

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
7567 SENATE LABOR & COMMERCE

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CORRECTED

Alaska State Legislature



SENATOR
ARLISS STURGULEWSKI

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While in Juneau
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Senate

MEMORANDUM

March 2, 1992

TO: Senator Drue Pearce, Chair
Senate Labor and Commerce Committee

FROM: Senator Arliss Sturgulewski *(signature)*
Senate District F

RE: SB 323 "An Act relating to substance abuse by certain persons who are licensed under state law."

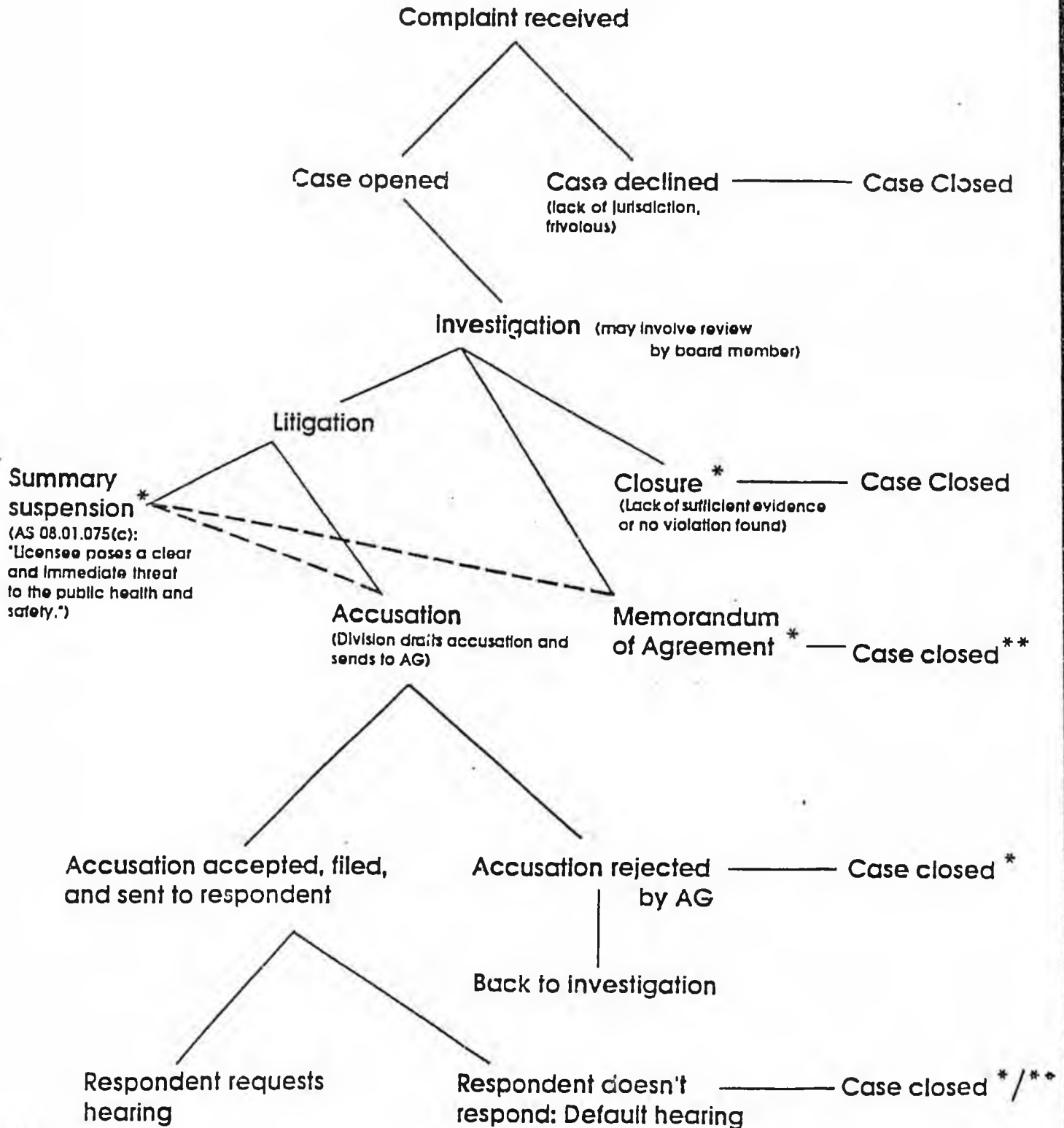
Several questions arose when Senate Bill 323 was heard in the Labor and Commerce Committee on February 19. The first was regarding the licensing/discipline process used by the Department when a complaint is brought to their attention. I have enclosed charts supplied by Ann Boudreaux, Director of the Division of Occupational Licensing, which show the procedure currently in place.

Next, the committee wanted to know how many people this program would encompass. National figures often quoted indicate 8% of the general population suffers some impairment from alcohol or drugs. Among practitioners with access to controlled substances and the stress of long hours and "fast track" careers it is estimated that the rate of impairment is between 14-20%. Based on these numbers, this program anticipates approximately 100 cases per year. Currently, the State Board of Nursing has 20 people on probation for chemical dependency. Of those 20, 18 would have made use of this program if it had been in place.

Another concern of the Labor and Commerce Committee was why the bill did not repeal the current Impaired Physicians program. The physicians have asked to continue under the current program until the new program is established.

If the Committee has further questions it would like addressed, please contact Mary Arthur on my staff at 465-3818.

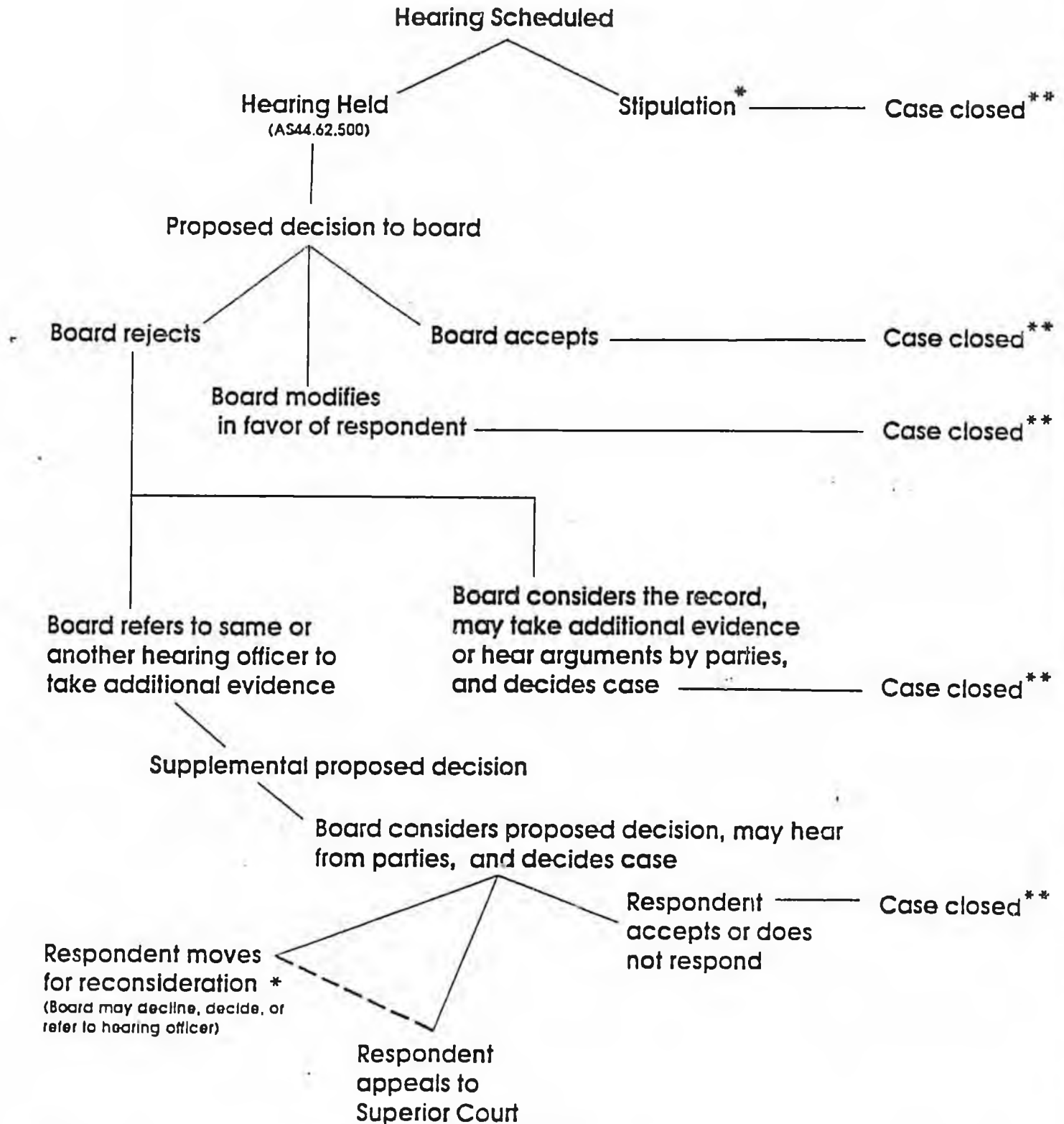
Investigation



** Respondent petitions for reinstatement or reduction of penalty after one year

* Board approval necessary

Administrative Hearing



** Respondent petitions for reinstatement or reduction of penalty after one year

* Board approval necessary

**Disciplinary Actions Against Chemically Impaired Practitioners
by the Division of Occupational Licensing**

Parameters: These are figures relating to division activities only. As long as the practitioner is following agreement of Medical Association Contractor, we would not have numbers.

National figures often quoted are that 8% of the general population suffers some impairment from alcohol or drugs. Estimates are that among practitioners with access and stress of long hours and "fast track" careers the rate of impairment is between 14%-20%. Obviously, the division is only getting the cases where a complaint has been lodged, as our numbers are less than 1% of the licensees.

Our figures are from 1990 forward. Prior cases are not on the computer and would take longer to compile due to retrieval from storage.

1990

MEDICAL BOARD

4 into probation with monitoring
2 license applications denied

NURSING BOARD

7 into probation with monitoring
2 license applications denied
2 revoked
1 license surrendered in lieu of revocation

DENTISTS

1 into probation with monitoring

1991

MEDICAL BOARD

5 into probation with monitoring

NURSING BOARD

5 into probation with monitoring
2 licenses surrendered in lieu of revocation

OPTOMETRY

1 into probation with monitoring

PHYSICAL THERAPISTS/OCCUPATIONAL THERAPISTS

1 into probation with monitoring

MARINE PILOTS

1 into probation with monitoring

1992

NURSING BOARD

5 into probation with monitoring
1 license application denied
1 license surrendered in lieu of revocation

CURRENTLY BEING MONITORED (Cumulative. Includes some put on probation prior to 1990 but still under agreement)

Medical.....11

Dental..... 3

Nurses..... ..25

Optometrists... 1

Veternarians... 1

PT/OT.....1

TOTAL..... ..42

Surrendering license in lieu of revocation means waiving hearing but having same effect as revocation. May petition for reinstatement but cannot merely renew or reactivate.

SAMPLE DOCUMENTS PREPARED BY THE DIVISION INVESTIGATORS IN CONJUNCTION WITH THE EXECUTIVE SECRETARIES AND APPROVED BY THE DEPARTMENT OF LAW ARE ENCLOSED.

For additional information, please call Ann Boudreaux, Director Occupational Licensing, 465-2538.

Alaska State Legislature



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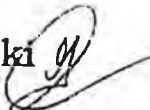
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Senate

MEMORANDUM

January 31, 1991

TO: Senator Drue Pearce, Chair
Senate Labor & Commerce

FROM: Senator Arliss Sturgulewski 
Senate District F

RE: Scheduling of SB323 "An Act relating to substance
abuse by certain persons who are licensed under state
law."

I would appreciate your scheduling Sponsor Substitute for Senate Bill 323 "An Act relating to substance abuse by certain persons who are licensed under state law" for a hearing before the Labor and Commerce Committee at your earliest convenience. Enclosed is a copy of the bill, a sponsor statement, and backup material I wish to have included in the committee packets.

This legislation sets up a process through a non-profit organization to aid chemically impaired health care practitioners by allowing for a supervised rehabilitation program as an alternative to disciplinary action. A similar process is already in place for physicians.

If you have questions or would like more information regarding this legislation please contact Mary Arthur of my staff at 465-3818.

Enclosure

Alaska State Legislature



SENATOR
ARLISS STURGULEWSKI

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Senate

Sponsor Statement for SB 323

Several health care practitioners' groups have recognized the problem of health care practitioners who have become professionally impaired as a result of chemical dependency. These groups wish to find a solution that does not result in loss of licensure. Currently, if a chemically impaired practitioner voluntarily comes forward, or is reported to his or her licensing board, disciplinary action is taken.

Members of the listed groups seek to amend existing law to put in place an impaired practitioners' group similar to that currently in place for physicians. This non-profit association would be funded by an increase in licensing fees and the board would be comprised of representatives from the different licensing boards. The group would be responsible for recommending and monitoring the treatment of impaired practitioners and providing education to members of the different groups. An impaired practitioner may come to the board voluntarily, or may be referred by his or her licensing board as a requirement for avoiding suspension of his or her license.

The Alaska State Medical Association has had great success with their Impaired Physicians Committee.

SECTIONAL ANALYSIS
SENATE BILL 323
February 12, 1992

SECTION 1:

Authorizes the Department of Commerce and Economic Development to contract with public agencies and private professional organizations to provide assistance and treatment to persons licensed by the board who abuse alcohol, other drugs, or other substances.

The contracting would be at the request of one of the following boards:

- (1) Board of Clinical Social Work Examiners;
- (2) Board of Dental Examiners;
- (3) Board of Dispensing Opticians;
- (4) State Medical Board;
- (5) Board of Nursing;
- (6) Board of Examiners in Optometry;
- (7) Board of Pharmacy;
- (8) State Physical Therapy and Occupational Therapy Board;
- (9) Board of Psychologist and Psychological Associate Examiners; and
- (10) Board of Veterinary Examiners.

