

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672

5696 HOUSE HEALTH, EDUCATION & SOCIAL SERVICES

100



Alaska State Legislature

Please enter into the record my testimony to the HOUSE H.E.S.S.
committee name

committee on SB 222 (SMOKING), dated April 25, 1990 8:30 AM
bill/subject OR PASSAGE WAY

1. I SUGGEST AMENDING PAGE 1 LINES 15 & 16 TO READ "... AND A WAITING, BOARDING OR BAGGAGE AREA...". THE BAGGAGE AREA IN THE SITKA AIRPORT IS DESIGNATED FOR SMOKING, WHICH IS NOT GOOD.
2. I STRONGLY URGE AMENDING PAGE 2 LINES 10 & 11 TO READ SOMETHING LIKE, "AN ESTABLISHMENT SERVING FOOD OR DRINK TO THE PUBLIC OR PROVIDING PUBLIC ENTERTAINMENT, INCLUDING BUT NOT LIMITED TO DANCING, CONCERTS, AND MOVIES."
 - I HAVE STOPPED GOING TO DANCES BECAUSE THE SMOKE IS OFTEN SO THICK IT HURTS TO BREATHE, AND MY CLOTHES AND HAIR REEK OF SMOKE WHEN I GET HOME. THIS NUISANCE AND HEALTH HAZARD SHOULD BE PREVENTED.
 - BARS SHOULD NOT BE EXEMPTED FROM REGULATION. SMOKING IS NO MORE LINKED TO DRINKING ALCOHOL THAN IT IS TO EATING FOOD. THE AIR IS USUALLY FAR WORSE IN A BAR THAN IT USED TO BE IN RESTAURANTS.
 - THE EXEMPTION FOR RESTAURANTS SEATING LESS THAN FIFTY PEOPLE SHOULD BE REMOVED. THE SMALL ESTABLISHMENTS ARE ~~THE~~ ALMOST ALWAYS CONDUCIVE TO PROBLEMS WITH SMOKE, AND SHOULD AT LEAST BE WELL VENTILATED IF THEY ALLOW SMOKING.

Signed: Larry Edwards (LARRY EDWARDS)
Testifier

SELF
Representing (Optional)
Box 6001 SITKA 99835
Address
747-8996
Phone No.

MY NAME IS DENNIS VETTESE, AND I AM A SITKA SCHOOL BOARD MEMBER.

I SUPPORT THE PASSAGE OF CSSB-222 FOR SEVERAL REASONS.

I DON'T FEEL THERE SHOULD BE ANY SMOKING AT ALL IN SCHOOLS.

FIRST, PASSAGE OF THIS LEGISLATION WOULD SEND A CLEAR MESSAGE TO OUR YOUTH- THAT IS THAT WE DO NOT CONDONE SMOKING. OUR TEACHERS ARE VIEWED AS ROLE MODELS AND IF THESE INDIVIDUALS ARE OBSERVED SMOKING OR SMELL LIKE THEY HAVE BEEN SMOKING THEN THIS COULD BE TAKEN BY OUR HIGHLY IMPRESSIONABLE YOUTH THAT IT IS OK FOR THEM TO ALSO START SMOKING. THEY COULD RATIONALIZE THAT IF THEIR ROLE MODELS SMOKE- THEN SMOKING MUST NOT BE THE TERRIBLE HABIT THAT EVERYONE KEEPS TELLING THEM ALL ABOUT.

SECOND, WE MUST DO ALL WE CAN TO STOP OUR YOUTH FROM STARTING TO SMOKE. THIS BILL WILL HELP INFLUENCE THAT DECISION. ONCE A TEENAGER STARTS SMOKING (WHICH IS IN ITSELF A NICOTINE ADDICTION), THIS SMOKING OFTEN LEADS TO THE USE OF OTHER DRUGS SUCH AS MARIJUANA AND COCAINE. THIS IS WHY SMOKING OR NICOTINE ADDICTION IS OFTEN VIEWED AS A GATEWAY DRUG. IF WE WANT OUR SCHOOLS TO BE TRULY DRUG FREE- THEN WE SHOULD PROHIBIT SMOKING IN THEM.

LAST OF ALL, NO SMOKING IN SCHOOLS WILL CREATE A HEALTHIER LEARNING ENVIRONMENT FOR STUDENTS AND A HEALTHIER WORKING ENVIRONMENT FOR TEACHERS.

FISCAL NOTE

REQUEST:

Revision Date: 02-23-90
Title: "An Act relating to smoking in certain vehicles and places"
Sponsor: Faiks
Requestor: _____

Agency Affected: Environmental Conservation
BRU: Environmental Health
Components: Sanitation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

The fiscal impact of CSSB 222(HESS) will be zero.

Prepared by: Douglas C. Donegan, Director
Division: Environmental Health

Phone: 465-2609
Date: 02-27-90

Approved by Commissioner: _____
Agency: _____

Date: 2/27/90

Distribution (by preparer):

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

Alaska State Legislature



Senate Judiciary Committee

April 13, 1990

MEMORANDUM

TO: Representative Johnny Ellis, Chairman
House HESS Committee

FROM: Senator Jan Faiks, Chairman
Senate Judiciary Committee

SUBJECT: SB 222 "An Act relating to smoking in certain
vehicles and indoor places."

Senate Bill 222 has been referred to the HESS Committee for consideration. This bill amends Alaska law relating to smoking in certain public places. It was introduced at the request of the American Lung Association of Alaska, as part of their Tobacco Free Alaska 2000 program.

At the present time, approximately 26% of Americans over the age of 16 smoke cigarettes. Alaskans smoke at a rate 5% greater than the national rate.

According to the Surgeon General, cigarette smoking is the single most important environmental factor contributing to premature mortality in the United States. Each year, smoking causes the deaths of more than 300,000 Americans, principally from heart disease, cancer and chronic obstructive lung disease. In 1985, there were estimated to be 261 smoking attributable deaths in Alaska. This was 14% of the state's mortality that year. The estimated total for medical care due to smoking in Alaska in 1985 was \$52.7 million. This does not take into account lost wages due to illness, or losses to employers because of increased insurance premiums and absenteeism.

The tremendous social harms caused directly or indirectly by cigarette smoking cannot be disputed. In an effort to

encourage people not to smoke, and to protect the health and well being of non-smokers who must breathe secondary smoke, many jurisdictions including Alaska have enacted laws restricting smoking in public places.

At the present time, 42 states and the District of Columbia restrict smoking in some manner in public places. These laws range from simple, limited prohibitions to comprehensive clean indoor air laws that limit or ban smoking in virtually all public places. Alaska's law was enacted in 1984, and was predicated on the following legislative finding.:

1. numerous studies have shown second-hand smoke to be a significant health hazard;
2. recent court decisions recognize an emerging right of employees to work in a smoke-free environment; and
3. smoking results in increased costs to employers and the public in the form of more frequent absenteeism by employees who smoke and higher costs for health insurance, fire insurance, life insurance and workers' compensation.

In order to address these findings, current law specifies certain public places and vehicles in which smoking is regulated. In these specified places, smoking and non-smoking areas must be designated. Signs must be posted to accomplish this. Persons who violate the requirement to post signs or who smoke in a designated non-smoking area are subject to civil penalties.

CSSB 222 (SA) am revises current law by establishing two categories of public place: those in which smoking is regulated, as with current law, and those in which smoking is absolutely prohibited. The bill takes some of the places currently on the regulated smoking list and moves them to the new smoking prohibited list. It adds several types of places not currently mentioned in the law to the regulated smoking list. Finally, it provides that a person in charge of a place on the regulated smoking list must consider only the health of non-smokers in designating a smoking area, and not the convenience of smokers. A sectional analysis of the bill is attached.

CSSB 222 (SA) am will close loopholes in the current law, and more adequately address the findings contained in the 1984 legislation. It protects the health of non-smokers, the prime duty of government in this area, and it moves us one step closer to a smoke-free Alaska.

SECTIONAL ANALYSIS

CSSB 222 (SA) am

Section 1. Makes changes to AS 18.35.300, which lists vehicles and places in which smoking must be regulated by the designation of smoking and non-smoking areas. New places added to this list include the following:

- an interstate aircraft flight;
- a public or private post-secondary educational institution or adult day care facility;
- a room, chamber or other place under the control of the Senate or House if no public meeting is in progress;
- a residential health care facility, or a public or private office or facility that is engaged primarily in providing mental health services;
- a correctional facility; and
- a Pioneers' Home.

A number of places currently on this list are deleted, and moved to new AS 18.35.305, which prohibits any smoking (see section 2).

Section 2. Adds new AS 18.35.305, which lists places in which smoking is absolutely prohibited. These places include the following:

- a public or private elementary or secondary school, pre-school, or children's day care facility. If the school or day care facility is in a private residence, then the prohibition only applies during the hours when the residence is being used as a school or day care facility, and in the rooms used as a school or day care facility. This section does not apply to an elementary or secondary school to the extent that it conflicts with a collective bargaining agreement;
- a room, chamber, or other place under the control of the state or a political subdivision of the state while a public meeting or public assembly is in progress; and
- a public or private laboratory or office associated with dental care, health care, or the healing arts, and a public or private hospital, or other nonresidential health care institution or facility. This section does not apply to an office or facility engaged primarily in providing mental health services; and
- an elevator.

Sections 3 and 4. Makes a technical change to AS 18.35.310, to provide that smoking on stage as part of a theatrical production is not prohibited by new AS 18.35.305.

Section 5. Amends AS 13.35.320(c). Current law provides that in designating a smoking area, a person shall accommodate the needs of smokers and non-smokers. This section provides that in designating a smoking area, a person shall only consider the health consequences to the non-smokers using the facility.

Sections 6 - 14. These sections make technical changes to the current law to reflect the addition of new AS 18.35.305.

(5) "special events" means events involving public gathering and shall include athletic and sporting events where the public congregates, which shall include but not be limited to dog sled racing, horse racing, snowmobile races, skiing events, salmon derbies, and other activities;

(6) "tavern" means a place maintained or held out to the public for purposes of sale and on-premise consumption of alcoholic beverages;

(7) "toilet accommodations" means a facility available to the public consisting of an approved flush-type commode, urinal, privy, self-contained privy or any other device approved by the department for containment and disposal of human wastes and shall include lavatory facilities where practical. (§ 1 ch 58 SLA 1974; am § 3 ch 78 SLA 1976; am E.O. No. 51, § 36 (1981))

Revisor's notes. — Reorganized in 1986 to alphabetize the defined terms.

Article 4. Health Nuisances.

<p>Section 300. Smoking in certain vehicles and indoor places prohibited 310. Exemptions 320. Designation of smoking sections 330. Display of smoking and no smoking signs 340. Civil complaints; penalties</p>	<p>Section 341. Citations; penalty 342. Multiple fines prohibited 343. Injunctions 350. Enforcement authority 355. Public education 365. Definitions</p>
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Cross references. — For legislative findings in connection with ch. 34, SLA 1984, see § 1, ch. 34, SLA 1984 in the Temporary and Special Acts.

Opinions of attorney general. — In light of the repeal of former AS 18.35.360, which granted the Department of Environmental Conservation's authority to write regulations in implementation of this article, the department may promulgate legislative-type regulations which are truly necessary to implementation of

the article; (2) the department may not promulgate other legislative-type regulations, such as those which are helpful but not strictly necessary to the statutory scheme; and (3) the department may issue interpretive regulations which offer suggested guidelines on implementing the article. June 22, 1984, Op. Att'y Gen.

