

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
5904 HOUSE LABOR & COMMERCE

338

6-1317A ✓
Ford
4/24/89

Rep. Donley

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act requiring certain persons who are in a regu-
7 lated occupation or profession to obtain malpractice
8 insurance."

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

10 * Section 1. AS 08.02 is amended by adding a new section to read:

11 Sec. 08.02.030. MALPRACTICE INSURANCE REQUIRED. (a) A person
12 in an occupation or profession regulated under this title, shall
13 obtain malpractice insurance from an insurer authorized to do business
14 in this state, if judgment has been entered against the person for
15 civil damages and the civil damages resulted from an act or omission
16 arising out of the person's occupation or profession. Malpractice
17 insurance required under this section must provide coverage in an
18 amount of not less than \$100,000 for negligent acts or omissions
19 arising out of the occupation or profession of the insured, and must
20 be maintained in effect until the judgment is satisfied or the parties
21 to the judgment have entered into a settlement agreement.

22 (b) This section does not apply to a person who is no longer
23 employed in the occupation or profession that resulted in an award of
24 civil damages, or to an occupation or profession regulated under this
25 title that is unrelated to the occupation or profession that resulted
26 in an award of civil damages.

27 (c) In this section, "malpractice insurance" has the meaning
28 given in AS 21.12.070(a)(10).
29

6-1322A ✓
Ford
4/24/89

Donley

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE HOUSE

2 HOUSE BILL NO.

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

5 A BILL

6 For an Act entitled: "An Act relating to malpractice insurance for health
7 care providers."

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

9 * Section 1. AS 21.42 is amended by adding a new section to read:

10 Sec. 21.42.375. REQUIRED PROVISION FOR HEALTH CARE PROVIDER
11 LIABILITY INSURANCE. (a) A malpractice insurance policy issued in
12 this state to a health care provider must include coverage for any
13 hospital at which the health care provider practices, as an insured
14 under the policy.

15 (b) In this section, "health care provider" means an audiologist
16 licensed under AS 08.11; a chiropractor licensed under AS 08.20; a
17 dental hygienist licensed under AS 08.32; a dentist licensed under
18 AS 08.36; a nurse licensed under AS 08.68; a dispensing optician
19 licensed under AS 08.71; an optometrist licensed under AS 08.72; a
20 pharmacist licensed under AS 08.80; a physical therapist or occupa-
21 tional therapist licensed under AS 08.84; a physician licensed under
22 AS 08.64; a podiatrist; a psychologist, or a psychological associate
23 licensed under AS 08.86.

6-1321E
Chenoweth
4/25/89

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act amending Rule 68 of the Alaska Rules of Civil
7 Procedure relating to the award of costs and attorney
8 fees and to the payment of prejudgment interest."

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

10 * Section 1. Rule 68(b) of the Alaska Rules of Civil Procedure is
11 repealed and reenacted to read:

12 (b) If the judgment finally rendered by the court is

13 (1) more favorable to the offeree than the offer, and the
14 offeree is the party defending against the claim, the court may re-
15 quire the offeree to pay the offeror's actual reasonable costs incur-
16 red after the making of the offer and the greater of

17 (A) the actual reasonable attorney's fees incurred by
18 the offeror after the making of the offer; or

19 (B) the attorney's fees payable to the offeror as
20 determined under Rule 82(a);

21 (2) not more favorable to the offeree than the offer, the
22 offeree is the party making the claim, and the offeree prevails, the
23 offeree shall pay the actual reasonable costs and the actual
24 reasonable attorney's fees incurred by the offeror after the making of
25 the offer and may not be awarded costs or attorney's fees incurred
26 after the making of the offer.

27 * Sec. 2. Rule 68 of the Alaska Rules of Civil Procedure is amended by
28 adding a new subsection to read:

29 (d) If the judgment finally rendered by the court is not more

1 favorable to the offeree than the offer, the prejudgment interest
2 accrued before judgment is entered shall be adjusted as follows:

3 (1) if the offeree is the party making the claim, the
4 interest rate will be reduced by the amount specified in AS 09.30.065;

5 (2) if the offeree is the party defending against the
6 claim, the interest rate will be increased by the amount specified in
7 AS 09.30.065.
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6-1319A
Ford
4/25/89

IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to civil actions against insurers
for unfair or deceptive acts."

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

* Section 1. AS 21.36 is amended by adding a new section to read:

Sec. 21.36.025. DAMAGES RESULTING FROM AN UNFAIR OR DECEPTIVE
ACT. An insurer who commits an unfair or deceptive act against an
insured, is liable for the actual damages resulting from the unfair or
deceptive act. Damages awarded to an insured under this section are
not subject to a limitation on liability contained in an insurance
policy, if the policy is issued by the insurer who engages in the
unfair or deceptive act.

6-0628J
Ford
4/25/89

Original sponsors: Cotten, Larson,
Hoffman, et al.

IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

CS FOR HOUSE BILL NO. 166 (L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SIXTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to civil actions; amending Alaska Rule of Civil Procedure 68; and providing for an effective date."

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

* Section 1. FINDINGS AND PURPOSE. (a) Tort law in this state has generally been developed by the courts on a case-by-case basis. While this process has resulted in some significant changes in the law, including amelioration of the harshness of many common law doctrines, the legislature has periodically intervened in order to bring about needed reforms. The purpose of this Act is to enact further reforms in order to create a more equitable distribution of the cost and risk of injury and increase the availability and affordability of insurance.

(b) The legislature also finds comparable cost increases in professional liability insurance. Escalating malpractice insurance premiums discourage physicians and other health care providers from initiating or continuing their practice or offering needed services to the public. Other professionals, such as architects and engineers, face similar difficult choices, financial instability, and unlimited risk in providing services to the public.

(c) The legislature also finds that citizens should be encouraged to serve as board members and officers of electric or telephone cooperatives. These organizations serve important governmental functions, and their vitality and effectiveness depend upon the willingness of experienced individuals to seek leadership and decision-making roles within them.

Accordingly, these board members and officers should be protected from liability arising from an act or omission within the scope of their duties, unless the act or omission constitutes gross negligence.

(d) It is the intent of the legislature to reduce costs associated with the tort system, while ensuring that adequate and appropriate compensation for persons injured through the fault of others is available.

(e) The legislature wishes to help match losses with compensation by helping to

(1) ensure that money paid to an injured person is available when anticipated expenses or losses occur;

(2) ensure that a claimant with substantial injury requiring long-term treatment will have money available for future medical care;

(3) reduce medical reparation system costs by eliminating those portions of awards that are not needed to compensate the claimant;

(4) eliminate duplicate recoveries; and

(5) reduce the costs of litigation.

(f) The legislature wishes to accumulate additional information about the costs to society of the tort, health care, and insurance systems as they are presently constituted. This information is necessary to determine whether the tort, health care, and insurance systems as they are presently constituted are fairly serving victims and whether a disproportionate amount of compensation dollars are absorbed by the system.

(g) The legislature finds that it is extremely difficult to defend against a claim that has become stale after information and witnesses have disappeared. The legislature finds that on the whole society is better served by a reasonable statute of repose even though in a few limited instances injuries may go without compensation.

* Sec. 2. AS 09.10.055(a) is repealed and reenacted to read:

(a) Notwithstanding AS 09.10.140, a person may not bring an

action for personal injury, death, property damage, contribution or indemnity arising from a deficiency in the construction or the design, planning, supervision, or observation of construction, of an improvement to real property, unless the action is brought within 10 years of the date of substantial completion of the improvement to real property.

Sec. 3. AS 09.10 is amended by adding a new section to read:

Sec. 09.10.065. LIMITATION ON ACTIONS INVOLVING A HEALTH CARE PROVIDER. (a) Notwithstanding AS 09.10.140, an action based on professional negligence may not be brought against a health care provider by a person who is, on the date of the alleged negligent act or omission

(1) 10 years of age or older, unless the action is brought within three years of the date of injury, or one year after accrual of the action, whichever period is shorter;

(2) less than 10 years of age, unless the action is brought within three years of the date of injury, or before the person's 11th birthday, whichever period is longer.

(b) The limitation imposed under (a) of this section is tolled during any period in which there exists

(1) fraud, including fraud or collusion between a parent or guardian and an insurer or health care provider, resulting in the failure to bring on action on behalf of an injured minor;

(2) intentional concealment; or

(3) the undiscovered presence of a foreign body, that has no therapeutic or diagnostic purpose or effect, in the body of the injured person and the action is based on the presence of the foreign body.

(c) In this section,

(1) "health care provider" has the meaning given in AS 18.-23.070;

(2) "professional negligence" means a negligent act or omission by a health care provider in rendering professional services;

(3) "professional services" means services provided by a health care provider that are within the scope of services for which the person is licensed, and that are not prohibited under the person's license or by a hospital in which the services are provided.

* Sec. 4. AS 09.10.070 is amended to read:

Sec. 09.10.070. ACTIONS TO BE BROUGHT IN TWO YEARS. A [NO] person may not bring an action (1) for libel, slander, assault, battery, seduction, or false imprisonment [, OR FOR ANY INJURY TO THE PERSON OR RIGHTS OF ANOTHER NOT ARISING ON CONTRACT AND NOT SPECIFICALLY PROVIDED OTHERWISE]; (2) upon a statute for a forfeiture or penalty to the state; or (3) upon a liability created by statute, other than a penalty or forfeiture; unless commenced within two years.

* Sec. 5. AS 09.10 is amended by adding a new section to read:

Sec. 09.10.075. LIMITATION ON ACTIONS INVOLVING INJURY TO PERSON OR PROPERTY. (a) Notwithstanding AS 09.10.140, a person may not bring an action for personal injury, death, or property damage unless the action is brought within two years of the accrual of the action.

(b) This section does not apply if a shorter period of time for bringing the action is imposed under another provision of law.

(c) In this section, "accrual" means the date that the person discovers or should have discovered the person's right to bring an action.

* Sec. 6. AS 09.17.020 is amended to read:

Sec. 09.17.020. PUNITIVE DAMAGES. Punitive damages may not be awarded in an action, whether in tort, contract, or otherwise, unless

supported by clear and convincing evidence of malice, bad motive, or reckless indifference to the interests of another.

* Sec. 7. AS 09.17.030 is amended to read:

Sec. 09.17.030. DAMAGES RESULTING FROM COMMISSION OF A CRIME. A person who suffers personal injury or death may not recover damages for the personal injury or death if the injuries or death occurred while the person was engaged in the commission of a crime [FELONY], the person has been convicted of the crime [FELONY], including conviction based on a guilty plea or plea of nolo contendere, and the crime [FELONY] substantially contributed to the injury or death. [THIS SECTION DOES NOT AFFECT A RIGHT OF ACTION UNDER 42 U.S.C. 1983.]

* Sec. 8. AS 09.17.030 is amended by adding new subsections to read:

(b) This section does not apply to a person who suffers personal injury or death if the person liable for the damages

(1) was engaged in the commission of a crime at the time the personal injury or death occurred; and

(2) has been convicted of the crime, including conviction based on a guilty plea or plea of nolo contendere.

(c) In this section "crime" has the meaning given in AS 11.81.-900(b).

* Sec. 9. AS 09.17.040(d) is amended to read:

(d) In an action to recover damages, the court shall, at the request of a [AN INJURED] party, enter judgment ordering that amounts awarded a judgment creditor for future damages be paid to the maximum extent feasible by periodic payments rather than by a lump-sum payment, if the amount awarded for future damages equals or exceeds \$50,000. If a portion of the judgment awarded is owed to an attorney under a contingent fee agreement, that portion of the judgment shall be reduced to present value.

