

ALASKA LEGISLATIVE COUNCIL FILED DOZ

1788 SLC SB 31 - SB 50

January 20, 1981

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

Dear Senator Mulcahy:

Re: Senate Bill 31

The Department of Commerce and Economic Development has reviewed SB 31, relating to a marine pilot pension plan and liens for payment of pilotage fees. Upon advice from Harry D. Treager, Director, Division of Occupational Licensing, the department opposes SB 31, as presently written, for the following reasons:

Section 1. AS 08.62.040(c):

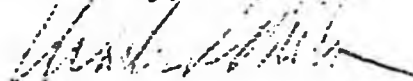
1. Liability of the State to maintain a special interest pension plan affecting a selected industry.
2. Present attitude and concensus of this Administration is less government involvement and regulations of private industry.
3. Cost of a pension program and its administration would result in additional cost to consumers and government, e.g., AS 08.62.040(A)(4) "...and pay for audits whenever an audit is necessary to collect information needed to apply the standard in regulations."
4. Current number of marine pilots this bill would affect is seventy-two (72). Approximately 16 pilots are out-of-State residents.
5. SB 31 is unclear as to source of funding "...the board shall finance it from pilotage fees imposed under this chapter." Experts in the Department of Administration - Retirement & Benefits concluded this is an unsound method for pension plans. The plan is based on an unfunded source. State's liability is also concerned.

Section 2. AS 08.62.170.

1. Vessels involved are of a U.S. registered class. Liens come under jurisdiction of U.S. Federal Court System and involve the U.S. Marshal's Office.
2. Marine pilots have the ability to pursue claims through the judicial system.
3. Cost to Alaska in enforcing a statute of this type, i.e., confiscation, safekeeping, and board would have to utilize the judicial system for appropriate conclusions.
4. Bill gives the board authority outside of its intended scope and functions.

If you desire further clarification of the department's position on SB 31, please contact Catherine Wallen, Legislative Liaison, Department of Commerce and Economic Development.

Sincerely,



Charles R. Webber
Commissioner

HDT/jc2/5

THE LEGISLATURE THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 31 "An Act relating to a pension plan for Alaska pilots and liens
Title for payment of marine pilotage fees; and providing for an effective date.
Requested by Ziegler Date 1-19-81

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development
Program Category Affected Public Protection
BRU, Program, or Subprogram(s) Affected Regulation and licensing of professions - Boards
(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-	89.1	64.2	68.6	73.4	78.5
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-	2.0	0	0	0	0
600 LAND & STRUCTURES	-0-	4.0	3.0	3.0	3.0	3.0
700 GRANTS, CLAIMS, ETC.	-0-	0	0	0	0	0
TOTAL	-0-	95.1	67.2	71.6	76.4	81.5

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	95.1	67.2	71.6	76.4	81.5
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	-0-	3	2	2	2	2
PART TIME						
TEMPORARY						

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

7% inflation factor used on personal services

See attached page for detailed information.

IV. DATE 1-19-81

PREPARED BY Marjorie Odland, Regulations Specialist
AGENCY Division of Occupational Licensing
PHONE 465-2535

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

PERSONAL SERVICES - FY'82 Salary Schedule

12 mos., gen.govt., Range 13, Research Analyst (FY'82 only)	29,104.99
12 mos., gen.govt., Range 13, Retire.Benefit Spec. I	29,104.99
12 mos., gen.govt., Range 14, Auditor I	<u>30,930.00</u>
Total	89,139.98 (FY'82)

* FY'83, 7% inflation factor:

12 mos., gen.govt., Range 13, Retire.Benefit Spec. I	31,141.00
12 mos., gen.govt., Range 14, Auditor I	<u>33,095.00</u>
Total	64,236.00 (FY'83)

EQUIPMENT - One time expense FY'82

2 bookcases, 3 shelves	247.48
2 four drawer files, legal	505.20
2 chairs, swivel with arms	368.78
2 side chairs without arms	172.22
2 desks, 60"x30"	<u>853.84</u>
Total	2,147.52

LAND & STRUCTURES

FY'82, 3 positions - 65 sq. ft., x 3 x 1.70 = 4,000.00

FY'83, 2 positions - 65 sq. ft., x 2 x 1.70 = 3,000.00

MARINE PILOTING

Southeastern Alaska Pilots Association

Telephone: 907-225-9696

P.O. BOX 6100

Cable Address: SEAPILOTS

KETCHIKAN, ALASKA 99901

July 4, 1980

Alaska Maritime Agencies Inc.
Box 8075
Ketchikan, Alaska 99901

RE: M/S Sun Princess

ATTORNEY IN FACT FOR:

Capt. Ed Creasey
Capt. Jack Viera

INV. 4006

Pilot services rendered for the M/S Sun Princess on trip # 15

Pilot fee in and out of Juneau-----	\$970.00
Glacier Bay Cruising-----	1,386.00
Pilot fee in and out of Skagway-----	1,134.00
Pilot fee in and out of Ketchikan-----	970.00
841 miles X 690 passengers X .503 mills-----	2,918.85
54.36 excess units-----	639.27
Transportation and Subsistence-----	119.32

Total \$8,137.44

Transportation and Subsistence

6/29/80 Hotel	\$80.77
thru Meals	24.80
7/3/80 Cabs	13.75
Total	\$119.32

APPROVED				
Author. <i>M</i>	Date	Tenure	Comp.	Payment
PAID BY ALASKA MARITIME AGENCIES				
CHECK No.	16124			
CHARGE TO ACCOUNT				
<i>Sun P. Voy # 15 6/80</i>				

REC'D JUL 16 1980

APPROVED :

M. Viera 7/8/80

SOUTHEASTERN ALASKA PILOTS ASSN.

Ketchikan, Alaska

B. *Arnold Peterson*

Title *cf*

Terms: Payment due upon completion of service.
Finance charges for late payment 1 1/2% per month,
annual percentage 18%.

P.O. BOX 6100

Cable Address: SEAPILOTS

KETCHIKAN, ALASKA 99901

August 2, 1980

Alaska Maritime Agencies Inc.
Box 8075
Ketchikan, Alaska 99901

RE: S/S Universe # 2

ATTORNEY IN FACT FOR:
Capt. Harley Clough
Capt. Jack Viera
Capt. Roger Dunn

INV. 4056

Pilot services rendered for the S/S Universe on trip # 2.

Pilot fee in and out of Juneau-----	\$970.00
Glacier Bay Cruising-----	1,386.00
Pilot fee in and out of Sitka-----	970.00
Pilot fee in and out of Ketchikan-----	970.00
583 miles X 528 passengers X .503 mills-----	1,548.35
Travel and Standby Days-----	552.00
Detention Days-----	276.00
27.08 excess units-----	318.40
Transportation and Subsistence-----	814.40

Total \$7,805.15

Travel-Standby-Detention Days

7/25/80 Detention Day	\$138.00
7/25/80 Travel Day	138.00
7/26/80 Detention Day	138.00
7/27/80 Travel Day	138.00
7/30/80 Travel Day 2 pilots	276.00
Total	\$828.00

Transportation and Subsistence

7/22/80 Trans	\$418.10
Thru Hotel	186.00
8/1/80 Meals	130.20
Cabs	75.10
Phone	5.00
Total	\$814.40

APPROVED

m. may 8/12/80

APPROVED				
Author.	Rate	Ten.	Comp.	Payment
<i>[Signature]</i>				<i>[Signature]</i>
PAID BY ALASKA MARITIME AGENCIES				
CHECK No. 10051				
CASH TO ACCOUNT				
<i>Universe #2</i>				

REC'D AUG 17 1980

SOUTHEASTERN ALASKA PILOTS ASSN.
Ketchikan, Alaska

By *[Signature]*

Title *[Signature]*

Terms: Payment due upon completion of service.
Finance charges for late payment 1 1/2% per month,
annual percentage 18%.

