

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 86/2

10995 HOUSE RULES

## Medicaid Pharmacy and Therapeutics Committee Members

Terry K. Babb, PharmD .....	Hospital Pharmacist .....	Wasilla
Michale Boothe, DDS .....	Dentist .....	Anchorage
Heidi Brainerd, RPh .....	Pharmacist .....	Anchorage
Richard E. Brodsky, MD .....	Emergency Medicine .....	Anchorage
Robert H. Carlson, MD .....	Family Practice .....	Sitka
Kelly C. Conright, MD .....	Geriatric Medicine .....	Anchorage
John T. Duddy, MD .....	Ortnopedic Surgeon .....	Anchorage
Traci Gale, RPh .....	Pharmacist .....	Sitka
Nathaniel Haddock, MD .....	Internal Medicine .....	Juneau
Charlene M. Hampton, RPh .....	Pharmacist .....	Anchorage
Arthur S. Hansen, DDS .....	Dentist, Retired .....	Fairbanks
R. Duane Hopson, MD .....	Medical Director, API .....	Anchorage
Diane Liljegren, MD .....	Family Practice .....	Ketchikan
Ronald J. Miller, RPh .....	Pharmacist .....	Chugiak
Michael C. Norman, MD .....	Anesthesiologist .....	Anchorage
Mike Orms, MD .....	Family Practice .....	Kotzebue
Gregory R. Polston, MD .....	Pain Specialist .....	Anchorage
Richard C. Reem, MD .....	Pediatrician .....	Fairbanks
George S. Rhyneer, MD .....	Cardiologist .....	Anchorage
Robert D. Skala, DO .....	Family Practice .....	Eagle River
Janicce L. Stables, MSN, ANP .....	Family Nurse Practitioner .....	North Pole
George Stransky, MD .....	OB-Gyn .....	Anchorage
Alexander H. vonHafften, MD .....	Psychiatrist .....	Anchorage
Trish D. White, RPh .....	Pharmacist .....	Sitka

### -Meeting Notices

Purpose: Notice of the Pharmacy and Therapeutics Committee Meetings  
Meeting Date: November 19, 2003  
Notice Date: Location of Notice  
10/22/03 State On-Line Notice System  
10/23/03 Health Care Services Website

Purpose: Notice of the Pharmacy and Therapeutics Committee Meetings  
Meeting Date: November 21, 2003  
Notice Date: Location of Notice  
11/9/2003 Anchorage Daily News  
11/10/03 Preferred Drug List Website

Purpose: Notice of the Pharmacy and Therapeutics Committee Meeting  
Meeting Date: December 19, 2003  
Notice Date: Location of Notice  
12/2/03 Preferred Drug List Website  
12/3/03 State On-Line Notice System  
12/7/03 Anchorage Daily News  
12/7/03 Fairbanks Daily New Miner  
12/7/03 Juneau Empire

Purpose: Cancel the Pharmacy and Therapeutics Committee Meeting  
Meeting Date: December 19, 2003  
Notice Date: Location of Notice  
12/10/03 State On-Line Notice System  
12/10/03 Health Care Services Website  
12/14/03 Anchorage Daily News  
12/14/03 Fairbanks Daily New Miner  
12/14/03 Juneau Empire

Purpose: Notice of the Pharmacy and Therapeutics Committee Meetings  
Meeting Date: January 16, 2004  
12/23/04 Preferred Drug List Website  
12/24/04 State On-Line Notice System  
12/24/04 Health Care Services Website  
1/4/04 Anchorage Daily News  
1/4/04 Fairbanks Daily New Miner  
1/4/04 Juneau Empire

## Timeline of Public Process

<i>Date</i>	<i>Activity</i>
Aug 26, 2003	Medical Services Networking Committee at ANTHC-Presentation
Sep 3 <sup>rd</sup>	Dillingham-Presentation
Sep 4 <sup>th</sup>	Fairbanks-Presentation
Sep 11 <sup>th</sup>	ASHNA-Presentation
Sep 16 <sup>th</sup>	Physicians and Surgeons group-Presentation
Sep 18 <sup>th</sup>	Soldotna/Homer Pioneers' Home convention-Presentation
Sep 19 <sup>th</sup>	Advisory Boards of the Alaska Mental Health Trust Authority-Statewide
Sep 22 <sup>nd</sup>	Ketchikan General Hospital-Presentation
Sep 23 <sup>rd</sup>	Sitka Hospital-Presentation
Sep 25 <sup>th</sup>	Children's Trust Fund meeting-Presentation
Sep 29 <sup>th</sup>	Public meeting at the Anchorage Legislative Office
Sep 30 <sup>th</sup>	Public meeting at the Fairbanks Legislative Office
Oct 2 <sup>nd</sup>	Public meeting at the Juneau Legislative Office
Oct 7 <sup>th</sup>	Bartlett Regional Hospital, Juneau-Presentation (Over 50 physicians and other staff attended)
Oct 7 <sup>th</sup>	First Health signed the contract Amendment
Oct 9 <sup>th</sup>	Governor's Council in Talkeetna- Presentation
Oct 9 <sup>th</sup>	Advance Planning Document completed for CMS
Oct 10 <sup>th</sup>	First meeting of the Pharmacy & Therapeutics Committee <i>Adopted by-laws and selected the first drug classes to be reviewed</i>
Oct 11 <sup>th</sup>	ASMA-Presentation
Oct 20 <sup>th</sup>	Circulate draft educational letters to Medicaid providers and beneficiaries for internal approval

<i>Date</i>	<i>Activity</i>
Nov 1 <sup>st</sup>	Distribute meeting materials for next Pharmacy & Therapeutics Committee meeting
Nov 21 <sup>st</sup>	Pharmacy and Therapeutics Committee Meeting <i>Approve preferred drugs for initial four classes</i>
Dec 1 <sup>st</sup>	Distribute materials to Pharmacy and Therapeutics Committee members for the next meeting
Dec 7 <sup>th</sup>	CMS approves contract amendment for pharmacy program change
Dec 19 <sup>th</sup>	First notification of Preferred Drug List to all providers.
Dec 31 <sup>st</sup>	Second notification of pharmacy program changes to all registered Medicaid providers
Dec 31 <sup>st</sup>	Submit the Medicaid State Plan Amendment
Jan 5, 2004 <sup>th</sup>	Send recipient letter explaining Preferred Drug List
Jan 2 <sup>nd</sup>	Publish the drug classes to be reviewed in February
Jan 16 <sup>th</sup>	Pharmacy & Therapeutics Committee meeting
Feb 4 <sup>th</sup>	Implement soft edit at pharmacy for first four drug classes
Feb 13 <sup>th</sup>	Pharmacy & Therapeutics Committee meeting
Mar 3 <sup>rd</sup>	Implement soft edit at pharmacy for second set of drug classes
Mar 19 <sup>th</sup>	Pharmacy & Therapeutics Committee meeting
Apr 7 <sup>th</sup>	Implement hard edits at pharmacy for first four classes of drugs; implement soft edits for third set of classes
Apr 16 <sup>th</sup>	Pharmacy & Therapeutics Committee meeting
May 5 <sup>th</sup>	Implement hard edits for second set of drug classes and soft edits for fourth set of drug classes
May 21 <sup>st</sup>	Pharmacy & Therapeutics Committee meeting
Jun 2 <sup>nd</sup>	Implement hard edits for third set of drug classes and soft edits for fifth set of drug classes

## What \$20 million dollars in savings from implementation of the Preferred Drug List can buy

- Medicaid services for 3,047 people, or
- Medicaid services care for 9,618 kids in Denali Kid Care, or
- Dental care for 38,500 people, or
- Services for 930 adults with physical disabilities, or
- Medical care for 203 children with complex medical conditions and inpatient psychiatric hospital care for 768 patients, or
- Behavioral rehabilitation claims for 708 individuals, or
- Residential psychiatric treatment services for 441 individuals, or



- Personal care services for more than 1,370 people, or
- Nursing home care for 309 residents, or
- Services for 323 developmentally disabled individuals, or
- 66% of the savings would pay for inpatient and outpatient claims for Fairbanks Memorial Hospital, or
- 72% of the savings would pay for inpatient and outpatient claims for Alaska Regional.

# Health Care Services

HCS>Preferred Drug List Program

## Preferred Drug List Program

### About the program

#### General Information about PDL:

- What is a Preferred Drug List?
- The PDL is a list of prescription medications within a therapeutic class determined to be effective which would be Medicaid's first choice when prescribing for Medicaid patients.

#### Under a PDL program:

- All currently approved drugs remain available
- Preferred drugs require no special authorization
- Non-preferred drugs will require a prescriber's documentation of medical necessity
- Certain groups of recipients based on age or other criteria may be exempt from the PDL requirements

CXZCZX

#### How are drugs placed on the PDL?

- The Alaska Medicaid Pharmacy and Therapeutics (P&T) Committee will be responsible for determining the most effective drug or reference drug to be placed on the Preferred Drug List
- Drugs in specified drug classes are approved for the PDL based on safety, clinical efficacy, and cost

sdasd

#### The Advantages of a PDL:

- The PDL ensures continued patient care while reducing the expenditure growth of the pharmacy program through supplemental rebate Agreements.
- All drugs currently covered will be available to Medicaid patients.
- Non-preferred drugs will require a prescriber's documentation of medical necessity.

#### Exemptions

- Certain groups of recipients based on age or other criteria may be exempt from the PDL requirements.
- The PDL will be phased in by sets of drug classes. Each set will include approximately five drug classes.

#### Criteria for non-PDL drug approval

PDL

▼ PDL

- › About
- › Com
- › AK P
- › Drug
- › Meet
- › Publi
- › FAQ
- › Dow
- › Cont

PDL QL

Choos

- The prescriber will determine and document that the non-PDL drug is medically necessary. The exact criteria for this approval is to be determined by therapeutic class by the Pharmacy and Therapeutics Committee.

**Provider Notification**

- Providers will be notified in advance through this Website and mailings.
- The Alaska PDL processing for the first set of therapeutic classes will start by early 2004. At this time pharmacies will be notified with alerts but claims will not deny.
- Full Implementation:  
The first therapeutic class will be fully implemented 60 to 90 days after the pharmacy alerts are active. When providers have been notified that the therapeutic class is in effect, individual drugs must be on the PDL List, determined to be medically necessary, or exempt from the PDL.

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State of Alaska | Administrative Services | Alaska Pioneer Homes  
Behavioral Health | Health Care Services | Juvenile Justice | Office of Children's Services  
Public Assistance | Public Health | Seniors and Disabilities Services  
[H&SS Public Notices](#) | [Site Search](#) | [Links for staff](#) | [Webmaster](#)

# Health Care Services

HCS>Preferred Drug List Program

## Preferred Drug List Program Pharmacy and Therapeutics Committee

Name:	City:
Michale Boothe, DDS	Anchorage
Heidi Brainerd, RPh	Anchorage
Richard E. Brodsky, MD (Chair)	Anchorage
Robert H. Carlson, MD	Sitka
Kelly C. Conright, MD	Anchorage
Jeffery Demain, MD	Anchorage
Traci Gale, RPh	Sitka
Nathaniel Haddock, MD	Juneau
Charlene Hampton, RPh	Anchorage
Arthur S. Hansen, DDS	Fairbanks
R. Duane Hopson, MD	Anchorage
Thomas Hunt, MD	Anchorage
Diane Liljegren, MD	Ketchikan
Ronald J. Miller, RPh	Chugiak
Michael C. Norman, MD	Anchorage
Gregory R. Polston, MD	Anchorage
Richard C. Reem, MD	Fairbanks
Sherrie D. Richey, MD	Anchorage
Janice L. Stables, MSN, ANP	North Pole
George Stransky, MD	Anchorage
Alexander H. vonHafften, MD	Anchorage
Trish D. White, RPh	Sitka

PDL

▼ PDL

- › Abou
- › Com:
- › AK P
- › Drug
- › Meet
- › Publi
- › FAQ
- › Dowr
- › Cont.

PDL QL

Choos

## Alaska Department of Health and Social Services Pharmacy & Therapeutics Committee Procedures

In November 2003, the Pharmacy and Therapeutics (P&T) Committee appointed by Commissioner Gilbertson began reviewing pharmaceutical classes to identify drugs that are clinically and therapeutically equivalent, and potentially cost less than other drugs in the same class.

- The P&T Committee Website provides public notice of the drug classes to be considered, drugs adopted, public notices, meeting agendas, meeting minutes, drug review schedules, clinical submission forms, committee membership and Department of Health and Social Service contact individuals.  
<http://hss.state.ak.us/dhcs/PDL/>
- Additional meeting notices are published in Anchorage, Juneau and Fairbanks newspapers at least ten days prior to the meeting.
- Clinical Submission forms are posted on the P&T Website for pharmaceutical companies to submit drug information for review and consideration by the P&T Committee.
- The Department's contractor, First Health Services Corporation, prepares a pharmaceutical analysis of each drug to be reviewed and compiles the Clinical Submission forms for P&T Committee review.
- At least two weeks prior to the meeting, P&T Committee members are provided packets containing analytical information on the drug classes under review. The Committee members review the materials in preparation for the meeting.
- Prior to the beginning of the P&T Committee meeting, persons wishing to testify on the drug classes under review indicate their intent by registering at the door, listing name, title, company or agency they are representing.
- Following the call to order, presenters testify before the P&T Committee in the order they registered. Each presenter is allowed five (5) minutes to testify. At the end of public testimony the P&T Committee members are provided time to ask questions or make comments to the public presenters.
- After testimony from all registered parties is completed, the P&T Committee reviews the drug classes to determine clinical efficacy and therapeutic equivalency. Physicians who are specialists in the particular clinical area under review are invited to testify on the drugs to provide additional information.

