

CS FOR SENATE BILL NO. 243 (FINANCE)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 5/12/92
Referred: Rules

Sponsor(s): SENATE SPECIAL COMMITTEE ON ETHICS REFORM

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to election campaign financing, to election campaign material, to
 2 responsibility and penalties for violations of election campaign laws, to conflict of interest
 3 laws, and to documents filed with and the duties and operations of the Alaska Public
 4 Offices Commission; and providing for an effective date."

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

6 * **Section 1.** AS 15.13.030 is amended by adding a new paragraph to read:

7 (11) issue an advisory opinion to a person affected by this chapter regarding the
 8 interpretation of this chapter within 30 days of the request for the opinion or within an additional
 9 period of time that the person requesting the opinion may agree to; the advisory opinion issued
 10 is binding on the commission in a subsequent proceeding concerning the facts and circumstances
 11 set out in the request for an advisory opinion, unless material facts were omitted or misstated in
 12 the request.

13 * **Sec. 2.** AS 15.13.040(a) is amended to read:

14 (a) Each candidate shall make a full report, upon a form prescribed by the commission,

1 listing the date and amount of all expenditures made by the candidate, the total amount of all
2 contributions, including all funds contributed by the candidate, and for all contributions in excess
3 of \$100 in the aggregate a year, the name, address, principal occupation, and employer of the
4 contributor and the date and amount contributed by each contributor. The report shall be filed
5 in accordance with AS 15.13.110 and shall be certified correct by the candidate or campaign
6 treasurer. A candidate who does not receive more than \$1,000 in contributions and does not
7 spend more than \$1,000 on behalf of a campaign is not subject to the reporting
8 requirements of this subsection, but the candidate shall indicate, on a form prescribed by
9 the commission, an intent not to raise or spend more than \$1,000.

10 * Sec. 3. AS 15.13.040 is amended by adding a new subsection to read:

11 (g) Accrued expenditures that in the aggregate total \$1,000 or less a year per payee or
12 account need not be included in the report of expenditures required under (a) and (b)(3) of this
13 section. However, if an unreported accrued expenditure is not paid within 90 days after it is
14 incurred, it becomes a contribution and shall be reported as required by this section and
15 AS 15.13.110. For purposes of this subsection, "accrued expenditures" means expenses incurred
16 but not yet paid.

17 * Sec. 4. AS 15.13 is amended by adding new sections to read:

18 Sec. 15.13.041. PROHIBITED SOLICITATION OF CONTRIBUTIONS. (a) A public
19 officer or employee of the state or of a municipality may not, while on the premises of a state
20 or municipal building, solicit or request a contribution to a candidate, group, or political party.

21 (b) A person may not solicit or request a public officer to contribute to a candidate,
22 group, or political party while the public officer or employee is on the premises of a state or
23 municipal building.

24 (c) A candidate, a candidate's campaign treasurer or deputy campaign treasurer, a group,
25 or an officer of a group may not accept a contribution that the candidate, campaign treasurer,
26 deputy campaign treasurer, group, or officer of a group knows was obtained in violation of this
27 section.

28 Sec. 15.13.043. USE OF PUBLIC OFFICE OR AGENCY FACILITIES IN A
29 CAMPAIGN. (a) A person may not use or authorize the use of public funds or property, or the
30 time of a public officer or employee, to influence the outcome of an election.

31 (b) A person may not distribute or post, or cause to be distributed or posted, a

1 communication designed to influence the outcome of an election in a public building.

2 (c) Nothing in this section prohibits

3 (1) the division of elections from preparing and distributing the voter election
4 pamphlet under AS 15.58;

5 (2) nonpartisan voter registration activities;

6 (3) action taken at a public meeting by members of the legislature, of a committee
7 of the legislature, or of a state or municipal board or commission, expressing a collective decision
8 or voting on a motion, proposal, bill, resolution, ordinance, or order;

9 (4) action by an elected public official of the state or of a municipality in support
10 of or in opposition to a ballot proposition or question at an open press conference or in response
11 to a specific inquiry;

12 (5) the Alaska Judicial Council from evaluating judges.

