

**SENATE JOURNAL**  
**ALASKA STATE LEGISLATURE**  
**TWENTY-FOURTH LEGISLATURE**

**SECOND SESSION**

**Juneau, Alaska**                      **Wednesday**                      **January 25, 2006**

**Seventeenth Day**

Pursuant to adjournment the Senate was called to order by President Stevens at 11:14 a.m.

The roll showed nineteen members present. Senator Therriault was absent.

The prayer was offered by the Chaplain, Father Thomas Weise of the Cathedral of the Nativity. Senator Hoffman moved and asked unanimous consent that the prayer be spread. Without objection, it was so ordered.

The law of Love is perfect,  
    reviving the soul;  
The testimony of Love is sure, making wise the simple;  
    The precepts of Love are right,  
        rejoicing the heart;  
    The authority of Love is pure,  
        enlightening the eyes;  
The spirit of Love is wondrous,  
    enduring forever;  
    The rites of Love are true,  
        awakening compassion.  
    (Psalm 19)

God of Love, Father of all, the darkness that covered the earth has given way to the bright dawn of Your Word made flesh. Make us a people of Your Light and Love. Help us be faithful to Your Word, that we may bring life to the waiting world.                      Amen.

Senator Huggins led the Senate in the Pledge of Allegiance.

### **Certification**

Senator Gary Stevens moved and asked unanimous consent that the journals for the fifteenth and sixteenth legislative days be approved as certified by the Secretary. Without objection, it was so ordered.

### **Messages from the House**

Message dated January 24 was read, stating:

The House of Representatives respectfully invites the Senate to a Joint Session of the Twenty-fourth Alaska Legislature at 2:00 p.m. on Tuesday, February 21 for the purpose of hearing U.S. Senator Lisa Murkowski's annual address.

Senator Gary Stevens moved and asked unanimous consent that the Senate accept the House invitation to meet in Joint Session. Without objection, it was so ordered.

The Secretary was requested to notify the House.

### **Communications**

The following reports are on file in the Office of the Secretary of the Senate:

Report to Legislature dated January 20, 2006  
from Gail R. Schubert, Chair, Alaska Management Retirement Board  
in accordance with Chapter 9, FSSLA 05

2005 Annual Report  
from Lela F. Klingert, President  
Alaska Commercial Fishing and Agriculture Bank  
in accordance with AS 44.81.200

2006 Annual Report to the Legislature  
from Bill Martin, Chair, Statewide Suicide Prevention Council  
Department of Health and Social Services  
in accordance with AS 44.29.360  
available at: [www.hss.state.ak.us/suicideprevention](http://www.hss.state.ak.us/suicideprevention)

Underground Storage Tank Revolving Loan Fund Annual Report  
Fiscal Year 2005  
from Kurt Fredriksson, Commissioner  
Department of Environmental Conservation  
in accordance with AS 46.03.410

2006 Report to the Legislature for the Division of Mining, Land and  
Water:

Report on Identified R.S. 2477 Rights-of-Way  
in accordance with AS 19.30.400(b)

Notification of availability of Annual Mining Report  
Alaska's Mineral Industry 2004  
(published jointly with the Department of Commerce,  
Community, and Economic Development)  
in accordance with AS 27.05.060  
available at: [www.dggs.dnr.state.ak.us/pubs/pubs](http://www.dggs.dnr.state.ak.us/pubs/pubs)

Land Disposal Income Fund Report  
in accordance with AS 38.04.022(b)

Annual Report on the Status of Land in the Land Disposal Bank  
in accordance with AS 38.04.020(d)

Annual Report on Water Removals and Exports  
in accordance with AS 46.15.020(b)(5)

Interim Land Classifications  
in accordance with AS 38.05.300

Summary of Cooperative Resource Management or  
Development Agreements  
in accordance with AS 38.05.027

from Richard Mylius, Acting Director  
Division of Mining, Land and Water  
Department of Natural Resources

### **Standing Committee Reports**

#### **SB 54**

The Finance Committee considered SENATE BILL NO. 54 "An Act relating to notification to victims of sexual assault; relating to protective orders; and relating to arrests for crimes involving sexual assault, violation of protective orders, or violation of conditions of release" and recommended it be replaced with

CS FOR SENATE BILL NO. 54(FIN) "An Act amending protective order statutes for crimes involving stalking to include crimes involving sexual assault and sexual abuse, to provide for other relief ordered by a court, to add the protective orders to a centralized registry, to prevent denial solely for a lapse of time, and to require notification of the court of known civil or criminal actions involving the petitioner or respondent; relating to notifications to victims of sexual assault and to mandatory arrest for crimes involving violation of protective orders and violation of conditions of release; and amending Rule 65, Alaska Rules of Civil Procedure."

