

**HOUSE JOURNAL**  
**ALASKA STATE LEGISLATURE**  
**THIRTIETH LEGISLATURE**  
**FIRST SESSION**

**Juneau, Alaska**

**Wednesday**

**January 25, 2017**

**Ninth Day**

Pursuant to adjournment the House was called to order by Speaker Edgmon at 10:34 a.m.

Roll call showed 37 members present. Representative Rauscher had been excused from a call of the House today. Representative Kreiss-Tomkins was absent and his presence was noted later.

Representative Tuck moved and asked unanimous consent that Representative Neuman be excused from a call of the House today. There being no objection, it was so ordered.

The invocation was offered by the Chaplain, the Reverend Gordon Blue of Holy Trinity Episcopal Church. Representative Wilson moved and asked unanimous consent that the invocation be spread on the journal. There being no objection, it was so ordered.

With the deepest respect for the religious beliefs of all Alaskans, I offer the following prayer.

Creator God, when you speak there is light and life, when you act there is justice and love; give your blessing to this House of Representatives for Alaska. Grant these women and men, our representatives, the light of wisdom in the exercise of their duties that this may bring light to the people. Give them courage, wisdom, and foresight to fulfill our obligations, bless them as they act for the common good, and guide them to lead the people to safety on higher ground.

In the words of the Psalm, *May God be merciful to us and bless us, show us the light of his countenance and come to us. The earth has brought forth her increase; may God, our own God, give us his blessing.* (Psalm 67:1, 6)

O Lord of hosts: bless our legislature and grant that what is said and what is done here may encourage the people to honor one another, to be a people at peace among ourselves and a blessing to the future. Amen.

The Pledge of Allegiance was led by Representative Eastman.

### **CERTIFICATION OF THE JOURNAL**

Representative Tuck moved and asked unanimous consent that the journal for the seventh and eighth legislative days be approved as certified by the Chief Clerk. There being no objection, it was so ordered.

### **COMMUNICATIONS**

The following were received:

Alaska Energy Authority  
Certification of Capital Reserve Fund Requirement  
Bradley Lake Hydroelectric Project Bond Issues  
December 9, 2016  
(as required by AS 44.83.110)

Alaska Municipal Bond Bank Authority  
Certification of Reserves  
January 18, 2017  
(as required by AS 44.85.270)

Dept. of Health & Social Services  
FY 2017 Operating Grants  
<http://dhss.alaska.gov/fms/Documents/FY17GrantBook.pdf>  
(as required by AS 18.25.110)

Dept. of Law  
Federal Laws and Litigation Report  
January 23, 2017  
(as required by AS 44.23.020)

Dept. of Law  
List of Federal Issues and Conflicts  
January 23, 2017

### **INTRODUCTION OF CITATIONS**

The following citations were introduced and taken up later as a Special Order of Business:

Honoring - Scott Allan Carrlee  
By Representative Kito; Senator Egan

Honoring - Charlotte Fox, 2017 Governor's Awards for Arts and Humanities, Lifetime Achievement in the Arts  
By Senator Meyer; Representative Millett

### **INTRODUCTION, FIRST READING, AND REFERENCE OF HOUSE RESOLUTIONS**

#### **HJR 7**

HOUSE JOINT RESOLUTION NO. 7 by Representative Tilton:

Proposing an amendment to the Constitution of the State of Alaska relating to an appropriation limit.

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

### **INTRODUCTION, FIRST READING, AND REFERENCE OF HOUSE BILLS**

#### **HB 76**

HOUSE BILL NO. 76 by Representatives Ortiz and Kreiss-Tomkins, entitled:

"An Act relating to the mariculture revolving loan fund and loans from the fund; and providing for an effective date."

was read the first time and referred to the House Special Committee on Fisheries and the Finance Committee.

**HB 77**

HOUSE BILL NO. 77 by the House Rules Committee by request of the Legislative Council, entitled:

"An Act making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes; and providing for an effective date."

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

**HB 78**

HOUSE BILL NO. 78 by Representatives Westlake, Fansler, Millett, Kito, Foster, Edgmon, Tarr, Kreiss-Tomkins, Spohnholz, Tuck, Drummond, and Parish, entitled:

"An Act establishing the second Monday of October of each year as Indigenous Peoples Day."

was read the first time and referred to the Community & Regional Affairs Committee.