SECTION 2:

Releases from any liability those individuals who are involved in reporting, investigating, or hearing a complaint when that complaint relates to the abuse of alcohol, other drugs, or other substances by a licensed individual.

Alaska State Legislature

Legislative Research Agency



P.O. Box Y
Juneau, AK 99811-3100
Phone: (907) 165-3991
Fax: (907) 163-3351

December 20, 1991

MEMORANDUM

TO: Senator Arliss Sturgulewski

FROM: Dale O. Brandt *DB*
Legislative Analyst

RE: Impaired Physicians Committees
Research Request 92.104

You asked about impaired physicians committees or programs for impaired physicians that offer help as an alternative to disciplinary action. Specifically, you wanted to know which states have impaired physicians committees, how they work and how effective they are.

To answer this question we first looked at the situation in Alaska to provide a point of comparison, and then broadened our research.

Alaska

The Impaired Physicians Committee (IPC) in Alaska is established by the Alaska State Medical Association (Alaska's branch of the American Medical Association) authorized by Alaska Statutes Section 18 Chapter 24. The IPC is made up of 16 members from the Anchorage, Fairbanks and Ketchikan areas. Consultations are held via telephone or during monthly meetings in Anchorage, and a yearly training session is scheduled for March. The IPC consultant Dan Marman explains that physicians impaired as a result of chemical dependency, emotional illness or physical disease may voluntarily seek treatment or be referred involuntarily to the IPC by the Alaska State Medical Board. Services may be provided at Providence Hospital in Anchorage, the Springbrook treatment facility in Oregon or the Talbott facility in Atlanta, Georgia. Upon entering treatment, a contractual agreement is entered into between the IPC and the participant stating that the State Medical Board will be notified if treatment is unsuccessful. However, upon request the committee will release to the board information about a physician participating in the program.

An impaired physician may be referred for treatment by another physician, and in this situation, a confidential patient-physician relationship is established. If treatment goes well and the impaired physician is restored to health, neither the IPC nor the medical board is involved.

Senator Sturgulewski
December 20, 1991
Page 2

However, as is often the case with alcohol abuse, an impaired physician may not take the initiative to seek help. The IPC may then get involved by confronting the impaired physician and offering its services, explains Director Obed Nelson. Whether the physician seeks treatment voluntarily or is recruited by the IPC, the committee will offer appropriate treatment, monitor the physician's progress, and make recommendations with the aim of preventing the physician from being subject to disciplinary action by the board.

If a physician does not voluntarily seek treatment, if intervention by the IPC is unsuccessful, and allegations of impairment are substantiated by the state medical board, the board begins an intervention process. The board refers the physician to the IPC, requires evaluation and treatment as determined by the IPC, and the board may specify certain restrictions or suspend the physician's license. The IPC then makes periodic reports to the medical board about the participant's progress, and acts as liaison between the impaired physician and the board. The board may also revoke a physician's license because of a court decision or other legal procedures, or because the physician is considered to be a continuing threat to the public.

The Alaska IPC also communicates with and coordinates its activities with other state medical boards and impaired physicians programs. When an impaired physician who is under medical board restrictions in another state enters Alaska, the committee honors those restrictions or agreements and continues treatment and monitoring of the physician in Alaska.

The National Practitioners Databank, which has operated since September 1990, is one result of The Federal Health Care Quality Improvement Act of 1986. Impaired physicians programs and state medical boards are required to submit reports concerning physicians who receive treatment or are subject to disciplinary action which last 30 days or longer. Use of the databank serves to alert medical professionals of possible problems with certain physicians and helps to prevent impaired physicians from avoiding disciplinary action by moving from state to state. The databank is available to physicians programs and medical boards as well as individual physicians. Information on disciplinary actions from other states is also maintained by the Federation of State Medical Boards, the National Clearinghouse on Licensure, Enforcement and Regulation and the American Medical Association.

At present there are seven physicians receiving treatment through the Alaska Impaired Physicians Committee, three of which are referrals from the Alaska State Medical Board. Dan Marman reports that physicians presently in treatment are in full compliance with the program, which seems to be highly successful at this point. However, the IPC is only one year old so no long-term evaluation is possible.

Another program, the Alaska Practitioner Recovery Program (APRP) is in the planning stages. Deb Carlson of APRP explains that the goals of the program are to assure the safety of the public and assist any health practitioner who has become impaired. The program would include physicians as well as all

Senator Sturgulewski
December 20, 1991
Page 3

licensed health care practitioners such as pharmacists, nurses, optometrists and physical therapists. Since the goals and philosophy of the IPC and the APRP are nearly identical, there may be movement to join these two programs.

Other States

According to the Federation of State Medical Boards, there are 18 states that have no formal impaired physicians program as part of a state social program, state medical board or private entity. The state of Minnesota (referred to below) has services which are not elevated to the program level, and similar situations may exist in other states. The remaining 32 states (including Alaska) have some type of impaired physicians program that is linked to the state medical board. Many states require a report when a physician fails to comply with or complete the program, or presents a danger to the public.

A problem in all states is that of the impaired physician who does not voluntarily seek treatment and who is not reported to the state medical board or impaired physicians program by friends, family members or colleagues who may have knowledge of the impairment. There is often a reluctance to report an impaired physician even though statutes in Alaska and other states place limitations on liability for persons providing information to review organizations. An impaired physician might avoid treatment for many years as the impairment worsens, particularly when alcohol abuse or other chemical abuse is involved. Thus, while impaired physicians programs report a high percentage of effectiveness, it is unknown how many physicians need, but do not receive, treatment.

There appears to be little substantial difference between Alaska and other states that have impaired physician programs. What differences do exist are program reporting requirements mandated by the medical board and certain provisions regarding treatment. We spoke with officials in four states (Arizona, Minnesota, Montana and Washington) about their programs.

In Arizona, the impaired physicians program is required to notify the state medical board of the names of physicians voluntarily in treatment. Practicing physicians are also required to notify the board when a fellow physician is known to be practicing medicine while impaired. A 28-day inpatient program is required for all physicians who suffer from a chemical dependency. Mark Speicher of the Arizona State Board of Medical Examiners reports that since the start of the program in 1980, the overall effectiveness of the program is greater than 95 percent. The relapse rate for physicians who have been successfully treated, returned to work and monitored for two years, is 2 percent or less.

A formal impaired physicians program does not exist in Minnesota, but rather the use of an informal service called Physicians Serving Physicians is relied upon, according to Dick Auld of the State Board of Medical Practice. An impaired physician would, ideally, seek treatment voluntarily from another

Senator Sturgulewski
December 20, 1991
Page 4

physician. A patient-physician relationship between licensees is thus established with the same confidentiality as with other patient-physician relationships. Aside from such relationships, physicians who have personal knowledge of a physician working while impaired must report to the board. The board will then determine an appropriate response and may mandate restrictions or treatment. Only when the physician being treated deviates from orders must the impaired physician be reported to the state medical board. Dick Auld said the Physicians Serving Physicians program seems to be an effective self-help group.

The Montana Professional Assistance Program, Inc., is similar to Alaska's Impaired Physicians Program. According to Patti England, executive secretary of the Montana Board of Medical Examiners, the assistance program encourages impaired physicians to seek treatment. A contractual agreement is entered into between the impaired physician and the Professional Assistance Program stating that the board will be notified in the event that treatment is unsuccessful. The assistance program reports to the board bimonthly regarding caseload and progress, not the names of individual participants, except in the case of an individual referred to the program by the board. Patti England knows of only two cases where treatment was unsuccessful and the participants entered into treatment a second time.

Washington's Monitor Treatment Program is also similar to the Impaired Physicians Committee in Alaska, according to administrator Bonnie King. Impaired physicians may enter the treatment program voluntarily, or involuntarily when mandated by the Washington Medical Association. Out of 94 participants (80 of which are medical doctors), 25 are participating because of board mandate. Ms. King said figures regarding effectiveness or relapse rates are not yet available.

We hope this information is useful. If you have any questions, please contact this agency.

Attachments

DOB:dld:csh

Alaska Practitioner Review Recovery Program

The Alaska Practitioner Recovery Program (APRF) has been developed as a joint project between the Alaska health care regulatory boards and the corresponding professional health care associations to assist the health practitioner who has become impaired as a result of chemical dependence. This joint project was entered into as a result of the regulatory board's responsibilities to protect the public from professionals who are chemically dependent and place the public at risk, and from the professions desire to assist those members in need of rehabilitation.

The program has been developed to allow health care providers to enter the recovery program voluntarily, however, the regulatory boards may also mandate use of the program as a condition for maintaining licensure in the State of Alaska. The primary objective of APRP is to provide a statewide monitored recovery program under the auspices of the professional associations to serve all licensed health care professional by providing rehabilitation and reintegration into productive practice. In addition, the APRP will be responsible for educating the health care community about the problem of the chemically impaired professional and the options available for treatment. Using a 12-step philosophy of care, the program will provide long term chemical and observational monitoring, therapeutic group activities, support and recovery program coordination to recovering alcoholic and addicted health care providers. It is the goal of the regulatory boards and professional associations that individuals will use the APRP as a confidential means of pursuing rehabilitation and the associated monitoring in lieu of regulatory discipline by a board.

Specific elements of the program include identification of professionals who need assistance with entering into a treatment program and intervention by a team of professionals to assist the individual into a treatment program. The participant would undergo intense treatment for addiction and continuing care in Alaska, which would include 12-step meetings, therapeutic peer group, random chemical screens, and other components as necessary.

The Alaska Practitioner Recovery Program is conceived to be a non-profit organization governed by a board of directors who will employ a program administrator responsible for directing all functions of the program in accordance with policy set by the board of directors. The board of directors will be composed of practitioners representing the professions involved in the program. The board of directors will be assisted by local assistance committees which will consist of appointees by the professional associations from within the community. The local assistance committee will function at the grass roots level to assist with identification, intervention and monitoring of individuals in local areas.

The health profession regulatory boards are seeking legislation which will allow those boards to contract with the Alaska Practitioner Recovery Program and refer individuals to the program in lieu of using the disciplinary process.

SUBMITTED BY:

ALASKA PHARMACEUTICAL ASSOCIATION

CORRECTION

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

Alaska Practitioner Review Recovery Program

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The health profession regulatory boards are seeking legislation which will allow those boards to contract with the Alaska Practitioner Recovery Program and refer individuals to the program in lieu of using the disciplinary process.

SUBMITTED BY:

ALASKA PHARMACEUTICAL ASSOCIATION

The Occupational Licensing boards of the professions named below and the professional associations are committed to involvement in the Alaska Practitioner Recovery Program.

<u>Profession</u>	<u>Professional Association</u>	<u>Licensing Board</u>
Clinical Social Workers	AK Chapter Natl. Assoc. of Social Workers	Board of Clinical Social Work Examiners
Dentistry	AK Dental Society AK State Dental Hygienists Assn.	Board of Dental Examiners
Medicine	AK State Medical Assn. AK Academy of PA	State Medical Board State Medical Board
Nurses	AK Nurses Assoc.	Board of Nursing
Occupational Therapy	AK Occupational Therapy Assoc.	State Physical Therapy and Occupational Therapy Board
Optometrists	Optometrists Assoc. of AK	Board of Examiner in Optometry
Disp. Opticians	Opticians Assoc. of AK	Board of Dispensing Opticians
Pharmacists	AK Pharmaceutical Assoc.	Board of Pharmacy
Physical Therapists	AK Physical Therapy Assn.	State Physical Therapy and Occupational Therapy Board
Psychologists	AK State Psycholog. Assn.	Board of Psychologists and Psychological Associate Examiners
Veterinarians	AK State Veterinary Medical	Board of Veterinary Examiners

ALASKA PRACTITIONER RECOVERY PROGRAM

OVERVIEW

The Alaska Practitioner Recovery Program is designed to assist the health practitioner who has become impaired, or is at risk of impairment, as a result of chemical dependency or substance abuse. The program is modeled after similar successful programs in Alaska and in other states. The program is endorsed by the health care regulatory boards as an effective means of protecting the public through early intervention, effective treatment and long term monitoring of health care practitioners affected by chemical dependency.

The overall goals are to assure the safety of the public and to restore the practitioner to health.

The Alaska Practitioner Recovery Program (APRP) has as its purpose the rehabilitation of all licensed health care practitioners, including but not limited to chiropractors, clinical social workers, dentists, dental hygienists, physicians, nurses, occupational therapists, optometrists, dispensing opticians, pharmacists, physical therapists, physician assistants, psychologists, veterinarians, who abuse addictive substances and who have or may become a danger to themselves and patients.

Practitioners may enter the program voluntarily. It is hoped that practitioners will take advantage of this early intervention as a means to better protect the public and to enter treatment prior to disciplinary action by the regulatory boards. A practitioner may also be mandated into the APRP by his or her occupational licensing board as a condition of probation and monitored aftercare.

Addicted practitioners who participate in the Recovery Program will enter the APRP through contact with a Local Assistance Committee or the Program Administrator.

The APRP will be a non-profit organization governed by a Board of Directors and will employ a Program Administrator. The Board of Directors will be responsible to oversee the Program Administrator. The Program Administrator will be responsible for directing all functions of the Program in accordance with policies set by the Board of Directors. The Board of Directors will be composed of one practitioner representing each of the professional associations whose members are licensed to practice by the boards who regulate the above-named practitioners. No member or staff of these regulatory boards may be eligible for appointment to Board of Directors or local assistance committees. Each professional

association may appoint a representative to the Board of Directors.

The Program Administrator will support and work with the Board of Directors, will coordinate all aspects of fact finding and monitor treatment and aftercare. He/she will also be liaison between the APRP and all licensing Boards. (Further definition of Program Administrator's position is contained in a separate document.)

The Board of Directors may contract with consultants as necessary.

PROGRAM PHASES

Phase I-Fact Finding and Assessment

This phase usually lasts 30-90 days; however, it can be extended indefinitely to cover the period of time necessary to establish probable cause that a health practitioner may be impaired. The phase ends when the committee decides whether or not sufficient information exists to substantiate allegations of impairment. If unsubstantiated, the case moves to Phase V, inactive.

