

**ALASKA STATE LEGISLATURE**  
**SENATE STATE AFFAIRS STANDING COMMITTEE**

March 18, 2003

3:31 p.m.

**MEMBERS PRESENT**

Senator Gary Stevens, Chair  
Senator John Cowdery, Vice Chair  
Senator Fred Dyson  
Senator Gretchen Guess  
Senator Lyman Hoffman

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE JOINT RESOLUTION NO. 10  
Relating to the Pledge of Allegiance.  
MOVED SJR 10 OUT OF COMMITTEE

HOUSE BILL NO. 140(efd fld)  
"An Act relating to benefits for retired teachers or employees who participated in retirement incentive programs and are subsequently reemployed as a commissioner."  
MOVED SCS HB 140(efd fld) (STA) OUT OF COMMITTEE

SENATE BILL NO. 115  
"An Act allowing expenses of the correctional industries program that may be financed from the correctional industries fund to include the salaries and benefits of state employees."  
MOVED SB 115 OUT OF COMMITTEE

SENATE BILL NO. 24  
"An Act providing special absentee ballots for voters in remote areas."  
MOVED SB 24 OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 46(STA)  
"An Act relating to printing of ballot titles and propositions on primary election ballots."  
MOVED CSHB 46 (STA) OUT OF COMMITTEE

**PREVIOUS ACTION**

SJR 10 - No previous action to record.  
HB 140 - No previous action to record.  
SB 115 - No previous action to record.  
SB 24 - No previous action to record.  
HB 46 - No previous action to record.

**WITNESS REGISTER**

Jacqueline Tupou  
Staff to Senator Lyda Green  
Alaska State Capitol, Room 516  
Juneau, AK 99801-1182  
**POSITION STATEMENT:** Introduced SJR 10

Guy Bell  
Director, Division of Retirement and Benefits  
Department of Administration  
PO Box 110200  
Juneau, AK 99811-0200  
**POSITION STATEMENT:** Testified on HB 140

Jerry Burnett  
Director, Division of Administrative Services  
Department of Corrections  
431 N. Franklin, Suite 400  
Juneau, AK 99801  
**POSITION STATEMENT:** Testified on SB 115

Senator Georgianna Lincoln  
Alaska State Capitol, Room 11  
Juneau, AK 99801-1182  
**POSITION STATEMENT:** Sponsor SB 24

Sara Boario  
Chief of Staff to Senator Georgianna Lincoln  
Alaska State Capitol, Room 11  
Juneau, AK 99801-1182  
**POSITION STATEMENT:** Testified on SB 24

Virginia Breeze  
Division of Elections  
P.O. Box 110017  
Juneau, AK 99811-0017  
**POSITION STATEMENT:** Answered questions on SB 24 and HB 46

Representative Mike Hawker  
Alaska State Capitol, Room 434

Juneau, AK 99801-1182

**POSITION STATEMENT:** Prime Sponsor HB 46

**ACTION NARRATIVE**

**TAPE 03-9, SIDE A**

**CHAIR GARY STEVENS** called the Senate State Affairs Standing Committee meeting to order at 3:31 p.m. Present were Senators Dyson, Cowdery, Guess and Chair Stevens. Senator Hoffman arrived momentarily.

The first order of business was SJR 10.

#SJR 10

**SJR 10-PLEDGE OF ALLEGIANCE RESOLUTION**

MS. JACQUELINE TUPOU, staff to Senator Lyda Green, paraphrased from the sponsor statement:

Senate Joint Resolution 10 resolves that the Alaska State Legislature supports a review by the United States Supreme Court of the Newdow V. U.S. Congress decision.

In Newdow vs. United States Congress, a panel of the Ninth Circuit decided that the recitation of the Pledge of Allegiance in public schools was unconstitutional. The Ninth Circuit Court of Appeals confirmed this decision and granted a 90 day stay to the California School District to appeal to the Supreme Court. If this decision is not reviewed, public schools in nine western states, including Alaska, will be banned from reciting the pledge.

SJR 10 expresses the support of the Alaska State Legislature for the review of Newdow vs. U.S. Congress by the United States Supreme Court and of our firm belief of the principles and ideals stated in our nation's Pledge of Allegiance.

