ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
5794 HOUSE JUDICIARY

HOUSE LABOR AND COMMERCE COMMITTEE
ALASKA STATE LEGISLATURE
P.O. BOX Y, JUNEAU 99811
(907) 465-3892

November 23, 1989

M E M O R A N D U M

To: Members, House Labor and Commerce Committee

From: Representative Dave Donley, Chair
House Labor and Commerce Committee

Re: HB 349 - Appropriation for the Alaska Medical Malpractice Matching Fund

HB 349 appropriates $500,000 from the medical malpractice liability revolving loan fund (AS 21.88.210) to the Alaska Medical Malpractice Matching Fund established in HB 350. The matching fund consists of appropriations by the legislature and is administred by the Medical Indemnity Corporation of Alaska (MICA).

The initial $500,000 appropriation will fund the first few years of the program although subsequent legislative appropriations may be necessary. Section 2 of the bill is a five year "sunset" clause providing that the unexpended and unobligated balance of the appropriation lapses into the general fund on July 1, 1995.

MICA representatives will testify on HB 349 and 350 during our November 29 and 30 public hearings. A Legislative Budget and Audit report on the medical malpractice revolving loan fund is included in your committee file.

dd/gbi89
b/hb349

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
P.O. BOX W
JUNEAU, ALASKA 99811-3300

M E M O R A N D U M

DATE: June 13, 1989

TO: Chairmen of the Standing Committees

FROM: Randy S. Welker
Legislative Auditor
Division of Legislative Audit

SUBJECT: Release of Audits

On June 9, 1989, the Legislative Budget and Audit Committee approved for release to the public the enclosed audit report(s) which may be of interest to your Committee.

If you have any questions on the report(s), please contact our office (465-3830).

Enclosure(s)

A REPORT ON THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT DIVISION OF INSURANCE MEDICAL MALPRACTICE REVOLVING LOAN FUND

For the Fiscal Years Ended June 30, 1988 and 1987

Audit Control Number

08-1361-89-R

Commissioner, Department of Commerce and Economic Development — Larry Merculieff

Deputy Commissioner, Department of Commerce and Economic Development — Jeffrey W. Busi.

TABLE OF CONTENTS

PURPOSE OF THE REPORT

In accordance with the provisions of Title 24 of the Alaska Statutes, we conducted an audit of the Department of Commerce and Economic Development, Division of Insurance, Medical Malpractice Revolving Loan Fund, to determine:

1. If the financial statements present fairly the financial position, results of operation, and changes in financial position for the fiscal years ended June 30, 1988 and 1987.

2. The division's compliance with applicable state statutes and regulations governing the fund's fiscal activities.

ORGANIZATION AND FUNCTION

The Medical Malpractice Revolving Loan Fund (MMRLF), operating under the authority of AS 21.88.210-.900 since 1978, provides capital surplus for the Medical Indemnity Corporation of Alaska (MICA) to ensure the availability of a medical malpractice insurance program to health providers in Alaska. MMRLF has been capitalized since inception by direct appropriations from the General Fund currently totalling $3,000,000.

MMRLF is administered by the Department of Commerce and Economic Development. Loans to provide surplus in respect to policyholders may not exceed a total of $3,000,000 oustanding at any time, and interest shall be paid on the outstanding balance at a rate equal to 7% a year. These loans shall be repaid in annual installments of at least 25% of the excess of premiums earned over the total of claims, reserves, expenses, and assessments made by the association, if any. If MICA is unable to procure reinsurance from a private casualty insurer, additional loans of up to $3,000,000 may be obtained. These additional loans must be repaid within five years at an annual interest rate of 6%.

MMRLF has made one loan to MICA for $3,000,000 which has been sold to the Department of Revenue. As of June 30, 1988, principal repayments of $597,714 have been made by the corporation reducing the principal outstanding on the first loan to $2,402,286.

In addition, MICA was unable to procure reinsurance during FY 87. Therefore MMRLF made an additional loan of $2,000,000. As of June 30, 1988, principal repayments of $400,000 have been made by the corporation reducing the principal outstanding on the second loan to $1,600,000.

FINDING AND RECOMMENDATION

Recommendation No. 1

The Department of Commerce and Economic Development should account for all related Medical Malpractice Revolving Loan Fund activity.

The Department of Commerce and Economic Development is accounting for interest revenue received on MMRLF's Division of Insurance-owned loan in one of the division's general fund collocation codes.

Although the interest should be credited to the General Fund as stated in the Notes to the Financial Statements, proper accounting and disclosure of the fund's activity requires that interest revenue initially be recorded in the fund. In a subsequent transaction or transactions, the revenue should then be transferred to the General Fund. Unless this entry or entries are done, revenues and expenses of the fund will be materially understated, and the financial statements will not reflect the true activity of the fund.

We recommend the department change their current procedures and coordinate with the Department of Administration, Division of Finance to ensure full disclosure is made of the fund's activity in its financial statements.

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
P.O. BOX W
JUNEAU, ALASKA 99811-3300

February 15, 1989

Members of the Legislative Budget
and Audit Committee:

Independent Auditor's Report

We have audited the comparative balance sheet of the Medical Malpractice Revolving Loan Fund as of June 30, 1988 and 1987, and the related comparative statements of revenues, expenses, and changes in fund equity, and changes in financial position (cash basis) for the years then ended. These financial statements are the responsibility of the agency's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Medical Malpractice Revolving Loan Fund as of June 30, 1988 and 1987, and the results of its operations and its changes in financial position (cash basis) for the years then ended in conformity with generally accepted accounting principles.

Randy S. Welker, CPA
Legislative Auditor
Division of Legislative Audit

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF INSURANCE
MEDICAL MALPRACTICE REVOLVING LOAN FUND
COMPARATIVE BALANCE SHEET
June 30, 1988 and 1987

	1988	1987
Assets		
Cash	$1,400,000	$1,000,000
Loans Receivable	1,600,000	2,000,000
Total Assets	$3,000,000	$3,000,000
Fund Equity		
Contributions From General Fund	$3,000,000	$3,000,000

The Notes to the Financial Statements are an integral part of this Statement.

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF INSURANCE
MEDICAL MALPRACTICE REVOLVING LOAN FUND
COMPARATIVE STATEMENT OF CHANGES IN FINANCIAL POSITION
(CASH BASIS)
For the Fiscal Years Ended June 30, 1988 and 1987

	1988	1987
Resources Provided		
Net Income	$ 107,574	$ 60,164
Decrease in Due From Other Funds	-0-	3,000,000
Decrease in Loans Receivable	400,000	-0-
Total Resources Provided	507,574	3,060,164
Resources Used		
Transfers To Other Funds	107,574	60,164
Increase in Loans Receivable	-0-	2,000,000
Total Resources Used	107,574	2,060,164
Increase in Cash	400,000	1,000,000
Cash at July 1	1,000,000	-0-
Cash at June 30	$1,400,000	$1,000,000

The Notes to the Financial Statements are an integral part of this Statement.

CORRECTION

THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF INSURANCE
MEDICAL MALPRACTICE REVOLVING LOAN FUND
COMPARATIVE BALANCE SHEET
June 30, 1988 and 1987

	1988	1987
Assets		
Cash	$1,400,000	$1,000,000
Loans Receivable	1,600,000	2,000,000
Total Assets	$3,000,000	$3,000,000
Fund Equity		
Contributions From General Fund	$3,000,000	$3,000,000

The Notes to the Financial Statements are an integral part of this Statement.

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF INSURANCE
MEDICAL MALPRACTICE REVOLVING LOAN FUND
COMPARATIVE STATEMENT OF REVENUES, EXPENSES, AND CHANGES IN FUND EQUITY
For the Fiscal Years Ended June 30, 1988 and 1987

	1988	1987
Revenues		
Interest on Loans (Note 3)	$ 107,574	$ 60,164
Expenses	-0-	-0-
Net Income	107,574	60,164
Transfers To Other Funds	(107,574)	(60,164)
Fund Equity at Beginning of Year	3,000,000	3,000,000
Fund Equity at End of Year	$3,000,000	$3,000,000

The Notes to the Financial Statements are an integral part of this Statement.

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF INSURANCE
MEDICAL MALPRACTICE REVOLVING LOAN FUND
COMPARATIVE STATEMENT OF CHANGES IN FINANCIAL POSITION
(CASH BASIS)
For the Fiscal Years Ended June 30, 1988 and 1987

	1988	1987
Resources Provided		
Net Income	$ 107,574	$ 60,164
Decrease in Due From Other Funds	-0-	3,000,000
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Total Resources Provided	507,574	3,060,164
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Increase in Loans Receivable	-0-	2,000,000
Total Resources Used	107,574	2,060,164
Increase in Cash	400,000	1,000,000
Cash at July 1	1,000,000	-0-
Cash at June 30	$1,400,000	$1,000,000

The Notes to the Financial Statements are an integral part of this Statement.

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF INSURANCE
MEDICAL MALPRACTICE REVOLVING LOAN FUND
NOTES TO THE FINANCIAL STATEMENTS
For the Fiscal Years Ended June 30, 1988 and 1987

Note 1 - Summary of Significant Accounting Policies

The financial statements are prepared on the accrual basis of accounting. Revenues are recognized at the time they are earned. Expenses are recognized when incurred.

Note 2 - Loan Information

There is currently one loan of $3,000,000 outstanding which has been purchased by the Department of Revenue. The loan has an indefinite repayment period at an interest rate of 7%. The Medical Indemnity Corporation of Alaska (MICA) must pay a late charge of 4% on any installment not received within 15 days of its due date. As of June 30, 1988, principal repayments of $597,714 have been made by the corporation reducing the principal outstanding to $2,402,286.

There is an additional loan of $2,000,000 outstanding. This loan is to be repaid within five years at an annual interest rate of 6%. MICA must pay a late charge of 4% on any installment not received within 15 days of its due date. As of June 30, 1988, principal repayments of $400,000 have been made by the corporation reducing the principal outstanding on the second loan to $1,600,000.

Hence, loans to MICA total less than the aggregate $6,000,000 allowable by AS 21.88.210(b)(2).

Note 3 - Interest Receipts

The Medical Malpractice Revolving Loan Fund (MMRLF) does not retain any of the interest receipts as revenue to the fund. Alaska Statute 21.88.210-.900 which established the fund, requires that repayments of principal be credited to the fund but is silent as to the treatment of interest. It is the Division of Insurance's position that the original intent of MMRLF was not to retain interest receipts, but rather that they be forwarded to the General Fund for reappropriation by the Legislature.

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

P.O. BOX D
JUNEAU, ALASKA 99811-0800
PHONE: (907) 465-2500

April 25, 1989

Mr. Randy S. Welker
Legislative Auditor
Division of Legislative Audit
P.O. Box W
Juneau, AK 99811-3300

Dear Mr. Welker:

I have received a copy of your "Confidential" preliminary audit report on:

> "A Report on the Department of Commerce and Economic Development, Division of Insurance, Medical Malpractice Revolving Loan Fund, for the Fiscal Years Ended June 30, 1988 and 1987."

I concur with the recommendation made regarding the accounting of interest received on the division's loan. Procedures will be changed to reflect the receipt of interest into the loan fund and a subsequent transaction will transfer the interest to the General Fund. The department's Division of Administrative Services, which processes these interest payments, will coordinate the procedural change with the Division of Finance.

I would like to take this opportunity to compliment your staff on their efforts and for the smoothness with which the audit was conducted.