13 * Sec. 5. AS 15.13.050 is amended by adding a new subsection to read:

14 (b) Two or more groups, other than political parties and subdivisions of political parties,
15 in which two or more persons hold office in each group are considered to be a single group for
16 purposes of the contribution limitations of this chapter.

17 * Sec. 6. AS 15.13.060 is amended by adding a new subsection to read:

18 (g) A person may not serve as a campaign treasurer or deputy campaign treasurer during
19 a calendar year in which the person was required to register as a lobbyist under AS 24.45, unless
20 the person acted only as a representational lobbyist as defined in the regulations of the
21 commission.

22 * Sec. 7. AS 15.13.070(a) is amended to read:

23 (a) A person or group, including but not limited to all political committees, businesses,
24 corporations, and labor unions, may not contribute to or expend more than \$1,000 in a calendar
25 year, whether in money, goods, or services, or a combination of money, goods, and services,
26 on behalf of or in opposition to the competing candidates for each elective office. Political
27 parties and their subdivisions are not subject to the limitation prescribed in this subsection, but
28 they are subject to the reporting requirements prescribed by AS 15.13.040(b) and 15.13.110. This
29 chapter does not prohibit

30 (1) a candidate from contributing more than \$1,000 of the candidate's own money
31 to the candidate's own campaign; or

1 (2) individuals or groups, including but not limited to all political committees,
2 businesses, corporations, and labor unions, from contributing to or expending on behalf of a
3 ballot proposition or question more than \$1,000 a year; however, these contributions and
4 expenditures shall be reported in accordance with AS 15.13.040 and 15.13.110.

5 * Sec. 8. AS 15.13.070(c) is amended to read:

6 (c) An expenditure over \$100 may not be made in cash [OR BY CASH PAYMENT
7 UNLESS A WRITTEN RECEIPT IS OBTAINED AND FILED WITH THE COMMISSION].

8 * Sec. 9. AS 15.13.070(d) is amended to read:

9 (d) A contribution may not be made, and an expenditure may not be made or incurred,
10 directly or indirectly, anonymously, in a fictitious name, or by one person or group in the name
11 of another, to influence the election of a candidate in an election. A contribution made by a
12 person wishing to remain anonymous, and received by a candidate, campaign treasurer or deputy
13 campaign treasurer, may not be used or expended, but shall be returned within 10 days of
14 receipt to the donor, if the donor's identity is known, and if no donor is found, the contribution
15 escheats to the state if not donated by the candidate to the charity of the candidate's choice. A
16 contribution from a minor under the age of 18, other than a minor who has been
17 emancipated or who is married, is considered to have been made by a parent or guardian
18 of the individual under the age of 18, and shall be counted toward the contribution limit
19 of the parent or guardian established by this section.

20 * Sec. 10. AS 15.13.070 is amended by adding new subsections to read:

21 (i) A candidate or a group controlled by a candidate may not make a contribution to
22 another candidate, except that a candidate may make a contribution to another candidate from
23 the candidate's own personal funds.

24 (j) An individual or a group may not make a loan to a candidate or to a group, or
25 guarantee a loan made by another to a candidate or to a group. This subsection does not prohibit

26 (1) a contribution in the form of a loan by a candidate or by the spouse, parent,
27 or child of a candidate to the candidate's campaign;

28 (2) an extension of credit by a person made in the person's regular course of
29 business to a candidate or a group; or

30 (3) a loan by a regulated financial institution to a candidate or group on the same
31 terms as would apply to a loan by the financial institution to a similarly situated member of the

1 public.

2 (k) A person may not act as an intermediary to transmit contributions to a candidate or
3 group from a person or group. In this section, "intermediary" does not include a candidate, a
4 treasurer, deputy treasurer, or other campaign officer, a financial institution, or a person
5 voluntarily hosting a fund-raising event at the person's home.

