

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 261

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES LEDOUX, Gardner, Doll

Introduced: 1/25/08

Referred: State Affairs, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing a program of public funding for the financing of election
2 campaigns of candidates for state elected offices, to be known as the Clean Elections
3 Act."

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

5 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 FINDINGS. The legislature finds that providing a voluntary clean elections system for
8 all primary and general elections would enhance democracy in the state in the following
9 principal ways:

10 (1) it would affirm the principle of "one person, one vote," reduce the
11 disproportionate and deleterious influence of large contributors, and restore the rights of
12 citizens of all backgrounds to equal and meaningful participation in the democratic process;

13 (2) it would slow the escalating cost of elections;

14 (3) it would enable voters and candidates to hear and to be heard in the

1 political process, and restore open and robust debate on issues of public concern;

2 (4) it would diminish the public perception of corruption, strengthen public
3 confidence in democratic institutions and processes, and eliminate the danger of corruption
4 caused by the private financing of election campaigns;

5 (5) it would increase the accountability of elected officials to the constituents
6 who elect them;

7 (6) it would create genuine opportunities for qualified residents of the state to
8 run for state office and encourage more competitive elections; and

9 (7) it would free elected officials from the incessant rigors of fundraising and
10 allow them more time to carry out their official duties.

11 * **Sec. 2.** AS 15 is amended by adding a new chapter to read:

12 **Chapter 70. Clean Elections.**

13 **Sec. 15.70.010. Clean elections fund.** (a) The clean elections fund is created
14 in the general fund. The administrator shall use the fund to finance the election
15 campaigns of candidates certified under this chapter who are running for the office of
16 governor, lieutenant governor, state senator, or state representative, and to pay the
17 administrative and enforcement costs of this chapter incurred by the commission.

18 (b) The legislature may appropriate money from the following sources to the
19 fund:

20 (1) the amount of the qualifying contributions required to be tendered
21 by candidates applying for certification under AS 15.70.070;

22 (2) unspent funds returned by a participating candidate under this
23 chapter; and

24 (3) fines or monetary penalties levied by the commission against
25 candidates for violations of this chapter.

26 (c) Money appropriated to the fund may be spent without further
27 appropriation.

28 (d) Money in the fund does not lapse.

29 **Sec. 15.70.020. Limitations on participating candidates.** (a) During an
30 election cycle, a participating candidate may not accept, expend, or agree to expend
31 any contributions or funds other than

- 1 (1) seed money contributions allowed under AS 15.70.050;
- 2 (2) funds received under AS 15.70.090 - 15.70.130;
- 3 (3) contributions from a political party under AS 15.70.160; and
- 4 (4) private contributions allowed under AS 15.70.180(b).

5 (b) A participating candidate who receives funds under this chapter during the
6 primary election campaign period shall comply with the requirements of this chapter
7 during the subsequent general election campaign period.

8 (c) A participating candidate may only use contributions and funds received
9 under this chapter during an election cycle to pay expenses or expenditures incurred
10 during that election cycle.

11 (d) A participating candidate may not use funds received under this chapter for
12 costs or legal fees related to representation before the commission or for defense of
13 any enforcement action under this chapter.

14 (e) A participating candidate may not expend funds raised or received before
15 the election cycle.

16 (f) A participating candidate shall comply with the expenditure limits set out
17 in AS 15.70.080.

18 (g) A participating candidate shall continue to be bound by all other applicable
19 election and campaign finance statutes and regulations, except for provisions in
20 express or clear conflict with the provisions of this chapter.

21 (h) Nothing in this chapter prevents a participating candidate from having a
22 legal defense fund.

23 **Sec. 15.70.030. Declaration of intent.** (a) A candidate may become a
24 participating candidate under this chapter by filing a statement declaring the
25 candidate's intent to seek certification under AS 15.70.070 and to comply with the
26 requirements of this chapter. The candidate may file the candidate's declaration of
27 intent with the commission at any time before the end of the qualifying period under
28 AS 15.70.040 during the election cycle.

29 (b) Before submitting a declaration of intent under (a) of this section, a
30 candidate who intends to participate in the clean elections program may not solicit or
31 collect

1 (1) seed money contributions; or

2 (2) qualifying contributions.

3 **Sec. 15.70.040. Qualifying period.** (a) A candidate for governor or lieutenant
4 governor may qualify between August 1 of the year preceding a year in which the
5 general election is held and June 1 of the year of the general election.

6 (b) A candidate for the office of state senator or state representative may
7 qualify between October 1 of the year preceding a year in which the general election is
8 held and June 1 of the year in which a general election is held.

9 **Sec. 15.70.050. Seed money contributions.** (a) A participating candidate may
10 accept a contribution not to exceed \$100 from an individual at any time during an
11 election cycle before filing an application for certification under AS 15.70.070. A
12 participating candidate may expend the seed money contributions for the purpose of
13 soliciting qualifying contributions under AS 15.70.060 and for any purpose authorized
14 by AS 15.13. A candidate may not accept or expend seed money contributions after
15 the candidate is certified under AS 15.70.070.

16 (b) Seed money contributions and expenditures made under this section must
17 be reported under AS 15.13.

