

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
7562 SENATE LABOR & COMMERCE

1 EMPLOYEES. (a) A person who is injured during the course and within the scope of providing
2 service as a volunteer emergency medical technician is an employee of the state for purposes of
3 this chapter if the person

4 (1) is certified by the state under AS 18.08 as an emergency medical technician;

5 (2) provides emergency medical service outside an incorporated city or borough;

6 and

7 (3) is not otherwise covered for that injury by an employer's workers'
8 compensation insurance policy or self-insurance certificate.

9 (b) The gross weekly earnings for a person receiving benefits under this section shall be
10 the gross weekly earnings paid a full-time emergency medical technician employed in the city
11 or borough nearest to the place where the injury occurred, or, if the nearest city or borough has
12 no full-time emergency medical technician, at a reasonable figure previously set by the nearest
13 city or borough to make this determination, but in no case may the gross weekly earnings for
14 calculating compensation be less than the minimum wage computed on the basis of 40 hours of
15 work a week.

16 * Sec. 14. AS 23.30.265(2) is amended to read:

17 (2) "arising out of and in the course of employment" includes employer-required
18 or supplied travel to and from a remote job site; activities performed at the direction or under the
19 control of the employer; and employer-sanctioned activities at employer-provided facilities; but
20 excludes recreational activities sponsored by the employer that are performed at facilities
21 not owned or leased by the employer, unless participation is required as a condition of
22 employment, and activities of a personal nature away from employer-provided facilities;

23 * Sec. 15. AS 23.30.265(15) is amended to read:

24 (15) "gross earnings" means periodic payments [,] by an employer to an employee
25 for employment before any authorized or lawfully required deduction or withholding of money
26 by the employer, including wages [COMPENSATION THAT IS] deferred at the option of the
27 employee and temporary disability compensation for an occupational injury or illness, and
28 excluding irregular bonuses, reimbursement of expenses, expense allowances, and any benefit or
29 payment to the employee that is not fully taxable to the employee during the pay period, except
30 that the total amount of contributions made by an employer to a qualified pension or profit
31 sharing plan during the two plan years preceding the injury, multiplied by the percentage of the

1 employee's vested interest in the plan at the time of injury, shall be included in the determination
2 of gross earnings; the value of room and board if taxable to the employee may be considered in
3 determining gross earnings; however, the value of room and board that would raise an
4 employee's gross weekly earning above the state average weekly wage at the time of injury may
5 not be considered;

6 * Sec. 16. AS 23.30.265(21) is amended to read:

7 (21) "medical stability" means the date after which further objectively measurable
8 improvement or deterioration from the effects of the compensable injury is not reasonably
9 expected to result from additional medical care or treatment, notwithstanding the possible need
10 for additional medical care or the possibility of improvement or deterioration resulting from the
11 passage of time; medical stability shall be presumed in the absence of objectively measurable
12 improvement or deterioration for a period of 45 days; this presumption may be rebutted by clear
13 and convincing evidence;

14 * Sec. 17. AS 23.30.265 is amended by adding a new paragraph to read:

15 (34) "volunteer emergency medical technician" means a person who is certified
16 by the state as an emergency medical technician under AS 18.08 and who provides emergency
17 medical services on a voluntary basis.

18 * Sec. 18. DIVISION OF INSURANCE REPORT. The division of insurance shall prepare a report
19 on the feasibility of implementing a contracting classification premium adjustment program to provide
20 premium credits for employers who purchase workers' compensation insurance. The report must include
21 comments and recommendations from labor and management representatives in the state. The division
22 of insurance shall submit the report to the Second Session of the Seventeenth Alaska State Legislature
23 by January 31, 1992.

24 * Sec. 19. DIVISION OF WORKERS' COMPENSATION REPORT. The division of workers'
25 compensation shall report to the Alaska State Legislature by January 1, 1992, with the following:

- 26 (1) recommendations for changes to AS 23.30 that will promote workplace safety;
27 (2) recommendations for increasing workplace safety;
28 (3) a discussion of the effect, if any, of the enactment of ch. 79, SLA 1988, on workers'
29 compensation;
30 (4) a determination of the effectiveness of AS 23.30.145 in ensuring that employees who
31 file claims are receiving adequate legal representation;

- 1 (5) a survey of claims filed in 1989 and 1990 to determine
2 (A) how many employees were not represented by an attorney in making the
3 claim; and
4 (B) how many employees who were not represented by an attorney tried but
5 failed to find legal representation;
6 (6) a determination of whether the procedures used by the board in granting a "blanket"
7 release of medical information are adequate to avoid the release of nonmedical information that is not
8 relevant to the claim;
9 (7) a determination of whether employers or carriers are routinely requesting a "blanket"
10 release of medical information in an effort to discourage injured employees from filing a claim, and if
11 this is occurring, recommendations for legislation to halt this practice; and
12 (8) recommendations for reducing fees charged by attorneys who represent employees
13 and carriers.
14 * Sec. 20. This Act takes effect immediately under AS 01.10.070(c).

HOUSE CS FOR CS FOR SENATE BILL NO. 219 (JUDICIARY)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to workers' compensation and civil liability for workplace safety
2 inspections; and providing for an effective date."

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

4 * Section 1. PURPOSE OF SECTIONS 10 AND 13. (a) It is the purpose of sec. 10 of this Act to
5 amend AS 23.30 to provide that an insurer is not liable for providing or failing to provide safety
6 inspections or safety advisory services; this amendment would decide a public policy question concerning
7 the liability of an insurer for the performance of a safety inspection or safety advisory service raised in
8 Van Biene v. ERA Helicopters, Inc., 779 P.2d 315 (Alaska 1989).

9 (b) It is the purpose of sec. 13 of this Act to amend AS 23.30.265(15) to reaffirm the original
10 intent of changes made to this definition in sec. 24, ch. 93, SLA 1980, to include prior temporary total
11 disability payments within the definition of gross wages.

12 * Sec. 2. AS 23.30.041(k) is repealed and reenacted to read:

13 (k) The employer shall pay compensation to an employee eligible for reemployment
14 benefits, as follows:

1 (1) until the employee reaches medical stability or the reemployment plan is
2 completed or terminated, whichever comes first, temporary disability benefits shall be paid;

3 (2) if the employee reaches medical stability or has been found eligible for reem-
4 ployment benefits, temporary disability benefits shall cease and permanent impairment benefits
5 shall then be paid biweekly at the employee's temporary total disability rate until plan
6 completion, termination, or exhaustion of permanent impairment benefits; permanent impairment
7 benefits remaining unpaid upon completion or termination of the plan shall be paid to the
8 employee in a single lump sum;

9 (3) if the employee's permanent impairment benefits are exhausted before the
10 completion or termination of the reemployment plan, the employer shall pay, on a biweekly basis,
11 an amount equal to 60 percent of the employee's spendable weekly wage as determined under
12 AS 23.30.220, not to exceed \$525, until the completion or termination of the plan;

13 (4) if the employee reaches medical stability before an impairment rating is given
14 as provided in AS 23.30.190, except for the first 30 days the employee shall be paid 60 percent
15 of the employee's spendable weekly wage until an impairment rating is given; benefits paid more
16 than 30 days after medical stability but before an impairment rating is given shall be offset from
17 the total sum of permanent impairment benefits due to the employee; after the employee reaches
18 medical stability and an impairment rating is given, all benefits paid shall be included as
19 permanent impairment benefits;

20 (5) benefits related to the reemployment plan may not extend past two years from
21 the date of the initiation of the 60 percent payment of the employee's spendable weekly wage,
22 plan approval, or plan acceptance, whichever date occurs first, at which time the benefits expire;

23 (6) if the employer controverts the employee's claim or appeals a ruling of the
24 administrator or the board and the controversion or appeal delays completion of an evaluation,
25 development, commencement or completion of a plan

26 (A) the employer shall pay the employee 60 percent of the spendable
27 weekly wage during the period of controversion or appeal, except that temporary
28 disability benefits shall be paid until the employee reaches medical stability;

29 (B) the two-year limitation on payment of benefits in (5) of this subsection
30 does not begin to run or is tolled; and

31 (C) payments made at percent of the employee's spendable weekly

1 wage during controversion or appeal may not be offset from permanent impairment
2 benefits due to the employee.

3 * Sec. 3. AS 23.30 is amended by adding a new section to read:

4 Sec. 23.30.047. BENEFITS FOR HEALTH INSURANCE. (a) An employer who pays
5 compensation to an injured employee under AS 23.30.041(k), 23.30.180, 23.30.185, 23.30.190,
6 23.30.200, or 23.30.215, and who provided health insurance to the employee at the date of injury
7 shall also reimburse the employee for health insurance coverage for the employee and covered
8 dependents, as provided in this section.

9 (b) Payment required under this section is equal to the employer's current contribution
10 for health insurance or the amount paid by the employee for replacement coverage, whichever
11 amount is less. Payment required under this section commences when the employee's health
12 insurance provided by the employer's contribution ceases and shall continue until the employee
13 is no longer receiving compensation described in (a) of this section, or for 18 months, whichever
14 period is shorter.

15 (c) Payment is not required under this section until the employee provides proof of health
16 insurance coverage. In this subsection, "health insurance" includes

17 (1) an individual policy of health insurance; or

18 (2) a notice of self-payment for continuance of coverage required under 29 U.S.C.
19 1161 (Consolidated Omnibus Budget Reconciliation Act of 1985) or under a union health or
20 welfare trust agreement.

21 (d) If benefits required under this section are not paid within 30 days after the employer
22 receives a request for payment, the employer shall pay a penalty equal to 25 percent of the
23 amount due.

24 * Sec. 4. AS 23.30.075(b) is amended to read:

25 (b) If an employer fails to insure and keep insured employees subject to this chapter or
26 fails to obtain a certificate of self-insurance from the board, upon conviction, the court may
27 [SHALL] impose a fine of up to \$10,000 and may impose a sentence of imprisonment for not
28 more than one year. In addition, the board may impose a civil penalty of up to three times
29 the manual rate that would have been charged for the employer's insurance premium
30 during the period the employer failed to obtain insurance. If an employer is a corporation,
31 all persons who, at the time of the injury or death, had authority to insure the corporation or

1 apply for a certificate of self-insurance [,] and the person actively in charge of the business of
2 the corporation shall be subject to the penalties prescribed in this subsection and shall be
3 personally, jointly, and severally liable together with the corporation for the payment of all
4 compensation or other benefits for which the corporation is liable under this chapter if the
5 corporation at that time is not insured or qualified as a self-insurer.

6 * Sec. 5. AS 23.30.095 is amended by adding a new subsection to read:

7 (l) The employer shall provide to the employee one round trip coach fare airline ticket
8 to the place at which an examination described under (e) of this section is performed and two
9 days per diem at the rate paid to state employees who travel outside the state if the examination
10 requires the employee to travel outside the state. If the employee objects to the physician's
11 report of the examination, takes the deposition of the physician and the deposition is taken
12 outside the state, or if the employer takes the deposition of the physician who performs the
13 examination and the deposition is taken outside the state, the employer shall provide one round
14 trip coach fair airline ticket to the location of the deposition and two days per diem at the rate
15 paid to state employees who travel outside the state.

16 * Sec. 6. AS 23.30.107 is amended to read:

17 Sec. 23.30.107. RELEASE OF INFORMATION; CONFIDENTIALITY. Upon request,
18 an employee shall provide written authority to the employer, carrier, rehabilitation provider, or
19 rehabilitation administrator to obtain medical and rehabilitation information relative to the
20 employee's injury and any prior injury. Except for medical records released to the
21 employer, carrier, rehabilitation provider, rehabilitation administrator, or other person
22 selected by the employee, the employee's medical records in the possession of the division
23 of workers' compensation are confidential and are not subject to the public records
24 inspection requirements of AS 09.25.110 - 09.25.121.

25 * Sec. 7. AS 23.30.110 is amended by adding a new subsection to read:

26 (h) If the board determines that the employee's injury resulted from the employer's
27 wilful, serious, and repeated violation of state or federal occupational safety or health guidelines,
28 the board shall report the violation to the Occupational Safety and Health Review Board
29 (AS 18.60.057).

30 * Sec. 8. AS 23.30.155(o) is amended to read:

31 (o) The division of workers' compensation [BOARD] shall promptly notify the division

1 of insurance if the division of workers' compensation [BOARD] determines that the employer's
 2 insurer, including an adjuster for a self-insured employer, has filed a notice of controversy
 3 for a frivolous or unfair reason. Notice of frivolous or unfair controversy is required even
 4 if a hearing is not held or compensation is not awarded by the board [FRIVOLOUSLY OR
 5 UNFAIRLY CONTROVERTED COMPENSATION DUE UNDER THIS CHAPTER]. After
 6 receiving notice from the division of workers' compensation [BOARD], the division of
 7 insurance shall determine if the insurer or adjuster has committed an unfair claim settlement
 8 practice under AS 21.36.125. If the division of workers' compensation determines that an
 9 adjuster for a self-insured employer has filed a notice of controversy for a frivolous or
 10 unfair reason, the board shall consider the self-insured employer's claims adjusting
 11 practices and may cancel or fail to renew the employer's self-insurance certificate.

12 * Sec. 9. AS 23.30.155 is amended by adding a new subsection to read:

13 (p) Compensation due an employee under this chapter shall be paid by negotiable bank
 14 check that can be cashed not more than three business days after being issued.

15 * Sec. 10. AS 23.30 is amended by adding a new section to read:

16 Sec. 23.30.232. CIVIL LIABILITY FOR WORKPLACE SAFETY INSPECTIONS. A
 17 carrier, an insurance service agent to a self-insured employer, or a trade association is not liable
 18 for civil damages as a result of an act or omission in performing or failing to perform a
 19 workplace safety inspection or a safety advisory service unless the carrier's, agent's, or
 20 association's act or failure to act constitutes reckless or intentional misconduct.

21 * Sec. 11. AS 23.30 is amended by adding a new section to read:

22 Sec. 23.30.238. VOLUNTEER EMERGENCY MEDICAL TECHNICIANS AS
 23 EMPLOYEES. (a) A person who is injured during the course and within the scope of providing
 24 service as a volunteer emergency medical technician is an employee of the state for purposes of
 25 this chapter if the person

26 (1) is certified by the state under AS 18.08 as an emergency medical technician;

27 (2) provides emergency medical service outside an incorporated city or borough;

28 and

29 (3) is not otherwise covered for that injury by an employer's workers'
 30 compensation insurance policy or self-insurance certificate.

31 (b) The gross weekly earnings for a person receiving benefits under this section shall be

1 the gross weekly earnings paid a full-time emergency medical technician employed in the city
2 or borough nearest to the place where the injury occurred, or, if the nearest city or borough has
3 no full-time emergency medical technician, at a reasonable figure previously set by the nearest
4 city or borough to make this determination, but in no case may the gross weekly earnings for
5 calculating compensation be less than the minimum wage computed on the basis of 40 hours of
6 work a week.

7 * Sec. 12. AS 23.30.265(2) is amended to read:

8 (2) "arising out of and in the course of employment" includes employer-required
9 or supplied travel to and from a remote job site; activities performed at the direction or under the
10 control of the employer; and employer-sanctioned activities at employer-provided facilities; but
11 excludes recreational activities sponsored by the employer that are performed at facilities
12 not provided by the employer, unless participation is required as a condition of
13 employment, and activities of a personal nature away from employer-provided facilities;

14 * Sec. 13. AS 23.30.265(15) is amended to read:

15 (15) "gross earnings" means periodic payments [,] by an employer to an employee
16 for employment before any authorized or lawfully required deduction or withholding of money
17 by the employer, including wages [COMPENSATION THAT IS] deferred at the option of the
18 employee and temporary disability compensation for an occupational injury or illness, and
19 excluding irregular bonuses, reimbursement of expenses, expense allowances, and any benefit or
20 payment to the employee that is not fully taxable to the employee during the pay period, except
21 that the total amount of contributions made by an employer to a qualified pension or profit
22 sharing plan during the two plan years preceding the injury, multiplied by the percentage of the
23 employee's vested interest in the plan at the time of injury, shall be included in the determination
24 of gross earnings; the value of room and board if taxable to the employee may be considered in
25 determining gross earnings; however, the value of room and board that would raise an
26 employee's gross weekly earning above the state average weekly wage at the time of injury may
27 not be considered;

28 * Sec. 14. AS 23.30.265 is amended by adding a new paragraph to read:

29 (34) "volunteer emergency medical technician" means a person who is certified
30 by the state as an emergency medical technician under AS 18.08 and who provides emergency
31 medical services on a voluntary basis.

1 * **Sec. 15. DIVISION OF INSURANCE REPORT.** The division of insurance shall prepare a report
2 on the feasibility of implementing a contracting classification premium adjustment program to provide
3 premium credits for employers who purchase workers' compensation insurance. The report must include
4 comments and recommendations from labor and management representatives in the state. The division
5 of insurance shall submit the report to the Second Session of the Seventeenth Alaska State Legislature
6 by January 31, 1992.

