

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

9953 HOUSE LABOR & COMMERCE

**KOTLIK TRADITIONAL COUNCIL  
P.O. BOX 20210  
KOTLIK, ALASKA 99620  
Phone (907) 899-4326/4836 FAX (907) 899-4790**

2 March 2000

The Honorable Representative Gary Davis  
House of Representatives  
Alaska State Legislature  
State Capitol  
Juneau, Alaska 99801-1182

Re: Letter of Support Regarding HB404

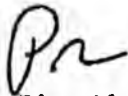
Dear Mr. Davis:

This is a letter of support to the Alaska Municipal League Joint Insurance Association, Inc, (AML/JIA) regarding HB404. Our firm supports the efforts of AML/JIA's position to make it legal to add traditional council and nonprofits to the pooling statute. It will be a benefit for the 227 Federally recognized Native village governments in Alaska.

Last year I contacted AML/JIA for insurance, but was told tribal councils were not included. I have had problems finding insurance coverage since then. The passage of this bill will enable tribal governments alleviate the problems of finding coverage, therefore providing the insurance needed for their employees, buildings owned, and other assets.

If you have questions please contact me at (907) 899-4836.

Regards:



Pius Akaran  
Tribal Administrator

UGASHIK TRADITIONAL VILLAGE  
206 E. Fireweed Lane, # 204  
Anchorage, Alaska 99503  
phone (907)338-7611  
fax (907)338-7659

March 7, 2000

Representative Gary Davis  
House of Representatives  
Alaska State Legislature  
State Capitol  
Juneau, Alaska 99801-1182

Dear Mr. Davis:

I would ask that you give your support to House Bill 404, a bill which would allow Alaska Native Village Councils, Native Associations and nonprofits to pool for worker's compensation, general liability, and property insurance just as municipalities organized under stat law and school districts presently can.

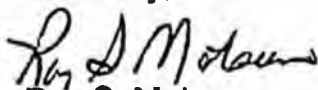
We had worker's compensation insurance and we were dropped because they said "the organization was without prior insurance history" and are in an "assigned risk" group so that they could charge us higher rates.

I feel that they insurance companies are in cahoots with each other, they cancel policies and pass you on to other insurance companies after we get "assigned risk" and "without prior insurance history" tacked onto our organization. This allows the new insurance company to charge us at a higher rate.

Also one of the companies did charge us a "broker fee" and tried to charge us again, but we challenged it and did not pay the second time.

There definitely needs to have something changed with this to help the organizations out that are in the same situation as we are. Thank you.

Sincerely,

  
Roy S. Matsuno  
Tribal Administrator

ALASKA INDEPENDENT INSURANCE AGENTS AND BROKERS, INC.  
(AIIAB)  
POSITION PAPER

HOUSE BILL 404 – JOINT INSURANCE ARRANGEMENTS  
**STRONGLY OPPOSE**

The AIIAB opposes this Special Interest legislation in its present form (Version A).

This legislation has been proposed in the past with similar format and has failed to garner support for the following reasons:

- The legislation provides no consumer protection to the extended class of participants (Sec.21.76.020).
- The verbiage may be misleading in that the bill extends eligibility to other than Municipal entities that generally do not have the sophistication, risk management, or a taxation base to pay assessments.
- Only two of the fifteen general municipal powers are required for participation (Sec. 29.35.010). Any corporation in Alaska would automatically qualify for a JIA based on two of these powers, namely (11) the ability to borrow money and issue evidence of indebtedness, and (14) the rights to sue or be sued.
- Consumers may not be aware of the absence of regulatory protections that include unfair claims practices, unfair trade practices, the State Guarantee Association Act and financial solvency requirements.
- As currently proposed the State General Fund would have no authority to collect tax from premium generated by any participant. (This may represent millions of dollars each year in lost general fund revenues.)

Under current law, there is no regulatory authority provided by the Division of Insurance or any other governmental body. The extent of financial or market conduct review is limited to providing an annual financial statement only; there are no statutory consequences or accountability.

**Our Association would support this legislation *only* with the following amendment:**

Sec. 21.76.020. Regulation by the Division of Insurance and annual report.

- (a) A joint insurance arrangement **[may not be]** is considered insurance for the purpose of **[any other law of]** the state and is **[not]** subject to regulations adopted by the director.

*(Bracketed is deleted, underlined is added.)*

RECEIVED,  
MAR 07 2000

## Chapter 29.35. MUNICIPAL POWERS AND DUTIES

### Sec. 29.35.010. General powers.

All municipalities have the following general powers, subject to other provisions of law:

- (1) to establish and prescribe a salary for an elected or appointed municipal official or employee;
- (2) to combine two or more appointive or administrative offices;
- (3) to establish and prescribe the functions of a municipal department, office, or agency;
- (4) to require periodic and special reports from a municipal department to be submitted through the mayor;
- (5) to investigate an affair of the municipality and make inquiries into the conduct of a municipal department;
- (6) to levy a tax or special assessment, and impose a lien for its enforcement;
- (7) to enforce an ordinance and to prescribe a penalty for violation of an ordinance;
- (8) to acquire, manage, control, use, and dispose of real and personal property, whether the property is situated inside or outside the municipal boundaries; this power includes the power of a borough to expend, for any purpose authorized by law, money received from the disposal of land in a service area established under AS 29.35.450 ;
- (9) to expend money for a community purpose, facility, or service for the good of the municipality to the extent the municipality is otherwise authorized by law to exercise the power necessary to accomplish the purpose or provide the facility or service;
- (10) to regulate the operation and use of a municipal right-of-way, facility, or service;
- (11) to borrow money and issue evidences of indebtedness;
- (12) to acquire membership in an organization that promotes legislation for the good of the municipality;
- (13) to enter into an agreement, including an agreement for cooperative or joint administration of any function or power with a municipality, the state, or the United States;
- (14) to sue and be sued;
- (15) provide facilities or services for the confinement and care of prisoners and enter into agreements with the state, another municipality, or any person relating to the confinement and care of prisoners.

### Sec. 29.35.015. Investment pools.

A municipality may invest money in investment pools for public entities as authorized under AS 37.23 only if that municipality has obtained the consent of its governing body through an ordinance authorizing the

Response to the Alaska Independent Insurance Agents and Brokers, Inc. (AIIAB)  
Position Paper in Opposition to House Bill 404

The intent of House Bill 404 is to allow nonprofit corporations, native associations and native village councils that provide municipal services on behalf of or in the absence of local government to participate in joint insurance arrangements for the purpose of assuming risks from losses or purchasing insurance coverage on a group basis.

The Alaska Independent Insurance Agents and Brokers, Inc. (AIIAB) distributed a position paper opposing this legislation to members of the House Community & Regional Affairs Committee. Below is a summary of their opposition along with responses to the statements.

The AIIAB feels that HB 404 is special interest legislation.

- This is not special interest legislation. The Alaska Municipal League/Joint Insurance Association is one of two arrangements currently existing in Alaska. Nothing in this legislation or the original legislation precludes another association from being formed provided it abides by AS 21.76.010 - 21.76.900.

The AIIAB opposes HB 404 partly because a joint insurance arrangement (JIA) is not subject to the same regulation that for-profit insurance providers are. As a result, the organization believes there is no consumer protection against unfair claims practices, trade practices, the state guarantee association act or financial solvency requirements

- While a joint insurance arrangement is not subject to the same regulatory oversight as a for-profit provider, it must still abide by numerous statutory requirements.
  1. A cooperative agreement of a joint insurance arrangement must be filed with the director of insurance at least 60 days before the effective date of the agreement. As a result, the Division of Insurance may review the agreement and suggest revisions.
  2. A joint insurance arrangement must have procedures for establishing reserves for losses and must have sufficient levels of reserves to cover potential losses. A casualty actuary who is a member of the American Academy of Actuaries must annually certify the assumptions used for establishing the reserves continue to be sound, and that the level of reserves are adequate.
  3. A joint insurance arrangement must have a certified public accountant conduct an annual audit and certify that the audit reflects the true and correct financial condition of the arrangement.

The certifications by the casualty actuary and the certified public accountant must be included in an annual report attested to by the JIA administrator and board of directors and submitted to the Division of Insurance and the Legislative Budget and Audit Committee by February 7 of each year.

4. A joint insurance arrangement must submit a report at the end of each of its fiscal years to the Division of Insurance showing a detailed report of the operation and the condition of the fund.

The AllAB feels that entities without the sophistication, risk management or taxation base to pay assessments would be eligible to join a joint insurance association. Additionally any corporation would automatically qualify for a JIA based on performing 2 powers under AS 29.35.010

- Being a municipal entity does not guarantee sophistication and risk management abilities. Allowing entities to pool resources provides the opportunity to gain sophistication and acquire the necessary risk management abilities that they might not have the opportunity to do otherwise.
- The CSHB 404 (C&RA) states at least one municipality, municipal corporation, school district, or REAA must be a member of any joint insurance arrangement formed. This resolves the issue of a "taxation base". Additionally, there are other methods of attaining sufficient loss reserves in the absence of taxes.

The AllAB is concerned that there is no authority to collect a premium tax generated by any participant.

- A joint insurance arrangement that self-insures is treated no differently from any other self-insuring entity. No entity that self-insures is required to pay a premium tax on the funds paid for that self-insurance. AS 21.76.010 - 21.76.900 requires that the arrangement certify they have sufficient loss reserves should they choose to do this.
- An insurer who sells an insurance policy to a JIA however would pay the premium tax. The difference is that instead of selling individual policies to multiple entities, one policy would be sold to a group consisting of the multiple entities. Presumably, insurance rates would be more affordable since there is a larger risk pool.
- An insurer who sells excess insurance to a joint insurance arrangement would be subject to the premium tax just as all other excess insurance policies sold to entities in the state
- An insurer who sells reinsurance to a joint insurance arrangement would not be subject to the premium tax just as all other reinsurance policies are exempt.

The difference between excess insurance and reinsurance is that an excess insurance policy pays claims based on the specifications outlined by the entity selling the insurance policy. A reinsurance policy pays insurance claims based on specifications outlined by the entity purchasing the insurance policy.

A joint insurance arrangement is not an insurance provider and therefore does not need to be regulated the same way as an insurance company. The arrangement is for the purpose of assuming risks (essentially self-insuring) or purchasing coverage (for which a premium tax would be paid unless it was reinsurance that was purchased).

### **Alaska Municipal League/Joint Insurance Association (AML/JIA)**

The AML/JIA is a division of the Alaska Municipal League. The Alaska Municipal League and the AML/JIA are non-profit corporations of the state and thus subject to state regulation. In order to participate in the AML/JIA an entity must first become a member of the AML. Deposits of the AML/JIA include the following costs:

- Deposits for self-insurance reserves (non-taxable for all entities in the state)-- AML/JIA self-insures for up to \$25,000 for Property, \$250,000 for Liability and \$300,000 for Workers Compensation
- Premiums for reinsurance policy (non-taxable for all entities in the state)-- AML/JIA purchases reinsurance for limits in excess of \$10,000,000
- Funds for travel subsidies/scholarships to entities wishing to attend training seminars not available in their communities
- Funds for on-site risk management visits, safety video library, numerous training sessions, employment law hotline, building appraisals and other member services.

The AML/JIA takes AS 21.76.030(4) very seriously. This subsection requires aggressive risk management and identification of risks that can be reduced through implementing better safety technologies and improved work techniques and procedures. The AML/JIA conducts extensive training seminars covering a multitude of issues and provides on-site consultation, training and assistance upon request.

### Optional Amendments

Recognizing that the AllAB may have valid concerns, listed below are possible changes to CS HB 404 (C&RA) that address those concerns without denying these entities the opportunity to obtain the assistance and coverage they need.

1. Concern that there is no statutory consequences or accountability--Although failure to comply with AS 21.76.010 - AS 21.76.900 would render a joint insurance agreement in violation of state statute and thus subject to prosecution, to avoid possible arguments on the extent of prosecution or penalty available:

Insert a new section in 21.76 stating that violating any section of 21.76.010 - 21.76.900 is punishable by a fine of not more \$5,000.

2. AllAB concern that any corporation could form a joint insurance agreement--

Change Section 1 (a)(5) on page 2 to say "each of the following if the entity expends money for a community purpose, facility, or service for the good of the community on behalf of or in the absence of a municipality [exercises at least two of the general municipal powers described under AS 29.35.010] and at least one entity. . ." [words in italics replace words in brackets]

This would limit the entities eligible to join a joint insurance agreement to those that provide a municipal service.

**HB**

**410**

## Sponsor Statement for HB 410

HB 410 is written to address several privacy concerns that have developed in response to increased importance of the internet for personal communication and the potential that exists for wholesale distribution of private information.

First, it establishes a penalty for the unauthorized distribution or interception of another person's e-mail. The language is closely modeled on our existing provisions that prohibit the opening of a letter not addressed to oneself (AS 11.76.120.) Positive defenses are established for parents and employers or for cases where a message was knowingly left open for inspection (printouts left lying around, allowing others to access your e-mail account etc.)

Second, HB 410 requires internet service providers to detail under what conditions the content of a users e-mail messages or logs of website traffic would be surrendered to a law enforcement agency or reviewed by the provider.

Finally, it requires internet service providers to spell out the conditions and policies with regard to the reselling or release of subscriber information to other companies. ISP's are required to honor a subscriber's request that their information not be sold or redistributed to third parties. Minimum civil penalties are also specified with the goal of making an unauthorized release of a subscribers information a financially losing prospect for a provider.

Please feel free to contact my office with questions or concerns.

From: Rep. Fred Dyson  
March 23, 2000

# FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. SSHB 410

Revision Date/Time (Note if correction) 3/23/00 Dept. Affected Administration  
 Title "An Act relating to the crime of unauthorized interception and distribution of electronic messages..." BRU Legal and Advocacy Services  
 Component Public Defender Agency  
 Sponsor Representative Dyson  
 Requester (H) L&C Component No. 1631

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services	.	.	.	.	.	.
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	.	.	.	.	.	.

<b>CAPITAL EXPENDITURES</b>	.	.	.	.	.	.
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<b>CHANGE IN REVENUES ( )</b>	.	.	.	.	.	.
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	.	.	.	.	.	.
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	.	.	.	.	.	.

Estimate of any current year (FY2000) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

See attached.

Prepared by: Barbara Brink, Director Phone 264-4414  
 Division Public Defender Agency Date/Time \_\_\_\_\_  
 Approved by Commissioner -- Robert Poe, Jr. Alison M. Selge Date 3/23/00  
 Agency Department of Administration

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## FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. SSHB410

### ANALYSIS CONTINUED:

This bill would create a new misdemeanor offense for unauthorized interception and distribution of electronic messages.

Current law, Criminal Mischief in the Third Degree (AS 11.46.484(a)(5)), makes it a class A misdemeanor to "hack" into a computer or computer program. (The actual wording of the statute is "accessing" a computer or a computer program, system, or network without having a right to do so or any reasonable grounds to believe that the person has such a right.) Presumably, the current "anti-hacking" statute includes email programs and would outlaw much of the same conduct that is targeted in this bill.

However, this bill is broadly worded and could include conduct that is not currently illegal. The bill may also require defendants to bear the burden of proving affirmative defenses for conduct that does not appear to be illegal in any way. Although the Public Defender Agency cannot quantify the amount, there does appear to be a potential fiscal impact. Therefore, we are submitting an indeterminate fiscal note.

# FISCAL NOTE

**STATE OF ALASKA**  
**2000 LEGISLATIVE SESSION**

**BILL NO. HB 410**

Revision Date/Time (Note if correction)		Dept. Affected	Department of Corrections
Title	An Act relating to the crime of unauthorized interception and distribution of electronic messages...	BRU	Administration and Operations
Sponsor	Representative Dyson	Component	All
Requester	House Labor and Commerce Committee	Component No.	#0694

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

FUND SOURCE	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2000) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This legislation, if passed, would make it an A misdemeanor for someone to knowingly distribute an e-mail to a third party without the authorization of the addressee or the sender and a B misdemeanor to knowingly intercept an e-mail without the authorization of the addressee or sender.

It is unknown to what extent these incidents are occurring outside of the affirmative defenses. This bill may act as a deterrent and therefore ameliorate any problem. Prosecutions of misdemeanors of this nature would likely not result in incarceration. It is the Department's estimate that it will not result in a significant fiscal impact, therefore we are submitting a zero fiscal note.

Prepared by: <u>Candy Brower, Legislative Liaison</u>	Phone: <u>465-3307</u>
Division: <u>Commissioner's Office</u>	Date/Time: <u>3/21/00 2:15 PM</u>
Approved by: <u>Commissioner Margaret M. Pugh</u>	Date: <u>3-21-00</u>
Agency: <u>Dept. of Corrections</u>	

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**Contact Us**

Internet Alaska, Inc.  
 4050 Lake Otis Parkway  
 Suite #107A  
 Anchorage, AK 99508

Info@alaskanet

Alaskan photos by  
 Ken Graham Agency

## Internet Access Terms and Conditions

### Terms and Conditions for Internet Services

Effective August 7, 1998

1. You understand and accept these Terms and Conditions and agree to pay for these services according to the current Internet Alaska Inc. (IAI) Billing Policies in effect.
2. If we do not receive your payment when due, your account may be terminated. Termination of your account does not remove your responsibility under this agreement to pay all fees incurred up to the date of termination including, but not limited to, collection and attorneys' fees incurred by IAI. Jurisdiction of this agreement is: the State of Alaska.
3. IAI makes no warranties of any kind, whether expressed or implied, including any implied warranty or merchantability of this service for a particular purpose. IAI takes no responsibility for any damages suffered by you including, but not limited to, loss of data from delays, non-deliveries, misdeliveries, or service interruptions caused by IAI's own negligence or your errors and/or omissions.
4. IAI's services may only be used for lawful purposes. Transmission of any material in violation of any US or state regulation is prohibited. This includes, but is not limited to, copyrighted material, threatening or obscene material, or material protected by trade secret. You agree to indemnify and hold harmless IAI from any claims resulting from your use of this service which damages you or another party. At our discretion, we may revoke your access for inappropriate usage.
5. System abuse is strictly prohibited. Internet Alaska, Inc. may terminate or modify service immediately and may bill for any resulting support charges if the client engages in system abuse. Examples of system abuse include, but are not limited to: attempting to circumvent security protocols, sending large numbers of unsolicited mail messages (spam), and attempting to interfere with or deny service to any user or host on the Internet.
6. Use of information obtained via this service is at your own risk. IAI specifically denies responsibility for the accuracy or quality of information obtained through our service.
7. We may list your contact information in relevant directories for internal use. You will notify Internet Alaska of any changes in account contact information in a timely manner.
8. If you use another organization's networks or computing resources, you are subject to their respective permission and usage policies.