6 * Sec. 11. AS 15.13 is amended by adding new sections to read:

7 Sec. 15.13.072. PERSONAL USE PROHIBITED. A candidate for public office may not
8 use campaign funds for personal purposes, convert campaign funds into personal income, or
9 convert goods purchased with campaign funds for personal use.

10 Sec. 15.13.074. DISBURSEMENT OF CAMPAIGN ACCOUNTS. (a) If a candidate
11 for public office or a group has unexpended and unobligated funds after the date of the election,
12 the candidate or group shall, no later than January 15 of the year following the election,

13 (1) elect to carry forward the funds for a future election campaign;

14 (2) donate the funds to an organization that qualifies as a charitable organization
15 under 26 U.S.C. 501(c), to a political party as defined in AS 15.60.010, or to the state or a
16 municipality;

17 (3) return the funds on a pro rata basis to the contributors to the candidate or
18 group;

19 (4) transfer the funds to a legislative office account for expenditures qualifying
20 as business expenses under 26 U.S.C. 162; or

21 (5) use unexpended and unobligated funds remaining after the election to repay
22 the candidate's contributions to the candidate's campaign.

23 (b) Equipment owned by a candidate or group shall, no later than January 15 of the year
24 following the election, be carried forward or donated as provided in (a)(1) and (2) of this section.
25 If the equipment was purchased solely with funds provided by a candidate personally, the
26 candidate may convert the equipment to the candidate's personal use.

27 (c) A candidate or group that elects to carry forward campaign funds for a future election
28 under (a)(1) of this section shall file an annual report with the commission under
29 AS 15.13.110(a)(4) in the year following the election, even if the candidate or group makes no
30 expenditures or receives no contributions during that year.

31 (d) This section does not apply to a group that is organized to influence elections on an

1 ongoing basis.

2 Sec. 15.13.076. RESPONSIBILITY FOR VIOLATIONS. A candidate is responsible for
3 violations of this chapter by officers of the candidate's campaign committee, and the chair of a
4 group is responsible for violations of this chapter by other officers of a group. Penalties assessed
5 against a candidate's campaign committee or against a group may be assessed directly against
6 the candidate or the chair of the group.

7 Sec. 15.13.077. USE OF PUBLIC FUNDS PROHIBITED. A municipality, the state,
8 agencies of the state, public corporations of the state, the University of Alaska, and other political
9 subdivisions of the state, including school districts and regional educational attendance areas, may
10 not use public funds to support or oppose a ballot proposition or the election of a candidate. This
11 section does not prohibit the expenditure of public funds to provide to the public factual
12 information regarding a ballot proposition.

13 * Sec. 12. AS 15.13.120(d) is amended to read:

14 (d) A person who believes a violation of this chapter has occurred may file a complaint
15 with the commission. The complaint must include a statement, made under oath, that the
16 factual statements in the complaint are true, to the best of the complainant's knowledge.
17 If the commission determines there is substantial reason to believe that a violation has occurred,
18 it shall expeditiously make an investigation, which may also include an investigation of reports
19 and statements filed by the complainant if the complainant is a candidate, of the matter
20 complained of. When, in the judgment of the commission, after affording due notice and an
21 opportunity for a hearing, a person has engaged or is about to engage in any acts or practices
22 which constitute or will constitute a violation of a provision of this chapter, or a regulation or
23 order issued under it, it shall promptly report the information to the attorney general for
24 appropriate action. The commission shall report its determination and recommendation to the
25 person who filed the complaint with the commission within 60 days of receiving the complaint
26 unless circumstances require additional time to make an adequate investigation. The finding of
27 the commission may be appealed to the superior court.

28 * Sec. 13. AS 15.13.120 is amended by adding new subsections to read:

29 (i) Proceedings of the commission relating to complaints before it under this section are
30 confidential until the commission determines that there is probable cause to believe that a
31 violation of this chapter has occurred. The confidentiality provisions of this subsection may be

1 waived by the subject of the complaint.

