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Power Production Cost Assistance (eligibility qualifications)

SENATE BILL NO. 166, by Senator Sackett. Amends the eligibility qualifications of an electric utility for power production cost assistance payable by the Alaska Power Authority. Amends AS 44.83.162(e)(2) (Power Production Cost Assistance) to read: "(e) The power production cost assistance program shall be administered by the authority based on a determination by the commission of adjusted power production cost of each electric utility eligible for power production cost assistance. An electric utility is eligible for power production cost assistance if (2) at least 15 percent of the units served [TOTAL ENERGY SOLD] by an electric utility during the calendar year preceding the year in which power production cost assistance may be claimed were [WAS FOR] residential [USE]." Provides Act retroactive to January 1, 1981 and determines the eligibility of an electric utility for payment of power production cost assistance under AS 44.83.-162 - 44.83.164 for calendar year 1981. Provides Act takes effect immediately.

Introduced February 9 and referred to Labor & Commerce, then to Finance.

Alaska Public Offices Commission

SENATE BILL NO. 167, by Senator Kelly. Revises sections of statutes dealing with the Alaska Public Offices Commission (APOC). Statutes affected: AS 15.12 (State Election Campaigns); AS 24.45 (Regulation of Lobbying) and AS 39.50, (Public Officers and Employees).

Changes relating to State Election Campaigns: Repeals section 020(c) (Alaska Public Offices Commission), section states that the four members of the commission selected by the governor shall by majority vote, appoint the fifth member of the commission. Repeals section 040(f) (Contributions, expenditures and supplying of services to be reported), section states that all businesses, groups or persons furnishing services, facilities, or supplies to candidate or group shall maintain a record of each transaction. Lists types of media coverage to be listed, and states that supplier shall file a report of the complete record of each transaction in excess of \$250, and that all records be available for public inspection. Repeals section 070(f) (Contributions and expenditures; amount and form of payment) which outlines expenditure limitations for candidates running for governor or lieutenant governor, state senate and state house of representatives (includes limitations for both a primary and a general election). Section 110(a)(1) (Filing of reports), requires candidate to make a full report of all contributions received and expenditures made, and lists times at which reports must be filed. Section 110(d), (Filing of reports), relates to filing of reports by suppliers, and states that within 30 days after each election, the commission shall prepare a summary by candidate or group of the transactions and make the summaries public. Section 120(b), (Penalty; limitations on actions), provides that nomination or election of a candidate who violates provision of chapter, or whose campaign treasurer or deputy treasurer violates provisions, is void, and, if elected, the

successful candidate may not hold office. States that when violation is alleged, candidate's right to the nomination or the office may be tested in an action brought in the supreme court, and cases shall be in a preferred position for purposes of argument and decision so as to assure a speedy disposition of the matter.

Amendments to AS 15.13, sections repealed & reenacted and additions include: section 010(a) (Applicability), states that a municipality may exempt candidates for municipal office and persons and groups active in municipal election campaigns if a majority of the voters vote to exempt them (currently states that a municipality may exempt its elected municipal officers if voters agree). Section 020(b) (Alaska Public Officers Commission), relates to make-up of the APOC, and states that the commission consists of five members appointed by the governor and confirmed by the legislature. No more than two of the members may be of the same political party (currently states that the governor shall appoint two members of each of the two political parties whose candidate for governor received the highest number of votes in the most recent general election at which a governor was elected, and that the two appointees from each party shall be chosen from a list of four names submitted by the central committee of each party.). Section 020(d) (APOC), states that member of the commission serves three year terms, serves until his successor is appointed and qualified, terms of members who are members of the same political party may not expire in consecutive years, term of office dates from Feb. 1 or the year of appointment. (section presently provides members draw lots to determine length of term, provides for staggered terms for initial appointees, with subsequent five-year terms for appointed members, and further states that no member may serve more than one five year term. Section 020(h) (APOC), states that the governor shall fill a vacancy (presently vacancy filled by "appropriate appointing authority). Section 030 (Duties of the Commission), new language added stating that new or amended regulations of the commission may not be applied to a candidate or a group beginning 30 days before the last day to file declaration of candidacy or a nominating petition in state and municipal elections and ending the day after the general or municipal election. Section 040(d), (Contributions, expenditures and supplying of services to be reported) states that every individual, person and every group not required to report under subsection (b) (relates to groups making expenditures of \$100 or more) shall make a full report of any expenditures whatsoever for advertising (outlines types of advertising) for or against any candidate, ballot proposition or question. Section 040(e) deletes provision that report containing itemized list of expenditures be provided to candidate, campaign treasurer or deputy campaign treasurer at the time the contribution is made. Adds new section to AS 15.13 relating to filing a report of no campaign activity, stating that a candidate who

does not intent to receive contributions or make expenditures may file a report informing the commission of his intent. States report may be filed only once either before or at the time first report is due. Candidate forfeits exemption if he receives contributions or makes expenditures and must report in accordance with requirements. If unsolicited contribution is returned within 72 hours exemption is not lost. New subsection added to section 045 (Investigation, hearings) stating that regulations shall be adopted by the commission to establish fair and impartial process for taking of evidence and holding hearings in investigations and audits of the commission. Section 050 (Groups) is amended by addition of new language which relates to expenditures and contributions of groups. States that a group making expenditures or receiving contributions with the express or implied authorization or consent, or under the direct or indirect control, of a candidate, is considered to be controlled by that candidate. Also states that a group whose major purpose is to further the nomination or election of a single candidate, or which intends to expend 50 percent or more of its money on a single candidate, is considered to be controlled by that candidate, and its actions considered to have been done with the knowledge and consent of the candidate unless, within 10 days from the date the candidate learns from the commission of the existence of the group, he files an affidavit certifying that the group is operating without his control. Group contributing 50 percent or more of its money to one candidate is considered to support only that candidate whether or not control of the group has been disclosed by that candidate. States that a group organized for more than one year preceding an election which endorses a candidate for more than one office or candidates of more than one political party is presumed not to be controlled by a single candidate. Section 070(a), (Contributions and expenditures; amount and form of payment) adds language which states "A candidate may accept contributions of \$5 or less without recording the name of the contributor." Section 090 (Identification of Communication) is amended by addition of new subsection which states that the commission may exempt communications which do not afford space for the identification required. Section 100 (Expenditures before filing) changes title of section to "Expenditures, contributions and registration before filing", and states that contributions may be made or received and expenditures may be made or incurred before the date upon which candidate files for nomination, however, these contributions and expenditures shall be included in the first report (presently states that no expenditure may be made or incurred before the date upon which person filed except for personal travel expenses or for opinion surveys or polls. These expenditures shall be charged against the spending limitation that applies to the office for which person subsequently filed and shall be included in the first report). Section 110(a)(2) (Filing of reports), states that candidate and groups shall make a full report during the period ending three days before the due date of the report and beginning on the last day covered by the most recent previous report, or, if a first report, all

contributions received and expenditures made before the due date of the report. States that the report shall be filed "(2) 10 days . . ." before the election (currently one week). Section 110(b) is amended to reflect change to 10 days, stating that each contribution exceeding \$250 which is made within 10 days of the election shall be reported within 48 (now 24) hours of receipt by the candidate, campaign treasurer or deputy treasurer. Section 110 is further amended by addition of a new subsection stating that final report is filed if there is no outstanding debt or obligation, the campaign fund is closed, campaign is concluded, and in the case of a group, the group has been dissolved. Report to be filed by candidate or group, and after final report duties of treasurer cease. New section added to AS 15.13 entitled "Complaints", which states that a person who believes violation has occurred may file a complaint with the commission. Commission may investigate if there is substantial reason to believe violation has occurred. Provides for expeditious investigation, and provides that investigation may include but is not limited to an investigation of the reports and statements filed by the complainant, if he is a candidate. States that if commission determines that a person has engaged in or is engaged in a violation it shall promptly report to the attorney general for appropriate action. Commission shall report determination to person who filed complaint within 60 days of receiving complaint, unless circumstances require additional time to make an adequate investigation. Determination of commission may be appealed to superior court. Section 120(a) (Penalty; limitations on actions) amended, changing penalty to a class A misdemeanor (presently misdemeanor) and deletes "and, upon conviction, is punishable by imprisonment for not more than one year or by a fine of not more than \$5,000." States that a violation includes (deletes "but is not limited to") refusing or failing to make a statement or report required to be made, knowingly making a false statement or report, knowingly making a campaign contribution which exceeds limitations. Deletes subsection (5) "Making a communication to support or defeat a candidate without identification of sponsorship, in violation of AS 15.13.090;". Amends section 120(c) by deleting provision which states that commission shall notify contributors who failed to file a statement. Adds language stating that commission shall report to the AG names of all candidates and groups whose treasurers have failed to file reports required. Repeals and reenacts section 120(e), stating that prosecution for violation of a provision of this chapter may not be commenced after one year has elapsed from the date of the alleged violation. (section now provides that prosecution may not be commenced after four years have elapsed from the date of the alleged violation). Adds new section to AS 15.13, relating to the effect of certain convictions (sec. 121). States that the eligibility of successful candidates who are convicted of a misdemeanor (relating to failure to make reports, making false statements or accepting contribution in violation of provisions) shall be determined by the constitution or statute governing the rules or procedures of the body to which the candidate was elected. Provides for

prompt trial with a preferred status to ensure a speedy disposition of the matter. Amends section 125 (Civil Penalty: Late Filing of Required Reports) by deletion of subsection (3) which states that a person who fails to file a report within 10 days after the election is subject to a civil penalty of not more than \$10 a day for each day the delinquency continues. Repeals and reenacts definition of "candidate" (sec. 130(1)) by addition of language which states that an individual shall be considered to seek nomination or election if he meets certain qualifications (has taken action necessary to qualify for nomination or election; has received contributions or made expenditures before filing; has given consent to receive contributions or make expenditures to bring about his nomination or election; has campaigned; or is subject to a recall election). Amends section 130(2) (definition of "contribution") by deletion of "services" from the meaning. Also deletes language which states that a contribution does not include "professional services volunteered by individuals for which they ordinarily would be paid a fee or wage;". Adds language which states that a contribution does not include: "a contribution that is returned to the contributor within 72 hours of its receipt by a candidate or group;"

Changes relating to Regulation of Lobbying: Repeals and reenacts section 141(a) (Registration) to read: "Registration with the commission in accordance with the provisions of this section is required of (1) a lobbyist, before he engages in lobbying; or (2) an individual who is exempt from registration under AS 24.45.161(a)(1) and who loses the exemption, within 15 days after he loses the exemption." (Section now reads: "Before engaging in lobbying, a lobbyist shall file a registration statement on a form prescribed by the commission."). Amends section 041(e), (Registration), stating that the commission may (presently "shall") publish supplements to directory of registered lobbyists. Deletes reference to availability of directory at central office of the commission. Repeals and reenacts section 051 (Reports). States lobbyist shall file a report regardless of the amount of expenditures made or payments received by him. States report shall contain the amount (now reads "source") of income (deletes "and the monetary value of all payments") including but not limited to salary, fee, retainer, or other things of value, together with the full name and complete address of each source of income; Adds office expenses and secretarial services to list of expenditures which must be included. Adds language stating that lobbyist must include gifts in excess of \$100 made to member of the immediate family of a public official, and the name of each member who is a recipient of a gift. States lobbyist must report the name and address of any business with whom lobbyist has exchanged money, goods, services, or anything of value if lobbyist knows or has reason to know that a public official is a proprietor, partner, director, officer or manager or has controlling interest, if monetary value exchanged is \$1,000 or more in a calendar year (now reads \$100 or more in a calendar year).

Adds new subsection (b) which states "A report required to be filled under this section shall include all amounts which are received by the lobbyist or which are due to him as consideration for, or directly or indirectly in support of, or in connection with, influencing legislative or administrative action." Amends section 061 (Reports by employers of lobbyists) by addition of language relating to a group employing, retaining, or contracting for the services of a lobbyist. Also states that the value of any gift exceeding \$100 be reported, including gifts "to a member of the immediate family of a public official". Repeals and reenacts section 081 (Reporting Periods), stating that each calendar quarter is a reporting period, and that reports shall be filed not later than the 15th day of the end of reporting period by registered lobbyists and persons or groups who employ lobbyists or representational lobbyists. (section now states that reports shall be filed during the calendar month following each calendar month during any part of which the legislature was in session and during the month following each calendar quarter when the legislature was not in session. Also states that lobbyist who has registered only to influence administrative action and not legislative action need only file quarterly). Section also states reports shall cover period from date of registration, or from the final date of the last report filed through the date of the end of the quarter for which report is being filed. Amends section 091, Publication of Reports stating that copies of statements and reports be made available at district office (presently central office) in the state capital. Deletes reference to "district offices". Amends section 161(a)(1), (Exemptions), to read: "(a) This chapter does not apply to (1) an individual (A) who lobbies without payment or compensation, or other consideration and makes no disbursement or expenditure for or on behalf of a public official to influence legislative or administrative action other than to pay his reasonable personal travel and living expenses; or [AND] (B) who limits his lobbying activities to appearances before public sessions of the legislature, or its committees or subcommittees, or to public hearings or other public proceedings of state agencies;" ("or" added, "and" deleted). Amends definition of "immediate family" (section 171(4)), changing "individual" to "public official". Subsection (6), definition of "influencing legislative or administrative action" to mean "promoting, advocating, supporting, modifying, opposing or delaying or attempting [SEEKING] to do any of these [THE SAME] with respect to any legislative or administrative action by means including but not limited to the provision or use of information, statistics, studies, analyses in written or oral form or format; the term excludes inquiries about or activity conforming to procedures required by law;" Adds new definition, paragraph (13). "source of income: means (A) the person or group for which lobbying services are performed; or (B) the person or group which is the origin or payment for lobbying services, or the direct employer of the lobbyist, or both."

Changes relating to Public Officers and Employees: sec. 020(a), (Report of Financial and Business Interests) by addition of language which states that a candidate for state office shall file a financial statement within 30 days of becoming a candidate "unless he files for office during a year other than the year in which he seeks nomination or election to office. If a candidate files for office during a year other than the year in which he seeks nomination or election to the office, he shall file a statement required by this subsection on or before April 15 of the election year." Further language added which states: "A public official who files for state elective office is not required to file a statement at the time he becomes a candidate, but a municipal officer who files for state elective office shall file a copy of the statement which he has filed for municipal office with the commission." Deletes language which states that statement filed by public officials shall be filed by April 15 "or 15 days after the person files his federal income tax return, . . . whichever shall come first." Persons who, on or after December 11, 1974, were members of boards or commissions not named in AS 39.50.200(9) are not required to file financial statements." Amends section 030(b) by deletion of reference to "nondependent child" of public official or candidate.

Provides terms of members of the APOC expire on the effective date of this Act. States governor shall appoint five members two of whom shall serve three years; two shall serve two years and one member shall serve for one year. The governor shall designate terms of members appointed. Provides Act takes effect July 1, 1981.

Introduced February 9 and referred to State Affairs, then to Judiciary.