Collateral references. — 39 Am. Jur. 2d, Health, §§ 24, 25, 41-44.

39A C.J.S., Health and Environment, §§ 26, 27.

Sec. 18.35.300. Smoking in certain vehicles and indoor places prohibited. Smoking in any form is a nuisance and a public health hazard and is prohibited in the following vehicles and indoor places, except as otherwise provided by this chapter:

(1) a vehicle of public transportation and a waiting or boarding area for a vehicle of public transportation, including a bus, ferry vessel, train, limousine for hire, taxicab, or scheduled intrastate aircraft flight when consistent with federal law;

- (2) an elevator;
- (3) a place of employment, a building or other structure, or a portion of them, owned, leased, or operated by the state or a political subdivision of the state, including an office, library, museum, theater, concert hall, convention hall, gymnasium, swimming pool, or other place of entertainment or recreation;
- (4) a public or private school, pre-school, or day care facility;
- (5) a courtroom or jury deliberation room;
- (6) a room, chamber, or other place under the control of the state or a political subdivision of the state while a public meeting or public assembly is in progress;
- (7) a patients' or visitors' waiting room or restroom of a public or private laboratory or office associated with dental care, health care, or the healing arts, and a waiting room, restroom, lobby, or hallway of a public or private hospital, nursing home, rest home, or other health care institution or facility;
- (8) a food service establishment that has a seating capacity of at least 50 persons;
- (9) a grocery store or other store maintained primarily for the retail sale of food products; and
- (10) a place of employment in which the owner, manager, proprietor, or other person who has control of the premises posts a sign stating that smoking is prohibited by law. (§ 1 ch 125 SLA 1975; am § 2 ch 34 SLA 1984)

Effect of amendments. — The 1984 amendment rewrote this section.

Sec. 18.35.310. Exemptions. The prohibition set out in AS 18.35.300 does not apply to

- (1) a portion of a place or vehicle that is designated as a smoking section under AS 18.35.320;
- (2) a limousine for hire or taxicab, if the driver consents and the driver ascertains that all passengers consent to smoking in the vehicle;
- (3) smoking by performers on the stage as part of a theatrical or entertainment production. (§ 1 ch 125 SLA 1975; am § 3 ch 34 SLA 1984)

Effect of amendments. — The 1984 amendment rewrote this section.

Sec. 18.35.320. Designation of smoking sections. (a) A person in charge of an indoor place or vehicle of public transportation described in AS 18.35.300 may designate portions of the place or vehicle as smoking sections. For purposes of this section, "vehicle of public transportation" does not include a taxicab or limousine for hire, and "indoor place" does not include an elevator.

(b) The person who chairs the Rules Committee in a house of the legislature is responsible for the designation of smoking sections under this section in the legislative offices, committee rooms, and other places under the control of that house. The authority to designate a smoking section may not be used to impede the work of a conference committee.

(c) A person who designates a smoking section under this section shall make reasonable accommodations for the needs of the smokers and nonsmokers who use the place or vehicle.

(d) Notwithstanding any other provision in this chapter, a smoking section may not be designated under this section for students on the grounds of or in an elementary or secondary school, indoors or outdoors. (§ 1 ch 125 SLA 1975; am § 4 ch 34 SLA 1984)

Effect of amendments. — The 1984 amendment rewrote this section.

Sec. 18.35.330. Display of smoking and no smoking signs. (a) A person in charge of a place or vehicle described in AS 18.35.300, except a limousine for hire or taxicab, shall conspicuously display in the place or vehicle a sign that reads "Smoking Prohibited by Law — Maximum Fine \$50" and that includes the international symbol for no smoking.

(b) In a place or vehicle in which a smoking section has been designated under AS 18.35.320, the person in charge of the place or vehicle shall conspicuously display signs that specify the portions of the place or vehicle in which smoking is allowed by law and in which smoking is prohibited by law.

(c) A sign required by this section must be at least 18 inches wide and six inches high, with lettering at least 1.25 inches high.

(d) The department shall furnish signs required under this section to a person who requests them with the intention of displaying them. (§ 1 ch 125 SLA 1975; am § 5 ch 34 SLA 1984)

Effect of amendments. — The 1984 amendment rewrote this section.

Sec. 18.35.340. Civil complaints; penalties. (a) The commissioner shall develop and maintain a procedure for processing reports of violations of AS 18.35.300 and 18.35.330.

(b) If, after investigating a report made under this section, the commissioner determines that a violation has occurred, (1) the commissioner may file a civil complaint in the district court to enforce the provisions of AS 18.35.300 — 18.35.365; or (2) an employee of the department designated by the commissioner to enforce the provisions of AS 18.35.300 — 18.35.365 may issue a citation under AS 18.35.341(b). If an employee of the department issues a citation, the violation shall be processed and disposed of under AS 18.35.341.

(c) A person who violates AS 18.35.300 and against whom the commissioner has filed a civil complaint under this section is punishable by a civil fine of not less than \$10 nor more than \$50. A person who violates AS 18.35.330 and against whom the commissioner has filed a civil complaint under this section is punishable by a civil fine of not less than \$20 nor more than \$300. Each day a violation of AS 18.35.330 continues after a civil complaint for the violation has been filed and served on the defendant constitutes a separate violation.

(d) The department may provide for the payment of civil fines under this section by mail. (§ 1 ch 125 SLA 1975; am § 6 ch 34 SLA 1984)

Revisor's notes. — In subsections (a) and (b) of this section, the phrase "or of a regulation adopted under AS 18.35.360" was deleted from each subsection in 1984 to correct a manifest error made when

SCS CSHB 84 (Fin) was amended to effect the repeal of AS 18.35.360. The amended bill became ch. 34, SLA 1984.

Effect of amendments. — The 1984 amendment rewrote this section.

Sec. 18.35.341. Citations; penalty. (a) A peace officer may issue a citation for a violation of AS 18.35.300 committed in the officer's presence or for a violation of AS 18.35.330. The provisions of AS 12.25.180(b) and 12.25.190 — 12.25.230 apply to the issuance of a citation under this subsection.

(b) An employee of the department designated by the commissioner to enforce the provisions of AS 18.35.300 — 18.35.365 may issue a citation for a violation of AS 18.35.300 or 18.35.330 regardless of whether the violation was committed in the employee's presence. A citation issued under this subsection shall be in the same form and shall be processed in the same manner as a citation issued by a peace officer under (a) of this section. An employee of the department may not arrest a person for a violation of AS 18.35.300 or 18.35.330.

(c) A person who violates AS 18.35.300 or 18.35.330 is guilty of a violation as defined in AS 11.81.900(b) and upon conviction is punishable by a fine of not less than \$10 nor more than \$50 for a violation of AS 18.35.300 and by a fine of not less than \$20 nor more than \$300 for

a violation of AS 18.35.330. Each day a violation of AS 18.35.330 continues after a citation for the violation has been issued constitutes a separate violation.

(d) The supreme court shall establish a schedule of bail amounts for violations of AS 18.35.300 and 18.35.330, but in no event may the bail amount exceed the maximum fine that may be imposed for the violation under (c) of this section. The bail amount for a violation shall appear on the citation.

(e) A person cited for a violation under this section may, within 15 days after the date of the citation, mail or personally deliver to the clerk of the court in which the citation is filed

(1) the amount of bail indicated on the citation for that violation; and

(2) a copy of the citation indicating that the right to an appearance is waived, a plea of no contest is entered and the bail is forfeited.

(f) When bail has been forfeited under (e) of this section, a judgment of conviction shall be entered. Forfeiture of bail is a complete satisfaction for the violation. The clerk of the court accepting the bail shall provide the violator with a receipt stating that fact.

(g) If the person cited fails to pay the bail amount established under (d) of this section or to appear in court as required, the citation is considered a summons for a misdemeanor. (§ 7 ch 34 SLA 1984)

Sec. 18.35.342. Multiple fines prohibited. A person may not be fined more than once for each violation of AS 18.35.300 or 18.35.330. (§ 7 ch 34 SLA 1984)

Sec. 18.35.343. Injunctions. The commissioner or any affected party may institute an action in the superior court to enjoin repeated violations of AS 18.35.300 or 18.35.330. (§ 7 ch 34 SLA 1984)

Revisor's notes. — The phrase "or of a regulation adopted under AS 18.35.360" was deleted from this section in 1984 to correct a manifest error made when SCS

CSHB 84 (Fin) was amended to effect the repeal of AS 18.35.360. The amended bill became ch. 34, SLA 1984.

Sec. 18.35.350. Enforcement authority. The commissioner or the commissioner's designee is responsible for enforcing the provisions of AS 18.35.300 — 18.35.365. This section does not limit the authority of peace officers. (E.O. No. 51 § 37 (1981); am § 8 ch 34 SLA 1984)

Revisor's notes. — The phrase "and the regulations adopted under AS 18.35.360" was deleted from this section in 1984 to correct a manifest error made when SCS CSHB 84 (Fin) was amended to effect the repeal of AS 18.35.360. The

amended bill became ch. 34, SLA 1984. The word "section" was added in the second sentence in 1981.

Effect of amendments. — The 1984 amendment rewrote the first section, which read "The commissioner of environ-

mental conservation or his designee is responsible for enforcing the provisions of AS 18.35.300 — 18.35.340 and the regulations adopted under AS 18.35.360."

Sec. 18.35.355. Public education. The commissioner shall take appropriate measures to inform the public of the provisions of AS 18.35.300 — 18.35.365. (§ 9 ch 34 SLA 1984)

Sec. 18.35.360. Regulations. [Repealed, § 10 ch 34 SLA 1984.]

Sec. 18.35.365. Definitions. In AS 18.35.300 — 18.35.365,

(1) "commissioner" means commissioner of environmental conservation;

(2) "department" means the Department of Environmental Conservation. (§ 11 ch 34 SLA 1984)

Chapter 40. Shelter Cabins and Comfort Stations.

Section

- 10. Shelter cabins and comfort stations on airports
- 20. Shelter cabins on roads and trails
- 30. Inspection of cabins
- 40. Cabins and furnishings property of state

Section

- 50. Prohibited acts and penalties
- 60. Exception
- 70. Damages for destruction of or injury to shelter cabins

Collateral references. — Establishment, maintenance, and regulation of tourist or trailer camps by public authorities. 22 ALR2d 774.

Racial or religious discrimination in furnishing of public utilities, services, or facilities. 53 ALR3d 1027.

Validity of statutes, ordinances, and regulation requiring the installation or maintenance of various bathroom facilities in dwelling units. 79 ALR3d 716.

