

SENATE JOURNAL
ALASKA STATE LEGISLATURE
TWENTY-FOURTH LEGISLATURE

SECOND SESSION

Juneau, Alaska Wednesday February 15, 2006

Thirty-eighth Day

Pursuant to adjournment the Senate was called to order by President Stevens at 11:20 a.m.

The roll showed seventeen members present. Senators Kookesh, Wagoner were excused from a call of the Senate. Senator Guess was absent.

The prayer was offered by the Chaplain, Pastor Gene Rosebecke of the Church of the Nazarene. Senator Hoffman moved and asked unanimous consent that the prayer be spread. Without objection, it was so ordered.

Dear God, we are thankful for the beauty of Alaska, for freedom to move around and travel, for many natural resources, and for nature in all of its magnificence and splendor. We take much for granted and we ask that You will constantly remind us that every good and perfect gift comes from You.

Alaska is home to many people. And they depend on the effective, dedicated and skillful leadership that is here to bring order, progress and prosperity to this land. So we pray that our leaders will always be mindful of the essential qualities necessary to serve this state. Let them be leaders of integrity, sound morals, strong principals and compassion. May their influence be positive, morally sound, inspirational, and filled with love and respect. May our leaders seek Your face and secure a personal knowledge of Your love and presence in their hearts. Thank You for their personal

commitment and dedication. They have made numerous sacrifices to be our leaders as they balance budgets and enact laws and regulations. Give them Your wisdom as they develop vision for the days and years ahead, and help them create an exciting future for the State of Alaska.

And we pray that because our leaders are human and have limitations, that You would bless them today with Your wisdom and knowledge that only You can give. Bless all the people who work behind the scenes and their families who make these meetings possible and let everyone be aware that they are covered with prayers from the ones whom they serve. God bless and protect our leaders. In Jesus' name,
Amen.

Senator Dyson led the Senate in the Pledge of Allegiance.

Certification

Senator Gary Stevens moved and asked unanimous consent that the journal for the thirty-seventh legislative day be approved as certified by the Secretary. Without objection, it was so ordered.

The presence of Senator Guess was noted.

Communications

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

Joint Armed Services Committee Activities Report
February 2004 – January 2006
from Senator Wilken and Representative Coghill
in accordance with AS 24.20.675(a)(9)

Standing Committee Reports**SB 177**

The Labor and Commerce Committee considered SENATE BILL NO. 177 "An Act eliminating the requirement that persons using titles or descriptions of services that incorporate the terms 'psychotherapy,' 'psychotherapeutic,' or 'psychotherapist' be licensed by the Board of Psychologist and Psychological Associate Examiners" and recommended the adoption of the Health, Education and Social Services Committee Substitute offered on page 2075.

Signing do pass: Senator Bunde, Chair; Senators Seekins, Ben Stevens. Signing no recommendation: Senators Davis, Ellis.

The following fiscal information was published today:

Fiscal Note No. 2, zero, Department of Health and Social Services

The following previously published fiscal information applies:

Fiscal Note No. 1, zero, Department of Commerce, Community and Economic Development

The bill was referred to the Rules Committee.

SB 209

The Finance Committee considered SENATE BILL NO. 209 "An Act relating to access by persons under 21 years of age to premises licensed to sell alcoholic beverages as clubs" and recommended the adoption of the Judiciary Committee Substitute offered on page 2119.

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

The following previously published fiscal information applies:

Fiscal Note No. 1, zero, Department of Military and Veterans' Affairs

The bill was referred to the Rules Committee.

SB 240

The Judiciary Committee considered SENATE BILL NO. 240 "An Act relating to rights of crime victims." Signing do pass: Senator Seekins, Chair; Senators French, Therriault, Guess.

The following fiscal information was published today:

Fiscal Note No. 1, zero, Alaska Court System

The bill was referred to the Finance Committee.

SB 244

The Labor and Commerce Committee considered SENATE BILL NO. 244 "An Act prohibiting unfair discrimination against an acupuncturist; amending the definition of 'provider' as it relates to authorized collective negotiations by physicians affecting the rights of providers under health benefit plans; and providing for an effective date." Signing do pass: Senator Bunde, Chair; Senators Ellis, Ben Stevens. Signing no recommendation: Senators Davis, Seekins.