If the case is substantiated, an intervention is designed to confront the health practitioner and to require remedial action. The committee may request an evaluation by a clinician, chemical drug screening or immediate admission to treatment, as necessary.

Phase II-Intensive Treatment

This is a period of 30 to 90 days or more, when the individual is involved, as an inpatient, in a full-time detoxification and treatment program. Treatment facilities to be used are to be approved by the appropriate health regulatory board. The treatment facility's philosophy must be based on a 12-step model. In rare cases, an outpatient treatment setting may be deemed appropriate.

Phase III-Extended Treatment

This period lasts approximately 90 days. While the person is usually treated as an outpatient, levels of treatment continue to be intensive. Group treatment occurs three or more times weekly and is supplemented by 12-step meetings. Family treatment is introduced and chemical monitoring is at least twice weekly. Return to work may be suspended during this time or may be permitted on a limited basis with peer review.

Phase IV-Aftercare

This period may last from one to five years depending upon the individual situation. Twelve-step meetings continue, group therapy is reduced as the practitioner progresses in recovery. Full-time work is permitted and peer review may or may not be required depending on the situation. Chemical monitoring may be reduced to once or twice per month.

Phase V-Inactive

The committee closes cases only when the health practitioner is no longer licensed in the state.

ALASKA PRACTITIONER RECOVERY PROGRAM

PHILOSOPHY: To provide and facilitate a means for the professional to be rehabilitated and returned to a safe and productive practice in the community. The Occupational Licensing Boards of the professions named below are firmly committed to Alaska Practitioner Recovery Program (APRP).

<u>Profession</u>	<u>Professional Assoc.</u>	<u>Licensing Board</u>
Chiropractors	Ak Chiropractic Society	Board of Chiropractic Examiners
Clinical Social Workers	Ak Chapter National Assoc. of Social Workers	Board of Clinical Social Work Examiners
Dentistry	Ak Dental Society Ak State Dental Hygienists Assn.	Board of Dental Examiners
Medicine	Ak State Medical Assn.	State Medical Board
Nurses	Ak Academy of PA Ak Nurses Assoc.	State Medical Board Board of Nursing
Occupational Therapy	Ak Occupational Therapy Assoc.	State Physical Therapy & Occupational Therapy Board
Optometrists	Optometrists Assoc. of AK	Board of Examiners in Optometry
Disp. Opticians	Opticians Assoc. of AK	Board of Dispensing Opticians
Pharmacists	Ak Pharmaceutical Assn.	Board of Pharmacy
Physical Therapists	Ak Physical Therapy Assn.	State Physical Therapy & Occupational Therapy Board
Psychologists	Ak State Psycholog. Assn.	Board of Psychologists & Psychological Associate Examiners
Veterinarians	Ak State Veterinary Medical Assn.	Board of Veterinary Examiners

GOALS AND OBJECTIVES:

1. To provide a state-wide monitored recovery program under the auspices of the above mentioned Associations and Societies to serve all licensed practitioners with rehabilitation and reintegration into productive practice.
2. Educate the health care community about the problem of chemically impaired professionals.
3. To provide long-term chemical and observational monitoring, therapeutic group activities, support, and recovery program coordination to recovering alcoholic and addicted health practitioners. Monitoring will include urine and/or blood screening for both alcohol and drugs of abuse, collected in an observed setting with chain-of-custody documentation, on a regular and random basis. Therapeutic group activities, support and recovery programs may include peer group after care, Alcoholics Anonymous (AA), Narcotics Anonymous (NA) or Cocaine Anonymous (CA) meetings, or other therapy, depending on need, on a
 - a. voluntary basis.
 - b. mandated basis by a regulatory board
4. To collect data in a confidential and systematic way so as to better understand and facilitate the recovery process for health practitioners in Alaska. (Confidential documentation will include results of regular and random drug/alcohol screens, documented attendance at group therapy, AA meetings, etc., so that evidence is available in the event that a health practitioner needs to provide proof of compliance with the recovery program.)

ELEMENTS OF THE PROGRAM

1. Identification - by self, colleagues, family, hospital, professional associations and societies, State licensing boards.
2. Intervention - by intervention team within 7 days after substantiation of addiction.
3. Signing of an APRP participation contract.
4. Inpatient treatment program.
5. Aftercare in Alaska, including:
 - a. twelve-step meetings,
 - b. therapeutic peer group (It is understood that in some locations there may be multiple health professionals in a given peer group),
 - c. random chemical screens, and
 - d. other components as necessary.

CONFIDENTIALITY

Policy Statement - Absolute confidentiality will be maintained by APRP for persons referred into the program on a voluntary basis as long as the person is in compliance with the program. For persons entering the program on a mandated basis the mandating agency will be kept informed of the participant's progress.

PROGRAM COMPONENTS

1. Contract

Each recovering practitioner entering the APRP will be asked to sign a contract outlining the details of his/her specific program. In cases in which a practitioner is being monitored on a mandated basis, he/she must agree to participate in such a mandated program. The contract may include the following elements:

- a. Participation in a formal inpatient or outpatient program
- b. Aftercare program
- c. Permanent abstinence
- d. Random drug screening
- e. 12-step attendance (AA, NA, CA)
- f. Counseling on a case by case basis
- g. Counselor reports
- h. Notification of primary physician of chemical dependency problem
- i. 5 year participation in APRP
- j. Periodic interviews with Local Assistance Committee or Program Administrator
- k. Other reports as designated by program administrator
- l. Restriction on employment/practice on a case by case basis
- m. Limitations on prescribing, dispensing or administering controlled substances on a case by case basis

- n. Responsibilities of recovering practitioner in the event of noncooperation by reporting person
- o. Notification of any controlled substance prescriptions for personal use
- p. Notification of change of worksite(s)
- q. Notification of change of physician(s)/counselor(s)
- r. Notification of absence from state exceeding seven days

2. Compliance

In the treatment process, relapses may occur; however, the program administrator in connection with the local committees, will make the decision on non-compliance reporting to the appropriate regulatory board.

3. Chemical Monitoring

Chemical Monitoring of blood and/or urine specimens will be done at the participant's expense and for all participants on a regular basis. This will be done in the following ways:

- a. Urine and/or blood examinations will be performed randomly at varying intervals.
- b. Urine and/or blood examinations will be performed randomly on any participant who manifests significant behavioral changes suggestive of a relapse.
- c. Urine and/or blood examinations - performed on a regular basis.
- d. All specimens will be collected under direct observation or in a controlled setting.

4. Therapeutic Support Groups

All participants must agree to participate in regular therapeutic support group meetings utilizing 12-step principles. Additional meetings and/or one-on-one interviews will be scheduled on an individual basis. Proof of attendance at these activities will be required.

- a. All participants must participate in a 12-step program such as AA/NA.
- b. Participants will participate in therapeutic peer groups where available.

5. Individual Therapy Sessions

The need for individual therapy will be determined on a case by case basis. Practitioners seen by individual

participants as required by the program must be approved by the local assistance committee and the program administrator.

6. Monitoring of Medical Care

Each participant will have a regular personal physician who is approved by local assistance committee and the program administrator. The following will relate to the medical care of each participant.

- a. His/her physician will be aware of the participant's involvement in the APRP Program.
- b. Each personal physician will receive general guidelines for the administration of any controlled substances, as well as specific guidelines for the individual participant.
- c. The participant must report all instances of the use of controlled substances by him/her, and the drug may only be prescribed by his/her personal physician.

7. Prescribing, Dispensing or Administering Limitations

These will be regulated on an individual basis.

8. Antabuse and Naltrexone Administration

Both these modalities will be available to individual participants. Participants with a recent history of opiate addiction will be strongly encouraged to use Naltrexone for a period of 1 year.

9. Liaison with State Regulatory Boards

Monitoring of voluntary participants is the responsibility of the APRP, providing the participants are compliant with the program guidelines. Failure to comply will cause reporting to the appropriate state regulatory board.

BOARD OF DIRECTORS

The Board of Directors is composed of one member appointed from each of the health care professions and the member must be an active member of a Local Assistance Committee. The Board of Directors will be composed of one practitioner representing each of the professions licensed to practice by the boards who regulate the health practitioners. No member or staff of these regulatory boards may be eligible for appointment to Board of Directors or a local assistance committee. Each professional association may appoint a representative to the Board of Directors.

The Board of Directors will develop bylaws. Members of the task force shall function as consultants to the initial Board of Directors.

LOCAL ASSISTANCE COMMITTEES

Local Assistance Committees consist of appointees of the professional association or society from within the community. It is recommended that committee members be appointed by the association for terms of two years. The Local Assistance Committees meet regularly to discuss new case reports or allegations and make recommendations concerning active cases. Subcommittees may be formed because of the large geographical areas involved.

Local Assistance Committees should have a minimum of three members.

PROGRAM ADMINISTRATOR

This person is a health care professional residing in the State of Alaska who has administrative and management experience as well as chemical dependency expertise. The administrator's responsibilities include management of the program, coordinating the activities of the impaired and recovering health practitioners, liaison with required boards and professional associations, researching of facilities and providing a list and description of programs for regulatory board approval, and other activities as assigned by the Board of Directors. He/she will be assisted by members of the Board of Directors who will represent and work with the health disciplines participating in APRP.

1019M/mh

— Committee that is currently in —
existence in Alaska for Physicians

IMPAIRED PHYSICIAN PROGRAM SUMMARY

PURPOSE AND GOALS

The Impaired Physician Program is designed to assist the physician who has become impaired, or is at risk of impairment, as a result of chemical dependency, emotional illness or physical disease.

The overall goals are to assure the safety of the public and to restore the practitioner to health.

IMPAIRED PHYSICIAN COMMITTEE

There are three (3) committee's that meet regularly to discuss new case reports or allegations and make recommendations concerning active cases. Three committee's have been formed because of the large geographical areas involved.

PROGRAM ADMINISTRATOR

This person is a Licensed Clinical Social Worker in the State of Alaska who has administrative and management experience. The job of the administrator is to manage the program, coordinate the activities of the committee and to provide case management and monitoring services to impaired and recovering physicians.

PROGRAM COMPONENTS

Phase I - Fact Finding and Assessment

This phase usually lasts 30 - 90 days, however, it can be extended indefinitely to cover any period of time necessary to establish probable cause that a physician may be impaired. The phase ends when the committee decides whether or not to substantiate allegations of impairment. If unsubstantiated, the case moves to Phase 5, Inactive, and, while not closed, is only briefly renewed annually. If new allegations are made, the case is reassessed.

If the case is substantiated, an intervention process is designed to confront the physician and to require remedial action. The committee may request an evaluation by a clinician, regular urinalysis or blood testing or immediate admission to treatment as necessary.

Phase II - Intensive Treatment

This is a period of 30 to 90 days or more, when the individual is involved, as an inpatient, in a full-time detoxification and treatment program. Currently the committee is using two facilities outside of Alaska which specialize in the treatment of physicians and other professionals in a modified 12 Step model.

Phase III - Extended Treatment

This period lasts approximately 90 days. While the person is usually treated as an outpatient, levels of treatment continue to be intensive. Group treatment occurs three or more times weekly and is supplemented by 12 Step meetings. Family treatment is introduced and chemical monitoring is weekly. Return to work may be suspended during this time or may be permitted on a limited basis with peer review.

Phase IV - Aftercare

This period may last from one to two years depending upon the individual situation. 12 Step meetings continue, group therapy is reduced to one time per week. Full-time work is permitted and peer review may not be required depending on the situation. Chemical monitoring may be reduced to once or twice per month.

Phase V - Inactive

The committee's close cases only when the physician dies, retires or moves out of Alaska. All other cases are maintained in this phase and reviewed every three (3) months indefinitely.

Impaired Physicians Committee: Who Are They?

The Alaska State Medical Association's Impaired Physician Committee is a small group of physicians dedicated to helping those colleagues and spouses that currently suffer from chemical dependency, neurological impairment, and emotional disorders.

Committee members are individuals who are knowledgeable in these problems. The Committee's purpose is to help direct the impaired physician or spouse to appropriate treatment and to attempt to initiate treatment for the impaired doctor before official action could occur on licensure.

Help for those Unable to Help Themselves

Chemical dependency, neurological impairment, and emotional disorders are well recognized as occupational hazards and frequently encountered diseases within our profession.

Physicians or spouses disabled by these diseases are often unable to ask for help themselves. Effective treatment for these impairments are now readily available and most easily achieved when the impairment is detected early. Family, friends, and associates of impaired physicians and spouses should avoid misguided sympathy which enables the condition to deteriorate. Under Alaska Statute 08.64.336 "a physician, hospital, or hospital committee that in good faith submits a report under this section or participates in an investigation or judicial proceeding related to a report submitted under this section is immune from civil or criminal liability for the submission or participation."

The objective of the Association's program is that of advocacy—to help return the impaired physician or spouse to healthy personal, family, professional, and social functioning.

Confidential Hotline Available 24-Hours a Day

If you suspect that you, a colleague, spouse, friend or relative is suffering from any of these disorders, please call our Physicians' Confidential Assistance Hotline at 1-800-478-ASMA. Only specially trained personnel will return your call.

The caller need not leave their name; however, names and telephone numbers of others familiar with the problem will be helpful. The questions which will be asked are those which are necessary to enable the committee to objectively verify that a problem exists, assess the situation and plan the best course of action for the impaired professional.

Committee members are also willing to accept calls and are listed on the brochure. However, after working hours the committee members can be located through the 800 number.

Written communications can be directed to Impaired Physicians Committee, 2401 E. 42nd Avenue, Anchorage, AK 99508. *All communications will be kept strictly confidential.*

We Can Help! If You Let Us!

Remember, the Impaired Physicians Committee can only help if you are willing to help. Don't wait until it's too late. A life or lives may depend upon your timely action. A phone call or a letter is all it takes.



