

# HOUSE JOURNAL

## ALASKA STATE LEGISLATURE

### TWENTY-FOURTH LEGISLATURE - FIRST SESSION

Juneau, Alaska

Wednesday

February 23, 2005

#### Forty-fifth Day

Pursuant to adjournment the House was called to order by Speaker Harris at 10:06 a.m.

Roll call showed 37 members present. Representative Kott had been previously excused from a call of the House today. Representatives Hawker and Seaton were absent and their presence was noted later.

The invocation was offered by the Chaplain, Nancy Campbell of the Gospel Outreach Christian Center. Representative Meyer moved and asked unanimous consent that the invocation be spread on the journal. There being no objection, it was so ordered.

Dear Heavenly Father,

I stand in the gap for these elected officials this day. I ask of You that You grant them wisdom, understanding, knowledge, and a working unity as they discuss the issues brought before them. Bring clarity where there may be confusion and peace where there has been strife. Give them help as they write the laws that will shape the future of our great state, the state of Alaska.

In Jesus' name, Amen.

The Pledge of Allegiance was led by Representative LeDoux.

**CERTIFICATION OF THE JOURNAL**

Representative Coghill moved and asked unanimous consent that the journal for the 44th legislative day be approved as certified by the Chief Clerk. There being no objection, it was so ordered.

**REPORTS OF STANDING COMMITTEES**

The Health, Education & Social Services Committee has reviewed the qualifications of the following and recommends the appointments be forwarded to a joint session for consideration:

Ms. Karen Macklin

as a member of the Professional Teaching Practices Commission.

The report was signed by Representative Wilson, Chair; and Representatives Anderson, Cissna, Gardner, Kohring, and Seaton.

Mr. Carl H. Marrs  
Mr. Jeff Staser

as members of the University of Alaska Board of Regents.

The reports were signed by Representative Wilson, Chair; and Representatives Cissna, Gardner, Anderson, and Seaton.

Mr. Robert Martin

as a member of the University of Alaska Board of Regents.

The report was signed by Representative Wilson, Chair; and Representatives Cissna, Gardner, Anderson, Kohring, and Seaton.

**HJR 10**

The Health, Education & Social Services Committee has considered:

## HOUSE JOINT RESOLUTION NO. 10

Relating to a proposed reduction in the Federal Medical Assistance Percentage for Alaskans; and urging the United States Congress to take action to prevent the reduction.

The report was signed by Representative Wilson, Chair, with the following individual recommendations:

Do pass (4): Cissna, Anderson, Seaton, Wilson

The following fiscal note(s) apply:

1. Zero, Dept. of Health & Social Services
2. Zero, Dept. of Health & Social Services
3. Zero, Dept. of Health & Social Services
4. Zero, Dept. of Health & Social Services

HJR 10 was referred to the Finance Committee.

**HB 100**

The State Affairs Committee has considered:

## HOUSE BILL NO. 100

"An Act relating to a lease-purchase agreement for the construction, equipping, and financing of a state virology laboratory in Fairbanks, on land provided by the University of Alaska, Fairbanks, to be operated by the Department of Health and Social Services; relating to the issuance of certificates of participation for the laboratory; relating to the use of certain investment income for certain construction and equipment costs for the laboratory; and providing for an effective date."

and recommends it be replaced with:

## CS FOR HOUSE BILL NO. 100(STA)

"An Act relating to a lease-purchase agreement for the construction, equipping, and financing of a state virology laboratory in Fairbanks to be operated by the Department of Health and Social Services; relating to the issuance of certificates of participation for the laboratory; relating to the use of certain

investment income for certain construction and equipment costs for the laboratory; and providing for an effective date."

The report was signed by Representative Seaton, Chair, with the following individual recommendations:

Do pass (2): Gardner, Seaton

No recommendation (3): Lynn, Gruenberg, Ramras

The following fiscal note(s) apply to CSHB 100(STA):

1. Fiscal, Dept. of Health & Social Services
2. Fiscal, Dept. of Health & Social Services
3. Fiscal, Dept. of Revenue

HB 100 was referred to the Health, Education & Social Services Committee.

