

ALASKA STATE LEGISLATURE  
CONFERENCE COMMITTEE ON HB 414

May 8, 2004  
8:55 a.m.

**HOUSE MEMBERS PRESENT**

Representative Lesil McGuire, Chair  
Representative Tom Anderson  
Representative Harry Crawford

**HOUSE MEMBERS ABSENT**

All members present

**SENATE MEMBERS PRESENT**

Senator Ralph Seekins, Chair  
Senator Thomas Wagoner  
Senator Hollis French

**SENATE MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 414

"An Act relating to filling the vacancy in the office of United States senator, and to the definition of 'political party.'"

- MOVED CCS HB 414 OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 414

SHORT TITLE: U.S.SENATE VACANCY/DEF OF POLITICAL PARTY

SPONSOR(S): JUDICIARY

01/28/04	(H)	READ THE FIRST TIME - REFERRALS
01/28/04	(H)	STA, JUD
02/03/04	(H)	STA AT 8:00 AM CAPITOL 102
02/03/04	(H)	Heard & Held
02/03/04	(H)	MINUTE(STA)
02/04/04	(H)	JUD AT 1:00 PM CAPITOL 120
02/04/04	(H)	-- Meeting Canceled --
02/05/04	(H)	STA AT 8:00 AM CAPITOL 102

02/05/04 (H) Moved CSHB 414(STA) Out of Committee  
02/05/04 (H) MINUTE(STA)  
02/09/04 (H) JUD AT 1:00 PM CAPITOL 120  
02/09/04 (H) <Bill Hearing Postponed to 2/16/04>  
02/12/04 (H) STA RPT CS(STA) 3DP 1DNP 3NR  
02/12/04 (H) DP: SEATON, COGHILL, WEYHRAUCH;  
02/12/04 (H) DNP: BERKOWITZ; NR: GRUENBERG, HOLM,  
02/12/04 (H) LYNN  
02/16/04 (H) JUD AT 1:00 PM CAPITOL 120  
02/16/04 (H) Moved CSHB 414(JUD) Out of Committee  
02/16/04 (H) MINUTE(JUD)  
02/18/04 (H) JUD RPT CS(JUD) NT 5DP 2NR  
02/18/04 (H) DP: SAMUELS, ANDERSON, OGG, HOLM,  
02/18/04 (H) MCGUIRE; NR: GRUENBERG, GARA  
03/04/04 (H) TRANSMITTED TO (S)  
03/04/04 (H) VERSION: CSHB 414(JUD)  
03/05/04 (S) READ THE FIRST TIME - REFERRALS  
03/05/04 (S) STA, JUD  
03/18/04 (S) STA AT 3:30 PM BELTZ 211  
03/18/04 (S) Moved SCS CSHB 414(STA) Out of  
Committee  
03/18/04 (S) MINUTE(STA)  
03/22/04 (S) STA RPT SCS 3DP 1DNP SAME TITLE  
03/22/04 (S) DP: STEVENS G, COWDERY, STEDMAN;  
03/22/04 (S) DNP: GUESS  
03/24/04 (S) JUD AT 8:00 AM BUTROVICH 205  
03/24/04 (S) Heard & Held  
03/24/04 (S) MINUTE(JUD)  
04/19/04 (S) JUD RPT SCS 3DP 2DNP TECH TITLE CHANGE  
04/19/04 (S) DP: SEEKINS, THERRIAULT, OGAN;  
04/19/04 (S) DNP: FRENCH, ELLIS  
04/19/04 (S) JUD AT 8:00 AM BUTROVICH 205  
04/19/04 (S) Moved SCS CSHB 414(JUD) Out of  
Committee  
04/19/04 (S) MINUTE(JUD)  
04/20/04 (S) JUD SCS ADOPTED Y12 N8  
04/22/04 (S) VERSION: SCS CSHB 414(JUD)  
05/02/04 (S) RECEDE MESSAGE READ AND HELD  
05/03/04 (S) RECEDE MESSAGE TAKEN UP  
05/04/04 (H) CONFERENCE COMMITTEE APPOINTED  
05/04/04 (H) MCGUIRE, CHAIR; ANDERSON, CRAWFORD  
05/04/04 (S) CONFERENCE COMMITTEE APPOINTED  
05/04/04 (S) SEEKINS, CHAIR; WAGONER, FRENCH  
05/05/04 (H) LIMITED POWERS REQUEST READ AND HELD  
05/05/04 (H) LIMITED POWERS FREE CONFERENCE GRANTED  
05/05/04 (S) LIMITED POWERS REQUEST READ AND HELD  
05/05/04 (S) LIMITED POWERS FREE CONFERENCE GRANTED

