

ALABAMA LEGISLATIVE COMMISSION FILES 2007/2008

1990 HRLS SB 831 - SB 849 /999

COMMITTEE REPORTS (House)

Child Care Workers  
(exempt. from Wage & Hour Act)  
COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 552 (FIN), (see pp. 477;529;546). Reported back to the House on April 7 by Labor & Commerce with the committee recommending as follows: Martin (Chmn.) signed do pass. Roger and Randolph signed no recommendation. To Finance.

Regional Resource Centers  
SENATE BILL NO. 603 (AMENDED), (see pages 140;485;529;546). Reported back to the House on April 7 by Health, Education & Social Services with a majority of the committee recommending it do pass. Signing do pass: Zeirne (Chmn.), Smith and Cato. Signing no recommendation: Martin. To Judiciary.

Appropriation Transfer  
(Nenana-Totchaket agric. project)  
COMMITTEE SUBSTITUTE FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 702 (FIN), (see pages 126;195;566;573;578). Reported back to the House on April 5 by Resources with the committee recommending it be replaced with SUBSTITUTE and a majority recommending it do pass. Signing do pass: Sutcliffe (Chmn.), Barnes, Halford and Grussendorf. To Finance.

House Resources version decreases by \$256,370 the amount of money transferred to the Nenana-Totchaket project. Amount transferred would be \$1,622,800 under the Resources SUBSTITUTE. Does not reduce the FY 82 allocation for survey and disposal for the Delta II agriculture project (Senate version reduced it from \$699,100 to \$442,730).

Appropriation (special)  
(mining film)  
(Arctic Winter Games)  
COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 746 (FIN), (see pages 183;374;423;508). Reported back to the House on April 6 by Labor & Commerce with the committee recommending as follows: Martin (Chmn.) signed do pass. Randolph and Bylana signed no recommendation. To Finance.

Insurance Contracts  
(issuance of)  
SENATE BILL NO. 831, (see pages 367;480;530;547;604). A corrected committee report was read on April 6. As reported out of Labor and Commerce on April 2, the report should have been that the committee recommended the bill be replaced with a SUBSTITUTE and that it do pass. Signing do pass: Martin (Chmn.), Rogers, Bylana and Randolph.

The Labor & Commerce SUBSTITUTE includes provisions identical to those in SB 878, page 554, relating to insurance requirements on state construction contracts.

Homesteading on State Land  
HOUSE BILL NO. 2, (see page 435). Reported back to the House on April 6 by Finance with the committee recommending it be replaced with SUBSTITUTE and with individual recommendations. Adams (Chmn.), Meekins, Fuller and Montgomery signed no recommendation. Cuddy signed "piggy back bill, do not pass." Chuckwuk signed do not pass. Bettisworth and Hurlbert signed do pass. To Rules.

SUBSTITUTE makes no changes to homestead program proposed in bill, but adds several new sections:

New Sec. 9 amends AS 38.05.180 (Oil and Gas Leasing) by adding a new subsection which directs the Commissioner of Natural Resources to

Public Vend-  
Facilities

COMMITTEE SUBSTITUTE FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 778 (SA)(AMENDED), (see page 241;553;633;692). Reported back to the House on April 21 by Health, Education & Social Services with the committee recommending it be replaced with House HESS SUBSTITUTE and as follows: Beirne (Chmn.) and Cato signed do pass; Martin and Smith signed no recommendation. To Rules.

The House HESS CS makes several changes to the bill. New law on vending facilities (AS 23.15.132) is changed to make the Commissioner of Education responsible for approving new facilities (previous version granted this authority to the Director of Vocational Rehabilitation). Also, applies only to "public property that is under the jurisdiction of the state" rather than to "property of the state or a political subdivision of the state." New law establishing the Committee of Vendors is changed to include only blind vendors.

Adds new Sec. 4 which amends AS 23.15.180, "Hearings," by adding "(b) A blind person or severely handicapped person aggrieved by a decision or action of the agency under AS 23.15.133 - 23.15.135 [vending facilities & licensing of vendors] shall receive a hearing on request in accordance with the Administrative Procedure Act . . . A blind person may also file a complaint in accordance with 20 U.S.C. sec. 107d-1 for arbitration of a grievance." Also adds new Sec. 5 which makes technical amendments to the definition of "licensee."

Makes further changes to the definition of "vending facility" in AS 23.15.210(12). Items sold in the facilities must be sold "to the general public" and adds that the definition specifically excludes "a facility in a hospital, school, or other institution where food or other articles are offered for sale only to patients, inmates, and persons enrolled in or employed by the institution." Rewords new definition of "active participation." Repeals AS 23.15.100(b)(5) (power of the Div. of Voc. Rehab. to license vendors, granting preference to blind persons) and adds that language to AS 23.15.100(a) (duty of the Div. of Voc. Rehab. to license vendors, granting preference to blind persons).

Adds new AS 23.15.134, "Active Participation by Severely Handicapped Licensees." Seeks to ensure active participation of severely handicapped vendors in the administration of vending facilities operated by severely handicapped licensees. Requires that the opportunity for active participation be at least as extensive as the opportunity afforded to blind vendors by the Committee of Blind Vendors.

Insurance  
Contracts  
(issuance of)

SENATE BILL NO. 831, (see pages 367;480;530;547;604;641;719). Reported back to the House on April 21 by Finance with the committee recommending it be replaced with the Labor & Commerce HCS with an amendment and a majority recommending it do pass. Signing do pass: Adams (Chmn.), Fuller, Haugen, Bettisworth, Hurlbert, Carney, Chuckwuk and Montgomery. Signing no recommendation: Cuddy and Cotten. To Rules.

The Finance amendment adds a new Sec. 2 to read:

COMMITTEE REPORTS (House)

SB 831 (cont'd)

\* Sec. 2. AS 21.54 is amended by adding a new section to read:

Sec. 21.54.055. DISCLOSURE OF EMPLOYEE CLAIMS PROHIBITED. An insurer providing employee group or blanket disability insurance to an employer or to trustees of a fund established by an employer may not disclose an employee's claim unless the employee authorizes the disclosure in writing.

RENUMBER REMAINING SECTIONS.

Life Ins. Policy Loans  
(int. rate & reinstatement) COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 841 (L&C), (see pp. 401;628;687). Reported back to the House on April 22 by Labor & Commerce with the committee recommending as follows: Martir (Chmn.) and Bylsma signed no recommendation; Randolph signed do pass. To Judiciary.

Blue Ribbon Commis. on State Personnel Act  
(extending) SENATE CONCURRENT RESOLUTION NO. 44, (see pages 369;569;684;691). Reported back to the House on April 19 by State Affairs with the committee recommending as follows: Metcalfe (Chmn.) and Fanning signed no recommendation; Brown and Abood signed do pass. To Finance.

N. Pacific Chinook Salmon COMMITTEE SUBST. FOR SENATE JOINT RESOLUTION NO. 70 (RES), (see pages 261;485;527;530;547;692). Reported back to the House on April 20 by Resources with the committee recommending it be replaced with House Resources CS and a majority recommending it do pass. Signing do pass. Sutcliffe (Co-Chmn.), Barnes, Grussendorf and Fanning. To Rules.

The House Resources CS makes several revisions to the preamble, adding seven new paragraphs and rewording the existing paragraphs. Makes substantial changes to the Resolved clauses: Requests the N. Pacific Fishery Management Council (NPFMC) and the Alaska Board of Fisheries to direct the National Marine Fisheries Service, Alaska Region, and the Alaska Dept. of Fish and Game to manage the Yakutat-Southeast Alaska chinook salmon fishery at the 1980 optimum yield range; requests the President of the United States to direct the Secretary of Commerce to disapprove any amendments or modifications to the fishery management plan submitted by the NPFMC if the amendments would reduce the harvest of chinook salmon below the 1981 [1980] level; requests the Department of State to "move toward a speedy resolution of the United States-Canada salmon interception issues" (original directed this request to the President). Adds new paragraphs which request the Chairman of the Alaska Board of Fisheries to reconvene the Board of Fisheries to reinstitute the optimum yield of chinook salmon in the Yakutat-Southeast Alaska region at the 1980 level, and to direct the members of the Alaska Congressional delegation to work with the Oregon and Washington Congressional delegations to ensure that a successful plan is

INTRODUCTION OF BILLS (Senate)

SSSB 778 (cont'd)

Adds section which amends the definition of "Licensee" in AS 23.15.210(10). Further amends definition of "public property" to include "real or personal property owned or leased by the state, or federal government, an agency of the state or federal government, or a political subdivision of the state or federal government." (References to federal property added; "real or personal" added.)

Adds definition of "active participation" to mean a substantive ongoing process of negotiations between the Div. of Voc. Rehab. and the Committee of Blind Vendors to accomplish certain objectives, with the Commissioner of Education having final administrative responsibility.

Introduced March 29 and referred to State Affairs.

State Construction Contracts (insurance)

SENATE BILL NO. 878, by the Rules Committee by request of the Administrative Regulation Review Committee. Adds new Chapter 94, "Miscellaneous Provisions" to AS 36, "Public Contracts." Would prohibit the state, when awarding state construction contracts, from requiring a contractor to obtain insurance from a particular insurer, agent, or broker. Would also prohibit the state from agreeing to provide insurance to a contractor who is awarded a contract. Would apply to all state agencies, including Legislature and Judicial System and such agencies as the Alaska P Authority, the University of Alaska, and the Alaska State Housing Authority. Effective immediately.

Introduced March 29 and referred to State Affairs and Transportation.

Business Lic. Tax (exempting sales of cap. assets)

SENATE BILL NO. 879, by the Rules Committee by request of the Administrative Regulation Review Committee. Would exempt gross receipts from the sale of a capital asset from the business license tax that was in effect until 1978. Exemption would be retroactive until July 1, 1972. Defines "capital asset" as all property of a business except (1) property held for resale in the normal course of business; or (2) accounts and notes receivable.

The business license tax (AS 43.70) levied a .5% tax on gross receipts in excess of \$20,000, except that all gross volume in excess of \$10,000 was taxed at the rate of .25%. The license fee is currently \$25 a year for all businesses except banks. Effective immediately.

Introduced March 29 and referred to Community & Regional Affairs and Finance.

Royalty Oil Contract (Doyon, Ltd.)

SENATE BILL NO. 880, by the Rules Committee by request of the Governor. Would approve and ratify a contract for the sale of state royalty oil to Doyon, Ltd. The contract, dated February 26, 1982 and referred to as "Doyon I," provides that it is void if Doyon, Ltd. or its assignee purchases or gains a controlling interest in either the Mapco Alaska refinery or the royalty oil contract with Mapco Alaska by May 1, 1982. A copy of the contract,

HOUSE JOURNAL

AMENDMENT

OFFERED IN THE HOUSE

BY: FINANCE COMMITTEE

TO: HCSSB 831 (I&C)

PAGE 1, LINE 16 ADD A NEW SECTION 2:

\* Sec. 2. AS 21.54 is amended by adding a new section to read:

Sec. 21.54.055. DISCLOSURE OF EMPLOYEE CLAIMS PROHIBITED. An insurer providing employee group or blanket disability insurance to an employer or to trustees of a fund established by an employer may not disclose an employee's claim unless the employee authorizes the disclosure in writing.

