ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 8672

1663 SJ SB 41 - SB 49

nings and Clauss (1978) in a study of 105 Rho negative infants born to Rho positive mothers identified a maternal–fetal bleed in only two instances, or 1.9 percent, a value in very close agreement with that found by Cohen and Zuelzer (1965). Jennings and Clauss (1978) and Bowman (1978), on the basis of their extensive studies, do not believe that Rho immune globulin prophylaxis is warranted for Rho negative babies born to Rho positive mothers.

In case of larger fetal–maternal hemorrhage, the Rho positive erythrocytes may by careful examination be identified, at times, as clumps in the cross-match of the erythrocytes from maternal blood and the Rho immune globulin. The acid-elution technic, however, for identifying erythrocytes that contain appreciable alkaline-resistant (fetal) hemoglobin is best used to identify a major bleed and to approximate its magnitude.

When the acid-elution test is performed appropriately, red cells rich in fetal hemoglobin are easy to identify (Fig. 38-3). A careful differential count will serve to approximate closely the percentage of fetal cells in the maternal blood. From this value, coupled with the maternal hematocrit and an approximation of the maternal blood volume, an estimate of the volume of fetal red cells in the maternal circulation can be made. (Maternal blood volume will average about 5 liters before delivery and 4 liters shortly afterwards.) The volume of fetal red cells so calculated, then divided by 15 and multiplied by 300, provides a reasonable estimate for Rho immune globulin dosage in μg. If the estimate is doubled, almost certainly more than adequate protection would be afforded the mother.

Moreover, in cases of recognized major fetal–maternal hemorrhage, sensitization of the mother may be prevented by injecting sufficient immune globulin intramuscularly to maintain a demonstrable excess of antibody in the maternal serum.

In a case of massive fetal–maternal hemorrhage successfully treated at Parkland Memorial Hospital, 14 units of Rho immune globulin (4200 μg at least) were injected intramuscularly over 48 hours to maintain a clearly demonstrable excess of antibody after delivery of a recently exsanguinated, very large infant. From the differential count of erythrocytes of maternal and fetal origin identified by acid-elution treatment of maternal blood and measurements of maternal hematocrit and blood volume, at least 150 ml of type O, Rho positive fetal erythrocytes were demonstrated to have entered the maternal circulation (Fig. 38-3). The mother did not become sensitized and subsequently gave birth to three unaffected type O, Rho positive infants, including twins. She remains free from evidence of Rho sensitization.

The Rho (D) Negative Sensitized Mother. The mother who is sufficiently immunized to produce enough antibody to cause overt hemolytic disease in the fetus and newborn infant will have demonstrable Rho antibody in her serum by the 36th week of gestation. Most often, if appropriate technics are used, the antibody will be demonstrable much earlier.

According to Freda (1973), if nothing is done in the way of interference in the pregnancy of a sensitized Rho negative woman with a Rho positive fetus, the perinatal mortality rate can be anticipated to be about 30 percent. With aggressive management, including diagnostic amniocenteses, intrauterine transfusions in selected cases, and early delivery in most cases, the perinatal mortality rate can be lowered to about 10 percent.

For optimal outcome, individualization of management should be practiced, aided by the following information:

1. Past obstetric history with emphasis on fetal outcome and how that outcome was achieved.
2. Accurate knowledge of fetal age.
3. The Rho zygosity of the father to identify those pregnancies in which the fetus has about a 50 percent chance of being Rho negative.
4. Maternal antibody measurements repeated throughout pregnancy.
5. Spectrophotometric analyses of amnionic fluid.

6. Identification of other maternal complications such as pregnancy-induced or -aggravated hypertension.

An antibody titer (indirect Coombs' test) that goes no higher than 1:16 almost always means that the fetus will not die in utero from hemolytic disease and that with appropriate care after birth he will survive. A titer higher than this indicates the *possibility* of severe hemolytic disease. It is emphasized that the titer in the previously sensitized woman may, during a subsequent pregnancy, rise infrequently to high levels even though her fetus is Rho negative.

A suspicious titer, i.e., 1:16 or higher, in most cases warrants appropriately timed amniocenteses and measurements of bilirubin pigment in amnionic fluid. The technic for amniocentesis is described in Chapter 14 (p. 330). If use of intrauterine transfusion is being considered, amniocentesis may be initiated at about 22 weeks' gestation.

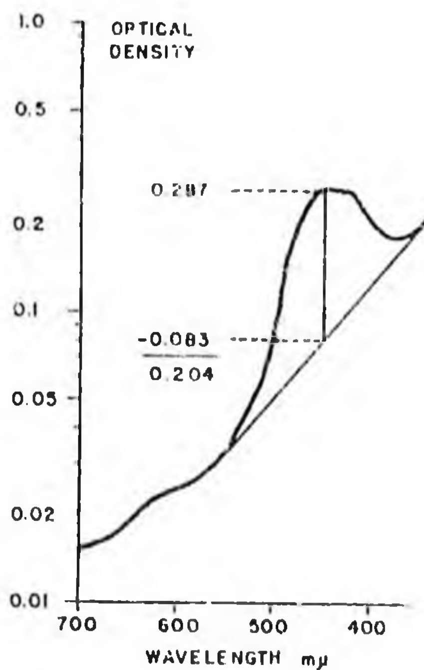


FIG. 38-4. Spectral absorption curve of amnionic fluid in hemolytic disease. (From Liley. In Greenhill L (ed.). *Yearbook of Obstetrics and Gynecology, 1964–1965* series, p 256. (Year Book)

The absorbence of the breakdown pigment, mostly bilirubin, in the supernatant of amnionic fluid, when measured in a continuously recording spectrophotometer, is demonstrable as a hump with maximum absorbence at 450 nm wavelength (ΔOD_{450}) as shown in Figure 38-4. The magnitude of the increase in optical density above baseline at 450 nm most often, but not always, correlates well, for any gestational age, with the intensity of the hemolytic disease.

Liley (1964) constructed a graph which provides for reasonably precise prediction of the severity of the hemolytic disease, a modification of which is demonstrated in Figure 38-5. His recommendations are as follows:

If the increase in optical density falls in Zone I at 28 to 31 weeks, the fetus will be unaffected or will have mild hemolytic disease. Repeat the amniocentesis in 2 or 3 weeks.

For Zone II, the prognosis is less accurate and may require repeated amniocenteses to indicate a trend. In lower Zone II, the infant's expected hemoglobin at birth will be between 11.0 and 13.9 g, whereas in upper Zone II, the infant's anticipated hemoglobin will range from 8.0 to 10.9 g. Trends and time of gestation will obviously indicate the necessity for early delivery or intrauterine transfusions.

Values in Zone III indicate a severely affected infant, and fetal death within 1 week to 10 days may be expected. The treatment—early delivery or intrauterine transfusion—will depend on the stage of gestation.

Pathologic Changes in Hemolytic Disease of the Fetus and Newborn. Maternal antibodies gain access to the fetal circulation. In Rh positive infants, such antibodies are both adsorbed upon the Rho positive erythrocytes and exist in a free form in the infant's serum. The adsorbed antibodies act as hemolysins, leading to an accelerated rate of destruction of the red cells. The earlier this process begins in utero and the greater its intensity, the more severe will be the effect upon the fetus.

Maternal antibodies detectable at birth

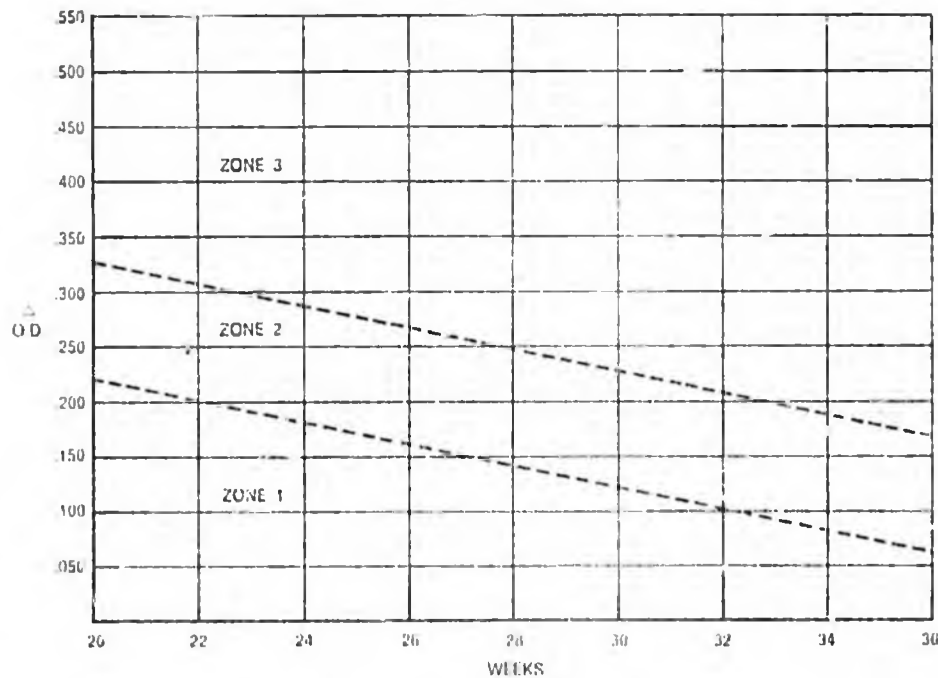


FIG. 38-5. The ΔO.D. value is plotted for the appropriate week of gestation. Zone 1 implies minimal hemolytic disease in the fetus, Zone 2 moderate to severe hemolytic disease, and Zone 3 impending fetal death. (From American College of Obstetricians and Gynecologists *Technical Bulletin No. 17*, July 1972)

gradually disappear from the infant's circulation over a period of 1 to 4 months. Their rate of disappearance is influenced to some extent by exchange transfusion. Detection of adsorbed antibodies is best accomplished by the direct Coombs' test. If Rho red cells coated with Rho antibody are typed with an anti-Rho saline agglutinin serum, they may be reported incorrectly as Rho negative because of the blocking effect produced by the adsorbed antibody. Therefore, erythrocytes reported to be Rho negative from an infant whose mother may be isoimmunized must always be checked by the direct Coombs' test.

