

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672  
6405 SENATE LABOR & COMMERCE

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3                   RESPONSE TO AUDIT COMMITTEE REPORT ON  
4                   DEREGULATION OF REFUSE UTILITIES

5           In its recent report, the audit committee has concluded that  
6 refuse utilities should be deregulated because the cost of reg-  
7 ulating refuse collection and disposal exceeds the benefits of  
8 such regulation. This conclusion is not supported by the facts  
9 and realities of refuse collection and disposal.

10           The public wants the safest, and most healthful, economical,  
11 efficient, inexpensive and environmentally desirable garbage  
12 collection and disposal system available. Competition is not the  
13 best way to insure these benefits. Normally, in the general  
14 market arena, the competitive model will produce these benefits  
15 with elementary levels of regulation. This however is not the  
16 case with garbage collection and disposal. Free competition in  
17 the refuse industry is not in the public interest because of the  
18 substance and nature of garbage itself and because of the nature  
19 of the service involved.

20           The audit committee quickly acknowledges some of the nega-  
21 tive effects of open competition in the refuse indus-  
22 try--increased truck traffic, frequent refuse pick-ups in res-  
23 idential neighborhoods, and consistency problems. In so briefly  
24 summarizing and dismissing these negative effects, the committee  
25 both avoids facing the nature and extent of the problems and  
26 neglects to consider a number of other consequences to the public  
27 convenience and necessity. In addition, the committee mischarac-  
28 terizes and ignores the APUC's recent experiments in deregulation

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2 in the Matanuska-Susitna Valley and draws a number of other  
3 inaccurate conclusions about the larger system of regulation.  
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5 Deregulation of refuse carriers certainly will result in  
6 increased refuse truck traffic in both commercial and residential  
7 neighborhoods. Frequent refuse pick-ups by a number of carriers,  
8 a necessary consequence of deregulation, will also mean that  
9 unsightly refuse will be placed on curbs on a daily basis, as  
10 individual haulers set their own pick up schedules. Both of  
11 these consequences will have serious effects on the public health  
12 and safety over the entire service area. The noise and dangers  
13 associated with large trucks in residential streets need no  
14 elaboration. The presence of trash awaiting pick up on each day  
15 of the week increases the possibility of spillage and scattering  
16 by dogs and due to a variety of other circumstances. Addition-  
17 ally, in the event of spillage from trucks, it would be impossi-  
18 ble to determine who among a number of carriers was responsible  
19 for the spillage. It would be even more difficult to require  
20 somebody to pick it up.

21 Deregulation will lead to a number of other adverse impacts.

22 Initially, increased competition among refuse haulers for  
23 business would lead to a constant door-to-door and mail sollicita-  
24 tion of residents for their business by refuse carriers attempt-  
25 ing to gain a sufficient number of customers to make service  
26 economical. This sollicitation would be a on-going concern as  
27 carriers entered and left the market.  
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There are few natural barriers to entry into the refuse business. All it takes is a pick-up truck and little muscle. If the industry is deregulated, entry will be further facilitated and the business will attract entrants that may have nothing else to do at the moment and who possess little or no business knowledge. These entrants will last only long enough to gather a few customers and to find out that they are losing money. At the same time, they will quickly learn that the way to success, if at all possible, is to attract a lot of customers with low rates and speedily collect and dispose of the garbage. Under such pressures, utilities will have no incentive, or time to recycle or compact material to save landfill area. Spillages are not cleaned up, and the competitor believes he will not get caught because so many competitors serve the same areas.

Ease of entry under a deregulated scenario would also mean there is little incentive for any of the competitors to have anything more than the absolute minimum investment in equipment and maintenance. Furthermore, there would be little incentive to buy expensive, high-technology equipment that is far more efficient, sanitary, and safe than a broken down old garbage truck or pick-up. Thus, better collection technology does not automatically translate into a more desirable competitive position. In simple terms, competition would tend to drive better equipment out of the market, since a utility owner could not be assured that his investment in such environmentally desirable, safe, and sophisticated equipment could be paid for over time. Such

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3 equipment requires all the customers a utility can get, and open  
4 competition would spread such customers out among a number of  
5 competitors.

6 Deregulation means that not only that anyone can begin a  
7 refuse collection and disposal business but also that refuse  
8 utilities can as easily go out of business. Most of the competi-  
9 tors that started competing with Alma Corporation and WRI in the  
10 Mat-Su Borough no longer exist. Under deregulation, people who  
11 have lost service may find it inconvenient to locate a new carri-  
12 er willing to serve them. Another and more significant conse-  
13 quence is that as deregulation continues and new competitors keep  
14 entering and leaving a service area, customers grow tired with  
15 the sporadic service, lose faith altogether in the system, and  
16 begin using the free transfer sites. This change-over from  
17 reliance upon refuse carriers to use of the free transfer sites  
18 undermines the stability of the remaining utilities and  
19 over-burdens the transfer sites.

20 There are no real benefits to be associated with competition  
21 in the refuse industry. The committee appears to believe that  
22 competition will lower rates. This reasoning is defective.  
23 Especially in a market in which haulers come and go freely,  
24 without regulation, customers quickly come to realize that the  
25 most important thing is that refuse be collected weekly without  
26 interruption. Customers are willing to pay slightly more for  
27 this level of service. Thus, while rates in freely competitive  
28 markets may move lower at first, they will stabilize and then

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3 rise as customers develop loyalty to the stronger competitor, and  
4 as that competitor captures a larger market share and raises its  
5 rates to cover his costs of competition, past losses, purchasing  
6 other competitors, and the lost returns he failed to realize  
7 during the competitive battle. The end result of free competi-  
8 tion in the refuse industry is that sooner or later, the strong-  
9 est competitor has most if not all of the business with no rate  
10 or service regulation. The APUC's experience in the Mat-Su  
11 Valley illustrates these principles. The competitive model has  
12 not worked there. Those competitors that charged less than the  
13 rate that was required to earn a reasonable return are no longer  
14 in business and appear to have stayed in business for a short  
15 period of time.

16 The audit committee also bases its conclusion on its percep-  
17 tion that the APUC is spending an excessive amount of time of  
18 regulating refuse utilities. As the attached charts demonstrate,  
19 the APUC is spending limited time on refuse matters. In brief  
20 summary, between January 1, 1983 and December 31, 1988, APUC  
21 Commissioners and Hearing Officers spent 142 hearing hours on  
22 certification matters and 37 hearing hours on rate hours. These  
23 figures hardly constitute an excessive amount of time for the  
24 regulation of refuse utilities.

25 Finally, recommending that the APUC no longer regulate  
26 refuse carriers, the audit committee relies on local regulation  
27 of the refuse industry by municipalities. This local regulation  
28 simply does not exist. As a practical matter, local communities

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3 are not taking responsibility for health and sanitation issues  
4 connected with the refuse industry, nor is the Department of  
5 Environmental Conservation. Even were these entities to take  
6 such responsibility, implementing such regulations would be  
7 costly regardless of the method chosen.

8 If the municipality decides to engage in competitive con-  
9 tracting for the collection and disposal of refuse, it will need  
10 personnel to write, let, manage, and oversee those contracts.  
11 The municipality would need appropriate expertise to evaluate  
12 requests for rate increases and would be taking on considerable  
13 potential liability for the improper disposal of hazardous wastes  
14 handled by those contractors.

15 If the municipality decided to regulate on a franchise  
16 basis, the municipality would still need to develop the certi-  
17 fication, rate regulation, and service regulation expertise  
18 possessed by the APUC.

19 If the municipality decided simply to open its area to  
20 unregulated competition, it would need to develop environmental  
21 safety standards. This process would become substantially more  
22 expensive as the number of refuse carriers increased in the  
23 municipal area.

24 Regardless of the form of regulation adopted by a municipal-  
25 ity, the result would be higher rates for the collection and  
26 disposal of refuse. When local political bodies are responsible  
27 for rate-making, higher rates inevitably result because those  
28 entities do not fully understand the refuse collection and

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disposal business and rate-making concepts. Thus, unless a municipality is willing to expend considerable sums of money to attract and obtain the necessary level of expertise to regulate rates, or to establish and revise contractual rates, customers are far better off under regulation by a commission that is primarily designed, organized, and operated to regulate the rates and services of utilities.

For all these reasons, deregulation of refuse utilities is contrary to the public health, safety, and convenience.

# Alaska State Legislature

Legislative Research Agency




P.O. Box Y  
Juneau, AK 99811-3100  
Phone: (907) 483-3991  
Fax: (907) 483-3351

January 19, 1990

## MEMORANDUM

TO: Senator Dick Eliason

FROM: Gordon S. Harrison   
Director

RE: Regulation of Refuse Collection and Disposal in Alaska  
Research Request 90.190

You asked for background information on the regulation of refuse collection and disposal in Alaska. This memorandum provides an overview of the regulatory regime currently in place.

The collection of refuse and the disposal of it are subject to different types of regulation.

### Refuse Collection

Garbage collection service is considered a public utility in Alaska and falls under the jurisdiction of the Alaska Public Utilities Commission (APUC). All garbage collection services must obtain a certificate of public convenience and necessity from the APUC. By granting a certificate, the APUC determines that the proposed service is in the public interest. Jurisdiction of the APUC extends into incorporated areas. Thus, municipal governments that operate a refuse pick-up service (as do the Municipality of Anchorage and the Matanuska-Susitna Borough, for example) must hold certificates from the APUC.

If a municipality with a certificate chooses to contract its garbage collection service to a private firm, that firm does not have to obtain its own certificate. It is presumed to be operating under the certificate held by the municipality. However, if a firm wished to compete with the municipal service, or if it wanted to operate in an area of the municipality not reached by the municipal service, it would need to obtain a certificate from the APUC. (Currently in Anchorage, the municipality operates a collection service in the compact metropolitan area and a private company with its own certificate operates in the outlying areas.)

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The APUC also regulates rates charged by private garbage haulers, but only those over a minimum size. Alaska statutes exempt from rate regulation collection services with gross annual revenues of \$200,000 or less.<sup>1</sup> Municipal utilities are exempt from rate regulation by the APUC.<sup>2</sup> It is assumed that a municipality will establish rates for its utility service according to a public process, and that in general sufficient political accountability for these matters exist at the local government level.

In Juneau, garbage is collected by a private firm, Channel Sanitation, whose annual revenues exceed \$200,000 and whose rates are regulated by the APUC.

### Garbage Disposal (Landfills)

Landfills and garbage incinerators are not considered public utilities in Alaska, and therefore they are not regulated by the APUC. That is, they do not need a certificate of public convenience and necessity to go into business, and the rates they charge are not regulated. However, the operation of garbage disposal sites and garbage incinerators is regulated by state and federal laws and regulations administered by the Alaska Department of Environmental Conservation (DEC). A permit from DEC is required to open a landfill; and the permit holder must abide by stipulations regarding cover material, leachate (toxic liquid that seeps into ground water or streams), attraction of animals, and other aspects of its operation. An incinerator also requires a permit from DEC, which administers the federal clean air standards.

The federal government has established standards and guidelines for landfills. These are administered by the Environmental Protection Agency (EPA). However, the EPA does not currently have an active monitoring or enforcement program. Proposed changes to federal law could propel EPA into a more active role in landfill permitting and regulation in the near future.

I hope this information is useful to you. If you have any questions or would like additional information, please contact this agency.

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<sup>1</sup> AS 42.05.711 (i) exempts trash collectors with gross annual revenue of \$200,000 or less "unless 25 percent of the subscribers or subscribers representing 25 percent of the gross revenue of the utility petition the [APUC] for regulation." There has never been a petition submitted under this provision.

<sup>2</sup> AS 42.05.711 (1) allows the governing body of a municipality to elect to be subject to regulation by the APUC. No municipalities have voluntarily submitted their refuse collection utility to APUC rate regulation, but municipalities have voluntarily put other utilities under it (the publicly owned and operated telephone and electric utilities in Anchorage are regulated by APUC, for example).

# Alaska State Legislature



P.O. Box Y  
Juneau, AK 99811-3100  
Phone: (907) 465-3991  
Fax: (907) 463-3351

Legislative Research Agency

February 14, 1990

## MEMORANDUM

TO: Senator Dick Eliason

FROM: Leola Weimer *LW*  
Legislative Analyst

RE: Regulation of Refuse Collection and Disposal in Alaska  
Research Request 90.190 (Supplemental Information)

You asked which municipalities held certificates to provide refuse service from dumpsters to landfills.

There are two types of dumpster services: 1) roll on/off service, and 2) public dumpsters. The roll on/off service typically services large commercial enterprises (e.g., a supermarket) and requires a specialized truck onto which the entire dumpster is rolled on and off. Public dumpsters, on the other hand, typically do not require the removal of the entire container.

The table of certified refuse collectors provided in the first supplemental to 90.190 identifies those who provide roll on/off service. In Anchorage, this service is provided by Anchorage Refuse, Inc. and Eagle River Refuse, Inc.. In the Matanuska-Susitna Borough, roll on/off service is provided by Wasilla Refuse, Inc. and All Alaska Enterprises. None of these certificate holders are municipally owned.

According to Bill Marshall of the Alaska Public Utilities Commission (APUC), all municipalities that hold refuse certificates may provide dumpster-to-landfill services. They are not, however, required to do so. A municipality may choose to contract its dumpster service. If the municipality holds a certificate, the subcontractor may operate under the municipality's certificate. If, however, the municipality does not hold a certificate (e.g., in the Kenai Borough), private contractors must obtain a certificate to provide refuse service.

If a municipality (or borough) seeks to obtain a certificate to initiate service in an area already serviced by a private certificate holder, the municipality must buy out its potential competitor. Alaska Statute 29.35.060(b) states that:

The governing body of a municipality may not prohibit a person holding a valid certificate from the Alaska Public Utilities Commission from continuing to collect and dispose of garbage, refuse, trash, waste material, or provide other related services in an area in the municipality if the certificate authorizes the collection and disposal of garbage, refuse, trash, or other waste

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material and providing of other services in the area, and the certificate was originally issued before the municipality provided similar services. A municipality may not provide for garbage, refuse, trash, or other waste material collection and disposal service . . . until it has purchased the certificate, equipment and facilities of the carrier, or that portion of the certificate that would be affected, at fair market value.<sup>1</sup>

In short, a municipality may not initiate service in competition with a person who already holds a certificate. If a municipality wishes to expand service into an area in which a certificate has already been issued, the municipality must first buy out its potential competitor.

According to Assistant Attorney General Jim Baldwin, this statute applies only to governing bodies such as municipalities and boroughs. It does not apply to private companies that wish to compete with municipal, borough or private certificate holders. There is a question as to whether or not this statute requires a municipality to buy out a borough certificate holder to prevent competition. In the past, the term "person" was not been extended to include governing bodies such as municipalities or boroughs.<sup>2</sup>

Attachment

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<sup>1</sup>For the complete text of the statute, see attachment.

<sup>2</sup>Attorney General Opinion 74, James E. Douglas, assistant attorney general, February 22, 1974.

for injury to person or property. 63 ALR2d 1088.

Mandamus, liability of municipal corporation for damages to successful plaintiff or relator in. 73 ALR2d 930, 34 ALR4th 487.

Waiver of, or estoppel to rely upon, contractual limitation of time for bringing action against municipality or other political subdivision. 81 ALR2d 1039.

Pledging parking meter revenues as unlawful relinquishment of governmental power. 83 ALR2d 649.

Revocation, prior to execution of formal written contract, of vote for decision of public body awarding contract to bidder. 3 ALR3d 864.

Power of municipal corporation to submit to arbitration. 20 ALR3d 629.

Right of municipal corporation to recover back from contractor payments made under contract violating competitive bidding statute. 33 ALR3d 397.

Liability of municipality on equal contract for value of property or work fur-

nished without compliance with bonding requirements. 33 ALR3d 1184.

Power of eminent domain as between state and subdivision or agency thereof, or as between different subdivisions or agencies themselves. 38 ALR3d 1293.

Validity of "freezing" ordinances or statutes preventing prospective condemnation from improving, or otherwise changing, the condition of his property. 36 ALR3d 761.

Validity and construction of statute or ordinance providing for repair or destruction of residential building by public authorities at owner's expense. 43 ALR3d 916.

Right of governmental entity to maintain action for defamation. 45 ALR3d 1318.

Power of municipal corporation to lease or sublet property owned or leased by it. 47 ALR3d 19.

Recovery of exemplary or punitive damages from municipal corporation. 1 ALR4th 448.

