

ALASKA LEGISLATURE

2114

HOUSE and SENATE FINANCE COMMITTEE FILES, 1999 - 2000

SB

169

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: May 13, 1999

FURTHER REFERRALS:

Date of Committee Action: _____

The FINANCE Committee considered:

CSSB 169(FIN)

CS FOR SENATE BILL NO. 169(FIN)

OPERATING BUDGET MISSIONS AND MEASURES

"An Act relating to missions and measures to be applied to certain expenditures by the executive branch of state government and the University of Alaska from the state operating budget for the fiscal year ending June 30, 2000; and providing for an effective date."

recommends it be replaced with the following committee substitute _____ [] the same title
[] a new title

[] additional referral to _____ Committee
[] attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
[] fiscal note(s) _____ [] fiscal note(s) _____

[] zero fiscal note(s) _____ [x] zero fiscal note(s) *of gov 5/10/99*

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Con Bunde</i> Bunde	✓			
<i>Vic Kohring</i> Kohring	X			
<i>Ala. Custa</i> Aishman	X			
<i>Ben Dawson</i> gnissndat			X	
<i>John J. Davis</i> J. DAVIS	X			
<i>William Williams</i> Williams	X			
<i>John Foster</i> Foster	X			

VIC CHAIR'S SIGNATURE *Con Bunde* *V.D.*

FISCAL NOTE

No. 1
 Bill Version: SB 169
 (S) Publish Date: 5-10-99

STATE OF ALASKA
 1999 LEGISLATIVE SESSION

Revision Date/Time (Note if correction) _____ Dept. Affected All state agencies
 Title An Act relating to missions and measures. BRU _____
 Component _____
 Sponsor Senate Finance Committee
 Requester Senate Finance Committee Component Serial No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would state missions and performance measures relating to the FY 2000 budget for state agencies. The legislation would not have a significant fiscal impact on any state agency.

Prepared by Annalee McConnell, Director *AK Annalee McConnell* Phone 465-4660
 Division Office of Management and Budget *D. Koster* Date/Time 5/5/99 2:46 PM
 Approved by Commissioner David Ramseur, Deputy Chief of Staff Date _____
 Agency Office of the Governor

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Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

SB 169 Sponsor Statement

Sponsor: Senate Finance Committee
Results Based Budgeting - FY'00 Missions and Measures

SB 169 continues legislative progress toward results based budgeting by enacting missions and measures for the FY'00 operating budget. House and Senate budget subcommittees worked with the various departments to adopt missions for the departments and the divisions. Existing missions and measures adopted for FY99 programs were also refined. The House and Senate subcommittees' recommendations are incorporated into SB 169.

SB 169 applies only to FY'00 appropriations, and reflects substantial compliance with the results based budgeting requirements of the Executive Budget Act, AS 37.07.050.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

May 5, 1999

SUBJECT: Abbreviated Sectional Summary of SB 169. (Missions and Measures for the Fiscal Year 2000 operating budget)

TO: Senator Sean Parnell
Attn: Deborah Grundmann

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have requested an abbreviated sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 states the legislative purpose of the Act. The purpose is to set out the missions to be used by departments of state government when making expenditures from the Fiscal Year 2000 operating budget. The purpose is also to set out performance measures for some programs and divisions.

Secs. 2 - 147 set out the missions and measures for the principal departments in the executive branch of state government and for the University of Alaska. The sections are organized into Articles by department and the departments are listed alphabetically.

Sec. 148 states that the state and its agents and employees are immune from any suit that is based on the missions and measures.

Sec. 149 is a July 1, 1999, effective date.

TC:pl:glc
99-069.plm

FISCAL NOTE

No. 1

STATE OF ALASKA
1999 LEGISLATIVE SESSION

Bill Version: SB 169

(S) Publish Date: 5-10-99

Revision Date/Time (Note if correction) _____ Dept. Affected All state agencies
 Title An Act relating to missions and measures. BRU _____
 Component _____
 Sponsor Senate Finance Committee
 Requester Senate Finance Committee Component Serial No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY99) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would state missions and performance measures relating to the FY 2000 budget for state agencies. The legislation would not have a significant fiscal impact on any state agency.

Prepared by Anrialee McConnell, Director *AK Bill AMC* Phone 465-4660
 Division Office of Management and Budget *D. Ramseur* Date/Time 5/5/99 2:46 PM
 Approved by Commissioner David Ramseur, Deputy Chief of Staff Date _____
 Agency Office of the Governor

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Bill History/Action Display



BILL: SB 169 SHORT TITLE: OPERATING BUDGET MISSIONS AND MEASURES
 BILL VERSION: CSSB 169 (FIN)
 SPONSOR(S): FINANCE

CURRENT STATUS: (H) FIN

STATUS DATE: 5/13/99

TITLE: "An Act relating to missions and measures to be applied to certain expenditures by the executive branch of state government and the University of Alaska from the state operating budget for the fiscal year ending June 30, 2000; and providing for an effective date."

Full Text Bill/Resolution has Zero Fiscal Note(s).

Committee Action With Bill History

Jrn-Date	Jrn-Page	Action
5/04/99	<u>1223</u>	(S) READ THE FIRST TIME - REFERRAL(S)
5/04/99	<u>1224</u>	(S) FIN
5/10/99	<u>1323</u>	(S) FIN RPT CS 5DP 1DNP 1NR SAME TITLE
5/11/99	<u>1364</u>	(S) FINANCE CS RECEIVED
5/10/99	<u>1323</u>	(S) DP: TORGERSON, PARNELL, PHILLIPS,
5/10/99	<u>1323</u>	(S) WILKEN, LEMAN; NR: GREEN; DNP: ADAMS
5/10/99	<u>1323</u>	(S) ZERO FISCAL NOTE (GOV/ALL DEPTS)
5/12/99	<u>1391</u>	(S) RULES TO CALENDAR & 1OR 5/12/99
5/12/99	<u>1396</u>	(S) READ THE SECOND TIME
5/12/99	<u>1396</u>	(S) FIN CS ADOPTED UNAN CONSENT
5/12/99	<u>1396</u>	(S) ADVANCED TO THIRD READING UNAN CONSENT
5/12/99	<u>1396</u>	(S) READ THE THIRD TIME CSSB 169(FIN)
5/12/99	<u>1397</u>	(S) PASSED Y16 N4
5/12/99	<u>1397</u>	(S) EFFECTIVE DATE(S) SAME AS PASSAGE
5/12/99	<u>1407</u>	(S) TRANSMITTED TO (H)
5/13/99		(H) READ THE FIRST TIME - REFERRAL(S)
5/13/99		(H) FINANCE

Similar Subject Match or Exact Subject Match

APPEALS

BUDGET

BUSINESS

COMMUNICATIONS

CONSTRUCTION

CONTRACTS

CORPORATIONS

ECONOMIC DEVELOPMENT

EDUCATION

EXECUTIVE BRANCH

GUARDIANSHIP

HEALTH & SOCIAL SERVICES

INSURANCE

INVESTMENTS

LABOR

SB

169

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 5/4/99

FURTHER:

Date of 5-Day Notice: 24-hour rule in effect
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 5/10/99

Finance Committee considered

SENATE BILL NO. 169

"An Act relating to missions and measures to be applied to certain expenditures by the executive branch of state government and the University of Alaska from the state operating budget for the fiscal year ending June 30, 2000; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB 169 (FIN)
- adopt previous _____ CS _____ (_____)
- attached amendment(s) forthcoming
- adopt Letter of Intent by _____ CS
- further referral to the _____

- Senate Bill:**
- same title
- new title
- House Bill:**
- same title
- technical title
- new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<u>[Signature]</u>	✓	<u>[Signature]</u>			
<u>[Signature]</u>	✓	<u>[Signature]</u>		X	
<u>[Signature]</u>	✓				
Co-Chair: <u>[Signature]</u>	✓	Co-Chair:			
Co-Chair: <u>[Signature]</u>	✓	Co-Chair:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

All State Agencies	5/5/99	φ	

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

SENATE FINANCE
COMMITTEE

Amendment Number: 4

I-LS0874HI.2

Bill Number: SB 169

Cramer ✓

Sponsor: Farnell Date: 5/6/99

5/6/99

Logged In By: Mindy

A M E N D M E N T

W/O obj. WITHDRAWN

OFFERED IN THE SENATE

TO: SB 169

- 1 Page 27, line 29, following ";":
- 2 Insert "and"

- 3 Page 27, line 30:
- 4 Delete all material.

- 5 Renumber the following paragraph accordingly.

- 6 Page 28, line 14:
- 7 Delete all material.

- 8 Renumber the following paragraphs accordingly.

SENATE FINANCE
COMMITTEE

Amendment Number: 3

1-LS0874H.3

Bill Number: SB 169

Cramer ✓

Sponsor: Parnell Date: 5/6/99

5/6/99

Logged In By: Mindy

AMENDMENT

Sen. Parnell moved
w/o obj. ADAPTED
p.1, line 10

OFFERED IN THE SENATE

TO: SB 169

1 Page 19, line 16:

2 Delete "safe and"

3 Page 20, line 23:

4 Delete "and"

5 Page 20, line 26, following "resources":

6 Insert "; and

7 (3) provide support to nonindustrial private forest landowners to ensure health
8 and productivity of Alaska forests."

9 Page 21, line 28:

10 Delete "(c)(1)"

11 Insert "(b)(3)"

12 Page 22, line 6:

13 Delete "(c)(2)"

14 Insert "(c)"

15 Page 22, following line 20:

16 Insert a new subsection to read:

17 "(b) The Legislature intends to measure the success of the Division of Mining and
18 Water Management in ~~achieving the mission of the mining~~ ^{delete} ~~sector~~ ^{section} with respect to

19 (1) public safety by considering the percentage of abandoned mines on state
20 land considered hazardous;

moved by
Mindy
w/o obj. ADAPTED

L

- 1 (2) rights and development by considering the number of
 2 (A) new leases and claims compared to the total number of leases and
 3 claims;
 4 (B) closed leases and claims compared to the total number of leases
 5 and claims; and
 6 (C) federal claims compared to the total number of leases and claims;
 7 (3) permitting by considering the
 8 (A) adverse audit findings compared to total audit findings;
 9 (B) dollar value and number of jobs associated with mineral
 10 exploration, development, and mine operations, by commodity, over time;
 11 (C) number of active mines over time;
 12 (D) dollar value and number of mineral exploration credits over time;
 13 and
 14 (E) aged rentals and royalties received by commodity over time; and
 15 (4) compliance by considering the
 16 (A) percentage of active mines without violations;
 17 (B) acres reclaimed compared to acres designated for reclamation
 18 (activity measure); and
 19 (C) number and type of permit violations."