The pathologic changes in the organs of the fetus and newborn infant vary with the severity of the process. The severely affected fetus or infant may show considerable subcutaneous edema as well as effusion into the serous cavities *(hydrops fetalis)*. At times, the edema is so severe that the diagnosis can be identified in the fetus by roentgenography (Fig. 38-6), or sonography (Fig. 38-7). In these cases, the *placenta* also is markedly edematous, appreciably enlarged and boggy, with large, prominent cotyledons and edematous villi. Excessive and prolonged hemolysis serves to stimulate marked erythroid hyperplasia of the bone marrow as well as large areas of *extramedullary hematopoiesis*, particularly in the spleen and liver. Histologic examination of the liver may serve to demonstrate, in addition, fatty degenerative parenchymal changes as well as deposition of hemosiderin and engorgement of the hepatic canaliculi with bile. There may be cardiac enlargement and pulmonary hemorrhages. Heart failure, however, at least at the outset, does not appear to play a prominent role in the development of ascites. Rather, portal hypertension and severe hypoalbuminemia are more likely the major factors in its develop-

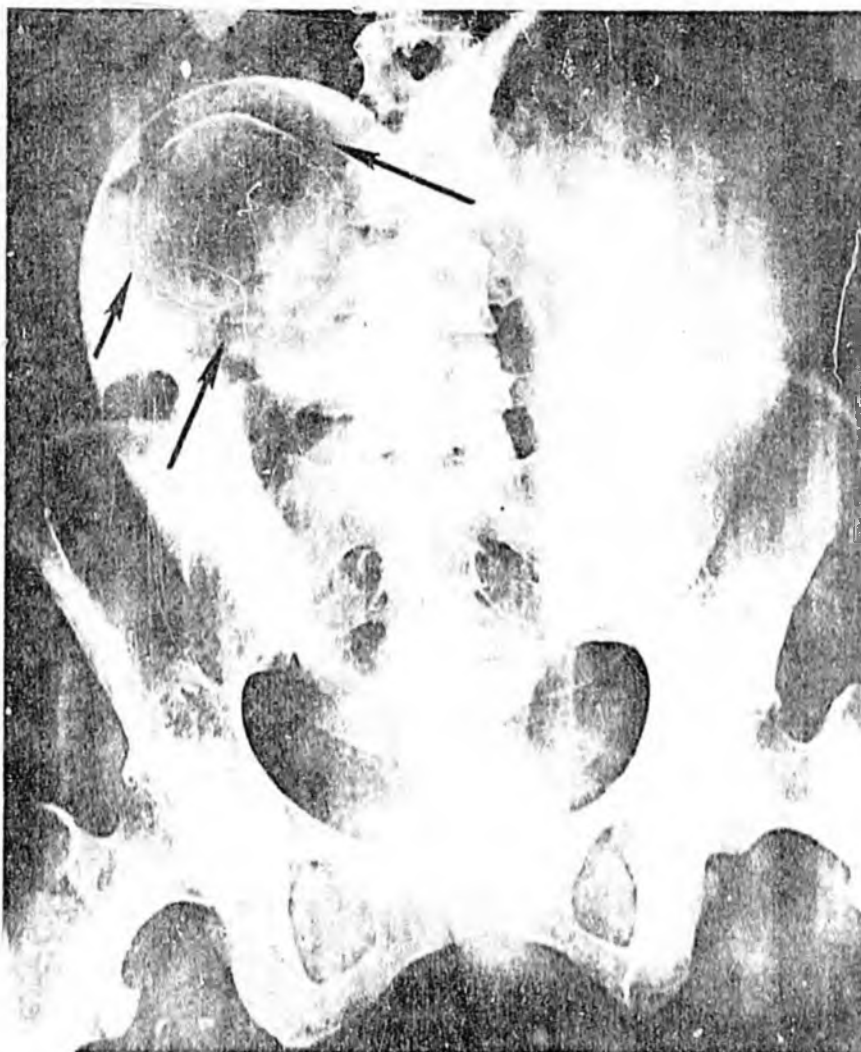


FIG. 38-6. Amniogram of a fetus with hydrops fetalis. *Arrows* point to severe edema of the scalp. (Courtesy of Dr. John T. Queenan)

ment. The ascites, and to a lesser degree hepatomegaly and splenomegaly, may be so massive as to lead to severe dystocia as the consequence of the greatly enlarged abdomen. Hydrothorax may be so severe as to compromise respirations after birth.

Fetuses with hydrops fetalis may die in utero from profound anemia and circulatory failure (Fig. 38-8). The liveborn hydropic infant appears pale, edematous, and limp at birth, often requiring resuscitation. The spleen and liver are enlarged, and there may be widespread ecchymoses or scattered petechiae. Dyspnea and circulatory collapse are common. Death may occur within a few hours in spite of transfusions.

Less severely affected infants may appear well at birth, only to become jaundiced within a few hours. Marked hyperbilirubinemia, if untreated, may lead to central nervous system damage, especially to the basal ganglia, which is characterized clinically by lethargy, stiffness of the extremities, retraction of the head, squinting, a high-pitched cry,

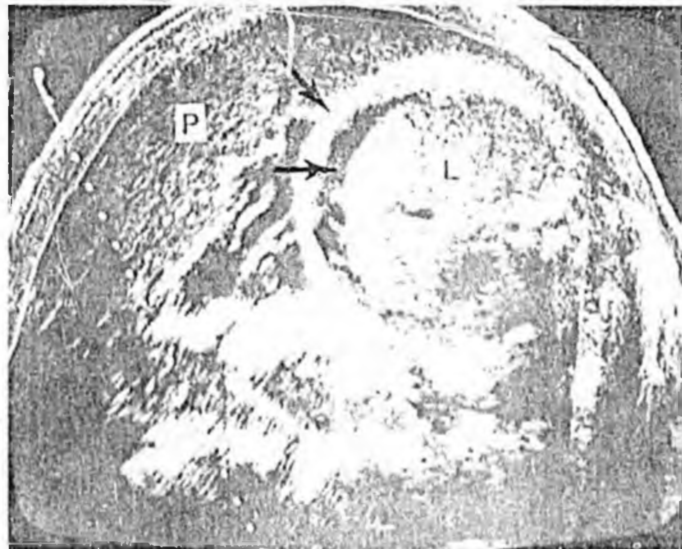


FIG. 38-7. Transverse sonogram of a hydropic fetus. Illustrated are fetal ascites (lower arrow), edema of fetal abdominal wall (upper arrow), liver (L), and large placenta (P). (Courtesy of Dr. R. Santos)

FIG. 38-8. Fatal erythroblastosis fetalis. Severely hydropic macerated stillborn infant and characteristically large placenta.

poor feeding, and convulsions. These signs are indicative of *kernicterus*. In such cases, death usually occurs within the first week of life. Surviving infants may be physically helpless, unable to support their heads or sit. Ability to walk is delayed or never acquired. In less severe forms, there may be varying degrees of motor incoordination, whereas some infants demonstrate residual nerve deafness as the only manifestation of neurologic injury.

Anemia, in part resulting from impaired erythropoiesis, may persist for many weeks to months in the infant who has demonstrated hemolytic disease at birth. In the absence of hypoxia, erythrocyte production normally falls after birth, especially in the premature infant. The observations of McIntosh (1975) serve to implicate low production of erythropoietin in this phenomenon.

Fetal Transfusions. The refinement in prognostic precision furnished by the analysis of amnionic fluid led Liley (1963) to try in apparently hopeless cases intrauterine transfusion of blood into the fetal peritoneal cavity. The procedure, in general, should be limited to cases in which, between 23 and 32 weeks, the spectrophotometric tracings and history forecast, in all likelihood, death of the fetus. Thirty-two weeks represents about the earliest gestational age at which the nontransfused affected fetus, if delivered, has a reasonable likelihood of surviving the adverse effects of prematurity, hemolytic disease, and exchange transfusion. For reasons that are not clear, the preterm infant with hemolytic disease from maternal Rh isoimmunization, unfortunately, is at increased risk of developing severe respiratory distress-hyaline membrane disease. Bowman (1978) has emphasized that, in his hands, mortality following fetal transperitoneal transfusions at 32 weeks' gestation and delayed delivery is appreciably lower than with delivery at 32 weeks.

With intrauterine transfusion the overall survival rate in more recent years probably has been about 50 percent. Bowman reported a survival rate of 70 percent if the initial transfusion was postponed to 26 weeks compared to 42 percent if the initial transfusion was required at 21½ to 23 weeks. Hamilton (1978) reported the survival of 76 percent of nonhydropic transfused fetuses. The results reported by some others have not been this good (Palmer and Gordon, 1976; Robertson et al., 1976).

Not only does fetal age and size at the time of the first transfusion affect the survival rate, the presence or absence of hydrops is of great importance. In Bowman's experience, the survival rate was only 21 percent if fetal ascites was encountered at the first transfusion, but 78 percent if no ascites was found at any time. In the presence of hydrops, absorption of the red cells from the peritoneal cavity appears to be markedly impaired. In the absence of hydrops, practically all of the erythrocytes are absorbed into the fetal circulation and survive there in normal fashion (Taylor et al., 1966).

The technic that has been used for fetal intraperitoneal transfusion at Parkland Memorial Hospital is very similar to that described in detail by Bowman (1978).

SUBSEQUENT CHILD DEVELOPMENT. Of 44 survivors of intrauterine transfusion followed by Holt and co-workers (1973), 43 were judged to be developing normally. Also, in Bowman's experience the great majority of fetal transfusion survivors developed normally; 74 of 89 tested when 18 months of age or older were completely normal and 4 were abnormal, while development in 11 appeared to be delayed somewhat perhaps because of preterm birth.

Delivery Before Term. In many circumstances, delivery before term is advantageous. Obviously, when it was considered necessary to utilize intrauterine transfusions, delivery, rather than further attempts at intrauterine transfusion, is desirable at the earliest date compatible with sufficient maturity to provide a good chance of survival. The exact timing of delivery in these cases de-

pends on both clinical judgment and the results of the various laboratory tests. Delivery before the 32nd week in most instances is contraindicated by the extreme prematurity. Delivery may best be carried out at 34 weeks. At that time, the risk from prematurity probably is less than the risk of another intrauterine transfusion, at least at some institutions.

When intrauterine transfusion has not been performed, delivery before term may be considered for the following reasons: (1) previous history of an infant with unmistakable evidence of erythroblastosis, (2) a high titer of antibodies, (3) reasonable evidence of homozygosity of the father, and (4) evidence of potentially severe fetal disease from analysis of the amnionic fluid. The last is the most compelling reason for intervention, either delivery or an intrauterine transfusion.

Whenever a decision is reached to terminate pregnancy before term, adequate facilities for care of premature infants must be available, as well as the necessary equipment for carrying out exchange transfusion. The neonatologist should be advised of the situation well in advance of delivery, so that skilled personnel, blood, and equipment can be immediately available in or adjacent to the delivery room. The need for immediate transfusion is determined by the hemglobin concentration. Subsequently, the plasma bilirubin concentration is the important determinant.

METHOD OF DELIVERY. The fetus who is to be delivered remote from term because of evidence of hemolytic disease will sometimes benefit from cesarean section. By so doing, the time of birth is set and the "first team" of neonatologists and laboratory personnel can be assembled to provide for precise evaluation of the infant at birth and optimal treatment at that critical time, as well as subsequently. Moreover, the likelihood of a difficult, prolonged, or unsatisfactory induction of labor is avoided.

Exchange Transfusion for Hemolytic Disease of the Newborn. Examination of cord blood should be carried out immediately for any pregnancy in which the Rho negative mother is known to be sensitized. The cord blood hemoglobin concentration and the direct Coombs' test are of considerable importance when the infant is Rho positive. When the infant is overtly anemic, it is often best to carry out the initial exchange promptly to correct the anemia using recently collected packed type O, Rho negative red cells.

For infants who are not overtly anemic, exchange transfusion is determined by the rate of increase in bilirubin concentration, the maturity of the infant, and the presence or absence of other complications. While exchange transfusion is not an innocuous procedure, if moribund, hydropic, and kernicteric infants are excluded, the mortality rate is 1 percent or less.

Sensitization to Other Blood Group Factors. A variety of other fetal red cell antigens which are lacking in the mother may be involved in the genesis of hemolytic disease in the fetus and infant.

