

SENATE JOURNAL
ALASKA STATE LEGISLATURE
TWENTY-FOURTH LEGISLATURE

FIRST SESSION

Juneau, Alaska **Monday** **February 28, 2005**

Fiftieth Day

Pursuant to adjournment the Senate was called to order by President Stevens at 11:09 a.m.

The roll showed seventeen members present. Senators Hoffman, Kookesh, Gary Stevens were excused from a call of the Senate.

The prayer was offered by the Chaplain, Pastor Tom Frega of Auke Bay Bible Church. Senator Olson moved and asked unanimous consent that the prayer be spread. Without objection, it was so ordered.

Dear Heavenly Father: We praise Your name that You are a God that gives wisdom to those that ask. Today I feel burdened to pray for wisdom for those here in the Senate. So many decisions that affect so many lives. Guide them and honor their humility. May they bow their knees and hearts to You seeking true wisdom from above.

We know You are a God that honors humility and we claim the promise that if we ask for wisdom You will grant it.

Thank You for these men and women that have given their time to serve others. In Christ's name I pray. Amen.

Senator French led the Senate in the Pledge of Allegiance.

Certification

Senator Green, Acting Majority Leader, moved and asked unanimous consent that the journals for the forty-sixth through forty-ninth legislative days and House and Senate Joint Journal Supplement No. 4 be approved as certified by the Secretary. Without objection, it was so ordered.

Messages from the House**SB 62**

Message dated February 24 was read, stating the House passed and returned:

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."

The bill was referred to the Secretary for enrollment.

Message dated February 25 was read, stating the House passed and transmitted for consideration:

**First Reading and Reference of
House Resolutions****HCR 2**

HOUSE CONCURRENT RESOLUTION NO. 2 BY REPRESENTATIVES SAMUELS, Olson, McGuire, Gara, Crawford, Gardner, Hawker, Stoltze, LeDoux, Croft, Harris, Anderson, Chenault, Coghill, Elkins, Foster, Gruenberg, Holm, Kelly, Kerttula, Meyer, Ramras, Rokeberg, Salmon, Seaton, Thomas, Weyhrauch, Wilson,

Urging Governor Murkowski to take quick action to conduct, approve, or sanction a study of in-state natural gas needs and take-off points for intrastate use of natural gas transported in a North Slope natural gas pipeline.

was read the first time and referred to the Resources and Finance Committees.

Message dated February 24 was read, stating the House passed and transmitted for consideration:

First Reading and Reference of House Bills**HB 102**

HOUSE BILL NO. 102 am BY REPRESENTATIVE STOLTZE, entitled:

"An Act relating to the licensure of foreign medical graduates and to applications for a license to practice medicine; and providing for an effective date."

was read the first time and referred to the Labor and Commerce and Finance Committees.

HB 115

CS FOR HOUSE BILL NO. 115(TRA) BY THE HOUSE TRANSPORTATION COMMITTEE, entitled:

"An Act relating to charges paid or collected by users or occupants of an airport facility owned or controlled by the state; and providing for an effective date."

was read the first time and referred to the Transportation and Finance Committees.

Concur Messages**SB 56**

Message dated February 24 was read, stating the House passed CS FOR SENATE BILL NO. 56(JUD) with the following amendments:

HOUSE CS FOR CS FOR SENATE BILL NO. 56(FIN) am H
"An Act relating to criminal law and procedure, criminal sentences, and probation and parole; and providing for an effective date"

and so, HOUSE CS FOR CS FOR SENATE BILL NO. 56(FIN) am H was returned for consideration.

Senator Green, Acting Majority Leader, moved that the Senate concur in the House amendments and recommended the body vote no.

The question being: "Shall the Senate concur in the House amendments?" The roll was taken with the following result:

HCS CSSB 56(FIN) am H
Shall the Senate Concur in the House
amendments to CSSB 56(JUD)?

