

# SENATE JOURNAL

## ALASKA STATE LEGISLATURE

### TWENTY-THIRD LEGISLATURE -- SECOND SESSION

Juneau, Alaska

Monday

March 1, 2004

#### Fiftieth Day

Pursuant to adjournment the Senate was called to order by President Therriault at 11:15 a.m.

The roll showed seventeen members present. Senator Wilken was excused from a call of the Senate. Senators Davis, Hoffman were absent.

Senator Ben Stevens moved and asked unanimous consent that Senator Davis be excused from a call of the Senate today through March 5. Without objection, Senator Davis was excused.

The prayer was offered by the Chaplain, Pastor John Bigelow of Bethany Baptist Church. Senator Olson moved and asked unanimous consent that the prayer be spread. Without objection, it was so ordered.

Let us pray.

Father, I thank You for Your love to us. I thank You for this beautiful day, for this group of legislators. I pray, God, that You would grant to them wisdom as they deal with the variety of issues that are indigenous to our state, that You'd give them wisdom. The Bible says that if any man lack wisdom, let him ask of God, Who giveth to all men liberally and upbraideth not. We thank You for that.

We know that there are some issues where we do need wisdom. I pray, Father, that You would grant that to them. And that there be a unanimous spirit as they work together for the good of our state and our different districts.

I thank You for what You have done in our state. I pray that You would continue to work to produce Your will in Your way and all manners. And I'll thank You in Christ's Name. Amen.

Senator Gary Stevens led the Senate in the Pledge of Allegiance.

### **Certification**

Senator Ben Stevens moved and asked unanimous consent that the journals for the forty-seventh through forty-ninth legislative days be approved as certified by the Secretary. Without objection, it was so ordered.

The presence of Senator Hoffman was noted.

### **Messages from the Governor**

Message dated February 27 was read, stating:

Dear President Therriault:

Under the authority of article II, section 9 and article III, section 17 of the Alaska Constitution, I withdraw my call dated January 13, 2004, that convened the Twenty-third Alaska State Legislature in its first special session in Juneau on March 1, 2004.

Dated at Juneau, Alaska, this 27<sup>th</sup> day of February, 2004.

Sincerely yours,

/s/

Frank H. Murkowski  
Governor

### **Standing Committee Reports**

#### **SB 190**

The Resources Committee considered SENATE BILL NO. 190 "An Act adding certain state-owned land and water to the Kenai River Special Management Area; relating to the mineral estate of the state-

owned land and water in the Kenai River Special Management Area; amending the qualifications for members of the Kenai River Special Management Area advisory board; and providing for an effective date" and recommended the adoption of the State Affairs Committee Substitute offered on page 1971. Signing do pass: Senator Ogan, Chair; Senators Ben Stevens, Seekins. Signing no recommendation: Senator Elton.

The following previously published fiscal information applies:  
Fiscal Note No. 1, zero, Department of Natural Resources  
Fiscal Note No. 2, zero, Department of Fish and Game

The bill was referred to the Rules Committee.

**SB 194**

The Finance Committee considered SENATE BILL NO. 194 "An Act authorizing delivery of up to two bottles of distilled spirits to a cruise ship passenger or hotel guest" and recommended it be replaced with

CS FOR SENATE BILL NO. 194(FIN) "An Act authorizing delivery of up to two bottles of distilled spirits and 40 ounces of beer to a cruise ship passenger or hotel guest."

Signing no recommendation: Senator Green, Cochair; Senators Dyson, Hoffman, Olson. Signing do pass: Senators Ben Stevens, Bunde.

The following fiscal information was published today:  
Fiscal Note No. 2, zero, Department of Public Safety

The bill was referred to the Rules Committee.