\*\*The presence of Representative Kreiss-Tomkins was noted.

**HB 79**

HOUSE BILL NO. 79 by the House Rules Committee by request of the Governor, entitled:

"An Act relating to workers' compensation; repealing the second injury fund upon satisfaction of claims; relating to service fees and civil penalties for the workers' safety programs and the workers' compensation program; relating to the liability of specified officers and members of specified business entities for payment of workers' compensation benefits and civil penalties; relating to civil penalties for underinsuring or failing to insure or provide

security for workers' compensation liability; relating to preauthorization and timely payment for medical treatment and services provided to injured employees; relating to incorporation of reference materials in workers' compensation regulations; relating to proceedings before the Workers' Compensation Board; providing for methods of payment for workers' compensation benefits; relating to the workers' compensation benefits guaranty fund authority to claim a lien; excluding independent contractors from workers' compensation coverage; establishing the circumstances under which certain nonemployee executive corporate officers and members of limited liability companies may obtain workers' compensation coverage; relating to the duties of injured employees to report income or work; relating to misclassification of employees and deceptive leasing; defining 'employee'; relating to the Workers' Compensation Board's approval of attorney fees in a settlement agreement; and providing for an effective date."

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

The following fiscal note(s) apply:

1. Fiscal, Dept. of Administration
2. Fiscal, Dept. of Labor & Workforce Development
3. Fiscal, Dept. of Labor & Workforce Development

The Governor's transmittal letter dated January 24 follows:

"Dear Speaker Edgmon:

Under the authority of Article III, Section 18, of the Alaska Constitution, I am transmitting a bill relating to the workers' compensation system. The bill proposes improvements to increase the efficiency and flexibility of the current system for the benefit of injured workers and employers, including improving the delivery of benefits to injured employees, deterring workers' compensation fraud, ensuring compliance with the requirement that employers insure for workers' compensation liability, and providing adequate funding for the administration of the system.

The Legislature has consistently endeavored to create a workers' compensation system that delivers benefits quickly, efficiently, fairly, and predictably to injured workers at a reasonable cost to employers. Yet the system has not been significantly reformed in more than 10 years. The improvements in this bill address rising costs, recent legal developments, and new approaches to improve the system's efficiency and fairness.

First, the bill would speed up dispute resolution before the Workers' Compensation Board (Board), providing closure for both injured workers and their employers. The bill simplifies the process by requiring a hearing shortly after a claim is filed, rather than waiting for an employee to request a hearing, and by ending the practice of permitting non-attorneys to represent parties before the Board. The bill also simplifies settlement agreements by eliminating a requirement that the Board approve attorney fees as part of a settlement when fees are the sole issue in the settlement that requires Board approval. Finally, the process of imposing civil penalties against uninsured employers is streamlined. The bill permits the Division of Workers' Compensation to assess the civil penalty directly, rather than petitioning the Board to set the penalty. An employer who disputes the assessed penalty may challenge the assessment before the Board.

Second, to speed up the delivery of medical care to injured workers and reduce confusion for employers as a result of the Supreme Court's decision in *M-K Rivers v. Harris*, 325 P.3d 510 (2014), the bill adds provisions requiring employers to authorize or deny medical treatment upon a medical provider's written request, and provides a reasonable timeframe for an employer to respond without incurring a penalty. The Alaska Supreme Court held in *M-K Rivers* that an employer could be subject to a penalty for unfairly controverting a prescribed medical treatment, even though no bill for the treatment had been presented to the employer for payment. This has resulted in questions over when medical treatment must be preauthorized.

Third, the bill strengthens provisions to prevent workers' compensation fraud by employers and employees. The bill defines when an employer's misclassification of employees or deceptive leasing practices amounts to fraud under the Alaska Workers' Compensation Act. In response to the Supreme Court's decision in

*Shehata v. Salvation Army*, 225 P.3d 1106 (Alaska 2010), the bill also imposes an affirmative duty on employees receiving workers' compensation benefits to report work and receipt of other types of wage-loss replacement benefits. These provisions will deter fraudulent conduct by employees that results in the unlawful receipt of workers' compensation benefits, or conduct by employers that results in artificially low workers' compensation premiums.

