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Part 2. Taxes.

Chapter

- 21. Oil and Gas Corporate Income Tax (§§ 43.21.010 — 43.21.120)
- 23. Permanent Fund Dividends (§§ 43.23.010 — 43.23.100)
- 45. School tax (Repealed)
- 75. Fisheries Taxes (§§ 43.75.010 — 43.75.140)
- 76. Salmon Enhancement Tax (§§ 43.76.010 — 43.76.030)

Chapter 20. Alaska Net Income Tax Act.

Article

- 1. Persons Subject to Tax (§§ 43.20.010 — 43.20.045)

Article 1. Persons Subject to Tax.

Section	Section
11. Tax on individuals, fiduciaries, and corporations	31. Taxable income of residents; deductions; exemptions
12. Limitation on application of chapter; credits	33. [Repealed]
13. Individual tax credits	35. [Repealed]
15. [Repealed]	36. Federal tax deductions and credits
16. Sharing of corporate income tax revenue with municipalities	37. Trade or business energy conservation credit
17. [Repealed]	38. [Repealed]
21. Internal Revenue Code adopted by reference	39. [Repealed]
30. Returns and payment of taxes	40. Income from sources in the state
	45. [Repealed]

**Sec. 43.20.011. Tax on individuals, fiduciaries, and corporations.** (a) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(b) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(c) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(d) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(e) There is imposed for each taxable year upon the entire taxable income of every corporation derived from sources within the state a tax consisting of a normal tax equal to 5.4 percent of taxable income, and a surtax which is equal to 4.0 percent of taxable income, except that the tax on a corporation engaged in the production or transportation of crude oil or natural gas shall be determined and paid in accordance with AS 43.21. For tax years beginning after December 31, 1979, the surtax exemption is \$50,000. For controlled corporations described in secs. 1561 — 1563 of the Internal Revenue Code only one surtax exemption may be allowed for the controlled group.

(f) Repealed by ch 70 SLA 1975; 1950; am § 10 cl

Effect of amendm  
amendment added a  
of subsection (e).

Section 8, ch. 113,  
1959 amendment, eff  
and retroactive to  
former subsection (f)  
changes in the tax  
Sections 9 and 10 of ch  
subsection (d) and s  
11 of ch. 113, effective  
retroactive to Janua  
former subsection (f).

The second 1950 a  
September 25, 1950 an  
uary 1, 1950, repeale  
and (f), concerning  
individuals and fiduci

The third 1950 an  
September 25, 1960,  
January 1, 1979, mad

**Sec. 43.20.012.**  
The tax imposed  
fiduciaries. Howev  
ter in order to rece  
1980; § 2 ch 2 SS

Effective date. —  
SSSLA 1980, and § 11.  
provide that this se  
September 25, in acc  
01.10.070/ci. Section 1  
that this section is retr  
1, 1980, and § 10 of cl

**Sec. 43.20.013.**  
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the candidate will

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(iii) United State

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fact. Where the state, to its detriment, relying on that lack of notice, as it reasonably could, failed to institute the statutory mechanism for collection of additional taxes, the taxpayers are

estopped from asserting the protection of the statute of limitations embodied in AS 43.20.203(b). *Stevenson v. Burgess*, Sup. Ct. Op. No. 1514 (File No. 1791), 570 P.2d 728 (1977).

Sec. 43.2

Repealed effective September

Editor's note derived from § For legislative repealing acts, and § 1, ch. 2, Temporary and

Sec. 43.2 residents.

Repealed effective September

Editor's note derived from § SLA 1978; § ch. 113, SLA 1

Sec. 43.2

(d) Repealed

(e) Repealed

(f) Repealed

(g) Repealed

(h) Repealed

(i) Repealed

(am § 3 ch 2, 1980)

Effect of 1980 amendments (i).

The second 1 September 25, January 1, 198

— (i).

The third 1 September 25, 1

1, 1979, made th

ond 1980 amen

Sec. 43.2 (Effective J business is allow percent of th

*repealed* Sec. 43.20.031. Taxable income of residents; deductions; exemptions. (a) Repealed by § 10 ch 1 SSSLA 1950 and § 9 ch 2 SSSLA 1950.

(b) Repealed by § 10 ch 1 SSSLA 1950 and § 9 ch 2 SSSLA 1950.

(c) An affiliated group of corporations may make or the commissioner may require them to make a consolidated return for the taxable year in place of separate returns. For purposes of calculating the amount of tax payable by the group under a consolidated filing, Internal Revenue Code secs. 1501 — 1552, as amended, apply.

(f) Repealed by § 10 ch 1 SSSLA 1950 and § 9 ch 2 SSSLA 1950.

(g) Repealed by § 10 ch 1 SSSLA 1950 and § 9 ch 2 SSSLA 1950.

(h) Repealed by § 10 ch 1 SSSLA 1950 and § 9 ch 2 SSSLA 1950.

(i) A corporation which is a member of a group of unitary corporations which collectively has income from business activity taxable both inside and outside the state, or income from other sources both inside and outside the state, shall determine its income from sources in this state by use of the combined method of accounting.

(am § 1 ch 8 SLA 1978; am § 235 ch 100 SLA 1980; am §§ 14 — 17 ch 113 SLA 1980; am § 10 ch 1 SSSLA 1950; am § 9 ch 2 SSSLA 1950)

Revisor's note. — For the specific provisions detailing the handling of the minimum deduction and refund procedures for 1977, see secs. 3 — 5 ch. 8, SLA 1978, in the 1978 Temporary and Special Acts and Resolves.

Cross reference. — As to tax exemption for permanent fund dividends, see AS 43.23.090.

Effect of amendments.

The 1978 amendment added paragraph (4) of former subsection (a).

Section 235, ch. 100, SLA 1980, the first 1980 amendment, effective January 1, 1981, in former subsection (f), inserted "who is a resident of the state" and substituted "\$100" for "\$50" near the beginning of the subsection.

Sections 14, 15, and 17, ch. 113, SLA 1980, the second 1980 amendment, effective June 21, 1980, and retroactive to January 1, 1980, rewrote paragraph (3) of former subsection (a), in subsection (e), deleted "or combined" following "make a consolidated" in the first sentence, and

added subsection (i). Section 16 of ch. 113, effective June 21, 1980, and retroactive to January 1, 1977, added the second sentence in former subsection (h).

The third 1980 amendment, effective September 25, 1980, and retroactive to January 1, 1980, repealed subsections (a), (b), (f), (g), and (h).

The fourth 1980 amendment, effective September 25, 1980, and retroactive to January 1, 1979, made the same changes as the second 1980 amendment.

As the rest of the section was not affected by the amendments, it is not set out.

Editor's note. — Section 52, of this Act, effective June 21, 1980, makes sections 14, 15, and 17 of the Act applicable to tax years beginning after December 31, 1979.

For legislative findings and purpose of the third and fourth 1980 amendments, see § 1, ch. 1, SSSLA 1950, and § 1, ch. 2, SSSLA 1950, in the 1980 Temporary and Special Acts and Resolves.

from asserting the protection of  
e of limitations embodied in AS  
Stevenson v. Burgess, Sup.  
1514 File No. 2791), 570 P.2d

residents; deductions;  
SSLA 1980 and § 9 ch 2

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method of accounting.

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June 21, 1980, and retroactive to  
1977, added the second sen-  
former subsection (h).

rd 1980 amendment, effective  
25, 1980, and retroactive to  
1980, repealed subsections (a),  
and (h).

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1979, made the same change  
nd 1980 amendment.

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after December 31, 1979.

lutive findings and purpose of  
nd fourth 1980 amendments, see  
SSSLA 1980, and § 1, ch. 2,  
9, in the 1980 Temporary and  
and Resolves.

add new

Section Sec. 43.20.033. Taxable income of fiduciary.

Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.  
effective September 25, 1980.

Editor's note. The repealed section  
derived from § 18, ch. 113, SLA 1950.

For legislative findings and purpose of  
repealing acts, see § 1, ch. 1, SSSLA 1980,  
and § 1, ch. 2, SSSLA 1980, in the 1980  
Temporary and Special Acts and Resolves.

Legislative history report. — For  
report on ch. 8, SLA 1978 (HB 662), see  
1978 House Journal, pp. 110, 173; Senate  
Journal, p. 243.

Sec. 43.20.035. Taxable income of nonresidents and part-year  
residents.

Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980,  
effective September 25, 1980.

Editor's note. — The repealed section  
derived from § 6, ch. 70, SLA 1975; § 2, ch.  
8, SLA 1978; § 1, ch. 64, SLA 1980; § 19,  
ch. 113, SLA 1980.

For legislative findings and purpose of  
repealing acts, see § 1, ch. 1, SSSLA 1980,  
and § 1, ch. 2, SSSLA 1980, in the 1980

Sec. 43.20.036. Federal tax deductions and credits.

(d) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(e) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(f) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(g) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(h) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(i) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(am § 3 ch 22 SLA 1980; am § 10 ch 1 SSSLA 1980; am § 9 ch 2 SSSLA  
1980)

Effect of amendments. — The first  
1980 amendment added former subsection  
(i).

The second 1980 amendment, effective  
September 25, 1980, and retroactive to  
January 1, 1980, repealed subsections (d)  
— (i).

The third 1980 amendment, effective  
September 25, and retroactive to January  
1, 1979, made the same changes as the sec-  
ond 1980 amendment.

As the rest of the section was not  
affected by the amendment, it is not set  
out.

Editor's note. — For legislative  
findings and purpose of the second and  
third 1980 amendments, see § 1, ch. 1,  
SSSLA 1980, and § 1, ch. 2, SSSLA 1980,  
in the 1980 Temporary and Special Acts  
and Resolves.

Sec. 43.20.037. Trade or business energy conservation credit  
[Effective January 1, 1981]. (a) A person engaged in a trade or busi-  
ness is allowed as a credit against the tax due under this chapter 35  
percent of the cost of

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill No. 20  
 Title An Act relating to corporate income taxes  
 Requested by R. D. Stevenson Date 1/30/81

II. FISCAL DETAIL

Agency Affected Department of Revenue  
 Program Category Affected Revenue Collection And Management  
 BRU, Program, or Subprogram(s) Affected Audit Division

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars) - None

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						

TOTAL

FUNDING (Thousands of Dollars) - None

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS - None

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

# MEMORANDUM

# State of Alaska

TO: R. D. Stevenson  
Special Assistant

DATE: January 30, 1981

FILE NO:

TELEPHONE NO:

FROM: Gary L Jenkins  
Director  
Audit Division

SUBJECT: SB 20

This bill would provide for an exemption for corporations subject to the income tax imposed by AS 43.20 of \$150,000. This proposed total exemption from tax would replace the current surtax exemption which is currently in the law. The surtax exemption served to reduce the rate on the first \$50,000 of taxable income to 5.4% while all taxable income over \$50,000 is subject to the full rate of 9.4%.

In attempting to ascertain the effect of this exemption I have reviewed the filing information for the returns filed in 1979. The information for 1980 is not yet available, however, the data related to the number of returns which are filed in the various taxable income levels should remain relatively constant. If this exemption were enacted into law, 90.23% of the returns which reported taxable income would be exempt from any tax. The actual effect of this exemption would be tantamount to a repeal of the tax except for the very large domestic corporations and the multistate corporations which do business in Alaska.

Any legislation of this nature could cause serious problems for the State in it's defense of AS 43.21 because of the fact that nearly 100% of domestic corporations will be exempt from tax, thus the only taxpayers would be the multistate corporations who are doing business in Alaska.

It is recommended that very careful review be given to any legislation providing exemptions from the imposition of the corporate income tax.

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill No. 20  
 Title \_\_\_\_\_  
 Requested by Senate Labor and Commerce Date January 22, 1981

II. FISCAL DETAIL

Agency Affected Department of Revenue  
 Program Category Affected Revenue Collection and Management  
 BRU, Program, or Subprogram(s) Affected Audit Division

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						

TOTAL

FUNDING Millions  
(Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND		(12.2)	(14.6)	(17.3)		
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This analysis is based on limited data which is not necessarily a representative sample of the data which we do not have. Although incomplete, the data is the best that we have to date. For lack of more complete data, it was assumed that the data is a representative sample. Preliminary analysis indicates that, when repealing the surtax exemption and exempting the first \$150,000 of taxable income, approximately 34 percent of net corporate income taxes would be eliminated. The revenue losses would be about \$12.2 million in FY82, \$14.6 million in FY83 and \$17.3 million in FY84. Approximately 94 percent of corporate returns would be totally exempt from the Alaska income tax. However, other taxes such as personal holding company taxes, taxes from recomputing prior year investment tax credits and minimum taxes on tax preference items would be payable.

IV. DATE January 22, 1981 PREPARED BY Lance Rovig, Economist *JRR*  
 AGENCY Revenue  
 Original: Legislative Finance PHONE 465-2390  
 cc: Budget and Management  
Prime Sponsor (First Legislator Named)



# Alaska State Legislature

## Senate

### Committee on Labor & Commerce

Pouch V  
State Capitol  
Juneau, Alaska 99811

Official Business

Summary - SB 20 by Senator Rodey

"An Act relating to corporate income taxes: exempting a portion of the income of a corporation from taxation under the Alaska Net Income Tax Act and repealing the surtax exemption under that Act; and providing for an effective date."

- SB 35 by Senator Ziegler & Bradley

"An Act relating to corporation income taxes under the Alaska Net Income Tax Act and exempting a portion of the income of a corporation from taxation under that Act; and providing for an effective date."

Figures based on returns filed in 1979 with assumption that 1980 figures will be relatively the same. Total estimated amount collected from corporate income taxes for 1981 = 35 million and 1982 = 36 million dollars.

SB 20

SB 35

Exemption for corporations from income tax \$150,000.00

Exemption for corporations from income tax \$250,000.

Repeals Surtax Exemption

Retains Surtax Exemption

Repeals sec. 43.20.031 - Duplicate language covered under 43.20.033 (b) & (c)

Repeals sec. 43.20.031 - same as SB 20

Retroactive clause to Jan. 1, 1981 on corporate exemption

Retroactive clause to Jan. 1, 1981 on corporate exemption

43.20.031 (repealed above) is retroactive to Jan. 1, 1981

43.20.031 (repealed above) is retroactive to Jan. 1, 1981

Effective Date Clause - immediately

Effective Date Clause - immediately

Returns exempt from income tax 90.23% equal to 4,936 returns

Returns exempt from income tax 93.17% equal to 5,096 returns

Repeal surtax exemption=34% eliminated

Retain surtax exemption=45% eliminated

FY 82 revenue losses 12.2 M  
FY 83 " 14.6 M  
FY 84 " 17.3 M

FY 82 revenue losses 16.1 M  
FY 83 " 19.4 M  
FY 84 " 22.9 M

Approx. 94% corporate returns exempt

Approx. 96% corporate returns exempt

FIGURES BASED ON ANNUAL AMOUNT OF 5,470 RETURNS.....

file SB 50  
SB 20

Sec 1, AS 43.20.011(e) amends percentage of taxes from 5.4 to 9.4. and repeals surtax of 4.0%. Tax on a corporation engaged in transportation of crude oil or natural gas shall be determined and paid in accordance with A.S. 43.21.

