

HEB

400

MEMORANDUM
LEAGUE OF WOMEN VOTERS OF ALASKA

TO: Rep. Hugh Malone, Speaker
Rep. Bob Bradley & Rep. Terry Gardiner DATE: April 1, 1977

FROM: Marjorie Gorsuch & Janice Gates, Lobbyists, LWV Ak.

SUBJECT: H.B. 400 An Act Relating to Conflict of Interest

The League of Women Voters of Alaska supports the passage of H.B. 400 and respectfully urges its consideration. The reporting requirements of the Conflict of Interest law are an on-going responsibility of those covered by the law, therefore many would benefit from legislative action to improve the law this session.

H.B. 400 should be given consideration for the following reasons:

I. Enforcement (AS 39.50.060 (a) AS 39.50.085)

(a) The League's primary concern with the present conflict of interest law has been in the area of enforcement. The Saylor's Case pointed up a deficiency in the wording of the law which makes it unenforceable.

According to a ruling by a District Court judge in the First Judicial District, Section AS 39.50.060 (a) is constitutionally vague and he opined that a person could be charged under either part of the section given the same set of circumstances, and that the first portion of the section required general intent and the second specific intent, and that the Court could not instruct on both. On the basis of this he dismissed the case.

The proposed wording attempts to solve this problem. The League supports a change in this section which will reinstate effectiveness and reestablish confidence in the enforceability of the law.

(b) Another enforcement defect in the present law relates to the omission of penalties for noncompliance by municipal officers. H.B. 400 addresses this omission in an effective and reasonable manner.

II. Reporting by Municipal Officers (AS 39.50.085)

The League has long supported an amendment contained in H.B. 400 which would require municipal officers to disclose contracts with the municipality. When the original initiative was extended to cover municipal officers, this reporting of contracts was not amended to reflect an interest which should be reported under the law in the case of a municipal officer.

III. General Clarification

H.B. 400 clarifies existing language and eliminates unnecessary and burdensome requirements (such as having candidates file an additional conflict of interest statement when a current one is on file). The League supports these efforts at making the existing law more reasonable and comprehensible for those who are required to comply.

The League will be pleased to present section by section comments on request..



JUNEAU ALASKA

HB 400
HB 401

Alaska State Legislature
House

M E M O R A N D U M

TO: Representative Terry Gardiner, Chairman
House Judiciary Committee

FROM: Hugh Malone *Hm*

DATE: February 23, 1978

Attached are proposed amendments to HB 400 and 401 recommended by the APOC in accordance with AS 15.13.030 (9)

*If we have these
in our Com or will
get them - hold*

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

ALASKA PUBLIC OFFICES COMMISSION

610 C STREET, SUITE 209
ANCHORAGE, ALASKA 99501
PHONE: 276-4176 AND 274-0321

February 15, 1978

Honorable Hugh Malone, Speaker
House of Representatives
Pouch V - State Capitol
Juneau, Alaska 99811

Dear Rep. Malone:

Transmitted herewith on behalf of the Alaska Public Offices Commission are copies of bills containing proposed amendments to AS 15.13, the campaign disclosure law, and AS 39.50, the conflict of interest law. These have been prepared and are being submitted in accordance with AS 15.13.030(9).

In addition, enclosed are two other documents which are provided as back-up and rationale for these short amendments being suggested by the Commission to the Legislature. These proposed amendments are in addition to legislation first introduced during the last session and currently pending in the form of HB 400 (amendments to AS 39.50), which is presently in House Judiciary, and HB 401 (amendments to AS 15.13) presently in House State Affairs.

The Commission respectfully requests that consideration be given to an early introduction of and action on bills containing these recommended amendments.

Respectfully yours,

ALASKA PUBLIC OFFICES COMMISSION

Randall P. Burns

RANDALL P. BURNS, Executive Director

RPB/kjb
Enclosures

A BILL

For an Act entitled: "An Act relating to conflict of interest; and providing for an effective date."

* Section 1. AS 39.50.020(a) is amended to read:

Sec. 39.50.020. REPORT OF FINANCIAL AND BUSINESS INTERESTS. (a) A judicial officer, commissioner, chairman or member of a state commission or board specified in 200(9) of this chapter, person hired or appointed as head or deputy head of, or director of a division within, a department in the executive branch, person appointed as assistant to the governor, and a municipal officer, shall file a statement giving his income sources and business interests, under oath and on penalty of perjury, within 30 days after he takes office as a public official. Candidates for state elective office shall file such a statement at the time of filing a declaration of candidacy or within 30 days of the filing of any nominating petition, or within 30 days of becoming a candidate by any other means. Candidates for state elective office who filed for office during an off-election year shall file another such statement on or before June 1 of the election year. Candidates for elective municipal office shall file such a statement at the time of filing a nominating petition, declaration of candidacy, or other required filing for the elective municipal office. Refusal or failure to file within the time prescribed shall require that the candidate's filing fees, if any, and filing for office be refused or that his previously accepted filing fee be returned and his name removed from the filing records. A statement shall also be filed by public officials no later than April 15 [OR 15 DAYS AFTER THE PERSON FILES HIS FEDERAL INCOME TAX RETURN] in each following year [, WHICHEVER SHALL COME FIRST]. Upon termination from a position subject to the reporting requirements of this chapter, a person must file a statement covering the period from the final date of his last previous statement through the date of his termination. [PERSONS WHO, ON OR AFTER DECEMBER 11, 1974, WERE MEMBERS OF BOARDS OR COMMISSIONS NOT NAMED IN 200(9) OF THIS CHAPTER ARE NOT REQUIRED TO FILE FINANCIAL STATEMENTS.]

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.070(c).

RATIONALE FOR PROPOSED CHANGES
TO AS 39.50, ALASKA'S CONFLICT OF INTEREST LAW

The following changes are proposed and rationale provided:

I. PROPOSED CHANGE:

"Candidates for state elective office who filed for office during an off-election year shall file another such statement on or before June 1 of the election year."

RATIONALE:

A "current" conflict of interest statement discloses a person's business and financial interests for the preceding calendar year. Arguably, it was the intent of AS 39.50 that candidates for state elective office would file for office during the year in which they planned to campaign for nomination and election. Therefore, all candidates would have a COI statement on file disclosing their financial interests during the same preceding year.

However, as a result of the Commission's decision regarding AS 15.13.100, persons wishing to expend money to raise money must first formally file for office. This creates the following problem:

A public official, who files to run for state elective office in 1978 prior to January 1, 1978, does not need to file a conflict of interest statement because he/she already has a current statement on file (covering 1976). On or before April 15th of 1978 the public official, who is also a declared candidate, will have to file the annual COI statement, covering the preceding year: 1977.

A person (not a public official), who files to run for state elective office in 1978 prior to January 1, 1978, must file a conflict of interest statement covering their financial interests during the preceding year: 1976.

A person, who files for state elective office after January 1, 1978, must file a conflict of interest statement covering their financial interests during the preceding year: 1977.

Therefore, the person who files to run for state elective office in 1977 will not have a current conflict of interest statement on file during 1978 -- the year in which he is actively campaigning for his nomination and election.

Since AS 39.50.020 specifically states that "candidates for state elective office shall file such a statement at the time of filing a declaration of candidacy" (emphasis added), the proposed additional language would result in all candidates having a COI statement for the same prior year.