The following fiscal information was published today:

Fiscal Note No. 1, zero, Department of Administration

The bill was referred to the Health, Education and Social Services Committee.

HB 107

The Judiciary Committee considered CS FOR HOUSE BILL NO. 107(FIN) "An Act relating to unlawful obstruction or hindrance of hunting, fishing, trapping, or viewing of fish or game; and amending Rule 82, Alaska Rules of Civil Procedure, and Rule 508, Alaska Rules of Appellate Procedure" and recommended it be replaced with

SENATE CS FOR CS FOR HOUSE BILL NO.
107(JUD)

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

The following previously published fiscal information applies:
Fiscal Note No. 4, zero, Department of Fish and Game
Fiscal Note No. 5, zero, Department of Law

The bill was referred to the Rules Committee.

HB 269

The Judiciary Committee considered HOUSE BILL NO. 269 "An Act relating to contribution actions relating to the release of a hazardous substance; and providing for an effective date" and recommended it be replaced with

SENATE CS FOR HOUSE BILL NO. 269(JUD)

and further recommended the adoption of the following Senate Judiciary Letter of Intent:

Letter of Intent

It is the intent of the Senate Judiciary Committee in enacting this measure to clarify the language of AS 46.03.822(j) to ensure that responsible parties who have conducted voluntary environmental cleanups in the past, or may do so in the future, may bring a contribution action against other responsible parties either before, during, or after a civil action under AS 46.03.822(a).

Voluntary cleanups form the vast majority of cleanups conducted in the State of Alaska. Voluntary cleanups allow the state to focus its limited resources on monitoring cleanup actions instead of undertaking costly administrative or judicial enforcement actions to force cleanups, or to undertake clean ups at the public expense.

The United States Supreme Court, in *Cooper Industries v. Aviall Services* found that a responsible party could not bring a contribution action under 42 U.S.C. 9613(f)(1) unless it had been sued by a state,

the federal government, or had entered into a formal administrative settlement of its liability. The *Aviall* decision is in conflict with the reasoning of an earlier Alaska Supreme Court decision, *Federal Deposit Insurance Corporation v. Laidlaw Transit*, and, in the absence of legislative action, responsible parties in Alaska may be fearful to rely on *Laidlaw* for assurance regarding the proper interpretation of AS 46.03.822, the state's statute modeled on 42 U.S.C. 9601-9675.

Therefore, it is the purpose of this Act to respond to the *Aviall* and *Laidlaw* decisions by clarifying language of AS 46.03.822(j) so that those responsible parties who conducted voluntary cleanups in the past, or may do so in the future, may bring a contribution action against other responsible parties.

Signing do pass: Senator Seekins, Chair; Senators French, Guess, Therriault, Huggins.

The following previously published fiscal information applies:
Fiscal Note No. 3, zero, Department of Law
Fiscal Note No. 4, zero, Department of Environmental
Conservation

The bill was referred to the Rules Committee.

Consideration of the Calendar

Second Reading of Senate Bills

SB 218

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" was read the second time.

Senator Green, Cochair, moved and asked unanimous consent for the adoption of the Finance Committee Substitute offered on page 2120. Senator Ellis objected, then withdrew his objection. There being no further objection, CS FOR SENATE BILL NO. 218(FIN) "An Act relating to sex offenders and child kidnappers; 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 the definitions of 'aggravated sex offense' and 'child kidnapping'; relating to penalties for failure to report child abuse or neglect; relating to sentencing for sex offenders and habitual criminals; and providing for an effective date" was adopted.

Senator Seekins moved and asked unanimous consent to be shown as a cosponsor on the bill. Without objection, it was so ordered.

President Stevens stated CS FOR SENATE BILL NO. 218(FIN) will be on the February 16 calendar.

Third Reading of Senate Bills

SB 171

CS FOR SENATE BILL NO. 171(FIN) was read the third time.

The question being: "Shall CS FOR SENATE BILL NO. 171(FIN) "An Act amending the National Petroleum Reserve - Alaska special revenue fund; establishing the Special Legislative Oil and Gas NPR-A Development Impact Review Committee and defining its powers and duties; and providing for an effective date" pass the Senate?" The roll was taken with the following result:

CSSB 171(FIN)

Third Reading - Final Passage

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

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

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

Excused: Hoffman, Kookesh, Wagoner

and so, CS FOR SENATE BILL NO. 171(FIN) passed the Senate.