SB 20

Section 43.20.033<sup>(a)</sup> provides for \$150,000 exemption.

SB 35

Section 43.20.033<sup>(a)</sup> provides for \$250,000 exemption.

SB 20

Section 43.20.033 (b) is the same as SB 35

SB 20

43.20.033 (c) is the same as SB 35.

SB 20

43.20.033 (d) is the same as SB 35.

43.20.031 is repealed in both SB 35 and SB 20.

SB 20

Sections 1-3 retroactive 1/1/81 and apply to tax years beginning 12/31/80

SB 35

Sections 1-2 retroactive 1/1/81 and apply to tax years beginning 12/31/80.

Immediate effective date same in both bills.

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH 5  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-2300

January 31, 1981

The Honorable Bob Mulcahy  
Chairman  
Senate Labor & Commerce Committee  
Room 119 - Capitol Building  
Juneau, Alaska

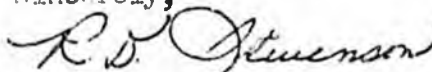
Re: Senate Bill No. 35

Dear Senator Mulcahy:

Senate Bill No. 35, an Act relating to corporate income taxes under the Alaska Net Income Tax Act and exempting a portion of the income of a corporation from taxation under that Act, was introduced in the Senate on January 13, 1981 and was referred to the Senate Labor & Commerce and Finance Committees.

For the consideration of the Senate Labor & Commerce Committee, I am enclosing copies of Fiscal Notes prepared by Mr. Gary Jenkins, Director, Audit Division and Mr. Lance Rovig, Economist, Research Section of the Department of Revenue concerning the proposed legislation.

Sincerely,



R. D. Stevenson  
Special Assistant

cc: The Honorable Don Bennett  
The Honorable H. E. Dankworth  
Co-Chairmen  
Senate Finance Committee

Joseph K. Donohue  
Deputy Commissioner  
Department of Revenue

Gary Jenkins, Director  
Audit Division  
Department of Revenue

Lance Rovig, Economist  
Research Section  
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill 35  
 Title An Act relating to corporate income taxes under AK Net Income Tax Ac  
 Requested by R. D. Stevenson Date 1/30, 81

II. FISCAL DETAIL

Agency Affected Department of Revenue  
 Program Category Affected Revenue Collection And Management  
 BRU, Program, or Subprogram(s) Affected Audit Division  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)  
EXPENDITURES (Thousands of Dollars) - None

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars) - None

GENERAL FUND	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS - None

FULL TIME	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See attached memorandum dated 1/30/81 to Mr. R. D. Stevenson.

IV. DATE January 1, 1981 PREPARED BY Gary L. Jenkins, Director  
 AGENCY Revenue  
 PHONE 465-2320  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

# MEMORANDUM

# State of Alaska


TO R. D. Stevenson  
Special Assistant

DATE: January 30, 1981

FILE NO:

TELEPHONE NO:

FROM: Gary L Jenkins  
Director  
Audit Division



SUBJECT: SB 35

This bill would provide for an exemption of \$250,000 for corporations subject to the income tax imposed by AS 43.20.

In attempting to ascertain the effect of this exemption I have reviewed the filing information for the returns received in 1979. The information for 1980 is not yet available, however, the data related to the number of returns which are filed in the various taxable income levels should remain relatively constant. If this exemption were enacted into law, 93.17% of the returns which reported taxable income would be exempt from any tax. The actual effect of this exemption would be tantamount to a repeal of the tax except for the very large domestic corporations and the multistate corporations which do business in Alaska.

Any legislation of this nature could cause serious problems for the State in it's defense of AS 43.21 because of the fact that nearly 100% of domestic corporations will be exempt from tax, thus the only taxpayers would be the multistate corporations who are doing business in Alaska.

It is recommended that very careful review be given to any legislation providing exemptions from the imposition of the corporate income tax.

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill No. 35  
 Title \_\_\_\_\_  
 Requested by Senate Labor and Commerce Date January 22, 1981

II. FISCAL DETAIL

Agency Affected Department of Revenue  
 Program Category Affected Revenue Collection and Management  
 BRU, Program, or Subprogram(s) Affected Audit Division

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						

TOTAL

Millions

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND		(16.1)	(19.4)	(22.9)		
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This analysis is based on limited data which is not necessarily a representative sample of the data which we do not have. Although incomplete, the data is the best that we have to date. For lack of more complete data, it was assumed that the data is a representative sample. Preliminary analysis indicates that, when retaining the surtax exemption and exempting the first \$250,000 of taxable income, approximately 45 percent of net corporate income taxes would be eliminated. The revenue losses would be about \$16.1 million in FY82, \$19.4 million in FY83 and \$22.9 million in FY84. Approximately 96 percent of corporate returns would be totally exempt from the Alaska income tax. However, other taxes such as personal holding company taxes, taxes from recomputing prior year investment tax credits and minimum taxes on tax preference items would be payable.

IV. DATE January 22, 1981 PREPARED BY Lance Rovig, Economist  
 AGENCY Revenue  
 PHONE 465-2390

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

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3

COMMITTEE REPORT  
SENATE

1/13/81

FURTHER:iciary

Date: 23 February, 1981

Mr. President:

The Committee on LABOR & COMMERCE has had SB 43  
relating to filing insurance forms

under consideration and (a majority of the committee) (the committee)  
reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for "An act relating to filing insurance policy forms"  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

[Signature]  
[Signature]  
[Signature]  
[Signature]  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
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[Signature]  
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[Signature]  
 CHAIRMAN



Official Business

# Alaska State Legislature

## Senate

### Committee on Labor & Commerce

Pouch V  
State Capitol  
Juneau, Alaska 99811

February 23, 1981

#### COMMITTEE MEETING MINUTES

The meeting was called to order at 3:05 P.M. by Chairman Mulcahy. Those present were: Senators Hohman, Ziegler, Fahrenkamp and Rodey.

First on the agenda was SB 46 "An Act relating to registration of construction contractors."

Mr. Daryl Cody, for the Association of General Contractors testified in opposition to SB 46, stating that although this is a conformity issue, AGC does not feel it is imperative. AGC feels that Alaskan contractors should meet the qualifications and standards of our industry, and this proposed amendment opens the process to irresponsible bidding, slows down the bidding, and creates confusion. (tape reading 026 to 155)

Mr. John Scribner, with the Department of Labor testified in favor of SB 46, stating that the proposed changes simplify the bidding process and eliminates confusion. (tape reading 170 to 271)

Next on the agenda was SB 50 "An Act relating to unemployment insurance; and providing for an effective date."

Mr. Art Zillig, with the Department of Labor testified in favor of SB 50, explaining that subsequent to drafting the original bill, Federal Government enacted legislation which required State compliance. CSSB 50 includes all the provisions of conformity except one in section 3; substitute "and" instead of "for". Mr. Zillig continued by giving a section by section analysis. (tape reading 287 to 472)

Next on the agenda was SB 43 "An Act relating to insurance."

Chairman Mulcahy requested a motion to move CSSB 43. The members were in agreement with this.

The meeting was adjourned by Chairman Mulcahy at 3:30 P.M.



Official Business

# Alaska State Legislature

## Senate

### Committee on Labor & Commerce

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### COMMITTEE MEETING MINUTES:

Committee meeting held 23 February, 1981; All committee members present.

Sen. Mulcahy opened meeting and addressed SB 46; called for testimony.

Mr. Daryl Cody's testimony reflected the position of AGC; expressed objection to SB 46. Although a conformity issue, AGC does not feel it is imperative. Alaskan contractors should meet the qualifications and standards of our industry, and this proposed ammendment opens the process to irresponsible bidding, slows down the bidding, and creates confusion.