* Sec. 10. AS 09.17.040(e) is amended to read:

(e) The court shall [MAY] require security be posted, in order to ensure that funds are available as periodic payments become due, unless the court determines that the debt is adequately secured. The court may not require security to be posted if an authorized insurer, as defined in AS 21.90.900, acknowledges to the court its obligation to discharge the judgment.

* Sec. 11. AS 09.17.040(f) is amended to read:

(f) A judgment ordering payment of future damages by periodic payment shall specify the recipient, the dollar amount of the payments, the interval between payments, [AND] the number of payments or the period of time over which payments shall be made, and shall include an amount representing future payments for anticipated inflation. Payments may be modified only in the event of the death of the judgment creditor, in which case payments may not be reduced or terminated, but shall be paid to persons to whom the judgment creditor owed a duty of support, as provided by law, immediately before death. In the event the judgment creditor owed no duty of support to dependents at the time of the judgment creditor's death, the money remaining shall be distributed in accordance with a will of the deceased judgment creditor accepted into probate or under the intestate laws of the state if the deceased had no will.

* Sec. 12. AS 09.17.050(a) is amended to read:

(a) Unless the act or omission constituted gross negligence, a person may not recover tort damages for personal injury, death, or damage to property for an act or omission to act in the course and scope of official duties, from [ONE OF] the following:

(1) a member of the board of directors or an officer of a nonprofit corporation;

(2) a member of the board of directors of a public or nonprofit hospital, or a member of a citizen's advisory board of any hospital;

(3) a member of a school board of a school district;

(4) a member of the governing body, a commission, or a citizen's advisory committee of a municipality of the state;

(5) a member of the board of directors or an officer of an electric or telephone cooperative organized under AS 10.25.

* Sec. 13. AS 09.17.070 is repealed and reenacted to read:

Sec. 09.17.070. COLLATERAL BENEFITS. (a) A party defending against a claim may introduce evidence of amounts received or to be received by the claimant as compensation for the same injury from the following collateral sources:

(1) 42 U.S.C. 301 - 1397 (Social Security Act);

(2) state or federal income disability or worker's compensation benefits;

(3) health, sickness, accident, or income insurance; or

(4) a contract or agreement to pay medical, hospital, dental, or other health care services.

(b) If the party defending against the claim elects to introduce evidence under (a) of this section, the claimant may introduce evidence of the amount that the claimant has paid or contributed to secure the right to an insurance benefit, contract, or agreement introduced by the party defending against the claim as evidence.

(c) A source of collateral benefits introduced under (a) of this section may not recover from the claimant an amount paid as compensation for the injury, and may not be subrogated to the rights of the claimant against the party defending against the claim.

* Sec. 14. AS 09.30.070(a) is amended to read:

(a) The rate of interest on judgments and decrees for the payment of money is that rate of interest paid by member banks of the 12th Federal Reserve District on six-month treasury bills averaged over the year prior to the entry of the judgment or decree [10.5 PERCENT A YEAR], except that a judgment or decree founded on a contract in writing, providing for the payment of interest until paid at a specified rate not exceeding the legal rate of interest for that type of contract, bears interest at the rate specified in the contract if the interest rate is set out in the judgment or decree.

* Sec. 15. AS 09.30.070 is amended by adding a new subsection to read:

(c) Prejudgment interest may not be awarded for future economic or noneconomic damages.

* Sec. 16. AS 09.55.580(a) is amended to read:

(a) Except as provided under (f) of this section, when the death of a person is caused by the wrongful act or omission of another, the personal representatives of the former may maintain an action therefor against the latter, if the former might have maintained an action, had the person lived, against the latter for an injury done by the same act or omission. The action shall be commenced within two years after the death, and the damages therein shall be the damages the court or jury may consider fair and just. The amount recovered, if any, shall be exclusively for the benefit of the decedent's spouse and children when the decedent is survived by a spouse or children, or other dependents. When the decedent is not survived by a [NO] spouse, [OR] children, or other dependents, the amount recovered shall be administered as other personal property of the decedent but shall be limited to pecuniary loss and may not exceed \$100,000, except for damages awarded under (c)(6) of this section. When the plaintiff prevails, the trial court shall determine the allowable costs and expenses of

the action and may, in its discretion, require notice and hearing thereon. The amount recovered shall be distributed only after payment of all costs and expenses of suit and debts and expenses of administration.

* Sec. 17. AS 21.06.110 is amended to read:

Sec. 21.06.110. DIRECTOR'S ANNUAL REPORT. As early in each calendar year as is reasonably possible the director shall prepare and deliver an annual report to the legislature and the commissioner, showing, with respect to the preceding calendar year,

(1) a list of the authorized insurers transacting insurance in Alaska, with such summary of their financial statement as the director considers appropriate;

(2) the name of each insurer whose business was closed during the year, the cause of the closing, and the amount of ascertainable assets and liabilities of each closed business;

(3) the name of each insurer against which delinquency or similar proceedings were instituted, and a concise statement of the facts with respect to each proceeding and its present status;

(4) a statement in regard to examination of rating organizations, advisory organizations, joint underwriters, and joint reinsurers as required by AS 21.39.120;

(5) the receipts and expenses of the division for the year;

(6) recommendations of the director as to amendments or supplementation of laws affecting insurance, or the office of director;

(7) other pertinent information and matters the director considers proper;

(8) an analysis of medical malpractice insurance rate changes occurring as a result of court decisions in the state

involving personal injury or death.

* Sec. 18. AS 09.10.055(b), AS 09.17.010(c), 09.17.040(c), and AS 09.-55.548 are repealed.

* Sec. 19. REPORT. The Department of Commerce and Economic Development, with the cooperation of all state agencies, shall report to the legislature by the 30th day of the Second Session of the Seventeenth Alaska State Legislature on closed insurance claims and insurance company finances. The report must consist of

(1) a study of closed insurance claims to identify

(A) the extent to which the legal system has or has not been the cause of dramatic liability insurance increases or decreases and coverage reduction in crisis lines in the state;

(B) how victims are faring under the present system;

(C) what the various specific tort reform measures have actually accomplished; and

(D) if the passage of this Act has resulted in a measurable decrease in insurance rates in the state;

(2) a study of insurance company finances to determine the extent to which

(A) dramatic liability insurance rate increases and coverage limitations in the state are, or are not, cost-justified in relation to awards, settlements, and relevant court decisions in the state involving personal injury, death, or property damage based on fault; and

(B) legislative or regulatory actions affecting the tort system in the state are necessary to resolve the state's liability insurance rate increases.

* Sec. 20. AS 09.30.070(c), as added by sec. 15 of this Act, has the effect of amending Alaska Rule of Civil Procedure 68 by providing that

prejudgment interest may not be awarded for future economic or noneconomic damages.

* Sec. 21. APPLICABILITY. This Act applies to all causes of action accruing on or after the effective date of this Act.

* Sec. 22. This Act takes effect immediately under AS 01.10.070(c).

6-1321E
Chenoweth
4/25/89

IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act amending Rule 68 of the Alaska Rules of Civil Procedure relating to the award of costs and attorney fees and to the payment of prejudgment interest."

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

* Section 1. Rule 68(b) of the Alaska Rules of Civil Procedure is repealed and reenacted to read:

(b) If the judgment finally rendered by the court is

(1) more favorable to the offeree than the offer, and the offeree is the party defending against the claim, the court may require the offeree to pay the offeror's actual reasonable costs incurred after the making of the offer and the greater of

(A) the actual reasonable attorney's fees incurred by the offeror after the making of the offer; or

(B) the attorney's fees payable to the offeror as determined under Rule 82(a);

(2) not more favorable to the offeree than the offer, the offeree is the party making the claim, and the offeree prevails, the offeree shall pay the actual reasonable costs and the actual reasonable attorney's fees incurred by the offeror after the making of the offer and may not be awarded costs or attorney's fees incurred after the making of the offer.

* Sec. 2. Rule 68 of the Alaska Rules of Civil Procedure is amended by adding a new subsection to read:

(d) If the judgment finally rendered by the court is not more

favorable to the offeree than the offer, the prejudgment interest accrued before judgment is entered shall be adjusted as follows:

(1) if the offeree is the party making the claim, the interest rate will be reduced by the amount specified in AS 09.30.065;

(2) if the offeree is the party defending against the claim, the interest rate will be increased by the amount specified in AS 09.30.065.

6-0628D
Ford
5/6/89

Original sponsors: Cotten, Larson,
Hoffman, et al.

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 166 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to civil actions; amending Alaska
7 Rule of Civil Procedure 68; and providing for an
8 effective date."

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

10 * Section 1. FINDINGS AND PURPOSE. (a) Civil justice in this state
11 has generally been developed by the courts on a case-by-case basis. This
12 process has resulted in some significant changes in the law, and the legis-
13 lature has periodically intervened to bring about needed reforms. The
14 purpose of this Act is to enact further reforms that create a more equita-
15 ble distribution of the cost and risk of injury.

16 (b) The legislature also finds that unnecessarily high malpractice
17 insurance premiums discourage physicians and other health care providers
18 from initiating or continuing their practice or offering needed services to
19 the public. Other professionals, such as architects and engineers, face
20 similar difficult choices, financial instability, and risk in providing
21 services to the public.

22 (c) The legislature also finds that citizens should be encouraged to
23 serve as board members of electric or telephone cooperatives. These
24 organizations serve important governmental functions, and their vitality
25 and effectiveness depend upon the willingness of experienced individuals to
26 seek leadership and decision-making roles within them. Accordingly, these
27 board members should be given some protection from liability arising from
28 an act or omission within the scope of their duties.

29 (d) It is the intent of the legislature to reduce costs associated

1 with the civil justice system, while ensuring that adequate and appropriate
2 compensation for persons injured through the fault of others is available.

3 (e) The legislature wishes to help match losses with compensation by
4 helping to

5 (1) ensure that money paid to an injured person is available
6 when anticipated expenses or losses occur;

7 (2) ensure that a claimant with substantial injury requiring
8 long-term treatment will have money available for future medical care;

9 (3) reduce medical reparation system costs by eliminating those
10 portions of awards that are not needed to compensate the claimant;

11 (4) eliminate duplicate recoveries; and

12 (5) reduce the costs of litigation.

13 (f) The legislature wishes to accumulate additional information about
14 the costs to society of the civil justice, health care, and insurance
15 systems as they are presently constituted. This information is necessary
16 to determine whether the civil justice, health care, and insurance systems
17 as they are presently constituted are fairly serving victims and whether a
18 disproportionate amount of compensation dollars are absorbed by the system.

19 (g) The legislature finds that it is extremely difficult to defend
20 against a claim that has become stale after information and witnesses have
21 disappeared. The legislature finds that on the whole society is better
22 served by a reasonable statute of repose even though in a few limited
23 instances injuries may go without compensation.

24 * Sec. 2. AS 09.10.055(a) is repealed and reenacted to read:

25 (a) Notwithstanding AS 09.10.140, a person may not bring an
26 action for personal injury, death, property damage, or indemnity
27 arising from a deficiency in the construction or the design, planning,
28 supervision, or observation of construction, of an improvement to real
29 property, unless the action is brought within 10 years of the date of

1 substantial completion of the improvement to real property.

2 * Sec. 3. AS 09.10 is amended by adding a new section to read:

3 Sec. 09.10.065. LIMITATION ON ACTIONS INVOLVING A HEALTH CARE
4 PROVIDER. (a) Notwithstanding AS 09.10.140, an action based on
5 professional negligence may not be brought against a health care
6 provider by a person who is, on the date of the alleged negligent act
7 or omission

8 (1) 10 years of age or older, unless the action is brought
9 within five years of the date of injury, or one year after accrual of
10 the action, whichever period is shorter;

11 (2) less than 10 years of age, unless the action is brought
12 within five years of the date of injury, or before the person's 12th
13 birthday, whichever period is longer.