Sec. 18.40.010. Shelter cabins and comfort stations on airports. The Department of Transportation and Public Facilities may erect and maintain shelter cabins and comfort stations for the accommodation of travelers on the airports throughout the state where the facilities are required and necessary out of funds appropriated for the construction and maintenance of roads and aviation fields. Each shelter cabin or comfort station shall contain a suitable stove and other facilities considered necessary by the Department of Transportation and Public Facilities. (§ 40-10-1 ACLA 1949; am § 9 art VII title II ch 152 SLA 1957)

(9) "nonattainment area" means a geographic area where the air quality is shown by monitored data to exceed national air quality standards for any air pollutant;

(10) "pollutant emissions" means unburned hydrocarbons, carbon monoxide, oxides of nitrogen, and particulate matter;

(11) "proper maintenance" means the use of maintenance practices set out in this chapter;

(12) "qualified mechanic" means a mechanic who meets competency requirements imposed by the implementing agency for persons who repair vehicles subject to this chapter;

(13) "repair cost ceiling" means a limit that the implementing agency may establish on the cost of repairs necessary to obtain a certificate of inspection when repair work is done by a qualified mechanic; and

(14) "unauthorized modification" means an engine or emissions control system-related modification that has not been performed according to a recall campaign or service bulletin authorized by a vehicle's manufacturer; "unauthorized modification" includes the use of a replacement emissions-related part that is not functionally equivalent to the original equipment part that it replaces, and the use of any added part or system unless that part or system has been specifically approved for use by the U.S. Environmental Protection Agency, the California Air Resources Board, or by the Alaska Department of Environmental Conservation. (Eff. 5/19/85, Register 94; am 6/2/88, Register 106)

Authority: AS 11.56.210 AS 46.03.190
 AS 46.03.020(10) AS 46.03.790(a)
 AS 46.03.140

Editor's note. — A list of approved parts and systems mentioned in 18 AAC 52.900(14) can be found in the State Air Quality Plan, Volume III, which is avail-

able for viewing at state libraries and regional offices of the Department of Environmental Conservation.

CHAPTER 55. SMOKING IN PUBLIC PLACES

Section	Section
10. Exemptions from smoking prohibition	50. Complaint procedure
20. Smoking areas	60. Waiver of provisions
30. Signs	900. Definitions
40. Penalties	

18 AAC 55.010. EXEMPTIONS FROM SMOKING PROHIBITION. (a) An area may be designated as a smoking area under AS 18.35.310(1) only by the owner, manager, proprietor, or other person who has control over the premises.

(b) An exemption under AS 18.35.310(4) must be in writing, contain a description of the exempted area and its location, and be based upon documentation by a mechanical engineer registered in the state that

(1) the building or room has total air circulation which meets the minimum standards established by ASHRAE Standard 62-73 (1973); or

(2) an electrostatic precipitator, a high-efficiency filter, or other device yields air quality in the building or room which meets the minimum standards established by ASHRAE Standard 62-73 (1973).

(c) A copy of an exemption and appropriate documentation under (b) of this section must be filed with the department before the exemption becomes effective.

(d) The department will, in its discretion, revoke an exemption described in (b) of this section if the ventilating equipment or other device upon which the exemption is based is not properly maintained or is not used while the room or building is occupied.

(e) A state agency or department which exempts a room or building under AS 18.35.310(4) must provide for and designate a clearly separate no-smoking area in the room or building to which the exemption applies. (Eff. 8/28/81, Register 79)

Authority: AS 18.35.310 AS 46.03.020
 AS 18.35.360 AS 46.03.140

Editor's notes. — Copies of ASHRAE Standard 62-73 (1973) are available from ASHRAE, 345 East 47th Street, New York, N.Y. 10017.

18 AAC 55.020. SMOKING AREAS. (a) Subject to (d) and (e) of this section and where smoking is not otherwise prohibited by law, the owner, manager, proprietor, or other person who has control of a vehicle or place described in AS 18.35.300(1), (4) or (6) may designate a smoking area in the vehicle or place.

(b) Subject to (d) and (e) of this section and where smoking is not otherwise prohibited by law, the owner, manager, proprietor, or person who has control of a building described in AS 18.35.300(2), (3), or (5), or which contains a room described in AS 18.35.300(2), (3), or (5), must designate at least one smoking area in the building.

(c) A smoking area designated under this section must be a separate room, hallway, or entrance area. However, in a building described in AS 18.35.300(5), or which contains a room described in AS 18.35.300(5), the designated smoking area may not be a lobby or hallway.

(d) If a smoking area designated is in a bus, it must be clearly separated from the part of the bus in which smoking is prohibited, and it may not occupy more than one-half of the total passenger area of the

bus. A smoking area may not be designated in a limousine for hire or in an elevator.

(e) A smoking area may not be designated in a building, vehicle, or other place if the department determines in writing that prohibiting the designation is necessary to protect the public safety or to protect and preserve the building, vehicle, or place and its contents. The department will deliver a written determination under this subsection to the owner, manager, proprietor, or person who has control of the building, vehicle, or place. (Eff. 8/28/81, Register 79)

Authority: AS 18.35.310 AS 46.03.020
AS 18.35.320 AS 46.03.140
AS 18.35.360

18 AAC 55.030. SIGNS. (a) An owner, manager, proprietor, or other person who has control of a vehicle or place described in AS 18.35.300(1) — (5) shall conspicuously display in the vehicle or place signs reading "Smoking Prohibited by Law," unless smoking is permitted in the vehicle or place under AS 18.35.310. The person shall display the signs so that at least one sign is legible from any part of the vehicle or place in which smoking is prohibited. A sign required by this subsection must include the international smoking-prohibited symbol.

(b) An owner, manager, proprietor, or other person who has control of a vehicle or place in which a smoking area has been designated under 18 AAC 55.020 shall conspicuously display in the smoking area signs designating the area as one in which smoking is permitted. These signs may not be larger than the "Smoking Prohibited by Law" signs in the same vehicle or place. Signs required by this subsection must include the international smoking-permitted symbol.

(c) "Smoking Prohibited by Law" signs in elevators must be permanently and conspicuously mounted under glass or other clear, durable, and protective material.

(d) Additional signs of the appropriate type may be posted at entrances to vehicles, places, and areas of vehicles and places. (Eff. 8/28/81, Register 79)

Authority: AS 18.35.330 AS 46.03.020
AS 18.35.360 AS 46.03.140

18 AAC 55.040. PENALTIES. (a) A person who willfully violates AS 18.35.300 by smoking where smoking is prohibited is punishable by a civil fine of \$15 for the first offense and by a civil fine of \$25 for each subsequent offense.

(b) A person who willfully violates AS 18.35.330 or 18 AAC 55.030 by not displaying the required sign is punishable by a civil fine of \$50 for the first offense and by a civil fine of \$100 for each subsequent

offense. However, the department may dismiss a first offense complaint without payment of a fine if the defendant demonstrates that the required sign has been posted. (Eff. 8/28/81, Register 79)

Authority: AS 18.35.340 AS 46.03.020
AS 18.35.360 AS 46.03.140

18 AAC 55.050. COMPLAINT PROCEDURE. (a) A person who observes a violation of this chapter or of AS 18.35.300 — 18.35.360 may notify an office of the department.

(b) The department will provide an affidavit in which the complainant may describe the observed violation and a form agreement in which the complainant may promise to testify in court under subpoena concerning the observed violation if testimony becomes necessary.

(c) If the complainant executes both documents the department, with the assistance of the attorney general's office, will, in its discretion, file a complaint in small claims court for a civil fine, court costs, and attorney's fees against the person who was observed violating this chapter or AS 18.35.300 — 18.35.360. (Eff. 8/28/81, Register 79)

Authority: AS 18.35.340 AS 46.03.020
AS 18.35.350 AS 46.03.140
AS 18.35.360

18 AAC 55.060. WAIVER OF PROVISIONS. (a) The department will, in its discretion, waive a provision of 18 AAC 55.010 — 18 AAC 55.900 if it determines that the public health and the satisfaction of the purpose of the provision are reasonably assured and that the requirements of AS 18.35.300 — 18.35.360 are satisfied.

(b) Application for a waiver must be made in writing and must include

- (1) identification of the provision for which the waiver is requested;
- (2) reasons why the provision cannot be satisfied; and
- (3) a description of an alternative method, if any, proposed for meeting the purpose of the provision to be waived.

(c) The department will answer a request for a waiver in writing within 30 days after receipt of the request. (Eff. 8/28/81, Register 79)

Authority: AS 18.35.350 AS 46.03.020
AS 18.35.360 AS 46.03.140

18 AAC 55.900. DEFINITIONS. (a) In this chapter

- (1) "ASHRAE" means the American Society of Heating, Refrigeration and Air Conditioning Engineers;

(2) "complainant" means a person who has observed a violation of this chapter and notifies the department;

(3) "department" means the Department of Environmental Conservation.

(b) In AS 18.35.300 — 18.35.360 "public meeting" means a regular or special meeting of a legislative body, a board of regents, or an administrative body of the state, including but not limited to their boards, agencies, assemblies, councils, departments, divisions, bureaus, commissions, committees, offices, organizations, and other subordinate units, advisory or otherwise, supported in whole or in part by public money or authorized to spend public money; however, "public meeting" does not include a meeting of

(1) a judicial or quasi-judicial body solely to make a decision in an adjudicatory proceeding;

(2) a jury;

(3) a parole or pardon board;

(4) the medical staff of a hospital; or

(5) the governing body or a committee of a hospital solely to act upon matters of professional qualifications, privileges, or discipline.

(c) In this chapter and in AS 18.35.300 — 18.35.360

(1) "bus" means a self-propelled vehicle with capacity for carrying more than 10 passengers which is used on public highways to transport passengers for compensation;

(2) "limousine for hire" means a self-propelled vehicle with capacity for carrying six to 10 passengers which is used on public highways to transport passengers for compensation between a transportation terminal and other designated points;

(3) "other person who has control" means the agent of the owner, manager, or proprietor authorized to give administrative direction to and exercise general supervision of the activities in a vehicle or place; in a state office building, "other person who has control" means a division director who has authority over the office or his designee.

(4) "room" means an indoor area which is bordered on all sides by walls or partitions which are continuous and solid except for door portals for entry and exit and except for windows and vents;

(5) "smoking" means holding or carrying a lighted cigar, cigarette, pipe, or other lighted smoking equipment or material. (Eff. 8/28/81, Register 79)

Authority: AS 18.35.360
AS 46.03.020
AS 46.03.140

S B

239

HOUSE COMMITTEE REPORT

(7)

Date Referred: April 18, 1989

FURTHER REFERRALS:

Date of Committee Action: 4/26/89

The HEALTH, EDUCATION, & SOCIAL SERVICES Committee considered: SB 239

SENATE BILL NO. 239 [HEALTH CARE REVIEW COMMITTEES]

"An Act relating to health care review committees established by the state; and providing for an effective date."

RECOMMENDATIONS:

Be replaced with HCS SB 239 (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):
(Dept)

APPROVES PREVIOUS: (Date/Dept)

- [] fiscal impact _____
- [] zero fiscal note _____
- [] zero with analysis _____
- [] fiscal note(s) _____
- [X] zero fiscal note(s) 3/23/89 DHSS
- [] zero fn/analysis _____

SIGNING DO PASS:

J. Ellis
Agnes Davis
Steve Sakota
Mark Boyer

SIGNING:
(Check approp. column)

	Do Not Pass	No Rec	Amend

J. Ellis
Chairman's Signature

PROPOSED BY DEPARTMENT OF HEALTH AND SOCIAL SERVICES APRIL 25,
1989

Proposed Amendment, SB 239:

Page 2, Line 28:

After "committee" add the following...."whose membership is
composed of at least 75 percent health care providers".....

#2
PROPOSED BY DEPARTMENT OF HEALTH AND SOCIAL SERVICES APRIL 25,
1989

Proposed Amendment, SB 239:

Page 2, Line 29:

After "services" add the following..."and approved by the
State Medical Board"....



239

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 23, 1989

The Honorable Tim Kelly
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that expands the definition of "review organization" in AS 18.23.070(5) to include committees established by the Department of Health and Social Services to review certain public health issues.

