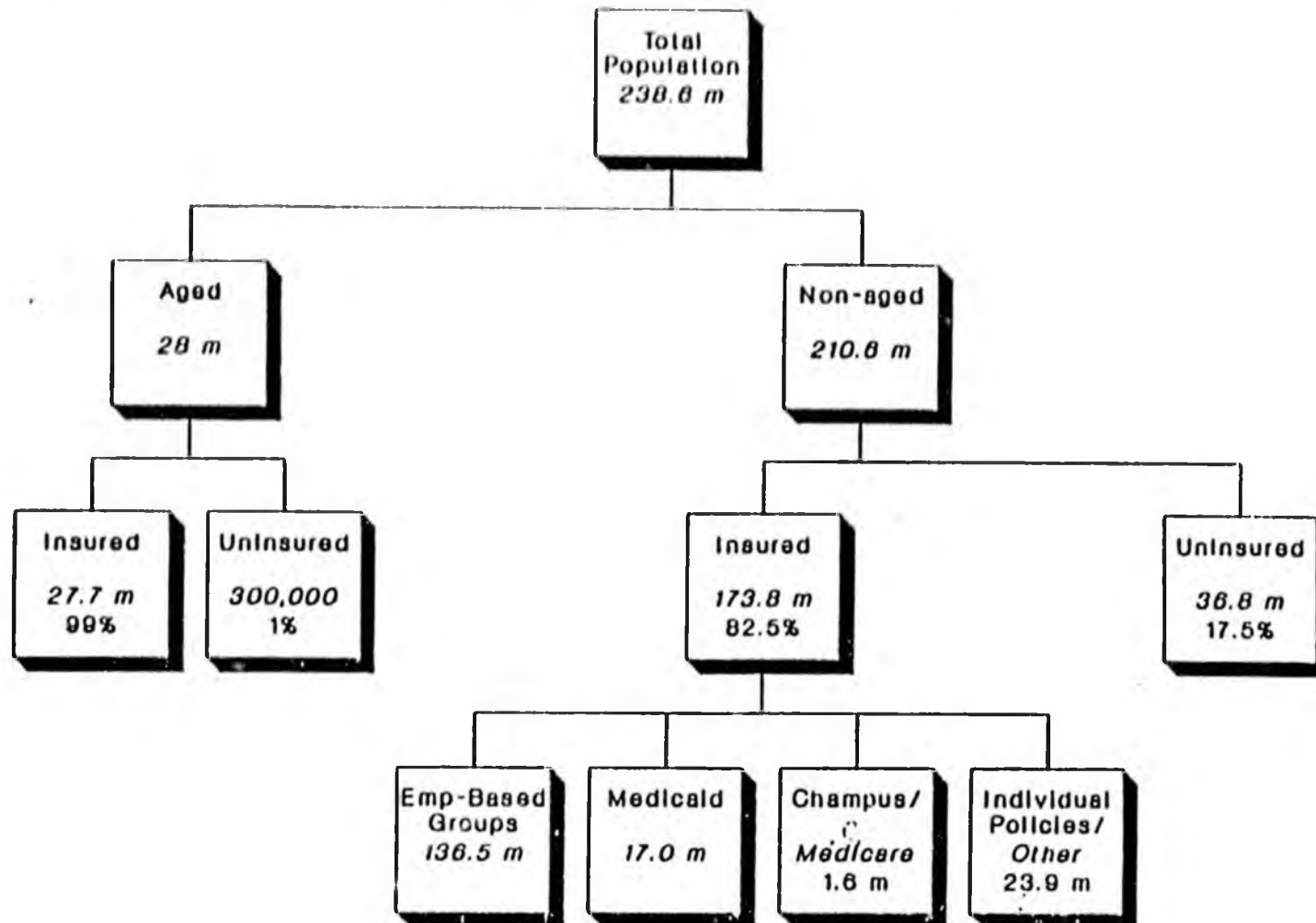
Provider availability

- grants and loans to providers
- direct payments to support hospitals and clinics
- assistance with malpractice and other special costs

Delivery system issues

- contracts with IHS providers to serve non-Native Americans

INSURANCE STATUS OF US POPULATION: 1986



Source: CRS Analysis of March 1987 CPS

EO 72

Rosswog, Smith, Taylor, VanderLeest.

30 - Armstrong, Aves, Boswell, Buckalew, Coghill, Cooper, Davis, Doogan, Emberg, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hurley, Johnson, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNees, Marston, Nordale, Poulsen, Riley, R. Rivers, Stewart, Sundborg, Sweeney, Walsh, White, Wien, Mr. President.

Absent: 1 - McNealy.)

CHIEF CLERK: 18 yeas, 36 nays, and 1 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 14? Mr. Ralph Rivers.

R. RIVERS: I have an amendment.

PRESIDENT EGAN: Mr. Ralph Rivers, you may offer your amendment. The Chief Clerk may read the proposed amendment.

R. RIVERS: May we have about a two-minute recess? I would like to consult with Mr. Londborg.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess for two minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk will please read the amendment as proposed by Mr. Ralph Rivers.

R. RIVERS: It hasn't been introduced yet, I was going to withdraw it.

PRESIDENT EGAN: No, it has not been introduced.

R. RIVERS: I won't even do that.

PRESIDENT EGAN: Are there amendments to Section 13 or 14 or 15? Mr. Sundborg.

SUNDBORG: Mr. President, I have a question about Section 14. May I be permitted to address it to Mr. Rivers?

PRESIDENT EGAN: You may, Mr. Sundborg, if there is no objection.

Start [SUNDBORG: Mr. Rivers, I am a little bit bothered about these

executive orders of the governor which may change the assignment of functions among the departments, and I am wondering just what force they would have in law, for example, where they contravene some law that might have been passed by the legislature saying that the function of a certain department shall be thus and so and then the governor issues an executive order which says here that it will become effective at the close of the next regular legislature. What happens to the law on the books? Is it of no avail?

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: Mr. President, I am pleased to answer that question because it is one that we discussed at some length in the Committee, and in regard to organizational efficiency of the executive department, the governor would be able to recommend this change in his executive order. It would not become effective until after the legislature had reviewed it and could then take an action upon it. It is the same clause that goes along with, of course, the idea of the strong executive. It is also the same clause that is used in a similar manner for the reorganization powers of the President of the United States. It does give him the power to alter existing organizational structures that have been set up by law, but only after the legislature has failed to say "No, we won't let you do that."

SUNDBORG: Don't you feel we have to specifically give those orders the force of law in the constitution or otherwise before they could contravene an act of the legislature?