Municipal Aid Program

SENATE BILL NO. 168, by Senators Dankworth, Kerntula, Ferguson, Gilman, Bennett, Kelly, Stimson, Mulcahy, Rodey, Eliason, Bradley, Fischer, Ray, Ziegler, Fahrenkamp and Hohman. Establishes a special municipal aid program, providing for an annual entitlement to qualified municipalities to be used for capital projects at the discretion of the municipality. Program to be administered by the Dept. of Community & Regional Affairs. Provides each municipality is entitled to receive \$1,000 per person residing within municipal boundaries, or \$25,000, whichever is greater. States to qualify, municipality must agree to collect no more than 80 percent of the sales and use taxes levied in 1981, or no more than 80 percent of the taxes levied on real property in 1981. Eligibility requirement does not apply to tax levied on oil and gas production and pipeline property or to a tax levied on unimproved land. Agreement must be submitted in writing to Dept. by 10/1/81. Provides entitlement for unorganized borough of \$1,000 per person residing within the unorganized borough. The department shall administer entitlement and disburse money for capital projects upon authorization of legislature. Populations to be based on latest census or other population date which, in Department's judgment is reliable. For purposes of determin-

Introduced: 2/9/81
Referred: State Affairs and
Judiciary

1 IN THE SENATE

BY KELLY

2 SENATE BILL NO. 167

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Public Offices Commis-
7 sion; and providing for an effective date."

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

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

10 (a) This chapter applies in every election for governor, lieuten-
11 ant governor, a member of the state legislature, a delegate to a con-
12 stitutional convention, or judge seeking electoral confirmation. It
13 also applies to every candidate for election to a municipal office in a
14 city or borough with a population of more than 1,000 inhabitants accord-
15 ing to the latest United States census figures or estimates of popula-
tion as certified as correct for administrative purposes by the Department

1 * Sec. 2. AS 15.13.020(b) is repealed and reenacted to read:

2 (b) The commission consists of five members appointed by the
3 governor and confirmed by the legislature. No more than two of the
4 members of the commission may be of the same political party.

5 * Sec. 3. AS 15.13.020(d) is repealed and reenacted to read:

6 (d) Members of the commission serve three-year terms. A member
7 of the commission serves until his successor is appointed and quali-
8 fied. The terms of two commission members who are members of the same
9 political party may not expire in consecutive years. The term of
10 office of a member of the commission dates from February 1 of the year
11 of appointment.

12 * Sec. 4. AS 15.13.020(h) is amended to read:

13 (h) A vacancy on the commission shall be filled by the governor
14 [APPROPRIATE APPOINTING AUTHORITY] within 30 days of the occurrence of
15 the vacancy. The appointee shall serve for the remaining term of his
16 predecessor.

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not required to report in accordance with (b) of this section, making
an [A CONTRIBUTION OR] expenditure shall make a full report, upon a
form prescribed by the commission, of [THE FOLLOWING CONTRIBUTIONS OR
EXPENDITURES: (1) ANY CONTRIBUTION OF CASH, GOODS OR SERVICES VALUED
* MORE THAN \$100 A YEAR TO ANY GROUP OR CANDIDATE; OR (2)] any expen-

1 ing date following the receipt of a contribution or the making of an
2 expenditure by the candidate. A candidate who receives an unsolicited
3 contribution and returns the contribution to the contributor within 72
4 hours of its receipt does not lose the exemption provided in this
5) section.

1 he files with the commission, on a form provided by the commission,
2 an affidavit certifying that the group is operating without his con-
3 trol. A group that contributes 50 percent or more of its money to or
4 on behalf of a single candidate is considered to support only that
5 single candidate for purposes of AS 15.13.070, whether or not con-
6 trol of the group has been disclaimed by the candidate. A group or-
7 ganized for more than one year preceding an election which endorses
8 candidates for more than one office or candidates of more than one
9 political party is presumed not to be controlled by a single candidate.

10 * Sec. 11. AS 15.13.070(a) is amended to read:

11 (a) A [NO] person or group, including but not limited to all
12 political committees, businesses, corporations, and labor unions, may
13 not contribute [TO OR EXPEND] more than \$1,000 a year on behalf of or
14 in opposition to a candidate [THE COMPETING CANDIDATES] for [EACH]
15 elective office. Political parties and their subdivisions are not
16 subject to the limitation prescribed in this subsection, but they are
17 subject to the reporting requirements prescribed by AS 15.13.040(b) and
18 15.13.110. Nothing in this chapter prohibits

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

21 (2) individuals or groups, including but not limited to all
22 political committees, businesses, corporations, and labor unions, from
23 contributing to or expending on behalf of a ballot proposition or ques-
24 tion more than \$1,000 a year; however, these contributions and expendi-
25 tures shall be reported in accordance with AS 15.13.040 and 15.13.110.

26 * Sec. 12. AS 15.13.070(d) is amended to read:

27 (d) No contribution may be made, and no expenditure may be made
28 or incurred, directly or indirectly, anonymously, in a fictitious name,
29 or by one person or group in the name of another, to influence the

1 election of a candidate in an election. A contribution made by a
2 person wishing to remain anonymous, and received by a candidate, cam-
3 paign treasurer or deputy campaign treasurer, may not be used or ex-
4 pended, but shall be returned to the donor, if his identity is known,
5 and if no donor is found, the contribution escheats to the state if not
6 donated by the candidate to the charity of his choice. A candidate
7 may accept contributions of \$5 or less without recording the name of
8 the contributor.

9 * Sec. 13. AS 15.13.090 is amended by adding a new subsection to read:

10 (b) The commission may by regulation exempt from the requirements
11 (a) of this section communications which in its judgment do not
12 afford space for the identification required under (a) of this section.

13 * Sec. 14. AS 15.13.100 is amended to read:

14 Sec. 15.13.100. EXPENDITURES, CONTRIBUTIONS AND REGISTRATION BE-
15 FORE FILING. Political campaign contributions may be made or received,
16 and expenditures [NO POLITICAL CAMPAIGN EXPENDITURE] may be made or
17 incurred by a candidate [PERSON] in an election, or by a person or
18 group with the candidate's [HIS] knowledge and on the candidate's [HIS]
19 behalf, before the date upon which the candidate [HE OR SHE] files for
20 nomination for the office which he [THE PERSON] seeks. However, these
21 contributions and expenditures [, EXCEPT FOR PERSONAL TRAVEL EXPENSES
22 OR FOR OPINION SURVEYS OR POLLS. THESE EXPENDITURES SHALL BE CHARGED
23 AGAINST THE SPENDING LIMITATION THAT APPLIES TO THE OFFICE FOR WHICH HE
24 SUBSEQUENTLY FILES, AND] shall be included in the first report required
25 under AS 15.13.110 [THIS CHAPTER AFTER FILING FOR OFFICE].

26 * Sec. 15. AS 15.13.110(a)(2) is amended to read:

27 (2) 10 days [ONE WEEK] before the election;

28 * Sec. 16. AS 15.13.110(b) is amended to read.

29 (b) Each contribution [OR EXPENDITURE] which exceeds \$250 and

*part of Sec. 16
work draft*

*Sec. 15
deleted*
*Sec. 18
of work,
draft*

1 which is made within 10 days [ONE WEEK] of the election shall be re-
2 ported to the commission by date, amount, and contributor [OR RECIP-
3 IENT] within 48 [24] hours of receipt [OR EXPENDITURE] by the candidate
4 or campaign treasurer or deputy treasurer.

5 * Sec. 17. AS 15.13.110 is amended by adding new subsections to read:

6 (f) The report required by (a)(3) of this section is the final
7 report if at the time the report is made

8 (1) there is no outstanding debt or obligation;

9 (2) the campaign fund has been closed;

10 (3) the campaign has been concluded; and

11 (4) in the case of a group, the group has dissolved.

12 (g) Reports shall be filed as required by (a)(4) of this section
13 by

14 (1) a candidate who has an outstanding debt or obligation
15 until the debt or obligation is satisfied;

16 (2) a group that has an outstanding debt or obligation until
17 the debt or obligation is satisfied or until the group is dissolved.

18 (h) When a final report has been submitted under this section,
19 the duties of the campaign treasurer cease and there is no obligation
20 to file further reports.

21 * Sec. 18. AS 15.13 is amended by adding a new section to read:

22 Sec. 15.13.115. COMPLAINTS. (a) A person who believes that a
23 violation of this chapter has occurred may file a complaint with the
24 commission. If the commission determines that there is substantial
25 reason to believe that a violation of this chapter has occurred, it
26 shall expeditiously investigate the subject matter of the complaint.
27 The investigation may include but is not limited to an investigation of
28 the reports and statements filed with the commission by the complainant,
29 if he is a candidate.

1 (b) If the commission determines, after notice and opportunity
2 for a hearing, that person has engaged in or is engaged in an act
3 which is a violation of this chapter or of a regulation or order issued
4 under this chapter, the commission shall promptly report its deter-
5 mination to the attorney general for appropriate action.

6 (c) The commission shall report its determination to the person
7 who filed the complaint within 60 days of receiving the complaint,
8 unless circumstances require additional time to make an adequate inves-
9 tigation.

10 (d) The determination of the commission on a complaint may be
11 appealed to the superior court.

12 * Sec. 19. AS 15.13.120(a) is amended to read:

13 (a) A person who violates a provision of t' is section [CHAPTER]
14 is guilty of a class A misdemeanor [AND, UPON CONVICTION, IS PUNISHABLE
15 BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR OR BY A FINE OF NOT MORE
16 THAN \$5,000]. A violation includes [BUT IS NOT LIMITED TO] any of the
17 following acts or omissions:

18 (1) refusing or failing to make a statement or report re-
19 quired to be made under this chapter [, OR FAILING TO MAKE A STATEMENT
20 OR REPORT AT THE TIME THE STATEMENT OR REPORT IS REQUIRED TO BE MADE
21 UNDER THIS CHAPTER];

22 (2) knowingly making a campaign contribution [OR EXPENDITURE]
23 which exceeds the limitations of AS 15.13.070(a) [AS 15.13.070(f)];

24 (3) knowingly making a false statement or report under this
25 chapter;

26 (4) giving or furnishing money to another person or groups
27 for the purpose of making a contribution or expenditure anonymously, in
28 a fictitious name, or in the name of another, or contributing in viola-
29 tion of AS 15.13.070(d);

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[(5) MAKING A COMMUNICATION TO SUPPORT OR DEFEAT A CANDIDATE WITHOUT IDENTIFICATION OF SPONSORSHIP, IN VIOLATION OF AS 15.13.090;]

(6) knowingly accepting a contribution in violation of AS 15.13.070.

* Sec. 20. AS 15.13.120(c) is amended to read:

(c) Promptly after the final date for filing statements and reports, the commission shall notify all persons who have become delinquent in filing them, [INCLUDING CONTRIBUTORS WHO FAILED TO FILE A STATEMENT IN ACCORDANCE WITH AS 15.13.040,] and shall make available a list of these delinquents for public inspection. The commission shall also report to the attorney general the names of all candidates and groups in an election whose campaign treasurers have failed to file the reports required by this chapter.

* Sec. 21. AS 15.13.120(e) is repealed and reenacted to read:

(e) Prosecution for violation of a provision of this chapter may not be commenced after one year has elapsed from the date of the alleged violation.

* Sec. 22. AS 15.13 is amended by adding a new section to read:

Sec. 15.13.121. EFFECT OF CERTAIN CONVICTIONS. (a) If a successful candidate for the state legislature or for a seat on a city council or borough assembly or for borough or city mayor is convicted of a misdemeanor described in AS 15.13.170(a)(1), (3), or (6), the eligibility of the successful candidate to hold the office to which elected shall be determined as to

- (1) a member of the legislature under art. II, sec. 12 of the state constitution;
- (2) a borough assemblyman under AS 29.23.060(c);
- (3) a borough mayor under AS 29.23.130(f);
- (4) a city councilman under AS 29.23.210(b);

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1 (5) a city mayor under AS 29.23.255.

2 (b) When a candidate or a nominee is charged with a misdemeanor
3 described in (a) of this section, the case shall be promptly tried and
4 the case shall be accorded a preferred status by the courts to ensure a
5 speedy disposition of the matter.

6 * Sec. 23. AS 15.13.125 is amended to read:

7 Sec. 15.13.125. CIVIL PENALTY: LATE FILING OF REQUIRED REPORTS.
8 A person who fails to file a properly completed and certified report
9 within the time required by AS 15.13.110(a)(1), [(3),] (4) or (d) is
10 subject to a civil penalty of not more than \$10 a day for each day the
11 delinquency continues as determined by the commission subject to right
12 of appeal to the superior court. A person who fails to file a properly
13 completed and certified report within the time required by AS 15.13.-
14 110(a)(2) or (b) is subject to a civil penalty of not more than \$50 a
15 day for each day the delinquency continues as determined by the commis-
16 sion subject to right of appeal to the superior court. An affidavit
17 stating facts in mitigation may be submitted to the commission by a
18 person against whom a civil penalty is assessed. However, the imposi-
19 tion of the penalties prescribed in this section or in AS 15.13.120
20 does not excuse that person from filing reports required by this chap-
21 ter.

22 * Sec. 24. AS 15.13.130(1) is repealed and reenacted to read:

23 (1) "candidate" means an individual who seeks nomination for
24 election to, or election to, the state legislature, the office of
25 governor or lieutenant governor, or municipal office, or who seeks
26 retention in judicial office or nomination or election as a constitu-
27 tional convention delegate; an individual shall be considered to seek
28 nomination or election if

29 (A) he has taken the action necessary under the law of

*Deleted
insert*

same

1 this state to qualify himself for nomination or election to an
2 office;

3 (B) he has received contributions or made expenditures
4 before filing for office;

5 (C) he has given his consent, implicit or explicit, for
6 a person or group to receive contributions or make expenditures to
7 bring about his nomination or election to office;

8 (D) he has campaigned as a write-in candidate for
9 office; or

10 (E) he is the subject of a recall election;

11 * Sec. 25. AS 15.13.130(2) is amended to read:

12 (2) "contribution" means purchase, payment, promise or obli-
13 gation to pay, loan or loan guarantee, deposit or gift of money or [,]
14 goods [OR SERVICES] for which charge is ordinarily made and which is
15 made for the purpose of influencing the nomination or election of a
16 candidate, and in AS 15.13.010(b) for the purpose of influencing a
17 ballot proposition or question, including the payment by a person other
18 than a candidate or political party, or compensation of the personal
19 services of another person which are rendered to the candidate or poli-
20 tical party; however, "contribution" does not include

21 (A) services provided without compensation by individ-
22 uals volunteering a portion or all of their time on behalf of a
23 candidate or ballot proposition or question [, BUT IT DOES INCLUDE
24 PROFESSIONAL SERVICES VOLUNTEERED BY INDIVIDUALS FOR WHICH THEY
25 ORDINARILY WOULD BE PAID A FEE OR WAGE];

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

28 (C) ordinary hospitality in a home;

29 (D) a contribution that is returned to the contributor

Part Deleted

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1 within 72 hours of its receipt by a candidate or group.