18 (c) A participating candidate may not collect more than the following amounts
19 in seed money contributions:

20 (1) \$20,000 if the candidate is seeking the office of governor;

21 (2) \$10,000 if the candidate is seeking the office of lieutenant
22 governor;

23 (3) \$2,000 if the candidate is seeking the office of state senator; or

24 (4) \$1,000 if the candidate is seeking the office of state representative.

25 (d) A participating candidate who exceeds the applicable limit established in
26 (c) of this section shall return the excess funds to the contributors. The participating
27 candidate may return all or part of a seed money contribution, and the returned amount
28 is not counted as part of the contribution or counted toward the candidate's seed
29 money limit under (c) of this section. The participating candidate shall refund the
30 contribution within three days after the candidate discovers that the candidate's
31 applicable seed money limit has been exceeded. The candidate shall report to the

1 commission the receipt and return of all excess seed money contributions.

2 **Sec. 15.70.060. Qualifying contributions.** (a) Except as provided in (d) of this
3 section, to be certified under AS 15.70.070, a participating candidate shall obtain the
4 following number of contributions of exactly \$5:

5 (1) contributions from 3,000 or more registered voters in the state if
6 the candidate is seeking the office of governor;

7 (2) contributions from 1,500 or more registered voters in the state if
8 the candidate is seeking the office of lieutenant governor;

9 (3) contributions from 400 or more registered voters in the candidate's
10 state senate district if the candidate is seeking the office of state senator; and

11 (4) contributions from 200 or more registered voters in the candidate's
12 state house district if the candidate is seeking the office of state representative.

13 (b) A qualifying contribution may only be accepted if accompanied by a form
14 prescribed by the commission that includes

15 (1) the name and address of the contributor;

16 (2) a signed and dated statement by the contributor supporting the
17 candidate's participation in the program; and

18 (3) the amount of the qualifying contribution.

19 (c) A contribution under this section may be accepted only by the candidate,
20 the candidate's campaign treasurer, or a deputy treasurer of the candidate's campaign.
21 A payment, gift, or anything of value may not be given in exchange for a qualifying
22 contribution. A contribution received in violation of this subsection is not a qualifying
23 contribution and may not be reported or treated by the candidate as a qualifying
24 contribution.

25 (d) The commission shall adopt regulations providing for a qualifying
26 contribution of less than \$5 from a low-income registered voter, as defined by the
27 commission. The qualifying contribution form required under (b) of this section must
28 allow a registered voter to certify that the voter meets the requirements established
29 under this subsection. A statement supporting a candidate's participation in the
30 program that is made by a registered voter qualified under this subsection shall be
31 treated as a qualifying contribution under (a) of this section, notwithstanding that the

1 voter did not make a \$5 contribution to the candidate.

2 (e) In this section, "registered voter" means a person who is a registered voter
3 at the time the person provides a qualifying contribution to the candidate or who
4 becomes a registered voter at least five days before the participating candidate applies
5 to become a certified candidate under AS 15.70.070.

6 **Sec. 15.70.070. Certification of candidates.** (a) To become a certified
7 candidate, a participating candidate shall apply for certification on a form prescribed
8 by the commission. The form must

9 (1) be filed during the qualifying period under AS 15.70.040;

10 (2) be signed by the participating candidate and the participating
11 candidate's treasurer;

12 (3) identify the office the participating candidate is seeking;

13 (4) identify the participating candidate's party, if any;

14 (5) include the participating candidate's declaration that the candidate
15 has abided by and will continue to abide by the requirements of this chapter through
16 the election cycle; and

17 (6) be accompanied by

18 (A) a campaign finance report as provided in (c) of this section;

19 and

20 (B) the number of qualifying contributions and accompanying
21 voter statements required under AS 15.70.060.

22 (b) The administrator shall certify a candidate if the administrator determines
23 that the participating candidate has

24 (1) signed and filed a declaration of intent under AS 15.70.030;

25 (2) collected the required number of qualifying contributions under
26 AS 15.70.060;

27 (3) tendered the sum of the qualifying contributions to the
28 commission;

29 (4) met all other applicable requirements for participation established
30 under this chapter; and

31 (5) agreed to abide by all requirements for participating candidates.

1 (c) The campaign finance report required under (a)(6)(A) of this section must
 2 be in the form required under AS 15.13.040. The report must account for a
 3 participating candidate's seed money contributions received and expenditures incurred
 4 since the last report filed under AS 15.13.110, or, if no prior report has been filed, the
 5 report must account for all seed money contributions received and expenditures
 6 incurred through the third day before the date that the report is filed.

7 (d) A candidate who the commission determines has fewer than the required
 8 number of qualifying contributions under AS 15.70.050 may submit additional
 9 qualifying contributions during the qualifying period.

10 (e) In an election year, the administrator shall certify a candidate who
 11 complies with the requirements of this section not later than

12 (1) five business days after the candidate's submission of the form,
 13 campaign finance report, and qualifying contributions required under (a) of this
 14 section if the application is submitted before May 20; and

15 (2) 10 business days after the candidate's submission of the form,
 16 campaign finance report, and qualifying contributions required under (a) of this
 17 section if the application is submitted on or after May 20.

18 (f) A candidate who is denied certification by the administrator is no longer
 19 bound by the provisions of this chapter pertaining to participating candidates. The
 20 administrator shall return to the candidate the qualifying contributions submitted by a
 21 candidate who is denied certification.