V. RIVERS: We discussed that and thought this wording would cover it by and with the advice and also discussion with more than one consultant on the matter. Occasionally there is a body within the organizational administrative setup of government where they have the power of making rules that have the force of law, and it was thought this wording covered it. Of course, none of the rules that are upset or changed, or become law are actually accepted until the legislature fails to take a positive repealing or negative action.

SUNDBORG: Would the governor have the authority, and I assume he would, to veto an act of the legislature which would undo one of these executive orders of his? If not, should we not say so?

V. RIVERS: This is a resolution, not an act. They would do it by resolution if they did not approve, and he has no veto power over a resolution. That is a joint action of the house or the two houses independent of any governor's approval in connection with resolutions as I understand it.

SUNDBORG: Does any state have a provision such as this?

V. RIVERS: I believe there are some of the newer state

constitutions, but I can't name them for you. It was generally discussed, and it was implied, and it was my understanding that there were some, and also they do have the same thing in the reorganization powers of the national government.

SUNDBORG: I don't oppose it necessarily, but I just wondered whether we have enough language to make it workable, and you are convinced we do?

V. RIVERS: Yes.

PRESIDENT EGAN: Mr. Davis.

DAVIS: I was going to try to answer Mr. Sundborg from my own standpoint. It appears to me, Mr. President, as one delegate, that if we adopt the provision which is in the proposal, then that if the legislature should make some laws which would take away the power which we here give the governor, that the laws would be unconstitutional and that we are not running into the problem Mr. Sundborg mentions because there should not be such laws.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: First a question of Mr. Victor Rivers. Mr. Rivers, don't you feel that perhaps the last sentence of the section weakens the theory of the strong executive?

V. RIVERS: In respect to the fact that the legislature would have to approve his recommendations, is that as you visualize it and is that what you are talking about?

HELLENTHAL: Yes. Recommendation in the executive field would require some sort of concurrence of the legislature.

V. RIVERS: It would require it in the case of any major change. He has the authority within his structure, no doubt, to make the minor changes necessary, but where he is going to, as it says in here, "assignment of functions and units thereof", you are going to have to have some consent of the legislature, as the Committee viewed it, and I believe I speak for the Committee unanimously on that point.

HELLENTHAL: I believe that answers my question. My point similar to Mr. Davis's, generally the executive branch of the government is supreme when acting in the executive sphere. In that sphere it cannot properly be interfered with by either the judiciary or the legislative branch. That is our true doctrine of separation of powers, and the courts have so held, but here I think we are diluting that. We are permitting an overlapping of the

legislative into the executive sphere. The normal check on a thing like this would be the court, and here we have a constitutional check in language which I agree with Mr. Sundborg is not at all clear. Perhaps an illustration of this is where the President acting properly in the executive sphere is told by Congress to do something, and the President ignores the congressional order. For instance, oftentimes the President has refused to answer a subpoena from a legislative investigating council, the theory being that the President, as executive, cannot be interfered with. But here we are enshrining a vague sort of interference.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: I just perhaps could amplify the Committee's thinking a bit on this. We were thinking primarily of laws setting up boards and sort of sloppy administration, as we have at the present time. Now then, when the governor sees there are too many departments set up functioning by themselves or functioning under boards and there isn't any coordination, he has the right to suggest a reorganization and a different assignment of functions. Where his executive order might be contrary to the law which originally set up this department or board, that part of his executive order would have to be disapproved by a legislature. That is the way it works, just like the President.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, just another word along that line, and I think Mrs. Nordale brought it out quite clear, now the other way would be if the governor wanted some reorganization he would have to go to the legislature and have a bill introduced by somebody or on his own request and that bill would be acted upon to make this necessary change. For instance, deleting a certain board or ceasing its functions and putting it under the single department head or something of that nature, whatever major change he would want he would have to depend upon the legislature to pass that bill and get it into operation. Doing it this way, he sets forth an executive order but it does not become effective until it slips through the next session of the legislature without being voted out by the legislature. I suppose you could call it reverse legislation. The governor makes a new law and if the legislature does not want it done away with, well, then they can let it go through, but I think it runs in line with the strong executive we have where he can set forth his changes and the legislature by being silent on it, in that way they approve of the order.

PRESIDENT EGAN: In the absence of any amendment before us, are there amendments?

BUCKALEW: Mr. President, I have an amendment.

STATE OF ALASKA
THE LEGISLATURE

POUCHY STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 13, 1989

SUBJECT: Validity of E. *Terri*
TO: Representative Max Gruenberg
FROM: Terri Lauterbach *Terri*
Legislative Counsel

You have asked the following three questions relative to the validity of Executive Order No. 72, an order transferring the duties of the Medicaid Rate Commission to the Department of Health and Social Services:

- (1) Is there anything in the discussions of the the Constitutional Convention that indicates that the delegates thought the governor could act under art. III, sec. 23, Constitution of the State of Alaska, to abolish an agency?
- (2) Have any previous executive orders essentially abolished an agency by transferring all of its duties?
- (3) Are there provisions of federal law related to the medicaid program that require the existence of a commission like the Medicaid Rate Commission?

With reference to the first question, the minutes of the convention show that the constitution framers did consider the possibility of an agency being abolished by executive order. The entire section was questioned by some delegates as giving the governor too much power. Other delegates pointed out that the power to reorganize the executive branch went along with the idea they were promoting in general, that of a strong executive. Delegate Londborg then went on to describe the alternative if the governor were not given the power to reorganize the executive branch by executive order. Londborg said:

...now the other way would be if the governor wanted some reorganization he would have to go to the legislature and have a bill introduced by somebody or on his

Representative Max Gruenberg

Page 2

February 13, 1989

own request and that bill would be acted upon to make this necessary change. For instance, deleting a certain board or ceasing its functions and putting it under the single department head or something of that nature, whatever major change he would want he would have to depend upon the legislature to pass that bill and get it into operation. Doing it this way (under art. III, sec. 23), he sets forth an executive order but it does not become effective until it slips through the next session of the legislature without being voted out by the legislature. (Note: the 60-day disapproval requirement was added later.) I suppose you could call it reverse legislation. The governor makes a new law and if the legislature does not want it done away with well, then they can let it go through, but I think it runs in line with the strong executive we have where he can set forth his changes and the legislature by being silent on it, in that way they approve of the order. (Emphasis added.) Alaska Constitutional Convention Proceedings, page 2229.

Londborg's discussion quoted above was not challenged in any way by the other delegates. I think it would be fair to say that the subject of abolishing an agency by an executive order had been at least alluded to with no dissension.