**Sec. 29.35.020. Extraterritorial jurisdiction.** (a) To the extent a municipality is otherwise authorized by law to exercise the power necessary to provide the facility or service, the municipality may provide parks, playgrounds, cemeteries, emergency medical services, solid and septic waste disposal, utility services, airports, streets (including ice roads), trails, transportation facilities, wharves, harbors and other marine facilities outside its boundaries and may regulate their use and operation to the extent that the jurisdiction in which they are located does not regulate them. A regulation adopted under this section must state that it applies outside the municipality.

(b) A municipality may adopt an ordinance to protect its water supply and watershed, and may enforce the ordinance outside its boundaries. Before this power may be exercised inside the boundaries of another municipality, the approval of the other municipality must be given by ordinance.

(c) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985)

NOTES TO DECISIONS

Power granted does not deprive city of other powers. — There was no reason that the grant to the council of power to extend roads and trails from its limits to certain points without its limits under a former, similar provision in any manner deprived the council of any of the implied

or necessary powers which it would have enjoyed, in the absence of any such express grant in the charter. *Town of Ketchikan v. Zimmerman*, 4 Alaska 336 (1911).

If authority had not been expressly given by a former, similar provision for a

city to purchase land outside of the incorporated limits and to divert a stream beyond its limits and prevent it from reach-

ing the incorporated limits, such authority was necessarily implied. *Town of Seward v. Margulov*, 9 Alaska 364 (1938).

Collateral references. — 66 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions. §§ 227, 228, 436, 660 et seq.

62 C.J.S., Municipal Corporations, § 141; 63 C.J.S., Municipal Corporations, § 1050-1062.

Standing of municipal corporation or other governmental body to attack zoning of land lying outside its borders. 49 ALR3d 1120.

**Sec. 29.35.030. Eminent domain.** (a) A municipality may, only within its boundaries, exercise the powers of eminent domain and declaration of taking in the performance of a power or function of the municipality under the procedures set out in AS 09.55.260 — 09.55.460. In the case of a second class city, the exercise of the power of eminent domain or declaration of taking must be by ordinance that is submitted to the voters at the next general election or at a special election called for that purpose. A majority of the votes on the question is required for approval of the ordinance.

(b) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985)

Collateral references. — Cost of substitute facilities as measure of compensation paid to state or municipality for condemnation of public property. 40 ALR3d 143.

Consideration of fact that land owner's remaining land will be subject to special assessment in fixing severance damages. 59 ALR3d 634.

**Sec. 29.35.040. Emergency disaster powers.** (a) A municipality that is wholly or partially in an area that is declared by the President or governor to be a disaster area may participate in and provide for housing, urban renewal, and redevelopment in the same manner as a home rule city. The exercise of these powers by a borough shall be on a nonarea-wide basis, except a borough may exercise the powers transferred to it by a city as provided by AS 29.35.310.

(b) Powers granted by this section must be initiated within a period of not more than five years after the date of declaration of a natural disaster by the President or governor, but these powers may be extended for an additional period of not more than three years. (§ 10 ch 74 SLA 1985)

**Sec. 29.35.050. Garbage and solid waste services.** (a) A municipality may be ordinance

(1) provide for the establishment, maintenance, and operation of a system of garbage and solid waste collection and disposal for the entire municipality, or for districts or portions of it;

(2) require all persons in the municipality or district to use the system and to dispose of their garbage and solid waste as provided in the ordinance;

(3) award contracts for collection and disposal, or provide for the collection and disposal of garbage and solid waste by municipal officials and employees;

(4) pay for garbage and solid waste collection and disposal from available money;

(5) require property owners or occupants of premises to use the garbage and solid waste collection and disposal system provided by the municipality;

(6) fix charges against the property owners or occupants of premises for the collection and disposal; and

(7) provide penalties for violations of the ordinances.

(b) The governing body of a municipality may not prohibit a person holding a valid certificate from the Alaska Public Utilities Commission from continuing to collect and dispose of garbage, refuse, trash, waste material, or provide other related services in an area in the municipality if the certificate authorizes the collection and disposal of garbage, refuse, trash, or other waste material and providing of other services in the area, and the certificate was originally issued before the municipality provided similar services. A municipality may not provide for a garbage, refuse, trash, or other waste material collection and disposal service in an area to the extent it lies in an area granted to a garbage, refuse, trash, or other waste material carrier by a certificate issued by the Alaska Public Utilities Commission to the carrier until it has purchased the certificate, equipment and facilities of the carrier, or that portion of the certificate that would be affected, at fair market value. A municipality may exercise the right of eminent domain to acquire the certificate, equipment and facilities of the carrier, or that portion of the certificate that would be affected.

(c) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985)

*Collateral references.* — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, § 140 et seq. 62 C.J.S., Municipal Corporations, ¶ 279, 651

*Liability of municipal corporation for damages for maintenance of sewer disposal plant as nuisance.* 40 ALR2d 1198. *Municipal liability for maintenance of public dump as nuisance.* 62 ALR2d 1134.

**Sec. 29.35.060. Franchisees and permits.** (a) The assembly acting for the area outside all cities in the borough and the council acting for the area in a city may grant franchises, including exclusive franchise privileges, to a person, corporation, organization, or utility not certificated by the Alaska Public Utilities Commission and may permit the

use of streets and other public places by the franchise holder under regulations prescribed by ordinance.

(b) Unless the grant is made on a competitive basis, the grant of an exclusive right to use a public street or right-of-way for more than five years to a utility or a transportation system not certificated by the Alaska Public Utilities Commission shall be valid only if approved by a majority of the voters at an election.

(c) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985)

*Collateral references.* — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, § 140 et seq. 64 C.J.S., Municipal Corporations, 1720.

*Motive of council passing ordinance as*

*to franchise as affecting validity thereof.* 32 ALR 1628. *Forfeiture of street railway franchise for breach of condition.* 34 ALR 1420. *Municipality's liability in damages for refusal to grant franchise.* 37 ALR2d 694

**Sec. 29.35.070. Public utilities.** (a) The assembly acting for the area outside all cities in the borough and the council acting for the area in a city may regulate, fix, establish, and change the rates and charges imposed for a utility service provided to the municipality or its inhabitants by a utility that it is not subject to regulation under AS 42.05 unless that utility is exempted from regulation under AS 42.05.711(a) or (d) — (k).

(b) A municipality may provide for a reasonable deposit for meters and service to be given if interest is paid on the deposit.

(c) Unless the utility is owned by the municipality, all rates, charges, and regulations established under this section shall be established by ordinance and shall be reasonable and permit a fair return on invested capital.

(d) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985)

NOTES TO DECISIONS

All the operator of a public utility was entitled to was a reasonable return on his net capital investment under a former, similar provision, represented by property actually used and useful in the public service, and then only provided that his operation was efficient and economical. *Pichotta v. City of Skagway*, 12 Alaska 42, 78 F. Supp. 999 (D. Alaska 1948).

Meaning of "invested capital". — "Invested capital," as used in a former, similar provision, meant the initial investment, regardless of subsequent

changes in ownership, plus capital additions and minus accrued depreciation. *Pichotta v. City of Skagway*, 12 Alaska 42, 78 F. Supp. 999 (D. Alaska 1948).

The term "invested capital" as used in a former, similar provision should not have been construed to mean fair value, nor was the utility entitled to the benefit of any appreciation in value, nor should the term have been construed to mean that which was paid for a utility by the last purchaser. *Pichotta v. City of Skagway*, 12 Alaska 42, 78 F. Supp. 999 (D. Alaska 1948).

# Alaska State Legislature

Legislative Research Agency



P.O. Box 7  
Juneau, AK 99811-3100  
Phone: (907) 465-3991  
Fax: (907) 463-3351

February 2, 1990

## MEMORANDUM

TO: Senator Dick Eliason

FROM: Leola Weimer (W)  
Legislative Analyst

RE: Regulation of Refuse Collection and Disposal in Alaska  
Research Request 90.190 (Supplemental Information)

You asked for additional information regarding refuse collection in Alaska. This memorandum provides a list of refuse collectors certified by the Alaska Public Utilities Commission (APUC) to operate in Alaska.

The names, addresses and geographic location of all certified refuse collectors are shown in Table 1.

Table 2 shows certain operating characteristics of these certified operators. For the purposes of this table the following definitions apply.

**Competitive:** more than one operator is certified to collect refuse in a specified service area.

**Restricted:** a certificate holder may service only residential customers in certain areas.<sup>1</sup>

**Regulated:** gross operating revenue greater than \$200,000.00 and therefore rates are regulated by APUC.

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<sup>1</sup> The Mat-Su Borough is the only service area where there is restricted service. Historically, Alma Corporation and Wasilla Refuse were the only certified operators in their respective areas. It was determined by APUC that commercial service should be restricted in these specific areas to their historically exclusive operators. APUC granted exclusive commercial service to Alma Corporation and Wasilla Refuse within their original certificated areas. However, it did not grant them exclusive commercial service in their expanded service area. Residential service, on the other hand, is competitive throughout the Mat-Su Borough.

Senator Eliason  
February 2, 1990  
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Attached is a page from the APUC FY 88 annual report which (1) lists those operators whose rates are regulated by APUC, and (2) shows a sample of monthly residential refuse rates charged by the regulated private operators.

We also have the legal descriptions of each service area and additional documentation, which is available to you upon request.

I hope this information is useful to you. If you have any questions or would like additional information, please contact this agency.

Attachments

TABLE 1

## REFUSE COLLECTORS CERTIFIED TO OPERATE IN ALASKA

Certificate	Borough	Company	Address	Town	Zip	Telephone
	Anchorage					
387		Beluga Environmental Services, Inc. (BESI)	3700 Spenard Road	Anchorage	99503	561-7424
217		Anchorage Refuse, Inc. (ARI)	6301 Rosewood Street	Anchorage	99502	563-3717
284		Anchorage, Municipality of (MOA)	P.O. Box 196650	Anchorage	99519	561-1906
218		Eagle River Refuse, Inc. (ERRI)	P.O. Box 1028	Eagle River	99577	688-3501
	Arctic					
283		Calville Environmental Services (CES)	8600 Sultana Drive	Anchorage	99516	345-0594
231		North Slope Borough Utilities (NSB)	P.O. Box 69	Barrow	99723	852-2611
	Bristol Bay					
233		Patterson Sanitation & Refuse Svc, Inc.	P.O. Box 174	Nalnek	99737	822-3330
	Haines					
203		Haines Sanitation (HS)	P.O. Box 575	Haines	99827	766-2736
391		Slagway, City of (SKAGWAY)	P.O. Box 415	Skagway	99840	983-2297
	Juneau					
402		Juneau Sanitation Corporation (JSC)	2634 John Street	Juneau	99801	364-3777
195		Channel Sanitation Corporation (CHANNEL)	P.O. Box 21267	Juneau	99802	78C-4288
	Kenai					
403		C & S Enterprises	P.O. Box 1177	Kenai	99611	283-3977
211		Seward Service (SS)	P.O. Box 524	Seward	99664	224-5965
209		Peninsula Sanitation Co., Inc. (PSC)	P.O. Box 1209	Soldotna	99669	283-9390
	Ketchikan					
201		Tongass Sanitation (TONGASS)	P.O. Box 7701	Ketchikan	99901	225-5561
398		Ketchikan, City of (KETICHIKAN)	2930 Tongass Ave	Ketchikan	99901	225-1000
	Kodiak					
222		Kodiak Sanitation, Inc. (KSI)	P.O. Box 449	Kodiak	99615	486-5308
	Mat-su					
232		Alma Corporation (ALMA)	P.O. Box 200089	Anchorage	99520	276-3229
371		Matanuska-Susitna Borough (MAT-SU)	P.O. Box 1608	Pulmer	99645	745-4801
282		Palmer, City of (PALMER)	231 W. Evergreen Ave.	Palmer	99645	745-3271
342		Sutton Sanitation Services (SUTTON)	P.O. Box 226	Sutton	99674	745-0244
385		Valley Refuse (VR)	4360 Cedarwood/ P.O. Box 874433	Wasilla	99687	376-3663
374		Mackenzie Refuse (MACKENZIE)	P.O. Box 873921	Wasilla	99687	264-8201
204 & 206		Wasilla Refuse, Inc. (WRI)	1101 Wasilla Fishhook Road	Wasilla	99687	376-2158
370		All Alaska Enterprises (AAE)	P.O. Box 872547	Wasilla	99687	376-2084
	North Star					
216		Interior Services (INTERIOR)	400 Sandvik Road	Fairbanks	99704	452-1517
219		Far North Sanitation Services, Inc. (FAR NORTH)	P.O. Box 289	Fairbanks	99707	456-6979
276		Fairbanks, City of (FAIRBANKS)	2121 Peger Road	Fairbanks	99701	452-1881
220		Drake's Sanitation, Inc. (DRAKE'S)	Box 55087	North Pole	99705	488-6435
	Sitka					
235		March Disposal (MARCH)	P.O. Box 1373	Sitka	99835	747-8267
396		Sitka, City & Borough of (SITKA)	304 Lake Street	Sitka	99835	747-3294
	Other					
349		Aniak Disposal Service (ADS)	P.O. Box 161	Aniak	99557	645-4368
266		Delta Sanitation (DELTA)	P.O. Box 40	Delta Jet	99737	895-4331
198		Dillingham Refuse, Inc. (DRI)	P.O. Box 75	Dillingham	99576	842-2529
223		Copper Valley Construction Company (CVCC)	Mile 187 Box 165	Glennallen	99588	822-3252
251		McGrath Trash & Refuse (MTR)	P.O. Box 35	McGrath	99627	524-3633
279		Irwin's Garbage Disposal (IRWIN'S)	P.O. Box 144	Nenana	99760	832-5654
288		Noabia Niign, Ltd. (NNI)	P.O. Box 476	Northway	99764	778-6497
331		Petersburg, City of (PETERSBURG)	P.O. Box 329	Petersburg	99833	772-4203
299		Thorne Bay, City Of (THORNE BAY)	P.O. Box 19110	Thorne Bay	99919	828-3380
243		J. D. Refuse Service (JD REFUSE)	P.O. Box 363	Tok	99780	883-2751
362		Williwaw Services, Inc (WSI)	P.O. Box 84	Unalaska	99685	
202		Valdez Alaska Terminals, Inc. (VATI)	P.O. Box 6769	Anchorage	99502	243 1414
200		Bob's Disposal Service. (BOB'S DISPOSAL)	P.O. Box 402	Yakutat	99689	784-227

Prepared by the Legislative Research Agency, February 1990 (90.19051).

TABLE 2

## STATUS OF CERTIFIED REFUSE COLLECTORS

Certificate	Borough	Company	Ownership	Competitive	Restricted	Regulated	Notes
	Anchorage						
387		Beluga Environmental Services, Inc. (BESI)	private				1
217		Anchorage Refuse, Inc. (ARI)	private			x	2
284		Anchorage, Municipality of (MOA)	municipal				
218		Eagle River Refuse, Inc. (ERRI)	private			x	2
	Arctic						
283		Calville Environmental Services (CES)	priv	x			3
231		North Slope Borough Utilities (NSB)	borough	x			4
	Bristol Bay						
233		Patterson Sanitation & Refuse Svc, Inc.	private				
	Haines						
203		Haines Sanitation (HS)	private				
391		Skagway, City of (SKAGWAY)	municipal				
	Juneau						
402		Juneau Sanitation Corporation (JSC)	private	x			5
195		Channel Sanitation Corporation (CHANNEL)	private	x		x	6
	Kenai						
403		C & S Enterprises	private	x			7
211		Seward Service (SS)	private	x			7
239		Peninsula Sanitation Co., Inc. (PSC)	private	x		x	7
	Ketchikan						
201		Tongass Sanitation (TONGASS)	private				8
398		Ketchikan, City of (KETICHIKAN)	borough				8
	Kodiak						
222		Kodiak Sanitation, Inc. (KSI)	private				
	Mat-su						
232		Alma Corporation (ALMA)	private	x	x	x	9,15
371		Matanuska-Susitna Borough (MAT-SU)	borough	x			
282		Palmer, City of (PALMER)	municipal	x			8
342		Sutton Sanitation Services (SUTTON)	private	x	x		13
385		Valley Refuse (VR)	private	x	x		10,14
374		MacKenzie Refuse (MACKENZIE)	private	x			
204 & 206		Wasilla Refuse, Inc. (WRI)	private	x	x	x	2,11,15
370		All Alaska Enterprises (AAE)	private	x			2
	North Star						
216		Interior Services (INTERIOR)	private	x		x	
219		Far North Sanitation Services, Inc. (FAR NORTH)	private	x		x	
276		Fairbanks, City of (FAIRBANKS)	municipal	x			
220		Drake's Sanitation, Inc. (DRAKE'S)	private	x		x	
	Sitka						
235		March Disposal (MARCH)	private				
396		Sitka, City & Borough of (SITKA)	borough				
	Other						
349		Aniak Disposal Service (ADS)	private				
266		Delta Sanitation (DELTA)	private				
198		Dillingham Refuse, Inc. (DRI)	private				
223		Copper Valley Construction Company (CVCC)	private	x			7
244		McGrath Trash & Refuse (MTR)	private				
279		Irwin's Garbage Disposal (IRWIN'S)	private				
288		Naabio Niign, Ltd. (NNI)	private				12
331		Petersburg, City of (PETERSBURG)	municipal				
299		Thorne Bay, City of (THORNE BAY)	municipal				
243		J. D. Refuse Service (JD REFUSE)	private				
362		Williwaw Services, Inc (WSI)	private				
202		Valdez Alaska Terminals, Inc. (VATI)	private				
200		Bob's Disposal Service. (BOB'S DISPOSAL)	private				

## NOTES:

- 1 Targeted service area (SA): is commercial
- 2 Roll on/all service provided.
- 3 Potentially competitive but targeted service area is commercial oil field clean up.
- 4 Potentially competitive but different targeted service therefore not actually competitive.
- 5 Not in operation because service is pending court decision.
- 6 Potential competitor JSC pending a court decision.
- 7 Competition within portions of overlapping service area.
- 8 Potentially competitive but an informal agreement not to compete.
- 9 Ownership transfer to WRI is pending APUC commissioner decision.
- 10 Residential service only.
- 11 The only holder of two certificates.
- 12 Ownership is by village corporation.
- 13 Portion of service area restricted to residential service only.
- 14 Service area restricted to residential service only.
- 15 Exclusive commercial service within original service area.