Senator Gary Stevens moved for the adoption of the effective date clause. Senator Ellis objected.

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

CSSB 171(FIN)
Effective Date Clause

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

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

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

Excused: Hoffman, Kookesh, Wagoner

and so, the effective date clause failed.

Senator Olson gave notice of reconsideration on CS FOR SENATE BILL NO. 171(FIN)(efd fld) "An Act amending the National Petroleum Reserve - Alaska special revenue fund; and establishing the Special Legislative Oil and Gas NPR-A Development Impact Review Committee and defining its powers and duties."

Citations

Honoring – The Habitat Youth Wellness Group
Representative(s) Joule

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

In Memoriam – David Lorin Fischer
Representative(s) Coghill

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

In Memoriam – David Keener

Representative(s) Coghill

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

Senator Dyson moved and asked unanimous consent to amend the departure date of his previous excusal from noon, February 24 to noon, February 23. Without objection, the excusal was amended.

Senator Dyson moved and asked unanimous consent to be excused from a call of the Senate from noon, March 3 to plane time, March 6. Without objection, Senator Dyson was excused.

Senator Seekins moved and asked unanimous consent to be excused from a call of the Senate from afternoon plane time, March 3 to morning plane time, March 7. Without objection, Senator Seekins was excused.

Senator Cowdery moved and asked unanimous consent to be excused from a call of the Senate from afternoon plane time, February 17 to plane time, February 21. Without objection, Senator Cowdery was excused.

Senator Bunde moved and asked unanimous consent to be excused from a call of the Senate from afternoon plane time, March 3 to morning plane time, March 6. Without objection, Senator Bunde was excused.

Senator Therriault moved and asked unanimous consent to be excused from a call of the Senate from morning plane time on March 17. Without objection, Senator Therriault was excused.

SB 209

Senators Wilken, Dyson, Seekins, Gary Stevens, Stedman, Green, Therriault, Ellis, Ben Stevens, Cowdery, Elton moved and asked unanimous consent to be shown as cosponsors on SENATE BILL NO. 209 "An Act relating to access by persons under 21 years of age to premises licensed to sell alcoholic beverages as clubs." Without objection, it was so ordered.

SJR 17

Senators Ellis, Elton moved and asked unanimous consent to be shown as cosponsors on SENATE JOINT RESOLUTION NO. 17 Urging the United States Department of Justice and the Alaska Department of Law to identify all natural resource damages from the Exxon Valdez oil spill that were unanticipated at the time of the 1991 settlement, to develop plans to remedy the damages, and to present the ExxonMobil Corporation with a request for the full \$100,000,000 that is available through the "Reopener for Unknown Injury" clause of the 1991 civil settlement to carry out these plans. Without objection, it was so ordered.

Announcements

Announcements are at the end of the journal.

Adjournment

Senator Gary Stevens moved and asked unanimous consent that the Senate stand in adjournment until 11:00 a.m., February 16, 2006. Without objection, the Senate adjourned at 12:42 p.m.

Kirsten Waid
Secretary of the Senate

February 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

Feb 15	Wednesday	Beltz 211	1:30 PM
+ SB 265	BONDS OF BOND BANK AUTHORITY		
+ SB 248	ADMINISTRATIVE BOROUGH/BOROUGH GRANTS/		
+ SB 193	DEFERRAL OF MUNICIPAL PROPERTY TAXES		
Feb 17	Friday	Beltz 211	1:30 PM
	No Meeting Scheduled		

FINANCE

Feb 15	Wednesday	Senate Finance 532	9:00 AM
+ SB 209	UNDERAGE MILITARY ON LICENSED PREMISES		
+ SB 210	VIOL. OF ALCOHOLIC BEV. LAWS/FORFEITURE		
+ SB 237	ADDITIONAL JUDGES FOR THIRD DISTRICT		
+	Bills Previously Heard/Scheduled		
Feb 16	Thursday	Senate Finance 532	9:00 AM
+	Presentation by Lewin Group: Long Term Forecast of Medicaid Enrollment and Spending in Alaska, 2005-2025		
+	Bills Previously Heard/Scheduled		

FINANCE
(continued)