20 Reletter the following subsections accordingly.

21 Page 22, line 31:

22 Delete "(b)"

23 Insert "(c)"

24 Page 23, line 5:

25 Delete "(b)"

26 Insert "(c)"

27 Page 23, line 13:

28 Delete "(b)"

1 Insert "(c)"

SENATE FINANCE
COMMITTEE #2
Amendment Number: _____
Bill Number: SB 169
Sponsor: Leman Date: 5/6/99
Logged In By: JS

AMENDMENT

OFFERED IN SENATE FINANCE COMMITTEE
TO: SB 169

DEC - Division of Air and Water Quality
Page 11, Line 10, following "manner"
Insert:

BY SENATOR LEMAN
*moved by Sen. Parruello.
WITHDRAWN w/o obj.*

Section 319(h) federal non-point source pollution control funding shall be spent only for grants to program applicants who qualify for Section 319 funding.

For each grant or contract of Section 319(h) monies the recipient shall provide by January 30, 2000 and July 30, 2000 to the Department of Environmental Conservation:

- A detailed account of how the monies were spent (including salaries, travel, expenses paid, etc.), including any matching funds provided by the applicant, and the source of matching funds.
- A report describing the work done, by whom it was done, and where the work was done.
- Copies of all reports, mailouts, training materials, videos, etc., developed with the grant or contract monies.

JUSTIFICATION: This language appears in the operating budget, and is subject to veto. This codifies the Senate Finance Committee's intent that these monies will be more accurately accounted for in FY 00, to assist future budget decisions.

SENATE FINANCE
COMMITTEE

Amendment Number: # 1

Bill Number: SB 169

Sponsor: Parnell Date: 5/06/99

Logged In By: Joltaw

I-LS0874\H.1

Cramer

5/6/99

AMENDMENT

moved by Parnell
w/o obj. ADOPTED

OFFERED IN THE SENATE

TO: SB 169

1 Page 29, following line 25:

2 Insert a new bill section to read:

3 **"* Sec. 147. DOT/PF - Marine Highway System.** (a) The mission of the Marine
4 Highway System is to assist in meeting the transportation needs of the traveling public and
5 communities served.

6 (b) The legislature intends to measure the success of the Marine Highway System in
7 achieving its mission by considering

8 (1) the percentage of on-time departures of vessels;

9 (2) the revenue received and expenditures made for each rider mile;

10 (3) the total ridership, including passengers, vehicles, and cabin occupancy,
11 compared to the five-year ridership average;

12 (4) the onboard sales for each passenger."

13 Renumber the following bill sections accordingly.



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

SB 169 Sponsor Statement

**Sponsor: Senate Finance Committee
Results Based Budgeting - FY'00 Missions and Measures**

SB 169 continues legislative progress toward results based budgeting by enacting missions and measures for the FY'00 operating budget. House and Senate budget subcommittees worked with the various departments to adopt missions for the departments and the divisions. Existing missions and measures adopted for FY99 programs were also refined. The House and Senate subcommittees' recommendations are incorporated into SB 169.

SB 169 applies only to FY'00 appropriations, and reflects substantial compliance with the results based budgeting requirements of the Executive Budget Act, AS 37.07.050.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

May 5, 1999

SUBJECT: Abbreviated Sectional Summary of SB 169. (Missions and Measures for the Fiscal Year 2000 operating budget)

TO: Senator Sean Parnell
Attn: Deborah Grundmann

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have requested an abbreviated sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 states the legislative purpose of the Act. The purpose is to set out the missions to be used by departments of state government when making expenditures from the Fiscal Year 2000 operating budget. The purpose is also to set out performance measures for some programs and divisions.

Secs. 2 - 147 set out the missions and measures for the principal departments in the executive branch of state government and for the University of Alaska. The sections are organized into Articles by department and the departments are listed alphabetically.

Sec. 148 states that the state and its agents and employees are immune from any suit that is based on the missions and measures.

Sec. 149 is a July 1, 1999, effective date.

TC:pl:glc
99-069.plm

SENATE FINANCE COMMITTEE

SIGN - IN

SB 169-OPERATING BUDGET MISSIONS AND MEASURES

NAME: JACK KREINHERER Sub./Bill No: SB 169
Co./Dept./Title: OMB Phone: 4676
Address: _____ Zip: _____

Do you wish to testify? Yes ___ No ___ Respond to Questions

NAME: _____ Sub./Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? ___ Yes ___ No ___ Respond to Questions

NAME: _____ Sub./Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? ___ Yes ___ No ___ Respond to Questions

NAME: _____ Sub./Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? ___ Yes ___ No ___ Respond to Questions

SB

174

SFIN

FILE

SB 174

was referred to the
Senate Finance
Committee

No hearing was held
on this bill



OFFICIAL BUSINESS

Alaska State Legislature
Senate
Office of the Secretary

STATE CAPITOL, ROOM 213
JUNEAU, ALASKA 99801-1182
(907) 465-3701
FAX: 465-2832

EMAIL: senate_secretary@Legis.state.ak.us

FOR YOUR IMMEDIATE ATTENTION

DATE: February 11, 2000
TO: Finance Committee
Mindy/Jamie - Room 532)
FROM: Office of the Senate Secretary

A Sponsor Substitute has been introduced on the following bill/resolution pending in your Committee:

RETRIEVE

SENATE BILL NO. 174

"An Act providing for the issuance of general obligation bonds in the amount of \$64,821,000 for the purpose of paying the cost of design, construction, and maintenance of capital improvements at the University of Alaska; and providing for an effective date."

Please pull this bill/resolution folder from your files and give to the page. The bill/resolution will be returned to you with the Sponsor Substitute.

Thank you.

SB

175

HFIN

FILE

(11)

HOUSE COMMITTEE REPORT

Date Referred to Committee: March 27, 2000

FURTHER REFERRALS:

Date of Committee Action: 4/10/00

The FINANCE Committee considered:

SB 175

SENATE BILL NO. 175

STATE MINING LAW

"An Act relating to state mining law, to methods of locating mining claims, to the granting of larger mining claims using a legal subdivision based on rectangular survey descriptions, and to mandatory rental payments for prospecting rights."

recommends it be replaced with the following committee substitute SB 175 the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

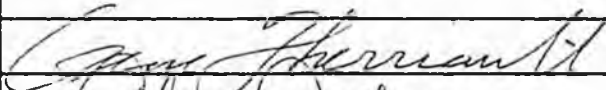
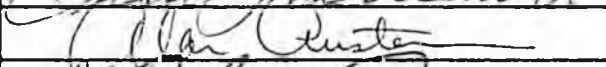
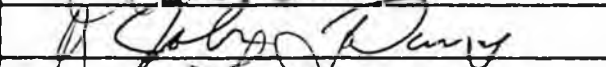
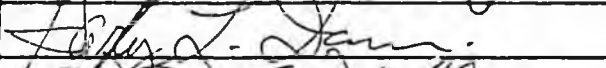
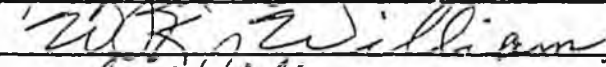
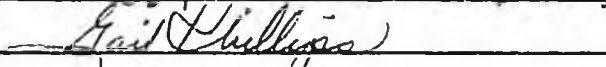
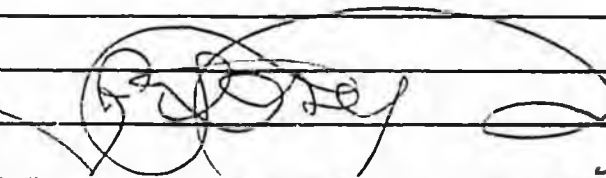
APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) _____

fiscal note(s) DNR 2/29/00


zero fiscal note(s) _____

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
	Therriault	X			
	Ausherman	X			
	J. Davis			X	
	G. Davis	X			
	Williams	X			
	Phillips	X			
	Foster			X	

CO

CHAIR'S SIGNATURE


Therriault

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

No. 2
 Bill Version: SB 175
 (S) Publish Date: 2-29-00

Revision Date/Tim 28-Feb-00
 Title: STATE MINING LAW
 Sponsor: S RES
 Requestor: S FIN

Dept Affected: Natural Resources
 BRU: Minerals, Land & Water Development
 Component: Claims, Permits and Leases
 Component No 2460

Expenditures/Revenues (Thousands of Dollars)
 Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES	75.0	75.0	75.0	75.0	75.0	75.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	75.0	75.0	75.0	75.0	75.0	75.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES (fund code)	150.0	150.0	150.0	150.0	150.0	150.0

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	75.0	75.0	75.0	75.0	75.0	75.0
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	75.0	75.0	75.0	75.0	75.0	75.0

Estimate of any current year (FY2000) cost: \$ n/a

POSITIONS

POSITIONS	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Con. fusion. This bill makes the mineral location process more efficient for the state and for the locator. Thus, it may, especially in the longer run, actually lower costs for the state. Currently, the state does not provide a reasonable level of service for the mineral industry: a four to six month backlog before mineral locations are processed. That level of service creates confusion in land tenure. This can be a significant problem for the industry.

The bill also creates a new revenue source that the state estimates will be at least \$150K. That is, the industry will pay the state an additional \$150K as a result of this bill. The funds requested in the fiscal note would allow the state to lower processing times to 4-6 weeks --a much more reasonable level of service for the industry.

Prepared by: Robert M. Loeffler *[Signature]* Phone: 907-269-8625
 Division: Mining, Land and Water Date: 28-Feb-00
 Approved by Commissioner: John Shively *[Signature]* Date: 28-Feb-00
 Agency: Natural Resources

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FISCAL NOTE

No. 2

STATE OF ALASKA
2000 LEGISLATIVE SESSION

Bill Version: SB 175
 (S) Publish Date: 2-29-00

Revision Date/Time: 28-Feb-00 Dept Affected: Natural Resources
 Title: STATE MINING LAW BRU: Minerals, Land & Water Development
 Component: Claims, Permits and Leases
 Sponsor: S RES
 Requestor: S FIN Component No: 2460

Expenditures/Revenues (Thousands of Dollars)
 Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES	75.0	75.0	75.0	75.0	75.0	75.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	75.0	75.0	75.0	75.0	75.0	75.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES (fund code)	150.0	150.0	150.0	150.0	150.0	150.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	75.0	75.0	75.0	75.0	75.0	75.0
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	75.0	75.0	75.0	75.0	75.0	75.0

Estimate of any current year (FY2000) cost: \$ n/a

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

Conclusion. This bill makes the mineral location process more efficient for the state and for the locator. Thus, it may, especially in the longer run, actually lower costs for the state. Currently, the state does not provide a reasonable level of service for the mineral industry: a four to six month backlog before mineral locations are processed. That level of service creates confusion in land tenure. This can be a significant problem for the industry.

The bill also creates a new revenue source that the state estimates will be at least \$150K. That is, the industry will pay the state an additional \$150K as a result of this bill. The funds requested in the fiscal note would allow the state to lower processing times to 4-6 weeks --a much more reasonable level of service for the industry.