**REFUSE AND GARBAGE UTILITIES**  
(1987 Calendar Year)

Utility	Net Plant	Revenues		Customers
		Total Revenues	Net Income	
<u>(Gross Operating Revenue Greater Than \$200,000)</u>				
Anchorage Refuse, Inc.	\$2,458,804	\$ 9,210,396	\$163,811	26,076
Channel Sanitation Corporation	276,894	2,132,305	<390,484>	4,920
Drake's Sanitation, Inc. <sup>1</sup>	132,488	454,641	<8,716>	165
Eagle River Refuse, Inc.	185,610	932,965	32,697	4,118
Far North Sanitation, Inc.	1,569,616	1,214,258	133,867	712
Interior Services, Ralph E. Bartlett d/b/a	788,822	519,916	<23,948>	262
Kodiak Sanitation, Inc.	82,437	820,551	70,322	182
Peninsula Sanitation Company, Inc. <sup>2</sup>	252,395	1,350,321	85,804	1,340
Wasilla Refuse, Inc. <sup>3</sup>	<u>130,780</u>	<u>541,037</u>	<u>74,584</u>	<u>702</u>
<b>TOTAL</b>	<u>\$5,877,846</u>	<u>\$17,176,390</u>	<u>\$137,937</u>	<u>38,477</u>

SAMPLE MONTHLY RESIDENTIAL REFUSE RATES  
(As of June 30, 1988)

COMMUNITY	1 RECEPTACLE	2 RECEPTACLES	UTILITY
	1 PICK-UP/ WEEK	1 PICK-UP/ WEEK	
Anchorage	\$ 13.34	\$ 13.34	Anchorage Refuse, Inc.
Eagle River	13.34	13.34	Eagle River Refuse, Inc.
Fairbanks	12.00	12.00	Far North Sanitation Service, Inc.
Fairbanks	12.00	12.00	Drake's Sanitation, Inc.
Fairbanks	6.00	6.00	Interior Services, Ralph E. Bartlett d/b/a
Girdwood/Alyeska	11.50	11.50	Peninsula Sanitation Company, Inc.
Homer	9.23	12.98	Peninsula Sanitation Company, Inc.
Hope-Turnagain Arm	11.50	11.50	Peninsula Sanitation Company, Inc.
Juneau	18.44	18.44	Channel Sanitation Corporation
Kenai	10.13	10.13	Peninsula Sanitation Company, Inc.
Kodiak	5.50	5.50	Kodiak Sanitation, Inc.
Mat-Su Valley	20.00	20.00	Wasilla Refuse, Inc.

<sup>1</sup>Information presented for year ending 4/30/87.

<sup>2</sup>Information presented for year ending 6/30/87.

<sup>3</sup>Information presented for year ending 3/31/88.

## GARBAGE DEREGULATION: ISSUES AND ANSWERS

### WHY DEREGULATE GARBAGE HAULING?

- Would allow competitive procurement (lower cost for services).
- Could enter into enforceable contracts (better quality of service).
- No rate increases imposed (eliminate uncontrollable increases).
  - \* 80% rate increase proposed by Fairbanks hauler
- No incentive for innovative solutions to existing problems under monopoly set-up (lack of competition stops innovative actions).
- Bottom line: regulation should give improved service to consumer. regulation of Alaskan waste haulers has resulted in poorer service and higher cost

### IS MORE, NOT LESS, REGULATION NEEDED?

- APUC regulation is almost exclusively economic regulation.
- Many agencies regulate the transport and disposal of solid waste (EPA, U.S.DOT, ADEC, AST, FNSB) for environmental and public health concerns. APUC deregulation won't effect those regulatory efforts.
- APUC has recommended deregulation for last 10 years.
- APUC regulatory attempts to increase competition have resulted in widely differing regulatory structures in various communities.

### WILL DEREGULATION GREATLY INCREASE ENVIRONMENTAL RISK?

- Current debate over risks/liabilities of waste management is centered on disposal.
- APUC regulations affect collection/transport, not disposal.
- Collection/transport is completely separate issue from disposal.

### WHAT WILL BE THE IMPACT OF DEREGULATION ON THE EXISTING HAULERS?

- Competition will favor existing, well-managed firms, due to the advantage of already purchased equipment, and increased knowledge and experience.
- Deregulation will allow other willing companies to compete with the existing haulers, with improvements in service and costs.
- Other firms interested in competing with the existing haulers don't appear concerned with economies of scale issue.
- Cost of the necessary equipment, while high, is not prohibitive.

### SHOULD CONTINUED REGULATION BE TRADED FOR INCREASED RECYCLING?

- This argument again mixes collection and disposal issues.
- Proposal further confuses issue by mixing types of waste recovery.
- Most waste recovery tied to disposal (which doesn't involve APUC-regulated businesses).
- Such disposal-linked recycling doesn't work economically in AK.
- Source separation and collection only recycling activities which could be directly linked to APUC haulers.
- Effect would be to force existing small business recyclers out of the marketplace while protecting haulers from competition
- Solid waste processing in AK is almost unregulated, sitting between ADEC's disposal regulations and APUC's collection regulations.
- Best approach would be ADEC regulation of such processing, not APUC (due to the environmental vs. economic outlook of the two agencies)

ALASKA PUBLIC UTILITIES COMMISSION  
Hearings, 1983-1988:  
Collection and Disposal of Garbage, Refuse, and Trash

I. Hearings Pertaining to Certification Matters.

<u>Docket(s)</u>	<u>Date(s) of Hearing(s)</u>	<u>Off'rs or Comm'rs Present</u>	<u>Hearing Hours</u>	<u>Off'r-Hours/Comm'r-Hours</u>
U-83-8, Valley Refuse, et al.	10/17, 19, 31/83 11/1/83 12/6, 7/83 2/1/84	Comm'rs Agi, Weatherly	49	98
U-83-60, Drake Sanitation; U-84-70, North Pole Trash Serv.; U-85-24, North Pole Trash Serv.	6/18/85	Off'r Jackson	2	2
U-88-75, Mat-Su Borough	2/24/87	Comm'rs Agi, Guess	2	4
U-86-97, Juneau Sanitation Corporation	9/15/87	Off'r Jackson	7	7
U-87-21, C & S Enterprises	5/23-24/88	Off'r Jackson	11	11
U-88-22, Alma Corporation	7/20/88	Off'r Jackson Comm'rs Agi, Sokolov, Whiteaker	5	2
U-88-22, Alma Corporation; U-88-45, All-Alaska Enterprises; U-88-56, Sutton Sanitation	10/24/88	Off'r Jackson Comm'rs Agi, Knowles, Sokolov	45	18
		Subtotals	76	142

11. Hearings Pertaining to Rate Matters.

<u>Docket (s)</u>	<u>Date(s) of Hearing(s)</u>	<u>Off'rs or Comm'rs Present</u>	<u>Hours</u>	<u>Off'r-Hours/Comm'r-Hours</u>
U-85-36, Anchorage Refuse;	11/1/85	Off'r Jackson	5	5
U-85-44, Eagle River Refuse	11/4/85	Off'r Jackson	2	2
U-87-58, Far North Sanitation	2/29/88	Off'r Jackson	1	1
	3/1/88	Off'r Jackson	4	4
	3/1-2/88	Off'r Jackson	4	4
U-88-2, Anchorage Refuse;	6/6/88	Off'r Jackson	3	12
U-88-3, Eagle River Refuse		Comm'rs Agi, Knowles, Sokolov		
U-88-17, Interior Services;	11/1/88	Off'r Jackson	5	5
U-88-39, Interior Services;				
U-87-64, Interior Services	11/2/88	Off'r Jackson	4	4
		Subtotal:	28	37
		TOTAL:	<u>104</u>	<u>179</u>

**S B**

**304**

SENATE COMMITTEE REPORT  
FIRST COMMITTEE OF REFERRAL

DATE: 1/25/90

FURTHER: HESS  
Finance

Date of 5-Day Notice: 2/2/90  
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 3/1/90

L & C Committee considered SSSB 304

Act relating to disability insurance; efd.

and recommended:

replace with \_\_\_\_\_ CS SS SB 304 (L+C)  same title  
 attached amendment(s)  new title

\_\_\_\_\_ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

ATTACHES NEW FISCAL NOTE(S):

Department(s)/Date:

Department(s)/Date:

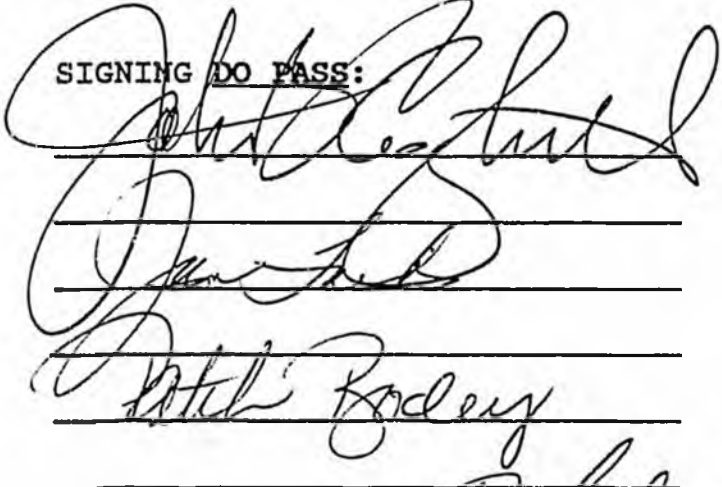
fiscal note(s) \_\_\_\_\_  
Dept of Commerce 2/23/90  
(for SSSB 304 + CS SSSB 304(L+C))

zero fiscal note(s) \_\_\_\_\_

appropriation-no fiscal note

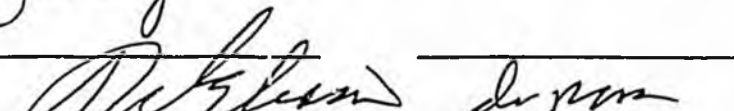
Governor's bill w/fiscal note

SIGNING DO PASS:



OTHER RECOMMENDATIONS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

  
Chair: Signature and Recommendation

# Senator John B. (Jack) Coghill

Alaska State Legislature

Box V  
Juneau, Alaska 99811  
(907) 465-4797

Box 55028  
North Pole, Alaska 99705  
(907) 488-0862



## MEMORANDUM

DATE: February 23, 1990

TO: Senator Dick Eliason, Chairman  
Senate Labor & Commerce Committee

FROM: Senator Jack Coghill

SUBJECT: Sena' Bill 304 Sponsor Statement

Senate Bill 304, "An Act relating to disability insurance; and providing for an effective date" would establish a Comprehensive Disability Insurance Association. The purpose of the association would be to provide access to disability insurance coverage to all residents of the state who are denied adequate disability insurance coverage for any reason or who are otherwise considered uninsurable.

The availability of this insurance would be through a pool established by members of medical service corporations in the state that offer medical coverage through health insurance. It would be mandatory for those corporations offering any medical coverage to maintain membership in the association.

The Comprehensive Disability Insurance Corporation would be governed by a Board of Directors, which would include the Director of the Division of Insurance. They shall establish a plan of operation to provide disability insurance.

In order to make this system work, minimum and maximum benefits shall also be established.

The pool structure shall establish premium rates that must be fair. A ceiling would be established of 150% of the coverage of the five highest carriers offering health benefit plans in the state.

The bill also sets out the duties of the Director of the Division of Insurance, and establishes the eligibility of persons who may be covered under this program.

I ask that you give Senate Bill 304 your most favorable consideration, as everyone should have the opportunity to purchase health insurance.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 20, 1990

SUBJECT: Disability insurance - SSSB 304  
TO: Senator Jack Coghill  
FROM: Michael F. Ford *m.f.*  
Legislative Counsel

The following is a sectional analysis of SSSB 304:

Section 1 - Legislative intent.

Section 2

Sec. 21.55.010 - Establishes the Comprehensive Disability Insurance Association and provides that the purpose of the association is to provide health insurance to eligible residents of the state.

Sec. 21.55.020 - Establishes the board of directors of the health insurance association, and requires the board to use a weighted voting system based on premium income.

Sec. 21.55.030 - Establishes the general powers of the authority.

Sec. 21.55.040 - Requires the association to develop a plan of operation. Provides specific items that must be included in the plan of operation.

Sec. 21.55.050 - Exempts the association from the Administrative Procedure Act (AS 44.62).

Sec. 21.55.060 - Exempts the association from all taxes except taxes on real or personal property. Allows a tax credit for members of the association.

Sec. 21.55.100 - Requires the authority to provide health care insurance to eligible residents of the state.

Senator Jack Coghil

Page 2

February 20, 1990

Sec. 21.55.110 - Establishes minimum benefits that must be provided.

Sec. 21.55.120 - Establishes deductible and copayment amounts. Provides for annual adjustment of the deductible.

Sec. 21.55.130 - Establishes criteria for coverage of a pre-existing condition.

Sec. 21.55.140 - Provides that certain care and services are not covered by the state insurance plan.

Sec. 21.55.150 - Establishes limits on the premium charged for state insurance.

Sec. 21.55.200 - Establishes criteria for selection of an insurer to administer the state plan.

Sec. 21.55.210 - Establishes the duties of the insurer who administers the state plan.

Sec. 21.55.220 - Provides for enrollment in the state plan, and for assessment of claims expenses to members of the association.

Sec. 21.55.300 - Establishes eligibility requirements for enrollment in the state plan.

Sec. 21.55.310 - Provides for enrollment in the state plan.

Sec. 21.55.320 - Requires the writing carrier to act on an enrollment application within 30 days.

Sec. 21.55.330 - Establishes the effective date of insurance coverage.

Sec. 21.55.340 - Requires the association to solicit eligible residents for enrollment.

Sec. 21.55.400 - Duties of the director of the division of insurance.

Sec. 21.55.410 - Gives the state immunity for acts or omissions of the association, and for payment of claims.

Sec. 21.55.500 - Definitions.

Senator Jack Coghill  
Page 3  
February 20, 1990

Section 3 - Establishes a tax credit for members of the association.

Section 4 - Requires the association to make insurance available to residents by January 1, 1991.

Section 5 - Effective date.