RENUMBER REMAINING SECTIONS.

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HCS for S.B. 831 and SB 878  
 Title An Act relating to Insurance  
 Requested by Labor & Commerce Date 4/17/82

II. FISCAL DETAIL

Department of Commerce, Alaska Power Authority  
 Agency Affected Department of Administration, Div. of Risk Management  
 Program Category Affected Alaska Power Authority, Division of Risk Management  
 BRU, Program, Or Subprogram(s) Affected \_\_\_\_\_  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		0				
200 TRAVEL		0				
300 CONTRACTUAL		0				
400 COMMODITIES		0				
500 EQUIPMENT		0				
600 LAND & STRUCTURES		0				
700 GRANTS, CLAIMS, ETC.		0				
<b>TOTAL</b>		<b>0</b>				

FUNDING (Thousands of Dollars)

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

POSITIONS

		NONE				
FULL TIME						
PART TIME						
TEMPORARY						

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

IV. DATE 4/17/82 PREPARED BY House Finance Committee

AGENCY \_\_\_\_\_

Original: Legislative Finance PHONE \_\_\_\_\_

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

33-001 (Rev. 12/81)

Al Adams, Chair  
 House Finance Committee

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 831  
 Title An act relating to Insurance Policies and Contracts  
 Requested by Labor and Commerce Committee Date 3/4/82

II. FISCAL DETAIL

Agency Affected: Division of Insurance  
 Program Category Affected Public Protection  
 BRU, Program, Or Subprogram(s) Affected Division Insurance  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	0					
200 TRAVEL	0					
300 CONTRACTUAL	0					
400 COMMODITIES	0					
500 EQUIPMENT	0					
600 LAND & STRUCTURES	0					
700 GRANTS, CLAIMS, ETC.	0					
<b>TOTAL</b>	<b>0</b>					

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	0					
FEDERAL FUNDS	0					
OTHER (Specify Source)	0					

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	0					
PART TIME	0					
TEMPORARY	0					

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

IV. DATE March 15, 1982 PREPARED BY Kenneth C. Moore, Div. of Insurance  
AGENCY Commerce & Economic Development  
 Original: Legislative Finance PHONE 465-2515  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/81)

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A M E N D M E N T

OFFERED IN THE HOUSE:

BY: RULES

TO: amend HOUSE BILL No. \_\_\_\_\_

SENATE BILL No. 834

PAGE: \_\_\_\_\_

LINE: \_\_\_\_\_

Page 1, line 13: Add a new section 2 to read:

\*Sec. 2. AS 08.54.050 is amended by adding a new subsection to read:

(b) The board shall adopt regulations for marine mammal guiding in accordance with this chapter and the Marine Mammal Protection Act of 1972 (P.L. 92-522, 16 U.S.C. Sections 1361-1407), as amended.

Renumber existing section 2 to Sec. 3.

COMMITTEE REPORT

HOUSE

4/14  
Ruler

(7)

FURTHER:

3/31/82

Date: April 13, 1982

Mr. Speaker:

The Committee on RESOURCES has had SR 834

"An Act continuing the existence of the Guide Licensing and Control Board; and providing for an effective date."

under consideration and reports it back as follows:

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

MEMBERS SIGNING  
DO PASS

[Signature]  
Ben Dunsen  
Eric C. Sutchff  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
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MEMBERS HAVING  
OTHER RECOMMENDATIONS:

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

A M E N D M E N T

OFFERED IN THE HOUSE: . BY: RILES  
To: amend HOUSE BILL No. \_\_\_\_\_  
SENATE BILL No. 834  
PAGE: \_\_\_\_\_ LINE: \_\_\_\_\_

Page 1, line 13: Add a new section 2 to read:

\*Sec. 2. AS 08.54.050 is amended by adding a new subsection to read:

(b) The board shall adopt regulations for marine mammal guiding in accordance with this chapter and the Marine Mammal Protection Act of 1972 (P.L. 92-522, 16 U.S.C. Sections 1361-1407), as amended.

Renumber existing section 2 to Sec. 3.

A M E N D M E N T

OFFERED IN THE HOUSE:

By: Hulford

To: \_\_\_\_\_ HOUSE BILL No. \_\_\_\_\_

SENATE BILL No. SB 834

PAGE: 1

LINE: 12

Line 12 delete "1985", insert "1983"

Add new section to read:

Sec 3 AS 08.54.050 is amended to read:

AS 08.54.050 BOARD REGULATIONS. The board shall adopt procedural and substantive regulations, under the Administrative Procedure Act (AS 44.62), [REQUIRED BY THIS CHAPTER, OR REASONABLY NECESSARY FOR ITS ADMINISTRATION.] where there is a clearly demonstrated need for the regulation. Regulations contrary to this section are void.

EXPLANATION OF THE FULLER AMENDMENT

Mr. Speaker, in 1972 the United States Congress enacted the Marine Mammal Protection Act. The Act prohibits all of the coastal states, including the State of Alaska, from managing or regulating the taking of marine mammals within their territorial waters until management authority is returned by the Federal government on a species-by-species, state-by-state basis.

In 1976 Alaska was successful in regaining authority over the management of walrus, but relinquished that authority in 1979 because of difficulties in operating a state management program consistent with the strict requirements of the Federal Act. At this point in time no state is managing or regulating the taking of marine mammals anywhere in the United States.

After its less than successful experience with walrus management, the Alaska Department of Fish and Game determined, and the rest of our state government agreed, that the only way Alaska could expect to regain management authority over marine mammals was to amend the Marine Mammal Protection Act to provide state management programs with more flexibility.

Last October that effort succeeded.

The amendments to the Marine Mammal Protection Act which the Congress passed last year establish a new, simplified procedure for regaining management authority. Section 109 of the Act, as amended, provides the State an opportunity to regain management authority over all marine mammals in Alaska

by submitting a proposed state program for marine mammal management to the Federal government. If the program is consistent with the purposes and policies of the Marine Mammal Protection Act, then it must be approved, and management authority must be returned.

One of the policies of the Act which the State must satisfy before the state program can be approved by the Federal government is the requirement that the State have a statute or regulation which provides the residents of our coastal communities an opportunity to be licensed as marine mammal hunting guides.

Recently, the Guide Licensing and Control Board adopted new regulations which for the first time establish special standards for marine mammal hunting guides. However, there are two problems with the new regulations.

First, A.S. 08.54.010 - .240 may not delegate the Board sufficient statutory authority to adopt special regulations for the licensing of marine mammal hunting guides. This was found to be the case in a similar situation several years ago when the Alaska Department of Fish and Game told the residents of Nekoryuk that they would have an opportunity to be licensed to guide the musk ox hunt on Nunivak Island, but the Guide Board later determined that it did not have the statutory authority to do so.

Second, Alaska cannot apply for the return of management until the Federal government has issued regulations which spell out the details of what the new amendments to the Marine Mammal Protection Act require the state program to contain.

To date these regulations have not been issued, and, consequently, there is no way for knowing for sure what will be required to satisfy the section of the Act relating to the licensing of marine mammal hunting guides.

The amendment which I've introduced this morning/afternoon solves both of these problems by authorizing the Guide Licensing and Control Board to adopt special regulations for the licensing of marine mammal hunting guides pursuant to standards contained in the new amendments to the Marine Mammal Protection Act. This new authority will provide the Board with the flexibility to ensure that the marine mammal guiding issue does not side track, or slow down, our effort to regain our traditional management authority over marine mammals as soon as possible. The reference in my amendment to the Marine Mammal Act itself is particularly important in this regard because, as I've already mentioned, the other provisions of A.S. 08.54 do not, in and of themselves, provide the Board sufficient statutory authority to adopt special regulations for the licensing of marine mammal hunting guides.

Consequently, if my amendment is not adopted, or if the reference to the Marine Mammal Act is deleted, Alaska ironically may find itself in a situation in which for technical reasons it cannot comply with Federal management standards which it participated in developing, and, consequently, the Governor's and the Alaska Department of Fish and Game's three years of work to regain authority over the management of Alaska's walrus, seal, polar bear, sea otter and other marine mammals will have been wasted.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99813  
907-465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 5, 1982

SUBJECT: Marine Mammal Guides  
(Work Order No. 12-2683)

TO: Representative

FROM: Edward H. Hein *EH*  
Legislative Counsel

You have asked whether AS 08.54.045 authorizes the Guide Licensing and Control Board to issue special guide licenses for marine mammal hunts as required by the federal Marine Mammal Protection Act amendments for transfer of management authority to the state. AS 08.54.045, adopted in 1973, does not specifically address the question of marine mammal guides. In fact, no state statute addresses the subject of marine mammal guides. As you have pointed out, this statute provides for the issuance of a special guiding permit only where the guide license applicant is prevented by language barriers from securing a regular guide license.

Read in context with AS 08.54.040 and 08.54.050, the special guiding permit statute arguably could be read to authorize the guide board to issue the marine mammal guide licenses. Under these three statutes the guide board does have authority to regulate guiding in general and to issue guide licenses. However, since these statutes do not specifically address the question, a more prudent course would be to adopt a statute which does specifically provide the requirements set out in the Marine Mammal Protection Act.

EHH:jdn

12 AAC 38 is amended by adding new sections to read:

12 AAC 38.155. MARINE MAMMAL GUIDES. Two guide classifications for marine mammals are established as

- (1) "marine mammal guide permit"; and
- (2) "assistant marine mammal guide permit."

Marine mammals designated by the Alaska Department of Fish and Game include: walrus, polar bear, beluga whale, ribbon seal, sea lion, spotted seal, bearded seal, ringed seal and sea otter. (Eff. / / , Reg. )

Authority: AS 08.54.C40(a)(1),  
(2), (3), and (8)  
AS 08.54.040(6)  
AS 08.54.045  
AS 08.54.050

12 AAC 38.157. APPLICATIONS AND EXAMINATIONS FOR PERMITS. (a) Application for any marine mammal guiding permits must be made at least five months before the examination date on a form provided by the board. The application shall include a list of those guided hunts the applicant has participated in during his apprenticeship. (A provision shall be made for the initial application and examination under these provisions to allow for application prior to April 1, 1982 to be completed without a designated waiting period.)

(b) Examinations may be administered by authorized representatives of the guide board.

(c) Marine mammal guides' and marine mammal assistant guides' examinations will be administered orally using a format provided by the board. A grade of at least 80% is a passing grade. An applicant who fails the examination may not be reexamined for a period of six (6) months after the date he failed an examination.

(d) An applicant for a marine mammal guide permit must supply the following evidence to the board:

(1) is 21 years of age or more;

(2) is a resident of the rural coastal villages of the state in which he is to guide;

(3) has hunted in the state for all or part of each of ten years in accordance with state and federal laws governing the taking of marine mammals and in accordance with state regulations governing subsistence hunting in a manner directly contributing to his experience and competency as a marine mammal guide;

(4) is physically able to perform the services of a guide;

(5) has demonstrated to the board sufficient standards of competence and ethical conduct and has not been convicted of a crime involving moral turpitude; and

(6) has passed the qualification examination prepared and administered by the board or its agent(s), to include knowledge of the following:

(A) Department of Fish and Game laws and regulations and Guide Licensing and Control Board;

(B) relevant characteristics of the specific species of marine mammals to be hunted;

(C) relevant characteristics of the ice, ocean currents, and weather of the area in which the applicant is to guide;

(D) field preparation of trophies;

(E) care of meat;

(F) firearm safety;

(G) practical first aid;

(H) photography; and

(I) booking and contracting.