2 * Sec. 26. AS 24.45.041(a) is repealed and reenacted to read:

3 (a) Registration with the commission in accordance with the pro-
4 visions of this section is required of

5 (1) a lobbyist, before he engages in lobbying; or

6 (2) an individual who is exempt from registration under
7 AS 24.45.161(a)(1) and who loses the exemption, within 15 days after he
8 loses the exemption.

9 * Sec. 27. AS 24.45.041(e) is amended to read:

10 (e) Within 45 days after the convening of each regular session of
11 the legislature, the commission shall publish a directory of registered
12 lobbyists, containing the information prescribed in (b) of this section
13 for each lobbyist, and the photograph, if any, furnished by a lobbyist
14 under (c) of this section. The [FROM TIME TO TIME THEREAFTER THE]
15 commission may [SHALL] publish [THOSE] supplements to the directory
16 that [IN] the commission considers [COMMISSION'S JUDGMENT MAY BE]
17 necessary. The directory shall be made available to public officials
18 and to the public at [THE FOLLOWING LOCATIONS:] a public place adjacent
19 to the legislative chambers in the state capitol. If a district of-
20 office is not maintained by the commission in the capital, the direc-
21 tory shall be made available at [BUILDING,] the office of the lieuten-
22 ant governor and in [.] the legislative reference library of the
23 Legislative Affairs Agency [AND THE COMMISSION'S CENTRAL OFFICE].

24 * Sec. 28. AS 24.45.051 is repealed and reenacted to read:

25 Sec. 24.45.051. REPORTS. (a) A lobbyist registered under AS 24.-
26 45.041 shall file a report with the commission concerning his activi-
27 ties during each reporting period in which he is registered with the
28 commission, regardless of the amount of expenditures made or payments
29 received by him. The report shall be made on a form prescribed by the

1 commission and shall be filed in accordance with AS 24.45.071 and
2 24.45.081. The report shall contain the following:

3 (1) the amount of income, including but not limited to
4 salary, fee, retainer, or other things of value, together with the full
5 name and complete address of each source of income;

6 (2) the amount of expenditures made or indebtedness incurred
7 during the reporting period and during the calendar year to date by the
8 lobbyist, or by the lobbyist and payable by the employer of the lobby-
9 ist, or reimbursable to the lobbyist by his employer, including but not
10 limited to expenditures for

11 (A) food and beverages;

12 (B) living accommodations;

13 (C) travel;

14 (D) office expenses, including rent and utilities; and

15 (E) secretarial services;

16 (3) the date, nature, and monetary value of any gift or
17 gifts exceeding \$100 in value in the aggregate made to a public offi-
18 cial, or to a member of the immediate family of a public official,
19 during the calendar year and the full name and official position of the
20 public official, and the name of each member of the immediate family of
21 the public official who is a recipient of a gift;

22 (4) the name and official position of each public official,
23 and the name of each member of the immediate family of the public offi-
24 cial, with whom the lobbyist has exchanged money, goods, services or
25 anything of more than \$100 in value, the nature and date of each of
26 these exchanges, and the monetary values exchanged;

27 (5) the name and address of any business in which the
28 lobbyist knows or has reason to know that a public official is a pro-
29 prietor, partner, director, officer or manager, or has controlling

1 interest, with whom the lobbyist exchanged money, goods, services, or
2 anything of value and the nature and date of each exchange and the
3 monetary value exchanged, if the total value of these exchanges is
4 \$1,000 or more in a calendar year; and

5 (6) a notice of termination, if the lobbyist has ceased the
6 lobbying activity which required his registration under this chapter
7 and if the report is the final report of his activities.

8 (b) A report required to be filed under this section shall include
9 all amounts which are received by the lobbyist or which are due to him
10 as consideration for, or directly or indirectly in support of, or in
11 connection with, influencing legislative or administrative action.

12 * Sec. 29. AS 24.45.061 is amended to read:

13 Sec. 24.45.061. REPORTS BY EMPLOYERS OF LOBBYISTS. (a) Within
14 15 days after employing, retaining or contracting for the employment or
15 retention of a lobbyist, the person or group employing, retaining, or
16 contracting [WHO EMPLOYES, RETAINS, OR WHO CONTRACTS] for the services
17 of a lobbyist shall file a statement with the commission authorizing or
18 verifying that employment, retention or contract for lobbying services.

19 (b) A person or group who employs, retains or who contracts for
20 the services of one or more lobbyists, whether independently or jointly
21 with others [OTHER PERSONS], and who directly or indirectly makes pay-
22 ments to influence legislative or administrative action shall file a
23 [QUARTERLY] report containing

24 (1) the full name, complete business address and telephone
25 number of the person or group making the report;

26 (2) information sufficient to identify the nature and inter-
27 ests of the person or group making the report;

28 (3) the total amount of payment, made or indebtedness in-
29 curring during the period to influence legislative or administrative

1 action [DURING THE PERIOD], and the name and address of each person to
2 whom these payments have been made or for whom the indebtedness was
3 incurred [DURING THE PERIOD BY THE MAKER OF THE REPORT], together with
4 the [DATE AND] amount of payment;

5 (4) the date, [AND] nature, and value of any gift exceeding
6 \$100 in value made during the reporting period to any public official,
7 or to a member of the immediate family of a public official, and the
8 full name and official position of the public official, along with the
9 name of each member of the immediate family of the public official who
10 is a recipient of a [EACH] gift;

11 (5) a general description of the legislative or administra-
12 tive action which the person or group making the report has attempted
13 to influence;

14 (6) the name of each lobbyist employed or retained by the
15 person or group making the report, together with the total amount paid
16 to each lobbyist and the portion of that amount, if any, which was paid
17 for specific purposes, including salary, fees, and reimbursement for
18 expenses; and

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

23 * Sec. 30. AS 24.45.081 is repealed and reenacted to read:

24 Sec. 24.45.081. REPORTING PERIODS. (a) Each calendar quarter is
25 a reporting period. Reports shall be filed with the commission not
26 later than the 15th day of the end of each reporting period by

27 (1) persons registered as lobbyists; and

28 (2) persons or groups who, under AS 24.45.061, employ lobby-
29 ists or representational lobbyists.

1 (b) The reports filed shall cover the period from the date of
2 registration, or from the final date of the last report filed under
3 this chapter, through the date of the end of the calendar quarter for
4 which the report is being filed. The period covered may not include
5 any months covered in previous reports filed by the same person. When
6 total amounts are required to be reported, totals shall be stated both
7 for the period covered by the report and for the entire calendar year
8 to date.

9 * Sec. 31. AS 24.45.091 is amended to read:

10 Sec. 24.45.091. PUBLICATION OF REPORTS. Copies of the statements
11 and reports filed under this chapter shall be made available to the
12 public at the commission's district [CENTRAL] office in the state
13 capital. If a district office is not maintained by the commission in
14 the state capital, the statements and reports shall be made available
15 in [,] the office of the lieutenant governor, and in the legislative
16 reference library of the Legislative Affairs Agency [, AND AT THE
17 COMMISSION'S DISTRICT OFFICES PRESCRIBED IN AS 15.13.020(j) AS SOON AS
18 PRACTICABLE AFTER EACH REPORTING PERIOD].

19 * Sec. 32. AS 24.45.161(a)(1) is amended to read:

20 (1) an individual (A) who lobbies without payment of compen-
21 sation, or other consideration and makes no disbursement or expenditure
22 for or on behalf of a public official to influence legislative or
23 administrative action other than to pay his reasonable personal travel
24 and living expenses; or [AND] (B) who limits his lobbying activities to
25 appearances before public sessions of the legislature, or its committees
26 or subcommittees, or to public hearings or other public proceedings of
27 state agencies;

28 * Sec. 33. AS 24.45.171(4) is amended to read:

29 (4) "immediate family" means the spouse and dependent chil-

1 dren of a public official [AN INDIVIDUAL];

2 * Sec. 34. AS 24.45.171(6) is amended to read:

3 (6) "influencing legislative or administrative action" means
4 promoting, advocating, supporting, modifying, opposing or delaying or
5 attempting [SEEKING] to do any of these [THE SAME] with respect to any
6 legislative or administrative action by means including but not limited
7 to the provision or use of information, statistics, studies, analyses
8 in written or oral form or format; the term excludes inquiries about or
9 activity conforming to procedures required by law;

10 * Sec. 35. AS 24.45.171 is amended by adding a new paragraph to read:

11 (13) "source of income" means

12 (A) the person or group for which lobbying services are
13 performed; or

14 (B) the person or group which is the origin of payment
15 for lobbying services, or the direct employer of the lobbyist, or
16 both.

17 * Sec. 36. AS 39.50.020(a) is amended to read:

18 (a) A judicial officer, commissioner, chairman or member of a
19 state commission or board specified in AS 39.50.200(9), person hired or
20 appointed as head or deputy head of, or director of a division with'in,
21 a department in the executive branch, person appointed as assistant to
22 the governor, and a municipal officer, shall file a statement giving
23 his income sources and business interests, under oath and on penalty of
24 perjury, within 30 days after he takes office as a public official.
25 A candidate [CANDIDATE;] for state elective office shall file the [SUCH
26 A] statement at the time of filing a declaration of candidacy or within
27 30 days of the filing of a [ANY] nominating petition, or within 30 days
28 of becoming a candidate by any other means, unless he files for office
29 during a year other than the year in which he seeks nomination or elec-

1 tion to office. If a candidate files for office during a year other
2 than the year in which he seeks nomination or election to the office,
3 he shall file a statement required by this subsection on or before
4 April 15 of the election year. Candidates for elective municipal
5 office shall file the [SUCH A] statement at the time of filing a nomin-
6 ating petition, declaration of candidacy, or other required filing for
7 the elective municipal office. A public official who files for state
8 elective office is not required to file a statement at the time he be-
9 comes a candidate, but a municipal officer who files for state elec-
10 tive office shall file a copy of the statement which he has filed for
11 municipal office with the commission. Refusal or failure to file
12 within the time prescribed shall require that the candidate's filing
13 fees, if any, and filing for office be refused or that his previous'y
14 accepted filing fee be returned and his name removed from the filing
15 records. A statement shall also be filed by public officials no later
16 than April 15 [OR 15 DAYS AFTER THE PERSON FILES HIS FEDERAL INCOME TAX
17 RETURN] in each following year. [, WHICHEVER SHALL COME FIRST. PERSONS
18 WHO, ON OR AFTER DECEMBER 11, 1974, WERE MEMBERS OF BOARDS OR COMMIS-
19 SIONS NOT NAMED IN AS 39.50.200(9) ARE NOT REQUIRED TO FILE FINANCIAL
20 STATEMENTS].

21 * Sec. 37. AS 39.50.030(b) is amended to read:

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

24 (1) the source of all income over \$100, including capital
25 gains, whether or not taxable, received by him or his spouse or depen-
26 dent child of his [OR NONDEPENDENT CHILD OF HIS] who is living with
27 him, during the preceding calendar year;

28 (2) the identity, by name and address, of each business in
29 which he or his spouse or dependent child of his [OR NONDEPENDENT CHILD

1 OF HIS] who is living with him was a stockholder, owner, officer,
2 director, partner, proprietor, or employee during the preceding calendar
3 year;

4 (3) the identity and nature of each interest owned by him or
5 his spouse or dependent child of his [OR NONDEPENDENT CHILD OF HIS] who
6 is living with him, in any business during the preceding calendar year;

7 (4) the identity and nature of each interest in real prop-
8 erty, including an option to buy, owned by him or his spouse or depen-
9 dent child of his [OR NONDEPENDENT CHILD OF HIS] who is living with
10 him, at any time during the preceding calendar year;

11 (5) the identity of each trust or other fiduciary relation
12 in which he or his spouse or dependent child of his [OR NONDEPENDENT
13 CHILD OF HIS] who is living with him, held a beneficial interest during
14 the preceding calendar year, a description and identification of the
15 property contained in each trust or relation, and the nature and extent
16 of the beneficial interest in it;

17 (6) any loan or loan guarantee made to him or his spouse or
18 dependent child of his [OR NONDEPENDENT CHILD OF HIS] who is living
19 with him, and the identity of the maker of the loan or loan guarantor
20 and the identity of each creditor to whom he or his spouse or dependent
21 child of his [OR NONDEPENDENT CHILD OF HIS] who is living with him owed
22 \$500 or more;

23 (7) a list of all contracts and offers to contract with the
24 state, or an instrumentality of the state, during the preceding calen-
25 dar year, held, bid or offered by him, his spouse, dependent child of
26 his [OR NONDEPENDENT CHILD OF HIS] who is living with him, his mother
27 or father or a partnership or professional corporation of which he is a
28 member, or a corporation in which he or his spouse or his children, or
29 a combination of them, hold a controlling interest; and

1 (8) a list of all mineral, timber, oil, or any other natural
2 resource lease held, or lease offer made, during the preceding calendar
3 year by him, a dependent child of his [OR NONDEPENDENT CHILD OF HIS]
4 who is living with him, his mother or father or a partnership or
5 professional corporation of which he is a member, or a corporation in
6 which he or his spouse or his children, or a combination of them, hold
7 a controlling interest.

8 * Sec. 38. AS 15.13.020(c), 15.13.040(f), 15.13.070(f) and (g), ~~15.13.110(a)(1), 15.13.110(d), and 15.13.120(b)~~ are repealed.

deletes 30 day report

10 * Sec. 39. The terms of the members of the Alaska Public Offices Commis-
11 sion expire on the effective date of this Act. The governor shall appoint
12 five members of the Alaska Public Offices Commission: two members shall
13 serve for three years; two members shall serve for two years; and one member
14 shall serve for one year. The governor shall designate the terms of the
15 members appointed.

16 * Sec. 40. This Act takes effect July 1, 1981.

SECTIONAL ANALYSIS OF CSSB 167(SA) *work draft*
"An Act relating to the Alaska Public Offices Commission..."
Prepared by the Alaska Public Offices Commission -- May 5, 1981

Section 1: Amends AS 15.13.010(a) to clarify that a municipality voting on exemption from AS 15.13 is voting to exempt candidates (rather than "elected municipal officers"), persons, and groups active in municipal election campaigns. Also eliminates the present applicability of AS 15.13 to municipal candidates for service area boards or any local board or local commission which is advisory only.

Section 2: Amends AS 15.13.020(b) so that the fifth member of the Commission is appointed by the Governor (not by the other four members) without regard to party affiliation; does not specify that the members are subject to Legislative confirmation.

Section 3: Amends AS 15.13.020(d) to delete references to the fifth member of the Commission for consistency with new method of appointment in Section 2; retains present 5 - year term of commission members. (SB 167 proposed three year terms which would have made it impossible to prevent the terms of 2 members of the same party from expiring in consecutive years. Three - year terms would also diminish the commission's collective knowledge in gubernatorial election years unless members succeed themselves.)

Section 4: Amends AS 15.13.020(h) to make the selection of Commission vacancies consistent with the new method of original appointment established in Section 2.

Section 5: Amends AS 15.13.030(10) to make explicit the Commission's authority to issue orders. The existing language of 15.13.120(d) shows that the authority to issue orders was intended when it refers to "violation of a provision of this chapter, or a regulation or order issued under it....."