ABO INCOMPATIBILITY. The "major" blood group factors A and B are important causes of hemolytic disease. For example, group O women may from early life have anti-A and anti-B agglutinins, which may be augmented by pregnancy, particularly if the fetus is a secretor. Although about 20 percent of all infants have a "ma[illegible] maternal blood group incompatibility, only 5 percent of them (1 percent of all babies) show overt signs of hemolytic disease. Moreover, when they do, the disease is usually much milder than that concerned with the Rho factor. Black infants are more likely to develop ABO disease than are white infants, according to Kirkman (1977). The disease does not appear to be any more severe, however, in black than in white infants (Peevy and Wiseman, 1978).

Desjardins and co-workers (1979) have intensively studied a large number of infants of blood group O mothers to try to identify a relationship between the degree of red cell

sensitization by antibody and the cord blood hemoglobin and bilirubin concentrations. They found that when the infant blood type was A or B, the bilirubin was higher and hemoglobin was lower than in cord blood from blood group O infants even when no antibody was identified on the type A or B red cells. They concluded that ABO incompatibility represents a spectrum of hemolytic disease which ranges from those in which there is little laboratory evidence of red cell sensitization, but some evidence of hemolysis, to those with severe hemolytic disease in which red cell sensitization is readily demonstrable.

The usual criteria for diagnosis of hemolysis due to ABO incompatibility include the following: (1) The mother is group O, with anti-A and anti-B in her serum, while the fetus is A, B, or AB. (2) There is onset of jaundice within the first 24 hours. (3) There are varying degrees of anemia, reticulocytosis, and erythroblastosis. (4) There has been careful exclusion of other blood group sensitization. Unlike the result in Rh hemolytic disease, the Coombs' antiglobulin test in ABO incompatibility may be negative.

The principles of management of the newborn infant with Rh disease may be applied to ABO hemolytic disease, particularly with reference to the behavior of hemoglobin and bilirubin. For simple transfusion or exchange transfusion, group O blood is used. Quite dissimilar to Rh hemolytic disease, the incidence of stillbirths among ABO incompatible pregnancies is not elevated (Freda, 1973). There is seldom justification for early induction of labor on this basis or for performing an amniocentesis.

Since there is no adequate method of antenatal diagnosis, careful observation is essential in the neonatal period if cases are to be detected. Although the infants with ABO hemolytic disease most often are less severely affected than are those with Rh hemolytic disease, they are equally incompetent in coping with excess bilirubin and its toxic effects on the central nervous system. Unlike Rh hemolytic disease, ABO disease frequently occurs in infants of primigravidas. It is likely but not certain to recur in subsequent pregnancies.

OTHER FETAL–MATERNAL BLOOD GROUP INCOMPATIBILITIES. Rho incompatibility and ABO heterospecificity account for approximately 98 percent of all cases of hemolytic disease. Instances of hemolytic disease resulting from rarer blood factors have been reported, but the detection of such cases requires extensive serologic study. The potential for hemolytic disease with rare blood groups may be suspected from the results of the screening test for abnormal antibodies in maternal serum. Summarized in Table 38-2 are various red cell antigens and their capacity for causing hemolytic disease when the fetus possesses the red cell antigen, and the mother is isoimmunized.

HYPERBILIRUBINEMIA

Bilirubin is formed from heme and transported in the circulation bound to albumin. In the sinusoidal circulation of the liver, a small fraction of bilirubin which dissociates from albumin enters hepatocytes where it attaches to receptor carrier proteins, the so-called Y and Z anion-binding proteins. Within hepatocytes, the bilirubin is conjugated with glucuronic acid.

Disposal of Bilirubin. Before birth, unconjugated, or free, bilirubin is readily transferred across the placenta from the fetal-maternal circulation (and vice versa, if the maternal plasma level is high). Unconjugated bilirubin is not excreted in the urine or to any extent in the bile, whereas the glucuronide of bilirubin is water-soluble and is normally excreted into the bile by the liver and when the plasma level is elevated by the kidney. Glucuronic acid is made available for this reaction by transfer from uridine diphosphoglucuronic acid catalyzed by the microsomal enzyme uridine diphosphoglucuronyl transferase. The conjugated bilirubin is secreted from the hepatocytes through the can

FAITH HOSPITAL

Central Alaskan Missions, Inc.

GLENNALLEN, ALASKA
99588

JAMES S. PINNEO, M.D.

February 10, 1981

State of Alaska
Senate HESS Committee
Pouch V
Juneau, Alaska 99801

RE: SB 41 Pre-marital Blood Testing

Dear Sirs,

Please register our opinion concerning this proposed legislation.

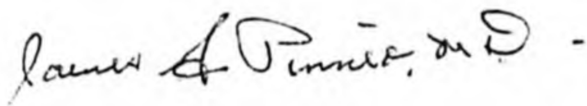
Although the general public has the belief, which is fostered by public officials, that the only requirement for the pre-marital certification is a blood test for syphilis, it becomes apparent when it is properly considered, that again the best interest of the patient would be for an evaluation of the presence of the communicable disease. At the present time, when a doctor signs a pre-marital certificate, he is thereby certifying that the patient has no communicable disease. In addition to syphilis, therefore, other veneral diseases must be ruled out. If the patient is a virgin, has never been married, the initial pre-marital examination is the ideal time when the patient comes under the care of the doctor and the proper doctor-patient relationship is established. Therefore, the many concerns of the girl about sexual relations, marriage, ability to have a child, etc. can be considered. Even if the patient is already pregnant, a doctor-patient relationship must be, not only should be, established, so that there is proper care of the unborn child. Therefore pre-marital examination is much more than a simple taking of a blood sample. As to the extent of the examination, again, that should be the prerogative of the doctor and his relationship with the patient.

Even though pre-marital blood testing may be considered not cost effective, it seems evident that such prompting for a pre-marital couple to seek medical evaluation, would be in the best interests of the couple involved and the entire state of Alaska. Thus the responsibility of marriage is involved, and if there is adequate deterent for hasty marriages, there would be less divorce. Although this can not be documented, it seems evident that tragic, social problems are existing because of hasty marriages and quick divorces. Not only is birth control advisable, but also control of veneral disease.

Overall then, it seems apparent to us that whever indoctrinates the people of Alaska for considering the responsibilities of marriage, procreation, and disease, would be beneficial to the establishment of marriage, the family, the home, and a stable society. Whatever not detracts from realization of responsibility, adds to social problems. Therefore, eliminating pre-marital blood tests although not cost effective to many people, and irrelevant, and

a nasty interference into private lives, it seems evident from all of the points expressed above that it would be wise for the best interest of the Alaskan citizen to maintain the requirement.

Sincerely,



James S. Pinneo, M.D.

JSP:ms
cc

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH H 01
JUNEAU, ALASKA 99811
PHONE:

FEB 10 1981

23-81

Honorable Tim Kelly
Alaska State Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Kelly:

We would like to respond to your request for information about the projected impact of the natural gas pipeline on venereal disease in Alaska.

In addressing your concerns, I would first like to talk about our experience from the oil pipeline and its impact on the venereal diseases.

Syphilis

During the 1970's and at the peak of the oil pipeline construction, we observed no significant increases in the rate of syphilis in Alaska. The rate (number of cases per 100,000 population) in Alaska remained relatively constant and was always below the rate of syphilis in the United States population.

Civilian Syphilis Cases and Rates
(All Stages) per 100,000

	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980
Alaska rate*	27.6	28.9	31.0	33.9	34.7	15.0	25.4	27.4	14.2	15.6	11.4
U. S rate**	45.5	47.0	44.2	42.0	39.9	38.0	33.7	30.1	30.0	30.7	30.0***

*Based on population estimates from the Alaska Department of Labor
**Based on population estimates from the U.S. Bureau of Census
***Projected

During the oil pipeline, pre-employment blood testing for syphilis was required by the industry as a condition of employment. Pre-employment syphilis blood testing is anticipated to continue to be required during gas pipeline construction and will allow detection and treatment of syphilis before the disease is spread to others.

Furthermore, the epidemiology of syphilis has shifted dramatically in the past decade. Syphilis is now primarily occurring in the male homosexual population. Reflecting this nationwide trend, 65% (15 of 23) of the cases of early syphilis diagnosed in males in Alaska in 1950 occurred in homosexuals while only 12% (3 of 26) of all our early cases occurred in females. From this, we would consider female pipeline employees and dependents to be an extremely low risk group of being infected with syphilis. In general, we do not expect the construction of the natural gas pipeline to increase the rate of syphilis in Alaska.

Alaska's population is projected to increase by approximately 34,000 people due to the natural gas pipeline construction. Based upon our present rate of syphilis in all stages, we would expect four additional cases of syphilis to occur each year as a consequence of the pipeline activities.

The main objective of our syphilis control program is the prevention of congenital syphilis. We plan to increase our efforts to ensure that all pregnant women receive prenatal syphilis blood testing as required by Alaska's prenatal laws (A.S. 18.15.150-.180).

Gonorrhea

While Alaska's rate of syphilis has consistently been lower than the U. S. rates during the 1970's, such is not the case with gonorrhea. The rate of gonorrhea in Alaska has averaged about three times the national rate, as illustrated in the following table, giving Alaska the dubious distinction of having the highest gonorrhea rate in the nation.

Civilian Gonorrhea Cases and Rates per 100,000

	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980
Alaska cases	2225	2540	2098	2766	2903	3,14	4342	5103	5133	4986	4076
Alaska rate*	821.7	897.5	714.9	911.9	916.0	979.0	1116.5	1341.9	1303.1	1303.5	1081.1
U.S. rate**	298.5	328.1	371.6	404.9	432.1	472.9	470.5	465.8	468.3	459.4	460.0***

*Based on population estimates from the Alaska Department of Labor
**Based on population estimates from the U. S. Bureau of Census
***Projected

In reviewing this data, it should be understood that gonorrhea did not become a priority of the VD Control Programs either in the "lower 48" or in Alaska until 1972. With the introduction of control measures, some of the increases occurring both in the "lower 48" and in Alaska during the mid-1970's can be attributed to our screening and case finding activities which resulted in previously undetected cases being diagnosed and reported. At the same time, Alaska experienced tremendous population increases as a result of the construction of the oil pipeline. The dramatic increase in the number of gonorrhea cases and rates reported during this period undoubtedly were due to a combination of these factors.

During the oil pipeline construction period, the VD Control Program worked very closely with the Alyeska Medical Program to assure that physician assistants (P.A.'s) in the pipeline camps were equipped to diagnose, treat, and report all cases of gonorrhea, as well as to provide the VD Program with the necessary epidemiologic information to conduct investigative follow-up on contracts. Extensive efforts were made to improve medical services through education and on-site visits to pipeline camps. We intend to implement and follow these same procedures during the construction of the natural gas pipeline.

The population increase anticipated by the gas pipeline at its peak is estimated to be 34,000, less than one half of the increase of 85,000 caused by the oil pipeline. Based on our current rate of gonorrhea (1081.1 per 100,000 population) we project that there will be an increase of at least 465 cases per year at the peak of construction in 1984.

This increase is based on the assumption that the <u>rate</u> of gonorrhea will not increase. The increase in population will require additional VD control activities to establish screening, diagnostic testing and treatment capability, reporting, and epidemiologic follow-up in the pipeline camps. In addition, increased efforts will be needed to educate and inform dependents of pipeline workers of the nearest available health resources which will need expansion to handle not only the anticipated increased number of gonorrhea cases, but also other venereal diseases such as herpes, non-gonococcal urethritis, scabies, pubic lice (crabs), trichomoniasis, and monilia which are now more commonly referred to as "sexually transmitted diseases."