- The First Health Service Corporation and Department of Health and Social Services Pharmacists also provide clinical information on each drug class, along with guidelines and scientific evidence on equivalency of drugs.
- The P&T Committee also takes under consideration the medical necessity exclusions or special criteria of a single or multiple agents.
- After testimony and discussion, P&T Committee members vote on each drug class. At least 51% of P&T committee quorum must vote to adopt the preferred drug.
- A representative of First Health Services Corporation and Department staff review the Committee-adopted drug classes, identify which drugs are included in the multi-state supplemental rebate agreement, and report their findings to the P&T Committee.
- Recommendations made by the P&T Committee are considered final and are not reviewed again until new clinical information is presented to the P&T Committee. After the P&T Committee completes its review of all drug classes. The P&T Committee will continue meeting on a quarterly basis to review new drugs and new research as it becomes available.
- Breakthrough drugs in a class containing preferred drugs may be addressed upon a call for a special meeting of the P&T Committee outside of the quarterly meeting.

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Oct 11 <sup>th</sup>	ASMA-Presentation
Oct 20 <sup>th</sup>	Circulate draft educational letters to Medicaid providers and beneficiaries for internal approval
Oct 28 <sup>th</sup>	Presentation to Bethel Hospital

Date	Activity
Nov 1 <sup>st</sup>	Distribute meeting materials for next Pharmacy & Therapeutics Committee meeting
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Jan 2 <sup>nd</sup>	Publish the drug classes to be reviewed in February
Jan 16 <sup>th</sup>	Pharmacy & Therapeutics Committee meeting
Jan 21 <sup>st</sup>	Presentation to Anchorage Nurse Practitioner Association
Feb 13 <sup>th</sup>	Pharmacy & Therapeutics Committee meeting
Feb 28/29 <sup>th</sup>	Presentation to Pharmacy Association
Mar 19 <sup>th</sup>	Pharmacy & Therapeutics Committee meeting
Apr 9 <sup>th</sup>	Presentation to Anchorage Regional Hospital Grand Rounds
May 19 <sup>th</sup>	Implement 14 classes of drugs with soft edits
May 21 <sup>st</sup>	Pharmacy & Therapeutics Committee meeting

Alaska Medicaid Pharmacy and Therapeutics Committee

Meeting date March 19, 2004

Frontier Building, 3601 C Street; Room 880/890

Agenda

Call in: 1-800-315-6338. Use access code 735#.

Drug classes to be discussed as time allows.		
<b>Call to order - Chair</b>	Richard Brodsky, MD	8:00 a.m.
<b>Introduce New Members</b>	Richard Brodsky, MD	
<b>Roll call</b>	Richard Brodsky, MD	8:00 – 8:10
<b>Public Comment - (See guidelines on page 2)</b>		8:10 – 8:55
<b>P&amp;T Questions &amp; Comments for public</b>		
<b>President of AK State Medical Association</b>	Alex Malter, MD	
<b>Review / Approve Minutes from earlier meetings</b>	Richard Brodsky, MD	
<b>Calcium Channel Blockers:</b>	Sandy Kapur, Pharm D	Time as needed
Dihydropyridine Calcium Channel Blockers		
Non-Dihydropyridine Calcium Channel Blockers		
• Time for Calcium Channel Blockers - discussion & vote		
• Vote on motions		
<b>BREAK</b>		Approx 10:00 a.m.
<b>Inhaled and Nebulized Corticosteroids</b>	Sandy Kapur, Pharm D	Time as needed
Time for discussion on Inhaled and Nebulized Corticosteroids		
• Vote on motions		
<b>Nasal Steroids</b>	Sandy Kapur, Pharm D	Time as needed
Time for discussion and vote on Nasal Steroids		
• Vote on motions		
<b>Quinolones: Second Generation &amp; Third Generation</b>	Sandy Kapur, Pharm D	Time as needed
Time for discussion & vote on Quinolones: Second & Third Generation		
• Vote on motions		
<b>Lipotropics: Fibric acid derivatives &amp; Statins</b>	Sandy Kapur, Pharm D	Time as needed
• Time for discussion & vote on Lipotropics: Fibric acid derivatives & Statins		
• Vote on motions		
<b>Classes for next P&amp;T meeting</b>		5 minutes
<b>Final Comments by Chair or other members</b>		5 minutes
<b>Closing</b>		Noon or before

**GUIDELINES FOR PROVIDING COMMENT to the ALASKA P&T COMMITTEE**  
**February 13, 2004**

1. All interested speakers will be required to provide the Committee with the name of their organization, the speaker's relationship to the organization and topic area.
2. The time on the agenda for each agenda item is limited. An individual's comments to the committee are limited to a maximum of five (5) minutes in total.
3. Only one speaker "slot" will be available per meeting representing a single manufacturer or interest group. Within the allowable five (5) minute time period, multiple speakers may share this "slot".
4. NO reference or information as to pricing is allowed in any comment(s). Such information will be considered reason for immediately ending the comment opportunity.
5. It is requested that comment provided in relation to specific medications be directed toward how this product is clinically superior or the specific advantage(s) it offers, new evidence/research results or synergistic outcomes which have been demonstrated.
6. Written medical information is not accepted at the P&T meeting. This is to be submitted First Health prior to the meeting.

## Medicaid Recipients visits his/her doctor Doctor prescribes a Medicaid Non-preferred drug

- Patient visits doctor.
- Doctor completes exam.
- Doctor prescribes a Medicaid Non-preferred drug due to an adverse drug reaction to the preferred drug.
- Doctor writes prescription with statement of medical necessity.
- Patient takes prescription to pharmacy.
- Pharmacist checks recipient identification, takes name, address, Medicaid eligibility sticker and the prescription.
- Pharmacist enters prescription into pharmacy computer with patient demographic information.
- Pharmacist sends prescription claim to First Health over point-of-sale system.
- Two seconds later, the pharmacist receives an alert that the prescription drug is a Medicaid Non-preferred drug.
- Pharmacist re-sends the prescription claim with an "8" in the prior authorization type code field.
- In two seconds the pharmacist receives a paid claim status.
- Pharmacist counsels the patient on the drug.
- Patient pays the co-pay and leaves the pharmacy with the filled prescription.

RX PRESCRIPTION	
Name: Ms. Recipient	John Doe, M.D. 1120 Any Street Anchorage, AK 99501
Address: 1011 Any Lane	
<i>Medically necessary</i>	
RX	Atacand 16 mg #30 Sig: 1 tab daily
Signed	<i>John Doe, MD</i>



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the House HESS  
 Committee on HB 543 Committee Name  
Bill / Subject Dated 4/13/04

Madam Chair Wilson and members of the House Health, Education and Social Services committee,

Thank you for scheduling this public testimony on HB 543.

My name is Betsy Turner-Bogren, Fairbanks District Manager for the American Diabetes Association. Over 40,000 Alaskans are affected by diabetes - a serious and deadly disease. Although we generally support HB 543 at this time, we do have questions.

These include: does the language "prescription drugs", "drug lists", etc. include the medically prescribed supplies that are necessary to manage diabetes? Examples of such supplies are blood sugar monitors, test strips, insulin syringes, pens and pumps. Without these supplies, the daily challenge of blood sugar and disease management cannot be achieved.

We urge you to make sure this legislation will actually support the needs of the 40,000 Alaskans living with diabetes.

SIGNED: Betsy Turner-Bogren Thank you for your time,

Testifier

American Diabetes Association

Representing

PO Box 80728 Fairbanks, AK 99708 / 907/457-1557  
 Address / Phone Number

1 that the total maximum prescription drug benefits that an individual may receive under this  
2 subsection in a fiscal year is \$1,000.

3 (g) To receive prescription drug benefits under (e) or (f) of this section, an eligible  
4 individual must assign to the department the individual's rights to payments under any other  
5 prescription drug program for a prescription drug benefit paid under this section. Payment  
6 may not be made under this section for an amount that would otherwise qualify for payment  
7 under another prescription drug benefit plan, except for prescription drug coverage received  
8 from health care facilities that operated under the authority of 25 U.S.C. 450 - 458 bbb-2 (P.L.  
9 93-638).

10 (h) Except as otherwise provided in this subsection, the department may pay under (e)  
11 and (f) of this section only for a prescription drug, insulin, and insulin syringes. The  
12 department may not pay under (e) and (f) of this section for drugs used to treat obesity,  
13 baldness, infertility, or impotence; drugs that are prohibited from receiving funding under the  
14 medical assistance program in AS 47.07; smoking cessation products; drugs used for  
15 symptomatic relief of coughs and colds; oral vitamins; or brand-name multisource drugs if a  
16 therapeutically equivalent generic drug is on the market, except that the department shall pay  
17 for brand-name multisource drugs if the prescriber writes on the prescription "medically  
18 necessary". The department may also restrict coverage of drugs under (e) and (f) of this  
19 section to be consistent with the preferred drug list implemented by the department for  
20 purposes of the medical assistance program under AS 47.07.

21 (i) For a fiscal year in which prescription drug benefits under (e) and (f) of this  
22 section are not available for a full 12 months, the commissioner may prorate the total  
23 maximum amounts available under (e) and (f) of this section according to the number of  
24 months for which those benefits are available.

25 (j) The department may not make payment or authorize a benefit under this section to  
26 or on behalf of an individual residing in a public institution or nursing facility. For purposes  
27 of this subsection, an individual is not considered to be residing in a public institution or  
28 nursing facility if the individual is institutionalized for medical services for a period of less  
29 than three months and continues to maintain and provide for the expenses of the individual's  
30 home or living arrangement to which that individual may return upon discharge from the  
31 institution or facility.

# FISCAL NOTE

# DRAFT

*Adopted*

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: CSHB 543 (RIs) Ver Q  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: H&SS  
Title Medical Assistance Coverage for BRU Health Care Services  
Prescription Drugs Component Medicaid Services  
Sponsor H HESS Committee  
Requester House Rules Committee Component No. 2077

### Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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### FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

### POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Janet S. Seitz, Staff  
Division: House Rules Committee  
Approved by: Representative Norman Rokeberg  
Agency: Chairman, House Rules Committee

Phone: 465-3764  
Date/Time: 4/27/04 11:55 AM  
Date: 4/27/2004

DRAFT

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version:
( ) Publish Date:

Revision Date/Time (Note if correction): Revised 4/28/04

Dept. Affected: Health & Social Services

Title MEDICAL ASSISTANCE COVERAGE FOR
PRESCRIPTION DRUGS

RDU Health Care Services

Component Medicaid Services

Sponsor HOUSE (HES)

Requester HOUSE (RLS)

Component No. 2077

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

Table with columns: OPERATING EXPENDITURES, FY 2005, FY 2006, FY 2007, FY 2008, FY 2009, FY 2010. Rows include Personal Services, Travel, Contractual, Supplies, Equipment, Land & Structures, Grants & Claims, Miscellaneous, and TOTAL OPERATING.

CAPITAL EXPENDITURES table with columns for FY 2005-2010.

CHANGE IN REVENUES (0) table with columns for FY 2005-2010.

FUND SOURCE (Thousands of Dollars)

Table with columns: FUND SOURCE, FY 2005, FY 2006, FY 2007, FY 2008, FY 2009, FY 2010. Rows include 1002 Federal Receipts, 1003 GF Match, 1004 GF, 1037 GF/Mental Health, Other, and TOTAL.

Estimate of any current year (FY2004) cost:
Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Table with columns for Full-time, Part-time, Temporary and rows for each position type.

ANALYSIS: (Attach a separate page if necessary)
This fiscal note is being revised based on CS HB543 RLS:
This bill provides physicians with the ability to prescribe non-preferred drugs without prior authorization or justification, other than medical necessity. This eliminates the Department's ability to require any pre-authorization for drugs that are not on the Preferred Drug List (PDL), or other means to manage drug utilization. Based upon the experience of other states, voluntary utilization of drugs on a PDL will not exceed 25%. The Department's budgeted savings for the PDL in FY 05 is \$20,000.0. The impact of this bill will result in an estimated annual loss of \$10,000.0 of the budget savings.

Prepared by: Dwayne Peoples, Director
Division: Division of Health Care Services
Approved by: Joel S. Gilbertson, Commissioner
Agency: Department of Health and Social Services
Phone: 465-3355
Date/Time: 04/28/2004
Date: 04/28/2004

**DRAFT**

FISCAL NOTE  
FN #

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

BILL NO.

ANALYSIS CONTINUATION  
Continuation -

The estimated \$10 million savings reflects 50% of the original \$20 million budgeted savings and is based on experience realized by other states under similar legislative constraints. In the years following FY 2005 an 11% growth rate has been factored in for a net increased cost for the program. The potential savings per year will be continually eroded by program growth and inflation.

HB

551



# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 551  
 (H) Publish Date: 4/19/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: EED  
 Title An Act relating to the issuance of RDU Teaching & Learning Support  
teacher certificates Component Teacher Certification  
 Sponsor House Judiciary Committee  
 Requester \_\_\_\_\_ Component No. 1240

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual	30.0	30.0	30.0	30.0	30.0	30.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>30.0</b>	<b>30.0</b>	<b>30.0</b>	<b>30.0</b>	<b>30.0</b>	<b>30.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

FUND SOURCE	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Receipt Supported Services	30.0	30.0	30.0	30.0	30.0	30.0
<b>TOTAL</b>	<b>30.0</b>	<b>30.0</b>	<b>30.0</b>	<b>30.0</b>	<b>30.0</b>	<b>30.0</b>

Estimate of any current year (FY2004) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

POSITIONS	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
 Sections 1 and 3 describe a new reason for the department to deny issuance of a teacher certificate and for the Professional Teaching Practices Commission to revoke a certificate, for life. Whenever a certificate is denied or revoked, the applicant then may request a hearing on the matter, or take advantage of other due process rights. This legal recourse will result in additional hearings on the certificate denials/revocations and department costs related to the hearings and our attorney's time.  
  