II. PROPOSED CHANGE:

"Upon termination from a position subject to the reporting requirements of this chapter, a person must file a statement covering the period from the final date of his last previous statement through the date of his termination."

RATIONALE:

Public officials subject to the reporting requirements of AS 39.50, the conflict of interest (financial disclosure) law, file conflict of interest statements each year (by April 15th) for so long as they hold such a position.

The report filed covers the preceding calendar year.

If a public official retires, resigns, or otherwise ceases to hold a position subject to AS 39.50 before the due date of his next report (April 15th), the law does not currently require that official to disclose his business and financial interests for any part of the period that he was in office since his previous report. The following are examples of what presently occurs:

- 1) An official files his annual conflict of interest (COI) statement on April 15th of this year, covering 1977 (the preceding year). He then resigns his position in late October of this year. Since he is not required to file a statement upon termination, his financial and business interests for the ten (10) months he held office in 1978 go undisclosed.
- 2) An official files his annual COI statement on April 15th of this year, covering 1977 (the preceding year). He resigns just short of a year from then, on April 10, 1979. If only public officials, as defined by AS 39.50.200(1), are required to file a COI statement on or before April 15th, and if an official resigns from a position subject to AS 39.50 before that due date, then the person cannot be required to file a statement, as in this example, for the year and three months that he held office as a public official (January 1, 1978 - April 10, 1979), nor is he required to disclose his business and financial interests for any of that period of time.

The Commission has discussed this problem at length and feels it is not in the public's interest to allow a "loophole" such as this one to continue unremediated. Currently, the public has no accurate way of knowing whether or not an official has acted "upon a private or business interest in the performance of a public duty [AS 39.50.010(a)(1)]" if there is no statement of that official's financial and business interests from the final date of his last report through his termination date in the position.

Why should the business and financial interests of an official's last months -- or year -- in office go undisclosed? It seems contrary to the scope and intent of AS 39.50. The Attorney General's Office has stated a change of this nature requires legislative remedy: here is our request.

III. The other changes were proposed by the Commission earlier this year and exist in HB 401. Basically, both are administrative changes. The Commission has no way of enforcing the "15 days after the person files his federal income tax return," and the final sentence in 39.50.020 is no longer applicable since the law has now been in effect since early 1975.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to campaign disclosure; and providing for an effective date."

* Section 1. AS 15.13.070 is amended by adding a new subsection to read:

(i) No contribution may be made and no expenditure may be made or incurred, directly or indirectly, by the state or an entity of the state, to influence the election of a candidate or for or on behalf of a group organized to support or defeat a ballot proposition or question. All other communications which are paid for by the State or an entity of the State and which are related to an election are considered to be intended to influence the outcome of an election unless they are only notices of the election or unless they are required by statute or regulation. When the State or an entity of the State seeks to influence the outcome of an election, it shall report in the same manner as a group. For the purpose of complying with AS 15.13.040(b)(1)'s requirement to list the name and address of each officer and director, the State or an entity of the State shall list the name and address of the governor and the entity's principal officials. For the purpose of complying with AS 15.13.040(b)(1)'s requirement to list the name and address of its campaign treasurer, the State or an entity of the State, shall list the name and an address of the department or agency's finance director, fiscal officer, or equivalent officer. For the source of contributions [AS 15.13.070(h)], the State or an entity of the State shall list the particular department, division, agency or entity from whose budget the appropriation is made.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.070(c).

RATIONALE FOR PROPOSED CHANGE

IN AS 15.13, ALASKA'S CAMPAIGN DISCLOSURE LAW

The rationale for the proposed language amending AS 15.13.070 is simple: the Alaska Public Offices Commission firmly believes that the State of Alaska and any agency, entity, or instrumentality of the State should be prohibited from involving itself in directly attempting to influence the election of a candidate or supporting groups attempting to influence the outcome of a ballot proposition question.

Although one would perhaps assume that the State remains removed from such issues, i.e., that public money is not be expended to influence the election process, the University of Alaska's veiled involvement in attempting to influence the passage of its bond issues is a good example.

A previous proposed amendment, found in HB 401, Section 1, included the State and its instrumentalities within the purview of AS 15.13. The affect of this current proposal and the one already in HB 401 would, it seems to me, do the following:

- 1) Require that any money spent by any State agency on communications related to an election be reported by the applicable agency. For instance, if the Department of Natural Resources was to run a series of advertisements simply stating the contents of the Homestead Initiative as part of the State's thrust to educate the public as to issues before it, the cost of printing the advertisement would have to be reported by the Department.
- 2) Prohibit absolutely State agencies from contributing directly or indirectly to candidates or groups, and prohibit the making or incurring of expenditures for or on behalf of candidates or groups.

The Commission does not wish to prohibit the State or entities of the State from communicating with the citizenry regarding voter information on bonds, ballot issues, etc. It feels, however, that such expenditures are reportable as campaign expenses and should be disclosed as such. (All municipalities subject to AS 15.13 currently report as this proposed amendment would require the State.)

The Commission does believe the State and entities of the State should not be involved in supporting any candidate or group attempting to influence the outcome of an election.

STATE OF ALASKA

ALASKA PUBLIC OFFICES COMMISSION

JAY S. HAMMOND, GOVERNOR

610 C STREET - ROOM 209
ANCHORAGE 99501
PHONE (907) 274-0321 or 276-4176

March 11, 1977

MAR 14 1977

Honorable Hugh Malone, Speaker
House of Representatives
Pouch V - State Capitol
Juneau, Alaska 99811

Dear Rep. Malone:

Transmitted herewith on behalf of the Alaska Public Offices Commission are copies of bills containing proposed amendments to AS 15.13, campaign disclosure law and AS 39.50, conflict of interest law. These have been prepared and are being submitted in accordance with AS 15.13.-030(9).

Also enclosed is an analysis of the effect of and rationale for the recommended changes and is intended to offer a general explanation of the amendments.

The Commission respectfully requests that consideration be given to an early introduction of and action on bills containing these recommended amendments.

Respectfully yours,

ALASKA PUBLIC OFFICES COMMISSION

Wilda G. Hudson

WILDA G. HUDSON, Executive Director

WGH/cl
enclosures

in journal

HB 400
401

ALASKA PUBLIC OFFICES COMMISSION
610 C Street, Suite 209
Anchorage, Alaska 99501

EFFECT OF AND RATIONALE FOR AMENDMENTS TO THE CONFLICT OF INTEREST LAW
PROPOSED BY THE ALASKA PUBLIC OFFICES COMMISSION

* Section 1. AS 39.50.020(a) - amended.

The first amendment is language change to reflect in the law the commonly used term "financial and business interest" rather than the little-used term "income sources."

The second amendment simply to reference the section of the law which sets out the reporting requirements.

The third amendment adding "within 15 days after" and deleting "at the time of" is to accomodate the severe problem that was experienced in 1976 by candidates when they filed for office and by the lieutenant governor's office and the APOC when determining whether the candidate had met the filing requirements. This will avoid candidates having to file this rather extensive form at the time they file (particularly when they file on the last day) yet it will assure that they have filed prior to the ballots having to go to the printers. "15" replaces "30" days for other forms of filing for consistency.