AS 18.23 provides various protections for review organizations set up to evaluate and improve health care. First, it facilitates access to information needed for reviews by limiting liability for persons providing information to the review organization. Second, it encourages participation in the review organization by limiting the liability of individual members in performing their duties in the review organization. Third, by strictly limiting disclosure of records and proceedings, it encourages the review organizations to deliberate fully and form conclusions.

AS 18.23.070(5) defines "review organization" as (1) one set up by a hospital, clinic, medical association, or other privately formed health-care-related organization, or (2) the State Medical Board. Thus, even though a major role of the Department of Health and Social Services is setting standards and conducting reviews of medical and health practices, a review committee established by the department cannot benefit from the protections in AS 18.23.

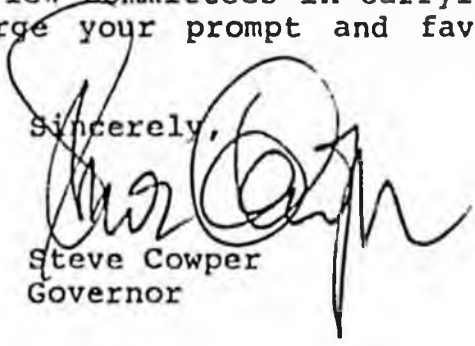
There are now three review committees established by the commissioner of health and social services that would benefit from the proposed amendment. The Maternal and Infant Mortality Review Committee (MIMR) is addressing Alaska's infant mortality rate. Alaska's rate of 5.9 infant deaths per 1,000 live births is far above the national average of 3.7 per 1,000 live births. The department's objective for the review committee is to identify the causes of infant

mortality and issue recommendations to providers and the department which will help reduce Alaska's infant mortality rate. The Sudden Infant Death Syndrome (SIDS) Review Committee will work with the MIMR and address the high proportion of infant deaths that are diagnosed as SIDS. The Trauma Review Committee will address the quality of trauma treatment and prevention programs in the state.

Because these committees are not currently covered by AS 18.23, their proceedings might be discoverable in legal actions. The candid deliberation and conclusions by members of these committees are hampered by the possibility that individual members would be subpoenaed to testify regarding those conclusions in legal actions such as malpractice cases.

In order to assist these review committees in carrying out their important goals, I urge your prompt and favorable action on this bill.

Sincerely,


Steve Cowper
Governor

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to health care review committees established by state
Sponsor: Rules
Requestor: _____

Agency Affected: Health & Social Services
BRU: Statewide Health Services
Components: Public Health Admin.

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Elizabeth Ward, Director *Elizabeth Ward* Phone: 465-3090
Division: Public Health Date: _____

Approved by Commissioner: Myra H. Munson *Myra H. Munson* Date: 3/13/89
Agency: Department of Health and Social Services

Distribution (by preparer):

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

S B

2 5 4

STATE OF ALASKA
THE LEGISLATURE

POUCHY - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

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

Mary Van Nimwegen

SB 254

H. HESS	4/25/90
H. HESS	4/26/90
H. HESS	4/27/90

HOUSE COMMITTEE REPORT

(7)

Date Referred: April 9, 1990

FURTHER REFERRALS:

FINANCE

Date of Committee Action: 4/27/90

The HESS Committee considered:

CSSB 254 (FINANCE)

CS SB NO. 254 (Fin)

STATE INSURANCE AUTHORITY

"An Act relating to group health insurance and to health care provided by the state; and providing for an effective date."

RECOMMENDATIONS:

- be replaced with HCS CSSB 254 (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):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact _____
- zero fiscal note _____
- zero with analysis _____

- fiscal note(s) 3/30/90 / DOA
- zero fiscal note(s) 3/30/90 / DCEN
- zero fn/analysis _____

SIGNING DO PASS:

Mark Boxer

SIGNING:
(Check approp. column)

	Do Not Pass	No Rec	Amend
<i>Scott</i>		✓	
<i>J. Ellis</i>		X	

J. Ellis

 Chairman's Signature

Rick Union
ASMA

Failed

April 26, 1990

#5

PROPOSED AMENDMENTS TO CSSB 254 (FIN)

This amendment is offered to prevent misunderstandings and unintended adverse effects on health care providers. Three amendments are necessary.

I. CHANGE "RATE SCHEDULES" TO "BENEFIT SCHEDULES" #15

It is proposed that the term "rate schedules" be changed to "benefit schedules." Currently the term "rate schedules" appears in the following locations in the bill:

1. Page 1--paragraph (1);
2. Page 2--heading of AS 21.77.010;
3. Page 2--subsection (b) of AS 21.77.010 (twice);
4. Page 3 (top)--AS 21.77.015;
5. Page 7--AS 21.77.100(11); and
6. Page 8--Section 6.

COMMENT: "Benefit schedule" more accurately reflects the intended meaning of the phrase, since the Authority will be dealing with the level of benefits to be paid for services rendered to insured employees and will not be dealing with the rates charged by the health care providers. Proposed Amendment II below proposes a definition of this term.

II. DEFINITION OF "BENEFIT SCHEDULES"

It is proposed that the definition in proposed new AS 21.77.100(11) (page 7) (now pertaining to "rate schedules") be revised as follows:

(11) "benefit [RATE] schedules" means lists [SCHEDULES] of the amounts the authority's group health insurance will pay [ALLOWABLE PAYMENTS] for covered health care related services based on geographic regions, actual provider costs, usual and customary provider charges, and availability of services;

COMMENTS: The proposed revisions are intended to clarify that the "benefit schedules" pertain only to how much the Authority's insurance will pay. The schedules would not affect the amount a health care provider may charge for services or prevent a provider from billing the insured employee for the balance, if the insurance benefit did not cover the entire charge for the service. The phrase "usual and customary provider charges" is added because this term is commonly used in private insurance policies as a limit on the benefits that will be paid. Its inclusion in the definition clarifies that the amount of the benefit payment may not be determined solely by the provider's costs.

III. NO PROHIBITION OF BALANCE BILLING

It is proposed that new AS 21.77.030(b) (top of page 4) be revised as follows:

(b) In exercising its powers under this chapter, the authority may not:

(1) participate directly or indirectly in a collective bargaining agreement; or[.]

(2) require that health care providers, as a condition of receiving payment under the authority's group health insurance, agree to accept payment from the authority's group health insurance as payment in full or agree to otherwise forego their rights to collect from the insured employes any balance due after payment of the group health insurance benefits.

COMMENTS: The proposed amendment is intended to make clear that the Authority may not prevent health care providers from collecting from the patient any unpaid balance that remains after the Authority's group health insurance has paid the authorized benefits.

A M E N D M E N T #1

Adopted

OFFERED IN THE HOUSE

TO: CSSB 254 (Finance)

Page 2, line 16, after "authority":

Insert "for eligible employees of the state, municipality, or school district"

Page 7, line 8, after "care":

Insert "for persons who are not employees of the state"

A M E N D M E N T #2

adopted

OFFERED IN THE HOUSE

TO: CSSB 254 (Finance)

Page 3, after line 23:

Insert a new subsection to read:

"(c) Members appointed under (a)(5) of this section shall be employees of a school district that has elected to participate in the group health insurance obtained by the authority. Members appointed under (a)(6) of this section shall be employees of a municipality that has elected to participate in the group health insurance obtained by the authority."

Page 8, line 8, after "TERMS":

Insert "; INITIAL APPOINTMENTS"

Page 8, line 14, after "years.":

Insert "AS 21.77.020(c), enacted in sec. 2 of this Act, does not apply to members appointed to the initial board of directors of the Alaska State Group Health Insurance Authority."

A M E N D M E N T # 3

adopted

OFFERED IN THE HOUSE

TO: CSSB 254 (Finance)

Page 6, lines 16 - 18:

Delete "Once the board awards the insurance contract, a participant may not be granted a waiver during the term of the contract."

A M E N D M E N T # 4

adopted

OFFERED IN THE HOUSE

TO: CSSB 254 (Finance)

Page 7, after line 8:

Insert a new paragraph to read:

"(6) "employer" means the state, a municipality, a district, a collective bargaining unit, or the board of a public corporation of the state created within a principal executive department;"

Renumber the following paragraphs accordingly.

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

PO. BOX H
JUNEAU, ALASKA 99811-0601
PHONE: (907) 465-3030

April 26, 1990

Honorable Johnny Ellis, Chair
House Health, Education, and Social Services
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Representative Ellis:

I wish to clarify several points as they relate to CSSB 254(Fin) currently before you. The Department supports two pending amendments to clarify the sponsor's intent to exclude certain state programs from mandatory participation. These two amendments are (1) in sec. 21.77.010(b), "for its employees," and (2) the definition of eligible state program to include "for persons who are not employees."

State programs which simply provide or pay for health care services for Alaskans differ greatly from those which provide health care services for their employees. Much of the health care provided by State programs are to clients who are indigent, children who are in the custody of the State, or have another special need. Virtually all of these programs are payors of last resort, so if other coverage exists, i.e., through employment, it will be used first. Many of these programs, such as the Medicaid program, have federally mandated rules that govern their operation.

It is not feasible to use similar rate schedules, payment systems, and utilization standards for these programs as for employee benefit programs. For instance, deductibles or co-payments would not be feasible for programs that are income-based, and in fact, in the Medicaid program deductibles are not allowable. In addition, existing mechanisms in State statute already exist to set facility rates for purposes of Medicaid.

Honorable John Ellis
Chair, House HESS

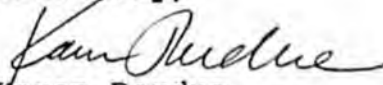
-2-

April 26, 1990

In conclusion, we support Senator Duncan's intent to clarify that State programs which provide health care or provide funds to purchase health care for persons who are not employees are exempt from participation in this measure. We also support the existing language in AS 21.77.010(d), which allows the option for eligible state programs to apply and participate in a group health insurance plan if they so desire and if the authority approves such an application.

Thank you.

Sincerely,


Karen Perdue
Deputy Commissioner

KP/cb

cc: Honorable Jim Duncan
Alaska State Senate

Municipality of Anchorage



P.O. BOX 196650
ANCHORAGE, ALASKA 99519-6650
(907) 343-4425

TOM FINK,
MAYOR

DEPARTMENT OF EMPLOYEE RELATIONS

April 17, 1990

Representative Johnny Ellis
Rm 104, Capitol
P O Box V
Juneau, AK 99811

Dear Representative Ellis:

We have been following the progress of SB 254 relating to Group Health and to Health Care Provided By the State with some concern. Our primary issue with this proposed legislation is that it goes far beyond the stated scope of State group health insurance or health care provided by the State. Currently this bill mandates that all public employees in Alaska must either: (1) participate in the State's group insurance program or (2) use whatever provider payment systems, rate schedules and utilization standards the State establishes for itself. The net effect is that the State of Alaska will determine group health benefits for all public employees in Alaska and will determine the costs for such benefits for all public employers.

In its current form (CSSB 254), this legislation will have a major negative impact on the Municipality in the following areas:

- Negotiated labor agreements which afford specific levels of coverage. Scope and cost would be mandated, while not guaranteeing current levels.
- Participation of Municipal employees in Taft-Hartley plans. Inability to continue such participation.
- At worst, removal of major term and condition of employment from the realm of collective bargaining.
- At best, establish threshold for bargaining where employer can only bargain more coverage at a higher cost.

The result for local governments and school districts will be the exact opposite from the stated objective to lower group health costs.