YEAS: 6 NAYS: 11 EXCUSED: 3 ABSENT: 0

Yeas: Davis, Ellis, Elton, French, Guess, Olson

Nays: Bunde, Cowdery, Dyson, Green, Huggins, Seekins, Stedman, Stevens B, Therriault, Wagoner, Wilken

Excused: Hoffman, Kookesh, Stevens G

and so, the Senate failed to concur.

The Secretary was requested to notify the House of the Senate's action and request the House to recede from its amendments. In the event the House fails to recede, the President appointed a Conference Committee to meet with a like committee from the House to consider the bills:

Senator Therriault, Chair
Senator Seekins
Senator French

Communications

The following report is on file in the Office of the Secretary of the Senate:

Annual Financial Report, Fiscal Year Ended June 30, 2004
from Mike Barton, Commissioner
Department of Transportation and Public Facilities
in accordance with AS 19.65.070

Standing Committee Reports**SB 70**

The Health, Education and Social Services Committee considered SENATE BILL NO. 70 "An Act relating to controlled substances regarding the crimes of manslaughter, endangering the welfare of a child, and misconduct involving a controlled substance; and providing for an effective date" and recommended it be replaced with

CS FOR SENATE BILL NO. 70(HES) "An Act relating to controlled substances regarding the crimes of manslaughter, endangering the welfare of a child, and misconduct involving a controlled substance; relating to listing certain anabolic steroids as controlled substances; and providing for an effective date."

Signing do pass: Senator Dyson, Chair. Signing no recommendation: Senators Green, Elton.

The following fiscal information was published today:

Fiscal Note No. 4, indeterminate, Department of Corrections

The following previously published fiscal information applies:

Fiscal Note No. 1, zero, Department of Public Safety

Fiscal Note No. 2, zero, Department of Administration

Fiscal Note No. 3, zero, Department of Law

President Stevens added a Finance Committee referral to the bill.

The bill was referred to the Judiciary, then Finance Committees.

SB 83

The Judiciary Committee considered SENATE BILL NO. 83 "An Act relating to the retaining of certain privileges of a parent in a relinquishment and termination of a parent and child relationship proceeding; relating to eligibility for permanent fund dividends for certain children in the custody of the state; relating to child in need of aid proceedings and juvenile delinquency proceedings; and providing for an effective date" and recommended it be replaced with

CS FOR SENATE BILL NO. 83(JUD) "An Act relating to the retaining of certain privileges of a parent in a relinquishment and termination of a parent and child relationship proceeding; relating to eligibility for permanent fund dividends for certain children in the custody of the state; relating to child-in-need-of-aid proceedings and juvenile delinquency proceedings; relating to findings in permanency hearings in child-in-need-of-aid proceedings; amending Rule 17.2, Alaska Child in Need of Aid Rules of Procedure; and providing for an effective date."

Signing do pass: Senator Seekins, Chair. Signing no recommendation: Senators French, Therriault, Huggins.

The following previously published fiscal information applies:

Fiscal Note No. 1, zero, Department of Health and Social Services

The bill was referred to the Rules Committee.

SB 95

The State Affairs Committee considered SENATE BILL NO. 95 "An Act relating to the collection of, and the use of reasonable force to collect, a deoxyribonucleic acid sample from persons convicted of or adjudicated delinquent for certain crimes." Signing do pass: Senator Therriault, Chair; Senator Davis. Signing no recommendation: Senators Elton, Huggins.

The following fiscal information was published today:

Fiscal Note No. 1, zero, Department of Corrections

Fiscal Note No. 2, zero, Department of Law

Fiscal Note No. 3, zero, Department of Administration

Fiscal Note No. 4, zero, Department of Public Safety

The bill was referred to the Judiciary Committee.

SB 104

The State Affairs Committee considered SENATE BILL NO. 104 "An Act relating to the crime of misrepresenting permanent fund dividend eligibility; requiring the establishment of a permanent fund dividend fraud investigation unit in the Department of Revenue; and providing for an effective date" and recommended it be replaced with

CS FOR SENATE BILL NO. 104(STA)

Signing do pass: Senator Therriault, Chair; Senators Elton, Huggins, Davis.