**SB 227**

Forthcoming State Affairs Committee substitute (page 2310) for SENATE BILL NO. 227 "An Act relating to municipal initiative and referendum elections" was received today:

CS FOR SENATE BILL NO. 227(STA)

**SB 288**

The Judiciary Committee considered SENATE BILL NO. 288 "An Act relating to certain determinations concerning placement of a child in emergency custody and temporary placement hearings in child-in-need-of-aid proceedings; and providing for an effective date" and recommended it be replaced with

CS FOR SENATE BILL NO. 288(JUD) "An Act relating to temporary custody hearings, and to certain determinations concerning placement of a child in child-in-need-of-aid proceedings; and providing for an effective date."

Signing do pass: Senator Seekins, Chair; Senator Ogan. Signing no recommendation: Senators Therriault, Ellis.

The following previously published fiscal information applies:  
Fiscal Note No. 1, Department of Health and Social Services

The bill was referred to the Finance Committee.

**SB 295**

The Finance Committee considered SENATE BILL NO. 295 "An Act extending the termination date of the Navigable Waters Commission for Alaska; and providing for an effective date." Signing do pass: Senator Green, Cochair; Senators Dyson, Bunde, Ben Stevens. Signing no recommendation: Senators Hoffman, Olson.

The following previously published fiscal information applies:  
Fiscal Note No. 1, indeterminate, Department of Natural Resources

The bill was referred to the Rules Committee.

**SB 299**

The Finance Committee considered SENATE BILL NO. 299 "An Act relating to a charge for a bad check." Signing do pass: Senator Green, Cochair; Senators Dyson, Hoffman, Bunde, Ben Stevens. Signing no recommendation: Senator Olson.

The following previously published fiscal information applies:  
Fiscal Note No. 1, zero, Department of Administration

The bill was referred to the Rules Committee.

**SB 305**

The Finance Committee considered SENATE BILL NO. 305 "An Act relating to state ownership of submerged land underlying water that was navigable at the time Alaska achieved statehood." Signing do pass: Senator Green, Cochair; Senators Dyson, Bunde. Signing no recommendation: Senators Hoffman, Olson, Ben Stevens.

The following previously published fiscal information applies:  
Fiscal Note No. 1, Department of Natural Resources

The bill was referred to the Rules Committee.

**SB 307**

The Judiciary Committee considered SENATE BILL NO. 307 "An Act relating to the amount of the bond required to stay execution of a judgment in civil litigation involving a signatory, a successor of a signatory, or an affiliate of a signatory to the tobacco product Master Settlement Agreement during an appeal; amending Rules 204 and 205, Alaska Rules of Appellate Procedure; and providing for an effective date" and recommended it be replaced with

CS FOR SENATE BILL NO. 307(JUD)

Signing do pass: Senator Seekins, Chair. Signing do not pass: Senator Ellis. Signing no recommendation: Senators Therriault, Ogan.

The following fiscal information was published today:  
Fiscal Note No. 1, zero, Alaska Court System

The bill was referred to the Finance Committee.

**SJR 18**

The Judiciary Committee considered SENATE JOINT RESOLUTION NO. 18 Proposing amendments to the Constitution of the State of Alaska relating to limiting appropriations from and inflation-proofing

the Alaska permanent fund by establishing a percent of market value spending limit, and recommended the adoption of the State Affairs Committee Substitute offered on page 1206.

Signing do pass: Senator Seekins, Chair. Signing do pass, protects the fund: Senator Therriault. Signing no recommendation: Senators Ellis, French, Ogan.

The following fiscal information was published today:

Fiscal Note No. 3, zero, Department of Revenue

Fiscal Note No. 4, Office of the Governor

The resolution was referred to the Finance Committee.

**SJR 19**

The Judiciary Committee considered SENATE JOINT RESOLUTION NO. 19 Proposing amendments to the Constitution of the State of Alaska relating to the Alaska permanent fund, and recommended it be replaced with

CS FOR SENATE JOINT RESOLUTION NO.  
19(JUD)

Signing do not pass: Senator Seekins, Chair. Signing do pass: Senators Ellis, French. Signing no recommendation, does not protect the fund: Senator Therriault. Signing no recommendation: Senator Ogan.