(e) An assistant marine mammal guide applying for a marine mammal guide permit must supply the following evidence to the board:

(1) that he was licensed as and performed the services of an assistant, class-A assistant, or special assistant marine mammal guide for a part of each of three years; and

(2) submit a written recommendation to the board from a registered, master or marine mammal guide for whom the applicant has worked.

(f) An applicant for an assistant marine mammal guide must supply the following evidence to the board:

(1) is 19 years of age or more;

(2) is a resident of the rural coastal villages of the state in which he is to guide;

(3) has hunted in the state for all or part of each of three years in accordance with state and federal laws governing the taking of marine mammals and in accordance with state regulations governing subsistence hunting in a manner directly contributing to his experience and competency as an assistant marine mammal guide;

(4) is physically able to perform the duties of an assistant marine mammal guide; and

(5) has been recommended in writing by a master guide, registered guide, or marine mammal guide permit holder. (Eff. / / , Reg. )

Authority: AS 08.54.040(a)(1),  
(2), (3), and (8)  
AS 08.54.040(6)  
AS 08.54.045  
AS 08.54.050

12 AAC 38.159. PRIVILEGES AND LIMITATIONS OF MARINE MAMMAL GUIDES. (a) Marine mammal guide permit holder:

(1) may sign statements of remuneration;

(2) shall be limited to one hunter in the field on any one hunt; and

(3) shall be held responsible for those same responsibilities as a master or registered guide under similar conditions.

(b) An assistant marine mammal guide permit holder;

(1) may not contract hunts;

(b) may not conduct a hunt, and shall be under the immediate supervision of a marine mammal guide and/or registered master or Class-A assistant guide by whom he is employed and/or with whom he is working.

Authority: AS 08.54.040(a)(1),  
(2), (3), and (8)  
AS 08.54.040(6)  
AS 08.54.045  
AS 08.54.050

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(1) is 19 years of age or older;

(2) is a resident of the area of the state of which he is to guide;

(3) has legally hunted marine mammals in the state for all or part of each of seven years in a manner directly contributing to his experience and competency as an assistant guide;

(4) is physically able to perform the duties of an assistant marine mammal guide; and

(5) has been recommended in writing by a licensed master guide, registered guide, or marine mammal guide.

(b) An assistant marine mammal guide

(1) may not contract for hunts;

(2) may not conduct a hunt except under the immediate supervision of a marine mammal guide.

\* Sec. 12. AS 08.54.050 is amended by adding a new subsection to read:

(b) The board shall adopt regulations for marine mammal guiding in accordance with this chapter and the Marine Mammal Protection Act Amendment of 1981 (P.L. 97-228).

Renumber subsequent bill sections accordingly.

Page 3, line 28:

Delete "license" and insert "permit"

Page 3, after line 28, insert:

"(6) marine mammal guide license.....25

(7) assistant marine mammal guide license.....10"

## AMENDED TITLE:

AN ACT CONTINUING THE EXISTENCE OF THE GUIDE LICENSING  
AND CONTROL BOARD; AND PROVIDING FOR AN EFFECTIVE DATE

PRIME SPONSOR: SENATE RESOURCES COMMITTEE.

CO-SPONSORS:

CURRENT STATUS: 3/31/82 IN (H) RESOURCES

SB 834 SENATE ACTION

14:09

4/14/82

PAGE

2 OF

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DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/05/82	01	0465	FIRST READING -- COMMITTEE REPORTS
03/30/82	02	0726	RES -- DP05
03/31/82	03	0746	RLS -- OTHER03 TAKEN UP IMMEDIATELY
03/31/82	04	0749	SECOND READING
03/31/82	05	0749	ADVANCED TO 3RD READING BY UNAN CONSENT
03/31/82	06	0749	THIRD READING
03/31/82	07	0749	PASSED BY DIV 19-00-01
03/31/82	08	0750	EFFECTIVE DATE VOTE SAME AS PASSAGE
****	**	**	*** *** ***

SB 834 HOUSE ACTION

14:09

4/14/82

PAGE

3 OF

3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/31/82	09	0993	FIRST READING -- COMMITTEE REPORTS RESOURCES RULES
****	**	**	*** *** ***

S

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8

4

11

COMMITTEE REPORT

5/26  
Rules

HOUSE

(7)

FURTHER:

4/22/82

Date: May 26 1982

Mr. Speaker:

The Committee on JUDICIARY has had CSSB 841 (L&C)

"An Act relating to insurance policy provisions on policy loans and reinstatement of policies; and providing for an effective date."

under consideration and reports it back as follows:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title
- and recommends \_\_\_\_\_  new title
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation *1200 attached*
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

*James H. Barnes*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

*Charles Adams No Rec*  
*Freeman No Rec*  
*POOR REC: No Rec*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*James H. Barnes*  
CHAIRMAN

COMMITTEE REPORT

HOUSE

4/22  
~~4/22~~

FURTHER:

Judiciary

(5)

4/20/82

Date: 4-22-82

Mr. Speaker:

The Committee on Labor & Commerce has had CSSR 841 (L&C)  
"An Act relating to insurance policy provisions on policy loans  
and reinstatement of policies; and providing for an effective date."

under consideration and reports it back as follows:

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

MEMBERS SIGNING  
DO PASS

*B. J. ... - ...*  
 \_\_\_\_\_  
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MEMBERS HAVING  
OTHER RECOMMENDATIONS:

*Terry ... - no rec.*  
*B. J. ...*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*Terry ...*  
 CHAIRMAN

OF COUNSEL  
H. E. MONAGLE

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May 28, 1982

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The Honorable John A. Fuller  
Chairman House Rules Committee  
Pouch V  
Juneau, AK 99811

Re: CS For Senate Bill 841

Dear Representative Fuller:

This bill received several technical amendments in the Senate conforming it to the meaning of the bill recommended for enactment by the National Association of Insurance Commissioners. As amended, the bill was passed by the Senate by a vote of 18-1.

This bill has been before the legislatures of the several states during their 1981 and 1982 sessions. As of May 24, 1982, 32 states have enacted the bill and in three of those states, three of the enactments are awaiting gubernatorial action.

My representation is on behalf of the American Council of Life Insurers which favors its enactment. Generally, the bill if enacted will over a period of time result in an overall cost reduction which will in turn allow the writing of life insurance policies offered at a lower premium or higher dividends. I am also informed most insurers will continue to offer policies containing loan rates of 6%, 8% and variable rates respectively, with the former at higher premiums and the latter with the lowest premiums.

I am also advised that the Division of Insurance has testified in favor of enactment of this bill as amended. A more detailed discussion of the bill follows.

All of us have been aware that in the last two or three years interest rates have fluctuated greatly, but mostly upwards. This is not an isolated occurrence, as there have been surges of interest rates on at least four

The Honorable John A. Fuller  
May 28, 1982  
Page Two

occasions in the past 20 years. It has, however, been an unusually persistent and extreme upward surge, and it has caused a number of distortions and problems throughout the Alaskan and American economies. The Legislature has constantly reviewed the needs of the people of the State with regard to interest rates, and has begun to set maximum rates on a basis which adjusts automatically to known indexes.

One place where high interest rates have caused very substantial problems is in the life insurance industry. In the past several years, borrowings against company funds by a minority of policy holders, at rates which have been held artificially very low by statute, have caused distortions that are bad for the economy, could be dangerous to some companies, and are unfair to the majority policy holders. This letter is intended to introduce you to the problem and sister states.

#### NATURE OF THE PROBLEM

A survey of 15 representative large life insurance companies was conducted as of September, 1981. That survey showed that loans to policy holders at rates of 5%, 6%, and 8% in the month of September alone aggregated over \$750 Million for the 15 companies. This was 9% more than was lent the month before, and 82% more than was lent by the same companies in September of 1980. In 1980, net lendings to policy holders by the same 15 companies totaled nearly \$4 Billion. That was a benefit to the borrowers, of course, but everyone else lost.

The diversion of company funds to very low interest loans to some policy holders is dramatically unfair to those who do not borrow. As one might expect, the heavy borrowing is for the most part done by those policy holders who have very large policies and some degree of financial sophistication. A majority of policy holders do not borrow against their policies, but retain their values for the purposes originally intended, the security of dependents in the case of the death of the insured. Because the diversion of these funds for policy loans means a substantial decrease in earnings as well as liquidity, the companies are unable to lower their premiums or pay higher dividends, and that is an impact that reaches those who do not borrow just as much as it reaches those who do.

The surge of policy loans has also restricted investment capital, at a time when the country is short of capital. To the extent that companies' funds were tied up

in low-rate loans, they have been unable to make the kind of capital investments that they are normally involved in. This, in itself, is a substantial distortion of the economy, since many companies planning plants, office buildings, real estate developments, and other investments have not been able to find alternative sources of funding.

Some companies, faced with an extraordinary and unprecedented demand for policy loan funds, have had to raise funds by sales of securities, often at substantial losses. Some companies have not been able to liquidate enough securities, and have had to borrow at rates up to 20% in order to loan at 5% to 8%. This sort of short term borrowing by life insurance companies is relatively unusual, and obviously cannot be undertaken as a long term practice. Depending upon such factors as long term interest trends and the ability of companies to extricate themselves from long term investments in order to maintain liquidity, this problem could threaten the solvency of some companies.

#### NATURE OF THE SOLUTION

The bill before you, SB 841, ties interest rates on policy loans to a conservative, stable index which is responsive to long term changes in interest rates. That index is Moody's Corporate Bond Average Yield Index. This index would be applicable only to loans against policies which are issued after the effective date of the act, unless a policy holder specifically agrees in writing that the flexible rate will apply to his earlier issued policy. Other provisions protect the policy holder by requiring specific notices of rate changes at appropriate times, and prohibiting unintended lapses of policy coverage because of interest rate changes.

The general approach used in this bill has been used successfully in Canada for over 10 years. Bills substantially identical to the one proposed were enacted in 1981 in 19 states.

In 1980, the Legislature inserted a requirement in the policy loan section that required the Director of Insurance to make a finding that a proposed policy loan rate would result in a benefit to the policy holder of decreased premium or increased dividend before a rate over 6% could be authorized. That protection will still be in the statute, and the companies have no doubt at all that the benefit will be there.

The Honorable John A. Fuller  
May 28, 1982  
Page Four

The bill is supported by life insurance companies of all kinds and sizes, by the American Council of Life Insurance, by the National Association of Life Underwriters, and by the Alaska State Association of Life Underwriters. This last support is noteworthy, since many life underwriters have been dubious about any proposal that could increase policy loan interest rates.

Accompanying this letter are a short memorandum explaining the bill, and a copy of the bill with annotations explaining particular provisions in the context of the overall proposal. A substantial amount of additional information concerning the impacts of the recent borrowing trends on the industry, and studies done in particular states about the impacts on companies in those states is available, and I would be happy to attempt to obtain any further information that you might find helpful.

I appreciate that you have many problems before you that seem to you more immediate and pressing. I would not push this bill in this particular year if we were not convinced of its necessity and fairness. Thank you for your consideration and support.