**SB 14**

The State Affairs Committee has considered:

SENATE BILL NO. 14

"An Act relating to municipal initiative and referendum elections."

and recommends it be replaced with:

HOUSE CS FOR SENATE BILL NO. 14(STA)  
(same title)

The report was signed by Representative Seaton, Chair, with the following individual recommendations:

Do pass (5): Gardner, Lynn, Gruenberg, Ramras, Seaton

The following fiscal note(s) apply to HCS SB 14(STA):

1. Zero, Office of the Governor
2. Zero, Dept. of Commerce, Community, & Economic Development

SB 14 was referred to the Rules Committee for placement on the calendar.

**INTRODUCTION, FIRST READING, AND REFERENCE OF HOUSE BILLS**

**HB 170**

HOUSE BILL NO. 170 by Representative Kelly, entitled:

"An Act relating to the qualifications of public members of the Public Employees' Retirement Board and the Alaska Teachers' Retirement Board."

was read the first time and referred to the State Affairs and Finance Committees.

**CONSIDERATION OF THE DAILY CALENDAR**

**SECOND READING OF SENATE BILLS**

**SB 56**

The following was read the second time:

CS FOR SENATE BILL NO. 56(JUD)

"An Act relating to criminal law and procedure, criminal sentences, and probation and parole; and providing for an effective date."

with the:

Journal Page

JUD RPT HCS(JUD) 3DP 3NR	266
FN1: ZERO(LAW)	267
FN2: ZERO(COR)	267
FN3: ZERO(COR)	267
FN4: ZERO(DPS)	267
FN5: ZERO(S.JUD/ADM)	267
FIN RPT HCS(FIN) 7DP 1NR	352
FN1: ZERO(LAW)	353
FN4: ZERO(DPS)	353

FN6: ZERO(COR)	353
FN7: ZERO(COR)	353
FN8: INDETERMINATE(ADM)	353
FN9: INDETERMINATE(ADM)	353
FN10: INDETERMINATE(CRT)	353

Representative Coghill moved and asked unanimous consent that the following committee substitute be adopted in lieu of the original bill:

HOUSE CS FOR CS FOR SENATE BILL NO. 56(FIN)  
(same title)

There being no objection, it was so ordered.

Amendment No. 1 was offered by Representatives Samuels and Gruenberg:

Page 16, following line 31:

Insert a new paragraph to read:

**"(17) except in the case of an offense defined by AS 11.41 or AS 11.46.400 or a defendant who has previously been convicted of a felony, the defendant, at the time of sentencing, is actively participating in or has successfully completed a state-approved treatment program that is relevant to the offense and that was begun after the offense was committed;"**

Page 17, line 1:

Delete "**(17)**"

Insert "**(18)**"

Representative Samuels moved and asked unanimous consent that Amendment No. 1 be adopted.

Representative Stoltze objected.

\*\*The presence of Representative Hawker was noted.

The question being: "Shall Amendment No. 1 be adopted?" The roll was taken with the following result:

HCS CSSB 56(FIN)  
 Second Reading  
 Amendment No. 1

**YEAS: 33 NAYS: 4 EXCUSED: 1 ABSENT: 2**

Yeas: Berkowitz, Cissna, Coghill, Crawford, Croft, Dahlstrom, Elkins, Foster, Gara, Gardner, Gruenberg, Guttenberg, Harris, Hawker, Holm, Joule, Kapsner, Kelly, Kerttula, Kohring, LeDoux, Lynn, McGuire, Meyer, Moses, Neuman, Olson, Ramras, Rokeberg, Salmon, Samuels, Thomas, Wilson

Nays: Chenault, Gatto, Stoltze, Weyhrauch

Excused: Kott

Absent: Anderson, Seaton

And so, Amendment No. 1 was adopted.