 State law required the Teacher Certification unit to be self-supporting. The department may need to adjust the teacher certification fees to accommodate any increases related to this legislation.

Prepared by: Barbara Thompson Phone 465-8727  
 Division: Teaching & Learning Support Date/Time 4/13/04 8:53 AM  
 Approved by: Karen Rehfeld Date 4/13/2004  
 Agency: Commissioner's Office

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2  
Bill Version: CSHB 551(JUD)  
(H) Publish Date: 4/29/2004

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: EED  
Title An Act relating to the issuance of teach BRU Teacher & Learning Support  
certification Component Teacher Certification  
Sponsor House Judiciary Committee  
Requester House Rules Committee Component No. 1240

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Janet S. Seitz, Staff  
Division: House Rules Committee  
Approved by: Representative Norman Rokeberg  
Agency: Chairman, House Rules Committee

Phone 465-3764  
Date/Time 4/29/04 10:52 AM  
Date 4/29/2004

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## Chapter 11.71. CONTROLLED SUBSTANCES

### Article 01. OFFENSES RELATING TO CONTROLLED SUBSTANCES

#### Sec. 11.71.010. Misconduct involving a controlled substance in the first degree.

(a) Except as authorized in AS 17.30, a person commits the crime of misconduct involving a controlled substance in the first degree if the person

(1) delivers any amount of a schedule IA controlled substance to a person under 19 years of age who is at least three years younger than the person delivering the substance;

(2) delivers any amount of a schedule IIA or IIIA controlled substance to a person under 19 years of age who is at least three years younger than the person delivering the substance; or

(3) engages in a continuing criminal enterprise;

(b) For purposes of this section, a person is engaged in a "continuing criminal enterprise" if

(1) the person commits a violation of this chapter which is punishable as a felony; and

(2) that violation is a part of a continuing series of five or more violations of this chapter

(A) which the person undertakes in concert with at least five other persons organized, supervised, or otherwise managed by the person; and

(B) from which the person obtains substantial income or resources;

(c) Misconduct involving a controlled substance in the first degree is an unclassified felony and is punishable as provided in AS 12.55.

#### Sec. 11.71.020. Misconduct involving a controlled substance in the second degree.

(a) Except as authorized in AS 17.30, a person commits the crime of misconduct involving a controlled substance in the second degree if the person

(1) manufactures or delivers any amount of a schedule IA controlled substance or possesses any amount of a schedule IA controlled substance with intent to manufacture or deliver;

(2) manufactures any material, compound, mixture, or preparation that contains

(A) methamphetamine, or its salts, isomers, or salts of isomers; or

(B) an immediate precursor of methamphetamine, or its salts, isomers, or salts of isomers;

(3) possesses an immediate precursor of methamphetamine, or the salts, isomers, or salts of isomers of the immediate precursor of methamphetamine, with the intent to manufacture any material compound, mixture, or preparation that contains methamphetamine, or its salts, isomers, or salts of isomers; or

(4) possesses a listed chemical with intent to manufacture any material, compound, mixture, or preparation that contains

(A) methamphetamine, or its salts, isomers, or salts of isomers; or

(B) an immediate precursor of methamphetamine, or its salts, isomers, or salts of isomer.

(b) In this section, "listed chemical" means a chemical described under AS 11.71.200.

(c) Misconduct involving a controlled substance in the second degree is a class A felony.

#### Sec. 11.71.030. Misconduct involving a controlled substance in the third degree.

(a) Except as authorized in AS 17.30, a person commits the crime of misconduct involving a controlled substance in the third degree if the person

(1) under circumstances not proscribed under AS 11.71.020(a)(2) - (4), manufactures or delivers any amount of a schedule IIA or IIIA controlled substance or possesses any amount of a schedule IIA or IIIA controlled substance with intent to manufacture or deliver;

(2) delivers any amount of a schedule IVA, VA, or VIA controlled substance to a person under 19 years of age who is at least three years younger than the person delivering the substance; or

(3) possesses any amount of a schedule IA or IIA controlled substance

(A) with reckless disregard that the possession occurs

(i) on or within 500 feet of school grounds; or

(ii) at or within 500 feet of a recreation or youth center; or

(B) on a school bus;

(b) It is an affirmative defense to a prosecution under (a)(3)(A) of this section that the prohibited conduct took place entirely within a private residence located within 500 feet of the school grounds or recreation or youth center, and that the prohibited conduct did not involve distributing, dispensing, or possessing with the intent to distribute or dispense a controlled substance for profit. Nothing in this subsection precludes a prosecution under any other provision of this section or any other section of this chapter.

(c) Misconduct involving a controlled substance in the third degree is a class B felony.

Sec. 11.71.040. Misconduct involving a controlled substance in the fourth degree.

(a) Except as authorized in AS 17.30, a person commits the crime of misconduct involving a controlled substance in the fourth degree if the person

(1) manufactures or delivers any amount of a schedule IVA or VA controlled substance or possesses any amount of a schedule IVA or VA controlled substance with intent to manufacture or deliver;

(2) manufactures or delivers, or possesses with the intent to manufacture or deliver, one or more preparations, compounds, mixtures, or substances of an aggregate weight of one ounce or more containing a schedule VIA controlled substance;

(3) possesses

(A) any amount of a schedule IA or IIA controlled substance;

(B) 25 or more tablets, ampules, or syrettes containing a schedule IIIA or IVA controlled substance;

(C) one or more preparations, compounds, mixtures, or substances of an aggregate weight of three grams or more containing a schedule IIIA or IVA controlled substance;

(D) 50 or more tablets, ampules, or syrettes containing a schedule VA controlled substance;

(E) one or more preparations, compounds, mixtures, or substances of an aggregate weight of six grams or more containing a schedule VA controlled substance;

(F) one or more preparations, compounds, mixtures, or substances of an aggregate weight of one pound or more containing a schedule VIA controlled substance; or

(G) 25 or more plants of the genus cannabis;

(4) possesses a schedule IIIA, IVA, VA, or VIA controlled substance

(A) with reckless disregard that the possession occurs

(i) on or within 500 feet of school grounds; or

(ii) at or within 500 feet of a recreation or youth center; or

(B) on a school bus;

(5) knowingly keeps or maintains any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place that is used for keeping or distributing controlled substances in violation of a felony offense under this chapter or AS 17.30;

(6) makes, delivers, or possesses a punch, die, plate, stone, or other thing which prints, imprints, or reproduces a trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of these upon a drug, drug container, or labeling so as to render the drug a counterfeit substance;

(7) knowingly uses in the course of the manufacture or distribution of a controlled substance a registration number that is fictitious, revoked, suspended, or issued to another person;

(8) knowingly furnishes false or fraudulent information in or omits material information from any application, report, record, or other document required to be kept or filed under AS 17.30;

(9) obtains possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge; or

(10) affixes a false or forged label to a package or other container containing any controlled substance.

(b) It is an affirmative defense to a prosecution under (a)(4)(A) of this section that the prohibited conduct took place entirely within a private residence located within 500 feet of the school grounds or recreation or youth center. Nothing in this subsection precludes a prosecution under any other provision of this section or any other section of this chapter.

(c) Nothing in (a)(5) or (6) of this section precludes a prosecution or civil proceeding brought under any other provision of this section or any other section of this chapter or under AS 17.

(d) Misconduct involving a controlled substance in the fourth degree is a class C felony.



<p><b>DEA Offices &amp; Telephone Nos.</b>                  Anchorage—907-271-5033                  Fairbanks —907-455-1818</p>	 <p><b>Alaska</b></p>
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<p><b>State Facts</b>                  Population: 626,932                  Law Enforcement Officers: 1,293                  State Prison Population: 4,577                  Probation Population: 4,517                  Violent Crime Rate National Ranking: 10</p>	<p><b>2002 Federal Drug Seizures</b>                  Cocaine: 37.2 kgs.                  Heroin: 0.1 kgs.                  Methamphetamine: 1.9 kgs.                  Marijuana: 0.9 kgs.                  Clandestine Laboratories: 33 (DEA, state, and local)</p>
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**Drug Situation:** Due to its close proximity to the Pacific Rim and shared border with Canada, Alaska is both a transshipment point for controlled substances to the continental United States and a consumer state. Historically, drug trends documented in the other states are eventually documented in Alaska. This includes the growing threat of methamphetamine, Ecstasy, GHB and other "Predatory Drugs." Alaska has the highest per capita incident of alcoholism, rape, and suicide in the United States, partially attributable to controlled substance abuse.



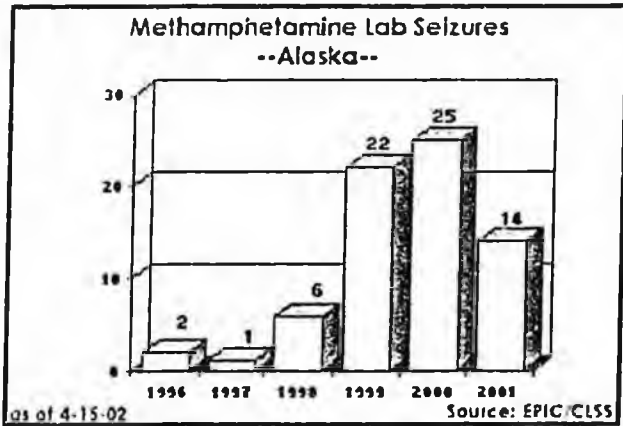
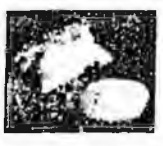
**Cocaine:** There are many different cocaine trafficking organizations in Alaska, although some of the largest ones are predominantly Mexican groups and Dominican groups. Eastern Europeans are also involved. Most cocaine appears to come into Alaska from the West Coast of the U.S. One cocaine smuggling organization in Alaska offered to sell one kilogram of cocaine for as high as \$39,000. Cocaine and other drugs are distributed throughout the State mainly from Anchorage and Fairbanks, all the way to remote fishing villages and northern rural areas.



**Heroin:** Evidence of heroin has declined due to much of the user population now illegally acquiring and using OxyContin. Opium continues to be transshipped through Alaska from the Far East/Pacific Rim countries.



**Methamphetamine:** Small toxic labs continue to be found throughout the state. The pseudoephedrine reduction method is the common manufacturing method used. Availability seems to be increasing, both from local labs and from methamphetamine mailed or shipped into the state by various methods, mostly from the Western U.S.



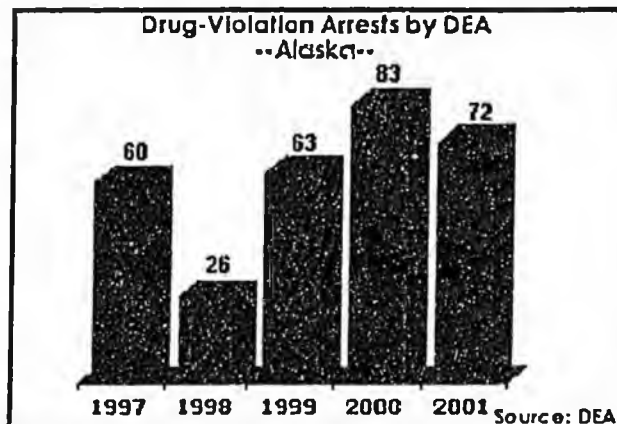
**Club Drugs:** There is recent evidence of large quantities of GBL being transshipped through Alaska from Thailand to various "lower 48" states. MDMA (methylene-dioxy-methamphetamine), also known as Ecstasy, is a growing threat throughout the state. Prior to 1999, there were no reports or direct evidence of large quantities of MDMA in any form. In the recent years, MDMA seizures have increased dramatically. Raves continue to occur in Alaska, with the accompanying use of Predatory Drugs found at these events.





**Marijuana:** Marijuana is the most abused and widespread illegal drug in Alaska. Local law enforcement can only estimate the extent of marijuana abuse because less than 5% of the marijuana in Alaska is grown outdoors. This makes detection much more difficult.

**Other Drugs:** The diversion of various controlled substances regulated by prescription is growing. Alaska is one of the top five purchasing states for five of the top twelve diverted drugs, to include Fentanyl, D-Amphetamine, Oxycodone, Methadone and Meperidine. Benzodiazepine is also widely abused. Internet purchases of controlled substances, from both domestic and international sites, are on the rise.



**DEA Mobile Enforcement Teams:** This cooperative program with state and local law enforcement counterparts was conceived in 1995 in response to the overwhelming problem of drug-related violent crime in towns and cities across the nation. There have been 381 deployments completed resulting in 15,731 arrests of violent drug criminals as of March 2003. There have been no MET deployments to this state.

**DEA Regional Enforcement Teams:** This program was designed to augment existing DEA division resources by targeting drug organizations operating in the United States where there is a lack of sufficient local drug law enforcement. This Program was conceived in 1999 in response to the threat posed by drug trafficking organizations that have established networks of cells to conduct drug trafficking operations in smaller, non-traditional trafficking locations in the United States. Nationwide, there have been 18 deployments completed resulting in 548 arrests of drug trafficking criminals as of March 2003. There have been no RET deployments in this state.