Feb 17 Friday Senate Finance 532 9:00 AM
+ Bills Previously Heard/Scheduled

HEALTH, EDUCATION & SOCIAL SERVICES

Feb 15 Wednesday Butrovich 205 1:30 PM
 No Meeting Scheduled

Feb 17 Friday Butrovich 205 1:30 PM
+ SB 250 DOMESTIC VIOLENCE/SEXUAL ASSAULT COUNCIL
 Bills Previously Heard/Scheduled

JUDICIARY

Feb 15 Wednesday Butrovich 205 8:30 AM
+ SB 240 DRUG OFFENSES: NEIGHBORS AS CRIME VICTIMS
+ SB 249 REPORTING BAIL AND RELEASE INFORMATION
+ Bills Previously Heard/Scheduled

Feb 16 Thursday Butrovich 205 8:30 AM
+ SJR 20 CONST. AM: BENEFITS & MARRIAGE
+ SB 206 DETENTION OF MATERIAL WITNESSES
+ Bills Previously Heard/Scheduled

LABOR & COMMERCE

Feb 16 Thursday Beltz 211 1:30 PM
+ SB 289 INSURANCE
+ SB 253 EXTEND BOARD OF CHIROPRACTIC EXAMINERS
+ SB 254 EXTEND PT & OCCUPATIONAL THERAPY BOARD
 Bills Previously Heard/Scheduled,
 Including but Not Limited To:

RESOURCES

Feb 15 Wednesday Butrovich 205 3:30 PM
 + Confirmation Hearing:
 Big Game Commercial Services Board
 Ralph Anderson, Roy Ashenfelter, Colin
 Brown, Paul Johnson, Richard Rohrer,
 Betty Jo Schmitz, Ted Spraker
 Commercial Fisheries Entry Commission
 Bruce Twomley
 + SB 262 FOREST RESOURCES & PRACTICES STANDARDS

Feb 17 Friday Butrovich 205 3:30 PM
 No Meeting Scheduled

STATE AFFAIRS

Feb 16 Thursday Butrovich 205 3:30 PM
 + SB 297 CONTRIBUTIONS FROM PERM. FUND DIVIDENDS
 + Bills Previously Heard/Scheduled

TRANSPORTATION

Feb 16 Thursday Butrovich 205 1:30 PM
 + Presentation - Context Sensitive Design
 "Thinking Beyond the Pavement"
 Bills Previously Heard/Scheduled

Feb 25 Saturday Wasilla Lio Conf Rm 1:30 PM
 + -- Note Time and Location Change --
 Joint w/(H) Transportation
 Meeting with the House Finance
 Budget Subcommittee on Public Safety
 "Discussion of Highway Safety Issues"

FINANCE SUBCOMMITTEES**HEALTH & SOCIAL SERVICES**

Feb 15 **Wednesday** **Senate Finance 532** **5:00 PM**
 Presentation by Lewin Group entitled:
 Long Term Forecast of Medicaid
 Enrollment and Spending in Alaska:
 2005-2025

UNIVERSITY OF ALASKA

Feb 28 **Tuesday** **Butrovich 205** **5:00 PM**
 -- Teleconference <Listen Only> --
 Overview of National Education Trends
 Julie Bell, National Conference of State
 Legislatures

JOINT COMMITTEES**ADMINISTRATIVE REGULATION REVIEW**

Feb 21 **Tuesday** **Capitol 17** **3:00 PM**
 Changes to Regulations Adopted by
 Dept. of Health & Human Services
 Re: Durable Medical Equipment Supplies

ARMED SERVICES COMMITTEE

Feb 15 **Wednesday** **Senate Finance 532** **1:30 PM**
 Annual Alaskan Command Briefing
 Address by Lt. General Douglas Fraser
 and Brigadier General Craig Christensen

OTHER MEETINGS**JOINT LEGISLATIVE HEALTH CAUCUS**

Feb 15 **Wednesday** **Butrovich 205** **12:00 PM**
"Getting to the Heart of Prescription
Drugs"
Light Lunch Will be Served

JOINT SESSION

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

Mar 22 **Wednesday** **House Chamber** **11:00 AM**
Address by the Honorable
Ted Stevens, U.S. Senator

MISCELLANEOUS MEETINGS

Feb 16 **Thursday** **Capitol 106** **5:00 PM**
Joint w/(H) Open Caucus
Presentation by the Alaska Gas Port
Authority