Sincerely,

Larry Merculieff
Commissioner

LM/wfs0315q
42589a

Alaska State Legislature

Legislativ rch Agency

P.O. Box Y
Juneau, AK 99811-3100
Phone: (907) 465-3991
Fax: (907) 465-3351

HB 349

November 15, 1989

MEMORANDUM

TO: Representative Dave Donley

ATTN: Ginger Baim

FROM: Patricia Young PY
Legislative Analyst

RE: Medical Malpractice Insurance Premiums
Research Request 90.124

You asked this agency to ascertain whether any states have passed or are considering legislation which would prohibit insurers from classifying physicians into more than four groups for the purposes of determining medical malpractice liability premiums. You also wished to know the number of classifications used by insurers for Alaska physicians; the average cost of liability insurance for each class of physicians; and the estimated average cost if classifications were limited to four.

In addition, you asked if any states besides Arizona have adopted or are considering legislation which would create a matching fund to pay a portion of the cost of medical malpractice liability insurance premiums for physicians. You also wished to know how such laws are structured, i.e., whether assistance is limited to certain physician specialties, and whether assistance is based on a "sliding scale" of need or on a flat amount.

Limiting Classifications of Physicians

The limiting of classifications of physicians has been suggested by the National Insurance Consumer Organization (NICO) as a way of spreading the cost of malpractice insurance across a broader base of payees. This is one of several changes suggested by Robert Hunter, NICO president. (See Attachment A, "How to Solve the Medical Malpractice Crisis.") Neither Bob Boerner, of the National Council of State Legislatures (NCSL), nor Carol Brierly Golin, editor of the *Medical Liability Monitor*, which tracks state legislation in this area, are aware of any states which have enacted or are considering such legislation.

The Medical Indemnity Corporation of Alaska (MICA), which insures approximately 50 percent of Alaska's physicians, groups them into seven classes. As you will observe from MICA's current coverage and premium schedules (Attachment B), various factors determine cost. Averaging the cost of liability insurance per classification is possible; however, according to Art Stanford, MICA underwriting manager, such averaging will not reflect the actual experience of Alaska physicians. Mr. Stanford estimates that, by far, the greatest number of physicians are in the lower classifications, and he is unable to estimate the effect of limiting classifications.

The Medical Insurance Exchange of California (MIEC) insures the next greatest percentage of Alaska's physicians, with approximately 21 percent. This company groups physicians into ten classes. A copy of MIEC's current coverages and premiums schedules is Attachment C. According to Barbara Barnett, assistant underwriting manager, averaging actual premiums paid for each class would not be meaningful; averaging the cost per physician if classes were limited to four would likewise not produce meaningful information.

Such a change would result in less variation in premiums and would spread the cost of malpractice insurance across a broader base of payees; however, both Mr. Stanford and Ms. Barnett noted that a large number of physicians in low risk practice would be dissatisfied at subsidizing those in high risk practice, and they questioned the efficacy of the state's limiting classes with such a relatively small pool of physicians.[1] Ms. Barnett also commented that such legislation could adversely affect insurance availability because carriers might leave the state.

Obstetrical Care Incentive Programs

According to Ms. Golin, Hawaii, Arizona, and North Carolina have established funds to assist certain physicians with liability insurance premiums. Programs vary, but in each case the emphasis is on assistance for physicians who perform obstetrical services. A related program has also been initiated at the municipal level in Montgomery County, Maryland.

Hawaii was the first state to provide assistance of this kind. According to Becky Kendrall, assistant executive director of the Hawaii Medical Association, the state legislature in 1986 appropriated $125-$150,000 to subsidize those physicians in rural areas who perform obstetrical services. Applying physicians must submit copies of their insurance premiums, information on the number of Medicaid cases handled, and verification of the annual number of deliveries performed. Ms. Kendrall noted that the requirements are "quite informal." No specific percentage of indigent care is necessary for

[1]Although 905 physicians hold active licenses in the state, fewer may be practicing.

qualification, and no financial need must be demonstrated on the part of the physicians. The major criteria for qualification is that a physician practice in a rural area. The fund is used to subsidize the difference between premiums which include obstetrical care coverage and premiums without such coverage, for gynecologists and general practitioners. The maximum subsidy per physician is $30,000. Despite the informal nature of the requirements, only seven physicians are currently receiving this assistance.

Arizona has recently passed legislation to appropriate $195,000 from the state general fund to be used for financial assistance to physicians who provide obstetrical services in rural areas identified as obstetrically underserved. Family physicians who perform fewer than 50 deliveries per year are eligible to receive up to $5,000 per year; family physicians who perform more than 50 deliveries per year are eligible to receive up to $10,000 per year; obstetricians are also eligible to receive up to $10,000 per year.

North Carolina last year appropriated $240,000 to provide assistance to obstetricians and family practice physicians who provide prenatal and obstetrical services in areas of the state that are underserved in this regard. Regulations require that qualifying physicians may not refuse care to patients based on their ability to pay. According to Bob Burns, assistant director of government affairs, North Carolina State Medical Society, the fund subsidizes the difference between premiums with obstetrical care coverage and premiums without such coverage, with a maximum subsidy of $6,500 per physician. Funding has been continued at the same level for the current year. Mr. Burns noted that because the state has one of the highest infant mortality rates in the nation, proponents of this program are urging the legislature to increase the appropriation so that more physicians can participate.

In Montgomery County, Maryland, obstetricians are considered part-time county employees and are covered by the county's liability insurance when treating patients referred by the county. Physicians are covered by their own insurance when treating private patients. This program helps assure access to care for the medically indigent--patients who are frequently more high risk due to lack of prenatal care. According to Ken Heland, associate director of the American College of Obstetricians and Gynecologists and head of the Department of Professional Liability, in Maryland, insurance premiums are based partially on the number of deliveries physicians perform. Premiums for private practice have dropped because deliveries performed for county patients are not counted in liability calculations.

Copies of the Arizona and North Carolina bills are included in Attachment D. I hope you find this information useful.

Attachments

LEGISLATIVE RESEARCH AGENCY
(907) 465-3991

Date Nov. 29, 1989

TO: Rep. Dave Donley FAX Number:

FROM: Patricia Young FAX Number: 463.3351

Transmission of the following number of pages including this page _____.

Alaska State Legislature

Legislative Research Agency

P.O. Box Y
Juneau, AK 99811-3100
Phone: (907) 465-3991
Fax: (907) 465-3551

HB 349

November 15, 1989

MEMORANDUM

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FROM: Patricia Young PY
Legislative Analyst

RE: Medical Malpractice Insurance Premiums
Research Request 90.124

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HB

350

HOUSE COMMITTEE REPORT

(7)

Date Referred: May 6, 1989 FURTHER REFERRALS: JUDICIARY
FINANCE

Date of Committee Action: 5/7/90

The LABOR & COMMERCE Committee considered: HB 350

HOUSE BILL NO. 350 [FUNDS FOR PHYSICIAN INSURANCE PREMIUMS]
"An Act creating the Alaska medical malpractice matching fund; and providing for an effective date."

RECOMMENDATIONS:
[ ] be replaced with CS HB 350 (L+C) [ ] the same title [✓] a new title
[ ] have attached amendment(s)
[✓] do pass
[ ] do not pass
[ ] no recommendation
[ ] individual recommendations
[ ] additional referral to the judiciary Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s): (Dept)
[ ] fiscal impact _____
[✓] zero fiscal note _____
[ ] zero with analysis _____

APPROVES PREVIOUS: (Date/Dept)
[ ] fiscal note(s) _____
[ ] zero fiscal note(s) _____
[ ] zero fn/analysis _____

SIGNING DO PASS:

Finkelstein

Dave Donley Donley

Mackie Kubley

Mark Boyer Boyer

SIGNING: (Check approp. column)

	Do Not Pass	No Rec	Amend
[illegible]			
Drew Lerman Lerman	Collins		X
Virginia M Collins	X		
creates more problems than it solves!			
R.C. Bunch Boucher			
[illegible]			

Dave Donley
Chairman's Signature

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CS HB 350 (L&C)
PUBLISH DATE:

FISCAL NOTE

REQUEST:

Revision Date:
Title: Alaska Medical Malpractice Matching Fund
Sponsor: Donley
Requestor: H. Labor & Commerce

Agency Affected: Commerce & Economic Dev.
BRU: Insurance
Components:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary) No fiscal impact for FY 90.

Prepared by: Don Koch, Chief of Market Surveillance
Division: Insurance
Phone: 465-2515
Date: 2/5/90

Approved by Commissioner: Larry Mercuilieff
Date: 6 Feb 90
Agency: Department of Commerce & Economic Development

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

LW/dg16253D/2590a

STATE OF ALASKA

OFFICE OF THE GOVERNOR

BILL ANALYSIS

DEPARTMENT	DIVISION	BILL NUMBER	SPONSOR
Commerce & Econ. Dev.	Insurance	HB 350	Donley and Gruenberg

SHORT TITLE OF BILL: An Act creating the Alaska Medical Malpractice Matching Fund; and providing for an effective date

DEPARTMENT POSITION: Neutral

PREPARED BY	DATE	COMMISSIONER'S SIGNATURE	DATE
	11/21/89		12 Dec 89

SUMMARY

OTHER AGENCIES AFFECTED BY BILL	CONSTITUENT GROUP(S) AFFECTED BY BILL
	Health Care Providers
ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL

FISCAL IMPACT: ☒ NONE ☐ FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

ANALYSIS OF BILL/PROGRAM EFFECTS

See Attached

AMENDMENTS PROPOSED

5744D/112089a

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

01-000 (Rev. 12/88)

ANALYSIS OF BILL/PROGRAM EFFECTS - HB 350

SECTION 1. FINDINGS AND PURPOSE.

The Legislature finds that the cost of medical malpractice insurance for some health care providers has reduced the availability of health care in Alaska and has created a situation in which there may not be adequate compensation in cases of medical malpractice because claims may be uninsured.

SECTION 2.

House Bill 350 adds a new section, AS 21.88.310, Medical Malpractice Matching Fund, to Title 21 setting up a partial subsidy of medical malpractice premiums based upon a ratio comparing the health care providers annual net income and insurance premium.

The subsidy would only be available to a health care provider insured by Medical Indemnity Corporation of Alaska (MICA). The potential for legal and constitutional challenges from other insurers providing or seeking to provide medical malpractice insurance should be considered.

The subsidy may create a situation in which it is advantageous for a health care provider to secure insurance from MICA with a government subsidy rather than secure insurance through the normal market place from an insurer whose premium, but for the subsidy, may be lower than MICA's.

Although the legislative finding is that it is in the best interest of the state that health care providers be insured in order to provide adequate compensation in cases medical malpractice (and that health care providers not be exposed to the substantial financial risks of an uninsured claim), health care providers are not required to be financially responsible in cases of medical malpractice by securing a minimum mandatory coverage for such claims.

The section provides no distinctions among the type of health care providers. A health care provider may be an individual, a partnership, or a corporation. All would appear to be eligible for the subsidy, even though their real financial condition may be substantially different. For example, a physician may be an employee as well as an owner of a health care provider which is incorporated. Either the individual physician or the corporate health care provider may secure and pay for the insurance covering the physician's practice. If the corporation appears unprofitable, even though the individual physician receives substantial income through a high salary, it may be eligible for a state subsidy. Furthermore, a physician may have substantial income from business activities related to the provision of health care but not necessarily received as income from providing health care services. A physician may have an interest in a pharmacy, laboratory, or other related business which generates substantial net income but is not directly from the physician providing health care services.