ZERO FISCAL NOTE

From: Office of Rep. McGuire

HB 551

*"An Act relating to the issuance of teacher certificates to and revocation of teacher certificates of persons convicted of certain felony drug offenses and to the issuance of limited teacher certificates to persons convicted of certain crimes involving a minor and felony drug offenses."*

Rationale:

Under AS 14.20.030 generally the Commissioner or Professional Teaching Practices Commission may revoke or suspend a certificate for, among other things, "moral turpitude". Moral turpitude is defined in regulation found under 20 AAC 10.030. Included in this definition is "unlawful distribution or possession for distribution or possession for distribution of a controlled substance." Clearly this definition falls within the scope of AS 11.71.010 – 11.71.040.

PTPC currently has hearing processes in place to adjudicate appeals to license suspensions or revocations resulting from existing statute and regulation. There is no indication that this bill requires the PTPC to investigate or adjudicate any more appeals than is consistent with current standards.

# FISCAL NOTE

*adopted*  
**DRAFT**

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
Bill Version: CSHB 551 (JUD)  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: EED  
Title An Act relating to the issuance of teach BRU Teacher & Learning Support  
certification Component Teacher Certification  
Sponsor House Judiciary Committee  
Requester House Rules Committee Component No. 1240

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0  
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

Prepared by: Janet S. Seitz, Staff Phone 465-3764  
Division House Rules Committee Date/Time 4/27/04 10:55 AM  
Approved by: Representative Norman Rokeberg Date 4/27/2004  
Agency Chairman, House Rules Committee

**HB**

**1003**

**HOUSE BILL NO. 1003**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-THIRD LEGISLATURE - FIRST SPECIAL SESSION**

**BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**Introduced: 6/22/04**

**Referred: Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the income of and appropriations from the Alaska permanent fund  
2 under art. IX, sec. 15(b), Constitution of the State of Alaska, and making conforming  
3 amendments; relating to permanent fund dividend payments of at least \$1,000; relating  
4 to the determination of net income of the mental health trust fund; and providing for an  
5 effective date."

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 \* **Section 1.** AS 09.20.050(b) is amended to read:

8 (b) The jury list shall be based on a list prepared by the Department of  
9 Revenue of all persons who filed an application for a [DISTRIBUTION OF  
10 ALASKA] permanent fund dividend [INCOME] under AS 43.23 during the current  
11 calendar year that shows an Alaska [ALASKAN] address, and of all persons who  
12 volunteer for jury duty under (d) of this section. If considered necessary by the  
13 administrative director of the Alaska Court System, the jury list shall incorporate a list

1 prepared by the Department of Administration of all persons who hold a valid Alaska  
 2 driver's license. The departments shall submit their respective lists to the Alaska  
 3 Court System not later than September 30 of each year. To the extent that it is  
 4 available, the departments shall include on the lists they submit the following  
 5 information for each person: first name, middle initial, and last name; mailing address,  
 6 including the zip code; and birth date. The lists shall be recorded on magnetic tape  
 7 compatible with Alaska Court System data processing equipment.

8 \* **Sec. 2.** AS 24.20.206 is amended to read:

9 **Sec. 24.20.206. Duties.** The Legislative Budget and Audit Committee shall

10 (1) [REPEALED

11 (2)] annually review the long-range operating plans of all agencies of  
 12 the state that perform lending or investment functions;

13 (2) [(3)] review periodic reports from all agencies of the state that  
 14 perform lending or investment functions;

15 (3) [(4)] prepare a complete report of investment programs, plans,  
 16 performance, and policies of all agencies of the state that perform lending or  
 17 investment functions and notify the legislature within 30 days after the convening of  
 18 each regular session that the report is available;

19 (4) [(5)] in conjunction with the finance committee of each house,  
 20 recommend annually to the legislature the investment policy for the general fund  
 21 surplus and for the [INCOME FROM THE] permanent fund;

22 (5) [(6)] provide for an annual post audit and annual operational and  
 23 performance evaluation of the Alaska Permanent Fund Corporation investments and  
 24 investment programs;

25 (6) [(7)] provide for an annual operational and performance evaluation  
 26 of the Alaska Housing Finance Corporation and the Alaska Industrial Development  
 27 and Export Authority; the performance evaluation must include, but is not limited to, a  
 28 comparison of the effect on various sectors of the economy by public and private  
 29 lending, the effect on resident and nonresident employment, the effect on real wages,  
 30 and the effect on state and local operating and capital budgets of the programs of the  
 31 Alaska Housing Finance Corporation and the Alaska Industrial Development and

1 Export Authority;

2 (7) [(8)] provide assistance to the trustees of the trust established in  
3 AS 37.14.400 - 37.14.450 in carrying out their duties under AS 37.14.415.

4 \* Sec. 3. AS 37.13 is amended by adding a new section to read:

5 **Sec. 37.13.143. Appropriations from the fund.** (a) The total amount  
6 available for appropriation from the fund for a specific fiscal year is determined under  
7 art. IX, sec. 15(b), Constitution of the State of Alaska. However, if the annualized real  
8 rate of return of the fund during the first 10 of the 11 fiscal years immediately  
9 preceding the specific fiscal year was less than five percent, the amount available for  
10 appropriation for that specific fiscal year may not exceed that 10-year annualized real  
11 rate of return multiplied by the average of the fiscal year-end market values of the  
12 fund for the first five of the six fiscal years immediately preceding that specific fiscal  
13 year. For purposes of this subsection, "real rate of return" means the total rate of  
14 return of the fund's investments for the period measured, minus the rate of inflation for  
15 that period, stated on an annualized basis.

16 (b) The legislature may appropriate from the fund for each fiscal year the  
17 amount for costs of the corporation associated with operating and investing the fund.

18 (c) After the appropriation under (b) of this section, appropriations by the  
19 legislature for a specific fiscal year are limited as follows, based on the total amount  
20 remaining available for appropriation under (a) of this section:

21 (1) not more than five percent may be appropriated for municipalities  
22 and other communities;

23 (2) not more than 45 percent may be appropriated for public education;

24 (3) not more than 50 percent may be appropriated to the dividend fund  
25 established under AS 43.23.045.

26 (d) Notwithstanding (c) of this section, the amount of a dividend payment for  
27 residents of the state shall be no less than \$1,000 each year. If the appropriation made  
28 under (c)(3) of this section would be insufficient to pay that amount, the percentages  
29 specified in (c)(1) and (2) of this section are decreased for the applicable year, and the  
30 percentage specified in (c)(3) of this section is increased, by the amount necessary to  
31 fund the shortfall.

New  
language  
to HB 298

1 (c) The corporation shall transfer money appropriated under this section from  
2 the fund within 14 days after the effective date of the appropriation.

3 (f) For purposes of (a) of this section, the corporation shall calculate the rate  
4 of inflation using the annual year over year change in the Consumer Price Index for all  
5 urban consumers for the time period specified.

6 \* **Sec. 4.** AS 37.13.145(d) is amended to read:

7 (d) Income [NOTWITHSTANDING (b) OF THIS SECTION, INCOME]  
8 earned on money awarded in or received as a result of State v. Amerada Hess, et al.  
9 1JU-77-847 Civ. (Superior Court, First Judicial District), including settlement,  
10 summary judgment, or adjustment to a royalty-in-kind contract that is tied to the  
11 outcome of this case, or interest earned on the money, or on the earnings of the money  
12 shall be treated in the same manner as other income of the Alaska permanent fund,  
13 except that it is not available for distribution to the dividend fund [, AND SHALL BE  
14 ANNUALLY DEPOSITED INTO THE PRINCIPAL OF THE ALASKA  
15 PERMANENT FUND].

New  
language to  
HB 298

16 \* **Sec. 5.** AS 37.13 is amended by adding a new section to read:

17 **Sec. 37.13.148. Market value of the fund.** For the purposes of art. IX, sec.  
18 15(b), Constitution of the State of Alaska, the corporation shall determine the market  
19 value of the fund annually as of the close of business on June 30 in accordance with  
20 generally accepted accounting principles for the determination of fair value.

21 \* **Sec. 6.** AS 37.13.150 is amended to read:

22 **Sec. 37.13.150. Corporation budget.** The [REVENUE GENERATED BY  
23 THE FUND'S INVESTMENTS MUST BE IDENTIFIED AS THE SOURCE OF  
24 THE] operating budget of the corporation shall be included in the state's operating  
25 budget under AS 37.07 (Executive Budget Act). [THE UNEXPENDED BALANCE  
26 OF THE CORPORATION'S ANNUAL OPERATING BUDGET DOES NOT LAPSE  
27 AT THE END OF THE FISCAL YEAR BUT SHALL BE TREATED AS INCOME  
28 UNDER AS 37.13.140.]

29 \* **Sec. 7.** AS 37.14.031(c) is amended to read:

30 (c) The net income of the fund shall be determined by the Alaska Permanent  
31 Fund Corporation annually as of the last day of the fiscal year in accordance with

1 generally accepted accounting principles [IN THE SAME MANNER THE  
 2 CORPORATION DETERMINES THE NET INCOME OF THE ALASKA  
 3 PERMANENT FUND UNDER AS 37.13.140].

4 \* Sec. 8. AS 43.23.025(a) is amended to read:

5 (a) By October 1 of each year, the commissioner shall determine the value of  
 6 each permanent fund dividend for that year by

7 (1) determining the total amount available for dividend payments,  
 8 which equals

9 (A) the amount of money appropriated from [INCOME OF]  
 10 the Alaska permanent fund [TRANSFERRED] to the dividend fund under  
 11 AS 37.13.143 [AS 37.13.145(b)] during the current year;

12 (B) plus the unexpended and unobligated balances of prior  
 13 fiscal year appropriations that lapse into the dividend fund under  
 14 AS 43.23.045(d);

15 (C) less the amount necessary to pay prior year dividends from  
 16 the dividend fund in the current year under AS 43.23.005(h) and under  
 17 AS 43.23.055(3) and (7);

18 (D) less the amount necessary to pay dividends from the  
 19 dividend fund due to eligible applicants who, as determined by the department,  
 20 filed for a previous year's dividend by the filing deadline but who were not  
 21 included in a previous year's dividend computation;

22 (E) less appropriations from the dividend fund during the  
 23 current year, including amounts to pay costs of administering the dividend  
 24 program and the hold harmless provisions of AS 43.23.075;

25 (2) determining the number of individuals eligible to receive a  
 26 dividend payment for the current year and the number of estates and successors  
 27 eligible to receive a dividend payment for the current year under AS 43.23.005(h); and

28 (3) dividing the amount determined under (1) of this subsection by the  
 29 amount determined under (2) of this subsection.

30 \* Sec. 9. AS 43.23.028(a) is amended to read:

31 (a) By October 1 of each year, the commissioner shall give public notice of

1 the value of each permanent fund dividend for that year and notice of the information  
 2 required to be disclosed under (3) of this subsection. In addition, the stub attached to  
 3 each individual dividend check and direct deposit advice must

4 (1) disclose the amount of each dividend attributable to [INCOME  
 5 EARNED BY THE PERMANENT FUND FROM] deposits to that fund required  
 6 under art. IX, sec. 15, Constitution of the State of Alaska;

7 (2) disclose the amount of each dividend attributable to all [INCOME  
 8 EARNED BY THE PERMANENT FUND FROM] appropriations to that fund plus  
 9 [AND FROM] amounts added to that fund before January 1, 2005, to offset the  
 10 effects of inflation;

11 (3) disclose the amount by which each dividend has been reduced due  
 12 to each appropriation from the dividend fund, including amounts to pay the costs of  
 13 administering the dividend program and the hold harmless provisions of  
 14 AS 43.23.075;

15 (4) include a statement that an individual is not eligible for a dividend  
 16 when

17 (A) during the qualifying year, the individual was convicted of  
 18 a felony;

19 (B) during all or part of the qualifying year, the individual was  
 20 incarcerated as a result of the conviction of a

21 (i) felony; or

22 (ii) misdemeanor if the individual has been convicted of  
 23 a prior felony or two or more prior misdemeanors;

24 (5) include a statement that the legislative purpose for making  
 25 individuals listed under (4) of this subsection ineligible is to

26 (A) obtain reimbursement for some of the costs imposed on the  
 27 state criminal justice system related to incarceration or probation of those  
 28 individuals;

29 (B) provide funds for services for and payments to crime  
 30 victims and for grants for the operation of domestic violence and sexual assault  
 31 programs;

1                   (6) disclose the total amount that would have been paid during the  
2 previous fiscal year to individuals who were ineligible to receive dividends under  
3 AS 43.23.005(d) if they had been eligible;

4                   (7) disclose the total amount appropriated for the current fiscal year  
5 under (b) of this section for each of the funds and agencies listed in (b) of this section.

6 \* **Sec. 10.** AS 37.13.140, 37.13.145(a), 37.13.145(b), 37.13.145(c), and 37.13.300(c) are  
7 repealed.

8 \* **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to  
9 read:

10           **CONDITIONAL EFFECT.** This Act takes effect only if an amendment to art. IX, sec.  
11 15, Constitution of the State of Alaska, relating to and limiting appropriations from the Alaska  
12 permanent fund based on an averaged percent of the fund market value, is approved by the  
13 voters during the 2004 general election and takes effect.

14 \* **Sec. 12.** If this Act takes effect under sec. 11 of this Act, it takes effect January 1, 2005,  
15 except as provided in sec. 13 of this Act.

16 \* **Sec. 13.** Sections 1 and 2 of this Act take effect immediately under AS 01.10.070(c).