Section 6: Amends AS 15.13.040(a), replacing the present requirement to itemize all expenditures with a provision that only expenditures exceeding \$100 need to be reported by date, amount, and check number -- this provision would parallel the previously-authorized deputy treasurers to certify reports; presently the ability to certify is limited to the candidate and treasurer. Makes explicit the requirement to report unpaid obligations as expenditures in keeping with the definition of expenditure in .130(3).

Section 7: Amends .040(b)(3) to clarify that "contributions" on a group report are received by the group - the present language refers to both contributions and expenditures as being "made" by the group. Provides language consistent with Section 6 alleviating the detailed listing of expenditures of \$100 or less.

Section 8: Amends .040(d) to clarify that the requirements of this subsection do not apply to groups reporting under 040(b) e.g., PAC's. Eliminates language requiring that individuals submit a statement of contributions once they contribute in excess of \$100. (The Commission presently ignores this inconsistency with .080 and enforces the requirement to report once a contribution exceeds \$250.) Clarifies that an independent expenditure against a candidate is required to be reported.

Section 9: Amends .040(e) for consistency with Section 8 and eliminates a requirement to furnish the campaign with a copy of the independent expenditure report required by .040(d).

Section 10: Adds a new section to AS 15.13 allowing candidates who do not intend to accept more than \$250 in contributions and who do not intend to expend more than \$250 to file one certified exemption report. Specifies that the candidate who so files and later exceeds the limitations must report within three days but that returning an unsolicited contribution within 72 hours of its receipt will prevent loss of the exemption. For two years the Commission has, by regulation, allowed those who planned zero campaign activity to file a "Campaign Exemption Reporting Form." The process has been of benefit to both the Commission and many municipal candidates; the Commission asks that it be part of the Statute and that it include those whose plans call for limited financial activity.

Section 11: Housekeeping which amends AS 15.13.050 by transferring language from .130(3) (defining a political group) into the section which presently provides information about group requirements.

Section 12: Amends 15.13.070(a) by removing reference to expenditure limitations which no longer exist and removes confusion over the intent of the phrase "competing candidates." Does not address two things which may deserve further attention: 1) specifying that political party subdivisions are exempt from the \$1,000 limitation only so long as they are not, in actuality, acting as a candidate's campaign committee; and 2) clarifying in (a)(2) that initiative, referendum or recall petition efforts are not subject to the \$1,000 limitation.

Section 13: Amends 070(b) so that the recipient of a cash contribution in excess of \$100 must issue a receipt rather than -- as is presently the case -- refuse it or be in violation. The Commission feels that cash contributions exceeding \$100 should be allowable as long as a receipt is issued because there are areas of the state where facilities for purchasing money orders, cashier's checks or bank drafts are limited. Deletes the phrase "or by cash payment" which presently forbids purchasing with cash an item intended as a non-monetary contribution if the cost exceeds \$100.

Section 14: Amends .070(d) to allow a candidate to accept contributions of \$5 or less without recording the name of the contributor. The amendment appears harmless, but it creates a large "loophole" should an individual choose to circumvent the law. If this language were enacted, there would be nothing illegal about making a contribution of \$5 daily in addition to donating the \$1,000 maximum allowed by law. If the intent is to relieve the burden of bookkeeping at fund-raisers, the Commission's administrative regulation, 6 AAC 29.326, exempts the recording by name of those at fund-raisers so long as there are 25 or more paying participants and no one pays more than \$50.

^{+16:}
Section 15: Amends 15.13.090 concerning identification of communications so that a candidate need include only his or her name or that of the candidate's campaign committee in the identification but an individual, person, or group would be required to provide a name as well as an address or phone number. The Commission feels that the intent of .090 would be well served by alleviating some of the detail presently required of candidates on the items they pay for themselves but continuing to require that those not known to the public need to provide fuller identification.

~~Section 16:~~ Amends 15.13.090 by adding a new subsection which says the Commission can exempt small items from the identification requirements. The Commission has already promulgated such a regulation, 6 AAC 29.370.

Section 17: Amends 15.13.100 so that candidates are allowed to expend money before filing formally for office. The present language prohibits such expenditures except for personal travel and surveys or polls and has often caused candidates to violate the law inadvertantly. The new language also clarifies that contributions may be accepted before filing and mentions the need to report such contributions and any expenditures on the first report required under 15.13.110.

Section 18: Amends AS 15.13.110(b) to eliminate the requirement to file reports of major expenditures (in excess of \$250) during the week prior to election. Extends the time period during which major contributions must be reported from 7 to 10 days, thereby eliminating the 3 day gap between the present 7 day reporting period and the 24 Hour reporting period. Increases the amount of time from 4 to 48 hours within which the reports of major contributions must be filed. Allows deputy treasurers to file 48 Hour reports consistent with changes in section 6.

Section 19: Amends AS 15.13.110 by adding a new subsection which names the 10 Day post-election report as the final campaign disclosure report if the campaign has closed and all debts are paid. Clarifies that year-end reports must be filed until any outstanding debt or obligation is satisfied.

Section 20: Adds a new section to AS 15.13 which is substantially the same as the present language in AS 15.13.120(d) concerning the the right of a person to file a complaint and specifying the Commission's responsibility to investigate such complaints.

Section 21: Amends AS 15.13.120(a), the criminal penalty section of the statute, in an effort to clarify specific violations which should be viewed as class A misdemeanors. The current language makes any violation of AS 15.13 a criminal offense.

Section 22: Amends AS 15.13.120(c) to clarify that the Commission should report to the Attorney General the names of both candidates and groups when they have failed to file a report. Deletes language requiring referral of contributors in keeping with changes in Section 9.

Section 23: Adds a new section to AS 15.13 which specifies the procedures for determining the eligibility of a successful candidate to hold office, if convicted of a misdemeanor. In conjunction with the repeal of .120(b), would eliminate the existing provision which says that the election of a successful candidate who violates the law is null and void but fails to suggest what procedures are to be undertaken by whom in enforcement.

Section 24: Repeals and reenacts AS 15.13.130(1), expanding the definition of candidate to include not only those who file or campaign as write-ins, but also those who receive contributions or make expenditures, or who consent to such activities on their behalf.

Section 25: Amends AS 15.13.120(2) to exclude from the definition of "contribution" a contribution that is returned to the contributor within 72 hours of its receipt by a candidate or group.

Section 26: Repealers include:

- AS 15.13.020(c), the selection of the 5th Commission member by the other four;
- 15.13.040(f), the Statement of Contributions by contributors giving over \$100;
- 15.13.070(f) and (g), language on spending limits, found to be unconstitutional;
- 15.13.110(d), the Supplier of Services report; and
- 15.13.120(h), concerning eligibility of convicted candidates to hold office.

Finally, SB 167 would have repealed the 30 Day Pre-election report also. One of the major objectives of disclosure is to give the public access to information in a timely fashion, and requiring only one large report just before the election would mean that the information would not, in fact, be available before the election. Cutting down the number of reports would not eliminate their complexity; approval of sections 6 and 7 would be of more aid to those reporting, without diminishing the value of the information to the public.

Alaska State Senator
JUNEAU, ALASKA 99811

DURING SESSION

POUCH V
JUNEAU, ALASKA 99811

MEMORANDUM

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DATE: March 19, 1981
TO: Members, Senate Special Committee on Legislative Reform
FROM: Senator Rodey, Chairman *PR*
RE: Legislative Reform

This is to formalize the arrangements agreed upon at our last committee meeting a week ago. At that time consensus was reached that the different areas of reform - and relevant bills and resolutions - should be divided up among the members of the special committee. The assignments are as follow:

- Senator Kelly - length of session: SJR 6/HJR 12
appropriations: SJR 20
legislative employees' salaries
- Senator Fischer - ethics/APOC/financial disclosure:
SB 167/SB 175/HB 107/ HB 153/HB 154
- Senator Ray - terms of legislators: SJR 9/ SJR 24
conference committees: SCR 1/HCR 3
bill content/germaneness
- Senators Rodey & Bennett -
uniform rules changes: SCR 8
legislative procedures: HB 155
legislative contracts: HB 156
joint finance committee
public notice of committee meetings
establishment of interim committees
other miscellaneous: HJR 7/HJR 8/HB 109/HB 168

The idea is for members to review the proposals, collect the back-up and make recommendations to the full committee. I expect the committee to have completed its task by the end of April. In addition to informal meetings which may be called between now and then, the committee will be holding public hearings in Fairbanks on Saturday, April 11, and in Anchorage on Saturday, April 18. The League of Women Voters will also be conducting a conference on legislative reform on Saturday, April 25.

If there are any questions, please contact me. Thank you.

STATE OF ALASKA
ALASKA PUBLIC OFFICES COMMISSION

JAY S. HAMMOND, GOVERNOR

JUNEAU BRANCH OFFICE:
FOUCH CO
JUNEAU, ALASKA 99811

LOCATION:
ROOM 302 GOLDSTEIN BUILDING
129 SEWARD STREET
PHONE: (907) 485-4064 OR 485-3471

February 5, 1981

The Honorable Senator Tim Kelly
Poulin V
Juneau, Alaska 99811

Dear Senator Kelly:

The Alaska Public Offices Commission would like to express its appreciation for the opportunity to present its views regarding revisions to Alaska's Disclosure Laws. As you are aware, each year since its creation in 1974, the Commission has offered suggestions to eliminate many of the burdensome requirements while also safeguarding the public mandate for disclosure.

During the 1980 session the Legislature passed FCCS HB 230 which was eventually vetoed by the Governor. The Commission felt that a major portion of this Bill contained amendments which would solve many of the present criticisms; however, it also contained several sections which would have severely hampered the Commission's ability to monitor the 1980 elections, as well as, damaged the public perception of the stature of the Commission in years to come. Therefore, the Commission supported Governor Hammond's veto of FCCS HB 230.

It is the understanding of the Commission, however, that FCCS HB 230 will be used as the basic guideline for legislative changes to be made this session. Therefore, the following discussion includes the Commission's views on those sections of FCCS HB 230 which were found to be objectionable, areas the Commission supports and has expanded upon, and several further suggestions that were not addressed in the original Bill.

This discussion paper, in most instances, does not include specific language for the suggested revisions, but rather explains the problem and offers recommendations.

Senator Tim Kelly
Page 2
February 5, 1981

Should you wish further discussion of the comments offered herein,
our staff will be happy to accommodate you.

On Behalf of

ALASKA PUBLIC OFFICES COMMISSION

RICHARD F. LISTOWSKI
Chairman

RFL:NAC/jk

cc: Senator Vic Fischer
Senator Bettye Farenkamp
Senator Pat Rody

AMENDMENTS TO AS 15.13
CAMPAIGN DISCLOSURE LAW

Sec. 15.13.010 (Re: Applicability)

Presently all candidates who run in a municipal race, in a city with a population of more than 1,000, must register and file with the APOC. On several occasions the Commission has received requests from various clerks regarding the applicability of AS 15.13 to candidates for Service Area Boards or members of an elective board who serve in an advisory capacity. According to the clerks it is often difficult to get people to run for these positions, the candidates spend no money, and the positions are strictly of an advisory nature. A review of the reports on file with the APOC shows that ninety-nine percent of the time there are no expenditures and that when expenditures are made, they average approximately \$10.

Having such candidates file the periodic reports or the statement that will be discussed under Sec. 042 later in this paper, appears to be meaningless. Therefore, the Commission recommends that language which eliminates filing by candidates for Service Area Boards and advisory boards be included.

Sec. 15.13.020 (Re: Selection of Commission Members)

FCCS HB 230 proposed that the current five-year terms of Commission members be reduced to three years. And, that the present process of selection -- recommendation by the two major political parties -- be eliminated.

The Commission opposes elimination of party recommendation. The current process gives credence to the ideology of a bi-partisan commission and guarantees the public appropriate input into the selection of individuals who will monitor the campaign process.

The Commission agrees that the Governor should confirm the remaining fifth Commission member. However, it suggests that the Governor appoint such a member from a list of two names submitted by the four members selected under .020(b). This mechanism would protect the independent and neutral status of this fifth position as well as respect the executive and legislative roles in the appointment process.

Reduction of the term length creates major problems. First, the initial selection process becomes somewhat confusing. In order to avoid the term of two members of the same political party from expiring in consecutive years, initial appointment would be as follows: One Democrat and one Republican serve an initial one-year term; one Democrat and one Republican serve an initial three-year term; the fifth position serves an initial two-year term. This system avoids the problem of consecutive expiration; however, it also means that two new members are appointed each year. Since the major elections are held every other year, the Commission could often find itself with two members who have relatively little knowledge regarding the complex issues of the campaign process and resulting disclosure.

Therefore, the Commission suggests amending this section by 1)

retaining the current process of political party input; 2) appointment of all members by the governor -- rather than only four; 3) confirmation of all members by the legislature; and, 4) retaining five-year terms with the provision of serving no more than one full term.

Sec. 15.13.030 (Re: Limitation on Regulations)

The new subsections contained in FCCS HB 230 to .030, do not prohibit the Commission from promulgating regulations, but these sections do limit the effectiveness of such. The Commission is aware that it must be cautious, especially once the campaign process has begun, not to change guidelines which will ultimately leave candidates unaware of the requirements. However, given the time it takes to promulgate regulations, such an amendment severely hampers the Commission's ability to clarify certain areas of the law in times when it can be proven that a specific need exists.

Sec. 15.13.042 (Re: Filing a Report of Limited or No Campaign Activity)

FCCS HB 230 included language which would allow candidates who did not intend to spend money or accept contributions to file a single report at the beginning of the campaign certifying zero monetary activity. The Commission suggests retaining this exemption provision but would include language allowing candidates to receive and spend up to \$250 before the periodic reports set out in Sec. 110 would be required.

Sec. 15.13.060 (Re: Certification of Reports)

Sec. 15.13.060 requires a candidate or group to appoint a campaign treasurer and states that the treasurer or the candidate is responsible for filing the necessary reports. This requirement has caused several problems, in that, there are often times when the candidate or a group treasurer is out of town on the due date. The group may have several deputy treasurers yet none has the authority to sign the report.

Therefore, the Commission suggests that appropriate language be included in Sec. .060 which allows a deputy treasurer to sign the reports in the absence of the candidate or group treasurer.

AS 15.13.070(b) (Re: Limit on Cash Contributions)

It has been brought to the attention of the Commission that the prohibition against cash contributions which are in excess of \$100 creates problems, especially for those in the bush areas. Often there are no facilities for purchasing money orders, cashier's checks or bank drafts.

Therefore, the Commission suggests that cash contributions in excess of \$100 be allowed; however, for any contribution in excess of this amount, the candidate or group is required to issue a written receipt. By issuing a receipt, the contribution gets into the system, the paper trail begins, and the possibility of the cash being inadvertently misplaced is minimized.