If the health care provider leases office space from a separate legal entity it has an interest in, a similar issue arises. What monies should be considered received as income from providing health care services and what monies should be considered costs for providing those services need to be clarified. It is appropriate to provide the Medical Indemnity Corporation of Alaska statutory guidance regarding these significant issues.

Section (d) of this section provides that the subsidy be equivalent of the entire medical malpractice premium attributable to obstetrics and gynecology for a physician who practices in a rural area. It appears that other health care providers involved in obstetrics and gynecology would not be recipients of a full subsidy. What constitutes a rural area is undefined. It is unclear if a physician with some patients in a truly rural area would receive the 100% subsidy upon meeting the qualification even though the majority of the practice is conducted in an urban area. Perhaps a provision defining "rural" and requirements of rural residency as well as a truly rural clientele may be appropriate.

The economic impact upon the Department of Commerce and Economic Development would be nominal because the Medical Indemnity Corporation of Alaska administers the fund. However, the liability of MICA itself is neither eliminated nor funded. For example, any litigation or legal challenges to the existence and/or operation of the fund would be funded from the corporation's general administrative budget. It may be appropriate for the Legislature to fund such costs if any are incurred. Otherwise, such expenses may represent significant contingent liabilities on MICA's balance sheet.

5744D
112089a

Amendment to

CS HB 350

P. 3 Lines 15- 17
Remove Subsection (2)

p3 Line 18
~~(b)~~ renumber subsection (2)
as subsection (3)

p3 Line 21 After: subsection (2)
add a new subsection:

(3) A percent equal to the result of subtracting the number of births from 120, if the physician practices in a rural community and acts as the attending physician in at least 50 but less than 70 births.

p.4 Line 2 after subsection (3) add a new subsection:

(4) 50 percent, if the physician practices in a rural community and acts as the attending physician in 70 or more births.

Formula 120 - (# of births)

Number of Births in Rural Area	Percent Size of Payment to Physician
20	100%
30	90%
40	80%
50	70%
60	60%
50 or more	50%

6-1380H
Ford
4/24/90

Original sponsor(s): REP. DONLEY, Gruenberg, Boyer

IN THE HOUSE BY THE JUDICIARY COMMITTEE

CS FOR HOUSE BILL NO. 350 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act creating the Alaska medical malpractice grant fund; and providing for an effective date."

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

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

(1) it is in the best interest of the state that physicians be insured in order to provide adequate compensation in cases of medical malpractice and to ensure that physicians providers are not required to bear unreasonable financial risks imposed by an uninsured claim;

(2) due to the cost of medical malpractice insurance some physicians have chosen to become uninsured, which exposes the physician and patients to unreasonable risk, forces some physicians to cease their medical practice, and also acts as a general disincentive to practicing medicine in the state;

(3) the number of physicians in the state on a per capita basis is among the lowest in the nation, particularly in the rural communities, and that the shortage of physicians is increasing; and

(4) in rural communities of the state the high cost of medical malpractice insurance poses a serious threat to public health and safety.

(b) It is the purpose of this Act to provide immediate and substantial relief to physicians by making adequate malpractice insurance available, while the legislature continues to develop legislation intended to reduce the cost of medical malpractice insurance.

* Sec. 2. AS 21.88 is amended by adding a new section to article 3 to read:

Sec. 21.88.310. MEDICAL MALPRACTICE GRANT FUND. (a) The Alaska medical malpractice grant fund is established in the corporation. The fund consists of legislative appropriations.

(b) The corporation shall administer the fund. Money in the fund may be used to make grants to pay a portion of the cost of medical malpractice insurance incurred by physicians who are eligible under (c) of this section and to pay the cost of administering the fund.

(c) To receive a grant from the fund a physician must purchase at least the minimum malpractice insurance policy offered by the corporation and meet conditions established by the corporation for the purpose of increasing the number of licensed physicians who practice medicine in the state. A grant awarded by the corporation must be applied to medical malpractice insurance premiums (1) in a medical specialty for which a physician is unable to obtain medical malpractice liability insurance at premium rates that are reasonable when compared to the physician's income and premium rates for other medical specialties; or (2) incurred by a physician primarily practicing as a medical specialist in a geographic area that is substantially under served when compared to other areas of the state served by physicians practicing in the same specialty. The corporation shall annually publish a list of medical specialties and geographic areas eligible for a grant under this section.

(d) The corporation may not pay an insurance surcharge imposed on a physician's medical malpractice insurance.

(e) The corporation shall establish procedures for applying for grant funds provided under this section.

(f) The state shall indemnify the corporation for any legal costs, attorney fees, or judgments that result from the administration

or operation of the fund.

(g) In this section, "physician" means a person licensed to practice medicine under AS 08.64.

* Sec. 3. AS 21.88.310 is repealed July 1, 1993.

* Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

6-1380E
Ford
3/1/90

Original sponsor(s): REP. DONLEY, Gruenberg, Boyer

IN THE HOUSE BY THE LABOR & COMMERCE COMMITTEE

CS FOR HOUSE BILL NO. 350 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the medical malpractice revolving loan fund; creating the Alaska medical malpractice matching fund; and providing for an effective date."

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

* Section 1. SHORT TITLE. This Act may be known as the Alaska Childbirth Care Incentive Act.

* Sec. 2. FINDINGS AND PURPOSE. (a) The legislature finds that

(1) it is in the best interest of the state that physicians be insured in order to provide adequate compensation in cases of medical malpractice and to ensure that physicians providers are not required to bear unreasonable financial risks imposed by an uninsured claim;

(2) due to the cost of medical malpractice insurance some physicians have chosen to become uninsured, which exposes the physician and patients to unreasonable risk, forces some physicians to cease their medical practice, and also acts as a general disincentive to practicing medicine in the state;

(3) the number of physicians in the state on a per capita basis is among the lowest in the nation, particularly in the rural communities, and that the shortage of physicians is increasing; and

(4) in rural communities of the state the high cost of medical malpractice insurance poses a serious threat to public health and safety.

(b) It is the purpose of this Act to provide immediate and substantial relief to physicians by making adequate malpractice insurance available, while the legislature continues to develop legislation intended to

reduce the cost of medical malpractice insurance.

* Sec. 3. AS 21.88.210(b) is amended to read:

(b) Loans may be made from the fund to the corporation upon certification by the director that a loan is necessary and under the following circumstances:

(1) to provide surplus in respect to policyholders <u>that</u> [WHICH] may not exceed a total of $3,000,000 outstanding at any time; these obligations shall be subordinated to all other obligations of the corporation; loans made under this paragraph shall be repaid to the fund in annual installments of at least 25 percent of the excess of premiums earned over the total of claims, reserves, expenses, and assessments made by the association, if any; interest <u>may not be charged</u> [SHALL BE PAID] on the outstanding balance [AT A RATE EQUAL TO SEVEN PER CENT A YEAR];

(2) if the director determines that the corporation is unable to procure reinsurance from a private casualty insurer or reinsurer for any liability incurred by contracts issued by it, additional loans up to an aggregate of $6,000,000 when taken together with loans made under (1) of this subsection to compensate for fluctuations in loss experience; loans made under this paragraph shall be in parity with all other obligations of the corporation except that they shall be subordinated to obligations of policyholders and claimants for indemnity of loss; these loans shall be repaid within five years; <u>interest may not be charged on the outstanding balance</u> [AT AN ANNUAL INTEREST RATE OF SIX PER CENT].

* Sec. 4. AS 21.88 is amended by adding a new section to article 3 to read:

Sec. 21.88.310. MEDICAL MALPRACTICE MATCHING FUND. (a) The Alaska medical malpractice matching fund is established within the

Department of Commerce and Economic Development. The fund consists of legislative appropriations.

(b) The corporation shall administer the fund. Money in the fund may be expended to pay the cost of medical malpractice insurance incurred by physicians who are eligible under (c) of this section and to pay the cost of administering the fund.

(c) A physician who purchases at least the minimum malpractice insurance policy offered by the corporation is eligible to receive a payment from the fund. The amount a physician is eligible to receive is equal to a percentage of that portion of the physician's annual malpractice insurance premium that provides coverage for obstetrics and gynecology as follows:

(1) 25 percent, if the physician practices in an urban community;

(2) 50 percent, if the physician practices in a rural community and acts as the attending physician in 20 or more births a year;

(3) 100 percent, if the physician practices in a rural community and acts as the attending physician in at least one but fewer than 20 births a year, or provides prenatal care to at least one but fewer than 20 patients a year.

(d) If a physician eligible to receive a payment under (c) of this section practices in both a rural and an urban community, the amount the physician receives shall be prorated under guidelines established by the corporation. The corporation may not pay an insurance surcharge imposed on a physician's medical malpractice insurance.

(e) The corporation shall establish procedures for applying for matching funds provided under this section.

(f) The state shall indemnify the corporation for any legal

costs, attorney fees, or judgments that result from the administration or operation of the fund.

(g) In this section,

(1) "physician" means a person licensed to practice medicine under AS 08.64;

(2) "rural community" means a community with less than 5,000 permanent residents and less than 10,000 permanent residents within a radius of 20 miles from the U.S. Post Office nearest to the center of the community;

(3) "urban community" means a community with 5,000 or more permanent residents or 10,000 or more permanent residents within a radius of 20 miles from the U.S. Post Office nearest to the center of the community.

* Sec. 5. AS 21.88.310 is repealed July 1, 1993.

* Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

HOUSE COMMITTEE REPORT

(7)
Date Referred: March 8, 1990 FURTHER REFERRALS:

FINANCE

Date of Committee Action: _____

The JUDICIARY Committee considered: HB 350

HOUSE BILL NO. 350 FUNDS FOR PHYSICIAN INSURANCE PREMIUMS

"An Act creating the Alaska medical malpractice matching fund; and providing for an effective date."

RECOMMENDATIONS:

[ ] be replaced with _____ [ ] 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)

[ ] fiscal impact_____
[ ] zero fiscal note_____
[ ] zero with analysis_____

APPROVES PREVIOUS: (Date/Dept)

[ ] fiscal note(s) _____
[ ] zero fiscal note(s)_____
[ ] zero fn/analysis _____

SIGNING DO PASS:

_____
_____
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_____

SIGNING: (Check approp. column)

	Do Not Pass	No Rec	Amend
_____			
_____			
_____			
_____			
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_____			
_____			
_____			

_____
Chairman's Signature

B

HOUSE COMMITTEE REPORT

3/8

(7)
Date Referred: May 6, 1989 FURTHER REFERRALS: JUDICIARY FINANCE

Date of Committee Action: 3/7/90

The LABOR & COMMERCE Committee considered: HB 350

HOUSE BILL NO. 350 [FUNDS FOR PHYSICIAN INSURANCE PREMIUMS]
"An Act creating the Alaska medical malpractice matching fund; and providing for an effective date."