The amendment relating to municipal candidates adding "within 7 days after" and dropping "at the time of" is to accomodate the municipal candidates in their filing; however, the time frame for municipal candidates must be shorter in order for the municipal clerks to get their ballots to the printers in a timely manner.

The amendment "except that if the candidate has a current statement on file with the commission this requirement does not apply" is necessitated due to two court cases brought by disqualified candidates in 1976. APOC had not required a candidate to file another conflict of interest if they had a current one on file. A Superior Court judge ruled that this was unequal treatment of candidates and that the law required that a statement be filed "at the time of filing a declaration of candidacy"; therefore, every candidate must do so regardless of having one on file. The Supreme Court reversed the ruling of the Superior Court judge. This amendment will, by law, make it unnecessary for a candidate to file a duplicate statement.

The final amendment to this section establishes only one firm deadline for filing statements: April 15. The last sentence is deleted because it is no longer applicable.

* Section 2. AS 39.50.030(a) - amended.

The first amendment is language change for consistency. The second amendment dropping the last sentence is because this sentence has been a source of confusion as to whether assets over \$500 are required to be reported. This has been added as subsection (9) of this section so that there will be no doubt but what assets over \$500 must be reported.

- * Section 3. AS 39.50.030(b)(2) and (7) - amended.

Subsections (2) and (3) as presently written are practically duplicates and cause confusion. The requirements of these two sections have been designed as one section on the reporting form. By combining the requirements of both subsection (2) and (3) into subsection (2) and repealing subsection (3) the law is made more clear.

As subsection (7) is presently written it requires municipal officers to report contracts they hold with the state but not those they hold with the municipality. This would correct that problem. Also this section is amended to require the reporting of only contracts "held" and not those "offered or bid."

- * Section 4. AS 39.50.050(d) - amended.

It is unrealistic to require the "publishing" of all 450 plus conflict of interest statements. These amendments reflect the administrative method being used this year. APOC has had no requests for "published" conflict of interest statements; we have had a few requests for the listing of names of public officials.

- * Section 5. AS 39.50.030(b) is amended by adding a new subsection.

See Section 2 for rationale of this amendment.

- * Section 6. AS 39.50.060(a) - repealed and re-enacted.

According to a ruling by a District Court judge in the First Judicial District, in a case before his court, this section as presently written was found to be constitutionally vague and he opined that a person could be charged under either part of the section given the same set of circumstances, and that the first portion of the section required general intent and the second specific intent, and that the Court could not instruct on both. On the basis of this he dismissed the case. This amendment was suggested in 1976, to a legislator who was concerned about the problem, by an assistant attorney general.

- * Section 7. AS 39.50.060(c) - new section added.

This section sets out the penalties for violation of (a) under this section.

- * Section 8. AS 39.50.085 - new section added.

The law does not provide for penalties for failure to report by municipal officers as it does for state public officials. This amendment does that. It is patterned after penalties for state officials. Municipal clerks and attorneys have inquired about this "void" in the law.

* Section 9. AS 39.50.200(1) and (9) - amended.

(1) The Act establishing the ombudsman's office in 1975 provided that the "ombudsman, the deputy ombudsman and their professional staff" were subject to AS 39.50; however, AS 39.50.200(1) was not amended in the Act to reflect this fact. This amendment corrects that oversight.

(9)(E) and (KK). These two committees had an expiration date of January 1, 1977, by law.

(9)(J). The Board of Fish and Game was abolished and two boards created in its place: The Board of Fisheries and the Board of Game. These two new boards were not brought under the provisions of AS 39.50.

(9)(EE). This was abolished when the State Operated Schools were replaced by the establishment of the Rural Education Associations.

(9)(MM). The Act establishing the Alaska Power Authority provides that members of this commission are subject to AS 39.50; however, AS 39.50.-200(9) was not amended to reflect this fact. This amendment corrects that oversight.

* Section 10. AS 39.50.030(b)(3) and AS 39.50.150 - repealed.

Subsection (b)(3) has been incorporated into subsection (b)(2).

Section 150 is no longer applicable.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to conflict of interest; and providing for an effective date."

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

* Section 1. AS 39.50.020(a) is amended to read:

(a) A judicial officer, commissioner, chairman or member of a state commission or board specified in §200(9) of this chapter, person hired or appointed as head or deputy head of, or director of a division within, a department in the executive branch, person appointed as assistant to the governor, and a municipal officer, shall file a statement of [GIVING] his financial [INCOME SOURCES] and business interests required under sec. 30 of this chapter, under oath and on penalty of perjury, within 30 days after he takes office as a public official. Candidates for state elective office shall file such a statement within 15 days after [AT THE TIME OF] filing a declaration of candidacy or within 15 [30] days of the filing of any nominating petition, or within 15 [30] days of becoming a candidate by any other means, except that if the candidate has a current statement on file with the commission this requirement does not apply. Candidates for elective municipal office shall file such a statement within 7 days after [AT THE TIME OF] filing a nominating petition, declaration of candidacy, or other required filing for the elective municipal office, except that if the candidate has a current statement on file with the municipality this requirement does not apply. Refusal or failure to file within the time prescribed shall require that the candidate's filing fees, if any, and filing for office be refused or that his previously accepted filing fee be returned and his name removed from the filing records. A statement shall also be filed by public officials no later than April 15 [OR 15 DAYS AFTER THE PERSON FILES HIS FEDERAL INCOME TAX

RETURN] in each following year[, WHICHEVER SHALL COME FIRST]. [PERSONS WHO, ON OR AFTER DECEMBER 11, 1974, WERE MEMBERS OF BOARDS OR COMMISSIONS NOT NAMED IN SEC. 200(9) OF THIS CHAPTER ARE NOT REQUIRED TO FILE STATEMENTS.]

* Sec. 2. AS 39.50.030(a) is amended to read:

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

* Sec. 3. AS 39.50.030(b)(2) and (7) are amended to read:

(2) the identity, by name and address, of each business, and the nature of each interest owned in any business, in which he or his spouse or dependent child of his or nondependent child of his who is living with him was a stockholder, owner, officer, director, partner, proprietor, or employee during the preceding calendar year;

(7) a list of all contracts [AND OFFERS TO CONTRACT] with the state, or an instrumentality of the state, in the case of state public officials, and with the municipality in the case of municipal public officials, during the preceding calendar year[,] held[, BID OR OFFERED] by him, his spouse, dependent child of his or nondependent child of his who is living with him, his mother or father or a partnership or professional corporation of which he is a member, or a corporation in which he or his spouse or his children, or a combination of them, hold a controlling interest; and

* Sec. 4. AS 39.50.030(b) is amended by adding a new subsection to read:

(9) assets over \$500 not otherwise described in this section; household goods and personal effects need not be reported.

* Sec. 5. AS 39.50.050(d) is amended to read:

(d) To facilitate the filing of reports under AS 24.45[.25] (Regulation of Lobbying) and the information required to be provided under AS 24.45.051(4) and (5), the commission shall prepare a listing of names of all public officials and their official positions who are [PUBLISH COPIES OF THE REPORTS] required to file statements under this chapter not later than the convening of each regular session of the legislature. Copies of this listing and copies of any reports, [PUBLICATION] shall be provided on request; however, the commission may make a charge for the copies [PUBLICATION] which may not exceed the actual cost of printing, postage and handling.