MFF:mi  
wkni6/046

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
 Title: An Act relating to disability insurance

Agency Affected: Commerce & Economic Development  
 BRU: Insurance

Sponsor: Coghill  
 Requestor: Senate Labor & Commerce

Components: Operations

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

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	65.4	65.4	65.4	65.4	65.4	65.4
TRAVEL	12.0	6.0	6.0	6.0	6.0	6.0
CONTRACTUAL	35.0	35.0	35.0	35.0	35.0	35.0
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	10.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>123.4</b>	<b>107.4</b>	<b>107.4</b>	<b>107.4</b>	<b>107.4</b>	<b>107.4</b>
<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>REVENUE</b>	<b>(0-4,234.7)</b>	<b>(0-4,234.7)</b>	<b>(0-4,234.7)</b>	<b>(0-4,234.7)</b>	<b>(0-4,234.7)</b>	<b>(0-4,234.7)</b>

**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER PR/GF	123.4	107.4	107.4	107.4	107.4	107.4
<b>TOTAL</b>	<b>123.4</b>	<b>107.4</b>	<b>107.4</b>	<b>107.4</b>	<b>107.4</b>	<b>107.4</b>

**POSITIONS:**

FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

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

Prepared by: David J. Walsn, Director  
 Division: Insurance

Phone: 465-2515  
 Date: \_\_\_\_\_

Approved by Commissioner: Larry Mercurieff  
 Agency: Department of Commerce & Economic Development

Date: 2/23/90

Distribution (by preparer):

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

**FISCAL NOTE ANALYSIS - SSSB 304**

**Personal Services:** Funding for a new PFT position, Chief of Operations, \$65.4, is included.

**Travel:** The director is an ex-officio board member of the Comprehensive Disability Insurance Association. The seven members of the board will be from out-of-state insurance companies and hospital or medical service corporations. The travel estimate is based on the director or the director's designee attending eight out-of-state board meetings in the first year of operation and four in each subsequent year at an estimated cost of \$1,500 for each.

**Contractual:** Each year, the division will have to contract with an actuary to verify that the rating structures of the association are actuarially sound. The estimate for the annual contract is \$25,000.

In addition, the director may undertake studies or demonstration projects to develop awareness of the benefits of the program. The annual estimate for this is \$8,000.

\$2,000 is also included for the new position's miscellaneous contractual expenditures.

**Supplies:** The new position's supplies are estimated at \$1,000.

**Equipment:** A work station and computer are included for the new position at \$10,000.

**Revenue:** The members of the Comprehensive Disability Insurance Association are entitled to receive a credit against taxes levied by the state on disability insurance premiums. The maximum potential loss of state revenue is equal to the total tax collected on disability insurance premiums. It is impossible to predict what the actual tax revenue loss will be. However, using 1987 premium data as a benchmark, the state could lose \$4.2 million.

\$144,444.0	1987 disability premiums of insurers
<u>      x 2.7%</u>	Tax rate
\$ 3,900.0	Tax revenue
\$ 61,189.0	1987 disability premiums of hospital and medical service corporations
<u>  [55,610.0]</u>	Less claims
\$ 5,579.0	Taxable premiums
<u>      x 6.0%</u>	Tax rate
\$ 334.7	Tax revenue
\$ 3,900.0	
<u>  + 334.7</u>	
\$ 4,234.7	1987 total disability insurance tax revenue

Furthermore, an insurer whose assessment exceeds their tax liability can carry forward the excess credit to be applied against future years' tax liabilities.

1.	POSITION TITLE <u>Chief of Operations</u>				RANGE/STEP <u>23/A</u>	BARG. UNIT <u>S</u>	PAGE/LINE	COV.	APPROV.	DISAPP
2.	TYPE OF POSITION <u>PFT</u>	STAFF MONTHS <u>12</u>	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION <u>Juneau</u>	ELECTION DISTRICT <u>4</u>	LEG.		
3.	CONTINUATION LEVEL				ADDITION					
4.	TYPE OF EXPENDITURE			AMOUNT						
	<u>1</u>			<u>2</u>		<u>3</u>				
	PERSONAL SERVICES									
5.	Salary			<u>49.2</u>						
6.	Benefits			<u>16.2</u>						
7.	Supplemental Benefits									
8.	Fixed Benefits									
9.	TOTAL PERSONAL SERVICES			<u>01</u>		<u>65.4</u>				
10.	Travel			<u>02</u>						
11.	Contractual			<u>03</u>		<u>2.0</u>				
12.	Commodities			<u>04</u>		<u>1.0</u>				
13.	Equipment			<u>05</u>		<u>10.0</u>				
14.	Other									
15.	TOTAL COST					<u>78.4</u>				
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004								
19.		I-A Receipts 1005								
20.		Program Receipts 1028		<u>78.4</u>						
21.		Other								
FOR B&M USE ONLY KEY NUMBER - - - - -										

JUSTIFICATION:

This position is necessary to work with the Comprehensive Disability Insurance Association's board members. The division anticipates that this program will take a great deal of staff time, which is unavailable. Another position is required if the division is to take on this additional responsibility.

Funds are included for a computer and workstation in the equipment line item.

REQUEST FOR  
NEW POSITION

AGENCY Commerce & Economic Dev.

BRU Insurance

COMPONENT Operations

FY 91

Page 1 of 1

Revised Date \_\_\_\_\_



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
BILL ANALYSIS

DEPARTMENT Commerce & Econ. Dev.	DIVISION Insurance	BILL NUMBER SSSB 304	SPONSOR Senator Coghill
SHORT TITLE OF BILL An Act Relating to Disability Insurance			
DEPARTMENT POSITION Neutral			
PREPARED BY Don Koch, Acting Deputy Director	DATE 2/23/90	COMMISSIONER'S SIGNATURE <i>[Signature]</i>	DATE 2/23/90

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Department of Health and Social Services	CONSTITUENT GROUP(S) AFFECTED BY BILL Uninsurable residents and residents who have involuntarily lost their health insurance coverage
ORGANIZATIONAL SUPPORT FOR BILL Insurance Industry	ORGANIZATIONAL OPPOSITION TO BILL Unknown

FISCAL IMPACT:  NONE  FISCAL NOTE ATTACHED

BACKGROUND LEGISLATIVE INTENT

SB 304 provides for a third party medical care financing mechanism for residents who are either marginally insurable or uninsurable or who have involuntarily lost their coverage with the financial ability to pay premiums at a level deemed affordable. This measure is similar to CSHB 58S of the Fourteenth Legislature, and HB 72 and HB 474 of the Fifteenth Legislature. There is the possibility of a substantial loss of premium tax revenues up to \$4.2 million.

ANALYSIS OF BILL PROGRAM EFFECTS

See Attached

AMENDMENTS PROPOSED

See Attached

4076D-1/22390e

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS

# **CORRECTION**

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



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
BILL ANALYSIS

DEPARTMENT Commerce & Econ. Dev.	DIVISION Insurance	BILL NUMBER SSSB 304	SPONSOR Senator Coghill
SHORT TITLE OF BILL An Act Relating to Disability Insurance			
DEPARTMENT POSITION Neutral			
PREPARED BY Don Koch, Acting Deputy Director	DATE 2/23/90	COMMISSIONER'S SIGNATURE <i>[Signature]</i>	DATE 2/23/90

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Department of Health and Social Services	CONSTITUENT GROUP(S) AFFECTED BY BILL Uninsurable residents and residents who have involuntarily lost their health insurance coverage
ORGANIZATIONAL SUPPORT FOR BILL Insurance Industry	ORGANIZATIONAL OPPOSITION TO BILL Unknown

FISCAL IMPACT:  NONE  FISCAL NOTE ATTACHED

BACKGROUND LEGISLATIVE INTENT

SB 304 provides for a third party medical care financing mechanism for residents who are either marginally insurable or uninsurable or who have involuntarily lost their coverage with the financial ability to pay premiums at a level deemed affordable. This measure is similar to CSHB 589 of the Fourteenth Legislature, and HB 72 and HB 474 of the Fifteenth Legislature. There is the possibility of a substantial loss of premium tax revenues up to \$4.2 million.

ANALYSIS OF BILL PROGRAM EFFECTS

See Attached

AMENDMENTS PROPOSED

See Attached

ANALYSIS OF BILL/PROGRAM EFFECTS

SECTION 2 AS 21.55.010 - .500

AS 21.55.010

This section creates the Comprehensive Disability Insurance Association (CDIA). Membership is mandatory as a condition of licensure for those insurers and hospital or medical service corporations that offer major medical coverage in Alaska. "Self-insurers" are not members and could not be forced to be members due to the preexemption created by the Employee Retirement Income Security Act of 1974 (ERISA).

AS 21.55.020

Criteria for CDIA's seven-member board is established in this section. The director or director's designee is a nonvoting, ex-officio member of the board. The vote of a board member is weighted based upon that member's share of Alaska disability insurance premium for major medical coverage. The CDIA board members may be compensated only for their expenses incurred as board members. The costs incurred by the director for association related duties, such as travel expenses to attend board meetings, must be borne by the Division of Insurance's budget. FY 91 would be impacted the most as numerous meetings can be anticipated to implement this program. Four board meetings can be anticipated in future years. The board meetings could also be expected to take place outside of Alaska as board membership will be insurers domiciled outside of this state. It will be more cost effective for members to meet in a central location in the contiguous 48 states.

AS 21.55.030 - .060

These sections set out CDIA's general powers, an outline for a plan of operations, an exemption from the Administration Procedures Act, and an exemption from any taxes and fees levied by the state or any political subdivisions (other than those on real or personal property).

AS 21.55.100

Two plans of disability insurance are required to be made available to eligible residents. The two plans are differentiated by the deductible described in AS 21.55.120 (\$1,000 and \$5,000).

A resident is eligible (AS 21.55.300(a)) for coverage if the person provides evidence of:

1. rejection for medical reasons, a requirement of restrictive riders, an updated premiums or a preexisting condition limitation which has the effect of substantially reducing coverage as compared to a person considered to be a standard risk, by at least one member insurer within six months of the date of application; or
2. involuntary termination of disability insurance coverage for any reason other than nonpayment of premiums.

The following persons are not eligible (AS 21.55.300(b)):

1. a person who, at the time of application, is eligible for medical assistance;
2. a person who terminated coverage under this chapter unless 12 months have elapsed since termination, or that the person can show that other continuous coverage was involuntarily terminated for any reason other than for nonpayment of premium;
3. a person on whose behalf \$500,000 in benefits have been paid; and
4. inmates of public institutions and persons whose benefits are duplicated under public programs.

It should be noted that a person who previously has had double coverage and involuntarily loses one coverage plan would be eligible for this program. If it is not the sponsor's intent for this program to provide for double coverage, this section would need to be amended to accomplish this.

No other eligibility criteria may be applied other than that found in AS 21.55.300 and a person may not be denied coverage if those criteria are met and application is made in accordance with AS 21.55.310.

#### AS 21.55.110

Minimum benefit standards are established in this section. The benefit configuration is quite comprehensive and may provide for premium rates that may not be affordable even with a premium cap of 150% of a standard rate established under AS 21.55.150. A "no frills" catastrophic type of benefit configuration may wish to be considered in order to address the affordability issue.

#### AS 21.55.120

The two deductible amounts of \$1,000 and \$5,000 are established here. A deductible "carry-over" provision is established for expenses incurred in the last three months of a calendar year used to satisfy the deductible. Those expenses will be used to also satisfy the deductible in the following year.

A copayment maximum is established.

An insured's out-of-pocket costs are limited to \$2,000 as a result of responsibility for the deductible and copayment.

The deductible may be adjusted annually by the director based upon the change in the consumer price index for the Anchorage Metropolitan area.

#### AS 21.55.130

This section provides the allowable preexisting medical condition provision to be included in the state plans. No coverage is to be provided for the first twelve months of coverage for any preexistent medical conditions.

The state plan must credit time covered under a previous contract which was involuntarily terminated toward satisfaction of the time parameters in which coverage is not provided for a preexisting condition. In such a situation and if the person applies for state plan coverage within 31 days after involuntary termination, the state plan coverage is retroactive to the termination date.

#### AS 21.55.140

This section provides a list of care and services not to be covered by the state plans.

#### AS 21.55.150

Standards for the establishment of premium rates are found here. Age banded rates that vary by geographic location of the insured are required. The rates charged by the CDIA are not to be excessive, inadequate, or unfairly discriminatory. However, the maximum rates charged may not exceed 150% of the average of the rates charged for a standard risk by the five insurers with the largest member of Alaskan residents covered under equivalent plans of insurance coverage. The director would need to establish criteria to determine actuarially equivalent plans and collect data regarding the number of persons covered in each plan in order to determine the five members whose rates are going to be solicited. (This data is not currently reported.) Furthermore, each of the five insurer's rates for its actuarially equivalent plans would have to be verified as being actuarially sound by the division. This activity will have a fiscal impact on the division as well as on the insurance industry. A less costly approach would be to determine the five insurers on the basis of total disability premiums written in Alaska. However, the division would still need to contract annually with a qualified actuary to determine the structural compatibility and actuarial soundness of the rate structures.

Testimony on CSHB 589 of the Fourteenth Legislature from the insurance industry indicated that actuarially sound rates for the uninsurable population might exceed standard rates by a factor of three. Therefore, the mandatory cap at 150% of standard would provide for an inadequate rate basis which would seem to provide for a conflict between AS 21.55.150(a) and AS 21.55.150(c).

#### AS 21.55.200

Criteria for the selection of the member to administer the state plans is found in this section. Essentially, the criteria entail the proven ability to administer large insurance contracts efficiently. An additional criteria that may wish to be considered would be to require that an administrative, claims payment facility be located in Alaska. However, cost/benefit justification would need to prevail.

#### AS 21.55.210

This section sets out the duties to be performed by the writing carrier. The duties include those usually performed by any insurer or hospital or medical service corporation. I would recommend this section be amended to include the function of premium billing. It would appear the intent is to have premiums paid on a quarterly basis (see AS 21.55.330(a)). If this is the intent, the frequency of billing and premium payments should be stipulated to be quarterly.

#### AS 21.55.220

The material provisions of this section pertain to establishing each member's liability for its proportional share of the costs to operate the state plans and proportional share of claims that exceed the premiums collected. Each member's proportional share is determined by the relationship of its total disability insurance premiums or subscriber fees to the total of all members. Failure by a member to pay an assessment within 30 days from when it is due is grounds for revocation of that member's certificate of authority. Any gains from operations of the state plans are required to be held at interest and be used to offset future claims or to reduce premium rates.

Any assessments paid by a member are considered an expense item for statutory financial reporting purposes.

#### AS 21.55.300

Eligibility for participation in the state plans is outlined in this section as well as an outline for those persons not eligible. These criteria were discussed previously in the comments on AS 21.55.100.

#### AS 21.55.310

This section contains the procedure for application for state plan coverage, and a description of the personal information required to be provided. However, this section does not include a provision for an applicant to submit proof of eligibility such as a copy of a letter of rejection from a member, a copy of an insurance contract with a restrictive rider, or proof that previous coverage was involuntarily terminated for reasons other than nonpayment of premium. This section needs to be amended to include a requirement that such information be provided in the application for state plan coverage. It should also be noted that no premium payment is required to accompany the application.

### AS 21.55.320

This section requires the writing carrier to respond to each applicant within 30 days of request of an application. The application is either rejected for noncompliance with AS 21.55.300 and AS 21.55.310, or it is accepted and billing information is provided.

### AS 21.55.330

The effective date of coverage under the state plans is governed by this section. The primary criteria for coverage effectuation is the receipt of the appropriate premium by the writing carrier. Generally, coverage is retroactive to the date of the application. However, coverage may be retroactive to the date that a person's previous coverage was terminated if that person:

1. applies for state plan coverage within 60 days after the previous coverage was terminated;
2. is accepted by the writing carrier; and
3. pays a specified premium for the period of retroactive coverage.

One area in need of clarification is what date constitutes the "date of application". Basically, two possible dates could constitute that date:

1. the date the applicant signs the application (under the assumption the application form will have a signature space, and a space for the applicant to date his or her signature). If this is the intended date, it is recommended that each applicant's signature and date of signature be notarized;

OR

2. the date the writing carrier receives a completed application. This would be determined assumedly by a mechanically stamped day/date of receipt on the application itself.

Amendment is necessary to clarify this item. It is suggested that this be accomplished in the definitions section, AS 21.55.500.

### AS 21.55.340

This section calls for the association to develop and implement a program of public awareness that encourages and facilitates participation in the state plans. Any member that rejects coverage or applies underwriting restrictions is required to inform that person of the existence of the state plans, eligibility requirements, and the application procedures.

The marketing of the state plans, other than by association members or the writing carrier on a direct basis, is limited to licensed disability insurance agents. No mention is made of any compensation for the agent that "sells" a state plan to an eligible person. The issue of compensation for agents may wish to be addressed.

#### AS 21.55.400

The duties of the director are outlined in this section. One duty (AS 21.55.400(2)) entails the contracting with other governmental entities (state and federal) to coordinate this program with other medical assistance programs. It is understood that such arrangements are typically accomplished not through contracts, per se, but through "memoranda of agreement".