Sec. 15.13.070(d) (Re: Exemption from Recording Requirements)

An amendment offered in FCCS HB 230 to AS 15.13.070(d) allows candidates to accept contributions of \$5.00 or less without recording the name of the contributor. This amendment appears harmless enough; however, it does leave a very large "loophole," should an individual choose to circumvent the law. If this language were to be enacted, there would be nothing to prevent an individual from mailing a five dollar contribution on a daily basis to the same candidate in addition to donating the maximum amount allowed by the law. Such an amendment does not appear to be in line with the intent of the Act. If the impetus for inclusion of this exemption was to eliminate the recording of the names of contributors at events such as fund-raisers where the individuals in attendance are contributing small sums of money, please note that the Commission has adopted administrative regulation 6 AAC 29.326 which pertains to record-keeping requirements for fund raisers. This regulation eliminates the need to record the names of individuals donating to a fund-raiser so long as there are 25 or more persons in attendance and the cash amount received from any individual does not exceed \$50.00.

Sec. 15.13.090 (Re: Identification of Political Communications)

Sec. 15.13.090 has long been an area of criticism and concern. Presently all political advertisements must be identified with the words "paid for by" the name and address of the group and the name of the campaign chairman of the group. Many candidates and groups feel that if there is a billboard which states "Vote for John Smith," and the placard is paid for by John Smith's campaign committee, requiring a full trailer which gives the name, address and treasurer of the committee is unnecessary and tantamount to bureaucratic harassment.

However, the flip side of the coin is the advertisement which says "Vote Against John Smith" or "John Smith Opposes The Curb Your Dog Law," and the authors fail to appropriately identify who is sponsoring the communication.

This past election has given the citizens of Alaska an extensive education regarding "negative campaign" efforts. And, it remains essential that such advertising be properly identified so that the public has the appropriate information.

Therefore, the Commission would suggest .090 be separated into two categories. Category One would allow candidates or a candidate's campaign committee to identify all political communications in support of the candidate with the phrase "paid for by John Smith for House" or "paid for by the Committee to Elect John Smith."

Category Two would address all other groups or individuals paying for political advertisements. The identification on those advertisements must include the name of the group, as well as a contact address or phone number for the group.

FCCS HB 230 offered an amendment which 1) eliminated the 30-day pre-election report; 2) changed the 7-day pre-election report to a 10-day pre-election report; 3) eliminated reporting of expenditures during the 24 hour reporting period; and, 4) changed the 24 hour reporting period to a 48 hour reporting period. Although the Commission is in agreement with the latter two amendments, it strongly opposes elimination of the 30-day report and a change in the 7-day report.

This opposition is based on the following reasons: First; one of the major objectives of this or any disclosure law is to make information available to the public at a time when it will have the most impact. Eliminating the 30-day pre-election report and changing a 7-day pre-election report to a 10-day pre-election report means that major portion of the campaign activity information will be submitted just before the election. Given the vagaries of the mail system, it is quite possible that with the proposed changes, many reports will not reach the Commission's offices until a few days prior to the election. As campaign costs increase, so will the time it takes to audit the reports and distribute the information in a meaningful fashion.

Secondly, the 30-day pre-election report gives candidates and groups the opportunity to review the requirements and learn the proper method of reporting. This knowledge and experience helps to ensure that subsequent pre-election reports contain no major errors and that therefore, the public has access to accurate information.

The Commission is aware that many arguments have been raised in opposition to the number of reports required by AS 15.13. However, it is the opinion of the Commission that such criticisms are based on the complexity of the information required rather than the number of reports required.

The Commission has discussed this problem with its staff and feels that many of these problems are of an administrative rather than a legislative nature. The Commission has instructed staff to revise the reporting forms so that the following changes will be accomplished: elimination of itemization of expenditures which are less than \$100; revision of the reporting of accrued expenditures; and revision of the reporting of repayment of loans.

The only change the Commission would suggest to Sec. 110 would be to expand the 24 hour report (i.e., amendments to 48 hours) to include the 3 day period prior to the due date of the 7-day report. This 3 day period is presently uncovered by statute.

Sec. 15.13.120 (Re: Criminal Penalties)

FCCS HB 230 would no longer consider "making a communication to support or defeat a candidate without identification of sponsorship" a criminal offense. The Commission agrees that if a candidate fails to put the words "paid for by" on a flier or leaflet, it should not be considered a criminal matter, especially if the material distributed is supportive of a candidate. However, as shown by this past election there are individuals who will circulate material in opposition to candidates; this material is often fallacious, misleading, and capable of

causing irrevocable injury to the candidate. When such communications are distributed without identification, the public has no basis for making a determination regarding the validity or intent of the sponsor, or of the candidate, bond proposition or ballot issue in question.

Therefore, the Commission suggests maintaining criminal sanctions for unidentified communications whether by an individual, group or candidate, if the purpose is to oppose a candidate, ballot issue or bond proposition.

FOCS HB 230 also reduces the Statute of Limitations for prosecution of a criminal act from four years to one year. The Commission strongly objects to such a revision primarily because the Commission is not an adjudicatory body. In many instances violations do not surface until several months after a report is filed. In off-election years only one report is required at the end of the calendar year. If there is substantial reason to believe a violation has occurred, the Commission's staff must make a preliminary investigation, forward its findings to the Commission, the Commission must hold a hearing -- or in some instances two (2) hearings, and only after this process has occurred may it forward a case to the Attorney General where the decision to dismiss or prosecute is made.

Hence, the Commission recommends the Statute of Limitations remain four years.

AMENDMENTS TO AS 24.45
THE REGULATION OF LOBBYING LAW

AS 24.45.041(c) (Re: Required Photograph)

AS 24.45.041(c) makes reference to a photograph of the lobbyist which may be submitted. AS 24.45.041(e) indicates that the directory of lobbyists shall include such photographs if submitted. As few lobbyists have ever supplied a photograph, and as the directories are simply xerox copies of the registration statements -- making inclusion of any photo difficult -- the Commission suggests that all reference to lobbyist photographs be deleted.

AS 24.45.051 (Re: Reduction of Itemization)

Section 37 of FOLS HB 230 amends AS 24.45.051 to clearly state what lobbyists are required to report, although it does not expand what is currently required. The Commission recommends that this section be amended to the effect that the lobbyist need report only aggregate amounts received for the reporting period and the year, for both salary, fee or retainer and expense disbursements and reimbursements. Thus, the expense portion would not be itemized on the report, merely summarized; however, the expense total would reflect reimbursements or disbursements for the same items that now need be listed individually. This change is also suggested for employer reports required under AS 24.45.051. The Commission contends that such a change would foster simplification of the reporting requirements and thus encourage more timely compliance by those subject to the law. Further, the Commission does not feel that this proposed change would undermine the intent of the original legislation, as the most critical financial information would still be available to the public.

Sec. 24.45.081(a) (Re: Reporting Periods)

Section 24.45.081(a) as amended by FOLS HB 230 would provide for quarterly reporting periods for lobbyists whether or not the legislature were in session. The Commission recommends that the existing situation be maintained, that is: the lobbyist be required to report monthly for the period that the legislature is in session and quarterly thereafter. This suggestion is based on the fact that if lobbyists report only on a quarterly basis throughout the session, the legislative session will be well advanced (and to late April) before any information concerning financial activity of lobbyists is available to the public. Such a situation is viewed by the Commission as contrary to the intent of the Regulation of Lobbying Law.

A final recommendation by the Commission concerning changes to AS 24.45 relates to including, in the law language for employers which is comparable to that which presently exists in Sec. 041 for lobbyists. Current language in .041 states that the Commission may not receive lobbying credentials until all previously required lobbyist reports have been filed. By not registering a lobbyist for any employer who did not file all previously required employer reports, the Commission would possess a reasonable yet effective tool with which to foster compliance with the law.

AMENDMENTS TO AS 39.50
THE CONFLICT OF INTEREST LAW

FCCS HB 230 contained only two sections amending AS 39.50. One of those amendments had been suggested by the Commission in prior years and continues to merit support; the other amendment is of dubious value. Beyond those two amendments, there are other areas of AS 39.50 which could be addressed and the Commission hopes will be addressed, particularly if it is the desire to develop an omnibus bill enacting a comprehensive review of the State's disclosure laws.

There is some "housekeeping" which will not be discussed here, except for general comments about the statute and the type of legislation it represents. Public expectation concerning the scope and jurisdiction of AS 39.50 is often disappointed because the title is a misnomer. AS 39.50 is a financial disclosure statute, not a "Conflict of Interest Law." Simply stated, AS 39.50 does not define a Conflict of Interest, it doesn't prohibit Conflicts of Interest, and it doesn't provide any guidance to public officials specifying the actions necessary to remedy a Conflict of Interest. The title gives rise to expectations that are not met and which would be less likely if the title were accurate. As a financial disclosure law, AS 39.50 provides the public with access to information concerning the financial and business interests of key decision-makers on both the state and municipal level. The following discussion of amendments focuses on improvements to the existing financial disclosure law.

Sec. 39.50.020(a) (Re: Applicability)

In addition to concurring with the amendments proposed in FCCS HB 230 which would assure that all candidates will have Statements on file covering the year preceding year, there should be additional language requiring a Termination Statement by those who leave a position which requires them to file. Presently, the public official who leaves government is not required to disclose financial and business interests for any part of the period he or she was in office since the previous Statement was filed. Thus, an official who resigns prior to the April 15th deadline for Statements covering the preceding calendar year can work a maximum of fifteen months for which financial disclosure is not required.

Two brief additions should be made to FCCS HB 230 concerning the fact that the requirement to file a municipal statement does not apply to the candidate for elective municipal office who has a current statement on file with the municipality in which he or she seeks office and that a state public official who files for state elective office is not required to file a statement at the time of becoming a candidate if he or she has a current statement on file with the Commission. The inclusion of such explicit language should be helpful in preventing the unfortunate situation of a candidate's declaration being invalidated due to simple confusion over the need to file a COI Statement.

Sec. 39.50.030(a) (Re: Contents of Statements)

Sec. 030(a) states that "...an asset or liability under \$500, household goods, and personal effects need not be identified." The Commission recommends that this threshold be raised to \$1,000 as current economic conditions make assets or liabilities under \$1,000 of minimal value for public disclosure purposes. Further, this higher threshold is consistent with the "source of income" threshold the Commission is addressing in a later section of this discussion paper.

Sec. 39.50.030(b) (Re: Contents of Statements)

Section 46 of FCCS HB 230 eliminated requirements that public officials include in their Statements information concerning a non-dependent child. On the surface, that might appear to be sensible; however, the complete phrase in the statute is "a non-dependent child who is living with him," and, if only the words "or non-dependent child of his" are removed, the phrase "who is living with him" then modifies spouse or dependent child. The Commission is of the opinion that the financial concerns of an official's spouse or dependent child should be reported notwithstanding permanent residency status. Thus the Commission recommends that the entire phrase "or non-dependent child of his who is living with him" be removed from Sec. 030(b) where it appears.

Sec. 39.50.030(b) (1) (Re: Reporting Income over \$100)

Currently, public officials or candidates must report the source of all income over \$100, including capital gains, whether or not taxable, received by him or his spouse or children during the preceding calendar year. The Commission contends that this low threshold makes the reporting very burdensome for some individuals subject to the law without actually providing critical financial information. Further, the Commission asserts that by increasing the threshold to \$1,000, truly significant sources of income would not be obscured by the inclusion of income sources of limited value.

Sec. 39.50.030(b) (6) (Re: Loans or Loan Guarantees)

This subsection presently requires the reporting of only personal loans to the official and family members as individuals. Given the emphasis on the need to report business interests (i.e., partnership, professional corporation, and corporation in which there is controlling interest) in other sections of this law dealing with sources of income, contracts, and leases, this subsection should be amended to include the requirement to report the same information about business loans, loan guarantees, and creditors.

Sec. 39.50.030(b) (7) (Re: Contracts)

Subsection (7) as presently written requires State and municipal officers to report contracts they hold with the state, but not contracts they hold with the municipality. One could hardly believe that this

situation was intended; it must have been a drafting oversight. A municipal official's contract relationship (if any) with the municipality he or she serves is critical to adequate disclosure. Such could also be the case in situations in which a state official makes state funding allocation decisions regarding municipalities with which he or she has a contract. Therefore, the Commission suggests that the definition of "instrumentality of the state" be amended to include municipalities.

Sec. 39.50.050(d) (Re: Publishing of Reports)

In six years of experience there has never been a request for a copy of all the contents of all Statements; "publishing" all 500 plus Conflict of Interest Statements would only be wasteful. If a section concerning accessibility of the Statements is desirable, it should reflect the current practice of making copies of particular Statements upon request for the regular copying charge.

New Section Needed (Re: Municipal Officers)

As 39.50 does not provide for penalties for failure to report by municipal officers as it does for state public officials in sections .070, .089, .110, .120 and .130. The only penalty provision which applies to municipal officials provides a civil penalty for late filing. Short of the potential damage of a charge of "willful violation" under section .050, it would appear that a municipal official who doesn't file at all is in less jeopardy than one who simply files late.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 11, 1981

SUBJECT: Section 26 board status for APOC
(CSSB 167 (State Affairs))

TO: Senator Vic Fischer, Chairman
Senate State Affairs Committee

FROM: Richard A. Bradley
Legislative Counsel *RB*

Nancy Groszek has asked that I make the members of the Public Offices Commission be confirmed by the legislature. This result may only occur if the APOC is established as a "section 26 board or commission". Bradner v. Hammond, 553 P.2d 1 (1976).

Sec. 26 [of Article I¹, Constitution of Alaska] provides that:

SECTION 26. When a board or commission is at the head of a principal department or a regulatory or quasi-judicial agency, its members shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature .

Either the Public Offices Commission is already a "commission" "at the head of a . . . regulatory or quasi-judicial agency" -- in which case it already is a section 26 commission and the members as a matter of constitutional law are subject to confirmation -- or there is no power in the legislature to make it into a section 26 commission unless it recasts the powers of the commission such that it becomes a "regulatory or quasi-judicial agency" -- or unless the legislature establishes the commission as a department headed by a commission.

In a memorandum to the Speaker last year, I concluded that the commission did not qualify as a section 26 commission

Senator Vic Fischer
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for purposes of the confirmation of its members. Memorandum of June 1, 1979, copy enclosed.

Since the conclusions of that memorandum resulted from a conclusion that the functions of the commission were not properly describable as those of a "regulatory or quasi-judicial agency" and since the addition of the ethics responsibility does not change the nature of those functions, in my opinion there is no basis for conferring section 26 status on the commission.

And since the Bradney case holds that the legislature may not require the confirmation of public officials not required to be confirmed under the constitution, the introduction of the language requiring confirmation is, in my view, unconstitutional.

If the committee wishes the language requiring confirmation, please return the bill and it will be added.

RAB:ljb

Enclosures

Rich's

Introduced: 2/9/81
Referred: State Affairs and
Judiciary

1 IN THE SENATE

BY KELLY

2 SENATE BILL NO. 167

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATIVE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Public Offices Commis-
7 sion; and providing for an effective date."