9. These Terms and Conditions are subject to change at any time. A current copy will always be available on-line under the Term and Conditions listed at <http://home.alaska.net/services/terms.cfm>. Continued usage of your account after a new policy has gone into effect constitutes acceptance of that policy.
10. You are responsible for how your account is used. You may allow others to use it, bearing in mind that you are fully responsible for what they do and all fees they incur.
11. Multiple simultaneous logins are prohibited for single user accounts. IAI reserves the right to restrict or deny access for abuse of this usage policy.
12. You agree not to provide, sell or resell connections to IAI, or provide connections to other service providers without express written consent from Internet Alaska.
13. IAI reserves the right to cancel this service and reimburse you with any unused fees where appropriate. Reimbursements will be based on monthly fees.
14. You may cancel your account at any time upon written notice to IAI. You will still be responsible for any fees incurred up to the date of termination of service. We will reimburse you for any unused fees where appropriate. Reimbursements will be based on monthly fees. Any dial-up service can be cancelled in the first 2 weeks of use for a refund (subject to promotional conditions), excluding the \$15 setup fee.
15. These Terms and Conditions supersede all previous representations, understandings or agreements and shall prevail notwithstanding any variance with terms and conditions of any order submitted.
16. Support for the Netscape browser is provided by Internet Alaska, not by Netscape.



# Cyber-Liberties

American Civil Liberties Union  
Freedom Network

## Privacy in Cyberspace: Is Your E-mail Safe From the Boss, the SysOp, the Hackers, and the Cops?

by  
Ann Beeson

### I. Introduction

The age of information is a double-edged sword when it comes to civil liberties. On the one hand, the Internet is a true "marketplace of ideas," in which individuals around the globe come together to organize, debate, and share information unrestricted by geographic distances or national borders. It is perhaps the most democratizing medium yet created, as ordinary citizens -- not just large media conglomerates -- have an inexpensive platform for communicating with millions of persons at once with the simple click of a mouse. The Internet has contributed to the spread of democratic values, as online users become active producers of information rather than passive consumers, and netizens with common interests organize to influence public policy and increase oversight of government affairs. On the other hand, the same technology that promotes the First Amendment values of free speech, association, and access to information also poses a serious threat to another fundamental constitutional value -- the right to privacy.

Technology in the age of information has brought with it a whole new level of privacy concerns. Online communication is fluid, and much of the personal information we send into cyberspace in the form of e-mail messages and postings is easily tracked and stored by others -- including the government. An e-mail message addressed to one individual can be immediately forwarded to thousands. It is impossible to know who might be lurking on mailing lists and chat rooms. Do you have a reasonable expectation of privacy when communicating by private e-mail or through other private online fora? Against whom -- other users, the government, your Internet Service Provider, your boss? Are transmissions to and from mailing lists, Usenet newsgroups, chat rooms, and the web protected from unwanted intrusion? Can the police seize your entire computer system if they suspect you of transmitting illegal material? Do they need a warrant? Can they intercept and monitor your e-mail during transmission? Do you have any recourse if your service provider reveals your private messages to the world?

There has so far been little legal guidance regarding the right to privacy in the emerging world of online communication. With the exception of a panic-inspired rush to impose strict content regulations on the Internet, legislators have been slow to react to the information age. Courts are struggling to apply old privacy concepts to the new medium of cyberspace, and have not yet resolved many ambiguities in new electronic privacy laws. The following paper is an attempt to summarize the current status of privacy rights in the online world, and to offer a few suggestions for increasing online privacy protections.

### II. A Brief History of Privacy Law

#### A. Courts

A brief review of the history of privacy rights in the United States will assist the

discussion of the threat to privacy posed by the online world. Although the importance of privacy is deeply ingrained in our political heritage and social psyche, the right is not explicitly mentioned in the Constitution. But the Bill of Rights is a broad affirmation of personal privacy because it limits the government's power to interfere with individual liberty. For example, the First Amendment recognizes the right to personal autonomy ("the right to be left alone") by guaranteeing the privacy of personal beliefs and associations. The Fourth Amendment imposes limits on government interference with personal autonomy by protecting "persons, houses, papers, and effects" from unreasonable search and seizure. The Fifth Amendment's protection against self incrimination also implicates privacy concerns, prohibiting the government from coercing an individual to reveal private matters. It is only in this century, though, that the courts began to recognize a constitutional right to privacy.

Samuel Warren and Louis Brandeis are credited as the forefathers of privacy law in the United States because of an influential article they wrote in the *Harvard Law Review* in 1890. They constructed the first legal concept of privacy out of property doctrine, tort law, copyright law, and damage principles. As one commentator noted, "Warren and Brandeis presented the idea of privacy as it should be understood: as deeply entrenched in culture, evolving over time, fundamental to the wholeness of the individual, and reflecting the social environment in which people exist."

Thus, a number of different principles comprise the modern understanding of the "right to privacy." Initially, the right to privacy was interpreted to include only "protection against tangible intrusions resulting in measurable injury." The common law torts of invasion of privacy, casting another in a bad public light, and physical intrusion into a person's home or solitude are examples of this approach to the right of privacy. Then, in a series of cases in the early part of this century, the Supreme Court began to formulate the constitutional right to privacy. In *Meyer v. Nebraska*, the Court invalidated a state law prohibiting the teaching of a language other than English because it interfered with personal autonomy. In *Pierce v. Society of Sisters*, the Court struck down a law requiring all children to attend public schools, recognizing that "the fundamental theory of liberty . . . excludes any general power of the state". Faced with what might be dubbed the first "cyberspace" privacy case, though, the Court was constrained by the property-based notion of privacy; in *Olmstead v. United States*, the Court held that phone wiretapping did not require a warrant because no physical intrusion was involved. Justice Brandeis wrote a strong dissent, recognizing that "the right to be left alone" was "the most comprehensive of rights and the right most valued by civilized men."

In *NAACP v. Alabama*, the Court recognized a First Amendment associational privacy right by refusing to allow a state to compel the disclosure of organization membership lists, articulating the "right of the members to pursue their lawful private interest privately and to associate freely with others" without "the deterrent effect . . . which disclosure of membership lists is likely to have." In *Griswold v. Connecticut*, the Court held that the Bill of Rights created "zones of privacy" within a "penumbra," striking down a Connecticut statute prohibiting married couples from using contraceptives because the law impermissibly intruded on the marital relationship. The "zone of privacy" surrounding the home led the Court in *Stanley v. Georgia* to hold that an individual could not be arrested for mere possession of obscene materials in his home. Justice Thurgood Marshall wrote, "If the First Amendment means anything, it means that a State cannot tell a man, sitting alone in his own house, what books he may read or what films he may watch." The "zone of privacy" reasoning was extended to include a woman's right to choose to have an

abortion in Roe v. Wade .

In Katz v. United States , the Court reversed the Olmstead holding and declared that warrantless wiretapping was unconstitutional. In doing so, the Court articulated a new balancing test that would guide future considerations of the right to privacy. The test weighs the government's interest in a search against the individual's expectation of privacy. Important for discussions of privacy in the online world is Katz 's recognition that the right to privacy included not only tangible property but also "an individual's communications, personality, politics, and thoughts."

Unfortunately, the Supreme Court then began a restrictive trend regarding the right to privacy. In Terry v. Ohio , the Court used its new sliding scale approach to privacy to uphold a police frisk in the absence of probable cause, reasoning that the level of suspicion required should be tailored to the intrusiveness of the search. The anti-privacy trend was also reflected in a series of cases regarding personal information stored on institutional computers. Acknowledging the reluctance of courts to extend privacy protections, privacy advocates turned to Congress.

#### B. Legislation

In the 1970s, Congress passed the Privacy Act, granting individuals the right to see, copy, and correct their federal agency records, and to restrict disclosures of the information without their consent. Congress also created the Privacy Protection Study Commission (PPSC), which concluded after two years that a range of new laws were required to provide legal safeguards for personal records. Unfortunately, very few of the PPSC recommendations have been enacted into law.

In 1980, Congress passed the Privacy Protection Act (PPA), which provides:

Notwithstanding any other law, it shall be unlawful for a government officer or employee, in connection with the investigation . . . of a criminal offense, to search for or seize any work product materials possessed by a person reasonably believed to have a purpose to disseminate to the public a newspaper, book, broadcast or other similar form of public communication.

The PPA prohibits law enforcement from searching or seizing "work product" and "documentary" materials from journalists and publishers unless they have "probable cause" to believe the person possessing the materials is involved in a crime, and the materials sought are evidence of the crime. Congress enacted the PPA to lessen the chilling effect of intrusive searches on those engaged in activities protected by the First Amendment.

In 1986, Congress revamped The Electronic Communications Privacy Act (ECPA), legislation originally enacted in 1968 to prevent telephone wiretapping. ECPA was amended to cover all forms of digital communications (including private e mail), to prevent private entities in addition to the government from unauthorized access, and to prevent unauthorized access to stored messages as well as interception of messages. Unfortunately, the complexity of ECPA is not mirrored by the level of privacy it offers online users. Most significantly, ECPA provides only a set of default rules, all of which can be abrogated by contract between the provider and user or with the consent of the user. III. User Privacy in the Online World

#### A. Public versus Private Online Fora

Several factors affect the level of privacy that online users can expect. First, privacy will vary depending on the forum in which the user is communicating. Generally, only private e-mail and private simultaneous chat is protected. While many online users may think of their postings on Usenet newsgroups and public message boards as "private" because the communications take place in the comfort and safety of their own living room, in fact these fora are the "town halls of cyberspace" -- they are by nature public and are thus entitled to no protection. Law enforcement can roam these public online spaces without a warrant, listening in on conversations and looking for criminal activity. Even mailing lists with limited subscribers (often referred to as "mail exploders" or "listservs") are only as private as the person on the list with the least degree of privacy protection. Thus, if one person or member of a mailing list has a contract with a service provider negating their privacy rights, none of the postings on the list will be considered "private."

#### B. Stored Messages versus Messages in Transmission

Second, the level of privacy protection will vary depending on whether the message is in the process of transmission or is being stored. For example, ECPA provides a much higher level of protection for messages during the process of transmission than for stored communications. Title I of ECPA imposes strong civil and criminal penalties against the government, providers and third parties who intercept electronic messages in live or real-time transmission between users; it also requires a "super-warrant" for law enforcement who wish to intercept electronic messages for the purposes of a criminal investigation. Title II of ECPA, which governs unauthorized access to stored messages, protects only against third party and government access and not against access by the service provider. Penalties for violations of Title II are lighter, and there is no "super-warrant" required before the government can gain access to stored messages during a criminal investigation. "Stored messages" may include messages in the addressee's mailbox waiting to be picked up by the addressee, and records of private online discussions between users.

#### C. The Identity of the Intruder

Third, online privacy rights vary tremendously depending on the identity of the potential intruder. The section below reviews online privacy rights in relation to employers, Internet Service Providers, third parties, and the government. Generally, users have the least privacy protection in relation to their employers (for communications over networks provided by the employer), and the most privacy protection in relation to the government's ability to intrude on non-criminal communications.

##### 1. Employers

Many people are first exposed to online communications when their employer provides them with a personal e-mail account. Because electronic mail is a very economical way to communicate and share information and files with clients and business colleagues, especially across long distances, businesses are putting their employees online in increasing numbers. Many employees don't realize that the law recognizes little if any privacy protection in electronic mail sent or received by an employee on their work accounts -- even if the mail is personal and not work-related. While the "Omnibus Crime Control and Safe Streets Act of 1968" prohibits employers from eavesdropping on the private phone conversations of their employees at work, there is no similar protection of electronic mail communications.

The law is still in its infancy, but "most lawyers agree that under current laws, workers do not have privacy rights on in-house company systems unless their employers give them those rights."

Courts have yet to rule on whether ECPA prevents employers from accessing employee e-mail, but employers are probably exempt from ECPA as applied to company e-mail systems under the "business extension rule" routinely applied to allow employers to monitor company voice mail systems. In addition, §2511(2)(a)(i) of ECPA provides that:

It shall not be unlawful . . . for . . . a provider of wire or electronic communication service, whose facilities are used in the transmission of a wire communication, to intercept, disclose, or use that communication in the normal course of his employment while engaged in any activity which is a necessary incident to the rendition of his service or to the protection of the rights or property of the provider of that service, except that a provider of wire communication service to the public shall not utilize service observing or random monitoring except for mechanical or service quality control checks. [emphasis added]

The exception could be interpreted to allow an employer to access employee e-mail if necessary for "the protection of the [employer's] rights or property." While ECPA may still pose some limitations to an employer's right to monitor or access employee e-mail, these limitations will have to be determined by the courts.

Electronic privacy rights in the workplace have been considered in a handful of cases, all of which concluded that an employee has no expectation of privacy in her e-mail. In Shoars v. Epson, an employee was fired for refusing to participate in her supervisors' monitoring of employee e-mail. She sued for wrongful termination, relying on a California state law that prohibits electronic surveillance. The court held that the statute's protections did not extend to e-mail. In another California case, Bourke v. Nissan Motors Corp., the company fired an employee for sending personal messages (some containing sexual content) through the company e-mail system. Bourke sued for wrongful termination, claiming invasion of privacy. That court denied the claim also. It reasoned that Bourke had no reasonable expectation of privacy in her e-mail because she had signed an agreement with the employer that restricted use of the system to company business and because she knew that the employer sometimes monitored electronic messages.

In Smyth v. The Pillsbury Co., a federal district court in Philadelphia recently dismissed another wrongful discharge claim from an employee who was fired after the company intercepted "inappropriate and unprofessional comments" that the employee had made to his supervisor over the company e-mail system. The Pillsbury Company had repeatedly assured its employees that all e-mail communications would remain confidential and privileged, and that it would not intercept e-mail or use it as grounds for termination. Smyth argued that his termination was "in violation of public policy which precludes an employer from terminating an employee in violation of the employee's right to privacy as embodied in Pennsylvania common law." Despite the employee's reliance on the company's assurances, the Court held that there was no "reasonable expectation of privacy in e-mail communications voluntarily made by an employee to his supervisor over the company e-mail system. . . . Once plaintiff communicated the alleged unprofessional comments to a second person (his supervisor) over an e-mail system which was apparently utilized by the entire

company, any reasonable expectation of privacy was lost." The case sets a disturbing precedent regarding the enforceability of agreements that employers will not monitor employee e-mail.

## 2. Internet Service Providers

Users disturbed by the lack of privacy provided by their company e-mail may decide to purchase their own access to the Internet, either through one of the large commercial service providers like America Online or CompuServe or through a local Internet Service Provider. Almost all service providers have "online service agreements" that may restrict user privacy otherwise protected under ECPA. Unfortunately, most users do not realize they are signing away privacy rights when they go online through a service provider, because most service agreements are "take-it-or-leave-it" contracts.

In the absence of an agreement, ECPA provides a set of default rules that limit the extent to which service providers may intercept or access the private communications of their users. Title I of ECPA prohibits system operators from intercepting e-mail or private real-time chat messages during transmission. Title II of ECPA allows system operators to look through stored messages, but prevents them from disclosing the messages to third parties (including the government) unless an ECPA exception applies. But because many systems are configured to store all messages that pass through it, "the ability to review stored messages effectively gives the operator the ability to review all messages passing through the system."

ECPA provides civil remedies for users whose privacy has been violated by their service provider. However, providers who cooperate with law enforcement who present proper warrants or subpoenas are not subject to later action by users. ECPA provides a complex set of rules for the proper disclosure of information by the service provider to law enforcement. Service providers may not provide basic information about users to law enforcement without an administrative subpoena; that information includes user name, billing address, how long the user has used the service, and which features were used. Service providers may not disclose the content of messages less than 180 days old to law enforcement without a warrant. (Neither the government nor the provider are required to inform the subscriber.) Service providers may not disclose the content of messages more than 180 days old to law enforcement without a warrant, or government notice to the subscriber and an administrative subpoena or court order. Service providers may reveal any stored message to law enforcement if the provider accidentally comes across the message. (Law enforcement are required to obtain a warrant to intercept future messages or conduct further review on their own.)

Service providers are also forbidden from disclosing the transactional records of a user to law enforcement without a warrant, a court order, or the consent of the user. However, ECPA explicitly allows service providers to disclose the transactional records of users to "any person other than a governmental entity."

## 3. Third Parties and Hackers

Cyberculture is notorious for its hackers -- net savvy youth who like to show off their skills by cracking and invading computer systems. Although the damage from these intrusions is often minimal, the privacy violation is not. The law imposes criminal penalties on third parties who intercept private communications or stored messages without the user's consent. Title I of ECPA (intercepted messages) provides for fines

and/or imprisonment up to five years. Title II of ECPA (stored messages) provides for a fine of up to \$5000, or imprisonment for up to six months, or both. If the offense is committed "for purposes of commercial advantage, malicious destruction or damage, or private commercial gain," Title II provides for a fine of up to \$250,000 or imprisonment up to two years, or both. Hackers can also be prosecuted under the federal wire fraud statute, theft of government property, and the Computer Fraud and Abuse Act. Users damaged by the activities of hackers may also seek civil damages under ECPA.

#### 4. Government and Law Enforcement

##### a. The Fourth Amendment in Cyberspace

When dealing with the government, online users enjoy constitutional privacy protections in addition to statutory ones. The Fourth Amendment forbids unreasonable searches and seizures and requires that warrants issue only with probable cause. Under prevailing law, any interception or access to private electronic communications -- regardless of whether the police listen in on your e-mail conversations, ask your service provider for past messages, or knock down your door and seize your entire computer system -- constitutes a "seizure" under the Fourth Amendment. However, users must remember that the Fourth Amendment does not protect against police who "go undercover online" to gather evidence in *public* areas of online systems, because there is no expectation of privacy in such areas.