22 (g) The director of elections shall assist the administrator in carrying out the
 23 commission's duties under this section by

24 (1) verifying, within the time periods set out in (e) of this section, that
 25 the maker of a qualifying contribution is a registered voter in the election district of
 26 the candidate who has submitted the qualifying contribution; and

27 (2) verifying that the candidate has properly filed for the office the
 28 candidate is seeking.

29 **Sec. 15.70.080. Limits on expenditures by participating candidates.** (a) A
 30 participating candidate shall comply with the limits on campaign expenditures set out
 31 in this section, as adjusted in accordance with AS 15.70.130, 15.70.160, and

1 15.70.260.

2 (b) Total expenditures for participating candidates during the primary election
3 campaign period may not exceed the following amounts:

- 4 (1) \$275,000 for a candidate for the office of governor;
5 (2) \$165,000 for a candidate for the office of lieutenant governor;
6 (3) \$26,400 for a candidate for the office of a state senator; and
7 (4) \$17,600 for a candidate for the office of a state representative.

8 (c) Total expenditures for participating candidates during the general election
9 period may not exceed the following amounts:

- 10 (1) \$550,000 for candidates in a joint campaign for the offices of
11 governor and lieutenant governor;
12 (2) \$39,600 for a candidate for the office of state senator; and
13 (3) \$26,400 for a candidate for the office of state representative.

14 **Sec. 15.70.090. Distribution of program funds to certified candidates.** (a) A
15 candidate certified by the commission is eligible to receive distributions from the fund
16 established under this chapter of not more than the following amounts:

- 17 (1) funds for a certified candidate in the primary election are limited to
18 (A) \$250,000 for a candidate for the office of governor;
19 (B) \$150,000 for a candidate for the office of lieutenant
20 governor;
21 (C) \$24,000 for a candidate for the office of state senator; and
22 (D) \$16,000 for a candidate for the office of state
23 representative;
24 (2) funds for a certified candidate in the general election are limited to
25 (A) \$500,000 for candidates in a joint campaign for the offices
26 of governor and lieutenant governor;
27 (B) \$36,000 for a candidate for the office of state senator; and
28 (C) \$24,000 for a candidate for the office of state
29 representative.

30 (b) The commission may by regulation establish procedures requiring the use
31 of debit cards by certified candidates for all or part of the funds disbursed under this

1 section. The commission may limit the use of debit cards to those election districts
2 where it determines their use is reasonable.

3 (c) A candidate who secures the nomination of a political party for an office in
4 a primary election is eligible for funds under this chapter for use in the general
5 election only if the combined votes of all of the party's candidates in the primary
6 election for that office is equal to at least 10 percent of the total number of votes cast
7 for the candidates of all parties in the primary election for that office.

8 **Sec. 15.70.100. Timing of distributions.** (a) The administrator shall make
9 distributions from the fund to certified candidates as follows:

10 (1) 25 percent of the applicable amount provided in
11 AS 15.70.090(a)(1) upon a candidate's certification under AS 15.70.070; and

12 (2) an additional 75 percent of the applicable amount provided in
13 AS 15.70.090(a)(1) to each certified candidate with an opponent who will appear on
14 the primary election ballot within two business days after the end of the qualifying
15 period under AS 15.70.040 or upon the candidate's certification, whichever is later.

16 (b) Within two business days after the director of elections certifies the results
17 of the primary election, the administrator shall distribute:

18 (1) 25 percent of the applicable amount provided in
19 AS 15.70.090(a)(2) to each certified candidate who will appear on the ballot in the
20 general election without an opponent; and

21 (2) 100 percent of the applicable amount provided in
22 AS 15.70.090(a)(2) to each certified candidate who will appear on the ballot in the
23 general election with an opponent.

24 (c) The administrator shall deduct from the amount distributed under (a) of
25 this section the amount of any unspent or unobligated seed money contributions under
26 AS 15.70.050 held by a participating candidate at the time the candidate files an
27 application for certification under AS 15.70.070. The administrator shall deduct from
28 the amounts distributed under (b) of this section the amount of any unspent or
29 unobligated primary election funds held by a certified candidate and the amount of any
30 prepaid general election expenses reported by the certified candidate.

31 (d) The administrator shall distribute any matching funds under AS 15.70.130

1 within two business days after the earlier of

2 (1) the receipt of a spending limit report by the commission under
3 AS 15.70.110 showing that a nonparticipating opposing candidate has exceeded
4 expenditure limits under AS 15.70.080; or

5 (2) a determination by the commission of excess spending on behalf of
6 or by a nonparticipating opposing candidate.

7 **Sec. 15.70.110. Spending limit reports by nonparticipating candidates.** (a)

8 If a nonparticipating candidate in a primary or general election campaign in which
9 there is at least one participating candidate makes an expenditure or incurs an
10 obligation that causes the nonparticipating candidate's total expenses to exceed 90
11 percent of the applicable expenditure limit for a participating candidate under
12 AS 15.70.080, the nonparticipating candidate shall, in addition to the reports required
13 under AS 15.13.040 and 15.13.110, within two days after exceeding that amount,
14 begin filing spending limit reports with the commission.

15 (b) If a nonparticipating candidate who is conducting a write-in campaign is
16 running against a certified candidate who does not have an opponent on the general
17 election ballot and the nonparticipating candidate makes an expenditure or incurs an
18 obligation that causes the nonparticipating candidate's total expenses to exceed 20
19 percent of the expenditure limit for the office under AS 15.70.080(c), the
20 nonparticipating candidate shall, in addition to the reports required under
21 AS 15.13.040 and 15.13.110, within two days after exceeding that amount, begin
22 filing spending limit reports with the commission.