Signing do pass: Senators Wilken, Green, Cochairs; Senators Hoffman, Olson, Dyson, Stedman, Bunde.

The following fiscal information was published today:

Fiscal Note No. 5, zero, Department of Corrections  
Fiscal Note No. 6, zero, Department of Administration  
Fiscal Note No. 7, zero, Department of Administration  
Fiscal Note No. 8, Department of Public Safety  
Fiscal Note No. 9, Department of Public Safety

Fiscal information forthcoming.

The bill was referred to the Rules Committee.

**SB 218**

The Judiciary Committee considered SENATE BILL NO. 218 "An Act relating to periodic polygraph examinations for sex offenders released on probation or parole and to sentencing for sex offenders and habitual criminals" and recommended it be replaced with

CS FOR SENATE BILL NO. 218(JUD) "An Act relating to sex offenders; relating to reporting of sex offenders and child kidnappers; relating to periodic polygraph examinations for sex offenders released on probation or parole; relating to sexual abuse of a minor; relating to sentencing for sex offenders and habitual criminals; and providing for an effective date."

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

The following fiscal information was published today:

Fiscal Note No. 1, zero, Department of Public Safety  
Fiscal Note No. 2, indeterminate, Department of Administration  
Fiscal Note No. 3, indeterminate, Department of Administration  
Fiscal Note No. 4, indeterminate, Department of Law

The bill was referred to the Finance Committee.

**Special Committee Reports**

Report dated January 24 was read, stating the Victims' Advocate Selection Committee has met and has nominated Mary Anne Henry for the position of Victims' Advocate.

Mary Anne Henry meets the qualifications specified in AS 24.65.030 and her appointment becomes effective if the nomination is approved by a roll call vote of two-thirds of the legislature in joint session.

The report was signed by Senators Huggins, Dyson, French; Representatives Samuels, Stoltze, Berkowitz.

**Consideration of the Calendar****Citations**

Honoring – Wally and Betts Johnson on Their 50<sup>th</sup> Golden Wedding Anniversary

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

Honoring – Elizabeth Wanamaker Peratrovich

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

In Memoriam – Representative Drew Scalzi

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

Senator Gary Stevens moved and asked unanimous consent that the citations be adopted. Without objection, the citations were adopted and referred to the Secretary for transmittal.

Senator Gary Stevens moved and asked unanimous consent that the following citations be made a special order of business. Without objection, it was so ordered.

**Special Order of Business**

Honoring - The Creating Alaska Project

Representative(s) Kelly

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

Honoring - The 50th Anniversary of the Alaska Constitutional Convention

Representative(s) Kelly

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

Senator Gary Stevens moved and asked unanimous consent that the citations be adopted. Without objection, the citations were adopted and referred to the Secretary for transmittal.

### **Unfinished Business**

#### **SB 224**

Senator Ellis moved and asked unanimous consent to be shown as a cosponsor on SENATE BILL NO. 224 "An Act establishing Older Alaskans' Day." Without objection, it was so ordered.

Senator Cowdery moved and asked unanimous consent to be excused from a call of the Senate from 1:00 p.m., February 1 to afternoon plane time, February 5. Without objection, Senator Cowdery was excused.

Senator Huggins moved and asked unanimous consent to be excused from a call of the Senate from plane time, January 27 to evening plane time, January 29. Without objection, Senator Huggins was excused.

Senator Stedman moved and asked unanimous consent to be excused from a call of the Senate from January 27 to morning plane time, January 30. Without objection, Senator Stedman was excused.

Senator Gary Stevens moved and asked unanimous consent to be excused from a call of the Senate from afternoon plane time, January 26 to morning plane time, January 30. Without objection, Senator Gary Stevens was excused.

Senator Wilken moved and asked unanimous consent to be excused from a call of the Senate from afternoon plane time, February 2 to morning plane time, February 6. Without objection, Senator Wilken was excused.

Senator Wagoner moved and asked unanimous consent to be excused from a call of the Senate from afternoon plane time, January 27 to morning plane time, January 30. Without objection, Senator Wagoner was excused.

