

# SENATE JOURNAL

## ALASKA STATE LEGISLATURE

FOURTEENTH LEGISLATURE - SECOND SESSION

JUNEAU, ALASKA

TUESDAY

January 14, 1986

### Second Day

Pursuant to adjournment, the Senate was called to order by President Bennett at 11:05 a.m.

The roll showed nineteen members present. Senator Ziegler was excused from a call of the Senate.

The prayer was offered by the Chaplain, Most Reverend Michael Kenny, Bishop of the Roman Catholic Diocese of Juneau. Senator Kelly moved and asked unanimous consent that the prayer be spread in the journal. Without objection, it was so ordered.

"Father of gentleness and mercy, Today we ask Your special gift of peace for the members of this Senate. These are men and women of different backgrounds, different personalities, different concerns and different viewpoints. In the course of their work, stress, disagreement and struggle will inevitably occur. As these can be signs of healthy life so may they be signs of healthy government.

But in all their differences, may our Senators maintain a continuing respect for each other, an ability to focus on issues and not personalities, the humility to admit error, the strength to be both patient and forgiving, and above all, the courage to be utterly honest.

In the final analysis the good of our State and its people depend on their ability to work together. Please, Father help them.

Amen"

The Pledge of Allegiance was recited.

Senator Halford moved and asked unanimous consent that the journal for the first legislative day and Senate Supplement No. 42 be approved as certified by the Secretary. Without objection, it was so ordered.

#### MESSAGES FROM THE HOUSE

##### SCR 23

Message dated January 14, 1986 stating the Speaker appointed the following members to the Joint Special Committee on Local Option Laws as established by SENATE CONCURRENT RESOLUTION NO. 23:

Representative Binkley  
Representative Sund  
Representative Hurley

The Representatives were appointed during the interim.

Senate members appointed October 23, 1985:

Senator Sackett  
Senator DeVries  
Senator Vic Fischer

#### COMMUNICATIONS

The Secretary announced receipt of:

CITIZENS' ADVISORY COMMISSION ON FEDERAL  
AREAS ANNUAL REPORT, DECEMBER 31, 1985  
in accordance with AS 41.37.080(f) from  
Phil R. Holdsworth, Chairman

ALASKA COURT SYSTEM 1985 ANNUAL REPORT  
from Arthur H. Snowden, II, Administra-  
tive Director

ALASKA MUNICIPAL BOND BANK AUTHORITY  
1985 ANNUAL REPORT  
in accordance with AS 44.85.100 from  
Perry T. Davis, Executive Director

ALASKA MUNICIPAL BOND BANK AUTHORITY  
CERTIFICATION COPIES  
as required under AS 44.85.270(g)

ALASKA COMMERCIAL FISHING AND AGRICULTURE  
BANK 1984 ANNUAL REPORT  
in accordance with AS 44.81

ALASKA PUBLIC OFFICES COMMISSION  
ADMINISTRATIVE REGULATIONS, JANUARY 4, 1986  
in accordance with AS 15.13

ALASKA STATE COUNCIL ON THE ARTS ANNUAL  
REPORT FISCAL YEAR 1985

HOUSING ASSISTANCE LOAN FUND THIRD ANNUAL  
REPORT AND 1985 ANNUAL REPORT ALASKA STATE  
HOUSING AUTHORITY  
mandated by Chapter 102, SLA 1983

COMMERCIAL FISHERIES ENTRY COMMISSION  
1984 ANNUAL REPORT

ALASKA PERMANENT FUND CORPORATION 1985  
ANNUAL REPORT AND FINANCIAL STATEMENTS,  
JUNE 30, 1985

VIOLENT CRIMES COMPENSATION BOARD 12TH  
ANNUAL REPORT 1985  
as required under the provisions of  
Section 18.67.170 of the laws of Alaska

LEGISLATIVE BUDGET AND AUDIT 1985 ANNUAL  
REPORT from Gerald L. Wilkerson, Legisla-  
tive Auditor

Posted 1/14/86:

ALASKA COMMISSION ON POSTSECONDARY  
EDUCATION PROPOSED CHANGES IN REGULATIONS  
amending regulations in Title 20 of the  
Alaska Administrative Code

ALASKA BOARD OF NURSING PROPOSED CHANGES  
IN REGULATIONS  
to adopt and amend regulations in Title 12  
of the Alaska Administrative Code

## SPECIAL COMMITTEE REPORTS

SCR 19

"December 20, 1985

Dear Mr. President:

We, the Joint Special Committee on Legislative Salaries, hereby submit our recommendations to the Alaska Legislature as required by SCR 19.