23 (c) If the administrator determines under AS 15.70.120 that a nonparticipating
24 candidate has incurred expenses that exceed 90 percent of the applicable expenditure
25 limit for a participating candidate under AS 15.70.080, after notice, the
26 nonparticipating candidate shall, in addition to the reports required under
27 AS 15.13.040 and 15.13.110, begin filing spending limit reports with the commission.

28 (d) A nonparticipating candidate under (a), (b), or (c) of this section shall file a
29 spending limit report on the Monday of each succeeding week until 14 days before the
30 election and, beginning 14 days before the election, every two business days until the
31 day of the election.

1 (e) A spending limit report under this section must include a statement of the
 2 total dollar amount of all expenses incurred through the day before the date of the
 3 report.

4 (f) Spending limit reports shall be filed electronically with the commission.

5 **Sec. 15.70.120. Determination by the administrator of excess expenses**
 6 **incurred by a nonparticipating candidate.** The administrator may, after notice to a
 7 nonparticipating candidate and an opportunity for a hearing, make a determination that
 8 the nonparticipating candidate has incurred excess expenses based on

9 (1) a nonparticipating candidate's report of expenditures;

10 (2) a determination regarding independent expenditures under
 11 AS 15.70.140; or

12 (3) the administrator's own investigation.

13 **Sec. 15.70.130. Matching funds.** (a) If a nonparticipating candidate files a
 14 spending limit report under AS 15.70.110(a) or if the administrator determines under
 15 AS 15.70.120 that a nonparticipating candidate has incurred expenses that exceed the
 16 expenditure limits for participating candidates set out under AS 15.70.080, the
 17 administrator shall, within two business days, distribute to each certified candidate in
 18 that election contest an amount equal to the amount of the nonparticipating candidate's
 19 excess expenses. The expenditure limits set out in AS 15.70.080 for each participating
 20 candidate in that election contest shall be increased by the amount distributed to each
 21 certified candidate. The amounts distributed under this subsection are limited as
 22 follows:

23 (1) the total amount of funds distributed to a certified candidate during
 24 the primary election campaign period, including matching funds distributed under this
 25 section, may not exceed three times the primary election expenditure limits under
 26 AS 15.70.080(b);

27 (2) the total amount of funds distributed to a certified candidate during
 28 the general election campaign period, including matching funds distributed under this
 29 section, may not exceed three times the general election expenditure limits under
 30 AS 15.70.080(c); and

31 (3) in an election contest with more than one nonparticipating

1 candidate, each certified candidate shall receive matching funds under this section
 2 only up to the amount of the excess expenses incurred by the nonparticipating
 3 candidate having the highest excess expenses.

4 (b) On receipt of a spending limit report from a nonparticipating candidate
 5 under AS 15.70.110(b), the administrator shall disburse to each certified candidate 75
 6 percent of the amount set out in AS 15.70.090(a)(2).

7 (c) An expenditure limit that is increased under this section is only increased
 8 for the current election cycle.

9 **Sec. 15.70.140. Independent expenditures.** (a) A person or group that makes
 10 an independent expenditure under AS 15.13.135 supporting or opposing a
 11 participating candidate exceeding \$500 during an election cycle shall report the
 12 expenditure to the commission as provided in (b) of this section. The report shall be
 13 filed in addition to any reports required under AS 15.13.040 and 15.13.110. The report
 14 must include a signed statement from the person or group making the independent
 15 expenditure identifying the candidate or candidates that the independent expenditure is
 16 intended to help elect or defeat, if any, and affirming that the expenditure is totally
 17 independent and does not involve cooperation or coordination with a candidate or a
 18 political party.

19 (b) If an independent expenditure is made 45 days or more before a primary or
 20 general election, the report required under (a) of this section must be filed within
 21 seven days. If the expenditure is made less than 45 days before a primary or general
 22 election, the report required under (a) of this section must be filed within two days.

23 (c) A certified candidate may file a complaint with the commission that

24 (1) an independent expenditure has not been reported;

25 (2) the amount of an independent expenditure has been underreported;

26 or

27 (3) the report under (a) of this section does not correctly identify the
 28 candidate the expenditure is intended to help elect or defeat.

29 (d) A complaint under (c) of this section must include a statement of facts
 30 supporting the complaint, the name of the candidate the complainant believes the
 31 expenditure is intended to help elect or defeat, and, if available to the complainant, a

1 copy of the communication alleged to have been funded by the independent
 2 expenditure. The administrator shall give the person or group making the expenditure
 3 an opportunity to be heard. Within seven days after the filing of the complaint, the
 4 administrator shall decide whether the subject of the complaint is an independent
 5 expenditure under this section and, if necessary, whom the expenditure is intended to
 6 help elect or defeat. A decision of the administrator under this subsection is valid only
 7 for the purpose of determining the appropriate treatment of the expenditure under (e)
 8 of this section.