Law enforcement may attempt to seize computer systems if (1) the system itself is suspected of criminal activity; (2) law enforcement believe that evidence of a crime committed by others is available through the system. Although the normal warrant rules apply, many questions regarding warrants for computer evidence have not yet been answered. For example, may law enforcement seize an entire computer system, including all the files on the hard drive, if it suspects that one illegal e-mail message has been transmitted on the computer? Or must law enforcement specify with particularity the illegal files they seek, and limit their search only to those files?

Users whose systems have been subjected to seizure in violation of the Fourth Amendment may seek redress under a Section 1983 action. If criminal charges are brought against the user based on an illegal seizure, the user may seek to exclude the tainted evidence. In addition, state constitutional claims may be asserted. So far, ten states have amended their Constitutions to include an explicit right to privacy: Alaska, Arizona, California, Florida, Hawaii, Illinois, Louisiana, Montana, South Carolina, and Washington.

##### b. Statutory Rights

###### i. ECPA

Under ECPA, law enforcement must meet much higher standards than required for an ordinary warrant in order to intercept private e-mail. Users may recover civil damages against law enforcement who violate ECPA. However, law enforcement may assert as a defense a "good faith reliance" on a warrant or court order. To search and seize stored messages from a user's personal computer, law enforcement need only meet the regular warrant requirements. ECPA provides lighter standards for standards for law enforcement to obtain access to some stored messages from the user's service provider.

The distinction between a "stored message" and a "transmitted message" may affect an online user's privacy rights in relation to law enforcement. In Steve Jackson Games v. U.S., a federal court held that unread e-mail was a "stored communication" rather than a "transmission," which entitled it to lesser protections under ECPA. This interpretation provides a dangerous loophole that may allow law enforcement to bypass the strict warrant requirements for interception of e-mail messages. Rather than comply with the strict interception requirements, law enforcement can go to the suspect's service provider, sometimes with a mere administrative subpoena, and get access to stored e-mail communications. Hopefully, future courts will realize the abrogation of privacy rights inherent in an interpretation that unread e-mail qualifies only as a "stored message" under ECPA, and will hold instead that law enforcement must meet the interception warrant requirements whenever they seek access to unread e-mail.

#### i. Privacy Protection Act

Online systems and their users are protected by the PPA "to the extent they act as publishers and maintain publishing-related materials on the system." Electronic newsletters, e-mail, web pages, and other electronic databases, if not available publicly, may all be protected under the PPA. PPA provides for civil damages against the government and individual agents. As a defense, agents may assert a "reasonable good faith belief" that their conduct was lawful. In Steve Jackson Games, the Court appeared to accept as a "good faith" defense an agent's assertion that he did not know that the PPA applied to online systems, a ruling that will hopefully not be replicated in other jurisdictions.

#### c. Steve Jackson Games

One of the most dramatic examples of an overbroad search and seizure of an online system is the case of Steve Jackson Games v. US. Steve Jackson Games was a small company that designed online role-playing games; it had a computer bulletin board for customer support. Federal agents were after a hacker group known as the "Legion of Doom," and one of the suspected members worked for Steve Jackson Games. The agents raided the company, seizing the online system computer, many extraneous computer parts, printers, and other equipment unrelated to the daily operation of any online system. They had only an unsigned photocopy of a warrant. They also seized a book under development called "GURPS Cyberpunk," a role playing game that described various exotic ways to break into computer systems in an imaginary future world. The agents thought they had come upon a real hacker handbook, but computer experts say that anyone with even limited knowledge of online technology would have known immediately that the handbook was entirely fictional. Law enforcement failed to return any of the equipment for several months, resulting in much damage to the business. Neither Steve Jackson Games nor any other person was ever criminally charged as a result of the raid. Steve Jackson Games sued under ECPA and PPA, and won damages; individual users of the system were also awarded damages.

#### IV. Conclusion: Negotiating for Increased Privacy

The above review reveals the limitations of current privacy protections for online communications. Most significantly, statutory protections can be reduced or negated through private agreement. But private agreements can also be used to *increase* user privacy. Users may negotiate for stronger privacy protections with two of the four

potential privacy intruders -- employers and service providers. In addition, such agreements, and the level of system security they require, may limit the ability of law enforcement and third parties to gain access to the user's communications.

Currently, the trend in service agreements, both with employers and service providers, has been for lessened privacy protection. Many system operators who fear liability for the illegal actions of their users require all users to sign contracts that authorize the system operator to snoop at will, completely negating the ECPA privacy rights. This is a bad business decision for two reasons. First, virtually all crimes contain a "knowledge" requirement. Providers who routinely review e-mail messages are more likely to be seen as "knowing" the contents of those messages, and thus to expose themselves to criminal liability, than providers who never review messages.

Second, the higher the level of privacy granted by the provider to its users, the higher the level of protection against government seizure of the entire online system. The privacy rights of the online system are based largely on the privacy rights of its users. A contract provision that allows providers to snoop in e-mail means that there are no private messages on the system. Thus, by definition, everyone has equal authority to look at the messages, including law enforcement. Law enforcement agents could seize and then roam through the entire system, reading random e-mail even of persons not directly associated with the initial investigation. Conversely, if the online system gives strong privacy rights to its users, law enforcement must tailor their warrant very narrowly to specific messages between those users suspected of criminal activity.

Online users can use these arguments to lobby for strong privacy protections for e-mail at work; the Electronic Mail Association has provided useful sample agreements. The same arguments can be used to persuade Internet Service Providers to change their online service agreements to provide for stronger privacy protections for their customers. Of course, citizens, privacy advocates, and civil rights lawyers should also work to increase online privacy protections through new legislation and case law. There remains much to be done to secure the fundamental right of privacy in the new sphere of cyberspace.

[ [Censorship](#) | [Privacy/Encryption](#) | [ACLU v. Reno](#) | [Cyber-Liberties Updates](#) [Cyber-Liberties Home](#) ]

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March 24, 1999

Testimony to the House Labor and Commerce Committee

Regarding House Bill 410, relating to the privacy of electronic mail and information disclosure by an internet service provider

The Alaska Civil Liberties Union wishes to thank Representative Dyson for introducing House Bill 410, addressing the important issues of internet and email privacy. We appreciate the House Labor and Commerce Committee's hearing this bill at this time, and hope for early action.

The Alaska Civil Liberties Union strongly supports the privacy protections found in both sections of HB410, and offers amendments for the consideration of the Committee. It is our hope that the Committee will develop a consensus measure that will ensure multi-partisan support on this important measure.

House Bill 410

Section 1(a) and 1(b)

The Alaska Civil Liberties Union supports the provisions of Section 1, Subsections (a) and (b), that prohibit interception and distribution of personal communication.

We recommend, in Subsection 1(c) that the penalty structure be modified to ensure that fines leading to possible imprisonment pertain to those situations where the communication intercepted was used in a damaging way.

We suggest that violations of the provisions of Section 1 be classified as no more than violations rather than as misdemeanors; and that any misdemeanor status apply only when the intercepted information has been used in the commission of a crime.

The AkCLU would be pleased to discuss options for civil versus criminal penalties with the sponsor and the AkCLU Board will continue to review this matter and offer additional comment at a later date.

### Section 1(c)

There are circumstances in which it may be necessary to access communication that might otherwise be privileged. It is necessary to define these cases in the workplace to protect all parties.

To ensure that both employers and employees may be confident of who has access to what information, we recommend the following language (new language is underlined).

In a prosecution under this section, it is an affirmative defense that

(1) the defendant was the supervisor of the writer of the message or of the person to whom the message was addressed and who as part of an employment agreement was designated under (2) of this subsection to have access to the electronic data of the writer of the message or of the person to whom the message was addressed;

(2) the defendant was acting in accordance with a written policy of the employer consented to in writing by the writer of the message or by the person to whom the message was addressed concerning the sending or receipt of electronic messages or use of a computer provided by the employer;

### Section 2

We support the intent of Section 2 to ensure that no personal information be disclosed without his or her consent.

We believe that the subscriber should be able to assume that personal information will be kept private unless the subscriber specifically gives permission for its release.

Therefore, we recommend that language be drafted to require that the subscriber must give affirmative consent to disclosure of personal information before such information may be disclosed.

We applaud this legislation to protect all citizens from misuse of personal information handled by internet service providers.

**HB**

**416**

(7)

# HOUSE COMMITTEE REPORT

Date Referred to Committee: February 16, 2000

FURTHER REFERRALS:

HES

Date of Committee Action: 17 MAR 2000

The LABOR AND COMMERCE Committee considered:

HB 416

HOUSE BILL NO. 416

PROSTATE CANCER SCREENING

"An Act relating to insurance coverage for prostate cancer screening."

recommends it be replaced with the following committee substitute \_\_\_\_\_  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_  
 fiscal note(s) DOH 3/6/00  fiscal note(s) \_\_\_\_\_

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

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	<input checked="" type="checkbox"/>			

CHAIR'S SIGNATURE *[Signature]*

3-17-2000

# FISCAL NOTE

**STATE OF ALASKA**  
**2000 LEGISLATIVE SESSION**

**BILL NO. HB 416 (L&C)**

Revision Date/Time _____	Dept. Affected _____	Administration _____
Title <u>An Act relating to insurance coverage</u>	BRU _____	<u>Centralized Administrative Services</u>
for prostrate cancer screening.	Component _____	<u>Retirement and Benefits</u>
Sponsor <u>Health, Education &amp; Social Services</u>		
Requester <u>Labor and Commerce</u>	Component No. _____	<u>64</u>

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURE	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	*	*	*	*	*	*

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

FUND SOURCE	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (1029 P/E Retire)						
<b>TOTAL</b>	*	*	*	*	*	*

Estimate of any current year (FY2000) cost: \_\_\_\_\_

**POSITIONS**

POSITION TYPE	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

Lowering the qualifying ages for prostate cancer screening will increase state employee health insurance costs by approximately \$20.0 per year. Because employer contributions to the State's health plans are capped, this increase will be borne by state employees.

Prepared by: <u>Guy Bell, Director</u>	Phone <u>465-4471</u>
Division <u>Retirement and Benefits</u>	Date/Time <u>3/6/00 3:19 PM</u>
Approved by Commissioner: <u>Robert Poe, Jr</u> <i>Alison M. Stage</i>	Date <u>3/6/00</u>
Agency <u>Department of Administration</u>	

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# FISCAL NOTE

**STATE OF ALASKA**  
**2000 LEGISLATIVE SESSION**

**BILL NO. HB 416**

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Community & Economic Development  
 Title An Act relating to insurance coverage for prostate BRU Insurance  
cancer screening. Component Insurance  
 Sponsor H (HES)  
 Requester (H) L&C Component No. 354

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2000) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

There is no fiscal impact on this component.

Prepared by: Robert A. Lohr  
 Division Insurance  
 Approved by Commissioner Deborah B. Sedwick  
 Agency Community & Economic Development

Phone 269-7900  
 Date/Time 3-2-00 3:13 PM  
 Date 3-9-00

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HB 416, Prostate Cancer Screening  
Testimony by Michael H. Miller  
House Labor and Commerce Committee  
March 17, 2000

Mr. Chairman and members of the committee,

My name is Michael H. Miller. I am an advanced prostate cancer patient and prostate cancer advocate. I became a four-year survivor of prostate cancer on January 17, 2000. At the time of my diagnosis in 1996, I was given 17 to 35 months to live. An aggressive clinical (experimental) trial program has enabled me to be here today to urge your support for HB 416.

In 1996, the Legislature passed SB 253, a bill requiring insurers to cover the cost of annual prostate cancer screening for men 50 years or older. HB 416 would amend that law by requiring this screening be covered at age 40, and at age 35 for men at high risk of contracting this disease. "High risk" is defined in the bill as a person who is an African-American or who has a family history of prostate cancer.

According to the American Cancer Society, this year 1.2 million Americans will contract cancer and 552,000 will die of the disease. In our state, an estimated 1,500 Alaskans, or four a day, will contract cancer this year, 200 more people on an annual basis than three years ago. An estimated seven hundred Alaskans will die of cancer this year, 2 per day, or 58 per month. Prostate cancer accounts for 29% of all the male-related cancers and 11% of cancer-related deaths in men.

This year, approximately 715 men in Alaska will be diagnosed with cancer, nearly one quarter with prostate cancer. Of the estimated 354 men that will die of cancer this year in Alaska, about five percent will die from prostate cancer. African American men have a 32 percent higher risk of contracting this disease than others.

In 1979, Dr. Gerald Murphy, a Seattle oncology/urologist, developed the Prostate Specific Blood Antigen (PSA) test to help diagnose prostate cancer. The test became available to all doctors in 1990. A decade old, this test has led to a decrease in the prostate cancer mortality rate. In 1976, there was a 30.0% mortality rate for men with prostate cancer. In 2000, that mortality rate is expected to drop to 17.7%, due in large part to the PSA test.

Today, more and more young men are being diagnosed with prostate cancer. According to the American Cancer Society, 209,900 men in the United States were diagnosed with prostate cancer in 1997, and 41,800 died of the disease. About 23 percent or 47,600 of those diagnosed that year were under age 65.

As a patient who was diagnosed with prostate cancer at the age 43, I know that prostate cancer in men under 65 tends to be more aggressive in nature. Early detection, especially for men who are high risk, is the best way to save lives. I have a vested interest in this legislation because my two sons have up to six times a higher risk of contracting prostate cancer because I have the disease.

Located in your packet is a page listing statistical information from the 1999 Alaska Cancer Registry (reported data from 1996) and the 2000 American Cancer Society - Cancer Facts & Figures indicating the prostate cancer risk by age groupings. Statistics for 1999 and 2000 show that less than one in 10,000 a man is predicted to contract prostate cancer before age 40. In 1999, statistics for the 40-59-age group show one in 57 men will contract the disease. The 2000 statistics show a greater occurrence in this age group, with 1 in 53. Four years ago the statistics in the 40-59 age group were 1 in 59. If this trend continues, in 2008, men in this age group will have one a 1 in 35 chance of contracting prostate cancer.

With an aging baby-boomer society, more and more men will be diagnosed with prostate cancer. It would be prudent for the State of Alaska and the insurance industry to make an investment in preventative health care maintenance for men starting prostate cancer screening at the age of 35 for those at high risk and age 40 for others. HB 416 will help men be diagnosed at a younger age, saving both lives and money.

The 1999 Alaska Cancer Registry report shows that only two men aged 40 to 44 were diagnosed with prostate cancer in Alaska in 1996, and 10 in the 45 to 49 age group. I was one of those two men in 1996. At age 43, I was diagnosed with advanced prostate cancer. If the PSA test had been made available to me at age 40, I would probably been diagnosed with early stage prostate cancer and my disease might not have spread.

Prostate cancer has left me unable to work. I, like many cancer survivors, are receiving Social Security Disability Income and State Disability Retirement. The average cost for prostate cancer treatment is \$6,000.00 to \$10,000.00 annually. My expenses are running \$12,000 to \$15,000 annually. It is cost effective to catch and treat this disease early on, rather than pay for the long-term cost of treatment, estimated at \$48,690 per person (refer to the Pay Now...Pay Later page - second column from left).

HB 416 should not cause insurance premiums to increase. Although insurers generally oppose mandates, when SB 253 was passed in 1996, an Aetna representative testified that Aetna would not oppose this bill if the Legislature felt the benefits of the screening would outweigh the small costs. He said an argument could be made that early detection should result in more efficient treatment and ultimately avoid high catastrophic treatment costs.

Men dying of prostate cancer are leaving behind spouses, children and many family members and friends. While we have made great strides in the United States in cancer treatment research, too many men are still being lost at too young an age.

Over the last four years approximately 800 Alaska men have been diagnosed with prostate cancer. Many of their sons will also contract this disease. Let's give men an opportunity to be diagnosed at an earlier age. Those with a five-year survival rate from this disease, have a 100 percent chance they will die of another cause.

I would like to leave my two sons the best possible gift, an opportunity for them to be screened for prostate cancer at an earlier age, because the odds are they will contract the disease at a younger age than I did.

I urge your support of HB 416 for the future health and well being of all Alaskan families. Thank you for time.