[Handwritten initials]

P.O. BOX 6100

Cable Address: SEAPILOTS

KETCHIKAN, ALASKA 99901

July 20, 1980

Alaska Maritime Agencies Inc.
Box 8075
Ketchikan, Alaska 99901

RE: S/S Universe # 1

ATTORNEY IN FACT FOR:

Capt. /Vern Wyatt
Capt. Roger Dunn

INV. 4029

Pilot services rendered for the S/S Universe on trip # 1.

Pilot fee in and out of Juneau-----	\$970.00
Glacier Bay Cruising-----	1,386.00
Pilot fee in and out of Sitka-----	970.00
Pilot fee in and out of Ketchikan-----	970.00
460 miles X 528 passengers X .503 mills-----	1,221.68
Detention Days-----	276.00
Travel and Standby Days-----	828.00
27.08 excess units-----	318.40
Transportation and Subsistence-----	910.90

Total \$7,850.98

Travel and Detention Days

7/8/80 Travel Day 2 pilots	\$276.00
7/11/80 Travel Day	138.00
7/11/80 Detention Day	138.00
7/12/80 Detention Day	138.00
7/13/80 Travel Day	138.00
7/16/80 Travel Day 2 pilots	276.00
<u>Total</u>	<u>\$1,104.00</u>

Transportation and Subsistence

7/08/80 Trans	\$741.00
thru Hotel	74.40
7/18/80 Meals	31.00
Cabs	60.50
Phone	4.00

Total \$910.90

APPROVED				
DATE	AMOUNT	TENAGE	COM.	PAYMENT
7/22/80	1602.4			
PAID BY ALASKA MARITIME AGENCIES				
CHECK No. 16024				
CHARGE TO ACCOUNT				
UNIVERSE #1-7/80				

APPROVED :

M. May 7/22/80

SOUTHEASTERN ALASKA PILOTS ASS'N
Ketchikan, Alaska

By Harold M. Anderson
Title CP

Terms: Payment due upon completion of service
Finance charges for late payment 1 1/2% per month,
annual percentage 18%.

REC'D JUL 29 1980

P.O. BOX 6100

Cable Address: SEAPILOTS

KETCHIKAN, ALASKA 99901

RE: Sun Princess #1

June 6, 1980

Alaska Maritime Agencies
P. O. Box 8075
Ketchikan, Alaska 99901

ATTORNEY IN FACT FOR:
Capt. Bill Bullard
Capt. George McReynolds

INV. 3562

Pilot services rendered for the Sun Princess in trip #1

Pilot fees in/out Juneau -----	970.00
Pilot fees in/out Skagway -----	1,134.00
Glacier Bay Cruising -----	1,386.00
Pilot fees in/out Ketchikan -----	970.00
Misty Fjords cruising -----	692.00
782 miles x 690 passengers x 5.03 mills -----	2,714.08
Travel & Standby Days -----	552.00
54.36 excess units -----	799.00
Transportation & Subsistence -----	479.05

TOTAL

9,696.13

Travel Days

6/1 travel/ 2 pilots	276.00
6/6 travel/ 2 pilots	276.00
	<u>552.00</u>

Transportation & Subsistence

6/1/80	Trans.	330.00
thru	Cabs	34.45
6/6/80	Meals	37.20
	Hotel	74.40
	Phone	3.00
		<u>479.05</u>

APPROVED				
Author.	Dates	Tonnage	Comp.	Payment
<i>[Signature]</i>				<i>[Signature]</i>
PAID BY ALASKA MARITIME AGENCIES				
CHECK No. 16003				
CHARGE TO ACCOUNT				
<i>[Signature]</i>				

APPROVED :

REC'D JUN 26 1980

6/80

In. may 6/16/80

SOUTHEASTERN ALASKA PILOTS ASSN.
Ketchikan, Alaska

By *[Signature]*
Bookkeeper

Title

Terms: Payment due upon completion of service.
Finance charges for late payment 1 1/2% per month,
annual percentage 18%.

eh B

CRUISE #3

MARINE PILOTING

Southeastern Alaska Pilots Association

Telephone: 907-225-9696

P.O. BOX 6100

Cable Address: SEAPILOTS

KETCHIKAN, ALASKA 99901

Sept. 16, 1980

Alaska Maritime Agencies Inc.
Box 8075
Ketchikan, Alaska 99901

RE: M/S Island Princess

ATTORNEY IN FACT FOR:

Capt. Harley Clough
Capt. Bob Nerup

INV. 4134

Pilot services rendered for the M/S Island Princess on trip # 11.

Pilot fee in and out of Ketchikan-----	\$970.00 ✓
Pilot fee in and out of Juneau-----	970.00
Pilot fee in and out of Skagway-----	1,134.00
Glacier Bay Cruising-----	1,386.00
Pilot fee in and out of Sitka-----	970.00
569 miles X 630 passengers X .503 mills-----	1,803.10
Inadequate Quarters-----	223.20
59.90 Excess units-----	880.50
Transportation and Subsistence-----	150.20
Total	\$8,487.00 ✓

Transportation and Subsistence

9/09/80	Trans	\$116.00
thru	Meals	6.20
9, 13/80	Cabs	26.00
	Phone	2.00
Total		\$150.20

Inadequate Quarters

9/10/80	Juneau	\$74.40
9/11/80	Skagway	74.40
9/12/80	Cape Spencer	74.40
Total		\$223.20

APPROVED

16794

CHARGE TO ACCOUNT

F.P. # 11 9/80

SEP 26 1980

APPROVED :

M.M. 9/24/80

SOUTHEASTERN ALASKA PILOTS ASSN.
Ketchikan, Alaska

B. *Harold MacKinnon*

Title

Terms: Payment due upon completion of service.
Finance charges for late payment 1 1/2% per month,
annual percentage 18%.



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

Summary - SB 31, Ziegler by request

"An Act relating to a pension plan for Alaska Pilots and liens for payment of marine pilotage fees; and providing for an effective date."

08.62.040: (c)

Adds new subsection (c) authorizing powers and duties of the Board of Marine Pilots in establishing a pension plan to provide benefits to retired or disabled pilots and to the surviving spouses of deceased pilots. Also gives the Board the authority of financing and administering the fund through pilotage tariffs.

08.62.170:

Amends section to include that the Board (as well as a pilot) has a lien on a vessel for payment of pilotage fees.

Fiscal note from Dept. of Commerce & Econ Devel: Related to administrative and clerical costs of enforcing fund:

FY 82.....	\$95,100.	(includes initial purchases of equipment)
FY 83.....	67,200.	
FY 84.....	71,600	
FY 85.....	76,400	
FY 86.....	81,500	

Fiscal does not show figures for possible impact of judicial costs in enforcing necessary liens held by the Board.

DRAFT

MARITIME INDUSTRY

POSITION PAPER

IN OPPOSITION TO

CS FOR SENATE BILL NO. 31(L & C)

The purpose of this position paper is to call your attention to the above-referenced bill which is presently before the Senate Transportation Committee for consideration. If enacted into law, this bill would give authority to the Board of Marine Pilots to establish a pension plan for marine pilots licensed by the State.