The following fiscal information was published today:

Fiscal Note No. 3, Office of the Governor

Fiscal Note No. 4, zero, Department of Revenue

The resolution was referred to the Finance Committee.

**SJR 24**

The Judiciary Committee considered SENATE JOINT RESOLUTION NO. 24 Proposing amendments to the Constitution of the State of Alaska to guarantee the permanent fund dividend, establishing the earnings reserve account, and relating to the Alaska permanent fund; and providing for an effective date, and recommended it be replaced with

CS FOR SENATE JOINT RESOLUTION NO.  
24(JUD)

Signing no recommendation: Senator Seekins, Chair; Senator Therriault. Signing do pass: Senator Ogan. Signing amend: Senators Ellis, French.

The following fiscal information was published today:

Fiscal Note No. 1, zero, Department of Revenue

Fiscal Note No. 2, Office of the Governor

The resolution was referred to the Finance Committee.

### **SJR 32**

The Judiciary Committee considered SENATE JOINT RESOLUTION NO. 32 Proposing amendments to the Constitution of the State of Alaska relating to appropriations from the Alaska permanent fund to be used for a program of dividends for all state residents and providing a conditional effect and effective date for the amendment, and recommended it be replaced with

CS FOR SENATE JOINT RESOLUTION NO.  
32(JUD)

Signing no recommendation: Senator Seekins, Chair; Senators Ellis, Therriault, Ogan. Signing do pass: Senator French.

The following fiscal information was published today:

Fiscal Note No. 1, zero, Department of Revenue

The resolution was referred to the Finance Committee.

### **Introduction and Reference of Senate Bills**

#### **SB 91**

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 91 BY SENATOR DAVIS, entitled:

"An Act relating to the base student allocation used in the formula for state funding of public education; and providing for an effective date."

was read the first time and referred to the Health, Education and Social Services and Finance Committees.

**SB 357**

SENATE BILL NO. 357 BY THE SENATOR LABOR AND COMMERCE COMMITTEE, entitled:

"An Act relating to the regulation of insurance, insurance licenses, qualifications of insurance producers, surplus lines, fraud investigations, electronic transactions, and compliance with federal law and national standards; and providing for an effective date."

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

**Consideration of the Calendar****Second Reading of Senate Bills****SB 201**

SENATE BILL NO. 201 "An Act relating to home care and respite care; and providing for an effective date" was read the second time.

Senator Dyson, Chair, moved and asked unanimous consent for the adoption of the Health, Education and Social Services Committee Substitute offered on page 2083. Without objection, CS FOR SENATE BILL NO. 201(HES) was adopted.

Senator Ben Stevens moved and asked unanimous consent that the bill be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

CS FOR SENATE BILL NO. 201(HES) was read the third time.

Senators Ogan, Dyson moved and asked unanimous consent to abstain from voting due to a conflict of interest. Objections were heard and Senators Ogan, Dyson were required to vote.

The question being: "Shall CS FOR SENATE BILL NO. 201(HES) "An Act relating to home care and respite care; and providing for an effective date" pass the Senate?" The roll was taken with the following result:

CSSB 201(HES)  
Third Reading - Final Passage  
Effective Date

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

Yeas: Bunde, Cowdery, Dyson, Ellis, Elton, French, Green, Guess, Hoffman, Lincoln, Ogan, Olson, Seekins, Stedman, Stevens B, Stevens G, Therriault, Wagoner

Excused: Davis, Wilken

and so, CS FOR SENATE BILL NO. 201(HES) passed the Senate.

Senator Ben Stevens moved and asked unanimous consent that the vote on the passage of the bill be considered the vote on the effective date clause. Without objection, it was so ordered.

Senator Ellis gave notice of reconsideration.

**SB 269**

SENATE BILL NO. 269 "An Act relating to access to the library records of a child by a parent or guardian" was read the second time.