### Reconsideration of House Bills

#### HB 149

Senator Wagoner requested that the reconsideration on SENATE CS for CS FOR HOUSE BILL NO. 149(FIN) am S(ct rule fld S) "An Act relating to controlled substances; relating to the crimes of manslaughter, endangering the welfare of a child, and misconduct involving a controlled substance; relating to the manufacture of methamphetamine and to the sale, possession, and delivery of certain substances and precursors used in the manufacture of methamphetamine; relating to listing certain anabolic steroids as controlled substances; and providing for an effective date" which had been held (page 1964) be taken up. The bill was before the Senate on reconsideration.

The presence of Senator Therriault was noted.

#### HB 149

Senator Gary Stevens moved and asked unanimous consent that the Senate return to second reading for the purpose of rescinding the previous action in adopting Amendment No. 1 (page 1943). Without objection, the bill was returned to second reading.

Senator Gary Stevens moved that the Senate rescind its previous action in adopting Amendment No. 1.

The question being: "Shall the Senate rescind its previous action in adopting Amendment No. 1?"

SCS CSHB 149(FIN) am S

Second Reading

Rescind action in adopting Amendment No. 1?

**YEAS: 20 NAYS: 0 EXCUSED: 0 ABSENT: 0**

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



and so, the Senate rescinded its previous action, and Amendment No. 1 was before the Senate.

Senator Green moved and asked unanimous consent to withdraw Amendment No. 1. Without objection, Amendment No. 1 was withdrawn.

SENATE CS FOR CS FOR HOUSE BILL NO. 149(FIN) "An Act relating to controlled substances; relating to the crimes of manslaughter, endangering the welfare of a child, and misconduct involving a controlled substance; relating to the manufacture of methamphetamine and to the sale, possession, and delivery of certain substances and precursors used in the manufacture of methamphetamine; relating to listing certain anabolic steroids as controlled substances; amending Rule 41, Alaska Rules of Criminal Procedure; and providing for an effective date" was automatically in third reading on reconsideration.

Senator Green moved that the bill be returned to second reading for the purpose of a specific amendment, that being Amendment No. 5. Without objection, the bill was returned to second reading.

Amendment No. 4 was not offered.

Senators Green, Wagoner offered Amendment No. 5:

Page 1, line 6, following "**Procedure**":

Insert ", **and Rule 65, Alaska Rules of Civil Procedure**"

Page 16, lines 8 - 9:

Delete all material and insert:

"(b) If a product or substance contains, as the sole active ingredient, ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, or contains iodine or crystal"

Page 16, line 13, following "public.":

Insert "The commissioner of public safety may issue a regulation, including an emergency regulation, with an immediate effective date,

that requires other products or substances containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers to be subject to the requirements of this subsection by naming the product or substance by brand when the commissioner finds that the product or substance named in the regulation has been found in connection with illegal manufacture of methamphetamine in this state and presents a risk of further diversion to the illegal manufacture of methamphetamine if not subject to the requirements of this subsection. An emergency regulation adopted under this subsection is not subject to challenge under AS 44.62.300(2). A court reviewing an emergency regulation under AS 44.62.300 may not grant a temporary restraining order or injunction restraining or enjoining the enforcement of the regulation. An emergency regulation adopted under this subsection is subject to AS 44.62.260."

Page 16, line 24:

Delete "It is an affirmative defense to a prosecution under this section"

Insert "A retailer does not violate this section if the retailer proves by a preponderance of the evidence"

Page 17, lines 2 - 4:

Delete all material and insert:

"(f) a person who violates (a), (b), or (c) of this section shall forfeit and pay to the state a civil penalty of not more than \$10,000 for each violation."

Page 17, line 10:

Delete all material.

Re-number the following paragraph accordingly.

Page 18, following line 9:

Insert a new bill section to read:

"\* **Sec. 22.** The uncodified law of the State of Alaska is amended by adding a new section to read:

INDIRECT COURT RULE AMENDMENT. Section 18 of this Act has the effect of amending Rule 65, Alaska Rules of Civil Procedure, by limiting the authority of a court to grant a temporary restraining order or injunction when reviewing an emergency regulation adopted under AS 17.30.090(b)."

Renumber the following bill sections accordingly.

Page 18, line 17:

Delete "Sections 1 - 18, 21, and 22"

Insert "Sections 1 - 18 and 21 - 23"

Senator Green moved for the adoption of Amendment No. 5. Senator Guess objected.