2 (j) Except as provided in (i) of this section, meetings of the commission relating to a
3 complaint are governed by AS 44.62.310 - 44.62.312 (Open Meetings Act), and records in the
4 possession of the commission relating to the complaint are subject to AS 09.25.110 - 09.25.125.

5 * Sec. 14. AS 15.13.125 is amended to read:

6 Sec. 15.13.125. CIVIL PENALTY: LATE FILING OF REQUIRED REPORTS. A
7 person who fails to file a properly completed and certified report within the time required by
8 AS 15.13.110(a)(1) or [, (3),] (4) or 15.13.110(d) is subject to a civil penalty of not more than
9 \$10 a day for each day the delinquency continues as determined by the commission subject to
10 right of appeal to the superior court. A person who fails to file a properly completed and certified
11 report within the time required by AS 15.13.110(a)(2) or 15.13.110(b) is subject to a civil penalty
12 of not more than \$50 a day for each day the delinquency continues as determined by the
13 commission subject to right of appeal to the superior court. An affidavit stating facts in
14 mitigation may be submitted to the commission by a person against whom a civil penalty is
15 assessed. However, the imposition of the penalties prescribed in this section or in AS 15.13.120
16 does not excuse that person from filing reports required by this chapter.

17 * Sec. 15. AS 15.13.125 is amended by adding new subsections to read:

18 (b) A person who violates a provision of this chapter other than a provision for which
19 a penalty is prescribed by (a) of this section is subject to a civil penalty of not more than \$20,000
20 for each offense or twice the amount gained by the misconduct that resulted in a violation,
21 whichever is greater, as determined by the commission. The commission may also assess a
22 person subject to a penalty under this subsection with the costs of investigating and adjudicating
23 the violation on which the penalty is based. The costs of investigation and adjudication shall be
24 determined by the commission.

25 (c) An affidavit stating facts in mitigation may be submitted to the commission by a
26 person against whom a civil penalty is assessed.

27 (d) A determination of the commission under this section is subject to right of appeal to
28 the superior court.

29 (e) The imposition of the penalties prescribed in this section or in AS 15.13.120 does not
30 excuse the person from filing reports required by this chapter.

31 * Sec. 16. AS 15.13.130 is amended by adding new paragraphs to read:

1 (8) "commission" means the Alaska Public Offices Commission created in
2 AS 15.13.020;

3 (9) "school district" means a municipal school district or a regional educational
4 attendance area established under AS 14.08;

5 (10) "state agency" means a department, agency, instrumentality, or corporate
6 authority of the state, whether in the executive, legislative, or judicial branch, and includes the
7 University of Alaska.

8 * Sec. 17. AS 15.58.030 is amended by adding a new subsection to read:

9 (h) A candidate, or a person on behalf of a candidate, submitting material under this
10 section shall swear that factual statements contained in the material are true to the best of the
11 candidate's or person's knowledge. A candidate or person who knowingly swears falsely is
12 guilty of perjury under AS 11.56.200.

13 * Sec. 18. AS 24.45.031(b) is amended to read:

14 (b) The commission may

15 (1) hold hearings and conduct investigations into compliance with the provisions
16 of this chapter;

17 (2) in conjunction with (1) of this subsection, issue subpoenas, compel the
18 attendance and testimony of witnesses, administer oaths and affirmations, and require the
19 production of books, papers, records, documents or other items material to the commission's
20 duties or powers under this chapter;

21 (3) prepare, publish, and make available to the public, semi-annual [PERIODIC,
22 BUT AT LEAST QUARTERLY AND ANNUALLY,] summaries of the statements and reports
23 received; these summaries shall list separately individual lobbyists and employers of lobbyists.