7 * **Sec. 16. DIVISION OF WORKERS' COMPENSATION REPORT.** The division of workers'
8 compensation shall report to the Alaska State Legislature by January 1, 1992, with the following:

9 (1) recommendations for changes to AS 23.30 that will promote workplace safety;
10 (2) recommendations for increasing workplace safety;
11 (3) a discussion of the effect, if any, of the enactment of ch. 79, SLA 1988, on workers'
12 compensation;

13 (4) a determination of the effectiveness of AS 23.30.145 in ensuring that employees who
14 file claims are receiving adequate legal representation;

15 (5) a survey of claims filed in 1989 and 1990 to determine

16 (A) how many employees were not represented by an attorney in making the
17 claim; and

18 (B) how many employees who were not represented by an attorney tried but
19 failed to find legal representation;

20 (6) a determination of whether the procedures used by the board in granting a "blanket"
21 release of medical information are adequate to avoid the release of nonmedical information that is not
22 relevant to the claim;

23 (7) a determination of whether employers or carriers are routinely requesting a "blanket"
24 release of medical information in an effort to discourage injured employees from filing a claim, and if
25 this is occurring, recommendations for legislation to halt this practice; and

26 (8) recommendations for reducing fees charged by attorneys who represent employees
27 and carriers.

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

7-LS1004G.
Ford
5/9/91

HOUSE CS FOR CS FOR SENATE BILL NO. 219 (JUDICIARY)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to workers' compensation and civil liability for workplace safety
2 inspections; and providing for an effective date."

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

4 * **Section 1. PURPOSE OF SECTIONS 12 AND 15.** (a) It is the purpose of sec. 12 of this Act to
5 amend AS 23.30 to provide that an insurer is not liable for only providing or failing to provide safety
6 inspections or safety advisory services; this amendment would decide a public policy question concerning
7 the liability of an insurer for the performance of a safety inspection or safety advisory service raised in
8 *Van Biene v. ERA Helicopters, Inc., 779 P.2d 315 (Alaska 1989).*

9 (b) It is the purpose of sec. 15 of this Act to amend AS 23.30.265(15) to reaffirm the original
10 intent of changes made to this definition in sec. 24, ch. 93, SLA 1980, to include prior temporary total
11 disability payments within the definition of gross wages.

12 * **Sec. 2.** AS 23.30.041(k) is repealed and reenacted to read:

13 (k) The employer shall pay compensation to an employee eligible for reemployment
14 benefits, as follows:

1 (1) until the employee reaches medical stability or the reemployment plan is
2 completed or terminated, whichever comes first, temporary disability benefits shall be paid;

3 (2) if the employee reaches medical stability or has been found eligible for reem-
4 ployment benefits, temporary disability benefits shall cease and permanent impairment benefits
5 shall then be paid biweekly at the employee's temporary total disability rate until plan
6 completion, termination, or exhaustion of permanent impairment benefits; permanent impairment
7 benefits remaining unpaid upon completion or termination of the plan shall be paid to the
8 employee in a single lump sum;

9 (3) if the employee's permanent impairment benefits are exhausted before the
10 completion or termination of the reemployment plan, the employer shall pay, on a biweekly basis,
11 an amount equal to 60 percent of the employee's spendable weekly wage as determined under
12 AS 23.30.220, not to exceed \$525, until the completion or termination of the plan;

13 (4) if the employee reaches medical stability before an impairment rating is given
14 as provided in AS 23.30.190, except for the first 30 days the employee shall be paid 60 percent
15 of the employee's spendable weekly wage until an impairment rating is given; benefits paid more
16 than 30 days after medical stability but before an impairment rating is given shall be offset from
17 the total sum of permanent impairment benefits due to the employee; after the employee reaches
18 medical stability and an impairment rating is given, all benefits paid shall be included as
19 permanent impairment benefits;

20 (5) benefits related to the reemployment plan may not extend past two years from
21 the date of the initiation of the 60 percent payment of the employee's spendable weekly wage,
22 plan approval, or plan acceptance, whichever date occurs first, at which time the benefits expire;

23 (6) if the employer controverts the employee's claim or appeals a ruling of the
24 administrator or the board and the controversion or appeal delays completion of an evaluation,
25 development, commencement or completion of a plan

26 (A) the employer shall pay the employee 60 percent of the spendable
27 weekly wage during the period of controversion or appeal, except that temporary
28 disability benefits shall be paid until the employee reaches medical stability;

29 (B) the two-year limitation on payment of benefits in (5) of this subsection
30 does not begin to run or is tolled; and

31 (C) payments made at 60 percent of the employee's spendable weekly

1 wage during controversion or appeal may not be offset from permanent impairment
2 benefits due to the employee.

3 * Sec. 3. AS 23.30.041(p) is amended to read:

4 (p) In this section,

5 (1) "administrator" means the reemployment benefits administrator under (a) of
6 this section;

7 (2) "employability" means possessing the ability but not necessarily the
8 opportunity to engage in employment that is consistent with the employee's physical status
9 imposed by the compensable injury;

10 (3) "labor market" means a geographical area that offers employment opportunities
11 in the following priority:

12 (A) area of residence;

13 (B) area of last employment;

14 (C) the state;

15 (D) other states;

16 (4) "medical manager" means a nurse, rehabilitation specialist, or other
17 health care provider assigned by the carrier to assist an employee in coordinating medical
18 benefits, or to monitor the employee's medical services;

19 (5) "physical capacities" means objective and measurable physical traits such as
20 ability to lift and carry, walk, stand or sit, push, pull, climb, balance, stoop, kneel, crouch, crawl,
21 reach, handle, finger, feel, talk, hear, or see;

22 (6) [(5)] "physical demands" means the physical requirements of the job such as
23 strength, including positions such as standing, walking, sitting, and movement of objects such as
24 lifting, carrying, pushing, pulling, climbing, balancing, stooping, kneeling, crouching, crawling,
25 reaching, handling, fingering, feeling, talking, hearing, or seeing;

26 (7) [(6)] "rehabilitation specialist" means a person who is a certified insurance
27 rehabilitation specialist, a certified rehabilitation counselor, or a person who has equivalent or
28 better qualifications as determined under regulations adopted by the department;

29 (8) [(7)] "remunerative employability" means having the skills that allow a worker
30 to be compensated with wages or other earnings equivalent to at least 60 percent of the worker's
31 gross hourly wages at the time of injury; if the employment is outside the state, the stated 60

1 percent shall be adjusted to account for the difference between the applicable state average
2 weekly wage and the Alaska average weekly wage.

3 * Sec. 4. AS 23.30.041 is amended by adding a new subsection to read:

4 (q) After a medical manager has been assigned to an injured employee, the medical
5 manager shall send written notice to the employee, the employer, and the employee's physician
6 explaining in what capacity the medical manager is employed, whom the medical manager
7 represents, and the scope of the services to be provided.

8 * Sec. 5. AS 23.30 is amended by adding a new section to read:

9 Sec. 23.30.047. BENEFITS FOR HEALTH INSURANCE. (a) An employer who pays
10 compensation to an injured employee under AS 23.30.041(k), 23.30.180, 23.30.185, 23.30.190,
11 23.30.200, or 23.30.215, and who provided health insurance to the employee at the date of injury
12 shall also reimburse the employee for health insurance coverage for the employee and covered
13 dependents, as provided in this section.

14 (b) Payment required under this section is equal to the employer's current contribution
15 for health insurance or the amount paid by the employee for replacement coverage, whichever
16 amount is less. Payment required under this section commences when the employee's health
17 insurance provided by the employer's contribution ceases and shall continue until the employee
18 is no longer receiving compensation described in (a) of this section, or for 18 months, whichever
19 period is shorter.

20 (c) Payment is not required under this section until the employee provides proof of health
21 insurance coverage. In this subsection, "health insurance" includes an individual policy of health
22 insurance, or a notice of self-payment or continuance of coverage under a union health or welfare
23 trust agreement.

24 (d) If benefits required under this section are not paid within 30 days after the employer
25 receives a request for payment, the employer shall pay a penalty equal to 25 percent of the
26 amount due.

27 * Sec. 6. AS 23.30.075(b) is amended to read:

28 (b) If an employer fails to insure and keep insured employees subject to this chapter or
29 fails to obtain a certificate of self-insurance from the board, upon conviction, the court may
30 [SHALL] impose a fine of up to \$10,000 and may impose a sentence of imprisonment for not
31 more than one year. In addition, the board may impose a civil penalty of up to three times

1 the manual rate that would have been charged for the employer's insurance premium
2 during the period the employer failed to obtain insurance. If an employer is a corporation,
3 all persons who, at the time of the injury or death, had authority to insure the corporation or
4 apply for a certificate of self-insurance [,] and the person actively in charge of the business of
5 the corporation shall be subject to the penalties prescribed in this subsection and shall be
6 personally, jointly, and severally liable together with the corporation for the payment of all
7 compensation or other benefits for which the corporation is liable under this chapter if the
8 corporation at that time is not insured or qualified as a self-insurer.

9 * Sec. 7. AS 23.30.095(e) is amended to read:

10 (e) The employee shall, after an injury, at reasonable times during the continuance of the
11 disability, if requested by the employer or when ordered by the board, submit to an examination
12 by a physician or surgeon of the employer's choice authorized to practice medicine under the
13 laws of the jurisdiction in which the physician resides, furnished and paid for by the employer.
14 If the examination requires the employee to travel outside the state, the employer shall pay
15 all costs resulting from the employee's travel and examination, including costs incurred if
16 the employee takes the deposition of the physician at a later date. The employer may not
17 make more than one change in the employer's choice of a physician or surgeon without the
18 written consent of the employee. Referral to a specialist by the employer's physician is not
19 considered a change in physicians. An examination requested by the employer not less than 14
20 days after injury, and every 60 days thereafter, shall be presumed to be reasonable, and the
21 employee shall submit to the examination without further request or order by the board. Unless
22 medically appropriate, the physician shall use existing diagnostic data to complete the
23 examination. Facts relative to the injury or claim communicated to or otherwise learned by a
24 physician or surgeon who may have attended or examined the employee, or who may have been
25 present at an examination are not privileged, either in the hearings provided for in this chapter
26 or an action to recover damages against an employer who is subject to the compensation
27 provisions of this chapter. If an employee refuses to submit to an examination provided for in
28 this section, the employee's rights to compensation shall be suspended until the obstruction or
29 refusal ceases, and the employee's compensation during the period of suspension may, in the
30 discretion of the board or the court determining an action brought for the recovery of damages
31 under this chapter, be forfeited. The board in any case of death may require an autopsy at the

1 expense of the party requesting the autopsy. An autopsy may not be held without notice first
2 being given to the widow or widower or next of kin if they reside in the state or their
3 whereabouts can be reasonably ascertained, of the time and place of the autopsy and reasonable
4 time and opportunity given the widow or widower or next of kin to have a representative present
5 to witness the autopsy. If adequate notice is not given, the findings from the autopsy may be
6 suppressed on motion made to the board or to the superior court, as the case may be.

7 * Sec. 8. AS 23.30.107 is amended to read:

8 Sec. 23.30.107. RELEASE OF INFORMATION; CONFIDENTIALITY. Upon request,
9 an employee shall provide written authority to the employer, carrier, rehabilitation provider, or
10 rehabilitation administrator to obtain medical and rehabilitation information relative to the
11 employee's injury. Except for medical records released to the employer, carrier,
12 rehabilitation provider, rehabilitation administrator, or other person selected by the
13 employee, the employee's medical records in the possession of the division of workers'
14 compensation are confidential and are not subject to the public records inspection
15 requirements of AS 09.25.110 - 09.25.121.

16 * Sec. 9. AS 23.30.110 is amended by adding a new subsection to read:

17 (h) If the board determines that the employee's injury resulted from the employer's
18 wilful, serious, and repeated violation of state or federal occupational safety or health guidelines,
19 the compensation awarded to the employee by order of the board shall be doubled.

20 * Sec. 10. AS 23.30.155(o) is amended to read:

21 (o) The division of workers' compensation [BOARD] shall promptly notify the division
22 of insurance if the division of workers' compensation [BOARD] determines that the employer's
23 insurer, including an adjuster for a self-insured employer, has filed a notice of controversion
24 for a frivolous or unfair reason. Notice of frivolous or unfair controversion is required even
25 if a hearing is not held or compensation is not awarded by the board [FRIVOLOUSLY OR
26 UNFAIRLY CONTROVERTED COMPENSATION DUE UNDER THIS CHAPTER]. After
27 receiving notice from the division of workers' compensation [BOARD], the division of
28 insurance shall determine if the insurer or adjuster has committed an unfair claim settlement
29 practice under AS 21.36.125. If the division of workers' compensation determines that an
30 adjuster for a self-insured employer has filed a notice of controversion for a frivolous or
31 unfair reason, the board shall consider the self-insured employer's claims adjusting

1 practices and may cancel or fail to renew the employer's self-insurance certificate.

2 * Sec. 11. AS 23.30.155 is amended by adding a new subsection to read:

3 (p) Compensation due an employee under this chapter shall be paid by negotiable bank
4 check that can be cashed not more than three days after being issued.

5 * Sec. 12. AS 23.30 is amended by adding a new section to read:

6 Sec. 23.30.232. CIVIL LIABILITY FOR WORKPLACE SAFETY INSPECTIONS. A
7 carrier, an insurance service agent to a self-insured employer, or a trade association is not liable
8 for civil damages as a result of an act or omission in performing or failing to perform a
9 workplace safety inspection or a safety advisory service unless the carrier's, agent's, or
10 association's act or failure to act constitutes gross negligence or reckless or intentional
11 misconduct.

12 * Sec. 13. AS 23.30 is amended by adding a new section to read:

13 Sec. 23.30.238. VOLUNTEER EMERGENCY MEDICAL TECHNICIANS AS
14 EMPLOYEES. (a) A person who is injured during the course and within the scope of providing
15 service as a volunteer emergency medical technician is an employee of the state for purposes of
16 this chapter if the person

17 (1) is certified by the state under AS 18.08 as an emergency medical technician;

18 (2) provides emergency medical service outside an incorporated city or borough;

19 and

20 (3) is not otherwise covered for that injury by an employer's workers'
21 compensation insurance policy or self-insurance certificate.

22 (b) The gross weekly earnings for a person receiving benefits under this section shall be
23 the gross weekly earnings paid a full-time emergency medical technician employed in the city
24 or borough nearest to the place where the injury occurred, or, if the nearest city or borough has
25 no full-time emergency medical technician, at a reasonable figure previously set by the nearest
26 city or borough to make this determination, but in no case may the gross weekly earnings for
27 calculating compensation be less than the minimum wage computed on the basis of 40 hours of
28 work a week.

29 * Sec. 14. AS 23.30.265(2) is amended to read:

30 (2) "arising out of and in the course of employment" includes employer-required
31 or supplied travel to and from a remote job site; activities performed at the direction or under the

1 control of the employer; and employer-sanctioned activities at employer-provided facilities; but
2 excludes recreational activities sponsored by the employer that are performed at facilities
3 not provided by the employer, unless participation is required as a condition of
4 employment, and activities of a personal nature away from employer-provided facilities;

5 * Sec. 15. AS 23.30.265(15) is amended to read:

6 (15) "gross earnings" means periodic payments [,] by an employer to an employee
7 for employment before any authorized or lawfully required deduction or withholding of money
8 by the employer, including wages [COMPENSATION THAT IS] deferred at the option of the
9 employee and temporary disability compensation for an occupational injury or illness, and
10 excluding irregular bonuses, reimbursement of expenses, expense allowances, and any benefit or
11 payment to the employee that is not fully taxable to the employee during the pay period, except
12 that the total amount of contributions made by an employer to a qualified pension or profit
13 sharing plan during the two plan years preceding the injury, multiplied by the percentage of the
14 employee's vested interest in the plan at the time of injury, shall be included in the determination
15 of gross earnings; the value of room and board if taxable to the employee may be considered in
16 determining gross earnings; however, the value of room and board that would raise an
17 employee's gross weekly earning above the state average weekly wage at the time of injury may
18 not be considered;

19 * Sec. 16. AS 23.30.265 is amended by adding a new paragraph to read:

20 (34) "volunteer emergency medical technician" means a person who is certified
21 by the state as an emergency medical technician under AS 18.08 and who provides emergency
22 medical services on a voluntary basis.

23 * Sec. 17. DIVISION OF INSURANCE REPORT. The division of insurance shall prepare a report
24 on the feasibility of implementing a contracting classification premium adjustment program to provide
25 premium credits for employers who purchase workers' compensation insurance. The report must include
26 comments and recommendations from labor and management representatives in the state. The division
27 of insurance shall submit the report to the Second Session of the Seventeenth Alaska State Legislature
28 by January 31, 1992.

29 * Sec. 18. DIVISION OF WORKERS' COMPENSATION REPORT. The division of workers'
30 compensation shall report to the Alaska State Legislature by January 1, 1992, with the following:

31 (1) recommendations for changes to AS 23.30 that will promote workplace safety;

- 1 (2) recommendations for increasing workplace safety;
- 2 (3) a discussion of the effect, if any, of the enactment of ch. 79, SLA 1988, on workers'
- 3 compensation;
- 4 (4) a determination of the effectiveness of AS 23.30.145 in ensuring that employees who
- 5 file claims are receiving adequate legal representation;
- 6 (5) a survey of claims filed in 1989 and 1990 to determine
- 7 (A) how many employees were not represented by an attorney in making the
- 8 claim; and
- 9 (B) how many employees who were not represented by an attorney tried but
- 10 failed to find legal representation;
- 11 (6) a determination of whether the procedures used by the board in granting a "blanket"
- 12 release of medical information are adequate to avoid the release of nonmedical information that is not
- 13 relevant to the claim;
- 14 (7) a determination of whether employers or carriers are routinely requesting a "blanket"
- 15 release of medical information in an effort to discourage injured employees from filing a claim, and if
- 16 this is occurring, recommendations for legislation to halt this practice; and
- 17 (8) recommendations for reducing fees charged by attorneys who represent employees
- 18 and carriers.
- 19 * Sec. 19. This Act takes effect immediately under AS 01.10.070(c).