BACKGROUND

In 1970, the State of Alaska enacted legislation to create the Board of Marine Pilots. The purpose of creating a pilotage authority is:

- (1) to ensure their efficiency by only issuing licenses to competent persons, and by making it illegal for unlicensed persons to act as pilots,
- (2) to ensure that there is a supply of pilots available to meet the needs of shipping,
- (3) to regulate the fees charged for their services.

Unfortunately, what has evolved over the eleven years since the State pilotage system was established, is a situation where the pilots themselves have established an unhealthy control over the profession the Board of Marine Pilots was established to regulate. Virtually all of the legislation and regulation having to do with the pilotage profession

over the last ten years has been initiated by the pilotage associations in southeast and southwest Alaska. These initiatives have been designed to obtain legal sanction for restricting access into their membership and to gain a monopolistic control over pilotage trade.

The above can best be illustrated by the lengthy hearings that took place in April of 1980 with regard to an application by the Southwest Alaska Pilots Association (SWAPA) for an Increase in Rates. Attached hereto is a copy of the suggested order of the hearing officer which we would encourage you to review. The footnotes are particularly useful in understanding the character of this suggested order.

The Board of Marine Pilots adopted the above order of the hearing officer with the exception of the section on Increasing the Number of Pilots. Consequently, there is no control over the number of pilots that divide the revenue generated by the order. Therefore, it is possible to conclude that incomes in the range of \$150,000 - \$175,000 per year are enjoyed by some pilots in Southwest Alaska.

In addition, at the February 17, 1981, Board of Marine Pilots Meeting, this Order was amended further to allow SWAPA the right to operate Middlerock, Inc. (the pilot boat service at Valdez) as a separate profit making venture. The \$260,000 in expenses allowed in the attached Order was given to SWAPA as an additional increase in the tariff.

Another illustration of the control SWAPA has asserted has to do with a piece of legislation that they sponsored

and that was passed in 1977 (AS08.62.185). This statute, as a practical matter, mandates the employment of state licensed pilots on enrolled vessels. The Legislative Audit Report in 1979 pointed this out in Section III.2 on page 20, and the State should repeal the above section because it is clearly unconstitutional.

Other measures of control asserted by the pilots have to do with the lack of advertising of opportunities to join the pilotage profession, refusing to sign the trip cards of applicants objectionable to the association and by exclusive and non-competitive agreements with individual members.

PENSION PLAN LEGISLATION

The background detailed above is an attempt to simply demonstrate the climate that users of pilotage services find themselves in today. The pension plan legislation currently before you is a result of several efforts by the marine pilots to have a pension plan implemented by the Board of Marine Pilots. The Board has consistently denied all previous proposals to establish a State supported plan for marine pilots who are self-employed ^{professionals} ~~individuals~~ who band together in associations to share a common dispatching facility.

All rate increases previously ^{presented to} ~~adopted by the~~ Board of Marine Pilots ^{by the pilots associations} have taken into consideration the expense of an individual Keogh Plan, which is the proper pension mechanism for self-employed persons. Attached is a portion of the proposal of the Southeast Alaska Pilots Association for an increase in rates which is presently before the Board of Marine Pilots. This attachment illustrates the fact marine

pilots already have existing individual plans.

In addition, most persons who enter the pilotage profession come from prior employment in other maritime related occupations where pension benefits have already been earned. Consequently, should CS for Senate Bill No. 31 (L & C) be signed into law, it is conceivable that some marine pilots would enjoy the benefits of as many as three separate pension plans.

Chapter 62. Marine Pilots.

- Article
- Board of Marine Pilots (§§ 08.62.010 — 08.62.040)
- Licensing (§§ 08.62.080 — 08.62.150)
- General Provisions (§§ 08.62.170 — 08.62.200)

Revisor's note (1970). — In ch. 106, SLA 1970, AS 08.62 was incorrectly designated AS 08.57.

Article 1. Board of Marine Pilots.

Section	Section
10. Creation and membership of board	30. Meetings
20. Appointment and term of office	40. Powers and duties

Sec. 08.62.010. Creation and membership of board. There is created the Board of Marine Pilots. It consists of two pilots licensed under this chapter who have been actively engaged in piloting on vessels subject to this chapter, two agents or managers of vessels subject to this chapter, two public members in accordance with AS 08.01.025, and the commissioner or his designee. Not more than one pilot and one agent or manager shall be from any one judicial district. All members of the board shall be residents of the state. (§ 2 ch 106 SLA 1970; am § 3 ch 25 SLA 1976)

Effect of amendment. — The 1976 amendment inserted "two public members" in accordance with AS 08.01.025" in the second sentence.

Sec. 08.62.020. Appointment and term of office. The governor shall appoint the pilot and agent or manager members of the board, subject to confirmation by a majority of the members of the legislature in joint session, for terms of four years, or until their successors are appointed. The first members shall be initially appointed for one, two, three and four year terms. (§ 2 ch 106 SLA 1970)

Sec. 08.62.030. Meetings. The board shall hold a regular annual meeting. The board may hold special meetings at the call of the chairman with prior approval of the governor. (§ 2 ch 106 SLA 1970)

Sec. 08.62.040. Powers and duties. (a) The board shall

- (1) provide for the maintenance of efficient and competent pilot service on all waters covered by this chapter to assure protection of shipping and the safety of human life and property;
- (2) consistent with the law, adopt regulations, subject to the Administrative Procedure Act (AS 44.62), establishing the qualifications

Title 9
Code of Civil Procedure

of pilots and providing for the examination of pilots and the issuance of original or renewal pilot licenses to qualified persons;

(3) keep a register of licensed pilots, vessels, operators, agents, and managers;

(4) regulate pilotage fees;

(5) make available, upon request, copies of this chapter and the regulations adopted under it.

(b) The board may, by regulation, make any other provision for proper and safe pilotage upon the waters covered by this chapter and for the efficient administration of this chapter. (S 2 ch 106 SLA 1970)

(c)

Article 2. Licensing.

Section	Section
80. License requirement	120. Duration, renewal
90. Application	130. Lapsed license
100. Qualifications	140. Fees
110. Previous licensure	150. Denial, revocation or suspension

Sec. 08.62.080. License requirement. No person may pilot a vessel subject to this chapter unless he is licensed under this chapter. (S 2 ch 106 SLA 1970)

Sec. 08.62.090. Application. (a) A person who desires to be licensed under this chapter shall apply in writing to the department.

(b) The application shall provide the information and be made on a form prescribed by the board. (S 2 ch 106 SLA 1970)

Sec. 08.62.100. Qualifications. A person is entitled to a license under this chapter if he

- (1) is of good moral character;
- (2) is a citizen of the United States;
- (3) passes the examination given by the board; and
- (4) qualifies under the regulations adopted under § 40(a) (2) and (3) of this chapter. (S 2 ch 106 SLA 1970)

Sec. 08.62.110. Previous licensure. A license that was issued under AS 30.10 is considered as having been issued under this chapter. (S 2 ch 106 SLA 1970)

Editor's note. — AS 30.10, referred to in this section, was repealed by § 4, ch. 106, SLA 1970.