**1-800-478-ASMA
PHYSICIANS' CONFIDENTIAL
ASSISTANCE HOTLINE**

THE ALASKA STATE VETERINARY MEDICAL ASSOCIATION
1731 South Bragaw
Anchorage, Alaska 99508

October 23, 1991

State of Alaska
Department of Commerce and
Economic Development
Division of Occupational Licensing
Board of Veterinary Examiners
P. O. Box D-LIC
Juneau, Alaska 99811-0800

Dear Alaska State Board of Veterinary Medical Examiners:

This letter is to notify you that the members of the Alaska State Veterinary Association voted unanimously on August 4, 1991 to support and participate in the Alaska Practitioner's Recovery Program.

As you are aware, this program is designed to facilitate the identification and treatment of healthcare practitioners who are impaired through chemical dependency.

A list of the members of the APRP Board of Directors is enclosed.

Sincerely,



Val Stuve, DVM
President
Alaska State Veterinary Medical Association

Enc.

cc: ✓ Jacki Warren
Leslie McDaniel, DVM
Paul Frith, DVM
Virginia Johnson, DVM
Lisa Kramer, DVM
Jim Leach, DVM
Bill Lewis

ALASKA STATE MEDICAL ASSOCIATION

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

February 13, 1992

The Honorable Arliss Sturgulewski
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, Alaska 99811

Dear Senator Sturgulewski:

The Alaska State Medical Association strongly supports Senate Bill 323.

This bill provides an opportunity for health providers to contract with the state to provide assistance and treatment of persons licensed by the board that abuse alcohol, drugs and other chemicals.

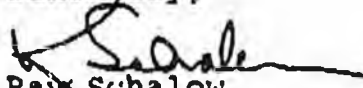
In addition, this will provide liability protection for those that report in good faith and for peer review committee's that also act in good faith.

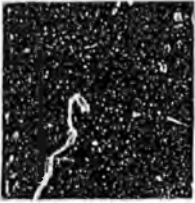
The Alaska State Medical Association currently enjoys this protection and agreement with the State Medical Board. It has allowed us to play an advocates role in addressing physician abuse. By any measuring device this has been successful. It has allowed us to intervene, provide care, and return the physician to the community. But just as important, individuals who were reluctant to report or come forward in the past because of the liability issue, now report with little fear. This of course has allowed us to intervene and/or investigate physicians that would have never been reported under the old system, and this will hold true for the health profession.

We applaud Senator Sturgulewski for providing the leadership needed in addressing this most important issue.

If we can be of any assistance with other legislators or the administration, please feel free to call on us.

Sincerely,


Ray Schalow
Executive Director



ALASKA STATE MEDICAL ASSOCIATION

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

NOV 25 1991

October 11, 1991

Pam Ventgen
Executive Secretary
Alaska State Medical Board
3601 C Street, Suite 722
Anchorage, AK 99503

Dear Ms. Ventgen:

The Alaska State Medical Association fully supports the Alaska Practitioner Recovery Program and its efforts to identify and rehabilitate impaired health professionals in Alaska. Recognizing the financial requirements of this project, the ASMA advocates a 10% increase in physician licensure fees, so that the doctors themselves pay for their intervention program.

We look forward to a year of positive steps toward eliminating alcohol and drug impairment of health care professionals.

Sincerely,

Jennifer Christian, MD
President



Alaska Dental Society

3400 Spenard Road, Suite 10
Anchorage, Alaska 99503
(907) 277-4675

October 30, 1991

Arliss Sturgulewski
2957 Sheldon Jackson
Anchorage, Alaska 99509

Dear Senator Sturgulewski:

The Alaska Dental Society has been actively participating with representatives of other health care professional associations in the development of a program designed to protect public safety and health. The program - Alaska Practitioner Recovery Program - or APRP, is designed to facilitate the identification and treatment of healthcare practitioners who are impaired through chemical dependency. A summary of the proposed program is enclosed.

APRP needs your help. Melissa Fouse of your office worked at the end of the last legislative session to review a bill which we have collectively proposed. The bill, which has not yet been assigned a number, is needed to protect members of APRP when they are acting within the program to address the chemically impaired healthcare practitioner. These protections currently exist within the Medical Board regulations (AS 08.01.087). We have the support of the Division of Occupational Licensing and are requesting your support for incorporation of these protections into AS 08.01.087.

Sincerely,

Robert W. Robinson, II, DMD
President
Alaska Dental Society

Effective Date: _____ Department Affected: Commerce & Economic Development
 Title: An Act relating to substance abuse by certain BRU: Occupational Licensing
persons who are licensed under state law. Component: Administration
 Sponsor: Sen. Sturgulewski and Pearce
 Requestor: Senator Sturgulewski COMPONENT SERIAL NO.

0	3	5	6
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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	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

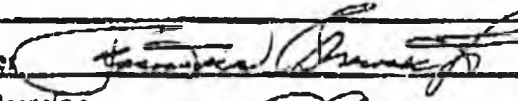
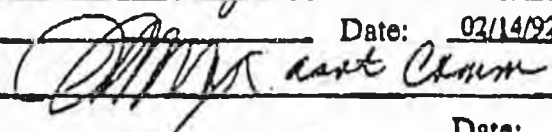
EMPLOYMENT:

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

Estimated of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

SSSB 323 will allow the department to contract with public and private organizations at the request of any of the ten health care boards listed in the bill, to provide assistance and treatment to licensees who abuse alcohol, other drugs, or other substances.

Prepared By: Jennifer Strickles  Phone: 465-2144
 Division: Occupational Licensing Date: 02/14/92
 Approved by Commissioner: Glenn A. Olds 
 Agency: Commerce & Economic Development Date: 2.14.92

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

Because of the permissive language used in the bill which provide that the department "may" contract with an organization at the request of the board, new funding will not be necessary to implement the bill at the onset. Currently, the division is aware of only one licensing board committed to a substance abuse type program. As additional licensing boards become involved with similar programs, the department may require additional staff support at that time to coordinate activities between the division and the substance abuse programs.

When additional staff support becomes necessary, licensees may be asked to cover costs associated with the program through an increase in fees. The fees can be accounted for separately and the Legislature could make an appropriation from the account to fund activities of the substance abuse programs.

POSITION PAPER

Department of Commerce
Economic Development

SSSB 923 (L&C): "An Act relating to substance abuse by certain persons who are licensed under state law."

This bill contains provisions encouraging early intervention and a nondisciplinary approach for handling licensed health care providers who abuse addictive substances. In addition, the bill provides immunity and indemnity for persons who act in good faith in reporting suspected abuse or who assist the board in intervention, peer review, and other activities deemed necessary to rehabilitate or discipline an impaired practitioner.

Section 1 of the bill adds a new subsection which allows specific health care licensing boards to request the department to contract with a professional association or public agency to provide assistance and treatment to persons who abuse addictive substances. The State Medical Board currently has this provision in 08.64.101 (6), and has had an agreement with the Alaska State Medical Association and its Impaired Physician's Committee since June, 1988. Thus far, it has demonstrated effectiveness.

Denial of the disease and threat of licensing discipline prevent many impaired professionals from entering treatment, thus, putting the public at risk for a greater period of time. Co-workers might be more willing to report someone they thought was abusing if the result were treatment, not punishment. With this legislation, the department could enter into contracts which reflect individual board concerns and philosophies. The contracts would include provisions for identifying, confronting, assisting into treatment, and the monitoring of recovery activities of health care professionals in substance abuse recovery.

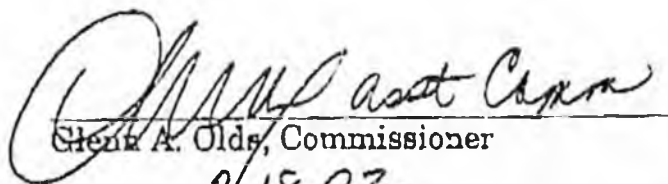
The department's Division of Occupational Licensing currently has staff members who have responsibilities in the area of investigation, education, and monitoring of professionals in recovery who have entered into disciplinary probation agreements with the boards. This problem is growing rapidly nationally and we have no reason to believe Alaska will not have a like increase in impaired practitioners. Having the ability to contract as provided in this bill might ease a strain on staff resources that we are beginning to feel.

Section 2 of the bill extends the limitation of liability protections currently in place for persons assisting the medical board to those other professionals assisting the other health care licensing boards in carrying out their duties. There is considerable fear about litigation or other retaliation for reporting a fellow practitioner. Reports made in good faith should be protected. Failure to provide this protection would preclude members of the professions from participating in the intervention and monitoring committees.

POSITION PAPER
SSSB 323 (L&C)
Page 2

The boards will continue to maintain the ability to discipline the chemically addicted professionals who fail to comply with terms of the optional program of treatment and monitoring among those licensed to practice. The department, not the individual boards, will be entering into the contract with the association or private care provider. The bill is permissive, not mandatory. For these reasons, the department is comfortable with the bill as written.

The department supports passage of SSSB 323 (L&C).



Glenn A. Olds, Commissioner
Date: 2.18.92

S B

3 4 0

3/30

Drue:

Al Hastings of Conoco called...wanted you to know that he has some major concerns about Sam Cotten's new RAC proposal.

(Attached #1) Wanted you NOT to support introducing it as an Oil and Gas Committee Bill. I explained that sometimes introduction of committee bills was a courtesy extended to a Chair notwithstanding how a legislator felt about a particular issue.

Lee Jenkins (243-4188) wanted you to support an amendment he's trying to get to SB 340 (Bill attached #2.) He wants churches to be exempted...i.e. if the church prohibits use of alcohol at certain times.

Bob 3/30

S B

3 4 2

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 1/13/92

FURTHER:

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

DATE TURNED
INTO OFFICE: _____

L&C Committee considered SENATE BILL NO. 342

"An Act relating to life or disability insurance obtained by charities."

and recommends:

replace with _____ CS _____ (_____)

attaches amendment(s)

same title
 new title
 technical
title change
(HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES: Dept/Date

zero fiscal notes _____

fiscal notes _____

appropriation--no fiscal note

PREVIOUS FISCAL NOTES: Dept/Date

Governor's bill with fiscal notes:

zero fiscal notes _____

fiscal notes _____

DO PASS:

Shirley Craft
John [unclear]
Rick Halford

OTHER RECOMMENDATIONS:

Time 10:00 - 10:20
Chair: Signature and Recommendation

Alaska State Legislature

JAN. 22 1992

STEVE FRANK

119 N. Cushman, Rm. 213
Fairbanks, Alaska 99701
(907) 452-3421

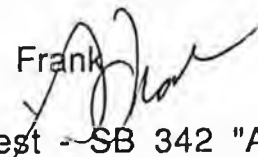


While in Juneau
P.O. Box V
Juneau, Alaska 99811
(907) 465-3709
Capitol Rm. 417

Senate

MEMORANDUM

TO: Senator Drue Pearce, Chair
Senate Labor & Commerce Committee

FROM: Senator Steve Frank 

RE: Hearing Request - SB 342 "An Act Relating to life or disability insurance obtained by charities."

DATE: January 22, 1992

I am writing to request that you schedule SB 342 for a hearing at your earliest convenience.

This bill will clarify that a charity may be the beneficiary of a life or disability insurance policy donated to them.

A recent IRS ruling has questioned whether a charitable organization could be named as a beneficiary unless specifically authorized by state statute. Additionally, the ability of the donor to include the amount of the insurance premiums paid as a tax deductible contribution has been questioned as well.

Many states either provide for this in statute now, (23 as of August 1991) or are in the process of modifying their laws to accommodate this change in Tax Policy.

Passage of SB 342 would allow for charities to continue to receive the benefits from life and disability policies and for the premiums paid to be tax deductible by the donors.

Thank you for consideration.

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SB 342

Revision Date: 1/13/92 Department Affected: Commerce & Economic Dev.
 Title: Life or Disability Insurance BRU: Insurance
for Charities Component: Operations
 Sponsor: Senator Frank
 Requestor: _____ COMPONENT SERIAL NO.

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EXPENDITURES/REVENUES: (Thousands of Dollars)

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

CAPITAL	0	0	0	0	0	0
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REVENUE						
FUND SOURCE:	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)
 No fiscal impact on the division.

Prepared By: David J. Walsh, Director *D. Walsh* Phone: 465-2515
 Division: Insurance Date: 1/22/92
 Approved by Commissioner: Glenn A. Olds, Commissioner *for D. Walsh*
 Agency: Commerce & Economic Development Date: 1.22.92

Section Keeps Subscribers Posted on Insurable Interest Issue

The issue of insurable interest related to charitable giving has been an ongoing topic of discussion for subscribers to the Society's Section Subscription Service since July 1990, when the Estate Planning Section published its first issue of *News and Views*.

In that issue, Gary D. Aronowitz, JD, LL.M., CLU, editor of the newsletter, authored an article, "Insurable Interest and Charitable Giving: Beware of Potholes," outlining problems created by the New York State Insurance Department's legal interpretation of a state law saying that charities do not have an insurable interest in the life of a donor.

In that article and in the September

1990 newsletter, he presented his research on the subject, including techniques that could potentially help circumvent this problem. Mr. Aronowitz had pointed out that as of July 1990, 14 states — Arizona, Connecticut, Delaware, Hawaii, Idaho, Kentucky, Maine, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, Texas, and Wyoming — had specific statutes giving charities an insurable interest in the lives of donors.

In the May 1991 issue of the newsletter, an item by Mr. Aronowitz underscored the value of national networking through the Section. "After I published my initial article, I

Continued on page 24

6

Insurable Interest

Continued from page 6

received letters from a number of people around the country telling me how their laws and state insurance departments had interpreted charitable insurable interest questions."

"Subscriber Frank Venable, CLU, of Georgia notified me that the Life Underwriters of Georgia were very active in a recent change in the insurance laws giving charities insurable interest. In New Jersey, where I live, my state assemblyman, who happens to be the assistant minority leader, has introduced legislation to amend the New Jersey statutes, and hopefully we will have some action on this change in the near future. I have notified many of my contacts in charitable organizations in New Jersey about the introduction of this bill."

With the recent release of Private Letter Ruling 91 10 016 (please see related article on page 6), it became clear that Mr. Aronowitz and the subscribers of the Estate Planning Section were on to something with

even broader reaching implications.