HOUSE CS FOR CS FOR SENATE BILL NO. 219 (JUDICIARY)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to workers' compensation and civil liability for workplace safety
2 inspections; and providing for an effective date."

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

4 * Section 1. PURPOSE OF SECTIONS 12 AND 15. (a) It is the purpose of sec. 12 of this Act to
5 amend AS 23.30 to provide that an insurer is not liable for only providing or failing to provide safety
6 inspections or safety advisory services; this amendment would decide a public policy question concerning
7 the liability of an insurer for the performance of a safety inspection or safety advisory service raised in
8 Van Biene v. ERA Helicopters, Inc., 779 P.2d 315 (Alaska 1989).

9 (b) It is the purpose of sec. 15 of this Act to amend AS 23.30.265(15) to reaffirm the original
10 intent of changes made to this definition in sec. 24, ch. 93, SLA 1980, to include prior temporary total
11 disability payments within the definition of gross wages.

12 * Sec. 2. AS 23.30.041(k) is repealed and reenacted to read:

13 (k) The employer shall pay compensation to an employee eligible for reemployment
14 benefits, as follows:

1 (1) until the employee reaches medical stability or the reemployment plan is
2 completed or terminated, whichever comes first, temporary disability benefits shall be paid;

3 (2) if the employee reaches medical stability or has been found eligible for reem-
4 ployment benefits, temporary disability benefits shall cease and permanent impairment benefits
5 shall then be paid biweekly at the employee's temporary total disability rate until plan
6 completion, termination, or exhaustion of permanent impairment benefits; permanent impairment
7 benefits remaining unpaid upon completion or termination of the plan shall be paid to the
8 employee in a single lump sum;

9 (3) if the employee's permanent impairment benefits are exhausted before the
10 completion or termination of the reemployment plan, the employer shall pay, on a biweekly basis,
11 an amount equal to 60 percent of the employee's spendable weekly wage as determined under
12 AS 23.30.220, not to exceed \$525, until the completion or termination of the plan;

13 (4) if the employee reaches medical stability before an impairment rating is given
14 as provided in AS 23.30.190, except for the first 30 days the employee shall be paid 60 percent
15 of the employee's spendable weekly wage until an impairment rating is given; benefits paid more
16 than 30 days after medical stability but before an impairment rating is given shall be offset from
17 the total sum of permanent impairment benefits due to the employee; after the employee reaches
18 medical stability and an impairment rating is given, all benefits paid shall be included as
19 permanent impairment benefits;

20 (5) benefits related to the reemployment plan may not extend past two years from
21 the date of the initiation of the 60 percent payment of the employee's spendable weekly wage,
22 plan approval, or plan acceptance, whichever date occurs first, at which time the benefits expire;

23 (6) if the employer controverts the employee's claim or appeals a ruling of the
24 administrator or the board and the controversion or appeal delays completion of an evaluation,
25 development, commencement or completion of a plan

26 (A) the employer shall pay the employee 60 percent of the spendable
27 weekly wage during the period of controversion or appeal, except that temporary
28 disability benefits shall be paid until the employee reaches medical stability;

29 (B) the two-year limitation on payment of benefits in (5) of this subsection
30 does not begin to run or is tolled; and

31 (C) payments made at 60 percent of the employee's spendable weekly

1 wage during controversion or appeal may not be offset from permanent impairment
2 benefits due to the employee.

3 * Sec. 3. AS 23.30.041(p) is amended to read:

4 (p) In this section,

5 (1) "administrator" means the reemployment benefits administrator under (a) of
6 this section;

7 (2) "employability" means possessing the ability but not necessarily the
8 opportunity to engage in employment that is consistent with the employee's physical status
9 imposed by the compensable injury;

10 (3) "labor market" means a geographical area that offers employment opportunities
11 in the following priority:

12 (A) area of residence;

13 (B) area of last employment;

14 (C) the state;

15 (D) other states;

16 (4) "medical manager" means a nurse, rehabilitation specialist, or other
17 health care provider assigned by the carrier to assist an employee in coordinating medical
18 benefits, or to monitor the employee's medical services;

19 (5) "physical capacities" means objective and measurable physical traits such as
20 ability to lift and carry, walk, stand or sit, push, pull, climb, balance, stoop, kneel, crouch, crawl,
21 reach, handle, finger, feel, talk, hear, or see;

22 (6) [(5)] "physical demands" means the physical requirements of the job such as
23 strength, including positions such as standing, walking, sitting, and movement of objects such as
24 lifting, carrying, pushing, pulling, climbing, balancing, stooping, kneeling, crouching, crawling,
25 reaching, handling, fingering, feeling, talking, hearing, or seeing;

26 (7) [(6)] "rehabilitation specialist" means a person who is a certified insurance
27 rehabilitation specialist, a certified rehabilitation counselor, or a person who has equivalent or
28 better qualifications as determined under regulations adopted by the department;

29 (8) [(7)] "remunerative employability" means having the skills that allow a worker
30 to be compensated with wages or other earnings equivalent to at least 60 percent of the worker's
31 gross hourly wages at the time of injury; if the employment is outside the state, the stated 60

1 percent shall be adjusted to account for the difference between the applicable state average
2 weekly wage and the Alaska average weekly wage.

3 * Sec. 4. AS 23.30.041 is amended by adding a new subsection to read:

4 (q) After a medical manager has been assigned to an injured employee, the medical
5 manager shall send written notice to the employee, the employer, and the employee's physician
6 explaining in what capacity the medical manager is employed, whom the medical manager
7 represents, and the scope of the services to be provided.

8 * Sec. 5. AS 23.30 is amended by adding a new section to read:

9 Sec. 23.30.047. BENEFITS FOR HEALTH INSURANCE. (a) An employer who pays
10 compensation to an injured employee under AS 23.30.041(k), 23.30.180, 23.30.185, 23.30.190,
11 23.30.200, or 23.30.215, and who provided health insurance to the employee at the date of injury
12 shall also reimburse the employee for health insurance coverage for the employee and covered
13 dependents, as provided in this section.

14 (b) Payment required under this section is equal to the employer's current contribution
15 for health insurance or the amount paid by the employee for replacement coverage, whichever
16 amount is less. Payment required under this section commences when the employee's health
17 insurance provided by the employer's contribution ceases and shall continue until the employee
18 is no longer receiving compensation described in (a) of this section, or for 18 months, whichever
19 period is shorter.

20 (c) Payment is not required under this section until the employee provides proof of health
21 insurance coverage. In this subsection, "health insurance" includes an individual policy of health
22 insurance, or a notice of self-payment^{CB/LH} for continuance of coverage under a union health or welfare
23 trust agreement.

24 (d) If benefits required under this section are not paid within 30 days after the employer
25 receives a request for payment, the employer shall pay a penalty equal to 25 percent of the
26 amount due.

27 * Sec. 6. AS 23.30.075(b) is amended to read:

28 (b) If an employer fails to insure and keep insured employees subject to this chapter or
29 fails to obtain a certificate of self-insurance from the board, upon conviction, the court may
30 [SHALL] impose a fine of up to \$10,000 and may impose a sentence of imprisonment for not
31 more than one year. In addition, the board may impose a civil penalty of up to three times

1 the manual rate that would have been charged for the employer's insurance premium
2 during the period the employer failed to obtain insurance. If an employer is a corporation,
3 all persons who, at the time of the injury or death, had authority to insure the corporation or
4 apply for a certificate of self-insurance [,] and the person actively in charge of the business of
5 the corporation shall be subject to the penalties prescribed in this subsection and shall be
6 personally, jointly, and severally liable together with the corporation for the payment of all
7 compensation or other benefits for which the corporation is liable under this chapter if the
8 corporation at that time is not insured or qualified as a self-insurer.

9 * Sec. 7. AS 23.30.095(e) is amended to read:

10 (e) The employee shall, after an injury, at reasonable times during the continuance of the
11 disability, if requested by the employer or when ordered by the board, submit to an examination
12 by a physician or surgeon of the employer's choice authorized to practice medicine under the
13 laws of the jurisdiction in which the physician resides, furnished and paid for by the employer.
14 If the examination requires the employee to travel outside the state, the employer shall pay
15 all costs resulting from the employee's travel and examination, including costs incurred if
16 the employee takes the deposition of the physician at a later date. The employer may not
17 make more than one change in the employer's choice of a physician or surgeon without the
18 written consent of the employee. Referral to a specialist by the employer's physician is not
19 considered a change in physicians. An examination requested by the employer not less than 14
20 days after injury, and every 60 days thereafter, shall be presumed to be reasonable, and the
21 employee shall submit to the examination without further request or order by the board. Unless
22 medically appropriate, the physician shall use existing diagnostic data to complete the
23 examination. Facts relative to the injury or claim communicated to or otherwise learned by a
24 physician or surgeon who may have attended or examined the employee, or who may have been
25 present at an examination are not privileged, either in the hearings provided for in this chapter
26 or an action to recover damages against an employer who is subject to the compensation
27 provisions of this chapter. If an employee refuses to submit to an examination provided for in
28 this section, the employee's rights to compensation shall be suspended until the obstruction or
29 refusal ceases, and the employee's compensation during the period of suspension may, in the
30 discretion of the board or the court determining an action brought for the recovery of damages
31 under this chapter, be forfeited. The board in any case of death may require an autopsy at the

1 expense of the party requesting the autopsy. An autopsy may not be held without notice first
2 being given to the widow or widower or next of kin if they reside in the state or their
3 whereabouts can be reasonably ascertained, of the time and place of the autopsy and reasonable
4 time and opportunity given the widow or widower or next of kin to have a representative present
5 to witness the autopsy. If adequate notice is not given, the findings from the autopsy may be
6 suppressed on motion made to the board or to the superior court, as the case may be.

7 * Sec. 8. AS 23.30.107 is amended to read:

8 Sec. 23.30.107. RELEASE OF INFORMATION; CONFIDENTIALITY. Upon request,
9 an employee shall provide written authority to the employer, carrier, rehabilitation provider, or
10 rehabilitation administrator to obtain medical and rehabilitation information relative to the
11 employee's injury. Except for medical records released to the employer, carrier,
12 rehabilitation provider, rehabilitation administrator, or other person selected by the
13 employee, the employee's medical records in the possession of the division of workers'
14 compensation are confidential and are not subject to the public records inspection
15 requirements of AS 09.25.110 - 09.25.121.

16 * Sec. 9. AS 23.30.110 is amended by adding a new subsection to read:

17 ^{DONE BY} (h) If the board determines that the employee's injury resulted from the employer's
18 wilful, serious, and repeated violation of state or federal occupational safety or health guidelines,
19 the compensation awarded to the employee by order of the board shall be doubled.

20 * Sec. 10. AS 23.30.155(o) is amended to read:

21 (o) The division of workers' compensation [BOARD] shall promptly notify the division
22 of insurance if the division of workers' compensation [BOARD] determines that the employer's
23 insurer, including an adjuster for a self-insured employer, has filed a notice of controversy
24 for a frivolous or unfair reason. Notice of frivolous or unfair controversy is required even
25 if a hearing is not held or compensation is not awarded by the board [FRIVOLOUSLY OR
26 UNFAIRLY CONTROVERTED COMPENSATION DUE UNDER THIS CHAPTER]. After
27 receiving notice from the division of workers' compensation [BOARD], the division of
28 insurance shall determine if the insurer or adjuster has committed an unfair claim settlement
29 practice under AS 21.36.125. If the division of workers' compensation determines that an
30 adjuster for a self-insured employer has filed a notice of controversy for a frivolous or
31 unfair reason, the board shall consider the self-insured employer's claims adjusting

1 practices and may cancel or fail to renew the employer's self-insurance certificate.

2 * Sec. 11. AS 23.30.155 is amended by adding a new subsection to read:

3 (p) Compensation due an employee under this chapter shall be paid by negotiable bank
4 check that can be cashed not more than three days after being issued.

5 * Sec. 12. AS 23.30 is amended by adding a new section to read:

6 Sec. 23.30.232. CIVIL LIABILITY FOR WORKPLACE SAFETY INSPECTIONS. A
7 carrier, an insurance service agent to a self-insured employer, or a trade association is not liable
8 for civil damages as a result of an act or omission in performing or failing to perform a
9 workplace safety inspection or a safety advisory service unless the carrier's, agent's, or
10 ^{Don't. F.?} association's act or failure to act constitutes gross negligence or reckless or intentional
11 misconduct.

12 * Sec. 13. AS 23.30 is amended by adding a new section to read:

13 ^{DONLEY (ALIASO)} Sec. 23.30.238. VOLUNTEER EMERGENCY MEDICAL TECHNICIANS AS
14 EMPLOYEES. (a) A person who is injured during the course and within the scope of providing
15 service as a volunteer emergency medical technician is an employee of the state for purposes of
16 this chapter if the person

17 (1) is certified by the state under AS 18.08 as an emergency medical technician;

18 (2) provides emergency medical service outside an incorporated city or borough;

19 and

20 (3) is not otherwise covered for that injury by an employer's workers'
21 compensation insurance policy or self-insurance certificate.

22 (b) The gross weekly earnings for a person receiving benefits under this section shall be
23 the gross weekly earnings paid a full-time emergency medical technician employed in the city
24 or borough nearest to the place where the injury occurred, or, if the nearest city or borough has
25 no full-time emergency medical technician, at a reasonable figure previously set by the nearest
26 city or borough to make this determination, but in no case may the gross weekly earnings for
27 calculating compensation be less than the minimum wage computed on the basis of 40 hours of
28 work a week.

29 * Sec. 14. AS 23.30.265(2) is amended to read:

30 (2) "arising out of and in the course of employment" includes employer-required
31 or supplied travel to and from a remote job site; activities performed at the direction or under the

1 control of the employer; and employer-sanctioned activities at employer-provided facilities; but
 2 excludes recreational activities sponsored by the employer that are performed at facilities
 3 not provided by the employer, unless participation is required as a condition of
 4 employment, and activities of a personal nature away from employer-provided facilities;

5 * Sec. 15. AS 23.30.265(15) is amended to read:

6 ^{Don't} (15) "gross earnings" means periodic payments [,] by an employer to an employee
 7 for employment before any authorized or lawfully required deduction or withholding of money
 8 by the employer, including wages [COMPENSATION THAT IS] deferred at the option of the
 9 employee and temporary disability compensation for an occupational injury or illness, and
 10 excluding irregular bonuses, reimbursement of expenses, expense allowances, and any benefit or
 11 payment to the employee that is not fully taxable to the employee during the pay period, except
 12 that the total amount of contributions made by an employer to a qualified pension or profit
 13 sharing plan during the two plan years preceding the injury, multiplied by the percentage of the
 14 employee's vested interest in the plan at the time of injury, shall be included in the determination
 15 of gross earnings; the value of room and board if taxable to the employee may be considered in
 16 determining gross earnings; however, the value of room and board that would raise an
 17 employee's gross weekly earning above the state average weekly wage at the time of injury may
 18 not be considered;

19 * Sec. 16. AS 23.30.265 is amended by adding a new paragraph to read:

20 (34) "volunteer emergency medical technician" means a person who is certified
 21 by the state as an emergency medical technician under AS 18.08 and who provides emergency
 22 medical services on a voluntary basis.

23 * Sec. 17. DIVISION OF INSURANCE REPORT. The division of insurance shall prepare a report
 24 on the feasibility of implementing a contracting classification premium adjustment program to provide
 25 premium credits for employers who purchase workers' compensation insurance. The report must include
 26 comments and recommendations from labor and management representatives in the state. The division
 27 of insurance shall submit the report to the Second Session of the Seventeenth Alaska State Legislature
 28 by January 31, 1992.

29 * Sec. 18. DIVISION OF WORKERS' COMPENSATION REPORT. The division of workers'
 30 ^{Don't # 4} compensation shall report to the Alaska State Legislature by January 1, 1992, with the following:

31 (1) recommendations for changes to AS 23.30 that will promote workplace safety;

- 1 (2) recommendations for increasing workplace safety;
- 2 (3) a discussion of the effect, if any, of the enactment of ch. 79, SLA 1988, on workers'
- 3 compensation;
- 4 (4) a determination of the effectiveness of AS 23.30.145 in ensuring that employees who
- 5 file claims are receiving adequate legal representation;
- 6 (5) a survey of claims filed in 1989 and 1990 to determine
- 7 (A) how many employees were not represented by an attorney in making the
- 8 claim; and
- 9 (B) how many employees who were not represented by an attorney tried but
- 10 failed to find legal representation;
- 11 (6) a determination of whether the procedures used by the board in granting a "blanket"
- 12 release of medical information are adequate to avoid the release of nonmedical information that is not
- 13 relevant to the claim;
- 14 (7) a determination of whether employers or carriers are routinely requesting a "blanket"
- 15 release of medical information in an effort to discourage injured employees from filing a claim, and if
- 16 this is occurring, recommendations for legislation to halt this practice; and
- 17 (8) recommendations for reducing fees charged by attorneys who represent employees
- 18 and carriers.
- 19 * Sec. 19. This Act takes effect immediately under A.S 01.10.070(c).

HOUSE CS FOR CS FOR SENATE BILL NO. 219 (JUDICIARY)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to workers' compensation and civil liability for workplace safety
2 inspections; and providing for an effective date."