Fourth, the bill makes a number of substantive changes to the assessment of civil penalties against employers who fail to insure for workers' compensation. Among other changes, the Division of Workers' Compensation's ability to assess a civil penalty is expanded to include employers who are underinsured because they have misclassified workers in a variety of ways as not subject to workers' compensation coverage, misrepresented the nature of their business, or engaged in deceptive leasing practices. Provisions in the bill would expand personal liability for workers' compensation benefits and civil penalties for failure to insure to owners of more types of employing business entities. Most significantly, the bill changes the calculation and maximum civil penalty for a failure to insure for workers' compensation liability. The current maximum penalty of \$1,000 for each uninsured employee workday has led to two unintended consequences. The calculation results in astronomically high penalties that do not withstand review on appeal and that increase litigation costs and employer defaults. In addition, uninsured employers that have not maintained required records frequently are penalized less severely than similar employers that have kept records because of the difficulty of establishing the number of uninsured employee workdays without records. To correct these issues, the bill sets a maximum penalty of three times the workers' compensation insurance premium that the employer would have paid if the employer had properly insured its employees. This calculation is easier because it requires only the employer's overall payroll data and the Division of Insurance's assigned risk rates for the nature of the employer's business. The new penalty will result in a reasonable deterrent that takes into account the employer's size, the nature of the employer's business, and the financial gain the employer realized by operating without paying, in full or in part, for workers' compensation insurance.

Fifth, the bill reduces administrative costs. The bill allows employers to pay benefits electronically, both delivering benefits to workers faster and saving costs. The bill also allows the Division of Workers' Compensation to mandate electronic filing of certain reports from employers and insurers, and eliminates a requirement that corporate executive officers seek the division's approval before opting out of workers' compensation coverage for themselves. The bill adds medical publications to a list the Department of Labor and Workforce Development may incorporate, including future amended versions, into regulation. In addition, the bill provides a penalty for insurers and employers that fail to timely submit proof of coverage in order to reduce the Division's wasted efforts investigating insured employers that neglected to report insurance coverage. The bill also phases out the second injury fund, saving administrative costs for the Department and reducing costs for employers, which are required to contribute to the fund. The fund's purpose is to encourage employers to hire or retain disabled individuals, but the fund is no longer necessary with the passage of laws barring employment discrimination on the basis of disability. Under the bill, the fund would not accept new claims and would be phased out as current claims are paid. Employers' required contributions to the fund would gradually drop to zero as the claims are paid.

Finally, the bill would ensure adequate funding for the administration of the workers' compensation and workers' safety programs by allowing the Department of Labor and Workforce Development to receive a greater percentage of the annual service fees that insurers pay to the Division of Insurance. The bill does not increase the service fee for workers' compensation insurers or employers, but allocates more of the insurers' annual service fee to the Department.

In the spirit of streamlining government processes and protecting citizen rights, the bill would speed up resolution of disputes, improve delivery of benefits to injured employees, strengthen fraud prosecution and employers' compliance with the requirement to insure employees for workers' compensation liability, and reduce administrative costs.

I urge your prompt and favorable action on this measure.

Sincerely,

/s/

Bill Walker  
Governor"

**HB 80**

HOUSE BILL NO. 80 by Representatives Wool and Grenn, entitled:

"An Act adopting the Municipal Property Assessed Clean Energy Act; authorizing municipalities to establish programs to impose assessments for energy improvements in regions designated by municipalities; imposing fees; and providing for an effective date."

was read the first time and referred to the House Special Committee on Energy and the Community & Regional Affairs Committee.

**HB 81**

HOUSE BILL NO. 81 by Representatives Kreiss-Tomkins, Claman, and Fansler, entitled:

"An Act making an entity that is exempt from federal taxation under 26 U.S.C. 501(c)(3), (4), (6), (12), or (19) (Internal Revenue Code) and a federally recognized tribe eligible for a loan from the Alaska energy efficiency revolving loan fund; relating to loans from the Alaska energy efficiency revolving loan fund; and relating to the annual report published by the Alaska Housing Finance Corporation."

was read the first time and referred to the House Special Committee on Energy and the Finance Committee.