RECOMMENDATIONS:
[✓] be replaced with CS HB 350 (L+C) [ ] 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 _____ [ ] fiscal note(s) _____
[✓] zero fiscal note dept. committee sub. dlw [ ] zero fiscal note(s) _____
[ ] zero with analysis _____ [ ] zero fn/analysis _____

SIGNING DO PASS:

Finkelstein
Dave Donley Donley
Mary Greenberg
Mark Boyer Boyer

SIGNING: (Check approp. column)

	Do Not Pass	No Rec	Amend
[illegible]			
Drew Lerman Lerman	Collins		X
Virginia M Collins	X		
creates more problems than it solves!			
R.C. Boucher Boucher		X	
[illegible]			

Dave Donley
Chairman's Signature

LAW OFFICES

Luce & Hensley

A PROFESSIONAL CORPORATION

1016 WEST SEVENTH AVENUE

ANCHORAGE, ALASKA 99501

L. AMES LUCE
DAN A. HENSLEY

TELEPHONE (907) 276-1191
FAX:(907) 277-4864

February 5, 1990

Via Fax

Rep. Dave Donley, Chairman
Labor and Commerce Committee
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, Alaska 99511

Re: House Bill Nos. 334, 336, 337, 349 and 350

Dear Representative Donley:

I have reviewed several bills pending in the Labor and Commerce Commi ee which address issues concerning medical malpractice insurance and medical malpractice litigation. As an attorney who represents plaintiffs in medical negligence cases, I am very pleased to see that your committee is taking steps to address the real problems involved in the medical insurance "crisis" -- that is, availability of insurance and access to the justice system. What a refreshing approach when compared to some prior legislative attempts to solve these problems by reducing or eliminating the rights of injured victims of negligence.

I do have some minor suggestions concerning some portions of the bills which are addressed below. However, please understand that I wholeheartedly support the intent of this legislative package.

House Bill 334, which requires professionals to obtain malpractice insurance, is a step in the right direction in my view. However, I am concerned that the bill, as presently drafted, does not require liability insurance unless the professional has had a judgment entered against him or her. This exception raises two questions.

First, a professional who holds himself out to the public as competent in an area should back that representation with insurance, regardless of whether he or she has been the subject of a negligence judgment. Second, although this exception was apparently designed to focus on the professional with a "track record" of negligence, it does not appear to apply to the professional who may have settled a series of negligence claims short of trial to avoid a negligence judgment. Despite these concerns, I strongly urge the passage of some legislation requiring mandatory liability insurance for professionals.

House Bill 336 makes changes in the medical malpractice advisory panel law presently on the books. The important modifications are the increase in the size of the panel, the addition of non-health care providers to the panel, and a change in the prohibition on discovery in litigation presently written in the law.

There is an additional, significant problem with the panel statute which is not addressed by this bill. That problem is the use to which a panel report may be made in court. Several physicians who testified at the recent committee hearings believe that the role of the panel is only to address "biological" issues, without regard to the important legal-medical issues raised in the litigation. Moreover, many physicians with whom I have spoken personally believe that their role as panel members is to "educate the judge" rather than to prepare a report for use by the trial jury in deciding the case.

Nevertheless, under present law, a panel report may be introduced into evidence at trial <u>without</u> the members of the panel actually testifying. In addition, the Alaska Supreme Court has held that an expert advisory panel report may be used as the basis for summary judgment against a party. <u>Kendall v. State</u>, 692 P.2d 953, 955 (Alaska 1984). Finally, under present administrative rules, although the court appoints the expert advisory panel, often over the objection of a party, a party who wishes to have a member of the panel testify at trial (either to support the panel report or to expose fallacies in the report) must pay for that physician's deposition and appearance at trial.

If the purpose of the panel proceeding is to provide "screening" of cases, it is superfluous. Competent plaintiff's lawyers screen difficult medical negligence cases prior to filing them. The high costs of pursuing a medical negligence case act as a deterrent to filing a non-meritorious case. There are existing court rules for addressing frivolous claims (Rule 82 awards to the prevailing party; Rule 11 sanctions).

If the panel is to remain a part of Alaska's medical negligence law, its role should be clearly defined. I suggest that House Bill 336 be amended to add the following:

> A.S. 09.55.536(e) is repealed and re-enacted to provide: The panel's report is advisory only. It may not be introduced into evidence at trial and its members may not be called as witnesses. In awarding costs and attorneys' fees at the conclusion of litigation, the trial court may consider the panel report.

Finally, House Bill 350, concerning creating the Alaska Medical Malpractice Matching Fund, is an extremely important piece of legislation. The passage of this bill will do much to alleviate the problems faced by rural physicians in obtaining insurance, without forcing rural Alaskans to settle for second rate medical care.

Thank you for the opportunity to comment on these legislative proposals. If I can answer any questions or provide additional information, I will be happy to do so.

Sincerely yours,

LAW OFFICES OF LUCE & HENSLEY, P.C.

Dan A. Hensley

DAH:fs
off.dah.let.rep.dav.don.1

ALL CLAIMS - INCEPTION THROUGH 1988

By Payment Size

INDEMNITY PAYMENT	#OF SUITS/CLAIMS	PERCENTAGE
0	165	61
1-1,000	6	2
1,001-5,000	14	5
5,001-10,000	12	4
10,001-25,000	14	5
25,001-50,000	17	6
50,001-75,000	7	3
75,001-100,000	10	4
100,001-150,000	6	2
150,001-200,000	8	3
200,001-500,000	4	1
500,001-750,000	4	1
750,001-2,000,000	2	1
2,000,001-3,000,000	2	1
	271	

Average Claim - $48,731

Average Claim where indemnity payment was made - $124,353

	Physician Claims	Physician's Named	Number of Physicians Insured
1976	2		58
1977	4		88
1978	5		88
1979	2		97
1980	10		121
1981	7		144
1982	15		200
1983	15		230
1984	29	39	285
1985	43	63	325
1986	35	67	315
1987	27	29	303
1988	20	21	279

MICA Medical Indemnity
Corporation of Alaska

ALEUT PLAZA
4000 OLD SEWARD HWY., SUITE 203
ANCHORAGE, ALASKA 99503

COVER SHEET FOR FACIMILE TRANSMITTAL

(OUR FAX NUMBER IS - 562-7804)

TO: Bill Brock

Juneau, Alaska

FAX # 00

ATTENTION: Mary Pierce

FROM: Art Stanford

RE: Prenatal Coverage Only

PAGES:

IF YOU SHOULD NOT RECEIVE THE NUMBER OF PAGES INDICATED ON THIS COVER SHEET, PLEASE CONTACT OUR OFFICE AT 563-3414.

Attached is the form letter we sent last summer to all of our policyholders regarding this new specialty class.

Only Crossroads Medical Center (Glennallen) responded and they also submitted the written protocols with the delivering physician in Anchorage.

Stan Jones, M.D. of Haines had supported and pushed for this re-classification but declined the coverage when it was finally made availablebecause "it was still to expensive for his low volume of O.B. patients".

MICA Medical Indemnity
Corporation of Alaska

ALETT PLAZA
4000 OLD SEWARD HWY., SUITE 203
ANCHORAGE, ALASKA 99503

Bulletin

RE: New Specialty Class: Prenatal Coverage Only

Dear Policyholder:

Your Board of Governors is pleased to announce the creation of a new specialty class for those physicians who wish to continue providing prenatal care to their patients with delivery being performed elsewhere by a collaborating OB/GYN or Family Practictioner in an urban area hospital.

This new specialty classification has been assigned a class 2 rating which represents a premium reduction of approximately 48% over the rate for complete Family Practitioner obstetrical coverage.

The only requirements for this specific coverage are that the collaborating physician must have malpractice insurance (not necessarily with MICA) and approval by MICA of the written protocols between yourself and the physician doing the actual delivery. The protocols must be signed by both physicians, be specific as to the number of patient visits to the delivering physician prior to the due date as well as the frequency and type of the prenatal procedures that will be performed.

Your company is pleased to provide this new coverage which has been tailored to meet specific and current needs of many of our rural physician policyholders. The coverage will allow our physicians to continue providing virtually full term obstetrical services to their patients while at the same time providing optimal facilities for the actual delivery.

Please contact the MICA Underwriting Department if you have any questions regarding this new prenatal only coverage.

Very truly yours,

Art Stanford
Underwriting Manager

AS:sm

7/29/88

MICA Medical Indemnity Corporation of Alaska

ALEUT PLAZA
4000 OLD SEWARD HWY., SUITE 203
ANCHORAGE, ALASKA 99503
(907) 563-3414

December 29, 1989

Representative Max Gruenberg
House Labor and Commerce Committee
House of Representatives
P.O. Box V
Juneau, AK 99811

Dear Representative Gruenberg:

The House Labor and Commerce Committee had hearings on November 30, 1989 at which time I was asked to have an "informal" chat with the committee. Since I wasn't prepared to testify, I gave you some estimated premium figures and promised to follow up with exact rate information.

MICA's 1990 Premium Schedule is enclosed for your information. The committee had asked me questions at the hearings specifically relating to the cost of insurance to physicians delivering babies. I mentioned that the majority of our phsician policyholders have limits $500,000 per claim, $1,000,000 aggregate. Physicians delivering babies are Class 3 on the schedule. Assuming a physician had policy limits of $500,000/1,000,000 and had been insured with MICA for five or more years his premium for 1990 would be $30,162. (This is about $20,000 less than I quoted to you.)

Another question is the difference in premium between a Family Practioner doing obstetrics and those who were not. Assuming the same scenerio as above and that the Family Practioner not doing obstetrics was doing minor surgery the difference would be $14,046. In other words, the Family Practioner who delivers babies pay $14,046 to do so (or about 1/2 of the total premium is for obstetrical coverage).

I hope that this letter and the attached premium schedule better answers your questions. If you have any further questions, please feel free to call me.

Sincerely,

Mary A. Pierce
Executive Director

MAP/blb

Enclosure

MICA

Medical Indemnity
Corporation of Alaska

ALEUT PLAZA OFFICE BUILDING
4000 OLD SEWARD HIGHWAY, SUITE 203
ANCHORAGE, ALASKA 99503
TELEPHONE (907) 563-3414

1990

Physician's and Surgeon's
Professional Liability Coverages and Premium Schedules

PROFESSIONAL LIABILITY COVERAGES

Explanation of Policy:

The Claims-Made Policy extends professional liability protection to the physician, clinic or employee for claims reported in a single year, regardless of when service is rendered as long as the incident occurred while continuously insured under Claims-Made with MICA. Thus, claims reported this year are covered by this year's policy; claims reported next year by next year's policy and so on.

MICA's premium rates are derived from the historical pattern of reported claims resulting from the performance of professional services which form a "stair step" with an increasing number of claims being reported each year until the fifth year. In the first year, only about 19 % of the total claims resulting from professional services are reported; the second 39 %; the third 78 %; the fourth 93 %; the fifth and subsequent years, about 100 %.

Cost:

In keeping with the "stair step" development of claims, the rates charged for the Claims-Made policy mature at the fifth year. Subsequent renewal policies are charged at the mature rates. The specific cost of coverage is shown within our table entitiled CLAIMS-MADE PREMIUM SCHEDULE.

All policies issued by MICA are renewed on January 1 of each year. Your first years and renewal rates are pro-rated from the first date of coverage (inception date) of the original policy. For example, if your continuous coverage became effective on July 1, 1986, your annual renewal premium on January 1, 1990 would be pro-rated from January 1 through June 30 on the fourth year rates and from July 1 through December 31 on the fifth year rates.

Limits of Liability:

MICA's professional and optional comprehensive general liability coverages are available with policy limits of:

$200,000 per occurrence/$600,000 aggregate per calendar year.
$500,000 per occurrence/$1,000,000 aggregate per calendar year.
$1,000,000 per occurrence/$2,000,000 aggregate per calendar year.
$1,000,000 per occurrence/$3,000,000 aggregate per calendar year.

Reporting Endorsement (Tail Coverage) *

Should you stop practicing or change to another insurance company, MICA guarantees availability of a limited or Unlimited Reporting Endorsement known as "tail" coverage to cover subsequently reported claims. Tail coverage must be purchased by the insured within 30 days of termination of coverage,(by cancellation or non-renewal) or by termination of employment or association with the physicians insured under a master group policy.