Prepared by: Robert M. Loeffler Phone: 907-269-8625
 Division: Mining, Land and Water Date: 28-Feb-00
 Approved by Commissioner: John Shively Date: 28-Feb-00
 Agency: Natural Resources

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Senator Pete Kelly
Senator Jerry Mackie
Senator Sean Parnell
Senator Georgianna Lincoln

Sectional Analysis

Senate Bill 175

"Amendments to State Mining Law"

Section 1. Establishes an additional method for locating (staking) mining claims called "MTRSC" (Meridian, Township, Range, Section, Claim); allows claims to be located as 160 acres each, in addition to the current size of 40 acres per claim; specifies a grid system for placing claim corners; and reduces the period of time allowed for a person staking a claim to record the certificate of location from 90 days to 45 days.

Section 2. Establishes that the annual rent for the new 40 acre MTRSC claims will be the same as existing 40 acre non-MTRSC claims and that the annual rent for 160 acre MTRSC claims will be equal to four (4) times that of the 40 acre claims.

Section 3. Establishes a rental rate for prospecting sites and clarifies the rental rates for MTRSC claims.

Section 4. Provides an incentive to use the MTRSC method and to convert existing non-MTRSC claims into the MTRSC format.

Section 5. Defines "MTRSC system."

Section 6. Requires that all new prospecting sites be located by the MTRSC system and reduces the period of time allowed for a person establishing a prospecting site to record the certificate of location from 90 days to 45 days.

Section 7. Repeals the limitation on the number of prospecting sites that can be held in a township, increases from one year to two years the term of a prospecting site, removes the extension procedure for prospecting sites, and specifies that the rent must be paid within 45 days for a prospecting site to be valid.

Section 8. Removes the requirement that claim lines be marked and clarifies the terms of abandonment of a prospecting site.

SB 175
#2

Background. Alaska is experiencing a boom in mineral locations. The number of new claims has increased from 3,000-4,000 per year in the early 1990s to over 15,000 last year. Because of this increase, each year it takes longer and longer for DNR to process all the new locations. DNR is currently experiencing a 4-6 month lag time, more than a full mining season, for DNR to process new claims. (DNR expects the lag time to decrease to 12 weeks as a result of automation efforts this summer -- but this lag time is still longer than the industry has ever experienced and is approaching the length of the mining season).

What the Bill Does. The major change is that the bill allows locators to stake claims according to aliquot parts (referred to as Meridian, Township, Range, Section Claims, or MTRSC, in the bill). It also allows miners to stake 160-acre rather than 40-acre claims. These changes will reduce DNR's processing requirements, though there may be some additional work the first year to set the process up. In addition, it would allow locators to stake their locations in a manner that allows DNR to automate a significant part of the process. Thus, the bill is necessary to ensure that DNR's level of service does not deteriorate further if, as expected, 10,000 new claims are staked in the next few years. Finally, the bill would also save the mineral locator money in being able to locate fewer mineral locations to cover the same area, which will result in less staking and recording.

New Revenue Source. Despite a one-time discount in rent for new or converted MTRSC locations, this bill will result in industry paying an additional \$150K to the state. That is, this bill provides a one-time 50% reduction in rental for new MTRSC mineral locations and previous mineral locations converted to MTRSC as an incentive to locate the new MTRSC locations provided in this bill. The one-time incentive-induced reduction in rental will cost the State an estimated \$50K in reduced rentals. This bill also provides a new, previously untapped source of rental revenue from requiring rental for prospecting site locations at the same rental amount as for new mining locations. Requiring rental for prospecting site locations, which had no rental requirement previously, will result in fewer prospecting site locations (estimated 75% reduction) and more mining claims or leasehold locations being staked in their place. This "switching" by the mining industry will result in an estimated net rental increase of \$200K annually. Thus, the net effect of the bill is to increase revenues from the mineral industry by approximately \$150K annually, approximately half of which would go to the permanent fund.

Effect on DNR Workload and Processing Time. Currently, DNR puts prospecting site locations in the state's computerized public land records, but not on the status plats. DNR does, however, put new mining claims and leasehold locations in the public land records as well as on the status plats. Thus, the "new rental revenue" needs to be used to process the additional locations, set up the new system, and to reduce the processing time of new locations expected. Without the bill, the claim processing time will, in future years, climb to 14 or 16 weeks or longer (i.e., it would take longer than a full mining season to process the claims). This is a much lower level of service than the mining industry deserves. This bill, without the fiscal note, will allow the processing time to stay at the relatively poor service level of approximately 12 weeks. The bill plus the funds in the fiscal note would allow DNR to lower processing times to approximately 6 weeks.

4. MTRSC Claim Position Notation

The concept of MTRSC claim position notation was developed after reviewing the simplicity of land area designations by UTM coordinates as in Labrador, and the graticule or graticular section (latitude-longitude) system used in Australia. The present system of describing the location of a mining claim by Meridian, Township, Range, Section, and quarter section or quarter of a quarter section is a cumbersome method of describing small portions of a section, and does not lend itself readily to computerized data base management systems. It is very prone to error, is tedious to use in describing property locations, and is at its worst when a single mining claim is located in several different sections or even as many as four different townships. The current State Mining Claim Location Notice/Certificate form provides four lines on which to record the location of a single mining claim. The answer seems to be a system that predetermines the position of a claim, and then to develop a simple notation system to identify that claim position.

4.1. Pre-Determined Positions for Mining Claims

This method would have mining claims positioned in pre-determined locations, just as sections are in predetermined positions in a township. A 640 acre section can contain 16 forty acre mining claims, each 1,320 feet on a side (See Figure 1). Under MTRSC, no claim could straddle the boundary between two sections. Even now, large claim blocks are often staked so that the description of each claim is the simplest possible, (using only one line on the State Mining Claim Location Notice/Certificate) which means 16 full size state claims per section. Using the current description terminology, a claim would occupy the exact space describable as "the certain quarter of a certain quarter of a section."

All claim lines must be oriented in the cardinal directions with no exceptions. Where a claim staked under this system overlapped onto preexisting federal or state claims, it would be made clear that the senior locator prevails.

The western-most tier of sections in a township actually have less than 640 acres each because that is where the adjustment occurs to compensate for the fact that parallel north-south lines at the equator get closer together northward and southward as they converge at the geographic poles. Thus the western-most tier of claims in the western-most sections will similarly be smaller than 40 acres and in a few townships the northern-most tier of claims would also be less than 40 acres.

4.2. MTRSC = Meridian, Township, Range, Section, Claim

MTRSC stands for Meridian, Township, Range, Section, and Claim. The addition of the Claim designator is what makes this system work in describing the location of mining claims when combined with predetermined claim positions. Under the present system, mining claims can be physically positioned without respect to any of the land description boundaries. Thus it is possible to have a single 40 acre mining claim that is situated in portions of 4 different townships, which is a descriptive nightmare and a problem for accurate maintenance of status plats and data base management records.

4.3. Claim Designation Procedure

If these claim positions are numbered in the same pattern as sections are numbered in a township describing the location of any claim is easy. Using the established pattern for

numbering sections in a township, claim number 1 would be located in the northeast corner of the section. Claim number 2 would be the next claim position to the west, etc. with the "snaking" pattern similar to the sequence used in numbering the sections in a township. Claim number 16 would be in the southeast corner of the section. See Figure 1.

The format for a typical description of a mining claim using MTRSC would be:

- M Meridian: choices are K, F, S, or C for Kateel River, Fairbanks, Seward, or Copper River;
- T Township: need 3 digits followed by N or S;
- R Range: need 3 digits followed by E or W;
- S Section: a number from 1 through 36;
- C Claim: a number from 1 through 16.

A blank space should be placed between each of these location descriptors. A claim location could thus be F 002N 005E 30 10. This notation gives the exact position of the mining claim located there. It is a unique description describing only one Alaska claim site.

If the 160 acre claim size, discussed later in this report, were adopted, there would be only four claims per section. These claims could be numbered in the same pattern, 1 through 4. The Claim designator for MTRSC position notation would then be only one digit.

4.4. Advantages

The MTRSC notation and layout of claims has the following benefits:

- The exact description of the location of a claim would never take more than one line of text on a document;
- The notation for each claim is very easy to handle in computerized data base management systems and would make claim location recording and research much easier, both at the Recording Office and with the DMWM Land Administration System.
- The predetermined position for claims would make accurate land status plats much faster to produce;
- The MTRSC notation could be used as the serial numbers for mining claims since each such location is unique and the notation is easy to decode. This would eliminate one step for DMWM when mining claims are filed. The MTRSC notation could also be the name and number of mining claims. The MTRSC notation also provides the location of the claim. Thus three pieces of information required on every location certificate (name, serial number, and location) could be provided by the MTRSC notation.
- MTRSC notation could reduce the number of conflicts between rival claimants because of the increase in the accuracy of the description of the position of a claim.
- MTRSC claim positioning makes it much easier to locate claim posts in the field. With GPS or a topographic map you know about where the claim post is supposed to be

- MTRSC notation can be easily implemented with a change in the regulations.
- MTRSC would make indexing of the important historic Kardex file data easier.

4.5. Disadvantages

The MTRSC notation and positioning of claims would have the following disadvantages:

- Placer locations would probably require more claims than the present system because the streams meander while the claim positions are fixed. Similarly along a coastline not oriented in the cardinal directions, additional claims may be required to hold the same area.
- The physical staking of claims has to start from a known point in the field. This is not a trivial matter sometimes. The ground location of section lines or section corners would have to be known, either by inspection of physical features on the topographic map, by location of the section corner marker or other survey control point, or by differential GPS methods or any other low cost surveying method where the level of accuracy is sufficient to allow reasonably accurate location of the section corners and lines.
- The predetermined position of a claim means that you could not adjust the claim position to avoid or capitalize on topographic features. This could cause a situation where the #1 post position was inaccessible.
- Since the MTRSC notation pre-determines the physical location of mining claims, the descriptive location would have legal precedence over the field location if there were a conflict between the two.

The MTRSC claim position notation appears to offer significant benefits that can be easily implemented with changes in the regulations. For this reason, and because this notation could be used with all the alternatives presented below, it was presented as a separate topic and not included in the Alternatives.

Fairbanks Meridian

			T5N				
			T4N				
			T3N				
			T2N				
			T1N				
R3W	R2W	R1W	R1E	R2E	R3E	R4E	R5E
			T1S				
			T2S				
			T3S				

Notation by Township and Range

	6	5	4	3	2	1	
	7	8	9	10	11	12	
	18	17	16	15	14	13	
	19	20	21	22	23	24	
	30	29	28	27	26	25	
	31	32	33	34	35	36	

Notation of sections in a Township

	4	3	2	1	
	5	6	7	8	
	12	11	10	9	
	13	14	15	16	

Notation for claims in a section under MTRSC

MTRSC Position Notation for shaded section and claim = F 002N 005E 30 10

Figure 1: Explanation of MTRSC claim position notation



ALASKA MINERS ASSOCIATION, INC.