14 (b) The limitation imposed under (a) of this section is tolled
15 during any period in which there exists

16 (1) fraud, including fraud or collusion by a parent, guard-
17 ian, insurer, or health care provider, resulting in the failure to
18 bring on action on behalf of an injured minor;

19 (2) intentional concealment; or

20 (3) the undiscovered presence of a foreign body, that has
21 no therapeutic or diagnostic purpose or effect, in the body of the
22 injured person and the action is based on the presence of the foreign
23 body.

24 (c) In this section,

25 (1) "accrual" has the meaning given in AS 09.10.070(d);

26 (2) "health care provider" has the meaning given in AS 18.-
27 23.070;

28 (3) "professional negligence" means a negligent act or
29 omission by a health care provider in rendering professional services;

1 (4) "professional services" means services provided by a
2 health care provider that are within the scope of services for which
3 the person is licensed, and that are not prohibited under the person's
4 license or by a hospital in which the services are provided.

5 * Sec. 4. AS 09.10.070 is amended to read:

6 Sec. 09.10.070. ACTIONS TO BE BROUGHT IN TWO YEARS. A [NO]
7 person may not bring an action (1) for libel, slander, assault, bat-
8 tery, seduction, or false imprisonment, or for any injury to the
9 person or rights of another not arising on contract and not specif-
10 ically provided otherwise; (2) upon a statute for a forfeiture or
11 penalty to the state; or (3) upon a liability created by statute,
12 other than a penalty or forfeiture; unless commenced within two years
13 of the accrual of the action.

14 * Sec. 5. AS 09.10.070 is amended by adding new subsections to read:

15 (b) Notwithstanding AS 09.10.140, the period of time within
16 which a person may bring an action under (a)(1) of this section may
17 not be extended for a disability described under AS 09.10.140, for
18 more than 20 years after the date of the injury. This subsection does
19 not apply if the injury is caused by an intentional act.

20 (c) The limitation of (a) of this section does not apply to an
21 action described in (a)(1) of this section if the period of limitation
22 imposed under AS 09.10.065 applies, or if a shorter period of time for
23 bringing the action is imposed under another provision of law.

24 (d) In this section, "accrual" means the date that the person
25 discovers or should have discovered the person's right to bring an
26 action.

27 * Sec. 6. AS 09.17.030 is amended to read:

28 Sec. 09.17.030. DAMAGES RESULTING FROM COMMISSION OF A CRIME. A
29 person who suffers personal injury or death may not recover damages

1 for the personal injury or death if the injuries or death occurred
2 while the person was engaged in the commission of a crime [FELONY],
3 the person has been convicted of the crime [FELONY], including con-
4 viction based on a guilty plea or plea of nolo contendere, and the
5 crime [FELONY] substantially contributed to the injury or death.
6 [THIS SECTION DOES NOT AFFECT A RIGHT OF ACTION UNDER 42 U.S.C. 1983.]

7 * Sec. 7. AS 09.17.030 is amended by adding new subsections to read:

8 (b) This section does not apply to a person who suffers personal
9 injury or death if the person liable for the damages

10 (1) was engaged in the commission of a crime at the time
11 the personal injury or death occurred; and

12 (2) has been convicted of the crime, including conviction
13 based on a guilty plea or plea of nolo contendere.

14 (c) In this section "crime" has the meaning given in AS 11.81.-
15 900(b).

16 * Sec. 8. AS 09.17.040(f) is amended to read:

17 (f) A judgment ordering payment of future damages by periodic
18 payment shall specify the recipient, the dollar amount of the pay-
19 ments, the interval between payments, [AND] the number of payments or
20 the period of time over which payments shall be made, and shall in-
21 clude an amount representing future payments for anticipated infla-
22 tion. Payments may be modified only in the event of the death of the
23 judgment creditor, in which case payments may not be reduced or termi-
24 nated, but shall be paid to persons to whom the judgment creditor owed
25 a duty of support, as provided by law, immediately before death. In
26 the event the judgment creditor owed no duty of support to dependents
27 at the time of the judgment creditor's death, the money remaining
28 shall be distributed in accordance with a will of the deceased judg-
29 ment creditor accepted into probate or under the intestate laws of the

1 state if the deceased had no will.

2 * Sec. 9. AS 09.17.050(a) is amended to read:

3 (a) Unless the act or omission constituted gross negligence, a
4 person may not recover tort damages for personal injury, death, or
5 damage to property for an act or omission to act in the course and
6 scope of official duties, from [ONE OF] the following:

7 (1) a member of the board of directors or an officer of a
8 nonprofit corporation;

9 (2) a member of the board of directors of a public or
10 nonprofit hospital, or a member of a citizen's advisory board of any
11 hospital;

12 (3) a member of a school board of a school district;

13 (4) a member of the governing body, a commission, or a
14 citizen's advisory committee of a municipality of the state;

15 (5) a member of the board of directors of an electric or
16 telephone cooperative organized under AS 10.25.

17 * Sec. 10. AS 09.17.070 is repealed and reenacted to read:

18 Sec. 09.17.070. COLLATERAL BENEFITS. (a) A party defending
19 against a claim may introduce evidence of amounts received or to be
20 received by the claimant as compensation for the same injury from the
21 following collateral sources:

22 (1) 42 U.S.C. 301 - 1397 (Social Security Act);

23 (2) state or federal income disability or worker's compen-
24 sation benefits;

25 (3) health, sickness, accident, or income insurance; or

26 (4) a contract or agreement to pay medical, hospital,
27 dental, or other health care services.

28 (b) If the party defending against the claim elects to introduce
29 evidence under (a) of this section, the claimant may introduce

1 evidence of the amount that the claimant has paid or contributed to
2 secure the right to an insurance benefit, contract, or agreement
3 introduced as evidence by the party defending against the claim.

4 (c) A source of collateral benefits introduced under (a) of this
5 section may not recover from the claimant an amount paid as compen-
6 sation for the injury, and may not be subrogated to the rights of the
7 claimant against the party defending against the claim.

8 * Sec. 11. AS 09.30.070 is amended by adding a new subsection to read:

9 (c) Prejudgment interest may not be awarded for future economic
10 or noneconomic damages.

11 * Sec. 12. AS 21.06.110 is amended to read:

12 Sec. 21.06.110. DIRECTOR'S ANNUAL REPORT. As early in each
13 calendar year as is reasonably possible the director shall prepare and
14 deliver an annual report to the legislature and the commissioner,
15 showing, with respect to the preceding calendar year,

16 (1) a list of the authorized insurers transacting insurance
17 in Alaska, with such summary of their financial statement as the
18 director considers appropriate;

19 (2) the name of each insurer whose business was closed
20 during the year, the cause of the closing, and the amount of ascer-
21 tainable assets and liabilities of each closed business;

22 (3) the name of each insurer against which delinquency or
23 similar proceedings were instituted, and a concise statement of the
24 facts with respect to each proceeding and its present status;

25 (4) a statement in regard to examination of rating organi-
26 zations, advisory organizations, joint underwriters, and joint rein-
27 surers as required by AS 21.39.120;

28 (5) the receipts and expenses of the division for the year;

29 (6) recommendations of the director as to amendments or

1 supplementation of laws affecting insurance, or the office of direc-
2 tor;

3 (7) other pertinent information and matters the director
4 considers proper;

5 (8) an analysis of medical malpractice insurance rate
6 changes occurring as a result of court decisions in the state involv-
7 ing personal injury or death;

8 (9) an analysis of liability insurance claims that were
9 closed following a civil action, that

10 (A) establishes a statistical data base for comparing
11 the annual percentage change in the number and amount of claims;

12 (B) determines the number and dollar amount of claims
13 closed, by year incurred; and

14 (C) compares the percentage change in direct premiums
15 written;

16 (10) an analysis of changes in the incomes of physicians
17 licensed under AS 08.64 occurring as a result of court decisions in
18 the state involving personal injury or death.

19 * Sec. 13. AS 09.10.055(b), 09.17.040(c), and AS 09.-
20 55.548 are repealed.

21 * Sec. 14. REPORT. The Department of Commerce and Economic Develop-
22 ment, with the cooperation of all state agencies, shall report to the
23 legislature by the 30th day of the Second Session of the Seventeenth Alaska
24 State Legislature on closed insurance claims and insurance company fi-
25 nances. The report must consist of

26 (1) a study of closed insurance claims to identify

27 (A) the extent to which the legal system has or has not
28 been the cause of dramatic liability insurance increases or decreases
29 and coverage reduction in crisis lines in the state;

1 (B) how victims are faring under the present system;

2 (C) what the various specific tort reform measures have
3 actually accomplished; and

4 (D) if the passage of this Act has resulted in a measurable
5 decrease in insurance rates in the state;

6 (2) a study of insurance company finances to determine the
7 extent to which

8 (A) dramatic liability insurance rate increases and cover-
9 age limitations in the state are, or are not, cost-justified in re-
10 lation to awards, settlements, and relevant court decisions in the
11 state involving personal injury, death, or property damage based on
12 fault; and

13 (B) legislative or regulatory actions affecting the tort
14 system in the state are necessary to resolve the state's liability
15 insurance rate increases.

16 * Sec. 15. AS 09.30.070(c), as added by sec. 11 of this Act, has the
17 effect of amending Alaska Rule of Civil Procedure 68 by providing that
18 prejudgment interest may not be awarded for future economic or non-economic
19 damages.

20 * Sec. 16. APPLICABILITY. (a) This Act applies to all causes of
21 action for damages resulting from an act or omission occurring on or after
22 the effective date of this Act.

23 (b) AS 09.17.070(c), as added by sec. 10 of this Act, applies to a
24 contract or agreement entered into on or after the effective date of this
25 Act.

26 * Sec. 17. This Act takes effect immediately under AS 01.10.070(c).
27
28
29

6-0628D
Ford
5/2/89

Original sponsors: Cotten, Larson,
Hoffman, et al.

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2 C. HOUSE BILL NO. 166 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to civil actions; amending Alaska
7 Rule of Civil Procedure 68; and providing for an
8 effective date."

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

10 * Section 1. FINDINGS AND PURPOSE. (a) Civil justice in this state
11 has generally been developed by the courts on a case-by-case basis. This
12 process has resulted in some significant changes in the law, and the legis-
13 lature has periodically intervened to bring about needed reforms. The
14 purpose of this Act is to enact further reforms that create a more equita-
15 ble distribution of the cost and risk of injury.

16 (b) The legislature also finds that unnecessarily high malpractice
17 insurance premiums discourage physicians and other health care providers
18 from initiating or continuing their practice or offering needed services to
19 the public. Other professionals, such as architects and engineers, face
20 similar difficult choices, financial instability, and risk in providing
21 services to the public.

22 (c) The legislature also finds that citizens should be encouraged to
23 serve as board members and officers of electric or telephone cooperatives.
24 These organizations serve important governmental functions, and their
25 vitality and effectiveness depend upon the willingness of experienced
26 individuals to seek leadership and decision-making roles within them.
27 Accordingly, these board members and officers should be given some protec-
28 tion from liability arising from an act or omission within the scope of
29 their duties.

1 (d) It is the intent of the legislature to reduce costs associated
2 with the civil justice system, while ensuring that adequate and appropriate
3 compensation for persons injured through the fault of others is available.

4 (e) The legislature wishes to help match losses with compensation by
5 helping to

6 (1) ensure that money paid to an injured person is available
7 when anticipated expenses or losses occur;

8 (2) ensure that a claimant with substantial injury requiring
9 long-term treatment will have money available for future medical care;

10 (3) reduce medical reparation system costs by eliminating those
11 portions of awards that are not needed to compensate the claimant;

12 (4) eliminate duplicate recoveries; and

13 (5) reduce the costs of litigation.