Senator Stedman, Chair, moved and asked unanimous consent for the adoption of the Community and Regional Affairs Committee Substitute offered on page 2222. Without objection, CS FOR SENATE BILL NO. 269(CRA) "An Act relating to access to library records, including access to the library records of a child by a parent or guardian" was adopted.

Senator Ben Stevens moved and asked unanimous consent that the bill be considered engrossed, advanced to third reading and placed on final passage. Senator Ellis objected.

President Therriault stated CS FOR SENATE BILL NO. 269(CRA) will be on the March 2 calendar.

**SB 285**

SENATE BILL NO. 285 "An Act relating to medical assistance coverage for targeted case management services and for rehabilitative services furnished or paid for by a school district on behalf of certain children; and providing for an effective date" was read the second time.

Senator Ben Stevens moved and asked unanimous consent that the bill be considered engrossed, advanced to third reading and placed on final passage. Senator Ellis objected.

President Therriault stated SENATE BILL NO. 285 will be on the March 2 calendar.

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

**SB 289**

SENATE BILL NO. 289 "An Act extending the termination date of the special education service agency; and providing for an effective date" was read the second time.

Senator Ben Stevens moved and asked unanimous consent that the bill be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

SENATE BILL NO. 289 was read the third time.

Senators Dyson, Bunde, Cowdery, Ogan, Seekins moved and asked unanimous consent to be shown as cosponsors on the bill. Without objection, it was so ordered.

The question being: "Shall SENATE BILL NO. 289 "An Act extending the termination date of the special education service agency; and providing for an effective date" pass the Senate?" The roll was taken with the following result:

SB 289  
Third Reading - Final Passage  
Effective Date

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

Yeas: Bunde, Cowdery, Dyson, Ellis, Elton, French, Green, Guess, Hoffman, Lincoln, Ogan, Olson, Seekins, Stedman, Stevens B, Stevens G, Therriault, Wagoner

Excused: Davis, Wilken

and so, SENATE BILL NO. 289 passed the Senate.

Senator Ben Stevens moved and asked unanimous consent that the vote on the passage of the bill be considered the vote on the effective date clause. Without objection, it was so ordered.

Senator Ellis gave notice of reconsideration.

#### **Citations**

Honoring – The Conference of Alaskans  
Representative(s) Guttenberg  
Senator(s) Green, Therriault, Bunde, Cowdery, Davis, Dyson, Ellis, Elton, French, Guess, Hoffman, Lincoln, Olson, Stedman, Gary Stevens, Wagoner, Wilken

Senator Ben Stevens moved and asked unanimous consent that the citation be adopted. Without objection, the citation was adopted and referred to the Secretary for transmittal.

#### **Unfinished Business**

Senator Hoffman moved and asked unanimous consent to be excused from a call of the Senate from noon, March 4 through March 5. Without objection, Senator Hoffman was excused.

Senator Seekins moved and asked unanimous consent to be excused from a call of the Senate from afternoon plane time, March 12 through evening plane time, March 14. Without objection, Senator Seekins was excused.

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

**Announcements**

Announcements are at the end of the journal.

**Adjournment**

Senator Ben Stevens moved and asked unanimous consent that the Senate stand in adjournment until 11:00 a.m., March 2, 2004. Without objection, the Senate adjourned at 11:51 a.m.

Kirsten Waid  
Secretary of the Senate

March 2004

**Announcements**

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

**STANDING COMMITTEES**

+ indicates teleconference

= indicates bill previously heard/scheduled

**COMMUNITY & REGIONAL AFFAIRS**

|               |  |                       |                |
|---------------|--|-----------------------|----------------|
| <b>Mar 01</b> | <b>Monday</b><br>No Meeting Scheduled    | <b>Fahrenkamp 203</b> | <b>1:30 PM</b> |
| <b>Mar 03</b> | <b>Wednesday</b><br>No Meeting Scheduled | <b>Fahrenkamp 203</b> | <b>1:30 PM</b> |
| <b>Mar 05</b> | <b>Friday</b><br>No Meeting Scheduled    | <b>Fahrenkamp 203</b> | <b>1:30 PM</b> |