Mrs. Brice supported the testimony of Mr. Cody.

Jon Scribner testified for DOTPF expressing the departments position that the proposed changes simplify the bidding process, reduce the number of documents, and eliminates confusion.

Sen Mulcahy questioned Mr. Scribner about "outside" contractors having access to the bidding process and receiving contracts.

Mr. Scribner responded that although the possibility exists, that hasn't been the case on the Federally issued contracts.

Sen Fahrenkamp asked Mr. Scribner what documents would be eliminated?

Mr Scribner responded that the same documents would be required, however confusion would be minimized, and we would have more good bidders.

Sen Fahrenkamp asked whether we shouldn't eliminate some of the documents?

SEN Mulcahy asked for additional testimony and went on to CSSB 50.

Art Zillig Department of Labor, gave testimony on CSSB 50, explaining that subsequent to drafting the original bill, Federal Government enacted legislation which required State compliance. CSSB 50 includes all the provisions of conformity. Continued testimony by giving a section by section analysis.

Sen Fahrenkamp asked question about suitable work section and conformity.

Sen Ziegler asked about fiscal impact.

Sen Hohman replied negative fiscal impact

Sen Mulcahy called for further testimony, and then continued to CSSB 43.

Don Koch expressed the position of the Div. of Insurance, and explained that they were in agreement with the CS.

Sen Mulcahy asked for further testimony and then entertained the motion to pass the committee substitute.



Official Business

# Alaska State Legislature

## Senate

### Committee on Labor & Commerce

Pouch V  
State Capitol  
Juneau, Alaska 99811

Summary - SB 43 - Rules/by Request

"An Act relating to filing of insurance policy forms."

The addition of subsection 5 to 21.42.130 would insure State compliance with P.L. 96-265 which creates a certification process for certain types of insurers, setting new standards for medicare supplemental insurance, and including a requirement for premium benefit ratios in medicare supplemental insurance.

There is an apparent federal deadline of July 1, 1982 by which time States must act on the requirements concerning medicare supplemental insurance. However, federal surveys of state laws beginning on July 1, 1981 will be used to assess the need for federal intervention. Therefore, it is felt that the issue must be dealt with immediately to avoid such intervention.

The Federal Law - P.L. 265 - is the Social Security Act adopted by the 96th Congress. The 'Baucus Amendment' of the Act required that states comply in two areas concerning medicare supplemental insurance:

1. States shall adopt minimum standards of coverage for medicare supplemental policies.

There is sufficient statutory authority to comply with this requirement under 21.42.120, Filing of Forms.

2. States must enforce cost/benefit ratio regulations.

It is felt, by the Div. of Insurance, that SB 43, with the addition of subsection 5, will comply with the federal requirements.

Fiscal Impact - Ø



Official Business

# Alaska State Legislature

## Senate

### Committee on Labor & Commerce

Porch V  
State Capitol  
Juneau, Alaska 99811

February 9, 1981

#### Senate Labor & Commerce Committee Meeting

The meeting was called to order at 3:10 P.M. by Chairman Mulcahy. Those present were: Senators Hohman, Ziegler, Fahrenkamp and Rodey.

First on the agenda was SB 19 "An Act relating to the legal rate of interest; and providing for an effective date."

Chairman Mulcahy mentioned that a line of credit funds should be a matter of separate legislation.

Mr. Don Rhoades, President of Peoples Bank in Anchorage, testified on SB 19, citing the Belt & Daniels report, 1980 Federal Deregulation Act, as to impact on banks (tape reading 035 to 150).

Mr. Rhoades stated that Federal regulations pre-empt state usury laws at \$25,000.

Senator Rodey stated that pre-emption for \$25,000 will apply April 1, 1983; we are taking ourselves from within a Federal scheme and developing our own usury statute. Banking deregulation allows us to do it. We are exempting the State of Alaska from the Federal Act and wish to set our own usury rate. Senator Rodey moved to amend SB 19 by deleting the figure \$100,000 in line 17, page 1 of SB 19 to read \$25,000. There were no objections.

SB 19 was passed out of Committee with "Do Pass" recommendations.

Next on the agenda was SB 43 "An Act relating to filing insurance policy forms."

page 2  
Senate L & C Committee Meeting  
February 9, 1981

Mr. Don Koch, Alaska Division of Insurance testified on SB 43. He stated that the Division of Insurance ask through the Governor to respond to Federal legislation which will put the Federal Government in a position to regulate medicare supplement insurance, unless the State of Alaska takes certain actions:

- 1.) Adopt minimum standards for medicare supplemental policies.
- 2.) Implement loss ratio regulation to examine relationships of benefits to cost - Public Law 96-263 effective July 1, 1982. (tape reading 522 to 546)

Mike Thomas, lobbyist for the American Council of Life Insurance testified on SB 43. He felt that the Federal regulations are not necessarily reflective in SB 43. He also felt there were two problems with the bill:

- 1.) It gives the Division the authority to set and approve regulations in all phases of insurance.
- 2.) This bill may not give enough authority to meet requirements. Present statutes do not give authorities. (tape reading 550 to 640)

Chairman Muleahy felt that further staff research is needed.

The meeting was adjourned by Muleahy at 3:40 P.M.

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D

JUNEAU, ALASKA 99811

Phone: 465-2500

February 10, 1981

*rec'd Feb 11*

Honorable Bob Mulcahy, Chairman  
Senate Labor and Commerce Committee  
Pouch V  
Juneau, Alaska 99811

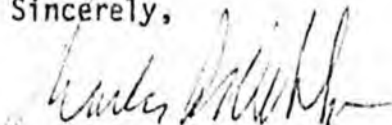
Dear Senator Mulcahy:

Re: Senate Bill 43

On Monday, February 9, 1981, Don Koch of this department appeared before your committee in support of SB 43. A representative of the Health Insurance Association of America (HIAA) also appeared and presented that association's views on SB 43 which were partly in conflict with Mr. Koch's testimony and position. Your committee suggested that it would be appropriate for this department and HIAA to attempt a compromise solution to conflicts.

With the assistance of Mr. Mike Thomas, HIAA's representative, we have worked out a resolution of our differences and ask that you offer the enclosed revision as a substitute to SB 43. It accomplishes the desires of this department in a manner acceptable to HIAA. We sincerely appreciate the reception that you and your committee have given this proposal.

Sincerely,



Charles R. Webber  
Commissioner

CRW/va121G7  
Enclosure

\* Section 1. AS21.42.130 is amended by adding a new subsection to read

(5) provides benefits which are unreasonable in relation to the premium charge, but this subsection shall not apply to life insurance, annuities or group disability insurance.

\* Section 2. AS 21.84.590 is amended by adding a new subsection to read:

(10) AS 21.89.050

\* Section 3. AS 21.87.340(16) is amended to read:

(16) AS 21.89.040 and AS 21.89.050

\* Section 4. AS 21.89 is amended by adding a new section to read:

AS 21.89.050. Medicare Supplement Insurance. The director shall from time to time adopt regulations necessary to comply with the requirements of Section 507(a) of Public Law 96-265 enacted by the Congress of the United States, and of any amendments to that section and of any federal regulations pertaining to that section, in order that this state shall retain its full authority to regulate minimum standards for medicare supplement insurance.

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February 10, 1981

The Honorable Robert Mulcahy  
Chair, Senate Commerce & Labor Committee  
Alaska State Senate  
Pouch "V", Mail Stop 3100  
Juneau, Alaska 99811

Re: Senate Bill 43

Dear Senator Mulcahy:

I have reviewed Commissioner Webber's letter of February 10, 1981, and the enclosed proposal for a committee substitute. The proposed language will, we believe, adequately and appropriately deal with the director's concerns, and we urge its adoption.