In the May 1991 issue, Mr. Aronowitz wrote that in a previous issue, "I responded to an inquiry from one of our members with regard to possibly having a savings provision in a decedent's will specifically bequeathing any proceeds by the estate back to the charity. In my response, I also raised the possibility that, in a state where a charity does not have an insurable interest, the IRS could deny a deduction for the premium payments. Little did I know, at that time, that my worst fears were being realized in a request for a Private Letter Ruling."

For now, many aspects of the issue remain unclear, with the potential for new state laws, changes in IRS interpretations, court challenges, etc. Mr. Aronowitz's ongoing expert analysis of the situation, as well as other important developments in estate planning, will appear in future publications sent to Section subscribers.

For more information on Sections, please see page 12. ☞

Alaska State Association of Life Underwriters

Ken Snider CLU, ChFC

President

1500 'A' Street # 301

Anchorage, AK 99501

907-277-1618

Fax 907-~~277-1618~~ 277-1619

January 22, 1992

State Senator Frank
Juneau, AK

Dear Senator Frank,

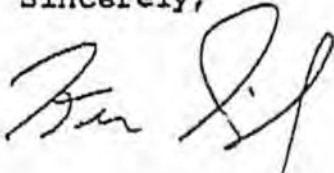
As president of the Alaska State Association of Life Underwriters and as president of the Alaska Chapter of the Society of CLU and ChFC, I would express our support for either Senate bill 342 or the similar proposed legislation that is being put forward by the division of insurance.

Allowing charitable organizations to own and be beneficiaries of life insurance policies is beneficial to the charities and provides an avenue for the donor who can only afford small periodic donations but would like to give the charity a large gift.

Most states have provisions that allow this. The few states who's laws were not in alignment with the federal IRS statutes are all in the process of correcting this conflict.

I support your proposal which would bring Alaska's laws into alignment with the federal law and allow this beneficial activity.

Sincerely,



Ken Snider CLU, ChFC

THOMAS & ASSOCIATES

Danny L. Thomas, CLU
Lester R. Thomas, CLU

January 21, 1992

Mr. Rick Solie
Office of Senator Steve Frank

RE: S.B. 342

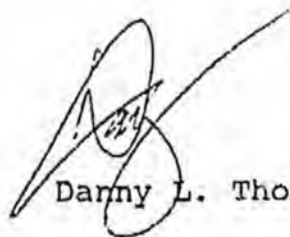
Dear Rick:

Per our previous discussions relating to the insurable interest on life insurance either transferred to or purchased by a charity, the Alaska Insurance code needs to clarify that such eligible charity's insurable interest is recognized.

It is my understanding that an insurable interest is determined by the laws of the applicable state and that if the laws in Alaska (for those domiciled in Alaska) does not recognize that a charity has an insurable interest in the life of donor, a deduction may not be allowed for gifting of policy and premiums paid, and potentially may cause proceeds payable to charity to be questioned. It therefore is important that State clarify the insurance laws giving charities insurable interest. If the code is amended, if it is possible, it would be beneficial if it would cover people already having been insured by a charity or a policy already transferred to a charity.

Enclosed is a copy from the American Society of Chartered Life Underwriter monthly newsletter indicating that States have been working on specific statutes giving charities an insurable interest in the lives of donors.

Sincerely,



Danny L. Thomas, CLU

Enclosure
DLT:lafs

STATE OF ALASKA

DEPARTMENT OF ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE /

PHONE: (907) 465-2515

August 16, 1991

Post-It™ brand fax transmittal memo 7671 # of pages 2	
To Rick Solie	From Phil Younker
Co. Sea-Steve CRANK	Co.
Dept.	Phone # 452-6393
Fax # 456-3346	Fax # 452-1600

Phil A Younker, Jr.
Phil A Younker & Associates Ltd.
P. O. Box 83529
Fairbanks, Alaska 99709

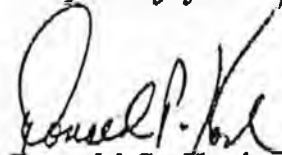
Dear Mr Younker

Re: Insurable Interests of Charities

Director Walsh advised me that you had called concerning the captioned subject and has asked me to respond to your inquiry.

This is a question that has come to this Division with a bit more frequency since the IRS issued its private ruling 9110016 on November 30, 1990 based on New York law. It unfortunately is an area on which we do not issue opinions. We have not been able to locate any Alaska case law on the subject. We believe that this is a grey area and one that should be specifically clarified and structured in statute. This would require specific legislation.

Very truly yours,



Donald P. Koch, CIE
Chief of Market Surveillance

910816 00 PY1

INSURANCE CODE
OF THE
STATE OF CALIFORNIA

ARTICLE I

General Provisions

§ 10110, Insurable Interest

Willsa Summary (9th ed) Contracts § 609.

Cal Fam L Surv § 3:36.

11 Am Jur Proof of Facts 2d, Life Insurance, p 351 (proof that insured was unaware his aggression could cause his death).

§ 10110.1. "Insurable Interest"; Who has Insurable Interest; Voidness of contract in absence of insurable interest

(a) An insurable interest, with reference to life and disability insurance, is an interest based upon a reasonable expectation of pecuniary advantage through the continued life, health, or bodily safety of another person and consequent loss by reason of that person's death or disability or a substantial interest engendered by love and affection in the case of individuals closely related by blood or law.

(b) An individual has an unlimited insurable interest in or her own life, health, and bodily safety and may lawfully take out a policy of insurance on his or her own life, health, or bodily safety and have the policy made payable to whomsoever he or she pleases, regardless of whether the beneficiary designated has an insurable interest.

(c) An employer has an insurable interest, as referred to in subdivision (a), in the life or physical or mental ability of any of its directors, officers, or employees or the directors, officers, or employees of any of its subsidiaries or any other person whose death or physical or mental disability might cause financial loss to the employer; or, pursuant to any contractual arrangement with any shareholder concerning the reacquisition of shares owned by the shareholder at the time of his or her death or disability, on the life or physical or mental ability of that shareholder for the purpose of carrying out the contractual arrangement; or, pursuant to any contract obligating the employer as part of compensation arrangements or pursuant to a contract obligating the employer as guarantor or surety, on the life of the principal obligor. The trustee of an employer or trustee of a pension, welfare benefit plan, or trust established by an employer providing life, health, disability, retirement, or similar benefits to employees and retired employees of the employer or its affiliates and acting in a fiduciary capacity with respect to

those employees, retired employees, or their dependents or beneficiaries has an insurable interest in the lives of employees and retired employees for whom those benefits are to be provided. The employer shall obtain the written consent of the individual being insured.

(d) An insurable interest shall be required to exist at the time the contract of life or disability insurance becomes effective, but need not exist at the time the loss occurs.

(e) Any contract of life or disability insurance procured or caused to be procured upon another individual is void unless the person applying for the insurance has an insurable interest in the individual insured at the time of the application.

(f) Notwithstanding subdivisions (a), (d), and (e), a charitable organization that meets the requirements of Section 214 of the Revenue and Taxation Code may effectuate life or disability insurance on an insured who consents to the issuance of that insurance.

(g) This section shall not be interpreted to define all instances in which an insurable interest exists.

Added Statu 1990 ch 1418 § 1.5 (SB 2281).

§ 10110.2. Reliance of insurer on statements made by applicant regarding insurable interest in insured

An insurer shall be entitled to rely upon all statements, declarations, and representations made by an applicant for insurance relative to the insurable interest that the applicant has in the insured, and no insurer shall incur any legal liability except as set forth in the policy, by virtue of any untrue statements, declarations, or representations so relied upon in good faith by the insurer.

Added Statu 1990 ch 1418 § 2 (SB 2281).

Section
TO
Add to
AK Law

A M E N D M E N T

OFFERED IN THE SENATE
TO: SB 342

BY SENATOR FRANK

Page 1, after line 7:

Insert a new bill section to read:

"* Sec. 2. APPLICABILITY. This Act applies to a policy of life or disability insurance that is issued or renewed on, before, or after the effective date of this Act."

MEMORANDUM

State of Alaska

TO: Steve Frank
Senator
Alaska State Senate

DATE: January 31, 1992

FILE NO.:

THRU: Glenn A. Olds
Commissioner
Department of Commerce
and Economic Development

TELEPHONE NO.: (907) 465-2515

SUBJECT: Insurable Interests for
Charitable Organizations

John Walsh
FROM: Dave Walsh
for Director
Division of Insurance
Department of Commerce
and Economic Development

You have asked for a memo from the Division of Insurance discussing the issues leading to introduction of SB 342 and the complementary address of the issue in Section 152 of HB 425 and SB 376.

The issue is that AS 21.42.020 - 030 leaves some question as to whether a non-profit or otherwise qualified tax exempt charity has an insurable interest in an insured where the charity is named beneficiary of a life insurance policy. The answer to this question has substantial tax implications. This kind of question has arisen on several occasions, most recently following the last legislative session.

Financial planners have been most interested in the issue in view of a private ruling issued by the IRS in a New York case. Exhibit 1 is a copy of that ruling. Exhibit 2 is a reaction that appeared in the Chronicle of Philanthropy on July 30, 1991.

This issue is not a clear cut one as can be seen in Exhibit 3, a newsletter written by "Endow America" of California. When the IRS is interpreting state law to determine deductibility of donations of insurance made, it is not too hard to understand that a state agency or private financial planner would want some precision in statute. Current statute is subject to some variance in interpretation. Since we do not know how the IRS might come down on Alaska law as presently written, we have avoided interpretation. For example, the IRS private ruling seems to infer that an actual benefit must inure to the charitable institution if it is to be tax deductible for the donor. A whole life policy and an annuity would appear to fill this requirement, but whether a term life policy, which has a fixed expiration date, meets that requirement is under some doubt and should be explored with the IRS. The same concern is true of health insurance policies.

MEMORANDUM

Senator Steve Frank

1/31/92

Even without the question of taxation, the concept of allowing or encouraging donation is one that has generally been supported. Philanthropy has been viewed as almost an American idea. Clarification of the issue legislatively may well benefit charities for which public funds are becoming increasingly scarce. The discussion on "- To Sustain Assignment" and "Interest of Insured" found in 44 C.J.S. §201 - §202 is attached as Exhibit 4. The attached exhibits do provide some backup and discussion of the issue.

1ST LETTER of Level 1 printed in FULL format.

< PRIVATE RULING 9110016

"This document may not be used or cited as precedent. Section 6110(j)(3) of the Internal Revenue Code."

SECTION 0170

Charitable Contributions and Gifts

SECTION 2055

Transfer for Public, Charitable, and Religious Uses

SECTION 2522

Charitable and Similar Gifts

0170-0000

2055-0000

2522-0000

PRIVATE RULING 9110016; 1990 PRL LEXIS 3271

DATE: November 30, 1990

REFER REPLY TO: [*1]

CC:P&SI:4/TR-31-820-90

Dear * * *

This is in reply to your letter dated March 5, 1990, in which you request several rulings concerning A's proposed purchase and transfer of life insurance to the Charity, an organization described in section 501(c)(3) of the Internal Revenue Code.

The information presented indicates that A is an independent contractor of the Charity and also a past contributor to the Charity. A intends to apply for a life insurance policy and name the Charity as sole beneficiary of the policy proceeds. Upon receipt of the policy from the insurance company, A also intends to irrevocably assign the policy to the Charity. Although there is no agreement between A and the Charity, A plans to continue payment of the future policy premiums. A will be the applicant for the policy because, A concedes, the Charity does not have an insurable interest in A's life.

You have requested the following rulings:

1. That A will be entitled to an income tax charitable deduction, pursuant to section 170(a)(1) of the Code, within the limit of section 170(b)(1)(A), for the amount of the initial premium of the policy and the amounts of any subsequent premiums she pays.

2. That [*2] A is entitled to a gift tax charitable deduction under section 2522(a)(2) of the Code for the initial premium payment and future premium payments.

3. That, if A dies within three years of the gift of the policy to the Charity and the proceeds are included in her gross estate under section

EXHIBIT

/

2035(a), A's estate will be entitled to an estate tax charitable deduction under section 2055(a)(2) of the Code.

4. That, if A survives the policy gift date by three years, the proceeds will not be included in her gross estate.

Ruling Request 1

Section 3205(b)(2) of the New York Insurance Law prohibits anyone without an insurable interest from obtaining an insurance policy on the life of another person unless the benefits are to be paid to someone with an insurable interest. A will obtain the insurance policy with the intent of transferring it to an organization without an insurable interest. Her intent to circumvent the law in this manner should result in the organization's being treated as having obtained the policy on her life directly from the insurance company. See, e.g., *Steinback v. Deipenbrock*, 158 N.Y. 24, 52 N.E. 662 (1899); Annotation, *Validity of Assignment of Life Insurance Policy to One Who Has No Insurable Interest in Insured*, 30 A.L.R.2d 1310 (1953).

Therefore, it appears that the transaction will violate section 3205(b)(2) of the New York Insurance Law, even though A rather than the organization will obtain the policy from the insurance company. If the transaction violates section 3205(b)(2), then, upon her death, the insurance company may not have to pay the proceeds of the policy to the organization. Or if it does, the executor or administrator of her estate may maintain an action under section 3205(b)(3) to recover the proceeds from the organization.

As a general rule, section 170(a)(1) of the Code allows as a deduction any charitable contribution (as defined in section 170(c)) if payment is made within the taxable year.

A deduction for a contribution of property is allowed in section 1.174-1(c)(1) of the Income Tax Regulations.

Under section 170(c)(2) of the Code, the term "charitable contribution" includes a contribution to an organization created in the United States and organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, if no part of its net earnings inures to the benefit [*4] of any private shareholder or individual and the organization is not disqualified for tax exemption under section 513(c)(3) by reason of attempting to influence legislation.