9 (e) If an independent expenditure is reported under (a) of this section or an
 10 expenditure is determined to be an independent expenditure under (d) of this section,
 11 the administrator, in determining whether a participating candidate is entitled to
 12 matching funds under AS 15.70.130, shall

13 (1) treat an independent expenditure against a participating candidate
 14 as the expenditure of the highest spending nonparticipating candidate in that election
 15 contest;

16 (2) treat an independent expenditure made in support of a
 17 nonparticipating candidate as if it were the expenditure of that candidate;

18 (3) in an election contest with more than one participating candidate,
 19 treat an independent expenditure made in support of a participating candidate as if it
 20 were an excess expenditure of a nonparticipating opposing candidate of any other
 21 participating candidate in that election contest;

22 (4) in an election contest with more than one participating candidate,
 23 treat an independent expenditure against a participating candidate as if it were an
 24 excess expenditure of a nonparticipating opposing candidate of that participating
 25 candidate.

26 **Sec. 15.70.150. Permitted use of funds.** (a) A participating candidate may use
 27 contributions and funds received under this chapter only for the purposes set out in
 28 AS 15.13.112.

29 (b) If the commission determines that a participating candidate used funds
 30 received under this chapter in violation of AS 15.13.112, the commission shall notify
 31 the participating candidate, and the candidate shall, after notice and opportunity for

1 hearing, reimburse the fund the amount determined by the commission.

2 **Sec. 15.70.160. Contributions by political parties.** A participating candidate
3 may accept contributions from a political party during the primary and general
4 election campaign periods if the total amount of contributions received by the
5 candidate from all political parties does not exceed 10 percent of the fund distribution
6 for the office the participating candidate seeks under AS 15.70.090(a)(1) for the
7 primary election or AS 15.70.090(a)(2) for the general election.

8 **Sec. 15.70.170. Repayment of unused funds.** (a) Within 14 days after the
9 director of elections certifies the results of the primary election, a certified candidate
10 who is not successful in the primary election shall return to the commission all funds
11 received by the candidate under this chapter that were not spent or obligated to be
12 spent during the primary election campaign period.

13 (b) Within 14 days after the certification of the results of the general election,
14 a certified candidate shall return to the commission all funds received by the candidate
15 under this chapter that were not spent or obligated to be spent during the general
16 election campaign period.

17 **Sec. 15.70.180. Candidates by petition.** (a) A candidate who is seeking to be
18 nominated by petition under AS 15.25.140 – 15.25.200 may become a certified
19 candidate by complying with the requirements of AS 15.70.020 – 15.70.070. The
20 administrator may not certify a candidate under this subsection until the director of
21 elections has verified that the candidate has qualified for the general election ballot. A
22 candidate nominated by petition is eligible only for funding under AS 15.70.090(a)(2).

23 (b) A certified candidate who has been nominated by petition may solicit and
24 accept private contributions and contributions from political parties for the general
25 election if the total amount of contributions received by the candidate does not exceed
26 10 percent of the fund distribution for the office the candidate seeks under
27 AS 15.70.090(a)(2).

28 **Sec. 15.70.190. Governor and lieutenant governor joined campaigns.** (a) If
29 a political party nominates candidates for governor and lieutenant governor who were
30 both participating candidates during the primary election campaign period, the
31 candidates shall form a joined campaign for the general election. The joined campaign

1 is a "participating candidate" under this chapter and is eligible to receive general
2 election funding under AS 15.70.090(a)(2).

3 (b) If a political party nominates candidates for governor and lieutenant
4 governor and only one of the candidates was a certified candidate under this chapter
5 during the primary election campaign period, the candidates may form a joined
6 campaign that is eligible to receive general election funding under AS 15.70.090(a)(2)
7 if the nonparticipating candidate complies with the requirements of (c) or (d) of this
8 section.

9 (c) If a nonparticipating candidate declines to form a joined campaign with a
10 participating candidate subject to this chapter, the candidates shall maintain separate
11 campaign accounts and may not coordinate campaign expenditures. The participating
12 candidate is eligible to receive the amount authorized for a joined campaign under
13 AS 15.70.090(a)(2). An expenditure by the nonparticipating candidate during the
14 general election campaign period shall be treated as an expenditure of the participating
15 candidate under AS 15.70.140.

16 (d) If, from the beginning of the election cycle through the end of the primary
17 election campaign period, a nonparticipating candidate who has declined to form a
18 joined campaign with a participating candidate spent less than the amount set out in
19 AS 15.70.080(b)(1) or (2), the nonparticipating candidate may transfer unspent
20 contributions to the joined campaign up to the amount set out in AS 15.70.080(b)(1) or
21 (2) less the amount spent by the participating candidate and amount of general election
22 expenses prepaid by the participating candidate. Any remaining unspent or
23 unobligated private contributions held by the nonparticipating candidate shall be
24 disbursed in accordance with AS 15.13.116.

25 (e) If, from the beginning of the election cycle through the end of the primary
26 election campaign period, the nonparticipating candidate spent more than the amount
27 set out in AS 15.70.080(b)(1) or (2), the joined campaign is eligible to receive the
28 amount set out in AS 15.70.090(a)(2) less the amount the candidates spent on prepaid
29 general election expenses.

30 (f) If a political party nominates candidates for governor and lieutenant
31 governor and neither candidate was a participating candidate during the primary

1 election period, a joined campaign formed by the two nonparticipating candidates is
2 not eligible for funding under this chapter.