24 * Sec. 19. AS 24.45.041(e) is amended to read:

25 (e) Within 45 days after the convening of each regular session of the legislature, the
26 commission shall publish a directory of registered lobbyists, containing the information prescribed
27 in (b) of this section for each lobbyist [AND THE PHOTOGRAPH, IF ANY, FURNISHED BY
28 A LOBBYIST UNDER (C) OF THIS SECTION]. From time to time thereafter the commission
29 shall publish those supplements to the directory that in the commission's judgment may be
30 necessary. The directory shall be made available to public officials and to the public at the
31 following locations: a public place adjacent to the legislative chambers in the state capitol

1 building, [THE OFFICE OF THE LIEUTENANT GOVERNOR, THE LEGISLATIVE
2 REFERENCE LIBRARY OF] the Legislative Affairs Agency, and the commission's central
3 office.

4 * Sec. 20. AS 24.45.061(a) is repealed and reenacted to read:

5 (a) A person who employs, retains, or contracts for the services of a lobbyist shall sign
6 the lobbyist's registration statement verifying that employment, retention, or contract for lobbying
7 services.

8 * Sec. 21. AS 24.45.061(b) is amended to read:

9 (b) A person who employs, retains, or [WHO] contracts for the services of one or more
10 lobbyists, whether independently or jointly with other persons, and who directly or indirectly
11 makes payments to influence legislative or administrative action shall file an annual [A
12 QUARTERLY] report containing

13 (1) the full name, complete business address, and telephone number of the person
14 making the report;

15 (2) information sufficient to identify the nature and interests of the person making
16 the report;

17 (3) the total amount of payments made to influence legislative or administrative
18 action during the period, and the name and address of each person to whom these payments have
19 been made during the period by the maker of the report, together with the date and amount;

20 (4) the date and nature of any gift exceeding \$100 in value made to any public
21 official and the full name and official position of the recipient of each gift;

22 (5) a general description of the legislative or administrative action that [WHICH]
23 the person making the report has attempted to influence;

24 (6) the name of each lobbyist employed or retained by the person making the
25 report, together with the total amount paid to each lobbyist and the portion of that amount, if any,
26 that [WHICH] was paid for specific purposes, including salary, fees, and reimbursement for
27 expenses; and

28 (7) a notice of termination if the person filing a report has ceased employing or
29 retaining a lobbyist registered under this chapter and if this report constitutes the final report of
30 the lobbyist's activities on behalf of the maker of the report.

31 * Sec. 22. AS 24.45.081 is amended to read:

1 **Sec. 24.45.081. REPORTING PERIODS. Lobbyist reports [REPORTS] required under**
2 **this chapter shall be filed during the calendar month following each calendar month during any**
3 **part of which the legislature was in session and during the month following each calendar quarter**
4 **when the legislature was not in session. However, if a lobbyist registered under this chapter has**
5 **declared that the lobbyist seeks only to influence administrative action and not legislative action,**
6 **the lobbyist need only file a report required under this chapter for each calendar quarter. The**
7 **period covered shall be the calendar month or the calendar quarter, as applicable, and shall in any**
8 **event cover the period from the date of the last report filed under this chapter to the date of the**
9 **end of the calendar month or quarter, as applicable, for which the report is being filed. The**
10 **period covered shall not include any months covered in previous reports filed by the same person.**
11 **When total amounts are required to be reported, totals shall be stated both for the period covered**
12 **by the statement and for the entire calendar year to date. Annual employer reports required**
13 **under this chapter shall be filed either 30 days after all lobbying activities are terminated**
14 **or during the month following the fourth calendar quarter, whichever occurs first.**

15 * **Sec. 23.** AS 39.50.030(a) is amended to read:

16 (a) Each statement shall be an accurate representation of the financial affairs of the public
17 official or candidate and shall contain the same information for each member of the person's
18 family, as specified in (b) of this section, to the extent that it is ascertainable by the public
19 official or candidate. [AN ASSET OR LIABILITY UNDER \$500, HOUSEHOLD GOODS,
20 AND PERSONAL EFFECTS NEED NOT BE IDENTIFIED.]