Generally, under section 170(f)(3)(A) of the Code, the deduction for a transfer of an interest in property (not made by a transfer in trust) that is less than the taxpayer's entire interest in the property is allowed only to the extent that the value of the interest contributed could be allowable as a deduction under section 170 if the interest had been transferred in trust. Certain exceptions to this rule are provided under section 170(f)(3)(B) to allow contributions of (i) a remainder interest in a personal residence or farm, (ii) an undivided portion of the taxpayer's entire interest in property, and (iii) a qualified conservation contribution. Section 170(f)(3) was added by the Tax Reform Act of 1969, Pub. L. No. 91-172, 83 Stat. 487, to disallow charitable deductions for contributions of less than the taxpayer's entire interest in the property. See H.R. Rep. No. 413, 91st Cong., 1st Sess. 57-58 (1969), 1969-3 C.B. 200, 237; S. Rep. No. 552, 91st Cong., 1st Sess. 83-84 (1969), 9169-3

C.B. 423, 477; H.R. [*5] Rep. No. 782, 91st Cong., 1st Sess. 294 (1969), 1969-3 C.B. 644, 654.

Section 170(f)(2) of the Code allows deductions for certain charitable contributions of property placed in trust. Under section 170(f)(2)(A), dealing with remainder interests, the trust must be a charitable remainder annuity trust, a charitable remainder unitrust, or a pooled income fund. As to other interests in property transferred in trust, section 170(f)(2)(B) requires that the interest to be in the form of a guaranteed annuity or the trust instrument to specify that the interest is a fixed percentage distributed yearly of the fair market value of the trust property. The requirements for deductibility of a contribution of property placed in trust are further elucidated by section 1.170A-6 of the regulations.

Section 1.170A-7(a)(2)(i) of the regulations provides that a deduction is allowed for a contribution of a partial interest in property if such interest is the taxpayer's entire interest in the property, such as an income interest or a remainder interest. If, however, the property in which such partial interest exists was divided in order to create the taxpayer's interest and thus avoid section 170(f)(3)(A) [*6] of the Code, the deduction will not be allowed.

Section 1.170A-7(b)(1)(i) of the regulations states that an undivided portion of a donor's entire interest in property must consist of a fraction or percentage of each and every substantial interest or right owned by the donor in such property and must extend over the entire term of donor's interest in such property and in other property into which such property is converted.

Section 1.170A-7(a)(3) of the regulations provides that a deduction will not be disallowed under section 170(f)(3)(A) of the Code and section 1.170A-7 of the regulations merely because the interest which passes to, or is vested in, the charity may be defeated by the performance of some act or the happening of some event, if on the date of the gift it appears that the possibility that such act or event will occur is so remote as to be negligible. A cross reference is given to section 1.170A-1(e).

Section 1.170A-1(e) of the regulations provides that, if as of the date of a gift, a transfer for charitable purposes is dependent upon the performance of some act or the happening of a precedent event in order that it might become effective, no deduction is allowable [*7] unless the possibility that the charitable transfer will not become effective is so remote as to be negligible. If an interest in property passes to, or is vested in, a charity on the date of the gift and the interest would be defeated by the subsequent performance of some act or the happening of some event, the possibility of occurrence of which appears on the date of the gift to be so remote as to be negligible, the deduction is allowable. For example, a taxpayer transfers land to a city government for as long as the land is used by the city for a public park. If on the date of the gift the city does plan to use the land for a park and the possibility that the city will not use the land for a public park is so remote as to be negligible, the taxpayer is entitled to a deduction under section 170 for a charitable contribution.

A's submission represents that the organization to which she is donating the life insurance policy is tax-exempt under section 501(c)(3) of the Code. Because the definition of charitable contribution under section 170(c)(2) essentially includes the requirements of section 501(c)(3), a donation to the

organization could potentially qualify as a charitable [*8] contribution and be deductible under section 170(a).

Partial Interest

Since A is obtaining the policy with the intent of transferring it to the organization which does not have an insurable interest, the transaction will violate section 3205(b)(2) of the New York Insurance Law. As a result, when she dies, the insurance company may not have to pay the benefits of the policy to the organization or, if it does, the executor or administrator of her estate may maintain an action under section 3205(b)(3) to recover the benefits. Therefore, when she transfers the policy to the organization, she cannot transfer all the rights associated with it. She is instead donating a partial interest in the policy, not in trust, which under section 170(f)(3)(A) of the Code is generally not deductible as a charitable contribution.

A contribution of a partial interest in property for charitable purposes deductible under section 170(f)(3)(A) of the Code if it would have been allowable under section 170 had it been transferred in trust. However, the interest in the current case would not have been allowable if it had been transferred in trust because it is not an income or remainder interest set [*9] out in section 170(f)(2) of the Code and section 1.170A-6 of the regulations.

On the other hand, a contribution for charitable purposes of an interest that is A's entire interest could be deductible under section 170(f)(3)(A) of the Code. It could be argued that the interest contributed in the present case will represent her entire interest, since it appears only the insurance company and the administrator or executor of her estate, and not she, will have the power to deny the charity the insurance proceeds. However, because A will have the ability through a will to name her heir who will benefit if the proceeds of the policy are returned to the estate, the interest she will be transferring cannot be treated as an entire interest. In effect, this is similar to retaining the right to name the beneficiary outright, a circumstance covered in Rev. Rul. 76-143, 1976-1 C.B. 63, discussed below.

In Situation 1 of Rev. Rul. 76-143, the taxpayer contributed the cash surrender value of a paid-up life insurance policy paid on his life to a college. The college was given possession of the policy, but the taxpayer retained the right to name or change the beneficiary and to assign the [*10] balance of the policy subject to the college's right to the cash surrender value. The revenue ruling states:

"In Situation 1, the gift made by the taxpayer of the right to the cash surrender value of the policy was a gift of less than an entire interest in the property. Furthermore, a gift of this kind is not a gift of a fraction or percentage of each and every substantial interest owned by the donor in such property since the taxpayer retained the right to designate the beneficiary. Even if the taxpayer irrevocably designated the beneficiary prior to making the gift in order to create a remainder interest that would then constitute the taxpayer's entire interest in the property, such provision would be regarded as having been made to avoid section 170(f)(3)(A) of the Code and the deduction would not be allowed."

Accordingly, a charitable contribution deduction is not allowable under section 170 of the Code for the irrevocable assignment described in Situation [1976-1 C.B. at 633].

Rev. Rul. 76-143 revoked the contrary holding of Rev. Rul. 69-70, 1969-1 C.B. 63, and applies to gifts made after the effective date of the Tax Reform Act of 1969. We find that the rights to be retained [¶113] in the current case are similar enough to those retained in Rev. Rul. 76-143 for us to conclude under its holding that A will not actually be transferring her entire interest in the property within the meaning of section 170(f)(3)(A). Although the rights retained in the current case may not be as definite as those retained in the revenue ruling, they are substantial and only if they were insubstantial could they be disregarded for the purposes of section 170(f)(3). Compare Rev. Rul. 75-66, 1975-1 C.B. 85, which uses the standard set forth in section 1.170A-7(b)(1)(i) of the regulations to infer that the retention of an insubstantial right will not disqualify a contribution under section 170(f)(3) of the Code.

Under the reasoning set forth in Rev. Rul. 76-143, A will not have contributed an undivided portion of her entire interest in property so as to qualify for a deduction under section 170(f)(3)(B)(ii) of the Code and section 1.170A-7(a)(2)(i) of the regulations, since she will not have given a fraction or percentage of each and every substantial right she will own in the insurance policy. Nor would her contribution meet either of the other exceptions to section 170(f)(3)(A) [¶121] of the Code provided under section 170(f)(3)(B).

We conclude that A's contribution should be disallowed under the partial interest rules of section 170(f)(3) of the Code. Further, as explained below, charitable contribution would not be allowable under section 170 in this case unless it is deductible under the standards provided in sections 1.170A-1(e) and 1.170A-7(a)(3) of the regulations regarding contributions subject to conditions:

Remoteness

Sections 1.170A-1(e) and 1.170A-7(a)(3) of the regulations are applicable to the present case since A will transfer the policy to the organization subject to the possibility that her insurance company may retain the proceeds for the benefit of A's estate or the administrator or executor of her estate may maintain an action to recover them. Therefore, for the donation of the policy to be deductible under section 170(a) of the Code, the possibility that the organization's rights to the policy will be divested must be so remote as to be negligible.

Rev. Rul. 73-1, 1973-1 C.B. 117, holds that a charitable contribution subject to the future possibility of being divested by actions of the donor is not deductible under section 1.170A-1(e) [¶131] of the regulations. The contribution in question was the amount paid by the donor in excess of the value of an annuity purchased from the donee, a qualifying charity, where the donor retained the power to have the total purchase price returned to him prior to the commencement of the annuity some years later. The revenue ruling reasons that, since the donation to charity is subject to the donor's power to require that the entire purchase price be repaid to him, more than a remote possibility exists that the charitable transfer will not become effective.

In the current case, the proceeds of the policy may eventually be paid to A estate rather than returned to her. But this distinction makes the contribution here subject to an event that is less remote than the one in the revenue ruling since even if A desires the contribution to remain effective, her, insurance company and the executor or administrator of her estate still have the power, and perhaps the duty, either to retain the benefits or recover them from the organization.

In contrast, a charitable contribution subject to sections 1.170A-1(e) and 1.170-7(a)(3) of the regulations is allowed in Rev. Rul. 77-145, 1977-1 C.B. [414] 63, holding that a gift of timber land to a charitable organization for subsequent transfer to the United States is deductible, even though the grantor retained certain timber and mineral rights. In Rev. Rul. 77-148, the United States planned to use the land as a wildlife preserve. The timber right could be exercised only if the donees attempted to dispose of the timber, and the mineral rights could only be exercised if approved by the Secretary of the Interior. The revenue ruling concludes that the grantor's exercise of these rights is so remote as to be negligible, since their exercise is dependent upon the actions or the permission of the ultimate donee, the United States, and it is not in its interest, given the land's proposed use, to allow the rights to be exercised. The donee's control of the condition subsequent coupled with an adverse interest in its being exercised distinguishes Rev. Rul. 77-148 from the present case and Rev. Rul. 73-1.

The requirements of section 1.170A-1(e) of the regulations are further elucidated by *Briggs v. Commissioner*, 72 T.C. 546 (1979), which involved the deductibility of property subject to conditions subsequent that would allow reentry. [415] In its analysis, the court interpreted the phrase "so remote as to be negligible" to mean "a chance which persons generally would disregard as so highly improbable that it might be ignored with reasonable safety in undertaking a serious business transaction" and also "a chance which every dictate of reason would justify an intelligent person in disregarding as so highly improbable and remote as to be lacking in reason and substance." The court applied these standards to find the donation was not deductible under section 1.170A-1(e).

A has not demonstrated that the chance that the organization would be divested of its rights to the policy in the future would meet either of the standards enunciated in *Briggs*. The rights to be retained by the insurance company and by the administrator or executor of her estate would be in exercise of rights created by New York law. These actions would be motivated either by their own interests or those of the estate, and not by the interests of the donee. In addition, A could discontinue payments of the premiums on the insurance which would cause the policy to lapse, if the organization did not pay them. Therefore, the contribution of the policy would [416] not meet the requirements of section 1.170A-1(e) of the regulations.

Finally, we note Rev. Rul. 58-372, 1958-2 C.B. 99, which is based on a situation in which the initial premium on a life insurance policy is paid the same day the policy is contributed to charity. The amount of the initial premium is allowed as a charitable contribution under section 170(a) of the Code. In the revenue ruling, the possible application of former section 1.170-1(a) of the regulations, which governed contributions subject to a condition when Rev. Rul. 58-372 was published, is not made an issue. Also, the "highly improbable" standard that was applicable to a condition subsequent

under former section 1.170-1(e) is less stringent than the "so remote as to be negligible" standard that applies now.

More importantly, Rev. Rul. 58-372 was published before the enactment of the partial interest rules in section 170(f)(3) of the Code. Finally, Rev. Rul. 58-372 does not indicate whether, under the law of the state involved in that ruling, the charity has an insurable interest, which charities do have in some states, nor does it indicate whether the insurance policies were obtained with the intent to transfer [*17] them to charity. The focus of the revenue ruling is instead on the valuation of the initial premium donated. So although the revenue ruling could be relevant to the amount of the deduction, in the present case, if the policy were deductible, it is not relevant to the determination of whether or not the transfer of the policy is deductible.

Ruling Requests 2-4

Section 2501 imposes a tax on the transfer of property by gift. Section 25 provides that the gift tax applies to all transfers by way of gift, whether the transfer is in trust or otherwise, and whether the gift is direct or indirect.

Section 25.2511-2(b) of the Gift Tax Regulations provides that, for a gift to be complete and, therefore, subject to the gift tax, the donor must have parted with dominion and control over the transferred property.

In *Robinett v. Helvering*, 318 U.S. 184 (1943), the United States Supreme Court concluded that, in valuing a gift of an interest transferred in trust where the donor retains an interest in the trust, the donor has the burden of proof in establishing that the donor's retained interest has any value that may be deducted from the taxable value of the transfer. The Court stated [*18] that if the donor's reversionary interest is incapable of valuation, the donor must disregard the retained reversionary interest for purposes of valuing the taxable gift made as a result of the transfer to the trust.

Section 2522 of the Code provides for a deduction in computing taxable gifts for a calendar year for the value of property transferred to charitable organizations described in section 2522(a).

Section 2522(c)(2) of the Code provides that where a donor transfers an interest in property to a charitable organization and a remainder interest in the same property to noncharitable beneficiaries, no deduction is allowed for the interest passing to charity unless it is in the form of an interest described in section 170(f)(3)(B) or is a guaranteed annuity or is a fixed percentage distributed yearly of the fair market value of the property (to be determined yearly).

In the present case, the transfer by A to the charity is not a transfer of A's entire interest in the policy because, at A's death, A's estate may have the right to recover the insurance proceeds. Although A has made a completed gift of a substantial interest in the insurance policy, A has not retained an interest [*19] that is susceptible of valuation under generally accepted gift tax valuation principles. See *Robinette*.

As in the case under section 170(a) of the Code, a deduction is disallowed under section 2522(a) because of the possibility that the organization's rights to the policy will be divested is not so remote as to be negligible. And as

is the case under section 170(f)(3), the partial interest in the policy received by Charity is not a qualified interest referred to in section 2522(c)(2). Thus, A is not entitled to a gift tax charitable deduction under section 2522 for the value of the initial premium payment or for that of future premium payments.