3305 Arctic #202, Anchorage, Alaska 99503 • (907) 563-9229 • FAX: (907) 563-9225 • www.alaskaminers.org

April 10, 2000

Honorable Gene Therriault
Honorable Eldon Mulder
Co-Chairs, House Finance Committee
Alaska State House of Representatives
State Capitol
Juneau, AK 99801

RE: Senate Bill 175, Amendments to the Alaska State Mining Law

Dear Representatives Therriault and Mulder,

Thank you for scheduling a hearing on Senate Bill 175 which will make some amendments to the Alaska State Mining Law. The changes proposed in SB-175 are the result of several years of work between the mining industry and the Alaska Department of Natural Resources. They affect only the process required for locating (staking) mining claims and do not increase or decrease the rights established by mining claims. These changes have been developed very carefully to ensure that they accomplish only what is intended and that they clarify some points in the existing law that could otherwise contribute (and in the past have contributed) to paperwork and records errors.

The current State budget challenges were the primary catalyst for our work to develop these amendments. Also, technological advances in electronic land records, on-line access, and Global Positioning Systems (GPS) have developed to a level where they now provide new ways to address the problems and post data onto the State land status plats in a timely and efficient manner.

The primary issue for DNR is the amount of manpower, time and cost that is now required to process the paperwork for mining claims. SB-175 greatly improves this situation by placing mining claims into a format that can be electronically entered onto (or removed from) the State land status plats. This will decrease the amount of time for DNR to process the claims and at the same time greatly improve the accuracy and accessibility of the dates. DNR now has about six months backlog of claims that have been located and filed with the Department, but are not yet entered on the land status plats.

For the mining industry, the changes will simplify the process of staking mining claims and reduce errors during the staking, recording and filing process. One change will make it simpler and more feasible to utilize Global Positioning Systems (GPS) to establish claim corners in the field. Another change will allow use of a larger size mining claim which will decrease the amount of paperwork by 75%, for both the miner and DNR. The existing claim location system will continue to be available for those situations where the new position method is not practical.

We urge the SB-175 be enacted and become law at the earliest feasible date.

Sincerely,

Steven C. Borell, P.E.
Executive Director



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Senator Sean Farnell
Senator Georgianna Lincoln

Sponsor Statement Senate Bill 175

"Amendments to State Mining Law"

Senate Bill 175 proposes changes to the Alaska State Mining Law that reduce the mining claim processing time and cost for the State, while improving the accuracy and accessibility of the claim location data. These changes affect methods of locating mining claims, rental payments and other related items; they have no effect on the rights established by claims.

The Department of Natural Resources currently has a substantial backlog of claims that have been filed but are not yet on the land status plats. Changes proposed by SB 175 will greatly improve this situation by allowing DNR to use a format whereby mining claim corners conform to an aliquot part legal description and can then be electronically entered onto (or removed from) the State land status plats.

The changes proposed by SB 175 incorporate several years of work between the mining industry and the Alaska Department of Natural Resources. The primary concern for DNR is the amount of manpower, time and cost that are now required to process the paperwork for mining claims.

From the viewpoint of the mining industry, the changes will simplify the process of staking mining claims and reduce errors during the staking, recording and filing process. One change will make it simpler and more feasible to utilize Global Positioning Systems (GPS) to establish claim corners in the field. Another change will allow the location of a larger size of mining claim, which will decrease the number of stakes in the field and reduce the amount of paperwork by 75%. The existing claim location system will continue to be available for those situations where the new positioning method is not practical.

Other changes regard prospecting sites, including the establishment of a rental charge, repeal of the limitation of the number of sites that can be held, and clarification of the terms.

Senate Bill 175 is supported by the Alaska Miners Association and the Department of Natural Resources.

SB

175

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 2/22/00

FURTHER: 2/29/00

DATE TURNED IN TO OFFICE: 29 Feb 00

Finance Committee considered

SENATE BILL NO. 175

"An Act relating to state mining law, to methods of locating mining claims, to the granting of larger mining claims using a legal subdivision based on rectangular survey descriptions, and to mandatory rental payments for prospecting rights."

and recommends:

- be replaced with _____ CS _____
- adopt previous _____ CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical title
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Pete Kelly</i>	✓	<i>None</i>	✓		
<i>Bob Adams</i>	X				
<i>Loren A. Lerman</i>	✓				
Co-Chair: <i>John</i>	✓				
Co-Chair: <i>Alan P. Farrell</i>	✓				

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

DNR	2/28/00		75.0

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

2/29/00

STATE OF ALASKA 2000 LEGISLATIVE SESSION

BILL NO. SB 175

Revision Date/Time: 28-Feb-00

Dept Affected: Natural Resources

Title: STATE MINING LAW

BRU: Minerals, Land & Water Development

Component: Claims, Permits and Leases

Sponsor: S RES

Requestor: S FIN

Component No: 2460

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
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MISCELLANEOUS						
TOTAL OPERATING	75.0	75.0	75.0	75.0	75.0	75.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES (fund code)	150.0	150.0	150.0	150.0	150.0	150.0
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
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1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	75.0	75.0	75.0	75.0	75.0	75.0

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

n/a

POSITIONS

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

ANALYSIS:

(Attach a separate page if necessary)

Conclusion. This bill makes the mineral location process more efficient for the state and for the locator. Thus, it may, especially in the longer run, actually lower costs for the state. Currently, the state does not provide a reasonable level of service for the mineral industry: a four to six month backlog before mineral locations are processed. That level of service creates confusion in land tenure. This can be a significant problem for the industry.

The bill also creates a new revenue source that the state estimates will be at least \$150K. That is, the industry will pay the state an additional \$150K as a result of this bill. The funds requested in the fiscal note would allow the state to lower processing times to 4-6 weeks --a much more reasonable level of service for the industry.

Prepared by: Robert M. Loeffler *[Signature]* Phone: 907-269-8625
 Division: Mining, Land and Water Date: 28-Feb-00
 Approved by Commissioner: John Shively *[Signature]* Date: 28-Feb-00
 Agency: Natural Resources

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Background. Alaska is experiencing a boom in mineral locations. The number of new claims has increased from 3,000-4,000 per year in the early 1990s to over 15,000 last year. Because of this increase, each year it takes longer and longer for DNR to process all the new locations. DNR is currently experiencing a 4-6 month lag time, more than a full mining season, for DNR to process new claims. (DNR expects the lag time to decrease to 12 weeks as a result of automation efforts this summer -- but this lag time is still longer than the industry has ever experienced and is approaching the length of the mining season).

What the Bill Does. The major change is that the bill allows locators to stake claims according to aliquot parts (referred to as Meridian, Township, Range, Section Claims, or MTRSC, in the bill). It also allows miners to stake 160-acre rather than 40-acre claims. These changes will reduce DNR's processing requirements, though there may be some additional work the first year to set the process up. In addition, it would allow locators to stake their locations in a manner that allows DNR to automate a significant part of the process. Thus, the bill is necessary to ensure that DNR's level of service does not deteriorate further if, as expected, 10,000 new claims are staked in the next few years. Finally, the bill would also save the mineral locator money in being able to locate fewer mineral locations to cover the same area, which will result in less staking and recording.

New Revenue Source. Despite a one-time discount in rent for new or converted MTRSC locations, this bill will result in industry paying an additional \$150K to the state. That is, this bill provides a one-time 50% reduction in rental for new MTRSC mineral locations and previous mineral locations converted to MTRSC as an incentive to locate the new MTRSC locations provided in this bill. The one-time incentive-induced reduction in rental will cost the State an estimated \$50K in reduced rentals. This bill also provides a new, previously untapped source of rental revenue from requiring rental for prospecting site locations at the same rental amount as for new mining locations. Requiring rental for prospecting site locations, which had no rental requirement previously, will result in fewer prospecting site locations (estimated 75% reduction) and more mining claims or leasehold locations being staked in their place. This "switching" by the mining industry will result in an estimated net rental increase of \$200K annually. Thus, the net effect of the bill is to increase revenues from the mineral industry by approximately \$150K annually, approximately half of which would go to the permanent fund.

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Section 2. Establishes that the annual labor requirement for the new 40 acre MTRSC claims will be the same as existing 40 acre non-MTRSC claims and that the annual labor requirement for 160 acre MTRSC claims will be equal to four (4) times that of the 40 acre claims.

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Section 4. Provides an incentive to use the MTRSC method and to convert existing non-MTRSC claims into the MTRSC format.

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Sponsor Statement

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Other changes regard prospecting sites, including the establishment of a rental charge, repeal of the limitation of the number of sites that can be held, and clarification of the terms.

Senate Bill 175 is supported by the Alaska Miners Association and the Department of Natural Resources.

4. MTRSC Claim Position Notation

The concept of MTRSC claim position notation was developed after reviewing the simplicity of land area designations by UTM coordinates as in Labrador, and the graticule or graticular section (latitude-longitude) system used in Australia. The present system of describing the location of a mining claim by Meridian, Township, Range, Section, and quarter section or quarter of a quarter section is a cumbersome method of describing small portions of a section, and does not lend itself readily to computerized data base management systems. It is very prone to error, is tedious to use in describing property locations, and is at its worst when a single mining claim is located in several different sections or even as many as four different townships. The current State Mining Claim Location Notice/Certificate form provides four lines on which to record the location of a single mining claim. The answer seems to be a system that predetermines the position of a claim, and then to develop a simple notation system to identify that claim position.

4.1. Pre-Determined Positions for Mining Claims

This method would have mining claims positioned in pre-determined locations, just as sections are in predetermined positions in a township. A 640 acre section can contain 16 forty acre mining claims, each 1,320 feet on a side (See Figure 1). Under MTRSC, no claim could straddle the boundary between two sections. Even now, large claim blocks are often staked so that the description of each claim is the simplest possible, (using only one line on the State Mining Claim Location Notice/Certificate) which means 16 full size state claims per section. Using the current description terminology, a claim would occupy the exact space describable as "the certain quarter of a certain quarter of a section."

All claim lines must be oriented in the cardinal directions with no exceptions. Where a claim staked under this system overlapped onto preexisting federal or state claims, it would be made clear that the senior locator prevails.

The western-most tier of sections in a township actually have less than 640 acres each because that is where the adjustment occurs to compensate for the fact that parallel north-south lines at the equator get closer together northward and southward as they converge at the geographic poles. Thus the western-most tier of claims in the western-most sections will similarly be smaller than 40 acres and in a few townships the northern-most tier of claims would also be less than 40 acres.

4.2. MTRSC = Meridian, Township, Range, Section, Claim

MTRSC stands for Meridian, Township, Range, Section, and Claim. The addition of the Claim designator is what makes this system work in describing the location of mining claims when combined with predetermined claim positions. Under the present system, mining claims can be physically positioned without respect to any of the land description boundaries. Thus it is possible to have a single 40 acre mining claim that is situated in portions of 4 different townships, which is a descriptive nightmare, and a problem for accurate maintenance of status plats and data base management records.

4.3. Claim Designation Procedure

If these claim positions are numbered in the same pattern as sections are numbered in a township describing the location of any claim is easy. Using the established pattern for

numbering sections in a township, claim number 1 would be located in the northeast corner of the section. Claim number 2 would be the next claim position to the west, etc. with the "snaking" pattern similar to the sequence used in numbering the sections in a township. Claim number 16 would be in the southeast corner of the section. See Figure 1.