Thank you for your consideration on this bill.

Very truly yours,

ROBERTSON, MONAGLE, EASTAUGH & BRADLEY

  
M. T. Thomas

MTT/dh



Official Business

# Alaska State Legislature

## Senate

### Committee on Labor & Commerce

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### M E M O R A N D U M

TO: Senate Labor & Commerce  
Committee Members

DATE: February 5, 1981

FROM: Senator Mulcahy, Chairman

RE: Research / SB 43

The attached memorandums are the result of a request of the Legislative Affairs Agency for a legal opinion regarding SB 43 in its compliance with P.L. 96-265.

The second memo is possible alternate language and placement for the intent of SB 43; also prepared by L.A.A.

STATE OF ALASKA  
THE LEGISLATURE

POUCHY - STATE CAPITAL  
JUNEAU, ALASKA 99901  
907-465-3600

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 28, 1981

SUBJECT: Filing Insurance Policy Forms - SB 43  
(Work Order No. 12-0479)

TO: Senate Labor and Commerce Committee  
ATTN: Linda Otey

FROM: *LHA* Linn H. Asper  
Legislative Counsel

You have asked if SB 43 as drafted, if enacted, will insure state compliance with P.L. 96-265 (42 U.S.C. Sec. 1395ss) and prevent federal intervention to regulate medicare supplemental insurance policies.

P.L. 96-265 creates a certification process for certain types of insurers, setting new standards for medicare supplemental insurance, including a requirement that such policies must be designed to pay out at least 75 percent of premiums collected in benefits. [42 U.S.C. Sec. 1395ss(c)(2)]. This is a federal requirement not directly related to state insurance laws, but if a state has not created requirements similar or identical to the federal requirements by July 1, 1982, the federal certification will come into play, superseding state regulation in this area. The State of Alaska favors state rather than federal regulation of the insurance industry in Alaska and thus wishes to obtain legislative authority to control premium-benefit ratios by enactment of SB 43.

The Division of Insurance has stated that the federal deadline of July 1, 1982 is misleading in that there is to be a federal survey of state laws existing on July 1st of this year which will be used to assess the need for federal intervention. The Division believes that changes in state law which become effective before July 1, 1982, but after July 1st of this year will not prevent the federal intervention which they seek to avoid. If the Division is correct, and I have no

Reason to doubt them on this, then they do need authorizing legislation during this session to allow them to make regulations before July 1st of this year to avoid federal intervention.

It appears that SB 43 will give the Division of Insurance the authority it needs to avoid the threat of federal intervention as to medicaid supplemental insurance. It should be noted that the bill as written would allow regulation of premium-benefit ratios in all insurance policies written in the state, not just medicaid supplemental insurance. This broad authority may be desirable but it is not required by the new federal law. I also have some difficulty with the placement of the new law in AS 21.42.130, which has to do with insurance policy format, not substantive regulation of insurance rates. It might better be placed in AS 21.89 MISCELLANEOUS PROVISIONS, but its placement in AS 21.42.130 will not invalidate the law.

To summarize, SB 43 will have the effect of supplanting federal certification procedures in the area of premium-benefit ratios in medicaid supplemental insurance, if enacted this session. It goes beyond medicaid supplemental insurance and, in fact, gives the Division of Insurance power to set premium-benefit ratios for all insurance policies.

LHA:jdn

STATE OF ALASKA  
THE LEGISLATURE

POUCHY - STATE DEPT. TO  
JUNEAU, ALASKA 99901  
907-465-3311

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 4, 1981

SUBJECT: Possible alternate language for SB 43  
(Work Order No. 12-0479)

TO: Senate Labor and Commerce Committee  
Attn: Linda Otey, A.A.

FROM: Linn H. Asper  
Legislative Counsel

In connection with my memorandum of January 28th on SB 43, I have prepared the following alternate language for SB 43 to limit the bill to medicaid supplemental insurance. As noted in the memorandum, I would place the new language in AS 21.89, as follows:

AS 21.89 is amended by adding a new section to read:

Sec. 21.89.060. MEDICAID SUPPLEMENTAL INSURANCE. A medicaid supplemental insurance policy may not be issued unless it provides benefits which are reasonably related to the premiums charged, based on guidelines as set out in regulations to be adopted by the director. In this section "medicaid supplemental insurance policy" means a health insurance policy or health benefit plan offered by a private entity to individuals eligible for medicaid benefits, to provide reimbursement for medical expenses not covered by the medicaid program.

LHA:ljb

Chapter 89. Miscellaneous Provisions.

Sec. 21.89.010. Settlements. A settlement made under a motor liability insurance policy of a claim against an insured arising out of that policy from an accident or other event insured against for damage to or destruction of property owned by another person shall not be construed as an admission of liability by the

insured, or the insurer's recognition of that liability, with respect to any other claim arising from the same accident or event. The settlement shall be inadmissible in evidence in any legal action. (1 ch 123 SLA 1966)

Legislative committee report.—For 123, SLA 1966, see House Journal legislative committee report on ch. (1966) page 841.

alternate language: Medicaid Supplemental Insurance  
Sec. 21.89.060

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February 5, 1981

The Honorable Robert Mulcahy  
Chair, Senate Commerce & Labor Committee  
Alaska State Senate  
Pouch "V", Mail Stop 3100  
Juneau, Alaska 99811

Re: SB 43

Dear Senator Mulcahy:

SB 43 has been introduced at the request of the Governor because of Federal Legislation known as the Baucus Amendment, which became part of PL 96-265, the 1980 Social Security Amendment Law. The Amendment establishes minimum federal requirements for the regulation of individual medicare supplement policies, and for some group medicare supplement policies. The Amendment requires that the federal government regulate any such medicare supplements in a state that is found by the Supplemental Health Insurance Panel established under PL 96-265 not to be expected to have established by July 1, 1982 an approved state regulatory program meeting the standards of the statute. The Division of Insurance believes that SB 43 gives them the only authority that they need to have under the Baucus Amendment which they do not presently have: the power to disapprove policy forms if benefits are not found to be reasonably related to premiums.

This letter is written on behalf of the American Council of Life Insurance, and its sister trade association, the Health Insurance Association of America. The Council believes that SB 43, in its present form, does things which are not required by the Baucus Amendment and are seriously objectionable. We also believe that the bill does not in supply all of the authority the Alaska Division of Insurance lacks to adopt regulations completely complying with the Baucus Amendment.

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February 5, 1981

The Honorable Robert Mulcahy  
Chair, Senate Commerce & Labor Committee  
Alaska State Senate  
Pouch "V", Mail Stop 3100  
Juneau, Alaska 99811

Re: SB 43

Dear Senator Mulcahy:

SB 43 has been introduced at the request of the Governor because of Federal Legislation known as the Baucus Amendment, which became part of PL 96-265, the 1980 Social Security Amendment Law. The Amendment establishes minimum federal requirements for the regulation of individual medicare supplement policies, and for some group medicare supplement policies. The Amendment requires that the federal government regulate any such medicare supplements in a state that is found by the Supplemental Health Insurance Panel established under PL 96-265 not to be expected to have established by July 1, 1982 an approved state regulatory program meeting the standards of the statute. The Division of Insurance believes that SB 43 gives them the only authority that they need to have under the Baucus Amendment which they do not presently have: the power to disapprove policy forms if benefits are not found to be reasonably related to premiums.

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February 5, 1981

In general, Baucus calls for a regulatory program to require insurance policies and Blue Cross/Blue Shield Plan medicare supplements to meet minimum standards of an NAIC 1979 Model Act and Regulation, and to meet minimum loss ratio standards. The NAIC 1979 Models generally establish minimum standards for policy benefits and provisions, prohibit certain types of policy provisions, have some disclosure requirements, and require the insurer to furnish a prescribed notice when its policy replaces another policy.