* Sec. 6. AS 39.50.060(a) is repealed and re-enacted to read:

(a) A person required to file a statement of financial and business interests under this chapter

(1) who wilfully refuses to disclose required information when due is guilty of a misdemeanor;

(2) who wilfully fails to disclose required information when due is guilty of a misdemeanor; or

(3) who wilfully provides false or misleading information on such a statement is guilty of a misdemeanor.

* Sec. 7. AS 29.50.060 is amended by adding a new section to read:

(c) A person convicted under (a) of this section is punishable by a fine of not more than \$5,000 and by imprisonment for a period of not more than 1 year or both.

* Sec. 8. AS 39.50 is amended by adding a new section to read:

Sec. 39.50.085. FAILURE TO REPORT BY A MUNICIPAL OFFICER. (a) If an elected municipal officer refuses or fails to file the required statements when due he shall not be paid his salary, per diem, or travel expenses after the due date until he complies with the requirements of this chapter and is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000.

(b) A person hired or appointed as a municipal officer shall not receive salary, travel expenses, or per diem for any period after the initial 30 days after the completion of his appointment or after his entry into municipal employment if he has not complied with the requirements of this chapter; if he has not complied with the requirements of this chapter by the 60th day he shall be removed from office and his position is vacant. If after installation as an appointed municipal officer he refuses or fails to file the required statement when due, he is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000.

* Sec. 9. AS 39.50.200(1) and (9) are amended to read:

(1) "public official" means a judicial officer, a member of the legislature, the governor, the lieutenant governor, a person hired or appointed as the head or deputy head of, or director of a division within, a department in the executive branch, an assistant to the governor, chairman or member of a state commission or board, the ombudsman, the deputy ombudsman and their professional staff, and each appointed or elected municipal officer;

(9) [(E) CAPITAL SELECTION COMMITTEE (INITIATIVE #1, 1974);]

[(J) BOARD OF FISH AND GAME (AS 16.05.220);]

[(EE) BOARD OF DIRECTORS, STATE OPERATED SCHOOLS (AS 14.08.030);]

[(KK) GAS PIPELINE IMPACT COMMITTEE (AS 31.30.040)]

(MM) Alaska Power Authority (AS 44.56.020).

* Sec. 10. AS 39.50.030(b)(3) and AS 39.50.150 are repealed.

ALASKA PUBLIC OFFICES COMMISSION
610 C Street, Suite 209
Anchorage, Alaska 99501

EFFECT OF AND RATIONALE FOR AMENDMENTS TO THE CAMPAIGN DISCLOSURE LAW
PROPOSED BY THE ALASKA PUBLIC OFFICES COMMISSION

General comment: Throughout the law there has been an attempt to make the language consistent, which has been cause for amendments that otherwise would not have been suggested had not amendments of substance been required. For instance, in some sections "persons" is used alone, other sections "persons" and "candidates" are used and other sections "candidates" and "groups" are used.

* Section 1. AS 15.13.010(b) - amended.

"Person" is added for consistency in language.

"State or instrumentality of the state" is in response to inquiries from the public and the desire to have the state covered. The Commission feels that the state should have to report any monies spent for influencing the outcome of an election.

* Section 2. AS 15.13.020(b), (c), (d) and (f) - amended.

(b) This would have no effect upon the present method of appointment. It would modify the language to deal with future appointments rather than the initial appointments.

(c) The effect of this amendment is merely to modify the language to read more clearly and specifically.

(d) The effect of this is to modify the language to delete reference to initial appointments and to deal with future appointments.

(f) At times members of the Commission, particularly the chairman, spend time on Commission business apart from the meetings, even to the extent of taking time off ^{from} work. It is felt in such instances members should be compensated.

* Section 3. AS 15.13.020(j) and (k) - repealed and re-enacted.

These two sections address the establishing of district offices and what is required of them and also speaks to municipalities.

As presently worded, these two sections are confusing and incomplete. As rewritten, they attempt to make it clear that the Commission shall establish district offices (they are called only "district offices" in the re-enacted wording and no mention is made of "regional offices"). It outlines specifically where reports shall be made available to the public. It is felt that there should be flexibility to allow persons to file in the municipalities since the objective is to have the reports available to the public in a timely manner. To require municipal candidates to file first with the Alaska Public Offices Commission does not provide for this objective. The specifics of filing can

be worked out administratively through regulations and the manual of instructions. Also, the law as presently written does not require that reports filed by groups, etc., be made available in the district offices. The new language covers this area.

* Section 4. AS 15.13.030(2), (4), (6), (7) and (9) - amended.

(2), (4) and (6) are to achieve consistency in language.

(7) has been substantially changed. As presently written it does not state what shall be reported to the attorney general and what has been reported in the past clutters up the files with minor infractions that will not be, nor should they be, prosecuted by the attorney general. It is suggested that perhaps what should be addressed in this section should be the failure to file reports. With this in mind, subsections (6), (7) and (8) have been tied together with sec. 125 to reach the issue of violations in a meaningful way.

Sec. 125, civil penalties, speaks to the issue of late filing and such infractions would not need to be included in the report to the attorney general as seemingly is now required in the vague wording of the present law: "who have failed to comply with any of the provisions of this chapter."

Subsection (6) is expanded to require APOC to notify by certified mail all those who are delinquent in filing under the law.

Subsection (7) is re-written to require that APOC report to the attorney general those persons who fail to file reports within 30 days after they have been notified. This, then, would lessen the names sent to the attorney general and would require notification to the attorney general in a meaningful time frame for this more serious violation.

Subsection (8) would reach those violations not covered under sec. 125 for late filing and subsection (7) for failure to file. This subsection is meant for the more serious violations.

(9) is amended to be consistent with the language of AS 24.45 as concerns the annual report.

* Section 5. AS 15.13.030 - New subsection added.

(11) is added to be consistent with the other two disclosure laws for the retention of reports and statements by the Commission. AS 15.13 does not have a requirement as to length of time records must be retained. Sec. 120(e) speaks to the fact that prosecution may not be commenced after 4 years.

* Section 6. AS 15.13.040 - repealed and re-enacted.

Note: This section as presently written is inconsistent. [e.g. Sec. (a) speaks to candidates, then secs. (b) & (c) speak to groups, secs. (d) & (e) to individuals. Also secs. (a) & (b) do not require anything but the date and amount of expenditures to be reported]. This section as re-enacted does the following:

(a) speaks to candidates and is more specific in what the candidate must include on his report broken down into subsection (1) contributions and (2) expenditures. The requirements here are what is now being required by design of form; however, the law does not now require it.

(b) speaks to groups and sets forth what must be included on their reports in a manner consistent with the reporting requirements for candidates. The requirement of existing sec. 40(b)(1), that officers and directors be listed, has been moved to sec. 50(a). This places all group requirements under one section (b) instead of (b) and (c), as now written. Also, it adds that the reports may be signed by the group's chairman. To require that a group's report may be signed by only the group's treasurer has been placing a hardship on some groups.

(c) speaks to individuals and persons (other than groups) and incorporates the present requirements of secs. (d) and (e). It sets forth what must be included on their reports in a manner consistent with the requirements of candidates. It also corrects \$100 to \$250. The reporting date of "10 days" has been moved to sec. 110(e), filing of reports, to be consistent.