After considerable analysis, we are recommending the introduction of the attached two bills and one resolution.

We recommend a State Officers Compensation Commission be established by constitutional amendment to be put before the voters in the 1986 general election. This commission will set the compensation for the legislature, the governor, lieutenant governor, justices and judges of the court system and the head of each principal department. We believe a constitutional amendment would avoid abolition by legislative action as was the case with the 1976 Alaska Salary Commission. We have recommended there be some veto power over the commission's actions, requiring two-thirds vote of the legislature to reject the commission's recommendations.

We recommend enabling legislation to take effect if the constitutional amendment is approved by the voters. This bill sets forth the duties and guidelines we feel would answer the public's concern about state officials setting their own salaries.

Finally, we recommend after extensive comparisons with all state legislatures and many other facets of our economy, a new legislative salary to take effect until a commission is established. We are submitting this new salary bill in response to the public reaction to the pay raise and in accordance with SCR 19. We do however, believe that repeal of the current salary would not provide fair and adequate compensation to the legislators.

Respectfully submitted,

/s/ Mitch Abood

Senator Mitch Abood  
Senate Co-Chairman  
Joint Special Committee on Legislative Salaries

lf/enclosures

SCR 19 cont'd

CC: Committee Members:  
 Co-Chairman Representative Ron Larson  
 Representative John Sund  
 Representative Randy Phillips  
 Senator Bettye Fahrenkamp  
 Senator Bill Ray  
 Mr. Lew Williams  
 Mr. George Sullivan  
 Mr. Frank Chapados"

Senator Halford moved and asked unanimous consent that the report accompanying the above letter be spread in the Senate and House Joint Supplement. Without objection, it was so ordered and will appear in Senate and House Joint Supplement No. 12.

## INTRODUCTION AND REFERENCE OF SENATE BILLS

SB 341

SENATE BILL NO. 341 by the Rules Committee by request of the Senate Select Interim Committee on Procurement Practices and Procedures, entitled:

"An Act relating to state procurement practices and procedures; and providing for an effective date."

was read the first time and referred to the Judiciary Committee and the Finance Committee.

Senator Halford moved and asked unanimous consent that the letter accompanying SENATE BILL NO. 341 be spread in the journal. Without objection, it was so ordered.

"SENATE SELECT INTERIM COMMITTEE ON  
 PROCUREMENT PRACTICES AND PROCEDURES

January 13, 1986

Senator Don Bennett, President  
 Alaska State Senate  
 Pouch V  
 Juneau, Alaska 99811

Dear Mr. President:

Pursuant to Senate Resolution Number 6, a Senate Select Interim Committee on Procurement Practices and Procedures

SB 341 cont'd

was appointed. The Committee was composed of the following Senators: Jan Faiks, Chairman, Jalmar Kerttula, Vice-Chairman, Rick Halford, Joe Josephson, Edna DeVries and Fred Zharoff. Attorney General Hal Brown participated as an ex-officio member.

The Committee has completed its duties, which included reviewing and investigating the Grand Jury recommendations concerning the Alaska statutes governing state procurement and a code of ethics for the executive branch. In addition, the Committee held eight public hearings based in Anchorage, Fairbanks and Barrow, at which numerous witnesses participated and presented additional information regarding state procurement and ethics. Four of the public hearings were teleconferenced statewide. A mailing list of over 300 interested people was compiled, with updated information relayed periodically.

A task force composed of state procurement personnel worked at length and presented recommendations to the Committee. Five formal task force meetings were held and many administrative briefings, directed by the Department of Administration, reached personnel throughout the executive branch. The Committee greatly appreciated the efforts of Attorney General Hal Brown, Assistant Attorney General Jim Baldwin, Deputy Commissioner Marsha Hubbard, and Bob Link, Director of General Services and Supplies, who worked diligently to make this effort a success.

The following findings and recommendations are based on consistent testimony presented to the Committee during its review.