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

4 * Section 1. PURPOSE OF SECTIONS 10 AND 13. (a) It is the purpose of sec. 10 of this Act to
5 amend AS 23.30 to provide that an insurer is not liable for providing or failing to provide safety
6 inspections or safety advisory services; this amendment would decide a public policy question concerning
7 the liability of an insurer for the performance of a safety inspection or safety advisory service raised in
8 Van Biene v. ERA Helicopters, Inc., 779 P.2d 315 (Alaska 1989).

9 (b) It is the purpose of sec. 13 of this Act to amend AS 23.30.265(15) to reaffirm the original
10 intent of changes made to this definition in sec. 24, ch. 93, SLA 1980, to include prior temporary total
11 disability payments within the definition of gross wages.

12 * Sec. 2. AS 23.30.041(k) is repealed and reenacted to read:

13 (k) The employer shall pay compensation to an employee eligible for reemployment
14 benefits, as follows:

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1 (1) until the employee reaches medical stability or the reemployment plan is
2 completed or terminated, whichever comes first, temporary disability benefits shall be paid;

3 (2) if the employee reaches medical stability or has been found eligible for reem-
4 ployment benefits, temporary disability benefits shall cease and permanent impairment benefits
5 shall then be paid biweekly at the employee's temporary total disability rate until plan
6 completion, termination, or exhaustion of permanent impairment benefits; permanent impairment
7 benefits remaining unpaid upon completion or termination of the plan shall be paid to the
8 employee in a single lump sum;

9 (3) if the employee's permanent impairment benefits are exhausted before the
10 completion or termination of the reemployment plan, the employer shall pay, on a biweekly basis,
11 an amount equal to 60 percent of the employee's spendable weekly wage as determined under
12 AS 23.30.220, not to exceed \$525, until the completion or termination of the plan;

13 (4) if the employee reaches medical stability before an impairment rating is given
14 as provided in AS 23.30.190, except for the first 30 days the employee shall be paid 60 percent
15 of the employee's spendable weekly wage until an impairment rating is given; benefits paid more
16 than 30 days after medical stability but before an impairment rating is given shall be offset from
17 the total sum of permanent impairment benefits due to the employee; after the employee reaches
18 medical stability and an impairment rating is given, all benefits paid shall be included as
19 permanent impairment benefits;

20 (5) benefits related to the reemployment plan may not extend past two years from
21 the date of the initiation of the 60 percent payment of the employee's spendable weekly wage,
22 plan approval, or plan acceptance, whichever date occurs first, at which time the benefits expire;

23 (6) if the employer controverts the employee's claim or appeals a ruling of the
24 administrator or the board and the controversion or appeal delays completion of an evaluation,
25 development, commencement or completion of a plan

26 (A) the employer shall pay the employee 60 percent of the spendable
27 weekly wage during the period of controversion or appeal, except that temporary
28 disability benefits shall be paid until the employee reaches medical stability;

29 (B) the two-year limitation on payment of benefits in (5) of this subsection
30 does not begin to run or is tolled; and

31 (C) payments made at 60 percent of the employee's spendable weekly

1 wage during controversion or appeal may not be offset from permanent impairment
2 benefits due to the employee.

3 * Sec. 3. AS 23.30 is amended by adding a new section to read:

4 Sec. 23.30.047. BENEFITS FOR HEALTH INSURANCE. (a) An employer who pays
5 compensation to an injured employee under AS 23.30.041(k), 23.30.180, 23.30.185, 23.30.190,
6 23.30.200, or 23.30.215, and who provided health insurance to the employee at the date of injury
7 shall also reimburse the employee for health insurance coverage for the employee and covered
8 dependents, as provided in this section.

9 (b) Payment required under this section is equal to the employer's current contribution
10 for health insurance or the amount paid by the employee for replacement coverage, whichever
11 amount is less. Payment required under this section commences when the employee's health
12 insurance provided by the employer's contribution ceases and shall continue until the employee
13 is no longer receiving compensation described in (a) of this section, or for 18 months, whichever
14 period is shorter.

15 (c) Payment is not required under this section until the employee provides proof of health
16 insurance coverage. In this subsection, "health insurance" includes

17 (1) an individual policy of health insurance; or

18 (2) a notice of self-payment for continuance of coverage required under 29 U.S.C.
19 1161 (Consolidated Omnibus Budget Reconciliation Act of 1985) or under a union health or
20 welfare trust agreement.

21 (d) If benefits required under this section are not paid within 30 days after the employer
22 receives a request for payment, the employer shall pay a penalty equal to 25 percent of the
23 amount due.

24 * Sec. 4. AS 23.30.075(b) is amended to read:

25 (b) If an employer fails to insure and keep insured employees subject to this chapter or
26 fails to obtain a certificate of self-insurance from the board, upon conviction, the court may
27 [SHALL] impose a fine of up to \$10,000 and may impose a sentence of imprisonment for not
28 more than one year. In addition, the board may impose a civil penalty of up to three times
29 the manual rate that would have been charged for the employer's insurance premium
30 during the period the employer failed to obtain insurance. If an employer is a corporation,
31 all persons who, at the time of the injury or death, had authority to insure the corporation or

1 apply for a certificate of self-insurance [,] and the person actively in charge of the business of
2 the corporation shall be subject to the penalties prescribed in this subsection and shall be
3 personally, jointly, and severally liable together with the corporation for the payment of all
4 compensation or other benefits for which the corporation is liable under this chapter if the
5 corporation at that time is not insured or qualified as a self-insurer.

6 * Sec. 5. AS 23.30.095 is amended by adding a new subsection to read:

7 (l) The employer shall provide to the employee one round trip coach fare airline ticket
8 to the place at which an examination described under (e) of this section is performed and two
9 days per diem at the rate paid to state employees who travel outside the state if the examination
10 requires the employee to travel outside the state. If the employec objects to the physician's
11 report of the examination, takes the deposition of the physician and the deposition is taken
12 outside the state, or if the employer takes the deposition of the physician who performs the
13 examination and the deposition is taken outside the state, the employer shall provide one round
14 trip coach fair airline ticket to the location of the deposition and two days per diem at the rate
15 paid to state employees who travel outside the state.

16 * Sec. 6. AS 23.30.107 is amended to read:

17 Sec. 23.30.107. RELEASE OF INFORMATION; CONFIDENTIALITY. Upon request,
18 an employee shall provide written authority to the employer, carrier, rehabilitation provider, or
19 rehabilitation administrator to obtain medical and rehabilitation information relative to the
20 employee's injury and any prior injury. Except for medical records released to the
21 employer, carrier, rehabilitation provider, rehabilitation administrator, or other person
22 selected by the employee, the employee's medical records in the possession of the division
23 of workers' compensation are confidential and are not subject to the public records
24 inspection requirements of AS 09.25.110 - 09.25.121.

25 * Sec. 7. AS 23.30.110 is amended by adding a new subsection to read:

26 (h) If the board determines that the employee's injury resulted from the employer's
27 wilful, serious, and repeated violation of state or federal occupational safety or health guidelines,
28 the board shall report the violation to the Occupational Safety and Health Review Board
29 (AS 18.60.057).

30 * Sec. 8. AS 23.30.155(o) is amended to read:

31 (o) The division of workers' compensation [BOARD] shall promptly notify the division

1 of insurance if the division of workers' compensation [BOARD] determines that the employer's
 2 insurer, including an adjuster for a self-insured employer, has filed a notice of controversion
 3 for a frivolous or unfair reason. Notice of frivolous or unfair controversion is required even
 4 if a hearing is not held or compensation is not awarded by the board [FRIVOLOUSLY OR
 5 UNFAIRLY CONTROVERTED COMPENSATION DUE UNDER THIS CHAPTER]. After
 6 receiving notice from the division of workers' compensation [BOARD], the division of
 7 insurance shall determine if the insurer or adjuster has committed an unfair claim settlement
 8 practice under AS 21.36.125. If the division of workers' compensation determines that an
 9 adjuster for a self-insured employer has filed a notice of controversion for a frivolous or
 10 unfair reason, the board shall consider the self-insured employer's claims adjusting
 11 practices and may cancel or fail to renew the employer's self-insurance certificate.

12 * Sec. 9. AS 23.30.155 is amended by adding a new subsection to read:

13 ^{2.} (p) Compensation due an employee under this chapter shall be paid by negotiable bank
 14 check that can be cashed not more than three business days after being issued.

15 * Sec. 10. AS 23.30 is amended by adding a new section to read:

16 Sec. 23.30.232. CIVIL LIABILITY FOR WORKPLACE SAFETY INSPECTIONS. A
 17 carrier, an insurance service agent to a self-insured employer, or a trade association is not liable
 18 for civil damages as a result of an act or omission in performing or failing to perform a
 19 workplace safety inspection or a safety advisory service, ^{added} (unless the carrier's, agent's, or
 20 association's act or failure to act constitutes reckless or intentional misconduct.)

21 * Sec. 11. AS 23.30 is amended by adding a new section to read:

22 Sec. 23.30.238. VOLUNTEER EMERGENCY MEDICAL TECHNICIANS AS
 23 EMPLOYEES. (a) A person who is injured during the course and within the scope of providing
 24 service as a volunteer emergency medical technician is an employee of the state for purposes of
 25 this chapter if the person

26 (1) is certified by the state under AS 18.08 as an emergency medical technician;

27 (2) provides emergency medical service outside an incorporated city or borough;

28 and

29 (3) is not otherwise covered for that injury by an employer's workers'
 30 compensation insurance policy or self-insurance certificate.

31 (b) The gross weekly earnings for a person receiving benefits under this section shall be

1 the gross weekly earnings paid a full-time emergency medical technician employed in the city
 2 or borough nearest to the place where the injury occurred, or, if the nearest city or borough has
 3 no full-time emergency medical technician, at a reasonable figure previously set by the nearest
 4 city or borough to make this determination, but in no case may the gross weekly earnings for
 5 calculating compensation be less than the minimum wage computed on the basis of 40 hours of
 6 work a week.

7 * Sec. 12. AS 23.30.265(2) is amended to read:

8 (2) "arising out of and in the course of employment" includes employer-required
 9 or supplied travel to and from a remote job site; activities performed at the direction or under the
 10 control of the employer; and employer-sanctioned activities at employer-provided facilities; but
 11 excludes recreational activities sponsored by the employer that are performed at facilities
 12 not provided by the employer, unless participation is required as a condition of
 13 employment, and activities of a personal nature away from employer-provided facilities;

*Camps
 still
 covered.*

14 * Sec. 13. AS 23.30.265(15) is amended to read:

15 (15) "gross earnings" means periodic payments [,] by an employer to an employee
 16 for employment before any authorized or lawfully required deduction or withholding of money
 17 by the employer, including wages [COMPENSATION THAT IS] deferred at the option of the
 18 employee and temporary disability compensation for an occupational injury or illness, and
 19 excluding irregular bonuses, reimbursement of expenses, expense allowances, and any benefit or
 20 payment to the employee that is not fully taxable to the employee during the pay period, except
 21 that the total amount of contributions made by an employer to a qualified pension or profit
 22 sharing plan during the two plan years preceding the injury, multiplied by the percentage of the
 23 employee's vested interest in the plan at the time of injury, shall be included in the determination
 24 of gross earnings; the value of room and board if taxable to the employee may be considered in
 25 determining gross earnings; however, the value of room and board that would raise an
 26 employee's gross weekly earning above the state average weekly wage at the time of injury may
 27 not be considered;

28 * Sec. 14. AS 23.30.265 is amended by adding a new paragraph to read:

29 (34) "volunteer emergency medical technician" means a person who is certified
 30 by the state as an emergency medical technician under AS 18.08 and who provides emergency
 31 medical services on a voluntary basis.

1 * **Sec. 15. DIVISION OF INSURANCE REPORT.** The division of insurance shall prepare a report
2 on the feasibility of implementing a contracting classification premium adjustment program to provide
3 premium credits for employers who purchase workers' compensation insurance. The report must include
4 comments and recommendations from labor and management representatives in the state. The division
5 of insurance shall submit the report to the Second Session of the Seventeenth Alaska State Legislature
6 by January 31, 1992.

7 * **Sec. 16. DIVISION OF WORKERS' COMPENSATION REPORT.** The division of workers'
8 compensation shall report to the Alaska State Legislature by January 1, 1992, with the following:

9 (1) recommendations for changes to AS 23.30 that will promote workplace safety;

10 (2) recommendations for increasing workplace safety;

11 (3) a discussion of the effect, if any, of the enactment of ch. 79, SLA 1988, on workers'
12 compensation;

13 (4) a determination of the effectiveness of AS 23.30.145 in ensuring that employees who
14 file claims are receiving adequate legal representation;

15 (5) a survey of claims filed in 1989 and 1990 to determine

16 (A) how many employees were not represented by an attorney in making the
17 claim; and

18 (B) how many employees who were not represented by an attorney tried but
19 failed to find legal representation;

20 (6) a determination of whether the procedures used by the board in granting a "blanket"
21 release of medical information are adequate to avoid the release of nonmedical information that is not
22 relevant to the claim;

23 (7) a determination of whether employers or carriers are routinely requesting a "blanket"
24 release of medical information in an effort to discourage injured employees from filing a claim, and if
25 this is occurring, recommendations for legislation to halt this practice; and

26 (8) recommendations for reducing fees charged by attorneys who represent employees
27 and carriers.

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

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 508 (L&C) (EFD AM)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 FOR AN ACT ENTITLED: "AN ACT RELATING TO WORKERS' COMPENSATION, AND PRO-
7 VIDING FOR AN EFFECTIVE DATE,"

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

9 * SECTION 1. AS 23.30.041(B) IS AMENDED TO READ:

10 (B) THE ADMINISTRATOR SHALL (PERFORM THE FOLLOWING FUNCTIONS:)

11 (1) ENFORCE REGULATIONS ADOPTED BY THE BOARD TO IMPLEMENT
12 THIS SECTION;

13 (2) RECOMMEND REGULATIONS FOR ADOPTION BY THE BOARD THAT
14 ESTABLISH PERFORMANCE AND REPORTING CRITERIA FOR REHABILITATION SPE-
15 CIALISTS;

16 (3) ENFORCE THE QUALITY AND EFFECTIVENESS OF REEMPLOYMENT
17 BENEFITS PROVIDED FOR UNDER THIS SECTION; ..

19 TATION SPECIALISTS TO DETERMINE CONTINUED ELIGIBILITY FOR DELIVERY OF
20 REHABILITATION SERVICES;

21 (5) SUBMIT TO THE DEPARTMENT, ON OR BEFORE JULY 1 (JANU-
22 ARY 1) OF EACH YEAR, A REPORT OF REEMPLOYMENT BENEFITS PROVIDED UNDER
23 THIS SECTION FOR THE PREVIOUS CALENDAR (FISCAL) YEAR, THE REPORT MUST
24 INCLUDE A GENERAL SECTION, SECTIONS RELATED TO EACH REHABILITATION
25 SPECIALIST EMPLOYED UNDER THIS SECTION, AND A STATISTICAL SUMMARY OF
26 ALL REHABILITATION CASES, INCLUDING

27 (A) THE ESTIMATED AND ACTUAL COST OF EACH ACTIVE
28 REHABILITATION PLAN;

29 (B) THE ESTIMATED AND ACTUAL TIME OF EACH
1 REHABILITATION PLAN;

2 (C) A STATUS REPORT ON ALL INDIVIDUALS COMPLETING OR
3 TERMINATING A REEMPLOYMENT BENEFITS PROGRAM INCLUDING A RETURN TO
4 WORK DATE;

5 (D) THE COST OF REEMPLOYMENT BENEFITS;

6 (6) MAINTAIN A LIST OF REHABILITATION SPECIALISTS WHO MEET
7 THE QUALIFICATIONS ESTABLISHED UNDER THIS SECTION;

8 (7) MONITOR THE ACTIVITIES OF MEDICAL MANAGERS ASSIGNED BY
9 THE CARRIER TO AN INJURED EMPLOYEE, INCLUDING REVIEWING REPORTS OR
10 CORRESPONDENCE CONCERNING THE INJURED EMPLOYEE;...

11 ...(8)... PROMOTE AWARENESS AMONG PHYSICIANS, ADJUSTERS, INJURED
12 WORKERS, EMPLOYERS, EMPLOYEES, ATTORNEYS, TRAINING PROVIDERS, AND
13 REHABILITATION SPECIALISTS OF THE REEMPLOYMENT PROGRAM ESTABLISHED IN
14 THIS SUBSECTION.

15 * SEC. 2. AS 23.30.041(E) IS AMENDED TO READ:

16 (E) AN EMPLOYEE IS (SHALL BE) ELIGIBLE FOR BENEFITS UNDER THIS
17 SECTION UPON THE EMPLOYEE'S WRITTEN REQUEST AND BY HAVING A LICENSED
18 PHYSICIAN, OR REGARDING MUSCULAR, SKELETAL, OR NEUROLOGICAL INJURIES,
19 A LICENSED PHYSICIAN OR A LICENSED PHYSICAL OR OCCUPATIONAL THERAPIST, ...
20 PREDICT THAT THE EMPLOYEE WILL HAVE PERMANENT PHYSICAL CAPACITIES THAT
21 ARE LESS THAN THE PHYSICAL DEMANDS OF THE EMPLOYEE'S JOB AS DESCRIBED

23 OF OCCUPATIONS DEFINED IN THE DICTIONARY OF OCCUPATIONAL TITLES" FOR
24 (1) THE EMPLOYEE'S JOB AT THE TIME OF INJURY; OR
25 (2) OTHER JOBS THAT EXIST IN THE LABOR MARKET THAT THE
26 EMPLOYEE HAS HELD OR RECEIVED TRAINING FOR WITHIN 10 YEARS BEFORE THE
27 INJURY OR THAT THE EMPLOYEE HAS HELD FOLLOWING THE INJURY FOR A PERIOD
28 LONG ENOUGH TO OBTAIN THE SKILLS TO COMPETE IN THE LABOR MARKET,
29 ACCORDING TO SPECIFIC VOCATIONAL PREPARATION CODES AS DESCRIBED IN THE
1 UNITED STATES DEPARTMENT OF LABOR'S "SELECTED CHARACTERISTICS OF
2 OCCUPATIONS DEFINED IN THE DICTIONARY OF OCCUPATIONAL TITLES."