I ask for your support in the passage of this resolution.

There were no questions.

CHAIR GARY STEVENS asked for a motion.

SENATOR JOHN COWDERY made a motion and asked for unanimous consent to move SJR 10 and attached fiscal note from committee with individual recommendations. There being no objection, it was so ordered.

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#HB 140

**HB 140-BENEFITS FOR CERTAIN RIP PARTICIPANTS**

CHAIR GARY STEVENS explained the House removed the effective date clause for HB 140. He asked Mr. Guy Bell to comment on the legislation.

MR. GUY BELL, Division of Retirement and Benefits Director, testified via teleconference and described the legislation as narrowly construed.

It would allow a person who has participated in a state sponsored retirement incentive program to return to Public Employees Retirement System (PERS) or Teachers Employees Retirement System (TRS) employment as a State of Alaska commissioner without losing any benefits from the retirement incentive program (RIP). There would be no actuarial impact on the retirement systems because the employee and the employer paid the full cost of the RIP at retirement so the fiscal note is zero.

The individual would also be able to participate in the waiver process enacted by the Legislature two years ago. This means the person could continue receiving his or her retirement benefits by agreeing not to accrue any additional retirement service during reemployment.

CHAIR GARY STEVENS asked him to clarify that a retired person who took the RIP would not be eligible for additional PERS or TRS benefits.

MR. BELL explained a person who has taken the RIP and wants to return to state employment is subject to substantial RIP penalties. The penalties are up to 110 percent of the benefits they received through the RIP. They lose the incentive credit they received by virtue of the RIP, the cost of the benefits already received, and they waive the benefits they earned as a result of the RIP.

CHAIR GARY STEVENS asked if anyone had ever chosen to pay back the 110 percent.

MR. BELL thought perhaps one or two had done so. He said he could get the exact numbers but it would be a very small percentage.

CHAIR GARY STEVENS said that wasn't necessary, but it was interesting that so few had taken advantage of the option.

SENATOR JOHN COWDERY asked for confirmation there would be no additional cost to the state beyond the earned salary and benefits.

MR. BELL said that was correct.

SENATOR FRED DYSON asked for an estimated individual amount for a 110 percent payback.

MR. BELL said it could be tens of thousands of dollars depending on the individual circumstances.

SENATOR DYSON then asked if it might be up to \$100,000.

MR. BELL thought the amounts would probably be less than \$50,000, but individual circumstances vary tremendously.

SENATOR GRETCHEN GUESS asked him why there were penalties at all if there was no fiscal impact.

MR. BELL replied there were three different retirement incentive program bills and the last two in particular included RIP penalties. Typically, a person could claim up to three years credit in the retirement system and the individual and the employer each paid a percentage of the full actuarial costs of those additional three years of credit. The Legislature made a determination that if a person chose to return to public employment after taking the RIP, there should be some sort of penalty. Referring to this as a RIP penalty is his terminology. The payment is not to make the retirement system whole; rather it's a penalty that is paid to return to public employment after having participated in the RIP.

SENATOR GUESS asked if the fiscal note would be zero if this were open to all teachers instead of just commissioners.

MR. BELL replied it would. HB 20 would do the same for all TRS members who participated in a RIP and for the same reasons there would be no actuarial impact on the retirement system.

CHAIR GARY STEVENS thanked Mr. Bell for his complete answers.

There was no further testimony.

SENATOR GUESS observed this is open to all commissioners but it's geared for the Commissioner of Education because this Administration is having difficulty finding commissioners. Since there would be no fiscal impact she was unclear why teachers weren't included as well since Alaska has a significant teacher shortage. She noted the previous Commissioner of Education took significant financial and retirement penalties to become commissioner and SB 38 would do nothing to rectify that situation.

CHAIR GARY STEVENS advised HB 20 would allow all teachers to be hired back without having to pay the 110 percent penalty. Both bills are quite similar and if SB 140 passes it might give more credibility to the need to make it available to everyone.

SENATOR LYMAN HOFFMAN asked what kind of message this sends to other commissioners who retired and participated in a RIP. He said this person "retired, he Ripped out early, he knew the consequences."