3 **Sec. 15.70.200. Write-in candidates.** (a) A candidate who is conducting a
4 write-in campaign is not eligible for funds authorized to be distributed under this
5 chapter and shall be treated as a nonparticipating candidate under this chapter.

6 (b) If a candidate who is conducting a write-in campaign is running against a
7 certified candidate who has an opponent on the general election ballot, the write-in
8 candidate shall comply with the reporting requirements of AS 15.70.110.

9 **Sec. 15.70.210. Withdrawal by participating candidate.** (a) A candidate may
10 withdraw from participation as a participating candidate at any time within 10 days
11 after the end of the qualifying period under AS 15.70.040 by delivering to the
12 commission a notice of the candidate's intent to withdraw. The candidate may not
13 accept any private contributions until three days after the notice of the candidate's
14 intent to withdraw is received by the commission. A candidate who has submitted a
15 notice of the candidate's intent to withdraw may not receive any further funds
16 authorized to be distributed under this chapter.

17 (b) A participating candidate who withdraws before submitting qualifying
18 contributions to the commission shall use the candidate's best efforts to return all
19 qualifying contributions the candidate has collected to the contributors within 30 days
20 after the candidate's withdrawal. If a contributor cannot be located, the qualifying
21 contributions collected by the candidate shall be remitted to the fund. Any qualifying
22 contributions already submitted by a participating candidate who withdraws shall
23 remain in the fund.

24 (c) A certified candidate who has already received funds authorized to be
25 distributed under this chapter before filing a notice of an intent to withdraw shall
26 immediately stop spending the funds on submission of the notice. The candidate shall
27 return all the unspent funds to the commission within five days after submitting the
28 notice of the candidate's intent to withdraw. The candidate shall repay to the
29 commission all the funds received and spent by the candidate within 30 days after
30 submitting the notice of the candidate's intent to withdraw. A candidate who has not
31 repaid all the funds distributed to the candidate under this chapter within 30 days after

1 withdrawing may not spend private contributions for any purpose until the funds have
2 been repaid.

3 (d) The commission shall adopt regulations governing the form of a notice of
4 a candidate's intent to withdraw.

5 **Sec. 15.70.220. Ballot identification.** The director of elections shall inform
6 voters of which candidates on the ballot are participating in the program established
7 under this chapter by placing the following sentence below the name of each
8 participating candidate on the ballot in the primary and general elections: "This
9 candidate is participating in the state's voluntary public financing program."

10 **Sec. 15.70.230. Insufficient funding.** If, during the election year, the
11 commission determines that there is not enough money appropriated to fully fund all
12 participating candidates, the commission shall issue a declaration of insufficient
13 funding and authorize participating candidates to solicit and accept private
14 contributions permitted under AS 15.13. If the commission issues a declaration of
15 insufficient funding, a participating candidate may not accept more in private
16 contributions than is authorized under the candidate's spending limit under this
17 chapter.

18 **Sec. 15.70.240. Civil penalties.** (a) Except as provided in (b) of this section, a
19 person who violates a provision of this chapter or a regulation adopted under this
20 chapter is subject to a civil penalty not to exceed \$5,000.

21 (b) In addition to any other penalty imposed by law, a certified candidate who
22 exceeds the expenditure limits established under this chapter shall pay as a civil
23 penalty to the fund an amount equal to

24 (1) the amount by which the certified candidate exceeded the limit if
25 the limit is exceeded by more than one percent but not more than three percent;

26 (2) three times the amount by which the certified candidate exceeded
27 the limit if the limit is exceeded by more than three percent but not more than five
28 percent; or

29 (3) five times the amount by which the certified candidate exceeded
30 the limit if the limit is exceeded by more than five percent.

31 (c) A certified candidate who violates the expenditure limits established under

1 this chapter by more than 10 percent is disqualified as a candidate and, if elected, shall
2 forfeit the office to which the candidate was elected.

3 (d) In addition to any other penalty imposed by law, if a nonparticipating
4 candidate fails to file a timely and accurate report under AS 15.70.110 and the failure
5 to do so results in the late payment or nonpayment of matching funds, the
6 nonparticipating candidate shall pay as a civil penalty an amount equal to

7 (1) the amount of matching funds not paid or paid late to a single
8 certified candidate running for the same office, if the amount of the matching funds is
9 \$2,000 or less;

10 (2) three times the amount of matching funds not paid or paid late to a
11 single certified candidate running for the same office, if the amount of the matching
12 funds is more than \$2,000 but less than \$5,000;

13 (3) five times the amount of matching funds not paid or paid late to a
14 single certified candidate running for the same office, if the amount of the matching
15 funds is \$5,000 or more but less than \$10,000; or

16 (4) 10 times the amount of matching funds not paid or paid late to a
17 single certified candidate running for the same office, if the amount of the matching
18 funds is \$10,000 or more.

19 (e) In addition to any other penalty imposed by law, a person or group who
20 makes an independent expenditure under AS 15.70.140(a) and does not file a timely
21 and accurate report under AS 15.70.140 resulting in the late payment or nonpayment
22 of matching funds to a certified candidate, the person or group making the
23 independent expenditure shall pay as a civil penalty an amount equal to

24 (1) the amount of matching funds not paid or paid late to a single
25 certified candidate, if the amount of the matching funds is \$2,000 or less;

26 (2) three times the amount of matching funds not paid or paid late to a
27 single certified candidate, if the amount of the matching funds is more than \$2,000 but
28 less than \$5,000;

29 (3) five times the amount of matching funds not paid or paid late to a
30 single certified candidate, if the amount of the matching funds is \$5,000 or more but
31 less than \$10,000; or

1 (4) 10 times the amount of matching funds not paid or paid late to a
2 single certified candidate, if the amount of the matching funds is \$10,000 or more.