The format for a typical description of a mining claim using MTRSC would be:

- M** Meridian: choices are K, F, S, or C for Kateel River, Fairbanks, Seward, or Copper River;
- T** Township: need 3 digits followed by N or S;
- R** Range: need 3 digits followed by E or W;
- S** Section: a number from 1 through 36;
- C** Claim: a number from 1 through 16.

A blank space should be placed between each of these location descriptors. A claim location could thus be F 002N 005E 30 10. This notation gives the exact position of the mining claim located there. It is a unique description describing only one Alaska claim site.

If the 160 acre claim size, discussed later in this report, were adopted, there would be only four claims per section. These claims could be numbered in the same pattern, 1 through 4. The Claim designator for MTRSC position notation would then be only one digit.

4.4. Advantages

The MTRSC notation and layout of claims has the following benefits:

- The exact description of the location of a claim would never take more than one line of text on a document;
- The notation for each claim is very easy to handle in computerized data base management systems and would make claim location recording and research much easier, both at the Recording Office and with the DMWM Land Administration System.
- The predetermined position for claims would make accurate land status plats much faster to produce;
- The MTRSC notation could be used as the serial numbers for mining claims since each such location is unique and the notation is easy to decode. This would eliminate one step for DMWM when mining claims are filed. The MTRSC notation could also be the name and number of mining claims. The MTRSC notation also provides the location of the claim. Thus three pieces of information required on every location certificate (name, serial number, and location) could be provided by the MTRSC notation.
- MTRSC notation could reduce the number of conflicts between rival claimants because of the increase in the accuracy of the description of the position of a claim.
- MTRSC claim positioning makes it much easier to locate claim posts in the field. With GPS or a topographic map you know about where the claim post is supposed to be.

- MTRSC notation can be easily implemented with a change in the regulations.
- MTRSC would make indexing of the important historic Kardex file data easier.

4.5. Disadvantages

The MTRSC notation and positioning of claims would have the following disadvantages:

- Placer locations would probably require more claims than the present system because the streams meander while the claim positions are fixed. Similarly along a coastline not oriented in the cardinal directions, additional claims may be required to hold the same area.
- The physical staking of claims has to start from a known point in the field. This is not a trivial matter sometimes. The ground location of section lines or section corners would have to be known, either by inspection of physical features on the topographic map, by location of the section corner marker or other survey control point, or by differential GPS methods or any other low cost surveying method where the level of accuracy is sufficient to allow reasonably accurate location of the section corners and lines.
- The predetermined position of a claim means that you could not adjust the claim position to avoid or capitalize on topographic features. This could cause a situation where the #1 post position was inaccessible.
- Since the MTRSC notation pre-determines the physical location of mining claims, the descriptive location would have legal precedence over the field location if there were a conflict between the two.

The MTRSC claim position notation appears to offer significant benefits that can be easily implemented with changes in the regulations. For this reason, and because this notation could be used with all the alternatives presented below, it was presented as a separate topic and not included in the Alternatives.

Fairbanks Meridian

			T5N				
			T4N				
			T3N				
			T2N				
			T1N				
R3W	R2W	R1W	R1E	R2E	R3E	R4E	R5E
			T1S				
			T2S				
			T3S				

Notation by Township and Range

	6	5	4	3	2	1	
	7	8	9	10	11	12	
	18	17	16	15	14	13	
	19	20	21	22	23	24	
	30	29	28	27	26	25	
	31	32	33	34	35	36	

Notation of sections in a Township

	4	3	2	1	
	5	6	7	8	
	12	11	10	9	
	13	14	15	16	

Notation for claims in a section under MTRSC

MTRSC Position Notation for shaded section and claim = F 002N 005E 30 10

Figure 1: Explanation of MTRSC claim position notation



ALASKA MINERS ASSOCIATION, INC.

3305 Arctic #202, Anchorage, Alaska 99503 • (907) 563-9229 • FAX: (907) 563-9225 • www.alaskaminers.org

February 28, 2000

Honorable John Torgerson
Honorable Sean Parnell
Co-Chairmen, Senate Finance Committee
Alaska State Senate
State Capitol
Juneau, AK 99801

RE: Senate Bill 175, Amendments to the Alaska State Mining Law

Dear Senators Torgerson and Parnell,

Thank you for scheduling a hearing on Senate Bill 175 which will make some amendments to the Alaska State Mining Law. The changes proposed in SB-175 are the result of several years of work between the mining industry and the Alaska Department of Natural Resources. They affect only the process required for locating (staking) mining claims and do not increase or decrease the rights established by mining claims. These changes have been developed very carefully to ensure that they accomplish only what is intended and that they clarify some points in the existing law that could otherwise contribute (and in the past have contributed) to paperwork and records errors.

The current State budget challenges were the primary catalyst for our work to develop these amendments. Also, technological advances in electronic land records, on-line access, and Global Positioning Systems (GPS) have developed to a level where they now provide new ways to address the problems and post data onto the State land status plats in a timely and efficient manner.

The primary issue for DNR is the amount of manpower, time and cost that is now required to process the paperwork for mining claims. SB-175 greatly improves this situation by placing mining claims into a format that can be electronically entered onto (or removed from) the State land status plats. This will decrease the amount of time for DNR to process the claims and at the same time greatly improve the accuracy and accessibility of the data. DNR now has about six months backlog of claims that have been located and filed with the Department, but are not yet entered on the land status plats.

For the mining industry, the changes will simplify the process of staking mining claims and reduce errors during the staking, recording and filing process. One change will make it simpler and more feasible to utilize Global Positioning Systems (GPS) to establish claim corners in the field. Another change will allow use of a larger size mining claim which will decrease the amount of paperwork by 75%, for both the miner and DNR. The existing claim location system will continue to be available for those situations where the new positioning method is not practical.

We urge that SB-175 be enacted and become law at the earliest feasible date.

Sincerely,

Steven C. Borell, P.E.
Executive Director



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4	<input type="radio"/>	OF4			
5	<input type="radio"/>	OF5			
6	<input type="radio"/>	OF6			
7	<input type="radio"/>	OF7			

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SIGN-IN

SB 175-STATE MINING LAW

NAME: Bob Loeffler, Director Subject/Bill No: SB 175
Co./Dept./Title: DNR, Div of Mining, Land & Water Phone: 269-8600
Address: 550 W 7th Suite 1070 Anch Zip: 99517

Do you wish to testify? Yes No Respond To Questions

NAME: JULI LUCKY Subject/Bill No: SB 175
Co./Dept./Title: STAFF, SENATE RES. Com Phone: 465-4958
Address: State Capitol Room 121 Juneau Zip: 99501

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

SB

177

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: April 19, 2000

FURTHER REFERRALS:

Date of Committee Action: 4/24/00

The FINANCE Committee considered:

CSSB 177(L&C)

CS FOR SENATE BILL NO. 177(L&C)

INSURANCE TRADE PRACTICES & ACTS

"An Act relating to insurance trade practices; and providing for an effective date."

recommends it be replaced with the following committee substitute

HCS CS SB 177 (FIN)

the same title
 a new title

additional referral to _____ Committee

attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) Senate
DCED 3-1-00

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Gene Thernault</i>	Thernault	X			
<i>Ed Mulder</i>	Mulder	X			
<i>Alan Austerman</i>	Austerman			X	
<i>J. Davis</i>	J. DAVIS			X	
<i>Ben Grussendorf</i>	Grussendorf			X	
<i>Don Bunde</i>	Bunde			✓	
<i>Kevin G. Davis</i>	G. DAVIS			✓	
<i>Ed K. Williams</i>	Williams			X	
<i>Gail Phillips</i>	Phillips			✓	
<i>FOSTER</i>	FOSTER			X	

CO CHAIR'S SIGNATURE

Gene Thernault
Thernault

Ed Mulder
Mulder

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

No. 1
BILL NO. Bill Version: CS6B 177.2a
(S) Publish Date: 3-1-00

Revision Date/Time (Note if correction) _____ Dept. Affected Community & Economic Development:
Title An Act relating to insurance trade practices; BRU Insurance
and providing for an effective date. Component Insurance
Sponsor Senator Donley
Requester S (L&C) Component No. 354

Expenditures/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

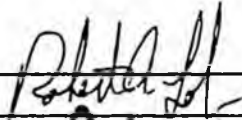
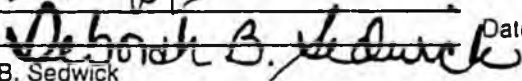
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
This bill has no fiscal impact on this component.

Prepared by: Robert A. Lohr  Phone 269-7900
Division Insurance Date/Time 1/18/00 8:58 AM
Approved by Commissioner Deborah B. Sedwick  Date _____
Agency Community & Economic Development

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FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

No. 1
BILL NO. Bill Version: CSB 177.40
(S) Publish Date: 3-1-00

Revision Date/Time (Note if correction) _____ Dept. Affected Community & Economic Development: _____
Title An Act relating to insurance trade practices; BRU Insurance
and providing for an effective date. Component Insurance
Sponsor Senator Donley
Requester S (L&C) Component No. 354

Expenditures/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
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Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
This bill has no fiscal impact on this component.

Prepared by: Robert A. Lohr Phone 269-7900
Division Insurance Date/Time 1/18/00 8:58 AM
Approved by Commissioner Deborah B. Sedwick Date _____
Agency Community & Economic Development

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SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

Sponsor Statement
for
CS for SB 177 (L&C)
"The Alaska Insurance Consumers
Protection Act"

Senate Bill 177 "The Alaska Insurance Consumers Protection Act" will give injured Alaskans and insurance consumers a fairer playing field when dealing with insurance companies. The Alaska Division of Insurance supports SB 177.

Section #3 of SB 177 makes a major step toward better consumer protection by allowing the Division of Insurance to take corrective action on individual acts of unfair or deceptive insurance trade practices. Amazingly, under existing law, the division does not have the jurisdiction to take action on individual acts of unfair insurance claims practices. The division is powerless to take action on an individual insurer until a pattern of deceptive trade practices has developed. Such a pattern is often very difficult to prove and can require staffing the division currently does not have. This lack of jurisdiction promotes bad claims practices by insurance companies since they know that there is little enforcement to protect individual injured victims and consumers.

Section #4 of Senate Bill 177 also protects consumers by protecting those who blow the whistle on illegal insurance acts. Many consumers and even insurance agents are sometimes intimidated from pursuing a fair settlement because of fear of retaliation from the insurer. This discourages claimants from pursuing a fair settlement and hinders the consumer protection ability of the Division of Insurance, as they are unable to gain access to information needed to effectively protect consumers. SB 177 provides immunity from liability for defamation for those persons who provide the division with information regarding an unfair act or practice. This provision will better protect both agents and insurance consumers.