14 (f) The legislature wishes to accumulate additional information about
15 the costs to society of the civil justice, health care, and insurance
16 systems as they are presently constituted. This information is necessary
17 to determine whether the civil justice, health care, and insurance systems
18 as they are presently constituted are fairly serving victims and whether a
19 disproportionate amount of compensation dollars are absorbed by the system.

20 (g) The legislature finds that it is extremely difficult to defend
21 against a claim that has become stale after information and witnesses have
22 disappeared. The legislature finds that on the whole society is better
23 served by a reasonable statute of repose even though in a few limited
24 instances injuries may go without compensation.

25 * Sec. 2. AS 09.10.055(a) is repealed and reenacted to read:

26 (a) Notwithstanding AS 09.10.140, a person may not bring an
27 action for personal injury, death, property damage, or indemnity
28 arising from a deficiency in the construction or the design, planning,
29 supervision, or observation of construction, of an improvement to real

1 property, unless the action is brought within 10 years of the date of
2 substantial completion of the improvement to real property.

3 * Sec. 3. AS 09.10 is amended by adding a new section to read:

4 Sec. 09.10.065. LIMITATION ON ACTIONS INVOLVING A HEALTH CARE
5 PROVIDER. (a) Notwithstanding AS 09.10.140, an action based on
6 professional negligence may not be brought against a health care
7 provider by a person who is, on the date of the alleged negligent act
8 or omission

9 (1) 10 years of age or older, unless the action is brought
10 within three years of the date of injury, or one year after accrual of
11 the action, whichever period is shorter;

12 (2) less than 10 years of age, unless the action is brought
13 within three years of the date of injury, or before the person's 11th
14 birthday, whichever period is longer.

15 (b) The limitation imposed under (a) of this section is tolled
16 during any period in which there exists

17 (1) fraud, including fraud or collusion by a parent, guard-
18 ian, insurer, or health care provider, resulting in the failure to
19 bring on action on behalf of an injured minor;

20 (2) intentional concealment; or

21 (3) the undiscovered presence of a foreign body, that has
22 no therapeutic or diagnostic purpose or effect, in the body of the
23 injured person and the action is based on the presence of the foreign
24 body.

25 (c) In this section,

26 (1) "accrual" has the meaning given in AS 09.10.070(d);

27 (2) "health care provider" has the meaning given in AS 18.-
28 23.070;

29 (3) "professional negligence" means a negligent act or

1 omission by a health care provider in rendering professional services;

2 (4) "professional services" means services provided by a
3 health care provider that are within the scope of services for which
4 the person is licensed, and that are not prohibited under the person's
5 license or by a hospital in which the services are provided.

6 * Sec. 4. AS 09.10.070 is amended to read:

7 Sec. 09.10.070. ACTIONS TO BE BROUGHT IN TWO YEARS. A [NO]
8 person may not bring an action (1) for libel, slander, assault, bat-
9 tery, seduction, or false imprisonment, or for any injury to the
10 person or rights of another not arising on contract and not specif-
11 ically provided otherwise; (2) upon a statute for a forfeiture or
12 penalty to the state; or (3) upon a liability created by statute,
13 other than a penalty or forfeiture; unless commenced within two years
14 of the accrual of the action.

15 * Sec. 5 AS 09.10.070 is amended by adding new subsections to read:

16 (b) Notwithstanding AS 09.10.140, the period of time with-
17 in which a person may bring an action under (a)(1) of this sec-
18 tion may not be extended for a disability described under AS 09.-
19 10.140, for more than 20 years after the date of the injury.
20 This subsection does not apply if the injury is caused intentional-
21 ly.

22 (c) The limitation of (a) of this section does not apply to an
23 action described in (a)(1) of this section if the period of limitation
24 imposed under AS 09.10.065 applies, or if a shorter period of time for
25 bringing the action is imposed under another provision of law.

26 (d) In this section, "accrual" means the date that the person
27 discovers or should have discovered the person's right to bring an
28 action.

29 * Sec. 6. AS 09.17.030 is amended to read:

1 Sec. 09.17.030. DAMAGES RESULTING FROM COMMISSION OF A CRIME. A
2 person who suffers personal injury or death may not recover damages
3 for the personal injury or death if the injuries or death occurred
4 while the person was engaged in the commission of a crime [FELONY],
5 the person has been convicted of the crime [FELONY], including con-
6 viction based on a guilty plea or plea of nolo contendere, and the
7 crime [FELONY] substantially contributed to the injury or death.
8 [THIS SECTION DOES NOT AFFECT A RIGHT OF ACTION UNDER 42 U.S.C. 1983.]

9 * Sec. 7. AS 09.17.030 is amended by adding new subsections to read:

10 (b) This section does not apply to a person who suffers personal
11 injury or death if the person liable for the damages

12 (1) was engaged in the commission of a crime at the time
13 the personal injury or death occurred; and

14 (2) has been convicted of the crime, including conviction
15 based on a guilty plea or plea of nolo contendere.

16 (c) In this section "crime" has the meaning given in AS 11.81.-
17 900(b).

18 * Sec. 8. AS 09.17.040(f) is amended to read:

19 (f) A judgment ordering payment of future damages by periodic
20 payment shall specify the recipient, the dollar amount of the pay-
21 ments, the interval between payments, [AND] the number of payments or
22 the period of time over which payments shall be made, and shall in-
23 clude an amount representing future payments for anticipated infla-
24 tion. Payments may be modified only in the event of the death of the
25 judgment creditor, in which case payments may not be reduced or termi-
26 nated, but shall be paid to persons to whom the judgment creditor owed
27 a duty of support, as provided by law, immediately before death. In
28 the event the judgment creditor owed no duty of support to dependents
29 at the time of the judgment creditor's death, the money remaining

1 shall be distributed in accordance with a will of the deceased judg-
2 ment creditor accepted into probate or under the intestate laws of the
3 state if the deceased had no will.

4 * Sec. 9. AS 09.17.050(a) is amended to read:

5 (a) Unless the act or omission constituted gross negligence, a
6 person may not recover tort damages for personal injury, death, or
7 damage to property for an act or omission to act in the course and
8 scope of official duties, from [ONE OF] the following:

9 (1) a member of the board of directors or an officer of a
10 nonprofit corporation;

11 (2) a member of the board of directors of a public or
12 nonprofit hospital, or a member of a citizen's advisory board of any
13 hospital;

14 (3) a member of a school board of a school district;

15 (4) a member of the governing body, a commission, or a
16 citizen's advisory committee of a municipality of the state;

17 (5) a member of the board of directors or an officer of an
18 electric or telephone cooperative organized under AS 10.25.

19 * Sec. 10. AS 09.17.070 is repealed and reenacted to read:

20 Sec. 09.17.070. COLLATERAL BENEFITS. (a) A party defending
21 against a claim may introduce evidence of amounts received or to be
22 received by the claimant as compensation for the same injury from the
23 following collateral sources:

24 (1) 42 U.S.C. 301 - 1397 (Social Security Act);

25 (2) state or federal income disability or worker's compen-
26 sation benefits;

27 (3) health, sickness, accident, or income insurance; or

28 (4) a contract or agreement to pay medical, hospital,
29 dental, or other health care services.

1 (b) If the party defending against the claim elects to introduce
2 evidence under (a) of this section, the claimant may introduce evi-
3 dence of the amount that the claimant has paid or contributed to
4 secure the right to an insurance benefit, contract, or agreement
5 introduced as evidence by the party defending against the claim.

6 (c) A source of collateral benefits introduced under (a) of this
7 section may not recover from the claimant an amount paid as compen-
8 sation for the injury, and may not be subrogated to the rights of the
9 claimant against the party defending against the claim.

10 * Sec. 11. AS 09.30.070 is amended by adding a new subsection to read:

11 (c) Prejudgment interest may not be awarded for future economic
12 or noneconomic damages.

13 * Sec. 12. AS 21.06.110 is amended to read:

14 Sec. 21.06.110. DIRECTOR'S ANNUAL REPORT. As early in each
15 calendar year as is reasonably possible the director shall prepare and
16 deliver an annual report to the legislature and the commissioner,
17 showing, with respect to the preceding calendar year,

18 (1) a list of the authorized insurers transacting insurance
19 in Alaska, with such summary of their financial statement as the
20 director considers appropriate;

21 (2) the name of each insurer whose business was closed
22 during the year, the cause of the closing, and the amount of ascer-
23 tainable assets and liabilities of each closed business;

24 (3) the name of each insurer against which delinquency or
25 similar proceedings were instituted, and a concise statement of the
26 facts with respect to each proceeding and its present status;

27 (4) a statement in regard to examination of rating organi-
28 zations, advisory organizations, joint underwriters, and joint rein-
29 surers as required by AS 21.39.120;

1 (5) the receipts and expenses of the division for the year;
 2 (6) recommendations of the director as to amendments or
 3 supplementation of laws affecting insurance, or the office of direc-
 4 tor;

5 (7) other pertinent information and matters the director
 6 considers proper;

7 (8) an analysis of medical malpractice insurance rate
 8 changes occurring as a result of court decisions in the state involv-
 9 ing personal injury or death;

10 (9) an analysis of liability insurance claims that were
 11 closed following a civil action, that

12 (A) establishes a statistical data base for comparing
 13 the annual percentage change in the number and amount of claims;

14 (B) determines the number and dollar amount of claims
 15 closed, by year incurred; and

16 (C) compares the percentage change in direct premiums
 17 written;

18 (10) an analysis of changes in the incomes of physicians
 19 licensed under AS 08.64 occurring as a result of court decisions in
 20 the state involving personal injury or death.

21 * Sec. 13. AS 09.10.055(b),, 09.17.040(c), and AS 09.-
 22 55.548 are repealed.

23 * Sec. 14. REPORT. The Department of Commerce and Economic Develop-
 24 ment, with the cooperation of all state agencies, shall report to the
 25 legislature by the 30th day of the Second Session of the Seventeenth Alaska
 26 State Legislature on closed insurance claims and insurance company fi-
 27 nances. The report must consist of

28 (1) a study of closed insurance claims to identify

29 (A) the extent to which the legal system has or has not

1 been the cause of dramatic liability insurance increases or decreases
2 and coverage reduction in crisis lines in the state;

3 (B) how victims are faring under the present system;

4 (C) what the various specific tort reform measures have
5 actually accomplished; and

6 (D) if the passage of this Act has resulted in a measurable
7 decrease in insurance rates in the state;

8 (2) a study of insurance company finances to determine the
9 extent to which

10 (A) dramatic liability insurance rate increases and cover-
11 age limitations in the state are, or are not, cost-justified in re-
12 lation to awards, settlements, and relevant court decisions in the
13 state involving personal injury, death, or property damage based on
14 fault; and

15 (B) legislative or regulatory actions affecting the tort
16 system in the state are necessary to resolve the state's liability
17 insurance rate increases.

18 * Sec. 15. AS 09.30.070(c), as added by sec. 11 of this Act, has the
19 effect of amending Alaska Rule of Civil Procedure 68 by providing that
20 prejudgment interest may not be awarded for future economic or noneconomic
21 damages.

22 * Sec. 16. APPLICABILITY. (a) This Act applies to all causes of
23 action for damages resulting from an act or omission occurring on or after
24 the effective date of this Act.

25 (b) AS 09.17.070(c), as added by sec. 10 of this Act, applies to a
26 contract or agreement entered into on or after the effective date of this
27 Act.

28 * Sec. 17. This Act takes effect immediately under AS 01.10.070(c).