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**FINANCE**

|               |                |   |                |
|---------------|----------------|---|----------------|
| <b>Mar 01</b> | <b>Monday</b>  | <b>Senate Finance 532</b>                 | <b>9:00 AM</b> |
| + =           | SB 203         | OFFICE OF ADMINISTRATIVE HEARINGS         |                |
| +             | SB 299         | BAD CHECK CHARGE                          |                |
| +             | SB 305         | ASSERTING STATE TITLE TO SUBMERGED LAND   |                |
| +             | SB 295         | EXTEND NAVIGABLE WATERS COMMISSION        |                |
| +             |                | Bills Previously Heard/Scheduled          |                |
| <b>Mar 02</b> | <b>Tuesday</b> | <b>Senate Finance 532</b>                 | <b>9:00 AM</b> |
| +             | SB 257         | APPROP: CAPITAL PROJECTS                  |                |
|               |                | Cheryl Frasca, OMB Director               |                |
|               |                | Dept. of Natural Resources                |                |
|               |                | Dept. of Administration                   |                |
|               |                | Dept. of Community & Economic Development |                |
|               |                | Dept. of Corrections                      |                |
|               |                | Dept. of Education and Early Development  |                |
| +             |                | Bills Previously Heard/Scheduled          |                |



**HEALTH, EDUCATION & SOCIAL SERVICES (continued)**

**Mar 03      Wednesday                      Butrovich 205              1:30 PM**  
 + HB 282 UNIVERSITY EMPLOYEE RESEARCH CONTRACTS  
 + SB 340 DETENTION OF MINORS  
 Bills Previously Heard/Scheduled

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**JUDICIARY**

**Mar 01      Monday                                      Butrovich 205              8:00 AM**  
 += HB 31 INITIATIVE/REFERENDUM PETITIONS  
 += HJR 5 CONST AM: INITIATIVE/REFERENDUM PETITIONS  
 += SB 288 EMERGENCY CHILD CUSTODY PLACEMENT  
 += SB 307 APPEAL BONDS: TOBACCO SETTLEMENT PARTIES  
 + Bills Previously Heard/Scheduled

**Mar 03      Wednesday                                  Butrovich 205              8:00 AM**  
 += SB 333 IF UNREAS. AGENCY DELAY, COURT DECIDES  
 += SB 217 GENETIC PRIVACY  
 += HB 260 IMMUNITY FOR PROVIDING FREE HEALTH CARE  
 += HB 252 OCC LICENSING: TERMS OF BD & CONT. EDUC  
 Bills Previously Heard/Scheduled

**Mar 05      Friday    Butrovich 205              8:00 AM**  
 + SB 336 CORRECTIONS: FEES/SURCHARGE  
 += SB 170 CRIMINAL LAW/SENTENCING/ PROBATION/PAROLE  
 + HB 397 DEFENSE CONTACTS WITH VICTIMS & WITNESSES  
 + HB 83 REVISED UNIFORM ARBITRATION ACT  
 + Hearing on Changes to APOC Regulations  
 + Bills Previously Heard/Scheduled

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**LABOR & COMMERCE**

**Mar 02      Tuesday    Beltz 211              1:30 PM**  
 + SB 319 CLAIMS AGAINST HEALTH CARE PROVIDERS  
 + HB 356 EXTEND ALCOHOL DELIVERY SITE SUNSET  
 += SB 324 FLORAL BUSINESS TELEPHONE LISTINGS  
 Bills Previously Heard/Scheduled  
 Including but Not Limited to:  
 += SB 322 SALMON ENHANCEMENT TAX

**LABOR & COMMERCE (continued)**

**Mar 04 Thursday Beltz 211 1:30 PM**  
 += SB 323 WORKERS COMPENSATION AND CONTRACTORS  
 += HB 340 DAMAGES IN CONSTRUCTION CLAIMS  
 + Bills Previously Heard/Scheduled  
 Including but Not Limited to:  
 += SB 311 INSURANCE & WORKERS' COMPENSATION SYSTEM