CHAIR GARY STEVENS said it was reasonable to make the exception for the single position because the most likely candidates for the Commissioner of Education job would be current or retired superintendents.

SENATOR HOFFMAN asked if the same argument couldn't be made for someone such as Commissioner of Public Safety William Tandeske. Making the one exception is unfair to Commissioner Tandeske and others returning under the same circumstance. He asked, "Why aren't we opening it up to all commissioners?"

CHAIR GARY STEVENS asked Mr. Bell to comment on whether all commissioners could take advantage of the waiver.

MR. BELL explained the bill would allow anyone who has participated in a public employees or teacher retirement incentive program to return as a commissioner of any state agency. If a person retired without participating in a state sponsored RIP and is returning as commissioner, they have the

waiver option available to them. He said, "In some ways you could argue it's a level playing field."

SENATOR HOFFMAN asked which other currently hired commissioners would be eligible.

MR. BELL said he doesn't track the retirement status of commissioners so he wasn't aware of any others that were currently hired who participated in a state sponsored RIP.

SENATOR GUESS commented there is an immediate effective date with the amendment so Senator Hoffman's point still stands. She asked when the RIP took place.

MR. BELL advised there have been several; the last was enacted in 1996 and he thought it expired in 2000. His staff could give a complete history of RIPs if she so desired.

SENATOR GUESS said that wasn't necessary. She asked him to confirm that a commissioner who would have been eligible but was hired previously could not take advantage of the waiver because they were already hired.

MR. BELL thought she was correct because of the effective date. People in place today wouldn't benefit; only those hired after the bill is enacted would benefit.

SENATOR HOFFMAN commented this isn't a level playing field. It's just level for those commissioners that are not yet hired. Previously hired commissioners wouldn't find the playing field level at all.

MR. BELL explained he doesn't believe there are any commissioners hired under the current Administration who participated in a state sponsored retirement incentive program and therefore haven't been faced with the penalties associated with the RIP. There may be commissioners who have been hired and are participating in the waiver option, but he doesn't know that for sure. This would allow newly hired commissioners who participated in a state sponsored RIP to participate in the waiver option that is available to people who didn't participate in a state sponsored RIP.

CHAIR GARY STEVENS announced there was an amendment before the committee and he would like a motion to adopt.

SENATOR COWDERY made a motion to adopt amendment #1 for HB 140.

SENATOR GUESS objected to ask a question. She asked if changing the title wouldn't require a concurrent resolution.

SENATOR HOFFMAN replied, "If it gets to the floor you're going to need one."

SENATOR GUESS asked whether a concurrent resolution was needed to move the bill from committee. She said she was looking to the senior member for an answer.

SENATOR COWDERY replied, "I don't believe so."

SENATOR HOFFMAN said a concurrent resolution would be needed when the bill passed from the Rules Committee.

CHAIR GARY STEVENS agreed.

He asked for objections to amendment #1. There being none, amendment #1 was adopted.

He asked for further discussion.

SENATOR GUESS said she wouldn't object to moving the bill from committee, but she implored the Administration and the majority to consider two points:

- First, she thought this was the appropriate vehicle to take up HB 20. It's an important bill to take up now particularly if there is an immediate effective date for next year's hiring. This would be good for education today.
- Second, the previous Commissioner of Education shouldered significant financial burden and lost years in retirement for public service. She asked them to consider making the bill retroactive to 1994.

There was no further discussion.

CHAIR GARY STEVENS asked for a motion to move the bill from committee.

SENATOR COWDERY made a motion to move SCS HB 140(efd fld) (STA) from committee with individual recommendations and zero fiscal note. There being no objection, it was so ordered.

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#SB 115

**SB 115-CORRECTIONAL INDUSTRIES PROGRAM EXPENSES**

CHAIR GARY STEVENS asked Mr. Burnett to introduce SB 115.

MR. JERRY BURNETT, Department of Corrections Director of Administrative Services, explained the bill allows the Correctional Industries Fund to pay state employee wages and benefits for the product managers employed in correctional industries. Effectively, \$960,000 would be paid from product revenues instead of from the general fund.