5-7-89

IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

CS FOR HOUSE BILL NO. 166 (L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SIXTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to civil actions; amending Alaska Rule of Civil Procedure 68; and providing for an effective date."

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

* Section 1. FINDINGS AND PURPOSE. (a) Civil justice in this state has generally been developed by the courts on a case-by-case basis. This process has resulted in some significant changes in the law, and the legislature has periodically intervened to bring about needed reforms. The purpose of this Act is to enact further reforms that create a more equitable distribution of the cost and risk of injury.

(b) The legislature also finds that unnecessarily high malpractice insurance premiums discourage physicians and other health care providers from initiating or continuing their practice or offering needed services to the public. Other professionals, such as architects and engineers, face similar difficult choices, financial instability, and risk in providing services to the public.

(c) The legislature also finds that citizens should be encouraged to serve as board members of electric or telephone cooperatives. These organizations serve important governmental functions, and their vitality and effectiveness depend upon the willingness of experienced individuals to seek leadership and decision-making roles within them. Accordingly, these board members should be given some protection from liability arising from an act or omission within the scope of their duties.

(d) It is the intent of the legislature to reduce costs associated

with the civil justice system, while ensuring that adequate and appropriate compensation for persons injured through the fault of others is available.

(e) The legislature wishes to help match losses with compensation by helping to

(1) ensure that money paid to an injured person is available when anticipated expenses or losses occur;

(2) ensure that a claimant with substantial injury requiring long-term treatment will have money available for future medical care;

(3) reduce medical reparation system costs by eliminating those portions of awards that are not needed to compensate the claimant;

(4) eliminate duplicate recoveries; and

(5) reduce the costs of litigation.

(f) The legislature wishes to accumulate additional information about the costs to society of the civil justice, health care, and insurance systems as they are presently constituted. This information is necessary to determine whether the civil justice, health care, and insurance systems as they are presently constituted are fairly serving victims and whether a disproportionate amount of compensation dollars are absorbed by the system.

(g) The legislature finds that it is extremely difficult to defend against a claim that has become stale after information and witnesses have disappeared. The legislature finds that on the whole society is better served by a reasonable statute of repose even though in a few limited instances injuries may go without compensation.

* Sec. 2. AS 09.10.055(a) is repealed and reenacted to read:

(a) Notwithstanding AS 09.10.140, a person may not bring an action for personal injury, death, property damage, or indemnity arising from a deficiency in the construction or the design, planning, supervision, or observation of construction, of an improvement to real property, unless the action is brought within 10 years of the date of

substantial completion of the improvement to real property.

* Sec. 3. AS 09.10 is amended by adding a new section to read:

Sec. 09.10.065. LIMITATION ON ACTIONS INVOLVING A HEALTH CARE PROVIDER. (a) Notwithstanding AS 09.10.140, an action based on professional negligence may not be brought against a health care provider by a person who is, on the date of the alleged negligent act or omission

(1) 10 years of age or older, unless the action is brought within five years of the date of injury, or one year after accrual of the action, whichever period is shorter;

(2) less than 10 years of age, unless the action is brought within five years of the date of injury, or before the person's 12th birthday, whichever period is longer.

(b) The limitation imposed under (a) of this section is tolled during any period in which there exists

(1) fraud, including fraud or collusion by a parent, guardian, insurer, or health care provider, resulting in the failure to bring on action on behalf of an injured minor;

(2) intentional concealment; or

(3) the undiscovered presence of a foreign body, that has no therapeutic or diagnostic purpose or effect, in the body of the injured person and the action is based on the presence of the foreign body.

(c) In this section,

(1) "accrual" has the meaning given in AS 09.10.070(d);

(2) "health care provider" has the meaning given in AS 18.-23.070;

(3) "professional negligence" means a negligent act or omission by a health care provider in rendering professional services;

1 (4) "professional services" means services provided by a
2 health care provider that are within the scope of services for which
3 the person is licensed, and that are not prohibited under the person's
4 license or by a hospital in which the services are provided.

5 * Sec. 4. AS 09.10.070 is amended to read:

6 Sec. 09.10.070. ACTIONS TO BE BROUGHT IN TWO YEARS. A [NO]
7 person may not bring an action (1) for libel, slander, assault, bat-
8 tery, seduction, or false imprisonment, or for any injury to the
9 person or rights of another not arising on contract and not specif-
0 ically provided otherwise; (2) upon a statute for a forfeiture or
1 penalty to the state; or (3) upon a liability created by statute.
2 other than a penalty or forfeiture; unless commenced within two years
3 of the accrual of the action.

4 * Sec. 5. AS 09.10.070 is amended by adding new subsections to read:

5 (b) Notwithstanding AS 09.10.140, the period of time within
6 which a person may bring an action under (a)(1) of this section may
7 not be extended for a disability described under AS 09.10.140, for
8 more than 20 years after the date of the injury. This subsection does
9 not apply if the injury is caused by an intentional act.

0 (c) The limitation of (a) of this section does not apply to an
1 action described in (a)(1) of this section if the period of limitation
2 imposed under AS 09.10.065 applies, or if a shorter period of time for
3 bringing the action is imposed under another provision of law.

4 (d) In this section, "accrual" means the date that the person
5 discovers or should have discovered the person's right to bring an
6 action.

7 * Sec. 6. AS 09.17.030 is amended to read:

8 Sec. 09.17.030. DAMAGES RESULTING FROM COMMISSION OF A CRIME. A
9 person who suffers personal injury or death may not recover damages

for the personal injury or death if the injuries or death occurred while the person was engaged in the commission of a crime [FELONY], the person has been convicted of the crime [FELONY], including conviction based on a guilty plea or plea of nolo contendere, and the crime [FELONY] substantially contributed to the injury or death. [THIS SECTION DOES NOT AFFECT A RIGHT OF ACTION UNDER 42 U.S.C. 1983.]

* Sec. 7. AS 09.17.030 is amended by adding new subsections to read:

(b) This section does not apply to a person who suffers personal injury or death if the person liable for the damages

(1) was engaged in the commission of a crime at the time the personal injury or death occurred; and

(2) has been convicted of the crime, including conviction based on a guilty plea or plea of nolo contendere.

(c) In this section "crime" has the meaning given in AS 11.81.-900(b).

* Sec. 8. AS 09.17.040(f) is amended to read:

(f) A judgment ordering payment of future damages by periodic payment shall specify the recipient, the dollar amount of the payments, the interval between payments, [AND] the number of payments or the period of time over which payments shall be made, and shall include an amount representing future payments for anticipated inflation. Payments may be modified only in the event of the death of the judgment creditor, in which case payments may not be reduced or terminated, but shall be paid to persons to whom the judgment creditor owed a duty of support, as provided by law, immediately before death. In the event the judgment creditor owed no duty of support to dependents at the time of the judgment creditor's death, the money remaining shall be distributed in accordance with a will of the deceased judgment creditor accepted into probate or under the intestate laws of the

state if the deceased had no will.

* Sec. 9. AS 09.17.050(a) is amended to read:

(a) Unless the act or omission constituted gross negligence, a person may not recover tort damages for personal injury, death, or damage to property for an act or omission to act in the course and scope of official duties, from [ONE OF] the following:

(1) a member of the board of directors or an officer of a nonprofit corporation;

(2) a member of the board of directors of a public or nonprofit hospital, or a member of a citizen's advisory board of any hospital;

(3) a member of a school board of a school district;

(4) a member of the governing body, a commission, or a citizen's advisory committee of a municipality of the state;

(5) a member of the board of directors of an electric or telephone cooperative organized under AS 10.25.

* Sec. 10. AS 09.17.070 is repealed and reenacted to read:

Sec. 09.17.070. COLLATERAL BENEFITS. (a) A party defending against a claim may introduce evidence of amounts received or to be received by the claimant as compensation for the same injury from the following collateral sources:

(1) 42 U.S.C. 301 - 1397 (Social Security Act);

(2) state or federal income disability or worker's compensation benefits;

(3) health, sickness, accident, or income insurance; or

(4) a contract or agreement to pay medical, hospital, dental, or other health care services.

(b) If the party defending against the claim elects to introduce evidence under (a) of this section, the claimant may introduce

evidence of the amount that the claimant has paid or contributed to secure the right to an insurance benefit, contract, or agreement introduced as evidence by the party defending against the claim.

(c) A source of collateral benefits introduced under (a) of this section may not recover from the claimant an amount paid as compensation for the injury, and may not be subrogated to the rights of the claimant against the party defending against the claim.

* Sec 11. AS 09.30.070 is amended by adding a new subsection to read:

(c) Prejudgment interest may not be awarded for future economic or noneconomic damages.

* Sec. 12. AS 21.06.110 is amended to read:

Sec. 21.06.110. DIRECTOR'S ANNUAL REPORT. As early in each calendar year as is reasonably possible the director shall prepare and deliver an annual report to the legislature and the commissioner, showing, with respect to the preceding calendar year,

(1) a list of the authorized insurers transacting insurance in Alaska, with such summary of their financial statement as the director considers appropriate;

(2) the name of each insurer whose business was closed during the year, the cause of the closing, and the amount of ascertainable assets and liabilities of each closed business;

(3) the name of each insurer against which delinquency or similar proceedings were instituted, and a concise statement of the facts with respect to each proceeding and its present status;

(4) a statement in regard to examination of rating organizations, advisory organizations, joint underwriters, and joint reinsurers as required by AS 21.39.120;

(5) the receipts and expenses of the division for the year;

(6) recommendations of the director as to amendments or

supplementation of laws affecting insurance, or the office of director;

(7) other pertinent information and matters the director considers proper;

(8) an analysis of medical malpractice insurance rate changes occurring as a result of court decisions in the state involving personal injury or death;

(9) an analysis of liability insurance claims that were closed following a civil action, that

(A) establishes a statistical data base for comparing the annual percentage change in the number and amount of claims;

(B) determines the number and dollar amount of claims closed, by year incurred; and

(C) compares the percentage change in direct premiums written;

(10) an analysis of changes in the incomes of physicians licensed under AS 08.64 occurring as a result of court decisions in the state involving personal injury or death.

* Sec. 13. AS 09.10.055(b), 09.17.040(c), and AS 09.-55.548 are repealed.

* Sec. 14. REPORT. The Department of Commerce and Economic Development, with the cooperation of all state agencies, shall report to the legislature by the 30th day of the Second Session of the Seventeenth Alaska State Legislature on closed insurance claims and insurance company finances. The report must consist of

(1) a study of closed insurance claims to identify

(A) the extent to which the legal system has or has not been the cause of dramatic liability insurance increases or decreases and coverage reduction in crisis lines in the state;

(B) how victims are faring under the present system;

(C) what the various specific tort reform measures have actually accomplished; and

(D) if the passage of this Act has resulted in a measurable decrease in insurance rates in the state;

(2) a study of insurance company finances to determine the extent to which

(A) dramatic liability insurance rate increases and coverage limitations in the state are, or are not, cost-justified in relation to awards, settlements, and relevant court decisions in the state involving personal injury, death, or property damage based on fault; and

(B) legislative or regulatory actions affecting the tort system in the state are necessary to resolve the state's liability insurance rate increases.

* Sec. 15. AS 09.30.070(c), as added by sec. 11 of this Act, has the effect of amending Alaska Rule of Civil Procedure 68 by providing that prejudgment interest may not be awarded for future economic or noneconomic damages.

* Sec. 16. APPLICABILITY. (a) This Act applies to all causes of action for damages resulting from an act or omission occurring on or after the effective date of this Act.

(b) AS 09.17.070(c), as added by sec. 10 of this Act, applies to a contract or agreement entered into on or after the effective date of this Act.