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

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

10 (a) This chapter applies in every election for governor, lieuten-
11 ant governor, a member of the state legislature, a delegate to a con-
12 stitutional convention, or judge seeking electoral confirmation. It
13 also applies to every candidate for election to a municipal office in a
14 city or borough with a population of more than 1,000 inhabitants accord-
15 ing to the latest United States census figures or estimates of popula-
16 tion certified as correct for administrative purposes by the Department
17 of Community and Regional Affairs, except for those candidates

running for service area boards or local boards or commissions serving
strictly in an advisory capacity.

A municipality may exempt candi-
18 dates for municipal office and persons and groups active in municipal
19 election campaigns [ITS ELECTED MUNICIPAL OFFICERS] from the require-
20 ments of this chapter if a majority of the voters voting on the question
21 at any regular election, as defined by AS 29.78.010(14), or a special
22 municipality-wide election called for that purpose, vote to exempt candi-
23 dates for municipal office and persons and groups active in municipal
24 election campaigns [ITS ELECTED MUNICIPAL OFFICERS] from the require-
25 ments of this chapter. The question of exemption from the requirements
26 of this chapter may be submitted by the city council or borough assembly
27 by ordinance or by initiative ordinance. Nothing in this chapter
28 prohibits a municipality from regulating by ordinance campaign contribu-
29 tions and expenditures.

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Sec. 2. AS 15.13.020(c) is repealed and reenacted to read:

(c) The fifth member of the Commission shall be appointed by the governor without preference for political party status. All members of the commission shall be subject to confirmation by a joint session of the legislature.

Sec. 3. AS 15.13.020(d) is amended to read:

(d) Commission members [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 [, INCLUDING THE FIFTH MEMBER,] shall date from February 1 before their appointment. After the terms of office of the initial appointees to the commission expire, the terms 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.

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1 * Sec. 2. AS 15.13.020(b) is repealed and reenacted to read:

2 (b) The commission consists of five members appointed by the
3 governor and confirmed by the legislature. No more than two of the
4 members of the commission may be of the same political party.

5 * Sec. 3. AS 15.13.020(d) is repealed and reenacted to read:

6 (d) Members of the commission serve three-year terms. A member
7 of the commission serves until his successor is appointed and quali-
8 fied. The terms of two commission members who are members of the same
9 political party may not expire in consecutive years. The term of
10 office of a member of the commission dates from February 1 of the year
11 of appointment.

12 * Sec. 4. AS 15.13.020(h) is amended to read:

13 (h) A vacancy on the commission shall be filled by the governor
14 [APPROPRIATE APPOINTING AUTHORITY] within 30 days of the occurrence of
15 the vacancy. The appointee shall serve for the remaining term of his
16 predecessor.

17 * Sec. 5. AS 15.13.030 is amended by adding new subsections to read:

18 (b) A new or amended regulation of the commission may not be
19 applied to a candidate or group during a period beginning 30 days
20 before the last date to file a declaration of candidacy or a nominating
21 petition in a state election and ending the day after the general
22 election.

23 (c) A new or amended regulation of the commission may not be
24 applied to a candidate or group during a period beginning 30 days
25 before the last day to file a declaration of candidacy or a nominating
26 petition in a municipal election and ending the day after the municipal
27 election.

Sec. 5. AS 15.13.030(10) is amended to read:

(10) adopt regulations and issue orders necessary to implement
and clarify the provisions of AS 24.45, AS 39.50 and this chapter, subject
to the provisions of the Administrative Procedure Act (AS 44.62).

Sec. 6. AS 15.13.040(a) is amended to read:

Sec. 15.13.040. Contributions[,] and expenditures [AND SUPPLYING OF
SERVICES] to be reported. (a) Each candidate shall make a full report,
upon a form prescribed by the commission, listing the total [DATE AND]
amount of all expenditures made or incurred by the candidate, together
with the date, amount and check number for all expenditures which exceed

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\$100 in value, the total amount of all contributions, including 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. The report shall be filled in accordance with § 110 of this chapter and shall be certified correct by the candidate or campaign treasurer. Deputy treasurers may certify reports only after written authorization has been provided to the commission on a form provided by the commission.

Sec. 7. AS 15.13.040(b)(3) is amended to read:

(3) the date and amount of all contributions received [MADE BY IT] and all expenditures made, incurred or authorized by it including the date, amount and check number of any expenditure exceeding \$100 in value.

8

28 | * Sec. A. AS 15.13.040(d) is amended to read:

29 | (d) Every individual or [,] person, and every [OR] group that is

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1 not require to report in accordance with (b) of this section, making
2 all [A CONTRIBUTION OR] expenditure shall make a full report, upon a
3 form prescribed by the commission, of [THE FOLLOWING CONTRIBUTIONS OR
4 EXPENDITURES: (1) ANY CONTRIBUTION OF CASH, GOODS OR SERVICES VALUED
5 AT MORE THAN \$100 A YEAR TO ANY GROUP OR CANDIDATE; OR (2)] any expen-
6 diture whatsoever for advertising in newspapers, on radio or on televi-
7 sion; or, for the publication, distribution or circulation of brochures,
8 flyers, or other campaign material for or against any candidate, [OR]
9 ballot proposition or question.

10 | * Sec. A. AS 15.13.040(e) is amended to read:

11 (e) The report required under (d) of this section shall contain
12 the name, address, principal occupation and employer of the individual
13 filing the report, and an itemized list of expenditures. The report
14 shall be filed with the commission [BY THE CONTRIBUTOR] no later than
15 10 days after the [CONTRIBUTION OR] expenditure is made. [A COPY OF
16 THE REPORT SHALL BE FURNISHED TO THE CANDIDATE, CAMPAIGN TREASURER OR
17 DEPUTY CAMPAIGN TREASURER AT THE TIME THE CONTRIBUTION IS MADE.]

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18 || * Sec. 10. AS 15.13 is amended by adding a new section to read:

Sec. 15.13.042. FILING A REPORT OF LIMITED CAMPAIGN ACTIVITY. (a) A candidate who does not intend to receive contributions or make expenditures which exceed \$250 in total value may file a report, upon a form prescribed by the commission,

22 || informing the commission of his intent. The report may be filed only
23 || once and may be filed either before or at the time the candidate's
24 || first report is due under AS 15.13.110. The report shall be certified
25 || as correct by the candidate.

26 || (b) A candidate who receives contributions or makes expenditures
27 ||

in excess of the \$250 limit

28 || after filing a report under (a) of this section forfeits his exemption
from the reporting requirements of this chapter and shall file reports

in accordance with AS 15.13.110. The first report is due within three days after receipt of a contribution or the making of an

2 || expenditure by the candidate. A candidate who receives an unsolicited
3 || contribution and returns the contribution to the contributor within 72
4 || hours of its receipt does not lose the exemption provided in this
5 || section.

6 || ~~* Sec. 9. AS 15.13.045 is amended by adding a new subsection to read:~~

7 || ~~(c) The commission shall adopt regulations consistent with AS 44.-~~
8 || ~~62.330 - 44.62.630 to establish a fair and impartial process for the~~
9 || ~~taking of evidence and holding hearings in investigations and audits of~~
10 || ~~the commission.~~

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11 * Sec. ~~10.~~ AS 15.13.050 is amended to read:

12 Sec. 15.13.050. GROUPS. Each group, before making an expenditure
13 on behalf of, or in opposition to, a candidate, or a contribution to a
14 candidate, shall register, on forms provided by the commission, with
15 the commission. If the group intends to support or oppose only one
16 candidate, or to contribute to or expend on behalf of, or in opposition
17 to, one candidate 50 percent or more of its funds, the name of the
18 candidate shall be a part of the name of the group. Promptly upon
19 receiving the registration, the commission shall notify the candidate
20 of the group's organization and intent. A group that makes expendi-
21 tures or receives contributions with the express or implied authoriza-
22 tion or consent, or under the direct or indirect control, of a candi-
23 date, is considered to be controlled by that candidate. A group whose
24 major purpose is to further the nomination or election of a single
25 candidate, or which intends to expend 50 percent or more of its money
26 on a single candidate, is considered to be controlled by that candi-
27 date and its actions considered to have been done with the knowledge
28 and consent of the candidate unless, within 10 days from the date the
29 candidate learns from the commission of the existence of the group,

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1 he files with the commission, on a form provide by the commission,
2 an affidavit certifying that the group is operating without his con-
3 trol. A group that contributes 50 percent or more of its money to or
4 on behalf of a single candidate is considered to support only that
5 single candidate for purposes of AS 15.13.070, whether or not con-
6 trol of the group has been disclaimed by the candidate. A group or-
7 ganized for more than one year preceding an election which endorses
8 candidates for more than one office or candidates of more than one
9 political party is presumed not to be controlled by a single candidate.

10 * Sec. ~~11.~~ AS 15.13.070(a) is amended to read:

11 (a) A [NO] person or group, including but not limited to all
12 political committees, businesses, corporations, and labor unions, may

not contribute [TO OR EXPEND] more than \$1,000 in a calendar year on behalf or or

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14 in opposition to a candidate [THE COMPETING CANDIDATES] for [EACH]
15 elective office. Political parties and their subdivisions are not
16 subject to the limitation prescribed in this subsection, but they are
17 subject to the reporting requirements prescribed by AS 15.13.040(b) and
18 15.13.110. Nothing in this chapter prohibits

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

21 (2) individuals or groups, including but not limited to all
22 political committees, businesses, corporations, and labor unions, from
23 contributing to or expending on behalf of a ballot proposition or ques-
24 tion more than \$1,000 a year; however, these contributions and expendi-
25 tures shall be reported in accordance with AS 15.13.040 and 15.13.110.

Sec. 13. AS 15.13.070(b) is amended to read:

Call Name
(b) No contribution over \$100 may be made in cash unless a receipt
for the total amount is issued by the candidate or group and no contribution
[OR] by payment of cash [PAYMENT] may be made in excess of \$100 unless a
receipt is obtained by the contributor ~~and neither [IT] may [NOT] be accepted~~
by or on behalf of a candidate.

26 * Sec. ~~12~~¹⁴. AS 15.13.070(d) is amended to read:

27 (d) No contribution may be made, and no expenditure may be made
28 or incurred, directly or indirectly, anonymously, in a fictitious name,
29 or by one person or group in the name of another, to influence the

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1 election of a candidate in an election. A contribution made by a
2 person wishing to remain anonymous, and received by a candidate, cam-
3 paign treasurer or deputy campaign treasurer, may not be used or ex-
4 pended, but shall be returned to the donor, if his identity is known,
5 and if no donor is found, the contribution escheats to the state if not
6 donated by the candidate to the charity of his choice. ~~Nothing~~

7 ~~Nothing prohibits contributions of \$5 or less without recording the name of~~
8 ~~the contributor~~

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Sec. 15. AS 15.13.090 is amended to read:

(a) All advertisements, billboards, handbills, paid-for television and radio announcements and other communications intended to promote [INFLUENCE] the election of a candidate and paid for by that candidate or the candidate's campaign committee [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 or the candidate's campaign committee [, GROUP OR INDIVIDUAL PAYING FOR THE ADVERTISING. IN ADDITION, CANDIDATES AND GROUPS MUST IDENTIFY THE NAME OF THEIR CAMPAIGN CHAIRMAN.].

(b) All advertisements, billboards, handbills, paid-for television and radio announcements and other communications intended to support or oppose candidates, ballot propositions, referendums, or recalls paid for by groups, individuals, or persons shall be clearly identified by the words "paid for by" followed by the name of the group, individual, or person, together with a contact address or telephone number.

9 * Sec. ^{15/16} AS 15.13.090 is amended by adding a new subsection to read:
10 (A) ^C The commission may by regulation exempt from the requirements
11 of (a) of this section communications which in its judgment do not
12 afford space for the identification required under ¹⁶ (a) of this section.

13 * Sec. ¹⁷ AS 15.13.100 is amended to read:

14 Sec. 15.13.100. EXPENDITURES, CONTRIBUTIONS AND REGISTRATION BE-
15 FORE FILING. Political campaign contributions may be made or received,
16 and expenditures [NO POLITICAL CAMPAIGN EXPENDITURE] may be made or
17 incurred by a candidate [PERSON] in an election, or by a person or
18 group with the candidate's [HIS] knowledge and on the candidate's [HIS]
19 behalf, before the date upon which the candidate [HE OR SHE] files for
20 nomination for the office which he [THE PERSON] seeks. However, these
21 contributions and expenditures [, EXCEPT FOR PERSONAL TRAVEL EXPENSES
22 OR FOR OPINION SURVEYS OR POLLS. THESE EXPENDITURES SHALL BE CHARGED
23 AGAINST THE SPENDING LIMITATION THAT APPLIES TO THE OFFICE FOR WHICH HE
24 SUBSEQUENTLY FILES, AND] shall be included in the first report required
25 under AS 15.13.110 [THIS CHAPTER AFTER FILING FOR OFFICE].

26 * ~~Sec. 15. AS 15.13.110(a)(2) is amended to read:~~

27 (2) ~~10 days (ONE WEEK) before the election; --~~

28 * Sec. 15. AS 15.13.110(b) is amended to read:

29 (b) Each contribution (OR EXPENDITURE) which exceeds \$250 and

1 which is made within 10 days [ONE WEEK] of the election shall be re-
2 ported to the commission by date, amount, and contributor [OR RECIP-
3 IENT] within 48 [24] hours of receipt [OR EXPENDITURE] by the candidate
4 or campaign treasurer or deputy treasurer.

5 * Sec. ⁹14. AS 15.13.110 is amended by adding new subsections to read:

6 (2) The report required by (a)(3) of this section is the final
7 report if at the time the report is made

8 (1) there is no outstanding debt or obligation;

9 (2) the campaign fund has been closed;

10 (3) the campaign has been concluded; and

11 (4) in the case of a group, the group has dissolved.

12 (g) Reports shall be filed as required by (a)(4) of this section
13 by

14 (1) a candidate who has an outstanding debt or obligation
15 until the debt or obligation is satisfied;

16 (2) a group that has an outstanding debt or obligation until
17 the debt or obligation is satisfied or until the group is dissolved.

18 (h) When a final report has been submitted under this section,
19 the duties of the campaign treasurer cease and there is no obligation
20 to file further reports.

21 * Sec. ²⁰15. AS 15.13 is amended by adding a new section to read:

22 Sec. 15.13.115. COMPLAINTS. (a) A person who believes that a
23 violation of this chapter has occurred may file a complaint with the
24 commission. If the commission determines that there is substantial
25 reason to believe that a violation of this chapter has occurred, it
26 shall expeditiously investigate the subject matter of the complaint.
27 The investigation may include but is not limited to an investigation of
28 the reports and statements filed with the commission by the complainant,
29 if he is a candidate.

1 (b) If the commission determines, after notice and opportunity
2 for a hearing, that a person has engaged in or is engaged in an act
3 which is a violation of this chapter or of a regulation or order issued
4 under this chapter, the commission shall promptly report its deter-
5 mination to the attorney general for appropriate action.

6 (c) The commission shall report its determination to the person
7 who filed the complaint within 6 days of receiving the complaint,
8 unless circumstances require additional time to make an adequate inves-
9 tigation.

10 (d) The determination of the commission on a complaint may be
11 appealed to the superior court.