As to whether or not a previous executive order has attempted to abolish an agency (other than the Department of Highways and the Department of Public Works which we discussed on the telephone), I have found only one other example. Executive Order No. 37, dated January 20, 1975, would have abolished the Department of Economic Development and Planning, reassigning its functions. However, the order was withdrawn from legislative consideration by the governor on March 4, 1975. According to a revisor's note in the executive orders pamphlet, essentially the same purposes of E.O. No. 37 were accomplished by legislation in ch. 207, SLA 1975.

In response to your third question, I have not found any federal requirement that a commission like the Medicaid Rate Commission be in existence. Federal law requires only that rates be "determined in accordance with methods and standards developed by the State." 42 U.S.C. 1396a(a)(13)(A).

I hope you find this discussion helpful. I have enclosed a copy of the four pages of convention minutes that refer to

Representative Max Gruenberg

Page 3

February 13, 1989

art. III. sec. 23. The quote used in this memo comes from the fourth page, page 2229. If I can be of further assistance, please let me know.

TL:kb
wkk1/115

Enclosure

HB

2

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 9, 1989

FURTHER REFERRALS: JUDICIARY

Date of Committee Action: _____

The HEALTH, EDUCATION & SOCIAL SERVICES Committee recommends that:

HOUSE BILL NO. 2 [IGNITION INTERLOCK DEVICES]
"An Act relating to ignition interlock devices."

be replaced with CSHB 2 (HESS) the same title
 a new title

have attached amendment(s)

- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact
- (4) zero fiscal notes
- zero with analysis

APPROVES PREVIOUS:

- fiscal note(s) published: _____
- zero fiscal notes(s) published: _____

SIGNING DO PASS:

Mark G. ...

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

Walt ...

Peter ...

Mark ... (NO REC)

George ... (NO REC)

J.P. ... (no rec)

J. Ellis

Chairman's signature

6-0010E ✓
Ford
1/23/89

Original sponsors: Gruenberg, Koponen,
Ulmer, et al.

(2)

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 2 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to ignition interlock devices; and
7 establishing a class C misdemeanor."

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

9 * Section 1. AS 09.50.250 is amended to read:

10 Sec. 09.50.250. ACTIONABLE CLAIMS AGAINST THE STATE. A person
1 or corporation having a contract, quasi-contract, or tort claim
2 against the state may bring an action against the state in the superi-
3 or court. A person who may present the claim under AS 44.77 may not
4 bring an action under this section except as set out in AS 44.77.-
5 040(c). A person who may bring an action under AS 36.30.560 - 36.-
6 30.695 may not bring an action under this section except as set out in
7 AS 36.30.685. However, an [NO] action may not be brought under this
8 section if the claim

9 (1) is an action for tort, and is based upon an act or
0 omission of an employee of the state, exercising due care, in the
1 execution of a statute or regulation, whether or not the statute or
2 regulation is valid; or is an action for tort, and based upon the
3 exercise or performance or the failure to exercise or perform a dis-
4 cretionary function or duty on the part of a state agency or an em-
5 ployee of the state, whether or not the discretion involved is abused;

6 (2) is for damages caused by the imposition or establish-
7 ment of a quarantine by the state;

8 (3) arises out of assault, battery, false imprisonment,
9 false arrest, malicious prosecution, abuse of process, libel, slander

CORRECTION

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

6-0010E ✓

Ford
1/23/89

Original sponsors: Gruenberg, Koponen,
Ulmer, et al.

(2)

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 2 ()
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to ignition interlock devices; and
7 establishing a class C misdemeanor."

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

9 * Section 1. AS 09.50.250 is amended to read:

10 Sec. 09.50.250. ACTIONABLE CLAIMS AGAINST THE STATE. A person
11 or corporation having a contract, quasi-contract, or tort claim
12 against the state may bring an action against the state in the superi-
13 or court. A person who may present the claim under AS 44.77 may not
14 bring an action under this section except as set out in AS 44.77.-
15 040(c). A person who may bring an action under AS 36.30.560 - 36.-
16 30.695 may not bring an action under this section except as set out in
17 AS 36.30.685. However, an [NO] action may not be brought under this
18 section if the claim

19 (1) is an action for tort, and is based upon an act or
20 omission of an employee of the state, exercising due care, in the
21 execution of a statute or regulation, whether or not the statute or
22 regulation is valid; or is an action for tort, and based upon the
23 exercise or performance or the failure to exercise or perform a dis-
24 cretionary function or duty on the part of a state agency or an em-
25 ployee of the state, whether or not the discretion involved is abused;

26 (2) is for damages caused by the imposition or establish-
27 ment of a quarantine by the state;

28 (3) arises out of assault, battery, false imprisonment,
29 false arrest, malicious prosecution, abuse of process, libel, slander,

1 misrepresentation, deceit, or interference with contract rights; or
2 (4) arises out of the use of an ignition interlock device
3 certified under AS 33.05.020(c).

4 * Sec. 2. AS 11.76 is amended by adding a new section to read:

5 Sec. 11.76.140. AVOIDANCE OF IGNITION INTERLOCK DEVICE. (a) A
6 person may not knowingly

7 (1) circumvent or tamper with an ignition interlock device
8 in a manner intended to allow a person on probation under AS 12.55.102
9 to avoid using the device; or

10 (2) rent, loan, or lease a motor vehicle to a person on
11 probation under AS 12.55.102, unless the vehicle is equipped with an
12 ignition interlock device described in AS 12.55.102.

13 (b) A person convicted of violating this section is guilty of a
14 class C misdemeanor.

15 * Sec. 3. AS 11.81.250(a) is amended to read:

16 (a) For purposes of sentencing under AS 12.55, all offenses
17 defined in this title, except murder in the first and second degree,
18 attempted murder in the first degree, sexual assault in the first
19 degree, sexual abuse of a minor in the first degree, misconduct
20 involving a controlled substance in the first degree, and kidnapping,
21 are classified on the basis of their seriousness, according to the
22 type of injury characteristically caused or risked by commission of
23 the offense and the culpability of the offender. Except for murder in
24 the first and second degree, attempted murder in the first degree,
25 sexual assault in the first degree, sexual abuse of a minor in the
26 first degree, misconduct involving a controlled substance in the first
27 degree, and kidnapping, the offenses in this title are classified into
28 the following categories:

29 (1) class A felonies, which characteristically involve

1 conduct resulting in serious physical injury or a substantial risk of
2 serious physical injury to a person;

3 (2) class B felonies, which characteristically involve
4 conduct resulting in less severe violence against a person than class
5 A felonies, aggravated offenses against property interests, or
6 aggravated offenses against public administration or order;

7 (3) class C felonies, which characteristically involve
8 conduct serious enough to deserve felony classification but not
9 serious enough to be classified as A or B felonies;

10 (4) class A misdemeanors, which characteristically involve
11 less severe violence against a person, less serious offenses against
12 property interests, less serious offenses against public
13 administration or order, or less serious offenses against public
14 health and decency than felonies;

15 (5) class B misdemeanors, which characteristically involve
16 a minor risk or physical injury to a person, minor offenses against
17 property interests, minor offenses against public administration or
18 order, or minor offenses against public health and decency;

19 (6) class C misdemeanors, which characteristically involve
20 conduct serious enough to deserve classification as a crime but not
21 serious enough to be classified as A or B misdemeanors;

22 (7) violations, which characteristically involve conduct
23 inappropriate to an orderly society but which do not denote
24 criminality in their commission.