Amendment No. 2 was offered by Representative Berkowitz:

Page 1, line 6, following "INTENT":

Insert "FOR SECTIONS 1 and 3 - 35"

Page 2, following line 3:

Insert new bill sections to read:

**\*\* Sec. 2.** AS 11.56.850(a) is amended to read:

(a) A public servant commits the crime of official misconduct if, with intent to obtain a benefit or to injure or deprive another person of a benefit, the public servant

(1) performs an act relating to the public servant's office but constituting an unauthorized exercise of the public servant's official functions, knowing that that act is unauthorized; [OR]

(2) knowingly refrains from performing a duty **that** [WHICH] is imposed upon the public servant by law or is clearly inherent in the nature of the public servant's office; **or**

**(3) knowingly takes or withholds official action, as "official action" is defined in AS 39.52.960, in order to**

**affect the interests of a sole proprietorship, partnership, firm, corporation, trust or other entity through which business for profit or not for profit is conducted in which the public servant or the public servant's spouse is**

**(A) an officer, director, trustee, partner, employee, or holds a position of management; or**

**(B) a holder of stock exceeding \$5,000 in fair market value or exceeding one percent of the outstanding stock."**

Renumber the following bill sections accordingly.

Page 24, line 8:

Delete "Sections 2, 5, 26, and 29 - 31"

Insert "Sections 3, 6, 27, and 30 - 32"

Page 24, line 9:

Delete "Sections 3, 4, 6 - 25, 27, and 28"

Insert "Sections 2, 4, 5, 7 - 26, 28, and 29"

Page 24, line 11:

Delete "secs. 8 - 21"

Insert "secs. 9 - 22"

Representative Berkowitz moved and asked unanimous consent that Amendment No. 2 be adopted.

Representative McGuire objected.

The question being: "Shall Amendment No. 2 be adopted?" The roll was taken with the following result:

HCS CSSB 56(FIN) am H

Second Reading

Amendment No. 2

**YEAS: 14 NAYS: 23 EXCUSED: 1 ABSENT: 2**



Yeas: Berkowitz, Cissna, Crawford, Croft, Elkins, Gara, Gardner, Gruenberg, Guttenberg, Kapsner, Kerttula, Kohring, Moses, Salmon

Nays: Anderson, Chenault, Coghill, Dahlstrom, Foster, Gatto, Harris, Hawker, Holm, Kelly, LeDoux, Lynn, McGuire, Meyer, Neuman, Olson, Ramras, Rokeberg, Samuels, Stoltze, Thomas, Weyhrauch, Wilson

Excused: Kott

Absent: Joule, Seaton

And so, Amendment No. 2 was not adopted.

The Speaker stated that, without objection, the House would recess to a call of the Chair; and so, the House recessed at 10:54 a.m.

#### **AFTER RECESS**

The Speaker called the House back to order at 11:07 a.m.

\*\*The presence of Representative Seaton was noted.

#### **JOINT SESSION IN THE HOUSE**

In accordance with Uniform Rule 51, Speaker Harris turned the gavel over to President pro tempore Green who called the joint session to order at 11:07 a.m.

The purpose of the joint session was to hear an address by the Honorable Alexander O. Bryner, Chief Justice of the Alaska Supreme Court.

Senator Gary Stevens moved and asked unanimous consent that the roll call of the Senate be waived and all members be shown as present. There being no objection, it was so ordered.

Representative Coghill moved and asked unanimous consent that the roll call of the House be waived and all members be shown as present. There being no objection, it was so ordered.

President pro tempore Green appointed Representative McGuire and Senator Seekins to escort the Honorable Alexander O. Bryner to the joint session.

The Senate Sergeant-at-Arms announced the Chief Justice's entrance into the House Chamber.

Chief Justice Bryner was escorted to the rostrum and welcomed by President pro tempore Green.

The Chief Justice delivered his address and it is published in Senate and House Joint Journal Supplement No. 3.

Chief Justice Bryner received a standing ovation and was escorted from the Chamber by Representative McGuire and Senator Seekins.