Another duty (AS 21.55.410(3)) requires the director to undertake studies and demonstration projects to develop awareness of this program. This appears to be duplicative of a similar duty imposed upon the association. It is recommended that this duty imposed upon the director be deleted.

#### AS 21.55.410

This section states the state is not liable for the acts of the association in operating this plan.

#### AS 21.55.500

This section contains the definitions of the operative terms used in this proposal.

The term "major medical" includes the lifetime maximum of \$500,000. It should be noted that an insurer could escape membership in the association by offering plans with maximum benefits of less than \$500,000.

AS 21.55.500(11) defines the term "usual, customary, reasonable, or prevailing charge". This provision needs to be amended to evaluate at what cutoff point a charge no longer falls within the "customary charge" range of charges. This is typically set at some percentile such as the 75th or 90th percentile.

### SECTION 3

This section creates an offset equal to any assessment to premium taxes required to be paid by a member. Such credits may be carried forward if the offset in a given year would reduce a member's premium tax liability to less than zero.

This will result in less premium tax receipts for the state depending upon the state plans' financial performance. It should be noted that this credit can be applied against premium taxes associated only with disability insurance premiums. However, this is not clear from the reading of the Section; and AS 21.55.060 must be read as well.

There may be an inequitable result due to the different premium tax bases for insurers and hospital or medical service corporations.

## SECTION 4

This section requires that state plans be available by January 1, 1991. This appears to be a quite short lead time to develop these plans. If this Act is enacted during the first session, it might be more realistic to have the implementation date set at July 1, 1991.

## SECTION 5

This Act would take effect immediately.

### AMENDMENTS PROPOSED

1. AS 21.55.110 needs to be amended to include those benefits mandated in AS 21.42.345 and AS 21.42.365.
2. AS 21.55.110(2) needs to be amended to define what constitutes "dental conditions" for which coverage is not to be provided.
3. AS 21.55.150 needs to be amended to eliminate the conflict between subsections (a) and (c). (See comments on AS 21.55.150.)
4. AS 21.55.210 needs to be amended to require the writing carrier to perform billing functions and to stipulate that premiums be paid on a quarterly basis, if that is the sponsor's intent.
5. AS 21.55.310 needs to be amended to include a requirement that the applicant provide information proving eligibility for state plan coverage.
6. AS 21.55.400(3) should be deleted. (See comments on AS 21.55.400.)
7. AS 21.55.500 needs to be amended to include a definition of the term "date of the application". (See comments on AS 21.55.330.)
8. AS 21.55.500 (11) needs to be amended to include a percentile cutoff point in the customary charge profile of charges. (See comments on AS 21.55.500.)
9. Section 3, AS 21.09.210(j) needs to be amended to make it clear that the premium tax credit only applies to disability insurance premiums. This can be accomplished by inserting the words "disability insurance premiums" between the words "imposed" and "under" on line 28 of page 19 of the Bill.

## FISCAL NOTE

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

Revision Date: \_\_\_\_\_  
Title: An Act relating to disability insurance

Agency Affected: Commerce & Economic Development  
BRU: Insurance

Sponsor: Coghill  
Requestor: Senate Labor & Commerce

Components: Operations

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

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0	0	65.4	65.4	65.4	65.4
TRAVEL	0	0	12.0	6.0	6.0	6.0
CONTRACTUAL	0	0	35.0	35.0	35.0	35.0
SUPPLIES	0	0	1.0	1.0	1.0	1.0
EQUIPMENT	0	0	10.0			
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	123.4	107.4	107.4	107.4
<b>CAPITAL</b>	0	0	0	0	0	0
<b>REVENUE</b>	0	0	(0-4,234.7)	(0-4,234.7)	(0-4,234.7)	(0-4,234.7)

**FUNDING:** (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER PR/GF	0	0	123.4	107.4	107.4	107.4
<b>TOTAL</b>	0	0	123.4	107.4	107.4	107.4

**POSITIONS:**

FULL-TIME	0	0	1	1	1	1
PART-TIME						
TEMPORARY						

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

Prepared by: James J. Jordan, Deputy Director  
Division: Insurance

Phone: 465-2515  
Date: 2/2/90

Approved by Commissioner: Larry Mercurieff  
Agency: Department of Commerce & Economic Development

Date: 5/2

**Distribution (by preparer):**

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

## FISCAL NOTE - SB 304

### ANALYSIS

#### Travel:

The director is an ex-officio board member of the Comprehensive Disability Insurance Association. The seven members of the board will be from out-of-state insurance companies and hospital or medical service corporations. The travel estimate is based on the director or the director's designee attending eight out-of-state board meetings in the first year of operation and four in each subsequent year at an estimated cost of \$1,500 for each.

#### Contractual:

Each year, the division will have to contract with an actuary to verify that the rating structures of the association are actuarially sound. The estimate for the annual contract is \$25,000.

In addition, the director may undertake studies or demonstration projects to develop awareness of the benefits of the program. The annual estimate for this is \$8,000.

#### Revenue:

The members of the Comprehensive Disability Insurance Association are entitled to receive a credit against taxes levied by the state on disability insurance premiums. The maximum potential loss of state revenue is equal to the total tax collected on disability insurance premiums. It is impossible to predict what the actual tax revenue loss will be. However, using 1987 premium data as a benchmark, the state could lose \$4.2 million.

\$144,444.0	1987 disability premiums of insurers
<u>    x 2.7%</u>	Tax rate
\$ 3,900.0	Tax revenue
\$ 61,189.0	1987 disability premiums of hospital and medical service corporations
<u>  [55,610.0]</u>	Less claims
\$ 5,579.0	Taxable premiums
<u>    x 6.0%</u>	Tax rate
\$ 334.7	Tax revenue
\$ 3,900.0	
<u>  + 334.7</u>	
\$ 4,234.7	1987 total disability insurance tax revenue

Furthermore, an insurer whose assessment exceeds their tax liability can carry forward the excess credit to be applied against future years' tax liabilities.

STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION: SB 304  
PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Commerce & Economic Development  
Title: An Act relating to disability insurance BRU: Insurance  
Sponsor: Coghill Components: Operations  
Requester: Senate Labor & Commerce

EXPENDITURES / REVENUES : (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	0	0	65.4	65.4	65.4	65.4
TRAVEL	0	0	12.0	6.0	6.0	6.0
CONTRACTUAL	0	0	35.0	35.0	35.0	35.0
SUPPLIES	0	0	1.0	1.0	1.0	1.0
EQUIPMENT	0	0	10.0			
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	123.4	107.4	107.4	107.4

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	(0-4,234.7)	(0-4,234.7)	(0-4,234.7)	(0-4,234.7)
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FUNDING: (Thousands of dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER PR/GF	0	0	123.4	107.4	107.4	107.4
TOTAL	0	0	123.4	107.4	107.4	107.4

POSITIONS:

FULLTIME	0	0	1	1	1	1
PARTTIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

SEE ATTACHED PAGE

Prepared by: Jim Jordan, Deputy Director *Bob*  
Division: Insurance

Phone: 562-3626  
Date: 5/16/89

Approved by Commissioner: Larry Mercurieff *[Signature]*  
Agency: Department of Commerce & Economic Development

Phone: 465-2500  
Date: 5/21/89

Distribution (by preparer):

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

page 1 of 2

FISCAL NOTE - SB 304

ANALYSIS

**Personal Services:** Funding for a new PFT position, Chief of Operations, \$65.4, is included.

**Travel:** The director is an ex-officio board member of the Comprehensive Disability Insurance Association. The seven members of the board will be from out-of-state insurance companies and hospital or medical service corporations. The travel estimate is based on the director or the director's designee attending eight out-of-state board meetings in the first year of operation and four in each subsequent year at an estimated cost of \$1,500 for each.

**Contractual:** Each year, the division will have to contract with an actuary to verify that the rating structures of the association are actuarially sound. The estimate for the annual contract is \$25,000.

In addition, the director may undertake studies or demonstration projects to develop awareness of the benefits of the program. The annual estimate for this is \$8,000.

\$2,000 is also included for the new position's miscellaneous contractual expenditures.

**Supplies:** The new position's supplies are estimated at \$1,000.

**Equipment:** A work station and computer are included for the new position at \$10,000.

**Revenue:** The members of the Comprehensive Disability Insurance Association are entitled to receive a credit against taxes levied by the state on disability insurance premiums. The maximum potential loss of state revenue is equal to the total tax collected on disability insurance premiums. It is impossible to predict what the actual tax revenue loss will be. However, using 1987 premium data as a benchmark, the state could lose \$4.2 million.

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\$ 3,900.0	
<u>  + 334.7</u>	
\$ 4,234.7	1987 total disability insurance tax revenue

Furthermore, an insurer whose assessment exceeds their tax liability can carry forward the excess credit to be applied against future years' tax liabilities.

Position Title <b>Chief of Operations</b>		No. of Positions 1	Range/Step 23/A	Barg. Unit S
Time Status PFT	Staff Months 12	Location Juneau		Election District 4
Type of Expenditure		Amount		
1	2	3		
Salary	49.2			
Benefits	16.2			
Premium Pay				
Other				
Total Personal Services		65.4		
Travel				
Contractual		2.0		
Commodities		1.0		
Equipment		10.0		
Other				
Total Cost		78.4		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004			
GF Program Receipts	1005	78.4		
Other				
<p><b>Justification</b></p> <p>This position is necessary to work with the Comprehensive Disability Insurance Association's board members. The division anticipates that this program will take a great deal of staff time, which is unavailable. Another position is required if the division is to take on this additional responsibility.</p> <p>Funds are included for a computer and workstation in the equipment line item.</p>				

7135M

**Request For  
New Position**

Agency Commerce & Economic Dev.  
 BRU Insurance  
 Component Operations

Page 2 of 4  
 Revised Date \_\_\_\_\_

**FY 89**



**STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
BILL ANALYSIS**

DEPARTMENT Commerce & Econ. Dev.	DIVISION Insurance	BILL NUMBER SB 304	SPONSOR Senator Coqhll
SHORT TITLE OF BILL An Act Relating to Disability Insurance			
DEPARTMENT POSITION Neutral			
PREPARED BY Jim Jordan, Deputy Director	DATE 5-4-89	COMMISSIONER'S SIGNATURE <i>[Signature]</i>	DATE 5/21/89

**SUMMARY**

OTHER AGENCIES AFFECTED BY BILL Department of Health and Social Services	CONSTITUENT GROUPS AFFECTED BY BILL Uninsurable residents and residents who have involuntarily lost their health insurance coverage
ORGANIZATIONAL SUPPORT FOR BILL Insurance Industry	ORGANIZATIONAL OPPOSITION TO BILL Unknown

FISCAL IMPACT:       NONE       FISCAL NOTE ATTACHED

**BACKGROUND/LEGISLATIVE INTENT**      SB 304 provides for a third party medical care financing mechanism for residents who are either marginally insurable or uninsurable or who have involuntarily lost their coverage with the financial ability to pay premiums at a level deemed affordable. This measure is similar to CSHB 589 of the Fourteenth Legislature, and HB 72 and HB 474 of the Fifteenth Legislature. Unless granted a waiver by the Authority, the state and each municipality or school district must have its health insurance benefits purchased through the Authority (Section 1). There is the possibility of a substantial loss of premium tax revenues up to \$4.2 million.

**ANALYSIS OF BILL/PROGRAM EFFECTS**

See Attached

**AMENDMENTS PROPOSED**

See Attached

4076D-1/052489d

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

SB 304

ANALYSIS OF BILL/PROGRAM EFFECTS

SECTION 2 AS 21.55.010 - .500

AS 21.55.010

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AS 21.55.020

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AS 21.55.030 - .060

These sections set out CDIA's general powers, an outline for a plan of operations, an exemption from the Administration Procedures Act, and an exemption from any taxes and fees levied by the state or any political subdivisions (other than those on real or personal property).

AS 21.55.100

Two plans of disability insurance are required to be made available to eligible residents under the age of 65. The two plans are differentiated by the deductible described in AS 21.55.120 (\$500 and \$1,000). Additionally, a Medicare supplement is required to be offered to those eligible residents 65 years of age and older.

A resident is eligible (AS 21.55.300(a)) for coverage if the person provides evidence of:

1. rejection for medical reasons, a requirement of restrictive riders, an updated premiums or a preexisting condition limitation which has the effect of substantially reducing coverage as compared to a person considered to be a standard risk, by at least one member insurer within six months of the date of application; or
2. involuntary termination of disability insurance coverage for any reason other than nonpayment of premiums.

The following persons are not eligible (AS 21.55.300(b)):

1. a person who, at the time of application, is eligible for medical assistance;
2. a person who terminated coverage under this chapter unless 12 months have elapsed since termination, or that the person can show that other continuous coverage was involuntarily terminated for any reason other than for nonpayment of premium;
3. a person on whose behalf \$1,000,000 in benefits have been paid; and
4. inmates of public institutions and persons whose benefits are duplicated under public programs.

It should be noted that a person who previously has had double coverage and involuntarily loses one coverage plan would be eligible for this program. If it is not the sponsor's intent for this program to provide for double coverage, this section would need to be amended to accomplish this.

No other eligibility criteria may be applied other than that found in AS 21.55.300 and a person may not be denied coverage if those criteria are met and application is made in accordance with AS 21.55.310.

#### AS 21.55.110

Minimum benefit standards are established in this section. The benefit configuration is quite comprehensive and may provide for premium rates that may not be affordable even with a premium cap of 150% of a standard rate established under AS 21.55.150. A "no frills" catastrophic type of benefit configuration may wish to be considered in order to address the affordability issue.

#### AS 21.55.120

The two deductible amounts of \$500 and \$1,000 are established here. A deductible "carry-over" provision is established for expenses incurred in the last three months of any calendar year used to satisfy the deductible. Those expenses will be used to also satisfy the deductible in the following year.

A copayment of 20% is established. This copayment applies to all types of charges except those for the treatment of mental and nervous conditions which is 50%.

An insured's out-of-pocket costs are limited to \$2,000 as a result of responsibility for the deductible and copayment. However, no cap is placed on out-of-pocket expenses for treatment of mental and nervous conditions.

The deductible may be adjusted annually by the director based upon the change in the consumer price index for the Anchorage Metropolitan area. The out-of-pocket limit must be adjusted annually by the same index.

#### AS 21.55.130

This section provides the allowable preexisting medical condition provision to be included in the state plans. No coverage is to be provided for the first six months of coverage for any preexistent medical conditions.

The state plan must credit time covered under a previous contract which was involuntarily terminated toward satisfaction of the time parameters in which coverage is not provided for a preexisting condition. In such a situation and if the person applies for state plan coverage within 31 days after involuntary termination, the state plan coverage is retroactive to the termination date.

#### AS 21.55.140

This section provides a list of care and services not to be covered by the state plans.

#### AS 21.55.150

Standards for the establishment of premium rates are found here. Age banded rates that vary by geographic location of the insured are required. The rates charged by the CDIA are not to be excessive, inadequate, or unfairly discriminatory. However, the maximum rates charged may not exceed 150% of the average of the rates charged for a standard risk by the five insurers with the largest member of Alaskan residents covered under equivalent plans of insurance coverage. The director would need to establish criteria to determine actuarially equivalent plans and collect data regarding the number of persons covered in each plan in order to determine the five members whose rates are going to be solicited. (This data is not currently reported.) Furthermore, each of the five insurer's rates for its actuarially equivalent plans would have to be verified as being actuarially sound by the division. This activity will have a fiscal impact on the division as well as on the insurance industry. A less costly approach would be to determine the five insurers on the basis of total disability premiums written in Alaska. However, the division would still need to contract annually with a qualified actuary to determine the structural compatibility and actuarial soundness of the rate structures.

Testimony on CSHB 589 of the Fourteenth Legislature from the insurance industry indicated that actuarially sound rates for the uninsurable population might exceed standard rates by a factor of three. Therefore, the mandatory cap at 150% of standard would provide for an inadequate rate basis which would seem to provide for a conflict between AS 21.55.150(a) and AS 21.55.150(c).

#### AS 21.55.200

Criteria for the selection of the member to administer the state plans is found in this section. Essentially, the criteria entail the proven ability to administer large insurance contracts efficiently. An additional criteria that may wish to be considered would be to require that an administrative, claims payment facility be located in Alaska. However, cost/benefit justification would need to prevail.