Sincerely,

ROBERTSON, MONAGLE, EASTAUGH & BRADLEY

  
Michael T. Thomas

For the American Council of Life Insurance

MTT/kmp  
Enclosure

MEMORANDUM IN SUPPORT OF SB 841

PURPOSE OF THE BILL:

To expand the loan interest rate provision in life insurance policies, annuity contracts and fraternal benefit society certificates issued on and after the effective date of the bill to permit the offering of policies containing an adjustable maximum interest rate on policy loans.

SUMMARY OF THE PROVISIONS OF THE BILL:

AS 21.45.080 would be amended to authorize the issuance of policies with adjustable as well as fixed policy loan interest rates and a conforming amendment would be made to AS 21.45.110.

The adjustable provision would set the maximum rate on policy loans by reference to the Monthly Average Corporates yield shown in the Moody's Corporate Bond Yield Averages. The frequency with which the rates could be determined and adjusted would be limited. Provision would be made for increases and decreases in the maximum rate as conditions change. A reduction of the rate would be required when the index declined by 1/2%. Appropriate notices to policyholders of interest rate changes and protection against the termination of policies because of increases in the adjustable rate would be provided. Existing policyholders would be permitted to amend their policies to provide for the adjustable rate.

Any change in interest rate is subject to the requirement placed in the statute in 1980 that the Director of Insurance find that policyholders will benefit from higher dividends or lower premiums.

## HOW THE BILL WORKS:

Companies for competitive and other reasons may continue to issue policies with a fixed interest rate, no more than 8%. The bill will also permit policies to be issued with a fully adjustable policy loan interest rate with the maximum to be set by reference to an external index. This will permit insurers to attempt to equalize yields on policy loans with other investments. While the bill permits flexible rates to meet changing conditions, it contains strict controls. It will allow companies to reduce premiums and increase dividends on future issues of policies which contain an adjustable provision. The bill would be applicable only to policies issued after its effective date but existing policyholders would be able to request that their policies be amended to provide for the adjustable rate.

A number of external indices, based on both short-term and long-term investment yields, were carefully examined for use in setting the maximum interest rate that could be charged on loans against a policy. It was concluded that the most appropriate would be the Monthly Average Corporates yield shown in Moody's Corporate Bond Yield Averages published by Moody's Investors Services, Inc. This index is based on a broad volume of seasoned long term corporate bonds traded in the market place. While it is responsive to changes in the investment market, it is relatively stable and does not swing widely from month to month as do some of the short-term rates. The Moody's series is widely recognized and respected. It has been adopted as the basis for valuation of life insurance policies and annuities by the National Association of Insurance Commissioners. Also, it is readily available to companies, regulators and individuals since the monthly average rates are published by Moody's Investors Service, Inc. in its Bond Survey shortly after the close of each month. Finally, and most importantly, this index corresponds quite closely to the yields available to life insurance companies on new long-term investments.

The bill contains provisions intended to protect the policyholder by means of notice requirements and protection against an unintended lapse in coverage due to the changing nature of the interest rate. Further, where an adjustable rate is used the maximum must go down as well as being permitted to increase when the index changes.

The bill represents a responsible solution to the policy loan problem and will be a major step toward preventing a serious recurrence of the problems which have been created by the existing fixed rate legislation. It reflects a careful balance between providing insurers with as much flexibility as possible to meet their own policy loan interest rate problems in future issues of policies while recognizing that certain safeguards must be included in order to protect policyholders of those policies.

## JUSTIFICATION FOR THE BILL:

### General.

Life insurance policy loans are the only form of borrowing from financial institutions limited by Alaska law to an interest rate of 8%. The difference between the present rates allowed on policies and the highest rates of interest which banks and other lenders have been allowed to charge in recent years has often been substantial. This has caused serious problems for insurers and their policyholders, as well as resulting in a shortage of availability of needed capital.

Tight credit markets and high interest rates have caused a serious policy loan drain on life insurers, now more than \$45 billion, requiring companies to borrow and raise funds by selling securities in depressed markets to fund the abnormal policy loan demand. Further, since normal investment funds have been diverted to policy loans, companies have been made unable to take advantage of higher yields of 10%, 12% and 15%. Consequently, less investment income has become available to benefit all policyholders through either higher dividends or lower premiums or both. Company studies have shown that the largest policy holders are far more likely to borrow on their policies to take advantage of the favorable interest rate differential. Thus, the non-borrowing policyholder has been forced to subsidize the more sophisticated policyholder who borrows on his policy. This forced subsidization is undesirable and should not be permitted to continue in future issues of policies.

New legislation is required to permit companies in future issues of policies to attempt to prevent this serious and periodic drain on cash flow and particularly to balance equities between policyholders who borrow and those who do not.

This bill is intended to be an all inclusive law. It would apply to any form of policy containing a loan provision, such as certificates issued by fraternal benefit societies and certain annuity contracts. It has been approved by the National Association of Insurance Commissioners and 19 states enacted it in 1981. 1/ In 1982 at least 13 more states enacted it.

The bill is also supported by the National Association of Life Underwriters (agents and brokers of life insurance), the Alaska State Association of Life Underwriters, the American Council of Life Insurance, and the Director of Insurance.

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1/ Alabama, Arkansas, California, Connecticut, Florida, Illinois, Indiana, Maine, Massachusetts, Nebraska, Nevada, North Carolina, Ohio, Oregon, Texas, Utah, Virginia, Washington and Wisconsin.

ANNOTATIONS TO POLICY LOAN INTEREST RATE BILL

A. General Discussion

The annotations elaborate on various aspects of the proposed language of the Bill.

The importance of substantial uniformity in enacting the Bill bears special emphasis. It cannot be too strongly urged that any material variation from the language of the Bill, particularly with respect to the index chosen, be carefully considered as to its impact on insurers issuing policies in more than one jurisdiction.

The Bill is intended to be an all inclusive law as to policy loan interest rates in order to achieve uniformity among the states. While some states have statutory specified maximum rates, other states are silent as to the maximum rate but may have usury laws applicable to policy loans. It is anticipated that the entire Bill will be enacted in each state and will replace any statutory language that currently applies to interest rates on policy loans.

B. Specific Discussion

NOTE → The following sections key to the numbers set forth in the copy of the Bill preceding these annotations:

1. The Bill applies only to new policies issued after it is enacted. Thus, it will be some time before policies with indexed maximum interest rates on policy loans will be a substantial portion of any company's business and

have impact on the cash flow problems experienced periodically by reason of unusual policy loan activity. Section (b)(11) of AS 21.45.080, however, will permit the insurer and a holder of an outstanding policy to agree in writing to amend the policy so as to permit the application of provisions in accordance with the Bill.

2. An insurer would be required to include in a policy either an 8% maximum rate provision or an adjustable rate provision with a maximum based on an index. However, nothing in this Bill is intended to prevent an insurer from issuing all policies with an 8% maximum rate provision, all policies with an indexed maximum rate provision or some policies with one and some policies with the other.

3. A two-month period has been established between the time that is used as the monthly base for establishing the indexed rate and the time the adjustable indexed rate is determined and becomes effective. This two-month period is intended to give the insurer the necessary time in which to determine the actual rate to be charged at or below the maximum indexed rate as well as the time to notify policyholders with existing loans of any change in the rate reasonably in advance as required by subsection (c). Thus, for example, the monthly average for October is published by Moody's during the early part of November. An insurer during the remainder of November could determine the rate

that will be charged as of January 1 and take the administrative steps necessary to notify policyholders of any increase in the rate. Notices could be mailed on December 1 along with the premium notice or the policy loan or dividend statement. The rate would then become effective on January 1 as to all outstanding and new loans on or after that date.

4. This subsection provides for a floor under the indexed maximum rate approach, that is, a minimum on the maximum rate. Thus, whenever the index falls below the specified rate, the floor would apply. A minimum was considered necessary to ensure that the maximum policy loan interest rate would never be lower than the interest rate used to compute the policy's nonforfeiture values. In effect, the life insurer should, as a minimum, be able to charge an interest rate that is equivalent to the rate of interest earned by the policyholder on his policy's cash surrender values. This protects the insurer's solvency. An additional 1% has been added to the rate used to compute the nonforfeiture value in order to cover administrative expenses.

5. A policy issued with the indexed maximum rate provision must state how often the interest rate on policy loans may be changed by the company. That is, it must state whether the rate is to be determined quarterly, semiannually or annually.

6. The rate of interest on policy loans under the indexed maximum rate provision may be determined as often as every three months but must be determined by the insurer at least once a year. This permits flexibility so that each life insurer may choose a frequency of change compatible with the company's manner of doing business. The frequency with which a company intends to determine the interest rate is required to be included in the policy.

For example, if a company chose to determine interest rates once a year, it could do so by calendar or fiscal years or by policy anniversary dates. If a company chose to determine interest rates on a calendar year basis, the new rate, based on the average for October, would apply to loans outstanding or taken out on or after January 1 and would be in effect for the entire year. If policy anniversary dates were chosen, the company could establish a new rate every month for policies with anniversaries in that month and the new rate would continue for such policies until the next anniversary date. Thus, for such a company there could be twelve different rates set by reference to the indexed maximum but only one rate would apply to a particular policy from one anniversary to the next anniversary.

If a company chose to determine interest rates quarterly, it could do so on a calendar basis or by policy

anniversary dates. Thus, for example, a company could increase or decrease the interest rate as of January 1, April 1, July 1, and October 1 or at three month intervals during a policy year. The increase or decrease would be based on the index for the month ending two months would be October, January, April, and July, respectively. Rate changes would apply to all outstanding loans and new loans made after the effective date of the change but prior to the effective date of the next change.

7. Companies may increase their interest rate if the Moody's index is  $1/2$  of 1% or more above the rate actually being charged. Of course, a company is not required to increase the rate and may decide to keep the rate being charged well below the maximum permissible rate. This provision will prevent companies from changing the interest rate for insignificant amounts.

8. Companies are required to decrease the interest rate at the same frequency interval as they can increase the rate under the provisions of the policy whenever the indexed maximum rate is  $1/2$  of 1% or more below the rate actually being charged at that time. Thus, this subsection requires timely decreases in the rate as the index drops but is tempered by the  $1/2$  of 1% factor in order to avoid reducing the rate for an insignificant amount.

9. Provisions for notice have been established in order to protect the policyholder. Notice of the currently effective interest rate, whether the 8% maximum or indexed maximum is used, must be given at the time a cash loan is made. Advance notice of any increase in the policy loan interest rate must also be given to policyholders with outstanding loans affected by the increase. No advance notice is required of a decrease in the rate. Since it is not possible to provide advance notice with respect to automatic premium loans, notice should be given as soon as is reasonably practical after the rate is increased. Finally, all notices sent to policyholders must state the type of rate being used, that is, a maximum of 8% or the indexed maximum, and the frequency with which the company may change the variable rate.

10. Since, in many instances, it is impossible to tell in advance the amount of interest to be paid on a loan because of the flexible nature of the interest rate, there is the possibility, in situations where a maximum loan is taken, that a policy might lapse because of an increase in the interest rates. In order to avoid this possibility, the section now provides that a policy will not lapse during the policy year solely as a result of an increase in the interest rate during that policy year. The insurer must maintain coverage during that policy year until the time the

coverage would have terminated had the interest rate not been increased during that policy year. In other words, under these circumstances, the insurer must maintain coverage until the earlier of (1) the end of the policy year or (2) the time coverage would have terminated had the interest rate not been increased during the policy year. This provision along with the advance notice requirement gives the policyholder time to make sufficient payments to prevent termination of coverage.