(d) speaks to suppliers of services and contains what is now contained in sec. (f). The last sentence has been dropped because sec. 30(3) states that all records are public records and this is a repeat that is unnecessary here. The last sentence of this section is new, however, and requires that all records of the suppliers of services shall be available to the Commission upon request.

* Section 7. AS 15.13.045(a), (b) and (c) - amended.

(a) The replacement of "conduct investigation" is merely a language change as it is felt an investigation would be conducted while holding a hearing. This section has been expanded to include AS 24.45 and AS 50.

(b) has been expanded to include AS 24.45 and AS 39.50.

(c) has been expanded to include AS 24.45 and AS 39.50.

* Section 8. AS 15.13.050 - amended.

"Groups" are spoken of in two sections of the law as presently written: sec. 50 and sec. 130(3) under definitions. Additionally, sec. 50 presently does not require groups to register prior to filing their first report. This section has now been broken down into three thoughts:

(a) speaks to when candidates and groups must register. It has been expanded to include the requirement that groups must also register before making an expenditure concerning a ballot proposition or question. The requirement to report the names of officers and directors has been placed here rather than in sec. 40(b)(1) as presently written.

(b) speaks to the requirement that the name of the candidate must be included in the name of the group. This is the same language as presently in the middle portion of sec. 50.

(c) speaks to the candidate's control of a group. Except for the last sentence in sec. 50 (the portion NOT underlined in this section), the underlined wording is "lifted" from sec. 130(3). This change was suggested last year by the LWV and was included in the bill which was introduced last year.

* Section 9. AS 15.13.060(b), (c), (d) and (f) - amended.

(b) This is expanded to require a group to appoint a chairman and file the name with the APOC. This is necessary if a chairman as well as a treasurer, is going to be allowed to sign reports (refer to Section 6, subsection (c) of this analysis).

(c) This drops the requirement that a candidate must have filed his treasurer's name with APOC or his name will not appear on the ballot. This is the same amendment the Commission recommended last year.

(d) This is the same amendment the Commission recommended last year. It is felt that the "punishment" is too great for the "crime," and it is considered to be an unenforceable section.

(f) This amendment places more of the "burden of compliance" on the candidate.

* Section 10. AS 15.15.060 - new section added.

As presently written, it would appear that the group's treasurer is held solely responsible for the group's activities as concerns campaign disclosure. Yet, a treasurer is not the sole policy maker for a group and often merely carries out the policy decisions of the group's officers. This is an attempt to hold persons in the group, in addition to the treasurer, responsible.

* Section 11. AS 15.13.070(a), (b) and (d) - amended.

(a) "Individual" and "persons" [in (a)(2)] is for consistency in language. The remaining amendments are to bring Alaska's law in line with the U. S. Supreme Court decision, Buckley vs. Valeo.

(b) "Group" is for consistency in language.

(d) As presently written, the law does not prohibit groups from receiving anonymous contributions as are candidates. This language change would do so.

* Section 12. AS 15.13.090 - amended.

"Person" is for consistency in language. The other amendment would delete the requirement that a candidate include the fact that he is his own campaign treasurer on political advertising.

* Section 13. AS 15.13.100 - amended.

This would allow candidates to accept contributions and make expenditures prior to filing a nomination for office. It does require that such must be reported, however.

* Section 14. AS 15.13.110(a)(4), (b) and (c) - amended.

(a)(4) is amended to make it clear that, during an election year, the December 31 report is for reporting any campaign contributions received and expenditures made which occurred after the 10 day post-election report and not for reporting contributions and expenditures not previously reported within their appropriate reporting period. Any such contributions or expenditures not reported within the appropriate period pose a different problem and would be handled in a different manner.

(b) This is the same amendment that was included last year. It closes the 3 day "hole" in the reporting procedure between the cut off date of the 7 day pre-election report and the first day the "24 hour" report is due.

(c) The substantive amendment to this section provides, by law rather than regulation, that the postmark date shall be considered the filing date. The remainder of the corrections are language changes.

* Section 15. AS 15.13.110 - new sections added.

(c) This new section states when an individual or person who makes a contribution or expenditure shall file their reports. This was previously included in sec. 40(e) under what must be reported. This change is for consistency in the law.

(f) This new section provides that a candidate may file an affidavit stating that he does not plan to receive contributions or make expenditures during his campaign. He would not be required to file any other reports. If, however, he should receive contributions or make expenditures he must then file the appropriate reports.

* Section 16. AS 15.13.120(a)(2) and (5) - amended.

(2) Amendment necessary to bring Alaska's law into conformity with the U. S. Supreme Court decision, Buckley vs. Valeo.

(5) This is amended to include a ballot proposition or question.

* Section 17. AS 15.13.125 - amended.

This amendment brings the late filing of the statements of designation of treasurer and registration of a group under the civil penalties section.

* Section 18. AS 15.13.120(2), (3), (4) - amended.

(2) Correction of sentence structure and to make it read same as language in subsection (4) "expenditure." (2)(D) is added to make it clear that by law a personal loan from a bona fide lending institution is not considered a loan. This reflects the present policy of the Commission.

(3) This amends the definition of "group" to include "political action committees," which more and more are becoming a common type of campaign organization.

(3)(A) This addition makes it clear that a candidate's personal campaign committee is not a "group" which would be required to report separately from the candidate.

(3)(B) This addition makes a distinction between those groups formed primarily for political purposes and those that are ongoing groups whose primary purpose is other than political. Such groups will be treated as "persons" rather than "groups."

The last amendment to (3) deletes a large portion of the definition of "group." This deleted portion has been incorporated in sec. 50 which is the more logical place.

(4) These amendments reflect correction of sentence structure only.

* Section 19. AS 15.13.030 - New subsections added.

(8) This definition of "instrumentality of the state" is necessary due to amendments in sec. 10(b) which brings the state under the requirements of AS 15.13.

(9) The meaning of the term "political committee" has never been too clear and is the cause of inquiry by the public. This makes it clear.

* Section 20. AS 15.13.070(f) and (g) and AS 15.13.080 - repealed.

(f) and (g) are repealed in order to bring Alaska's law into conformity with the U. S. Supreme Court decision, Buckley vs. Valeo.

(080) is repealed because its contents have been incorporated in secs. 40(c) and 110(e) where they should more logically be placed. The requirement that the candidate be furnished a copy of the contributor's report generates unnecessary paperwork of questionable value.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to campaign disclosure; and providing for an effective date."

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

* Section 1. AS 15.13.010(b) is amended to read:

(b) Except as otherwise provided, this chapter applies to contributions, expenditures, and communications made by a candidate, group, person, municipality, the state or instrumentality of the state, or individual for the purpose of influencing the outcome of a ballot proposition or question as well as those made to influence the nomination or election of a candidate.