* Sec. 17. This Act takes effect immediately under AS 01.10.070(c).

6-0628D ✓
Ford
5/8/89

Original sponsors: Cotten, Larson,
Hoffman, et al.

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 166 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to civil actions; amending Alaska
7 Rule of Civil Procedure 68; and providing for an
8 effective date."

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

10 * Section 1. FINDINGS AND PURPOSE. (a) Civil justice in this state
11 has generally been developed by the courts on a case-by-case basis. This
12 process has resulted in some significant changes in the law, and the legis-
13 lature has periodically intervened to bring about needed reforms. The
14 purpose of this Act is to enact further reforms that create a more equita-
15 ble distribution of the cost and risk of injury.

16 (b) The legislature also finds that unnecessarily high malpractice
17 insurance premiums discourage physicians from initiating or continuing
18 their practice or offering needed services to the public. Other profes-
19 sionals, such as architects and engineers, face similar difficult choices,
20 financial instability, and risk in providing services to the public.

21 (c) The legislature also finds that citizens should be encouraged to
22 serve as board members of electric or telephone cooperatives. These orga-
23 nizations serve important governmental functions, and their vitality and
24 effectiveness depend upon the willingness of experienced individuals to
25 seek leadership and decision-making roles within them. Accordingly, these
26 board members should be given some protection from liability arising from
27 an act or omission within the scope of their duties.

28 (d) It is the intent of the legislature to reduce costs associated
29 with the civil justice system, while ensuring that adequate and appropriate

1 compensation for persons injured through the fault of others is available.

2 (e) The legislature wishes to help match losses with compensation by
3 helping to

4 (1) ensure that money paid to an injured person is available
5 when anticipated expenses or losses occur;

6 (2) ensure that a claimant with substantial injury requiring
7 long-term treatment will have money available for future medical care;

8 (3) reduce medical reparation system costs by eliminating those
9 portions of awards that are not needed to compensate the claimant;

10 (4) eliminate duplicate recoveries; and

11 (5) reduce the costs of litigation.

12 (f) The legislature wishes to accumulate additional information about
13 the costs to society of the civil justice, health care, and insurance
14 systems as they are presently constituted. This information is necessary
15 to determine whether the civil justice, health care, and insurance systems
16 as they are presently constituted are fairly serving victims and whether a
17 disproportionate amount of compensation dollars are absorbed by the system.

18 (g) The legislature finds that it is extremely difficult to defend
19 against a claim that has become stale after information and witnesses have
20 disappeared. The legislature finds that on the whole society is better
21 served by a reasonable statute of repose even though in a few limited
22 instances injuries may go without compensation.

23 * Sec. 2. AS 09.10.055(a) is repealed and reenacted to read:

24 (a) Notwithstanding AS 09.10.140, a person may not bring an
25 action for personal injury, death, property damage, or indemnity
26 arising from a deficiency in the construction or the design, planning,
27 supervision, or observation of construction, of an improvement to real
28 property, unless the action is brought within 15 years of the date of
29 substantial completion of the improvement to real property.

1 * Sec. 3. AS 09.10.055(d) is amended to read:

2 (d) The limitation prescribed by this section may [SHALL] not be
3 asserted by way of defense by

4 (1) a person in actual possession or control, as owner,
5 tenant, or otherwise of an improvement at the time a deficiency in an
6 improvement is [CONSTITUTES] the proximate cause of the injury or
7 death; or

8 (2) in an action for damages resulting from the design,
9 planning, supervision, or observation of construction of a facility
10 for the transportation or storage of hazardous materials [FOR WHICH IT
11 IS PROPOSED TO BRING AN ACTION].

12 * Sec. 4. AS 09.10.055(e) is amended to read:

13 (e) In this section,

14 (1) "hazardous materials" means a material or substance
15 that, when it enters into or on the surface or subsurface land, water,
16 or atmosphere of the state, presents an imminent and substantial
17 danger to the public health and welfare; "hazardous substance" in-
18 cludes oil; in this paragraph "oil" has the meaning given in AS 46.-
19 08.900;

20 (2) "person" means an individual, corporation, partnership,
21 business trust, unincorporated organization, association, or joint-
22 stock company.

23 * Sec. 5. AS 09.10 is amended by adding a new section to read:

24 Sec. 09.10.065. LIMITATION ON ACTIONS INVOLVING A PHYSICIAN.

25 (a) Notwithstanding AS 09.10.140, an action based on professional
26 negligence may not be brought against a physician by a person who is,
27 on the date of the alleged negligent act or omission

28 (1) 10 years of age or older, unless the action is brought
29 within five years of the date of injury;

1 (2) less than 10 years of age, unless the action is brought
2 within five years of the date of injury, or before the person's 12th
3 birthday, whichever period is longer.

4 (b) The limitation imposed under (a) of this section is tolled
5 during any period in which there exists

6 (1) fraud, including fraud or collusion by a parent, guard-
7 ian, insurer, or physician, resulting in the failure to bring on
8 action on behalf of an injured minor;

9 (2) intentional concealment; or

10 (3) the undiscovered presence of a foreign body, that has
11 no therapeutic or diagnostic purpose or effect, in the body of the
12 injured person and the action is based on the presence of the foreign
13 body.

14 (c) In this section,

15 (1) "physician" means a person licensed under AS 08.64;

16 (2) "professional negligence" means a negligent act or
17 omission by a physician in rendering professional services;

18 (3) "professional services" means services provided by a
19 physician that are within the scope of services for which the physi-
20 cian is licensed, and that are not prohibited under the physician's
21 license or by a hospital in which the physician practices.

22 * Sec. 6. AS 09.10.070 is amended to read:

23 Sec. 09.10.070. ACTIONS TO BE BROUGHT IN TWO YEARS. A [NO]
24 person may not bring an action (1) for libel, slander, assault, bat-
25 tery, seduction, or false imprisonment, or for any injury to the
26 person or rights of another not arising on contract and not specif-
27 ically provided otherwise; (2) upon a statute for a forfeiture or
28 penalty to the state; or (3) upon a liability created by statute,
29 other than a penalty or forfeiture; unless commenced within two years

1 of the accrual of the action.

2 * Sec. 7. AS 09.10.070 is amended by adding new subsections to read:

3 (b) Notwithstanding AS 09.10.140, the period of time within
4 which a person may bring an action under (a)(1) of this section may
5 not be extended for a disability described under AS 09.10.140, for
6 more than 20 years after the date of the injury. This subsection does
7 not apply if the injury is caused by an intentional act.

8 (c) The limitation of (a) of this section does not apply to an
9 action described in (a)(1) of this section if the period of limitation
10 imposed under AS 09.10.065 applies, or if a shorter period of time for
11 bringing the action is imposed under another provision of law.

12 (d) In this section, "accrual" means the date that the person
13 discovers or should have discovered the person's right to bring an
14 action.

15 * Sec. 8. AS 09.17.040(f) is amended to read:

16 (f) A judgment ordering payment of future damages by periodic
17 payment shall specify the recipient, the dollar amount of the pay-
18 ments, the interval between payments, [AND] the number of payments or
19 the period of time over which payments shall be made, and shall in-
20 clude an amount representing future payments for anticipated infla-
21 tion. Payments may be modified only in the event of the death of the
22 judgment creditor, in which case payments may not be reduced or termi-
23 nated, but shall be paid to persons to whom the judgment creditor owed
24 a duty of support, as provided by law, immediately before death. In
25 the event the judgment creditor owed no duty of support to dependents
26 at the time of the judgment creditor's death, the money remaining
27 shall be distributed in accordance with a will of the deceased judg-
28 ment creditor accepted into probate or under the intestate laws of the
29 state if the deceased had no will.

1 * Sec. 9. AS 09.17.050(a) is amended to read:

2 (a) Unless the act or omission constituted gross negligence, a
3 person may not recover tort damages for personal injury, death, or
4 damage to property for an act or omission to act in the course and
5 scope of official duties, from [ONE OF] the following:

6 (1) a member of the board of directors or an officer of a
7 nonprofit corporation;

8 (2) a member of the board of directors of a public or
9 nonprofit hospital, or a member of a citizen's advisory board of any
10 hospital;

11 (3) a member of a school board of a school district;

12 (4) a member of the governing body, a commission, or a
13 citizen's advisory committee of a municipality of the state;

14 (5) a member of the board of directors of an electric or
15 telephone cooperative organized under AS 10.25.

16 * Sec. 10. AS 09.17.070 is repealed and reenacted to read:

17 Sec. 09.17.070. COLLATERAL BENEFITS. (a) A party defending
18 against a claim may introduce evidence of amounts received or to be
19 received by the claimant as compensation for the same injury from the
20 following collateral sources:

21 (1) 42 U.S.C. 301 - 1397 (Social Security Act);

22 (2) state or federal income disability or worker's compen-
23 sation benefits;

24 (3) health, sickness, accident, or income insurance; or

25 (4) a contract or agreement to pay medical, hospital,
26 dental, or other health care services.

27 (b) If the party defending against the claim elects to introduce
28 evidence under (a) of this section, the claimant may introduce evi-
29 dence of the amount that the claimant has

1 (1) incurred in actual attorney fees in pursuing the civil
2 action; and

3 (2) paid or contributed to secure the right to an insurance
4 benefit, contract, or agreement introduced as evidence by the party
5 defending against the claim.

6 (c) A source of collateral benefits introduced under (a) of this
7 section may not recover from the claimant an amount paid as compen-
8 sation for the injury, and may not be subrogated to the rights of the
9 claimant against the party defending against the claim.

10 * Sec. 11. AS 09.30.070 is amended by adding a new subsection to read:

11 (c) Prejudgment interest may not be awarded for future economic
12 or noneconomic damages.

13 * Sec. 12. AS 21.06.110 is amended to read:

14 Sec. 21.06.110. DIRECTOR'S ANNUAL REPORT. As early in each
15 calendar year as is reasonably possible the director shall prepare and
16 deliver an annual report to the legislature and the commissioner,
17 showing, with respect to the preceding calendar year,

18 (1) a list of the authorized insurers transacting insurance
19 in Alaska, with such summary of their financial statement as the
20 director considers appropriate;

21 (2) the name of each insurer whose business was closed
22 during the year, the cause of the closing, and the amount of ascer-
23 tainable assets and liabilities of each closed business;

24 (3) the name of each insurer against which delinquency or
25 similar proceedings were instituted, and a concise statement of the
26 facts with respect to each proceeding and its present status;

27 (4) a statement in regard to examination of rating organi-
28 zations, advisory organizations, joint underwriters, and joint rein-
29 surers as required by AS 21.39.120;

1 (5) the receipts and expenses of the division for the year;

2 (6) recommendations of the director as to amendments or
3 supplementation of laws affecting insurance, or the office of direc-
4 tor;

5 (7) other pertinent information and matters the director
6 considers proper;

7 (8) an analysis of medical malpractice insurance rate
8 changes occurring as a result of court decisions in the state involv-
9 ing personal injury or death;

10 (9) an analysis of liability insurance claims that were
11 closed following a civil action, that

12 (A) establishes a statistical data base for comparing
13 the annual percentage change in the number and amount of claims;

14 (B) determines the number and dollar amount of claims
15 closed, by year incurred; and

16 (C) compares the percentage change in direct premiums
17 written;

18 (10) an analysis of changes in the incomes of physicians
19 licensed under AS 08.64 occurring as a result of court decisions in
20 the state involving personal injury or death.

21 * Sec. 13. AS 09.10.055(b), 09.17.040(c), and AS 09.55.548 are
22 repealed.