3 (f) In addition to a civil penalty, the commission may require a certified
4 candidate found to be in violation of this chapter or a regulation adopted under this
5 chapter to repay to the fund all or part of the funds distributed to the candidate.

6 (g) The legislature may appropriate money received as civil penalties under
7 this section to the fund.

8 **Sec. 15.70.250. Administrative procedure and appeals.** (a) A candidate who
9 has been denied certification under AS 15.70.070, the opponent of a candidate who
10 has been granted certification under AS 15.70.070, or a registered voter residing in the
11 house district, senate district, or area in which the certified candidate is running for
12 office may challenge a certification decision under this chapter.

13 (b) A certification decision may be appealed to the commission within seven
14 days after the certification decision. The appeal must be in writing and must set out the
15 reasons for the appeal.

16 (c) Within five days after an appeal is properly made and notice is given to the
17 appellant and any candidate in the house district, senate district, or area in which the
18 candidate is running for office, the commission shall hold a hearing. The appellant has
19 the burden of demonstrating that the administrator's decision was improper. The
20 commission shall rule on the appeal within three days after the completion of the
21 hearing.

22 (d) A candidate whose certification is revoked on appeal shall return any
23 unspent distributions from the fund.

24 (e) A decision of the administrator to disburse matching funds under
25 AS 15.70.130 may be appealed to the commission by a candidate opposed to the
26 distribution or by a person or group making an independent expenditure under
27 AS 15.70.140. A decision by the administrator to disburse matching funds shall be
28 implemented, notwithstanding the filing of an appeal, unless the commission issues a
29 stay of the administrator's decision.

30 (f) Any other decision of the administrator may be appealed to the
31 commission. The commission shall adopt regulations establishing appeal procedures.

1 (g) A person or group who believes that a violation of this chapter or a
2 regulation adopted under this chapter has occurred or is occurring may file an
3 administrative complaint with the commission within one year after the date of the
4 alleged violation. The commission may consider a complaint on an expedited basis or
5 a regular basis. The complaint shall be considered in accordance with the procedures
6 set out at AS 15.13.380(b) - (h).

7 (h) A decision of the commission under (c) of this section may be appealed to
8 the superior court. The court may consider the appeal on an expedited basis.

9 **Sec. 15.70.260. Adjustment for inflation.** Beginning in January 2011 and
10 every four years thereafter, the commission shall modify the dollar values specified in
11 AS 15.70.050, 15.70.080, and 15.70.090 to account for inflation. The commission
12 shall adopt by regulation a method to determine and publicly report the amount of the
13 adjustment.

14 **Sec. 15.70.270. Regulations.** The commission shall adopt regulations to
15 ensure effective administration of this chapter. The regulations must include
16 procedures for obtaining qualifying contributions, certification of candidates, recounts,
17 withdrawal or replacement of candidates, distribution of funds authorized by this
18 chapter, reporting of prepaid general election expenses, return of unspent fund
19 distributions, processing complaints alleging violations of this chapter, recordkeeping,
20 and compliance with this chapter.

21 **Sec. 15.70.280. Report to the legislature.** By January 30, 2010, and every
22 four years after that date, the commission shall submit a report to the legislature
23 documenting, evaluating, and making recommendations relating to the administration,
24 implementation, and enforcement of this chapter and of the clean elections fund
25 established in AS 15.70.010.

26 **Sec. 15.70.390. Definitions.** In this chapter,

- 27 (1) "administrator" means the administrator of the clean elections
28 program appointed in accordance with AS 15.13.030(11);
29 (2) "commission" means the Alaska Public Offices Commission;
30 (3) "contribution" has the meaning given in AS 15.13.400;
31 (4) "election cycle," as applied to a candidate for state office, is the

1 period beginning on the 31st day following a general election for that office and
2 ending on the 30th day following the next general election for that office;

3 (5) "election year" means the calendar year during which a state
4 general election for a particular office is held;

5 (6) "expenditure" has the meaning given in AS 15.13.400;

6 (7) "fund" means the clean elections fund established in AS 15.70.010;

7 (8) "general election campaign period" means the period beginning the
8 day following the primary election and ending on the day of the general election;

9 (9) "independent expenditure" has the meaning given in AS 15.13.400;

10 (10) "nonparticipating candidate" means a candidate, as that term is
11 defined in AS 15.13.400, who has not been certified under AS 15.70.070;

12 (11) "participating candidate" means

13 (A) a candidate, as that term is defined in AS 15.13.400, who
14 has agreed to participate in the program authorized by this chapter, who has
15 submitted and not withdrawn a declaration of intent, and who has not been
16 denied certification by the commission; and

17 (B) the joined campaign of the candidates for governor and
18 lieutenant governor under AS 15.70.190(b);

19 (12) "prepaid general election expenses" means payments made by a
20 candidate before the end of the primary election campaign period for goods or services
21 that will be delivered or provided during the general election campaign period and
22 includes

23 (A) rental payments;