11. The interest rate permitted on the reinstatement of policy loans for the period during and after the lapse of the policy shall be the same interest rate applicable to policy loans. This avoids the administrative complications that would ensue if a different rate were applicable to reinstatements of policy loans. However, interest on past due premiums would not be affected.

12. Since the Bill is intended as an all inclusive law as to policy loan interest rates, its provisions would be applicable to certificates issued by fraternal benefit societies. In almost all states they are governed by a separate code. The commercial insurance laws do not apply unless fraternal benefit societies are specifically mentioned. The provisions of the Bill are also applicable to annuity contracts when loans are provided for by such contracts.

13. Automatic premium loans are to be treated in the same manner as cash loans on a policy and would be subject to the same interest rate.

14. The Moody's Corporate Bond Yield Average - Monthly average Corporates was chosen as the index because it generally corresponds to the rates available to insurers on new long-term investments and consequently, its use promotes equity between policyholders who do borrow and those who do not. It is generally a smooth and stable long-term rate not subject to the volatile highs and lows from month to month of the various short-term rates. Nevertheless, it is responsive to the changing interest rates in the economy. Another factor in choosing this particular index is that it is the index adopted by the NAIC for its Model Standard Valuation and Nonforfeiture laws. Moreover, it is widely recognized and readily available. The monthly average is published by Moody's Investors Service, Inc. within a few days of the close of the calendar month. Thus, a policyholder or regulator could readily determine the maximum policy loan interest rates at any given moment.

15. Although Moody's Investors Service, Inc. has published the Corporate Bond Yield Average - Monthly Average Corporates for many years, this provision permits a similar index to be substituted in the event that Moody's or any successor thereto no longer publishes this particular index.

A substitute must be promulgated by the Director of Insurance in a regulation which would promote greater uniformity than a state by state determination and would also have a more permanent effect.

16. This section makes it clear that policies in existence prior to the effective date of the Bill could be amended, with the written agreement of the policyholder, to include the provision of the Bill.

17. The only change made in this section is a reference to the provisions of the loan interest provisions for computation of the amount to be paid on reinstatement.

POLICY LOAN BILL ENACTMENTS

(As of 5/21/82)

Alabama	North Carolina
Arizona	North Dakota
Arkansas	Ohio
California	Oklahoma
Colorado	Oregon
Connecticut	Pennsylvania
Florida	Rhode Island
Idaho	South Dakota
Illinois	Tennessee
Indiana	Texas
Kansas	Utah
Maine	Vermont
Massachusetts	Virginia
Nebraska	Washington
Nevada	Wisconsin

5/24/82

32 ENACTMENTS

3 Pending gubernatorial Action

AMENDED TITLE: CSSB 841(L&C)  
AN ACT RELATING TO INSURANCE POLICY PROVISIONS ON POLICY  
LOANS AND REINSTATEMENT OF POLICIES;  
AND PROVIDING FOR AN EFFECTIVE DATE

PRIME SPONSOR: SENATE LABOR&COMM COMMITTEE.

CO-SPONSORS:

CURRENT STATUS: 5/26/82 IN (H) RULES

SB 841 SENATE ACTION

11:02 5/27/82 PAGE 2 OF 3

DATE SEQ PAGE

LEGISLATIVE ACTION

03/08/82 01 0430 FIRST READING -- COMMITTEE REPORTS  
04/08/82 02 0838 L&C -- CS03, NR02  
04/14/82 03 0914 MOVED FROM JUD TO RLS BY UNAN CONSENT  
04/20/82 04 0965 RLS -- OTHER04  
TAKEN UP IMMEDIATELY  
04/20/82 05 0971 SECOND READING  
04/20/82 06 0971 L&C CS ADOPTED BY UNAN CONSENT  
04/20/82 07 0971 ADVANCED TO 3RD READING BY UNAN CONSENT  
04/20/82 08 0971 THIRD READING  
04/20/82 09 0971 PASSED BY DIV 19-01-00  
04/20/82 10 0972 EFFECTIVE DATE VOTE SAME AS PASSAGE

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SB 841 HOUSE ACTION

11:02 5/27/82 PAGE 3 OF 3

DATE SEQ PAGE

LEGISLATIVE ACTION

04/20/82 11 1439 FIRST READING -- COMMITTEE REPORTS  
04/22/82 12 1498 L&C -- DP01, NR02  
05/26/82 13 2058 JUD -- DP01, NR03  
05/26/82 14 2058 F/NOTE EQUALS ZERO  
RULES  
RULES

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THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSSB 841 (L&C)

Title An act relating to insurance policy provisions or policy loans &

Requested by LEDOI and Commerce Committee Date 4/0/82

reinstatement of policies; & providing for an effective date.

II. FISCAL DETAIL

Agency Affected Division of Insurance

Program Category Affected Public Protection

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

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

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	0					
200 TRAVEL	0					
300 CONTRACTUAL	0					
400 COMMODITIES	0					
500 EQUIPMENT	0					
600 LAND & STRUCTURES	0					
700 GRANTS, CLAIMS, ETC.	0					
TOTAL	0					

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME	0					
PART TIME	0					
TEMPORARY	0					

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

IV. DATE May 24, 1982

PREPARED BY Kenneth C. Moore, Div. of Insurance  
AGENCY Commerce & Economic Development

Original: Legislative Finance

PHONE 400-2010

cc: Budget and Management

Prime Sponsor (First Legislator Named)

88-001 (Rev. 12/81)

Life Insurance  
Policy Loans  
(interest rate  
& reinstatement)

SENATE BILL NO. 841 by the Labor and Commerce Committee by Request. Permits a maximum interest rate of eight percent on life insurance policy loans issued after June 30, 1982. Would permit an adjustable maximum interest rate (may not exceed the higher of the published monthly average for the calendar month ending two months before the date on which the rate is determined, or the rate used to compute cash surrender values under the policy during the applicable period plus one percentage point).

When using the sliding rate the policy is to contain a provision that states times for adjustment of interest (at least once a year, but not more than once every three months). The rate of interest may be increased if the published monthly average increases by one-half percent or more and it must be reduced if the published monthly average drops by one-half percent or more. The insurer is to notify the policy-holder of the initial rate of interest on loans at the time the loan is made; notify the policyholder who obtains a premium loan of the initial rate of interest on the loan as soon as it is reasonably possible to do so after making the loan (notice does not have to be given when a second or subsequent premium loan is added); send reasonable advance notice of any increase in the rate to a policyholder who has a policy loan; and include any other relevant information on adjustment of interest rates. A policy may not be terminated in a policy year because the interest rate has changed during that year.

Amends provisions relating to reinstatement of the policy to reflect the changes in interest rates outlined above. Provides Act takes effect July 1, 1982.

Introduced March 8 and referred to Labor & Commerce, then to Judiciary.

Life Insurance  
Policy Loans  
(interest  
rate & reinstatement)

SENATE BILL NO. 841, (see page 401). Reported back to the Senate April 8 by Labor and Commerce with a majority recommending it be replaced with a substitute and that it do pass. The report was signed by Senator Mulcahy, Chairman and concurred in by Senators Fahrenkamp and Ziegler. Senators Anderson and Rodey had no recommendation. To Judiciary.

The Labor & Commerce substitute adds language providing the required interest rates apply only to policies issued before June 30, 1982 (was July 1, 1982). Provides a policy issued on or after July 1, 1982 shall have a provision specifying an interest rate on a policy loan not to exceed eight percent a year, or a provision permitting an adjustable maximum interest rate (the original bill provided a policy issued after June 30, 1982 shall have a provision permitting a maximum interest rate on a policy loan of eight percent a year).

Provides the adjustable maximum rate may not exceed the rate used to compute cash surrender values under the policy during the applicable period plus one-twelfth of a percentage point multiplied by the number of months in the applicable period (was one percentage point). Adds language stating if the interest rate changes, the insurer shall maintain coverage during the policy year until the date on which the policy would have terminated if the interest rate had not changed.

Life Insurance ~~SENATE BILL NO. 841~~ (see pages 401;628). On April 14 the  
Policy Loans Judiciary referral was waived. To Rules.  
(int. rate &  
reinstatement)

Life Insurance COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 841 (L&C), (see  
Policy Loans pages 401;628;687). On April 20 the Labor & Commerce substi-  
(int. rates & tute was adopted (see page 628) and the bill passed the Senate,  
reinstatmt.) 19-1. Nay: Ray. The effective date clause was adopted.

Life Insurance COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 841 (L&C) (see pp.  
Policy Loans 401;628;687;751). Received in the House on April 20 and  
(int. rate & referred to Labor & Commerce and Judiciary.  
reinstatement)

Life Ins. COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 841 (L&C), (see pp.  
Policy Loans 401;628;687). Reported back to the House on April 22 by  
(int. rate & Labor & Commerce with the committee recommending as follows:  
reinstatement) Martin (Chmn.) and Bylsma signed no recommendation; Randolph  
signed do pass. To Judiciary.

Cal Calvin

SB 841

Variable interest rate <sup>Many Amm  
co. ch, log. Helsus  
inter.</sup>

small, vocal core against it,  
but state organization is in  
favor of it. life insurance  
industry

nat'l. industry supporting  
it - passed in 38 states

need it w/ these high interest  
rates - let it vary w/ the  
economy.

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SENATE AMENDMENT #4

BY PARR

To: CS SENATE BILL No. 842 (Finance)

To: \_\_\_\_\_ HOUSE BILL No. \_\_\_\_\_

PAGE:            LINE:

Page 1, line 16: Delete "six" and insert "twelve"

Page 3, line 5: Delete "six" and insert "twelve"

*Admitted*

COMMITTEE REPORT

HOUSE

4/13/82

5/14

(11)

FURTHER:

Rule

Date:

5/12/82

(Engrossment waived.  
Certified amendments  
attached)

Mr. Speaker:

The Committee on FINANCE has had CSSB 842(Fin) am

"An Act providing for permanent fund dividends; eff date."

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

- do pass  do not pass
- do pass with attached amendments(s)
- replace with <sup>H</sup>CS for CSSB 842(FIN)  same title  new title
- and recommends without recommendation
- AND attaches a "Letter of Intent"  New Fiscal Note (4)
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING

DO PASS

[Signature]

[Signature]

[Signature]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

MEMBERS HAVING

OTHER RECOMMENDATIONS:

Naugen - no rec

Y.P. [Signature] No Rec.