None of these sexually transmitted diseases can be diagnosed by a blood test. Therefore, their detection and treatment would not be affected by the repeal of the premarital blood test which the Venereal Disease Control Program strongly supports.

<u>Summary</u>

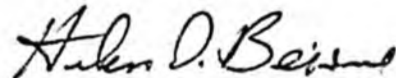
There will be two major areas requiring increased Venereal Disease Control Program activities as a result of the gas pipeline:

(1) Special increased program activities will be needed to establish adequate procedures for venereal disease education, prevention, detection, and treatment directly related to pipeline construction. These activities will require the VD Program to work closely with the gas pipeline medical staff, physician assistants, and remote pipeline camps. There will also be requirements to coordinate VD control efforts with Canadian health authorities because of the international component to the gas pipeline construction, not an issue with the oil pipeline.

(2) Generalized increased VD control efforts will be needed to effectively provide continuation of the same level of comprehensive services to the increased population of Alaskans which will accompany gas pipeline construction.

In closing, let me thank you for your concern and interest, and suggest that should you have additional concerns, our staff is available to respond in detail.

Sincerely,



Helen D. Beirne
Commissioner

MEMORANDUM State of Alaska

TO: The Honorable Helen D. Beirne
Commissioner
Department of Health & Social Services

DATE: July 22, 1980

FILE NO:

TELEPHONE NO:

FROM: Wilson L. Condon
Attorney General

By:
Bruce M. Botelho
Assistant Attorney General
Department of Law

SUBJECT: Authority to repeal blood test statutes
Our File: J-66-633-80

You have asked whether your department can suspend the requirement for premarital testing for infectious or heritable diseases by regulation.

AS 25.05.101(a)(2) and (3) require an applicant for a marriage licen to present a premarital certificate from a licensed physician or osteopathic physician stating that the applicant has been tested for the presence of infectious or heritable disease and that the physician or osteopathic physician has examined the report or reports and has advised the applicant of any medical implications of any abnormal tests. AS 25.05.105 directs the department to adopt regulations prescribing the approved test required for the premarital certificate.

Your opinion request suggests that the premarital blood testing has been limited to serologic testing for syphilis. Your memorandum implies that the department considers this testing to be unduly burdensome, given the cost involved to individuals relative to the low number of positive tests (i.e., tests showing the presence of syphilis).

Since AS 25.05.105 directs the department to adopt regulations describing the approved tests, it would be inconsistent for the department to adopt a regulation indicating that in its judgment no tests should be required. This obtains because no regulation adopted can be valid or effective unless it is consistent with the statute and reasonably necessary to carry out the purpose of the statute. AS 44.62.030. AS 25.05.101 and AS 25.05.105, when read together, evince a legislative decision that premarital tests for the presence of infectious or heritable diseases be conducted. Accordingly, discontinuation of the requirement for premarital testing would require repeal of AS 25.05.101 and AS 25.05.105.

BMB:md

ALASKA SYPHILIS SURVEILLANCE

Year	Number Premarital Tests[1]	Total Number Tests	Positive Tests	Early <1 yr.[2]	Late Latent[3]	Cases Found Con-Genital	Other	Total
1975	9,504	136,013	1,199	22	41	1	0	54
1976	9,828	134,028	1,618	56	4[illegible]	2	3	114
1977	10,376	110,159	1,643	64	50	0	0	114
1978	10,234	95,644	1,232	20	42	1	0	63
1979	10,034	91,642	995	45	21	0	1	66
1980	10,000	N/A	N/A	26	25	0	0	51
Total	59,976	567,486	6,687	233	222	4	4	472

1. Determined from total number of Alaskan marriages. The actual number may be 20% greater because the number of health certificates issued is greater.

2. Two cases found from premarital testing effort.

3. Three cases found from premarital testing effort.

ALASKA GONORRHEA SCREENING

Year	Number Females Tested	Positive Tests	Percent
1973	27,370	1,135	4.15
1974	36,620	1,335	3.66
1975	40,340	1,550	3.84
1976	40,386	1,787	4.42
1977	48,500	1,953	4.03
1978	54,518	2,410	4.42
1979	55,388	2,237	4.03
1980	61,303	2.029	3.30

MEMORANDUM

State of Alaska

TO: Dean F. Tirador
Deputy Commissioner
Department of Health
and Social Services

DATE: February 10, 1981

FILE NO: J-66-535-81

TELEPHONE NO: 465-3603

FROM: WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT: Request of Senate Committee on Health, Education, and Social Services

By:
Thomas H. Robertson
Assistant Attorney General

You have asked two questions on behalf of the Senate Committee on Health, Education, and Social Services. You have asked (1) whether prenatal serologies are statutorily required, and (2) whether a person or group of persons can be required to undergo blood or other laboratory tests in the event of an epidemic or other public health emergency.

Prenatal blood tests are addressed by AS 18.15.150-180. These statutes require that medical professionals obtain serological tests of most pregnant women. 1/ They are largely self-explanatory.

Your second question is not so easily resolved. Emergency diagnostic tests are not specifically addressed by statute. The Alaska Supreme Court has not had an opportunity to examine state authority in this area.

It has generally been held that a state may, for the purpose of protecting the public health, resort to reasonable, compulsory physical examination of persons suspected of being infected with a contagious or communicable disease. Reynolds v. McNichols, 488 F.2d 1378 (10th Cir. 1973); Irwin v. Arrendale, 159 S.E.2d 719 (Ga. 1967); Huffman v. District of Columbia, 39 A.2d 558 (D.C. 1944); 164 A.L.R. 967; 25 A.L.R.2d 1407; 39A C.J.S. Health and Environment § 19. However, at least with respect to venereal diseases, some courts have concluded that this power can be exercized only by state officials whose authority is clearly established by statute or regulation. Rock v. Carney 185 N.W. 798 (Mich. 1921). Wragg v. Griffin, 170 N.W. 400 (Iowa 1919).

1/ A physician or nurse who fails to administer the test is subject to criminal prosecution under AS 18.15.180. A pregnant women who refuses to cooperate is not.

Pursuant to AS 18.05.040(a)(1), the Department of Health and Social Services is under an obligation to adopt regulations for "the definition, reporting and control of diseases of public health significance." 2/ Contagious diseases are the subject of 7 AAC 27.010:

> 7 AAC 27.010. CONTROL OF COMMUNICABLE DISEASES IN MAN. (a) The provision on methods of control of communicable diseases outlined in the Control of Communicable Diseases in Man, American Public Health Association, Eleventh Edition, 1970, are adopted by reference as the regulations governing "Preventive Measures," "Control of Patients, Contacts and the Immediate Environment," and "Epidemic Measures."
>
> (b) The provisions of (a) of this section are not applicable to the control of rabies in animals or on the reporting of diseases of public health significance.

It is not immediately clear what this regulation purports to accomplish. 3/ While it addresses both the prevention and control of diseases of public health significance, it neither vests authority in particular public officials nor establishes procedures to govern its exercise. 4/

2/ Statutes providing, among other things, for the confinement of persons infected with contagious diseases were repealed upon enactment of AS 18.05.040(a)(1). Chapter 63, SLA 1972.

3/ One purpose of the text cited in this regulation is, as described in its preface, to "serve public health administrators as a guide and as a source of materials in preparing regulations and legal requirements for the control of the communicable diseases. . ." BENENSON, CONTROL OF COMMUNICABLE DISEASES IN MAN, (11th ed.), p. x, American Public Health Assoc., 1970. This has apparently been taken quite literally.

4/ The text, for example, cites "[c]orrection of such social conditions as overcrowding and poverty" as a means of preventing tuberculosis. It is unlikely that 7 AAC 27.010, in conjunction with AS 18.05.060, is intended to impose criminal sanctions upon all those who live under, or tolerate, these conditions.

It appears, in light of the foregoing, that the authority of state officials to require blood or other laboratory tests is not well established. As a result, a public health emergency could necessitate adoption of emergency regulations, institution of legal proceedings, or both. We suggest that the Department of Health and Social Services take steps to clarify 7 AAC 27.010 in this regard.

THR/jal

SB 41 — Repealed Sections

Article 3. Procedure to Obtain a License.

Section
91. Application for license
101. Premarital certificate
105. Prescribed tests

Section
111. Issuance of license
121. Marriage license

Sec. 25.05.091. Application for license. One of the contracting parties to a prospective marriage shall, at least three days before the time of issuance, file with the licensing officer written, verbal, or telegraphic application for a license. Before issuance of the license, each contracting party shall file with the same licensing officer a premarital certificate; and shall make a statement under oath that the contemplated marriage meets the requirements of law, giving the names, relationship if any, residence, occupation, and age of each party; naming guardians of any party under the legal age for marriage; and describing any prior marriage or marriages of either party, and the manner of dissolution of them. This statement may be made and executed before a notary public or postmaster who shall certify it to the licensing officer. (§ 21-1-42 ACLA 1949; § 1 ch 58 SLA 1963)

Repealed

Sec. 25.05.101. Premarital certificate. (a) Before a licensing officer issues a marriage license, each party shall file with him a premarital certificate from a licensed physician or osteopathic physician stating

(1) the name and age of the applicant;

(2) that the applicant has been tested, as prescribed in the regulations of the department, for the presence of infectious or heritable disease; and

(3) that the physician or osteopathic physician has received and examined the report or reports of testing and that he has advised the applicant of the medical implications of each abnormal test.

(b) A license may not be issued more than 30 days after laboratory testing. (§ 1 ch 64 SLA 1949; am § 1 ch 63 SLA 1953; § 1 ch 58 SLA 1963; am § 1 ch 103 SLA 1971)

Repealed

Sec. 25.05.105. Prescribed tests. The department shall by regulation under the Administrative Procedure Act (AS 44.62) prescribe the approved tests required for the purposes of this chapter. (§ 2 ch 105 SLA 1971)

Sec. 25.05.111. Issuance of license. No marriage license shall be issued unless both of the contracting parties are identified to the satisfaction of the licensing officer. If all requirements have been met, and there is no legal objection to the contemplated marriage, and neither party is under the influence of intoxicating liquor or otherwise incapable of understanding the seriousness of the proceeding, the licensing officer

shall issue a license. (§ 21-1-11 ACLA 1949; am § 1 ch 93 SLA 1955; § 1 ch 58 SLA 1963)

Sec. 25.05.121. Marriage license. The marriage license issued by a licensing officer in this state authorizes the marriage ceremony to be performed anywhere in the state. The license shall be directed "to any person authorized by the laws of this state to solemnize marriage," and shall authorize him to solemnize marriage between the parties identified by the license within three months of the date of the license. If either party is not of legal age for marriage, his or her age and the fact of the consent of his or her parents or guardian shall be stated. If either party has previously been married, the number of previous marriages shall be stated. The registrar may require other matter necessary to identify the parties to be included in the license. The issuance of a license does not remove or dispense with any legal disability, impediment, or prohibition rendering marriage between the parties illegal, and a statement to that effect shall be included in the license. (§ 21-1-15 ACLA 1949; § 1 ch 58 SLA 1963)

Article 4. Medical Reports.