**COMPARISON OF LANGUAGE FOR HB 298 AND HB 1003**  
**House Rules Committee Worksheet**

**Page 3, Line 26:**

HB 1003 (New language):

(d) Notwithstanding (c) of this section, the amount of a dividend payment for residents of the state shall be no less than \$1,000 each year. If the appropriation made under (c)(3) of this section would be insufficient to pay that amount, the percentages specified in (c)(1) and (2) of this section are decreased for the applicable year, and the percentage specified in (c)(3) of this section is increased, by the amount necessary to fund the shortfall.

**Page 4, Line 6:**

HB 1003 (New language):

\*Sec. 4. AS 37.13.145(d) is amended to read:

(d) **Income** [NOTWITHSTANDING (b) OF THIS SECTION, INCOME] earned on money awarded in or received as a result of State v. Amerada Hess, et al. IJU-77-847 Civ. (Superior Court, First Judicial District), including settlement, summary judgment, or adjustment to a royalty-in-kind contract that is tied to the outcome of this case, or interest earned on the money, or on the earnings of the money shall be treated in the same manner as other income of the Alaska permanent fund, except that it is not available for distribution to the dividend fund [,AND SHALL BE ANNUALLY DEPOSITED INTO THE PRINCIPAL OF THE ALASKA PERMANENT FUND].



# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 1003  
 (H) Publish Date: 6/22/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue  
 Title Dist. Of Approps from PermFund RDU AK Permanent Fund Corporation  
 Component AK Permanent Fund Corporation  
 Sponsor Rules  
 Requester Governor Component No. 109

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*  
 This bill would change the Alaska statutes that address distributions from the Permanent Fund to conform to a Percent of Market Value payout limit. It would not change the management or the cost of operations of the Fund.  
  
 See the attached schedule for financial projections of the Fund comparing the "Status Quo" to a 5% POMV spending limit.

Prepared by: Robert D. Storer, Executive Director Phone 465-7047  
 Division Alaska Permanent Fund Corporation Date/Time 6/19/2004/1:09 PM  
 Approved by: Steve Porter, Deputy Commissioner Date 6/19/2004  
 Agency Department of Revenue



*Alaska Permanent Fund Corporation*

Financial projection comparison of the Alaska Permanent Fund under current statutes versus POMV 5% lump sum payout, median case. All dollars in millions except per person dividend.

Fiscal Note #1 - HB 1003

	<u>FY05</u>	<u>FY06</u>	<u>FY07</u>	<u>FY08</u>	<u>FY09</u>	<u>FY10</u>	<u>FY11</u>	<u>FY12</u>	<u>FY13</u>	<u>FY14</u>	<u>FY15</u>	<u>FY05-FY15</u>
<b>Current Statutes</b>												<b>Totals</b>
Contributions & appropriations (principal)	24,452	25,383	26,278	27,189	28,120	29,077	30,053	31,049	32,061	33,090	34,139	
Unrealized appreciation/depreciation on assets	1,683	1,913	2,160	2,425	2,702	2,993	3,304	3,624	3,965	4,317	4,684	
Realized earnings account ( REA, after payouts)	1,297	1,879	2,375	2,778	3,185	3,617	4,074	4,568	5,092	5,658	6,263	
Total market value end of year (after payouts)	27,433	29,176	30,814	32,393	34,007	35,688	37,431	39,241	41,118	43,065	45,087	45,087
Total lump sum dividend appropriation	512	576	750	924	1,002	1,058	1,114	1,170	1,228	1,288	1,350	10,972
Per person dividend under current statute	\$ 790	\$ 890	\$ 1,160	\$ 1,420	\$ 1,530	\$ 1,600	\$ 1,670	\$ 1,740	\$ 1,810	\$ 1,880	\$ 1,950	\$ 16,440
Transfer status quo inflation-proofing (REA to Principal)	620	643	666	689	713	737	762	787	812	839	865	8,132
<b>POMV - 5% (beginning in FY05)</b>												<b>Totals</b>
Contributions & appropriations (principal)	23,840	24,128	24,358	24,580	24,800	25,021	25,237	25,447	25,648	25,841	26,026	
Unrealized appreciation/depreciation on assets	1,683	1,892	2,103	2,322	2,548	2,781	3,026	3,274	3,532	3,793	4,059	
Realized earnings account ( REA, after payouts)	1,173	1,687	2,243	2,809	3,382	3,965	4,561	5,179	5,811	6,465	7,139	
Total market value end of year (after payouts)	26,695	27,707	28,703	29,712	30,730	31,768	32,824	33,900	34,991	36,099	37,224	37,224
5 year average market value lagged one year	25,851	25,902	26,508	27,614	28,846	30,012	31,066	32,140	33,234	34,344	35,472	
Total 5 % lump sum average market value available for appropriation	1,293	1,295	1,325	1,381	1,442	1,501	1,553	1,607	1,662	1,717	1,774	16,549

**Assumptions:**

Callan Associates 2004 Capital Market Assumptions, APFC 2004 asset allocation, Spring 2004 revenue forecast, financial statements through 06/30/03. All payouts are assumed to happen at fiscal year end, all dollar values in millions.

POMV payout assumes calculation methodology is 5% of the ending market value (pre payout) for the first five of the last six fiscal years.



Alaska Permanent Fund Corporation

Fiscal Note #1 - HB 1003

POMV payout, split 50% to the Dividend, 45% to public services and 5% to the municipal dividend

	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY12	FY13	FY14	FY15	FY05-FY15 Totals
<b>POMV - 5% (beginning in FY05)</b>												
Contributions & appropriations (principal)	23,840	24,128	24,358	24,580	24,800	25,021	25,237	25,447	25,648	25,841	26,026	
Unrealized appreciation/depreciation on assets	1,683	1,892	2,103	2,322	2,548	2,781	3,026	3,274	3,532	3,793	4,059	
Realized earnings account ( REA, after payouts)	1,173	1,687	2,243	2,809	3,382	3,965	4,561	5,179	5,811	6,465	7,139	
Total market value end of year (after payouts)	26,695	27,707	28,703	29,712	30,730	31,768	32,824	33,900	34,991	36,099	37,224	37,224
5 year average market value lagged one year	25,851	25,902	26,508	27,614	28,846	30,012	31,066	32,140	33,234	34,344	35,472	
Total available for appropriation	1,293	1,295	1,325	1,381	1,442	1,501	1,553	1,607	1,662	1,717	1,774	16,549
AFPC management costs	(43)	(44)	(45)	(47)	(48)	(50)	(51)	(53)	(54)	(56)	(57)	(547)
payout 50% after APFC costs - lump sum dividend	625	626	640	667	697	726	751	777	804	831	858	8,001
payout 45% after APFC costs for government services	562	563	576	600	627	653	676	699	723	748	772	7,201
payout 5% after APFC costs for municipal dividend	62	63	64	67	70	73	75	78	80	83	86	800
Per person dividend	\$990	\$990	\$1,000	\$1,040	\$1,090	\$1,130	\$1,160	\$1,200	\$1,230	\$1,270	\$1,310	\$12,410
Total available for appropriation	1,293	1,295	1,325	1,381	1,442	1,501	1,553	1,607	1,662	1,717	1,774	16,549
AFPC management costs	(43)	(44)	(45)	(47)	(48)	(50)	(51)	(53)	(54)	(56)	(57)	(547)
payout 50% after APFC costs - lump sum dividend	628	631	640	667	697	726	751	777	804	831	858	8,009
payout 45% after APFC costs for government services	559	558	576	600	627	653	676	699	723	748	772	7,193
payout 5% after APFC costs for municipal dividend	62	63	64	67	70	73	75	78	80	83	86	800
Guarantee \$1,000 minimum dividend	\$1,000	\$1,000	\$1,000	\$1,040	\$1,090	\$1,130	\$1,160	\$1,200	\$1,230	\$1,270	\$1,310	\$12,430

HCR

7

# HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 18, 2003

FURTHER REFERRALS:

Date of Committee Action: 15 APR 2003

The RULES Committee considered:

HCR 7

HOUSE CONCURRENT RESOLUTION NO. 7

UNIFORM RULES: EXECUTIVE SESSIONS

Proposing an amendment to the Uniform Rules of the Alaska State Legislature relating to executive sessions of legislative bodies; and providing for an effective date for the amendment.

Recommends it be replaced with [ ] HCS or [  ] CS for HCR 7 CRLS ( )  
 For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR \_\_\_\_\_ [ ] Same Title [ ] New Title

- [ ] attach amendments
- [ ] add new referral to \_\_\_\_\_ Committee
- [ ] Letter of Intent \_\_\_\_\_ Committee

List of Abbrev for Depts.:  
 ADM  
 CED  
 COR  
 CRT  
 EED  
 DEC  
 DFG  
 GOV  
 HSS  
 LEG  
 LAW  
 LWF  
 MVA  
 DNR  
 DPS  
 REV  
 DOT  
 UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
<u>LEG</u>				<input checked="" type="checkbox"/>

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
<u>Bern Heredia</u>	KERTILLA	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
<u>Greg O'Malley</u>	Melusse	<input checked="" type="checkbox"/>			
<u>Rita Kott</u>	KOTT	<input checked="" type="checkbox"/>			
<u>John Cook</u>	Cook	<input checked="" type="checkbox"/>			
<u>John ...</u>	Morgan	<input checked="" type="checkbox"/>			
Chair: <u>Ann Kotely</u>	Rolchberg	<input checked="" type="checkbox"/>			
Chair:					

**CS FOR HOUSE CONCURRENT RESOLUTION NO. 7(RLS)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-THIRD LEGISLATURE - FIRST SESSION**

**BY THE HOUSE RULES COMMITTEE**

**Offered: 4/11/03**

**Referred: Rules**

**Sponsor(s): HOUSE STATE AFFAIRS COMMITTEE**

**A RESOLUTION**

1 Proposing an amendment to the Uniform Rules of the Alaska State Legislature relating  
2 to executive sessions of legislative bodies; and providing for an effective date for the  
3 amendment.

4 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 \* Section 1. Rule 22(b), Uniform Rules of the Alaska State Legislature, is amended to read:

6 (b) A legislative body may call an executive session at which members of the  
7 general public may be excluded for the following reasons:

8 (1) discussion of matters, the immediate knowledge of which would  
9 adversely affect the finances of a government unit;

10 (2) discussion of subjects that tend to prejudice the reputation and  
11 character of a person;

12 (3) discussion of a matter that may, by law, be required to be  
13 confidential;

14 (4) discussion of a matter the public knowledge of which would  
15 adversely affect the security of the state or nation, or adversely affect the security

1        of a governmental unit or agency.

2        \* Sec. 2. The amendment proposed by this resolution takes effect immediately.

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HCR 7  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Legislature  
 Title: Proposing an amendment to the BRU Legislative Council  
Uniform Rules of the Alaska State Legislature relating to executive... Component Council and Subcommittees  
 Sponsor House State Affairs Session Expenses  
 Requester House Rules Committee Component No. 783

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

HCR 7 amends Rule 22(b), Uniform Rules of the Alaska State Legislature to allow a legislative body to call an executive session to discuss a matter that affects the security of the state or nation, or that affects the security of a governmental unit or agency.

This resolution has zero fiscal impact on the Legislative Affairs Agency.

Prepared by: Karla Schofield, Deputy Director  
 Division: Administrative Services  
 Approved by: Pamela Varni, Executive Director  
 Agency: Legislative Affairs Agency

Phone 907-465-3850  
 Date/Time 4/8/03 9:15 AM  
 Date 4/8/2003

# ALASKA STATE LEGISLATURE

Representative Bruce Weyhrauch

HOUSE DISTRICT 4

ALASKA  
STATE CAPITOL  
JUNEAU, ALASKA  
99801-1182

(907) 465-3744  
FAX (907) 465-2273

## MEMORANDUM

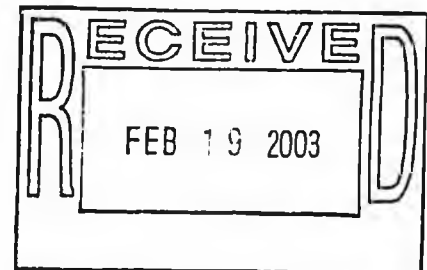
DATE: February 18, 2003  
TO: Rep. Rokeberg  
FROM: Rep. Bruce Weyhrauch *BW*  
SUBJECT: HCR 7 – Uniform Rules: Executive Sessions

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Attached are materials in support of HCR 7. At this time I respectfully request a hearing before your committee on this very important piece of legislation.

If you have any questions or need further information, I invite you to contact myself, or my aide, Linda Sylvester.

Thank you for your kind attention to this matter.



# ALASKA STATE LEGISLATURE

Representative Bruce Weyhrauch

HOUSE DISTRICT 4

ALASKA  
STATE CAPITOL  
JUNEAU, ALASKA  
99801-1182

HCR 7

(907) 465-3744  
FAX (907) 465-2273

## *Amending the Uniform Rules* Adding Executive Sessions for Security

The kinds of security concerns facing our state and nation may potentially affect more than security of a governmental unit. In Alaska, our legislative bodies discuss security concerns related to the pipeline, ferries, cruise ships and oil refineries and terminals among other things. On occasion, these discussions rise to the level of classified information. For example, a legislative body may hear of efforts taken to analyze terrorist threats, securing the borders and airports as well as efforts to protect our critical infrastructure. Thus, this amendment to Rule 22 of the Uniform Rules slightly broadens the legislative ability to call an executive session.

Currently, Rule 22 (of the Alaska State Legislature's Uniform Rules), allows a legislative body to call an executive session at which members of the general public may be excluded for the following reasons:

- 1) discussion of matters, the immediate knowledge of which would adversely affect the finances of a governmental unit;
- 2) discussion of subjects that tend to prejudice the reputation and character of a person;
- 3) discussion of a matter that may, by law, be required to be confidential.