# PAY NOW... OR PAY LATER

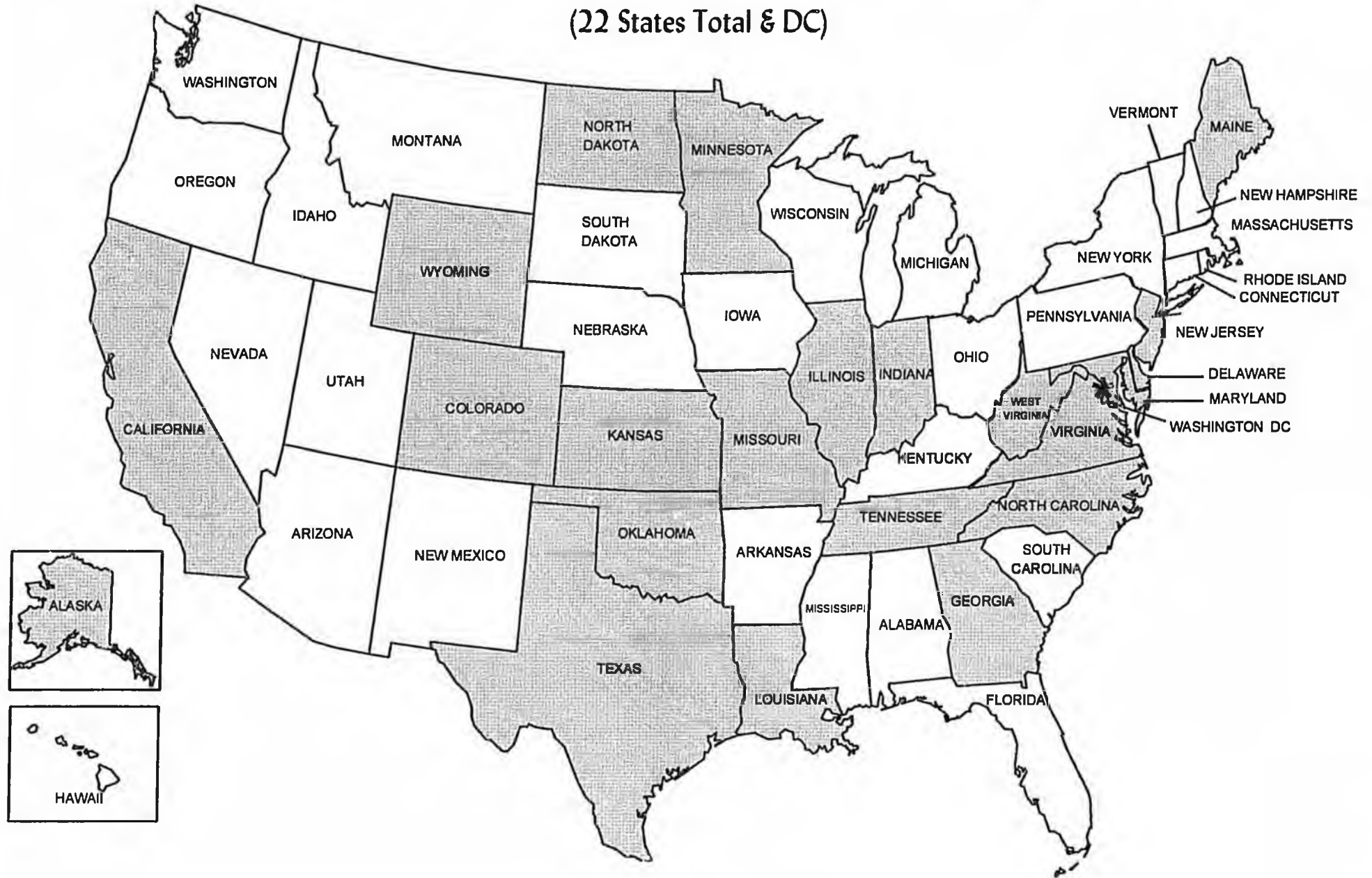
Bicycle or run for aerobic exercise	Eat 10 slices of low-fat cheese pizza per week (the tomato sauce contains cancer-fighting lycopene)	Use SPF-15 sunscreen once per day, 365 days per year	Quit smoking cigarettes or cigars	Brush and floss regularly	Eat a cup of oatmeal a day	Limit alcohol intake to one or two drinks per day	Swim (a low-impact way to minimize joint stress and improve flexibility)	Sleep 8 hours per night
\$3,200 (for four bikes) \$4,830 (for 57 pairs of shoes)	\$18,720	\$6,857	\$0 - \$300 for stop-smoking programs, some including a 10-week course of nicotine gum or patches	\$1,210 for toothbrushes, toothpaste and floss	\$2,738	\$21,900 to \$43,800 for wine or beer	\$5,700 - \$16,200 for yearly memberships at public pool	\$1,950 - \$3,300 for three good queen or king-size mattresses
Cardiovascular disease	Prostate cancer	Skin cancer	Lung cancer or oral cancers	Tooth decay or gum disease	Colon cancer	Alcohol-related liver disease	Osteoarthritis	Automobile (and other) accidents caused by sleep deprivation
\$44,200 for bypass surgery \$21,760 for angioplasty \$103,576 to recover from stroke	\$48,690 from diagnosis until death	\$9,349 for one hospital stay. Doctors' fees and follow-up care are extra	\$29,200 from diagnosis to death for lung cancer. \$12,739 for one hospital stay to treat oral cancer.	\$1,400 - \$4,500 for dentures. \$2,000 - \$4,000 for each full-mouth surgical treatment for gum disease	\$51,865 from diagnosis until death	\$304,567 for a transplant	\$19,392 for one in-hospital treatment	Your life. You tell us what it's worth!

NATIONAL MEN'S HEALTH FOUNDATION (EXCERPTED FROM MEN'S HEALTH MAGAZINE)

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# States with Mandated Benefits for Prostate Cancer Screening as of 6/20/99

(22 States Total & DC)



Sources: American Cancer Society fact sheet, "Prostate Cancer: State Facts", 4/99  
National Cancer Institute, State Cancer Legislative Database, 6/99

# Alaska Cancer Registry

## February 1999

**Percentage of Population (Probability) Developing Invasive Cancers at Certain Ages by Sex, US, 1992-1994<sup>2</sup>**

		Birth to 39	40 to 59	60-79	Birth to Death
All Sites*	Male	1.68 (1 in 60)	8.23 (1 in 12)	36.69 (1 in 3)	46.64 (1 in 2)
	Female	1.94 (1 in 52)	9.05 (1 in 11)	22.21 (1 in 5)	38.00 (1 in 3)
Breast	Female	0.44 (1 in 227)	3.94 (1 in 25)	6.89 (1 in 15)	12.52 (1 in 8)
Colorectal	Male	0.06 (1 in 1,667)	0.88 (1 in 114)	4.19 (1 in 24)	5.88 (1 in 17)
	Female	0.05 (1 in 2,000)	0.68 (1 in 147)	3.18 (1 in 31)	5.72 (1 in 17)
Lung	Male	0.04 (1 in 2,500)	1.39 (1 in 72)	6.69 (1 in 15)	8.43 (1 in 12)
	Female	0.03 (1 in 3,333)	1.00 (1 in 100)	3.88 (1 in 26)	5.55 (1 in 18)
Prostate	Male	Less than 1 in 10,000	1.74 (1 in 57)	16.40 (1 in 6)	18.85 (1 in 5)

Reprinted with permission of American Cancer Society, Inc.

\*Excludes basal and squamous cell skin cancers and in situ carcinomas except urinary bladder.

Data source: NCI Surveillance, Epidemiology, and End Results Program, 1997

1998, American Cancer Society, Inc.

# CANCER FACTS & FIGURES 2000

**Probability of Developing Invasive Cancers Over Selected Age Intervals, by Sex, United States, 1994-1996\***

		Birth to 39 (%)	40 to 59 (%)	60 to 79 (%)	Birth to Death (%)
All sites†	Male	1.61 (1 in 62)	8.17 (1 in 12)	33.65 (1 in 3)	43.56 (1 in 2)
	Female	1.94 (1 in 52)	9.23 (1 in 11)	22.27 (1 in 4)	38.11 (1 in 3)
Breast	Female	0.43 (1 in 235)	4.06 (1 in 25)	6.88 (1 in 15)	12.56 (1 in 8)
Colon & Rectum	Male	0.06 (1 in 1,579)	0.85 (1 in 124)	3.97 (1 in 29)	5.64 (1 in 18)
	Female	0.05 (1 in 1,947)	0.67 (1 in 149)	3.06 (1 in 33)	5.55 (1 in 18)
Lung & Bronchus	Male	0.04 (1 in 2,592)	1.29 (1 in 78)	6.35 (1 in 16)	8.11 (1 in 12)
	Female	0.03 (1 in 2,894)	0.94 (1 in 106)	3.98 (1 in 25)	5.69 (1 in 18)
Prostate	Male	Less than 1 in 10,000	1.90 (1 in 53)	13.69 (1 in 7)	15.91 (1 in 6)

\*Of those free of cancer at beginning of age interval. Based on cancer cases diagnosed during 1994-1996. The "1 in" statistic and the inverse of the percentage may not be equivalent due to rounding.

†Excludes basal and squamous cell skin cancers and in situ carcinomas except urinary bladder.

Source: DEVCAN Software, Version 4.0, Surveillance, Epidemiology, and End Results Program, 1973-1996, Division of Cancer Control and Population Sciences, National Cancer Institute.

American Cancer Society, Surveillance Research

# Prostate

Data Definition: Incidence data were obtained from the Alaska Cancer Registry using primary site ICD-O-2 code C61.9, excluding morphology codes 9590-9989. Mortality data were obtained from Alaska State death certificates using the underlying cause of death ICD-9 codes 185.

## 1996 Alaska Residents

### Incidence and Mortality Summary by Sex

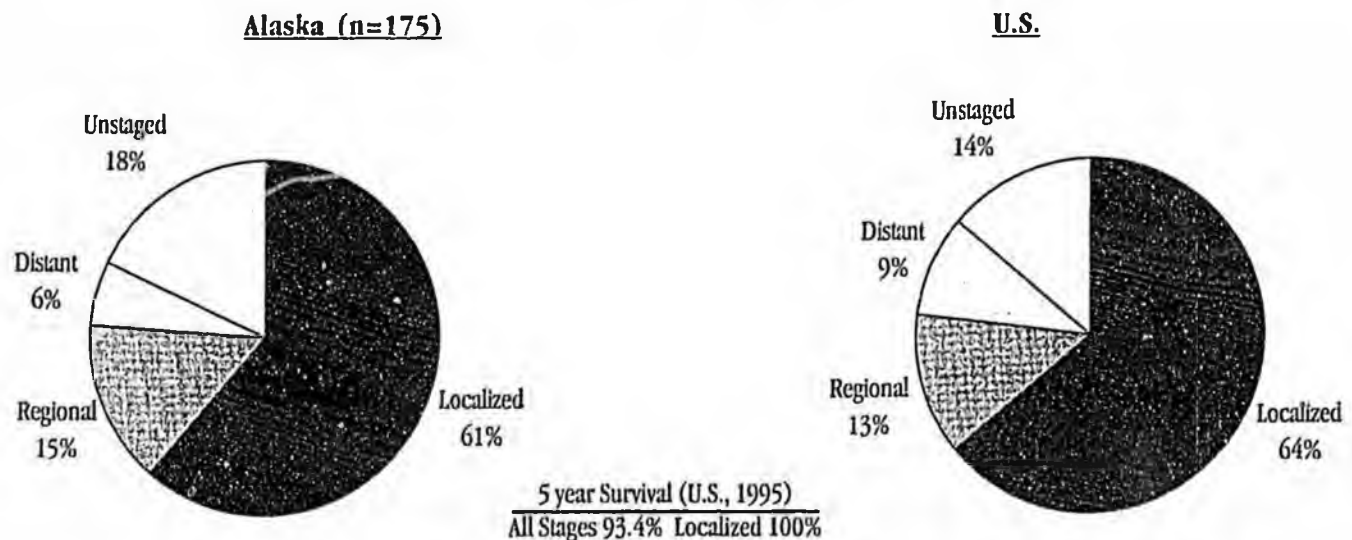
rates per 100,000 population age-adjusted to 1970 U.S. population

<u>Incidence</u>	<u>Male</u>
In situ cancer	0
Invasive cancer	175
Incidence rate	100.8
1995 U.S. rate*	137.2
*Excludes in situ cases	
<u>Mortality</u>	<u>Male</u>
Deaths	18
Mortality rate	12.5
1995 U.S. rate	24.9

### Invasive Prostate Cancer by Borough/Census Area

Aleutians East	0	Kenai Peninsula	21	Skagway-Hoonah-Angoon	2
Aleutians West	1	Ketchikan Gateway	6	Southeast Fairbanks	2
Anchorage	63	Kodiak Island	7	Valdez-Cordova	7
Bethel	0	Lake and Peninsula	0	Wade Hampton	0
Bristol Bay	0	Matanuska-Susitna	7	Wrangell-Petersburg	3
Denali	0	Nome	3	Yakutat	0
Dillingham	1	North Slope	1	Yukon-Koyukuk	3
Fairbanks North Star	23	Northwest Arctic	0	Unknown	5
Haines	1	Prince of Wales-Outer Ketchikan	2		
Juneau	13	Sitka	4		

### Stage at Diagnosis



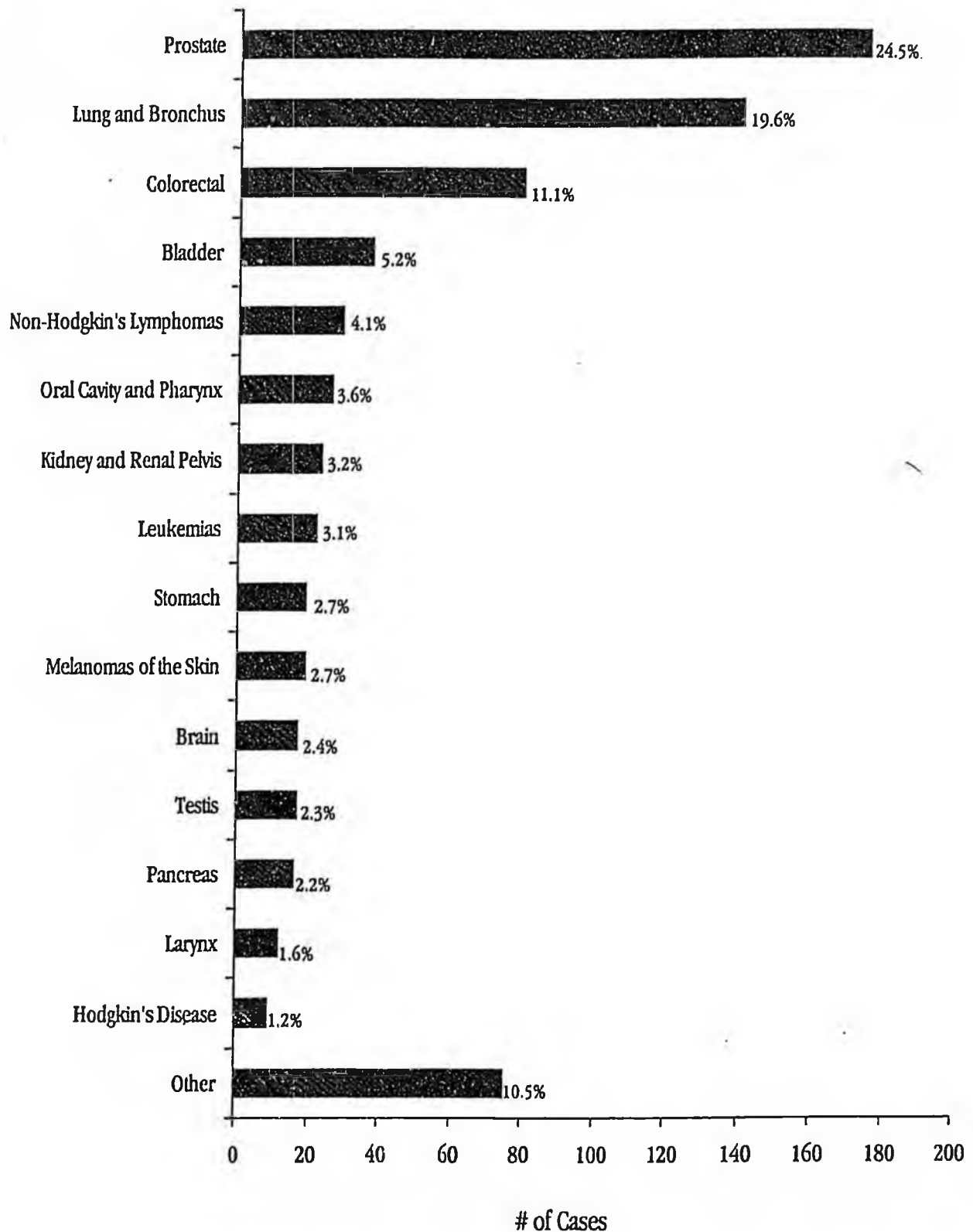


**Table 1. Age Distribution of Invasive Cancers - Alaska, 1996**

Site of Cancer	All Ages	45-49		50-54		55-59		60-64		65-69		70-74		75-79		80-84		85+	
	#	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%
Cervix Uteri	26	4	15.4%	2	7.7%	3	11.5%	1	3.8%	1	3.8%	1	3.8%	0	0.0%	0	0.0%	0	0.0%
Corpus Uteri	35	2	5.7%	2	5.7%	6	17.1%	7	20.0%	5	14.3%	1	2.9%	1	2.9%	3	8.6%	1	2.9%
Uterus NOS	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Ovary	33	5	15.2%	2	6.1%	3	9.1%	2	6.1%	4	12.1%	4	12.1%	1	3.0%	0	0.0%	1	3.0%
Vagina	1	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Vulva	1	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%
Other Female Genital Organs	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
<b>Male Genital System</b>	<b>192</b>	<b>13</b>	<b>6.8%</b>	<b>12</b>	<b>6.3%</b>	<b>24</b>	<b>12.5%</b>	<b>25</b>	<b>13.0%</b>	<b>33</b>	<b>17.2%</b>	<b>39</b>	<b>20.3%</b>	<b>15</b>	<b>7.8%</b>	<b>10</b>	<b>5.2%</b>	<b>5</b>	<b>2.6%</b>
Prostate	175	10	5.7%	12	6.9%	24	13.7%	25	14.3%	33	18.9%	39	22.3%	15	8.6%	10	5.7%	5	2.9%
Testis	17	3	17.6%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Penis	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Other Male Genital Organs	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
<b>Urinary System</b>	<b>91</b>	<b>3</b>	<b>3.3%</b>	<b>8</b>	<b>8.8%</b>	<b>17</b>	<b>18.7%</b>	<b>8</b>	<b>8.8%</b>	<b>16</b>	<b>17.6%</b>	<b>15</b>	<b>16.5%</b>	<b>9</b>	<b>9.9%</b>	<b>4</b>	<b>4.4%</b>	<b>3</b>	<b>3.3%</b>
Urinary Bladder (including in situ)	53	2	3.8%	4	7.5%	8	15.1%	6	11.3%	11	20.8%	6	11.3%	6	11.3%	3	5.7%	2	3.8%
Kidney and Renal Pelvis	33	0	0.0%	4	12.1%	9	27.3%	2	6.1%	5	15.2%	7	21.2%	1	3.0%	1	3.0%	1	3.0%
Ureter	3	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	2	66.7%	1	33.3%	0	0.0%	0	0.0%
Other Urinary Organs	2	1	50.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	50.0%	0	0.0%	0	0.0%
<b>Eye &amp; Orbit</b>	<b>3</b>	<b>0</b>	<b>0.0%</b>	<b>1</b>	<b>33.3%</b>	<b>0</b>	<b>0.0%</b>	<b>0</b>	<b>0.0%</b>	<b>0</b>	<b>0.0%</b>	<b>0</b>	<b>0.0%</b>	<b>0</b>	<b>0.0%</b>	<b>0</b>	<b>0.0%</b>	<b>0</b>	<b>0.0%</b>
<b>Brain &amp; Nervous System</b>	<b>27</b>	<b>3</b>	<b>11.1%</b>	<b>2</b>	<b>7.4%</b>	<b>5</b>	<b>18.5%</b>	<b>2</b>	<b>7.4%</b>	<b>2</b>	<b>7.4%</b>	<b>1</b>	<b>3.7%</b>	<b>0</b>	<b>0.0%</b>	<b>0</b>	<b>0.0%</b>	<b>0</b>	<b>0.0%</b>
Brain	27	3	11.1%	2	7.4%	5	18.5%	2	7.4%	2	7.4%	1	3.7%	0	0.0%	0	0.0%	0	0.0%
Cranial Nerves & Other	0	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%