Section
131. Laboratory reports of tests of infectious or heritable disease
141. Laboratory results confidential
151. Tests and laboratories

Repealed **Sec. 25.05.131. Laboratory reports of tests of infectious or heritable disease.** The person in charge of the laboratory making the test or tests or some other person authorized to make the reports shall make the required report on the premarital certificate setting out the name of the test or tests, dates made, the name and address of the physician or osteopathic physician to whom the report was sent and the name and address of the person whose blood was tested, but not stating the result of the test. (§ 2 ch 64 SLA 1949; am § 2 ch 63 SLA 1953; § 1 ch 58 SLA 1963; am § 3 ch 103 SLA 1971)

Repealed **Sec. 25.05.141. Laboratory results confidential.** A detailed report of the test or tests for infectious or heritable disease on a separate laboratory report form to be furnished by the department, together with the premarital certificate, shall be sent from the laboratory to the physician or osteopathic physician requesting the report. The physician or osteopathic physician shall retain this report as a part of his confidential files. A duplicate shall be sent by the laboratory to the department where it shall be held in absolute confidence and shall not be open for public inspection. The report shall not be produced for evider. in any court. The reports may be used in the epidemiological investigations of infectious or heritable disease by the department. The reports may be used in the compilation of aggregate statistics and

reports but the identities of the persons involved shall never be disclosed. (§ 5 ch 64 SLA 1949; am § 5 ch 63 SLA 1953; § 1 ch 58 SLA 1963; am § 4 ch 103 SLA 1971)

Repealed

Sec. 25.05.151. Tests and laboratories. For the purposes of this chapter, tests for infectious or heritable disease is a test or series of tests for the presence of infectious or heritable disease approved by the department, made at a laboratory or clinic approved by the department. The department may make regulations under the Administrative Procedure Act (AS 44.62) governing the approval of laboratories or clinics for tests for infectious or heritable diseases. The laboratories of the department may make required premarital laboratory tests without charge on the request of any licensed physician or osteopathic physician. In submitting the sample to the laboratory the physician or osteopathic physician shall identify it as a premarital test sample. (§ 4 ch 64 SLA 1949; am § 4 ch 63 SLA 1953; § 1 ch 58 SLA 1963; am § 1 ch 124 SLA 1967; am § 5 ch 103 SLA 1971)

Article 5. Special Circumstances.

Section

161. Waiver of waiting period
171. Persons capable of consenting to marriage: Minimum ages, and consent of parents or guardian
181. Waiver order

Sec. 25.05.161. Waiver of waiting period. If a three-day waiting period would result in undue hardship or delay in an individual case, the licensing officer may waive the three-day requirement. (§ 21-1-11 ACLA 1949; am § 1 ch 93 SLA 1955; § 1 ch 58 SLA 1963)

Sec. 25.05.171. Persons capable of consenting to marriage: Minimum ages, and consent of parents or guardian. (a) A person who has reached the age of 16 but under the age of 18 years shall be issued a marriage license if the written consent of the parents of each person who is underage, or of the parent having actual care, custody and control, or of his or her guardian is filed with the licensing officer issuing the marriage license as provided in § 111 of this chapter.

(b) A superior court judge may grant permission for a person who has reached the age of 14 but under 18 years of age to marry and order the licensing officer to issue the license if he finds, following a hearing at which the parents and children are given the opportunity to appear and be heard,

(1) that the parents have given their consent; or

(2) that the parents are

(A) arbitrarily and capriciously withholding consent; or

(B) absent or otherwise unaccountable; or

(C) in disagreement amongst themselves on the question; or

(D) unfit to decide the matter; and

(3) that the marriage is in the best interest of the minor. (§ 21-1-12 ACLA 1949; am § 1 ch 65 SLA 1951; am § 1 ch 37 SLA 1953; § 1 ch 58 SLA 1963; am § 93 ch 127 SLA 1974; am § 2 ch 28 SLA 1975)

Effect of amendments. — The 1974 amendment deleted "for males and 16 year of age for females" following "18 years of age" in subsection (a).

The 1975 amendment rewrote this section.

Cited in RLR v. State, Sup. Ct. Op. No. 706 (File No. 1156), 487 P.2d 27 (1971).

Repealed

Sec. 25.05.181. Waiver order. (a) A licensing officer may, on joint application by both applicants for a marriage license, waive the requirements as to laboratory tests and premarital certificates if he believes that the public health and welfare will not be adversely affected and if

(1) there is no licensed physician or osteopathic physician in the area in which the applicants and the licensing officer reside; or

(2) a delay has been certified by the physician or osteopathic physician taking the blood specimen in a community where no laboratory is located, the certificate stating that the blood specimen was sent to the laboratory at least three days before the certification and that no return has as yet been received from the laboratory; or

(3) the test or tests are contrary to the tenets or practices of the religious creed of which the applicant is an adherent.

(b) The waiver order shall be filed with the marriage license docket in lieu of the premarital certificate. No fee or court costs for the waiver order may be charged. (§ 7 ch 64 SLA 1949; am § 7 ch 63 SLA 1953; § 1 ch 58 SLA 1963; am § 6 ch 103 SLA 1971)

Article 6. Forms, Records and Reports.

Section
191. Marriage license docket
201. Notes on docket
211. Reports by marriage commissioner
221. Forms
231. Reports of licenses issued
241. Fees
251. Vital Statistics Act

Sec. 25.05.191. Marriage license docket. Each licensing officer shall keep in his office, in a book to be provided to him by the bureau, a marriage license docket, and shall enter a complete record of the applications for and the issuance of all marriage licenses and of all other information he is required by law to obtain. Marriage commissioners shall keep the marriage license docket in duplicate. The marriage license docket shall be open for public inspection or examination during office hours. (§ 1 ch 58 SLA 1963; am § 3 ch 28 SLA 1975)

Effect of amendment. — The 1975 amendment deleted the former fourth sentence.

Repealed

Sec. 25.05.201. Notes on docket. When the licensing officer issues a marriage license, he shall indicate on the corresponding marriage license docket sheet that he has on file the premarital certificates of each applicant or a waiver order. He shall enter the dates of the laboratory tests or the waiver order. The licensing officer shall attach the premarital certificates or waiver order to the docket sheet. (§ 1 ch 58 SLA 1963)

Sec. 25.05.211. Reports by marriage commissioner. Before the first of each month, each marriage commissioner shall forward to the magistrate acting as recorder for the recording district in which the marriage commissioner has jurisdiction the duplicate copies of all marriage license docket sheets executed during the preceding month, the completed original marriage certificates and duplicate copies for any marriage ceremonies performed by him during the preceding month, and any fees and reports required by rule of the supreme court. (§ 21-1-34 ACLA 1949; am § 3 ch 28 SLA 1960; § 1 ch 58 SLA 1963)

Sec. 25.05.221. Forms. (a) Forms for application, statements, consent of parents, affidavits, licenses, and other forms necessary to comply with this chapter shall be prescribed by the registrar and provided at the expense of the state. The registrar shall furnish all necessary forms to each licensing officer. He shall provide him with a suitable book in which to keep the marriage license docket. The forms for the premarital certificate shall be provided and distributed by the department to approved laboratories or clinics inside the state and to proper authorities in an official state or Canadian province public health laboratory. A premarital certificate which has been approved by the proper authority in a state or Canadian province requiring premarital examinations for infectious or heritable disease shall be accepted in Alaska.

(b) The registrar shall supervise the record work and required reporting of the licensing officers. In other respects the licensing officers are under the supervision of the supreme court. (§ 1 ch 58 SLA 1963; am § 7 ch 103 SLA 1971)

Sec. 25.05.231. Reports of licenses issued. The registrar may require reports of licenses issued upon forms to be furnished by him. (§ 1 ch 58 SLA 1963)

Sec. 25.05.241. Fees. The supreme court shall establish marriage license fees and provide for accounting for and disposing of the fees. (§ 21-1-35 ACLA 1949; am § 4 ch 28 SLA 1960; § 1 ch 58 SLA 1963)

Sec. 25.05.251. Vital Statistics Act. Nothing in this chapter repeals or abrogates any part of AS 18.50, the Vital Statistics Act. The records and requirements leading up to and including the issuance of the marriage license are not included in the definition of "vital statistics" under that Act. However, the registrar shall supply the necessary forms and instructions for the record work of the licensing officers. (§ 1 ch 58 SLA 1963)

(4) obtain, by purchase or donation from surplus federal property or otherwise, medical supplies and equipment useful in carrying out this program and to allot or resell these supplies and equipment to private institutions engaged by the department to carry out this program;

(5) contract with hospitals, associations, or sanatoria qualified and equipped to give adequate care inside or outside the state;

(6) employ necessary and trained personnel to carry out the purposes of §§ 120—140 of this chapter;

(7) pay the costs of care and incidental expense for residents of the state, in whole or in part, depending on the ability of each patient to pay, and the temporary costs of care and transportation for nonresidents on the same basis until they can be transferred to their residence;

(8) enlist the cooperation of state and federal agencies operating in the state for the furtherance of this program;

(9) establish standards in accordance with department procedure for the care of tuberculars receiving treatment under §§ 120—140 of this chapter. (§ 40-2-11 ACLA 1949)

Am. Jur. reference. — 25 Am. Jur., Health, § 24 et seq.

Sec. 18.15.130. Department to cooperate with other agencies. The department, in conducting a study and case finding survey of the tuberculosis problem, shall cooperate with state and federal agencies operating in the state, and obtain as much information and data as possible from them. (§ 40-2-12 ACLA 1949)

Sec. 18.15.140. Title to and inventory of equipment allotted to private institutions. Equipment purchased for the purposes of carrying out §§ 120—140 of this chapter which is allotted to private institutions remains the property of the state. Before February 2 in each year, each allottee shall file a complete inventory of the equipment with the department. (§ 40-2-13 ACLA 1949)

Article 4. Prenatal Blood Tests.

Section
150. Taking of blood sample
160. Test for syphilis
170. Report of birth
180. Penalty.

Sec. 18.15.150. Taking of blood sample. Each licensed physician and in absence of a licensed physician each licensed graduate nurse who attends a pregnant woman for conditions relating to her pregnancy during the period of gestation or at delivery shall take, or have taken, a sample of the blood of the woman at the time of her first professional visit or within 10 days after the visit, unless the serological test is contrary to the tenets or practice of the religious creed of which she is an adherent. The blood specimen shall be submitted to an approved laboratory or clinic for a standard serological test of syphilis. Any other person permitted by law to attend pregnant

women but not permitted by law to take blood samples shall have a sample of blood taken by a licensed physician, or on order of a licensed physician and shall submit the sample to an approved laboratory or clinic for a standard serological test for syphilis. (§ 1 ch 39 SLA 1949)

Sec. 18.15.160. Test for syphilis. For the purposes of §§ 150 — 180 of this chapter a standard serological test is a test for syphilis approved by the department and shall be performed in a laboratory or clinic approved by the department. On request the laboratory test required by §§ 150 — 180 of this chapter shall be performed without charge at the laboratories of the department. (§ 2 ch 39 SLA 1949)

Sec. 18.15.170. Report of birth. In reporting a birth and stillbirth, the physician and other person required to make the report shall state on the certificate whether a serological test for syphilis has been made upon a specimen of blood taken from the woman who bore the child and the approximate date when the specimen was taken. A birth certificate may not state the result of the test. (§ 3 ch 39 SLA 1949)

Sec. 18.15.180. Penalty. A licensed physician or licensed nurse attending a pregnant woman during the period of gestation or at delivery, or a representative of a laboratory or clinic who violates §§ 150 — 180 of this chapter is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than $500. However, a person attending a pregnant woman during the period of gestation or at delivery, who requests the specimen in accordance with § 150 of this chapter, and whose request is refused, is not guilty of a misdemeanor. (§ 4 ch 39 SLA 1949)

Article 5. General Provisions.