3 * SEC. 3. AS 23.30.041(K) IS REPEALED AND REENACTED TO READ:

4 (K) THE EMPLOYER SHALL PAY COMPENSATION TO AN EMPLOYEE ELIGIBLE
5 FOR REEMPLOYMENT BENEFITS, AS FOLLOWS:

6 (1) UNTIL THE EMPLOYEE REACHES MEDICAL STABILITY OR THE
7 REEMPLOYMENT PLAN IS COMPLETED OR TERMINATED, WHICHEVER COMES FIRST,
8 TEMPORARY DISABILITY BENEFITS SHALL BE PAID;

9 (2) IF THE EMPLOYEE REACHES MEDICAL STABILITY AND HAS
10 REQUESTED REEMPLOYMENT BENEFITS OR HAS BEEN FOUND ELIGIBLE FOR REEM-
11 PLOYMENT BENEFITS, TEMPORARY DISABILITY BENEFITS SHALL CEASE AND
12 PERMANENT IMPAIRMENT BENEFITS SHALL THEN BE PAID BIWEEKLY AT THE
13 EMPLOYEE'S TEMPORARY TOTAL DISABILITY RATE UNTIL PLAN COMPLETION,
14 TERMINATION, OR EXHAUSTION OF PERMANENT IMPAIRMENT BENEFITS; PERMANENT
15 IMPAIRMENT BENEFITS REMAINING UNPAID UPON COMPLETION OR TERMINATION OF
16 THE PLAN SHALL BE PAID TO THE EMPLOYEE IN A SINGLE LUMP SUM;

17 (3) IF THE EMPLOYEE'S PERMANENT IMPAIRMENT BENEFITS ARE
18 EXHAUSTED BEFORE THE COMPLETION OR TERMINATION OF THE REEMPLOYMENT
19 PLAN, THE EMPLOYER SHALL PAY, ON A BIWEEKLY BASIS, AN AMOUNT EQUAL TO
20 60 PERCENT OF THE EMPLOYEE'S SPENDABLE WEEKLY WAGE AS DETERMINED UNDER
21 AS 23.30.220, NOT TO EXCEED \$525, UNTIL THE COMPLETION OR TERMINATION
22 OF THE PLAN;

23 (4) IF THE EMPLOYEE REACHES MEDICAL STABILITY BEFORE AN
24 IMPAIRMENT RATING IS GIVEN AS PROVIDED IN AS 23.30.190, EXCEPT FOR THE
25 FIRST 30 DAYS THE EMPLOYEE SHALL BE PAID 60 PERCENT OF THE EMPLOYEE'S

27 PAID MORE THAN 30 DAYS AFTER MEDICAL STABILITY BUT BEFORE AN IMPAIR-
28 MENT RATING IS GIVEN SHALL BE OFFSET FROM THE TOTAL SUM OF PERMANENT
29 IMPAIRMENT BENEFITS DUE TO THE EMPLOYEE; AFTER THE EMPLOYEE REACHES
1 MEDICAL STABILITY AND AN IMPAIRMENT RATING IS GIVEN, ALL BENEFITS PAID
2 SHALL BE INCLUDED AS PERMANENT IMPAIRMENT BENEFITS;

3 (5) BENEFITS RELATED TO THE REEMPLOYMENT PLAN MAY NOT
4 EXTEND PAST TWO YEARS FROM THE DATE OF THE INITIATION OF THE 60 PER-
5 CENT PAYMENT OF THE EMPLOYEE'S SPENDABLE WEEKLY WAGE, PLAN APPROVAL,
6 OR PLAN ACCEPTANCE, WHICHEVER DATE OCCURS FIRST, AT WHICH TIME THE
7 BENEFITS EXPIRE;

8 (6) IF THE EMPLOYER CONTROVERTS THE EMPLOYEE'S CLAIM OR
9 APPEALS A RULING OF THE ADMINISTRATOR OR THE BOARD THAT IS FAVORABLE
10 TO THE EMPLOYEE, THE CONTROVERSION OR APPEAL DELAYS COMPLETION OF AN
11 EVALUATION, DEVELOPMENT, COMMENCEMENT OR COMPLETION OF A PLAN, AND THE
12 EMPLOYEE IS SUCCESSFUL IN THE CLAIM OR APPEAL, THE EMPLOYER SHALL PAY
13 THE EMPLOYEE 60 PERCENT OF THE SPENDABLE WEEKLY WAGE DURING THE PERIOD
14 OF CONTROVERSION OR APPEAL, EXCEPT THAT TEMPORARY DISABILITY BENEFITS
15 SHALL BE PAID UNTIL THE EMPLOYEE REACHES MEDICAL STABILITY; FOR PUR-
16 POSES OF THIS PARAGRAPH THE TWO-YEAR LIMITATION ON PAYMENT OF BENEFITS
17 IN (5) OF THIS SUBSECTION DOES NOT BEGIN TO RUN OR IS TOLLED, AND
18 PAYMENTS MADE AT 60 PERCENT OF THE EMPLOYEE'S SPENDABLE WEEKLY WAGE
19 DURING CONTROVERSION OR APPEAL MAY NOT BE OFFSET FROM PERMANENT IN-
20 PAIRMENT BENEFITS DUE TO THE EMPLOYEE.

21 * SEC. 4. AS 23.30.041(L) IS AMENDED TO READ:

22 (L) THE COST OF THE REEMPLOYMENT PLAN INCURRED UNDER THIS SEC-
23 TION _IS_ (SHALL BE) THE RESPONSIBILITY OF THE EMPLOYER, SHALL BE PAID
24 ON AN EXPENSE INCURRED BASIS, AND MAY NOT EXCEED \$10,000. THE COST OF
25 THE REHABILITATION SPECIALIST SHALL BE PAID BY THE EMPLOYER, BUT MAY
26 NOT BE INCLUDED IN DETERMINING THE COST OF THE REEMPLOYMENT PLAN.
27 FEES CHARGED BY AND PAID TO A REHABILITATION SPECIALIST FOR SERVICES
28 MUST BE COMPARABLE TO FEES FOR SIMILAR SERVICES IN THE COMMUNITY IN
29 WHICH THE SERVICES ARE PERFORMED, AS DETERMINED BY THE BOARD.

(F) IN THIS SECTION

(1) "ADMINISTRATOR" MEANS THE REEMPLOYMENT BENEFITS ADMINISTRATOR UNDER (A) OF THIS SECTION;

(2) "EMPLOYABILITY" MEANS POSSESSING THE ABILITY BUT NOT NECESSARILY THE OPPORTUNITY TO ENGAGE IN EMPLOYMENT THAT IS CONSISTENT WITH THE EMPLOYEE'S PHYSICAL STATUS IMPOSED BY THE COMPENSABLE INJURY;

(3) "LABOR MARKET" MEANS A GEOGRAPHICAL AREA THAT OFFERS EMPLOYMENT OPPORTUNITIES IN THE FOLLOWING PRIORITY;

(A) AREA OF RESIDENCE;

(B) AREA OF LAST EMPLOYMENT;

(C) THE STATE;

(D) OTHER STATES;

(4) "MEDICAL MANAGER" MEANS A NURSE, REHABILITATION SPECIALIST, OR OTHER HEALTH CARE PROVIDER ASSIGNED BY THE CARRIER TO ASSIST AN EMPLOYEE IN COORDINATING MEDICAL BENEFITS, OR TO MONITOR THE EMPLOYEE'S MEDICAL SERVICES;

(5) "PHYSICAL CAPACITIES" MEANS OBJECTIVE AND MEASURABLE PHYSICAL TRAITS SUCH AS ABILITY TO LIFT AND CARRY, WALK, STAND OR SIT, PUSH, PULL, CLIMB, BALANCE, STOOP, KNEEL, CROUCH, CRAWL, REACH, HANDLE, FINGER, FEEL, TALK, HEAR OR SEE;

(6) "PHYSICAL DEMANDS" MEANS THE PHYSICAL REQUIREMENTS OF THE JOB SUCH AS STRENGTH, INCLUDING POSITIONS SUCH AS STANDING, WALKING, SITTING, AND MOVEMENT OF OBJECTS SUCH AS LIFTING, CARRYING, PUSHING, PULLING, CLIMBING, BALANCING, STOOPING, KNEELING, CROUCHING, CRAWLING, REACHING, HANDLING, FINGERING, FEELING, TALKING, HEARING, OR SEEING;

(7) "REHABILITATION SPECIALIST" MEANS A PERSON WHO IS A CERTIFIED INSURANCE REHABILITATION SPECIALIST, A CERTIFIED REHABILITATION COUNSELOR, OR A PERSON WHO HAS EQUIVALENT OR BETTER QUALIFICATIONS AS DETERMINED UNDER REGULATIONS ADOPTED BY THE DEPARTMENT;

(8) "RENUMERATIVE EMPLOYABILITY" MEANS HAVING THE

5 SKILLS THAT ALLOW A WORKER TO BE COMPENSATED WITH WAGES OR OTHER
6 EARNINGS EQUIVALENT TO AT LEAST 60 PERCENT OF THE WORKER'S GROSS
7 HOURLY WAGES AT THE TIME OF INJURY; IF THE EMPLOYMENT IS OUTSIDE THE
8 STATE, THE STATED 60 PERCENT SHALL BE ADJUSTED TO ACCOUNT FOR THE
9 DIFFERENCE BETWEEN THE APPLICABLE STATE AVERAGE WEEKLY WAGE AND THE
10 ALASKA AVERAGE WEEKLY WAGE.

11 * SEC. 6. AS 23.30.041 IS AMENDED BY ADDING A NEW SUBSECTION TO READ:

12 (Q) AFTER A MEDICAL MANAGER HAS BEEN ASSIGNED TO AN INJURED
13 EMPLOYEE, THE MEDICAL MANAGER SHALL SEND WRITTEN NOTICE TO THE EMPLOY-
14 EE, THE EMPLOYER, AND THE EMPLOYEE'S PHYSICIAN EXPLAINING IN WHAT
15 CAPACITY THE MEDICAL MANAGER IS EMPLOYED, WHO THE MEDICAL MANAGER
16 REPRESENTS, AND THE SCOPE OF THE SERVICES TO BE PROVIDED.

17 * SEC. 7. AS 23.30 IS AMENDED BY ADDING A NEW SECTION TO READ:

18 SEC. 23.30.047. COMPENSATION FOR HEALTH INSURANCE. (A) AN
19 EMPLOYER WHO PAYS COMPENSATION TO AN INJURED EMPLOYEE UNDER THIS
20 CHAPTER AND WHO PROVIDED HEALTH INSURANCE TO THE EMPLOYEE AT THE DATE
21 OF INJURY SHALL ALSO PAY TO THE EMPLOYEE AN AMOUNT EQUAL TO THE AMOUNT
22 CONTRIBUTED BY THE EMPLOYER TO PROVIDE HEALTH INSURANCE COVERAGE FOR
23 THE EMPLOYEE AND COVERED DEPENDENTS, OR THE AMOUNT PAID BY THE EMPLOY-
24 EE FOR REPLACEMENT HEALTH INSURANCE COVERAGE, WHICHEVER AMOUNT IS
25 LESS. COMPENSATION REQUIRED UNDER THIS SECTION COMMENCES WHEN THE
26 EMPLOYEE'S HEALTH INSURANCE PROVIDED BY THE EMPLOYER'S CONTRIBUTION
27 CEASES AND SHALL CONTINUE UNTIL THE EMPLOYEE IS NO LONGER RECEIVING
28 COMPENSATION UNDER THIS CHAPTER, OR FOR 18 MONTHS, WHICHEVER PERIOD IS
29 SHORTER.

1 (B) PAYMENT OF COMPENSATION UNDER THIS SECTION IS NOT REQUIRED
2 IF THE EMPLOYEE FAILS TO PROVIDE ONGOING PROOF OF HEALTH INSURANCE
3 COVERAGE.

4 (C) COMPENSATION PAID UNDER THIS SECTION IS SUBJECT TO THE
5 PROVISIONS OF AS 23.30.155.

6 * SEC. 8. AS 23.30.055 IS AMENDED TO READ:

7 SEC. 23.30.055. EXCLUSIVENESS OF LIABILITY. THE LIABILITY OF AN
8 EMPLOYER PRESCRIBED IN AS 23.30.045 IS EXCLUSIVE AND IN PLACE OF ALL

9 OTHER LIABILITY OF THE EMPLOYER AND ANY FELLOW EMPLOYEE TO THE EMPLOYEE,
10 PLOYEE, THE EMPLOYEE'S LEGAL REPRESENTATIVE, HUSBAND OR WIFE, PARENTS,
11 DEPENDENTS, NEXT OF KIN, AND ANYONE OTHERWISE ENTITLED TO RECOVER
12 DAMAGES FROM THE EMPLOYER OR FELLOW EMPLOYEE AT LAW OR IN ADMIRALTY ON
13 ACCOUNT OF THE INJURY OR DEATH. THE LIABILITY OF THE EMPLOYER IS
14 EXCLUSIVE EVEN IF THE EMPLOYEE'S CLAIM IS BARRED UNDER AS 23.30.022.
15 HOWEVER, IF AN EMPLOYER FAILS TO SECURE PAYMENT OF COMPENSATION AS
16 REQUIRED BY THIS CHAPTER, AN INJURED EMPLOYEE OR THE EMPLOYEE'S LEGAL
17 REPRESENTATIVE IN CASE DEATH RESULTS FROM THE INJURY MAY ELECT TO
18 CLAIM COMPENSATION UNDER THIS CHAPTER 1,1 OR TO MAINTAIN AN ACTION
19 AGAINST THE EMPLOYER AT LAW OR IN ADMIRALTY FOR DAMAGES ON ACCOUNT OF
20 THE INJURY OR DEATH. IN THAT ACTION, THE DEFENDANT MAY NOT PLEAD AS
A
21 DEFENSE THAT THE INJURY WAS CAUSED BY THE NEGLIGENCE OF A FELLOW
22 SERVANT, OR THAT THE EMPLOYEE ASSUMED THE RISK OF THE EMPLOYMENT, OR
23 THAT THE INJURY WAS DUE TO THE CONTRIBUTORY NEGLIGENCE OF THE EMPLOYEE.
24 IN THIS SECTION, "EMPLOYER" INCLUDES THE EMPLOYER'S CARRIER, AN
25 INSURANCE SERVICE AGENT TO A SELF-INSURED EMPLOYER, OR A TRADE ASSOCIATION,
26 IF THE CARRIER, INSURANCE SERVICE AGENT, OR TRADE ASSOCIATION
27 PROVIDES OR FAILS TO PROVIDE SAFETY INSPECTIONS OR SAFETY ADVISORY
28 SERVICES...

29 * SEC. 9. AS 23.30.190(B) IS AMENDED TO READ:

1 (B) ALL DETERMINATIONS OF THE EXISTENCE AND DEGREE OF PERMANENT
2 IMPAIRMENT SHALL BE MADE STRICTLY AND SOLELY UNDER THE WHOLE PERSON
3 DETERMINATION AS SET OUT IN THE AMERICAN MEDICAL ASSOCIATION GUIDES TO
4 THE EVALUATION OF PERMANENT IMPAIRMENT, EXCEPT THAT AN IMPAIRMENT
5 RATING MAY NOT BE ROUNDED TO THE NEXT FIVE PERCENT. THE BOARD SHALL
6 ADOPT A SUPPLEMENTARY RECOGNIZED SCHEDULE FOR INJURIES THAT CANNOT BE
7 RATED BY USE OF THE AMERICAN MEDICAL ASSOCIATION GUIDES. AN IMPAIRMENT
8 RATING SHALL BE DETERMINED BY A LICENSED PHYSICIAN OR IF THE
9 INJURY IS RELATED TO MUSCULAR, SKELETAL, OR NEUROLOGICAL DISABILITIES,
10 BY A LICENSED PHYSICIAN OR A LICENSED PHYSICAL OR OCCUPATIONAL THERAPIST.
11

13 . SEC. 23.30.195. SURVIVAL OF THE RIGHT TO COMPENSATION. (A)
14 COMPENSATION TO WHICH [A] LARY] CLAIMANT WOULD BE ENTITLED UNDER AS
23.- 30.190 (EXCEPTING (A)(20) OF THAT SECTION) SHALL, NOTWITHSTANDING,
15 DEATH ARISING FROM CAUSES OTHER THAN THE INJURY, BE PAYABLE TO AND FOR
16 THE BENEFIT OF THE FOLLOWING PERSONS (FOLLOWING):

18 (1) IF THERE [IS] [BE] A WIDOW OR WIDOWER, BUT [THERE] NO
CHILD
19 OF THE DECEASED, TO THE WIDOW OR WIDOWER;

20 (2) IF THERE [IS] [BE] A WIDOW OR WIDOWER AND A SURVIVING
21 CHILD [OR] CHILDREN OF THE DECEASED, ONE-HALF TO THE WIDOW OR WIDOWER,
22 THE OTHER HALF TO THE SURVIVING CHILD [OR] CHILDREN, IN EQUAL SHARES;

23 (3) IF THERE [IS] [BE] A SURVIVING CHILD [OR] CHILDREN OF
THE
24 DECEASED, BUT NO WIDOW OR WIDOWER, THEN TO THE CHILD [OR] CHILDREN, IN
25 EQUAL SHARES.