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12 * Sec. ²¹~~19~~. AS 15.13.120(a) is amended to read:

13 (a) A person who violates a provision of this section [CHAPTER]
14 is guilty of a class A misdemeanor [AND, UPON CONVICTION, IS PUNISHABLE
15 BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR OR BY A FINE OF NOT MORE
THAN \$5,000]. A violation includes but is not limited to any of the
following acts or omissions:

(1) refusing or failing to submit [MAKE] a properly completed
statement or report required to be made under this chapter [, OR FAILING TO
MAKE A STATEMENT OR REPORT AT THE TIME THE STATEMENT OR REPORT IS REQUIRED
TO BE MADE UNDER THIS CHAPTER];

(2) knowingly making a campaign contribution or expenditure
which exceeds the limitations of AS 15.13.070(a) [AS 15.13.070(f)];

(3) knowingly making a false statement or report under this
chapter;

(4) giving or furnishing money to another person or groups
for the purpose of making a contribution or expenditure anonymously, in
a fictitious name, or in the name of another, or contributing in viola-
tion of AS 15.13.070(d);

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(5) making a communication to support or defeat a candidate
without identification of sponsorship, in accordance with [OF] AS 15.13.090(b);

(6) knowingly accepting a contribution in violation of
AS 15.13.070.

* Sec. ²²~~20~~. AS 15.13.120(c) is amended to read:

(c) Promptly after the final date for filing statements and re-
ports, the commission shall notify all persons who have become delin-
quent in filing them, [INCLUDING CONTRIBUTORS WHO FAILED TO FILE A
STATEMENT IN ACCORDANCE WITH AS 15.13.040,] and shall make available a
list of these delinquents for public inspection. The commission shall
also report to the attorney general the names of all candidates and
groups in an election whose campaign treasurers have failed to file the
reports required by this chapter.

*Delete
Proposed*

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~~* Sec. 21. AS 15.13.120(e) is and reenacted to read:
(e) Prosecution for violation of a provision of this chapter may
not be commenced after one year has elapsed from the date of the alleged
violation.~~

Sec. 23. *Need language to restore
four year statute of limitations which
was replaced by one year limit in
AS 15.56.130*

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* ²⁴ Sec. 22. AS 15.13 is amended by adding a new section to read:

Sec. 15.13.121. EFFECT OF CERTAIN CONVICTIONS. (a) If a successful candidate for the state legislature or for a seat on a city council or borough assembly or for borough or city mayor is convicted of a misdemeanor described in AS 15.13.170(a)(1), (3), or (6), the eligibility of the successful candidate to hold the office to which elected shall be determined as to

- (1) a member of the legislature under art. II, sec. 12 of the state constitution;
- (2) a borough assemblyman under AS 29.23.060(c);
- (3) a borough mayor under AS 29.23.130(f);
- (4) a city councilman under AS 29.23.210(b);



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1 (5) a city mayor under AS 29.23.255.

2 (b) When a candidate or a nominee is charged with a misdemeanor
3 described in (a) of this section, the case shall be promptly tried and
4 the case shall be accorded a preferred status by the courts to ensure a
5 speedy disposition of the matter.

6 * Sec. 23. AS 15.13.125 is amended to read:

7 ~~Sec. 15.13.125. CIVIL PENALTY: LATE FILING OF REQUIRED REPORTS.~~

8 ~~A person who fails to file a properly completed and certified report
9 within the time required by AS 15.13.110(a)(1), [(3),] (4) or (d) is
10 subject to a civil penalty of not more than \$10 a day for each day the
11 delinquency continues as determined by the commission subject to right
12 of appeal to the superior court. A person who fails to file a properly
13 completed and certified report within the time required by AS 15.13.-
14 110(a)(2) or (b) is subject to a civil penalty of not more than \$50 a
15 day for each day the delinquency continues as determined by the commis-
16 sion subject to right of appeal to the superior court. An affidavit
17 stating facts in mitigation may be submitted to the Commission by a
18 person against whom a civil penalty is assessed. However, the imposi-
19 tion of the penalties prescribed in this section or in AS 15.13.120
20 does not excuse that person from filing reports required by this chap-
21 ter.~~

22 * Sec. ²⁵ AS 15.13.130(1) is repealed and reenacted to read:

23 (1) "candidate" means an individual who seeks nomination for
24 election to, or election to, the state legislature, the office of
25 governor or lieutenant governor, or municipal office, or who seeks
26 retention in judicial office or nomination or election as a constitu-
27 tional convention delegate; an individual shall be considered to seek
28 nomination or election if

29 (A) he has taken the action necessary under the law of

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1 this state to qualify himself for nomination or election to an
2 office;

3 (B) he has received contributions or made expenditures
4 before filing for office;

5 (C) he has given his consent, implicit or explicit, for
6 a person or group to receive contributions or make expenditures to
7 bring about his nomination or election to office;

8 (D) he has campaigned as a write-in candidate for
9 office; or

10 (E) he is the subject of a recall election;

26

11 * Sec. 25. AS 15.13.130(2) is amended ~~to read~~ by adding (D)

12 (2) "contribution" means purchase, payment, promise or obli-
13 gation to pay, loan or loan guarantee, deposit or gift of money or (.)
14 goods [OR SERVICES] for which charge is ordinarily made and which is
15 made for the purpose of influencing the nomination or election of a
16 candidate, and in AS 15.13.010(b) for the purpose of influencing a
17 ballot proposition or question, including the payment by a person other
18 than a candidate or political party, or compensation of the personal
19 services of another person which are rendered to the candidate or poli-
20 tical party; however, "contribution" does not include

21 (A) services provided without compensation by individ-
22 uals volunteering a portion or all of their time on behalf of a
23 candidate or ballot proposition or question [BUT IT DOES INCLUDE
24 PROFESSIONAL SERVICES VOLUNTEERED BY INDIVIDUALS FOR WHICH THEY
25 ORDINARILY WOULD BE PAID A FEE OR WAGE];

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

28 (C) ordinary hospitality in a home;

29 (D) a contribution that is returned to the contributor

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

Rich's

Introduced: 2/9/81
Referred: State Affairs and
Judiciary

1 IN THE SENATE

BY KELLY

2 SENATE BILL NO. 167

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Public Offices Commis-
7 sion; and providing for an effective date."

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

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

10 (a) This chapter applies in every election for governor, lieuten-
11 ant governor, a member of the state legislature, a delegate to a con-
12 stitutional convention, or judge seeking electoral confirmation. It
13 also applies to every candidate for election to a municipal office in a
14 city or borough with a population of more than 1,000 inhabitants accord-
15 ing to the latest United States census figures or estimates of popula-
16 tion certified as correct for administrative purposes by the Department
17 of Community and Regional Affairs, except for those candidates

running for service area boards or local boards or commissions serving
strictly in an advisory capacity.

A municipality may exempt candi-
18 dates for municipal office and persons and groups active in municipal
19 election campaigns [ITS ELECTED MUNICIPAL OFFICERS] from the require-
20 ments of this chapter if a majority of the voters voting on the question
21 at any regular election, as defined by AS 29.78.010(14), or a special
22 municipality-wide election called for that purpose, vote to exempt candi-
23 dates for municipal office and persons and groups active in municipal
24 election campaigns [ITS ELECTED MUNICIPAL OFFICERS] from the require-
25 ments of this chapter. The question of exemption from the requirements
26 of this chapter may be authorized by the city council or borough assembly
27 by ordinance or by initiative ordinance. Nothing in this chapter
28 prohibits a municipality from regulating by ordinance campaign contribu-
29 tions and expenditures.

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Sec. 2. AS 15.13.020(c) is repealed and reenacted to read:

(c) The fifth member of the Commission shall be appointed by the governor without preference for political party status. All members of the commission shall be subject to confirmation by a joint session of the legislature.

Sec. 3. AS 15.13.020(d) is amended to read:

(d) Commission members [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 [, INCLUDING THE FIFTH MEMBER,] shall date from February 1 before their appointment. After the terms of office of the initial appointees to the commission expire, the terms 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.

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1 * Sec. 2. AS 15.13.020(b) is repealed and reenacted to read:

2 (b) The commission consists of five members appointed by the
3 governor and confirmed by the legislature. No more than two of the
4 members of the commission may be of the same political party.

5 * Sec. 3. AS 15.13.020(d) is repealed and reenacted to read:

6 (d) Members of the commission serve three-year terms. A member
7 of the commission serves until his successor is appointed and quali-
8 fied. The terms of two commission members who are members of the same
9 political party may not expire in consecutive years. The term of
10 office of a member of the commission dates from February 1 of the year
11 of appointment.

12 * Sec. 4. AS 15.13.020(h) is amended to read:

13 (h) A vacancy on the commission shall be filled by the governor
14 [APPROPRIATE APPOINTING AUTHORITY] within 30 days of the occurrence of
15 the vacancy. The appointee shall serve for the remaining term of his
16 predecessor.

17 Sec. 5. AS 15.13.030 is amended by adding new subsections to read:

18 (b) A new or amended regulation of the commission may not be
19 applied to a candidate or group during a period beginning 30 days
20 before the last date to file a declaration of candidacy or a nominating
21 petition in a state election and ending the day after the general
22 election.

23 (c) A new or amended regulation of the commission may not be
24 applied to a candidate or group during a period beginning 30 days
25 before the last day to file a declaration of candidacy or a nominating
26 petition in a municipal election and ending the day after the municipal
27 election.

Sec. 5. AS 15.13.030(10) is amended to read:

(10) adopt regulations and issue orders necessary to implement
and clarify the provisions of AS 24.45, AS 39.50 and this chapter, subject
to the provisions of the Administrative Procedure Act (AS 44.62).

Sec. 6. AS 15.13.040(a) is amended to read:

Sec. 15.13.040. Contributions[,] and expenditures [AND SUPPLYING OF
SERVICES] to be reported. (a) Each candidate shall make a full report,
upon a form prescribed by the commission, listing the total [DATE AND]
amount of all expenditures made or incurred by the candidate, together
with the date, amount and check number for all expenditures which exceed

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\$100 in value, the total amount of all contributions, including 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. The report shall be filled in accordance with § 110 of this chapter and shall be certified correct by the candidate or campaign treasurer. Deputy treasurers may certify reports only after written authorization has been provided to the commission on a form provided by the commission.

Sec. 7. AS 15.13.040(b)(3) is amended to read:

(3) the date and amount of all contributions received [MADE BY IT] and all expenditures made, incurred or authorized by it including the date, amount and check number of any expenditure exceeding \$100 in value.

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* Sec. ⁸ A. AS 15.13.040(d) is amended to read:

(d) Every individual or [,] person, and every [OR] group that is

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1 not required to report in accordance with (b) of this section, making
2 an [A CONTRIBUTION OR] expenditure shall make a full report, upon a
3 form prescribed by the commission, of [THE FOLLOWING CONTRIBUTIONS OR
4 EXPENDITURES: (1) ANY CONTRIBUTION OF CASH, GOODS OR SERVICES VALUED
5 AT MORE THAN \$100 A YEAR TO ANY GROUP OR CANDIDATE; OR (2)] any expen-
6 diture whatsoever for advertising in newspapers, on radio or on televi-
7 sion; or, for the publication, distribution or circulation of brochures,
8 flyers, or other campaign material for or against any candidate, [OR]
9 ballot proposition or question.

10 * Sec. ⁹ A. AS 15.13.040(e) is amended to read:

11 (e) The report required under (d) of this section shall contain
12 the name, address, principal occupation and employer of the individual
13 filing the report, and an itemized list of expenditures. The report
14 shall be filed with the commission [BY THE CONTRIBUTOR] no later than
15 10 days after the [CONTRIBUTION OR] expenditure is made. [A COPY OF
16 THE REPORT SHALL BE FURNISHED TO THE CANDIDATE, CAMPAIGN TREASURER OR
17 DEPUTY CAMPAIGN TREASURER AT THE TIME THE CONTRIBUTION IS MADE.]

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18 * Sec. 10. AS 15.13 is amended by adding a new section to read:

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informing the commission of his intent. The report may be filed only once and may be filed either before or at the time the candidate's first report is due under AS 15.13.110. The report shall be certified as correct by the candidate.

(b) A candidate who receives contributions or makes expenditures

in excess of the \$250 limit

after filing a report under (a) of this section forfeits his exemption from the reporting requirements of this chapter and shall file reports

in accordance with AS 15.13.110. The first report is due within three days after receipt of a contribution or the making of an

expenditure by the candidate. A candidate who receives an unsolicited contribution and returns the contribution to the contributor within 72 hours of its receipt does not lose the exemption provided in this section.

* Sec. 9. AS 15.13.045 is amended by adding a new subsection to read:

(c) The commission shall adopt regulations consistent with AS 44.62.330 - 44.62.630 to establish a fair and impartial process for the taking of evidence and holding hearings in investigations and audits of the commission.

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11 * Sec. ~~10.~~ ¹¹ AS 15.13.050 is amended to read:

12 Sec. 15.13.050. GROUPS. Each group, before making an expenditure
13 on behalf of, or in opposition to, a candidate, or a contribution to a
14 candidate, shall register, on forms provided by the commission, with
15 the commission. If the group intends to support or oppose only one
16 candidate, or to contribute to or expend on behalf of, or in opposition
17 to, one candidate 50 percent or more of its funds, the name of the
18 candidate shall be a part of the name of the group. Promptly upon
19 receiving the registration, the commission shall notify the candidate
20 of the group's organization and intent. A group that makes expendi-
21 tures or receives contributions with the express or implied authoriza-
22 tion or consent, or under the direct or indirect control, of a candi-
23 date, is considered to be controlled by that candidate. A group whose
24 major purpose is to further the nomination or election of a single
25 candidate, or which intends to expend 50 percent or more of its money
26 on a single candidate, is considered to be controlled by that candi-
27 date and its actions considered to have been done with the knowledge
28 and consent of the candidate unless, within 10 days from the date the
29 candidate learns from the commission of the existence of the group,

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1 he files with the commission, on a form provided by the commission,
2 an affidavit certifying that the group is operating without his con-
3 trol. A group that contributes 50 percent or more of its money to or
4 on behalf of a single candidate is considered to support only that
5 single candidate for purposes of AS 15.13.070, whether or not con-
6 trol of the group has been disclaimed by the candidate. A group or-
7 ganized for more than one year preceding an election which endorses
8 candidates for more than one office or candidates of more than one
9 political party is presumed not to be controlled by a single candidate.

10 * Sec. ~~11.~~ ¹² AS 15.13.070(a) is amended to read:

11 (a) A [NO] person or group, including but not limited to all
12 political committees, businesses, corporations, and labor unions, may
not contribute [TO OR EXPEND] more than \$1,000 in a calendar year on behalf or or

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14 in opposition to a candidate [THE COMPETING CANDIDATES] for [EACH]
15 elective office. Political parties and their subdivisions are not
16 subject to the limitation prescribed in this subsection, but they are
17 subject to the reporting requirements prescribed by AS 15.13.040(b) and
18 15.13.110. Nothing in this chapter prohibits

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

21 (2) individuals or groups, including but not limited to all
22 political committees, businesses, corporations, and labor unions, from
23 contributing to or expending on behalf of a ballot proposition or ques-
24 tion more than \$1,000 a year; however, these contributions and expendi-
25 tures shall be reported in accordance with AS 15.13.040 and 15.13.110.