#### AS 21.55.210

This section sets out the duties to be performed by the writing carrier. The duties include those usually performed by any insurer or hospital or medical service corporation. I would recommend this section be amended to include the function of premium billing. It would appear the intent is to have premiums paid on a quarterly basis (see AS 21.55.330(a)). If this is the intent, the frequency of billing and premium payments should be stipulated to be quarterly.

#### AS 21.55.220

The material provisions of this section pertain to establishing each member's liability for its proportional share of the costs to operate the state plans and proportional share of claims that exceed the premiums collected. Each member's proportional share is determined by the relationship of its total disability insurance premiums or subscriber fees to the total of all members. Failure by a member to pay an assessment within 30 days from when it is due is grounds for revocation of that member's certificate of authority. Any gains from operations of the state plans are required to be held at interest and be used to offset future claims or to reduce premium rates.

Any assessments paid by a member are considered an expense item for statutory financial reporting purposes.

#### AS 21.55.300

Eligibility for participation in the state plans is outlined in this section as well as an outline for those persons not eligible. These criteria were discussed previously in the comments on AS 21.55.100.

### AS 21.55.310

This section contains the procedure for application for state plan coverage, and a description of the personal information required to be provided. However, this section does not include a provision for an applicant to submit proof of eligibility such as a copy of a letter of rejection from a member, a copy of an insurance contract with a restrictive rider, or proof that previous coverage was involuntarily terminated for reasons other than nonpayment of premium. This section needs to be amended to include a requirement that such information be provided in the application for state plan coverage. It should also be noted that no premium payment is required to accompany the application.

### AS 21.55.320

This section requires the writing carrier to respond to each applicant within 30 days of request of an application. The application is either rejected for noncompliance with AS 21.55.300 and AS 21.55.310, or it is accepted and billing information is provided.

### AS 21.55.330

The effective date of coverage under the state plans is governed by this section. The primary criteria for coverage effectuation is the receipt of the appropriate premium by the writing carrier. Generally, coverage is retroactive to the date of the application. However, coverage may be retroactive to the date that a person's previous coverage was terminated if that person:

1. applies for state plan coverage within 60 days after the previous coverage was terminated;
2. is accepted by the writing carrier; and
3. pays a specified premium for the period of retroactive coverage.

One area in need of clarification is what date constitutes the "date of application". Basically, two possible dates could constitute that date:

1. the date the applicant signs the application (under the assumption the application form will have a signature space, and a space for the applicant to date his or her signature). If this is the intended date, it is recommended that each applicant's signature and date of signature be notarized;

OR

2. the date the writing carrier receives a completed application. This would be determined assumedly by a mechanically stamped day/date of receipt on the application itself.

Amendment is necessary to clarify this item. It is suggested that this be accomplished in the definitions section, AS 21.55.500.

#### AS 21.55.340

This section calls for the association to develop and implement a program of public awareness that encourages and facilitates participation in the state plans. Any member that rejects coverage or applies underwriting restrictions is required to inform that person of the existence of the state plans, eligibility requirements, and the application procedures.

The marketing of the state plans, other than by association members or the writing carrier on a direct basis, is limited to licensed disability insurance agents. No mention is made of any compensation for the agent that "sells" a state plan to an eligible person. The issue of compensation for agents may wish to be addressed.

#### AS 21.55.400

The duties of the director are outlined in this section. One duty (AS 21.55.400(2)) entails the contracting with other governmental entities (state and federal) to coordinate this program with other medical assistance programs. It is understood that such arrangements are typically accomplished not through contracts, per se, but through "memoranda of agreement".

Another duty (AS 21.55.410(3)) requires the director to undertake studies and demonstration projects to develop awareness of this program. This appears to be duplicative of a similar duty imposed upon the association. It is recommended that this duty imposed upon the director be deleted.

#### AS 21.55.410

This section states the state is not liable for the acts of the association in operating this plan.

#### AS 21.55.500

This section contains the definitions of the operative terms used in this proposal.

The term "major medical" includes the lifetime maximum of \$1,000,000. It should be noted that an insurer could escape membership in the association by offering plans with maximum benefits of less than \$1,000,000.

AS 21.55.500(11) defines the term "usual, customary, reasonable, or prevailing charge". This provision needs to be amended to evaluate at what cutoff point a charge no longer falls within the "customary charge" range of charges. This is typically set at some percentile such as the 75th or 90th percentile.

### SECTION 3

This section creates an offset equal to any assessment to premium taxes required to be paid by a member. Such credits may be carried forward if the offset in a given year would reduce a member's premium tax liability to less than zero.

This will result in less premium tax receipts for the state depending upon the state plans' financial performance. It should be noted that this credit can be applied against premium taxes associated only with disability insurance premiums. However, this is not clear from the reading of the Section; and AS 21.55.060 must be read as well.

There may be an inequitable result due to the different premium tax bases for insurers and hospital or medical service corporations.

### SECTION 4

This section requires that state plans be available by January 1, 1990. This appears to be a quite short lead time to develop these plans. If this Act is enacted during the first session, it might be more realistic to have the implementation date set at July 1, 1990.

### SECTION 5

This Act would take effect immediately.

### AMENDMENTS PROPOSED

1. AS 21.55.110 needs to be amended to include those benefits mandated in AS 21.42.345 and AS 21.42.365.
2. AS 21.55.110(2) needs to be amended to define what constitutes "dental conditions" for which coverage is not to be provided.
3. AS 21.55.150 needs to be amended to eliminate the conflict between subsections (a) and (c). (See comments on AS 21.55.150.)
4. AS 21.55.210 needs to be amended to require the writing carrier to perform billing functions and to stipulate that premiums be paid on a quarterly basis, if that is the sponsor's intent.
5. AS 21.55.310 needs to be amended to include a requirement that the applicant provide information proving eligibility for state plan coverage.
6. AS 21.55.400(3) should be deleted. (See comments on AS 21.55.400.)
7. AS 21.55.500 needs to be amended to include a definition of the term "date of the application". (See comments on AS 21.55.330.)

8. AS 21.55.500 (11) needs to be amended to include a percentile cutoff point in the customary charge profile of charges. (See comments on AS 21.55.500.)
9. Section 3, AS 21.09.210(j) needs to be amended to make it clear that the premium tax credit only applies to disability insurance premiums. This can be accomplished by inserting the words "disability insurance premiums" between the words "imposed" and "under" on line 28 of page 19 of the Bill.

Senator John B. (Jack) Coghill

Alaska State Legislature

Box V  
Juneau, Alaska 99811  
(907) 465-4797

Box 55028  
North Pole, Alaska 99705  
(907) 488 0862



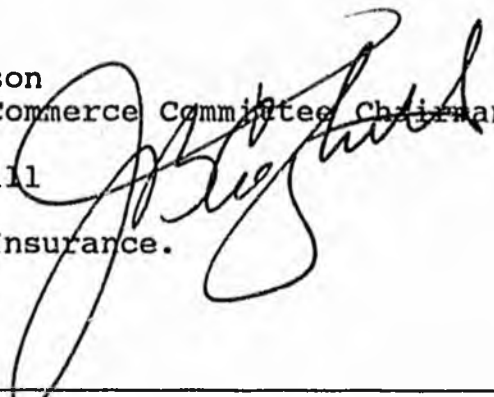
MEMORANDUM

To: Senator Dick Eliason  
Senate Labor and Commerce Committee Chairman

From: Senator Jack Coghill

Re: State Disability Insurance.

Date: January 16, 1989



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Attached you will find a legislative proposal and sectional analysis, I had prepared to solve a particular disability insurance problem.

The draft reflects an approach that other states have used to rectify similar problems.

Due to my senate minority status however, I would like to recommend this proposal for your consideration as a committee bill.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

December 15, 1988

SUBJECT: State disability insurance  
(Work Order No. 6-0227)

TO: Senator Jack Coghill

FROM: Michael F. Ford *M.F.*  
Legislative Counsel

The following is a sectional analysis of Work Order 6-0227A:

Section 1 -

Sec. 21.55.010 - Establishes the disability insurance association and requires that all disability insurers doing business in the state be members of the association.

Sec. 21.55.020 - Establishes the board of directors of the association and provides for organization of the board.

Sec. 21.55.030 - Establishes the general powers of the association.

Sec. 21.55.040 - Requires the association to submit an operational plan to the director of the division of insurance and provides that the plan must contain certain provisions.

Sec. 21.55.050 - Exempts the association from the Administrative Procedure Act (AS 44.62).

Sec. 21.55.060 - Provides that the association is exempt from state or local taxes, except for real or personal property taxes.

Sec. 21.55.100 - Requires the association to offer an individual plan of disability insurance to eligible state residents. Requires that the association offer a medicare supplement plan to residents who are 65 or older and provides

that the association may not deny coverage to eligible state residents.

Sec. 21.55.110 - Establishes the minimum benefits that the state disability insurance plan must offer for medical services.

Sec. 21.55.120 - Establishes the deductible and copayment amounts that the state may require in the insurance plan.

Sec. 21.55.130 - Provides that preexisting conditions may not be excluded from coverage for a period greater than six months.

Sec. 21.55.140 - Provides that certain care and services are not covered by the state insurance plan.

Sec. 21.55.150 - Limits the premium amount that may be charged for state disability insurance, and requires that premiums not be excessive, inadequate or unfairly discriminatory.

Sec. 21.55.200 - Establishes criteria for selection of an insurer to provide the disability insurance policy and handle insurance claims under the state insurance plan.

Sec. 21.55.210 - Establishes specific duties of the insurer selected to provide the disability policy and claims service.

Sec. 21.55.220 - Provides that a person may enroll in the state plan by paying the appropriate premium to the insurer. Also provides that each member of the association is responsible for the costs of state disability insurance that exceed premium payments. Under Sec. 2 of this draft, an insurer that is required to pay an assessment under this section is entitled to a tax credit under AS 21.09.210.

Sec. 21.55.300 - Establishes eligibility criteria for enrollment in the state insurance plan.

Sec. 21.55.310 - Establishes procedures for enrolling in the state insurance plan.

Sec. 21.55.320 - Requires that an application for enrollment be accepted or rejected within 30 days of receipt by the insurer.

Sec. 21.55.330 - Establishes the effective date of insurance coverage under the state plan.

Sec. 21.55.340 - Requires that the disability insurance association devise and implement a public awareness program to encourage enrollment in the state insurance plan.

Sec. 21.55.400 - Establishes duties of the director of the division of insurance regarding the disability insurance association.

Sec. 21.55.410 - Establishes that the state is immune from liability for acts or omissions of the association.

Sec. 21.55.500 - Definitions section.

Section 2 - Provides that a member of the disability insurance association is entitled to a tax credit equal to any assessment under AS 21.55.220(d). This allows an offset against claims expenses in excess of premiums, charged for the state disability insurance.

Section 3 - Requires that the state disability insurance be available to residents by January 1, 1990.

Section 4 - Effective date.

MFF:mi  
wkmi3/067

6-0227A  
Ford  
11/21/88

1 IN THE SENATE

BY COGHILL

2 SENATE 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 disability insurance; and provid-  
7 ing for an effective date."

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

9 \* Section 1. AS 21 is amended by adding a new chapter to read:

10 CHAPTER 55. STATE DISABILITY INSURANCE.

11 ARTICLE 1. COMPREHENSIVE DISABILITY INSURANCE ASSOCIATION.

12 Sec. 21.55.010. CREATION; MEMBERSHIP. There is established a  
13 nonprofit incorporate' legal entity to be known as the Comprehensive  
14 Disability Insurance Association. Membership consists of all licensed  
15 hospital or medical service corporations in the state that offer  
16 subscriber contracts for major medical coverage and all insurers  
17 licensed to transact disability insurance in the state that offer  
18 policies for major medical coverage on an expense incurred basis. All  
19 members shall maintain membership in the association as a condition of  
20 doing disability insurance business, or being able to offer subscriber  
21 contracts for major medical coverage, in the state.

22 Sec. 21.55.020. BOARD OF DIRECTORS; ORGANIZATION. The board of  
23 directors of the association shall be made up of seven individuals  
24 selected by participating members, subject to approval by the director  
25 of the division of insurance. The director or the director's designee  
26 shall serve as a nonvoting ex officio member of the board. In deter-  
27 mining voting rights at members' meetings, a member is entitled to  
28 vote in person or proxy. The vote shall be a weighted vote based upon  
29 the member's premiums for disability insurance for major medical

1 coverage on an expense incurred basis, or the member's subscriber  
2 fees, derived from or on behalf of state residents in the previous  
3 calendar year, as determined by the director. In approving members of  
4 the board, the director shall consider, among other things, whether  
5 all types of participating members are fairly represented. Members of  
6 the board other than the director or the director's designee may be  
7 reimbursed from the association for expenses incurred by them as  
8 members, but may not otherwise be compensated by the association for  
9 their services. The costs of conducting meetings of the association  
10 and its board of directors shall be borne by members of the associa-  
11 tion.

12 Sec. 21.55.030. GENERAL POWERS. The association may

13 (1) exercise the powers granted to insurers under the laws  
14 of the state;

15 (2) sue or be sued;

16 (3) enter into contracts with insurers, similar associa-  
17 tions in other states, or with other persons for the performance of  
18 administrative functions;

19 (4) establish administrative and accounting procedures for  
20 the operation of the association.

21 Sec. 21.55.040. PLAN OF OPERATION. (a) The association shall  
22 submit to the director a plan of operation and amendments necessary or  
23 suitable to ensure the fair, reasonable, and equitable administration  
24 of the association. The plan of operation and amendments become  
25 effective upon approval in writing by the director. If the associa-  
26 tion fails to submit a suitable plan of operation by a date that is  
27 180 days after the effective date of this Act, or if at a subsequent  
28 time the association fails to submit suitable amendments to the plan,  
29 the director may, after notice and hearing, adopt reasonable

1 regulations necessary to implement this chapter. These regulations  
2 continue in force until modified by the director or superseded by a  
3 plan submitted by the association and approved by the director.

4 (b) All members of the association shall comply with the plan of  
5 operation.

6 (c) The plan of operation must

7 (1) establish procedures under which all the powers and  
8 duties of the association under this chapter will be performed;

9 (2) establish procedures for handling assets of the asso-  
10 ciation;

11 (3) establish the amount and method of reimbursing members  
12 of the board of directors under AS 21.55.020;

13 (4) establish regular places and times for meetings of the  
14 board of directors;

15 (5) establish procedures for keeping records of all finan-  
16 cial transactions of the association, its agents, and the board of  
17 directors;

18 (6) provide that a member insurer aggrieved by a final  
19 action or decision of the association may appeal to the director  
20 within 30 days after the action or decision;

21 (7) establish procedures under which selections for the  
22 board of directors will be submitted to the director;

23 (8) contain additional provisions necessary or proper for  
24 the execution of the powers and duties of the association.

25 Sec. 21.55.050. ADMINISTRATIVE PROCEDURE ACT. The association  
26 is exempt from the Administrative Procedure Act (AS 44.62).

27 Sec. 21.55.060. TAX EXEMPTION. (a) The association is exempt  
28 from the payment of fees and taxes levied by the state or a political  
29 subdivision except taxes levied on real or personal property.

1  
2 (b) A member of the association is entitled to receive a credit  
3 against taxes levied by the state on disability insurance premiums as  
4 provided in AS 21.09.210(j).

5 ARTICLE 2. STATE DISABILITY INSURANCE PLANS.

6 Sec. 21.55.100. TYPES OF INSURANCE PLANS. (a) The association  
7 shall make available to residents eligible under AS 21.55.300 an  
8 individual state plan of disability insurance. The association shall  
9 offer two alternatives related to deductibles as described in AS 21.-  
10 55.120.

11 (b) The association shall make available to residents eligible  
12 under AS 21.55.300 who are 65 years of age or older a medicare supple-  
13 ment plan that meets the minimum policy standards and minimum benefit  
14 standards established by regulations adopted by the director under  
15 AS 21.89.060.

16 (c) The association may not deny coverage under a state plan to  
17 a resident who satisfies the requirements of AS 21.55.300 - 21.55.310.