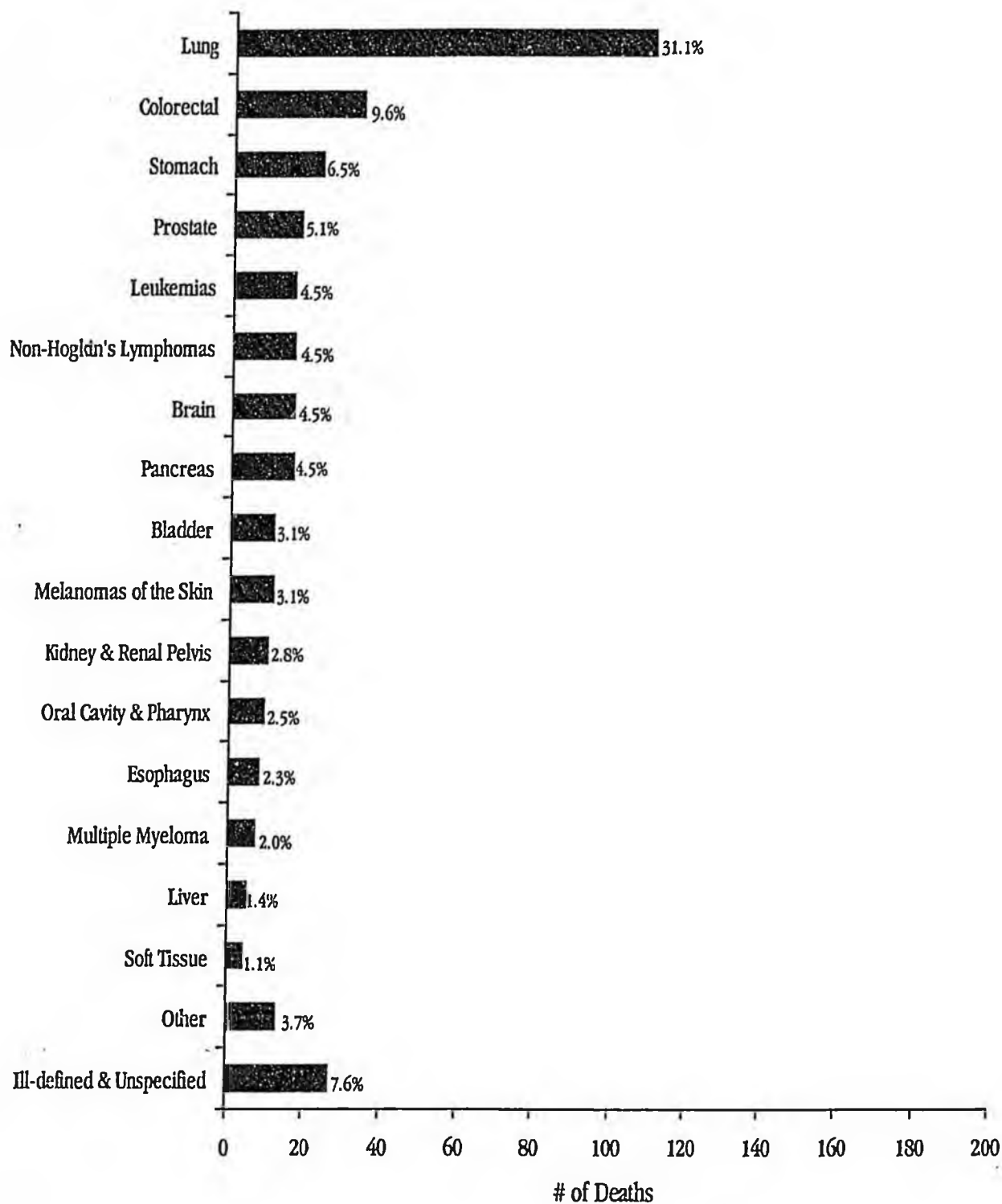
## Percent of Cancer Cases by Site

## 1996 Male Invasive Cancer Cases (n=715) - Alaska Residents



Percent of Cancer Deaths by Site

1996 Male Cancer Deaths (n=354) - Alaska Residents



# CANCER: BASIC FACTS

## What Is Cancer?

Cancer is a group of diseases characterized by uncontrolled growth and spread of abnormal cells. If the spread is not controlled, it can result in death. Cancer is caused by both external (chemicals, radiation, and viruses) and internal (hormones, immune conditions, and inherited mutations) factors. Causal factors may act together or in sequence to initiate or promote carcinogenesis. Ten or more years often pass between exposures or mutations and detectable cancer. Cancer is treated by surgery, radiation, chemotherapy, hormones, and immunotherapy.

## Can Cancer Be Prevented?

All cancers caused by cigarette smoking and heavy use of alcohol could be prevented completely. The ACS estimates that in 2000 about 171,000 cancer deaths are expected to be caused by tobacco use, and about 19,000 cancer deaths may be related to excessive alcohol use, frequently in combination with tobacco use.

Scientific evidence suggests that about one-third of the 552,200 cancer deaths expected to occur in 2000 are expected to be related to nutrition and other lifestyle factors and could also be prevented. Certain cancers are related to viral infections—for example, hepatitis B virus (HBV), human papillomavirus (HPV), human immunodeficiency virus (HIV), human T-cell leukemia/lymphoma virus-I (HTLV-I), and others—and could be prevented through behavioral changes. In addition, many of the 1.3 million skin cancers that are expected to be diagnosed in 2000 could have been prevented by protection from the sun's rays.

Regular screening examinations by a health care professional can result in the detection of cancers of the breast, colon, rectum, cervix, prostate, testis, oral cavity, and skin at earlier stages, when treatment is more likely to be successful. Self examinations for cancers of the breast and skin may also result in detection of tumors at earlier stages. The screening-accessible cancers listed above account for about half of all new cancer cases. The 5-year relative survival rate for these cancers is about 80%. If all Americans participated in regular cancer screenings, this rate could increase to 95%.

## Who Is at Risk of Developing Cancer?

Anyone. Since the occurrence of cancer increases as individuals age, most cases affect adults middle-aged or older. Nearly 80% of all cancers are diagnosed at ages 55 and older. Cancer researchers use the word risk in different ways. *Lifetime risk* refers to the probability that an individual, over the course of a lifetime, will develop

cancer or die from it. In the US, men have a 1 in 2 lifetime risk of developing cancer, and for women the risk is 1 in 3.

*Relative risk* is a measure of the strength of the relationship between risk factors and the particular cancer. It compares the risk of developing cancer in persons with a certain exposure or trait to the risk in persons who do not have this exposure or trait. For example, smokers have a 10-fold relative risk of developing lung cancer compared with nonsmokers. This means that smokers are about 10 times more likely to develop lung cancer (or have a 900% increased risk) than nonsmokers. Most relative risks are not this large. For example, women who have a first-degree (mother, sister, or daughter) family history of breast cancer have about a 2-fold increased risk of developing breast cancer compared with women who do not have a family history. This means that women with a first-degree family history are about two times or 100% more likely to develop breast cancer than women who do not have a family history of the disease.

All cancers involve the malfunction of genes that control cell growth and division. About 5% to 10% of cancers are clearly hereditary, in that an inherited faulty gene predisposes the person to a very high risk of particular cancers. The remainder of cancers are not hereditary, but result from damage to genes (mutations) that occurs throughout our lifetime, either due to internal factors, such as hormones or the digestion of nutrients within cells, or external factors, such as chemicals and sunlight.

## How Many People Alive Today Have Ever Had Cancer?

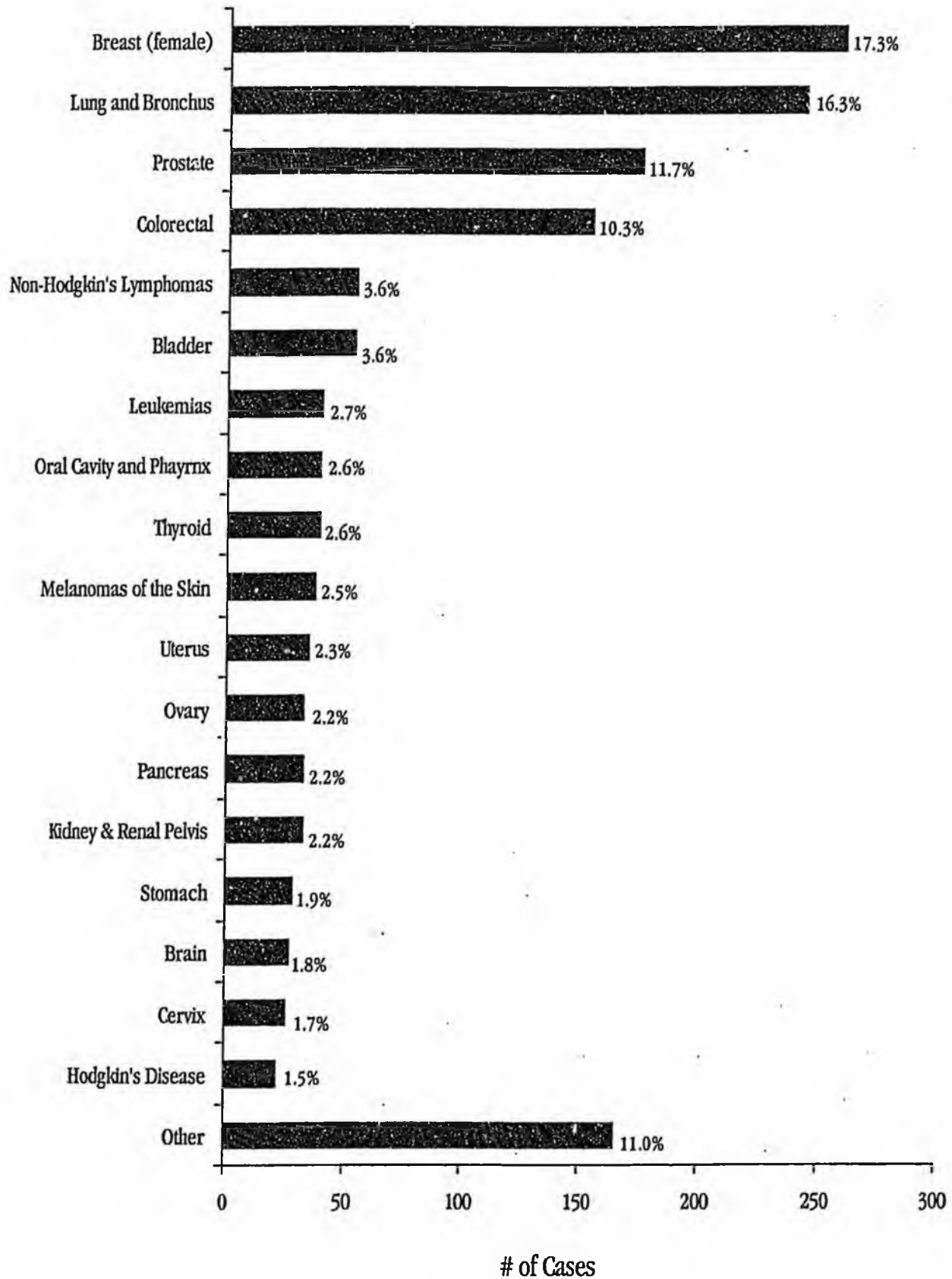
The National Cancer Institute estimates that approximately 8.4 million Americans alive today have a history of cancer. Some of these individuals can be considered cured, while others still have evidence of cancer and may be undergoing treatment.

## How Many New Cases Are Expected to Occur This Year?

About 1,220,100 new cancer cases are expected to be diagnosed in 2000. Since 1990, approximately 13 million new cancer cases have been diagnosed. These estimates do not include carcinoma in situ (noninvasive cancer) of any site except urinary bladder, and do not include basal and squamous cell skin cancers. Approximately 1.3 million cases of basal and squamous cell skin cancers are expected to be diagnosed this year.

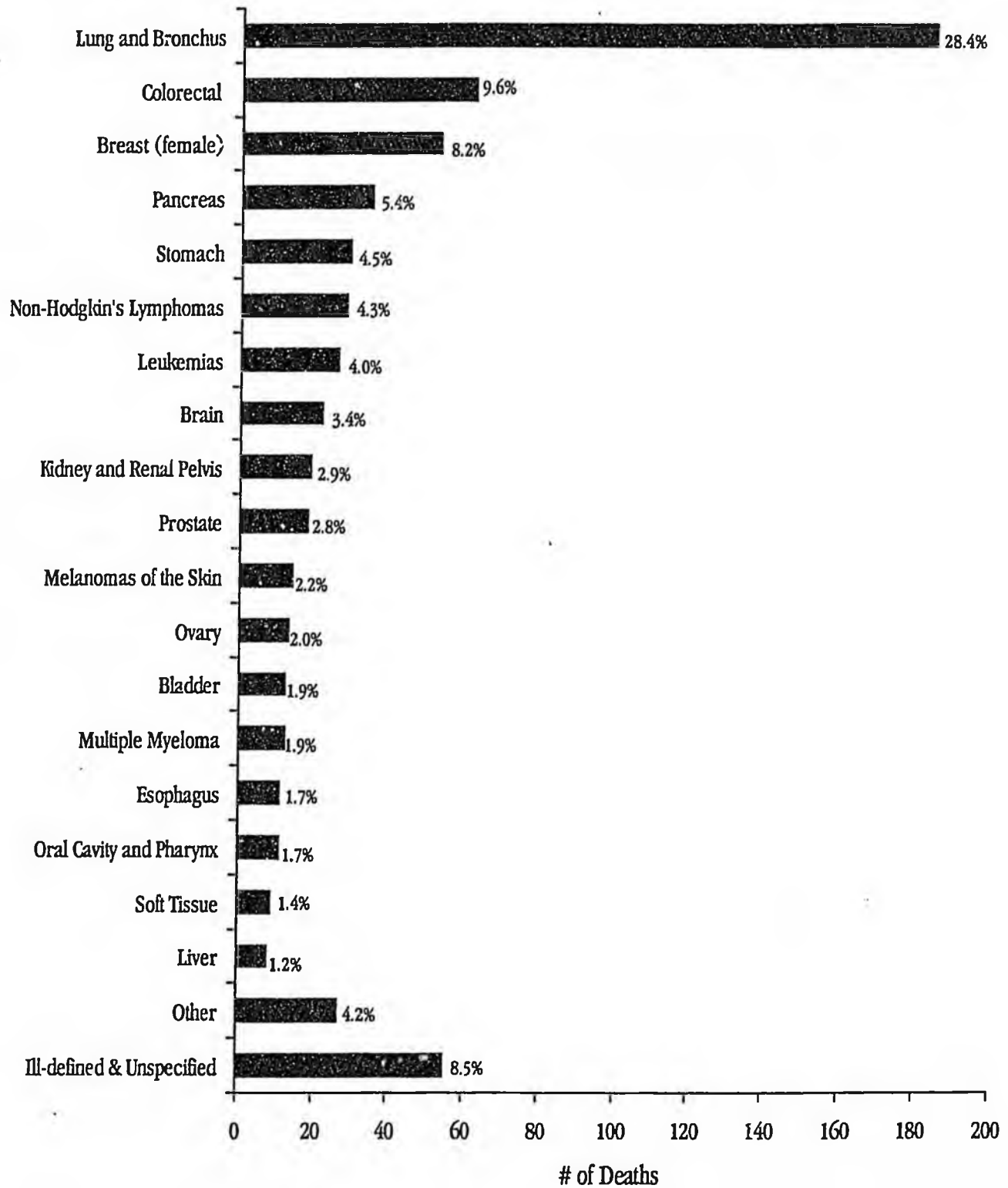
## Percent of Cancer Cases by Site

## 1996 Invasive Cancer Cases (n=1495) - Alaska Residents



Percent of Cancer Deaths by Site

1996 Cancer Deaths (n=648) - Alaska Residents



## Leading Sites of New Cancer Cases and Deaths—2000 Estimates\*

Cancer Cases by Site and Sex		Cancer Deaths by Site and Sex	
Male	Female	Male	Female
Prostate 180,400	Breast 182,800	Lung & bronchus 89,300	Lung & bronchus 67,600
Lung & bronchus 89,500	Lung & bronchus 74,600	Prostate 31,900	Breast 40,800
Colon & rectum 63,600	Colon & rectum 66,600	Colon & rectum 27,800	Colon & rectum 28,500
Urinary bladder 38,300	Uterine corpus 36,100	Pancreas 13,700	Pancreas 14,500
Non-Hodgkin's lymphoma 31,700	Non-Hodgkin's lymphoma 23,200	Non-Hodgkin's lymphoma 13,700	Ovary 14,000
Melanoma of the skin 27,300	Ovary 23,100	Leukemia 12,100	Non-Hodgkin's lymphoma 12,400
Oral cavity 20,200	Melanoma of the skin 20,400	Esophagus 9,200	Leukemia 9,600
Kidney 18,800	Urinary bladder 14,900	Liver 8,500	Uterine corpus 6,500
Leukemia 16,900	Pancreas 14,600	Urinary bladder 8,100	Brain 5,900
Pancreas 13,700	Thyroid 13,700	Stomach 7,600	Stomach 5,400
All Sites 619,700	All Sites 600,400	All Sites 284,100	All Sites 268,100

\*Excludes basal and squamous cell skin cancer and in situ carcinomas except urinary bladder.