Section 2033 of the Code provides that the value of the gross estate shall include the value of all property to the extent of the decedent's interest therein at the time of his death.

Section 2035(a) of the Code provides that the gross estate includes the value of all property interest transferred by a decedent within three years before death. Thus, the value of the transferred property is included in the decedent's gross estate as if the transfer had not been made and as if the decedent had owned the property at the time of death. [*20]

Under section 2035(d)(1), the provisions of 2035(a) are not applicable to the estate of decedents dying after December 31, 1981. However, section 2035(d)(2) of the Code provides that section 2035(d)(1) shall not apply "to a transfer of an interest in property which is included in the value of the gross estate under section 2036, 2037, 2038, or 2042 or would have been included under any of such section if such interest had been retained by the decedent".

Under section 2042(1) of the Code, the decedent's gross estate includes the proceeds of insurance on the decedent's life receivable by the decedent's estate. Under section 2042(2), the gross estate includes the proceeds of insurance on the decedent's life receivable by beneficiaries other than the decedent's estate under policies in which the decedent possessed at death any incidents of ownership that can be exercised either alone or in conjunction with any other person.

Section 20.2042-1(a)(2) of the Estate Tax Regulations provides that the term "incidents of ownership" is not limited in its meaning to ownership of the policy in the technical legal sense. Generally speaking, the term has reference to the right of the insured [*21] to the economic benefits of the policy. Thus, it includes the power to change the beneficiary, to surrender or cancel the policy, to assign the policy, to revoke an assignment, to pledge the policy for a loan, or to obtain from the insurer a loan against the surrender value of the policy, etc.

The insurance proceeds will be included in A's gross estate under section 2035 of the Code if A dies within three years of the policy assignment because A has made a "transfer of an interest in property which is included in the value of the gross estate under section . . . 2042 or would have been included under any of such section if such interest had been retained by the decedent". The insurance proceeds will also be included in A's gross estate under section 2033 of the Code if A dies more than three years after the policy assignment date if, at that time, A's executor can recover the policy proceeds for the benefit of A's estate. A's estate will not be entitled to a deduction under section 2055(a) of the Code in the event that A's executor is able to recover the proceeds for the benefit of A's heirs. In addition, A's estate will not be entitled to a deduction under section 2055(a) of [*22] the Code if A's executor fails to recover the policy proceeds and the proceeds are paid to the Charity, because the property will not pass to the Charity from A, but rather the property will pass to the Charity as a result of action or

inaction by A's executor.

Except as we have specifically ruled under the cited Code provisions, we express no opinion as to the federal tax consequences of the proposed transaction under those provisions or under any other provision of the Code.

In accordance with the instructions in a power of attorney, we are sending copy of this letter to the taxpayer.

This ruling is addressed only to the taxpayer who requested it. Section 6110(j)(3) of the Code provides that it may not be cited or used as precedent.

Sincerely,

Assistant Chief Counsel
(Passthroughs and Special
Industries)

Richard Grosgebauer
Chief, Branch 4

Enclosure

Copy for 6110 purposes

IRS Ruling on Insurance Gifts Prompts Action by 2 States

NEW YORK and Illinois have both changed their laws on gifts of life insurance to charity.

New York has clarified a law that, in effect, prevented charities from receiving gifts of life insurance from living donors. The legislation, signed by Gov. Mario Cuomo this month, allows donors to purchase life-insurance policies and then immediately to give those policies to charity, so long as the gift was the donor's idea.

The new law leaves unclear the extent to which charities may promote gifts of life insurance to raise money.

"This isn't everything we wanted," said Donald Kent, director of endowment development at the Council of Jewish Federations in New York, which was one of several charities that pushed for a change in the law.

The legislation was prompted by an I.R.S. private-letter ruling released in March.

In the ruling, which applied only to the unidentified New York woman who requested it, the service said that she could not claim federal tax deductions on income, gift, and estate taxes for a charitable donation of life insurance because the state's law did not recognize charities as having an insurable interest in their donors.

The service said that because the donor was going to purchase the policy with the intention of immediately giving it to charity, the charity had effectively obtained the policy on the donor.

The I.R.S. said that would violate New York law, which said that one must have an insurable interest in a person to obtain a policy on his or her life.

Because the policy on the New York woman would be invalid, it could be taken away from the charity after the donor's death, the I.R.S. reasoned. Thus the federal government could have granted tax deductions for a charitable gift that never ended up benefiting a charity.

Under the new law, charities still do not have an insurable interest in their donors, which means that they still are barred from directly or indirectly obtaining insurance policies on their donors' lives.

The New York Insurance Department is working with charities to clarify what, if anything, they may do to encourage life-insurance gifts.

In Illinois, the legislature has passed a measure designed to help protect charitable gifts of life insurance. The measure, which would take effect on January 1, 1992, has been sent to Gov. Jim Edgar for his signature, which is expected.

The legislation says donors may obtain life-insurance policies naming certain kinds of non-profits as sole beneficiaries.

Qualified organizations include charities that meet the requirements of Section 501(c)(3) of the Internal Revenue Code as well as social-welfare organizations, labor and agriculture groups, voluntary employees' beneficiary societies, and fraternal beneficiary societies.

The legislation says non-profits may continue to pay premiums to insurance companies if donors discontinue premium payments and if continuing the policy would be a prudent investment.

Dun Tebbe, president of the Springfield-based Council of Illinois Nonprofit Organizations, which with others promoted the legislation, called it a "stopgap measure." Lawmakers will be pressed later this year to pass a bill containing "even more explicit language that charities have an insurable interest," said Mr. Tebbe.

Scott Taylor
U of A Foundation
910 Yukon Dr., Suite 208,
Fairbanks, AK 99775
474-7687
Position Statement: Supported HB 360

Linda Hulbert
New York Life
110 Cushman St
Fairbanks, AK 99701
452-4400 Position Statement: Observer

PREVIOUS ACTION

BILL: HB 360
TITLE: "An act relating to life or disability insurance
obtained by charities."

PRIME SPONSORS:	BOYER, B. DAVIS, KOPONEN	
JRN-DATE	JRN-PG	ACTION
01/03/92	1948	(H) PREFILE RELEASED
01/13/92	1948	(H) READ THE FIRST TIME REFERRAL
01/13/92	1948	(H) L&C, JUD
01/15/92	1988	(H) COSPONSOR (S): KOPONEN

ACTION NARRATIVE
TAPE 1, SIDE A
NUMBER 001

Chairman Finkelstein called the meeting to order at 1:04 p.m. and noted members in attendance. He advised members that they would be considering HB 360.

NUMBER 015

Representative Boyer informed the members that this bill was specifically drafted to address a problem based on an IRS ruling to an individual in the state of New York on whether an individual could take a tax deduction based on her gift of her life insurance policy to a charity. The IRS ruled that she was not entitled to a tax deduction because in the state of New York the statutes did not provide for a insurable interest by that non-profit. Since then 14 other states have enacted specific statutes allowing for insurable interest by charities so they can continue to receive gifts of life insurance policies. HB 360 allows charities to use every tool given to them to receive outside income. This bill is for the benefit of charities, universities, and other organizations that receive gifts like these.

NUMBER 072

Representative Bruckman said the bill sounded good, but asked which non-profits were considered charities in HB 360.

NUMBER 081

Representative Boyer explained that he had kept the definition of charities very narrow. The qualifiers are 26 U.S.C 501(c)(3) groups.

NUMBER 192

Dave Walsh, Director of the Division of Insurance, expressed his general support for the bill.

NUMBER 236

Representative Taylor asked if churches are 501(c)(3) organizations, and Dave Walsh's answer was that they are.

NUMBER 275

Scott Taylor, of the University of Alaska Foundation, spoke in favor of this bill, and noted that a lot of donors are quite confused by the New York ruling. As a result there has been a chilling effect on the giving of life insurance policies. He pointed out that Alaska is one of seven states which do not provide for donors to make gifts of their insurance.

NUMBER 315

563-3676 John Hoffer, an Anchorage tax practitioner, spoke in favor of HB 360, and noted that the IRS ruling has caused quite a number of problems in Alaska because it is really unclear if Alaska has a problem under the letter ruling. 26 U.S.C 501 (c)(3) determines which organizations must declare income, not which donors may take tax deductions.

NUMBER 403

Representative Donley moved that HB 360 pass out of the House Committee with individual recommendations.

NUMBER 461

There were no objections to passing the bill out of committee. Chairman Finkelstein adjourned the meeting at 1:31 P.M.



University of Alaska Foundation

University of Alaska
910 Yukon Drive, Suite 208
Fairbanks, Alaska 99775-5240
Office (907) 474-7687
FAX (907) 474-7664 or (907) 474-5140



Office of Development
EYDEV

Representative Mark Boyer
Alaska State House of Representatives
P.O. Box V
Juneau, AK 99811

VIA FAX

January 17, 1992

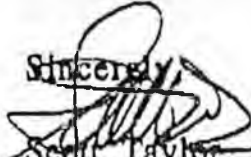
Dear Representative Boyer:

I understand that HB 360, which deals with changes to Alaska's statutes regarding life insurance policies, will receive its first hearing next Tuesday. The University Foundation strongly supports this bill since it will provide us, and other non-profits in Alaska, with the ability to have an insurable interest in the lives of donors who contribute life insurance policies to us. Through this change, our existing donors and potential contributors will be assured that their gifts of life insurance policies will be deductible as charitable donations under the Internal Revenue Service's rulings.

At the annual meeting of the University of Alaska Foundation on November 6, 1991, the Board of Trustees passed a unanimous motion indicating strong support for this change in Alaska's insurance statutes and directing that a resolution be prepared indicating their support. That resolution has not yet been completed. I shall send it to you when it is. In the interim I hope that this letter and the Board's action I have described will serve to indicate the Foundation's strong support of the statute changes outlined HB 360.

I thank you for all you are doing to help bring Alaska's laws into line with those in almost all other states which now do provide for charities to have an insurable interest in their donors.

Sincerely,


Scott Taylor

Executive Director

cc: Members of the Board of Trustees



United Way
of Anchorage

Post Office Box 102052
Anchorage, Alaska 99510-2052
Phone (907) 562-4483
Fax (907) 563-0020

January 16, 1992

Representative Mark Boyer
State Capitol
Juneau, Alaska 99801

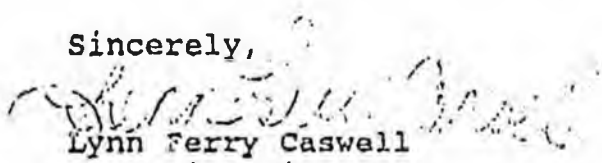
Dear Representative Boyer:

It is with great enthusiasm that I endorse house Bill 360, which essentially enables donors to assign life insurance policies to charitable organizations.

As funds for the provision of health and human services become more scarce from the federal and state governments, it is increasingly important for charitable organizations to seek other sources of funding. The opportunity for an individual to help insure the future viability of critical services will be of great value to those agencies providing the service.

My thanks to you for bringing this bill forward. I will follow its progress with keen interest.

Sincerely,

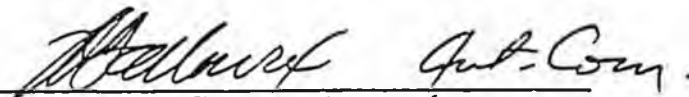

Lynn Ferry Caswell
Executive Director

SB 342: "An Act relating to life or disability insurance obtained by charities."

The Department of Commerce and Economic Development is in favor of this legislation.

AS 21.42.020 presently provides that insurance on the "life or body" of a person can only be written for the benefit of another person if that person has an "insurable interest" as defined. Charitable institutions are not currently defined as having an insurable interest.

The proposed change provides that a charitable organization may be the beneficiary under an insurance policy. The effect is to allow philanthropic efforts by persons who are not wealthy: A person can, with this legislation, donate the benefits of a policy to a charity exempt from taxation under 26 U.S.C. 501(c)(3) and receive tax benefits for the premium paid. We urge passage of this bill.


Glenn A. Olds, Commissioner *for*

Date: 2-3-92

S B

3 4 7

STATE OF ALASKA

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

P.O. BOX 149
JUNEAU, ALASKA 99802-1149
PHONE: (907) 465-2700

FAX: (907) 465-2784

February 4, 1992

The Honorable Drue Pearce, Chair
Senate Labor and Commerce Committee
P.O. Box V
Juneau, AK 99811

Dear Senator Pearce:

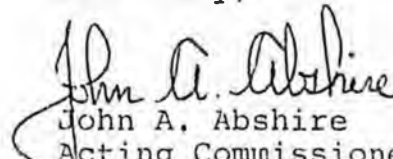
Enclosed is a copy of Senate Bill No. 347, "An Act authorizing the Governor's Committee on Employment of People With Disabilities to charge certain fees" The bill was introduced by the Governor on January 13, 1991, and referred to the Labor and Commerce and Finance Committees. I respectfully request that a hearing on Senate Bill No. 347 be scheduled.

The passage of the American Disabilities Act will have had a profound impact on all employers in the state. Requests from employers for informational seminars and training sessions to explain the Act and to provide assistance are increasing. Members of the committee on Employment of People With Disabilities have the knowledge and the skills to provide this expertise.

The committee currently lacks the funding necessary to hold these seminars and workshops. Its budget request for FY 93 totals \$39,100, to be used for committee meetings and to meet the committee's current statutory responsibilities. Senate Bill No. 347 would allow the committee to receive and expend funds collected from training to conduct ADA seminars and workshops.

I would appreciate your prompt consideration for scheduling Senate Bill No. 347 for a hearing in the Senate Labor and Commerce Committee. For additional information, contact Arbe Williams, Legislative Liaison, at 465-2700.