Sec. 08.62.120. Duration, renewal. A license issued under this chapter shall be renewed biennially on dates set by the department. A license issued under AS 30.10 lapses at the end of calendar year 1970. A license issued between May 7, 1970 and the end of 1970 shall be issued for a fee of \$100. A license shall be renewed without examination and the payment of the biennial license fee. (S 2 ch 106 SLA 1970)

040

Business and Professions

Editor's note. — AS 30.10, referred to in this section, was repealed by § 4, ch. 106, SLA 1970.

Sec. 08.62.130. Examination. (a) The board shall examine applicants for licenses. However, the board may, by regulation, exempt an applicant from examination if the board has reasonable cause to believe that the applicant's license is in compliance with the provisions of this chapter. (S 2 ch 106 SLA 1973)

Editor's note. — AS 30.10, referred to in this section, was repealed by § 4, ch. 106, SLA 1970.

Sec. 08.62.140. Denial, revocation or suspension. (a) The board may deny, revoke or suspend a license issued under this chapter when the applicant (1) is incompetent, (2) is habitually in violation of the provisions of this chapter, (3) illegally uses or makes a false statement, or (4) violates a provision of this chapter.

Sec. 08.62.150. Denial, revocation or suspension. (a) The board may deny, revoke or suspend a license issued under this chapter when the applicant (1) is guilty of misconduct, (2) is habitually in violation of the provisions of this chapter, (3) illegally uses or makes a false statement, or (4) violates a provision of this chapter. (b) A license denied, revoked or suspended under this section shall not be granted or renewed until the applicant has satisfied the reason for the denial, revocation or suspension and the period of suspension has expired. (S 2 ch 106 SLA 1973)

Art.

factory employment... benefits... compensation... provisions

Sec. 08.62.160. Mandatory employment of licensed pilots. A vessel subject to this chapter navigating the inside coastal waters of Alaska as determined by regulation shall employ a pilot holding a valid license under this chapter. (§ 2 ch 106 SLA 1970)

Sec. 08.62.170. Pilot's lien for compensation. Each vessel, its tackle, apparel and furniture and the owner of the vessel are jointly and severally liable for the compensation of a pilot employed on the vessel and the pilot has a lien on the vessel, her tackle, apparel and furniture for his compensation. (§ 2 ch 106 SLA 1970)

Sec. 08.62.180. Exemptions. This chapter does not apply to (1) vessels under enrollment, except as provided in § 185 of this chapter; (2) fishing vessels registered in the United States or in British Columbia, Canada; (3) motorboats as defined in sec. 1 of the federal Motor Boat Act of 1940 (54 Stat. 163; 46 U.S.C., sec. 526 et seq.); (4) vessels of United States registry of less than 300 gross tons and tow boats of United States registry and vessels owned by the State of Alaska, engaged exclusively (A) on the rivers of Alaska, or (B) in the coastwise trade on the west coast of the United States including Alaska, Hawaii, and British Columbia, Canada; (5) vessels of Canada, including Canadian cruise ships, engaged in frequent trade between British Columbia and Alaska, if reciprocal exemptions are granted by Canada to vessels owned by the State of Alaska and those of United States registry; and (6) pleasure craft. (§ 2 ch 106 SLA 1970; am § 1 ch 43 SLA 1972; am § 2 ch 78 SLA 1977)

Eff. of amendment. — The 1977 amendment added "except as provided in § 185 of this chapter" to the end of paragraph (1).

Sec. 08.62.185. Certain licensed pilots required for oil tankers. (a) Any oil tanker, whether enrolled or registered, of 50,000 dead weight tons or greater, shall, when navigating in state waters beyond Alaska pilot stations either

- (1) employ a pilot licensed by the state under this chapter, or
- (2) utilize a federally licensed pilot whose duty station has been on that tanker throughout that specific voyage.
- (b) The pilot required in (a) of this section shall control the vessel during all docking operations. (§ 3 ch 78 SLA 1977)

Editor's note. — Section 1, ch. 78, SLA 1977, provides: "INTENT. The legislature finds that because of the danger of oil spills, the transportation of crude oil and refined petroleum products by tankers on state waters creates a potential hazard to important natural resources of the state and to jobs and incomes dependent on these resources. The legislature also recognizes that docking areas for receiving these

Amended

Title 7
Business and Professions

Title 8
Business and Professions

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Sec. 08.62.20
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35

Part 2. Taxes.

Chapter

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

Chapter 20. Alaska Net Income Tax Act.

Article

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

Article 1. Persons Subject to Tax.

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

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

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

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

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

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

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

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

Section 8, ch. 113,
1950 amendment, eff
and retroactive to
former subsection (f)
changes in the tax
Sections 9 and 10 of ch
subsection (d) and s
11 of ch. 113, effective
retroactive to Janua
former subsection (f).

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

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

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

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

Sec. 43.20.013.
uary 1, 1981] A re
exceed \$50 for

- (1) A contributi
- organization for us
- (A) for a politica
- (i) President or V
- the candidate will
- (ii) United State
- (iii) United State
- (iv) governor or l
- (v) the Alaska le
- (vi) delegate to a
- (vii) electoral con

or

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

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

Sec. 43.2

Repealed effective September

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

Sec. 43.2 residents.

Repealed effective September

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

Sec. 43.2

(d) Repea

(e) Repea

(f) Repeal

(g) Repea

(h) Repea

(i) Repeal

(am § 3 ch 2, 1980)

Effect of all 1980 amendments (i).

The second 1 September 25, January 1, 198 — (i).

The third 1 September 25, 1, 1979, made th ond 1980 amen

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

repealed

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

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

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

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

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

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

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

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

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

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

Effect of amendments.

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

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

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

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

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

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

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

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

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

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

residents; deductions; SSSLA 1980 and § 9 ch 2

and § 9 ch 2 SSSLA 1980.

may make or the committed return for the taxable purposes of calculating the per a consolidated filing, as amended, apply.

and § 9 ch 2 SSSLA 1980.

and § 9 ch 2 SSSLA 1980.

and § 9 ch 2 SSSLA 1980.

of a group of unitary from business activity income from other sources terminate its income from method of accounting.

1980; am §§ 14 — 17 ch am § 9 ch 2 SSSLA 1980)

section (i). Section 16 of ch. 113, June 21, 1980, and retroactive to 1977, added the second former subsection (h). and 1980 amendment, effective September 25, 1980, and retroactive to 1980, repealed subsections (a), and (h).

with 1980 amendment, effective September 25, 1980, and retroactive to 1979, made the same change and 1980 amendment.

rest of the section was not by the amendments, it is not set

note. — Section 52, of this Act, June 21, 1980, makes sections 14, of the Act applicable to tax years after December 31, 1979.

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

add new

Section Sec. 43.20.033. Taxable income of fiduciary.

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

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

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

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

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

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

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

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

Sec. 43.20.036. Federal tax deductions and credits.