Senator Gary Stevens moved and asked unanimous consent that the joint session adjourn. There being no objection, President pro tempore Green adjourned the joint session at 11:39 a.m.

The Speaker ordered the House at ease to allow members of the Senate to leave the Chamber.

#### **IN THE HOUSE**

The Speaker called the House back to order at 11:45 a.m.

#### **SECOND READING OF SENATE BILLS** (continued)

##### **SB 56**

HCS CSSB 56(FIN) am H was again before the House in second reading.

Representative Coghill moved and asked unanimous consent that HCS CSSB 56(FIN) am H be considered engrossed, advanced to third reading, and placed on final passage.

Representative Berkowitz objected.

HCS CSSB 56(FIN) am H will advance to third reading on tomorrow's calendar.

**SB 62**

The following was read the second time:

SENATE BILL NO. 62

"An Act making a supplemental appropriation for increased operating costs of the division of elections; and providing for an effective date."

with the:	Journal Page
FIN RPT 8DP 3NR	328

Amendment No. 1 was offered by Representative Croft:

Page 1, following line 3, insert a new bill section to read:

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

LEGISLATIVE FINDINGS AND INTENT. (a) The legislature finds that

(1) Alaska law requires that the Division of Elections and the Lieutenant Governor write a "a true and impartial summary of the proposed law" (AS 15.45.180) for each initiative on the ballot; and

(2) for an initiative on the 2004 general election ballot, the Lieutenant Governor prepared a summary that was found by the Anchorage Superior Court to be biased and inaccurate; and

(3) at great expense to the state, the Lieutenant Governor's decision eventually forced the Division of Elections to reprint thousands of ballots with the proper, impartial summary of the proposed law; and

(4) if the Lieutenant Governor had followed the law set out in AS 15.45.180, the State of Alaska would not have incurred this great cost.

(b) It is the intent of this Legislature

(1) to appropriate the supplemental funds to cover the costs incurred by the state for only the specific instance described in (a) of this section; and

(2) to put the Division of Elections and the Lieutenant Governor on notice that the legislature expects true and impartial ballot language; and

(3) not to appropriate additional funds to the Division of Elections for costs incurred by the State of Alaska due to the failure of the Lieutenant Governor to adhere to election laws in the future."

Renumber the following bill sections accordingly.

Representative Croft moved and asked unanimous consent that Amendment No. 1 be adopted.

Representative Meyer objected.

Representative Gruenberg rose to a point of order regarding impugning the motives of members of the body.

The Speaker cautioned members to confine remarks to the amendment.

Representative Rokeberg rose to a point of order regarding confining remarks to the amendment before the body.

The Speaker reminded members to confine remarks to the amendment.

The question being: "Shall Amendment No. 1 be adopted?" The roll was taken with the following result:

SB 62

Second Reading

Amendment No. 1

**YEAS: 11 NAYS: 26 EXCUSED: 1 ABSENT: 2**

Yeas: Berkowitz, Crawford, Croft, Gara, Gardner, Gruenberg, Guttenberg, Joule, Kapsner, Kerttula, Salmon

Nays: Anderson, Chenault, Coghill, Dahlstrom, Elkins, Foster, Gatto, Harris, Hawker, Holm, Kelly, Kohring, LeDoux, Lynn, McGuire, Meyer, Neuman, Olson, Ramras, Rokeberg, Samuels, Seaton, Stoltze, Thomas, Weyhrauch, Wilson

Excused: Kott

Absent: Cissna, Moses

And so, Amendment No. 1 was not adopted.

Amendment No. 2 was offered by Representative Croft:

Page 1, line 4:

Delete "\$694,900"

Insert "\$613,833"

Representative Croft moved and asked unanimous consent that Amendment No. 2 be adopted.

Representative Meyer objected.