Section
190. Definitions

Sec. 18.15.190. Definitions. As used in this chapter, "department" means the Department of Health and Social Services. (am § 6 ch 104 SLA 1971)

Effect of amendment. — The 1971 amendment substituted "Department of Health and Social Services" for "Department of Health and Welfare."

Article 6. Phenylketonuria (PKU).

Section
200. Screening infants for phenylketonuria

Sec. 18.15.200. Screening infants for phenylketonuria. (a) A physician who attends a newborn child shall cause this child to be tested for phenylketonuria (PKU). If the mother is delivered in the absence of a physician, the nurse who first visits the child shall cause this test to be performed.

(b) The Department of Health and Social Services shall prescribe

regulations regarding the method used and the time or times of testing as accepted medical practice indicates.

(c) The necessary laboratory tests and the test materials, reporting forms and mailing cartons shall be provided by the department.

(d) All tests considered positive by the screening method shall be reported by the screening laboratory to the physician and to the department. The department shall provide services for the performance of a quantitative blood phenylalanine test or its equivalent for diagnostic purposes. A confirmed diagnosis of phenylketonuria shall be reported to the physician and to the department. The department shall provide services for treatment and clinical follow-up of any diagnosed case.

(e) When presumptive positive screening tests have been reported to the department, it shall provide, on request, either the true blood phenylalanine test or subsidize the performance of this test at an approved laboratory.

(f) A licensed physician or licensed nurse attending a newborn or infant who violates this section is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than $500. However, a person attending a newborn or infant whose request for appropriate specimens from the newborn or infant is denied by the parent or guardian is not guilty of a misdemeanor. The fact that a child has not been subjected to the test because a request for appropriate specimens has been denied by the parents or guardian shall be reported to the department. The department shall administer and provide services for testing for other heritable diseases which lead to mental retardation and physical handicaps as screening programs accepted by current medical practice and as developed.

(g) In this section, "physician" means a doctor of medicine licensed to practice medicine in this state, or an officer in the regular medical service of the armed forces of the United States or the United States Public Health Service assigned to duty in this state. (§ 1 ch 90 SLA 1965; am § 1 ch 39 SLA 1967; am § 6 ch 104 SLA 1971)

Effect of amendments. — The 1967 amendment rewrote this section.

The 1971 amendment substituted "Department of Health and Social Services" for "Department of Health and Welfare" in subsection (b).

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

SENATE BILL NO. 41

"An Act relating to marriage and domestic relations".

The bill repeals AS 25.05.101 and AS 25.05.105 requiring premarital medical certificate for marriage license.

The Act repeals AS 25.05.131 requiring that the report of results of test shall not be made a part of the premarital certificate.

The Act repeals AS 25.05.141 requiring that results of tests be sent only to physicians or osteopathic physicians requesting the report and that duplicate reports of test be held in absolute confidence by the Department. The Act repeals AS 25.05.151 governing the approval of laboratories and clinics for tests for infectious or heritable diseases.

Definition

Premarital blood testing has been limited to serological testing for syphilis by the Department of Health under authority granted by AS 25.05.105.

Need for Premarital Blood Testing

A decision to employ syphilis screening should be based upon; local epidemiologic circumstances that indicate geographic clustering of syphilis in a community, the distribution of syphilis cases by sexual preference (nationally it has been estimated that one half of all cases of syphilis are occurring in homosexual men), the distribution of syphilis cases by ethnic and occupational groups and of particular importance in Alaska, the availability of such groups for testing. Comparative costs and benefits of maintaining surveillance in screening groups must also be considered. The Department, after considering all factors, has determined that results from premarital syphilis screening are of little consequence in the national or State VD control effort. Nationally in 1976 four million premarital syphilis screening examinations were performed resulting in the discovery of only 456 cases. Mass screening of low-risk groups such as premarital applicants, however is still required in 44 states as of 1976, although many states are in the process of repealing such legislation. In Alaska it has been estimated that 25,000 serologies have been performed during the past 5 years with the discovery of only 2 cases of primary syphilis. Although the law in effect requires couples to have physician contact before marriage and is an apparent opportunity to counsel on matters pertaining to parenthood, hereditary diseases, sex and contraception and to possibly detect and corect illnesses and disabilities, it does not as currently written and administered carry out the intent of the law that is to contribute significantly to the control of infectious and heritable disease in the general population.

Experience in Alaska

For several months the Section of Communicable Disease Control of the Division of Public Health, Department of Health and Social Services, State

of Alaska, has been reviewing the need to continue to require premarital serologic blood tests for syphilis. In 1979, the State of Alaska reported 67 cases of syphilis: 45 cases of early syphilis (primary or early latent), and 22 cases of late latent syphilis. None of the 67 cases of syphilis were discovered through the use of premarital syphilis serological blood tests. In order to obtain more data on our experience in Alaska, the results of premarital serological testing for syphilis dating back to 1973 were reviewed. Since 1973, only five cases of syphilis in all stages were diagnosed through premarital blood tests. No cases of syphilis have been diagnosed since August 1978 from premarital syphilis serologies. Although Alaska has the highest rate of gonorrhea in the nation, the rate of syphilis has remained relatively constant and is lower (5.9 per 100,000) than the national average (30 per 100,000). In addition, the majority of syphilis cases now occur in the homosexual population not subject to premarital screening.

We have reviewed this data with the Venereal Disease Unit of the Section of Communicable Disease Control and with the Center for Disease Control, Atlanta, Georgia. Based upon our experience in Alaska in uncovering cases of syphilis through use of premarital serologic testing, the Center for Disease Control, the Venereal Disease Unit of the Section of Communicable Disease Control, and the Division of Public Health have concluded that the requirement for premarital syphilis serologic testing should be repealed.

Effect of Repeal on Venereal Disease Control Programs

Passage of this act would not alter or significantly affect syphilis serology testing programs in high-risk groups or prenatal groups to prevent congenital syphilis. Quality control and proficiency testing programs in laboratories that are currently performing syphilis serology testing would not be effected by passage of this act. Passage of this bill will reduce syphilis serology workload in the state public health laboratories by 18%.

We wish to emphasize that our commitment to discover, diagnose, and bring to treatment all persons with syphilis remains undiminished. We will vigorously pursue the continued requirement for prenatal serologic blood testing and continue to test for syphilis all blood specimens from public health clinics and from private physicians suspecting the diagnosis of syphilis.

Cost Savings

The FY 81 budget already reflects a cost savings to the Division as it was initially believed that repeal of premarital legislation would not be necessary. Premarital syphilis serological tests can be eliminated without impairing the cost effectiveness of Venereal Disease Control efforts in the State of Alaska.

POSITION PAPER/Department of Health & Social Services

Department Position

The Department of Health and Social Services recommends passage of this bill.

Recommended by: David Bruce
David Bruce, Deputy Director
Division of Public Health

Date: January 20, 1981

Approved by: Helen D. Beirne
Helen D. Beirne
Commissioner

Date: 1 - 21 - 81

ALASKA STATE HOSPITAL ASSOCIATION INC.

319 Seward Street
Juneau, Alaska 99801

Phone: (907) 586-1790

October 10, 1980

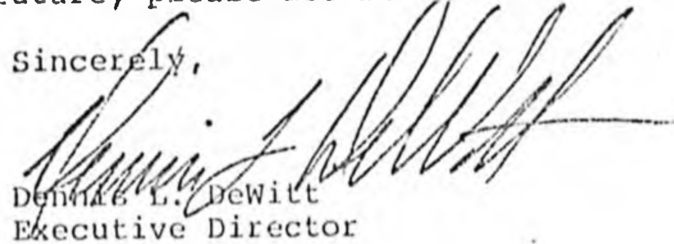
Dr. John Middaugh, M. D.
Room 301 MacKay Bldg.
338 Denali Street
Anchorage, AK 99501

Dear Dr. Middaugh:

The Alaska State Hospital Association wishes to inform you that on October 6, 1980 our Board of Directors voted to endorse your request to repeal the premarital syphilis serology requirement.

If we can be of help in the future, please let me know.

Sincerely,



Dennis L. DeWitt
Executive Director

DLD/sam

Alaska Native Health Board

1689 C STREET, SUITE 230, ANCHORAGE, ALASKA 99501 PHONE (907) 276-8989

Reference #A80-0960

September 24, 1980

The Honorable Jay S. Hammond
Governor
State of Alaska
Pouch A
Juneau, Alaska 99811

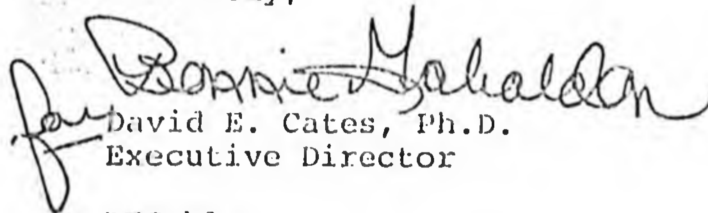
Dear Governor Hammond:

The Alaska Native Health Board endorses the repeal of the statute requiring premarital syphilis serological blood testing.

By doing so, the Board recognizes the continuing need to actively seek to discover and treat all cases of syphilis but it is believed that premarital testing is not the most effective means. The nearly $81,000 required for the 9,000 tests given in 1979 could better be used in a more promising, productive manner. This change should not impair the effectiveness of the Venereal Disease Control efforts of the State.

As always, the Board is concerned with the well-being of all Alaskans. It seeks the epitome of service delivery and to eliminate waste. It believes to continue the "routine testing" to be such a waste.

Sincerely,



David E. Cates, Ph.D.
Executive Director

DEC:blg

cc: John Middaugh, M.D.

4107 Laurel Street, Suite #1, Anchorage, AK 99504

October 17, 1980

Honorable Jay Hammond
Pouch A
Juneau, Alaska .801

Dear Governor Hammond,

At our regular meeting on October 4, 1980, in Anchorage the Alaska State Medical Association council passed a resolution supporting deletion of the requirement for a premarital serologic test for syphilis. We do not believe that this is warranted on a screeming basis, but that it should be done on a case by case basis as decided by the individual person and his or her physician.

We wish to make it clear that in no way do we believe that the requirements for prenatal serologic testing should be disturbed.

We will support legislation to delete mandatory premarital serologic testing.

Yours truly,

David E. Johnson, M.D.