25 * Sec. 4. AS 12.55.035(b) is amended to read:

26 (b) Upon conviction of an offense, a defendant who is not an
27 organization may be sentenced to pay, unless otherwise specified in
28 the provision of law defining the offense, a fine of no more than

29 (1) \$75,000 for murder in the first or second degree,

1 attempted murder in the first degree, sexual assault in the first
2 degree, sexual abuse of a minor in the first degree, kidnapping, or
3 misconduct involving a controlled substance in the first degree;

4 (2) \$50,000 for a class A, B, or C felony;

5 (3) \$5,000 for a class A misdemeanor;

6 (4) \$1,000 for a class B misdemeanor;

7 (5) \$500 for a class C misdemeanor;

8 (6) \$300 for a violation.

9 * Sec. 5. AS 12.55 is amended by adding a new section to read:

10 Sec. 12.55.102. ALCOHOL RELATED OFFENSES. (a) The court may
11 order as a condition of probation that a defendant convicted of an
12 offense involving the use, consumption, or possession of an alcoholic
13 beverage may not operate a motor vehicle during the period of pro-
14 bation unless the vehicle is equipped with a properly functioning,
15 monitored, and maintained ignition interlock device. A condition of
16 probation imposed under this subsection takes effect after any period
17 of license revocation imposed under AS 28.15.165(d) or 28.15.181(c).

18 (b) The court, in imposing probation under (a) of this section,
19 may allow the defendant limited privileges to drive a motor vehicle
20 without an ignition interlock device if the court determines that the
21 defendant is required as a condition of employment to drive a motor
22 vehicle owned or leased by the defendant's employer and that the
23 defendant's driving will not create substantial danger. If the court
24 imposes probation described by this subsection, the court shall re-
25 quire the defendant to notify the defendant's employer of the proba-
26 tion, and shall require that the defendant, while driving the em-
27 ployer's vehicle, carry a letter from the employer authorizing the
28 defendant to drive that vehicle.

29 (c) A court imposing a condition of probation under this section

1 shall require the surrender of the driver's license and shall issue to
2 the defendant a certificate valid for the duration of the probation or
3 a copy of the defendant's judgment of conviction. The defendant shall
4 pay all costs associated with fulfilling the condition of probation,
5 including installation, repair, and monitoring of an ignition inter-
6 lock device.

7 (d) The court may include the cost of the ignition interlock
8 device as a part of the fine required to be imposed against the defen-
9 dant under AS 28.35.030(c) or 28.35.032(g).

10 (e) In this section, "ignition interlock device" means equipment
11 designed to prevent a motor vehicle from being operated by a person
12 who has consumed an alcoholic beverage, and that has been certified by
13 the commissioner of corrections under AS 33.05.020(c).

14 * Sec. 6. AS 12.55.135 is amended by adding a new subsection to read:

15 (f) A defendant convicted of a class C misdemeanor may be sen-
16 tenced to a definite term of imprisonment of not more than 30 days
17 unless otherwise specified in the provision of law defining the of-
18 fense.

19 * Sec. 7. AS 28.35.030(c) is amended to read:

20 (c) Upon conviction under this section the court shall impose a
21 minimum sentence of imprisonment of not less than 72 consecutive hours
22 and a fine of not less than \$250 if the person has not been previously
23 convicted in this or another jurisdiction of driving while intoxicated
24 under this or another law or ordinance with substantially similar
25 elements or refusal to submit to a chemical test under AS 28.35.032 or
26 another law or ordinance with substantially similar elements. Upon
27 conviction under this section the court shall impose a minimum sen-
28 tence of imprisonment of not less than 20 consecutive days and a fine
29 of not less than \$500 if, within the preceding 10 years, the person

1 has been previously convicted once in this or another jurisdiction of
2 driving while intoxicated under this or another law or ordinance with
3 substantially similar elements or refusal to submit to a chemical test
4 under AS 28.35.032 or another law or ordinance with substantially
5 similar elements. Upon conviction under this section the court shall
6 impose a minimum sentence of imprisonment of not less than 30 consecu-
7 tive days and a fine of not less than \$1,000 if, within the preceding
8 10 years, the person has been previously convicted in this or another
9 jurisdiction of more than one of the following offenses or has more
10 than once been previously convicted of one of the following offenses:
11 (1) driving while intoxicated under this or another law or ordinance
12 with substantially similar elements; (2) refusal to submit to a chemi-
13 cal test under AS 28.35.032 or another law or ordinance with substan-
14 tially similar elements. The execution of sentence may not be sus-
15 pended nor may probation be granted except on condition that the
16 minimum imprisonment provided in this section is served. Probation
17 may be conditioned as provided in AS 12.55.102. Imposition of sen-
18 tence may not be suspended. In addition, if the offense involved
19 driving a motor vehicle for which a driver's license is required, the
20 person's driver's license shall be revoked in accordance with AS 28.-
21 15.181 and the vehicle used in commission of the offense may be for-
22 feited under AS 28.35.036. In addition, the court shall order, and a
23 person convicted under this section shall undertake, for a term spec-
24 ified by the court, that program of alcohol education or rehabilita-
25 tion that the court, after consideration of any information compiled
26 under (d) of this section, finds appropriate.

27 * Sec. 8. AS 28.35.030 is amended by adding a new subsection to read:

28 (h) Notwithstanding (c) of this section, if the court imposes
29 probation under AS 12.55.102 the court may reduce the fine required to

1 be imposed under (c) of this section by the cost of the ignition
2 interlock device.