Jack Fuller No Rec

Montgomery - No Rec

Scott Carter No Rec

[Signature]  
CHAIRMAN

COMMITTEE REPORT

HOUSE

FURTHER:

(5)

Date: May 19, 1982

Mr. Speaker:

The Committee on RULES has had CSSB 842(Fin) am

"An Act providing for permanent fund dividends; and providing for an effective date."

under consideration and reports it back as follows:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with <sup>H</sup>CS for CSSB 842(Rls)  same title
- new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

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CHAIRMAN

A M E N D M E N T

OFFERED IN THE HOUSE:

BY: FULLER

To: \_\_\_\_\_ HOUSE BILL No. \_\_\_\_\_

HCS SENATE BILL No. 842(Fir)

PAGE: \_\_\_\_\_

LINE: \_\_\_\_\_

Page 18, line 16:

Delete "6, 7, 9, and 13 of this Act"

Insert "6, 7, 9, 13, and 14 of this Act"

Page 19, line 6:

Delete "2 - 5"

Insert "2 - 5 and 14"

Page 19, line 8:

Delete "8, 10 - 12, and 14 - 17"

Insert "8, 10 - 12, and 15 - 17"

Page 19, line 17:

Delete "2 - 5, and 23 - 25"

Insert "2 - 5, 14, 23, and 25"

Page 19, line 28:

Delete "6 - 18, 20, 21, and 26"

Insert "6 - 13, 15 - 18, 20, 21, 24, and 26"

Although my amendment looks long, actually it just makes technical changes in the effective date clauses, correcting an oversight made when the finance version was drawn up. The Rules Committee held a hearing on this bill, at which time these changes along with an amended trigger date were discussed. The package as a whole was not adopted by the committee, but it is important to insert this clean-up language and therefore I move and ask unanimous consent for adoption of the amendment. The representative from Kenai can provide a detailed analysis of the bill.

CSSB 842(Fin) am "An Act providing for permanent fund dividends,  
and providing for an effective date."

The proposed amendments are recommended by the people working most closely on the bill: Rep. Malone, Susan Burke of the Attorney General's office, and Clif Groh of Rep. Gardiner's staff. They include technical amendmments on effective dates as well as an earlier trigger date if the Supreme Court has not issued an early decision.

Rep. Malone, Susan Burke and Clif Groh are available to testify and/or answer any questions.



# Alaska State Legislature

## House of Representatives

Official Business

Pouch V  
State Capitol  
Juneau, Alaska 99811

### MEMORANDUM

TO: Billy Berrier, Legal Services

FROM: Clifford John Gronhauff *Cliff*

DATE: 18 May 1982

SUBJECT: Rules CS for House CS for CS for SB 842 (Finance)

Please draft a substitute for the Rules Committee for this bill with these amendments:

1. Page 18, line 16:  
Delete "6, 7, 9, and 13 of the Act"  
Insert "6, 7, 9, 13, and 14 of this Act"
2. Page 19, line 6:  
Delete "2 - 5"  
Insert "2 - 5 and 14"
3. Page 19, line 8:  
Delete "8, 10 - 12, and 14 - 17"  
Insert "8, 10 - 12, and 15 - 17"
4. Page 19, line 17:  
Delete "2 - 5, and 23 - 25"  
Insert "2 - 5, 14, 23, and 25"
5. Page 19, line 28:  
Delete "6 - 18, 20, 21, and 26"  
Insert "6 - 13, 15 - 18, 20, 21, 24, and 26"
6. Page 20, line 3:  
Delete "October 19, 1982,"  
Insert "July 15, 1982,"
7. Page 18, line 20:  
Delete "October 19, 1982,"  
Insert "July 15, 1982,"



# Alaska State Legislature

## House of Representatives

Official Business

Pouch V  
State Capitol  
Juneau, Alaska 99811

### MEMORANDUM

TO: Billy Berrier, Legal Services

FROM: Clifford John Cron *Cliff* Staff

DATE: 18 May 1982

SUBJECT: Rules CS for House CS for CS for SB 842 (Finance)

Please draft a substitute for the Rules Committee for this bill with these amendments:

1. Page 18, line 16:  
Delete "6, 7, 9, and 13 of the Act"  
Insert "6, 7, 9, 13, and 14 of this Act"
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Delete "2 - 5"  
Insert "2 - 5 and 14"
3. Page 19, line 8:  
Delete "8, 10 - 12, and 14 - 17"  
Insert "8, 10 - 12, and 15 - 17"
4. Page 19, line 17:  
Delete "2 - 5, and 23 - 25"  
Insert "2 - 5, 14, 23, and 25"
5. Page 19, line 28:  
Delete "6 - 18, 20, 21, and 26"  
Insert "6 - 13, 15 - 18, 20, 21, 24, and 26"
6. Page 20, line 3:  
Delete "October 19, 1982,"  
Insert "July 15, 1982,"
7. Page 18, line 20:  
Delete "October 19, 1982,"  
Insert "July 15, 1982,"

1 1982, notwithstanding any contrary provisions of AS 43.23 and notwithstanding  
2 the fact that those provisions may not be enacted into law before the effective  
3 date of this section.

4 (g) Income of the Alaska permanent fund for fiscal year 1982 transferred  
5 to the dividend fund may not be used for payment of permanent fund dividends  
6 during 1982, but must remain in the dividend fund and be used for payment of  
7 permanent fund dividends during 1983 along with the fiscal year 1983 earnings  
8 of the Alaska permanent fund transferred to the dividend fund.

9 (h) The permanent fund dividend distribution under this section is in  
10 place of any distribution under AS 43.23 for the years 1979 - 1981.

11 \* Sec. 20. Section 4, ch. 21, SLA 1980, is repealed.

12 \* Sec. 21. AS 43.23.010(d) and 43.23.050(c) are repealed.

13 \* Sec. 22. AS 43.23.010, 43.23.014, 43.23.020, 43.23.030, 43.23.040,  
14 43.23.050, 43.23.060, 43.23.070, 43.23.080, 43.23.090, and 43.23.100 are re-  
15 pealed.

16 \* Sec. 23. Sections 6, 7, 9, <sup>and 14</sup> <sub>and</sub> 13 <sup>this</sup> of the Act are repealed.

17 \* Sec. 24. (a) This section applies only to the determination of the  
18 value of a permanent fund dividend to be paid in 1983 and applies only if  
19 permanent fund dividends are distributed under sec. 19 of this Act on or  
20 after October 19, 1982, and if, after that date, the United States Supreme  
21 Court decides that AS 43.23.010 is valid.

22 (b) Notwithstanding any contrary provisions of AS 43.23.030, by  
23 December 1, 1982, the commissioner of revenue shall give public notice of the  
24 value of each permanent fund dividend to be paid in 1983. The commissioner  
25 shall determine that value by

26 (1) determining the amount of income of the Alaska permanent fund  
27 for fiscal year 1982 and fiscal year 1983 transferred to the dividend fund  
28 under AS 43.23.050(b);

29 (2) determining the number of permanent fund dividends that would

1 have been paid during 1982 if sec. 19 of this Act had not taken effect and an  
2 estimate of the number of permanent fund dividends for a prior year under  
3 AS 43.23.014; and

4 (3) dividing the amount determined in (1) of this subsection by  
5 the amount determined in (2) of this subsection.

6 \* Sec. 25. If secs. 2 - 5<sup>and 14</sup> of this Act take effect under the provisions of  
7 sec. 27 of this Act, then all other provisions of AS 43.23, as enacted in  
8 ch. 21, SLA 1980 and as amended in secs. 8, 10 - 12, and <sup>2, 15</sup>14 - 17 of this Act,  
9 remain in effect.

10 \* Sec. 26. Notwithstanding the provisions of AS 43.23.014(c), enacted in  
11 sec. 6 of this Act, which require an individual to file an application for  
12 prior year permanent fund dividends within one year after reaching 18 years  
13 of age, an individual may file a claim during 1983 for permanent fund divi-  
14 dends for all prior years for which the individual is eligible if that  
15 individual has turned 18 years of age on or before the last day for filing an  
16 application during 1983.

17 \* Sec. 27. Sections 2 - 5, <sup>14,</sup> and <sup>23,</sup> 25 of this Act take effect 60 days  
18 after the date that the United States Supreme Court decides that AS 43.23.010  
19 is invalid but also decides that AS 43.23.010 would not violate the United  
20 States Constitution if the amount of a permanent fund dividend were deter-  
21 mined by accumulated years of residency in the state beginning on or after  
22 January 1, 1979.

23 \* Sec. 28. Sections 1 and 22 of this Act take effect 60 days after the  
24 date that the United States Supreme Court decides that AS 43.23.010 is in-  
25 valid because the amount of a permanent fund dividend is determined by accu-  
26 mulated years of residency in the state whether those years are counted  
27 before or after January 1, 1979.

28 \* Sec. 29. Sections <sup>-13, 15</sup>6 - 18, 20, 21, <sup>24, and</sup> ~~25~~ 26 of this Act take effect  
29 immediately in accordance with AS 01.10.070(c).

A M E N D M E N T

#1

Offered in the SENATE

By Fischer

TO: CSSB 842(Finance)

Page 7, lines 4 - 8:

Delete all material and insert the following:

Sec. 43.23.085. ELIGIBILITY FOR PUBLIC ASSISTANCE. (a) In determining the eligibility of an individual under a public assistance program administered by the Department of Health and Social Services in which eligibility for assistance is based on financial need, the Department of Health and Social Services may not consider a permanent fund dividend as income or resources for the month the dividend was received by the recipient of public assistance unless required to do so by federal law or regulation. The Department of Health and Social Services shall notify all recipients of public assistance of the effects of receiving a permanent fund dividend.

(b) An individual who is denied medical assistance under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq) solely because of the receipt of a permanent fund dividend is eligible for state-funded medical assistance under the general relief assistance program (AS 47.25.120 - 47.25.300). The individual shall receive the same level of medical assistance as the individual would have received under Title XIX of the federal Social Security Act had there been no permanent fund dividend program.

*Amthl  
adv. w. c.*

(c) An individual who is denied assistance because permanent fund dividends are counted as income or resources under federal law or regulation is eligible for cash assistance under the general relief assistance program (AS 47.25.120 - 47.25.300). Notwithstanding the limit in AS 47.25.130, the individual shall receive the same amount as the individual would have received under other public assistance programs had there been no permanent fund dividend program.

Page 11, following line 18:

Insert the following:

\* Sec. 8. AS 43.23 is amended by adding a new section to read:

Sec. 43.23.087. ELIGIBILITY FOR PUBLIC ASSISTANCE. (a) In determining the eligibility of an individual under a public assistance program administered by the Department of Health and Social Services and in which eligibility for assistance is based on financial need, the Department of Health and Social Services may not consider a permanent fund dividend as income or resources for the month the dividend was received by the recipient of public assistance unless required to do so by federal law or regulation. The Department of Health and Social Services shall notify all recipients of public assistance of the effects of receiving a permanent fund dividend.

(b) An individual who is denied medical assistance under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq) solely because of the receipt of a permanent fund dividend is eligible for state-funded medical assistance under the general relief assistance

program (AS 47.25.120 - 47.25.300). The individual shall receive the same level of medical assistance as the individual would have received under Title XIX of the federal Social Security Act had there been no permanent fund dividend program.

(c) An individual who is denied assistance because permanent fund dividends are counted as income or resources under federal law or regulation is eligible for cash assistance under the general relief assistance program (AS 47.25.120 - 47.25.300). Notwithstanding the limit in AS 47.25.130, the individual shall receive the same amount as the individual would have received under other public assistance programs had there been no permanent fund dividend program.

Renumber subsequent bill sections.