## Five-Year Relative Survival Rates\* by Stage at Diagnosis, 1989-1995

Site	All Stages %	Local %	Regional %	Distant %	Site	All Stages %	Local %	Regional %	Distant %
Breast (female)	85	96	77	21	Ovary	50	95	79	28
Colon & rectum	61	90	65	8	Pancreas	4	18	6	1
Esophagus	12	25	13	2	Prostate†	92	100	—	32
Kidney	60	88	61	10	Stomach	21	60	21	2
Larynx	65	81	53	41	Testis	95	99	97	74
Liver	5	15	5	1	Thyroid	95	100	92	43
Lung & bronchus	14	49	20	2	Urinary bladder	81	93	49	6
Melanoma	88	95	58	13	Uterine cervix	70	91	48	13
Oral	53	81	43	22	Uterine corpus	84	95	64	25

\*Rates are adjusted for normal life expectancy and are based on cases diagnosed from 1989-1995, followed through 1996.

†The rate for local stage represents local and regional stages combined.

**Local:** An invasive malignant cancer confined entirely to the organ of origin. **Regional:** A malignant cancer that 1) has extended beyond the limits of the organ of origin directly into surrounding organs or tissues; 2) involves regional lymph nodes by way of lymphatic system; or 3) has both regional extension and involvement of regional lymph nodes.

**Distant:** A malignant cancer that has spread to parts of the body remote from the primary tumor either by direct extension or by discontinuous metastasis to distant organs, tissues, or via the lymphatic system to distant lymph nodes.

Source: Surveillance, Epidemiology, and End Results Program, 1973-1996, Division of Cancer Control and Population Sciences, National Cancer Institute.

American Cancer Society, Surveillance Research

**Early Detection:** At present, only biopsy yields a certain diagnosis, and because of the "silent" course of the disease, the need for biopsy is likely to be obvious only after the disease has advanced. Researchers are focusing on ways to diagnose pancreatic cancer before symptoms occur.

**Treatment:** Surgery, radiation therapy, and chemotherapy are treatment options that can extend survival and/or relieve symptoms in many patients but are not likely to produce a cure for most. Clinical trials with several new agents may offer improved survival and should be considered an option.

**Survival:** For all stages combined, the 1-year relative survival rate is only 19%, and the 5-year rate is 4%.

## PROSTATE

**New Cases:** An estimated 180,400 new cases in the US during 2000. Prostate cancer incidence rates remain significantly higher in black men than in white men. Between 1989 and 1992, prostate cancer incidence rates increased dramatically, probably due to earlier diagnosis in men without any symptoms, by increased use of prostate-specific antigen (PSA) blood test screenings. Prostate cancer incidence rates are now declining; rates peaked in 1992 among white men and in 1993 among black men.

**Deaths:** An estimated 31,900 deaths in 2000, the second leading cause of cancer death in men. During 1992-1996, prostate cancer mortality rates declined significantly (-2.5% per year). Although mortality rates are declining among white and black men, rates in black men remain more than twice as high as rates in white men.

**Signs and Symptoms:** Weak or interrupted urine flow; inability to urinate, or difficulty starting or stopping the urine flow; the need to urinate frequently, especially at night; blood in the urine; pain or burning on urination; continual pain in lower back, pelvis, or upper thighs. Most of these symptoms are nonspecific and may be similar to those caused by benign conditions such as infection or prostate enlargement.

**Risk Factors:** The incidence of prostate cancer increases with age; more than 75% of all prostate cancers are diagnosed in men over age 65. Black Americans have the highest prostate cancer incidence rates in the world; the disease is common in North America and Northwestern Europe and is rare in Asia, Africa, and South America. Recent genetic studies suggest that strong familial predisposition may be responsible for 5%-10% of prostate cancers. International studies suggest that dietary fat may also be a factor.

**Early Detection:** Men age 50 and older who have at least a 10-year life expectancy should talk with their health care professional about having a digital rectal exam of the prostate gland and a prostate-specific antigen (PSA) blood test every year. Men who are at high risk for prostate cancer (black men or men who have a history of prostate cancer in close family members) should consider beginning these tests at an earlier age.

**Treatment:** Depending on age, stage of the cancer, and other medical conditions of the patient, surgery and radiation should be discussed with the patient's physicians. Hormones and chemotherapy or combinations of these options might be considered for metastatic disease. Hormone treatment may control prostate cancer for long

periods by shrinking the size of the tumor, thus relieving pain and other symptoms. Careful observation without immediate active treatment ("watchful waiting") may be appropriate, particularly for older individuals with low-grade and/or early stage tumors.

**Survival:** Seventy-nine percent of all prostate cancers are discovered in the local and regional stages; the 5-year relative survival rate for patients whose tumors are diagnosed at these stages is 100%. Over the past 20 years, the survival rate for all stages combined has increased from 67% to 92%. Survival after a diagnosis of prostate cancer continues to decline beyond five years. According to the most recent data, 67% of men diagnosed with prostate cancer survive 10 years and 52% survive 15 years.

## SKIN

**New Cases:** Approximately 1.3 million cases a year of highly curable basal cell or squamous cell cancers. They are more common among individuals with lightly pigmented skin. The most serious form of skin cancer is melanoma, which is expected to be diagnosed in about 47,700 persons in 2000. Since the early 1970s, the incidence rate of melanoma has increased significantly on average 4% per year from 5.7 per 100,000 in 1973 to 13.8 in 1996. Incidence rates are more than 10 times higher in whites than in blacks. Other important skin cancers include Kaposi's sarcoma and cutaneous T-cell lymphoma.

**Deaths:** An estimated 9,600 deaths this year, 7,700 from melanoma and 1,900 from other skin cancers.

**Signs and Symptoms:** Any change on the skin, especially a change in the size or color of a mole or other darkly pigmented growth or spot. Scaliness, oozing, bleeding, or change in the appearance of a bump or nodule, the spread of pigmentation beyond its border, a change in sensation, itchiness, tenderness, or pain.

**Risk Factors:** Excessive exposure to ultraviolet radiation; fair complexion; occupational exposure to coal tar, pitch, creosote, arsenic compounds, or radium; family history; and multiple nevi (moles) or atypical nevi.

**Prevention:** The sun's ultraviolet rays are strongest during the midday hours (10 a.m.-4 p.m.); exposure at these times should be limited or avoided. When outdoors, cover as much skin as possible with a hat that shades the face, neck, and ears, and a long-sleeved shirt and long pants. Sunscreen comes in various strengths, graded by the solar protection factor (SPF). Use a sunscreen with an SPF of 15 or higher. Because of the possible link between severe sunburns in childhood and greatly increased risk of melanoma in later life, children, in particular, should be protected from the sun.

**Early Detection:** Early detection is critical. Recognition of changes in skin growths or the appearance of new growths is the best way to find early skin cancer. Adults should practice skin self-exam regularly. Suspicious lesions should be evaluated promptly by a physician. Basal and squamous cell skin cancers often take the form of a pale, waxlike, pearly nodule, or a red, scaly, sharply outlined patch. A sudden or progressive change in a mole's appearance should be checked by a physician. Melanomas often start as small, mole-like growths that increase in size and change color. A simple ABCD rule outlines the warning signals of melanoma: A is for asymmetry. One half of the mole does not match the other half. B is for border irregularity. The edges are ragged, notched, or blurred. C is for color. The pigmentation is not uniform, with variable degrees of tan, brown, or black. D is for diameter greater than 6 millimeters. Any sudden or progressive increase in size should be of particular concern.

**Treatment:** There are five methods of treatment for basal cell cancer and squamous cell cancer: surgery (used in 90% of cases), radiation therapy, electrodesiccation (tissue destruction by heat), cryosurgery (tissue destruction by freezing), and laser therapy for early skin cancer. For malignant melanoma, the primary growth must be adequately excised, and it may be necessary to remove nearby lymph nodes. Removal and microscopic examination of all suspicious moles is essential. Advanced cases of melanoma are treated with radiation therapy, immunotherapy, or chemotherapy according to the characteristics of the case.

**Survival:** For basal cell or squamous cell cancers, cure is highly likely if detected and treated early. Malignant melanoma can spread to other parts of the body quickly; however, when detected in its earliest stages, and with proper treatment, it is highly curable. The 5-year relative survival rate for patients with malignant melanoma is 88%. For localized malignant melanoma, the 5-year relative survival rate is 95%; and rates for regional and distant disease are 58% and 13%, respectively. About 82% of melanomas are diagnosed at a localized stage.

## URINARY BLADDER

**New Cases:** An estimated 53,200 new cases in 2000. Bladder cancer incidence rates are significantly declining in the 1990s. Overall, bladder cancer incidence is about four times higher in men than in women, and two times higher in whites than in blacks.

**Deaths:** An estimated 12,200 deaths in 2000. Since the early 1970s, mortality rates for bladder cancer have decreased significantly in both whites and blacks.

## Trends in 5-Year Relative Survival Rates\* by Race and Year of Diagnosis, United States, 1974-1994

Site	White			African American			All Races		
	Relative 5-Year Survival Rate (%)			Relative 5-Year Survival Rate (%)			Relative 5-Year Survival Rate (%)		
	1974-76	1980-82	1989-94	1974-76	1980-82	1989-94	1974-76	1980-82	1989-94
All Sites	50	52	62†	39	40	47†	49	51	60†
Brain	22	25	30†	27	31	38†	22	25	30†
Breast (female)	75	77	87†	63	66	71†	75	76	85†
Uterine cervix	70	68	72†	64	61	59	69	67	70
Colon	50	56	64†	46	49	52†	50	55	63†
Uterine corpus	89	83	87†	61	54	54	88	82	84†
Esophagus	5	7	13†	4	5	9†	5	7	12†
Hodgkin's disease	71	75	83†	69	72	76	71	74	82†
Kidney	52	51	62†	49	55	58†	52	52	61†
Larynx	66	69	67	59	58	56	66	68	66
Leukemia	35	39	44†	31	33	31	34	38	43†
Liver	4	4	6†	1	2	2†	4	3	5†
Lung & bronchus	13	14	15†	11	12	11	12	13	14†
Melanoma	80	83	88†	66‡	60§	69‡	80	83	88†
Multiple myeloma	24	28	28†	27	29	30	24	28	29†
Non-Hodgkin's lymphoma	48	52	52†	48	50	41†	47	51	51†
Oral cavity	55	55	55	36	31	32	53	53	53
Ovary	37	39	50†	41	39	46†	37	39	50†
Pancreas	3	3	4†	3	5	4†	3	3	4†
Prostate	68	75	95†	58	65	81†	67	73	93†
Rectum	49	53	61†	42	38	53†	48	52	61†
Stomach	15	16	19†	17	19	21	15	18	21†
Testis	79	92	96†	76‡	90‡	90	79	92	95†
Thyroid	92	94	96†	88	94	88	92	94	95†
Urinary bladder	74	79	84†	47	58	62†	72	78	82†

\*Rates are adjusted for normal life expectancy and are based on cases diagnosed from 1989 to 1994, followed through 1995.

†The difference in rates between 1974-76 and 1989-94 is statistically significant ( $p < 0.05$ ).

‡The standard error of the survival rate is between 5 and 10 percentage points.

§The standard error of the survival rate is greater than 10 percentage points.

Data source: NCI, Surveillance, Epidemiology and End Results Program, 1998.

©1999, American Cancer Society, Inc.

## Prostate Cancer Screening

The impact of screening on the survival of men with prostate cancer remains controversial. This is natural because clinical trials have not been published that appropriately test the impact of screening on survival. Most prostate cancer experts would agree that prostate cancer screening improves our ability to detect prostate cancer at an earlier stage of the disease. However, there is no consensus that patients benefit from early detection of prostate cancer. The heart of this controversy is the question of whether radical prostatectomy or radiation therapy cure or prolong the survival of men with early prostate cancer.

In our September, 1998, issue we explained why we think early detection and treatment of prostate cancer can save your life. In brief, I think that modern screening methods are detecting potentially life-threatening cancers before they have escaped the prostate gland. It is already clear that families with men affected by prostate cancer are highly motivated to seek genetic testing and undergo screening. If you are interested in how I reached this conclusion, I would suggest you reread the September, 1998, issue. At this time, we are more concerned with the details of how best to screen and at what age to start. If you have a family history of prostate cancer I recommend that you begin at age 35. Otherwise, I recommend that you start at 45 years.

If you follow all of the prevention ideas we have discussed, please do not think this means that you will not get prostate cancer and you do not need to be screened. Some of the men in the selenium and vitamin E clinical trials we discussed still developed prostate cancer and died. The prevention measures we recommend reduce but do not eliminate the entire risk of developing prostate cancer. Nothing can substitute for due diligence because we do not know the true causes of this disease.

### Reference:

O. Bratt, et al. "Sons of Men with Prostate Cancer: Their Attitudes Regarding Possible Inheritance of Prostate Cancer, Screening, and Genetic Testing." *Urology* 50: 360-365, 1997.



using the digital rectal exam and the PSA will detect many cancers that are small, slow growing and of no threat to the patient. Thus, this argument goes that screening detects cancers that either can not be cured or do not need to be cured!

These twin objections have led many prostate cancer experts to conclude that the side effects of screening, which include anxiety and possible complications from needless surgery and radiation therapy, exceed any possible benefit. If they are right, then the appropriate treatment for newly diagnosed prostate cancer should be watchful waiting.

The only real solution to this controversy is to conduct randomized controlled trials comparing survival of men who are screened with those who are not. A number of trials are currently active in North America and Europe. The first report from one of these trials was published in a recent issue of *Prostate*. The results were quite dramatic and have proved very controversial.

The study in question was conducted in the Canadian Province of Quebec and began in 1988. The report encompassed the results from 1988 through 1996. The study took the 46,193 men registered to vote in Quebec City and its surrounding Metropolitan area and assigned them to be screened or not screened. Those who were assigned to screening were sent a letter offering a PSA test and digital rectal exam. If either of these two were abnormal, transrectal ultrasound and prostate biopsy were performed.

Only about 23% of those offered screening actually underwent screening. On the other hand, about 6% of the men in the control group sought out screening on their own.

The first screening visit detected 244 cancers in 8,137 men (3%), 15 of which were metastatic. The subsequent annual screening visits detected an additional 123 cases, none of which proved to be metastatic. Only five of these patients have died of prostate cancer, four of whom were detected during the initial screening visit! At the first screening visit, 14% of the cancers were detected by digital rectal exam in men with a normal PSA. At all subsequent visits, no cancers were detected by digital rectal exam in the presence of a normal PSA. For this reason, the investigators only recommend digital exams with the first screening visit.

The death rate for prostate cancer among the men who were randomly assigned to screening and showed up for screening was more than 60% lower than that seen in the control group or among the men who were offered screening but did not take part. In the control group 6% of the men sought out screening on their own. Their death rate for prostate cancer was also more than 60% lower than for patients who were not screened. This study showed that men who were screened, regardless of the reason, were much less likely to die of prostate cancer than those who were not screened.

Of the 367 cancers detected during screening, subsequent treatment is

known in 339: 155 patients had a radical prostatectomy, 109 received radiation therapy, and 75 received hormonal therapy alone, largely complete androgen ablation. A majority of the men who had surgery or radiation therapy also received hormonal therapy. Thus, in this study early detection led to early, aggressive treatment.

This report encompasses only the first eight years of the study. Given the long natural history of prostate cancer, it is still too early to assess the full impact of screening. This is only one of the several current trials designed to test the value of prostate cancer screening. The scientific community will await longer follow up on this trial and confirmation by other investigators before concluding that screening saves lives. I suspect that these additional steps will also be required before major organizations such as the American Cancer Society or the National Cancer Institute will recommend screening.

What should you do? I am a medical oncologist and like all medical oncologists, I do not perform either radiation or surgery and do not benefit financially from the use of these treatment modalities. I do believe that early detection and aggressive treatment of prostate cancer is important and saves lives. I read the results of this trial as confirming my good judgment. I think it certain that the results of the Canadian trial will prove to be essentially correct: until proven otherwise I recommend to my patients and their families that they participate in screening for prostate cancer. The major

mistake being made is that some experts in this field grossly underestimate the benefits of aggressive surgery, radiation therapy, and hormonal therapy on the survival of men with early prostate cancer.

**References:**

F. Labrie, et al. "Screening Decreases Prostate Cancer Death: First Analysis of the 1988 Quebec Prospective Randomized Controlled Trial." *The Prostate* 38: 83-91, 1999.

The next reference is to the clinical trial that shows the most impressive impact of early treatment on survival of prostate cancer patients.

M. Bolla, et al. "Improved survival in patients with locally advanced prostate cancer treated with radiotherapy and goserelin." *New England Journal of Medicine* 337: 295-300, 1997.

## Profile of Michael H. Miller

Michael H. Miller was born in Portland, Oregon. He graduated from Central Washington State (now University) in Ellensburg, Washington in 1975 with a Bachelor of Arts degree in education with an emphasis in physical education and psychology. While there he received the "Outstanding College Athlete of America Award" and was an eight-time NAIA All-American. As an age-group swimmer, Michael swam competitively from 1961 to 1970 for the Portland YMCA and the Multnomah Athletic Club.

In 1975 Michael moved to Juneau, Alaska to coach the Glacier Swim Club. "My focus as a coach was to educate the student-athletes to be well-rounded individuals." In ten of the 14 years as coach of the Glacier Swim Club he took a team to the Jr. Nationals. Swimmers from the program have gone on to represent Division I through III schools and NAIA schools. The team boasted an average of 62 percent best times at meets, and an average 83 percent best times at national level competitions.

Michael served in a number of leadership roles representing Alaska Swimming. He was Age Group Chair and Senior Chair for Alaska Swimming, a coach for the 1991 Elite Training Camp (Eagle) at the United States Olympic Training Center in Colorado Springs, Colorado, and recipient of the Phillips '66 Outstanding Service Award in 1995. He serves as National Interscholastic Swim Coaches Association Zone VIII Representative for Alaska since being selected in 1996.