Section #5 of SB 177 increases protections against unfair claims practices against injured Alaskans. Under existing law, injured third party claimants are not entitled to the same statutory protections as first party claimants. Insurers know this and often will require an injured third party to pay the costs of arbitration or mediation before the process even begins. If the amount at issue is less than the cost of arbitration the insurer can unfairly "low ball" the injured party. Additionally, insurers often use the high cost of litigation, which also may exceed the value of the claim, as leverage in coercing legitimate third party claimants to accept settlements that do not adequately compensate them for their injuries. Under current law such practices are prohibited as to first party claims but not as to third party claims. SB 177 expands the

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Sec. 21.36.320. Hearings and order on violation.

(a) On the complaint of a person or on the motion of the director, the director may conduct an investigation to determine whether a person is engaged in an unfair method of competition or unfair or deceptive act or practice prohibited by this chapter.

(b) If there are grounds for believing that a person is engaged in an act or practice prohibited by this chapter, the director may institute proceedings under AS 21.06.170 - 21.06.240.

(c) If the director determines that a person violated this chapter, the director shall serve upon the person charged an order requiring that person to cease and desist from engaging in the act or practice.

(d) In addition to an order issued under (c) of this section, the director may, after a hearing, order restitution, assess a penalty of not more than \$2,500 for each violation or \$25,000 for engaging in a general business practice in violation of this chapter.

(e) If the director determines after a hearing that the person charged knew or should have known that the person was in violation of this chapter, in addition to the penalty prescribed in (d) of this section, a suspension or revocation of the person's license and a penalty of not more than \$25,000 for each violation or \$250,000 for engaging in the general business practice in violation of this chapter may also be ordered by the director.

(f) If the director believes that a person has violated a cease and desist order issued under (c) of this section, the director may certify the relevant facts to the superior court in the appropriate district, for proceedings under AS 44.62.590. In addition to the penalties and remedies provided for in AS 44.62.590, the superior court, upon finding that the cease and desist order has been violated, may order the violator to comply with the order, pay an additional penalty of not more than \$1,000,000 for each violation, may revoke or suspend the violator's license, and may bar the violator from transacting the business of insurance in the future.

(g) In determining the penalty imposed under (d) and (e) of this section, the director shall consider the amount of loss caused by the violation and the amount of benefit derived by the person by reason of the violation and may consider other factors, including the seriousness of the violation, and deterrence of the violator or others.

History -

(Sec. 8 ch 163 SLA 1976; am Sec. 146 - 151 ch 67 SLA 1992)

Amendment Notes -

The 1992 amendment, effective July 1, 1992, deleted "in this state" preceding "is engaged in" in subsection (a); substituted "cease and desist" for "stop" in subsections (c) and (f); increased the penalty amounts throughout subsections (d)-(f); added the provision for restitution in subsection (d) and the references to a hearing in subsections (d) and (e); inserted "comply with the order" and "additional" and added the clause beginning "and may bar" in subsection (f); added subsection (g); and made several stylistic changes.

Decisions -

Cited in *O.K. Lumber Co. v. Providence Wash. Ins. Co.*, 759 P.2d 523 (Alaska 1988);
State Farm Fire & Cas. Co. v. Nicholson, 777 P.2d 1152 (Alaska 1989).

Offered By

DAVIS

Amendment # ~~0000~~ 2

Vote 3-7

4/24/00

SB 177

Sec. 9. AS 21.36.320 is amended by adding a new subsection to read:

- (h) If the violation is a single act prohibited under AS 21.36.125 which results in loss or harm, the director may impose restitution or issue a cease or desist order but may not impose a penalty that includes a fine or require other remedial action **unless the person can show that the violation is unintentional.**

(The bolded language shows burden on the person accused of a single act violation.)

Adopted

AMENDMENT

1

OFFERED IN THE HOUSE

TO: HCS CSSB 177(FIN), Draft Version "T"

- 1 Page 4, line ¹⁶17, following "intentional.":
- 2 Insert "This subsection does not affect the director's authority to impose a penalty for
- 3 multiple acts prohibited under AS 21.36.125 or a penalty for an act prohibited under a
- 4 provision of law other than AS 21.36.125."

1-LS0902VZ

Ford

4/24/00

Adopted 4/24/00

HOUSE CS FOR CS FOR SENATE BILL NO. 177()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR DONLEY

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to insurance trade practices; and providing for an effective
2 date."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. The uncodified law of the State of Alaska is amended by adding a new
5 section to read:

6 SHORT TITLE. This Act may be known as the Alaska Insurance Consumers
7 Protection Act.

8 * Sec. 2. AS-21.36.010 is amended to read:

9 Sec. 21.36.010. Purpose. The purpose of this chapter is to regulate an act or
10 a trade practice [PRACTICES] in the business of insurance in accordance with the
11 intent of Congress as expressed in 15 U.S.C. 1011 - 1015 (McCarran-Ferguson Act)
12 [THE ACT OF CONGRESS OF MARCH 9, 1945 (P.L. 79-15; CH. 20, 59 STAT.
13 33),] by defining or providing for determination of all the practices in this state that
14 constitute an unfair method [METHODS] of competition or an unfair or deceptive act

1 or practice [ACTS OR PRACTICES] and by prohibiting them.

2 * **Sec. 3.** AS 21.36.020 is amended to read:

3 **Sec. 21.36.020. Unfair methods, deceptive acts prohibited.** A person may
4 not engage in an act or a trade practice in this state or relative to a subject resident,
5 located, or to be performed in this state that is defined in this chapter as, or determined
6 under this chapter to be, an unfair method of competition or an unfair or deceptive act
7 or practice in the business of insurance.

8 * **Sec. 4.** AS 21.36.070(b) is amended to read:

9 (b) A person providing the director with information concerning the financial
10 condition or an act or a practice [PRACTICES] of a licensee of the division is
11 immune from liability for defamation.

12 * **Sec. 5.** AS 21.36.125 is amended to read:

13 **Sec. 21.36.125. Unfair claim settlement practices.** A person may not commit
14 [OR ENGAGE IN WITH SUCH FREQUENCY AS TO INDICATE A PRACTICE]
15 any of the following acts or practices:

16 (1) misrepresent facts or policy provisions relating to coverage of an
17 insurance policy;

18 (2) fail to acknowledge and act promptly upon communications
19 regarding a claim arising under an insurance policy;

20 (3) fail to adopt and implement reasonable standards for prompt
21 investigation of claims;

22 (4) refuse to pay a claim without a reasonable investigation of all of
23 the available information and an explanation of the basis for denial of the claim or for
24 an offer of compromise settlement;

25 (5) fail to affirm or deny coverage of claims within a reasonable time
26 of the completion of proof-of-loss statements;

27 (6) fail to attempt in good faith to make prompt and equitable
28 settlement of claims in which liability is reasonably clear;

29 (7) engage in a pattern or practice of compelling [COMPEL]
30 insureds to litigate for recovery of amounts due under insurance policies by offering
31 substantially less than the amounts ultimately recovered in actions brought by those

1 insureds;

2 (8) compel an insured or third-party claimant in a case in which
3 liability is clear to litigate for recovery of an amount due under an insurance
4 policy by offering an amount that does not have an objectively reasonable basis
5 in law and fact and that has not been documented in the insurer's file;

6 (9) attempt to make an unreasonably low settlement by reference to
7 printed advertising matter accompanying or included in an application;

8 (10) [(9)] attempt to settle a claim on the basis of an application that
9 has been altered without the consent of the insured;

10 (11) [(10)] make a claims payment without including a statement of the
11 coverage under which the payment is made;

12 (12) [(11)] make known to an insured or third-party claimant
13 [INSUREDS OR CLAIMANTS] a policy of appealing from an arbitration award
14 [AWARDS] in favor of an insured or third-party claimant [INSUREDS OR
15 CLAIMANTS] for the purpose of compelling the insured or third-party claimant
16 [THEM] to accept a settlement or compromise [SETTLEMENTS OR
17 COMPROMISES] less than the amount awarded in arbitration;

18 (13) [(12)] delay investigation or payment of claims by requiring
19 submission of unnecessary or substantially repetitive claims reports and proof-of-loss
20 forms;

21 (14) [(13)] fail to promptly settle claims under one portion of a policy
22 for the purpose of influencing settlements under other portions of the policy;

23 (15) [(14)] fail to promptly provide a reasonable explanation of the
24 basis in the insurance policy in relation to the facts or applicable law for denial of a
25 claim or for the offer of a compromise settlement; or

26 (16) [(15)] offer a form of settlement or pay a judgment in any manner
27 prohibited by AS 21.89.030.

28 * Sec. 6. AS 21.36.125 is amended by adding a new subsection to read:

29 (b) The provisions of this section do not create or imply a private cause of
30 action for a violation of this section.

31 * Sec. 7. AS 21.36 is amended by adding a new section to read:

1 **Sec. 21.36.212. Prohibited denial of claim for causation.** An insurer may
2 not deny a claim if a risk, hazard, or contingency insured against is the dominant cause
3 of a loss and the denial occurs because an excluded risk, hazard, or contingency is also
4 in a chain of causes but operates on a secondary basis.

5 * **Sec. 8.** AS 21.36.320(g) is amended to read:

6 (g) In determining the penalty imposed under (d) and (e) of this section, the
7 director shall consider the amount of loss or harm caused by the violation and the
8 amount of benefit derived by the person by reason of the violation and may consider
9 other factors, including the seriousness of the violation, the promptness and
10 completeness of remedial action, whether the violation was a single act or a trade
11 practice, and deterrence of the violator or others.

12 * **Sec. 9.** AS 21.36.320 is amended by adding a new subsection to read:

13 (h) If the violation is a single act prohibited under AS 21.36.125 that results
14 in loss or harm, the director may require restitution or issue a cease and desist order
15 but may not impose a penalty that includes a fine or require other remedial action,
16 unless the violation results in loss or harm and is intentional.

17 * **Sec. 10.** This Act takes effect January 1, 2001.

1-LS0902VT
Ford
4/24/00

*Discussed
NOT moved
4/24/00*

HOUSE CS FOR CS FOR SENATE BILL NO. 177()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR DONLEY

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to insurance trade practices; and providing for an effective
2 date."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. The uncodified law of the State of Alaska is amended by adding a new
5 section to read:

6 SHORT TITLE. This Act may be known as the Alaska Insurance Consumers
7 Protection Act.

8 * Sec. 2. AS-21.36.010 is amended to read:

9 Sec. 21.36.010. Purpose. The purpose of this chapter is to regulate an act or
10 a trade practice [PRACTICES] in the business of insurance in accordance with the
11 intent of Congress as expressed in 15 U.S.C. 1011 - 1015 (McCarran-Ferguson Act)
12 [THE ACT OF CONGRESS OF MARCH 9, 1945 (P.L. 79-15; CH. 20, 59 STAT.
13 33),] by defining or providing for determination of all the practices in this state that
14 constitute an unfair method [METHODS] of competition or an unfair or deceptive act

1 or practice [ACTS OR PRACTICES] and by prohibiting them.