The question being: "Shall Amendment No. 2 be adopted?" The roll was taken with the following result:

SB 62

Second Reading

Amendment No. 2

**YEAS: 7 NAYS: 30 EXCUSED: 1 ABSENT: 2**

Yeas: Berkowitz, Crawford, Croft, Gruenberg, Guttenberg, Kerttula, Salmon

Nays: Anderson, Chenault, Coghill, Dahlstrom, Elkins, Foster, Gara, Gardner, Gatto, Harris, Hawker, Holm, Joule, Kapsner, Kelly, Kohring, LeDoux, Lynn, McGuire, Meyer, Neuman, Olson, Ramras, Rokeberg, Samuels, Seaton, Stoltze, Thomas, Weyhrauch, Wilson

Excused: Kott

Absent: Cissna, Moses

And so, Amendment No. 2 was not adopted.

Representative Coghill moved and asked unanimous consent that SB 62 be considered engrossed, advanced to third reading, and placed on final passage.

Objection was heard.

SB 62 will advance to third reading on tomorrow's calendar.

### THIRD READING OF HOUSE BILLS

#### HB 46

The following, which was advanced to third reading from the February 22, 2005, calendar (page 375), was read the third time:

CS FOR HOUSE BILL NO. 46(FIN)

"An Act relating to grants to certain public utilities for water quality enhancement projects and water supply and wastewater systems."

Representatives Weyhrauch and Coghill moved and asked unanimous consent that they be allowed to abstain from voting because of a conflict of interest. Objection was heard, and the members were required to vote.

The question being: "Shall CSHB 46(FIN) pass the House?" The roll was taken with the following result:

CSHB 46(FIN)

Third Reading

Final Passage

**YEAS: 24 NAYS: 12 EXCUSED: 1 ABSENT: 3**

Yeas: Anderson, Chenault, Coghill, Foster, Gardner, Gatto, Guttenberg, Harris, Hawker, Holm, Kapsner, Kelly, Kohring, LeDoux, Lynn, McGuire, Meyer, Neuman, Ramras, Rokeberg, Samuels, Stoltze, Thomas, Weyhrauch

Nays: Berkowitz, Crawford, Dahlstrom, Elkins, Gara, Gruenberg, Joule, Kerttula, Olson, Salmon, Seaton, Wilson

Excused: Kott

Absent: Cissna, Croft, Moses

And so, CSHB 46(FIN) passed the House.

Representative Wilson gave notice of reconsideration of the vote on CSHB 46(FIN).

**HB 102**

The following, which was advanced to third reading from the February 22, 2005, calendar (page 375), was read the third time:

HOUSE BILL NO. 102

"An Act relating to the licensure of foreign medical graduates; and providing for an effective date."

The question being: "Shall HB 102 pass the House?" The roll was taken with the following result:

HB 102

Third Reading

Final Passage

**YEAS: 23 NAYS: 2 EXCUSED: 1 ABSENT: 14**

Yeas: Coghill, Crawford, Croft, Foster, Gara, Gatto, Gruenberg, Guttenberg, Harris, Hawker, Kelly, Kerttula, Kohring, LeDoux, McGuire, Neuman, Ramras, Rokeberg, Salmon, Seaton, Stoltze, Thomas, Wilson

Nays: Elkins, Gardner

Excused: Kott

Absent: Anderson, Berkowitz, Chenault, Cissna, Dahlstrom, Holm, Joule, Kapsner, Lynn, Meyer, Moses, Olson, Samuels, Weyhrauch

And so, HB 102 passed the House.

Representative Coghill moved the effective date clause.

Representative Coghill placed a call of the House and lifted the call.

The question being: "Shall the effective date clause be adopted?" The roll was taken with the following result:

HB 102

Third Reading

Effective Date

**YEAS: 37 NAYS: 0 EXCUSED: 1 ABSENT: 2**

Yeas: Anderson, Berkowitz, Chenault, Cissna, Coghill, Crawford, Croft, Dahlstrom, Elkins, Foster, Gara, Gardner, Gatto, Gruenberg, Guttenberg, Harris, Hawker, Holm, Joule, Kapsner, Kelly, Kerttula, Kohring, LeDoux, Lynn, McGuire, Meyer, Neuman, Olson, Ramras, Rokeberg, Salmon, Samuels, Seaton, Stoltze, Thomas, Weyhrauch

Excused: Kott

Absent: Moses, Wilson

And so, the effective date clause was adopted.