18 Sec. 21.55.110. MINIMUM BENEFITS OF STATE DISABILITY INSURANCE  
19 PLAN. Except as provided in AS 21.55.120 - 21.55.140, the minimum  
20 standard benefits of a disability insurance plan offered under AS 21.-  
21 55.100(a) are benefits with a lifetime maximum of \$1,000,000 per  
22 individual for usual, customary, reasonable, or prevailing charges or,  
23 when applicable, the allowance agreed upon between a provider and the  
24 writing carrier for charges, for the following medical services per-  
25 formed for an individual covered by the plan for the diagnosis or  
26 treatment of nonoccupational disease or nonoccupational injury:

27 (1) hospital services;

28 (2) subject to the limitations of AS 21.36.090(d), profes-  
29 sional services that are rendered by a physician or by a registered  
nurse at the physician's direction, other than services for mental or

1 dental conditions;

2 (3) the diagnosis or treatment of mental conditions, as  
3 defined in regulations of the director, rendered during the year on  
4 other than an inpatient basis, up to a yearly maximum benefit of  
5 \$4,000;

6 (4) legend drugs requiring a physician's prescription;

7 (5) services of a skilled nursing facility for not more  
8 than 120 days in a policy year;

9 (6) home health agency services up to a maximum of 270  
10 visits in a calendar year if the services begin within seven days  
11 following confinement in a hospital or skilled nursing facility of at  
12 least three consecutive days for the same condition, except that in  
13 the case of an individual diagnosed by a physician as terminally ill  
14 with a prognosis of six months or less to live, the home health agency  
15 services may begin irrespective of whether the covered person was  
16 previously confined or, if the covered person was confined, irrespec-  
17 tive of the seven-day period, and the yearly benefit for medical  
18 social services may not exceed \$200;

19 (7) hospice services for up to six months in a calendar  
20 year;

21 (8) use of radium or other radioactive materials;

22 (9) outpatient chemotherapy;

23 (10) oxygen;

24 (11) anesthetics;

25 (12) nondental prosthesis and maxillo-facial prosthesis used  
26 to replace any anatomic structure lost during treatment for head and  
27 neck tumors or additional appliances essential for the support of the  
28 prosthesis;

29 (13) rental, or purchase if purchase is more cost effective

1 than rental, of durable medical equipment that has no personal use in  
2 the absence of the condition for which it was prescribed;

3 (14) diagnostic x-rays and laboratory tests;

4 (15) oral surgery for excision of partially or completely  
5 unerupted impacted teeth or excision of a tooth root without the  
6 extraction of the entire tooth;

7 (16) services of a licensed physical therapist rendered  
8 under the direction of a physician;

9 (17) transportation by a local ambulance operated by licen-  
10 sed or certified personnel to the nearest health care institution for  
11 treatment of the illness or injury and round trip transportation by  
12 air to the nearest health care institution for treatment of the ill-  
13 ness or injury if the treatment is not available locally; if the  
14 patient is a child under 12 years of age, the transportation charges  
15 of a parent or legal guardian accompanying the child may be paid if  
16 the attending physician certifies the need for the accompaniment;

17 (18) confinement in a licensed or certified facility estab-  
18 lished primarily for the treatment of alcohol or drug abuse or in a  
19 part of a hospital used primarily for this treatment, for a period of  
20 at least 45 days within any calendar year;

21 (19) alternatives to inpatient services as defined by the  
22 association in the state plan benefits;

23 (20) second surgical opinions;

24 (21) other services that are medically necessary in the  
25 treatment or diagnosis of an illness or injury as may be designated or  
26 approved by the director.

27 Sec. 21.55.120. DEDUCTIBLES AND COPAYMENTS. (a) A state plan  
28 other than a medicare supplement plan may require deductibles of \$500  
29 a person or \$1,000 a person. The amount of the deductible may not be

1 greater when a service is rendered on an outpatient basis than when  
2 that service is offered on an inpatient basis. Expenses incurred  
3 during the last three months of a calendar year and actually applied  
4 to an individual's deductible for that year shall also be applied to  
5 that individual's deductible in the following calendar year. The \$500  
6 maximum and the \$1,000 maximum may be adjusted yearly to correspond  
7 with the change in the medical care component of the consumer price  
8 index, as adjusted by the director. The base year for the computation  
9 is the first full calendar year of operation of the association.

10 (b) The copayment in a state plan other than a medicare supple-  
11 ment plan may not exceed 20 percent for charges for all types of  
12 medical care in excess of the deductible and 50 percent for services  
13 described in AS 21.55.110(3) in excess of the deductible.

14 (c) The sum of the deductible and copayments required in a  
15 calendar year under a plan may not exceed a maximum limit of \$2,000  
16 per covered individual. Covered expenses incurred after the applica-  
17 ble maximum limit has been reached shall be paid at the rate of 100  
18 percent of usual, customary, reasonable, or prevailing charges, except  
19 that expenses incurred for treatment of mental and nervous conditions  
20 shall be paid at the rate of 50 percent. The \$2,000 maximum shall be  
21 adjusted yearly to correspond with the change in the medical care  
22 component of the consumer price index as adjusted by the director.

23 (d) In this section, "consumer price index" means the consumer  
24 price index for all urban consumers for the Anchorage Metropolitan  
25 Area compiled by the Bureau of Labor Statistics, United States Depart-  
26 ment of Labor.

27 Sec. 21.55.130. PREEXISTING CONDITIONS. (a) A policy may not  
28 exclude coverage for a loss due to a preexisting condition for a  
29 period greater than six months following the effective date of

1 coverage.

2 (b) A state plan issued to a person whose previous subscriber  
3 contract, insurance policy, or medicare supplement policy was invol-  
4 untarily terminated must credit the time covered under the previous  
5 contract or policy toward an exclusion for preexisting conditions  
6 under the state plan if the previous contract or policy had a similar  
7 preexisting condition exclusion and the person applies for a state  
8 plan within 31 days after termination of the previous contract or  
9 policy. If a person covered by this subsection is accepted by the  
10 writing carrier and pays a specified premium for retroactive coverage,  
11 the state plan is effective retroactively to the date that the per-  
12 son's previous contract or policy terminated.

13 Sec. 21.55.140. CARE AND SERVICES NOT COVERED. A state plan may  
14 not provide benefits for charges for the following:

15 (1) care for an injury or disease either

16 (A) arising out of and in the course of an employment  
17 subject to a workers' compensation or similar law or where the  
18 benefit is required to be provided under a workers' compensation  
19 policy to a sole proprietor, business partner, or corporation  
20 officer; or

21 (B) to the extent benefits are payable without regard  
22 to fault under a coverage statutorily required to be contained in  
23 a motor vehicle or other liability insurance policy or equivalent  
24 self-insurance;

25 (2) treatment for cosmetic purposes other than surgery for  
26 the prompt repair of an accidental injury sustained while covered or  
27 for replacement of an anatomic structure removed during treatment of  
28 tumors;

29 (3) travel, other than transportation covered under

1 AS 21.55.110(17);

2 (4) private room accommodations to the extent the charge is  
3 in excess of the institution's most common charge for a semiprivate  
4 room;

5 (5) services or articles to the extent that the charge  
6 exceeds the reasonable charge in the locality for the service;

7 (6) services or articles that are determined not to be  
8 medically necessary, except for the fabrication or placement of the  
9 prosthesis as specified in (2) of this section and in AS 21.55.-  
10 110(12);

11 (7) services or articles that are not within the scope of  
12 the license or certificate of the institution or individual rendering  
13 the services or articles;

14 (8) services or articles furnished, paid for or reimbursed  
15 directly by or under any law of a government, except as otherwise  
16 provided in this chapter;

17 (9) services or articles for custodial care or designed  
18 primarily to assist an individual in the activities of daily living;

19 (10) service charges that would not have been made if no  
20 insurance existed or that the covered individual is not legally ob-  
21 ligated to pay;

22 (11) eyeglasses, contact lenses, or hearing aids or the  
23 fittings of them;

24 (12) dental care not specifically covered by this chapter;

25 (13) services of a registered nurse who ordinarily resides  
26 in the covered individual's home, or who is a member of the covered  
27 individual's family or the family of the covered individual's spouse;

28 (14) experimental procedures; and

29 (15) services and supplies for which the patient was not

1 charged.

2           Sec. 21.55.150. STATE PLAN PREMIUMS. (a) The association may  
3 not charge a rate for coverage issued by or through the association  
4 that is excessive, inadequate, or unfairly discriminatory.

5           (b) The association shall use separate scales of premium rates  
6 based on age and geographic location of the insured.

7           (c) The five members of the association that insure, or have  
8 subscriber contracts with, the largest number of individuals in the  
9 state under plans with benefits substantially equivalent to the state  
10 plan benefits shall submit to the association an estimate of the rate  
11 that would be actuarially sound for a person who is a standard risk  
12 for coverage substantially equivalent to the state plan. The premium  
13 for a state plan may not exceed 150 percent of the average of those  
14 five estimates.

15                   ARTICLE 3. ADMINISTRATION OF PLANS.

16           Sec. 21.55.200. SELECTION OF WRITING CARRIERS. The association  
17 shall develop written bid specifications for members that wish to be  
18 selected as a writing carrier to administer a state plan. The selec-  
19 tion of the writing carrier must be based upon criteria, including the  
20 member's proven ability to handle a large number of disability insur-  
21 ance cases or subscriber contracts, efficient claim paying capacity,  
22 and the estimate of total charges for administering the plan.

23           Sec. 21.55.210. DUTIES OF WRITING CARRIERS. (a) The writing  
24 carrier shall perform the administrative and claims payment functions  
25 required by this section. The writing carrier shall provide these  
26 services for a period of three years, unless a request to terminate is  
27 approved by the director. The director shall approve or deny a re-  
28 quest to terminate within 90 days of its receipt. A failure to make a  
29 final decision on a request to terminate within the specified period

1 shall be considered an approval. Six months before the expiration of  
2 each three-year period, the association shall invite submissions of  
3 policy forms from members of the association, including the writing  
4 carrier. The association shall follow the provisions of AS 21.55.210  
5 in selecting a writing carrier for the subsequent three-year period.

6 (b) The writing carrier shall provide to all eligible persons  
7 enrolled in a state plan an individual policy or certificate, setting  
8 out a statement of the insurance protection to which the person is  
9 entitled, with whom claims are to be filed, and to whom benefits are  
10 payable. The policy or certificate must indicate that coverage was  
11 obtained through the association.

12 (c) The writing carrier shall submit to the association and the  
13 director on a quarterly basis a report on the operation of the state  
14 plans. The association shall determine the specific information to be  
15 contained in the report.

16 (d) The writing carrier shall pay claims and shall indicate that  
17 the claim was paid under a state plan. A claim payment must include a  
18 telephone number that can be used for inquiries regarding the claim.

19 (e) The writing carrier shall be reimbursed from the state plan  
20 premiums received for its direct and indirect expenses for administer-  
21 ing the plan. Direct and indirect expenses must include a pro rata  
22 reimbursement for that portion of the writing carrier's administra-  
23 tive, printing, claims administration, management and building over-  
24 head expenses that are assignable to the maintenance and administra-  
25 tion of the state plans. The association shall approve cost account-  
26 ing methods to substantiate the writing carrier's cost reports consis-  
27 tent with generally accepted accounting principles. Direct and in-  
28 direct expenses may not include costs directly related to the original  
29 submission of policy forms before selection as the writing carrier.

1 (f) The writing carrier shall at all times when carrying out its  
2 duties under this chapter be considered an agent of the association.

3 Sec. 21.55.220. OPERATION OF THE PLAN. (a) Upon notification  
4 of eligibility under AS 21.55.320, a person may enroll in a state plan  
5 by paying the appropriate state plan premium to the writing carrier.

6 (b) An employer that has in its employ one or more eligible  
7 persons enrolled in a state plan may make all or a portion of a state  
8 plan premium payment directly to the writing carrier.

9 (c) Each member of the association shall share the losses due to  
10 claims expenses of the state plans issued or approved for issuance by  
11 the association, and shall share in the operating and administrative  
12 expenses incurred or estimated to be incurred by the association  
13 incident to the conduct of its affairs. Claims expenses of the state  
14 plan that exceed the premium payments allocated to the payment of  
15 benefits shall be the liability of the members. Each member shall  
16 share in the claims expense of the state plans and operating and  
17 administrative expenses of the association in an amount equal to the  
18 ratio of the member's total fees for subscriber contracts or total  
19 disability insurance premiums, received from or on behalf of state  
20 residents, as divided by the total subscriber fees and disability  
21 insurance premiums received by all members from or on behalf of state  
22 residents, as determined by the director.

23 (d) The association shall make an annual determination of each  
24 member's liability, if any, and may make an annual fiscal year end  
25 assessment if necessary. The association may also, subject to the  
26 approval of the director, provide for interim assessments against the  
27 members as may be necessary to assure the financial capability of the  
28 association in meeting the incurred or estimated claims expenses of  
29 the state plans and operating and administrative expenses of the

1 association until the association's next annual fiscal year end as-  
2 sessment. Payment of an assessment is due within 30 days after a  
3 member receives written notice of a fiscal year end or interim assess-  
4 ment. Failure by a member to tender to the association the assessment  
5 within 30 days is grounds for revocation of a member's certificate of  
6 authority. A member that ceases to do disability insurance business  
7 in the state, or ceases to offer subscriber contracts in the state,  
8 due to revocation, suspension, or voluntary surrender of its certifi-  
9 cate of authority remains liable for assessments through the calendar  
10 year in which the disability insurance or subscriber contract business  
11 ceased. The association may decline to levy an assessment against a  
12 member if the assessment would not exceed \$10. Assessments paid by a  
13 member are a general expense of the member.

14 (e) Net gains, if any, from the operation of the state plans  
15 shall be held at interest and used by the association to offset future  
16 losses due to claims expenses of a state plan or allocated to reduce  
17 state plan premiums.

18 ARTICLE 4. ENROLLMENT IN THE STATE DISABILITY INSURANCE PLAN.

19 Sec. 21.55.300. ELIGIBILITY FOR STATE DISABILITY INSURANCE. (a)  
20 Except as provided in (b) of this section, a person who is a resident  
21 of the state is eligible for disability insurance coverage under this  
22 chapter upon providing evidence of

23 (1) rejection for medical reasons, a requirement of re-  
24 strictive riders, an up-rated premium, or a preexisting conditions  
25 limitation on disability insurance, the effect of which is to substan-  
26 tially reduce coverage from that received by a person considered a  
27 standard risk, by at least one member within the six months preceding  
28 the date of application; or

29 (2) involuntary termination of disability insurance

1 coverage for any reason other than nonpayment of premium.

2 (b) The following persons are not eligible for disability insur-  
3 ance coverage under this chapter:

4 (1) a person who is at the time of application eligible for  
5 medical assistance under AS 47.07.020;

6 (2) a person who terminated coverage under this chapter  
7 unless

8 (A) 12 months have lapsed since termination; or

9 (B) that person can show other continuous coverage  
10 that has been involuntarily terminated for a reason other than  
11 nonpayment of premiums;

12 (3) a person on whose behalf the state has paid out  
13 \$1,000,000 in benefits under this chapter; and

14 (4) inmates of public institutions and persons whose bene-  
15 fits are duplicated under public programs.

16 (c) Additional eligibility requirements may not be imposed by  
17 the director, the association, or a writing carrier.

18 Sec. 21.55.310. ENROLLMENT BY AN ELIGIBLE PERSON. A person may  
19 enroll in a state plan by applying to the writing carrier. The appli-  
20 cation must include the following:

21 (1) name, address, age, and length of residency of the  
22 applicant; and

23 (2) a designation of the plan desired, including deductible  
24 option chosen.

25 Sec. 21.55.320. WRITING CARRIER'S RESPONSE. Within 30 days  
26 after receiving an application described in AS 21.55.310, the writing  
27 carrier shall either reject the application for failing to comply with  
28 the requirements of AS 21.55.300 and 21.55.310 or sent to the eligible  
29 person a notice of acceptance and billing information.

1           Sec. 21.55.330. EFFECTIVE DATE OF POLICIES. (a) Except as  
2 provided in (b) of this section and AS 21.55.130(b), insurance under a  
3 state plan is effective immediately upon receipt of the first quar-  
4 terly premium, and is retroactive to the date of the application, if  
5 the applicant otherwise complies with the requirements of this chap-  
6 ter.

7           (b) Insurance under a state plan is effective retroactively to  
8 the date that the person's previous contract or policy terminated if  
9 the person

10           (1) applies for a state plan within 60 days after the  
11 previous contract or policy terminated;

12           (2) is accepted by the writing carrier; and

13           (3) pays a specified premium for the period of retroactive  
14 coverage.

15           Sec. 21.55.340. SOLICITATION OF ELIGIBLE PERSONS. (a) The  
16 association, under a plan approved by the director, shall disseminate  
17 appropriate information to the residents of the state regarding the  
18 existence of the state plans and the means of enrollment. Means of  
19 communication may include use of the press, radio, and television, as  
20 well as publication in appropriate state offices and publications.