HCR 7 is introduced to allow a legislative body to call an executive session at which members of the general public may be excluded when:

- 4) **discussion of a matter that affects the security of the state or nation, or that affects the security of a governmental unit or agency.**

It is important to have this authority when on occasion, the need of a legislative body to hear confidential briefings from state, federal and local officials charged with Homeland Security. This amendment to the Alaska State Legislature Uniform Rules slightly broadens the reasons that a legislative body may be able to convene an executive session.

*Released: February 19, 2003*

HCR

16



# FISCAL NOTE

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: HCR 16  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Legislature  
Title: "Proposing amendments to the BRU Legislative Council  
Uniform Rules of the Alaska State Legislature providing that..." Component Session Expenses  
Sponsor: House Rules Committee  
Requester: House Rules Committee Component No. 782

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE** (Thousands of Dollars)

FUND SOURCE	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0  
Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
HCR 16 amends Rule 4, Rule 26, and Rule 55(a) of the Uniform Rules of the Alaska State Legislature and provides that Mason's Manual of Legislative Procedures, 2000 edition, shall implement the Uniform Rules effective July 1, 2003.  
  
This resolution has zero fiscal impact on the Legislative Affairs Agency as the Agency has sufficient copies of the 2000 edition on hand and available for distribution to Legislative offices.

Prepared by: Karla Schofield, Deputy Director Phone 465-3852  
Division: Administrative Services Date/Time 4/7/03 10:24 AM  
Approved by: Pamela Varni, Executive Director Date 4/7/2003  
Agency: Legislative Affairs Agency

# FISCAL NOTE

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: HCR 16  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Legislature  
Title: "Proposing amendments to the BRU Legislative Council  
Uniform Rules of the Alaska State Legislature providing that..." Component Session Expenses  
Sponsor House Rules Committee  
Requester House Rules Committee Component No. 782

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0  
Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

HCR 16 amends Rule 4, Rule 26, and Rule 55(a) of the Uniform Rules of the Alaska State Legislature and provides that Mason's Manual of Legislative Procedures, 2000 edition, shall implement the Uniform Rules effective July 1, 2003.

This resolution has zero fiscal impact on the Legislative Affairs Agency as the Agency has sufficient copies of the 2000 edition on hand and available for distribution to Legislative offices.

Prepared by: Karla Schofield, Deputy Director Phone 465-3852  
Division: Administrative Services Date/Time 4/7/03 10:24 AM  
Approved by: Pamela Varni, Executive Director Date 4/7/2003  
Agency: Legislative Affairs Agency

# Alaska State Legislature

## House of Representatives



Official Business

**COMMITTEE ON RULES**  
**Representative Norman Rokeberg, Chairman**

State Capitol, Rm. 214  
Juneau, Ak 99801-1182  
(907) 465-3764

### **SPONSOR STATEMENT** **CSHCR 16 (RULES)**

Proposing amendments to the Uniform Rules of the Alaska State Legislature providing that the 2000 edition of "Mason's Manual of Legislative Procedure" shall implement the rules; relating to meetings of subcommittees and conference committees; and providing for an effective date.

By Representative Norman Rokeberg, Chairman  
House Rules Committee

CSHCR 16 (RLS) amends the Legislature's current Uniform Rules (Rules 4, 26, and 55) in two ways:

1. **Adoption of the 2000 edition of *Mason's Manual of Legislative Procedure*:** Currently, the Alaska State Legislature is using the 1979 edition of *Mason's Manual of Legislative Procedure* and is the only Legislature in the nation still using the 1979 version. *Mason's* was revised in 1989 and again in 2000 and CSHCR 16 (Rules) proposes to adopt the latest version (2000 edition).

The 2000 edition of *Mason's* reflects today's procedures and practices of legislative bodies. Updated information on court cases and other matters are included in the 2000 version. Streamlining the process to promote efficiency and assist legislatures in coping with larger workloads are also goals of the latest edition.

Adoption of the 2000 edition would also make it easier for the Alaska Legislature to provide members copies. Currently, our Print Shop has to make and bind the 1979 edition (with permission of the copyright holder) in order to provide copies.

2. **Relating to Meetings of Subcommittees and Conference Committees:** Our current Rule 23 is silent on the duties of subcommittees and conference committees to provide notice of meetings. Our procedure has been to provide reasonable notice. The change in CSHCR 16 (Rules) sets forth that the "preceding Thursday" and other notice rules set for in 23(a) - (d) do not apply to subcommittees and conference committees. Subcommittee and conference committees are required to provide reasonable notice of meetings.

The effective date for the changes is July 1, 2003, in order for members to have time to learn the changes contained in the 2000 edition of *Mason's*, prior to the beginning of the second session of the 23<sup>rd</sup> Legislature.

I urge your support of this legislation.

ED 1:04/11/03

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHCR 16(RLS)  
 (H) Publish Date: 4/11/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Legislature  
 Title: "Proposing amendments to the BRU Legislative Council  
Uniform Rules of the Alaska State Legislature providing that..." Component Session Expenses  
 Sponsor: House Rules Committee  
 Requester: House Rules Committee Component No. 782

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

HCR 16 amends Rule 4, Rule 26, and Rule 55(a) of the Uniform Rules of the Alaska State Legislature and provides that Mason's Manual of Legislative Procedures, 2000 edition, shall implement the Uniform Rules effective July 1, 2003.

This resolution has zero fiscal impact on the Legislative Affairs Agency as the Agency has sufficient copies of the 2000 edition on hand and available for distribution to Legislative offices.

Prepared by: Karla Schofield, Deputy Director  
 Division: Administrative Services  
 Approved by: Pamela Vami, Executive Director  
 Agency: Legislative Affairs Agency

Phone 465-3852  
 Date/Time 4/7/03 10:24 AM  
 Date 4/7/2003

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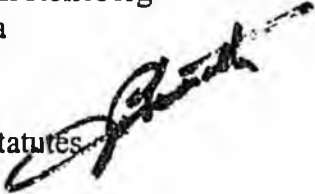
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

January 17, 2003

**SUBJECT:** Comparison of the powers exercisable by legislative presiding officers under the 1979 (currently used) and 2000 editions of Mason's Manual of Legislative Procedure

**TO:** Representative Norman Rokeberg  
Attn: Heather Nobrega

**FROM:** Jack Chenoweth  
Assistant Revisor of Statutes 

This outlines and discusses the powers that may be exercised by legislative presiding officers under the 1979 (currently used) and 2000 editions of Mason's Manual of Legislative Procedure.

### *Explicit duties of the presiding officer:*

Section 575 in both editions explicitly enumerates the duties of the presiding officer. As between the two editions, the enumeration of the duties in part 1 of that section is verbatim, except that

-- in subparagraph 1(j), relating to receipt and handling of communications, the 2000 edition adds the phrase "when applicable," implying that the presiding officer enjoys a measure of discretion in determining when and whether or not a message or communication may be announced to the body; the 1979 edition omits "when applicable," thereby indicating that the presiding officer has a nondiscretionary duty to announce all messages and communications;<sup>1</sup>

---

<sup>1</sup> This change in handling is arguably not material and appears to be consistent with the controlling treatment set out in the Uniform Rules of the Legislature. Under Uniform Rule 4:

**Duties of the Presiding Officer.** The presiding officer of each house has the duties set forth in Section 575, MASON'S MANUAL OF LEGISLATIVE PROCEDURE, 1979 edition, when not inconsistent with these Uniform Rules. . . .

The rule related to the handling of communications, Uniform Rule 7, directs that communications from the other body or from the governor shall be read, and provides

-- in paragraph 1(k), relating to "guid[ing] and direct[ing] the proceedings of the body, subject to the control and will of the body," the modifier "generally" that appears in the 1979 edition is deleted in the 2000 edition; the change is arguably substantive though hardly material.

The further provisions of parts 2 - 4 of the rule are verbatim as between the two editions except that the 2000 edition replaces the personal pronouns "he" or "him" with reference to "the presiding officer."

*Limitations on the duties of the presiding officer:*

The companion provision, prescribing limitations on the powers of the presiding officer, may be found in section 579 of the 1979 edition (section 578 of the 2000 edition). Apart from the redesignation of section numbers, these provisions are verbatim of each other with this notable exception. Paragraph 4 of section 579 of the 1979 edition is repeated as paragraph 4 of the 2000 edition with the language shown below in caps and bracketed omitted:

The presiding officer may not prevent the making of any legitimate motions by hurrying through the proceedings or by other means. Members must be reasonably prompt in order to exercise their right to speak or to make motions[, BUT IF THE PRESIDING OFFICER HAS HURRIEDLY ANNOUNCED THE VOTE WHILE A MEMBER IS ARISING TO ADDRESS THE CHAIR, THE VOTE IS NULL AND VOID AND THE MEMBER MUST BE RECOGNIZED].

In the material deleted in the 2000 edition, I take "hurriedly announced the vote while a member is arising to address the chair" to be a reference to a call for a "snap" vote on the question that is put to the body for a decision (and not a reference to the outcome of a vote already held). The language deletion, then, has the effect of eliminating the stated

---

some measure of discretion as to whether or not other material communicated is spread on the journal, referred to committee, or filed:

**Communications.** Communications received by a house from the other house or the governor are read by the clerk or secretary and spread upon or paraphrased in the journal. All other official communications to a house are referred directly by the clerk or secretary to the presiding officer for referral by the presiding officer to a committee or to file. The presiding officer may direct that the receipt of a communication and the subject to which it relates be noted in the journal.

protection that attends a complete close to debate on a motion before the call for a vote on the question by invalidating the results of the "snap" vote.<sup>2</sup>

***Other provisions relating to the powers and duties of the presiding officer:***

Other provisions in chapter 53 (1979 edition, chapter 52 of the 2000 edition) pertaining to the presiding officer's powers and duties include the following topics:

Section 576 of both editions (refusal of presiding officer to perform duties) -- substitution of "the presiding officer" for personal pronouns, but otherwise no substantive changes.

Section 578 of 1979 edition / 577 of the 2000 edition (emergency power of the presiding officer) -- substitution of "the presiding officer" for personal pronouns, but otherwise no substantive changes.

Section 580 of 1979 edition / 579 of the 2000 edition (selection of the presiding officer) - - substitution of "the presiding officer" for personal pronouns and closely related word changes and a spelling correction, but otherwise no substantive amendments.

Section 581 of 1979 edition / 580 of the 2000 edition (motions affecting the presiding officer) -- substitution of "the presiding officer" for personal pronouns and closely related word changes and a spelling correction, but otherwise no substantive amendments.

Section 582 of 1979 edition / 581 of the 2000 edition (removal of a presiding officer) -- technical additions and deletion of paragraph 3 of the 1979 edition, but otherwise no substantive amendments.

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<sup>2</sup> Generally, a roll call vote should not be interrupted. Members questioning a "snap" vote would have to rely on Mason's sec. 527 (the wording is virtually the same in both editions), by which:

If a mistake has been made or fraud has occurred in taking or announcing a vote and the vote is immediately questioned, it may be treated as irregular and void and the vote may be retaken or it may be corrected. A vote may not be retaken if there has been delay or other business has intervened. . . . .

In other words, in the event a presiding officer "hurries" the proceeding to a vote and, in that manner, so prevents a member from having the opportunity to make a proper motion related to the question, a member who wishes to raise objection may contend that the presiding officer has "[made] a mistake" in the "taking" of the vote and would have to promptly object. The relief provided is, under rule 527, discretionary.

Representative Norman Rokeberg

January 17, 2003

Page 4

Section 583 of 1979 edition / 582 of the 2000 edition (rights of a presiding officer to debate, vote, and introduce business) -- substitution of "the presiding officer" for personal pronouns and closely language changes, but otherwise no substantive amendments.

In my judgment, these provisions do not warrant closer examination, but we will provide a more extensive discussion if so directed.

JBC:med

03-035.med

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Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

**MEMORANDUM**

January 18, 2003

**SUBJECT:** Differences in editions of Mason's Manual with respect to powers of committees

**TO:** Representative Norman Rokeberg  
Attn: Heather Nobrega

**FROM:** Tamara Brandt Cook  
Director *TBC*

You ask me to compare the 1979 and 2000 editions of Mason's Manual and identify significant substantive differences between the two that deal with the power of legislative committees. I have reviewed chapter 55 - 62 in the 2000 version, numbered chapters 54 - 67 in the 1979 version, and found few significant changes. Most of the changes in the 2000 version are editorial in nature, involving reorganization, rewording to make provisions gender neutral, simplifying language, and, to some extent, simplifying procedure. Most of the changes that are, arguably, substantive, seem minor and intended to reflect current practices. Below are the more substantive changes I noted:

Sec. 610 - 1979: Chairman may resign as chairman with the consent of the committee and still retain membership in the committee. 2000: Chair may resign as chair with the consent of the appointing authority and still retain membership on the committee.

Sec. 611 - 1979: Chairman may call the committee together at the regular time and place of meetings if a regular time and place are provided, or otherwise at reasonable times and places to properly perform its functions. 2000: Simply permits the chair to call the committee together to properly perform its functions. However, sec. 626(1) still includes the substance of what was in sec. 611 in the 1979 version.

Sec. 612(1) - 1979: Aside from the chairman, the committee may elect other committee officers. 2000: Grants the same authority to the committee but only if the other officers are not designated by the appointing authority.

Sec. 613 - 2000: Adds to the provision that requires a quorum to transact business an explicit exception authorizing the taking of testimony in public hearings with no quorum present.