CHAIR GARY STEVENS asked what the current product revenue figure was.

MR. BURNETT replied the estimate for FY04 is approximately \$4,150,000. If SB 115 passes, they would have to manage the fund more aggressively in an effort to increase revenues.

CHAIR GARY STEVENS asked him to elaborate.

MR. BURNETT added they have product managers and correctional inmates who are employees. Currently they run the Juneau Commercial Laundry, Fairbanks Garment/Flat goods Shop, Kenai Office Furniture Systems Plant, Eagle River Garment Shop, Kenai Metals Plant, Seward Wood Furniture Plant, Palmer Auto Body Shop, and Juneau Staph Guard Hospital Laundry.

SENATOR JOHN COWDERY asked if the purpose was to shift employee costs from the general fund.

MR. BURNETT replied the salaries and benefits of all 14 product managers associated with correctional industries are currently paid from the general fund. This bill would allow their salaries and benefits to be paid from correctional industries revenues.

SENATOR HOFFMAN asked if the salaries and benefits for those positions would remain the same.

MR. BURNETT replied there is no proposal to change them.

SENATOR GUESS asked for the current revenues and expenditures.

MR. BURNETT advised current revenues for Fy04 are about \$4,150,000 and without any changes, they expect to have a fund balance of about \$300,000 at the end of this fiscal year. Therefore, they would need to increase revenues to pay the salaries and benefits.

SENATOR GUESS asked what would be eliminated if those revenues don't increase.

MR. BURNETT said they would have to "find efficiencies within the department to cover the costs."

SENATOR GUESS queried whether passing this bill would result in positions being cut.

MR. BURNETT replied they did not plan to cut any positions as a result of passing SB 115.

SENATOR GUESS questioned whether the salaries and benefits discussed could be part of the reduction if the department is unable to make up the more than \$600,000 difference.

MR. BURNETT wasn't able to offer an answer regarding how the department would handle reductions if they were unable to make up the revenues.

SENATOR GUESS said she wasn't making herself clear. She wanted to know if including salaries and benefits would make it an option to exclude them in a reduction because they wouldn't be excluded now.

MR. BURNETT replied salaries and benefits are currently paid from the general fund and a general fund reduction to the department could result in a cut to those positions.

SENATOR GUESS said she was talking about the Correctional Industry Fund.

MR. BURNETT advised cutting positions would be one of their options if the industry fund was unable to generate sufficient revenues to pay for the salaries and benefits of its employees.

SENATOR GUESS asked, "But it wouldn't be right now if the Correctional Industries Fund fell short. You couldn't actually reduce salaries and benefits."

MR. BURNETT replied, "Currently, if correctional industries revenues were to fall short, it is likely that we would reduce the number of product managers we have even though it is not a direct relationship to the general fund. We would because we wouldn't have sufficient work and sufficient income to justify those positions."

CHAIR GARY STEVENS commented the task isn't easy but the idea is the program should pay its way.

MR. BURNETT agreed.

SENATOR HOFFMAN asked how they planned to generate the additional revenue.

MR. BURNETT wasn't in a position to answer. The manager was going to retire and the department would look for a new manager with the entrepreneurial skills to actualize the goal.

SENATOR COWDERY asked what the money in the fund is used for currently.

MR. BURNETT replied it is used to buy supplies and pay for equipment and pay the salaries of the inmates who work in correctional industries.

SENATOR COWDERY asked how much inmates are paid per hour.

MR. BURNETT wasn't sure, but thought they were paid in the neighborhood of fifty cents per hour. Even so, they would need significant new revenues.

SENATOR DYSON advised he has a continuing interest in correctional industries. The capacity crisis in the state prisons makes it very difficult to take advantage of training and job opportunities. The prison population must become more stable before meaningful training is possible. He sees no reason why the auto body shop at Sutton couldn't one day become as successful as the Nevada prison auto shop where inmates restore antique and classic automobiles. The men and women trained in that Nevada shop have few discipline problems and an extremely low recidivism rate. Those inmates have a trade and typically one or two job offers when they are released so they are able to support themselves and their families.

SENATOR COWDERY asked whether Florence, Arizona inmates were required to get a GED [General Educational Development] before they could apply for a job while in prison.