The following fiscal information was published today:

Fiscal Note No. 1, zero, Department of Revenue

Fiscal Note No. 2, zero, Department of Law

The bill was referred to the Judiciary Committee.

Introduction and Reference of Senate Resolutions

SJR 10

SENATE JOINT RESOLUTION NO. 10 BY SENATOR DYSON,

Supporting the federal marriage amendment.

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

Introduction and Reference of Senate Bills

SB 117

SENATE BILL NO. 117 BY SENATORS FRENCH, Kookesh,
entitled:

"An Act relating to the admissibility into evidence of the prior recorded statement of a crime victim less than 16 years of age; and adding Rule 413, Alaska Rules of Evidence, and amending Rules 402 and 403, Alaska Rules of Evidence."

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

SB 118

SENATE BILL NO. 118 BY SENATORS FRENCH, Kookesh, entitled:

"An Act relating to online enticement of minors."

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

SB 119

SENATE BILL NO. 119 BY SENATORS FRENCH, Kookesh, entitled:

"An Act relating to dissemination of indecent material to minors."

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

SB 120

SENATE BILL NO. 120 BY SENATOR OLSON, entitled:

"An Act exempting the state and its political subdivisions from daylight saving time."

was read the first time and referred to the Community and Regional Affairs and Labor and Commerce Committees.

SB 121

SENATE BILL NO. 121 BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR, entitled:

"An Act establishing the State of Alaska Capital Corporation; authorizing the issuance of bonds by the State of Alaska Capital Corporation to finance capital improvements in the state; and providing for an effective date."

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

The following fiscal information was published today:
Fiscal Note No. 1, Department of Revenue

Governor's transmittal letter dated February 25:

Dear President Stevens:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that would establish the Alaska capital income account as a separate account of the Alaska permanent fund, and would authorize the deposit into that account of the earnings on money received from *State v. Amerada Hess, et al.*, 1JU-77-847 Civ. (Superior Court, First Judicial District).

In 1992, the state's oil and gas royalty litigation (*State v. Amerada Hess, et al.*, 1JU-77-847 Civ. (Superior Court, First Judicial District)) was headed to trial. Both state and federal judges had expressed concerns about the capacity of Alaskan judges and jurors to participate in the case on an impartial basis in light of the fact that the earnings on the portion of any recovery in the case would be deposited into the permanent fund and be used to pay the permanent fund dividends that all judges and jurors receive. AS 37.13.145(d) was enacted, which deposited into the principal of the permanent fund the earnings of all amounts received from settlement of this case. Thus, the concern about impartiality was resolved by disallowing the earnings from the settlement from being used in calculating the annual dividend amount.

The Amerada Hess litigation is now completed, though the possibility of a re-opener subject to an arbitration remains. Approximately \$425 million from this case, including earnings on settlement receipts and inflation-proofing, was deposited into the permanent fund.

This bill proposes to end inflation proofing of the part of the permanent fund principal attributable to the Amerada Hess settlement and to authorize the deposit of the earnings from the settlement proceeds into a separate account of the Alaska permanent fund called the Alaska capital income account. The money in this separate

account could then be appropriated by the legislature for any valid public purpose, including covering debt service on bonds to finance capital improvements in the state issued by the State of Alaska Capital Corporation under a companion bill I also am transmitting.

I urge your prompt and favorable action on this measure.

Sincerely yours,

/s/

Frank H. Murkowski
Governor

SB 122

SENATE BILL NO. 122 BY THE SENATE RULES COMMITTEE
BY REQUEST OF THE GOVERNOR, entitled:

"An Act establishing the Alaska capital income account within the Alaska permanent fund; relating to deposits into the account; relating to certain transfers regarding the Amerada Hess settlement to offset the effects of inflation on the Alaska permanent fund; and providing for an effective date."