* Sec. 2. AS 15.13.020(b), (c), (d) and (f) are amended to read:

(b) ~~[THE GOVERNOR SHALL APPOINT TWO MEMBERS OF EACH OF THE TWO]~~ The political parties whose candidates for governor received the highest and second highest number of votes in the most recent gubernatorial election [PRECEDING GENERAL ELECTION AT WHICH A GOVERNOR WAS ELECTED] are each entitled to two seats on the commission as vacancies occur. The names of two nominees shall be submitted to the governor by the central committee of the respective party for each vacancy and the governor shall fill the vacancy from the nominees submitted to him by the central committee. ~~[THE TWO APPOINTEES FROM EACH OF THESE TWO PARTIES SHALL BE CHOSEN FROM A LIST OF FOUR NAMES TO BE SUBMITTED BY THE CENTRAL COMMITTEE OF EACH PARTY.]~~

(c) The four members selected under (b) of this section shall, by majority vote, appoint the ~~[REMAINING]~~ fifth member of the commission as vacancies in that seat occur.

(d) ~~[UPON SELECTION OF THE COMMISSION'S FIFTH MEMBER, THE COMMISSION'S FOUR MEMBERS SELECTED UNDER (b) OF THIS SECTION SHALL DRAW LOTS TO DETERMINE~~

THE LENGTH OF THEIR TERMS OF OFFICE SO THAT ONE COMMISSION MEMBER SERVES ONE YEAR, ONE SERVES TWO YEARS, ONE SERVES THREE YEARS AND ONE SERVES FOUR YEARS. HOWEVER, THE TERMS OF NO TWO COMMISSION MEMBERS WHO ARE MEMBERS OF THE SAME POLITICAL PARTY MAY EXPIRE IN CONSECUTIVE YEARS. THE TERM OF OFFICE OF THE FIFTH MEMBER, APPOINTED UNDER (c) OF THIS SECTION, EXPIRES IN THE FIFTH YEAR.] Terms of office of the [INITIAL APPOINTEES TO THE] commission members [, INCLUDING THE FIFTH MEMBER,] shall date from February 1 [BEFORE THEIR APPOINTMENT]. The terms of no two commission members who are members of the same political party may expire in consecutive years. [AFTER THE TERMS OF OFFICE OF THE INITIAL APPOINTEES TO THE COMMISSION EXPIRE,] The [THE] term of office of a member of the commission is five years, or until his successor is appointed and qualifies. No commission member may serve more than one term. However, initial appointees to the commission who do not serve a full five-year term and a person appointed to fill the unexpired term of his predecessor may be appointed to a successive full five-year term.

(f) Members of the commission shall receive compensation of \$50 a day while attending commission meetings or tending to authorized commission business and shall be entitled to travel expenses and per diem authorized by law for members of other boards and commissions.

* Sec. 3. AS 15.13.020(j) and (k) are repealed and re-enacted to read:

(j) The commission shall establish an office in each senate district in the state; however, where one municipality contains more than one election district, only one commission office shall be established in that municipality. All forms and pertinent material which are necessary for compliance with the law shall be made available to candidates, groups, persons and individuals at the commission's central and district offices and other places the commission deems appropriate. As pertains to candidates for state elective office and state ballot propositions or questions, all reports or statements required to be filed

under this chapter shall be filed with the commission's central office. As pertains to candidates for municipal elective office and municipal ballot propositions and questions, all reports required to be filed under this chapter shall be filed with either the commission's central office or the respective municipality in a manner prescribed by the commission. In all instances, the official records shall be maintained in the commission's central office.

(k) Copies of all reports and statements filed with the commission shall promptly be made available for inspection by the public in the commission's central office and in the commission's district offices and municipalities as follows:

(1) copies of all reports and statements shall be made available in all district offices

(A) which are filed by candidates for statewide offices, and

(B) which are filed by groups, or the state or an instrumentality of the state, who support or oppose candidates for statewide office of statewide ballot propositions and questions;

(2) copies of all reports and statements shall be made available in the appropriate district offices

(A) which are filed by candidates for legislative office in that district, and

(B) which are filed by groups who support or oppose candidates for legislative office in that district; and

(3) copies of all reports and statements shall be made available in the appropriate municipality

(A) which are filed by candidates for municipal office in that municipality, and

(B) which are filed by groups or municipalities who support or oppose candidates for municipal office in that municipality or municipal

ballot propositions or questions in that municipality.

* Sec. 4. AS 15.13.030(2), (4), (6), (7) and (9) are amended to read:

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

(4) compile and maintain a current list of all [FILED] reports and statements filed under this chapter;

(6) notify, by registered or certified mail, all candidates, groups, persons, or individuals who are delinquent in filing reports and statements required to be made under this chapter;

(7) report to the office of the attorney general the names of all candidates, groups, persons or individuals who have failed to cure their delinquency within 30 days after notification of delinquency under (6) of this section [REPORT WITHIN 60 DAYS AFTER THE ELECTION THE NAMES OF ALL PERSONS AND GROUPS WHO HAVE FAILED TO COMPLY WITH ANY OF THE PROVISIONS OF THE CHAPTER TO THE OFFICE OF THE ATTORNEY GENERAL];

(9) prepare and publish an annual report to the legislature concerning the activities of the commission, the effectiveness of AS 24.45, AS 39.50 and this chapter, their [ITS] enforcement by the office of the attorney general [GENERAL'S OFFICE], and recommendations and proposals for changes, which shall be made available to the legislature, governor, and to the public within 30 days after the convening of the legislature;

* Sec. 5. AS 15.13.030 is amended by adding a new subsection to read:

(11) retain reports and statements required to be filed under this chapter for a period of six years.

* Sec. 6. AS 15.13.040 is repealed and re-enacted to read:

Sec. 15.13.040. CONTRIBUTIONS, EXPENDITURES AND SUPPLYING OF SERVICES TO BE REPORTED. (a) Each candidate shall make a full report, upon a form prescribed

by the commission, which shall be filed in accordance with sec. 110 of this chapter and shall be certified correct by the candidate or campaign treasurer.

The report shall contain the following:

(1) the total amount of all contributions of \$100 or less, all funds contributed by the candidate himself, and for all contributions in excess of \$100 in the aggregate a year, the name, address, principal occupation, and employer of the contributor and the date and amount contributed by each contributor; and

(2) the date and amount of each expenditure, along with the check number, name and address of the payee, and the purpose for which the expenditure was made.

(b) Each group shall make a full report, upon a form prescribed by the commission, which shall be filed in accordance with sec. 110 of this chapter and shall be certified correct by the group's treasurer or chairman. The report shall contain the following:

(1) the total amount of all contributions of \$100 or less, and for all contributions in excess of \$100 in the aggregate a year, the name, address, principal occupation, and employer of the contributor and the date and amount contributed by each contributor; and

(2) the date and amount of each expenditure, including all contributions made by the group, along with the check number, name and address of the payee, and the purpose for which the expenditure was made.

(c) Every individual or person making a contribution or expenditure shall make a full report, upon a form prescribed by the commission, which shall be filed in accordance with sec. 110 of this chapter and shall be certified correct by the individual or person making the contribution or expenditure. The report shall contain the following:

(1) any contribution of cash, goods or services valued at more than \$250 in the aggregate a year to any candidate or group, along with the name, address, principal occupation, and employer of the individual or person making the contribution; and

(2) the date and amount of any expenditure whatsoever for advertising in the newspapers, on radio or television, or for the publication, distribution or circulation of brochures, flyers, or other campaign material for or against any candidate or ballot proposition or question, along with the check number, name and address of payee, and the purpose for which the expenditure was made.