## PROCUREMENT

FINDING #1: Existing procurement statutes and regulations are inconsistent, inadequate, outdated and sporadically scattered throughout our laws. An overabundance of the rules pertaining to state purchasing are contained in internal agency policy and procedure manuals, which are not readily available to the public. These factors have caused confusion among those who contract or wish to contract with the state. According to the Department of Law, there has been a dramatic increase in litigation concerning contract disputes because of the fact that the state does not have a comprehensive procurement law.

RECOMMENDATION: Based on these factors, the Committee believes that comprehensive procurement laws and regulations should be enacted.

FINDING #2: The Legislature, Court System, Executive Branch, University of Alaska, and Alaska Railroad Corporation operate differently and independently in the manner in which procurements are made. The Alaska Railroad

SB 341 cont'd

Corporation has independent authority under AS 42.20.100 to ensure that the procurement procedures of the Corporation meet accepted railroad industry standards. The Executive Branch has moved away from centralized procurement practices and procedures. The Department of Administration has delegated purchasing authority to agencies which have been nonresponsive in enacting basic purchasing regulations. The lack of a uniform and centralized system has produced a system which is incoherent and confusing to the public.

RECOMMENDATION: All laws and regulations pertaining to procurement should be substantially equivalent, while maintaining the integrity of the separate branches of the government. Procurement within the Executive Branch should be more centralized. Any delegation of purchasing authority to an agency should be made only after written determination that the agency is capable of implementing the delegated authority.

FINDING #3: Bid specifications, solicitations and award criteria are not always clearly written or referenced in the information reviewed by potential bidders. The process by which the issuing agency evaluates and accepts or rejects bids is uncertain. This has created confusion and frustration for those who wish to contract with the state.

RECOMMENDATION: Evaluation procedures and performance criteria should be clearly described and identified in all solicitations.

FINDING #4: The use of noncompetitive procurement methods, such as sole source contracts, has not always been adequately justified, demonstrated or documented. This has caused the public to be skeptical of the state procurement system.

RECOMMENDATION: Noncompetitive procurement methods should be limited, and used only after written determination is made that clearly defined criteria for such methods have been met. The Legislature should receive reports of all sole source and emergency contract awards.

FINDING #5: The appeals process has been criticized because of the lack of information concerning the procedures. The time limits imposed for an appeal are too rigid to allow sufficient preparation by the protestor.

RECOMMENDATION: A clear, comprehensive and uniform appeals procedure, with adequate timelines, should be adopted.

FINDING #6: Persons who are not licensed to do business in the state have been awarded contracts. This has caused a great amount of frustration among those who are licensed, yet unsuccessful bidders.

SB 341 cont'd

RECOMMENDATION: All bidders should have an Alaska business license at the time of bid.

FINDING #7: Concern has been expressed that access to state contracting is complicated and difficult. The lack of information or understanding of the procedures is viewed as a barrier to doing business with the state.

RECOMMENDATION: The contractors' list should be utilized by all state agencies and branches of government. This list should be current and easily available for users.

FINDING #8: Public procurement is a highly technical process and involves millions of state dollars annually. Expertise is required to make the process work efficiently and effectively.

RECOMMENDATION: Procurement personnel should be adequately trained and supervised. The Chief Procurement Officer should have substantial experience in public procurement, and should be adequately insulated from political pressure.

Based on the recommendations of the Grand Jury, public testimony and state personnel, the Committee is forwarding the attached bill and sectional analysis relating to state procurement practices and procedures. This bill is based on the Model Procurement Code (MPC) which was adopted by the American Bar Association's House of Delegates. The Code represents over five years of intensive effort directed by a Coordinating Committee which is a joint committee of the Section of Public Contract Law and the Section of Urban, State and Local Government Law.

The Model Procurement Code provides the framework for creating a complete purchasing system at any level of government. Specifically the Code contains: (1) the statutory principles and policy guidance for managing and controlling the procurement of supplies, services, and construction for public purposes; and (2) administrative and judicial remedies for the resolution of controversies relating to public contracts.

The following jurisdictions have adopted modified versions of the Code: Kentucky (1979), Arkansas (1979), Louisiana (1980), Utah (1980), Maryland (1981), South Carolina (1981), Colorado (1982), Indiana (1982), Virginia (1983), Territory of Guam (1983), New Mexico (1984), and Arizona (1984). Local governments or agencies have also adopted versions of the Code, including the Municipality of Anchorage.