24 (B) radio, television, newspaper, and other forms of
25 advertising;

26 (C) wages, salaries, and personnel costs;

27 (D) consulting services;

28 (E) other payments defined by the commission by regulation;

29 (13) "primary election campaign period" means the period beginning
30 the day following the qualifying period and ending the day of the primary election;

31 (14) "program" means the program authorized by this chapter;

1 (15) "qualifying contribution" means an allowable contribution under
 2 AS 15.70.060 to a participating candidate that is made after the candidate submits a
 3 declaration of intent and before the end of the qualifying period;

4 (16) "qualifying period" means the period during which a candidate
 5 may collect qualifying contributions for the purpose of becoming a certified candidate;
 6 for a candidate for statewide office, the period begins on August 1 of the year
 7 preceding a year in which a general election is held and ends on June 1 of the general
 8 election year; for a candidate for the legislature, the period begins on October 1 of the
 9 year preceding a year in which a general election is held and ends on June 1 of the
 10 general election year;

11 (17) "seed money contribution" means a contribution of not more than
 12 \$100 from each individual made to a candidate, including a contribution from the
 13 candidate or the candidate's relative;

14 (18) "statewide office" means the office of governor or lieutenant
 15 governor.

16 **Sec. 15.70.395. Short title.** This chapter may be known as the Clean Elections
 17 Act.

18 * **Sec. 3.** AS 15.13.010 is amended by adding a new subsection to read:

19 (e) This chapter does not limit the application of AS 15.70 to contributions,
 20 expenditures, and communications made for the purpose of influencing the nomination
 21 or election of a candidate for governor, lieutenant governor, or a member of the state
 22 legislature.

23 * **Sec. 4.** AS 15.13.030 is amended to read:

24 **Sec. 15.13.030. Duties of the commission.** The commission shall

25 (1) develop and provide all forms for the reports and statements
 26 required to be made under this chapter, AS 15.70, AS 24.45, and AS 39.50;

27 (2) prepare and publish a manual setting out uniform methods of
 28 bookkeeping and reporting for use by persons required to make reports and statements
 29 under this chapter and AS 15.70, and otherwise assist candidates, groups, and
 30 individuals in complying with the requirements of this chapter and AS 15.70;

31 (3) receive and hold open for public inspection reports and statements

1 required to be made under this chapter **and AS 15.70**, and, upon request, furnish
2 copies at cost to interested persons;

3 (4) compile and maintain a current list of all filed reports and
4 statements;

5 (5) prepare a summary of each report filed under AS 15.13.110 and
6 **AS 15.70 and** make copies of this summary available to interested persons at their
7 actual cost;

8 (6) notify, by registered or certified mail, all persons who are
9 delinquent in filing reports and statements required to be made under this chapter **and**
10 **AS 15.70**;

11 (7) examine, investigate, and compare all reports, statements, and
12 actions required by this chapter, **AS 15.70**, AS 24.45, and AS 39.50;

13 (8) prepare and publish a biennial report concerning the activities of
14 the commission, the effectiveness of this chapter, its enforcement by the attorney
15 general's office, and recommendations and proposals for change; the commission shall
16 notify the legislature that the report is available;

17 (9) adopt regulations necessary to implement and clarify the provisions
18 of **AS 15.70**, AS 24.45, AS 39.50, and this chapter, subject to the provisions of
19 AS 44.62 (Administrative Procedure Act); [AND]

20 (10) consider a written request for an advisory opinion concerning the
21 application of this chapter, **AS 15.70**, AS 24.45, AS 24.60.200 - 24.60.260, or
22 AS 39.50; **and**

23 **(11) appoint an administrator to oversee AS 15.70 and to make**
24 **decisions authorized by that chapter or decisions under that chapter that are**
25 **delegated to the administrator by the commission.**

26 * **Sec. 5.** AS 15.13.045(b) is amended to read:

27 (b) In conjunction with (a) of this section, the commission may compel the
28 attendance of witnesses and production of papers, books, records, accounts,
29 documents, and testimony, and may have the deposition of witnesses taken in a
30 manner prescribed by court rule or law for the taking of depositions in civil actions
31 when consistent with the powers and duties assigned to the commission by this chapter

1 **and AS 15.70.**

2 * **Sec. 6.** AS 15.13.045(c) is amended to read:

3 (c) The commission may examine the papers, books, records, accounts, and
4 documents of any person subject to this chapter **and AS 15.70** to ascertain the
5 correctness of a report filed with the commission, or in conjunction with an
6 investigation or inspection conducted under (a) of this section.

7 * **Sec. 7.** AS 15.56.012(a) is amended to read:

8 (a) Except as provided in AS 15.56.014 and 15.56.016, a person commits the
9 crime of campaign misconduct in the first degree if the person knowingly engages in
10 conduct that violates a provision of AS 15.13 **or AS 15.70,** or a regulation adopted
11 under authority of AS 15.13 **or AS 15.70.**

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

14 **APPLICABILITY.** This Act applies

15 (1) after December 31, 2008, for the election cycles, as that term is defined by
16 AS 15.70.390, enacted by sec. 2 of this Act, for the offices of state senator and state
17 representative; and

18 (2) after December 31, 2010, for the election cycle, as that term is defined by
19 AS 15.70.390, enacted by sec. 2 of this Act, for the offices of governor and lieutenant
20 governor.