26 (B) AN AWARD FOR [IMPAIRMENT] [DISABILITY] MAY BE MADE AFTER THE
27 DEATH OF THE INJURED EMPLOYEE.

28 * SEC. 41. AS 23.30 IS AMENDED BY ADDING A NEW SECTION TO READ:

29 SEC. 23.30.238. VOLUNTEER EMERGENCY MEDICAL TECHNICIANS AS
1 EMPLOYEES. (A) A PERSON WHO IS INJURED DURING THE COURSE AND WITHIN
2 THE SCOPE OF PROVIDING SERVICE AS A VOLUNTEER EMERGENCY MEDICAL TECH-
3 NICIAN IS AN EMPLOYEE OF THE STATE FOR PURPOSES OF THIS CHAPTER IF THE
4 PERSON

5 (1) IS CERTIFIED BY THE STATE UNDER AS 18.08 AS AN EMER-
6 GENCY MEDICAL TECHNICIAN;

7 (2) PROVIDES EMERGENCY MEDICAL SERVICE OUTSIDE AN INCOR-
8 PORATED CITY OR BOROUGH; AND

9 (3) IS NOT OTHERWISE COVERED FOR THAT INJURY BY AN EMPLOY-
10 ER'S WORKERS' COMPENSATION INSURANCE POLICY OR SELF-INSURANCE CERTIFI-
11 CATE.

12 (B) THE GROSS WEEKLY EARNINGS FOR A PERSON RECEIVING BENEFITS
13 UNDER THIS SECTION SHALL BE THE GROSS WEEKLY EARNINGS PAID A FULL-TIME
14 EMERGENCY MEDICAL TECHNICIAN EMPLOYED IN THE CITY OR BOROUGH NEAREST

16 BOROUGH HAS NO FULL-TIME EMERGENCY MEDICAL TECHNICIAN, AT A REASONABLE
17 FIGURE PREVIOUSLY SET BY THE NEAREST CITY OR BOROUGH TO MAKE THIS
18 DETERMINATION, BUT IN NO CASE MAY THE GROSS WEEKLY EARNINGS FOR CAL-
19 CULATING COMPENSATION BE LESS THAN THE MINIMUM WAGE COMPUTED ON THE
20 BASIS OF 40 HOURS OF WORK A WEEK.

21 * SEC. 12. AS 23.30.265 IS AMENDED BY ADDING A NEW PARAGRAPH TO READ:

22 (34) "VOLUNTEER EMERGENCY MEDICAL TECHNICIAN" MEANS A PERSON
23 WHO IS CERTIFIED BY THE STATE AS AN EMERGENCY MEDICAL TECHNICIAN UNDER
24 AS 18.08 AND WHO PROVIDES EMERGENCY MEDICAL SERVICES ON A VOLUNTARY
25 BASIS.

26 * SEC. 13. THIS ACT TAKES EFFECT IMMEDIATELY UNDER AS 01.30.070(2).

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO : SB 219

Revision Date: _____
Title: " An Act relating to workers' compensation ..."
Sponsor: Senate Labor & Commerce
Requestor: Senate Labor & Commerce

Department Affected: Labor
BRU: Workers' Compensation
Component: Workers' Compensation
COMPONENT SERIAL NO. 344

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	31.9	31.9	31.9	31.9	31.9	31.9
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	13.0	8.0	8.0	8.0	8.0	8.0
SUPPLIES	0.8	0.8	0.8	0.8	0.8	0.8
EQUIPMENT	4.6	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	50.3	40.7	40.7	40.7	40.7	40.7
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	50.3	40.7	40.7	40.7	40.7	40.7
FEDERAL FUNDS						
OTHER						
TOTAL	50.3	40.7	40.7	40.7	40.7	40.7

POSITIONS:

FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

(see attached)

Prepared by: Linda Rexwinkel, Director *ll* Phone : 465-2790
Division: Workers' Compensation Date : 4/4/91
Approved by Commissioner: Nancy Bear Usera
Agency: Department of Labor *ll* Date: 4/4/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Fiscal Note Analysis for:

"An Act relating to workers' compensation..."

This bill would require the division to monitor the activities of medical managers regarding injured employees including reviewing reports and correspondence concerning the employees. One Clerk Typist III, located in Anchorage, would provide the support necessary to implement the provisions of this bill. The position would receive medical manager disclosure statements, review them for compliance with the law, enter information from them into the claims tracking system, and maintain a file of the statements. This position would also type any correspondence with the medical managers, insurance companies, or injured workers concerning the provisions of this bill.

In addition to the costs associated with this new position, we would require \$5.0 for computer programming to change our automated claims handling system to capture the information concerning the medical managers. This would be a one time cost.

We are assuming an effective date of July 1, 1991.

Position Title Clerk Typist III		No. of Positions 1	Range/Step 8a	Barg. Unit GGU	
Time Status Full Time	Staff Months 12	Location Anchorage		Election District 99	
Type of Expenditure		Justification			
Amount		<p>This position would provide the clerical support necessary to implement the provisions of SB 219. The position would receive medical manager disclosure statements, review them for compliance with the law, enter information from them into the claims tracking system, and maintain a file of the statements.</p> <p>Associated non-personal services would include contractual services (8.0) for postage, phone, space rent, printing, computer charges, etc.; commodities (.8); and one-time equipment expenditures (4.6) for desk, chair, filing cabinet, and a personal computer.</p>			
1	2				3
Salary	\$21,232				
Benefits	10,713				
Premium Pay					
Other					
Total Personal Services					\$31,945
Travel					0
Contractual					8,000
Commodities					800
Equipment					4,600
Other					
Total Cost					\$45,345
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004	\$45,345			
GF Program Receipts	1005				
Other					

**Request For
New Position**

Agency Labor
 BRU Workers' Compensation
 Component Workers' Compensation

Page 3 of 3
 Revised Date

FY 91

CS FOR SENATE BILL NO. 219 (L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE LABOR & COMMERCE COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to workers' compensation; and providing for an effective date."

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

3 * Section 1. PURPOSE OF SECTION 3. It is the purpose of sec. 3 of this Act to amend AS 23.30
4 to provide that an insurer is not liable for providing or failing to provide safety inspections or safety
5 advisory services; this amendment would decide a public policy question concerning the liability of an
6 insurer for the performance of a safety inspection or safety advisory service raised in Van Biene v. ERA
7 Helicopters, Inc., 779 P.2d 315 (Alaska 1989). Liability for conduct not related to safety inspections
8 or safety advisory services is not intended to be changed.

9 * Sec. 2. AS 23.30 is amended by adding a new section to read:

10 Sec. 23.30.047. BENEFITS FOR HEALTH INSURANCE. (a) An employer who pays
11 compensation to an injured employee under AS 23.30.041(k), 23.30.180, 23.30.185, 23.30.190,
12 23.30.200, or 23.30.215, and who provided health insurance to the employee at the date of injury
13 shall also reimburse the employee for health insurance coverage for the employee and covered
14 dependents, as provided in this section.

1 (b) Payment required under this section is equal to the employer's current contribution
2 for health insurance or the amount paid by the employee for replacement coverage, whichever
3 amount is less. Payment required under this section commences when the employee's health
4 insurance provided by the employer's contribution ceases and shall continue until the employee
5 is no longer receiving compensation described in (a) of this section, or for 18 months, whichever
6 period is shorter.

7 (c) Payment is not required under this section until the employee provides proof of health
8 insurance coverage. In this subsection, "health insurance" includes an individual policy of health
9 insurance, or a notice of self-payment or continuance of coverage under a union health or welfare
10 trust agreement.

11 (d) If benefits required under this section are not paid within 30 days after the employer
12 receives a request for payment, the employer shall pay a penalty equal to 25 percent of the
13 amount due.

14 * Sec. 3. AS 23.30 is amended by adding a new section to read:

15 Sec. 23.30.232. CIVIL LIABILITY FOR WORKPLACE SAFETY INSPECTIONS. A
16 carrier, an insurance service agent to a self-insured employer, or a trade association is not liable
17 for civil damages as a result of an act or omission in performing or failing to perform a
18 workplace safety inspection or a safety advisory service unless the carrier's, agent's, or
19 association's act or failure to act constitutes intentional misconduct.

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

SENATE BILL NO. 219

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE BY REQUEST

Introduced: 3/20/91
Referred: Labor and Commerce

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to workers' compensation; and providing for an effective date."

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

3 * Section 1. PURPOSE OF SECTIONS 16, 18, AND 19. (a) It is the purpose of sec. 16 of this Act
4 to amend AS 23.30 to provide that an insurer is not liable for providing or failing to provide safety
5 inspections or safety advisory services; this amendment would decide a public policy question concerning
6 the liability of an insurer for the performance of a safety inspection or safety advisory service raised in
7 Van Biene v. ERA Helicopters, Inc., 779 P.2d 315 (Alaska 1989).

8 (b) It is the purpose of sec. 18 of this Act to amend AS 23.30.265(15) to include prior temporary
9 total disability payments within the definition of gross wages.

10 (c) It is the purpose of sec. 19 of this Act to amend AS 23.30.265(21) to clarify that medical
11 stability results from a condition from which objectively measurable improvement or deterioration is not
12 expected from further medical treatment, and that medical stability is presumed in the absence of
13 improvement or deterioration after 45 days.

14 * Sec. 2. AS 23.30.041(b) is amended to read:

SB0219a

(c) See AS 23.30.265(21) It is the purpose of sec 19 of this Act that the presumption of AS 23.30.120(a)(1) continue to be applied only to the question of whether an injury is related to employment.

New Text Underlined (DELETED TEXT BRACKETED)

- 1 (5) the estimated length of time that the plan will take;
- 2 (6) the date the plan will commence;
- 3 (7) the estimated time of medical stability as predicted by the physician;
- 4 (8) a detailed description and plan schedule; [AND]
- 5 (9) a finding by the rehabilitation specialist that the inventory under (2) of this
- 6 subsection indicates that the employee can be reasonably expected to satisfactorily complete the
- 7 plan and perform in a new occupation within the time and cost limitations of the plan; and
- 8 (10) a certification by the rehabilitation specialist that the plan meets all the
- 9 requirements of this subsection; if the administrator determines that the plan does not meet
- 10 one or more of the requirements of this subsection, the administrator shall require the
- 11 rehabilitation specialist to amend the plan to meet the requirements of this subsection; a
- 12 rehabilitation specialist may not charge a fee for an amendment to a reemployment plan
- 13 required under this paragraph.

14 * Sec. 6. AS 23.30.041(k) is repealed and reenacted to read:

15 (k) The employer shall pay compensation to an employee eligible for reemployment

16 benefits, as follows:

17 (1) until the employee reaches medical stability or the reemployment plan is

18 completed or terminated, whichever comes first, temporary disability benefits shall be paid;

19 (2) if the employee reaches medical stability, ^{and has requested a rehabilitation plan} or has been found eligible for reem-

20 ployment benefits, temporary disability benefits shall cease and permanent impairment benefits

21 shall then be paid biweekly at the employee's temporary total disability rate until plan

22 completion, termination, or exhaustion of permanent impairment benefits; permanent impairment

23 benefits remaining unpaid upon completion or termination of the plan shall be paid to the

24 employee in a single lump sum;

25 (3) if the employee's permanent impairment benefits are exhausted before the

26 completion or termination of the reemployment plan, the employer shall pay, on a biweekly basis,

27 an amount equal to 60 percent of the employee's spendable weekly wage as determined under

28 AS 23.30.220, not to exceed \$525, until the completion or termination of the plan;

29 (4) if the employee reaches medical stability before an impairment rating is given

30 as provided in AS 23.30.190, ~~except for the first 30 days~~ the employee shall be paid 60 percent

31 of the employee's spendable weekly wage until an impairment rating is given; benefits paid more

1 than 30 days after medical stability but before an impairment rating is given shall be offset from
2 the total sum of permanent impairment benefits due to the employee; after the employee reaches
3 medical stability and an impairment rating is given, all benefits paid shall be included as
4 permanent impairment benefits;

5 (5) benefits related to the reemployment plan may not extend past two years from
6 the date of the initiation of the 60 percent payment of the employee's spendable weekly wage,
7 plan approval, or plan acceptance, whichever date occurs first, at which time the benefits expire;

8 (6) if the employer controverts the employee's claim or appeals a ruling of the
9 administrator or the board and the controversion or appeal delays completion of an evaluation,
10 development, commencement or completion of a plan *and the employee is successful*

11 (A) the employer shall pay the employee 60 percent of the spendable
12 weekly wage during the period of controversion or appeal, except that temporary
13 disability benefits shall be paid until the employee reaches medical stability;

14 (B) the two-year limitation on payment of benefits in (5) of this subsection
15 does not begin to run or is tolled; and

16 (C) payments made at 60 percent of the employee's spendable weekly
17 wage during controversion or appeal may not be offset from permanent impairment
18 benefits due to the employee.

19 * Sec. 7. AS 23.30.041(l) is amended to read:

20 (l) The cost of the reemployment plan incurred under this section is [SHALL BE] the
21 responsibility of the employer, shall be paid on an expense incurred basis, and may not exceed
22 \$10,000. The cost of the rehabilitation specialist shall be paid by the employer, but may not
23 be included in determining the cost of the reemployment plan. Fees charged by and paid
24 to a rehabilitation specialist for services must be ^{reasonable as compared} comparable to fees for similar services in
25 the community in which the services are performed, as determined by the board.

26 * Sec. 8. AS 23.30.041(p) is amended to read:

27 (p) In this section,

28 (1) "administrator" means the reemployment benefits administrator under (a) of
29 this section;

30 (2) "employability" means possessing the ability but not necessarily the
31 opportunity to engage in employment that is consistent with the employee's physical status

1 * Sec. 12. AS 23.30.155(d) is amended to read:

2 (d) If the employer controverts the right to compensation, the employer shall file with
3 the board and send to the employee a notice of controversion on or before the 21st day after the
4 employer has knowledge of the alleged injury or death. If the employer controverts the right to
5 compensation after payments have begun, the employer shall file with the board and send to the
6 employee a notice of controversion within seven days after an installment of compensation
7 payable without an award is due. When payment of temporary disability benefits is controverted
8 solely on the grounds that another employer or another insurer of the same employer may be
9 responsible for all or a portion of the benefits, the most recent employer or insurer who is party
10 to the claim and who may be liable shall make the payments during the pendency of the dispute.
11 When a final determination of liability is made, any reimbursement required, including interest
12 at the statutory rate, and all ^{reasonable} costs and ^{reasonable} attorneys' fees incurred by the prevailing
13 employer, shall be made within 14 days of the determination.

14 * Sec. 13. AS 23.30.175(a) is amended to read:

15 (a) The weekly rate of compensation for disability or death may not exceed \$700 and
16 initially may not be less than \$154 when the employee has furnished documentary proof of
17 the employee's wages, or less than \$110 when the employee has not furnished documentary
18 proof of the employee's wages. However, if [THE BOARD DETERMINES THAT] the
19 employee's spendable weekly wage is [WAGES ARE] less than [\$110 A WEEK AS
20 COMPUTED UNDER AS 23.30.220, OR LESS THAN] \$154 a week as computed under
21 AS 23.30.220, the employee's weekly compensation rate shall [IN THE CASE OF AN
22 EMPLOYEE WHO HAS FURNISHED DOCUMENTARY PROOF OF THE EMPLOYEE'S
23 WAGES, IT SHALL ISSUE AN ORDER ADJUSTING THE WEEKLY RATE OF
24 COMPENSATION TO A RATE] equal [TO] the employee's spendable weekly wage [WAGES].
25 The employer may not pay compensation at the employee's spendable weekly wage without
26 a board order except as provided under regulations established by the board. [IF THE
27 EMPLOYER CAN VERIFY THAT THE EMPLOYEE'S SPENDABLE WEEKLY WAGES ARE
28 LESS THAN \$154, THE EMPLOYER MAY ADJUST THE WEEKLY RATE OF
29 COMPENSATION TO A RATE EQUAL TO THE EMPLOYEE'S SPENDABLE WEEKLY
30 WAGES WITHOUT AN ORDER OF THE BOARD.] If the employee's spendable weekly wage
31 is [WAGES ARE] greater than \$154, but 80 percent of the employee's spendable weekly wage

1 Sec. 23.30.047. BENEFITS FOR HEALTH INSURANCE. (a) An employer who pays
2 compensation to an injured employee under AS 23.30.041(k), 23.30.180, 23.30.185, 23.30.190,
3 23.30.200, or 23.30.215, and who provided health insurance to the employee at the date of injury
4 shall also reimburse the employee for health insurance coverage for the employee and covered
5 dependents, as provided in this section.

6 (b) Payment required under this section is equal to the employer's current contribution
7 for health insurance or the amount paid by the employee for replacement coverage, whichever
8 amount is less. Payment required under this section commences when the employee's health
9 insurance provided by the employer's contribution ceases and shall continue until the employee
10 is no longer receiving compensation described in (a) of this section, or for 18 months, whichever
11 period is shorter.