**HB 82**

HOUSE BILL NO. 82 by Representatives Kreiss-Tomkins and Claman, entitled:

"An Act relating to vehicle registration; relating to off-road system restricted noncommercial drivers' licenses; relating to off-

highway commercial drivers' licenses; relating to off-road system eligible areas; and relating to motor vehicle liability insurance."

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

### **UNFINISHED BUSINESS**

#### **HB 44**

The Speaker removed the Finance Committee referral and added a State Affairs Committee referral for the following:

#### **SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 44**

"An Act requiring a legislator to abstain from taking or withholding official action or exerting official influence that could benefit or harm an immediate family member or certain employers; requiring a legislator to request to be excused from voting in an instance where the legislator may have a financial conflict of interest; and providing for an effective date."

SSHB 44 is in the Judiciary Committee with a further referral to the State Affairs Committee. The bill was reprinted today.

Representative Tuck moved and asked unanimous consent that the following members be excused from a call of the House. There being no objection, the members were excused as noted:

Representative Birch – from 6:00 p.m., January 27 to 10:30 a.m., January 30

Representative Chenault – from 1:00 p.m., January 27 to 8:00 a.m., January 30

Representative Claman – from 6:00 p.m., January 27 to 10:30 a.m., January 30

Representative Foster – from 1:00 p.m., January 28 to 10:00 p.m., January 29

Representative Guttenberg – from noon, January 27 to 9:00 a.m.,  
January 30

Representative Johnston – from 12:30 p.m., January 27 to 10:30 a.m.,  
January 30

Representative Kopp – from 6:00 a.m., January 28 to 1:00 a.m.,  
January 30

Representative Millett – from 8:00 a.m., January 27 to midnight,  
January 29

Representative Sullivan-Leonard – from 6:00 p.m., January 27 to  
11:00 a.m., January 30

Representative Tuck – from 1:00 p.m., January 27 to 8:00 a.m.,  
January 30

Representative Wool – from 7:00 a.m., January 28 to 10:30 a.m.,  
January 30

Representative Knopp – from 8:00 p.m., January 26 to 10:00 a.m.,  
plane time, January 30

**HB 44**

Representative Claman, Chair, moved and asked unanimous consent that the five day notice requirement in Rule 23(a) of the Uniform Rules be waived so that the Judiciary Committee may hear the following on January 27:

**SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 44**

"An Act requiring a legislator to abstain from taking or withholding official action or exerting official influence that could benefit or harm an immediate family member or certain employers; requiring a legislator to request to be excused from voting in an instance where the legislator may have a financial conflict of interest; and providing for an effective date."

There being no objection, it was so ordered.

**SPECIAL ORDER OF BUSINESS**

Representative Tuck moved and asked unanimous consent that the notice and publication requirements be waived and the citations, Honoring - Charlotte Fox, 2017 Governor's Awards for Arts and Humanities, Lifetime Achievement in the Arts and Honoring - Scott Allan Carrlee, be taken up as a Special Order of Business. There being no objection, it was so ordered.

Representative Tuck moved and asked unanimous consent that the House approve the citations. There being no objection, the following citations were approved and sent to enrolling:

Honoring - Charlotte Fox, 2017 Governor's Awards for Arts and Humanities, Lifetime Achievement in the Arts

By Senator Meyer; Representatives Millett, Edgmon, Birch, Chenault, Claman, Drummond, Fansler, Foster, Gara, Grenn, Guttenberg, Johnson, Johnston, Josephson, Kawasaki, Kito, Kreiss-Tomkins, LeDoux, Neuman, Ortiz, Parish, Pruitt, Rauscher, Reinbold, Saddler, Seaton, Spohnholz, Sullivan-Leonard, Tarr, Thompson, Tilton, Tuck, Wilson, Wool

Honoring - Scott Allan Carrlee

By Representatives Kito, Edgmon, Birch, Chenault, Claman, Drummond, Fansler, Foster, Gara, Grenn, Guttenberg, Johnson, Johnston, Josephson, Kawasaki, Kreiss-Tomkins, LeDoux, Millett, Neuman, Ortiz, Parish, Pruitt, Rauscher, Reinbold, Saddler, Seaton, Spohnholz, Sullivan-Leonard, Tarr, Thompson, Tilton, Tuck, Wilson, Wool; Senator Egan

\* \* \* \* \*

Representative Gara introduced Ted Kelly, House Page, from Anchorage.