2 * **Sec. 3.** AS 21.36.020 is amended to read:

3 **Sec. 21.36.020. Unfair methods, deceptive acts prohibited.** A person may
4 not engage in an act or a trade practice in this state or relative to a subject resident,
5 located, or to be performed in this state that is defined in this chapter as, or determined
6 under this chapter to be, an unfair method of competition or an unfair or deceptive act
7 or practice in the business of insurance.

8 * **Sec. 4.** AS 21.36.070(b) is amended to read:

9 (b) A person providing the director with information concerning the financial
10 condition or an act or a practice [PRACTICES] of a licensee of the division is
11 immune from liability for defamation.

12 * **Sec. 5.** AS 21.36.125 is amended to read:

13 **Sec. 21.36.125. Unfair claim settlement practices.** A person may not commit
14 [OR ENGAGE IN WITH SUCH FREQUENCY AS TO INDICATE A PRACTICE]
15 any of the following acts or practices:

16 (1) misrepresent facts or policy provisions relating to coverage of an
17 insurance policy;

18 (2) fail to acknowledge and act promptly upon communications
19 regarding a claim arising under an insurance policy;

20 (3) fail to adopt and implement reasonable standards for prompt
21 investigation of claims:

22 (4) refuse to pay a claim without a reasonable investigation of all of
23 the available information and an explanation of the basis for denial of the claim or for
24 an offer of compromise settlement;

25 (5) fail to affirm or deny coverage of claims within a reasonable time
26 of the completion of proof-of-loss statements;

27 (6) fail to attempt in good faith to make prompt and equitable
28 settlement of claims in which liability is reasonably clear;

29 (7) engage in a pattern or practice of compelling [COMPEL]
30 insureds to litigate for recovery of amounts due under insurance policies by offering
31 substantially less than the amounts ultimately recovered in actions brought by those

1 insureds;

2 (8) compel an insured or third-party claimant in a case in which
3 liability is clear to litigate for recovery of an amount due under an insurance
4 policy by offering an amount that does not have an objectively reasonable basis
5 in law and fact and that has not been documented in the insurer's file;

6 (9) attempt to make an unreasonably low settlement by reference to
7 printed advertising matter accompanying or included in an application;

8 (10) [(9)] attempt to settle a claim on the basis of an application that
9 has been altered without the consent of the insured;

10 (11) [(10)] make a claims payment without including a statement of the
11 coverage under which the payment is made;

12 (12) [(11)] make known to an insured or third-party claimant
13 [INSUREDS OR CLAIMANTS] a policy of appealing from an arbitration award
14 [AWARDS] in favor of an insured or third-party claimant [INSUREDS OR
15 CLAIMANTS] for the purpose of compelling the insured or third-party claimant
16 [THEM] to accept a settlement or compromise [SETTLEMENTS OR
17 COMPROMISES] less than the amount awarded in arbitration;

18 (13) [(12)] delay investigation or payment of claims by requiring
19 submission of unnecessary or substantially repetitive claims reports and proof-of-loss
20 forms;

21 (14) [(13)] fail to promptly settle claims under one portion o. a policy
22 for the purpose of influencing settlements under other portions of the policy;

23 (15) [(14)] fail to promptly provide a reasonable explanation of the
24 basis in the insurance policy in relation to the facts or applicable law for denial of a
25 claim or for the offer of a compromise settlement; or

26 (16) [(15)] offer a form of settlement or pay a judgment in any manner
27 prohibited by AS 21.89.030.

28 * Sec. 6. AS 21.36.125 is amended by adding a new subsection to read:

29 (b) The provisions of this section do not create or imply a private cause of
30 action for a violation of this section.

31 * Sec. 7. AS 21.36 is amended by adding a new section to read:

1 **Sec. 21.36.212. Prohibited denial of claim for causation.** An insurer may
2 not deny a claim if a risk, hazard, or contingency insured against is the dominant cause
3 of a loss and the denial occurs because an excluded risk, hazard, or contingency is also
4 in a chain of causes but operates on a secondary basis.

5 * **Sec. 8.** AS 21.36.320(g) is amended to read:

6 (g) In determining the penalty imposed under (d) and (e) of this section, the
7 director shall consider the amount of loss or harm caused by the violation and the
8 amount of benefit derived by the person by reason of the violation and may consider
9 other factors, including the seriousness of the violation, the promptness and
10 completeness of remedial action, whether the violation was a single act or a trade
11 practice, and deterrence of the violator or others.

12 * **Sec. 9.** AS 21.36.320 is amended by adding a new subsection to read:

13 (h) If the violation is a single act prohibited under AS 21.36.125, the director
14 may not impose a penalty unless the violation results in loss or harm and may not
15 impose a penalty that includes a fine or require other remedial action, except for
16 remedial action involving restitution or a cease and desist order, unless the violation
17 results in loss or harm and is intentional.

18 * **Sec. 10.** This Act takes effect January 1, 2001.

Discussed

1-LS0902\W

not

Moved

4/21/00

HOUSE CS FOR CS FOR SENATE BILL NO. 177(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATOR DONLEY

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to insurance trade practices; and providing for an effective
2 date."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. The uncodified law of the State of Alaska is amended by adding a new
5 section to read:

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1 or practice [ACTS OR PRACTICES] and by prohibiting them.

2 * Sec. 3. AS 21.36.020 is amended to read:

3 Sec. 21.36.020. **Unfair methods, deceptive acts prohibited.** A person may
4 not engage in an act or a trade practice in this state or relative to a subject resident,
5 located, or to be performed in this state that is defined in this chapter as, or determined
6 under this chapter to be, an unfair method of competition or an unfair or deceptive act
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19 regarding a claim arising under an insurance policy;

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21 investigation of claims;

22 (4) refuse to pay a claim without a reasonable investigation of all of
23 the available information and an explanation of the basis for denial of the claim or for
24 an offer of compromise settlement;

25 (5) fail to affirm or deny coverage of claims within a reasonable time
26 of the completion of proof-of-loss statements;

27 (6) fail to attempt in good faith to make prompt and equitable
28 settlement of claims in which liability is reasonably clear;

29 (7) engage in a pattern or practice of compelling [COMPEL]
30 insureds to litigate for recovery of amounts due under insurance policies by offering
31 substantially less than the amounts ultimately recovered in actions brought by those

1 insureds;

2 (8) compel an insured or third-party claimant in a case in which
 3 liability is clear to litigate for recovery of an amount due under an insurance
 4 policy by offering an amount that does not have an objectively reasonable basis
 5 in law and fact and that has not been documented in the insurer's file;

6 (9) attempt to make an unreasonably low settlement by reference to
 7 printed advertising matter accompanying or included in an application;

8 (10) [(9)] attempt to settle a claim on the basis of an application that
 9 has been altered without the consent of the insured;

10 (11) [(10)] make a claims payment without including a statement .he
 11 coverage under which the payment is made;

12 (12) [(11)] make known to an insured or third-party claimant
 13 [INSUREDS OR CLAIMANTS] a policy of appealing from an arbitration award
 14 [AWARDS] in favor of an insured or third-party claimant [INSUREDS OR
 15 CLAIMANTS] for the purpose of compelling the insured or third-party claimant
 16 [THEM] to accept a settlement or compromise [SETTLEMENTS OR
 17 COMPROMISES] less than the amount awarded in arbitration;

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 19 submission of unnecessary or substantially repetitive claims reports and proof-of-loss
 20 forms;

21 (14) [(13)] fail to promptly settle claims under one portion of a policy
 22 for the purpose of influencing settlements under other portions of the policy;

23 (15) [(14)] fail to promptly provide a reasonable explanation of the
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26 (16) [(15)] offer a form of settlement or pay a judgment in any manner
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29 (b) The provisions of this section do not create or imply a private cause of
 30 action for a violation of this section.

31 * Sec. 7. AS 21.36 is amended by adding a new section to read:

1 **Sec. 21.36.212. Prohibited denial of claim for causation.** An insurer may
2 not deny a claim if a risk, hazard, or contingency insured against is the dominant cause
3 of a loss and the denial occurs because an excluded risk, hazard, or contingency is also
4 in a chain of causes but operates on a secondary basis.

5 * **Sec. 8.** AS 21.36.320(g) is amended to read:

6 (g) In determining the penalty imposed under (d) and (e) of this section, the
7 director shall consider the amount of loss or harm caused by the violation and the
8 amount of benefit derived by the person by reason of the violation and may consider
9 other factors, including the seriousness of the violation, the promptness and
10 completeness of remedial action, whether the violation was a single act or a trade
11 practice, and deterrence of the violator or others.

12 * **Sec. 9.** AS 21.36.320 is amended by adding a new subsection to read:

13 (h) If the violation of this chapter is a single act, the director may not impose
14 a penalty unless the violation results in loss or harm and is intentional.

15 * **Sec. 10.** This Act takes effect January 1, 2001.

Sponsor Statement
Senate Bill 177
Page 2

prohibition against such bad faith actions to third party claimants and affords them a fair arbitration claims process while also curtailing unnecessary litigation. Affording and expanding insurance claims protections to both first and third party claimants is fair, equitable and good public policy.

Section #6 of SB 177 clearly states that the provisions of AS 21.36.125, which define unfair claims practices, do not create a private cause of action which is the current status quo.

Section #7 of SB 177, at the specific request of the Division of Insurance, prohibits insurers from denying a claim in which multiple causes caused the loss to occur and there is a secondary cause that is not covered by the policy. SB 177 ensures that a claim is covered when a loss has more than one cause and the dominant cause is covered by the policy.

Section #8 of SB 177 makes it clear that the Division of Insurance can take into account the fact that a potential violation was a single act or trade practice.

Injured Alaskans and insurance consumers deserve better protection from insurance company unfair claims practices. Senate Bill 177 will help provide the Division of Insurance with the necessary authority it needs to protect injured Alaskans and insurance consumers.

DD/jja

Alaska

**Department of Community
and Economic Development**

Division of Insurance

P.O. Box 110805, Juneau, AK 99811-0805
Telephone: (907) 465-2515 • Fax: (907) 465-3422 • Text Telephone: (907) 465-5437
Email: Insurance@dced.state.ak.us • Website: www.dced.state.ak.us/insurance/

March 20, 2000

The Honorable Dave Donley
Alaska State Senate
State Capitol, Room 508
Juneau, AK 99801-1182

Dear Senator Donley:

The Alaska Division of Insurance (ADOI) supports SB 177, the Alaska Insurance Consumer Protection Act, sponsored by Senator Dave Donley. The bill is now in the Senate Rules Committee.

Currently under AS 21.36.125 the ADOI cannot penalize a single unfair action of an insurance company in its handling of consumer claims, no matter how serious. Alaska Statute 21.36.125 gives authority to the director to take action against an insurance company only if a pattern of unfair trade practices acts amounting to a general business practice or multiple violations of the same claims standard is found. Individual consumers can be seriously harmed by a single unfair action of an insurance company. For example, in a recent complaint received at the division, a consumer was pre-certified for hospitalization by a health insurance company, but the insurance company unfairly delayed payment of the hospital's \$186,000 bill for six months, threatening the consumer's credit rating. Had the provisions of SB 177 been in place, the division would have been able to take action against the insurance company to deter such actions in the future.