DEJ/tjj

WHEREAS, the control of Public Health in a cost-effective manner is of the highest priority, and

WHEREAS, a review of the effectiveness of current statutes requiring premarital syphilis serologies has revealed this requirement to be ineffective in controlling syphilis, and

WHEREAS, a substantial saving can be realized through the suspension of premarital blood testing without decreasing the effectiveness of venereal disease control efforts,

BE IT SO RESOLVED::

That the Alaska Public Health Association endorse the position of the Department of Health and Social Services in presenting legislation to repeal the current requirement for premarital blood testing.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. Senate Bill No. 41
Title "An Act relating to marriage and domestic relations"
Requested by Commissioner's Office Date January 21, 1981

II. FISCAL DETAIL
Agency Affected
Program Category Affected Division of Public Health
BRU, Program, or Subprogram(s) Affected
(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 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Fund Source)	0	0	0	0	0	0

POSITIONS

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

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

IV. DATE 1/21/81 PREPARED BY Harry Colvin
AGENCY Public Health
PHONE 465-3140

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

M&B Approved [illegible] Date 1/2[illegible]/81

33-001 (Rev. 12/79)

SB41

For — DEAN F. TIRHOORE ~~3603~~ 3030 — COLVIN — JOAN BROOK — call 3343
Dep. Com. HSS

No — JAMES S. PINNEO MD. opposed. 822-3208 / 822-3203 — 2/24 Sent letter 2 days ago;
FAITH HOSPITAL, GLENNALLEN

For — DENNIS DeWITT (Barbara) 586-1790 — WILL BE THERE
AK STATE HOSPITAL ASSOCIATION

For — DAVID CATES M.D. 276-8989 — [illegible]; can't attend; [illegible] copy of Bill — 2/24 2:55 will call back
AK NATIVE HEALTH BOARD

For — DAVID JOHNSON MD. (Ketchikan) (mother): will [illegible] — Legislative Comm
AK STATE MEDICAL ASSOCIATION ANCH. 277-6891
(Richardson, Lobbyist)

No. — TERRY MARTIN'S OFFICE
BILL MOFFITT 3183-4
([illegible] will call back)

✓ notation re: rescheduling of Committee Hearing for Fri., 3/6

SB

43

AMENDMENT

OFFERED IN THE SENATE: BY: Judiciary Committee

TO: CS SENATE BILL NO. 43 (L&C)

HOUSE BILL NO. ______

PAGE: 1 LINE: 9

Page 1, line 9:

Delete lines 9 - 11 and insert:

(5) Provides benefits for medicare supplemental and individual disability which are unreasonable in relation to the premium charged.

COMMITTEE REPORT

SENATE

FURTHER: None

2/24/81

Date: March 25, 1981

Mr. President:

The Committee on JUDICIARY has had SB 43

filing insurance forms

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

[X] do pass [ ] do not pass

[X] do pass with attached amendments(s)

[ ] replace with CS for ______ [ ] 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:

CHAIRMAN

Alaska State Legislature

Senate

Official Business

Judiciary Committee

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY OF SENATE JUDICIARY COMMITTEE HEARING
OF
MARCH 20, 1981

Butrovich Committee Room, State Capitol - Juneau, Alaska

Legislation Before Committee:

SB 43 "An Act relating to insurance."

SB 190 "An Act revising the drug laws and making amendments to the criminal laws of the state; and providing for an effective date."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:35 p.m. Committee members present were Senators Hohman, Parr, Ray, and Rodey. Senator Bennett was absent from the meeting.

Committee members heard testimony from Don Koch, Division of Insurance, in support of passage of SB 43. Mr. Koch stated that medicare supplemental policies require that the state perform certain regulatory functions, or the federal government will. These functions are two-fold: (1) apply cost benefits regulations, and (2) adopt minimum standards. Mr. Koch stated that the bill addresses both of these issues and will enable the state to adopt regulations to conform with federal standards.

The Committee next heard testimony from Mike Thomas of the Division of Insurance in support of SB 43, and suggested specific language changes for subsection (5). Chairman Rodey directed the committee staff to prepare an amendment for subsection (5) to read:

(5) Provides benefits for medicare supplemental and individual disability which are unreasonable in relation to the premium charged. [,but this paragraph does not apply to life insurance, annuities, or group disability insurance.]

The Committee then heard testimony from Dan Hickey, Chief Prosecutor, and William Nix, Commissioner of the Department of

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS SB 43 (L&C)
Title An Act Relating to Insurance
Requested by Labor & Commerce Committee Date 2-24-81

II. FISCAL DETAIL
Agency Affected Department of Commerce & Economic Development
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	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL						

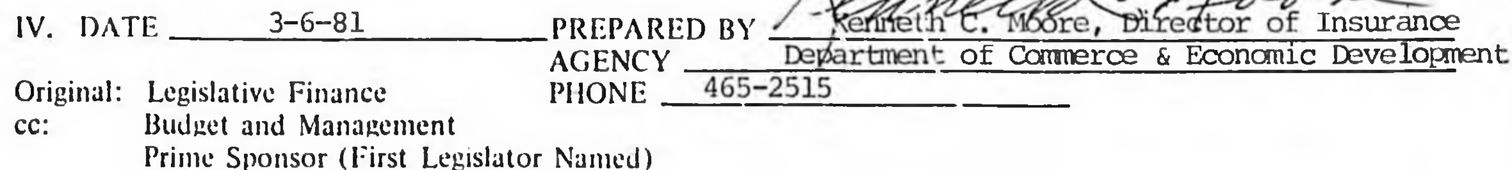
FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Fund Source)	0	0	0	0	0	0

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

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



IV. DATE 3-6-81 PREPARED BY Kenneth C. Moore, Director of Insurance
AGENCY Department of Commerce & Economic Development
PHONE 465-2515

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

33-001 (Rev. 12/80

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

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

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

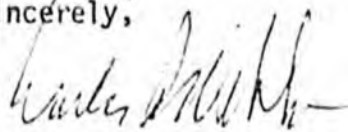
Dear Senator Mulcahy:

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

08-H2LH

* 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 <u>and AS 21.89.050</u>

* 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.

ROBERTSON, MONAGLE, EASTAUGH & BRADLEY
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
POST OFFICE BOX 1211
JUNEAU, ALASKA 99802

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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 fact supply all of the authority the Alaska Division of Insurance lacks to adopt regulations completely complying with the Baucus Amendment.

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-

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

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, MONAGLE, 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

offered by Mike THomAS
INSURANCE Lobbyist

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

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 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 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 inadmissable in evidence in any legal action. (§ 1 ch 123 SLA 1966)

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

alternate language: Medicaid Supplemental Insurance
Sec. 21.89.060

STATE OF ALASKA
THE LEGISLATURE

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

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: 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

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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

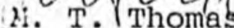
Dear Senator Mulcahy:

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

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch 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 wa 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."

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 96-265 effective July 1, 1982. (tape reading 322 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 Mulcahy felt that further staff research is needed.

The meeting was adjourned by Mulcahy 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

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 Amendments" 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.

08-H2LH

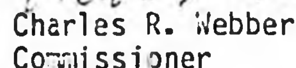
The second requirement of "The Baucus Amendment" is for cost/benefit ratio regulation. This is the area in need of a legislative solution. The Division of Insurance does not currently have rate regulatory authority over disability or accident/health kinds of insurance including medicare supplemental 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 Hea 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

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
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465-3800

MEMORANDUM February 17, 1981

SUBJECT: Insurance
(CSSB 43)

TO: Senate Labor and Commerce Committee

FROM: Linn H. Asper
Legislative Counsel

I have prepared a committee substitute for SB 43 according to your drafting request of February 16th. The drafted bill is in the form requested in the letter to you from Mike Thomas, with some technical changes. I would still recommend the language suggested in my memo to you dated February 4th as being more clear than this committee substitute, and would also refer you to my first memo, dated January 28th.

LHA:ljb

Enclosure

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M   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

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 998
907 465-3800

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: 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

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 ch 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,

21.42.130

or exception and condition which deceptively affects the risk purported 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 required by the applicable provisions of this title pertaining to contracts of particular kinds of insurance. The director may waive the required use of a particular provision in a particular insurance 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 contracts for particular kinds of insurance, substantially similar provisions 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. references.—29 Am. Jur., Insurance, §§ 186 to 188.

Departure from standard policy as affecting enforcibility of policy provision against insurer, 113 ALR 773.

44 C.J.S. Insurance §§ 249 to 261.

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 person insured by the policy, may make an agreement as to the insurance which is not expressed in the policy. This section does not prohibit the modification of a policy, after issuance, by written 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 w
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(5) the premium
(6) the conditio
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ch 120 SLA 1966)

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
10. Scope of chapter
20. Purpose and interpretation
30. Provisions exclusive
40. Incorporation—Certificate of authority required
50. Same—Law applicable; approval of articles of incorporation; amendment
60. Name of corporation
70. Qualifications for certificate of authority
80. Application for certificate of authority
90. Issuance or refusal of certificate of authority
100 Continuance or expiration of certificate of authority
110. Suspension or revocation of certificate of authority

Section
120. Services and benefits which may be provided, medical service corporations
130. Services and benefits which may be provided, hospital service corporations
140. Medical service agreements
150. Hospital service agreements
160. Subscriber's contracts
170. Service agreements and subscriber's contracts must provide substantial service benefits
180. Filing and approval of agreements and contracts
190. Charges and rates
200. Reserves
210. Surplus fund
220. Investments

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

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 reponsible for the investigation of fires, the Department of Law, the state fire marshal, and the Department of Public Safety.

CALL LIST FOR SB43 (LTC)
FRIDAY, 1:30 pm BUTROVICH
MARCH 20, 1981

586-1931 WES COYNER BLUE CROSS - WILL

586-3340 F.O. EASTAUGH AM COUNCIL LIFE INSURANCE

586-3210 ~~NORM GORSUCH~~ INDEPENDENT INSURANCE AGENT

586-3340 ~~J.P. FAWCETT~~ / MIKE THOMAS AMERICAN COUNCIL ON LIFE INSURANCE

-2577 DAN KOCH (COKE) DIV. OF INSURANCE

I'VE CONTACTED

Date ______________________

SENATE JUDICIARY COMMITTEE HEARINGS

WITNESS SIGN-UP SHEET

Name	Address/Phone	Representing
DON KOCH	POUCH D JUNEAU 465-2577	DIVISION OF INSURANCE
KEN MOORE	POUCH D JUNEAU 465-2577	DIVISION OF INSURANCE

SB

44

Alaska State Legislature

Official Business

Senate

Judiciary Committee

Pouch V
State Capitol
Juneau, Alaska 99811

May 11, 1981

Mr. Tommy Nebl
Borough Clerk
Ketchikan Gateway Borough
344 Front Street
Ketchikan, Alaska 99901

Dear Mr. Nebl:

Thank you for your letter of May 6, 1981, and a copy of the resolution passed by the Ketchikan Gateway Borough Assembly.

Senate Bill 44 is currently in the Community and Regional Affairs Committee for hearing, with a further referral to the Judiciary Committee. By means of this letter, I am forwarding a copy of the resolution to the C&RA Chairman, Senator Don Gilman, for his review of the proposed legislation.

I am in accord with your position on this legislation and, in its present form, consider it ill-advised. Please feel free to submit any additional comments you wish through my office.

Sincerely,

Pat

Senator Patrick M. Rodey
Chairman

PMR/ods

cc: Senator Don Gilman, Chairman
Committee on Community and
Regional Affairs

KETCHIKAN GATEWAY BOROUGH
344 FRONT STREET
KETCHIKAN, ALASKA 99901

RECEIVED
MAY 08 1981

May 6, 1981

The Honorable Patrick Rodey
Chairman, Judiciary Committee
State Senate
Juneau, Alaska 99811

Dear Senator Rodey:

Please find attached a copy of a resolution passed by the Ketchikan Gateway Borough Assembly on April 27, 1981 and forwarded to you and the Judiciary Committee for your information.