(d) All businesses, persons, or groups which furnish any of the following services, facilities, or supplies to a candidate or group shall maintain a record of each transaction: newspapers, radio or television advertising, printing, billboards, advertising agency services, media production or preparation, public opinion polls, research and professional campaign consultation or management, secretarial services, or computer services. The supplier of services shall file a report, on a form prescribed by the commission, of the complete record of each transaction with each candidate or group to whom he provides services, facilities or supplies in excess of \$250 in the aggregate a year. The report shall be filed in accordance with sec. 110 of this chapter and shall be certified correct by the person filing the report on behalf of the business, person or group. Businesses, persons or groups supplying services noted in this section to a candidate or group shall maintain their records in such a manner as to be readily identifiable and these records shall be available for inspection by the commission upon request of the commission.

* Sec. 7. AS 15.13.045(a), (b) and (c) are amended to read:

(a) The commission may conduct investigations, issue subpoenas, administer oaths, and hold hearings [AND CONDUCT INVESTIGATIONS] which are necessary to carry out the responsibility of the commission under this chapter, AS 24.45, and AS 39.50.

(b) In conjunction with (a) of this section, the commission may compel the attendance of witnesses and production of papers, books, records, accounts, documents, and testimony, and may have the deposition of witnesses taken in a manner prescribed by court rule or law for the taking of depositions in civil actions when consistent with the powers and duties assigned to the commission by this chapter, AS 24.45, and AS 39.50.

(c) The commission may examine the papers, books, records, accounts and documents of any person subject to this chapter, AS 24.45, and AS 39.50 to ascertain the correctness of a report filed with the commission, or in conjunction with an investigation or inspection conducted under (a) of this section.

* Sec. 8. AS 15.13.050 is amended to read:

Sec. 15.13.050. GROUPS. (a) Each group, before making a contribution to a candidate or an expenditure on behalf of, or in opposition to, a candidate or a ballot proposition or question [CONTRIBUTION TO A CANDIDATE], shall register with the commission, on a form [FORMS] provided by the commission[, WITH THE COMMISSION]. The name of each officer and director of the group shall be included on the registration form.

(b) If the group intends to support or oppose only one candidate, or to contribute to or expend on behalf of or in opposition to, one candidate 50 per cent or more of its funds, the name of the candidate shall be a part of the name of the group.

(c) A group that receives contributions or makes expenditures with the authorization or consent, express or implied, or under the control, direct or indirect, of a candidate shall be considered to be controlled by that candidate. Promptly upon receiving the registration of a group whose major purpose is to further the nomination, election, or candidacy of only one person, or which intends to expend more than 50 per cent of its money on a single candidate, the commission shall notify the candidate of the group's organization and intent. The group shall be considered to be controlled by that candidate and its

actions done with his knowledge and consent unless, within 10 days from the date the candidate learns of the existence of the group he files with the commission, on a form provided by the commission, an affidavit that the group is operating without his control. A group organized for more than one year preceding an election and endorsing candidates for more than one office or more than one political party is presumed not to be controlled by the candidate.

* Sec. 9. AS 15.13.060(b), (c), (d) and (f) are amended to read:

(b) In addition, each group shall appoint a chairman, which, in the case of an ongoing group, shall be the duly elected or appointed chairman or president. Each group shall file the name and address of its chairman and campaign treasurer with the commission at the time it registers with the commission under §50 of this chapter.

(c) Each candidate shall file the name and address of the campaign treasurer with the commission no later than seven days after the date of filing his declaration of candidacy or his nominating petition. [THE NAME OF THE CANDIDATE MAY BE PLACED ON THE BALLOT BY THE LIEUTENANT GOVERNOR OR MUNICIPAL CLERK ONLY IF THE CANDIDATE HAS COMPLIED WITH THIS SUBSECTION.]

(d) In the case of the death, resignation or removal of a campaign treasurer, the candidate shall appoint a successor as soon as practicable and file his name and address with the commission within 48 hours of the appointment. [THE CANDIDATE IS DISQUALIFIED WHEN HE HAS BEEN FOUND TO HAVE BEEN IN WILFUL VIOLATION OF THIS SUBSECTION.]

(f) The candidate is responsible for the performance of his campaign treasurer, and any default or violation by the treasurer also shall be considered a default or violation by the candidate [IF HE KNEW OR HAD REASON TO KNOW OF THE DEFAULT OR VIOLATION].

* Sec. 10. AS 15.13.060 is amended by adding a new subsection to read:

(g) The principal officers of a group are responsible for the performance

of the group's campaign treasurer, and any default or violation by the campaign treasurer also shall be considered a default or violation by the principal officers of the group.

* Sec. 11. AS 15.13.070(a), (b) and (d) are amended to read:

(a) No individual, person or group, including but not limited to all political committees, businesses, corporations, and labor unions, may contribute [TO OR EXPEND] more than \$1,000 a year to a candidate [ON BEHALF OF OR IN OPPOSITION TO THE COMPETING CANDIDATES] for each elective office. Political parties and their subdivisions are not subject to the limitation prescribed in this subsection, but they are subject to the reporting requirements prescribed by §10(b) and 110 of this chapter. Nothing in this chapter prohibits

(1) a candidate from contributing more than \$1,000 of his own money to his own campaign; or

(2) individuals, persons or groups, including but not limited to all political committees, businesses, corporations, and labor unions, from contributing to or expending on behalf of a ballot proposition or question more than \$1,000 a year; however, these contributions and expenditures shall be reported in accordance with §10 and 110 of this chapter.

(b) No contribution over \$100 may be made in cash or by cash payment and it may not be accepted by or on behalf of a candidate or group.

(d) No contribution may be made, and no expenditure may be made or incurred, directly or indirectly, anonymously, in a fictitious name, or by one person or group in the name of another, to influence the election of a candidate or the outcome of an ballot proposition or question in an election. A contribution made by a person wishing to remain anonymous, and received by a candidate, or his campaign treasurer or deputy campaign treasurer, or a group may not be used or expended, but shall be returned to the donor, if his identity

is known, and if no donor is found, the contribution escheats to the state if not donated by the candidate or group to the charity of their [HIS] choice.

* Sec. 12. AS 15.13.090 is amended to read:

Sec. 15.13.090. IDENTIFICATION OF COMMUNICATION. All advertisements, billboards, handbills, paid-for television and radio announcements and other communications intended to influence the election of a candidate or outcome of a ballot proposition or question shall be clearly identified by the words "paid for by" followed by the name and address of the candidate, group, person or individual paying for the advertising. In addition, candidates and groups must identify the name of their campaign treasurer, except when a candidate is his own campaign treasurer.

* Sec. 13. AS 15.13.100 is amended to read:

Sec. 15.13.100. CONTRIBUTIONS, EXPENDITURES BEFORE FILING. Political [NO POLITICAL] campaign contributions or expenditures, [EXPENDITURE MAY BE MADE] or obligations for those expenditures, may be received or accepted and made or incurred by a person in an election or by a person or group with his knowledge and on his behalf before the date upon which he or she files for nomination for the office which the person seeks [, EXCEPT FOR PERSONAL TRAVEL EXPENSES OR FOR OPINION SURVEYS OR POLLS]. However, these contributions or [THESE] expenditures [SHALL BE CHARGED AGAINST THE SPENDING LIMITATION THAT APPLIES TO THE OFFICE FOR WHICH HE SUBSEQUENTLY FILES, AND] shall be included in the first report required under this chapter [AFTER FILING FOR OFFICE].