SENATOR HOFFMAN recalled inmates were required to work toward a GED before they could get TV privileges.

SENATOR COWDERY thought the idea was worthwhile.

CHAIR GARY STEVENS acknowledged that Mr. Burnett had his work cut out for him, but this could provide a good opportunity for everyone involved.

There was no further testimony.

CHAIR GARY STEVENS asked for a motion to move SB 115.

SENATOR DYSON made a motion to move SB 115 and attached fiscal note from committee with individual recommendations. There being no objection, it was so ordered.

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#SB 24

**SB 24-SPECIAL ABSENTEE BALLOTS**

SENATOR GEORGIANNA LINCOLN, prime sponsor, advised Ms. Boario would introduce the bill and Ms. Breeze was available to answer questions.

MS. SARA BOARIO, chief of staff to Senator Georgianna Lincoln, summarized the purpose of SB 24.

SB 24 offers a voter living in a remote location the opportunity to vote using the 60-day special advance absentee ballot. In current statute, only voters living, working or traveling outside of the United States are eligible for this special ballot. However, distance, terrain and natural conditions have prevented voters in remote areas from reaching a community with a polling place or from receiving by mail ballots. The current absentee ballot is mailed out 14 to 15 days in advance.

The Division of Elections supports this bill as they already distribute the 60-day special advance absentee ballot and this legislation will not impose any administrative difficulties. This bill also has a zero fiscal note.

Last session there were a couple of questions regarding the interpretation of the words "remote" and "reasonable." Legislative legal advised them to review how the Division of Elections applies their current regulations to determine who is a permanent absentee voter. This should provide information regarding how the division would apply SB 24 in determining eligible remote voters. One of the criteria the division uses to

identify permanent absentee voters is if the voter resides in a remote area in Alaska where distance, terrain, or other natural conditions deny a voter reasonable access to a voting place. Because the definition of "remote" is inherent in the regulations, for SB 24 a remote area is one in which reasonable access to a polling place is denied by the conditions outlined. The key phrase is reasonable access; legislative legal found that courts have interpreted "reasonable" as a matter of degree dependent upon the specific facts of the case and is usually determined by the agency. The Division of Elections does review the specific conditions of all permanent absentee voters and the voters that would benefit from SB 24 are already identified in the division's voter registration system.

SENATOR GUESS asked her to confirm that the words "remote" and "reasonable" are established in regulation and that individuals would have to apply for the special ballot just as they must apply for any other absentee ballot.

MS. BOARIO agreed.

SENATOR GUESS then asked whether eligible voters would be notified that this option is available.

MS. VIRGINIA BREEZE, legislative liaison for the Division of Elections, affirmed that voters would have to apply for the special ballot. Because this would be a new option, there would be a method to inform voters.

CHAIR GARY STEVENS asked Ms. Breeze about the letter dated May 9, 2002 and signed by Election Administrative Supervisor, Gail Fenumiai where she stated, "The division believes it would be an unnecessary expense to expand the use of the 60-day special advance ballot to all Alaskan voters." He was confused because all other correspondence from the division indicates this would be a good idea.

MS. BREEZE agreed the letter did cause some confusion, but she thought the answer lay in the last paragraph. It stated, "The only way for a permanent absentee voter to vote is by mail. They do not have access to any other options to exercise their right to vote. The division feels it is in the best interest of these voters that they be extended another alternative for voting, such as is the case with voters in urban Alaska." She interpreted this to mean the division does not intend to do this for every voter in the State of Alaska. Just voters living in remote locations would be eligible.

There were no further questions.

CHAIR GARY STEVENS asked for a motion.

SENATOR GUESS made a motion to move SB 24 from committee with individual recommendations and zero fiscal note. There being no objection, it was so ordered.