3 * Sec. 9. AS 28.35.032(g) is amended to read:

4 (g) Upon conviction of a person under this section, the court
5 shall impose a minimum sentence of imprisonment of not less than 72
6 consecutive hours and a fine of not less than \$250 if the person has
7 not been previously convicted in this or another jurisdiction of
8 driving while intoxicated under AS 28.35.030 or another law or ordi-
9 nance with substantially similar elements or refusal to submit to a
10 chemical test under this section or another law or ordinance with
11 substantially similar elements. Upon conviction under this section the
12 court shall impose a minimum sentence of imprisonment of not less than
13 20 consecutive days and a fine of not less than \$500 if, within the
14 preceding 10 years, the person has been previously convicted once in
15 this or another jurisdiction of driving while intoxicated under
16 AS 28.35.030 or another law or ordinance with substantially similar
17 elements or refusal to submit to a chemical test under this section or
18 another law or ordinance with substantially similar elements. Upon
19 conviction under this section the court shall impose a minimum sen-
20 tence of imprisonment of not less than 30 consecutive days and a fine
21 of not less than \$1,000, if, within the previous 10 years, the person
22 has been previously convicted in this or another jurisdiction of more
23 than one of the following offenses or has more than once been previ-
24 ously convicted of one of the following offenses: (1) driving while
25 intoxicated under AS 28.35.030 or another law or ordinance with sub-
26 stantially similar elements; (2) refusal to submit to a chemical test
27 under this section or another law or ordinance with substantially
28 similar elements. The execution of sentence may not be suspended nor
29 may probation be granted except on condition that the minimum

1 imprisonment provided in this section is served. Probation may be
2 conditioned as provided in AS 12.55.102. Imposition of sentence may
3 not be suspended. If the offense involved driving a motor vehicle for
4 which a driver's license is required, the person's driver's license
5 shall be revoked under AS 28.15.181. In addition, the court shall
6 order, and a person convicted under this section shall undertake, for
7 a term specified by the court, that program of alcohol education or
8 rehabilitation that the court, after consideration of any information
9 compiled under (h) of this section, finds appropriate. The sentence
10 imposed by the court under this subsection shall run consecutively
11 with any other sentence of imprisonment imposed on the committed
12 person.

13 * Sec. 10. AS 28.35.032 is amended by adding a new subsection to read:

14 (k) Notwithstanding (g) of this section, if the court imposes
15 probation under AS 12.55.102 the court may reduce the fine required to
16 be imposed under (g) of this section by the cost of the ignition
17 interlock device.

18 * Sec. 11. AS 33.05.020 is amended by adding new subsections to read:

19 (c) The commissioner shall by regulation establish standards for
20 calibration, certification, maintenance, and monitoring of ignition
21 interlock devices required as a condition of probation under AS 12.-
22 55.102. The manufacturer of the interlock ignition device shall
23 reimburse the state for the cost of certification. The department
24 shall notify the manufacturer of the ignition interlock device when
25 the device is certified.

26 (d) The commissioner may not certify an ignition interlock
27 device unless the device displays a label warning that a person cir-
28 cumventing or tampering with the device in violation of AS 11.76.140
29 is guilty of a class C misdemeanor.

3

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to ignition interlock devices."
Sponsor: Rep. Gruenberg, Koponen, Ulmer,
Requestor: et al

Agency Affected: Department of Corrections
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
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	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

This legislation will have no fiscal impact upon the Department of Corrections.

Susan E. Knighton

Prepared by: Susan E. Knighton, Director
Division: Administrative Services

Phone: 465-3376
Date: 1-23-89

Approved by Commissioner: *Stephen Barnett*
Agency: Department of Corrections

Date: 1-23-89

Distribution (by preparer):

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

STATE OF ALASKA 1989 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: Bill Version: HB 2
 Publish Date: 1/9/89

Revision Date: Agency Affected: Alaska Court System
 Title: An act relating to ignition BRU: Trial Courts
 interlock devices
 Sponsor: Gruenberg, Koponen, Ulmer, .. Components:
 Requestor: House Health & Social Services

EXPENDITURES/REVENUES:		(Thousands of Dollars)					
OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94	
Personal Services	
Travel	
Contractual	
Supplies	
Equipment	
Land & Structures	
Grants & Claims	
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	

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

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

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

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

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: *Jan Strandberg*
 Jan Strandberg, General Counsel Phone: 264-8228
 Division: Alaska Court System Date: 01/23/89

Approved by: *Stephanie Cole, for*
 Arthur H. Snowden, II, Administrative Director Date: 01/23/89
 Agency: Alaska Court System

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

6

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Public Safety
 Title: "An Act relating to ignition BRU: Highway Safety Planning Agency,
interlock devices." Alaska State Troopers
 Sponsor: Representative Gruenberg Component: _____
 Requestor: House HESS

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
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	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact for the Department of Public Safety.

Prepared by: T. Michael Lewis, Program Director
 Division: Highway Safety Planning Agency

Phone: 465-4374
 Date: 1/15/89

Approved by Commissioner: Arthur English
 Agency: Department of Public Safety

Date: 1-20-89



Alaska State Legislature

HOUSE OF REPRESENTATIVES

7

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

January 23, 1989

MEMORANDUM

To: House HESS Committee Members

From: Max Gruenberg *MG*

Re: HB 2 "An Act relating to ignition interlock devices."

HB 2 is identical to CS HB 261 (Judiciary), which passed the House 38 to 0 last session.

HB 2 will allow judges to require persons convicted of alcohol-related offenses to install, at their expense, an "ignition interlock" device on their motor vehicles. This "mini-breathalyzer" prevents the car from starting unless the driver "blows clean."

Courts around the country have started to require these devices. At least six other state legislatures are presently considering ignition interlock legislation. Eleven states have already enacted laws establishing an interlock program. California passed the first ignition interlock statute in 1986. It was followed in 1987 by Texas, Iowa, Idaho, Kansas, Maryland, Michigan, New York, Ohio, Oregon and Washington. Pennsylvania has started an ignition interlock program through its court system without a statute.

Nationwide studies show that multiple DWI offenders sentenced to an ignition interlock program are at least three times less likely to be reconvicted than are those sentenced under conventional DWI sentencing practices. The DWI recidivism rate nationally is 15 per cent. Preliminary recidivism results in jurisdictions with ignition interlock programs range from 1.2 per cent to 4 per cent. Moreover, a survey of offenders who have installed the device shows that most

offenders themselves believe this is an effective method of preventing DWI's.

The cost to the defendant is about \$500 per year for installation and maintenance of the interlock device. The judge may deduct this cost from the defendant's fine if the defendant cannot afford it. There is no cost to the state.

HB 2 has zero fiscal notes from the Departments of Corrections and HESS. The court system has not yet submitted a fiscal note this year; it submitted a zero fiscal note last year.

HB 2 has the support of both Anchorage CHAR and Anchorage MADD. If we can keep people with known alcohol-related problems from driving while intoxicated, we can save many lives.

A letter of intent similar to that passed by the House last year is also enclosed in your bill packet.



Alaska State Legislature

HOUSE OF REPRESENTATIVES

8

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: Members of the House HESS Committee

FROM: Max F. Gruenberg, Jr.