"Tail" coverage must also be recognized when a physician reduces rating classification to offset reduced premium charges while subsequently reported claims from the higher specialty continues to occur. This is currently being accomplishedby charging "tail" premium on a pro-rata basis as between the two speciality classes when the policy is ultimately terminated.

Cost:

The cost of "tail" coverage will depend upon the length of time you have been insured with MICA, limits of liability purchased, physician's rating class and will be subject to the company's rules, rates, and rating plans in effect at the time the Unlimited Reporting Endorsement is requested.

*** The policy limits purchased for the Unlimited Reporting endorsement will be applicable just as if the policy had not been cancelled or terminated and all subsequently reported claims had been reported during the last policy year.**

Part Time Practitioners:

Class 0, 1, 1-A, 2, 2-A and Family practitioners in any class: 35 % of the scheduled annual premiums for 10 hours or less per week practice: 65 % of the scheduled annual premium for 20 hours or less per week practice.

Comprehensive General Liability Coverages:

This optional coverage is available at $50 per physician covered, subject to the same limits of liability carried for professional liability. This coverage extends to bodily injury and property damage liability protection for those injuries accidentally sustained on the office premises by patients or the general public.

This coverage is limited to premises actually occupied by our insured in rendering professional services. For example, if an insured occupied one suite of a building, coverage would be limited to only that suite. An entire building cannot be covered under the Comprehensive General Liability Endorsement unless the insured or the insured's employees occupy the entire building in the rendering of medical services.

Corporate/Partnership/Group Professional Liability:

This optional coverage is available at no additional charge to solo practitioners and group practices, providing each member or employed physician carries coverage through the Company. The only requirement for group limits is that the limits of liability on the group may never be higher than the lowest limit carried by any member of the group. The separate limits of liability for the corporation/partnership/group does not apply to policyholders who are solo practitioners nor does it apply concurrently or on an excess basis to the physician (s) scheduled on the policy or associated with the same medical organization who also allegedly provide neligent patient care for the same occurrence.

This form provides individual limits of liability to each physician named on the policy schedule except these limits shall not be concurrent nor excess to the corporate limits of liability stated in the previous paragraph.

Optional Shared Limits Professional Liability Group Coverage:

This optional coverage is available through the Company for your group at reduced premium levels. (see discount schedule that follows). One master policy is issued with each associated or employed physician covered by endorsement.

Coverages are limited to the course and scope of employment or association with your group. **The combined clinic/group insureds are subject to the single limits of liability per occurrence and annual aggregate limits as procured.**

Completion of the Physician's and Surgeon's Professional Liability Group Application is required, along with completion of individual application for each physician to be insured.

Discounts Per Limits of Liability

# Doctors on Policy	$500,000	$1,000,000
1	0	0
2	9%	7%
3	11%	9%
4	12%	10%
5	13%	11%
6	14%	12%
7	15%	13%
8	16%	14%
9+	17%	15%

Installments - Deferred Payments:

Initial policy issuance subject to deposit of $1,000 or two month's annual premium. Deferred payments are available in quarterly or semi-annual installments payable: 35%, 25 %, 25 % and 15 % quarterly or 60 % and 40 % semi-annually. Premium invoices should be paid upon receipt and the policy is subject to immediate cancellation if payment is not received by the first day of the quarter in which the premium is earned. Carrying charges are computed at 10 % annual simple interest on the unpaid balance.

The full premium for an Unlimited Reporting Endorsement must be received by the company within twelve months following its inception date. The Unlimited Reporting Endorsement will be cancelled at the end of this twelve month period if the full premium has not been received at that time, and only premium earned for this twelve month Reporting Endorsement period will be charged in accordance with rates actuarially determined and filed with the Division of Insurance.

CLAIMS - MADE PREMIUM SCHEDULE

Effective January 1, 1990

LIMITS OF LIABILITY: EACH CLAIM AND ANNUAL AGGREGATE

	1st - 5th Years	$200,000/$600,000	$500,000/$1,000,000	$1,000,000/$2,000,000 $1,000,000/$3,000,000 *
CLASS 0				
1st year rates	Jan. 1, 1990	2,924	3,182	3,601
• 2nd year renewal rates	Jan. 1, 1989	3,467	4,026	4,857
• 3rd year renewal rates	Jan. 1, 1988	4,559	5,607	7,119
• 4th year renewal rates	Jan. 1, 1987	5,026	6,271	8,058
• 5th year renewal rates	Jan. 1, 1986	5,177	6,485	8,361
CLASS 1				
1st year rates	Jan. 1, 1990	3,798	4,305	5,067
• 2nd year renewal rates	Jan. 1, 1989	4,828	5,809	7,220
• 3rd year renewal rates	Jan. 1, 1988	6,724	8,497	11,031
• 4th year renewal rates	Jan. 1, 1987	7,517	9,612	12,599
• 5th year renewal rates	Jan. 1, 1986	7,772	9,970	13,103
CLASS 1-A				
1st year rates	Jan. 1, 1990	4,548	5,270	6,326
• 2nd year renewal rates	Jan. 1, 1989	5,997	7,341	9,268
• 3rd year renewal rates	Jan. 1, 1988	8,584	10,980	14,391
• 4th year renewal rates	Jan. 1, 1987	9,657	12,482	16,499
• 5th year renewal rates	Jan. 1, 1986	10,001	12,964	17,176
CLASS 2				
1st year rates	Jan. 1, 1990	5,338	6,286	7,651
• 2nd year renewal rates	Jan. 1, 1989	7,228	8,953	11,414
• 3rd year renewal rates	Jan. 1, 1988	10,542	13,593	17,928
• 4th year renewal rates	Jan. 1, 1987	11,909	15,503	20,605
• 5th year renewal rates	Jan. 1, 1986	12,348	16,116	21,464
CLASS 2-A				
1st year rates	Jan. 1, 1990	7,098	8,550	10,605
• 2nd year renewal rates	Jan. 1, 1989	9,971	12,547	16,196
• 3rd year renewal rates	Jan. 1, 1988	14,905	19,417	25,811
• 4th year renewal rates	Jan. 1, 1987	16,928	22,235	29,755
• 5th year renewal rates	Jan. 1, 1986	17,577	23,139	31,020

* PREMIUM COST IS 4% ABOVE $1,000,000/$2,000,000 LIMITS.

Claims-made premium prepared by Milliman & Robertson, Inc., consulting Actuaries for the Medical Indemnity Corporation of Alaska, are based on a five year pricing step for reported claims adjusted annually for claims experience.

•Retroactive dates and renewal premium apply to 2nd through 5th year annual renewal. First year physicians are subject to first year rates.

•All policies are renewed each year on January 1. All 1st and renewal premiums are prorated subject to the first day of coverage under the original policy.

INTRODUCTION

A statute of limitations is a law that requires a party who believes himself or herself to have been injured to bring an action against the responsible party within a certain time frame. Most states and the District of Columbia have enacted such statutes to protect architects, engineers and others in the construction industry from exposure to unlimited liability on individual projects.

These laws attempt to strike a reasonable balance between the interests of those who may be potentially "harmed" and the rights of defendants to be free of potential suits after a reasonable period of time. In states where no such legislation is in effect, design professionals face a lifetime of liability on each of their projects.

Most state laws relating to design professionals are actually "statutes of repose." These are laws that set time periods within which a suit may be filed regarding a cause of action regardless of when the cause occurred. The usual statute of limitations starts to run from the data of injury or other cause of action and actions brought after the end of the statutory time period are barred. The statute of repose establishes the beginning of the time period not the cause of action, such as an injury, but another event, such as the substantial completion of a building. When the specified time period has expired, suits for actions occurring after that period are barred.

State statutes of limitations for design professionals and the construction industry come under attack in the courts periodically, and may in fact be found to be unconstitutional. A review of the case law referred to in those situations will provide a complete understanding of the problems involved in an individual state. It is important that AIA state and local components, as well as individual architects, closely monitor activity relative to their state's statutes and that industry members now seeking new or amended laws carefully review related legislative and judicial activity to track a well-defined path through the legislative process.

AIA's "Compendium: State Statutes of Limitations" is timely and should be a useful working tool for those dealing with this issue.

TABLE OF CONTENTS

SUMMARY

Alabama:	No statute of limitations at this time; previous law declared unconstitutional
Alaska:	Six years from substantial completion
Arizona:	Does not have a statute of limitations for design professionals
Arkansas:	Five years from substantial completion
California:	Ten years from substantial completion
Colorado:	Ten years from substantial completion
Connecticut:	Seven years from substantial completion
Delaware:	Six years from substantial completion
District of Columbia:	Ten years from substantial completion
Florida:	Four years from actual possession by owner
Georgia:	Ten years from substantial completion
Hawaii:	Ten years from substantial completion
Idaho:	Six years from substantial completion
Illinois:	Ten years from substanital completion plus four years from discovery of cause to take action
Indiana:	Ten years from substantial completion
Iowa:	Does not have a statute of limitations for design professionals
Kansas:	Ten years after performance of services
Kentucky:	Five years after performance of services
Louisiana:	Ten years after occupation by owner
Maine:	Ten years after substantial completion
Maryland:	Ten years after improvement becomes available
Massachusetts:	Six years after performance of design or construction
Michigan:	Six years after occupancy or acceptance of improvement
Minnesota:	Fifteen years after substantial completion
Mississippi:	Six years after written acceptance or use
Missouri:	Ten years after completion of construction

Montana:	Ten years after completion of construction, plus one year for action after cause
Nebraska:	Ten years after professional service is rendered
Nevada:	Eight years after substantial completion
New Hampshire:	No statute of limitations at this time; previous law declared unconst tutional
New Jersey:	Ten years after performance of services and construction
New Mexico:	Ten years after substantial completion
New York:	Three years after cause for action
North Carolina:	Six years after substantial completion
North Dakota:	Ten yea - after substantial completion
Ohio:	Ten yea: ; after performance of services and construction
Oklahoma:	Five years after substantial completion, plus two years for action after cause
Oregon:	Six years after substantial completion
Pennsylvania:	Twelve years after substantial completion
Rhode Island:	Ten years after substantial completion
South Carolina:	No statute of limitations at this time; previous law declared unconstitutional
South Dakota:	No statute of limitations at this time; previous law declared unconstitutional
Tennessee:	Four years after substantial completion
Texas:	Ten years after substantial completion
Utah:	Seven years after substantial completion
Vermont:	Six years after cause of action
Virginia:	Five years after performance of services
Washington:	Six years after substantial completion
Wisconsin:	Six years after substantial completion
Wyoming:	Ten years after substantial completion

THE WALL STREET JOURNAL.

FRIDAY, APRIL 28, 1989

MARKETPLACE

Media: *Newspaper publishers vow continued cost-cutting* *Page B3.*

Who's News: *American Express revamps top posts at travel group* *Page B4.*

Medical-Malpractice Insurance Rates Fall

Drop in Number Of Claims Cuts Insurers' Costs

By James R. Schiffman
Staff Reporter of The Wall Street Journal

There is finally something to cheer about on the health-cost front. For the first time in a decade, medical-malpractice insurance rates are falling.

St. Paul Cos., the nation's largest medical-malpractice insurer, just two weeks ago said it plans to cut rates for doctors this year by an average of 14% nationwide, the first decrease since 1978. Farmers Group Inc., which covers hospitals and health-maintenance organizations, already has slashed premiums up to 15%. And premiums of physician-owned insurance companies will either stay as they are or decrease a little, says Douglass Phillips, president of the Physicians Insurance Association of America.