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#HB 46

**HB 46-PRIMARY ELECTION BALLOTS**

REPRESENTATIVE MIKE HAWKER, prime sponsor, explained he became aware of the need for this legislation while campaigning in Eagle River. A number of people were concerned with the change in election laws relating to the primary elections. The concern stemmed from the requirement that voters had to declare some political party affiliation to access any of the ballots. HB 46 is carefully crafted to stay clear of any issues surrounding the initiative process or the overall theory behind the primary election process. It simply provides that, in addition to party ballots, a ballot would be available that would present only the propositions and/or ballot initiatives being voted on in that primary election. The ballot would be available to any qualified voter that chose that ballot rather than having to declare any party affiliation.

The ballot would be a "no party" ballot which is not to be confused with a non-partisan or undeclared voter designation. There are voters with certain religious affiliations who have a proscription against partisan participation, but want to participate "in the advisory capacity as voters in this state." He said HB 46 is "a fix to a small area that I believe was overlooked in last year's election statutes." Certainly, no one voting favorably on this legislation would prejudice his or her own opinions on any of the larger issues related to the initiative and/or primary process in the State of Alaska. HB 46 very simply enfranchises the voters who were disenfranchised in the last election.

SIDE B  
4:20 pm

CHAIR GARY STEVENS recapped HB 46 as legislation that would give voters who did not want to participate in partisan politics an opportunity to vote.

REPRESENTATIVE HAWKER replied that is the full intent of the bill.

SENATOR GRETCHEN GUESS said, "Anyone regardless of party can choose the ballot."

REPRESENTATIVE HAWKER advised the technical structure of the bill provides that the Division of Elections shall prepare a ballot that only offers propositions. AS 15.25.060(b) reads, "A voter may vote only one primary election ballot." which encompasses all the available ballots. It then defines political party ballots.

SENATOR GUESS asked if it would be a no party name ballot or an initiative only ballot.

REPRESENTATIVE HAWKER repeated it is a ballot for initiatives and propositions only. Voters selecting this ballot would not have the opportunity to vote for people.

SENATOR GUESS recommended he change his description from "no party" to "proposition only" because so many people associate no party with non-partisan.

With regard to the fiscal note, she asked if it was his intent that the cost of this bill would be absorbed into the cost of a primary election.

REPRESENTATIVE HAWKER explained he gave considerable attention to the statute regarding the preparation of a fiscal note before concluding that this was a zero fiscal note. That particular statute provides that the fiscal note is to present additional appropriation that may be necessary to implement the bill. The Division of Elections enters a budget cycle knowing there is an election coming, but they never know definitively how many ballots they will need to print. The division believes that this bill, in and of itself, would have no impact on their decision regarding how much to budget for printing costs. Of course there would be costs associated with printing the ballot, but those costs could be accommodated within the division's current year budget and future printing costs would not require them to accommodate an increment for HB 46.

SENATOR HOFFMAN asked if there would be six or seven ballot choices with passage of this bill.

REPRESENTATIVE HAWKER wasn't sure how many ballots were authorized, but this would be a ballot in addition to all the party ballots.

SENATOR HOFFMAN remarked the additional option makes it a bit more complicated but less controversial.

REPRESENTATIVE HAWKER agreed; any time an additional decision must be made it complicates matters a bit, but this would be an improvement because it would make it possible for more people to vote. He added the record shows they have strong support from the American Civil Liberties Union, political parties, and the Division of Elections.

SENATOR GUESS noted the letter from Randy Ruedrich and remarked she was unclear whether he was extending his support of HB 46 as Commissioner on the Alaska Oil and Gas Conservation Commission or as State Chairman of the Republican Party of Alaska.

There were no further questions asked of Representative Hawker.

CHAIR GARY STEVENS asked Ms. Breeze whether the division was comfortable accepting the additional responsibility associated with passage of the legislation.

MS. BREEZE stated the division had no trouble with the six ballot primary last year and they anticipated no difficulty adding an additional ballot.

CHAIR GARY STEVENS asked how many ballots they anticipate this next year.

MS. BREEZE informed him there are four ballots currently, but it is unclear what the total would be.

There were no further questions asked of Ms. Breeze.

CHAIR GARY STEVENS asked for a motion to move the bill.

SENATOR COWDERY made a motion and asked for unanimous consent to move CSHB 46 and zero fiscal note from committee with individual recommendations. There being no objection, it was so ordered.

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CHAIR GARY STEVENS adjourned the meeting at 4:30 pm.