The question being: "Shall Amendment No. 5 be adopted?" The roll was taken with the following result:

SCS CSHB 149(FIN)

Second Reading

Amendment No. 5

**YEAS: 12 NAYS: 8 EXCUSED: 0 ABSENT: 0**

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

Nays: Davis, Ellis, Elton, French, Guess, Hoffman, Kookesh, Olson

and so, Amendment No. 5 was adopted.

SENATE CS FOR CS FOR HOUSE BILL NO. 149(FIN) am S was automatically in third reading on reconsideration.

The question to be reconsidered: "Shall SENATE CS FOR CS FOR HOUSE BILL NO. 149(FIN) am S "An Act relating to controlled substances; relating to the crimes of manslaughter, endangering the welfare of a child, and misconduct involving a controlled substance; relating to the manufacture of methamphetamine and to the sale, possession, and delivery of certain substances and precursors used in the manufacture of methamphetamine; relating to listing certain anabolic steroids as controlled substances; amending Rule 41, Alaska Rules of Criminal Procedure, and Rule 65, Alaska Rules of Civil Procedure; and providing for an effective date" pass the Senate?" The roll was taken with the following result:

SCS CSHB 149(FIN) am S  
Third Reading – On Reconsideration  
Effective Date

**YEAS: 18 NAYS: 2 EXCUSED: 0 ABSENT: 0**

Yeas: Bunde, Cowdery, Davis, Dyson, Elton, French, Green, Guess, Hoffman, Huggins, Kookesh, Olson, Seekins, Stedman, Stevens B, Stevens G, Therriault, Wilken

Nays: Ellis, Wagoner

and so, SENATE CS FOR CS FOR HOUSE BILL NO. 149(FIN) am S passed the Senate on reconsideration.

Senator Gary Stevens moved and asked unanimous consent that the vote on the passage of the bill be considered the vote on the Court Rule changes. Senator Ellis objected.

The question being: "Shall the Court Rule changes be adopted?" The roll was taken with the following result:

SCS CSHB 149(FIN) am S  
Adopt Court Rule changes?

**YEAS: 12 NAYS: 8 EXCUSED: 0 ABSENT: 0**

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

Nays: Davis, Ellis, Elton, French, Guess, Hoffman, Kookesh, Olson

and so, the Court Rule changes failed to be adopted.

Senator Gary Stevens moved and asked unanimous consent that the vote on the passage of the bill be considered the vote on the effective date clause. Without objection, it was so ordered and SENATE CS FOR CS FOR HOUSE BILL NO. 149(FIN) am S(ct rule fld S) "An Act relating to controlled substances; relating to the crimes of manslaughter, endangering the welfare of a child, and misconduct involving a controlled substance; relating to the manufacture of methamphetamine and to the sale, possession, and delivery of certain substances and precursors used in the manufacture of

methamphetamine; relating to listing certain anabolic steroids as controlled substances; and providing for an effective date" was referred to the Secretary for engrossment.

### **Announcements**

Announcements are at the end of the journal.

### **Engrossment**

#### **HB 149**

SENATE CS FOR CS FOR HOUSE BILL NO. 149(FIN) am S(ct rule fld S) "An Act relating to controlled substances; relating to the crimes of manslaughter, endangering the welfare of a child, and misconduct involving a controlled substance; relating to the manufacture of methamphetamine and to the sale, possession, and delivery of certain substances and precursors used in the manufacture of methamphetamine; relating to listing certain anabolic steroids as controlled substances; and providing for an effective date" was engrossed, signed by the President and Secretary and returned to the House for consideration.

### **Adjournment**

Senator Gary Stevens moved and asked unanimous consent that the Senate stand in adjournment until 11:00 a.m., January 26, 2006. Without objection, the Senate adjourned at 12:07 p.m.

Kirsten Waid  
Secretary of the Senate

January 2006

**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**

<b>Jan 25</b>	<b>Wednesday</b>	<b>Beltz 211</b>	<b>1:30 PM</b>
+	Overview: Local Boundary Commission - Dan Bockhorst		
<b>Jan 27</b>	<b>Friday</b>	<b>Beltz 211</b>	<b>1:30 PM</b>
	No Meeting Scheduled		