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

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

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

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

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

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

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

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

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

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

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

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

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

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

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

II. FISCAL DETAIL

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

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

EXPENDITURES (Thousands of Dollars) - None

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

TOTAL

FUNDING (Thousands of Dollars) - None

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS - None

FULL TIME						
PART TIME						
TEMPORARY						

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

MEMORANDUM

State of Alaska

TO: R. D. Stevenson
Special Assistant

DATE: January 30, 1981

FILE NO:

TELEPHONE NO:

FROM: Gary L Jenkins
Director
Audit Division

SUBJECT: SB 20

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

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

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

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

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

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

II. FISCAL DETAIL

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

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

EXPENDITURES (Thousands of Dollars)

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

TOTAL

FUNDING Millions
(Thousands of Dollars)

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

POSITIONS

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

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

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

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



Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

Summary - SB 20 by Senator Rodey

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

- SB 35 by Senator Ziegler & Bradley

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

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

SB 20

SB 35

Exemption for corporations from income tax \$150,000.00

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

Repeals Surtax Exemption

Retains Surtax Exemption

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

Repeals sec. 43.20.031 - same as SB 20

Retroactive clause to Jan. 1, 1981 on corporate exemption

Retroactive clause to Jan. 1, 1981 on corporate exemption

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

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

Effective Date Clause - immediately

Effective Date Clause - immediately

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

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

Repeal surtax exemption=34% eliminated

Retain surtax exemption=45% eliminated

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

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

Approx. 94% corporate returns exempt

Approx. 96% corporate returns exempt

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

file SB 50
SB 20

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

SB 20

Section 43.20.033^(a) provides for \$150,000 exemption.

SB 35

Section 43.20.033^(a) provides for \$250,000 exemption.

SB 20

Section 43.20.033 (b) is the same as SB 35

SB 20

43.20.033 (c) is the same as SB 35.

SB 20

43.20.033 (d) is the same as SB 35.

43.20.031 is repealed in both SB 35 and SB 20.

SB 20

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

SB 35

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

Immediate effective date same in both bills.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

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

January 31, 1981

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

Re: Senate Bill No. 35

Dear Senator Mulcahy:

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

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

Sincerely,



R. D. Stevenson
Special Assistant

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

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Gary Jenkins, Director
Audit Division
Department of Revenue

Lance Rovig, Economist
Research Section
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

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

II. FISCAL DETAIL

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

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

FUNDING (Thousands of Dollars) - None

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS - None

FULL TIME						
PART TIME						
TEMPORARY						

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

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

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

MEMORANDUM

State of Alaska

TO R. D. Stevenson
Special Assistant

DATE: January 30, 1981

FILE NO:

TELEPHONE NO:

FROM: Gary L Jenkins
Director
Audit Division

SUBJECT: SB 35

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

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

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

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

FISCAL NOTE

I. REQUEST

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

II. FISCAL DETAIL

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

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

EXPENDITURES (Thousands of Dollars)

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

TOTAL

Millions

FUNDING (Thousands of Dollars)

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

POSITIONS

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

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

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

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

S

B

4

3

COMMITTEE REPORT
SENATE

1/13/81

FURTHER:iciary

Date: 23 February, 1981

Mr. President:

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

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

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

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]
CHAIRMAN



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

February 23, 1981

COMMITTEE MEETING MINUTES

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

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

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

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

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

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

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

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

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



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

COMMITTEE MEETING MINUTES:

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

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

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

Mrs. Brice supported the testimony of Mr. Cody.

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

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

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

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

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

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

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

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

Sen Fahrenkamp asked question about suitable work section and conformity.

Sen Ziegler asked about fiscal impact.

Sen Hohman replied negative fiscal impact

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

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

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



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

Summary - SB 43 - Rules/by Request

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

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

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

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

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

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

2. States must enforce cost/benefit ratio regulations.

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

Fiscal Impact - Ø



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Porch V
State Capitol
Juneau, Alaska 99811

February 9, 1981

Senate Labor & Commerce Committee Meeting

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

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

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

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

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

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

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

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

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

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

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

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

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

Chairman Muleahy felt that further staff research is needed.

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

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D

JUNEAU, ALASKA 99811

Phone: 465-2500

February 10, 1981

rec'd Feb 11

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

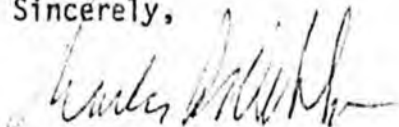
Dear Senator Mulcahy:

Re: Senate Bill 43

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

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

Sincerely,



Charles R. Webber
Commissioner

CRW/va121G7
Enclosure

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

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

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

(10) AS 21.89.050

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

(16) AS 21.89.040 and AS 21.89.050

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

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

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February 10, 1981

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

Re: Senate Bill 43

Dear Senator Mulcahy:

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

Thank you for your consideration on this bill.

Very truly yours,

ROBERTSON, MONAGLE, EASTAUGH & BRADLEY


M. T. Thomas

MTT/dh



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

TO: Senate Labor & Commerce
Committee Members

DATE: February 5, 1981

FROM: Senator Mulcahy, Chairman

RE: Research / SB 43

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

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

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 28, 1981

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

TO: Senate Labor and Commerce Committee
ATTN: Linda Otey

FROM: *LHA* Linn H. Asper
Legislative Counsel

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

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

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

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

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

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

LHA:jdn

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM

February 4, 1981

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

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

FROM: Linn H. Asper
Legislative Counsel

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

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

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

LHA:ljb

Chapter 89. Miscellaneous Provisions.

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

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

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

alternate language: Medicaid Supplemental Insurance
Sec. 21.89.060

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February 5, 1981

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

Re: SB 43

Dear Senator Mulcahy:

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

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

CORRECTION

CORRECTION

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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

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February 5, 1981

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

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

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

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

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

February 5, 1981

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

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

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

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

The Honorable Robert Mulcahy
Page Four

February 5, 1981


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

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

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

Sincerely,

ROBERTSON, DONAGLE, EASTAUGH & BRADLEY



M. T. Thomas

MTT:vb

Enclosures

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

Attachment A

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

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

Present Statutes go to 21.36.200

Suggested
Amendment offered by Mike Thomas, Insurance Lobbyist



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

January 20, 1981

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

Dear Senator Mulcahy:

RE: Position Paper SB 43

Thank you for your request for information on SB 43.

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

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

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

January 20, 1981

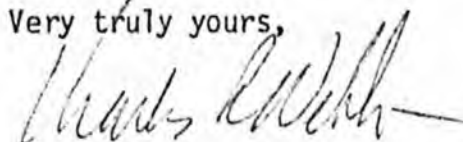
The second requirement of "The Baucus Amendment" is for cost/benefit ratio regulation. This is the area in need of a legislative solution. The Division of Insurance does not currently have rate regulatory authority over disability or accident/health kinds of insurance including medicare supplemental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

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

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

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

Very truly yours,



Charles R. Webber
Commissioner

CRW/jarE8

§ 21.42.120

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

a life or dis-other than the insertions may oses only, in a s are not to be

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risk, or to the

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

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

§ 21.42.130

INSURANCE

§ 21.42.130

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

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

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

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

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

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

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

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

21.42.130

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

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

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

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

(1) he finds the provision unnecessary for the protection of
the insured and inconsistent with the purposes of the policy; and
(2) the policy is otherwise approved by him.

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

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

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

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

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

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

- (1) the names of the parties of the contract;
- (2) the subject of the insurance;
- (3) the risks insured against;

(4) the time v
the period during

(5) the premiu

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(c) Subsections
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Sec. 21.42.170.

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Sec. 21.42.180.

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is invalid. (§ 1 ch

Sec. 21.42.190.

shall be executed
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(b) A facsimil
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(c) An insuran
dered invalid by
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§ 21.87.330

§ 21.87.340

INSURANCE

§ 21.89.010

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

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

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

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

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

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

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

Chapter 89. Miscellaneous Provisions.