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

The following fiscal information was published today:

Fiscal Note No. 1, zero, Department of Revenue

Governor's transmittal letter dated February 25:

Dear President Stevens:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill establishing the State of Alaska Capital Corporation (corporation). The corporation would be a public corporation with the authority to issue bonds to finance up to \$350 million in state capital improvements, including the cost of issuing the bonds.

My intent is that the debt service on bonds issued by the corporation would be annually covered by appropriations from the earnings on the settlement proceeds derived from the *Amerada Hess* royalty

settlement. I also am transmitting a companion bill that would separately identify the *Amerada Hess* earnings so that they are available to the legislature if there is a desire to use the money for this purpose.

The financing technique proposed in this bill would permit the state to leverage a funding source to obtain money for needed capital improvements from the sale of bonds on the major financial markets.

I urge your prompt and favorable action on this measure.

Sincerely yours,

/s/

Frank H. Murkowski
Governor

Consideration of the Calendar

Third Reading of Senate Bills

SB 36

CS FOR SENATE BILL NO. 36(JUD) was read the third time.

The question being: "Shall CS FOR SENATE BILL NO. 36(JUD) "An Act relating to absentee ballots" pass the Senate?" The roll was taken with the following result:

CSSB 36(JUD)

Third Reading - Final Passage

YEAS: 17 NAYS: 0 EXCUSED: 3 ABSENT: 0

Yeas: Bunde, Cowdery, Davis, Dyson, Ellis, Elton, French, Green, Guess, Huggins, Olson, Seekins, Stedman, Stevens B, Therriault, Wagoner, Wilken

Excused: Hoffman, Kookesh, Stevens G

and so, CS FOR SENATE BILL NO. 36(JUD) passed the Senate.

Senator Elton gave notice of reconsideration.

Citations

Honoring – The Volunteer Corps of the Iditarod Dog Sled Race Who Have Proudly Served Our Country in the Military

Senator(s) Huggins, Ben Stevens, Bunde, Cowdery, Davis, Dyson, Ellis, Elton, French, Green, Hoffman, Kookesh, Olson, Seekins, Stedman, Gary Stevens, Therriault, Wagoner, Wilken

Senator Green, Acting Majority Leader, moved and asked unanimous consent that the citation be adopted. Without objection, the citation was adopted and referred to the Secretary for transmittal.

Unfinished Business

Senator Wilken moved and asked unanimous consent to be excused from a call of the Senate from afternoon plane time, March 10 to evening plane time, March 13 and from afternoon plane time, March 24 to afternoon plane time, March 29. Without objection, Senator Wilken was excused.

Senator Davis moved and asked unanimous consent to be excused from a call of the Senate on March 7, 9 and 11 and to plane time, on March 14. Without objection, Senator Davis was excused.

Announcements

Announcements are at the end of the journal.

Enrollment**SB 62**

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" was enrolled, signed by the President and Secretary, Speaker and Chief Clerk and the engrossed and enrolled copies transmitted to the Office of the Governor at 3:57 p.m., February 28, 2005.

Memorandum from the Division of Legal and Research Services, Legislative Affairs Agency, reporting the following manifest error in SENATE BILL NO. 62 which has been corrected in enrolling:

Page 1, line 7:

Delete "AS 01.01.070(c)"

Insert "AS 01.10.070(c)"

Adjournment

Senator Green, Acting Majority Leader, moved and asked unanimous consent that the Senate stand in adjournment until 11:00 a.m., March 2, 2005. Without objection, the Senate adjourned at 11:47 a.m.

Kirsten Waid
Secretary of the Senate

February 2005

Announcements

Americans with Disabilities Act Notice - Persons with disabilities who require special accommodation or alternative communication formats to access committee meetings may contact the appropriate committee office or the Legislative Information Office in their community. Reasonable advance notice is needed to accommodate the request. For further information, call the ADA Coordinator at 465-3854 Voice/465-4980 TDD.