* Sec. 14. AS 15.13.110(a)(4), (b), and (c) are amended to read:

(a)(4) December 31 [OF EACH YEAR] for expenditures made and contributions received after the report required in (3) of this section and in a non-election year those expenditures made and contributions received which were not reported that year.

(b) Each contribution or expenditure which exceeds \$250 and which is made within 10 days [ONE WEEK] of the election shall be reported to the commission

by date, amount, and contributor or recipient within 24 hours of receipt or expenditure by the candidate or his campaign treasurer or by a group.

(c) The reports and statements required under this chapter [OF CANDIDATES] shall be filed in accordance with sec. 20(j) of this chapter [WITH THE COMMISSION'S CENTRAL OFFICE] and shall be considered as having been received timely if postmarked no later than the due date. All statements, records and reports required by this chapter are public records and shall be kept open for [TO] public inspection. Within 30 days after each election, the commission shall prepare a summary of reports [EACH REPORT] which shall be made available to the public at cost upon request. Each summary shall use uniform categories of reporting.

* Sec. 15. AS 15.13.110 is amended by adding two new sections to read:

(e) Within 10 days after making a contribution or expenditure in accordance with sec. 40(c) of this chapter, every individual or person shall file a report with the commission.

(f) A candidate who does not plan to receive contributions or make any expenditures during his campaign for elective office may file an affidavit to that effect with the commission, on a form prescribed by the commission, at the time the first report is due to be filed under (a) of this section. If, after filing an affidavit, a candidate does in fact receive a contribution or make an expenditure he shall report as otherwise required by this chapter.

* Sec. 16. AS 15.13.120(a)(2) and (5) are amended to read:

(2) making a campaign contribution [OR EXPENDITURE] which exceeds the limitations of sec. 70[(f)] of this chapter.

(5) making a communication to support or defeat a candidate or ballot proposition or question without identification of sponsorship, in violation of sec. 90 of this chapter;

* Sec. 17. AS 15.13.125 is amended to read:

Sec. 15.13.125. CIVIL PENALTY: LATE FILING OF REPORTS. A person who fails to file a properly completed and certified report within the time required by sec. 50(a), 60(c), 110(a)(1), (3), (4) or 110(d) of this chapter is subject to a civil penalty of not more than \$10 a day for each day the delinquency continues as determined by the commission subject to right of appeal to the superior court. A person who fails to file a properly completed and certified report within the time required by sec. 110(a)(2) or 110(b) of this chapter is subject to a civil penalty of not more than \$50 a day for each day the delinquency continues as determined by the commission subject to right of appeal to the superior court. An affidavit stating facts in mitigation may be submitted to the commission by a person against whom a civil penalty is assessed. However, the imposition of the penalties prescribed in this section or in sec. 120 of this chapter does not excuse that person from filing reports required by this chapter.

* Sec. 18. AS 15.13.150(2), (3), and (4) are amended to read:

(2) "contribution" means purchase, payment, or promise or obligation to pay, loan or loan guarantee, deposit or gift of money, goods or services for which charge is ordinarily made and which is made for the purpose of influencing the nomination or election of a candidate, and in §10(b) of this chapter for the purpose of influencing a ballot proposition or question, including the payment by a person other than a candidate or political party of [, OR] compensation for [OF] the personal services of another person which are rendered to the candidate or political party; however, "contribution" does not include

(A) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or ballot proposition or question, but it does include professional services

volunteered by individuals for which they ordinarily would be paid a fee or wage;

(B) services provided by an accountant or other person to prepare reports and statements required by this chapter;

(C) ordinary hospitality in a home;

(D) a personal loan from a bona fide lending institution;

(3) "group" means every state and regional executive committee of a political party, any political action committee, and, in addition, means any combination of two or more persons or individuals acting jointly who take action the major purpose of which is to influence the outcome of an election; however, a "group" does not include

(A) a candidate's personal campaign committee; or

(B) ongoing business, trade, union, or membership associations or organizations provided that their major purpose is not to influence the outcome of an election and provided that the money for any contributions or expenditures are appropriated from the general fund of such associations or organizations;

[A GROUP THAT MAKES EXPENDITURES OR RECEIVES CONTRIBUTIONS WITH THE AUTHORIZATION OR CONSENT, EXPRESS OR IMPLIED, OR UNDER THE CONTROL, DIRECT OR INDIRECT, OF A CANDIDATE SHALL BE CONSIDERED TO BE CONTROLLED BY THAT CANDIDATE; A GROUP WHOSE MAJOR PURPOSE IS TO FURTHER THE NOMINATION, ELECTION, OR CANDIDACY OF ONLY ONE PERSON, OR INTENDS TO EXPEND MORE THAN 50 PER CENT OF ITS MONEY ON A SINGLE CANDIDATE, SHALL BE CONSIDERED TO BE CONTROLLED BY THAT CANDIDATE AND ITS ACTIONS DONE WITH HIS KNOWLEDGE AND CONSENT UNLESS, WITHIN 10 DAYS FROM THE DATE THE CANDIDATE LEARNS OF THE EXISTENCE OF THE GROUP HE FILES WITH THE COMMISSION, ON A FORM PROVIDED BY THE COMMISSION, AN AFFIDAVIT THAT THE GROUP IS OPERATING WITHOUT HIS CONTROL; A GROUP ORGANIZED FOR MORE THAN ONE YEAR PRECEDING AN ELECTION AND ENDORSING CANDIDATES FOR MORE THAN ONE OFFICE OR

MORE THAN ONE POLITICAL PARTY IS PRESUMED NOT TO BE CONTROLLED BY A CANDIDATE; HOWEVER, A GROUP THAT CONTRIBUTES MORE THAN 50 PER CENT OF ITS MONEY TO OR ON BEHALF OF ONE CANDIDATE SHALL BE CONSIDERED TO SUPPORT ONLY ONE CANDIDATE FOR PURPOSES OF §70 OF THIS CHAPTER, WHETHER OR NOT CONTROL OF THE GROUP HAS BEEN DISCLAIMED BY THE CANDIDATE;]

(4) "expenditure" means a purchase or transfer of money or anything of value, or promise or agreement to purchase or transfer money or anything of value, incurred or made for (A) the purpose of [(A)] influencing the nomination or election of a candidate or any individual who files for nomination at a later date and becomes a candidate; [OR] (B) use by a political party; [OR] (C) the payment by a person other than a candidate or political party of compensation for the personal services of another person which are rendered to a candidate or political party; or (D) the purpose of influencing the outcome of a ballot proposition or question; however, "expenditure" does not include a candidate's filing fee or the cost of preparing reports and statements required by this chapter;

* Sec. 19. AS 15.13.030 is amended by adding two new subsections to read:

(5) "instrumentality of the state" means a state department or agency, whether in the legislative, judicial, or executive branch, including such entities as the University of Alaska and the Alaska Housing Authority;

(9) "political committee" means a candidate's campaign committee or any group under the control of the candidate as defined in sec. 50 of this chapter.

* Sec. 20. AS 15.13.070(f) and (g) and AS 15.13.080 are repealed.