05/05/04 (H) 414 AT 0:00 AM CAPITOL 120  
05/05/04 (H) -- Meeting Canceled --  
05/05/04 (S) 414 AT 0:00 AM CAPITOL 120  
05/05/04 (S) -- Meeting Canceled --  
05/06/04 (H) 414 AT 0:00 AM CAPITOL 120  
05/06/04 (H) -- Meeting Canceled --  
05/06/04 (S) 414 AT 7:00 PM CAPITOL 120  
05/06/04 (S) -- Meeting Canceled --  
05/07/04 (H) 414 AT 3:00 PM CAPITOL 120  
05/07/04 (H) -- Meeting Canceled --  
05/07/04 (S) 414 AT 5:00 PM CAPITOL 120  
05/07/04 (S) -- Rescheduled to 5/8/04 --  
05/08/04 (H) 414 AT 8:30 AM CAPITOL 120  
05/08/04 (S) 414 AT 8:30 AM CAPITOL 120

**WITNESS REGISTER**

HEATH HILYARD, Staff  
to Representative Lesil McGuire  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Provided input on behalf of Representative McGuire, chair of the House Judiciary Standing Committee, which sponsored HB 414.

**ACTION NARRATIVE**

**TAPE 04-1, SIDE A**

Number 0001

CHAIR McGUIRE called the Conference Committee on HB 414 to order at 8:55 a.m. Representatives McGuire, Anderson, and Crawford and Senators Seekins, Wagoner, and French were present at the call to order.

HB 414-U.S.SENATE VACANCY/DEF OF POLITICAL PARTY

CHAIR McGUIRE announced that the only order of business would be HOUSE BILL NO. 414, "An Act relating to filling the vacancy in the office of United States senator, and to the definition of 'political party.'" [Before the committee were SCS CSHB 414(JUD), the version that passed the Senate, labeled 23-LS1514\X, and CSHB 414(JUD), the version that passed the House, labeled 23-LS1514\U.]

Number 0038

CHAIR McGUIRE referred to a letter dated May 4, 2004, to the Speaker of the House and the President of the Senate saying the committee had limited powers of free conference pursuant to Rule 42. She explained that there would be two items before the committee [in determining which language from the two bill versions would be included in a new conference committee substitute (CCS)]. First was reinclusion [into the language of SCS CSHB 414(JUD)] of the legislative intent language in Section 1 of [CSHB 414(JUD)]. The second pertained to provisions governing the selection and appointment of temporary appointees to the office of U.S. Senator following the vacancy of the office and prior to the special election; that is in Section 3 on page 2, lines 4-10 [of CSHB 414(JUD)].

Number 0119

REPRESENTATIVE ANDERSON moved to [adopt Amendment 1], to insert and renumber the legislative intent language from CSHB 414(JUD), page 1, lines 6-8 [into the language in SCS CSHB 414(JUD) in crafting the CCS].

Number 0146

CHAIR McGUIRE acknowledged a remark by Chair Seekins as an objection for discussion purposes.

CHAIR SEEKINS said he didn't necessarily object to reinserting the language, although he believed it was meaningless. He explained that he'd favored eliminating it from the Senate version because he believed it was "legislative clutter" and would have no binding effect.

Number 0202

SENATOR FRENCH reported that he'd made a motion on the Senate floor to reinsert this language and is strongly in favor of it.

CHAIR McGUIRE noted that she and Chair Seekins had discussed this previously. She clarified that her desire to reinclude this in no way reflects skepticism about others' motives, for instance; rather, as [chair of the House Judiciary Standing Committee, sponsor of HB 414], she became "attached to the language" and would like it to be part of the bill.

CHAIR SEEKINS remarked that if this language is reinserted in exactly the same form, he doesn't object.

CHAIR MCGUIRE pointed out that's the only way it can be included under the limited powers.

REPRESENTATIVE ANDERSON said he respects Chair Seekins' opinion, but believes legislative intent has an instructive element that sometimes needs to be added to a bill.

CHAIR SEEKINS reiterated that he has no objection to inserting that exact language, and said the Twenty-Fourth Alaska State Legislature won't even be bound by it.

Number 0353

CHAIR MCGUIRE asked whether Chair Seekins was removing his objection.

CHAIR SEEKINS answered affirmatively. [The committee's action in adopting Amendment 1 was later rescinded for procedural reasons, and the same amendment was adopted as Amendment 3.]

Number 0365

CHAIR MCGUIRE turned attention to what would become Amendment 2. Highlighting the temporary-appointment language [Section 3 of CSHB 414(JUD)], she referred to a letter [marked "confidential" and dated May 6, 2004, from Lieutenant Governor Loren Leman], noted its importance to her, and explained:

There was a legal opinion, and that's what Senator Seekins acted on dutifully, ... that stated that there may be a chance ... that the lieutenant governor could say ... that the initiative was not substantially similar with this temporary-appointment language in there. ... And I understood the concern. And so that language was removed.