Sincerely,

Tommy Nebl
Tommy Nebl
Borough Clerk

attachment

4/15/81tn

Voting "yes": Salazar
Johnson
Kouni
Emard
Seymour
Dupre
Laurance
Zastrow
Watt
Freeman
Voting "no": None
Absent: Bolling
6 4/7 votes required for passage.
EFFECTIVE DATE: 4/27/81

K E T C H I K A N   G A T E W A Y   B O R O U G H

RESOLUTION NO. 411

A RESOLUTION OF THE ASSEMBLY OF THE KETCHIKAN GATEWAY BOROUGH, ALASKA, DECLARING ITS OPPOSITION TO AND REQUESTING DEFEAT OF SENATE BILL 44 WHICH WOULD SHIFT THE COST OF PUBLIC DEFENSE OF MUNICIPAL PROSECUTIONS OF INDIGENTS TO THE MUNICIPALITY.

R E C I T A L S

A. Senate Bill 44 now pending before the Alaska Legislature would require municipalities to pay all expenses of public defense indigents charged with municipal violations. The State of Alaska currently and historically has paid for these expenses.

B. The limited financial resources of Alaskan municipalities, including the Ketchikan Gateway Borough, already bear the burden of providing the greatest portion of essential public services. Programs are being discussed and legislation is being proposed that would reduce the financial burden of municipal services by shifting costs to the State or by providing State subsidies.

C. The imposition upon municipalities of the additional cost of public defense of municipal criminal cases would create a conflict between the financial interest of the municipality to reduce public defense costs, while at the same time maintaining the interest of the municipality in fair, effective and just enforcement of municipal criminal laws.

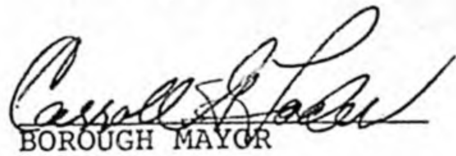
NOW, THEREFORE, IT IS RESOLVED BY THE ASSEMBLY OF THE KETCHIKAN GATEWAY BOROUGH, ALASKA, as follows:

Section 1. The Assembly is strongly opposed to and urges the defeat of Senate Bill 44 and any other measures which would attempt to shift the cost of public defense of indigents charged with violations of municipal ordinances from the State to municipalities.

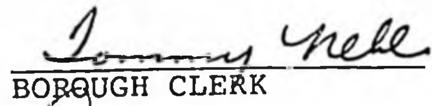
Section 2. The Clerk is hereby directed to send a copy of this resolution to the Community and Regional Affairs and Judiciary Committees of the State Senate.

Section 3. This resolution is effective immediately upon approval and passage.

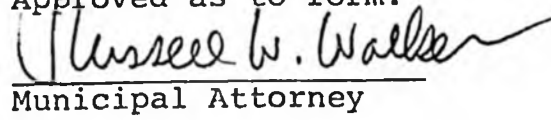
APPROVED AND ADOPTED this 27 day of April, 1981.


BOROUGH MAYOR

ATTEST:


BOROUGH CLERK

Approved as to form:


Municipal Attorney

SB

49

COMMITTEE REPORT

SENATE

FURTHER: None

4/21/81

Date: June 1, 1981

Mr. President:

The Committee on JUDICIARY has had SB 49

limited entry to commercial fisheries

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 ______ [ ] same title [ ] new title

and recommends ______

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[X] reports it back without recommendation with attached amendments

[ ] referred to the ______ Committee

MEMBERS SIGNING DO PASS

MEMBERS HAVING OTHER RECOMMENDATIONS:

CHAIRMAN

S 60 (Rev. 12/78)

SENATE AMENDMENT

BY Senate Judiciary Committee

To: Senate Secretary SENATE BILL No. 49

To: HOUSE BILL No.

PAGE: 1 LINE: 10

Delete the word "four" and reinsert the word "two".

To page 1, line 16, add the word "specific" between the words "a" and "fishery"

SENATE AMENDMENT

BY Senate Judiciary

To: Senate Secretary SENATE BILL No. 49

To: HOUSE BILL No.

PAGE: 1 LINE: 19

* Sec. 2 - AS 16.43.150 is amended by adding a new sub-section to read:

(i) An entry permit shall be forfeited to the Commission upon failure of the permit holder to verify to the Commission active participation in the fishery each season, according to regulations adopted by the Commission.

Renumber Remaining Sections.

LIMITED ENTRY

A necessary evil?

Prepared for the Legislative Council
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Fish and Fish

The state legislature's 1973 vote limiting the number of fishermen allowed to harvest Alaska's huge salmon runs prompted predictable howls of outrage.

The salmon fisheries always had been open to anyone willing to invest a lot of sweat and brave some of the toughest seas in the world. It seemed a God-given right to be able to go fishing to cover the winter's grubstake.

No one was surprised by the opposition from those locked out of the fisheries by limited entry. Also expected were objections from staunch opponents of government intervention in the free enterprise system.

Recent debate is laden with irony, however, as the most vocal critics have been the very people the system wa designed to protect--rural Alaskans who rely heavily on the commercial salmon fisheries. And, the dramatic biological recovery of the salmon runs and economic turnaround of the industry appear to be responsible for most recent criticism of limited entry.

Considering the massive amount of flak directed at the fishing restrictions, many observers were taken aback when these very squeaky wheels got no grease during the legislature's re-examination of limited entry in 1979-80.

What lawmakers found is widespread, though quiet, support of limited entry. Fisheries managers, for instance, prefer the

steady effort and smaller numbers of limited fisheries to the boom-and-bust history of the salmon industry. Then there are the 8,100 permit holders, whose attitudes may have been expressed best by a former director of the commission administering the state program:

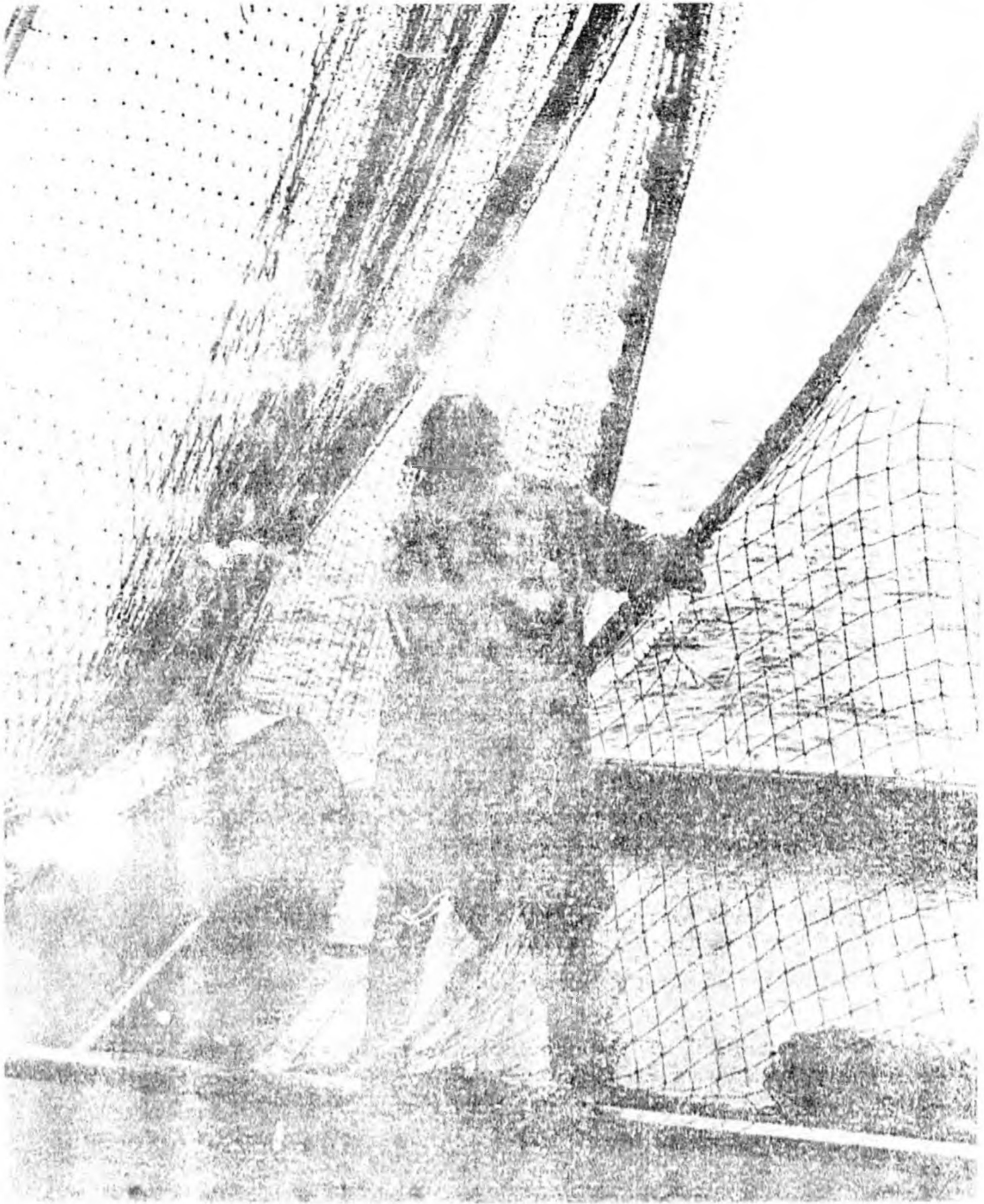
"The people who received entry permits and believe limited entry is necessary tend to remain quiet about it and do not crow about the system for fear of offending a neighbor or friend."

With courts recently upholding the program against major legal challenges, it appears limited entry is here to stay. Far less clear is whether the program will remain intact under growing sentiment for change.

Many of the harshest critics of limited entry oppose doing away with the system entirely, but want to give the program a major overhaul. Even the most ardent supporters agree that at least some fine tuning is in order.

But as the legislature discovered, tinkering with limited entry is not easy. Alaska's limited entry program is a highly complicated system of fisheries management based on interwoven social and political considerations, as well as economics and biology. It's difficult to make large changes without risking chaos in one of the state's most important industries.

This pamphlet shows the evolution of the present system of limited entry and points out some of the problems looming on the horizon.



ROOTS: Moonlighters and the company store

When Governor William A. Egan proposed in early 1973 to limit entry into the state's commercial salmon fisheries, Alaska's salmon resources were recovering nicely from the rape-and-run management of Territorial days. But the economic lot of those most dependent on the fisheries was not following a similar course.

"Even with substantially improved biological management since Statehood, the salmon fisheries are not as healthy as they can be because a steadily increasing number of fishermen are participating in the harvest," Egan said in his letter to the legislature. "These new entrants into the fishery have driven the profitability of fishing down to marginal levels for those professional fishermen who must depend upon fishing for a major share of their livelihood."

"The character of these new entrants varies. In Bristol Bay it may be the school teacher from Anchorage or the Boeing worker from Seattle; in Southeastern the sport-commercial troller with a well-paid government job; in Cook Inlet the vacationing set-netter from the Lower-48. However, in almost every area these moonlighters are adding substantially to the economic distress of the vocational fishermen who must derive their primary livelihood from fishing."

Although Egan never specified who he was trying to help, it was clear throughout his 300-page proposal that the program was meant to protect Alaskans. The Governor had reason to be careful, as two earlier attempts to restrict the salmon fisheries ran afoul of the equal protection clauses in the state and federal constitutions.