The Committee believes that the proposed procurement code will provide a comprehensive law which addresses the deficiencies of the existing system, and therefore we recommend it to you for approval.

SB 341 cont'd

## ETHICS

Senate Resolution 6 also directed the Committee to 'review, investigate and render advice with respect to the Grand Jury recommendations concerning a code of ethics for the executive branch and employee awareness of ethical obligations'.

The Committee held two meetings in which it reviewed current statutes pertaining to conflict of interest and ethical behavior for state employees. The Committee also reviewed legislation introduced in the 13th Legislature that would have established an ethics code for the executive branch. Of particular interest was Senate Bill 501 that was introduced by the Governor in 1984 and extensively reviewed by the Senate State Affairs Committee. This bill became the basis from which the Committee began its deliberations.

During these deliberations, the Administration informed the Committee that they had already drafted and were nearing completion on an ethics bill to be introduced by the Governor. After some discussion and review of the draft legislation, it was felt no purpose would be served by the introduction of competing pieces of legislation on this important issue. Therefore, the Senate Select Interim Committee on Procurement Practices and Procedures agreed to defer to the Governor and not introduce an ethics bill.

The Committee would like to thank the Administration for all its invaluable assistance in working on an ethics code for the executive branch. The Attorney General, Hal Brown, provided the Committee with the able assistance of his Special Assistant, Randall Burns and Assistant Attorney General, Susan Cox without whom our task would have been much more difficult.

Respectfully submitted,

/s/ Jan Faiks

\_\_\_\_\_  
Senator Jan Faiks,  
Chairman

/s/ Edna DeVries

\_\_\_\_\_  
Senator Edna DeVries

/s/ Joe Josephson

\_\_\_\_\_  
Senator Joe Josephson

/s/ J.M. Kerttula

\_\_\_\_\_  
Senator Jalmar Kerttula,  
Vice-Chairman

/s/ Rick Halford

\_\_\_\_\_  
Senator Rick Halford

/s/ Fred F. Zharoff

\_\_\_\_\_  
Senator Fred Zharoff

## UNFINISHED BUSINESS

SB 102

Senator Faiks, Co-Chairman, requested that SENATE BILL NO. 102 (criminal sentences) have an added referral to the Finance Committee. President Bennett referred the bill to the Finance Committee.

SENATE BILL NO. 102 was referred to the Health, Education and Social Services Committee, the Judiciary Committee and the Finance Committee.

SB 328

Senator Zharoff, Chairman, requested that SENATE BILL NO. 328 (fiscal matters involving the state and persons doing business in the Republic of South Africa; efd) have an added referral to the Labor and Commerce Committee. President Bennett referred the bill to the Labor and Commerce Committee.

SENATE BILL NO. 328 was referred to the Health, Education and Social Services Committee, the Labor and Commerce Committee and the Finance Committee.

Senator Sturgulewski, Chairman moved and asked unanimous consent that the CITIZENS' ADVISORY COMMISSION ON FEDERAL AREAS ANNUAL REPORT, December 31, 1985 and 1984 ANNUAL REPORT, ALASKA COMMERCIAL FISHING AND AGRICULTURE BANK be referred to the Resources Committee. Without objection, President Bennett referred the reports to the Resources Committee.

## ANNOUNCEMENTS

Announcements appear at the end of the journal.

## SPECIAL ORDERS

Senator Eliason moved and asked unanimous consent that he be excused from a call of the Senate January 27-30. Without objection, Senator Eliason was excused.

Senator Halford moved and asked unanimous consent that the Senate recess until 7:00 p.m. for the Governor's State of the State Address. Without objection, the Senate recessed at 11:23 a.m.

## AFTER RECESS

## JOINT SESSION IN THE HOUSE

Speaker Grussendorf called the House to order and in accordance with Uniform Rule No. 51 turned the gavel over to President Bennett who called the Joint Session to order at 7:00 p.m.

The purpose of the Joint Session was to hear the Honorable Bill Sheffield, Governor of the State of Alaska, deliver the State of the State Message.

Senator Halford moved and asked unanimous consent that the roll call of the Senate be waived. Without objection, it was so ordered.