DATE: January 19, 1989

SUBJ: Sectional Analysis for HB 2 "An Act relating to sentencing in criminal actions involving alcohol."

Section 1

AS 09.50.250 (4) Provides the state with immunity in civil actions arising from the use of an ignition interlock system which has been certified by the Department of Corrections.

Section 2

AS 11.76.130 Makes it a violation to tamper with an ignition interlock system or rent or loan a motor vehicle with the knowledge that to do so would help someone violate their probation.

Section 3

AS 12.55.102 (a) Allows the court to require, as a condition of probation, that a person convicted of any alcohol-related offense, only drive a vehicle equipped with a certified ignition interlock system.

AS 12.55.102 (b) Allows the court to permit a limited exemption for a person to drive their employer's vehicle on the job.

AS 12.55.102 (c) Requires the surrender of the driver's license and the issuing of a special driver's certificate or a copy of the defendant's judgment of a conviction while the ignition interlock driving restriction applies. The defendant must bear all costs of installing and maintaining the device.

AS 12.55.120 (c) Defines ignition interlock device as a device certified by the Commissioner of Corrections that will prevent a motor vehicle from starting if the driver has consumed alcohol.

AS 12.55.120 (d) Allows a court to deduct the cost of an ignition interlock device as part of the fine imposed against the defendant.

Section 4

AS 28.35.030 Amends the DWI statute to allow the imposition of an ignition interlock restriction as a condition of probation.

Section 5

AS 28.35.030 (h) Amends the statute that sets minimum fines for DWI conviction in order to allow the court to deduct the cost of an ignition interlock device from the fine imposed.

Section 6

AS 28.35.032 (g) Amends the statute that sets minimum fines for refusal to submit to a chemical test to allow the imposition of an ignition interlock restriction as a condition of probation.

Section 7

AS 28.35.032 (k) Amends the statute that sets the minimum fines for refusal to submit to a chemical test in order to allow the court to deduct the cost of an ignition interlock device from the fine imposed.

Section 8

AS 33.05.020 (c) Requires the Commissioner of Corrections to adopt regulations for the certification, maintenance, and monitoring of ignition interlock devices. Requires the manufacturer of the interlock device to bear the cost of the certification.

AS 33.05.020 (d) Requires that a warning label that states the penalties for circumventing or tampering with an ignition interlock device be affixed to the device as a condition of certification.

Misc.txt/CL



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

House HESS Committee

Letter of Intent
for

HB 2 "An Act Relating to Ignition Interlock Devices"

The Legislature recognizes that ignition interlock systems may not function in cold temperatures, that a person may not reside in an area where installation, maintenance and monitoring of these devices is possible, and that routine cold temperature vehicle maintenance may be perceived by these systems as tampering.

It is the intent of the Legislature that before requiring a person to obtain an ignition interlock device, the court consider these circumstances and not place selected individuals under unreasonable hardship.

Johnny Ellis, Chair
House HESS Committee

STATE OF ALASKA
THE LEGISLATURE

POUR LEY STATE CAPITAL
BUREAU ALASKA 99500
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 1, 1988

SUBJECT: CSHB 261(Judiciary)
TO: Representative Max Gruenberg
FROM: Michael F. Ford
Legislative Counsel

You have asked if AS 12.55.102(d) that allows the court to include the cost of an ignition interlock device as a part of the fine imposed against the defendant, creates any due process, equal protection or other constitutional problems. I do not see that this subsection raises a constitutional issue. This is particularly true since the court is already required under AS 12.55.035 to take into account the financial resources of the defendant and the nature of the burden that payment of a fine will impose.

You have also asked if any problems are created by the fact that maintenance and operation of an ignition interlock device may be affected in the colder areas of the state. Again I do not see that this creates any difficulties. Under section 8 of CSHB 261(Jud) the commissioner of corrections has authority to establish standards for ignition interlock devices. This authority appears adequate to meet any particular requirements concerning maintenance or operation of the interlock device.

Please contact if you have further questions.

MFF:bb
wkb3/061

It's customized Home arrest

Several counties in Colorado and Maryland now use Guardian Alternative Technologies home arrest systems, and the company is gearing up to add 10 more jurisdictions in the next 90 days.

The reason we have been so successful is that we emphasize choice," says Guardian Alternative Technologies director Bud Kiebler. "Not all clients are alike, so we offer a number of flexible alternatives for unique problems."

Using innovative technology and customized services, the company (formerly called Guardian Home Arrest Technologies) can tailor its "full menu of services" to suit nearly any jurisdictional need for incarcerating a client in his or her home. Among the options:

-Clients can be "actively tracked" by electronic monitoring. The client wears an ankle bracelet which transmits information by radio frequency to the monitoring center in the client's home if he or she steps beyond the center's 150 feet range, or tampers with the equipment. The home monitoring center, which includes a specially-equipped telephone, in turn "tells" of the violation over the telephone lines to the company's central computers located and operated by personnel at corporate headquarters in Denver. The local corrections officer is provided with an on-line terminal, so he or she can receive information about the client at anytime.

-The central computer can randomly call clients at home to verify their presence with "speaker identification" technology. This technology helps to ensure the client is accurately identified by comparing his or her voice to that of samples stored in the home monitoring center. Because of its "comparison testing" capabilities, the system is completely multi-lingual. Plus, the technology eliminates problems with interference inherent in telephone lines by communicating in nonverbal computer language.

-Clients can be monitored for alcohol use with technology similar to that of the Guardian Interlock. The computer randomly calls the clients and asks them to first pass the speaker identification test, then blow into the breath testing device to determine blood alcohol concentration. The BAC reading is transmitted to the computer.

"We monitor clients 24 hours a day, seven days a week," says Kiebler. "Our level of monitoring would require a jurisdiction to allocate at least five people to do the same job."

Guardian Alternative Technologies offers its systems on a leased basis, requiring no up-front costs, "which makes it an affordable choice," says Kiebler.

Officials in Adams County, Colorado, chose Guardian Alternative Technologies primarily because of its monetary benefits. Sums up Penny Collins, the county jail administrator:

"We see no reason to keep people in jail at \$55 a day when full-service home arrest is available for only a fraction of the cost. It's ridiculous to put work-release people in an overcrowded jail. Our jails are already overcrowded. Home arrest can also significantly reduce our contraband problem."



Please excuse our redundancy, but we owe new readers an explanation! The Guardian Interlock™ connects a hand-held breath analyzer to a vehicle's ignition. Before a person can start a vehicle equipped with the device, he or she must first blow into the breath analyzer. If the would-be driver's blood alcohol concentration (BAC) meets or exceeds the BAC setting on the device, the car will not start. However, even if a person passes the breath test, he or she must also blow a "breath code" into the analyzer to access the system. This code deters others from trying to start the vehicle for the intended driver. A growing number of judges nationwide are requiring drunken driving offenders to have their vehicles equipped with ignition interlocks as a condition of probation, and to help stop repeat drunken driving offenses.