23 * Sec. 14. REPORT. The Department of Commerce and Economic Develop-
24 ment, with the cooperation of all state agencies, shall report to the
25 legislature by the 30th day of the Second Session of the Seventeenth Alaska
26 State Legislature on closed insurance claims and insurance company fi-
27 nances. The report must consist of

28 (1) a study of closed insurance claims to identify

29 (A) the extent to which the legal system has or has not

1 been the cause of dramatic liability insurance increases or decreases
2 and coverage reduction in crisis lines in the state;

3 (B) how victims are faring under the present system;

4 (C) what the various specific tort reform measures have
5 actually accomplished; and

6 (D) if the passage of this Act has resulted in a measurable
7 decrease in insurance rates in the state;

8 (2) a study of insurance company finances to determine the
9 extent to which

10 (A) dramatic liability insurance rate increases and cover-
11 age limitations in the state are, or are not, cost-justified in re-
12 lation to awards, settlements, and relevant court decisions in the
13 state involving personal injury, death, or property damage based on
14 fault; and

15 (B) legislative or regulatory actions affecting the tort
16 system in the state are necessary to resolve the state's liability
17 insurance rate increases.

18 * Sec. 15. AS 09.30.070(c), as added by sec. 11 of this Act, has the
19 effect of amending Alaska Rule of Civil Procedure 68 by providing that
20 prejudgment interest may not be awarded for future economic or noneconomic
21 damages.

22 * Sec. 16. APPLICABILITY. (a) This Act applies to all causes of
23 action for damages resulting from an act or omission occurring on or after
24 the effective date of this Act.

25 (b) AS 09.17.070(c), as added by sec. 10 of this Act, applies to a
26 contract or agreement entered into on or after the effective date of this
27 Act.

28 * Sec. 17. This Act takes effect immediately under AS 01.10.070(c).
29

3-16-89

3:00 Work session

Donley ✓ Spohnholz ✓ Collins ✓
Bruckberg ✓ Boucher ✓ Leman ✓
Boyer ✓

Rep Pettijohn Rep Cotton

Sept 27 Side A HB 166 Tort Reform
000

Jan Cotton Intro HB166

AK Statute of Repose negated because
not broad enough.

363

450 Tina Tomson Physician from Anch. Support
HB 166

456 Art Silgner Family Physician Support
534 HB 166

Support 535 Vivia Haneman esp AK Society of Prof Engineer
577

Support 579 Charli Arons Family Physician
619 act Liability of Hosp. for non-employees

Support 621 Steve Smith Pres. Alaska Air Carriers Assoc.
625

Side B 000 }
+0
033

Support

040 Karen Johnson Sisters of Providence

~~HB 164~~

204

'65 Roger Holmes Corp. Secretary Medical Endowment Corp

206

Roland Sawyer General Surgeon, Auck.

~~304~~

Oppose

HB 166

AW Gross AK Trial Lawyers

305

Sectional Analysis

Bill is Not about Lawyer Its about Injured People

672 end tape 27 Side B

Tape #28

Side A 000 - 271

AW Gross

293

Roger Holmes

Major Corp would be impacted by reducing litigation

442

Hold HB 41 Tell Sue.

HB 155

"

"

Bi-annual Renewals

D - Fees set by regulations?

Burns - Yes

Burns Currently not able to collect all the fees now.

Burns Going to General Fund.

100 - Bi-Annual Vets
400 - Drs.

Donley: Put a packet together for Committee

Collins: rec'd complaints about how the Bd acts.
Power Grabbing

D - Hold Bill

D - Hold HB 41 till 3-23-89

238 Collins - Move 41 w/ Indiv Rec.

obj

250 - Teleconference Worksession
HB 166

Bernard Kelly
Attorney from Anek.

Spoke
Against
HB 166
3/21/89

413
Boyer

439
Brennberg

490
Leman

514
Cotton

551

Dr. McGuire Orthopedic Surgeon
Statute of Limitations

Page # Side B
000 -

000
Dr. McGuire Foreign Body
Fraudulent Concealment

239
Concerns
w/ HB 144 Hall

sect. 2 2 yrs. of repose
Nalcon Shield
Drug DES
Airplanes (older)

sect 4 2 yr. limits for minors
sect 15 Wrongful Death - CAP
sect 21 Report

363 Collins

392 - Mr. Rogusca

448 - Mike Flannigan Attorney

587 - ~~Mr. Schneider~~ Mr. Schneider Attorney
- CAP - for not dependent

640 - Mr. Paul Coston Attorney

664

Tape # Side A

000 Paul Coston

128 - Mr. Bowman Dir of Intrest Group

245 - Margaret Wolf - Midtown Day Care

★ Justice vs. Humane

292 - Mr. Tinaggi Natl Structure
376 Settlements & Trade
Assoc.

380 Mtg Adjourned @ 5:20

* DELIVER TO: LIOCJOA *
* ORIGINAL *
* SENT: 30/03/89 TIME: 15:42 *
* FROM: LIOCINE *
* SUBJECT: (H)L&C;TORTE;3-30;ANC;PL#1 *
* PRINT DATE: 30/03/89 TIME: 15:42 *
* *

*** ANCHORAGE PARTICIPANT LIST ***

TO: ALL TELECONFERENCE SITES
FROM: INEZ ----> ANCHORAGE

DATE: __MARCH 30, 1989_____
TC #: __89-03-094_____
SPONSOR: __HOUSE LABOR AND COMMERCE_____
SUBJECT: __HB 166 - CIVIL LIABILITY_____

TO TESTIFY:

- ✓ 1.) BOB NESTEL
- ✓ 2.) FRANK THOMAS-MEARS
- ✓ 3.) DENNIS BOOKEY
- ✓ 4.) PEGGY BRADLEY
- 5.)
- 6.)

TO OBSERVE:

- 1.) DICK CATTANACH
- 2.) EARLENE CARESS
- 3.) GAIL GATTON
- 4.) SUZANNE BROWN
- 5.)
- 6.)

EMAIL ADDRESS IS: LIOCINE
BACKUP NUMBER IS: 561-1199

EOM IW



Representative Dave Donley, Chair House Labor & Commerce Committee

SUBJECT OF MEETING:
HB 166
SB 149

DATE: 3-23-89

PLACE: #17

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Mack Bazel	Sen. Roddy	-		-	-	(Y) N	If needed SB 149
Willis Kirkpatrick	Div Banking					(Y) N	If Needed SB 149
Harvey Sullivan	NFIB	430 'C' St #201 Anch 99501		226-2246		(Y) N	SB 166
Bob Kertel	AGS	Box K Juneau		465 3771		Y N	If needed HB 166
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	



Representative Dave Donley, Chair

House Labor & Commerce Committee

DATE: 3-30-89

PLACE: C-17

SUBJECT OF MEETING:
 HJR 37 HB 155
 HCR 2 HB 166
 HB 72

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Paula Halley	State Comm for Human Rights	800 "A" St. - Suite 202 Anchorage AK 99501 →		907 272-8106	907 272-7674	(Y) N	HB 155
Tom Lawson	DCED Indemnity	PO Box 0 Juneau	99801		465-2017	(Y) N	HCR 2
Mary Pierce	WICHA Corp	4000 Old Seward Hwy Suite 203 Anchorage AK	99503	907 563-3414	N/C	Y (N)	
DAVID JOHNSON	ASMA	3012 Tongass Ave Ketchikan AK	99901	907 225-6396	907 225-5149	Y (N)	HB 166
Ben Kertel	ALCO	Box K Juneau	99801	3600 →		Y (N)	HB 166
Dave Alexander	ASMA	9601 Prospect Anchorage AK	99576	562-2423 →		Y (N)	HB 166
Patrick Brady	ASMA	2150 Belmont Dr Anchorage	99517	258-3200	561-1363	Y (N)	166
Maie Kaplan	APRN	4640 Old Seward Ave, 99503		503 7733		(Y) N	
						Y N	
						Y N	
						Y N	

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*****
*
* DELIVER TO: LIOCMAB
*
* ORIGINAL
* SENT: 04/01/89 TIME: 09:36
* FROM: LIOCMAT
* SUBJECT: PART LIST
* PRINT DATE: 04/01/89 TIME: 09:36
*
*****

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T/C NO: 89-03--73
DATE: 4/01/89
SPONSOR: HOUSE L&C
SUBJECT: CIVIL LIABILITY
MODERATOR: JODI
SITE: MATSU

FINAL STATS

TESTIFIED

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1. ✓ DANA OLSON	HC30 BOX 5438, WASILLA	99687 373-4612	
2.			
3.			
4.			
5.			

OBSERVED

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1.			
2.			
3.			
4.			
5.			

 *
 * DELIVER TO: LIOCMAR
 *
 * ORIGINAL
 * SENT: 04/01/89 TIME: 09:49
 * FROM: LIOCKOD
 * SUBJECT: H.L&C; PL#2; HB 166; 4-1-89
 * PRINT DATE: 04/01/89 TIME: 09:49
 *

T/C NO: 89-03-073
 DATE: SATURDAY, APRIL 1, 1989
 SPONSOR: HOUSE LABOR AND COMMERCE COMMITTEE
 SUBJECT: HB 166 - CIVIL LIABILITY
 MODERATOR: TINA WITTEVEEN
 SITE: KODIAK L.I.O.

*needs resources
 referral*
*• pollution recovery
 limited by value of
 ship*

PARTICIPANT LIST #2

*attorney
 Maritime Law*

 TESTIFIED

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
✓ 1. GERALD MARKHAM	BOX 806, KODIAK 99615	486-4194	HB 166
2. DON WEE	1915 E. REZANOF, KODIAK	486-3201	HB 166
3.			
4.			
5.			

 OBSERVED

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1.			
2.			
3.			
4.			

5.

TESTIFIED:
 UNABLE:
 OBSERVED:
 TOTAL:

START TIME: 9:35 AM END TIME:

LEGISLATIVE TELECONFERENCE NETWORK



SIGN-IN SHEET

SPONSOR:

Harbor & Commerce

SUBJECT:

Crab? Stability

START/END TIME:

9:30 - 12:00

DATE:

April 11

PLEASE PRINT

	NAME/REPRESENTING	ADDRESS	PHONE #	TESTIFY	OBSERVE	BILL #
1	DYANE HEYMAN ANCHORAGE CHAMBER OF COMM.	437 E. ST. SUITE 300 ANCHORAGE, AK 99501	272-2401	X		
2	Reynard Harkitt	P.O. Box 10-484 ANCHORAGE 99511		X		
3	DANIE PARKHURST	5450 LINDSEY CIR ANCHORAGE AK 99508	333-1500	X		
4	Dolores Roguska	P.O. Box 100558 Anchorage AK 99510	346-1017		X	166
5	JEFFE ROGUSKA	P.O. Box 100558 ANCHORAGE 99510				✓
6	DAN ROWLEY	2550 DENALI ST. JUPITER ANCHORAGE AK 99503	278-2549	✓		
7	John Gruffenden	2451 Sporn Lane ANCHORAGE AK 99517	243-378	✓		160
8	Mossy Hollowell / Yoka Eg	2020 E. 3rd Ave, Anchorage AK. 99501	277-9571	✓		166
9	JOHN ROSS	12840 Jeanne Rd. Anchorage AK 99516	345-2990	X		166
10	Chen Jacobs	3739 LOCARNE DR ANCHORAGE AK 99508	561-8251	X		
11	MIKEL SCHNEIDER	880 N ST #302 ANCHORAGE AK 99501	277-4551		✓	
12	Howard Thomas	2611 Brittany Drive Anchorage AK 99504	333-9101	✓		166
13	AL THOMAS	7001 ORTUARD DR ANCHORAGE AK	344-7736	✓		
14	M. Ed Meyl	5800 Lyndale Rd Anchorage AK 99508	565-6597		✓	166
15	Randall Weiker	215 Christopherson Dr Anchorage AK 99501	276-4244	✓		
16						
17						
18						