There is considerable merit to the pooling concept for group health coverage as a means of reducing costs. Those in the pool should, however, first have the opportunity to assess the pool and determine if it meets their particular needs and fiscal capabilities. We believe these concerns can be effectively met and the objective of benefit pooling can be positively obtained by modifying Section 21.77.010 (b) as follows:

(b) The authority shall, by February 1, 1992, establish and maintain a health care provider payment system, rate schedules, and utilization standards. The state [,] and a municipality who elects to participate, or a school district who elects to participate shall use the health care provider system, rate schedules and utilization standards established by the authority.

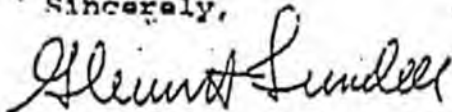
Section 21.77.010 (c) should also be modified slightly to require that municipalities or school districts who elect to participate shall do so by resolution. This will enable the affected citizens the opportunity to be heard prior to participation.

Finally, 21.77.020 should have two minor modifications to insure appropriate representation of the Board of Directors. Those changes should be as follows:

- (5) two members representing participating school districts;
- (6) two members representing participating municipalities;

These changes are minor and do not adversely impact the pooling objectives of this legislation. They do, however, have significant impact for local government employers throughout Alaska by enabling us to make informed public decisions concerning whether or not it is in our best interests to join the pool established under the proposed authority. We strongly urge you to incorporate these proposed amendments and would welcome the opportunity to testify before your committee regarding our concerns.

Sincerely,



Glenn Lundell
Director, Employee Relations

GL/sw/SB254

ALASKA STATE GROUP HEALTH INSURANCE AUTHORITY
"An Act relating to group health insurance and to health care provided by the state; and providing for an effective date."

Section 1.

PURPOSE

The purpose of this act is to establish the Alaska State Group Health Insurance Authority. By February 1, 1990 the Authority has the responsibility to create and maintain:

- (a) a rate schedule to be used in Alaska which will reflect the vast geographic differences and availability of services in rural and urban areas;
- (b) statewide utilization standards to control inappropriate or improper utilization practices to reduce the rate of inflation in the cost of health care in Alaska; and
- (c) an efficient provider payment system to reduce the cost to providers who are serving employees of the participants in the authority.

The state, municipalities, and school districts will benefit by using the provider payment system, rate schedule, and utilization standards established by the Authority.

Section 2.

CREATION OF THE AUTHORITY

The authority is established in the Department of Administration. It has a 15 member board of directors appointed by the Governor with the general powers provided to quasi government agencies including the hiring of staff and enter into contracts for professional services. In addition, after February 1, 1992, the Authority may exercise the powers granted to other insurers licensed in the state.

BOARD OF DIRECTORS

The board of directors will be composed of 15 members representing:

- (1) one nonvoting member of the legislative branch;
- (2) one nonvoting member of the judicial branch;
- (3) two members representing the executive branch;
- (4) two members representing labor organizations;
- (5) two members representing school districts;
- (6) two members representing municipalities;
- (7) two members representing the Department of Health and Social Services;
- (8) two members representing health care providers;
- (9) one member representing the University of Alaska.

These appointees serve for a five year term and elect officers from the board membership. They are entitled to per diem and travel expenses but may not otherwise be compensated for their services as a board member.

PARTICIPATION AND WAIVER

The authority may also grant a waiver of participation to the state, a municipality or a school district who has elected to participate. The board may approve or disapprove a waiver when the participant can document the ability to match the minimum benefit and financial standards established by the board for the desired group health coverage. A waiver may be granted when a participant certifies that its' employees will not have health care coverage from the authority or other carrier.

Participants may separately provide for health insurance in addition to that provided by the Authority.

DEFINITIONS

- (1) authority, means the Alaska State Group Health Insurance Authority;
- (2) board, means the board of directors of the Alaska Group Health Insurance Authority;
- (3) district, means a school district or REAA;
- (4) eligible employee, means an employee qualified for group health insurance benefits as determined by the participant;
- (5) fund, means the state group health insurance fund;
- (6) group health insurance, means coverage that may include life insurance, accidental death and dismemberment, workers' compensation, medical care and treatment including Medicare and Medicaid, dental care, eye care, and other group health coverage as determined by the authority;
- (7) municipality, includes a public corporation established by a municipality;
- (8) participant, means the state, a municipality, or a district;
- (9) state, means the executive, legislative, and judicial branches of state government, or an organizational unit of a branch, and includes the University of Alaska, and a public corporation of the state created within a principal executive department.
- (10) payment system, means a system or method to streamline and effect cost efficient payments to health care providers.
- (11) rate schedule, means a schedule of allowable payments for health care related services rendered based on geographic regions actual provider cost and availability of services.
- (12) utilization review, means a system to monitor, track and verify patterns of treatment by health care providers to assure that the most efficient and cost effective care is delivered within accepted standards with out reducing quality of care.

Section 3.

Places employees of the authority in the exempt service.

Section 4.

Requires board members of the authority to comply with the conflict of interest statutes.

CORRECTION

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

ALASKA STATE GROUP HEALTH INSURANCE AUTHORITY

"An Act relating to group health insurance and to health care provided by the state; and providing for an effective date."

Section 1.

PURPOSE

The purpose of this act is to establish the Alaska State Group Health Insurance Authority. By February 1, 1990 the Authority has the responsibility to create and maintain:

- (a) a rate schedule to be used in Alaska which will reflect the vast geographic differences and availability of services in rural and urban areas;
- (b) statewide utilization standards to control inappropriate or improper utilization practices to reduce the rate of inflation in the cost of health care in Alaska; and
- (c) an efficient provider payment system to reduce the cost to providers who are serving employees of the participants in the authority.

The state, municipalities, and school districts will benefit by using the provider payment system, rate schedule, and utilization standards established by the Authority.

Section 2.

CREATION OF THE AUTHORITY

The authority is established in the Department of Administration. It has a 15 member board of directors appointed by the Governor with the general powers provided to quasi government agencies including the hiring of staff and enter into contracts for professional services. In addition, after February 1, 1992, the Authority may exercise the powers granted to other insurers licensed in the state.

BOARD OF DIRECTORS

The board of directors will be composed of 15 members representing:

- (1) one nonvoting member of the legislative branch;
- (2) one nonvoting member of the judicial branch;
- (3) two members representing the executive branch;
- (4) two members representing labor organizations;
- (5) two members representing school districts;
- (6) two members representing municipalities;
- (7) two members representing the Department of Health and Social Services;
- (8) two members representing health care providers;
- (9) one member representing the University of Alaska.

These appointees serve for a five year term and elect officers from the board membership. They are entitled to per diem and travel expenses but may not otherwise be compensated for their services as a board member.

POWERS OF THE AUTHORITY

The Authority may:

- (1) after February 1, 1990 exercise the powers granted to insurers under the laws of the state, and shall comply with the requirements applicable to insurers under this title;
- (2) sue or be sued;
- (3) enter into contracts for agreements;
- (4) establish administrative and accounting procedures;
- (5) collect, invest, and disburse funds;
- (6) adopt necessary regulations and procedures for implementation of this chapter.

The authority may not participate in collective bargaining activities.

ANNUAL REPORT, STAFF AND PROFESSIONAL SERVICES

The board shall annually report to the governor and the legislature on its previous fiscal year's activities and every third year include a cost benefit analysis of the health insurance required under this chapter.

The authority shall employ an executive director, who with the approval of the authority may select and employ additional staff as necessary. The authority's employees are in the exempt service. The authority may contract for professional and technical services it determines necessary to exercise its powers.

PROCUREMENT OF INSURANCE

After February 1, 1990 the authority shall purchase a policy or policies of group health insurance covering eligible employees of the state, a municipality, or a district if the employer has elected to participate. The authority may act as a self-insurer if it is determined that self-insurance will provide the desired insurance coverage and benefits at a lower cost per eligible employee.

When purchasing group health insurance the authority shall comply with the provisions of Title 36 and shall make bid specifications available, once every five years, to all insurance carriers licensed in Alaska and qualified to provide the desired benefits.

STATE GROUP HEALTH INSURANCE FUND AND PREMIUMS

The state group health insurance fund is created in the general fund. It consists of appropriations and premiums collected under this title. Money in the fund shall be managed and invested by the board and the board may expend funds from the fund to carry out its operations.

The authority shall collect sufficient premiums to provide the required insurance coverage and to pay the expenses of the authority.

PARTICIPATION AND WAIVER

The authority may also grant a waiver of participation to the state, a municipality or a school district who has elected to participate. The board may approve or disapprove a waiver when the participant can document the ability to match the minimum benefit and financial standards established by the board for the desired group health coverage. A waiver may be granted when a participant certifies that its' employees will not have health care coverage from the authority or other carrier.

Participants may separately provide for health insurance in addition to that provided by the Authority.

DEFINITIONS

- (1) authority, means the Alaska State Group Health Insurance Authority;
- (2) board, means the board of directors of the Alaska Group Health Insurance Authority;
- (3) district, means a school district or REAA;
- (4) eligible employee, means an employee qualified for group health insurance benefits as determined by the participant;
- (5) fund, means the state group health insurance fund;
- (6) group health insurance, means coverage that may include life insurance, accidental death and dismemberment, workers' compensation, medical care and treatment including Medicare and Medicaid, dental care, eye care, and other group health coverage as determined by the authority;
- (7) municipality, includes a public corporation established by a municipality;
- (8) participant, means the state, a municipality, or a district;
- (9) state, means the executive, legislative, and judicial branches of state government, or an organizational unit of a branch, and includes the University of Alaska, and a public corporation of the state created within a principal executive department.
- (10) payment system, means a system or method to streamline and effect cost efficient payments to health care providers.
- (11) rate schedule, means a schedule of allowable payments for health care related services rendered based on geographic regions actual provider cost and availability of services.
- (12) utilization review, means a system to monitor, track and verify patterns of treatment by health care providers to assure that the most efficient and cost effective care is delivered within accepted standards with out reducing quality of care.

Section 3.

Places employees of the authority in the exempt service.

Section 4.

Requires board members of the authority to comply with the conflict of interest statutes.

Section 5.

Provides that terms of the board members will be staggered.

Section 6.

The Authority is required to make a progress report to the Legislature by March 1, 1991. The report covers the Authorities efforts in establishing the health care provider payment system, rate schedule, and utilization standards.

Section 7.

Provides for an immediate effective date.

Health Insurance Authority

SB 254 by Senator Duncan

Purpose:

To provide a vehicle that enables cost effective health care delivery to all participants of State health plans (including active/retirees of State, Municipal and Education), in order to help curb escalating health care costs.

Currently each entity purchases health care from a number of health insurance providers for their plans. By creating a health insurance authority each participating entity would in effect have the ability to realize the cost economies of a much larger group (134,000 participants vs 24,000). This would enable the authority to negotiate payment rates and utilization factors with health care providers and provide for appropriate care delivery at an appropriate cost. The authority could be expanded to include medicaid and workers compensation benefit systems.

The authority could phase in responsibilities over a period of time

Phase I

Authority Created -

Establish provider payment and utilization standards for use by participating entities with their current health plans.

Phase II

Start to pool purchasing of coverage voluntarily by entities.

Phase III

Pool all entities to give maximum cost efficiencies.