Section 10. Settlements

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

visions.

tion:

coverage. (a) An
er or operator of a
ty for bodily injury
th, which is sold in
rrier authorized to
its in at least the
ty policy in AS
AS 28.20.440(b)(3)

only to automobile
f AS 28.20. (§ 1 ch

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

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

doing business in
n in this state for
than a negotiable
e with the date of

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

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

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

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

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

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

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

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

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

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

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

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

FISCAL NOTE

I. REQUEST

Bill/Resolution No. S B-43

Title An act relating to filing insurance policy forms

Requested by governor

Date 1-20-81

II. FISCAL DETAIL

Agency Affected Division of Insurance

Program Category Affected Public Protection

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

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

EXPENDITURES (Thousands of Dollars)

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

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME	0					
PART TIME	0					
TEMPORARY	0					

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

IV. DATE 1-20-81

PREPARED BY Kenneth C. Moore, Div. of Insurance

AGENCY Commerce & Economic Development

PHONE 2515

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

S

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Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY SB 46, Rules by request

"An act relating to registration of construction contractors."

Bill amends AS 08.18.011 relating to the registration process required for contractors to work in the State. Presently, this registration certificate is necessary before an applicant is allowed to submit a bid. This amendment changes this to say that the applicant does not have to have a certificate until he is awarded a contract. The second portion of the bill addresses a department name change from the Department of Commerce to the Department of Commerce and Economic Development.



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

February 23, 1981

COMMITTEE MEETING MINUTES

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

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

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

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

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

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

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

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

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

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

DEPUTY COMMISSIONER - DESIGN AND CONSTRUCTION

POUCH Z
JUNEAU, ALASKA 99811

(907) 465-3900

3/11

February 9, 1981

200H-

RE: Senate Bill 46

Chairman,
Senate Transportation Committee
Senator Bill Ray
Pouch V
Juneau, Alaska 99811

Dear Senator Ray:

Recently, we were asked by a staff member on the Senate Transportation Committee for our comments on SB 46 relating to registration of construction contractors.

Under existing State law, a contractor must be registered prior to submitting a bid for a State funded project. State law also provides that for projects with federal funds, the federal funding agency regulations and laws supercede State law. In our case, federal regulations for federal-aid highway contracts state:

"No contractor shall be required by law, regulation or practice to obtain a license before he may submit a bid or before his bid may be considered for award of a contract."

In other words, contractors do not have to be registered before bidding on federal-aid contracts; however, registration is required prior to award of the contract. Hence, there is a difference between the requirements for State funded jobs and those using federal funds. This difference has caused confusion among the contractors in submitting their bids and resulted in delayed awards to contractors, and disqualification of otherwise responsible low bidders. In isolated cases, this has unnecessarily resulted in higher costs to the State.

As proposed in SB 46, State requirements would be brought into line with what is already the case in federal-aid contracts. This would eliminate the confusion during bid opening as to which procedure is in effect.

February 9, 1981

We have also checked with the Department of Commerce & Economic Development, and they have indicated that it takes them 7 to 10 days to issue a contractor's license after receipt of an application. Hence, we anticipate no problem in making award of contracts promptly after bids are opened and checked according to existing standard procedures.

In summary, it is our opinion that SB 46 would eliminate confusion during bid openings and will increase the number of qualified bidders on projects, which could result in cost savings to the State. We feel that this change will provide significant benefits to the State while having or no adverse impact on the contractors.

Sincerely,



R. D. Shumway, P.E.
Deputy Commissioner
Design & Construction

cc: Keith Specking
Legislative Assistant
Office of the Governor

Department of Commerce
& Economic Development

RDS/JWS/CSM/MDH

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

JAY S. HAMMOND, GOVERNOR

POUCH D
JUNEAU, ALASKA 99811

Phone: 465-2534

January 26, 1981

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

Dear Senator Mulcahy:


Re: Senate Bill 46

The Department of Commerce and Economic Development has reviewed Senate Bill 46, relating to registration of construction contractors.

This department supports SB46, as it conforms Alaska law to Federal Bidding Guidelines. Since the Division of Occupational Licensing only deals with the registration of contractors, not bidding processes, the minor program effects of this bill would result in amending contractor registration applications and statute booklets for public distribution to advise of this statutory change.

Additional funding is not needed to implement SB 46, since duplication costs for contractor registration renewals are budgeted for annually by the department.

Sincerely,


FOR Charles R. Webber
Commissioner

January 12, 1981

President of the Senate
Alaska State Legislature
Pouch V . . .
Juneau, AK 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill amending the construction contractor's registration statute. The bill amends AS 08.18.011 to remove an inconsistency between state law and federal regulations (23 C.F.R. 635.108(a)) for highway federal-aid projects and to allow the contract bid and award procedures to be the same for state and federal contracts. The amendment would change the requirement that a contractor be registered before submitting a bid for a public contract to a requirement that he or she be registered before being awarded the contract. Two minor, clean-up amendments are also included in the bill.

Sincerely,

S/ JSH

Jay S. Hammond
Governor

Article 1. Registration.

Section	Section
Registration required	41. Registration and renewal fees
Application for registration	51. Registered name
Electrical contractors	61. Requirements of political subdivision
Term of registration—Issuance, extension, renewal	

Sec. 08.18.011. Registration required. It is unlawful for a person to submit a bid or work as a contractor until he has been issued a certificate of registration by the Department of Commerce. A partnership or joint venture shall be considered registered if one of the general partners or venturers whose name appears in the name under which the partnership or venture does business is registered. (§ 2 ch 100 SLA 1968)

Legislative committee report. — For section 100, SLA 1968 (HCSSB 121 am see 1968 House Journal, p. 545. Anyone engaged in building trades shall be charged with awareness of the permissive system of licenses and permits designed to enhance the public safety and confidence in the industry. Sumner Dev. Corp. v. Shivers, Sup. Ct. Op. No. 984 (File No. 2936), 517 P.2d 757 (1974).

Sec. 08.18.021. Application for registration. (a) An applicant for registration as a contractor shall submit an application under oath upon a form to be prescribed by the commissioner and which shall include the following information pertaining to the applicant:

- (1) employer social security number;
- (2) type of contracting activity, whether a general or a specialty contractor and if the latter, the type of specialty;
- (3) the name and address of each partner if the applicant is a partnership, or the name and address of the owner if the applicant is an individual proprietorship, or the name and address of the corporate officers and statutory agent, if any, if the applicant is a corporation.

(b) The information contained in the application shall be a matter of public record and open to public inspection. (§ 2 ch 100 SLA 1968)

Sec. 08.18.026. Electrical contractors. (a) The department may not issue a certificate of registration as an electrical contractor to an applicant unless the applicant is, or has in his employ, a person currently licensed as an electrical administrator under AS 08.40.

(b) Each applicant for an electrical contractor's certificate of registration may have more than one electrical administrator in his employ.

(c) If the relationship of the only electrical administrator with a registered electrical contractor is terminated, the registration is void 30 days after the next regularly scheduled examination unless the electrical contractor has hired a licensed electrical administrator in the interim. (§ 2 ch 58 SLA 1977)

Chapter 245, SLA 1976
 H. was identical to CSHB
 report on CSHB 411 (Jud.)
 Journal Supplement No. 7

Penalties.

IONS.

Contractors.

Licensing Board (§§ 05.18.010
 2 Licensing (§§ 08.18.100 —
 Miscellaneous Provisions
 08.18.310, 3. General
 08.18.320 — 08.18.370)

I. REQUEST
 Bill/Resolution No. 46
 Title An Act relating to registration of construction contractors.
 Requested by Governor Date 12/11/80

II. FISCAL DETAIL

Agency Affected Department of Transportation and Public Facilities

Program Category Affected All

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						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

Will simplify the procedures and reduce confusion. No quantifiable savings.