STANDING COMMITTEES

+ indicates teleconference

= indicates bill previously heard/scheduled

COMMUNITY & REGIONAL AFFAIRS

Feb 28	Monday No Meeting Scheduled	Beltz 211	1:30 PM
Mar 02	Wednesday No Meeting Scheduled	Beltz 211	1:30 PM
Mar 04	Friday No Meeting Scheduled	Beltz 211	1:30 PM

FINANCE

Feb 28	Monday No Meeting Scheduled	Senate Finance 532	9:00 AM
Mar 01	Tuesday += SB 97 SUPPLEMENTAL APPROPRIATIONS/CBR += SB 98 SUPPLEMENTAL APPROPRIATIONS: FAST TRACK -- Testimony <Invitation Only> -- + Bills Previously Heard/Scheduled	Senate Finance 532	9:00 AM
Mar 02	Wednesday + Key Campaign Presentation by Key Coalition of Alaska - Televised in House Speaker's Chambers -	Senate Finance 532	8:00 AM
Mar 02	Wednesday No Meeting Scheduled	Senate Finance 532	9:00 AM

FINANCE (continued)

Mar 03 Thursday Senate Finance 532 9:00 AM
 += SB 97 SUPPLEMENTAL APPROPRIATIONS/CBR
 += SB 98 SUPPLEMENTAL APPROPRIATIONS: FAST TRACK
 -- Testimony <Invitation Only> --
 + Bills Previously Heard/Scheduled

Mar 04 Friday Senate Finance 532 9:00 AM
 No Meeting Scheduled

HEALTH, EDUCATION & SOCIAL SERVICES

Feb 28 Monday Butrovich 205 1:30 PM
 No Meeting Scheduled

Mar 02 Wednesday Butrovich 205 1:30 PM
 + Bills Previously Heard/Scheduled

Mar 04 Friday Butrovich 205 1:30 PM
 + Bills Previously Heard/Scheduled

JUDICIARY

Mar 01 Tuesday Butrovich 205 8:30 AM
 + SB 87 SEAT BELT VIOLATION AS PRIMARY OFFENSE
 + SB 95 COLLECTION OF DNA/USE OF FORCE
 <Pending Referral>
 + SB 104 PERMANENT FUND DIVIDEND FRAUD
 <Pending Referral>
 + Bills Previously Heard/Scheduled

Mar 02 Wednesday Butrovich 205 8:30 AM
 + Bills Previously Heard/Scheduled

Mar 03 Thursday Butrovich 205 8:30 AM
 + Bills Previously Heard/Scheduled

LABOR & COMMERCE

- Mar 01 Tuesday Beltz 211 1:30 PM**
 Bills Previously Heard/Scheduled
 += SB 105 OVERTIME WAGES FOR FLIGHT CREW
 += SB 67 CLAIMS AGAINST HEALTH CARE PROVIDERS
- Mar 03 Thursday Beltz 211 1:30 PM**
 Confirmation Hearings:
 Alaska State Board of Public Accountancy-
 Max E. Mertz - Juneau
 Catherine L. Wilson - Tok
 Regulatory Commission of Alaska -
 Anthony A. Price - Anchorage
 + HB 15 LIQUOR LICENSES: OUTDOOR REC. LODGE/BARS
 + HB 90 STATE TREASURY WARRANTS

RESOURCES

- Feb 28 Monday Butrovich 205 3:30 PM**
 Confirmation Hearing:
 Alaska Oil & Gas Conservation Commission-
 Dan Seamount
 + SB 103 OIL & GAS: REG. OF UNDERGROUND INJECTION
- Mar 02 Wednesday Butrovich 205 3:30 PM**
 + SB 53 AK PENINSULA OIL & GAS LEASE SALE; TAXES
 + SB 110 POLLUTION DISCHARGE & WASTE TRMT/DISPOSAL
- Mar 04 Friday Butrovich 205 3:30 PM**
 No Meeting Scheduled

STATE AFFAIRS

- Mar 01 Tuesday Beltz 211 3:30 PM**
 + SB 20 OFFENSES AGAINST UNBORN CHILDREN
 Bills Previously Heard/Scheduled
- Mar 03 Thursday Beltz 211 3:30 PM**
 No Meeting Scheduled