12 (c) Payment is not required under this section until the employee provides ^{an ongoing document} proof of health
13 insurance coverage. In this subsection, "health insurance" includes an individual policy of health
14 insurance, ^{an individual conversion policy, COBRA,} or a notice of self-payment or continuance of coverage under a union health or welfare
15 trust agreement. ^{to}

16 (d) If benefits required under this section are not paid within 30 days after the employer
17 receives a request for payment, the employer shall pay a penalty equal to 25 percent of the
18 amount due.

19 * Sec. 11. AS 23.30.075(b) is amended to read:

20 (b) If an employer fails to insure and keep insured employees subject to this chapter or
21 fails to obtain a certificate of self-insurance from the board, upon conviction, the court shall
22 impose a fine of \$10,000 and may impose a sentence of imprisonment for not more than one
23 year. In addition, the board may impose a civil penalty equal to three times the manual
24 rate that would have been charged for the employer's insurance premium during the period
25 the employer failed to obtain insurance. If an employer is a corporation, all persons who, at
26 the time of the injury or death, had authority to insure the corporation or apply for a certificate
27 of self-insurance [,] and the person actively in charge of the business of the corporation shall be
28 subject to the penalties prescribed in this subsection and shall be personally, jointly, and severally
29 liable together with the corporation for the payment of all compensation or other benefits for
30 which the corporation is liable under this chapter if the corporation at that time is not insured or
31 qualified as a self-insurer.

SOFTBALL: Supreme Court ruling could scare off team sponsors

Continued from Page D-1

nized Insurance League, the Supreme Court's ruling is expected to affect almost all recreational sports leagues.

Lillian, Esch and others hope to amend the law before the effect is widespread.

"There's less than a month left in the (legislative) session, so it's not possible at this date to introduce a new bill," Esch said. "So the question would be, is there an existing vehicle that could be amended? The next question is, what is the likelihood of it passing?"

Esch thinks the answer to both questions is yes. He said there is a bill pending in the Senate Labor and Commerce committee that could be amended to prevent sponsors of recreational sports teams from being

held liable for workman's comp claims. Esch thinks getting an amendment introduced and passed this session "is within the realm of possibility."

If it isn't, sponsors who might be affected by the supreme court decision have a handful of options. One is to not let any of their employees play on their team. Another is to pay higher insurance rates, although companies whose insurance is paid through this summer shouldn't have to worry about rates increasing for the current softball season, which begins next weekend. With any luck, said Esch, the issue will have been resolved by next summer.

Another option is to pull out of the league, although Anchorage Sports Association director Rod Hill said



chances are slim those who do will get their entry fee refunded. "We tell people all the time if somebody wants to take your (team's) place, we'll gladly refund your money," he said. "Otherwise it's out of the question. We'd be tearing schedules apart all season."

Just how many sponsors will back out of their commitment to sponsor teams is critical to the future of recreational sports in Alaska.

"It wouldn't change my attitude about having a team," said Rick Nerland of Nerland/Mystrom Associates, which sponsors a coed team that includes several of

his employees. "I would probably have to check and see what the stipulations of our workman's comp policy would be. (But) the bottom line is, I believe it's a worthwhile enough activity that we will ... resolve the issue and play ball."

Dr. Jay Caldwell, who sponsors a coed team that involves several of his employees at the Alaska Sports Medicine Clinic, said much the same thing.

"It wouldn't stop me from sponsoring a team, but I can see that more prudent employers than I would," he said.

Jerry Grilly, publisher of the Anchorage Daily News, counts himself as one of the prudent ones. The News sponsors a team that is almost entirely made up of employees of the newspaper.

"My reaction is I'm probably going to talk to my lawyer and (the personnel office) and reconsider," Grilly said. "We're just trying to do something recreationally for our employees, and all of a sudden it gets complicated and complex."

"It's not like (playing softball) is a job. It's recreational. They're doing it in their own time. It's real unfortunate. You're just trying to be a good employer and support employees. We're really reaping nothing in this endeavor."

Croft disagrees. "I think a lot of times companies sponsor teams because they get a lot of benefit from it — increased morale, advertising, increased efficiency, more stability in the work force," he said.

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SPORTS

SUNDAY

SECTION **D** April 28, 1991

Ruling rattles Alaska softball

Supreme Court rules some injured players eligible for workman's comp

By **BETH BRAGG**

Daily News assistant sports editor

The Alaska Supreme Court threw a curve at softball when it ruled this month that players are entitled to workman's compensation if they are injured while playing for a team sponsored by their employer.

The ruling could mean increased insurance rates for a majority of the companies that sponsor Alaska's nearly 1,000 softball teams, which in turn could mean fewer sponsors.

"This could be kind of scary,"

said state softball commissioner Pat Lillian. "Sponsors are the life-line of the whole amateur sports organization."

Of the estimated 15,000 people who play softball in Alaska, only those who are employed by the same company that sponsors their team would be eligible for workman's comp. Lillian estimated that at least 50 percent of the teams in Alaska feature at least one player who is employed by the sponsor.

"Nobody has a crystal ball, but I think it has a substantial potential to discourage team sponsors,"

said Ben Esch, who is the attorney for the Anchorage Sports Association, the organizing body for more than 400 Anchorage softball teams. "(And) if the sponsors back out, if there's no sponsor's fee, you can only increase players' fees."

The Alaska Supreme Court ruled earlier this month in favor of Judi LeSuer-Johnson, who was injured in a 1986 softball game in Anchorage while playing for Rollins-Burdick Hunter, her employer and the sponsor of an Insurance League softball team.

LeSuer-Johnson filed a claim for

workman's comp, and the Workers' Compensation Board ruled in her favor. After appeals, the state Supreme Court upheld the original ruling, which was based on a 1982 statute that says work-related injuries include those occurring at "employer-sanctioned activities at the employer-provided facilities."

Although Anchorage Sports Association teams play on municipal fields, they are maintained by the association, which collects entry fees to help pay for their maintenance. "My belief is that simply paying a league fee would be ade-

quate (evidence that an employee is providing facilities)," Esch said.

Chancy Croft, the attorney who represented LeSuer-Johnson, said Saturday that by paying a team entry fee, Rollins-Burdick Hunter helped make a softball field available to its team. Without entry fees, "they wouldn't have had a regular field at the time they had it," he said. "They wouldn't have been able to play the schedule."

Though the ruling was the result of an accident in the loosely orga-

Please see Page D-4, **SOFTBALL**

COMMENT

DICK BRADLEY

Ballplayers, owners and sports agents are captured one night on videotape.



Rocket may find 'peace' in Bush

In a few years, get ready for a new television mini-series: "Failed Blast-Off: Rocket Ismail's Life In a Bush League." Starring Denzel Washington as the Rocket, Don Knotts as Lou Holtz and John Candy as himself.

Will it be a blockbuster or a bomb? In a few years, will anybody await the Rocket's re-entry? Will anybody remember his name?

Sure, Canada's a great place to live. It's got national health insurance, it's close to Greenland, and you'll never run out of plaid shirts.

But what about cuisine? Have you ever heard anybody say, "Hey, let's go out for Canadian food." Or, "Honey, I've got a great idea. Instead of taking that Caribbean cruise, let's go have some laughs in Canada."

Canada has given the world hockey players, Alan Thicke and a currency that



ALAN GREENBERG

McNall is a bi-country kind of guy who engineered the trade that brought Wayne Gretzky to La-la land, leaving all of Canada in tears. McNall is a chubby, extroverted, forty-something guy who is buddy-buddy with his superstars, flies them around in his private plane. The Rocket said what he

August 18, 1995

Joe Thomas
Ad Hoc Committee on Workers' Compensation
1818 W. Northern Lights Blvd
Anchorage, AK 99517

Dear Mr. Thomas:

The Senate Labor and Commerce Committee has Senate Bill 219 under consideration. It reflects the Management/Labor Workers' Compensation Ad Hoc Committee's proposals for legislation this session.

The Committee is familiar with the background of the Ad Hoc Committee. We agree that the group can play an important role by doing preliminary work to identify areas of concern and by suggesting alternatives to address deficiencies in the worker's compensation system. We appreciate the need for continued improvement of the system so that it better serves the needs of injured workers at an affordable cost.

However, we cannot agree with the stated belief of the Ad Hoc Committee that the resolution of worker's compensation issues should be removed from the legislative process. The draft legislation submitted to our Committee was developed with little or no public input. There were no public notices of the meetings, to our knowledge. The Ad Hoc group presented us with a bill they considered to be balanced and members have asserted that we should not change any provisions lest we lose the support of the group even though there has been no public input. Quite frankly, we do not plan to perform in that manner.

There is some real concern on the part of the Committee about this bill. First, while no person's integrity has been questioned, two Ad Hoc committee members who represented management have resigned from their positions with the Worker's Compensation Committee of Alaska but not from the Ad Hoc committee. We understand from the WCCA that the resignations were caused by concerns about the proposed legislation. This raises questions about the process and the makeup of the Ad Hoc group.

We are also concerned that there are elements of the bill that no group claims to have initiated. Further, during the public hearing on April 5th no testimony was offered to justify most of the elements contained in the bill or to adequately justify those requested late by the Ad Hoc

Committee.

We also believe that the Department of Labor's Division Director and the Legislature should be involved in the process of the working group at some point before draft legislation is presented for introduction.

Bearing in mind that this legislature has a desire to improve the worker's compensation system just as you do, and that it is our responsibility to set public policy through a time honored process, we would urge the Ad Hoc Committee to continue to meet in a more open manner to suggest alternatives to the present laws. We want to work with you to reach a balanced compromise through public participation.

We have chosen to take elements of the bill which were included in last year's ill-fated SB508 in a CS that we will be passing from Committee. The two items, the Van Biene decision remedy and the issue of offsetting medical benefits, have had significant public review and seem appropriate. We would hope that you will continue to support these elements, as you have in the past.

We would also hope that you will be willing to work with us during the interim to refine further changes in the statutes that you have identified as needing attention.

Thank you.

Sincerely,

Drue Pearce

DP:rm

cc: Honorable Nancy Bear-Usera, Commissioner
Department of Labor

Bruce Kendall, Legislative Liaison
Office of the Governor

Pat Smutz, Representative
State AFL/CIO

Warren L. Dvorak, President
Workers's Compensation Committee of Alaska

Committee Members
Senate Labor & Commerce Committee

S B

2 2 6

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 3/25/91

FURTHER:

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: _____

L&C Committee considered SB 226

Revising the loan authority of the Alaska Industrial Development and Export Authority; efd.

and recommended:

- replace with _____ CS SB 226 (L+C) same title new title
- attached amendment(s)
- _____ 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) COMMERCE 5-3-91
SO

zero fiscal note(s) COMMERCE 5-7-91

appropriation-no fiscal note

Governor's bill w/fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

[Handwritten signatures: Rick Halford, etc.]

[Handwritten signature: Rick Halford]
Chair: Signature and Recommendation



ALASKA INDUSTRIAL DEVELOPMENT
AND EXPORT AUTHORITY

480 WEST TUDOR • ANCHORAGE, ALASKA 99503-6690 • (907) 561-8050 • FAX (907) 561-8998

April 26, 1991

Honorable Rick Halford
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Senator Halford:

A proposed amendment to SB 226 is attached for your consideration.

Do you need a pilot for the summer?

Sincerely,

Bertram L. Wagnon
Executive Director

BLW/ss
attachment

April 15, 1991

Drue -

RE: GREG FAVRETTO

Wanted to meet with you to discuss the merits of SB 206.

He had been by last week to discuss the proposed Oceantrawl legislation. He saw it as a vehicle to amend AIDEA statute to separate topics of interest and term on loans. At the present time AIDEA is locked into the lenders interest rate and term. SB 206 separates these issues allowing AIDEA to use a different term for its loan share. Favretto has had problems in the past obtaining business loans from NBA and First National.

Favretto owns FAVCO, Inc, an Anchorage based seafood processor/distributor.

SB 206 bill history and copy is attached.

A handwritten signature in cursive script, appearing to read "T. Rod".

Alaska State Legislature

Senate

Office of The Majority Leader

Official Business

Rick Halford
P.O. Box V
State Capitol
Juneau, Alaska 99811
Phone (907) 465-4958

P.O. Box 190
Chugiak, Alaska 99067
Phone (907) 276-4999

MEMORANDUM

TO: Senator Drue Pearce
Chair, Labor and Commerce Committee

FROM: Senator Rick Halford *Rick*

DATE: May 1, 1991

SUBJECT: Senate Bill 226

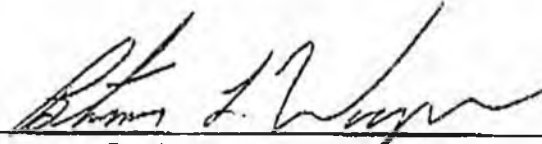
Please accept this request to schedule Senate Bill 226 in Labor and Commerce Committee. I would appreciate a hearing on the bill at your earliest convenience.

Thank you.

Senate Bill 226: An Act revising the loan authority of the Alaska Industrial Development and Export Authority.

The Authority is concerned with the impact that SB 226 will have on the Authority. Page 2, Lines 5-7 would mandate differential loan amortization terms between banks and the Authority. While the Authority realizes that most of the correspondent relationship banks had enjoyed, no longer exist, the Authority feels that absolutely mandating a 10 year maximum term on the banks portion of a loan to be egregious.

The Authority does believe that a statute change to allow differential amortization would be appropriate. Attached is a proposed amendment.



Bertram L. Wagon, Executive Director
Alaska Industrial Development and
Export Authority

Date: May 3, 1991

Proposed AIDEA Amendment to HB 226

Section 1. AS 44.88.155(d) is amended by deleting paragraph (4)(B) and inserting a new paragraph (4)(B) to read:

(B) may allow the loan originator to amortize the portion of the loan retained by the loan originator on a shorter amortization schedule than the amortization schedule for the portion of the loan held by the authority when;

(i) in the authority's opinion the project financed can support the increased debt service; and

(ii) the accelerated amortization schedule is required to induce the originator to make the loan.

Fiscal Note - SB 226
Page 2

Allowing banks to amortize their portion of the loan over a shorter period than the Authority's will most likely increase loan volume some what. The estimate of \$15 million is subjective and will be influenced more by economic conditions than this legislation.

NOTE:

All funds required for this legislation currently are held within the Authority and NO appropriation is required.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. CSSB 226 (L.&C.)

Revision Date: May 7, 1991 Department Affected: Commerce and Economic Development
 Title: An act revising the loan authority of BRU: Alaska Industrial Development and Export Authority
the Alaska Industrial Development & Export Authority Component: _____

Sponsor: Halford

Requestor: Senate Labor and Commerce

COMPONENT SERIAL NO.	1	2	3	4

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME		-- NONE --				
TEMPORARY						

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary.)
 This bill will require no appropriation from the Legislature. Any increase in loan volume will be funded by revolving loan funds within the Authority. Any incremental increases in loan guarantys will be provided for by the assets of the Authority and not impact the credit of the state or the general fund.

Prepared By: Bertram L. Wagnon, Executive Director Phone: (907) 561-8050

Division: _____ Date: May 7, 1991

Approved by Commissioner: [Signature] Alaska Ind. Dev. Auth. Comm.

Agency: _____ Date: 5-1-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 226

Revision Date: _____ Department Affected: Commerce & Economic Development
Title: An Act revising the loan authority of the BRU: AK Industrial Development & Export Authority
AK Industrial Development & Export Authority Component: _____
Sponsor: Halford
Requestor: Labor & Commerce Committee COMPONENT SERIAL NO.

1	2	3	4
---	---	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						

CAPITAL	15,000	15,000	15,000	15,000	15,000	15,000
---------	--------	--------	--------	--------	--------	--------

REVENUE	15,000	15,000	15,000	15,000	15,000	15,000
---------	--------	--------	--------	--------	--------	--------

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER	15,000	15,000	15,000	15,000	15,000	15,000
TOTAL	15,000	15,000	15,000	15,000	15,000	15,000

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY			<i>NONE</i>			

Estimate of current year impact: NONE

ANALYSIS: (Attach a separate page if necessary.)

SEE ATTACHED

Prepared By: Bertram L. Wagnon, Executive Director Phone: (907) 561-8050
Division: AK Industrial Development And Export Authority Date: May 3, 1991
Approved by Commissioner: GLENN A. CLAS *[Signature]* Asst. Comm.
Agency: DCED Date: 5-3-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Alaska State Legislature

Senator Drue Pearce, Chair
Senator Virginia Collins, Vice Chair
Senator Dick Ellason
Senator Rick Halford
Senator Jay Kerttula



WHILE IN JUNEAU
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3844

3111 C STREET, SUITE 150
ANCHORAGE, ALASKA 99504
(907) 561-2018

SENATE LABOR AND COMMERCE COMMITTEE

TO: Tam Cook, Director
Division of Legal Services

FROM: Rod Mourant, Legislative Aide
Senate Labor & Commerce Committee

DATE: May 6, 1991

RE: SB 226

A handwritten signature in cursive script, appearing to read "Rod", written in dark ink.

Working from draft 7-LS1000\A, please produce a committee substitute with the following changes:

- 1) Amend the title to read:
"An Act revising the loan authority and extending the business assistance program of the Alaska Industrial Development and Export Authority; and providing for an effective date."
- 2) Insert a new section to read:
Section 4, Ch 162, SLA 88 is repealed and reenacted to read:
"AS 44.88500 - 44.88.599 are repealed July 1, 1993."
- 3) Pg 2 delete lines 5 - 7 and insert:
"(B) may allow the loan originator to amortize the portion of the loan retained by the loan originator on a shorter amortization schedule than the amortization schedule for the portion of the loan held by the authority when;
(i) in the authority's opinion the project financed can support the increase debt service; and

(ii) the accelerated amortization schedule is required to induce the originator to make the loan."