**UNFINISHED BUSINESS****HJR 3**

Representative Grenn added as a cosponsor to:

**HOUSE JOINT RESOLUTION NO. 3**

Proposing amendments to the Constitution of the State of Alaska relating to the duration of regular sessions of the legislature.

**HJR 6**

Representative Rauscher added as a cosponsor to:

**HOUSE JOINT RESOLUTION NO. 6**

Expressing the Alaska State Legislature's support and appreciation for legislation introduced by the state's congressional delegation that would allow for the construction of a single-lane gravel road through the Izembek National Wildlife Refuge, connecting the community of King Cove with the Cold Bay Airport; and urging the United States Congress to pass the legislation.

**HB 16**

Representatives LeDoux, Grenn, and Tuck added as cosponsors to:

**HOUSE BILL NO. 16**

"An Act relating to training regarding disabilities for police officers, probation officers, parole officers, correctional officers, and village public safety officers; relating to guidelines for drivers when encountering or being stopped by a peace officer; relating to driver's license examinations; and relating to a voluntary disability designation on a state identification card and a driver's license."

**HB 23**

Representative Grenn added as a cosponsor to:

**HOUSE BILL NO. 23**

"An Act relating to major medical insurance coverage under the Public Employees' Retirement System of Alaska for certain surviving spouses and dependent children of peace officers and firefighters; and providing for an effective date."

**HB 24**

Representatives Stutes and Reinbold added as cosponsors to:

**HOUSE BILL NO. 24**

"An Act classifying U-47700 as a schedule IA controlled substance; and providing for an effective date."

**HB 44**

Representative Gara added as a cosponsor to:

**SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 44**

"An Act requiring a legislator to abstain from taking or withholding official action or exerting official influence that could benefit or harm an immediate family member or certain employers; requiring a legislator to request to be excused from voting in an instance where the legislator may have a financial conflict of interest; and providing for an effective date."

**ENGROSSMENT AND ENROLLMENT****HR 1**

The following was engrossed and enrolled, signed by the Speaker and Chief Clerk, and the engrossed and enrolled copies were transmitted to the Office of the Governor at 2:25 p.m., January 24:

**HOUSE RESOLUTION NO. 1**

Establishing a House Special Committee on Arctic Policy, Economic Development, and Tourism.

House Resolve No. 1

The following memorandum dated January 23 was received from Laura Duval, Enrolling Secretary, Division of Legal and Research Services:

"In accordance with Rule 43, Uniform Rules of the Alaska State Legislature, I am reporting the following manifest error in HR 1, which has been corrected in enrolling:

Page 2, line 3:

Delete the second occurrence of "and""

**HR 2**

The following was engrossed and enrolled, signed by the Speaker and Chief Clerk, and the engrossed and enrolled copies were transmitted to the Office of the Governor at 2:25 p.m., January 24:

HOUSE RESOLUTION NO. 2  
Establishing a House Special Committee on Energy.

House Resolve No. 2

**HR 3**

The following was engrossed and enrolled, signed by the Speaker and Chief Clerk, and the engrossed and enrolled copies were transmitted to the Office of the Governor at 2:25 p.m., January 24:

HOUSE RESOLUTION NO. 3  
Establishing a House Special Committee on Fisheries.

House Resolve No. 3

**HR 4**

The following was engrossed and enrolled, signed by the Speaker and Chief Clerk, and the engrossed and enrolled copies were transmitted to the Office of the Governor at 2:25 p.m., January 24:

HOUSE RESOLUTION NO. 4  
Establishing a House Special Committee on Military and Veterans' Affairs.

House Resolve No. 4

**ANNOUNCEMENTS**

House committee schedules are published under separate cover.

**ADJOURNMENT**

Representative Tuck moved and asked unanimous consent that the House adjourn until 10:30 a.m., January 27. There being no objection, the House adjourned at 11:17 a.m.

Crystaline Jones  
Chief Clerk