LEGISLATIVE TELECONFERENCE NETWORK



SIGN-IN SHEET



SPONSOR: _____

SUBJECT: _____

START/END TIME: _____ DATE: _____

PLEASE PRINT

	NAME/REPRESENTING	ADDRESS	PHONE #	TESTIFY	OBSERVE	BILL #
1	Terrie Gottstein	6201 West Tree Dr	346-3764	✓		
2	JOEL CHAMBERLAIN Joel Chamberlain	ANCH. 3031 BROOKVIEW ST	276-0900	✓		
3	John Crutcher					
4	Nancy Sheik	P.O. Box 773555 ER AK	694-1398	✓		
5	Karen Winsen	2618 Glenwood	261-3101		✓	
6	ALAN CORTELL	3013 CORTWOOD	279-3987	✓		
7	Gail Gatton	540 L St Suite 102	258-4040		✓	
8						
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18						

CORRECTION

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

LEGISLATIVE TELECONFERENCE NETWORK



SIGN-IN SHEET

SPONSOR: _____

SUBJECT: _____

START/END TIME: _____ DATE: _____

PLEASE PRINT

	NAME/REPRESENTING	ADDRESS	PHONE #	TESTIFY	OBSERVE	BILL #
1	Terrie Gottstein	6201 West Tree Dr	346-3764	✓		
2	DEL CHAMBERLAIN Joe Chamberlain	ANCH. 3031 BROOKVIEW ST	276-0900	✓		
3	John C. Henderson					
4	Nancy Sheik	P.O. Box 773555 ER AK	694-1318	✓		
5	Karen Johnson	2618 Glenwood	261-3101		✓	
6	ALAN CORTELL	3013 COTTAGEWOOD	279-3987	✓		
7	Gail Gatton	540 L St, Suite 102	258-4040		✓	
8						
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18						

 *
 * DELIVER TO: LIOCROG
 *
 * ORIGINAL
 * SENT: 04/03/89 TIME: 15:21
 * FROM: LIOCINE
 * SUBJECT: (H)L&C; HB166; 4-3; ANC; PL#2
 * PRINT DATE: 04/03/89 TIME: 15:21
 *

*** ANCHORAGE PARTICIPANT LIST ***

TO: ALL TELECONFERENCE SITES
 FROM: INEZ ----> ANCHORAGE
 DATE: APRIL 3, 1989
 TC #: 89-03-143
 SPONSOR: HOUSE LABOR AND COMMERCE
 SUBJECT: HB 166 - CIVIL LIABILITY

TO TESTIFY:

1.) DR. C.J. LITTLE HB 166

10% of 20 baby docs in Anchorage uninsured

2.) DR. T.R. TOMSEN HB 166
 3.) A.N. CORTHELL HB 166
 4.) DR. J.S. SPENCER HB 166
 5.) DR. JEFFERY LAWERENCE HB 166
 6.)

Architect
His costs 1/3 of total cost

TO OBSERVE:

1.) GAIL GATTON
 2.) KAARON JOHNSON
 3.) MR. GENE ROGUSZKA
 4.)
 5.)
 6.)

Bethel
 Donna Chris Health Center

EMAIL ADDRESS IS: LIOCINE
 BACKLIP NUMBER IS: 561-1199

TELECONFERENCE PARTICIPATION

SPONSOR H LTC

DATE/TIME _____

SUBJECT HB146

LIO'S

(moderator)

	TESTIFY	OBSERVE	TESTIFY	OBSERVE
ANCHORAGE ()	Dr. C.J. Little Dr. T.R. Thomson Dr. A.N. Carthell		PETERSBURG *	
BARROW *			SITKA	
BETHEL ()	1 to observe testify Donna Chris		SOLDOTNA	
DELTA JUNCTION *			VALDEZ *	
DILLINGHAM *			LTC'S	
FAIRBANKS (Annex)	1 to observe (MAY WANT to testify) Marlene Leak		HOMER	
GLENNALLEN *			WRANGELL	
JUNEAU			OFFNETS	operating Co of METCO
KETCHIKAN			OFF1	William Sheuber, Pres Steve Stimel, claims mgr. Ron Newpaur, underwriter VP
KODIAK			OFF2	
KOTZEBUE			OFF3	
MAT-SU			OFF4	
NOME			OFF5	
			OFF6	

VTS'S ON BACK

* SESSION ONLY



Representative Dave Donley, Chair House Labor & Commerce Committee

SUBJECT OF MEETING:
WORKSESSION
HB 166

DATE: *4-3-89*

PLACE: *C-17*

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
<i>Dan Hensley</i>	<i>Alaska Action Trust</i>	<i>1015 W 7th</i>	<i>9950</i>	<i>2777354</i>	<i>2761191</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
						<input type="checkbox"/>	<input type="checkbox"/>	
						<input type="checkbox"/>	<input type="checkbox"/>	
						<input type="checkbox"/>	<input type="checkbox"/>	
						<input type="checkbox"/>	<input type="checkbox"/>	
						<input type="checkbox"/>	<input type="checkbox"/>	
						<input type="checkbox"/>	<input type="checkbox"/>	
						<input type="checkbox"/>	<input type="checkbox"/>	
						<input type="checkbox"/>	<input type="checkbox"/>	
						<input type="checkbox"/>	<input type="checkbox"/>	
						<input type="checkbox"/>	<input type="checkbox"/>	



Representative Dave Donley, Chair House Labor & Commerce Committee

SUBJECT OF MEETING:
 HB 166 HB 155
 HB 92
 HB 72

DATE: 4-4-89

PLACE: C-17

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
GORDON EVANS	HIAA	318 4TH ST., JUNEAU	99801		586-3210	(Y) N	HB 92
MIKE COUGHLIN	RET/BEN	P.O. BOX CR JUNEAU 99811		4	465-4470	Y N	HB 92 IF NEEDED
Paul Roller	D.I.O.I.	Powh D Juneau			465-2575	(Y) N	HB 92
Kip Leach	Dept Admin				465-4430	(Y) N	HB - 155
Dennis Scholl, PhD	ALASKA MENTAL HEALTH BOARD	419 6th St, Suite 124 Juneau, AK 99801 →			465-3071	(Y) N	HB - 92
CONNIE J. SIPE	OAC				5-350	Y N	To answer questions/observe HB 155
Mary Piere	MICA	4000 Old Seward Anch AK 99503			563-3414	(Y) N	HB-166
Clark Lruening	APA	217 Second Street Suite 204 Juneau				(Y) N	if time
Ben Hertel	AGO	Juneau				Y (N)	HB-166
						Y N	
						Y N	



Representative Dave Donley, Chair House Labor & Commerce Committee

DATE: 4-6-89

PLACE: C#17

SUBJECT OF MEETING:

HB 155 HB 72
HB 235 HB 166

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
John Manning	HSS	Box H-066 Laramie	99811		465-23027	Y <input checked="" type="checkbox"/>	
Kim Furr	MICA	10301 Glacial Hwy JUNEAU	99801	789-0631	789-2910	<input checked="" type="checkbox"/> N	HB 166
Beth Kettula	AG's	AGO				Y <input checked="" type="checkbox"/> N	HB 166
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	

TO: Colette Jensen - Rep. Donley

Office - (907) 581-7007

Fax - (907) 582-4378

FROM: Inez - Donley

PHONE: 465-3892

INSTRUCTIONS: Please call her & let her know it's arrived.

PHONE: 501-7007

RECEIVED:

Date

Date 4-11-89

Time

Time 9:40A

DISPOSAL OF ORIGINAL:

Discard

Hold for Pickup

NUMBER OF PAGES: 2

SENT BY: Inez

(counting cover sheet)

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CORRECTION

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TO ASSURE LEGIBILITY**



Representative Dave Donley, Chair House Labor & Commerce Committee

DATE: 4-6-89

PLACE: C#17

SUBJECT OF MEETING:
 HB 155 HB 72
 HB 235 HB 166

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
John Manning	HSS	Box H-060 Juneau	99811		465-3027	Y <input checked="" type="checkbox"/>	
Kim Smith	MICA	10301 Glacier Hwy JUNEAU	99801	789-0631	789-2910	<input checked="" type="checkbox"/> N	HB 166
Beth Kestula	AG's	AGO				Y <input checked="" type="checkbox"/> N	HB 166
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	

TELECOPY COVER SHEET

Anchorage Legislative Information Office

Office - (907) 561-7007

Fax - (907) 562-4376

TO: Colette Jensen - Rep. Donley FAX: _____ PHONE: 465-3892

FROM: Jnez - Anch LIO PHONE: 561-7007

INSTRUCTIONS: please call her & let her
know it's arrived.

RECEIVED: Date _____ Time _____

SENT: Date 4-11-89 Time 9:40A

DISPOSAL OF ORIGINAL: Discard _____ Hold for Pickup X

NUMBER OF PAGES: 2 (counting cover sheet)

SENT BY: Jnez

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*
* DELIVER TO: LIOCMAB
*
* ORIGINAL
* SENT: 04/08/89 TIME: 11:39
* SUBJECT: FS(H)L+C;HB166;4-8;ANCH
* PRINT DATE: 04/08/89 TIME: 11:39
*
*****

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ANCHORAGE FINAL STATS

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DATE: _____ APRIL 8, 1989 _____
SITE: _____ ANCHORAGE, ALASKA _____
SPONSOR: _____ HOUSE LABOR AND COMMERCE COMMITTEE _____
SUBJECT: _____ HB 166, CIVIL LIABILITY _____
MODERATOR: _____ MARYANN _____
TELECONFERENCE NO. 89-03-092 _____

```

TESTIFIED:

NAME\REPRESENTING:	ADDRESS	PHONE
ROGER HOLMES,	705 CHRISTENSEN,	ANCH 99501 277-8564
STEVE VAN GOOR, AK BAR ASSOC.,	310 K ST., #602	ANCH 99501 272-7469

OBSERVED:

NAME\REPRESENTING	ADDRESS	PHONE #
BOB NESTEL,	16810 EASY ST. #2 EAGLE RIVER	99577 694-4372
GENE ROGUSZKA,	BOX 100558 ANCH	99510 346-1017

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TESTIFIED:  ___2___
OBSERVED:  ___2___
TOTAL:     ___4___

START TIME:  ___10:00AM
END TIME:    _____

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Representative Dave Donley, Chair House Labor & Commerce Committee

DATE: 4-8-89

PLACE: C#17

SUBJECT OF MEETING:

HB 166

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Paul Cossman	Alaska Academy of Trial Lawyers	12601 Atherton Anchorage	99516		276-3188	<input checked="" type="radio"/>	N	request permission to testify at end of hrg. toward
CHARLES W. COE	" "	814 W 2nd ANCHORAGE AK	99504		276-7166	Y	N	same as Paul
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	



Representative Dave Donley, Chair House Labor & Commerce Committee

DATE: 4-11-89

PLACE: CH17

SUBJECT OF MEETING:
HB92
HJR40
HB166 - Hospital Liability for
Actions of Non-employees

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
✓ William G. Brock	MICA	P.O. Box 20709 Juneau, AK	99802	586-3763	586-3656	(Y) N	HJR 40
✓ PAUL ROLLER	D.O.I.	Pouch D Juneau		465-2515	→	(Y) N	- - -
✓ HARLAN KNUDSON	Health Assn.	319 Seward #11	99501		586-1777	(Y) N	HB166
Beth Kertule	AGO	Box K mo	99501			Y (N)	HB 166
✓ PAUL CROSBY	Health Assn	Juneau				(Y) N	HB 166
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	