Sec. 13. AS 15.13.070(b) is amended to read:

Call Name
(b) No contribution over \$100 may be made in cash unless a receipt
for the total amount is issued by the candidate or group and no contribution
[OR] by payment of cash [PAYMENT] may be made in excess of \$100 unless a
receipt is obtained by the contributor ~~(and neither [IT] may [NOT] be accepted~~
~~by or on behalf of a candidate.)~~

26 * Sec. ¹⁴ ~~12~~. AS 15.13.070(d) is amended to read:

27 (d) No contribution may be made, and no expenditure may be made
28 or incurred, directly or indirectly, anonymously, in a fictitious name,
29 or by one person or group in the name of another, to influence the

Please
1 election of a candidate in an election. A contribution made by a
2 person wishing to remain anonymous, and received by a candidate, cam-
3 paign treasurer or deputy campaign treasurer, may not be used or ex-
4 pended, but shall be returned to the donor, if his identity is known,
5 and if no donor is found, the contribution escheats to the state if not
6 donated by the candidate to the charity of his choice. ~~Nothing~~

7 ~~Nothing shall prevent a contribution of \$5 or less without recording the name of~~
8 ~~the contributor.~~

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Sec. 15. AS 15.13.090 is amended to read:

(a) All advertisements, billboards, handbills, paid-for television and radio announcements and other communications intended to promote [INFLUENCE] the election of a candidate and paid for by that candidate or the candidate's campaign committee [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 or the candidate's campaign committee [, GROUP OR INDIVIDUAL PAYING FOR THE ADVERTISING. IN ADDITION, CANDIDATES AND GROUPS MUST IDENTIFY THE NAME OF THEIR CAMPAIGN CHAIRMAN.]

(b) All advertisements, billboards, handbills, paid-for television and radio announcements and other communications intended to support or oppose candidates, ballot propositions, referendums, or recalls paid for by groups, individuals, or persons shall be clearly identified by the words "paid for by" followed by the name of the group, individual, or person, together with a contact address or telephone number.

9 * Sec. ~~15.16~~^{15.16} AS 15.13.090 is amended by adding a new subsection to read:

10 (A) The commission may by regulation exempt from the requirements
11 of (a) of this section communications which in its judgment do not
12 afford space for the identification required under (a) of this section.

13 * Sec. ~~15.17~~^{15.17} AS 15.13.100 is amended to read:

14 Sec. 15.13.100. EXPENDITURES, CONTRIBUTIONS AND REGISTRATION BE-
15 FORE FILING. Political campaign contributions may be made or received,
16 and expenditures [NO POLITICAL CAMPAIGN EXPENDITURE] may be made or
17 incurred by a candidate [PERSON] in an election, or by a person or
18 group with the candidate's [HIS] knowledge and on the candidate's [HIS]
19 behalf, before the date upon which the candidate [HE OR SHE] files for
20 nomination for the office which he [THE PERSON] seeks. However, these
21 contributions and expenditures [, EXCEPT FOR PERSONAL TRAVEL EXPENSES
22 OR FOR OPINION SURVEYS OR POLLS. THESE EXPENDITURES SHALL BE CHARGED
23 AGAINST THE SPENDING LIMITATION THAT APPLIES TO THE OFFICE FOR WHICH HE
24 SUBSEQUENTLY FILES, AND] shall be included in the first report required
25 under AS 15.13.110 [THIS CHAPTER AFTER FILING FOR OFFICE].

26 * Sec. 15. AS 15.13.110(a)(1) is amended to read:

27 (1) ~~Each contribution [OR EXPENDITURE] which exceeds \$250 and~~

28 * Sec. 15. AS 15.13.110(b) is amended to read:

29 (b) Each contribution [OR EXPENDITURE] which exceeds \$250 and

1 which is made within 10 days [ONE WEEK] of the election shall be re-
2 ported to the commission by date, amount, and contributor [OR RECIP-
3 IENT] within 48 [24] hours of receipt [OR EXPENDITURE] by the candidate
4 or campaign treasurer or deputy treasurer.

5 * Sec. ⁹ 1A. AS 15.13.110 is amended by adding new subsections to read:

6 (f) The report required by (a)(3) of this section is the final
7 report if at the time the report is made

8 (1) there is no outstanding debt or obligation;

9 (2) the campaign fund has been closed;

10 (3) the campaign has been concluded; and

11 (4) in the case of a group, the group has dissolved.

12 (g) Reports shall be filed as required by (a)(4) of this section
13 by

14 (1) a candidate who has an outstanding debt or obligation
15 until the debt or obligation is satisfied;

16 (2) a group that has an outstanding debt or obligation until
17 the debt or obligation is satisfied or until the group is dissolved.

18 (h) When a final report has been submitted under this section,
19 the duties of the campaign treasurer cease and there is no obligation
20 to file further reports.

21 * Sec. ²⁰ 1A. AS 15.13 is amended by adding a new section to read:

22 Sec. 15.13.115. COMPLAINTS. (a) A person who believes that a
23 violation of this chapter has occurred may file a complaint with the
24 commission. If the commission determines that there is substantial
25 reason to believe that a violation of this chapter has occurred, it
26 shall expeditiously investigate the subject matter of the complaint.
27 The investigation may include but is not limited to an investigation of
28 the reports and statements filed with the commission by the complainant,
29 if he is a candidate.

1 (b) If the commission determines, after notice and opportunity
2 for a hearing, that a person has engaged in or is engaged in an act
3 which is a violation of this chapter or of a regulation or order issued
4 under this chapter, the commission shall promptly report its deter-
5 mination to the attorney general for appropriate action.

6 (c) The commission shall report its determination to the person
7 who filed the complaint within 60 days of receiving the complaint,
8 unless circumstances require additional time to make an adequate inves-
9 tigation.

10 (d) The determination of the commission on a complaint may be
11 appealed to the superior court.

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* Sec. ~~17~~²¹. AS 15.13.120(a) is amended to read:

(a) A person who violates a provision of this section [CHAPTER] is guilty of a class A misdemeanor [AND, UPON CONVICTION, IS PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR OR BY A FINE OF NOT MORE THAN \$5,000]. A violation includes but is not limited to any of the following acts or omissions:

(1) refusing or failing to submit [MAKE] a properly completed statement or report required to be made under this chapter [, OR FAILING TO MAKE A STATEMENT OR REPORT AT THE TIME THE STATEMENT OR REPORT IS REQUIRED TO BE MADE UNDER THIS CHAPTER];

Delete Properly

(2) knowingly making a campaign contribution or expenditure which exceeds the limitations of AS 15.13.070(n) [AS 15.13.070(f)];

(3) knowingly making a false statement or report under this chapter;

(4) giving or furnishing money to another person or groups for the purpose of making a contribution or expenditure anonymously, in a fictitious name, or in the name of another, or contributing in violation of AS 15.13.070(d).

(5) making a communication to support or defeat a candidate without identification of sponsorship, in accordance with [OF] AS 15.13.090(b);

(6) knowingly accepting a contribution in violation of AS 15.13.070.

* Sec. ~~20~~²². AS 15.13.120(c) is amended to read:

(c) Promptly after the final date for filing statements and reports, the commission shall notify all persons who have become delinquent in filing them, [INCLUDING CONTRIBUTORS WHO FAILED TO FILE A STATEMENT IN ACCORDANCE WITH AS 15.13.040,] and shall make available a list of these delinquents for public inspection. The commission shall also report to the attorney general the names of all candidates and groups in an election whose campaign treasurers have failed to file the reports required by this chapter.

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* Sec. 21. AS 15.13.120(e) is repealed and reenacted to read:

~~(e) Prosecution for violation of a provision of this chapter may not be commenced after one year has elapsed from the date of the alleged violation.~~

Sec. 23. *Need language to restore four year Statute of limitations which was replaced by one year limit in AS 15.56.130*

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* Sec. ²⁴22. AS 15.13 is amended by adding a new section to read:

Sec. 15.13.121. EFFECT OF CERTAIN CONVICTIONS. (a) If a successful candidate for the state legislature or for a seat on a city council or borough assembly or for borough or city mayor is convicted of a misdemeanor described in AS 15.13.170(a)(1), (3), or (6), the eligibility of the successful candidate to hold the office to which elected shall be determined as to

- (1) a member of the legislature under art. II, sec. 12 of the state constitution;
- (2) a borough assemblyman under AS 29.23.060(c);
- (3) a borough mayor under AS 29.23.130(f);
- (4) a city councilman under AS 29.23.210(b);



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1 (5) a city mayor under AS 29.23.255.

2 (b) When a candidate or a nominee is charged with a misdemeanor
3 described in (a) of this section, the case shall be promptly tried and
4 the case shall be accorded a preferred status by the courts to ensure a
5 speedy disposition of the matter.

6 * Sec. 23. AS 15.13.125 is amended to read:

7 Sec. 15.13.125. CIVIL PENALTY: LATE FILING OF REQUIRED REPORTS.

8 A person who fails to file a properly completed and certified report
9 within the time required by AS 15.13.110(a)(1), (3), (4) or (d) is
10 subject to a civil penalty of not more than \$10 a day for each day the
11 delinquency continues as determined by the commission subject to right
12 of appeal to the superior court. A person who fails to file a properly
13 completed and certified report within the time required by AS 15.13.-
14 110(a)(2) or (b) is subject to a civil penalty of not more than \$50 a
15 day for each day the delinquency continues as determined by the commis-
16 sion subject to right of appeal to the superior court. An affidavit
17 stating facts in mitigation may be submitted to the commission by a
18 person against whom a civil penalty is assessed. However, the imposi-
19 tion of the penalties prescribed in this section or in AS 15.13.120
20 does not excuse that person from filing reports required by this chap-
21 ter.

22 * Sec. ²⁵24. AS 15.13.130(1) is repealed and reenacted to read:

23 (1) "candidate" means an individual who seeks nomination for
24 election to, or election to, the state legislature, the office of
25 governor or lieutenant governor, or municipal office, or who seeks
26 retention in judicial office or nomination or election as a constitu-
27 tional convention delegate; an individual shall be considered to seek
28 nomination or election if

29 (A) he has taken the action necessary under the law of

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1 this state to qualify himself for nomination or election to an
2 office;

3 (B) he has received contributions or made expenditures
4 before filing for office;

5 (C) he has given his consent, implicit or explicit, for
6 a person or group to receive contributions or make expenditures to
7 bring about his nomination or election to office;

8 (D) he has campaigned as a write-in candidate for
9 office; or

10 (E) he is the subject of a recall election;

11 ²⁶ * Sec. 25. AS 15.13.130(2) is amended ~~to read~~ by adding (D)

12 (2) "contribution" means purchase, payment, promise or obli-
13 gation to pay, loan or loan guarantee, deposit or gift of money or
14 goods [OR SERVICES] for which charge is ordinarily made and which is
15 made for the purpose of influencing the nomination or election of a
16 candidate, and in AS 15.13.010(b) for the purpose of influencing a
17 ballot proposition or question, including the payment by a person other
18 than a candidate or political party, or compensation of the personal
19 services of another person which are rendered to the candidate or poli-
20 tical party; however, "contribution" does not include

21 (A) services provided without compensation by individ-
22 uals volunteering a portion or all of their time on behalf of a
23 candidate or ballot proposition or question [BUT IT DOES INCLUDE
24 PROFESSIONAL SERVICES VOLUNTEERED BY INDIVIDUALS FOR WHICH THEY
25 ORDINARILY WOULD BE PAID A FEE OR FEE];

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

28 (C) ordinary hospitality to a home;

29 (D) a contribution that is returned to the contributor

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

STATE OF ALASKA
THE LEGISLATURE

80-071
POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

June 1, 1980

SUBJECT: Article III, sec. 26 and the APOC
TO: Representative Terry Gardiner
Speaker of the House of Representatives
FROM: Richard A. Bradley
Legislative Counsel

You have requested a memorandum on the applicability of Article III, sec. 26 of the Alaska Constitution to the appointment of the members of the Alaska Public Offices Commission established in AS 15.13.

Sec. 26 requires the governor to appoint members of boards or commissions which are at the head of a "regulatory or quasi-judicial agency" subject to legislative confirmation.

No provision of AS 15.13, AS 24.45, or AS 39.50 requires the legislative confirmation of the members of the commission.

The question, then, is whether the Alaska Public Offices Commission is a "regulatory or quasi-judicial agency."

The activities of the commission fall under three chapters of the Alaska Statutes.

Under AS 15.13, the commission receives the reports of candidates for political office. If reports are not filed timely or if there are defects in the reports, the commission may impose sanctions for the lateness or the other defects.

Under AS 24.45, the commission receives reports of lobbying activity and imposes sanctions for late or inadequate filings.

Under AS 39.50, the commission again receives reports of public officials concerned with the disclosure of conflicts of interest and establishes appropriate sanctions.

June 1, 1980

Under none of these laws does the activity of the commission truly partake of the concept of regulation. Rather the regulation in question has been accomplished by the legislature in its enactment of the three chapters. The role of the commission is to monitor compliance with the regulations established by the legislature and to set sanctions to the extent that it has the power and to forward cases to the Department of Law where its power is lacking or the sanctions are inadequate.

It seems clear that the aspect of regulation undertaken by the commission is of a lower level than that undertaken by the Public Utilities Commission, for example. And the difference between the regulation undertaken by APOC and APUC is so different that the distinction more closely approximates a distinction in kind rather than a distinction in degree.

Having said this, the question whether this limited aspect of "regulation" qualifies to establish the commission as a section 26 commission is close.

In my view, the legislature may determine this question itself. It may characterize the responsibilities of the commission as regulatory and require compliance with sec. 26 requirements; alternatively, it may determine that the responsibilities do not rise to the level of regulation for the purposes of sec. 26 and avoid the requirements of sec. 26.

It does this in close cases not by any affirmative statement in the law itself but rather by its determination to require confirmation of the members of the commission or not.

The Bradner v. Hammond case, 553 P.2d 1 (Alaska 1976) stands for the proposition that the legislature may not undertake to require legislative confirmation of public officers of the executive branch who are not within the sweep of the confirmation power [Article III, secs. 25 and 26] under the constitution. But the case does not limit the authority of the legislature to determine for itself close questions of whether a board or commission exercises "regulatory or quasi-judicial" powers where the legislature has the power to establish the commission and grant it "regulatory or quasi-judicial" power.

Representative Terry Gardiner

Page 3

June 1, 1980

The implicit legislative determination that the members of the commission do not require legislative confirmation constitutes, in the premises, an affirmative legislative determination that the commission does not exercise "regulatory or quasi-judicial" powers.

As I have suggested above, that conclusion is supportable by an analysis of the responsibilities of the commission.

And there is no legal significance to the submission by the governor of the names of appointees to the commission for legislative confirmation, if that has occurred. See, Bradner v. Hammond, supra, at 4, n.5.

RAB:ljb