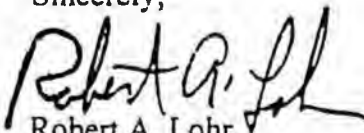
The Alaska Supreme Court stated in State Farm v. Nicholson, 777 P. 2d 1152 (Alaska 1989):

Under AS 21.36.125, entitled "Unfair claims settlement practices," an insurance company only violates the chapter if it engages in certain proscribed acts "with such frequency as to indicate a practice. [emphasis added]."

The bill confirms that AS 21.36.125 does not create a private cause for legal action.

The bill also clarifies the meaning of causation for insurance policies in Alaska. This clarification will make sure that policy benefits are consistent with the reasonable expectations consumers have regarding their insurance coverage. Consumers should not have to make complex legal arguments relating to the cause of a loss in order for insurance companies to pay benefits for their losses under the insurance policy.

Sincerely,


Robert A. Lohr
Director

MEMORANDUM

State of Alaska

Department of Law

TO: Robert A. Lohr
Director
Division of Insurance
Department of Community &
Economic Development

DATE: January 25, 2000

FILE NO.:

TEL. NO.: 269-5229

FROM: Virginia A. Rusch
Assistant Attorney General
Fair Business Practices Section
Anchorage

SUBJECT: AS 21.36.150

In connection with a pending bill that would modify AS 21.36.010, AS 21.36.020 and AS 21.36.125 to prohibit a single unfair and deceptive act (as well as repetitive acts constituting an unfair and deceptive practice), you have asked for an interpretation of AS 21.36.150.¹ Specifically, you asked

¹ This statute provides:

Sec. 21.36.150. Procedures as to undefined practices.

(a) If the director believes that a person engaged in the insurance business is engaging in this state in an unfair method of competition or in an unfair or deceptive act or practice in the conduct of the business that is not defined as being unfair or deceptive under this chapter, the director shall hold a hearing on the matter, if the director believes it would be in the public interest to do so after giving notice of the hearing and of the charges. Upon conclusion of the hearing the director shall make a written report of the findings of fact relative to the charges and serve a copy upon the person and any intervenor at the hearing.

(b) If the report charges a violation of this chapter and if the method of competition, act, or practice has not been discontinued, the director may, through the attorney general of this state, at any time after the service of the report, cause an action to be instituted to enjoin and restrain the person from engaging in the method, act, or practice. In the action the court may grant a restraining order or injunction upon just terms, but the state may not be required to give security before the issuance of the order or injunction. If a record of the proceedings in the hearing before the director was made, a certified transcript, including all evidence taken and the report and findings, shall be received in evidence in the action.

(c) If the director's report made under (a) of this section, or order on hearing made under AS 21.36.320 does not charge a violation of this chapter, an intervenor in the

whether this statute authorizes the director of the Alaska Division of Insurance to determine that a single act, rather than a pattern of repetitive acts, constitutes a violation of these provisions of the trade practices and frauds chapter of the Alaska Insurance Code.

Briefly, the answer to your question is that AS 21.36.150 authorizes and establishes a procedure for the state insurance regulator to examine whether an activity that is not otherwise prohibited in the trade practices and frauds chapter, AS 21.36, or by regulations adopted under it, is unfair and deceptive, and should therefore be forbidden. Nothing in the language of this statute suggests that it is intended to authorize the director to determine that a single act is a violation of statutory provisions that forbid a practice of, or repetitive acts of, a defined unfair or deceptive activity. Even if AS 21.36.150 can be interpreted to give the director this authority, the process described in AS 21.36.150 would be a cumbersome way to enforce the prohibitions against unfair or deceptive acts.

The discussion below explains this answer by reviewing commentary on the source from which this section was derived and some examples of past orders issued under it.

AS 21.36.150 was adopted in 1966 as part of a major revision of the Alaska Insurance Code. It is derived from the National Association of Insurance Commissioners (NAIC) Model Unfair Trade Practices Act initially approved in 1946. According to the legislative history (See NAIC Model Regulation Service, p.880-19), this model act was the result of one of the first efforts to develop state laws regulating insurance after Congress passed the McCarran-Ferguson Act of 1945 (P.L. 79-15) that provided for continued state regulation of insurance. P.L. 79-15 contained a moratorium from the application of federal law to permit the states time to develop laws, but provided for federal regulation if the states did not take on the responsibility.

Five years after the Alaska legislature adopted AS 21.36.150 in 1966, the NAIC substantially revised the model act provisions on which this statute was based. The historical commentary for sections 7 and 8 of this model act reports that the commissioners concluded that the procedure for dealing with "undefined" unfair trade practices was too cumbersome. (NAIC Model Regulation Service, p. 880-30). The NAIC revised these sections of the model act to authorize a state insurance commissioner to hold hearings, issue cease and desist orders and impose penalties. In 1976, the Alaska legislature added AS 21.36.320, which gave the director of the Alaska division of insurance authority similar to the NAIC's revised sections 7 and 8. But the Alaska legislature left AS 21.36.150 in place, making only slight changes in 1985 (substituting a reference in subsection (c) to AS 21.36.320 for AS 21.36.140, which was repealed), and in 1992 (adding subsection (d) with other stylistic changes). The addition of subsection (d) in 1992 made clear that the director can also use the regulation adoption process to define unfair and deceptive trade practices.

proceedings may appeal from the order or report within the time and in the manner provided for appeals from the director generally.

(d) In addition to the unfair methods and unfair or deceptive acts or practices expressly defined in this title, the director may adopt regulations to define other methods of competition and other acts and practices related to the business of insurance that are unfair or deceptive.

This history, as well as the language of AS 21.36.150, therefore shows the statute was intended to deal with "undefined" practices. It is a procedure to determine whether questioned practices are unfair and deceptive, rather than a procedure to determine whether a person is guilty of conduct that has previously been defined as unfair and deceptive. The statute incorporates due process protections, including requirements for notice of the issue to the person who is carrying on the activity, a hearing, and a written report with findings of fact. But this section gives the director no authority to order a cease and desist order or impose penalties for a violation. The director is required to apply to a court for enforcement orders. In contrast, under AS 21.36.320, the director is authorized to issue cease and desist orders and impose penalties for violations of the trade practice and frauds chapter, AS 21.36.

Among orders of the director of the division of insurance compiled in the National Insurance Law Service (NLS Publishing Company, Chatsworth, CA) are two examples issued under this statute in 1970. In Order R70-1, Truckmen's Compensation Deposit Insurance Premium Unfair Practice (Dec 14, 1970), the director concluded that a practice of billing a voluntary expiration or termination payroll report and continuing to hold the deposit premium until a physical audit of the payroll records often resulted in substantial excess worker's compensation premiums being held by insurers. The director declared this an unfair practice and defined a practice to be used instead.

In Order R70-2, Trans-Alaska Pipeline Wrap-Up (April 17, 1970), the director held a hearing on a complaint from the Alaska Association of Insurance Agents that the proposed insurance program of the Trans-Alaska Pipeline System was an unfair practice in the insurance business. The director rejected the complaint finding that there was no evidence that the pipeline consortium "is or was at any time engaged in the insurance business or contemplates engaging the insurance business."

Conclusion. Based on the language of the statute, the historical commentary on the NAIC model on which it is based, and examples of how AS 21.36.150 has been used in the past, we conclude that its purpose is to establish a procedure for determining whether a particular activity in the insurance business should be prohibited as unfair or deceptive. More recent legislative enactments give the director other means to both define unfair and deceptive trade practices in the insurance business and enforce the prohibition against them. But we find nothing in AS 21.36.150 that authorizes the director to determine that a single act is a violation of a statute that prohibits a practice of certain defined conduct in the business of insurance.

VAR:jem

SUMMARY OF SURVEY RESULTS

The Division of Insurance recently polled all the states on the following questions. The following states responded. This is a very brief paraphrase and summary of the results. Most state laws have some variations and unique features not mentioned here. The relevant statutes and regulations should be consulted.

	“Regarding unfair trade practices, unfair methods and deceptive acts, does your statute prohibit single incidents, or only ongoing patterns and practices?”	Regarding unfair claim settlement practices, does your statute protect insureds only, or does it also protect third-party claimants? Does your statute specifically mention insured and/or third party claimants, or simply refer to any person or any claimant?	Cite:
California	Knowingly on one occasion or frequently enough to indicate a practice.	Some regulations protect insureds, others protect all claimants.	California Insurance Code section 790.03; 10 CCR 2695.1
Connecticut	Single acts, except claim settlement practices which must be committed or performed with such frequency to indicate a general business practice.	All claimants, except that “insureds” cannot be compelled to litigate claims.	CT. Gen. Stat. 38a-816(6), as amended 10/1/99 by Public Act 99-284 §30.
Florida	Isolated events and business practices, but some claim settlement practices must be done with such frequency to indicate a general practice.	Insureds and “other persons.”	FS §626.9541(1)
Idaho	Single incident.	No reference to either 1 st or 3 rd party; insurer must perform reasonably and fairly.	
Indiana	Single incidents prohibited.	Different sections protect insureds, insureds and beneficiaries, and claimants. Insureds cannot be compelled to litigate.	Ind. Code §27-4-1-4.5, 6
Kentucky	Not specified. Commissioner has authority and discretion for all issues.	Commissioner authority and discretion	KRS 304.1, 304.12
Maryland	Single incidents and general business practices.		MD Code Ann., Ins. §§27.301-305; COMAR 31.15.07, 08.

Nebraska	Flagrantly and in conscious disregard, or a general business practice, with a statutory exception elsewhere in statutes for "victims of abuse" protection.	Claimants and insureds. May not compel "insureds and beneficiaries" to litigate.	Neb. Stat. 44-1539-1544.
Oregon	Single incidents prohibited. Unfair practices specified by administrative rule.	Acts are simply prohibited.. Any reference is to a "claimant."	ORS 746.075, 100, 110, 160, 240; OAR 836-080-0205 et seq
Pennsylvania	Commissioner has some discretion in isolated incidents, but by precedent an ongoing practice is generally required for enforcement action. Claims practice must be frequent enough to indicate business practice.	Some generically without reference to "claimant" or "insured," others specifically reference claimants, insureds, and beneficiaries.	40 PS §1171.1-15.
Rhode Island	Flagrant disregard of law or committed with such frequency. Enforcement action usually taken for patterns.	All claimants, first and third party.	RI §27-9.1
Tennessee	Statute does not specify, except unfair settlement practices which must be a general business practice.	Various sections refer to insured, claimant, or both, or are silent.	TCA 56-8-101 et seq.
Wisconsin	Single incidents prohibited.	The rule specifically promotes fair and equitable treatment of policyholders, claimants, and insurers. Compelling "insureds and claimants" to litigate prohibited.	§628.34 Wis.Stat.; Ins 6.11, Wis. Adm. Code