This bill was passed from committee and should be read across to Rules on Wednesday, May 8, 1991.

Thanks.

Greg Favretto

3:30 ~~at~~ Cafe de Mundo

- 248-0881 hmw

278-1525

FANCO INC.

WILL BE AFFECTING HIS CO. DIRECTLY

RE: SB200

REAL PROP.

SECURITY INVESTMENTS

WOULD LIKE TO TALK OVER THE PHONE OR LUNCH IN ANCH. THIS WEEKEND.

SB 226

Roof -
Ph set
up.
find out as
much as you
can on
phone

A12A

amortization term cannot differ from
participating bank.

allowed to participate with outside banks.

bdg project at airport
seafood distribution facility

Comparison of AIDEA Bills

<u>Subject</u>	<u>CSSB-410(STA) @ Rodey</u>	<u>CSHB-417(L&C) @ Choquette</u>
Sunset:	Restores bonding ability without Legislative oversight up to \$10 million.	Same bonding ability sunsets on June 30, 1995.
Size of loan allowed without Legislative approval:	Allows the Authority to participate in any size of loan/participation while limiting the Authority's exposure to \$10 million.	Allows the Authority to participate in any size of loan/participation while limiting the Authority's exposure to \$7 million.
Size of loan allowed with Legislative approval:	Legislative approval is required on any bond issue of \$10 million or more.	Legislative approval is required on all bond issues of \$7 million or more.
Direct participation in loans:	Allows the Authority to use money and/or assets from the Enterprise Development Account to secure bonds or to directly finance participation in loans.	Same as CSSB-410(STA) @ Rodey.
Provision for floating interest rates:	Provides for interest rates that are tied to fluctuations of the prime interest rate.	"
Expansion of activities:	Redefines "project" to include tourism destination facilities that have no existing competition. Grants Legislative approval for up to \$50 million in loans for an air cargo/air transport support facility at Anchorage International Airport.	"
New definitions:	Defines "loan participation" as the purchase of a portion of an existing loan from a bank.	"
Small uncollateralized loans:	Not addressed.	"
Interest guarantees: *****	Not addressed. *****	" *****
<u>Subject:</u>	<u>Work Draft for CSSB-226 (2d L&C)</u>	<u>Present AIDEA statute</u>
Sunset:	Same as CSHB-417(L&C) @ Choquette.	Sunsetted as of January 1, this year.
Size of loan allowed without Legislative approval:	Same as CSSB-410(STA) @ Rodey.	AIDEA can guarantee up to 80%, up to a \$10 million dollar loan.
Size of loan allowed with Legislative approval:	"	AIDEA can bond up to \$400 million in a 12 month period.
Direct participation in loans:	"	Not presently allowed.
Provision for floating interest rates:	Same as CSSB-410(STA) @ Rodey, but without the interest rate ceiling.	Fixed at the time the loan is made.
Expansion of activities:	Same as CSSB-410(STA) @ Rodey, but eliminates competition clause.	N/A.
Small uncollateralized loans:	Increases the limit of unsecured loan guarantees to \$100,000.	Limited to \$50,000.
Interest guarantees:	Guarantees interest on federal Small Business Administration guaranteed loans.	Not presently allowed.

Comparison of AIDEA Bills

<u>Subject</u>	<u>CSSB-410(STA) @ Rodey</u>	<u>CSHB-417(L&C) @ Choquette</u>
Sunset:	Restores bonding ability without Legislative oversight up to \$10 million.	Some bonding ability sunsets on June 30, 1995.
Size of loan allowed without Legislative approval:	Allows the Authority to participate in any size of loan/participation while limiting the Authority's exposure to \$10 million.	Allows the Authority to participate in any size of loan/participation while limiting the Authority's exposure to \$7 million.
Size of loan allowed with Legislative approval:	Legislative approval is required on any bond issue of \$10 million or more.	Legislative approval is required on all bond issues of \$7 million or more.
Direct participation in loans:	Allows the Authority to use money and/or assets from the Enterprise Development Account to secure bonds or to directly finance participation in loans.	Same as CSSB-410.
Provision for floating interest rates:	Provides for interest rates that are tied to fluctuations of the prime interest rate.	"
Expansion of activities:	Redefines "project" to include tourism destination facilities that have no existing competition. Grants Legislative approval for up to \$50 million in loans for an air cargo/air transport support facility at Anchorage International Airport.	"
New definitions:	Defines "loan participation" as the purchase of a portion of an existing loan from a bank.	"
Small uncollateralized loans:	Not addressed.	"
Interest guarantees: *****	Not addressed. *****	" *****
<u>Subject:</u>	<u>CSSB-226(L&C) @ Halford</u>	<u>Present AIDEA statute</u>
Sunset:	Sunsets bonding ability, without Legislative oversight, on July 1, 1993.	Sunsets as of January 1, this year.
Size of loan allowed without Legislative approval:	Same as present AIDEA statute.	AIDEA can guarantee up to 80%, up to a \$10 million dollar loan.
Size of loan allowed with Legislative approval:	"	AIDEA can bond up to \$400 million in a 12 month period.
Direct participation in loans:	"	Not presently allowed.
Provision for floating interest rates:	"	Fixed at the time the loan is made.
Expansion of activities:	"	N/A.
Small uncollateralized loans:	"	Limited to \$50,000.
Interest guarantees:	"	Not presently allowed.

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CSSB 226

Revision Date: 3/23/92

Department Affected: Commerce & Econ. Dev.

Title: An Act revising the loan authority
of AIDEA

BRU: _____

Component: AIDEA

Sponsor: Senator Halford

Requestor: Senate Labor & Commerce

COMPONENT SERIAL NO.

1	2	3	4
---	---	---	---

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND RESOURCE:	0	0	0	0	0	0
------------------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE:	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS (Attach a separate page if necessary.)

The bill will have no additional fiscal impact on the Authority.

Prepared By: Katelyn Carrigan, Development Specialist Phone: (907) 561-8050

Division: AIDEA Date: 3/23/92

Approved by Commissioner: Glenn A. Olds *[Signature]*

Agency: Department of Commerce & Economic Development Date: 3.24.92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., and Impacted Agency(ies).

Page 1 of 1

4

WORK DRAFT

WORK DRAFT

WORK DRAFT

7-LS1000P
Chenoweth
3/24/92

CS FOR SENATE BILL NO. 226 ()

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR HALFORD

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the financing authority of the Alaska Industrial Development and
2 Export Authority and to a project for which the legislature has approved the Authority's
3 issuance of bonds; and providing for an effective date."

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

5 * Section 1. PURPOSE. The purpose of this Act is to

6 (1) eliminate a blanket prohibition against the Alaska Industrial Development and Export
7 Authority's ability to issue bonds, other than refunding bonds, without securing the prior approval of the
8 legislature and to restore, until June 30, 1995, a provision of law giving the Authority the ability to issue
9 its bonds to assist in the financing of a development project without prior legislative approval if the
10 proposed bond issue does not exceed \$10,000,000;

11 (2) modify the requirements and restrictions imposed on the use of money in the Alaska
12 Industrial Development and Export Authority's enterprise development account to permit the Authority
13 to improve its capacity to serve as the primary source of secondary project financing in the state;

14 (3) modify the interest rate restriction applicable to the loans guaranteed by the Alaska

1 Industrial Development and Export Authority;

2 (4) improve the Alaska Industrial Development and Export Authority's ability to support
3 the state's expanding tourism industry; and

4 (5) amend the project approval given by sec. 25, ch. 123, SLA 1990 to express legislative
5 project approval for the Alaska Industrial Development and Export Authority's participation in the
6 financing of a more versatile aircraft facility at the Anchorage International Airport as presently
7 contemplated by the project's principal sponsor.

8 * Sec. 2. AS 44.88.095(g) is repealed and reenacted to read:

9 (g) Without prior legislative approval, the authority may not issue bonds in an amount
10 greater than \$10,000,000 to assist in the financing of a development project under AS 44.88.172 -
11 44.88.177.

12 * Sec. 3. AS 44.88.095(g) is repealed and reenacted to read:

13 (g) Without prior legislative approval, the authority may not issue bonds, except
14 refunding bonds.

15 * Sec. 4. AS 44.88.155(c) is amended to read:

16 (c) Money and other assets of the enterprise development account may be used to secure
17 bonds of the authority issued to finance the purchase of loans for projects or may [SHALL] be
18 used to purchase participation in the loans for projects.

19 * Sec. 5. AS 44.88.155(d) is amended to read:

20 (d) A loan participation purchased [IN WHOLE OR IN PART] by the authority with
21 assets of the enterprise development account or with proceeds of bonds secured by assets of the
22 enterprise development account [, OTHER THAN A LOAN WHICH IS FINANCED WITH THE
23 PROCEEDS OF BONDS OF THE AUTHORITY AND SECURED ONLY BY A PROJECT
24 APPLICANT OR A PROJECT,]

25 (1) may not exceed \$10,000,000 without prior legislative approval;

26 (2) may not be purchased unless

27 (A) the project applicant is not, or, if the applicant is not a single
28 proprietorship, all members of the business enterprise or enterprises constituting the
29 project applicant are not, in default on another loan made by the state or by a
30 public corporation of the state; and

31 (B) at least 20 percent of the principal amount of the loan is retained

1 by the loan originator;

2 (3) may not be purchased if the loan to be purchased exceeds [EXCEED] the
3 cost of the project or 75 percent of the appraised value of the project, whichever is less, unless
4 the amount of the loan in excess of this limit is federally insured or guaranteed or is insured by
5 a qualified mortgage insurance company;

6 (4) [(3)] may not be purchased if the participation in the loan to be purchased
7 is for a term longer than three-quarters of the authority's estimate of the life of the project or 25
8 years from the date the loan is made, whichever is earlier;

9 (5) [(4)] shall be made only if the participation in the loan to be purchased
10 contains [CONTAIN] amortization provisions; the amortization provisions

11 (A) must be complete and satisfactory to the authority and require periodic
12 payments by the borrower;

13 (B) may allow the loan originator to amortize the portion of the loan
14 retained by the loan originator using a shorter amortization schedule than the amortization
15 schedule for the portion of the loan held by the authority if (i) in the authority's opinion,
16 the project financed can support the increased debt service; and (ii) the accelerated
17 amortization schedule is required to induce the originator to make the loan;

18 (6) [(5)] shall be made only if the participation in the loan to be purchased
19 is in the form and contains [CONTAIN] the terms and provisions with respect to insurance,
20 repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges,
21 default remedies, acceleration of maturity, secondary liens, and other matters the authority
22 prescribes; and

23 (7) [(6)] shall be made only if the participation in the loan to be purchased
24 is secured as to repayment by a mortgage or other security instrument in the manner the authority
25 determines is feasible to assure timely repayment under a loan agreement entered into with the
26 borrower [;

27 (7) MAY NOT BE MADE UNLESS

28 (A) THE PROJECT APPLICANT IS NOT, OR, IF THE APPLICANT IS
29 NOT A SINGLE PROPRIETORSHIP, ALL MEMBERS OF THE BUSINESS
30 ENTERPRISE OR ENTERPRISES CONSTITUTING THE PROJECT APPLICANT ARE
31 NOT, IN DEFAULT ON ANOTHER LOAN MADE BY THE STATE OR BY A

1 PUBLIC CORPORATION OF THE STATE; AND

2 (B) WITH RESPECT TO THE LOAN, (i) AT LEAST 20 PERCENT OF
3 THE PRINCIPAL AMOUNT OF THE LOAN IS RETAINED BY THE LOAN
4 ORIGINATOR; OR (ii) 100 PERCENT OF THE PRINCIPAL AMOUNT OF THE
5 LOAN IS GUARANTEED BY THE UNITED STATES OR AN AGENCY OR
6 INSTRUMENTALITY OF THE UNITED STATES;

7 (8) MUST BE

8 (A) FINANCED FROM THE PROCEEDS OF BONDS; OR

9 (B) EXPECTED BY THE AUTHORITY TO BE FINANCED FROM THE
10 PROCEEDS OF BONDS].

11 * Sec. 6. AS 44.88.155(h) is amended to read:

12 (h) The provisions of this section apply only with respect to a loan participation
13 [LOANS] purchased [OR MADE] by the authority for projects under AS 44.88.155 - 44.88.159.

14 * Sec. 7. AS 44.88.159(d) is amended to read:

15 (d) The provisions of this section apply only to a loan participation purchased [LOANS
16 FINANCED] under AS 44.88.155 - 44.88.159.

17 * Sec. 8. AS 44.88.190(c) is amended to read:

18 (c) A loan participation purchased or financed by the authority [IN WHOLE OR IN
19 PART] is exempt from the provisions of AS 45.45.010. A guarantee extended under
20 AS 44.88.300 or insurance provided under AS 44.88.390 does not constitute insurance for the
21 purposes of AS 21.03.010.

22 * Sec. 9. AS 44.88.535(a) is amended to read:

23 (a) The authority may guarantee a loan under AS 44.88.500 - 44.88.599 if the

24 (1) loan

25 (A) is commercially reasonable;

26 (B) contains amortization provisions satisfactory to the authority;

27 (C) is secured by adequate collateral; however, the authority may waive

28 on a case-by-case basis the requirement of collateral for a loan guarantee of \$100,000

29 [\$50,000] or less for which the proposed loan amortization period does not exceed five

30 years, but the ability to waive the requirement of this subparagraph or the grant of a

31 waiver does not prevent the financial institution that holds the loan guaranteed by the

- 1 authority from requiring reasonable collateral for the loan;
- 2 (2) net cash flow from the borrower provides adequate coverage for the debt
- 3 service on the loan;
- 4 (3) term of the loan does not exceed 20 years;
- 5 (4) loan is originated with and serviced by a state chartered or federally chartered
- 6 financial institution;
- 7 (5) portion of the loan not guaranteed by the authority is held by the originating
- 8 financial institution or another financial institution approved by the authority;
- 9 (6) loan is made to a business with a majority interest held by state residents; and
- 10 (7) loan guarantee provides a benefit to the borrower.

11 * Sec. 10. AS 44.88.535(c) is amended to read:

12 (c) For a loan guaranteed under AS 44.88.500 - 44.88.599 that is also guaranteed by

13 the federal Small Business Administration, the authority may guarantee interest on the loan

14 and the fees and expenses attributable to the inception and servicing of the loan to the

15 extent authorized by the federal Small Business Administration. Except for those loan

16 guarantees, the [THE] authority may not guarantee the payment of interest on the guaranteed

17 portion of a loan.

18 * Sec. 11. AS 44.88.550 is amended to read:

19 Sec. 44.88.550. INTEREST ON GUARANTEED LOAN. The maximum interest rate

20 on a loan guaranteed by the authority is

21 [(1) FOR A LOAN GUARANTEE THAT EXCEEDS 65 PERCENT OF THE

22 LOAN, ONE AND ONE-HALF PERCENTAGE POINTS ABOVE THE PRIME RATE ON THE

23 DAY THE LOAN GUARANTEE IS MADE; AND

24 (2) FOR A LOAN GUARANTEE THAT IS EQUAL TO OR LESS THAN 65

25 PERCENT OF THE LOAN,] two and three-quarters percentage points above the prime rate [ON

26 THE DAY THE LOAN GUARANTEE IS MADE].

27 * Sec. 12. AS 44.88.550 is amended by adding a new subsection to read:

28 (b) If provision is made in the loan guarantee agreement, the interest rate on a loan

29 guaranteed by the authority may increase or decrease in accordance with the changes in the prime

30 rate.

31 * Sec. 13. AS 44.88.900(9) is amended to read:

1 (9) "project" or "development project" means

2 (A) a plant or facility used or intended for use in connection with making,
3 processing, preparing, transporting, or producing in any manner, goods, products, or
4 substances of any kind or nature or in connection with developing or utilizing a natural
5 resource, or extracting, smelting, transporting, converting, assembling, or producing in any
6 manner, minerals, raw materials, chemicals, compounds, alloys, fibers, commodities and
7 materials, products, or substances of any kind or nature;

8 (B) subject to (E) of this paragraph, a plant or facility used or intended
9 for use in connection with a business enterprise;

10 (C) commercial activity by a small enterprise;

11 (D) a plant or facility demonstrating technological advances of new
12 methods and procedures and prototype commercial applications for the exploration,
13 development, production, transportation, conversion, and use of energy resources;

14 (E) a new tourism destination facility or the expansion of a tourism
15 destination facility if the new facility or expanded facility will not compete with an
16 existing hotel, motel, or restaurant;

17 * Sec. 14. AS 44.88.900 is amended by adding a new paragraph to read:

18 (15) "loan participation" means the purchase of a portion of an existing loan from
19 a bank.

20 * Sec. 15. Section 25, ch. 123, SLA 1990 is amended to read:

21 Sec. 25. The Alaska Industrial Development and Export Authority may issue bonds to
22 finance the acquisition, design, and construction of an [A MULTI-BAY] aircraft maintenance/air
23 cargo/air transport support facility located at Anchorage International Airport, to be owned by
24 the Authority. The principal amount of the bonds may not exceed \$50,000,000. This section
25 grants the legislative approval required by AS 44.88.095.

26 * Sec. 16. AS 44.88.900(4) is repealed.

27 * Sec. 17. Section 3 of this Act takes effect July 1, 1995.

28 * Sec. 18. Except for sec. 3 of this Act, this Act takes effect immediately under AS 01.10.070(c).