Although increases in malpractice premiums slowed in 1987 and 1988, this is the first year since the late 1970s that average rates actually are declining. "I'm very relieved, and I'm very happy," says Jonathan S. Ehrlich, an Atlanta obstetrician who stands to save $13,000 annually in reduced premiums. "Two or three years ago you couldn't see any end to the spiral."

Fewer Claims

So: What's driving rates down? Patients are filing fewer malpractice claims than in the mid-1980s, and the costs to settle them aren't escalating as fast as they were in previous years. As a result, a number of insurers say they anticipate having to pay out less money this year than last to settle claims and thus can afford to drop rates.

Nobody knows exactly why fewer claims are being filed. But experts point to a variety of contributing factors. Malpractice cases are getting more expensive, more complex and harder to win in court. At the same time, juries are getting stingier with awards to wronged patients, and many states have either put caps on payouts or passed laws to block frivolous suits. Doctors also are getting better at taking preventive measures to head off malpractice cases.

To be sure, many doctors and insurance-company officials aren't convinced that rates will keep dropping, and in a few states premiums still are going up. Doctors point out that malpractice rates went down for a few years in the late 1970s, only to rise almost geometrically in the 1980s. Another worry: At least some of the decrease in jury awards stems from health-care cost cutting and lower inflation in the early '80s, when cases now being settled were filed. So today's skyrocketing health costs could bring larger verdicts in the future.

"It's great news if it lasts, but no one is ready to bet that it will last," Kirk Johnson, American Medical Association's general counsel, says of the decreases in premiums. James E. Davis, the AMA's president, cautions that it will take another two of declines before doctors believe the trend. "It's premature for anyone to suspect that physicians' fees are going to drop immediately," he says.

Malpractice Awards

Compensatory damages awarded by U.S. juries in single-plaintiff medical-malpractice cases:

	AVERAGE AWARD	MEDIAN AWARD	LARGEST (in millions)	NUMBER OF MILLION-DOLLAR AWARDS
1983	$887,938	$2[illegible]476	$25.0	69
1984	640,619	200[illegible]40	27.6	71
1985	1,179,096	40[illegible]00	12.7	79
1986	1,478,028	8[illegible]970	15.8	92
1987	924,416	61[illegible]000	13.0	62
1988	732,445	400[illegible]00	8.1	54

NOTE: Figures for 1988 are preliminary

Source: Jury Verdict Research Inc.

But some insurers say the down draft seems stronger than it ever was a decade ago, raising hope that a cycle of lower rates may have begun. One indication: St. Paul's reductions cut across most medical specialties, including oft-sued obstetricians and neurosurgeons.

The benefits of lower malpractice rates could be far-reaching. The AMA says that malpractice premiums have been the fastest-rising expense item for physicians in the 1980s, and already some doctors are considering cutting fees. Dr. Ehrlich, the Atlanta obstetrician, says the malpractice-premium cuts might enable him to reduce his rates to patients.

Malpractice lawyers say the growing complexity and cost of suing are making patients less litigious and lawyers more picky. Fees for expert witnesses have increased up to twentyfold in recent years, and more and more experts are needed to pick apart the vastly more complicated technologies used these days in medicine. Five years ago, William Bird, president of the Georgia Trial Lawyers Association and a medical-malpractice specialist, says he took cases of patients whose doctors failed to diagnose appendicitis. No more. The cost of bringing such cases to court won't justify the return, he says, adding: "Today, it requires almost a catastrophic injury."

While most patients settle malpractice claims out of court, the few who go to trial are finding juries less receptive. The average and median amounts of money awarded by juries in the U.S. for medical-malpractice cases (excluding punitive damages) have been falling markedly since reaching a peak in 1986. The number of million-dollar verdicts also has dropped precipitously since then.

Some legal and insurance experts say public outrage about the huge malpractice settlements of the early 1980s may have damped the sympathies of juries. Others think conservative judges appointed during the Reagan years may have influenced verdicts to push back awards. But everybody agrees that new laws passed in at least 19 states since 1986 have had some chilling effect.

Some states have capped payouts for pain and suffering. Others have adopted measures aimed at cutting frivolous lawsuits. In Georgia, the Legislature passed a law requiring that an attorney bringing a malpractice suit include an affidavit of support from a medical expert. Such affidavits are costly; and lawyers, who generally get paid in malpractice cases only if they win, now must invest more money in each malpractice case. "I think [the affidavit law] discourages attorneys from working on cases," Mr. Bird says.

Unnecessary Tests

Doctors and hospitals have also contributed to lowering malpractice-insurance rates by adopting costly strategies to thwart potential malpractice cases. Doctors readily admit to ordering unnecessary tests to protect themselves from malpractice cases. Ira M. Hardy, a Greenville, N.C., neurosurgeon, says he's sure about half of the magnetic resonance imaging scans he orders—at $1,000 a shot—will come up negative. "I have to do it" to avoid opening up the possibility of suit, he says.

"Risk management" initiatives involve adopting strict clinical standards. Anesthesiologists at Harvard University's teaching hospitals, for example, tightened rules in 1985 to require, among other things, monitoring every five minutes the blood pressures and heart rates of patients on the operating table. Since then, malpractice payouts have dropped and so have insurance rates through the university's malpractice program.

Doctors also are finding that a mea culpa can avoid a lawsuit. It isn't uncommon for a surgeon to, say, cut into the wrong foot of a patient, says Mr. Phillips of the Physicians Insurance Association. Doctors are learning that explaining what happened and apologizing can deter patients from suing. Concludes Mr. Phillips: "Communicating with the patient is probably the most important aspect of loss prevention."

FAX TRANSMITTAL

DATE: 3-29-90

TO: Representative Peter Goll

COMPANY:

LOCATION:

FAX #: 4635661

FROM: MARY PIERCE
MICA
4000 Old Seward Highway, Suite 203
Anchorage, Alaska 99503
Telephone: (907) 563-3414
FAX#: (907) 562-7804

Page 1 of 3

RE: Deliver to:
Representative Goll

RSVP

This is written testimony to back-up my verbal testimony this afternoon on HB 350.

IF YOU DO NOT RECEIVE A COMPLETE AND LEGIBLE COPY OF THIS FAX PLEASE CALL THE MICA OFFICE NUMBER ABOVE

MICA Medical Indemnity Corporation of Alaska

ALEUT PLAZA
4000 OLD SEWARD HWY., SUITE 303
ANCHORAGE, ALASKA 99503
(907) 563-3414

March 28, 1990

Representative Peter Goll, Co-Chair
House Judiciary Committee
House of Representatives
P..O. Box V
Juneau, AK 99811

Dear Representative Goll:

MICA has been requested to attempt to give the Judiciary Committee some idea of the potential costs of CSHB350 as it is currently written. I believe the purpose is dual; to help you better evaluate the bill, and to finalize a fiscal note.

MICA has completed this task, but we need to preface this report as it is based on the following understandings.

1.) We have based this on our current policyholders who are paying premiums for delivering babies. We have no idea how many other physicians in the state might become MICA insureds under this program, or how many of our own insureds may decide to deliver babies.

2.) These figures show ultimate costs. In other words, they are based on all of our policyholders. We have no way of knowing whom, if anyone, will avail themselves of this program.

3.) We have reviewed every application to arrive at what their individual classification would be if they were not delivering babies. We needed to subtract that to make the formula work. In some cases, our assumptions may be incorrect.

4.) We have concluded that "urban" means the following areas:

Anchorage
Mat-Su (Palmer, Wasilla, etc.)
Fairbanks
Juneau
Kenai/Soldotna

5.) We have assumed in the case of OB/GYN's that a part of their premium would be for gynecology and have only discounted the part of their premium for obstetrical coverage. If that is not a correct assumption and all of their premium should be included, then the total amount subsidized would be $54,837.00.

Medical Indemnity Corporation of Alaska

Legislative Section	Total Premiums	Subsidized Premium
(C)(1) OB/GYN's	$219,346	$22,332
G.P.'s/F.P.'s	$324,157	$40,155
(C)(2) 1-20 Births	$115,108	$58,551
(C)(3) 21-70 Births	$173,546	$63,494
(C)(4) 71 + Births	———	0
TOTALS	$832,157	$184,532

I have no idea what this may cost us to administrate because it would depend on how many people we have in the program. Certainly no more than 10% of the subsidized premium amount, assuming you want us to have separate record keeping on this group.

We are submitting this to you and the committee as a written accompaniment to our verbal testimony which I will make at the hearings on Thursday, March 29, 1990.

Sincerely,

Mary A. Pierce

Mary A. Pierce
Executive Director

MAP/blb

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE P.O. BOX Y, JUNEAU 99811

(907) 465-3892

November 23, 1989

M E M O R A N D U M

To: Members, House Labor and Commerce Committee

From: Representative Dave Donley, Chair
House Labor and Commerce Committee

Re: HB 350 - Alaska Medical Malpractice Matching Fund

HB 350 establishes the Alaska medical malpractice matching fund under the Department of Commerce and Economic Development, to be administered by the Medical Indemnity Corporation of Alaska (MICA). The fund may be used to pay part of the cost of medical malpractice insurance for eligible physicians.

The purpose of HB 350 is outlined in Section 1 of the bill. The sliding scale established under the Act to determine eligibility for reimbursement from the matching fund is geared toward physicians who provide "high risk" care to local communities, such as OB-GYN and emergency room services and are therefore the ones who usually pay the highest premiums.

An initial appropriation of $500,000 is made to the matching fund through HB 349, the companion funding bill. The funding source is the medical malpractice liability revolving loan fund under AS 21.88.210. Only physicians insured by MICA are eligible for the matching fund.

A copy of a recently enacted Arizona law establishing a similar program is included in your committee file along with related information from the Legislative Research Agency. Representatives from MICA and other interested providers will testify on HB 349 and HB 350 during our November public hearings.

dd/gbi89
b/hb350

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE P.O. BOX Y, JUNEAU 99811

(907) 465-3892

April 30, 1989

M E M O R A N D U M

To: Mike Ford, Attorney
Legislative Legal Services

From: Ginger Baim, aide to
Representative Dave Donley, Chair
House Labor and Commerce Committee

Re: Bill drafting request - Medical Malpractice Matching Fund

As per our conversation last week, I am writing to ask that you prepare a bill draft(s) for introduction by the House Labor and Commerce Committee as outlined below:

1. Prepare a bill draft establishing a uniform premium tax of three percent for all lines of insurance in the state. Please speak with Paul Roller, Director of the Division of Insurance, for further information regarding current premium tax practices. Include "program receipt" language in the bill requiring the Division to separately account for the increased revenues resulting from the uniform tax so that they may be appropriated by the Legislature into the MICA Medical Malpractice Matching Fund.

2. Prepare a bill/s draft making MICA's loans into grants and requiring that MICA make an initial payment of $500,000 into the Medical Malpractice Matching Fund established under the following section. Please speak with Mary Pierce of MICA to get information regarding MICA's loan obligations and internal operating procedures.

3. Prepare a bill draft creating the Alaska Medical Malpractice Matching Fund under MICA:

   a. Draft a "findings and purpose" section:*

   - it is in the state's best interest that medical providers be insured so that victims of medical malpractice may be adequately compensated and so that providers are not at risk of financial disaster when faced with an uninsured settlement.