21 * **Sec. 24.** AS 39.50.030(b) is amended to read:

22 (b) Each statement filed by a public official or candidate under this chapter shall include
23 the following:

24 (1) the source of all income over \$1,000 [\$100] during the preceding calendar
25 year, including taxable and nontaxable capital gains, received by the person, the person's spouse
26 or dependent child, or a nondependent child of the person who is living with that person, except
27 that a source of income that is a gift from other than a family member must be included
28 if the value of the gift exceeds \$100;

29 (2) the identity, by name and address, of each business in which the person, the
30 person's spouse or dependent child, or a nondependent child of the person who is living with that
31 person was a stockholder, owner, officer, director, partner, proprietor, or employee during the

1 preceding calendar year;

2 (3) the identity and nature of each interest owned in any business during the
3 preceding calendar year by the person, the person's spouse or dependent child, or a nondependent
4 child of the person who is living with that person;

5 (4) the identity and nature of each interest in real property, including an option
6 to buy, owned at any time during the preceding calendar year by the person, the person's spouse
7 or dependent child, or a nondependent child of the person who is living with that person;

8 (5) the identity of each trust or other fiduciary relation in which the person, the
9 person's spouse or dependent child, or a nondependent child of the person who is living with that
10 person held a beneficial interest exceeding \$1,000 during the preceding calendar year, a
11 description and identification of the property contained in each trust or relation, and the nature
12 and extent of the beneficial interest in it;

13 (6) any loan or loan guarantee made to the person, the person's spouse or
14 dependent child, or a nondependent child of the person who is living with that person, and the
15 identity of the maker of the loan or loan guarantor and the identity of each creditor to whom the
16 person, the person's spouse or dependent child, or a nondependent child of the person who lives
17 with that person owed more than \$1,000 [\$500 OR MORE];

18 (7) a list of all contracts and offers to contract with the state or an instrumentality
19 of the state during the preceding calendar year held, bid, or offered by the person, the person's
20 spouse or dependent child, a nondependent child of the person who is living with that person,
21 a partnership or professional corporation of which the person is a member [THE PERSON'S
22 MOTHER OR FATHER], or a corporation in which the person or the person's spouse or
23 children, or a combination of them, hold a controlling interest; and

24 (8) a list of all mineral, timber, oil, or any other natural resource lease held, or
25 lease offer made, during the preceding calendar year by the person, the person's spouse or
26 dependent child, a nondependent child of the person who is living with that person, [THE
27 PERSON'S MOTHER OR FATHER] a partnership or professional corporation of which the
28 person is a member, or a corporation in which the person or the person's spouse or children, or
29 a combination of them, holds a controlling interest.

30 * Sec. 25. AS 39.50.050(d) is amended to read:

31 (d) To facilitate the filing of reports under AS 24.45 (Regulation of Lobbying) and the

1 information required to be provided under AS 24.45.051(4) [AND (5),] the commission shall
2 publish copies of the reports required under this chapter not later than the convening of each
3 regular session of the legislature. Copies of this publication shall be provided on request;
4 however, the commission may make a charge for the publication that may not exceed the actual
5 cost of printing, postage, and handling.

6 * Sec. 26. AS 39.50 is amended by adding a new section to read:

7 Sec. 39.50.147. EXEMPTION FOR MUNICIPALITIES. The provisions of this chapter
8 do not apply to a municipal officer of a municipality with a population of 1,000 or less according
9 to the latest United States census figures or estimates of population certified correct for
10 administrative purposes by the Department of Community and Regional Affairs.

11 * Sec. 27. AS 15.13.110(a)(3); AS 24.45.041(c), 24.45.051(5), 24.45.116; AS 24.60.030(f),
12 24.60.030(g); and AS 39.50.025 are repealed.

13 * Sec. 28. This Act takes effect January 16, 1993.