**RESOURCES**

**Mar 01 Monday Butrovich 205 3:30 PM**  
 + SB 275 DEPT. OF ENVIRONMENTAL CONSERVATION FEES  
 + SB 318 CONSUMPTIVE USE OF FISH AND GAME  
 + SJR 23 LABELING OF SALMON FOOD PRODUCTS  
 + Bills Previously Heard/Scheduled

**Mar 03 Wednesday Butrovich 205 3:30 PM**  
 + SB 281 GENETICALLY MODIFIED FISH  
 + SB 282 PREPARED FOOD:WILD/FARMED FISH DISCLOSURE  
 + SB 347 GULF OF ALASKA GROUND FISH MORATORIUM  
 + SB 339 MINING RECLAMATION ASSURANCES/FUND  
 + Bills Previously Heard/Scheduled

**Mar 05 Friday Butrovich 205 3:30 PM**  
 += SB 312 CONVENTIONAL & NONCONVENTIONAL GAS LEASES  
 + Bills Previously Heard/Scheduled

**Mar 08 Monday Butrovich 205 3:30 PM**  
 + Bills Previously Heard/Scheduled

**Mar 10 Wednesday Butrovich 205 3:30 PM**  
 No Meeting Scheduled

**Mar 12 Friday Butrovich 205 3:30 PM**  
 No Meeting Scheduled

**STATE AFFAIRS**

**Mar 02 Tuesday Beltz 211 3:30 PM**  
 += SB 352 MANAGERS NOT EMPLOYEES UNDER P.E.R.A.  
 Bills Previously Heard/Scheduled

**Mar 04 Thursday Beltz 211 3:30 PM**  
 += SB 326 PERMANENT FUND INVESTMENTS  
 + SB 309 BLOOD PATHOGENS TESTING OF PRISONERS  
 + SB 351 APOC REPORTS BY NONELECTRONIC MEANS  
 Bills Previously Heard/Scheduled

**TRANSPORTATION**

**Mar 02 Tuesday Butrovich 205 1:30 PM**  
 No Meeting Scheduled

**Mar 04 Thursday Butrovich 205 1:30 PM**  
 += SB 298 OFF-ROAD VEHICLE USE ON DALTON HIGHWAY  
 Senate Bill:  
 AN ACT RELATING TO TRACK WORK PERFORMED  
 BY THE ALASKA RAILROAD CORP  
 <Pending Introduction & Referral>

**FINANCE SUBCOMMITTEES**

**ENVIRONMENTAL CONSERVATION**

**Mar 02 Tuesday Fahrenkamp 203 1:30 PM**  
 Overview of Department of Environmental  
 Conservation Budget

**HEALTH & SOCIAL SERVICES**

**Mar 04 Thursday Senate Finance 532 4:00 PM**  
 FY 05 Budget

**FINANCE SUBCOMMITTEES (continued)****LABOR & WORKFORCE DEVELOPMENT**

**Mar 02**      **Tuesday**                      **Fahrenkamp 203**              **8:00 AM**  
 FY 05 Budget Overview and Mission  
 & Measures

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**LAW**

**Mar 02**      **Tuesday**                      **Fahrenkamp 203**              **4:00 PM**  
 FY 05 Budget Overview and Mission  
 & Measures

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**MILITARY AND VETERANS AFFAIRS**

**Mar 08**      **Monday**                      **Fahrenkamp 203**              **7:30 AM**  
 Overview of Department of Military and  
 Veterans' Affairs Budget

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**NATURAL RESOURCES**

**Mar 03**      **Wednesday**                      **Fahrenkamp 203**              **8:00 AM**  
 FY 05 Budget Overview and Mission  
 & Measures

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**REVENUE**

**Mar 03**      **Wednesday**                      **Fahrenkamp 203**              **6:00 PM**  
 Overview of Department of Revenue Budget

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