Page 13, line 23:

Delete "11" and insert "1"

Page 13, line 28:

Delete "9, 10, 12, and 13" and insert "10, 11, 13, and 14"

Page 14, line 1:

Delete "8" and insert "9"

A M E N D M E N T

Offered in the SENATE

By Fischer

TO: CSSB 842 (Finance)

Page 7, following line 8, insert the following:

Sec. 43.23.086. ELIGIBILITY FOR STATE PROGRAMS. No program administered by the state or any of its instrumentalities or municipalities, the eligibility for which is based on financial need, shall consider a permanent fund dividend as income or resources unless required to do so by federal law or regulator.

Page 11, following line 17, insert the following:

\* Sec. 8. AS 43.23.080 is repealed and reenacted to read:

Sec. 43.23.080. ELIGIBILITY FOR STATE PROGRAMS. No program administered by the state or any of its instrumentalities or municipalities, the eligibility for which is based on financial need, shall consider a permanent fund dividend as income or resources unless required to do so by federal law or regulation

Renumber subsequent bill sections

*W.C.*

Page 13, line 23:

Delete "11" and insert "12"

Page 13, line 28:

Delete "9, 10, 12, and 13" and insert "10, 11, 13, and 14"

Page 14, line 1:

Delete "8" and insert "9"

A M E N D M E N T

Offered in the SENATE

By Fischer

TO: CSSB 842 (Finance)

Page 11, following line 17: insert the following:

\* Sec. 8. AS 43.23.070 is amended by adding a new subsection to read:

(d) No exemption is available under this section for permanent fund dividends taken to satisfy child support obligations required by court order.

Renumber subsequent bill sections

Page 13, line 23:

Delete "11" and insert "12"

Page 13, line 28:

Delete "9, 10, 12, and 13" and insert "10, 11, 13, and 14"

Page 14, line 1:

Delete "8" and insert "9"

*W. C.*

Jack

Would you  
be willing to  
discuss this  
(SB 842 - PF DIVIDENDS)  
with Susan Burke  
& Cliff Groh?

Hugh

<sup>SB 842</sup>  
Hugh - (I'll check - he probably  
will if Halford, Malone, Gavelup  
recommend it)  
Susan Burke ~~is~~ wants to  
know if Fuller will accept  
a Rule substitute for SB 842 which  
fixes up technical problems with EDs  
& (maybe) brings in earlier trigger  
date. v.2 all agree we don't want any  
floor audits. if we can afford them.  
Will you talk to Fuller about (1) calendaring  
(2) substitute? How are votes going? Cliff

S

B

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COMMITTEE REPORT

HOUSE

4/21  
Rules

(11)

FURTHER:

4/21/82

Date: 4-21-82

Mr. Speaker:

The Committee on Finance has had CSSB 843 (Res)

"An Act relating to surface coal mining and the surface effects of underground coal mining; and providing for an effective date."

under consideration and reports it back as follows:

do pass  do not pass

do pass with attached amendments(s)

~~replace~~ replace with CS for ~~SA 843~~ ~~SA 843~~  same title new title

and recommends ~~do pass~~

AND attaches a "Letter of Intent"  ~~Has~~ Fiscal Note

reports it back without recommendation

565.9 FY 83  
SUPP # 47

referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

Hawkins  
R. B. Whitworth  
Shelton  
J. H. H. H.  
Sen. [unclear]  
Russ Melkins  
Jack Fuller  
[unclear]

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

[unclear] - NO REC  
Albert R. [unclear] - NO REC

Albert R. [unclear]  
CHAIRMAN

COMMITTEE REPORT

4/20

HOUSE

FURTHER: Finance

(7)

4/15/82

Date: April 20, 1982

Mr. Speaker:

The Committee on Resources has had CSSB 843 (Res)

"An Act relating to surface coal mining and the surface effects of underground coal mining; and providing for an effective date."

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

- do pass ~~do not pass~~
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title  new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  No. Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING DO PASS

Rick Hallard

T. Barnes

D. Starnes

Bill Carson

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

MEMBERS HAVING OTHER RECOMMENDATIONS:

Ben [unclear] (no Rec)

Eric B. Sutcliffe (no Rec)

Anthony Vasta (no Rec)

\_\_\_\_\_

\_\_\_\_\_

Ken Starnes

CO-CHAIRMAN

SB 843 TITLE & SPONSOR SUMMARY

17 06 4/21/82 PAGE 1 OF 3

AMENDED TITLE: CSSB 843(RES)

AN ACT RELATING TO SURFACE COAL MINING AND THE SURFACE EFFECTS OF UNDERGROUND COAL MINING, AND PROVIDING FOR AN EFFECTIVE DATE

PRIME SPONSOR: SENATE RULES COMMITTEE. GENERAL DOLLARS: \$161,900 (F. NOTE)

OTHER DOLLARS: \$402,000

CO-SPONSORS:

CURRENT STATUS 4/15/82 IN (H) RESOURCES REFERRAL FINANCE  
 SB 843 SENATE ACTION 17 07 4/21/82 PAGE 2 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/09/82	01	0499	FIRST READING -- COMMITTEE REPORTS
03/09/82	02	0499	GOV TRANSMITTAL LETTER
03/09/82	03	0499	F/NOTE&SECTIONAL ANALYSIS SEN SUPPL#14
04/01/82	04	0761	RES -- CS05, NR01
04/13/82	05	0877	FIN -- RES CS03, NR03
04/14/82	06	0899	RLS -- OTHER03 TAKEN UP IMMEDIATELY
04/14/82	07	0908	SECOND READING
04/14/82	08	0909	RES CS ADOPTED BY UNAN CONSENT
04/14/82	09	0909	ADVANCED TO 3RD READING BY UNAN CONSENT
04/14/82	10	0909	THIRD READING
04/14/82	11	0909	PASSED BY DIV 18 00-02
04/14/82	12	0909	SECS 6,7,&8 SAME AS PASSAGE
***	**	**	*** ** *

SB 843 HOUSE ACTION 17 07 4/21/82 PAGE 3 OF 3  
 LEGISLATIVE ACTION

04/15/82	13	1292	FIRST READING -- COMMITTEE REPORTS RESOURCES FINANCE RULES
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\*\*\* \*\* \*\* \*\* \*\*

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST  
 Bill/Resolution No. CFSB 843(Res) Page 1 of 2  
 Title Alaska Surface Coal Mining Control and Reclamation Act  
 Requested by \_\_\_\_\_ Date \_\_\_\_\_

II. FISCAL DETAIL  
 Agency Affected Department of Natural Resources  
 Program Category Affected Management of Mineral Resources  
 BRU, Program, Or Subprogram(s) Affected Mineral Development  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		157.1	157.1	200.2	200.2	200.2
200 TRAVEL		19.8	20.9	42.1	49.5	54.5
300 CONTRACTUAL		375.0	490.3	393.3	428.7	467.3
400 COMMODITIES		1.0	1.1	1.5	1.6	1.8
500 EQUIPMENT		13.0	10.0	3.8	3.0	3.0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		565.9	679.4	642.3	684.4	728.2

FUNDING (Thousands of Dollars)

GENERAL FUND		161.0	200.0	100.7	200.6	213.0
FEDERAL FUNDS		402.0	477.6	449.6	479.8	513.2
OTHER (Specify Source)						

POSITIONS

FULL TIME		4	4	5	5	5
PART TIME						
TEMPORARY						

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

See Attachment

IV. DATE 2/8/82 PREPARED BY Jeff Haynes  
 AGENCY Natural Resources  
 PHONE 465-2400  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/81)

### III. ANALYSIS

This note assumes that a regulatory program is approved by the Secretary of the Interior and becomes effective on 12-31-82.

#### A. Personal Services

The program will require 4 positions at its inception: Geologist IV, Env. Engineer III, Land Management Officer II and Clerk-Typist III. An additional Scientist/Engineer II position is projected for FY 85 and beyond due to additional coal operations projected in the state at that time.

The Geologist will be the manager of the surface mining regulatory program. He will supervise contracts for review of permit applications, abandoned mine lands work, small operator assistance, etc.; make initial departmental decisions or recommendations on permit applications, bond release, enforcement actions, petitions to designate lands unsuitable, etc. The Env. Engineer will be the primary inspector under the program, as well as assisting and complementing the Geologist in the tasks enumerated above. When additional operations come on line (projected in FY 85), an additional engineer/scientist will be required to meet the inspection workload. The duties of the Land Management Officer will focus on compliance with public notice and public participation requirements, record keeping, and general review and response regarding different new responsibilities of the Department under this program (i.e., reviewing exploration permits and/or notice of intent). The Clerk-Typist will provide secretarial support.

#### B. Travel

The travel budget is composed largely of field inspections and field visits to coal development sites. Other travel funds would be spent on required meetings with operators and members of the public and other agency officials, and public hearings. There would also be investigation of potential abandoned mine reclamation and small operator assistance sites.

#### C. Contractual

The contractual category includes the abandoned mine land program development and projects (all federally-funded), small operator assistance laboratory work (all federally-funded), review of permit applications, laboratory work for inspections, legal counsel, and review of any petitions for designation of lands unsuitable for surface coal mining. Much of this work is speculative as it is based on projections about future development of the program.

#### D. Funding Sources

The federal government funds 50% of the basic cost of the state regulatory program. All small operator assistance contracts and abandoned mine land work are 100% federally funded. Funds in this category represent the return to the state of a portion of the 35¢ per ton reclamation fee levied against operators by the federal government. Substantially more funds should be available in this category after production begins on new coal operations. In addition, 100% federal funding is available to defray the costs of regulating any surface coal mining operation on federal lands. One of the projected future operations would qualify under this funding category.

Date: 4/22/82  
From: BETTYE  
Phone: \_\_\_\_\_

# MEMORANDUM

From the Office of  
**Senator Bettye Fahrenkamp**

To: ALL HOUSE MEMBERS  
\_\_\_\_\_  
\_\_\_\_\_

**MESSAGE:**

ATTACHED SUMMARY OF CSSB 843 - COAL RECLAMATION

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LEGISLATIVE SUMMARY

SB 843 "An Act relating to surface coal mining and the surface effects of underground coal mining; and providing for an effective date."

The bill proposes to add a new chapter to AS 41.

Sec. 41.45.010 Basic finding that the state is best able to regulate surface coal mining and reclamation under the U. S. Surface Mining Control and Reclamation Act of 1977. The purposes of the bill include: assuring the responsible extraction of coal, the reclamation of coal mining areas, protecting the rights of surface owners, minimizing degradation of land and water and assuring appropriate public participation in the regulatory process.

- .020 Vest jurisdiction over surface coal mining and reclamation operations in the Commissioner of the Department of Natural Resources.
- .030 Enumerates general duties, including adoption of regulations, issuing permits, holding hearings, issuing orders, inspections, prepare reports, receive grants, participate in the abandoned mine land program, coordination and cooperative agreement with other agencies.
- .040 Regulations adopted or permits issued may vary for a particular condition, type of coal, or area of the state.
- .050 Employees administering or a private contractor may not have a direct or indirect financial interest in an underground or surface coal mining operation. Prescribes a designation of a class A misdemeanor if a person knowingly violates this section. (NOTE: \$5,000 fine and a jail sentence of one year).
- .060 Requires coal mine operators to apply for a permit to conduct surface coal mining and reclamation operations beginning 8 months after approval of the state's program.