I want it in there because this is the practical problem that plays out. If ... going to a method where you have a special election for a vacancy for the United States Senator, it's a place where we hold the most power, frankly, as a small state. And you can envision a situation where we could have ... up to three months of a vacancy while preparing to administer a special election. So we got that letter from Lieutenant Governor Leman, who assures us that he will rule it's substantially similar. And so that's the reasoning for it.

Number 0446

CHAIR SEEKINS asked what "temporarily" means and whether the person would be sworn in as a temporary U.S. Senator or would sit as a fully empowered U.S. Senator until the next election.

CHAIR McGUIRE replied that it's a good question. She provided her understanding that the person wouldn't be temporary and would be [a fully empowered] U.S. Senator, but would be a "placeholder." She recalled a past appointment for a vacant state legislative seat when the governor had hoped the person he appointed wouldn't want to run again. Chair McGuire remarked:

Those things can be worked out one way or the other. ... We chose not to address the fact that if somebody were a temporary appointee ... they would be disqualified, because I don't think that you can do that; ... that's not constitutional. So whatever agreements would be worked out, I guess, by the shake of a hand or so on, they would be a United States Senator, and they would act on our interests during that vacancy. But I think that's better than the alternative, which is nobody acting on our behalf at all.

Number 0623

HEATH HILYARD, Staff to Representative Lesil McGuire, Alaska State Legislature, noted that Representative Stepovich will fill one session's worth of time for that seat [in the Alaska State Legislature], for instance. Citing examples of congressional appointees from other states, including one for a month or so, he related his understanding that those appointees were afforded full rights and responsibilities in the U.S. Senate for whatever period of time they were elected or appointed by their respective states.

CHAIR SEEKINS responded that he has no problem if "temporarily" means during the interim. If it means there's any restriction imposed by this legislation on the ability for that person to act as a full U.S. Senator, however, he has a problem with it.

CHAIR McGUIRE clarified that [the latter] isn't her intent; rather, the person would be a full-fledged member of the Senate and "vote for us and act on our behalf." She noted that if someone dies, for example, it takes time to get a special

election together, since it's statewide and requires administrative procedures.

Number 0743

CHAIR McGUIRE, in response to a question from Representative Anderson, noted that the Senate version of the bill omitted that language contained in the House version, and thus the question is whether to include it [in the CCS].

CHAIR SEEKINS emphasized his desire for agreement on the record that "temporarily" means "for the interim," with no intent to limit the powers of that individual to act as [the U.S. Senator].

REPRESENTATIVE CRAWFORD pointed out that this isn't breaking new ground, since many states do it. He suggested that the necessary path is clear, that "temporary" here means just until the next election, that nothing says the person cannot run [for the office], and that the person would have the full powers of the U.S. Senate.

SENATOR WAGONER said he could live with "temporarily" either in or out.

Number 0846

REPRESENTATIVE ANDERSON moved to adopt Amendment 2, to insert Section 3, page 2, lines 4-10, from [CSHB 414(JUD) into SCS CSHB 414(JUD) in crafting the CCS].

MR. HILYARD offered his belief that there wasn't a proper motion with regard to the legislative intent language [Amendment 1].

CHAIR McGUIRE asked whether there was any objection to Amendment 2. Hearing none, she indicated it was adopted.

Number 0880

CHAIR McGUIRE moved to rescind the action on Amendment 1. There being no objection, she indicated it was rescinded and that Amendment 1 would be relabeled as Amendment 3.

Number 0893

REPRESENTATIVE ANDERSON moved to adopt [the previous Amendment 1 as Amendment 3], to insert the legislative intent language from

CSHB 414(JUD), page 1, lines 6-8 [into the language in SCS CSHB 414(JUD) in crafting the CCS]. There being no objection, it was so ordered.

Number 0919

MR. HILYARD pointed out the need to clarify that the title from SCS CSHB 414(JUD) is being retained, since it contains language relating to an effective date.

CHAIR McGUIRE acknowledged that. She requested a motion on the new CCS based on the previous amendments.

Number 0943

SENATOR FRENCH moved [to report SCS CSHB 414(JUD), as amended, out of committee with individual recommendations and the accompanying fiscal notes]. There being no objection, CCS HB 414 was reported from the Conference Committee on HB 414.

#### **ADJOURNMENT**

There being no further business before the committee, the Conference Committee on HB 414 meeting was adjourned at 9:09 a.m.