Sec. 615 - 1979: Permits a committee to make a report concerning a bill in its possession. 2000: Appropriately substitutes broader language to permit a committee to

Representative Norman Rokeberg

January 18, 2003

Page 2

report on "matters" in its possession. 1979: Allows a committee to employ "outside help or counsel" if authorized by the legislative body but forbids expenditures unless this is also authorized. 2000: Simply notes a committee may employ staff if authorized by the legislative body.

Sec. 620(5) - 1979: This paragraph is deleted from the 2000 version. "A legislative body has no authority to commit a matter to a committee with instructions to report anything contrary to the facts."

Sec. 626(2) - 2000: This is a new provision obviously designed to address modern open meetings concerns. "When a meeting is called for a specific time but the meeting does not commence until a later time, the delay does not invalidate the meeting. However, when a meeting is called for a specific time and the meeting commences prior to that, business transacted before the scheduled time may be declared void and of no effect."

Sec. 628 - 1979: Paragraphs 2, 4, and 6 are omitted from the 2000 version, but these paragraphs do not change the power of committees.

Sec. 629(1) - 1979: Permits any member of the legislative body to be present at a committee meeting and to express an opinion. 2000: Permits the presence of other legislative members, but they have the right only to request to speak.

Sec. 633(1) - 1979: This is omitted from the 2000 version. "It is customary for a committee to take up business referred to it in the order in which it was referred unless a schedule of hearings has been prepared, but measures may, upon motion or upon general consent, be taken up out of order."

Sec. 634(1) - 1979: Omitted from 2000 version, but does not substantively change committee powers.

Sec. 640(3) - 1979: Omitted from the 2000 version, but does not substantively change committee powers.

Sec. 650(5) - 2000: This is added as an explicit requirement. "The rules governing meetings of committees also apply to subcommittees." Note that the provision might have the effect of requiring subcommittees to comply with meeting notice requirements, such as the "preceding Thursday" rule now normally applied only to full committee meetings. See also paragraph (9) added in the 2000 version, limiting the power of a committee to take up a matter referred to a subcommittee.

Sec. 664 - 1979: Notes that it is the custom for the chairman of the senate committee to act as chairman of a joint committee. Sec. 654 - 2000: Recognizes designation of the chair by the appointing authority.

Representative Norman Rokeberg  
January 18, 2003  
Page 3

Sec. 668 - 1979: In joint committees the members vote individually and not by house.  
Sec. 658 - 2000: Recognizes as a more modern practice that members may vote by house and that the vote may carry only upon favorable vote of the member of each of the houses.

Sec. 664(3) - 2000: This is added. "It is not a prerogative of a committee chair to hold or delay the filing of a report."

Sec. 677(6) - 1979: Deleted from 2000 version. It notes that a minority report has to be substituted for the regular committee report as the only way the report can be brought before the body for consideration.

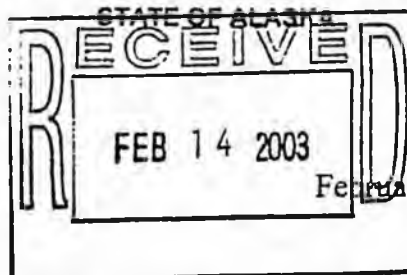
TBC:lmb  
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Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
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## MEMORANDUM

**SUBJECT:** Significant Mason's Manual Provisions (Work Order No. 23-LS0409)

**TO:** Representative John Coghill, House Majority Leader  
Attn: Rynniva Moss

**FROM:** Tamara Brandt Cook  
Director *TBC*

You have asked me to identify provisions of Mason's Manual that are especially significant in that they have come up in debate on the floor of the legislature and may have been the subject of point of order rulings by the presiding officers. I have discovered the following sections discussed in the House and Senate Journals. In some cases only the parliamentary principle is identified in the journal, and I have added an appropriate section from Mason's Manual for your reference. When the same section has come up often, I have cited only the more recent entries in the House and Senate Journals.

- (1) Secs. 65 - 67, 143, 179, 398, and 404: These sections deal with the general subject of finality of actions. While a procedural motion may be renewed after intervening business, a main motion may not be renewed, but must be revisited by again considering the original motion either by reconsideration or through a motion to rescind action. An amendment that places a question before the house identical to one previously decided is not in order. (SJ April, 19, 1996)
- (2) Secs. 82, 335: Motion to table is not debatable. Other motions that are not debatable are listed. (HJ May 7, 1991)
- (3) Sec. 90: Right to debate a question. (HJ May 7, 1991)
- (4) Sec. 100: Debate is permitted only if there is a question before the house. (HJ May 27, 1985)
- (5) Sec. 101: Debate is limited to the question before the house. (HJ May, 9, 1998, April 1, 1998, April 19, 1995, February 10, 1995, SJ March 29, 1988, April 17, 1985)
- (6) Sec. 102: A member has a right to speak once on a question. (HJ April 30, 2001; May 8, 1997; March 17, 1997; February 29, 1996; SJ May 28, 1998)

- (7) Sec. 103: A question sponsor closes debate. (HJ April 24, 1990)
- (8) Sec. 111: Reference to executive, to other house, or questions before the courts. (HJ February 29, 1996; February 26, 1992; February 19, 1988; April 6, 1984)
- (9) Sec. 112: Right to read papers is limited. (HJ February 29, 1996; February 10, 1993; March 6, 1992; March 21, 1989; SJ April 18, 1993)
- (10) Sec. 121: Breaches of order in debate. (HJ May, 11, 2002; April 3, 1997; March 17, 1993; March 12, 1993)
- (11) Sec. 124: Personalities not permitted in debate. (HJ May 11, 2002; May 2, 1995; April 6, 1995; February 9, 1990)
- (12) Sec. 127: Limitation on referring to other body. (HJ March 27, 2002; March 17, 1993; May 14, 1987)
- (13) Secs. 161 and 241: When a point of order may be raised. (HJ January 27, 1994)
- (14) Sec. 180: Dilatory motion not in order. (HJ April 6, 1995; May 10, 1993, May 2, 1991; April 27, 1988; SJ April 20, 1993)
- (15) Sec. 197: Terminating a call. (SJ April 16, 1993)
- (16) Secs. 200 - 204: A motion to adjourn takes precedence and may be made even after the previous question is before the body, but before a vote has commenced. (HJ January 11, 1990)
- (17) Sec. 241: When a point of order may be raised. (HJ January 24, 1994)
- (18) Sec. 275: A motion to withdraw is treated as a request and is not subject to debate, but is voted on by the members. (HJR March 9, 1988)
- (19) Sec. 293: Objection to consideration, a motion to discharge a bill from committee ruled out of order under Sec. 293. (HJR May 20, 1991; HJ May 17, 1987)
- (20) Sec. 298: Objection to consideration of a question may not be debated. (HJ March 4, 1988)
- (21) Sec. 331: Procedural motions may not be tabled. (HJR March 11, 1988)
- (22) Sec. 358: Motions to close, limit, or extend limits on debate. (SJ May 19, 1999; HJ February 15, 1995)

Representative John Coghill, House Majority Leader

February 6, 2003

Page 3

- (23) Sec. 369: Limited debate is allowed on a motion to postpone. (HJR March 21, 1989)
- (24) Sec. 388: Motion to refer debatable only as to the propriety of the referral and does not open the main question to debate. (HJ March 14, 1994)
- (25) Sec. 401: Improper amendments. (HJ April 10, 1991; April 5, 1989; April 27, 1988)
- (26) Sec. 402: Amendments must be germane. (HJ May 10, 2002; April 17, 1998; March 18, 1994; January 14, 1994)
- (27) Sec. 469: When a member brings up reconsideration, unless it is the same day notice was given, the item is automatically before the body. (HJ February 22, 1993)
- (28) Sec. 491: It is not in order to discuss the merits of a bill upon a motion to discharge. (HJ April 21, 1993)
- (29) Sec. 560: Each house is the judge of the election and qualification of its members. (HJ January 18, 1989)
- (30) Sec. 617: Committee substitute bills, this provision is superceded by the Uniform Rules. (HJ February 17, 1986)
- (31) Sec. 752: It is improper to refer to the executive in debate for the purpose of influencing votes of members. (HJ March 23, 1983)

TBC:med

03-113.med

# The Thoroughly Modern Mason's Manual

The latest edition of the legislator's bible on procedures reflects today's pressures and practices.

include provisions for legislatures to call themselves into session.

Larry G.J. Shapiro and Edwin J. Maley Jr.

**W**hat can a legislator do if he makes a motion at a committee meeting and no one seconds it? Turn to section 62 of the 1989 edition of *Mason's Manual of Legislative Procedure* and find that seconds to motions are not required. Unlike a member of a private association, a legislator represents a constituency and is entitled to present a matter for consideration of the body without having the support of another legislator.

Since 1935, lawmakers have been turning to *Mason's* to solve procedural problems not addressed by their legislature's rules. Today *Mason's* is used in 63 of the 99 state legislative chambers.

Paul Mason, a parliamentarian and attorney who worked with the California Legislature, compiled the first edition of the manual in 1935, drawing on other procedure manuals and court decisions that affect the rules. He revised his book six times, the last time in 1979.

Mason died in 1985, after turning over the copyright to *Mason's Manual* to the National Conference of State Legislatures. A commission composed of 16 members of the American Society of Legislative Clerks and Secretaries from 14 states continue his work. Starting in the mid-'80s they took a fresh look at the manual and published a new edition in 1989.

How does the 1989 *Mason's* differ from the 1979 edition? Many of the changes reflect the challenges that legislatures have faced in recent years—an increasing workload, the shifting of responsibility for many federal programs to the states, the decline of party control and pressure for open government. Just as the unique nature of legislatures shaped the rule on seconds to motions, so

have the recent forces affecting state legislatures shaped changes in procedure.

## For State Legislatures Only

*Mason's* early editions included rules for both state and local legislative bodies. In 1953, he added administrative bodies and private associations. This has often been confusing because the various bodies have different functions and frequently different rules.

*Mason's* is now clearly for the use of state legislatures only. The new edition deleted almost all provisions applicable to administrative and local legislative bodies and private associations. Several provisions were retained but adapted for legislatures. For example, a rule that "a vacancy on a city council when a member moves out of the city does not exist until ascertained and declared by the council" now applies instead to a legislator moving out of his district.

Further changes incorporated in the 1989 edition document the evolving relationship between the legislature and the executive branch of state government. Provisions are added that describe legislative authority to delegate rule-making power to administrative agencies, to review agency regulations and to oversee the operations of the executive branch. Moreover, the new manual recognizes that many legislatures have become more independent of the governor. The 1979 edition contained language that an interim committee could be created by statute, which would require the governor's signature, but not by concurrent resolution, which generally would not. The new edition provides that interim committees may be created by either method. Similarly, the 1979 edition referred to the governor's "exclusive authority" to call special sessions of the legislature; the new edition indicates that some constitutions or statutes in-

## Role of Legislative Committees

In many states, legislative committees are used to handle the legislatures' expanded responsibilities and increased workload. The 1989 edition adds language clarifying the authority of committees to conduct public hearings, gather information and work on proposed legislation during the interim between sessions. It adds new provisions on the role of committees in overseeing the executive branch and reviewing regulations. The increasing importance of committees is shown in a new provision that "some states consider days on which committees meet as legislative days, as well as those days when both houses are in session." (*Mason's* does not define the term *legislative day*, but cites cases indicating that the term is used when counting days for scheduling purposes.) And a change in the prohibition on a committee meeting while a house is in session is symbolic of the independence of committees. The old rule required a committee to end its meeting when notified by the sergeant-at-arms; the new rule leaves it to the committee to terminate the meeting when a session is starting.

Although legislative committees have generally grown more powerful and independent, leadership's primary means of reining them in—the appointment process—is strengthened. The 1989 edition provides that it is the usual practice for the appointing authority to designate the vice-chair. And a new provision is added on the removal of members: "It is a general rule of parliamentary procedure that the appointing authority has the right to remove a chair or a committee member."

## Streamlining the Process

The 1989 edition of *Mason's* makes many changes to promote efficiency and help legislatures cope with a larger workload. In some cases, the legislative process can be speeded up, as in a new provision indicating that in some states

Larry Shapiro and Edwin Maley are attorneys in Connecticut's non-partisan Legislative Commissioners' Office.

a member may be interrupted by a motion to move the previous question. In other cases, the process is streamlined. For example, the procedure for friendly amendments is simplified by deleting a paragraph that allowed first the mover of the main motion to accept the amendment and then the body, if there was an objection. Now, under *Mason's*, there is only one step: It is up to the body to decide.

An important change imposes limits on the procedure concerning disagreements between the houses that may lead to a conference committee, a topic addressed for the first time in the 1989 edition. These new provisions indicate that if both houses have approved different versions of a bill they can amend only the amendments of the other house and not portions of the bill already agreed to by both houses; and they allow each chamber to amend the other's amendment only once before the house has to either concur, refuse to concur or request a conference.

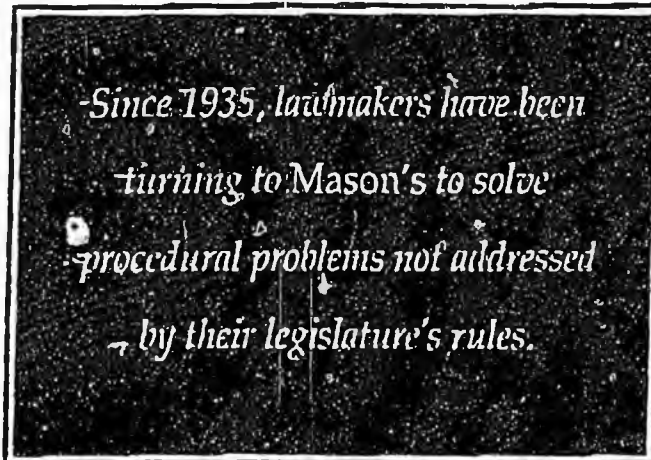
To avoid confusion in a faster-paced legislative process, the 1989 edition makes several procedures more formal. For example, amendments to bills "must be" instead of "usually are" submitted in writing; this provision applies for the first time to amendments to resolutions.