IV. DATE December 11, 1980 PREPARED BY J.W. Scribner

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O



Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY CS SB 50

SECTION 1: Pension payments are deductible from UI benefits only when a pension was maintained or contributed to by a base period employer, and the claimants service during that base period increased the amount of the pension. The claimants portion contributed to the pension will not be deducted from his benefits. This change brings us into conformity with PL 96-364.

Ammendment also distinguishes between pension payments and payments for dismissal pay, accrued vacation pay, sick leave or holiday pay. Any such payment attributable to a week will be deducted from benefits payable for that week.

SECTION 2: No benefits are payable for a waiting week, and no benefits are payable for a week of unemployment within the benefit year before the completion of a waiting week.

SECTION 3: This section makes both "good faith" and "hardship" a requirement for waiver of overpayments. Under the current provision, a person who has not acted in "good faith" may be absolved from liability for repayment if he can demonstrate "great hardship" would be the result of repayment.

SECTION 4: Extended benefits will be denied as individual who has been disqualified for regular benefits for voluntary quit, discharged for misconduct, or job refusal, unless the disqualification was terminated by subsequent employment.

Denial of extended benefits to persons who do not actively seek, apply for, or accept suitable work when referred such work. (Suitable work is specifically defined in these provisions. Disqualification can only be terminated by new employment of at least four weeks, and by earnings of four times the weekly benefit amount.

SUMMARY CS SB 50 cont.

SECTION 5: An individual who files an Interstate claim for extended benefits from a state in which an extended benefit period is not in effect, will receive only the first two weeks of extended benefits.

COMMENTS: The provisions of Section 1,2,4,and 5 are conformity issues to comply with Federal Law.



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

COMMITTEE MINUTES: 2 March 1981

Senator Mulcahy opened the Committee meeting and called for testimony on CSSB 50. Testimony was provided by Art Zillig from the Department of Labor, and he explained that a further review of the proposed bill indicated that two changes were necessary. On page 4, delete the word "regular" (line 21), and on page 5, line 12, include (a) after the statute. The bill was then passed from committee.

The next bill addressed was SB 151, which included discussions by Sen. Rodey (pertaining to the cost of figuring interest), Sen Ziegler about the philosophical issue of the Legislature even addressing required interest to be paid by public utilities, and Sen. Hohman questioning the purpose of having this legislation. SB 151 will be discussed at a later committee meeting.

SB 166 was the final bill to be discussed. Sen. Mulcahy gave a summary of the bill, explaining that the community of Bettles had been inadvertently excluded from the benefit of power production cost assistance and hence a language change was necessary to include them within the original intent of the legislation. The bill was moved without further objections.



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

February 23, 1981

COMMITTEE MEETING MINUTES

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

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

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

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

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

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

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

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

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

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 50
SECTION BY SECTION ANALYSIS

Section 1: AS 23.20.362

This section repeals and re-enacts AS 23.20.362 with the following changes:

- 1) The pension deduction provision required by Sec 3304(a)(15), FUTA, is amended to conform with Public Law 95-364. Under this amendment, a pension would be deductible from benefits otherwise due only if the pension is provided under a plan maintained or contributed to by a base period employer, and the claimant's service in his base period increased the amount of, or affected his eligibility for, the pension or other retirement pay. In addition, that portion of the pension attributable to the claimant's own contributions will not be deducted from his benefit amount. Public Law 96-364 does not require these changes to state pension deduction provisions; rather, it allows the state this option of liberalizing the required provisions. However, the changes are equitable and would benefit Alaskan workers. For example, the previous provision required a 100% deduction even if part or all of the pension was based on employee contributions. This, in effect, penalized individuals for saving some of their wages by deducting amounts which had actually been earned long before the unemployment insurance claim was filed.
- 2) The proposed amendment also distinguishes between pension payments and payments received for dismissal pay, accrued vacation and sick leave, or holidays. The previous provision had the effect of prohibiting deductions for dismissal pay, vacation pay, or holiday pay unless the week began in a period for which such payment was made. The proposed amendment provides simply that any such payment attributable to a week will be deducted from benefits payable for that week. Sick leave has been added to the list of deductible payments. The rationale for deducting vacation pay, holidays, etc., applies to sick leave as well.

Section 2: AS 23.20.375(b)

This section repeals and re-enacts AS 23.20.375(b) to require a waiting week on all claims. The current provision waives the waiting week requirement on transitional claims. However, Public Law 96-499 now requires that any state which provides for payment "(at any time or under any circumstances) of regular compensation to an individual for his first week of otherwise compensable employment" will not be reimbursed for the federal share of the first week of extended benefits paid in the state. This requirement is not a standard for certification of state laws. The requirement must be met, however, if the state is to receive the 50% reimbursement of the federal share of the first week of extended benefits. This amendment conforms to Public Law 96-499.

Section 3: AS 23.20.390(b)

This section makes both "good faith" and "hardship" a requirement for waiver

of overpayments. The current provision allows an individual who has not acted in good faith to nevertheless be absolved from liability for repayment if he can show that great hardship would result from charging him with repayment.

Section 4: AS 23.20.406

This section amends AS 23.20.406 by adding new eligibility requirements for receipt of extended benefits. These requirements are conformity standards established by Public Law 96-499 and must be included in a state's law for weeks beginning after March 31, 1981, in order for the law to be certified by the Secretary of Labor on October 31, 1981, and thereafter.

The amendments require the following:

- 1) Denial of extended benefits to an individual who has been disqualified for regular UI benefits for voluntary quit, discharge for misconduct, or job refusal, unless the disqualification was terminated by subsequent employment.
- 2) Denial of extended benefits to an individual who does not actively seek, apply for, or accept suitable work when referred to such work. Suitable work is specifically defined in the provisions. The disqualification can be terminated only by new employment of at least four weeks and earnings of four times the weekly benefit amount.

Section 5: AS 23.20.408

This section amends AS 23.20.408 to specify that only the first two weeks of extended benefits are payable to an individual who files on an interstate basis from a state in which an extended benefit period is not in effect. This change is required, for certification of all state laws, by Public Law 96-364.

This amendment was requested by Alaska and introduced by Senator Stevens. House Joint Resolution No. 59 passed by Alaska's Legislature last year supported this change.

The provisions of Sections 1, 2, 4, and 5 are conformity issues to comply with federal law.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

P. O. BOX 1149
JUNEAU, ALASKA 99811

February 10, 1981

Mr. Mike Thill
Labor and Commerce Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Mr. Thill:

Pursuant to our telephone conversation earlier today, enclosed is a draft Committee Substitute for Senate Bill No. 50, relating to unemployment insurance benefits.

Alaska's unemployment insurance law is tailored after the federal law, and the Committee Substitute we are offering incorporates changes which were made to the federal law after Senate Bill No. 50 was drafted.

Also enclosed are a section by section analysis and fiscal note for this Committee Substitute.

If you have any questions, we would be pleased to meet with you at your convenience to explore this matter.

Thank you.

Sincerely,

Judy G. Knight
Special Assistant

Enclosures

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

P. O. BOX 1149
JUNEAU, ALASKA 99811

phone: 465-2700

January 20, 1981

Linda Otey
Senate Labor and Commerce Committee
Pouch 5
Juneau, Alaska 99811

Dear Ms. Otey:

I was pleased to meet with you on January 19 to review Senate Bill 50 dealing with the Department of Labor's unemployment insurance (UI) program.