On January 17, 1996, Michael was diagnosed with metastatic prostate cancer and had a 17 to 35 month survival prognosis. He became one of 20 people in the U.S. to participate in the Prostate Cancer Southwest Oncology Group clinical trial administered by the Oregon Health Sciences University. Today, through this experimental treatment, his cancer is in stable position.

Shortly after being diagnosed, Michael began giving talks locally with high school students to share his story and increase awareness about prostate cancer, a disease which, if caught early while still in the localized stage, has a 99-100 percent success rate.

Since his first talk (September 1996) at a Juneau Douglas High School government class, Michael has spoken to over 3,000 students and 630 teachers in Juneau. He got students in Juneau involved in collecting 1,260 signatures for the National Prostate Cancer Coalition signature drive and spearheaded the passage of House Joint Resolution 29, supporting an increase in federal funding for prostate cancer research. To date, Alaska is the only state to pass such a resolution and serves as a model for other states, most notably, California, Washington, Oregon, Oklahoma and Florida. He has spoken with **16,022 people** in Alaska, California, North Dakota, Oregon, Washington State and Wisconsin about the disease, including students, Rotary groups, Chambers of Commerce, businesses and others.

Since 1997, Michael has been the "starter" and speaker for Prostate Cancer runs in Anchorage and Juneau. He recently (August 8-9, 1998) chaired and was a panelist in two panel discussions in the Northwest Prostate Cancer Forum. He was a panelist in the 1997 Oregon Prostate Cancer Conference in Portland, Oregon, and serves as a member of the American Cancer Society Northwest Division Prostate Cancer Task Force which serves Alaska, Oregon and Washington State. Michael was asked to attend the United States Senate Congressional Hearing on Capitol Hill in Washington,

D.C. on September 23-24, 1997, for the American Cancer Society Prostate Cancer Advocacy event during Prostate Cancer Awareness Week.

On September 19, 1998, Michael organized a Candlelight Vigil to promote "The March" in Washington, D.C. where first lady Susan Knowles and Bishop Michael W. Warfel were the featured speakers. On September 23-26, 1998, Michael attended The March Event and helped lobby for additional federal funds for prostate cancer research.

On September 1, 1998, the Food and Drug Administration (FDA) had a review of the experimental drug "Suramin" in conjunction with hexasodium in Bethesda, Maryland. Michael became a **pioneer** by submitting a video along with his one page statement for the Oncologic Drugs Advisory Committee to review. According to JoAnn Minors, FDA Cancer Liaison Program Staff member the FDA had never reviewed a patient's testimony via video. Today, the Food and Drug Administration has implemented a video review process for patients who cannot attend the review meeting in person. Michael is very appreciative and thankful to Dr. Karen M. Templeton-Somers, Center for Drug Evaluation and Research who gave permission to submit his testimony on video.

On September 25, 1998, Michael attended the National Prostate Cancer Coalition (NPCC) national press conference where 550,000 petition signatures were delivered to Senate members on Capitol Hill. At this event, NPCC C.E.O. Jay Hedlund arranged for Michael to be the **first person** to sign a large petition for media purposes.

On December 2, 1998 at the Alaska Health Summit, Michael became the first cancer survivor to receive the **Barbara Berger Award** from the Alaska Health Education Consortium. The award recognizes outstanding dedication and vision in health education and promotion in Alaska. On December 10, 1998, the National Prostate Cancer Coalition and the American Foundation for Urologic Disease named Michael as the recipient of the **Activist Award**, which recognizes the commitment, activism and accomplishment of outstanding advocates who lead the fight against prostate cancer in their community and beyond. Bob Samuels, NPCC Chairman and Beth Kobliner-Shaw were also recipients of the Activist Award. Senators Ted Stevens and Richard Shelby, along with Representative Louis Stokes were also recognized with the Distinguished Leadership Award at the Washington, D.C. gala dinner. Senator Bob Dole and Archbishop Desmond Tutu received the Lifetime Achievement Award.

On May 14-15, 1999, Michael was a guest speaker at the US TOO North Dakota State Prostate Cancer Symposia with Dr. Judd W. Moul, Director of the Center for Prostate Disease Research and Len Dawson, former Kansas City Chiefs Quarterback.

"I want to help educate the public, especially men, that men's health care is vital and that one in five men will be diagnosed. However, it is encouraging that if detected early through non-invasive screenings, men can increase their chances of being classified in the curable status," he said.

Michael also said that through his public outreach efforts, he hopes to encourage men to take the initiative towards good health and help those diagnosed to make good choices for themselves and their families. He hopes to leave a gift to his sons by advocating for increased funding so their chance of prostate cancer is reduced or eliminated. With his own diagnosis of advanced prostate cancer, his sons have up to a ten times higher chance of coming down with the disease.

Michael has been married for 25 years to his lovely wife, Judy. They have three children, Todd, 21, Chris, 19, and Jena, 14.

**MICHAEL H. MILLER**  
**SPEAKING ENGAGEMENT**

**1996 TO 2000 TOTALS**

**JUNEAU – 6,947 people divided by 43 months = 162 people per month**

<b>OTHER ALASKAN CITIES – Anchorage</b>	<b>= 5,116</b>
<b>Beluga</b>	<b>= 30</b>
<b>Eagle River</b>	<b>= 105</b>
<b>Fairbanks</b>	<b>= 300</b>
<b>Kenai</b>	<b>= 301</b>
<b>Ketchikan</b>	<b>= 8</b>
<b>Palmer</b>	<b>= 30</b>
<b>Petersburg</b>	<b>= 255</b>
<b>Prudhoe Bay</b>	<b>= 95</b>
<b>Sitka</b>	<b>= 370</b>
<b>Soldotna</b>	<b>= 853</b>

**7, 463 people divided by 43 months = 173 people per month**

**ALASKA – 14,410 people divided by 43 months = 335 people per month**

**OVERALL**

**TOTAL - 16,022 people divided by 43 months = 373 people per month**



Health, Education, and Social Services  
Committee  
Alaska State Legislature  
House of Representatives

Sponsor Statement HB 416

**"An Act relating to insurance coverage for prostate cancer screening."**

The House HESS Committee is the Sponsor of HB 416 to provide a forum for a discussion on whether it is appropriate to mandate that insurance companies cover the cost of annual prostate cancer screening at an earlier age than what is now required.

Mike Miller, a four-year survivor of prostate cancer, made the HESS Committee aware of the need for this bill. He has educated himself on the prevention of this deadly disease and has spent a lot of time advocating for earlier screening so others do not have to suffer what he has gone through. He is here and will testify on the bill and answer your questions.

**HB**

**418**

(7)

# HOUSE COMMITTEE REPORT

Date Referred to Committee: February 23, 2000

FURTHER REFERRALS:

Finance

Date of Committee Action: Feb. 28, 2000

The LABOR AND COMMERCE Committee considered:

HB 418

HOUSE BILL NO. 418

INSURANCE AND OCCUPATIONAL LICENSE FEES

"An Act relating to program receipts collected by the division of insurance and to program receipts collected by the Department of Community and Economic Development for occupational licenses; and providing for an effective date."

recommends it be replaced with the following committee substitute CSHB 418 (L+C)  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) Occ Lic 2/28/00;  
Insurance 2/26/00

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

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

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

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	

CHAIR'S SIGNATURE *[Signature]* 2/28/2000

# FISCAL NOTE

**STATE OF ALASKA**  
**2000 LEGISLATIVE SESSION**

**BILL NO. HB 418**

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Community & Econ. Dev.  
 Title An Act relating to program receipts collected..... BRU Occupational Licensing  
 Component Occupational Licensing  
 Sponsor House Labor & Commerce  
 Requester House Labor & Commerce Component Serial No. 2380

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	(5,021.5)					
1037 GF/Mental Health						
Other DPR	5,021.5					
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY99) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

HB 418 identifies occupational licensing receipts collected under AS 08.01.065 as designated program receipts. This fiscal note identifies the portion of the division's FY 2001 budget (Governor's Request) moving from General Fund Program Receipts to Designated Program Receipts. GF/PR funding will remain for the Business Licensing Program (\$520.0) and the Athletic Commission (\$7.4).

Prepared by Jennifer Strickler, Administrative Manager  
 Division Occupational Licensing  
 Approved by Commissioner Deborah B. Sedwick  
 Agency Community & Economic Development

Phone 465-2144  
 Date/Time 2/28/2000 1:58 PM  
 Date 2/28/00

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# FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. HB 418

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Community & Economic Development  
 Title An Act relating to program receipts... BRU Insurance  
 Component Insurance  
 Sponsor Rep. Rokeberg  
 Requester House L & C Component No. 354

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services	\$0.00	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	(4,364.5)					
1037 GF/Mental Health						
Other (Specify Type) Designated P.R.	4,364.5					
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

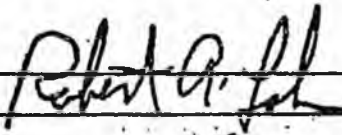
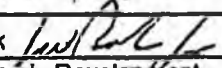
Estimate of any current year (FY2000) cost: 0.0

**POSITIONS**

Full-time	0	0	0	0	0	0
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

HB 418 would add Insurance fees to the designated program receipts category in the budget under AS 37.05.146(b)(4). Therefore, in FY 01 the Fund Source 1005 would be reduced by \$4,364.5 and the designated program receipts would be increased by the same amount.

Prepared by: Robert A. Lohr  Phone 269-7900  
 Division Insurance Date/Time 2/25/00 5:07 PM  
 Approved by Commissioner Deborah B. Sedwick  Date 2/26/00  
 Agency Community & Economic Development

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✓ w/ndw + attached 2/28/00

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Utermohle  
2/25/00

**CS FOR HOUSE BILL NO. 418(L&C)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FIRST LEGISLATURE - SECOND SESSION**

**BY THE HOUSE LABOR AND COMMERCE COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act designating certain receipts as program receipts, appropriations of which  
2 are not made from the unrestricted general fund; and providing for an effective  
3 date."

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

5 \* Section 1. AS 37.05.146(b)(4) is amended by adding new subparagraphs to read:

6 (X) Pioneers' Home care and support receipts collected under  
7 AS 47.55.030;

8 (Y) receipts of the insurance program under AS 21, excluding  
9 taxes collected under AS 21.09.210, AS 21.33.055, and AS 21.34.180;

10 (Z) receipts of the Department of Community and Economic  
11 Development under AS 08.01.065.

12 \* Sec. 2. This Act takes effect July 1, 2000.

# ALASKA STATE LEGISLATURE

## HOUSE LABOR AND COMMERCE COMMITTEE

Representative Norman Rokeberg, Chairman  
Representative Andrew Halcro, Vice-Chairman  
Representative John Harris  
Representative Lisa Murkowski  
Representative Jerry Sanders  
Representative Tom Brice  
Representative Sharon Cissna



State Capitol  
Juneau, AK 99801-1182  
Telephone: (907) 465-4954  
Fax: (907) 465-2040

### SPONSOR STATEMENT HOUSE BILL 418

**An Act relating to program receipts collected by the division of insurance and to program receipts collected by the Department of Community and Economic Development for occupational licenses; and providing for an effective date.**

House Bill 419 will add fees collected by the Division of Occupational Licensing and fees collected by the Division of Insurance under AS 37.05.146(b)(4).

Subsection (X) of HB 418 adds to the program receipts category under (b) fees collected by the Division of Insurance for licenses, application, license renewals, certificates of authority, service of process, printed or photocopies material, postage, and other fees along these lines.

Subsection (Y) of HB 418 adds fees collected by the Division of Occupational Licensing as program receipts to be accounted for separately. Fees collected by this Division include licensing fees, examination fees, renewal fees, etc. By legislative mandate the Division of Occupational Licensing is a self-sustaining agency - charging the licensees for the cost of each board or commission and the work of the Division's staff. We are at a point now, in our budgetary process, where the Division and its Boards and Commissions are being held back because of the budget gap. The Division, even when it has increased spending funded by license fees, does not add to the budget gap because these expenditures are taken care of by fees not by general funds. The Division is now facing a situation where licensees would like to receive extra services from their respective Board or Commission but cannot do so because of our budgetary process. Moving these funds into a place where they are accounted for separately would assist with this problem. The Committee is aware of several examples where a Board or Commission has the funding to do an activity but cannot accomplish this because of the budgetary process. For example, the Board of Nursing would like to get involved with an outreach program but cannot do so because of budgetary restrictions. The Board of Registration of Architects, Engineers, Land Surveyors and Landscape Architects would like to publish a newsletter and send members to more national events but, even though the funds are present, cannot do so.

The Division of Insurance is fundamentally self-sustaining as a request of fees. It also generates substantial revenue to the State from Insurance Premium Taxes that are received by the Department of Revenue.

HB 418 would help both of these state agencies meet their customer services goals and live up to the expectation of the customers (the licensees) who pay the fees to run the divisions.

Your support is appreciated.

Prepared by Representative Norman Rokeberg, Chairman  
House Labor & Commerce Committee

ED1:02/24/00

# Alaska



**Department of  
Community and  
Economic Development**

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**OCCUPATIONAL  
LICENSING**

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Deborah B. Sedwick, Commissioner  
Catherine Reardon, Director  
February 2000

# CONTENTS

<b>Overview of Division</b>	<b>Page 1</b>
Mission	
Services	
Goals	
Accomplishments	
Authority	
<b>Proposed Budget Changes for FY01</b>	<b>Page 6</b>
<b>Carrying Forward Revenue</b>	<b>Page 9</b>
<b>FY00 Supplemental Request</b>	<b>Page 11</b>

### **BRU/Component: Occupational Licensing**

(There is only one component in this BRU. To reduce duplicate information, we did not print a separate BRU section.)

**Manager: Catherine Reardon, Director**

**Tel: (907) 465-2538 Fax: (907) 465-2974 E-mail: Catherine\_Reardon@commerce.state.ak.us**

### **Component Mission**

To ensure that competent professional and commercial services are available to Alaska consumers by regulating entry into occupations and enforcing performance standards.

### **Component Services Provided**

**OCCUPATIONAL LICENSING:** Administer the following 36 occupational licensing programs:

Licensing Boards assisted by the Division:

- Architects, Engineers and Land Surveyors
- Athletic Commission
- Barbers and Hairdressers
- Certified Direct-Entry Midwives
- Certified Real Estate Appraisers
- Chiropractic Examiners
- Clinical Social Workers
- Dental Examiners
- Dispensing Opticians
- Marine Pilots
- Marital and Family Therapy
- Medical
- Nursing
- Optometry
- Pharmacy
- Physical and Occupational Therapy
- Professional Counselors
- Psychologist and Psychological Associate Examiners
- Public Accountancy
- Real Estate Commission
- Veterinary Examiners

Licensing Programs administered directly by the Division:

- Acupuncture
- Audiologists
- Big Game Guides and Transporters
- Collection Agencies
- Concert Promoters
- Construction Contractors
- Dietitians
- Electrical and Mechanical Administrators
- Geologists
- Hearing Aid Dealers
- Morticians
- Naturopaths
- Nursing Home Administrators
- Nutritionists
- Underground Storage Tank Workers

Perform the following functions for over 130 occupations within the 36 programs listed above:

- Distributes application forms for initial licensure and renewal by mail and internet
- Responds to questions from applicants, other states and non-governmental organizations regarding Alaska's licensing laws
- Reviews applications to determine if qualifications have been met
- Determines whether applicants are in arrears on child support or student loan repayment
- Verifies Alaska licenses for the licensing agencies of other states
- Writes and/or administers professional examinations
- Investigates complaints of incompetent or illegal activity by professionals
- Prepares formal accusations against licensees when investigations reveal evidence of violations of licensing laws.
- Presents the legal case against licensees charged with violations
- Negotiates settlements with licensees whom the division believes violated the law
- Reports disciplinary actions taken against Alaska licensees to national databanks
- Organizes licensing board meetings
- Assists licensing boards in writing regulations
- Represents the state in appeals of license denials, lawsuits and appeals of disciplinary actions
- Provides public lists of licensees on CD-ROM, paper, and through internet search of the computer databases

**BUSINESS LICENSING:** License approximately 77,000 businesses to engage in commerce in Alaska. At the start of FY2000, 1,738 businesses had tobacco endorsements attached to their licenses permitting retail sale of tobacco products.

To administer the Business Licensing Program, the division:

- Distributes application forms for initial licensure and renewal by mail and internet
- Reviews applications for completeness and legal sufficiency
- Collects \$50 for each two-year license and \$25 for each endorsement permitting retail sale of tobacco products
- Classifies businesses according to their primary activities
- Issues licenses at service counters in Juneau, Fairbanks and Anchorage
- Issues and renews licenses via the internet
- Researches the licensing history of Alaska businesses
- Works to bring unlicensed businesses into voluntary compliance with the law
- Suspends tobacco sales endorsements of businesses convicted of selling tobacco to minors
- Provides public lists of licensed businesses on CD-ROM, paper and through internet search of the computer database

### **Component Goals and Strategies for FY2001**

- 1) Allow qualified individuals to work in their chosen fields: earning a living, creating new businesses and providing the skilled workforce necessary for state development
  - Make licensing information easy to obtain and understand
  - Issue licenses correctly and promptly
  - Remove unnecessary barriers to licensure
  - Keep license fees as low as possible while meeting the division's legal responsibilities
  
- 2) Protect public health and welfare by safeguarding the quality of services provided by Alaska's licensed professionals
  - Investigate allegations of violations of licensing laws thoroughly and promptly
  - Sanction licensees who violate the law in an appropriate manner
  - Provide licensing boards with resources necessary to regulate effectively

2.