   - the cost of medical malpractice insurance has forced many providers to go "bare" which exposes both them and their patients to unacceptable risk; has caused providers to cease delivering necessary medical services; acts as a disincentive for medical providers to practice in Alaska.

   - Alaska has one of the lowest providers per capita ratios in the nation and it is in the state's best interest to increase the number of physicians in the state, particularly in rural areas.

- there is a particular crisis in rural areas of the state because of the high cost of medical malpractice insurance that threatens the public health and safety

- the purpose in enacting this act is to provide immediate and substantial relief to medical providers so that they can afford to purchase medical malpractice insurance while the Legislature continues to work on measures designed to reduce costs of medical malpractice insurance

b. The fund shall consist of money appropriated by the Legislature and payments by MICA into the fund.

c. MICA shall make an initial deposit into the fund of $500,000.

d. MICA shall distribute the money in the fund on a sliding scale established in "e".

e. Establish a sliding scale to reimburse medical providers for part of the amount that their annual medical malpractice premium exceeds ten percent of their gross personal annual income based on the following formula:

ANNUAL GROSS INCOME	PREMIUM	% OF INCOME	% TO BE MATCHED	AMOUNT TO MATCHED	MATCH
$100,000.	$11,000.	11	1%	$ 1,000	51%
$100,000.	$12,000.	12	2%	2,000	52%
$100,000.	$13,000	13	3%	3,000	53%
$100,000.	$14,000	14	4%	4,000	54%
$100,000.	$15,000	15	5%	5,000	55%
$100,000.	$20,000	20	10%	10,000	60%
$100,000.	$30,000	30	20%	20,000	70%
$100,000.	$40,000	40	30%	30,000	80%
$100,000.	$50,000	50	40%	40,000	90%
$100,000.	$60,000	60	50%	50,000	100%

Interpretation: If a provider earns $100,000 and pays an annual premium of $50,000 (or 50%) then the medical malpractice matching fund will pay 90 percent of $40,000.

* This should be a gradual scale, a percent at a time, so there are no "jumps"

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f. EXCEPTIONS: Exceptions to the sliding scale should include a provision that:

- there will be no match for any portion of a premium that is a "surcharge".

- the fund will pay 100% of that portion of a premium that is for OBGYN coverage for providers operating in rural areas that deliver fewer than 10 babies a year or provide prenatal care for fewer

than 20 patients a year.

- the matching fund is only available to providers insured by MICA

g. Providers must submit a copy of their federal income tax filing to MICA so that their annual gross personal income may be established. MICA shall develop forms and procedures for applying for matching funds.

h. Insert a "sunset" clause ending the medical malpractice matching fund five years from its enactment with any remaining funds lapsing into the general fund.

The Committee would like a draft document to work from as soon as possible with the intent to introduce the bill prior to adjournment and to take it up in interim hearings so it can be finalized and ready to move at the beginning of next session.

Please call me at 4954 if you have any questions or need additional information.

* Feel free to clean up the language in this section and to add or delete anything you think is appropriate.

Signed into law by
Arizona Governor Mofford
June 28, 1989

Senate Engrossed House Bill

ISSUED BY
JIM SHUMWAY
SECRETARY OF STATE

State of Arizona
House of Representatives
Thirty-ninth Legislature
First Regular Session
1989

Chapter 290
HOUSE BILL 2467

AN ACT

MAKING AN APPROPRIATION TO THE DEPARTMENT OF HEALTH SERVICES FOR THE PURPOSE OF PAYING ADDITIONAL MEDICAL MALPRACTICE PREMIUM COSTS FOR PERFORMING THE DELIVERY OF INFANTS AT CERTAIN RURAL HOSPITALS; PRESCRIBING IDENTIFICATION OF QUALIFYING HOSPITALS AND PHYSICIANS; PRESCRIBING EVALUATION OF REQUESTS FOR ASSISTANCE; PRESCRIBING LIMITATIONS; AND PRESCRIBING STUDIES AND REPORTS.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Appropriation; purpose; exemption

A. The sum of one hundred ninety-five thousand dollars is appropriated from the state general fund to the department of health services for the purposes described in subsection B of this section.

B. The department shall identify areas in the state that are underserved with regard to obstetrical services. For purposes of this section, an area shall be considered underserved with regard to obstetrical services if the area satisfies any of the following:

1. Fifty per cent or more of resident live-births occur outside the city or town of residence.

2. Cities or towns where obstetric services are threatened with discontinuance.

3. Cities or towns having a population of less than ten thousand where prenatal services are not provided by a physician.

4. Cities or towns having a population of less than ten thousand where obstetric backup services for a physician are not available.

5. Cities or towns where the average number of prenatal visits are less than the state average.

C. The department shall identify those physicians who practice in areas defined in subsection B of this section who meet the following:

1. Shall have current obstetrical delivery privileges at one or more rural, non-federal hospitals.

2. Shall be a registered provider with the Arizona health care cost containment system who has established a contract for obstetrical services with at least one or more of the system's prepaid contractors.

3. The physician shall be licensed by the appropriate licensure board.

D. Family physicians who perform less than fifty deliveries per year and who are required to pay an additional premium to perform obstetrical services shall be eligible to receive an amount not to exceed five thousand dollars. Family physicians who perform more than fifty deliveries per year and who are required to pay an additional premium to perform obstetrical services shall be eligible to receive an amount not to exceed ten thousand dollars. Obstetricians who are required to pay an additional premium to provide obstetrical services shall be eligible to receive an amount not to exceed ten thousand dollars. Payment of one-half of the financial assistance identified in this section shall be contingent upon receipt of the report required pursuant to subsection F of this section. The second payment shall be paid upon receipt of the second report required pursuant to subsection F of this section.

E. Physicians seeking financial assistance shall respond to the department's notice within thirty days of receipt of such notice in a format prescribed by the department. The department shall evaluate the physician's request for financial assistance and shall classify the requests according to the city or town's need for obstetrical services and ability to meet all or at least one of the criteria specified in subsection B of this section. The highest classification shall be assigned to those cities or towns which meet all of the criteria specified in subsection B of this section. The lowest classification shall be assigned to those cities or towns which meet at least one of the criteria specified in subsection B of this section. The department shall establish contracts with those physicians whose requests are assigned the highest classification. If funds remain available, the department shall proceed in descending order to establish contracts with those physicians whose requests have been assigned a lower classification until funding is depleted.

F. The financial assistance awarded pursuant to subsection E of this section shall be used for each physician who meets the qualifications of subsection C of this section, is under contract with the department to remain in practice in the rural area for the contract year and who provides a report upon completion of one-half of the contract term and upon conclusion of the contract to the department which identifies the number of women to whom the physician has provided medical services during delivery, the ages of the women, the number of prenatal visits each woman received, the number of women who are at or below federal poverty standard, the number of Arizona health care cost containment system enrolled women served and the insurance status of the women. Contracts pursuant to this section are exempt from the requirements of title 41, chapter 23, Arizona Revised Statutes.

G. The university of Arizona college of medicine shall examine the adequacy of obstetrical services in rural underserved areas. The university of Arizona college of medicine shall develop a plan which may include the use of educational subsidies designed to overcome any identified inadequacies in the delivery of obstetrical care or other primary health care services in rural Arizona. The plan shall include recommendations regarding educational subsidies, identification of funding needs, identification of alternative funding sources and necessary legislative action to implement the recommendations. The university of Arizona college of medicine shall submit their report to the governor, president of the senate and speaker of the house of representatives by February 1, 1990.

H. The department shall submit a written report to the governor, the president of the senate and the speaker of the house of representatives on or before February 1, 1990 on the number of physicians who have applied and the number of physicians who received financial assistance provided pursuant to subsection E of this section. One year from the effective date of this section, the department shall evaluate the effectiveness of the financial assistance provided pursuant to this section and shall on or before January 1, 1991, submit a written report of its findings to the governor, the president of the senate and the speaker of the house of representatives. The report shall include recommendations regarding continuation of the financial assistance, the number of physicians who received financial assistance who plan to continue providing prenatal and delivery services in rural Arizona and legislative action necessary to improve the control, distribution and cost effectiveness of the financial assistance.

I. The appropriation made in this section is exempt from section 35-190, Arizona Revised Statutes, relating to lapsing of appropriations.

Approved by the Governor June 28, 1989.

Filed in the Office of Secretary of State June 28, 1989

MICA Medical Indemnity Corporation of Alaska
ALEUT PLAZA
4000 OLD SEWARD HWY., SUITE 203
ANCHORAGE, ALASKA 99503
(907)563-3414

June 21, 1989

Dave Donley Representative
Alaska State House
3111 "C" Street Suite 450
Anchorage, Alaska 99503

Dear Dave,

Thank-you for spending the time on the phone discussing issues effecting medical malpractice. As you know I was anxious to discuss bills proposed by you because of a special meeting of our Board of Governors on June 21, 1989, to discuss this proposed legislation. I wanted to clarify intent to properly present them for discussion to the Board.

You, your aide, Ginger Bain, and I had discussed the sliding scale matching fund or premium subsidy during the legislative session. It is my understanding after our recent discussion that HB350 should reflect what we discussed. I questioned if the algebraic formula in the bill accomplished your purpose. You suggested we work on the details later. Your intent as I understood it is to find a way to subsidize rural physicians especially those delivering babies to maintain the availability of healthcare throughout the state.

Companion bills to this matching fund, HB349 and HB355, were also discussed. You suggested that MICA could be made exempt from premium taxes when reviewing MICA's tax status. We also discussed forgiving our loans or turning them into grants It was my understanding that we should work over the summer with the legislative drafter amending these bills. If you have him contact me I will happy to work with him.

We also discussed the concept of an administrative system. MICA has been investigating this concept for sometime and I would like to discuss this with you at some future date when we have more time.

I know you will have a busy summer. Thanks for taking the time again to disc. ss this with me. I hope we can get together in the fall.

Regards.

Mary A. Pierce
Executive Director

HB350

MICA Medical Indemnity Corporation of Alaska

ALEUT PLAZA
4000 OLD SEWARD HWY., SUITE 203
ANCHORAGE, ALASKA 99503
(907) 563-3414

February 23, 1990

Representative David Donley, Chairman
House Labor and Commerce Committee
State of Alaska
P.O. Box V
Juneau, Alaska 99811

Dear Chairman Donley:

I was requested in a legislative hearing on Tuesday, February 20, to supply the committee with numbers of deliveries made per physician from information gathered on a questionnaire distributed by ASMA to private practice physicians in the state.

The information follows:

Family or General Practitioners doing Obstetrics

	Fewer than 10	10-20	21-40	41-100	101-200	over 200
Anchorage *		1	3	6		
Fairbanks		4	1			
Kenai Peninsula		2	4	3	1	
South East	1	3	6	3	1	
North				1**		

* - Anchorage includes Mat-Su Valley

** - covered by Federal Government

General Surgeons (C-Section only)

	Fewer than 10	10-20	21-40	41-100	101-200	over 200
Southeast			1	1		

Obstetricians

	Fewer than 10	10-20	21-40	41-100	101-200	over 200
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Kenai Peninsula				1		
Fairbanks					4	

*** This physician noted that he only does 40 deliveries because CNA (his carrier) increases the rates with an increase in deliveries.

The following are the statistics I testified to during the hearings.