21           (b) The association shall devise and implement means of main-  
22 taining public awareness of the provisions of this chapter regarding  
23 the state plans and shall administer this chapter in a manner that  
24 facilitates public participation in the state plans. The association  
25 shall prepare a brochure outlining the benefits and exclusions of the  
26 state plan in plain language.

27           (c) Selling or marketing of qualified state plans is limited to  
28 licensed disability insurance agents.

29           (d) An insurer or hospital or medical service corporation that

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rejects or applies underwriting restrictions to an applicant for a subscriber contract, a disability insurance policy, or a medicare supplement plan in the state shall notify the applicant of the existence of the state plans, the requirements for being accepted, and the procedure for applying.

ARTICLE 5. GENERAL PROVISIONS.

Sec. 21.55.400. DUTIES OF DIRECTOR. The director may

(1) approve the selection of the writing carrier by the association and approve the association's contract with the writing carrier including the coverages and premiums to be charged;

(2) contract with the federal government or another unit of government to ensure coordination of the state plans with other governmental assistance programs;

(3) undertake directly or through contracts with other persons studies or demonstration programs to develop awareness of the benefits of this chapter; and

(4) adopt regulations necessary to administer this chapter.

Sec. 21.55.410. STATE NOT LIABLE. The state is not liable for acts or omissions of the association or a writing carrier under this chapter, nor is the state liable for payment of a claim under a state plan issued by a writing carrier.

Sec. 21.55.500. DEFINITIONS. In this chapter

(1) "association" means the Comprehensive Disability Insurance Association created in AS 21.55.010;

(2) "copayment" means the portion of the eligible expenses, in excess of the deductible, for which the insured is responsible;

(3) "deductible" means the portion of eligible expenses for which the insured is responsible in each calendar year under AS 21.55.120(a);

1 (4) "disability insurance" means a group or individual  
2 disability insurance policy, health care service contract, or health  
3 maintenance agreement;

4 (5) "home health agency services" means any of the follow-  
5 ing services provided upon recommendation of a licensed physician as  
6 part of a treatment plan:

7 (A) intermittent or part-time nursing services of a  
8 registered professional nurse or a licensed practical nurse that  
9 are provided to a person under the continued direction of the  
10 person's physician and within the limitation of the nurse's  
11 license;

12 (B) nursing services that are provided to a person at  
13 the person's residence, including a residential care facility or  
14 adult boarding home; a hospital, skilled nursing facility or  
15 intermediate care facility is not considered a residence;

16 (C) home health aide services that are prescribed by  
17 and under the continued direction of a physician and supervised  
18 by a professional nurse;

19 (D) home health aide services that are provided to a  
20 person at the person's residence, as described in (B) of this  
21 paragraph;

22 (E) physical and occupational therapy services, speech  
23 pathology, and audiology services that are prescribed by a physi-  
24 cian and provided to a person by or under the supervision of a  
25 qualified practitioner; these services may be provided to a  
26 person who is a patient in an intermediate care facility or  
27 skilled nursing facility;

28 (6) "hospice services" means services provided under a  
29 coordinated comprehensive program of palliative and supportive care on

1 a 24-hour, seven days per week basis for persons who have been diag-  
2 nosed as terminally ill and their families by an interdisciplinary  
3 team of professionals or volunteers under an incorporated central  
4 administration that has a physician as medical director;

5 (7) "major medical coverage" means a disability insurance  
6 contract or subscriber contract that provides benefits for hospital  
7 and medical care with potential lifetime maximum benefits per insured  
8 of at least \$1,000,000;

9 (8) "medical social services" means services rendered the  
10 patient under the direction of a physician by a qualified social  
11 worker holding a master's degree from an accredited school of social  
12 work, including assessment of the social, psychological and family  
13 problems related to or arising out of the covered person's illness and  
14 treatment, appropriate action and utilization of community resources  
15 to assist in resolving the problems, and participation in the develop-  
16 ment of treatment for the covered person;

17 (9) "resident" means a person who is physically present in  
18 the state, has lived in the state for at least the three consecutive  
19 months immediately preceding application for a state plan, and intends  
20 to remain permanently in the state; "resident" also includes a person  
21 who is not physically present in the state if the person lived in the  
22 state for at least three of the six months immediately preceding  
23 application for a state plan and the person's absence from the state  
24 is for medical treatment or education; a person ceases to be a resi-  
25 dent if the person is absent from the state for more than 90 consecu-  
26 tive days for reasons other than medical treatment or education;

27 (10) "state plan" means a policy of insurance offered by the  
28 association through a writing carrier;

29 (11) "usual, customary, reasonable, or prevailing charge"

1 means the charge for a medical care procedure, service, or supply item  
2 that is the lowest of the following amounts:

3 (A) the billed amount for the medical service pro-  
4 vider's actual charge;

5 (B) the charge usually made by that provider for  
6 performing that procedure or service or for providing the supply  
7 item; or

8 (C) the customary charge, based on a profile of char-  
9 ges made for the same medical procedure, service, or supply item  
10 in the same geographical area by other providers that have per-  
11 formed the same procedure or service or can provide the same  
12 supply item;

13 (12) "writing carrier" means the insurer or insurers select-  
14 ed by the association and approved by the director to administer a  
15 state plan.

16 \* Sec. 2. AS 21.09.210 is amended by adding a new subsection to read:

17 (j) A member of the Comprehensive Disability Insurance Asso-  
18 ciation created in AS 21.55.010 may credit against a premium tax  
19 imposed under this section, an amount equal to an assessment against  
20 the member under AS 21.55.220(d). The portion of the credit allowed  
21 in this subsection that cannot be taken in a tax year without reducing  
22 taxable premiums below zero may be carried forward and credited in  
23 successive years until the credit is exhausted.

24 \* Sec. 3. The association established by sec. 1 of this Act shall make  
25 available to residents the plans required by AS 21.55.100, enacted in  
26 sec. 1 of this Act, by January 1, 1990.

27 \* Sec. 4. This Act takes effect immediately under AS 01.10.070(c).  
28  
29

Analysis of states that have passed this type  
of legislation

"Comprehensive High Risk Health Study"

Write to:

Communicating for Agriculture  
C.A. Support Services Office  
2001 Killbuck Dr, Suite 169  
Minneapolis, MN 55420  
(612) 854-9005

March 27, 1989

To: Senator Dick Eliason  
Capital, Room 417  
Juneau

From: Jan H. Soloy  
P.O. Box 872801  
Wasilla, Alaska 99687  
376-3813

Subject: High Risk Health Insurance Coverage

I have been an Alaskan resident since 1981, prior to moving here I worked as a Registered Nurse in the speciality areas of Coronary|Intensive Care. The reason I relocated to Alaska was that I married a man that resided here. We have two sons, Matthew is seven and Sam is 3. We own and operate a helicopter company that is based in Wasilla. The past eight years we have built the company from the size of one machine and one employee to five machines and 25 full-time and seasonal employees. Chris and I are active in community youth activity programs and we sponsor youth sports in the area. We also have decided to donate a piece of needed equipment for one of the schools in this area each year that we can. We are firm believers in local business and individuals supporting the community.

For twelve years I have lived with a condition called Multiple Sclerosis. Although I am lucky and have been very stable, living and coping with a disease like MS has been a challenge in many ways. I have had the opportunity to be in large groups for health insurance coverage, that has changed now because of some changes in federal law and company policies of the group we are in. We have group benefits for 17 more months and if it weren't for the fact that our coverage is in Washington and not in Alaska, I would be out-of-luck and be without any comprehensive coverage. Because the Washington legislators saw fit to pass legislation that says that if you lose group coverage you must be guaranteed conversion to an individual plan, regardless of your health status. This goes beyond the COBRA law. Therefore I'm luckier than most with a high risk condition in a non-group situation. I have some basic coverage for general medical care. Nothing for Skilled Nursing Facilities, Hospice, Rehab., no catastrophic coverage at all. I'm grateful for the law in Wa. but I live in Alaska now. I have been turned down for insurance before but went back to work in a large hospital, I have been aware of health insurance problems, now that awareness is reality. I'm one of the 15 million in this country and thousands in this state alone, that because of a preexisting condition is underinsured. The numbers for uninsured are much greater.

I have copies of several pieces of legislation on this topic, that have been introduced in the Alaskan legislature this year and one in 1986. Granted this is a national problem but experts agree that we are at least 20 years away from solving it at the national level. Indeed, the trend for solutions is at the State level of government. Twenty states have passed and put into effect laws which have created some version of a High Risk Health Insurance Pool. This number grows each year, fifteen more, including Alaska have introduced bills dealing with this issue. Yes, the states lose money but without this coverage another group of indigents are created. That has a fiscal impact on the state also. Only Multi-millionaires can afford to be without

page 2 of 2  
3-27-89  
High Risk Insurance

health insurance. One should not have to get a divorce or relinquish all assets to be eligible for medical benefits.

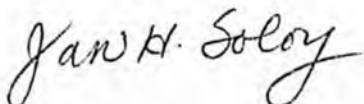
This is a problem that faces many people in Alaska. I have been in contact with the Heart, Diabetes and Epileptic Associations, MDA, Cancer Society and several Senior Citizens groups among a few. They are all in support of state health insurance for people that have been refused coverage for health reasons. We all realize that this insurance is costly, with large deductibles. I spoke with several that would be able to pay this, with some effort on my part and others you will be hearing from constituents on this. In the meantime, I believe it is time for Alaska to address this problem. I am aware of the Budget problems we face but if 20 going on more states can find ways to resolve this problem despite their varied problems, then I believe Alaska can too and will. Mike Losow of the National MS Society informed me that Alaska had introduced some of the best legislation ever designed to dissolve barriers to health insurance coverage for the chronic condition groups. This made me strangely proud. I told Mike that I felt we would do more than design and consider. The time is now to make this a legislative priority, even in the face of oil prices.

Furthermore, there is no sector of private business that can solve this, we have no one to turn to but our government. Government that was formed, among other things to protect and promote public health for everyone, not just the unfortunate but the middle-class group and upper middle-class.

I support state sponsored and created High Risk Health Insurance. Please consider introducing or supporting legislation that would allow access to health care for the ones who "fall through the cracks".

I would like to hear from you, your thoughts and how close you feel Alaska is to passing this type of legislation.

Respectfully,



Jan H. Soloy

cc: legislative offices

# CRS Report for Congress

## Insurance Company Solvency

SENT TO YOU BY YOUR  
UNITED STATES SENATOR

*Ed Stevens*  
ALASKA

Edward B. Rappaport  
Analyst in Industry Economics  
Economics Division

July 13, 1989



# INSURANCE COMPANY SOLVENCY

## SUMMARY

Insurance company failures have become more common in the last five years and, more importantly, have involved much larger companies than previously. Shortfalls of failed companies are still small relative to total industry revenues — less than one-half of 1 percent — but the consequences of poor business practice in this field sometimes take a long time to become manifest. It is important to look at industry practices and conditions with an eye toward ultimate results, especially with regard to possible adverse turns in the business environment.

The financial condition of the industry, viewed here in terms of the aggregate balance sheet, appears sound, with but two important reservations: (a) Loss reserves at property/casualty companies inevitably include a subjective element, leaving room for future surprises. And (b) life companies are increasingly selling annuities and other investment-oriented products funded by "separate accounts" that put the investment risk on the clients.

When the industry's condition is measured by the numbers of problem companies, there is no evident trend among the life/health segment of the industry (although there was a one-year slippage from 1984 to 1985 that has not been reversed). The property/casualty segment, though, has shown definite deterioration. The proportion of companies designated for "regulatory attention" increased from 8.4 percent in 1978 to 21.4 percent in 1987.

Looking at case studies of a few of the more prominent insolvencies of the 1980s, several generic problems are found to have played a role. Among these are fraud, uncollectible reinsurance, and under-pricing of insurance services. To some extent these problems have occurred because insurance companies have not adequately investigated or supervised their employees, agents, brokers, etc. And implicitly, State supervision failed in these cases, given the high priority the insurance commissioners themselves place on solvency regulation.

Finally, there are potential sources of future instability that may not be fully reflected in current financial reports. Prime among these are uncollectible reinsurance, potentially explosive claims areas (especially hurricanes, earthquakes, and AIDS) and innovations in business practice (such as cash flow underwriting and risk retention groups). Their financial impact may be impossible to quantify, but may nevertheless behoove State commissioners to take a conservative attitude in all aspects of solvency regulation.

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## INSURANCE COMPANY SOLVENCY

Insolvencies of insurance companies have occurred with increasing frequency since 1983, and this has prompted public questioning from several quarters about the future stability of the industry. While the number of failures has been small relative to the industry's size, policymakers are understandably concerned that a seemingly adverse trend should not be allowed to get out of hand. When an insurer is unable to meet its obligations, its clients suffer a double hardship, because those who are making claims are precisely those who have already experienced a serious loss (such as fire, death of a breadwinner, etc.). Moreover, the industry plays an essential role in the U.S. financial system generally, by virtue of its large asset holdings (on the order of \$1.5 trillion).

The first priority of public regulation of insurance, then, is preserving company solvency — the ability to meet all valid claims. In the United States, regulation is performed by insurance commissioners who are officers of the State governments. The Federal Government is not directly involved, but pressures for Federal involvement might grow if company failures become widespread.

The number of insolvencies — as defined and counted by the National Association of Insurance Commissioners (NAIC) — increased from four in 1983 to 21 in 1985. In retrospect, the rise appears to have been largely cyclical, as the industry then raised its premium rates sharply and the number of insolvencies fell to 13 by 1987. Still, the number was high by historical standards<sup>1</sup> and, more importantly, the failing companies were of increasingly large size. Thus the need for payments from State guaranty funds has continued to grow, despite the financial recovery of the industry as a whole. Guaranty fund assessments, just \$82 million in 1984, grew to \$917 million in 1987 and probably exceeded \$1 billion in 1988. Even at these elevated levels, assessments amount to only about one-half percent of the property/casualty industry's total premiums. Nevertheless, the trend suggests that remedial action may be needed.

This report addresses several questions raised by the recent spate of large company failures. What do currently reported financial figures say about the condition of the industry? Is there any pattern among prominent failures already experienced? And what future developments, not reflected in current accounts, might plausibly threaten the industry's financial stability?

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<sup>1</sup> The average annual number between 1970 and 1983 was only six.

## FINANCIAL CONDITION OF THE INDUSTRY

The insurance industry's financial condition can be analyzed quantitatively in at least three basic ways: by an aggregate balance sheet, by trends in the numbers of companies showing subnormal financial characteristics, and by the rate at which insolvencies occur. By custom (which is followed here) the two principal segments of the industry — property/casualty (P/C) and life/health (L/H) — are treated separately. As will be seen, the two segments differ fundamentally in their financial structures and functions.

### INDUSTRY BALANCE SHEET, DECEMBER 31, 1987

Industry aggregate balance sheets in simplified form for the two segments are displayed in tables 1 and 2. These are derived by adding together the data for (nearly) all the firms licensed in the United States, as filed with regulators and using the industry's specialized accounting system known as "statutory accounting." Most of the data referred to in this section are derived from balance sheets rather than such other reports as the income statement, because this is where assets are compared to liabilities. The difference between these figures is net worth,<sup>2</sup> and firms are considered solvent as long as net worth is positive. That is to say, a solvent firm's assets, if liquidated, presumably can cover all of the firm's liabilities.

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<sup>2</sup> In the special accounting system used in the industry, "policyholders' surplus" is the concept corresponding to net worth. All figures quoted in this report are derived from this system of "statutory" accounting.

TABLE 1. Aggregate Balance Sheet of Life/Health  
Insurance Industry, December 31, 1987  
(billion \$)

<u>Assets</u>		<u>Liabilities</u>	
Bonds	<u>557.1</u>	Policy reserves a/	<u>862.1</u>
National gov'ts	75.8	Life	276.4
Agencies	67.0	Health	24.0
Municipal	10.7	Annuities &	
Corporate	405.7	suppi. contracts	561.7
Stocks	96.5	Policy dividends payable	27.8
Mortgages	213.4	Other liabilities	<u>87.1</u>
Real Estate	<u>34.2</u>		
<b>Total investments</b>	<b>901.2</b>	<b>Total liabilities</b>	<b>977.1</b>
Policy loans	53.6	Capital & surplus	67.4
Receivables	32.1		
Other	57.5		
	<hr/>		<hr/>
	<b>1,044.5</b>		<b>1,044.5</b>

a/ including 109.3 in separate accounts.

Source: American Council of Life Insurance, 1988 Life Insurance Fact Book.