**FINANCE**

<b>Jan 25</b>	<b>Wednesday</b>	<b>Senate Finance 532</b>	<b>9:00 AM</b>
	-- Meeting Canceled -- Bills Previously Heard/Scheduled		
<b>Jan 26</b>	<b>Thursday</b>	<b>Senate Finance 532</b>	<b>9:00 AM</b>
=	SB 171 NPR-A COMMUNITY GRANT PROGRAM SB 236 AK HOUSING FINANCE CORP DIVIDEND <Bill Hearing Canceled> SB 243 TOBACCO REV. FOR UNIV. & CORR. FACILITIES <Bill Hearing Canceled>		
<b>Jan 27</b>	<b>Friday</b>	<b>Senate Finance 532</b>	<b>9:00 AM</b>
	Bills Previously Heard/Scheduled		

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**HEALTH, EDUCATION & SOCIAL SERVICES**

**Jan 25**      **Wednesday**                      **Butrovich 205**              **1:30 PM**  
 += SB 177 PRACTICE OF PSYCHOLOGY  
 +              Bills Previously Heard/Scheduled

**Jan 27**      **Friday**                                      **Butrovich 205**              **1:30 PM**  
 -- Meeting Canceled --  
 +              Bills Previously Heard/Scheduled, if Necessary

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**JUDICIARY**

**Jan 25**      **Wednesday**                      **Butrovich 205**              **8:30 AM**  
 + HB 101 SEX TOURISM  
 + HB 148 TRAFFICKING OF PERSONS  
 + HJR 9 URGE CONGRESS HONOR EXXON VALDEZ JUDGMENT  
 <Bill Hearing Canceled by Sponsor>  
 +              Bills Previously Heard/Scheduled

**Jan 26**      **Thursday**                                  **Butrovich 205**              **8:30 AM**  
 +              Confirmations:  
                 James J. Fayette, Commission on Judicial Conduct  
                 William S. L. Walters, Alaska Public  
                 Offices Commission  
                 Regina C. Chennault, Violent Crimes  
                 Compensation Board  
 +              Bills Previously Heard/Scheduled

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**LABOR & COMMERCE**

**Jan 26**      **Thursday**                                  **Beltz 211**                      **1:30 PM**  
 -- Meeting Canceled --  
 Bills Previously Heard/Scheduled

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**RESOURCES**

**Jan 25**      **Wednesday**                      **Butrovich 205**              **3:30 PM**  
 + HB 251 COMMERCIAL FISHING MULTIPLE PERMIT HOLDER  
 + HJR 17 FEDERAL LANDS RECREATION ENHANCEMENT ACT

**Jan 27**      **Friday**                                      **Butrovich 205**              **3:30 PM**  
 No Meeting Scheduled

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STATE AFFAIRS

**Jan 26 Thursday Beltz 211 3:30 PM**  
+ SB 214 APPROP FOR ENERGY DIVIDEND & ASSISTANCE  
+ SB 215 ENERGY DIVIDEND: INCREASE 2005 PFD

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TRANSPORTATION

**Jan 26 Thursday Butrovich 205 1:30 PM**  
No Meeting Scheduled

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JOINT COMMITTEES

LEGISLATIVE COUNCIL

**Jan 26 Thursday Senate Finance 532 5:00 PM**  
Thompson West Publishing Presentation, Revisor's Bill  
Data Processing Issues  
Eagle River Office Space Renewal  
Juneau Storage Approval  
Kevin Clarkson Contract Approval  
Legislative Per Diem  
Scheduling of Meetings, Security Analysis

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SELECT COMMITTEE ON LEGISLATIVE ETHICS

**Feb 07 Tuesday Butrovich 205 10:30 AM**  
+ Public Comment  
Status of Ethics Legislation: SB 187  
Advisory Opinion 06-01  
Committee Rules of Procedure

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OTHER MEETINGS

CHILDREN'S CAUCUS

**Feb 07 Tuesday Butrovich 205 12:00 PM**  
+ Health Teen Relationships with Dr. Stan Weed, PhD, Institute  
for Research and Evaluation and Carol Kidwell, Program  
Director, Let's Talk Health Relationships

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**JOINT LEGISLATIVE HEALTH CAUCUS**

**Feb 01**      **Wednesday**                      **Butrovich 205**      **12:00 PM**  
"Helping People Beyond Roads"  
Light Lunch Will Be Served

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**JOINT SESSION**

**Feb 08**      **Wednesday**                      **House Chamber**      **11:00 AM**  
Chief Justice Bryner's  
Annual State of the Judiciary Message

**Feb 21**      **Tuesday**                              **House Chamber**      **2:00 PM**  
Address by U.S. Senator Lisa Murkowski