The NAIC, with HIAA input, revised its Model Act and Regulation in December 1980, to produce what we hope is a regulatory plan that meets the Baucus requirements. Unfortunately, Baucus contains some ambiguities which are not yet resolved, and the federal regulations have not yet been issued. The enclosed copies of the revised NAIC Model Act and Regulation have been marked by hand to correct some errors. Most states will probably adopt both the Act and the Regulation in this form.

The Insurance Division believes that under AS 21.42.130(2), requiring the Division to disapprove a policy form if it contains a "misleading clause," or an "exception or condition which deceptively affects the risk purported to be assumed in the general coverage of the contract," they can disapprove any policy form that purports to be a medicare supplement if it does not meet the requirements of the regulation they expect to adopt on medicare supplements.

We disagree with the Division's approach because the Division has not been given statutory authority to establish minimum standards for medicare supplements; that is, they may not establish minimum benefits or required and prohibited provisions. The Amendment also would appear to us to be inadequate because some of the Baucus requirements have nothing to do with the approval or disapproval of a policy form under AS 21.42.130. What we are most concerned about is that it may be decided at the federal level that the Insurance Division did not have the authority to adopt the regulation, and that therefore the state is not in compliance with Baucus.

Ironically, while the present bill may include too little to satisfy the requirements of the Baucus Amendment, it also includes in other ways much more than is needed to respond to Baucus, and we are concerned about this over-

February 5, 1981

inclusiveness as well. SB 43 by its terms is not limited to Medicare Supplement coverage. The bill applies to all types of insurance policies that are subject to AS 21.42.130, including life insurance, annuities, and all disability (health) insurance. Also, although casualty insurance is subject to actual rate regulation under AS 21.39, there are some exceptions to such regulation included in Sections 20 and 40, and those exceptions seem to be inconsistent with the proposed amendment. We point out in passing that the Blue Cross/Blue Shield carriers are not subject to this Section, because their policy form and rate provisions are in AS 21.87.

Health insurance rates are normally established by insurance company life actuaries, or sometimes by specially trained health actuaries. The process of setting rates in this area is very complex. Insurance departments are generally not equipped to regulate health insurance rates. Among other things, the qualified actuaries are simply not available. Part of the problem is due to the complexity of the process of rate making, but part of it is also due to the diversity of coverages. For example, rates for the same individual policy may be quite different, depending on risk characteristics of the people it is marketed to, and group policy rates are normally different for each group. Health insurance rates are in fact regulated by the intense competition in the business among the large number of health carriers. The exception is in the case of credit health insurance, where coverages are standardized and simplified and there is reverse competition in the sense that the higher the rate is set, the more the insurer can pay the creditor for its services. In that area, insurance rates are regulated by insurance departments. In Alaska, credit life and disability are governed by a special chapter, AS 21.57.

We are not sure that the Insurance Division really intends to exercise any authority over group health insurance rates, except to the extent required by Baucus for medicare supplements. We would be opposed to their being given the authority to do so in the future.

An alternative to SB 43 which would avoid both over-inclusion and under-inclusion, would be a bill which simply and directly authorized the Director to adopt

The Honorable Robert Mulcahy  
Page Four

February 5, 1981


whatever regulations are necessary to meet the minimum requirements of the federal law. A draft of a bill which would do that is enclosed.

As stated at the beginning of this letter, the impetus for SB 43 is the Baucus Amendment. There are some interpretation problems in the Amendment, and the federal regulations have not been adopted. Those regulations may clarify, confuse, or add to, the requirements. The state's need to retain adequate authority to regulate insurance in the face of the Baucus Amendment can be met simply and directly, without either raising questions about the adequacy of the state's authority, or getting into complicated questions of rate regulation beyond medicare supplement insurance. We would urge that this more direct approach be used.

Thank you for this opportunity to comment on SB 43. I would be glad to obtain any further information the Committee may want that the Association has available to it. I would appreciate being advised of any scheduled hearing on the bill.

Sincerely,

ROBERTSON, DONAGLE, EASTAUGH & BRADLEY



M. T. Thomas

MTT:vb

Enclosures

cc: Charles D. Kuhnen (w/o enclosures)  
Bill Lincoln (w/o enclosures)

Attachment A

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

Section 21.36.360. Medicare supplement insurance. The Director shall from time to time adopt such rules as are necessary to comply with the requirements of Section 507(a) of Public Law 96-265 enacted by the Congress of the United States, and of any amendments to that section and of any Federal regulations pertaining to that section, in order that this State shall retain its full authority to regulate minimum standards for Medicare supplement insurance.

Present Statutes go to 21.36.200

Suggested  
Amendment offered by Mike Thomas, Insurance Lobbyist



# Alaska State Legislature

## Senate

### Committee on Labor & Commerce

Official Business

Pouch V  
State Capitol  
Juneau, Alaska 99811

Summary - SB 43 - Rules/by Request

"An Act relating to filing of insurance policy forms."

The addition of subsection 5 to 21.42.130 would insure State compliance with P.L. 96-265 which creates a certification process for certain types of insurers, setting new standards for medicare supplemental insurance, and including a requirement for premium benefit ratios in medicare supplemental insurance.

There is an apparent federal deadline of July 1, 1982 by which time States must act on the requirements concerning medicare supplemental insurance. However, federal surveys of state laws beginning on July 1, 1981 will be used to assess the need for federal intervention. Therefore, it is felt that the issue must be dealt with immediately to avoid such intervention.

The Federal Law - P.L. 265 - is the Social Security Act adopted by the 96th Congress. The 'Baucus Amendment' of the Act required that states comply in two areas concerning medicare supplemental insurance:

1. States shall adopt minimum standards of coverage for medicare supplemental policies.

There is sufficient statutory authority to comply with this requirement under 21.42.120, Filing of Forms.

2. States must enforce cost/benefit ratio regulations.

It is felt, by the Div. of Insurance, that SB 43, with the addition of subsection 5, will comply with the federal requirements.

Fiscal Impact - Ø

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D

JUNEAU, ALASKA 99811

Phone: 465-2500

January 20, 1981

Honorable Bob Mulcahy  
Chairman, Senate Labor and  
Commerce Committee  
Pouch V  
Juneau, Alaska 99811

Dear Senator Mulcahy:

RE: Position Paper SB 43

Thank you for your request for information on SB 43.

The recent passage of Public Law 96-265 in the Federal Congress has the effect of transferring a portion of the regulation of insurance to the Federal Government unless the various states establish certain equivalent programs and do so on an extremely short time frame.

The insurance industry has traditionally been regulated by the various states, individually. This approach was reinforced in 1945 with the passage of the McCarran-Ferguson Act (15 USCA 1011-1015). There has been a fairly steady attempt to bring such regulation under a federal agency, particularly by the Federal Trade Commission, which has been resisted by the states with equal fervor. The principal argument at the federal level has been that insurance is interstate commerce and should be regulated by a federal agency. The states, on the other hand, argue that the federal bureaucracy is either unable or unwilling to recognize and be responsive to local conditions and needs. Due to Alaska's population relative to the rest of the nation, this is an argument that has a good deal of substance. In fact, Alaska has already experienced a situation that accents the State's concerns and did so at the expense of Alaska's citizens to the tune of about \$36,000, and that was in 1972 dollars.

Public Law 96-265 addresses changes in the Social Security Act and includes language dealing with medicare supplemental policies. It has two requirements termed "The Baucus Amendment" which impact State regulation of insurance. The first requirement concerns adoption of minimum standards of coverage for medicare supplemental policies. The Division of Insurance has sufficient statutory authority to establish the necessary standards based on an argument that it would be a misrepresentation to offer or sell a contract of insurance that purports to be a medicare supplemental policy unless it provides the adopted minimums. This can be accomplished by regulation and work on it has commenced.