TRANSPORTATION

Mar 01 Tuesday Butrovich 205 1:30 PM
 += SB 40 KUSKOKWIM PORT AUTHORITY
 Public Testimony 1:30 - 2:30 pm
 + HB 115 AIRPORT CUSTOMER FACILITY CHARGES
 <Pending Referral>
 += SB 92 AIRPORT CUSTOMER FACILITY CHARGES
 + HB 42 JOE WILLIAMS, SR., COASTAL TRAIL
 + Bills Previously Heard/Scheduled

Mar 03 Thursday Butrovich 205 1:30 PM
 += SB 40 KUSKOKWIM PORT AUTHORITY
 + Bills Previously Heard/Scheduled

FINANCE SUBCOMMITTEES

ADMINISTRATION

Mar 03 Thursday Fahrenkamp 203 5:30 PM
 FY 06 Budget Review

COMMERCE, COMMUNITY & ECONOMIC DEV

Mar 01 Tuesday Senate Finance 532 8:00 AM
 -- Agenda Change --
 Budget Detail & Questions - DCCED
 Mission & Measures

Mar 08 Tuesday Senate Finance 532 8:00 AM
 Budget Closeout

CORRECTIONS

Mar 10 Thursday Senate Finance 532 4:00 PM
 Budget Closeout

FINANCE SUBCOMMITTEES**LABOR & WORKFORCE DEVELOPMENT**

Mar 03 Thursday Fahrenkamp 203 8:15 AM
 Missions and Measures Discussion

LAW

Mar 03 Thursday Butrovich 205 4:00 PM
 -- Agenda Change --
 Budget Detail & Questions
 Missions & Measures

Mar 10 Thursday Butrovich 205 4:00 PM
 Budget Closeout

MILITARY AND VETERANS AFFAIRS

Mar 04 Friday Beltz 211 7:30 AM
 -- Rescheduled to 03/07/05 --
 FY 06 Budget Review

Mar 07 Monday Beltz 211 5:30 PM
 -- Rescheduled from 03/04/05 --
 FY 06 Budget Review

NATURAL RESOURCES

Mar 01 Tuesday Beltz 211 8:15 AM
 Missions and Measures

PUBLIC SAFETY

Mar 03 Thursday Fahrenkamp 203 12:00 PM
 FY 06 Budget Review

FINANCE SUBCOMMITTEES**REVENUE**

Mar 03 **Thursday** **Senate Finance 532** **1:30 PM**
 Budget Closeout

TRANSPORTATION & PUBLIC FACILITIES

Mar 10 **Thursday** **Senate Finance 532** **4:30 PM**
 Budget Closeout

JOINT COMMITTEES**ADMINISTRATIVE REGULATION REVIEW**

Mar 03 **Thursday** **Capitol 106** **3:00 PM**
 Hearing on Assisted Living Regulations
 That Were Adopted June 2004

ARMED SERVICES COMMITTEE

Mar 15 **Tuesday** **Senate Finance 532** **1:00 PM**
 Presentations by General Holly and Boeing

CONFERENCE COMMITTEE ON SB 56

Mar 01 **Tuesday** **Beltz 211** **5:30 PM**
 SB 56 CRIMINAL LAW/PROCEDURE/SENTENCING

OTHER MEETINGS**CHILDREN'S CAUCUS**

Mar 07 **Monday** **Butrovich 205** **12:00 PM**
 -- Note Date Change --
 + Presentation: Family Wellness Warriors
 with the Southcentral Foundation, an
 Alaska Native Healthcare Organization

OTHER MEETINGS (continued)

FISH CAUCUS

Mar 03 Thursday Butrovich 205 12:00 PM
Harbor Maintenance Funding Issues

JOINT SESSION

Mar 30 Wednesday House Chamber 11:00 AM
Address by U.S. Senator Lisa Murkowski