Representative Stoltze gave notice of reconsideration of the vote on HB 102.

### **UNFINISHED BUSINESS**

Representative Coghill moved and asked unanimous consent that the following members be excused from a call of the House. There being no objection, the members were excused as noted:

Representative Gatto - from 7:00 a.m., February 25 to 10:00 p.m., plane time, February 27, 2005

Representative Berkowitz - from 7:00 a.m., February 25 to 9:30 a.m., plane time, February 28, 2005

Representative Crawford - from 7:00 a.m., February 25 to 9:30 a.m., plane time, February 28, 2005

Representative Ramras - from 7:00 a.m., February 25 to 9:30 a.m., plane time, February 28, 2005

Representative Kohring - from 10:00 a.m., February 25 to 10:00 p.m., plane time, February 28, 2005

Representative Coghill - from 1:00 p.m., February 25 to 10:00 p.m., plane time, February 27, 2005

Representative Harris - from 1:00 p.m., February 25 to 10:00 p.m., plane time, February 27, 2005



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Representative Olson - from 1:00 p.m., February 25 to 10:00 p.m., plane time, February 27, 2005

Representative Neuman - from 1:00 p.m., February 25 to 9:30 a.m., plane time, February 28, 2005

Representative Rokeberg - from 1:00 p.m., February 25 to 9:30 a.m., plane time, March 1, 2005

Representative Anderson - from 1:00 p.m., February 25 to 9:30 a.m., plane time, March 2, 2005

Representative Holm - from 6:00 p.m., February 25 to 9:30 a.m., plane time, February 28, 2005

Representative Kelly - from 7:00 a.m., February 27 to 7:00 p.m., plane time, March 2, 2005

**HB 151**

Representative Anderson, Chair, Labor & Commerce Committee, changed the sponsor from the House Labor & Commerce Committee to the House Labor & Commerce Committee by request for the following:

## HOUSE BILL NO. 151

"An Act relating to provider responsibility for ocular postoperative care; and providing for an effective date."

A corrected copy of the bill was reprinted today.

**HCR 3**

Representative Crawford added his name as cosponsor to:

## HOUSE CONCURRENT RESOLUTION NO. 3

Relating to renewable energy resource development.

**HB 9**

Representative Ramras added his name as cosponsor to:

**HOUSE BILL NO. 9**

"An Act establishing the Hydrogen Energy Partnership in the Department of Commerce, Community, and Economic Development; requiring the commissioner of commerce, community, and economic development to seek public and private funding for the partnership; providing for the contingent repeal of an effective date; and providing for an effective date."

**HB 19**

Representative LeDoux added her name as cosponsor to:

**HOUSE BILL NO. 19**

"An Act relating to pesticides and broadcast chemicals; and providing for an effective date."

**HB 132**

Representative Anderson added his name as cosponsor to:

**HOUSE BILL NO. 132**

"An Act relating to sentencing for certain crimes committed against the elderly; and providing for an effective date."

**HB 155**

Representative Anderson added his name as cosponsor to:

**HOUSE BILL NO. 155**

"An Act relating to youth courts and to the recommended use of criminal fines to fund the activities of youth courts; and relating to accounting for criminal fines."

**ANNOUNCEMENTS**

House committee schedules are published daily under separate cover.

The following meetings today have been changed as indicated:

Judiciary Committee  
CHANGED TO:

1:45 p.m.

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Resources Committee  
CHANGED TO:

1:45 p.m.

Finance Committee  
CHANGED TO:

2:00 p.m.

Joint Session  
U.S. Senator Ted Stevens' address

11:00 a.m., 2/24

**ADJOURNMENT**

Representative Coghill moved and asked unanimous consent that the House adjourn until 10:45 a.m., February 24, 2005. There being no objection, the House adjourned at 1:30 p.m.

Suzi Lowell  
Chief Clerk