As a service to the courts, Guardian Interlock Systems launched a program more than a year ago to monitor those sentenced to use the company's product. Called the Guardian Interlock Responsible Driver Program,™ the program provides for the installation and calibration of the Guardian Interlock, and it includes scheduled appointments for checking the device for attempted tampering or circumvention.

Service centers open in California, Washington

Guardian Interlock Systems has opened centers near San Diego and San Francisco, Calif., and near Seattle, Wash., to provide for the installation and service of the Guardian Interlock™ for those using it.

"My goal is to ultimately put Guardian Interlocks in the vehicles of all second-time offenders, and in those of first-time offenders when appropriate," says Judge Runston Maino, with the North County Judicial District, San Diego County Municipal Court.

The Guardian Interlock was the first ignition interlock system in the country to meet any state requirement for accuracy and reliability when the device was certified by the California Office of Traffic Safety (OTS) in May, says Greg Manuel, a legislative analyst with OTS.

According to a spokesman with the Califor-

nia office of the National Highway Traffic Safety Administration, ignition interlock technology offers "one of the best" chances to deter drunken driving. "And there's a trend sweeping the country that leans more toward this kind of action," states Al Crancer, the state program coordinator.

The National Highway Traffic Safety Administration, an agency of the U.S. Department of Transportation, will hold a workshop in October at DOT headquarters in Washington, D.C., to review new developments in ignition interlock technology and exchange information about its application. For more information on the workshop, call or write: Dr. James Frank, Research Psychologist, Office of Driver and Pedestrian Research, NHTSA, 400 Seventh St., SW, Washington, DC 20590. (202) 366-5593.



Official Business

COMMITTEE:

House HESS Committee

DATE: January 24, 1989

SIGN-IN

Subject of meeting:

HB 2 - Ignition interlock devices

HB 25 - Ban sale of certain irradiated foods

NAME	ADDRESS- Include ZIP	PHONE	(Include Title) REPRESENTING	If testifying, specify bill
Doug Donegan	P.O. Box 0, Juneau AK 99811	465-2628	DEC	Available to answer questions
Lencie Suppinger	3127 Turwater Ave AK. 99508	433-3366	AK environmental lobby	No
Mark Houtley	Pop Grounds Office P.O. Box V Juneau AK 99811	465-4986	Pop Grounds Office	Available to answer questions
Elizabeth Ward Kafi Kelley	HSS / Public Health Box H-06 Juneau 99811	465-3090	Public Health	available for questions irradiated food
Paula Tarnell	P.O. Box V	465-3771	Senator Montford	HB 25 No
Becky Penrose	"	465-3117	SAC	HB 25 No

(2)

13

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to ignition interlock devices..."
Sponsor: Repr. Gruenberg
Requestor: House Judiciary

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Richard I. Pegues

Prepared by: Richard I. Pegues, Director
Division: Administrative Services

Phone: 465-3672
Date: January 23, 1989

Approved by Commissioner: Grace Berg Schaible, Atty. Gen.
Agency: Department of Law

Date: January 23, 1989

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 2

This bill amends AS 12.55 by adding a new section that provides that, as a condition of probation for a DWI conviction, a court may require that a convicted defendant may not operate a motor vehicle unless the vehicle is equipped with an ignition interlock device. Such a condition would take effect after any period of license revocation imposed under AS 28.15.165(d) or AS 28.15.181(c). The penalty for violating this section would be a violation. The Department of Law does not anticipate a fiscal impact because prosecution of violations does not usually require attorney time in court, and the number of violations is not expected to be great.

Original sponsors: Gruenberg, Koponen,
Ulmer, et al.

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 2 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to ignition interlock devices; and
7 establishing a class C misdemeanor."

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

9 * Section 1. AS 09.50.250 is amended to read:

10 Sec. 09.50.250. ACTIONABLE CLAIMS AGAINST THE STATE. A person
11 or corporation having a contract, quasi-contract, or tort claim
12 against the state may bring an action against the state in the superi-
13 or court. A person who may present the claim under AS 44.77 may not
14 bring an action under this section except as set out in AS 44.77.-
15 040(c). A person who may bring an action under AS 36.30.560 - 36.-
16 30.695 may not bring an action under this section except as set out in
17 AS 36.30.685. However, an [NO] action may not be brought under this
18 section if the claim

19 (1) is an action for tort, and is based upon an act or
20 omission of an employee of the state, exercising due care, in the
21 execution of a statute or regulation, whether or not the statute or
22 regulation is valid; or is an action for tort, and based upon the
23 exercise or performance or the failure to exercise or perform a dis-
24 cretionary function or duty on the part of a state agency or an em-
25 ployee of the state, whether or not the discretion involved is abused;

26 (2) is for damages caused by the imposition or establish-
27 ment of a quarantine by the state;

28 (3) arises out of assault, battery, false imprisonment,
29 false arrest, malicious prosecution, abuse of process, libel, slander,

1 misrepresentation, deceit, or interference with contract rights; or
2 (4) arises out of the use of an ignition interlock device
3 certified under AS 33.05.020(c).

4 * Sec. 2. AS 11.76 is amended by adding a new section to read:

5 Sec. 11.76.140. AVOIDANCE OF IGNITION INTERLOCK DEVICE. (a) A
6 person may not knowingly

7 (1) circumvent or tamper with an ignition interlock device
8 in a manner intended to allow a person on probation under AS 12.55.102
9 to avoid using the device; or

10 (2) rent, loan, or lease a motor vehicle to a person on
11 probation under AS 12.55.102, unless the vehicle is equipped with an
12 ignition interlock device described in AS 12.55.102.

13 (b) A person convicted of violating this section is guilty of a
14 class C misdemeanor.