Total: 321 Uninsured: 48 or 15%
187 of total doctors reside in Anchorage

	Delivering or Had Been Delivering Babies	Not Doing Deliveries
Total	131	190
Uninsured	27 or 20.6%	21 or 11%
Uninsured Located	14 - Anchorage	14 - Anchorage
	7 - Kenai Peninsula	4 - Kenai Peninsula
	2 - Fairbanks	3 - Southeast
	2 - North	
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Stopped Coverage before 1987	6	9
% of Gross Income willing to Pay		
Minimum	5%	1%
Maximum	25%	10%
Average	10%	5-10%
No Longer Delivering Babies	42 * or 32%	

* - 33 doctors in the insured group were no longer delivering babies all due to cost.

- 9 doctors in the uninsured group were no longer delivering babies partially due to cost.

I hope this information proves useful. I've attached a copy of the questionnaire form that was distributed to the 616 private practice physician.

Sincerely,

Mary A. Pierce

Mary A. Pierce
Executive Director, MICA

Alaska State Medical Association

4107 Laurel Street Anchorage, Alaska 99508 (907) 562-2662 (Fax) 561-2063

December 29, 1989

Dear Colleague:

Enclosed is a survey intended to derive some needed information from Alaska physicians. As most of you know, the state medical association is taking a leadership role in trying to help the state legislature with the complicated issues surrounding tort reform and/or liability insurance. Before we can confront the legislature, we need factual data. This survey will help us gather the data regarding Alaska and match it with the larger picture of the nation and other nations of the world.

The information will be kept confidential. It is important that you realize that your name or even the coding will only be known to two or three members of the ASMA staff. Secondly, the information you provide should be flexible. You may add more data than is questioned. We want this information to be interactive so that you feel you have a part in deriving this survey. Make it as specific as you want to: give us your thoughts.

The code in the right hand corner is in three parts. The first part: G = Group, S = Solo (single practioner). The second part is the speciality code as desiginated by the American Medical Association. A copy of the list with codes is on the back of the survey form. The third part is location and that is: N = North, W = West, A = Anchorage, F = Fairbanks, SE = Southeast, and P = Kenai Peninsula. Please check the code to be sure that it does apply to you and to your practice.

I wish I could offer a prize or an incentive for completing this survey. The best I have to offer is our thanks and to tell you that you are taking part in some of the most important issues that we, as organized medicine, face today. Thank you for helping.

Cordially,

Russell A. Huffman, M.D.
President

RAH/jlw

LIABILITY INSURANCE SURVEY

1. Do you now carry medical liability insurance? _____ Yes _____ No

   If yes, how long? _____

   With what carrier? _____

   If no, when did you cancel? _____

   Do you contemplate not carrying it in the near future, i.e. within the year? ___Yes ___No

   If you don't carry insurance: Is this a philosophical choice (i.e., you don't believe in it; if you don't have it you won't get sued, etc.) _____ Yes ____ No

   Is this economic, or because of other factors that have forced your choice? ___ Yes ___ No

2. What proportion, i.e. percent, of your net income is the medical liability premium?

3. What is your opinion as to a "fair" liability premium, as either an absolute dollar figure, or percent of gross, or percent of net?

4. Is there a level of premium that you would pay, i.e. what do you think you could afford?

5. Do you deliver babies? _____ Yes _____ No

   If yes, how many per year? _____

   What premium do you pay simply for obstetrics, in excess of your liability premium without obstetrics?

   _____

   If no, was the cost of malpractice liability a major factor? _____ Yes _____ No

6. If there was an affordable insurance as described above, would you then change to doing obstetrics?

Please verify the code in the top right hand corner of this survey (as noted in the accomanying letter) and return the survey in the enclosed envelope. Thank you.

Dave or Ginger,
letter previously
sent
Mary

December 29, 1989

Representative Dave Donley, Chairman
House Labor and Commerce Committee
House of Representatives
P.O. Box V
Juneau, AK 99811

Dear Representative Donley:

The House Labor and Commerce Committee had hearings on November 30, 1989 at which time I was asked to have an "informal" chat with the committee. Since I wasn't prepared to testify, I gave you some estimated premium figures and promised to follow up with exact rate information.

MICA's 1990 Premium Schedule is enclosed for your information. The committee had asked me questions at the hearings specifically relating to the cost of insurance to physicians delivering babies. I mentioned that the majority of our phsician policyholders have limits $500,000 per claim, $1,000,000 aggregate. Physicians delivering babies are Class 3 on the schedule. Assuming a physician had policy limits of $500,000/1,000,000 and had been insured with MICA for five or more years his premium for 1990 would be $30,162. (This is about $20,000 less than I quoted to you.)

Another question is the difference in premium between a Family Practioner doing obstetrics and those who were not. Assuming the same scenerio as above and that the Family Practioner not doing obstetrics was doing minor surgery the difference would be $14,046. In other words, the Family Practioner who delivers babies pay $14,046 to do so (or about 1/2 of the total premium is for obstetrical coverage).

I hope that this letter and the attached premium schedule better answers your questions. If you have any further questions, please feel free to call me.

Sincerely,

Mary A. Pierce
Executive Director

MAP/blb

Enclosure

MICA Medical Indemnity Corporation of Alaska

RATE CHANGES	M.D.	HOSPITAL
1981	+ 2.5 %	- 6.0 %
1982	+ 5.0 %	+ 5.0 %
1983	- 6.5 %	+ 20.0 %
1984	+ 7.5 %	+ 7.5 %
1985	+15.0 % *	+ 15.0 %
1986	+90.0 % **	+107.0 %
1987	+25.0 %	+ 42.0 %
1988	+23.0 %	0 %
1989	0 % ¥	0 % ¥

* Some specialties had class change providing larger increases:
Examples:
Family Practice doing O.B. +86% (Changed to Class 2B)
Emergency Medicine +66% (Changed to Class 2A)

**Increases for 1M/2M limits were greater (approximately 125%)

¥ Potential Increase for MICA's 1989 Tax liability is 12.6% for physicians and 10.5% for hospitals.

Dave or Ginger,
Percentage increases in rates. Also previously provided.
Mary

MICA Medical Indemnity Corporation of Alaska

ALEUT PLAZA
4000 OLD SEWARD HWY., SUITE 203
ANCHORAGE, ALASKA 99503
(907) 563-3414

February 13, 1990

Representative Dave Donley, Chairman
Labor and Commerce Committee
House of Representatives
State of Alaska
PO Box V
Juneau, Alaska 99811

Dear Chairman Donley:

I testified in front of the House Labor and Commerce Committee and was requested to submit my comments in writing. Please share this written testimony with the other committee members.

Chairman Donley and Committee members, I am Mary Pierce, Executive Director of MICA.

CSHB334 - Requiring insurance of outstanding judgement.

We wanted to make a few brief informational comments on this bill. We, like all insurance companies, have underwriting requirements to write physicians. We do gather previous claims experience and our Underwriting Manager and the Underwriting Committee may not cover an applicant based upon that experience. In other words, we do not offer insurance coverage to all applicants. If this bill is passed we wanted the committee to know that physicians with an outstanding judgement may not be able to procure coverage and therefore not able to practice.

CSHB336 - Medical Malpractice Advisory Panels.

We feel strongly that if current Medical Malpractice Advisory panels are to work they need to be comprised of experts, more importantly specialists who can understand the technical medical procedures and make assessments that offer the judge and both parties accurate medical conclusions.

We fight now to obtain the appropriate physicians specialist on a panel. It does no good whatsoever to have a family practitioner on a panel where we have technical complications involving an orthopedic procedure. We feel that adding lay people to this panel would not make it any better. In fact, the time the panel would need to review a case would increase as the physicians would have to educate the lay people.

We ask you to not further dilute the credibility of the panel but in fact maintain it as an "expert" advisory panel membered with medical experts. We suggest that lay people have a place in the system and that is on the jury. If you must put a lay person on the panel to make sure the doctors play straight then please make them non-voting members on these highly technical issues.

Medical Indemnity Corporation of Alaska

CSHB337 - Mandatory insurance requirements for hospitals.

Our comments here are similar to HB334. We do have underwriting requirements for hospitals. We are concerned since we are the only company offering coverage in the state to the rural hospitals that we may not chose to underwrite a hospital. We want the committee to understand that we are unwilling to compromise our standards because the strength and stability of those standards allow us to continue in business. We are not interested in becoming a substandard market or acquiring risks that may lead to our insolvency. It is our commitment to be here to write malpractice for the majority.

HB349 - Money from Medical Malpractice Revolving Loan Fund.

This fund was established to fund the operations of MICA. We have borrowed from it twice and have an outstanding balance of $2,402,286 on the first note and $800,000 on the second note. This fund has been important to us both in our original capitalization and also as surplus. This surplus is critical when being reviewed by reinsurers because it helps add stability to our small company. Needless to say, we are concerned about any depletion to the fund.

HB350 - Matching Fund.

We are certainly supportive of the concept of a matching fund. We do have some questions regarding this in legislation.

First of all, I believe I understand the intent of the formula but for the life of me, I can't get it to work. Perhaps someone can explain it to me.

We are also curious as to a definition of the term "rural" as it applies to the bill.

Finally, we have some concerns if we are to administer this fund.

1) The first is a potential restraint of trade problem that might occur by a physician with another carrier being denied access to the fund. It is at the very least a potential conflict of interest.

2) Secondly, if we do administer it we are concerned with the increase in administrative costs to us. Our question is therefore one of developing a budget and receiving compensation to administer the fund.

Again, we don't disagree in concept to the idea of a matching fund but do have questions regarding the mechanics.

Thank you for your time. I will be happy to answer any questions.

Sincerely,

Mary A. Pierce

Mary A. Pierce
Executive Director

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH V STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

MEMORANDUM February 20, 1990

SUBJECT: Alaska medical malpractice matching fund - HB 350

TO: Representative Dave Donley

FROM: Michael F. Ford
Legislative Counsel

You have asked if creating the Alaska medical malpractice matching fund raises any constitutional problems. Under Article VII, section 4, of the Alaska Constitution, the legislature has a broad mandate to protect the public health. I do not see that providing subsidized malpractice insurance in order to ensure that medical services are available, violates the state constitution.

Please contact me if you have further questions.

MFF:pl
WKP2/065

MICA Medical Indemnity Corporation of Alaska

ALEUT PLAZA
4000 OLD SEWARD HWY., SUITE 203
ANCHORAGE, ALASKA 99503
(907) 563-3414

April 2, 1990

Representative Peter Goll, Co-Chairman
House Judiciary Committee
House of Representatives
P..O. Box V
Juneau, AK 99811

Dear Representative Goll:

There were several questions from members of the Judiciary Committee regarding my testimony on March 29th. I felt that it might be helpful if, as a member of this committee, you received information answering all the questions.

First of all, I appreciate your interest in both MICA and your concern for the healthcare delivery system in the state. I have included information that might prove useful in understanding specific questions on how MICA does business and also, general information on physician demographics, specifically on those delivering babies.

Informational Items

1.) A letter to the House Labor and Commerce Committee. This provides information on where physicians practice, how many deliveries they do, and if they are insured. Included is a copy of the questionnaire that was distributed to the 614 private practice physicians in the state that we used to develop these statistics.

2.) Another letter to Representative Donley, a 1990 MICA premium schedule is enclosed.

3.) A schedule of rate changes since 1981.

4.) Response to questions about obstetrical claims to Department of Health and Social Services. This should answer all questions regarding loss experience.

Please let me know if I can provide you with other information that would prove useful.

Sincerely,

Mary A. Pierce

Mary A. Pierce
Executive Director

MICA Medical Indemnity Corporation of Alaska

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President

RAH/jlw

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MAP/blb

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