Health Insurance Authority

SB 254

Background

- * Supplemental Request FY 89 of 21.8 million to cover increased Health Care premiums.
- * Increasing costs of Health Care in Alaska from 75 million in FY 80 to in excess of 300 million in FY 90.
- * Health Insurance premiums for employees increasing from \$217.65 in FY 84 to \$431.72 in FY 89 an increase of 98% in five years. The national average in 1989 was \$216.00
- * Health Care Task Force Creation
 - * Short term - ways to reduce supplemental requests
 - * Mid term - ways to reduce FY 90 costs
 - * Long term - ways to reduce health care costs in Alaska.

Health Insurance Authority

- * Coordinate buying power of State plans to reduce health care costs in Alaska.
- * Lower cost of plan administration
- * Realize trends in health care delivery and adjust accordingly.

Recently I received a copy of a letter sent by Michael Hurst to G.G.U. members citing the "actual" cost for employees health care.

As you are aware I am quite concerned about rising Health care costs in the state and the cost to employees. As a member of the Health Care Cost Containment Task Force we have reviewed the costs under the Aetna plan and have made recommendations that would reduce costs but not reduce benefits. The task force has made recommendations that allowed for the recovery of past due refunds and cost containment savings totaling over 10 million dollars.

The letter may mislead G.G.U. members as it outlines a 9.6 million dollar surplus at the end of the plan accounting period ending June 30, 1989, when in fact the balance was actually 7.2 million. In past years the plan was in a deficit position.

This surplus was used (along with cost containment provisions) to reduce the premium from \$431.72 to \$384.59 per employee per month and to guarantee this premium level until January 31, 1991.

It must be noted that the 7% health care inflation pointed out in Hurst's letter is not a realistic projection when health care inflation in the State's plan has been tracking at 19.98% per year for the last five years.

If health care costs continue to rise at 20% per year the current \$385.00 premium will increase substantially unless we can find ways to slow or stop this pace. The Task Force is evaluating long term ways to curb health care inflation in the State and will be reporting these findings.

ASSOCIATION OF ALASKA SCHOOL BOARDS

316 W. 11th St. • Juneau, Alaska 99801-1510 • (907) 586-1083

MEMO

TO: House HESS Committee Members

FROM: Carl F.N. Rose, Executive Director
Carl

RE: Senate Bill 254 - Group Health Insurance Authority

DATE: April 26, 1990

The Association of Alaska School Boards is keenly aware of the financial hardship experienced by school districts which is due in large measure to rapidly escalating health coverage costs. We recognize the value of looking for alternative means to alleviate this burden.

While we concur with the concept of the Alaska State Health Group Authority, which is set forth in SB 254, we do have some concerns.

One of those concerns would be the possibility of a future determination that the program should be mandatory, and would require *all* school districts to participate. It has been our experience in forming and administering a cooperative property insurance program for school districts that some of the larger districts, such as Anchorage, Fairbanks and Juneau, were able to either negotiate lower rates on their own or participate in a self-insurance arrangement with their municipal governments. We suspect this might also be true in the area of health coverage.

We believe that if the program is truly beneficial then it will follow that districts will voluntarily join. However, a mandated program may not prove to be in everyone's best interest, and would put an additional burden on a school district (or municipality) to demonstrate why they should be allowed to pursue other options.

Another concern regards the governance of the Authority. The make-up of the governing board currently specifies "two members representing school districts". We would like to have it made clear that those two representatives should represent school district *management*, since it is already specified that labor organizations will be represented.

REC'D APR 17 1990



ALASKA STATE MEDICAL ASSOCIATION

4107 Laurel Street • Anchorage, Alaska 99508-5334 • (907) 562-2662

April 12, 1990

Honorable Johnny Ellis
Chairman
Health, Education and Social Services
P.O. Box V
Juneau, Alaska 99811

Re: Senate Bill 254

Dear Representative Ellis:

Is creating a government-run insurance program the solution for restraining the costs of health care?

In 1965 the U.S. Congress amended the Social Security Act by adding Title 18 - Medicare. Like Senate Bill 254 it established a government agency - the Bureau of Health Insurance - to establish payment rates, review utilization of services, and purchase insurance at the lowest possible cost for its beneficiaries, in this case, Americans over 65. It contracted with private insurance companies, known as Fiscal Intermediaries, to pay out benefits. Within a decade the Bureau of Health Insurance had grown so large that it could no longer be contained within the Social Security Administration, so a new separate bureaucracy was created - the Health Care Financing Administration, or HCFA.

By 1990 HCFA and its non-insurance contractors (who perform utilization review and quality care review functions) had become one of the largest, most complex and costliest of the Federal bureaucracies, and one that is equally mistrusted by providers and beneficiaries alike. Since 1965 health care expenditures have risen to consume 12% of GNP, a higher proportion than almost any country.

Medicare has proven to be a political, social and fiscal tarbaby for legislators, providers and consumers. Yet, Senate Bill 254 recreates in miniature the same mistakes Title 18 made almost a generation ago. Senate Bill 254 even goes a step farther, by giving the Insurance Authority the option to actually operate the insurance program itself - collecting premiums and paying benefits. Does the State of Alaska really want to become caught in this scenario?

Honorable Johnny Ellis
April 12, 1990
Page 2

Organized medicine in the US - and in Alaska - has been firmly committed to accessible, affordable health care, but we don't believe that having government enter the insurance business is a good answer.

Rather, we believe in using the marketplace to restrain the utilization of services, by introducing higher deductibility and/or greater co-insurance. By making patients partially responsible for health care costs, frivolous utilization of services will diminish without question.

We also believe in reviewing the entire benefit package, and re-examining the meaning of the term "comprehensive care." The benefit package available to Alaska state employees and retirees is certainly one of the most generous in the country.

Finally, we believe that the passage of House Bill 581 will provide a better forum to examine a number of issues and offer a program for stabilizing inflation of health care expenditures.

Therefore, we believe Senate Bill 254 to be a proposed "quick fix" for a much larger problem and we sincerely oppose this legislation.

Sincerely,



Ray Schalow

Executive Director

WCCA

Workers' Compensation Committee of Alaska

Tuesday, April 24, 1990

Johnny Ells, Chairman
House Health, Education, and Social Services Committee
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, AK 99811

Re: CSSB 254

Dear Representative Ells:

I understand that this bill has passed in the Senate and has now been referred to your committee for consideration. As president of the Workers' Compensation Committee of Alaska, representing some 450 employers throughout Alaska for workers' compensation concerns, and also as Benefits Manager of the Anchorage School District with over 35 years experience in the group insurance and employee benefits field, I must convey to you my total opposition to CSSB 254, both as to its intent and construction. At first glance, it may appear to offer reduced health care cost for employees of the State and its political subdivisions, but as written, I am afraid it would do just the opposite.

The bill purports to call for voluntary participation by the various eligible entities, but then provides for requiring mandatory participation. It requires the creation of fee schedules and utilization standards for health care providers without addressing any realistic basis for establishing, or enforcing of them. It would allow for entirely different levels of benefits and plan designs from one entity to another. Unless practical parameters or guidelines for the benefits to be provided are established in the bill itself, the entire program would be unmanageable and costs would run wild. Finally, enactment of this bill will require the creation of a large state bureaucracy which will greatly increase the overall cost of providing health coverage to public employees. The \$0 fiscal note given to the Senate Finance Committee, was very misleading that was only for FY 90. Starting with FY 91, the fiscal impact will be significant.

The concept of a statewide Group Health Coverage Authority could be made to work and might contain, or even reduce the future cost of health benefits for public sector employees if:

P.O. Box 200631

Anchorage, Alaska 99520

1. The Legislature establishes a uniform health plan providing for basic medical, dental, and vision benefits with reasonable deductibles, and co-payments for all plan participants, and declares that only employer contribution amounts, and not specific health care benefits, are subject to collective bargaining;
2. All state mandates of specific health benefits currently in effect are repealed;
3. Participation in the State Plan is made mandatory for all employees of the state and its political subdivisions in the same manner as the state retirement systems;
4. The Legislature establishes a self-funded health care authority for paying benefits under the basic state health plan and provides for annual appropriations to the fund based on annual actuarial assessments of the claims experience of the plan and appropriate reserve and expense requirements; and
5. Risk sharing contracts are established with a statewide network of healthcare providers and hospitals establishing rate and fee schedules.

Should CSSB 254 pass as written, it would increase cost for those political entities which now effectively manage their health benefit plans. It does not seem at all fair for the state to attempt to reduce its current high employee health plan cost at the expense of other political subdivisions. The California consultant's contention, in his report to the state Health Task Force, that combining all public sector employees under one state health authority will save large amounts of money for all public entities is plain wrong under existing conditions in Alaska.

I urge you and your committee not to recommend passage of CSSB 254. Thank you for your consideration.

Sincerely,



Warren L. Dvorak, President

WLD/mse

cc: Mark Boyer, Vice-Chairman
Cheri Davis
Walt Furnace
Peter Goll
Max F. Gruenberg, Jr.
George G. Jacko, Jr.



NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

ANCHORAGE REGIONAL OFFICE

1411 W. 33RD AVENUE
ANCHORAGE, ALASKA 99503
(907) 274-0536

JUNEAU OFFICE

105 MUNICIPAL WAY, SUITE 302
JUNEAU, ALASKA 99801
(907) 586-3090

FAIRBANKS REGIONAL OFFICE

2118 CUSHMAN STREET
FAIRBANKS, ALASKA 99701
(907) 456-4435

April 25, 1990

To: Rep. Johnny Ellis, Chair
Members, House HESS Committee

Re: CS for SB 245²⁴ (Finance)
"An Act relating to group health insurance and to health care provided by the state; and providing for an effective date."

NEA-Alaska supports and encourages your favorable consideration of SB 254.

At the school district level employees are covered by a wide variety of plans, some good and many not so good, with a broad range of premium costs. All are regularly faced with substantial premium cost increases and frequently diminished benefit coverage.

Many school districts, by virtue of their relatively small size, don't have any advantage or leverage in negotiating premium rates and benefit coverage with insurance carriers or health care providers.

Through Phase I SB 254 makes critical information and systems available to school districts lacking the resources necessary to acquire this information on their own.

More importantly, SB 254 will eventually provide school districts with viable options to those currently available to them and represents the real potential for increased benefit coverage, meaningful cost containment, and lower premium rates for all public employees.

The attached data sheet which is currently being updated reflects the broad range of premium costs and benefit coverages currently available to school district employees.

SB 254 is a way to better address the health care concerns of school districts and all of their employees. We urge your favorable response.

Thank you for your consideration of our position.

Respectfully submitted,

Bob Manners
Executive Secretary.



NEA-ALASKA TABLE TALK



MARCH 1989
VOL. 1, NUMBER 5

MONTHLY NEWSLETTER (EXCEPT DECEMBER)
FOR LOCAL NEGOTIATORS, LOCAL PRESIDENTS
AND OTHER INTERESTED MEMBERS

HERE ARE THE LATEST HEALTH INSURANCE COMPARISONS:

In February NEA-Alaska began a statewide health insurance comparison study. This is a summary of the preliminary responses.

There are 57 Districts. We contacted 55 Districts and have had 50 responses. The cooperation of the Districts has been excellent. Not all of the responses have included all information however, so use the summary for indications of trends and refer to the study itself for specific information about specific Districts. Request the study from your field staff representative.

Premiums

Monthly premiums for employees only range from a low of \$105.44 to a high of \$160.93.

Monthly premiums for family range from a low of \$156.12 to a high of \$473.02.