January 20, 1981

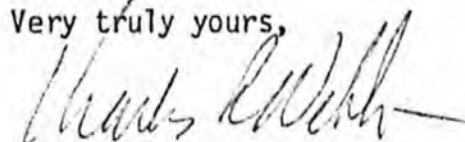
The second requirement of "The Baucus Amendment" is for cost/benefit ratio regulation. This is the area in need of a legislative solution. The Division of Insurance does not currently have rate regulatory authority over disability or accident/health kinds of insurance including medicare supplemental policies. It, in fact, wishes to avoid rate regulation of the kind now applied to property and casualty kinds of insurance as there would be a fiscal impact not commensurate with the results. However, it would be appropriate to determine a reasonable ratio of cost to benefit which could be regulated rather simply based on information supplied to the division annually, thus avoiding an elaborate and costly actuarial review process.

Under the federal legislation, the Secretary of Health, Education and Welfare is required to establish a certification program with respect to the various states that policies issued in those states meet certain standards, unless a state has established a program to regulate the minimum standards and cost/benefit relationship as previously noted. The secretary is to base his actions on a study to be completed by July 1, 1981, so we are faced with an exceptionally short time frame to act and avoid this federal intrusion.

The proposal modifies the reasons under which the Division of Insurance may base the refusal of a filing of a contract form, to include an inappropriate relationship between the benefit provided and the cost of the coverage. This responds to the federal action concerning medicare supplemental policies. It also addresses other kinds of insurance subject to filing under AS 21.42.

We are prepared to offer testimony and/or respond to questions when this issue is heard before your committee.

Very truly yours,



Charles R. Webber  
Commissioner

CRW/jarE8

§ 21.42.120

a policy of life reinstated or re-see of the policy the application, er shall, within ce or at one of making the re-request from a required to fur-run until after he beneficiary's

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have issued the or contract in rate, or would hazard resulting to the insurer or contract or

o basic insur-on form where a part of the form or form for delivery n approved by y bonds, or iders, endorse-and used with hich relate

§ 21.42.130

INSURANCE

§ 21.42.130

to the manner of distribution of benefits or to the reservation of rights and benefits under life or disability insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. Forms for use in property, marine (other than wet marine and transportation coverages), casualty and surety insurance coverages the filing required by this section may be made by rating organizations on behalf of its members and subscribers; but this provision does not prohibit a member or subscriber from filing the forms on its own behalf.

(b) Each filing shall be made not less than 30 days in advance of delivery. At the expiration of the 30 days the form filed shall be considered approved unless before the 30-day period it has been affirmatively approved or disapproved by order of the director. Approval of the form by the director constitutes a waiver of the unexpired portion of the waiting period. The director may extend by not more than an additional 30 days the period within which he may affirmatively approve or disapprove the form, by giving notice of the extension before expiration of the initial 30-day period. At the expiration of the extended period, and in the absence of a prior affirmative approval or disapproval, the form shall be considered approved. The director may at any time, after notice and for cause shown, withdraw the approval.

(c) An order of the director disapproving the form or withdrawing a previous approval shall state the grounds and the particulars in such detail as reasonably to inform the insurer thereof:

(d) The director may, by order, exempt from the requirements of this section for as long as he considers proper an insurance document or form or type thereof as specified in the order, to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

(e) This section applies also to a form used by domestic insurers for delivery in a jurisdiction outside this state, if the insurance supervisory official of the jurisdiction informs the director that the form is not subject to approval or disapproval by the official, and upon the director's order requiring the form to be submitted to him for the purpose. The applicable same standards shall apply to these forms as apply to forms for domestic use. (§ 1 en 120 SLA 1966)

Sec. 21.42.130. Grounds for disapproval. The director shall disapprove a form filed under § 120 of this chapter or withdraw a previous approval thereof, only if the form

(1) is in any respect in violation of or does not comply with this title;

(2) contains or incorporates by reference, where incorporation is permissible, an inconsistent, ambiguous, or misleading clause,

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or exception and condition which deceptively affects the risk pur-  
ported to be assumed in the general coverage of the contract;

(3) has a title, heading, or other indication of its provisions  
which is misleading;

(4) is printed or otherwise reproduced in a manner which  
renders a provision of the form substantially illegible. (§ 1 ch  
120 SLA 1966)

Sec. 21.42.140. Standard provisions. (a) Insurance contracts  
shall contain the standard or uniform provisions which are re-  
quired by the applicable provisions of this title pertaining to con-  
tracts of particular kinds of insurance. The director may waive  
the required use of a particular provision in a particular insur-  
ance policy form if

(1) he finds the provision unnecessary for the protection of  
the insured and inconsistent with the purposes of the policy; and

(2) the policy is otherwise approved by him.

(b) No policy may contain a provision inconsistent with a  
standard or uniform provision used or required to be used, but  
the director may approve a substitute provision which is, in his  
opinion, not less favorable in any particular to the insured or  
beneficiary than the provisions otherwise required.

(c) In lieu of the provisions required by this title for con-  
tracts for particular kinds of insurance, substantially similar pro-  
visions required by the law of the domicile of a foreign or alien  
insurer may be used when approved by the director.

(d) A provision required by this title to be contained in a policy  
cannot be waived by agreement between the insurer and another  
person. (§ 1 ch 120 SLA 1966)

Am. Jur., ALR and C.J.S. refer- affecting enforceability of policy pro-  
ences.—29 Am. Jur., Insurance, §§ vision against insurer, 113 ALR 773.  
186 to 188. 44 C.J.S. Insurance §§ 249 to 261.

Departure from standard policy as

Sec. 21.42.150. Policy must contain entire contract. The policy,  
when issued, shall contain the entire contract between the parties,  
and neither the insurer nor its agent or representative, nor a per-  
son insured by the policy, may make an agreement as to the in-  
surance which is not expressed in the policy. This section does  
not prohibit the modification of a policy, after issuance, by writ-  
ten rider or endorsement issued by the insurer. (§ 1 ch 120 SLA  
1966)

Sec. 21.42.160. Contents of policies in general. (a) Each policy  
shall specify

(1) the names of the parties of the contract;

(2) the subject of the insurance;

(3) the risks insured against;

(4) the time v  
the period during

(5) the premiu

(6) the conditio

(b) If under t  
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(c) Subsections  
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Sec. 21.42.170.

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Sec. 21.42.180.

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Sec. 21.42.190.

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(4) the society has a board of directors charged with the responsibility for managing its affairs in the interim between meetings of its supreme legislative or governing body, subject to control by the body and having powers and duties delegated to it in the constitution or laws of the society;

(5) the board of directors is elected by the supreme legislative or governing body, except in case of filling a vacancy in the interim between meetings of the body;

(6) the officers are elected either by the supreme legislative or governing body or by the board of directors; and

(7) the members, officers, representatives or delegates may not vote by proxy. (§ 1 ch 120 SLA 1966)

Sec. 21.84.590. Other provisions applicable. In addition to the provisions contained in this chapter, other chapters and provisions of this title shall apply to fraternal benefit societies, to the extent applicable and not in conflict with the express provisions of this chapter and the reasonable implications thereof, as follows:

- (1) AS 21.03
- (2) AS 21.06, with the exception of AS 21.06.250
- (3) The following sections of AS 21.09:
  - (A) AS 21.09.050
  - (B) AS 21.09.100
- (4) AS 21.33.010
- (5) AS 21.36
- (6) AS 21.42.290
- (7) AS 21.69.370
- (8) AS 21.69.640
- (9) AS 21.78. (§ 1 ch 120 SLA 1966)