Sincerely,


John A. Abshire
Acting Commissioner

Enclosure

JAA/AW/jt

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO : _____

Revision Date: _____
Title: "An Act authorizing the Governor's
Committee ... to charge certain fees..."
Sponsor: Rules Committee
Requestor: Governor

Department Affected: Labor
BRU: Employment Security
Component: Governor's Committee
on Employment of People with Disabilities
COMPONENT SERIAL NO. 333

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	16.0	16.8	17.6	18.5	19.4	20.4
SUPPLIES	5.0	5.3	5.6	5.9	6.2	6.5
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	21.0	22.1	23.2	24.4	25.6	26.9

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
GF Program Receipts	21.0	22.1	23.2	24.4	25.6	26.9
TOTAL	21.0	22.1	23.2	24.4	25.6	26.9

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

This bill would provide the Governor's Committee on Employment of People with Disabilities with authorization to charge fees for attendance at various workshops, conferences and other events to help underwrite the cost of those meetings. An effective date of July 1, 1992 is assumed along with an inflation rate of 5% per year beyond FY 93.

Prepared by: Judy Knight, Director Phone: 465-2712
Division: Employment Security Division Date: 11/6/91

Approved by Commissioner: John Abshire, Acting Commissioner
Agency: Department of Labor Date: 11/6/91

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

BILL NO: Senate Bill No. 347

DATE: February 28, 1992

TITLE: "An Act authorizing the Governor's Committee on Employment of People with disabilities to charge certain fees; and providing for an effective date."

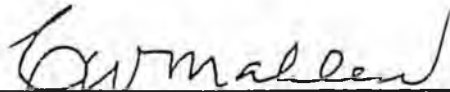
CONTACT: Arbe Williams
465-2700

Senate Bill No. 347 would provide the Governor's Committee on Employment of People with Disabilities with the authority to charge a fee for attendance at various workshops the Committee conducts under AS 23.15.220 -- 23.15.320. This legislation will bring the Committee into conformity with state budget/appropriation laws.

The Committee currently charges workshop registration fees which are used to help underwrite the cost of the materials used in the workshops. The fiscal note submitted properly brings program receipts into the legislative appropriation process. The fees will be accounted for under the Executive Budget Act (AS 37.07).

The Department of Labor urges favorable consideration of Senate Bill No. 347.

APPROVED:



C. W. Mahlen, Commissioner
Department of Labor

POSITION PAPER/Department of Labor

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 1/13/92

FURTHER: Finance

Date of 5-Day Notice: 2/27/92
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: _____

L&C Committee considered SENATE BILL NO. 347

Authorizing the Governor's Committee on Employment of People with Disabilities to charge certain fees; efd.

and recommends:

replace with _____ CS _____ ()

same title
 new title
 technical title change (HB only)

attaches amendment(s)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES: Dept/Date

zero fiscal notes _____

fiscal notes

DOL 11-6-91

appropriation--no fiscal note

PREVIOUS FISCAL NOTES: Dept/Date

Governor's bill with fiscal notes:

zero fiscal notes _____

fiscal notes _____

DO PASS:

Shirley Craft
[Signature]

OTHER RECOMMENDATIONS:

[Signature]
Chair: Signature and Recommendation

S B

3 4 9

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 13, 1992

349

*The Honorable Richard I. Eliason
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811*

Dear President Eliason:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that will clarify the Department of Labor's authority to implement special federal unemployment compensation programs.

The bill adds a new subsection to AS 23.20.080 to clarify the Department of Labor's authority to implement additional unemployment compensation programs upon a determination by the Commissioner of Labor that the program will be beneficial to the state and its citizens. This will allow the department to act promptly to obtain benefits for the state as they are made available through changes in the federal unemployment compensation program.

AS 23.20.005 allows a liberal construction of the Alaska Employment Security Act (AS 23.20), and AS 23.20.080 currently promotes federal-state cooperation, directing the department to adopt regulations to obtain all advantages available under 26 U.S.C. 3303 and 3304 (Internal Revenue Code) and the Wagner-Peyser Act (29 U.S.C. 49). The Emergency Compensation Act of 1991 (P.L. 102-164) was signed into law by the president on November 15, 1991. It made 100 percent federal funding available to the states for an emergency unemployment compensation program. However, the state was just about to "trigger on" to an extended unemployment benefits period (under AS 23.20.408) under which only 50 percent federal funding would be made available to the state. Under the new federal law, a state entering an extended benefit period was required to "trigger off" extended benefits in order to proceed with payment of the new emergency unemployment compensation.

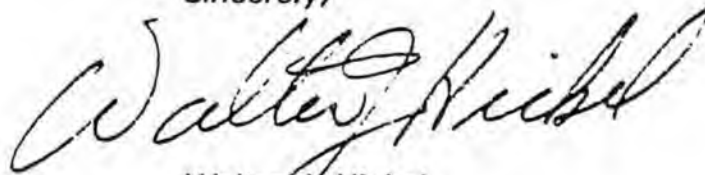
*The Honorable Richard I. Eliason
January 13, 1992
Page 2*

The department found it necessary to adopt an emergency regulation, effective December 10, 1991, to "trigger off" the extended benefit period and thus qualify for the emergency unemployment compensation money. Paying benefits under the extended benefits program would have placed an additional cost on Alaskan employers and burdened Alaska's unemployment trust fund account (AS 23.20.130; AS 23.20.135). Preserving the trust fund account could result in lower tax rates for employers under Alaska law. Additionally, some claimants eligible for the federal emergency unemployment compensation program would qualify for more benefits under that program than they would under the state's extended benefits program. It is estimated that Alaska will be able to save from \$3.5 - \$7.5 million by "triggering off" the extended benefit period to receive the federal emergency compensation money. Although the Department of Labor considers that existing AS 23.20.005 and 23.20.080 provide authority for the emergency action, explicit authority for the department to act under these, and similar, circumstances is desirable.

Section 2 of the bill provides that the authorization in sec. 1 is retroactive to December 1, 1991, and sec. 3 provides an immediate effective date. These sections provide clarification for the Department of Labor's emergency regulation.

The explicit authority provided by this bill will more clearly authorize the department to maintain the "triggered off" status. The emergency regulation, 8 AAC 85.045, will expire on April 7, 1992. For this reason, I urge your prompt consideration and passage of this bill.

Sincerely,

A handwritten signature in cursive script, reading "Walter J. Hickel".

*Walter J. Hickel
Governor*

UNEMPLOYMENT INSURANCE
AT-A-GLANCE

STATE ELIGIBILITY REQUIREMENTS

\$1000 in the base period with at least \$100 outside the highest quarter of wages.

Must have worked in at least two quarters.

Able and available for work each week claimed.

FEDERAL REQUIREMENTS FOR EXTENDED AND EMERGENCY UNEMPLOYMENT COMPENSATION

Must have earned 40 times the regular weekly benefit amount.

Must have not been disqualified for separating from an employer.

Have a more proscribed work search each week.

If living out of state, only two weeks are payable if that state is not paying extended benefits.

BENEFITS FOR ALL PROGRAMS

A claimant will qualify for a minimum of \$44 per week to the maximum of \$212 per week.

Dependent's allowance for children under 18 of \$24 per dependent up to 3 dependents.

REGULAR BENEFITS

The claimant may be eligible for a minimum of 16 weeks to a maximum of 26 weeks during the benefit year.

FUNDING SOURCE

UI Trust Fund
or
Direct billed to
reimbursible employers
(Gov't and non-profits)

EXTENDED BENEFITS

A claimant will be eligible for additional weeks equal to one-half the regular entitlement, or an additional 8-13 weeks.

1/2 UI Trust Fund and
1/2 Federal Funding
or
100% Direct billed to
reimbursible employers
(Gov't and non-profits)

EMERGENCY UNEMPLOYMENT COMPENSATION (EUC)

A claimant qualifies for 16, 18, or 20 weeks, dependent on the regular entitlement, less any EB paid.

100% Federal Funding

Initially a claimant must have exhausted regular or extended benefits, or had the benefit year end after 3/1/91 to be eligible.

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL Bill version: SB 349

(S) Publish Date: 1/13/92

Revision Date: _____
 Title: "An Act relating to the implementation
 of special ... unemployment compensation"
 Sponsor: Rules Committee
 Requestor: Governor

Department Affected: Labor
 BRU: Employment Services
 Component: Unemployment Insurance

COMPONENT SERIAL NO. 329

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE FUND SOURCE:						
-------------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Judy Knight, Director Phone: 465-2712
 Division: Employment Security Division Date: 12/31/91
 Approved by Commissioner: John A. Abshire, Acting Commissioner
 Agency: Department of Labor Date: 12/31/91

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

Alaska State Legislature

Senate District L

Al Adams



Official Business

WHILE IN SESSION
P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-3707

OUT OF SESSION
P.O. Box 333
Kotzebue, Alaska 99752
(907) 442-3245

TO: All Senators

FROM: Senator Al Adams

RE: Amendment to Senate Bill 349

DATE: February 7, 1992

Attached is an amendment to Senate Bill 349 that I believe satisfies all concerned with this bill.

February 6, 1992

Drue -

Re: SB 349

Attached is the amendment Adams had drafted. The department has two concerns:

1. The notwithstanding clause is completely gone. They support Cotten's amendment which would restrict the notwithstanding to AS 23.20.330-409. These are the unemployment benefit sections.

2. (b)(4) in the Adams amendment would tie the department's hands if Congress and the president acted while the legislature was in session. It would require the passage of authorizing legislation. Additionally the 115th day window only allows a 5 day bill passage provision for the end of session.

Judy Knight was going to speak with Cotten and Adam's offices.

A handwritten signature in dark ink, appearing to be 'T. Rod' or similar, located in the lower right quadrant of the page.

Alaska State Legislature

Senate District L
Al Adams

WHILE IN SESSION
P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-3707

OUT OF SESSION
P.O. Box 333
Kotzebue, Alaska 99752
(907) 442-3245



Official Business

TO: Whom It May Concern
FROM: Senator Al Adams *APA*
RE: Senate Bill 349
DATE: February 6, 1992

Attached is proposed language for Senate Bill 349 that clarifies what the Department of Labor can do in regards to unemployment compensation programs in the absence of legislative oversight.

This language was suggested by our legislative legal department as a way to avoid the unconstitutional problems in the original language and yet preserve the ability of the department to act upon these programs when necessary.

A memorandum regarding the various legal problems in the original version is forthcoming from the legal department and will be sent upon receipt.

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR ADAMS

TO: SB 349

Page 1, lines 5 through 11:

Delete all material and insert:

"(b) After notifying the legislature and other interested parties of its intent, the department may implement an unemployment compensation program not otherwise provided for in this chapter in accordance with this subsection. The program may be implemented only if

- (1) the program is authorized by the United States Secretary of Labor;
- (2) the governor approves the implementation in writing;
- (3) the commissioner of labor determines that the program will result in the receipt of additional federal money to carry out the purposes of this chapter and will produce a net monetary gain to the state and its people; and
- (4) the state receives the notification from the federal government that the program is available when the legislature is not in regular session or after the 115th day of a regular session."

DRAFT

AMENDMENTS SB 349 BY PEARCE

2nd reading
+ REVISOR
cont

2nd AS - TS -

Pg. 1, Ln. 5

"Notwithstanding any other provision of this chapter, the department, at the direction of the governor, may take appropriate action to expedite and provide for the implementation of an unemployment compensation program not otherwise provided for in this chapter,"

COTTEN

Pg. 1, Ln. 11 following "subsection." add

"The department may act under this subsection only if the program will be implemented without additional appropriation from the general fund."

ADAMS

3711 J.W.K.T

FLOOR COMMENTS FOR SENATE BILL 349

SENATE BILL 349 ADDS A NEW SUBSECTION TO AS 23.20.080 TO CLARIFY THE DEPARTMENT OF LABOR'S AUTHORITY TO IMPLEMENT ADDITIONAL UNEMPLOYMENT COMPENSATION PROGRAMS UPON A DETERMINATION BY THE COMMISSIONER OF LABOR THAT THE PROGRAM WILL BE BENEFICIAL TO THE STATE AND ITS CITIZENS. THIS WILL ALLOW THE DEPARTMENT TO ACT PROMPTLY TO OBTAIN BENEFITS FOR THE STATE AS THEY ARE MADE AVAILABLE THROUGH CHANGES IN FEDERAL UNEMPLOYMENT COMPENSATION PROGRAMS.

THE DEPARTMENT FOUND IT NECESSARY TO ADOPT AN EMERGENCY REGULATION, EFFECTIVE DECEMBER 10, 1991, TO "TRIGGER OFF" EMERGENCY UNEMPLOYMENT COMPENSATION MONEY. PAYING BENEFITS UNDER THE EXTENDED BENEFITS PROGRAM WOULD HAVE PLACED AN ADDITIONAL COST ON ALASKAN EMPLOYERS AND BURDENED ALASKA'S UNEMPLOYMENT TRUST FUND ACCOUNT (AS 23.20.130; AS 23.20.135). PRESERVING THE TRUST FUND ACCOUNT COULD RESULT IN LOWER TAX RATES FOR EMPLOYERS UNDER ALASKA LAW. IT IS ESTIMATED THAT ALASKAN EMPLOYERS WILL BE

ABLE TO SAVE FROM \$3.5 - \$7.5 MILLION BY "TRIGGERING OFF" THE EXTENDED BENEFIT PERIOD TO RECEIVE THE FEDERAL EMERGENCY COMPENSATION MONEY.

ADDITIONALLY, SOME CLAIMANTS ELIGIBLE FOR THE FEDERAL EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM QUALIFY FOR MORE BENEFITS UNDER THAT PROGRAM THAN THEY WOULD UNDER THE STATE'S EXTENDED BENEFITS PROGRAM.

ADD
IN THE FIRST NINE WEEKS OF THE PROGRAM 7,138 INDIVIDUALS HAVE RECEIVED EUC BENEFITS TOTALLING MORE THAN \$5,188,000.

ADD
THIS WEEK CONGRESS IS HOLDING HEARINGS ON LEGISLATION PROVIDING FOR ADDITIONAL WEEKS OF EMERGENCY UNEMPLOYMENT COMPENSATION OR REVISING THE PROGRAM TO ADDRESS THE U.S. ECONOMY.