## Key Component Issues for FY2000 – 2001

### INSUFFICIENT LEGAL RESOURCES:

Limited attorney services reduce the division's ability to protect public health and welfare. All of the essential activities of the division and licensing boards depend on legal assistance from the Department of Law, which is purchased through a budgeted RSA. Enforcement of licensing laws and minimum standards of competence is seriously weakened by the insufficient number of attorneys assigned to occupational licensing. Few, if any, cases of unlicensed activity have been prosecuted in the past five years. Citizen complaints against professionals must often be closed after investigation due to a lack of legal resources to follow through with formal charges. Legal review of regulations adopted by boards is delayed for many months and board requests for legal advice cannot be satisfied. Increased expenditure authority is necessary for the division to obtain more legal services.

### PUBLIC RECORD REQUESTS:

An Attorney General's opinion stating that division files related to investigations of occupational license holders may be public documents has resulted in extremely time consuming reviews of voluminous investigative files. Witnesses' rights to privacy and public rights to government records must be weighed for each document in a file. The division expects the number of public record requests to increase dramatically, as employers and parties to lawsuits become aware that investigative information is available. The division is having difficulty responding to the public record workload and other division activities are adversely affected.

### ESCALATING ENFORCEMENT COSTS:

The cost of investigating and disciplining license-holders accused of violating licensing laws continues to rise, as the process becomes more formal and litigious. Costs include investigators, expert witnesses, attorneys from the Department of Law and hearing officers. Enforcement costs are paid through license fees. One full-blown case can double fees for small programs and discourage disciplinary action against licensees.

### VOLATILITY OF FEES:

AS08.01.065(c) mandates that the department set license fees for each occupation at a level which approximately equals the cost of regulating the occupation. The enforcement costs mentioned above make fees very volatile. A 1997 legislative audit directed the division to set fees incorporating professions' surpluses and deficits from prior years. The audit also recommended strictly applying the fee law and requiring each of the division's 130 professions to pay their own costs rather than accounting at the board/program level. The result of a strict legal interpretation would be even greater variation in fees for small professions. Due to Alaska's small population, many professions have fewer than 100 members to share costs.

### NEED FOR STRONG AND CONSISTENT LAWS:

Alaska's licensing laws have gray areas and inconsistencies, which contribute to legal costs and difficulty protecting the public. A comprehensive update of the laws would assist enforcement.

### BOARD TRAVEL LIMITATIONS

If licensing board travel expenditures are kept within the budgeted amount, meetings outside of Anchorage, representation of Alaska interests before national organizations, statewide licensing examinations and other important board activities will be limited. The division's 21 licensing boards conduct over 50 in-person meetings each year and numerous teleconferences. In addition, each board is permitted to send one representative to a single national conference. The cost of this essential travel has exceeded the budgeted amount for several years and the travel budget has been supplemented with roll-forward expenditure authority. Supplementation of the board travel budget will not be possible in FY2000-01 without increased expenditure authorization.

## Major Component Accomplishments for FY1999

### BUSINESS LICENSING:

- Instituted a new business classification system, improving the quality of information about the number and types of businesses in Alaska. The conversion to the new classification system will be completed in FY00.
- Expanded business license information available through the Internet. The list of businesses can now be searched by activity type, location, name and license number.
- Began on-line business licensing program. Customers will be able to obtain business licenses through the Internet in FY00.

3.

- Re-wrote and simplified all business license regulations.

**OCCUPATIONAL LICENSING:**

- Created licensing programs for Dietitians, Nutritionists, Manicurists, Landscape Architects, Professional Counselors, Master and Baccalaureate Social Workers in response to new state laws.
- Began reporting disciplinary actions taken against Alaska health care professionals to the federal Health Care Integrity and Protection Databank.
- Created a marine pilot performance evaluation system based on simulation of Alaska ports, through a contract with RTM STAR Center. This is the first simulator-based evaluation system for pilots in the nation.
- Wrote Alaska's first regulations governing certified nurse aides.
- Created a new system for inspection of dental x-ray equipment.
- Increased information about licensed professionals available through the Internet.

**Statutory and Regulatory Authority**

The Division of Occupational Licensing operates under the following authorities:

AS 08.01	CENTRALIZED LICENSING
AS 08.02	Miscellaneous Provisions
AS 08.03	Termination, Continuation and Reestablishment of Regulatory Boards
AS 08.04	Board of Public Accountancy
AS 08.13	Board of Barbers and Hairdressers
AS 08.20	Board of Chiropractic Examiners
AS 08.29	Board of Professional Counselors
AS 08.36	Board of Dental Examiners
AS 08.48	State Board of Registration for Architects, Engineers and Land Surveyors
AS 08.62	Board of Marine Pilots
AS 08.63	Board of Marital and Family Therapy
AS 08.64	State Medical Board
AS 08.65	Board of Certified Direct Entry Midwives
AS 08.68	Board of Nursing
AS 08.71	Board of Dispensing Opticians
AS 08.72	Board of Examiners in Optometry
AS 08.80	Board of Pharmacy
AS 08.84	State Physical Therapy and Occupational Therapy Board
AS 08.86	Board of Psychologist and Psychological Associate Examiners
AS 08.87	Board of Certified Real Estate Appraisers
AS 08.88	Real Estate Commission
AS 08.95	Board of Clinical Social Work Examiners
AS 08.98	Board of Veterinary Examiners
AS 08.06	Regulation of acupuncturists
AS 08.11	Regulation of audiologists
AS 08.24	Regulation of collection agencies
AS 08.92	Regulation of concert promoters
AS 08.18	Regulation of construction contractors
AS 08.38	Regulation of dietitians and nutritionists
AS 08.40	Regulation of electrical and mechanical administrators
AS 08.54	Regulation of guide-outfitters
AS 08.42	Regulation of morticians
AS 08.45	Regulation of the practice of naturopathy
AS 08.70	Regulation of nursing home administrators
AS 08.02.011	Regulation of professional geologists
AS 08.55	Regulation of hearing aid dealers
AS 43.70	Regulation of Business Licenses
AS 05.05; 05.10	Athletic Commission
AS 46.03.375	Certification of Storage Tank Workers

4.

AS 08.02.025      Student Loan Default Program  
AS 25.27.244      Child Support Enforcement Program  
AS 44.62            Administrative Procedure Act  
AS 44.33.020      Department of Community & Economic Development

Federal Laws:

42 CFR 431, 433      Nurse Aide Registry  
    and 483  
42 CFR 442 and 45      Nursing Home Administrators  
12 U.S.C. 3338        Real Estate Appraiser

State Regulations:

12 AAC 02 - 12 AAC 75      Administrative Regulations  
12 AAC 12            Business Licensing Regulations  
18 AAC 78            Underground Storage Tank Workers

5.

**Occupational Licensing  
Proposed Changes in Levels of Service for FY2001**

**Summary of Budget Changes  
From FY2000 Authorized to FY2001 Governor**

*All dollars in thousands*

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
<b>FY2000 Authorized</b>	<b>5,052.9</b>	<b>0.0</b>	<b>466.4</b>	<b>5,519.3</b>
<b>Proposed budget increases:</b>				
-Legal Services	0.0	0.0	200.0	200.0
-Travel to National Meetings	0.0	0.0	50.0	50.0
-Colleagues in Caring Project	0.0	0.0	140.0	140.0
-Architects, Engineers and Land Surveyors Licensing	0.0	0.0	106.0	106.0
<b>FY2001 Governor</b>	<b>5,052.9</b>	<b>0.0</b>	<b>962.4</b>	<b>6,015.3</b>

6.

Department of Commerce and Economic Development  
 Final FY 2000 Centralized Management and Administrative Support  
 Cost Allocation (1)

	Commissioner's Office Centralized Management Support			Administrative Services Centralized Administrative Support		
	FY2000 Cost Allocation	% of ACAP	ACAP Maximum	FY2000 Cost Allocation	% of ACAP	ACAP Maximum
Banking, Securities and Corporations	20.5	48.0%	42.8	67.0	43.0%	155.9
Insurance	85.1	100.0%	35.1	200.2	100.0%	200.2
Occupational Licensing	108.8	100.0%	108.8	272.0	100.0%	272.0
AK Public Utilities Commission	41.6	100.0%	41.6	65.4	100.0%	65.4
Trade and Development	46.1	48.0%	96.1	32.8	43.0%	76.3
Tourism	27.4	48.0%	57.1	28.9	43.0%	67.3
AK Tourism Marketing Council	1.5	48.0%	3.2	9.8	43.0%	22.9
Investments	36.1	48.0%	75.3	34.7	43.0%	80.7
AK Seafood Marketing Institute	7.7	48.0%	16.1	42.4	43.0%	98.6
AK Science and Technology Foundation	3.1	48.0%	6.5	19.6	43.0%	45.6
AK Aerospace Development Corporation	2.4	48.0%	5.0	3.9	43.0%	9.0
AK Industrial Development & Export Authority	18.2	48.0%	38.0	15.3	43.0%	35.6
	398.7		575.6	792.1		1,129.5

(1) Based on the FY1997 Administrative Cost Allocation Plan (ACAP).

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# Alaska



**Department of  
Community and  
Economic Development**

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# INSURANCE

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Deborah B. Sedwick, Commissioner  
Robert Lohr, Director  
February 2000

## **Insurance Operations**

**Manager: Robert A. Lohr, Director**

Tel: (907) 269-7900 Fax: (907) 269-7910 E-mail: Bob\_Lohr@dced.state.ak.us

### **Component Mission**

The mission of the Division of Insurance is to (1) protect and serve the state by developing, interpreting, and enforcing the insurance statutes; (2) protect and educate the consumer; and (3) enhance the insurance business environment.

The division's unique contribution is that it is solely responsible for regulation of all aspects of insurance in Alaska.

### **Component Services Provided**

**Consumer Service Section** - Investigates and resolves individual consumer complaints. Answers questions regarding insurance in general and specific policy provisions that are filed with the division. Publishes the Alaska Consumer Insurance Guide and various other consumer brochures and pamphlets.

**Financial Examination Section** - Reviews solvency of insurers doing business in this state. Admits new companies wishing to do business in Alaska. Restricts companies that are a hazard to Alaska consumers due to financial standing or noncompliance with Alaska law. Maintains current information on insurers and related entities eligible to operate in Alaska. Maintains surplus lines white list (approved list) for the benefit of Alaska consumers. Examines domestic insurance company's financial records in order to verify that the company is complying with Alaska financial statutes and that the annual financial statement information is reasonably accurate. Performs premium trust examination of producer licensees to verify trust accounts and compliance with Alaska law. Compiles information from all division sections for the division's Annual Report. Collects premium taxes and fees from insurance companies and other entities subject to tax or fees.

**Market Examination Section** - Performs market conduct examinations and investigations on insurance companies or producer licensees to ensure: insurance quality and compliance with Alaska's insurance law, and that the Alaskan consumer is treated fairly in the insurance marketplace.

**Filing Review Section** - Reviews the rates and policy forms used by insurers in providing insurance coverage for Alaskans. Prepares consumer education materials such as the Automobile and Homeowners Rating Examples booklets, the Medicare Supplement Insurance Rate Guide, and the Workers' Compensation Rating Guide.

**Law Enforcement Section** - Investigates violations of Title 21, referring the civil/administrative cases to the Assistant Attorney General's Office and the criminal cases to the District Attorney's Office. Criminal cases are referred to the Office of Special Prosecutions and Appeals, the U.S. District Attorney's Office or the Federal Bureau of Investigation. Researches and prepares documentation for administrative hearings at which the Assistant Attorney General and paralegal

assistant represent the division. Performs background investigations on prospective licensees and renewing licensees.

Licensing Section - Assists and provides information to licensees for obtaining statutory required licenses, issue licenses, and maintain licensee records while identifying statutory or regulatory needs with emphasis on public protection. Responsible for reviewing the qualifications and trustworthiness of people seeking to market insurance products in Alaska. Oversees and administers required Continuing Education for producers.

Actuaries - Participate in the solvency review of domestic insurers, drafting insurance laws and regulations, and collecting and analyzing data to aid in developing more effective regulation of insurance in Alaska. Assist in the reviewing of complex rate and form filings submitted by insurance companies to ensure that the rates charged are adequate but not excessive, and are properly supported and actuarially sound.

### **Component Goals and Strategies for FY2001**

To protect the Alaska insurance consumer.

- Monitor the ability of companies licensed to do business in this state to pay claims by reviewing their financial statements, ratios and other reports.
- Assist consumers in resolving their insurance problems.
- Examine domestic insurers to assure their solvency and compliance with Alaska laws.
- Examine insurers market activities to assure their compliance with Alaska's fair trade practices.
- Monitor developing trends through the country to prevent adverse results to Alaskans.
- Admit qualified insurance companies to provide a competitive market place for solvent insurers.
- Review forms and policies sold in this state to assure they are not ambiguous or misleading and are in compliance with Alaska's laws.
- Review rates charged for property and casualty coverage to assure they are adequate but not excessive and are not unfairly discriminatory.
- Assure that licensees selling insurance in this state are trustworthy and knowledgeable about the products they sell.
- Investigate fraudulent insurance activities and take appropriate administrative action or refer for criminal proceedings.
- Increase consumer awareness and knowledge about insurance.
- Examine licensees to assure the compliance with premium handling, Alaska's fair trade practices and Alaska laws.

To foster the domestic Alaska insurance industry.

- Assure that the domestic companies have access to technical information necessary to compete in the market.
- Maintain a fair and equitable insurance market for Alaskan companies by recommending appropriate legislation and adopting necessary regulations.

**Key Component Issues for FY2000 – 2001**

- Review of Alaska domestic insurance companies for Y2K preparation.
- Streamline the licensing process and expand on our search and reporting capabilities as a management tool to enhance our internal efficiency.
- Gain access to the National Association of Insurance Commissioners (NAIC) database systems that include the following: Producer Database (PDB), a nationwide database; Complaints Database System (CDS), which records and retrieves complaint information on companies and producers; Special Activities Database (SAD) which records confidential information on ongoing investigations of persons and companies in insurance; Regulatory Information Retrieval System (RIRS) which records actions taken by state divisions of insurance against companies and producers; and System for Electronic Rate and Form Filing (SERFF) which receives and communicates regarding company policy from filings and company rate filings using electronic communication. Alaska is now only minimally able to utilize these regulatory tools.
- Ensure solvency and maintain proper trust activities.

**Major Component Accomplishments for FY1999**

- Completed reviews of the financial reporting, statutory financial compliance, and adequacy of reserves held by Sunderland Marine Mutual Insurance Company (US Branch) (6/99), Industrial Indemnity Company of Alaska (2/99), and Umialik Insurance Company (9/99).
- Collected \$28,402,033.0 in premium taxes and fees.
- Obtained liquidation order and began procedure for orderly closure of a company's business (LICA), which was not complying with state statute on filing required documents and removed records from out of state.
- Approved 26 new insurance companies in FY 99 to operate in the Alaska insurance market.
- Suspended 21 Alaska certificates of authority held by insurance companies and revoked two Alaska certificates of authority due to hazardous financial condition.
- Audited 100% of tax filings received.
- Completed reviews of the adequacy of reserves held by Alaska National Insurance Company and ARECA Insurance Exchange as part of triennial financial examinations of these insurers.
- Implemented a continuing education audit program for licensees required to meet a biennial 24 continuing education credit hours requirement.
- Performed 76 continuing education audits.
- Increased consumer awareness activities through an outreach program, reaching as many Alaska residents as possible and providing them with information and resources for knowledgeable management of their insurance affairs.
- Issued 2,299 new licenses and renewed 2,545 licenses.
- Opened 562 consumer complaint investigations and closed 556.
- Opened 51 civil/criminal investigations, closed 44 civil/criminal investigations, with 3 investigations leading to criminal convictions.

**Statutory and Regulatory Authority**

Alaska Statute Title 21

Alaska Administrative Code 3 AAC 21 to 31

**Insurance Operations**  
**Resource Summary**

All dollars in thousands

	FY1999 Actuals	FY2000 Authorized	FY2001 Governor
<b>Non-Formula Program:</b>			
<b>Component Expenditures:</b>			
71000 Personal Services	2,641.9	2,993.9	2,972.1
72000 Travel	123.4	187.5	187.5
73000 Contractual	1,075.0	1,110.4	1,110.4
74000 Supplies	52.6	59.2	59.2
75000 Equipment	11.4	13.5	35.3
76000 Land/Buildings	0.0	0.0	0.0
77000 Grants, Claims	0.0	0.0	0.0
78000 Miscellaneous	0.0	0.0	0.0
<b>Expenditure Totals</b>	<b>3,904.3</b>	<b>4,364.5</b>	<b>4,364.5</b>
<b>Funding Sources:</b>			
1005 General Fund/Program Receipts	3,904.3	4,364.5	4,364.5
<b>Funding Totals</b>	<b>3,904.3</b>	<b>4,364.5</b>	<b>4,364.5</b>

**Estimated Revenue Collections**

Description	Master Revenue Account	FY1999 Actuals	FY2000 Authorized	FY2000 Cash Estimate	FY2001 Governor
<b>Unrestricted Revenues</b>					
Unrestricted General Fund	68515	28,397.4	28,223.4	28,397.5	28,352.0
<b>Unrestricted Total</b>		<b>28,397.4</b>	<b>28,223.4</b>	<b>28,397.5</b>	<b>28,352.0</b>
<b>Restricted Revenues</b>					
General Fund Program Receipts	51060	4,234.9	4,364.5	4,364.5	4,364.5
<b>Restricted Total</b>		<b>4,234.9</b>	<b>4,364.5</b>	<b>4,364.5</b>	<b>4,364.5</b>
<b>Total Estimated Revenues</b>		<b>32,632.3</b>	<b>32,587.9</b>	<b>32,762.0</b>	<b>32,716.5</b>

**Insurance Operations**

**Proposed Changes in Levels of Service for FY2001**

- Make improvements to the database interface for ease of use/functionality;
- Establish and maintain connectivity to national databases with National Association of Insurance Commissioners; and
- Develop interactive databases (the ability to manipulate data accessed through webpages).

**Summary of Budget Changes**

**From FY2000 Authorized to FY2001 Governor**

*All dollars in thousands*

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
<b>FY2000 Authorized</b>	4,364.5	0.0	0.0	4,364.5
<b>Adjustments which will continue current level of service:</b>				
<b>FY2001 Governor</b>	4,364.5	0.0	0.0	4,364.5