Representative Clocksin moved and asked unanimous consent that the roll call of the House be waived. Without objection, it was so ordered.

President Bennett appointed Senator Josephson and Representative Hurley to escort the Governor to the Joint Session.

The Honorable Bill Sheffield was escorted to the rostrum and introduced by President Bennett.

The Governor delivered the State of the State message. This message appears in House and Senate Joint Supplement No. 14 to today's journal.

Following his address, the Governor received a standing ovation and was escorted from the chamber by Representative Hurley and Senator Josephson.

## ADJOURNMENT

Senator Halford moved and asked unanimous consent that the Joint Session adjourn. Without objection, the Joint Session adjourned at 7:30 p.m.

AFTER RECESS

IN THE SENATE

The Senate reconvened at 7:31 p.m.

ADJOURNMENT

Senator Halford moved and asked unanimous consent that the Senate adjourn until 11:00 a.m., January 15, 1986. Without objection, the Senate adjourned at 7:32 p.m.

Peggy Mulligan  
Secretary of the Senate

January 14, 1986

Committee meetings in the Capital  
\* Change in time or place\*

FINANCE - FINANCE ROOM 518 - 8:30 AM

Jan 16 THURSDAY  
SB 219 ESTABLISHING CHILDREN'S CRIME UNIT  
SB 275 LIMITING RELEASE OF MOTOR VEHICLE RECORDS  
HB 161 STUDENT LOANS  
Jan 17 FRIDAY  
DEPT OF LAW OVERVIEW OPERATION OF THE JUSTICE SYSTEM  
\*JT. WITH HOUSE FINANCE

HEALTH, EDUCATION & SOCIAL SERVICES - BELTZ ROOM 211 - 1:30 PM

Jan 16 THURSDAY  
HB 174 TEACHER TRAINING; FIRST AID & CHILD ABUSE  
Jan 20 MONDAY \*BUTROVICH ROOM  
BRIEFING - DNR & H&SS ON THE MENTAL HEALTH LAND  
ISSUES  
\*JT. WITH SENATE RESOURCES  
Jan 21 TUESDAY  
BRIEFING H&SS ON MENTAL HEALTH SERVICES

JUDICIARY - BUTROVICH ROOM 205 - 1:30 PM

Jan 16 THURSDAY  
OPERATION OF THE JUSTICE SYSTEM  
PRESENTATION BY THE CRIMINAL JUSTICE WORKING GROUP  
\*JT WITH HOUSE JUD  
Jan 21 TUESDAY  
SB 67 PROCESS FOR DOMESTIC VIOLENCE INJUNCTIONS  
SB 80 PSYCH EXAMS FOR CRIMINAL DEFENDANTS  
SB 188 MOBILE HOME EVICTIONS  
Jan 23 THURSDAY  
SB 197 REAL PROPERTY SECURITY INTERESTS  
SB 198 DOCUMENT RECORDING

RESOURCES - BUTROVICH ROOM 205 - 1:30 PM

Jan 15 WEDNESDAY  
BRIEFING BY DNR ON ROYALTY OIL AND GAS ISSUES  
(COOK INLET ROYALTY GAS ISSUES WILL BE COVERED IN  
DETAIL A SEPARATE MEETING ON JANUARY 27TH)  
\*JT. WITH HOUSE OIL AND GAS AND RESOURCES\*  
Jan 17 FRIDAY  
HB 281 TRAPPING CABIN PERMITS  
SB 194 CERTIFICATION OF WATER SYSTEM OPERATORS  
Jan 27 MONDAY  
BRIEFING COOK INLET ROYALTY GAS ISSUES

STATE AFFAIRS - BUTROVICH ROOM 205 - 9:00 AM

Jan 16 THURSDAY  
BRIEFING ON APOC BY MR. GROSS AND MR. BURKE

TRANSPORTATION - BUTROVICH ROOM 205 - 3:30 PM

Jan 15 WEDNESDAY  
REVIEW OF BILLS IN COMMITTEE - GENERAL OVERVIEW

BUSH CAUCUS -

Jan 16 THURSDAY 2:00 PM REP. ADAMS ROOM 505

LEGISLATIVE COUNCIL -

Jan 21 TUESDAY 12:30 PM BUTROVICH ROOM