**Chapter 87. Hospital and Medical Service Corporations.**

Section	Section
10. Scope of chapter	120. Services and benefits which may be provided, medical service corporations
20. Purpose and interpretation	
30. Provisions exclusive	
40. Incorporation—Certificate of authority required	130. Services and benefits which may be provided, hospital service corporations
50. Same—Law applicable; approval of articles of incorporation; amendment	140. Medical service agreements
60. Name of corporation	150. Hospital service agreements
70. Qualifications for certificate of authority	160. Subscriber's contracts
80. Application for certificate of authority	170. Service agreements and subscriber's contracts must provide substantial service benefits
90. Issuance or refusal of certificate of authority	180. Filing and approval of agreements and contracts
100. Continuance or expiration of certificate of authority	190. Charges and rates
110. Suspension or revocation of certificate of authority	200. Reserves
	210. Surplus fund
	220. Investments

- Section:
- 230. Records and accounts
  - 240. Annual statement
  - 250. Examination
  - 260. Taxation
  - 270. Joint operations
  - 280. Combined corporations
  - 290. Contracts covering compensation

Sec. 21.87.010. Every individual, organization of any kind or any other person engaged in the provision of services as defined in § 330 of this title shall be subject to the provisions of this chapter and the reasonable implications thereof, as follows:

- (b) This chapter shall apply to:
  - (1) insurers or other persons who act in the kind of insurance business defined in this title;
  - (2) fraternal associations or societies of this title;
  - (3) health care providers and their employees and their costs thereof by ties owned, employed or controlled;
  - (4) infrequent direct to the physician rendered to the patient. (§ 1 ch 120 SLA 1966)

Am. Jur., ALR and Annot. — 20 Am. Jur. 2d 1758 et seq.; 41 Am. Jur. 2d 1758 et seq. and Surgeons, § 25.

Sec. 21.87.020. The purpose of this chapter is to regulate the operation and operation of hospital and medical service corporations in order that the services provided and equitable conditions meeting reasonable and financial soundness. (b) This chapter shall apply to the purpose declared.

Sec. 21.87.030. This chapter may apply to a hospital or referred to in this title.

Sec. 21.87.040. No person other than

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§ 21.87.340

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§ 21.89.010

health care services is to be rendered to or on behalf of the subscriber by a physician or hospital that has entered into a service agreement with the corporation covering the services;

(7) "participant hospital" is one which has entered into a service agreement with a service corporation;

(8) "participant physician" means a doctor, dentist, osteopath, optometrist, chiropractor or other licensed health care practitioner who has entered into a service agreement with a service corporation; and

(9) "physician" includes also "surgeon." (§ 1 ch 120 SLA 1966)

Sec. 21.87.340. Other provisions applicable. In addition to the provisions contained or referred to previously in this chapter, the following chapters and provisions of this title also apply with respect to service corporations to the extent applicable and not in conflict with the express provisions of this chapter and the reasonable implications of the express provisions, and for the purposes of the application the corporations shall be considered to be mutual "insurers":

- (1) AS 21.03
- (2) AS 21.06
- (3) AS 21.09
- (4) AS 21.18.010
- (5) AS 21.18.030
- (6) AS 21.18.040
- (7) AS 21.18.120
- (8) AS 21.21.321
- (9) AS 21.36
- (10) AS 21.69.400
- (11) AS 21.69.520
- (12) AS 21.69.600, AS 21.69.620, and AS 21.69.630
- (13) AS 21.78
- (14) AS 21.90. (§ 1 ch 120 SLA 1966)

Sec. 21.87.350. Existing certificates of authority. A health care service contractor registered to do business in this state on July 1, 1966, is entitled to be registered under this chapter, whether or not it meets the requirements of this chapter. (§ 1 ch 120 SLA 1966)

### Chapter 89. Miscellaneous Provisions.

#### Section 10. Settlements

Sec. 21.89.010. Settlements. A settlement made under a motor vehicle liability insurance policy of a claim against an insured arising under that policy from an accident or other event insured against for damage to or destruction of property owned by another person shall not be construed as an admission of liability by the

visions.

tion:

coverage. (a) An  
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its in at least the  
ty policy in AS  
AS 28.20.440(b)(3)

only to automobile  
f AS 28.20. (§ 1 ch

premium dollars paid for  
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re the only possible  
e contract was that the  
ts premiums paid in  
e other vehicles were  
ne amount of coverage,  
liability clause  
Curran v. Fireman's  
F. Supp. 712 (D. Alas.

ion which "waives"  
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has other available  
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v. United Servs. Auto.  
o. 799 (File Nos. 1454,  
1972).

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e report on ch. 172  
5), see House Journal

**Sec. 21.89.040. Eye care under health and accident insurance.** All policies, contracts, or prepaid plans for individual or group accident or health insurance issued or delivered in the state on or after May 27, 1976 which provide reimbursement for any service within the lawful scope of practice of an optometrist licensed under AS 08.72, shall provide for reimbursement to persons covered under the policy, contract, or plan who had the service performed by an optometrist. (§ 1 ch 84 SLA 1976)

**Sec. 21.89.050. Arson information.** (a) When an insurer has reason to believe that a fire loss in which it has an interest may have been caused by other than accidental means, it shall immediately supply a written report of that fact to the Department of Public Safety.

(b) When requested in writing by an authorized agency, an insurer shall supply all available information relating to a particular fire loss to the agency. The information requested may include

- (1) insurance policy information pertaining to a fire loss under investigation and any application for the policy;
- (2) policy premium payment records;
- (3) a history of previous claims made by the insured; and
- (4) material relating to the investigation of the loss, including statements of a person who may have information about the loss and any proof of the loss.

(c) Notification to the Department of Public Safety under (a) of this section does not relieve the insurer of the duty to respond to a request for information from an authorized agency under (b) of this section.

(d) An authorized agency provided with information under (a) or (b) of this section may release the information to another authorized agency.

(e) An authorized agency shall share with the insurer all relevant information relating to an instance of suspected arson when

(1) the Department of Law has determined that release of the information would not jeopardize the success of an ongoing investigation and that there are adequate safeguards to insure the confidentiality of the information;

(2) the agency has completed its investigation and a decision not to prosecute has been made; or

(3) criminal prosecution has been brought and the defendant has pled guilty, or the jury or other trier of fact has returned a verdict, and no appeal has been taken.

(f) As used in (a) — (d) of this section "authorized agency" means a fire department, a local or federal law enforcement agency responsible for the investigation of fires, the Department of Law, the state fire marshal, the United States attorney's office, and the Department of Public Safety. As used in (e) of this section "authorized agency" means a fire department, a local law enforcement agency responsible for the investigation of fires, the Department of Law, the state fire marshal, and the Department of Public Safety.

FISCAL NOTE

I. REQUEST

Bill/Resolution No. S B-43

Title An act relating to filing insurance policy forms

Requested by governor

Date 1-20-81

II. FISCAL DETAIL

Agency Affected Division of Insurance

Program Category Affected Public Protection

BRU, Program, or Subprogram(s) Affected Division of Insurance

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	0					
200 TRAVEL	0					
300 CONTRACTUAL	0					
400 COMMODITIES	0					
500 EQUIPMENT	0					
600 LAND & STRUCTURES	0					
700 GRANTS, CLAIMS, ETC.	0					
<b>TOTAL</b>	<b>0</b>					

FUNDING (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS	0					
OTHER (Specify Fund Source)	0					

POSITIONS

FULL TIME	0					
PART TIME	0					
TEMPORARY	0					

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE 1-20-81

PREPARED BY Kenneth C. Moore, Div. of Insurance

AGENCY Commerce & Economic Development

PHONE 2515

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)