#### Role of Presiding Officer

The 1989 edition strengthens the position of the presiding officer. This may reflect an effort to counter diminishing party control of the proceedings and the growing independence of individual legislators. For example, the new edition deletes a provision that the question of germaneness of an amendment is to be decided by the body and not by the presiding officer. The general rule—that all questions of order are decided by the presiding officer, subject to appeal by any member—would apply in such cases. Several changes give the presiding officer additional discretion. For example, a provision suggesting that the presiding officer should put to a vote the question of whether a member called to order during a debate should be allowed to proceed was changed to suggest that the presiding officer may

put such a question to a vote.

A portion of the presiding officer's increased authority in the new *Mason's* comes at the expense of the individual members of the body. Thus, a provision is deleted that provided that when there is a question between two members as to which is entitled to the floor, one member may relinquish the claim in favor of the other member. The presiding officer will now make that decision. This is part of an overall trend in the



new edition that reduces the ability of individual members to control the proceedings. For example, the 1979 edition provided that it is the duty of a committee to meet on the call of any two of its members. The 1989 edition provides that a committee meeting may be held on the call of the majority of its members.

The legislative process has become more accessible to the public in recent years, in response to public pressure for open government. The new edition reflects this trend with several procedural changes. For example, the 1979 edition prohibited bills and other measures sent to the clerk's desk from being examined, even by the members, until they were formally presented to the body under the appropriate order of business. The 1989 edition changed the prohibition on examination to a prohibition on removal of the documents at any time.

Technological change has had only a small effect on legislative procedure in the new *Mason's*. The only significant change is in the provision prohibiting a member from reading aloud, or having the clerk read aloud, from any paper or book, without the permission of the body. This prohibition was extended to electronic recordings. This will likely

change in future editions of the manual, as more legislatures put computers on members' desks in the chambers.

The 1989 edition contains other changes made for a variety of reasons:

- A legislature's customs now take precedence over adopted parliamentary authority, e.g., *Mason's Manual*. This is an important change because under the 1979 edition *Mason's* would be applied to a procedural question before a customary practice.

- The duty of the chief legislative officer (formerly called the chief clerk) to supervise house clerical work and employees is no longer subject to the direction of the presiding officer.

- The new edition resolves a conflict about what constitutes a quorum of a joint session. The new rule is that only a majority of the membership of both houses is needed, even if there is less than a majority of one house present.

- It deletes a provision to nullify a vote if the presiding officer hurriedly announces the vote

while a member is rising to address the chair. Another section of *Mason's* prohibits the presiding officer from preventing debate by putting questions to vote prematurely, but there is no other provision for a sanction.

- Sections on privilege of members from arrest were substantially revised in accordance with judicial developments.

There are two revisions in the 1989 *Mason's* that may cause confusion and that should be revisited in the next edition:

- A section that previously stated that a member, when recognized, is entitled to the floor, now also provides "but [that member] may not yield the floor to any other member." However, a different section allows a member to yield to another in certain situations.

- A section was amended to provide that after a question has been put and voting has commenced, it is too late to claim the floor for debate. However, two other provisions of the manual continue to allow debate during a vote.

Overall, however, the commission that prepared the 1989 edition of *Mason's* did an excellent job of updating the manual, eliminating redundant provisions and rephrasing confusing language. The result is a manual that better serves state legislators.



NATIONAL CONFERENCE of STATE LEGISLATURES

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Changes to the 1989 Edition of *Mason's Manual*  
 (as of 7/15/00)

Shown below are the changes to the 1989 edition that were made by the Mason's Manual Revision Commission during its revision work to write the 2000 edition. Not included in this chart are the corrections in grammar and language consistency that were made by NCSL during its editing process.

Chapter	Section	Paragraph	Changes	
1	1		None	
		2	Removed reference to statutes and charters	
	2	1	None	
		2	None	
		3	None	
		4	Removed reference to statutes	
		5	None	
		6	None	
		7	None	
	3	1	Grammatical change	
		2	None	
		3	None	
		4	None	
		5	None	
		6	None	
		7	None	
	4	new		Added a new paragraph 1 concerning the ability of rules of procedure or statutory provisions governing the legislative process passed by one legislature being binding on subsequent legislatures
		1		Becomes paragraph 2. Moved language from section 2 concerning order of precedence and revised listing of the principal sources of rules of legislative procedure.
		2		Becomes paragraph 3. Removed language concerning order of precedence.
		3		Becomes paragraph 4. Changed ordering of example list. Removed reference to parliamentary law control over local usage.
		4		Becomes paragraph 5
		5		Becomes paragraph 6

Chapter	Section	Paragraph	Changes	
2			Change title reference from constitutional rules to constitutional provisions	
	6		None	
	7	1		Removed reference to mandatory provisions. Incorporated paragraphs 4 and 5 as clauses (a) and (b)
		2		None
		3		None
		4		Moved into paragraph 1 and renumbered as clause (a)
5		Moved into paragraph 1 and renumbered as clause (b)		
3			Renumbered to become chapter 4 to follow the order of precedence established in chapter 1 and changed title reference from statutory rules to statutory provisions	
	10		Renumbered to become new section 20. Changed title reference from statutory rules to statutory provisions.	
		1		Changed language so rules are addressed by statute but not controlled by statute
		2		Deleted
		3		Deleted
4		Becomes new paragraph 2		
4			Moved and renumbered to become chapter 3 to follow the order of precedence established in chapter 1	
	19		Renumbered as new section 10.	
		1		None
		2		Removed word special so the reference is to rules of procedure rather than special rules of procedure
		3		None
		4		None
		5		Removed reference to contravene the laws
		6		None
	7		None	
	20			Renumbered as new section 11.
				Added paragraph number so existing language becomes paragraph 1
		new		Added paragraph 2 about the expiration of joint rules
	21			Renumbered as new section 12.
		1		Deleted
		2		Becomes new paragraph 1
3			Becomes new paragraph 2	
	4		Becomes new paragraph 3. Changed wording concerning expiration of rules adopted by a body	

Chapter	Section	Paragraph	Changes
4 (cont)	22		Renumbered as new section 13.
		1	None
		2	None
		3	None
		4	None
		5	Added language concerning statutory provisions governing the legislative process. Deleted reference to operation within same jurisdiction. Deleted footnote, which was a local case.
		6	Removed references to bylaws
	7	None	
	23		Renumbered as new section 14
	24		Renumbered as new section 15
25		Renumbered as new section 16	
5	30	1	Changed the location of reference to statutes
		2	Deleted
		3	Becomes new paragraph 2
	31		None
	32	1	None
		2	None
		3	None
		4	Deleted
5		Becomes new paragraph 4. Removed reference to manual and special	
6	35		None
	36	1	None
		2	None
		3	Deleted last sentence concerning courts
		4	None
		5	Deleted
	37	1	None
		2	None
		3	None
		4	None
		5	Removed reference to bylaws
	38		None
	39	1	None
		2	None
		3	None
		4	None
		5	Minor grammatical change
		6	None

Chapter	Section	Paragraph	Changes
7	42		None
	43	1	None
		2	None
		3	None
		4	None
		5	None
		6	None
		7	None
		8	None
		9	None
		10	None
		new	
	44		None
	45		None
	46	1	None
		2	Deleted last sentence
		3	None
		4	None
		5	None
	47	1	None
		2	None
		3	Minor changes to clauses (d) and (e). Deleted clause (g). Clause (h) renumbered as new clause (g).
	48		None
	49	1	In last sentence, deleted phrase referring to earliest times
		2	None
	50		None
	51	1	In last sentence, clarified that presiding officer may or may not be a member of the body
		2	None
		3	None
		4	None
		5	None
		6	None
	52		None
	53		None
	54		None
	55		None
	56		None
	57		None
	58		None
	59		None
	60		None
	61		None
62	1	None	
	2	In last sentence, deleted reference to "by law" and a minor grammatical change	
	3	None	

Chapter	Section	Paragraph	Changes	
7 (cont)	63		None	
	64		None	
	65		None	
	66		None	
	67		Added a reference to "See also"	
8	71		None	
	72		None	
	73	1	1	Renumbered as new para 2. Reworded to clarify that courts may only look at legislative acts and actions that are restrained by constitution. Added court case cite to footnote.
			2	Renumbered as new para 1. Reworded to give stronger statement of legislative power.
			3	Renumbered as new para 4
			4	Renumbered as new para 5
			5	Renumbered as new para 6
			6	Renumbered as new para 7
			7	Renumbered as new para 8
			8	Renumbered as new para 3
9			None	
10			None	
9	80		None	
	81		None	
	82	1	1	None
			2	Clause (a) move period outside (unqualified)
			3	Deleted
	83	1	1	Deleted last sentence referring to congressional debate
			2	None
			3	None
	84	1	1	None
			2	Minor grammatical change
85		None		
10	90	1	1	Added language about members having right to try to persuade the majority, some of which is from paragraph 5
			2	None
			3	Minor changes to streamline wording
			4	Changed reference from house to body
			5	Deleted; some language moved to paragraph 1
			6	Becomes new paragraph 5
	91	1	1	Removed reference to following section and inserted correct section number
			2	None
			3	Deleted existing clauses b and c, so existing clause d becomes new clause b
			4	None
			5	None

Chapter	Section	Paragraph	Changes	
10 (cont)	92	1	None	
		2	Deleted existing clauses b, j, k, l, m from this paragraph and moved their concepts to new paragraph 3	
		new	Created a new paragraph 3 incorporating language from clauses deleted from existing paragraph 2	
		3	Renumbered as new paragraph 4	
		93		Changed references to infirm or ill to under certain circumstances
		94	1	Minor grammatical changes
			2	Removed language concerning members right to floor when papers are being read
			3	None
			4	None
		95		None
		96		None
	11	100	1	None
			2	None
3			Language changed slightly to clarify meaning	
4			None	
5			None	
		101		None
		102		None
	103		None	
12	110	1	None	
		2	None	
		3	None	
		4	None	
		5	Deleted	
		111		None
		112	1	None
			2	None
			3	None
			4	None
			5	None
			6	None
			7	Minor grammatical change
		113		None
		114	1	None
			2	None
			3	Changed must to should
			4	None
			5	None
	6		None	
	7		None	

Chapter	Section	Paragraph	Changes
13	120		None
	121		None
	122		None
	123		None
	124		None
	125		None
	126		None
14	130		None
	131	1	None
		2	None
		3	Deleted
		4	Becomes new paragraph 3
		5	Becomes new paragraph 4. Minor grammatical changes
	132		None
133		Changed existing language to cover roll call votes taken by voice. Added similar language to cover roll call votes taken by machine.	
15	140	1	Added reference to p. 122 of Sturgis in footnote
		2	None
	141		None
	142		None
	143		None
	144		None
	145	1	None
		2	None
		3	None
		4	None
		5	None
		6	None
		7	Removed reference to business
	146		None
	147	1	None
		2	In last sentence. added reference to a committee bill
		3	None
148		None	
149		None	
150		None	
16	155		None
	156		None
	157		None
	158		None
	159		None

Chapter	Section	Paragraph	Changes	
16 (cont)	160		Under "See also" added reference to Sec. 436	
		1	None	
		2	None	
		3	None	
		4	None	
		5	None	
		6	None	
		7	None	
		8	Deleted paragraph; moved footnote reference to Sec. 161, #1	
		161		Under "See also" added reference to Sec. 436
			1	Added reference to p. 172 in Demeter to footnote
			2	None
			3	None
			4	None
		162		None
		163		None
	164		None	
	165		None	
17	175		None	
	176		None	
	177		Deleted "See also"	
	178		None	
	179		None	
	180		None	
	181		None	
	182		None	
	183	1	Deleted last sentence	
		2	Deleted first sentence. Minor grammatical change to second.	
184		Deleted entire section		
185		Renumbered as new section 184		
18	187		None	
19	190		None	
	191		None	
	192		None	
	193		None	
	194	1	Deleted last sentence about special rules	
		2	None	
		3	Deleted	
		4	Becomes new paragraph 3	
		5	Becomes new paragraph 4	
		6	Becomes new paragraph 5	
	195	1	To first sentence, added clarifying language about calling the roll of members. Deleted last sentence about the original use of the call	
2		None		
3		None		
4		None		
5		None		

Chapter	Section	Paragraph	Changes	
19 (cont)	196		None	
	197		None	
20	200		None	
	201		None	
	202		None	
	203	1		None
		2		None
		3		Deleted last sentence about calling special sessions and incorporated idea into new paragraph 4
		new		Created a new paragraph 4 pertaining to statute or rule provisions for calling special session
	204	1		None
		2		None
		3		None
	205		None	
	206		None	
	207	1		None
		2		None
		3		Minor grammatical change
		4		None
		5		None
208		None		
209		None		
210		None		
21	214		None	
	215		None	
	216		None	
22	220	1	None	
		2	None	
		3	None	
		4	Deleted last sentence	
	221		None	
	222		None	
	223	1		Deleted reference to charge in the public newspaper; broadened to language to public accusation
		2		Deleted reference to charge in the public newspaper; broadened to language to accusation
		3		None
	224		None	
225		None		
226		None		