During our meeting, you expressed an interest in the fiscal impact of Section 2 of Senate Bill 50 which provides for payment of extended U.I. benefits to interstate claimants only if they reside in a state which may also pay extended U.I. benefits. H.J.R. 59, (copy enclosed) which was passed during the last legislative session, endorsed this provision; and I am enclosing a copy of the fiscal note that was submitted.

If you have any questions on this, or if I may be of assistance to you in any other way, please do not hesitate to contact me (465-2700).

Thank you.

Sincerely,

Judy Knight
Judy Knight
Legislative Liaison

Enclosures

January 12, 1981

President of the Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to unemployment insurance. The bill amends existing law as follows:

Section 1 of the bill would conform the Alaska Employment Security Act with amendments to federal law enacted on September 26, 1980. The bill would provide that a deduction may be made from unemployment benefits for a pension received by an individual only if (1) the pension is derived from a plan maintained or contributed to by a base period employer; and (2) the services performed by the individual after the beginning of the base period affect eligibility for or increase the amount of the pension. The federal law also permits a state to pay unemployment benefits without deducting that portion of a pension which is attributable to contributions made by the individual. This change is equitable and is included in the bill for your consideration.

The bill would correct a deficiency in existing law by providing that payments for accrued vacation, sick leave or holidays and dismissal pay will be deducted from unemployment benefits for the week to which they are attributable.

Section 2 of the bill also would make state law conform to federal law as recently amended. This provision would prohibit payment of extended benefits under an interstate claim if the claim is filed in a state in which an extended benefit period is not in effect.

Section 3 of the bill would require a showing of both good faith and hardship before the department may forgive an indebtedness for overpayment of unemployment benefits. Existing law allows an individual who has not acted in good faith to be absolved from liability for repayment if he can show that hardship would result.

Sincerely,

JSH

Jay S. Hammond
Governor

I. REQUEST
 Bill/Resolution No. House Joint Resolution 59
 Title Restriction of Interstate Payments to Extended Benefit Claimants
 Requested by Senate Finance, Senator Sackett Date 2/10/80

II. FISCAL DETAIL
 Agency Affected All Agencies, Indirectly
 Program Category Affected All, Indirectly
 BRU, Program, or Subprogram(s) Affected All, Indirectly reduces General Fund Faith in II I
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.) Trust Fund.

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES		(18.3)	(29.3)	(32.7)	(35.0)	(36.7)
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	- 0 -	(18.3)	(29.3)	(32.7)	(35.0)	(36.7)

FUNDING (Thousands of Dollars)

GENERAL FUND	- 0 -	(18.3)	(29.3)	(32.7)	(35.0)	(36.7)
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

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

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)
 Assumptions:
 1. this measure is adopted by the federal government.
 2. Current state employment security act remains in effect. If Free Conference Committee Substitute for HB 177 passes savings are approximately 3 times as great.
 3. Normal growth. Former state government employees continue to account for under 3% of all interstate EB payments.
 4. EB payments remain at approximately the same level for the normal growth period and Washington, California, and Oregon do not trigger on.

ADDITIONAL INFORMATION

1. The amount saved by the state as an employer is very small compared to the amount saved by the UI trust fund and passed along to all state employers in reduced contribution rates. If Free Conference substitute for HB 177 passes the savings to the UI trust fund would range from \$2.7 million to 3.7 million per year between FY 81 and FY 85. With the current program, savings would be approximately \$1 million per year.

IV. DATE February 20, 1980 PREPARED BY Jim Souby
 AGENCY Department of Labor
 PHONE 455-2720

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

COMMITTEE REPORT

SENATE

1/13/81

FURTHER: None

Date: _____

Mr. President:

The Committee on LABOR & COMMERCE has had SB 50
unemployment insurance

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

reports it back without recommendation

referred to the _____ Committee

MEMBERS SIGNING

DO PASS

Betty Johnson

Bob Mulcahy

MEMBERS HAVING

OTHER RECOMMENDATIONS:

John no rec

Sam " "

Bob Mulcahy

CHAIRMAN

Section 84, ch. 9, SLA 1980 provides: workers who establish a benefit year after
 "Sections 54 and 63 of this Act take effect September 30, 1980."
 October 1, 1980, and apply to insured

Sec. 23.20.360. Earnings deducted from weekly benefit amount. An eligible individual who is unemployed in a week shall be paid for that week a benefit in an amount equal to his weekly benefit amount, excluding the allowance for dependents, less 75 percent of that part of the remuneration, whether or not covered by this chapter, payable to him for that week which is in excess of \$50. If the benefit is not a multiple of \$1, it is computed to the next higher multiple of \$1. (§ 713 ch 5 ESLA 1955; am § 26 ch 169 SLA 1957; am § 55 ch 9 SLA 1980)

Effect of amendment. -- The 1980 amendment, effective October 1, 1980, rewrote the section.

Sec. 23.20.362. Disqualifying or deductible income. (a) The amount of benefits payable to an insured worker for a week of unemployment which begins in a period for which the insured worker is receiving a pension, annuity, or similar periodic payment which is based on the previous work of the insured worker, including work performed before the beginning of the insured worker's base period, or a payment to compensate him for a dismissal from employment without prior notice or for unused paid vacation or holidays, shall be reduced by the amount of the payment or compensation which is attributable to the week of unemployment.

(b) An individual is not entitled to benefits for a week of unemployment for which he has received or is seeking unemployment benefits under the employment security law of another state in a manner other than in accordance with the reciprocal arrangements with other states or the federal government. This subsection does not apply to an individual who is determined by the appropriate agency to be ineligible to receive unemployment benefits under the other employment security law.

(c) If, after a reduction of a benefit amount under (a) of this section, the weekly benefit amount is not a multiple of \$1, the benefit amount shall be increased to the next higher dollar amount. (§ 56 ch 9 SLA 1980; am § 1 ch 145 SLA 1980)

Effect of amendment. -- Section 1, ch. 145, SLA 1980, rewrote subsection (a).
 1980, effective March 14, 1980, provides: "AS 23.20.362(a) and (c) enacted in sec. 50 of this Act are repealed on the date that 26 U.S.C. 3304(a)(15) is amended or repealed."

Effective date. -- Section 87, ch 9, SLA 1980, makes this section effective October 1, 1980.
Editor's note. -- Section 83, ch. 9, SLA

Sec. 23.20.370. B
 due and payable to person shall be paid department, to person sister or brother, aunt will best carry out the not conform to the state of decedents' estate department makes department from liability § 57 ch 9 SLA 1980)

Effect of amendment
 amendment, effective March substituted "adopted" for preceding by the department middle of the first sentence "spouse, child, parent, sis

Sec. 23.20.375. Fi
 entitled to receive v unemployment for v 23.20.375 -- 23.20.38 the department, he h (1) made an initial (2) for that week, c for benefits.
 (c) Repealed by § 8 (am § 6 ch 122 SLA

Effect of amendments.
 The 1977 amendmen subsection (c), substituted (5), (6) and (14) for "§ 52 (6)" near the beginning of inserted "effective January substituted "for an institution" for "in an institu education as defined in chapter" near the middle of and substituted the langu "performs services in the academic years" for "has contracts to perform servie

Sec. 23.20.378. Ab
 (a) An insured worke benefits for a week of work and available i considered available accordance with regul