15 * Sec. 3. AS 11.81.250(a) is amended to read:

16 (a) For purposes of sentencing under AS 12.55, all offenses
17 defined in this title, except murder in the first and second degree,
18 attempted murder in the first degree, sexual assault in the first
19 degree, sexual abuse of a minor in the first degree, misconduct
20 involving a controlled substance in the first degree, and kidnapping,
21 are classified on the basis of their seriousness, according to the
22 type of injury characteristically caused or risked by commission of
23 the offense and the culpability of the offender. Except for murder in
24 the first and second degree, attempted murder in the first degree,
25 sexual assault in the first degree, sexual abuse of a minor in the
26 first degree, misconduct involving a controlled substance in the first
27 degree, and kidnapping, the offenses in this title are classified into
28 the following categories:

29 (1) class A felonies, which characteristically involve

1 conduct resulting in serious physical injury or a substantial risk of
2 serious physical injury to a person;

3 (2) class B felonies, which characteristically involve
4 conduct resulting in less severe violence against a person than class
5 A felonies, aggravated offenses against property interests, or
6 aggravated offenses against public administration or order;

7 (3) class C felonies, which characteristically involve
8 conduct serious enough to deserve felony classification but not
9 serious enough to be classified as A or B felonies;

10 (4) class A misdemeanors, which characteristically involve
11 less severe violence against a person, less serious offenses against
12 property interests, less serious offenses against public
13 administration or order, or less serious offenses against public
14 health and decency than felonies;

15 (5) class B misdemeanors, which characteristically involve
16 a minor risk or physical injury to a person, minor offenses against
17 property interests, minor offenses against public administration or
18 order, or minor offenses against public health and decency;

19 (6) class C misdemeanors, which characteristically involve
20 conduct serious enough to deserve classification as a crime but not
21 serious enough to be classified as A or B misdemeanors;

22 (7) violations, which characteristically involve conduct
23 inappropriate to an orderly society but which do not denote
24 criminality in their commission.

25 * Sec. 4. AS 12.55.035(b) is amended to read:

26 (b) Upon conviction of an offense, a defendant who is not an
27 organization may be sentenced to pay, unless otherwise specified in
28 the provision of law defining the offense, a fine of no more than

29 (1) \$75,000 for murder in the first or second degree,

1 attempted murder in the first degree, sexual assault in the first
2 degree, sexual abuse of a minor in the first degree, kidnapping, or
3 misconduct involving a controlled substance in the first degree;

4 (2) \$50,000 for a class A, B, or C felony;

5 (3) \$5,000 for a class A misdemeanor;

6 (4) \$1,000 for a class B misdemeanor;

7 (5) \$500 for a class C misdemeanor;

8 (6) \$300 for a violation.

9 * Sec. 5. AS 12.55 is amended by adding a new section to read:

10 Sec. 12.55.102. ALCOHOL RELATED OFFENSES. (a) The court may
11 order as a condition of probation that a defendant convicted of an
12 offense involving the use, consumption, or possession of an alcoholic
13 beverage may not operate a motor vehicle during the period of pro-
14 bation unless the vehicle is equipped with a properly functioning,
15 monitored, and maintained ignition interlock device. A condition of
16 probation imposed under this subsection takes effect after any period
17 of license revocation imposed under AS 28.15.165(d) or 28.15.181(c).

18 (b) The court, in imposing probation under (a) of this section,
19 may allow the defendant limited privileges to drive a motor vehicle
20 without an ignition interlock device if the court determines that the
21 defendant is required as a condition of employment to drive a motor
22 vehicle owned or leased by the defendant's employer and that the
23 defendant's driving will not create substantial danger. If the court
24 imposes probation described by this subsection, the court shall re-
25 quire the defendant to notify the defendant's employer of the proba-
26 tion, and shall require that the defendant, while driving the em-
27 ployer's vehicle, carry a letter from the employer authorizing the
28 defendant to drive that vehicle.

29 (c) A court imposing a condition of probation under this section

1 shall require the surrender of the driver's license and shall issue to
2 the defendant a certificate valid for the duration of the probation or
3 a copy of the defendant's judgment of conviction. The defendant shall
4 pay all costs associated with fulfilling the condition of probation,
5 including installation, repair, and monitoring of an ignition inter-
6 lock device.

7 (d) The court may include the cost of the ignition interlock
8 device as a part of the fine required to be imposed against the defen-
9 dant under AS 28.35.030(c) or 28.35.032(g).

10 (e) In this section, "ignition interlock device" means equipment
11 designed to prevent a motor vehicle from being operated by a person
12 who has consumed an alcoholic beverage, and that has been certified by
13 the commissioner of corrections under AS 33.05.020(c).

14 * Sec. 6. AS 12.55.135 is amended by adding a new subsection to read:

15 (f) A defendant convicted of a class C misdemeanor may be sen-
16 tenced to a definite term of imprisonment of not more than 30 days
17 unless otherwise specified in the provision of law defining the of-
18 fense.

19 * Sec. 7. AS 28.35.030(c) is amended to read:

20 (c) Upon conviction under this section the court shall impose a
21 minimum sentence of imprisonment of not less than 72 consecutive hours
22 and a fine of not less than \$250 if the person has not been previously
23 convicted in this or another jurisdiction of driving while intoxicated
24 under this or another law or ordinance with substantially similar
25 elements or refusal to submit to a chemical test under AS 28.35.032 or
26 another law or ordinance with substantially similar elements. Upon
27 conviction under this section the court shall impose a minimum sen-
28 tence of imprisonment of not less than 20 consecutive days and a fine
29 of not less than \$500 if, within the preceding 10 years, the person

1 has been previously convicted once in this or another jurisdiction of
2 driving while intoxicated under this or another law or ordinance with
3 substantially similar elements or refusal to submit to a chemical test
4 under AS 28.35.032 or another law or ordinance with substantially
5 similar elements. Upon conviction under this section the court shall
6 impose a minimum sentence of imprisonment of not less than 30 consecu-
7 tive days and a fine of not less than \$1,000 if, within the preceding
8 10 years, the person has been previously convicted in this or another
9 jurisdiction of more than one of the following offenses or has more
10 than once been previously convicted of one of the following offenses:
11 (1) driving while intoxicated under this or another law or ordinance
12 with substantially similar elements; (2) refusal to submit to a chemi-
13 cal test under AS 28.35.032 or another law or ordinance with substan-
14 tially similar elements. The execution of sentence may not be sus-
15 pended nor may probation be granted except on condition that the
16 minimum imprisonment provided in this section is served. Probation
17 may be conditioned as provided in AS 12.55.102. Imposition of sen-
18 tence may not be suspended. In addition, if the offense involved
19 driving a motor vehicle for which a driver's license is required, the
20 person's driver's license shall be revoked in accordance with AS 28.-
21 15.181 and the vehicle used in commission of the offense may be for-
22 feited under AS 28.35.036. In addition, the court shall order, and a
23 person convicted under this section shall undertake, for a term spec-
24 ified by the court, that program of alcohol education or rehabilita-
25 tion that the court, after consideration of any information compiled
26 under (d) of this section, finds appropriate.

27 + Sec. 8. AS 28.35.030 is amended by adding a new subsection to read:

28 (h) Notwithstanding (c) of this section, if the court imposes
29 probation under AS 12.55.102 the court may reduce the fine required to