Monthly "composite" premiums - one cost per employee regardless of marital or family status - range from a low of \$203.20 to a high of \$417.85.

Amount of Premium Paid By District

The standard in Alaska is 100% premium paid by the employer. Four Districts pay 90% of the premium. One District pays 80%.

Deductibles

15 Districts have \$50/\$150 for ind/fam deductible
1 has \$50. for each person covered.

1 has \$50/\$200.

26 Districts have \$100/\$300

2 have \$100/\$100

1 has \$150/150

1 has \$200/\$600

Co-Insurance

11 pay 80%

27 pay 90%

We have some info on caps on co-insurance but it is not yet complete.

Lifetime Maximums on Major Medical

20 Districts have a \$250,000 maximum.

9 Districts have a \$500,000 maximum.

15 Districts have a \$1,000,000 maximum.

Primary/Secondary Coverage

Most Districts provide coordination of benefits if two spouses work for the District. Thirteen Districts do not provide primary/secondary coverage.

Alcoholism and Drug Abuse Benefit

13 Districts provide a benefit less than that now set by AK Statute. Statute may not dictate under certain conditions. The statutory minimum is \$7,000 over 2 years/Lifetime max of \$14,000 - No special requirements added over and above requirements for other medical conditions.

Dental

3 Districts provide Orthodontia.

5 Districts provide less than 80% coverage for class B routine care.

8 Districts provide more than \$1,000 coverage annually.

Vision

8 Districts have an eye exam benefit that is less than 90% of one exam per year.

Audio

6 Districts do not have audio coverage.

STATE OF ALASKA
HEALTH CARE COST CONTAINMENT TASK FORCE
CONSULTANTS REPORT

JANUARY 4, 1990

JUNEAU, ALASKA

Jeffrey A. Malek
Area Assistant Vice President
Arthur J. Gallagher & Company
160 Spear Street, Suite #1100
San Francisco, California 94105
(415) 546-9310, Ext. #427
1-(800) 877-9300

I. CONTINUED DISCUSSION REGARDING POOLING CONCEPTS

Several states have enacted pooling legislation for a variety of reasons. Two case summaries, one for Hawaii and the other for Utah are presented below to gain an understanding as to how and why other states have exercised pooling for their benefit plans. Hawaii and Utah were chosen for this initial study because they both have been utilizing pooling for a number of years, Utah for 13 years and Hawaii for 28 years). We recommend that you accept the invitations from Hawaii and Utah to personally experience the benefits of pooling.

Utah Public Employee Health Plan

The State of Utah's Public Employee Health Plan was established in 1977 by the state legislature to help reduce and control health care costs. The plan provides coverage to over 70,000 (23,000 primary insureds) state, county, city, and school district employees, retirees and their dependents. All public entities must participate in the plan.

The fund is governed by legislation, directed by a board of trustees and a full time director. It requires 35 state employees to run the required operation.

Currently, the fund offers one plan design to all entities with separate rating based on each entities experience. The fund provides Dual Choice Medical and Dental, Two - H.M.O.'s, Life and Long-Term Disability coverage. The coverages are self-funded with in-house administration and claim payors. Substantial savings have been realized by creating a buying group that is cohesive and proactive in cost containment and non-payment. One problem that has surfaced is that the fund has been setting rates 18 20 months in the future, and medical inflation has required increases in contributions earlier than originally anticipated.

Hawaii Public Employees Health Fund does not presently employ cost containment methods (ie: pre-certification and utilization review) or a preferred provider organization. Hawaii is currently experiencing medical inflation 4% to 5% lower than the mainland. The plan design includes higher deductibles and co-payments and the employees pay 40% of the medical premium.

Legislation governs the operations and power of the fund which is directed by a board of trustees and has of full-time director with a staff of eight. Hawaii utilizes the fund to purchase and distribute benefit coverages using outside vendors, however, they could self-fund and/or self-administrator the program.

The fund is currently investigating the ability to add Long-Term Care to the benefit package for their covered employees.

The Hawaii Public Employee Health Fund has offered to assist the Task Force in understanding the operation of their fund, and have extended an invitation to the Task Force to send a delegation to Hawaii for further on site discussions.

CORRECTION

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

STATE OF ALASKA
HEALTH CARE COST CONTAINMENT TASK FORCE
CONSULTANTS REPORT
JANUARY 4, 1990
JUNEAU, ALASKA

Jeffrey A. Malek
Area Assistant Vice President
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160 Spear Street, Suite #1100
San Francisco, California 94105
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SECTION I
CONTINUED DISCUSSION REGARDING
POOLING CONCEPTS

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The Utah Public Employee Fund has extended an invitation to the Task Force an on site look at their operation and answer any further questions you may have regarding their "pooling" experience.

Hawaii Public Employees Health Fund

The Hawaii Public Employee Health Fund was established in 1962 under Chapter 87 (revised) as a method to purchase and distribute employee benefit coverage for over 110,000 (65,000 primary insureds) state, county, city and school employees, retirees and their dependents. All public entities must participate in the fund.

The fund started in 1962 with the base benefit plan and added, dependent care in 1966, group life in 1968 and Dental, Vision (V.S.P.) and Prescription Drug plans effective January 1, 1990.

Currently, the fund offers a indemnity medical plan with Blue Cross, utilizing minimum Premium Funding, three - H.M.O.'s (Kaiser, Community Health Plan, Island Care Plan). Dental, Vision, Prescription Drug and Life Insurance are currently fully insured with the option of utilizing alternate funding methods. All plans are free standing and have separate rating and experience.

The fund currently negotiates with carriers on a two year rate guarantee basis that coincides with the labor agreements. All contracts are negotiated with the negotiating committee which usually occurs every two years.

Hawaii Public Employees Health Fund does not presently employ cost containment methods (ie: pre-certification and utilization review) or a preferred provider organization. Hawaii is currently experiencing medical inflation 4% to 5% lower than the mainland. The plan design includes higher deductibles and co-payments and the employees pay 40% of the medical premium.

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STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH - STATE CAPITAL
BUREAU ALASKA PER
217 244 51

M E M O R A N D U M

February 12, 1990

SUBJECT: Group health insurance - CSSB 254()
TO: Senator Jim Duncan
FROM: Michael F. Ford *M.F.*
Legislative Counsel

The attached draft raises a constitutional issue you should consider. Under Sec. 21.77.020(a), members of the legislative and judicial branches of state government will serve on the board of the Alaska State Group Health Insurance Authority. Having legislative and judicial members on the board of an executive agency may violate the separation of powers doctrine. This doctrine requires that government powers not be blended, unless there is an express constitutional provision allowing the mixture. See Bradner v. Hammond, 553 P.2d 1 (Alaska 1976). If you believe you must have legislative and judicial representatives on the board, the separation of powers issue would be minimized if the legislative and judicial members were not voting board members, but were members who only acted in an advisory capacity.

Please contact me if you have further questions.

MFF:pl
WKP2/031

Enclosure

ESTIMATED POPULATIONS OF ALASKANS WHOSE HEALTH CARE COSTS ARE DIRECTLY, INDIRECTLY, OR PARTIALLY PROVIDED FOR BY THE STATE

<u>Employee/Retiree</u>	<u>Dependents</u>	<u>Totals</u>
1. State Active Employees		
13,000	17,500	30,500
2. Retirees (State, Muni, School)(PERS & TRS).		
10,500	9,800	
Up to 60% reside in state		
6,300	5,900	12,200
3. Local Govt. Active Employees (PERS)		
13,600	18,400	32,000
4. Teacher Actives (TRS)		
8,200	11,000	19,200
Medicaid/Medicare Eligibles. Div. Of Medical Assistance		
41,000		<u>41,000</u>
		(134,900)

a) Some of the people appearing in item 2 will be counted in item 5.

b) Estimates of dependents in items 3 and 4 assume that the groups exhibit the same age and sex characteristics as in group 1

ARTHUR J. GALLAGHER & CO.

CONSULTANTS' REPORT
TO THE
STATE OF ALASKA
HEALTH CARE COST CONTAINMENT TASK FORCE
JUNEAU, ALASKA
JANUARY 29, 1990

Jeffrey A. Malek
Area Assistant Vice President
Arthur J. Gallagher & Company
160 Spear Street, Suite #1100
San Francisco, California 94105
1 (800) 546-9300. Ext. #427

POOLING FINDINGS UPDATE

There are several items discussed at the last Task Force meeting that we would like to clarify.

Hawaii Premium Rates

For fiscal year 1990, Hawaii's monthly premium rate for Medical, Vision, Prescription Drug and Dental are:

Single Coverage - State pays \$ 52.88; Employee pays \$ 35.28 = \$ 88.16

Family Coverage - State pays \$154.02; Employee pays \$102.70 = \$256.72

There was a misunderstanding on how Hawaii calculates the composite rate, creating the confusion on the \$500.00 monthly rate.

Hawaii's health benefit agreements with Labor.

Approximately 90% of the 65,000 active participants in the Hawaii pool are covered by labor agreements. Hawaii's pool provides standard level of benefits for all participants and sets the premium rate. In labor negotiations, the units negotiate for the contribution provided by the State. The difference is (if any) paid by the employee. Hawaii also operates with a "me too" clause with its labor group resulting in similar state/employee contributions for all groups.

At the last Task Force meeting, it was requested additional information on pooling specifically, advantages, savings and long-term effect on health care cost containment. Included in this report is a closer look at the savings realized by UTAH's Public Employee Health Plan (PEHP).

Utah Public Employee Plan (PEHP)

The State of Utah's Public Employee Plan (PEHP) was established in 1977 by the state legislature to help reduce and control health care costs. The plan provides coverage to over 70,000 (23,000 primary insureds) state, county, city, and school district employees, retirees and

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TO THE
STATE OF ALASKA
HEALTH CARE COST CONTAINMENT TASK FORCE
JUNEAU, ALASKA
JANUARY 29, 1990

Jeffrey A. Malek
Area Assistant Vice President
Arthur J. Gallagher & Company
160 Spear Street, Suite #1100
San Francisco, California 94105
1 (800) 546-9300, Ext. #427

SECTION IV

POOLING

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their dependents. All public entities must participate in the plan. The fund is governed by legislation, directed by a board of trustees and a full-time director. It requires 35 state employees to run the plan's operation.

Currently, the fund offers one plan design to all entities with separate rating based on each entities experience. The fund provides Dual Choice Medical and Dental, Two - H.M.O.'s, Life and Long-Term Disability coverage. The coverages are self-funded with in-house administration and claim payors.

PEHP has realized savings in three main areas. Lower cost of administration, negotiated provider payment, utilization standards and plan design including wellness programs. These findings are verified by UTAH's Legislation Auditor General's report dated February 2, 1989. (Included in attachment.)

ADMINISTRATIVE COSTS

UTAH's PEHP compared favorably in the audit report with five self-insured carrier administrative rates. The average was 6.8% compared to PEHP at 3.5%. Aetna, currently, charges the State of Alaska 6.5% to process claims totalling \$5,656,424 for the 1989 plan year. If Alaska could effect similar savings in administrative costs, the savings would be \$2.5 million per year, just for active and retiree plans.

Comparison of Administrative Cost Between Self-Insured Carriers for Health Care Source UTAH Legislative Audit Report

<u>Carrier</u>	<u>Administration Costs As A Percent of Total Costs</u>
Company A	6.3*
Company B	7.0
Company D	6.4*
Company E	9.3
Company F	<u>5.1</u>
Simple Average	6.8
Alaska (Aetna)	6.5
PEHP	3.5

*These companies also administer a 401(K) plan to employees as well as other programs.