If the Alaska program is disapproved and the federal program has not been promulgated, existing operations which comply with the federal statute may continue. Permits which lapse during this period will continue in full force until promulgation of a federal program.

- .070 Permits will be issued for five years. The Commissioner can issue a permit for a longer period if the applicant shows that it is necessary in order to obtain financing for equipment or to open the operation.

A permittee is required to commence operations within 3 years after the permit is issued. This can be extended if the permittee show litigation is precluding commencement of operation or threatens substantial economic loss or for

reasons beyond the control, fault, negligence of the permittee. If the coal is to be mined for use in a synthetic fuel facility or specific major electric generating facility, surface mining is considered to have begun at the time construction of the facility is begun.

- .080 Provides that permits carry a right of successive renewal with respect to areas within the boundaries of the original permit, subject to a burden of proof on the opponents of renewal to demonstrate that the operation is not in compliance with regulatory requirements.

Renewals involving new land areas require the same procedures and standards as apply to new permit applications.

Application for permit renewal must be received by the Commissioner at least 120 days before expiration of the permit.

If the application is received at least 120 days before expiration and the permittee has complied with the bonding requirement the operation may continue under the permit after the expiration date until a final administrative decision on the renewal is made.

- .090 Allows the Commissioner to set a fee schedule for a new permit, permit renewal, or transfer permit applications; requires that the fees not exceed the actual or anticipated costs of reviewing the application.
- .100 Requires the public filing of permit applications and copies of all materials filed under this chapter; with the exception of designated confidential information.
- .110 Requires the Commissioner to adopt regulations relating to the contents of permit applications consistent with the requirements of the federal program. These must take into account the unique mining and environmental conditions of Alaska.
- .120 Establishes small operator assistance for certain laboratory work at no cost. This is for operations which will produce under 100,000 tons of coal annually.
- .130 Provides for public notice of pending applications for surface coal mining and reclamation permits.
- .140 Allows a person who may be adversely affected by the proposed operation, as well as federal, state or municipal agencies, to file written comments and objections to the application within 30 days. Such persons must request an informal conference to discuss their comments or objections with the Department.

The Commissioner is required to issue a decision regarding the permit application within 60 days of the informal conference, or as provided in Section .130 below.

- .150 Provides for formal hearings regarding the Commissioner's decision on the permit application upon request of the applicant or any person who may be adversely affected within 30 days after the request. The Commissioner may grant temporary relief pending his final decision when circumstances warrant.
- .160 Requires that before a permit can be issued, the applicant must furnish a performance bond conditioned on faithful performance of the requirements of this statute and the permit. The bond must be sufficient to assure completion of the applicant's reclamation plan by the Department in the event of a forfeiture. In lieu of a bond, the Commissioner may accept cash or negotiable bonds or certificates of deposit or the Department may accept a self-bond under future regulations to assure financial solvency. The amount of the bond may be adjusted for good cause, including changes affecting land areas and costs of reclamation.
- .170 Contains provisions governing release of performance bonds. The applicant must give notice of its request for release of bond, and the Department must conduct an inspection and evaluation of the reclamation work involved. Provides for staged release of the bond, depending on the degree of reclamation work completed and the Commissioner's evaluation. Persons whose legal interests may be adversely affected, and governmental agencies, may file objections to the release of bond and request a hearing, as may an applicant whose request for bond release has been denied.
- .180 Requires the Commissioner to make a decision on a permit application within 120 days after receipt, which may be extended by an additional 60 days upon receipt of additional information required for a decision. This section sets out the basic criteria for approval of an application. A permit may not be issued if the applicant is currently in violation of environmental standards regarding surface coal mining operation which it operates in the United States or if the applicant has had a demonstrated pattern of willful violations of this chapter.
- .190 Deals with revisions and transfers of permits. The Commissioner is required to establish guidelines for determining the extent of revision for all permit application requirements and procedures, including notice of hearing.  
  
A permit can not be transferred, assigned or sold without written approval of the Commissioner. A successor may continue the operation until the transfer application is granted or denied and meets the requirements of this section.
- .200 Requires exploration activity to be conducted only according to regulations adopted by the Commissioner. The regulations must include provisions for reclamation of excavations, roads, drill holes, and the removal of facilities and equipment.

Under a coal exploration permit no more than 250 tons can be removed without specific written approval of the Commissioner.

- .210 Within 120 days after the effective date of this chapter, the Commissioner is required to propose regulations consistent with the environmental performance standards of the Federal law. The regulations promulgated under this chapter for both surface coal mining and reclamation operations and surface effects of underground mining must include appropriate adjustments to meet the conditions in Alaska.
- .220 Requires the surface effects of underground mining be regulated in a similar fashion to surface coal mining operations. The Commissioner can suspend underground coal mining activities in populated areas if there is an imminent danger to the inhabitants.
- .230 Provides the basic authority for the Department to inspect and monitor operations. The Commissioner may require a permittee to: make monthly reports, install, use and maintain necessary monitoring equipment or methods and other information relating to the operation as the Commissioner considers reasonable and necessary. The Commissioner can inspect the operation. The inspections are to occur on an irregular basis. Inspections are to occur without prior notice, the inspector must notify the permittee's representative, on the site, upon his arrival and invite the representative to accompany him during the inspection. The inspector is required to file a report about the inspection.
- .240 Sets forth the Department's basic enforcement authority. A violation of this chapter or permit which causes imminent danger to public health or safety or which threatens significant, imminent environmental harm, requires the inspector to issue a cessation order for the whole operation or that portion causing harm. The order remains in effect until further Departmental action. If a violation cited does not cause imminent danger, a notice of violation is issued.

Cessation orders and notices of violation are subject to appeals and full due process hearings by persons who may be adversely affected. The Commissioner is authorized to request the Attorney General to institute a civil action for relief. There are provisions governing judicial review of these actions.

- .250 Provides for both civil and criminal penalties for violations of this chapter and permits. Civil penalties are mandatory for cessation orders (may not exceed \$5,000), but discretionary for notices of violation. Willful and knowing violations are class C felonies (NOTE: \$50,000 fine and 5 years jail). Failure to correct a violation during the period of time permitted by the notice or subsequent extension requires a \$750 per day penalty.

- .260 Requires the Commissioner to use competent and scientifically sound data in determining lands unsuitable for all or certain types of surface coal operations. It allows a person with a legal interest which may be adversely affected to petition the Commissioner to have areas designated unsuitable for all or certain types of coal mining. Areas must be designated unsuitable if the Commissioner determines that reclamation in the area in question is not technologically feasible. There are four discretionary criteria for designating land unsuitable. Mining is prohibited in protected areas (subject to existing rights); National Park System, National Wildlife Refuge System, National System of Trails, National Wilderness Preservation System, Wild and Scenic Rivers System, National Recreation Areas, publicly owned parks, historic sites, 100 feet of public roads, 300 feet of occupied dwelling, public building, school, church, community or institutional building, public park or 100 feet of a cemetery.
- .270 Provision regarding abandoned mine lands in order to ensure state participation in the federal Abandoned Mine Reclamation Fund. The Fund is for the reclamation of land adversely affected by past coal mining practices. Contains the administrative authority to establish priorities, designate eligible lands, submit reclamation plans and annual projects to the Department of Interior and administer funds received.
- .280 Defines eligible lands as those which were mined or affected by coal mining, left in an inadequate reclamation status, and for which there is no continuing reclamation responsibility under law.
- .290 Gives the Department power to enter onto property for reclamation purposes. Does not create new rights of action or eliminate existing immunities.
- .300 Authorizes the Commissioner to acquire abandoned mine areas for reclamation purposes and to dispose of such property when: it is necessary for successful reclamation, in the public interest, serve recreational, historic, conservation, open space, and to meet emergency situations. The Commissioner shall pay the fair market value of the property. The Commissioner can sell the property if it is suitable for industrial, commercial, residential or recreational development. The sale has to be consistent with any state and local land use plans.
- .310 Requires the Commissioner to place a lien upon state funded reclaimed property for the increase in fair market value. Exempted are properties owned before May 2, 1977, the owner did not consent to, participate in, or exercise control over the surface operation which necessitated the project. A person affected by this section may petition for a hearing within 60 days after the lien is recorded.
- .320 Authorized the filling of voids and sealing tunnels with money from the Abandoned Mine Land Fund.
- .330 Authorized emergency entry without prior notice onto land to

abate an emergency which constitutes a danger to the public health and safety

- .340 The Commissioner may request the Attorney General to initiate action for an injunction to restrain any interference with the exercise of the right to enter or work described in .270 - .340. Authorizes the State to construct and operate plants for control and treatment of water pollution from mine drainage in compliance with the Federal Water Pollution Control Act.
- .900 Specifies that the requirements of this chapter apply to government agencies, including publicly-owned utilities.
- .910 Exempts from this chapter extraction of coal for non-commercial use of the land owner or lessee, commercial coal operations which affect 2 acres or less and coal extraction as part of government-financed construction.
- .920 Authorizes departures from the environmental performance standards for experimental practices of limited size and which do not down grade the environmental, public health or safety standards of the program. This provision needs approval of the U. S. Department of Interior.
- .930 Provides that this chapter does not affect a person's water rights and that any impairment of water supply must be remedied by the operator.
- .940 Provides authority for the Commissioner to require training, examination and certification of blasters.
- .950 Creates a civil cause of action on behalf of persons who may be adversely affected by a failure to comply with the chapter against both the state agencies and alleged violators. A person commencing action under this section must give 60 days notice and the action can only be filed in the judicial district in which the operation is located.
- .960 Provides that any provision of this chapter which the Secretary of Interior determines to be inconsistent with the federal Act is invalid. Also, requires the Commissioner to review all changes made in the federal Act or regulations, and to make appropriate recommendations as to whether or not the State program should be changed.
- .970 Provides that this chapter is not to be interpreted to modify any existing state agency's powers over coal leases and exploration permits, except as specifically provided by this chapter and implementing regulations. This section also requires that the provisions of this chapter are applicable to lands conveyed out of federal ownership.

.975 Is the severability clause.

.980 Makes the Administrative Procedure Act applicable to this chapter unless otherwise provided.

.985 Cites the short title of the chapter as the "Alaska Surface Coal Mining Control and Reclamation Act."

.990 Is the definitions section.

Section 2. Requires applications to be submitted under this chapter within 2 months after the date the state program is approved by the Secretary of Interior, and requires the Commissioner to process such an application within 8 months after the Secretary's approval.

Section 3. Reserves the right of the state to contest the constitutional or statutory validity of any of the regulations issued under the federal act.

Section 4. Requires the Commissioner to adopt regulations under the Administrative Procedure Act. The regulations do not take effect until the effective date of Section 1.

Section 5. Provides that Sections 1 and 2 become effective upon approval of the state program by the Secretary of Interior.

Section 6. Provides that Sections 3 and 4 become effective immediately.

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# COMMITTEE REPORT

## HOUSE

FURTHER:

(5)

Date: May 29, 1982

Mr. Speaker:

The Committee on RULES has had CSSB 849 (Tresp)

"An Act relating to minimum crew requirements for the operation of railroad trains and engines; and providing for an effective date."

under consideration and reports it back as follows:

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

MEMBERS SIGNING  
DO PASS

*[Handwritten signatures]*

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

*[Handwritten notes]*

\_\_\_\_\_  
CHAIRMAN