Negotiated provider payment and utilization standards

PEHP has been able to reduce health care costs through negotiated discounts in preferred provider arrangements. In the comparison of PEHP's reimbursement of Seven Common procedure reimbursements (Page 3, Table I, Utah Legislative Audit Report) the savings ranged from 6% - 8% from usual carrier reimbursements. Claims payors (carriers) in Utah use a "Med Index" to ascertain usual and reasonable rates. In a comparison of Ten Common health care procedures (see Utah Legislation Audit Report, Page 4, PEHP, Table II), PEHP was reimbursing providers at a lower rate than the med index resulting in savings of 11% to 25%.

These similar savings could be achieved in Alaska's plan by using combination of preferred providers, revised usual, reasonable and customary (UCR) and provider payment schedules. In the 1989 plan year, \$80,318,125 was paid for claims if savings similar to Utah's experience are realized, the State of Alaska would save between \$6.4 million and \$20.0 million per plan year.

Plan Design and Wellness Programs

PEHP has implemented plan design charges to incorporate cost containment and wellness plans.

Cost containment provisions that have been implemented include:

- Second Surgical Opinion
- Utilization Review
- Pre-Certification
- Managed Mental Health and Substance Abuse
- Alternate Care Settings (Home Health)
- Pharmacy P.P.O.
- Outpatient Surgery
- Preferred Provider Network
- Flex Plan (See Attachment)
- Three Phase Wellness Plan (See Attachment)

That Includes:

- Screening
- Education and Assistance
- One-On-One Guidance, If Necessary

These several plan designs, cost containment and funding arrangements have demonstrated reduced plan inflation. The Table below illustrates that PEHP has been able to hold costs at about the overall medical CPI level (6.7%) versus Alaska's plan increasing at 19.98%.

Comparison of Rate Increases For Family
Premiums By Other Western States

<u>State</u>	<u>Annual Premium Growth Rate For Last Five Years</u>	<u>Estimated Increased FY'90</u>
Arizona	17.2%	N/A
Colorado	6.4	N/A
Idaho	4.0	30%
Montana	5.5	26
Nevada	4.6	15
New Mexico - Plan A	23.8	30
New Mexico - Plan B	9.6	30
Wyoming	<u>6.7</u>	<u>52</u>
Average	9.7	31
Alaska (Aetna 3 years)	19.98	0 (Revised)
Utah	6.6	23-31*
Medical CPI	6.7	N/A

*PEHP is requesting a 21% increase and a one-time appropriation of \$2.4 million to rebuild its reserves. To fund the \$2.4 million appropriation over time could increase premiums from 2% to 10%. PEHP also will reduce benefits by 10%.

Source: Utah Legislation Audit Report

Additionally, PEHP has been able to hold premium increases at 6.6% versus the insurance carriers average in Utah of 12.2% over the last 5 years.

Currently, PEHP is requesting a supplemental appropriation in funding for the plan from \$308.00 to \$325.00 to cover short funding in the last session and rebuild reserves.

In previous good years when a surplus was generated, it was returned to the Utah State general fund.

Conclusion

By utilizing a pooling concept for Alaska's health plans, the following savings could be generated for the Active and Retiree Plan. Savings could be significantly greater by including total health care paid for by the state programs.

Estimated Savings:

Administration	\$ 2.0 - \$3.0 million
Provider Arrangements	6.4 - \$20.0 million
Slowing Premium Increase	T.B.D.
Recognize Trends/Adjust	<u>2.0 - \$10.0 million</u>
Total Estimated Savings for active and retiree plans	\$10.4 - \$33.0 million



STATE OF UTAH
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WAYNE L. WELSH, CPA
AUDITOR GENERAL

Audit Subcommittee of the Legislative Management Committee
Senator Willford R. Black, Jr., Chairman • Senator Du H. McMullin
Representative Jack F. DeMann • Representative Beverly J. White

February 2, 1989
ILR-89-D

Senator K. S. Cornaby
Representative Rob W. Bishop
Members of the Interim Retirement Committee

Subject: Public Employees' Health Plan

Dear Legislators:

This report has been provided to give the Legislature some additional background information on rising public employee health insurance costs. The review is limited in its scope since many factors are affecting health care costs and were not explored in detail. It is also difficult to directly compare each health care provider because of the great variety among the programs. For example, several companies have started health maintenance or preferred provider organizations but each organization is set up differently in an attempt to control costs or make a profit. Finally, several areas were not completely examined due to the time constraints of providing this report to the Legislature. However, even with this limited review, we hope the information in this report will be helpful to the Legislature.

Three main areas are briefly presented: 1) a comparison of Public Employees' Health Plan (PEHP) customary and reasonable reimbursement rates with five local insurance companies and the Utah Med-Index, 2) a comparison of PEHP premium increases with increases in seven intermountain states and five local insurance companies, and 3) a comparison of PEHP administrative costs to five local health care providers with self-insurance programs. PEHP appears to be slightly below average for customary and reasonable reimbursement rates compared to five other insurance carriers and below the

50th percentile of the Med-Index for Utah's market. PEHP premium increases appear to be slightly lower than other groups over the past five years and the current request appears justified. PEHP administrative costs are low compared to other self-insurance groups. This report does not discuss policy issues nor draw any solid conclusions but tries to provide some comparative data.

Customary and Reasonable Reimbursement Rates

PEHP reimbursement rates for seven selected medical procedures are in the middle range when compared to rates of five local insurance companies. The reimbursement rates are negotiated or accepted by insurance companies with health care providers for standard medical procedures. Insurance companies establish these rates to help control costs and to speed up reimbursements to health care providers. The rate is set as a maximum reimbursement for each procedure so each claim paid will not exceed this amount. Since rates are renegotiated or estimated from health care costs, the rates are constantly changing. Our review was only limited to current rates paid and did not examine historical trends. For example, the carrier at the high end for reimbursement rates may or may not have been at the high end four or five years ago. Also, one company may have recently established new rates while another company is using older rates accounting for some disparity between rates.

Our review looked at established reimbursement rates for seven high frequency and high dollar volume medical practices based on claims filed with Public Employees Health Plan (PEHP). We compared the total allowed cost of the seven procedures under traditional and preferred care with five other insurance companies. Table I shows how PEHP rates compare to other insurance groups operating in the state.

TABLE I
Comparison of Customary and Reasonable Reimbursements
For Seven Common Procedures For Health Care
(For Detail See Attachment A)

Company	Allowed Costs For Seven Procedures Under A Traditional Program	Allowed Costs For Seven Procedures Under A Preferred Program
Company A*	\$6,940	\$5,925
Company B**	5,560	5,560
Company C	7,903	7,903
Company D	6,451	6,451
Company E***	6,888	N/A
Average (A-E)	6,749	6,460
PEHP	6,354	5,965

- * This company has a preferred provider network.
- ** This company common reimbursement rate was used although it does operate some health maintenance groups to try to keep costs lower.
- *** This company uses a combination of health maintenance organization and preferred providers.

As Table I shows, PEHP traditional rates are lower than four of the five companies. Attachment A includes a more detailed chart of the procedures and the various reimbursement levels. Company B is able to maintain lower rates than the other companies because of its relative strength in the market place and has a broad base of health care providers. PEHP preferred rates are higher than three of the five companies. The rates are also higher than the one company (Company A) which uses some type of preferred provider network. It is difficult to directly compare Company E's preferred rates since it will reimburse at the set rate but will also reimburse additional funds later as an incentive to control utilization. Thus, the rates for Company E were not available to compare with the PEHP's preferred plan.

PEHP tries to reduce overall claims by using a global fee schedule which may include other procedures which other companies would pay separately. For example, PEHP's global fee for a normal child delivery would include any ultra-sound examination during pregnancy where another company may be billed separately for the ultra-sound usage. Thus, it is difficult to say conclusively which company has negotiated the best rates. Also, the majority of

PEHP claims are paid at the preferred rate rather than the higher traditional rate. Although PEHP's largest membership is in the traditional program, many traditional members use PEHP's preferred provider network. These claims are reimbursed at the preferred rate rather than the traditional rate which lowers the claims costs to PEHP.

Several insurance companies use what is called the Med-Index in establishing customary and reasonable rates. The Med-Index for Utah is based on billings submitted for each medical procedure and is issued twice yearly. We sampled PEHP's various reimbursement codes to determine ten frequently reimbursed procedures incurring large dollar claims at PEHP. Table II shows PEHP's fees for these ten procedures compared to the Med-Index's fall of 1988, 50th and 80th percentiles for health care costs in Utah.

TABLE II
 Comparison of Customary and Reasonable Reimbursements
 For Ten Common Procedures For Health Care

Procedure	PEHP Traditional	PEHP Preferred	Med. Index 50 Percentile	Med. Index 80 Percentile
Procedure A	\$1,008	\$ 950	\$1,160	\$1,181
Procedure B	1,204	1,150	1,400	1,600
Procedure C	938	905	1,098	1,271
Procedure D	1,064	1,008	1,277	1,427
Procedure E	1,190	1,065	1,260	1,385
Procedure F	700	627	664	717
Procedure G	280	259	275	322
Procedure H	28	22	25	30
Procedure I	9	8	10	12
Procedure J	47	42	52	58
Totals	6,468	6,036	7,221	8,003

The PEHP traditional and preferred rates do compare favorably with the 50th percentile of the Med-Index for Utah's market. The total cost of the ten procedures for PEHP traditional program was \$6,468 or approximately 12 percent lower than the \$7,221 for the 50th percentile of the Med-Index. PEHP preferred program total cost was \$6,036 or approximately 20 percent lower than the 50th percentile. PEHP tries to maintain its rates slightly below the 50th percentile. The index serves as a indicator of what range health care providers bill for each procedure. Two of the five companies we surveyed use the Med-Index to set their maximum reimbursement rates.

Premium Increases

Our review showed that PEHP's rate increases are within the range experienced in the health insurance industry. Our review consisted of two tests on premium increases. First, we compared PEHP's increases over the past five years and requested increase for fiscal 1990 with some western states plans for state employees. Second, we compared PEHP's increase with other insurance companies within the state. In both cases, it appears PEHP's requests for rate increases are consistent with the industry trend. PEHP's request may also be influenced by some additional factors which should be considered by the Legislature.

Although a review of premium increases was completed, the review is only one half of the picture. Cost of premiums depends on benefits offered and how benefits can be modified. For example, changing a benefit package can reduce the increase in premium rates from year to year. In the short time we were given it was not possible to determine how much benefit changes affected premium increases in other states or in Utah insurance companies. Table III shows how PEHP's premium increases compare to other western states.

TABLE III

**Comparison of Rate Increases For Family
 Premiums By Other Western States**

State	Annual Premium Growth Rate For Last Five Years	Estimated Increase FY-90
Arizona	17.2%	N/A
Colorado	6.4	N/A
Idaho	4.0	30%
Montana	5.5	26
Nevada	4.6	15
New Mexico-Plan A	23.8	30
New Mexico-Plan B	9.6	30
Wyoming	6.7	52
Average	9.7	31
Utah	6.6	21-31*

* PEHP is requesting a 21 percent increase and a one time appropriation of \$2.4 million to rebuild its reserves. To fund the \$2.4 million appropriation over time could increase premiums from 2 to 10 percent. PEHP also will reduce benefits by 10 percent.