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Code of Ethics  
(state officials & employees)

SENATE BILL NO. 175, by Senators Fischer, Hohman, Stimson, Bradley, Kerttula, Rodey, Dankworth, Colletta, Parr, Kelly, Eliason and Sturgulewski. Adopts a code of ethics for state officials and employees to establish ethical standards for the avoidance of conflicts of interest, and to aid them in avoiding situations or conduct that may give rise to the appearance of impropriety. Adds a new chapter (49) to AS 39, "Conflict of Interest and Financial Disclosure", under which is established the State Ethics Commission within the Department of Administration. Commission to consist of seven members appointed by the Governor and concurred in by the Legislature. Outlines requirements for members (may not hold an elected office, may contribute to political campaign but may not hold a party office or participate in a campaign, may not be a lobbyist). Provides for election of presiding officer, compensation, appointment of an executive director, delegation of authority, establishment of regional offices in each senate district, and outlines the powers and duties of the commission. States that the Attorney General is the legal counsel for the commission and shall advise it on legal matters arising in the discharge of duties and shall represent the commission in actions to which it is a party. Provides commission may request the chief justice of the supreme court to appoint a special prosecutor in proceeding involving violation if the AG fails or refuses to prosecute the violation. Provides for initiation of investigations by the commission on its own determination or on the receipt of a sworn complaint. States that the commission shall refer to the AG general violations of the law which it determines merit prosecution, and that the AG has the responsibility for prosecutions and may request evidence from the commission. States commission may issue opinions and interpretations of the law.

Outlines requirements for financial disclosure by state officials and a candidate for state office. States that public official shall file a statement each year, and that a new official shall file for the 12 months before he became a public official. A candidate for state office shall file a statement with the director of elections for the 12 full months before he became a candidate at the time he becomes a candidate. Statements show value of economic interests of official or candidate or members of his household as indicated by categories (from Category I--\$5,000 to Category IV--\$100,000 or more). Statement shall include name, address and position sought by official or candidate, names of household members and names under which they are engaged in business; occupations and principal places of business of official, candidate or household members, name of business associated with during filing year and description and nature of business or activity; listing of all interests in real property, excluding residence which exceed \$5,000, including street address and legal description, date of acquisition or transfer and its value by category; listing of securities of \$5,000 or more; listing of bonds regardless of value (issued by state or municipality); name and address of creditor for debts in excess of \$1,000; name and address of person or business that made payments or provided gross income exceeding \$1,000, excluding securities;

SB 175, (cont'd)

the name and address of a business or governmental client or customer of a business in which the officer or candidate or household member is an officer, director, or partner or has an ownership interest of more than 50 percent, if the client or customer has paid an aggregate of \$25,000 or more during the filing year. List of gifts received which exceed \$100 in value.

Outlines conflicts of interest by a state official or employee. States a state official or state employee may not use his public office for private advancement or gain; may not represent or assist person or business before a state agency in a transaction involving the state or municipality of the state in a transaction if the compensation is contingent on success to be achieved in the representation or assistance; may not represent or assist person or business for a fee or other compensation to secure passage of a bill, to obtain contract or payment of a claim, or in any other transaction or proposal if he has participated or may participate as an official or employee in the matter; may not represent or assist person or business before a state agency on a bill, contract, claim, or other transaction or proposal involving official action by the agency if he is an official or employee of the agency. Provides section does not apply to members of the legislature. States that a member of the legislature and a person appointed by the legislature or by a legislator may not represent or assist a person or business before a state agency or before an agency of a municipality for compensation or other benefit or promise of benefit. States that official, employee or member of household may not be a party to or have an interest in the profits or benefits of a state contract or the investment of state money unless contract is let by competitive bidding, contract involves not more than \$150, or contract is for supplies or services which are unobtainable elsewhere or which are furnished as part of a continuing course of dealing, established before the official or employee became associated with the agency, and the transaction is conducted at arm's length, with agency's full knowledge of interest and official or employee takes no part in determinations of specifications, deliberations or decision of agency. States official or employee may have a limited interest as shareholder or creditor. States that a state official or employee may not seek employment with or allow himself to be employed by a business which is or may be regulated by an agency in which he serves. A business may not employ an official or employee if employment violates conflict of interest in employment. States that a state official or employee may not acquire a financial interest which he has reason to believe will be directly and immediately affected by his official action or the action of the agency in which he serves. Provides for filing of a written statement by official or employee in a situation in which he is required to take an action or make a decision in the discharge of official duties that may cause financial benefit or detriment to him, a household member or

to a business with which he is associated. Provides a member of the legislature shall prepare written statement in the same manner, and states that member may request permission to abstain from voting on the issue. States that official or employee may not solicit or accept a gift or gifts having an aggregate value of \$100 or more in a calendar year. Provides official or employee may not disclose or use confidential information or information not available to the public for personal gain or benefit of for gain or benefit of another person or business if he obtained the information through his official position. Restricts use of information for two years after he ends term of office or leaves government service or employment, and states restriction on use of information supersedes a less restrictive requirement of confidentiality that may apply. States that a former state official or employee may not for two years following his term of office or his state employment assist another person or business whether or not for compensation in a transaction or in an appearance in connection with a transaction involving the state or an agency or municipality of the state in which the former state official or former state employee participated during his term of office or employment. Further states that a business in which a former state official or former state employee is a partner or member or, in the case of a professional corporation, a shareholder, and an employee of the business may not for two years following the term of office or employment of the state official or employee assist another person in an appearance or transaction involving the state or an agency or municipality of the state in which the former official or employee participated during his term of office or state employment. Provides penalties for violation of provisions (class A misdemeanor for violation for other than requirement of financial disclosure; class B misdemeanor for violation of financial disclosure), and states that a convicted person may not be eligible for appointive office or for employment with the state or act as a paid lobbyist for a period of four years following the date of conviction, unless court reduces or suspends the period. A plea of nolo contendere is considered a conviction for purposes of the chapter. Provides for enforcement, citizen action and civil actions, and discipline (includes dismissal).

Miscellaneous amendments relating to addition of new statute references. Repeals AS 15.13.020 (Alaska Public Offices Commission); sec. 030 (Duties of the commission); sec. 045 (Investigations, hearings); sec. 122 (Legal counsel); sec. 125 (Civil penalty; late filing of required reports); AS 24.-45.141 (Regulation of Lobbying. Civil penalty: Late registration; filing of required statements or reports); AS 39.25.-120(12) (Partially exempt service. the executive director and staff of APOC); AS 39.50 (Conflict of Interest); and AS 39.49.-400(39) (enacted in this bill, the Alaska Agricultural Action Council)--repealed as of July 1, 1984. Provides Act takes effect July 1, 1981.

Introduced February 11 and referred to State Affairs, then to Judiciary.

Appropriations  
(special)  
(AK Ag Action  
Council)

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 162, by Senators Fahrenkamp, Sackett, Bennett and Parr. (see page 115, original bill). Makes special appropriations in the amount of \$6,700,000 to the Alaska Agricultural Action Council for a small grain marketing system: \$5,700,000 for construction of a tidewater grain terminal; \$700,000 for construction of a grain sub-terminal and elevator facility between Fairbanks and Delta Junction; \$300,000 to contract for organization and operation of a marketing system to purchase and resell small grains grown in Alaska. Provides Act takes effect immediately.

Introduced February 10 and referred to Resources, then to Finance.

INTRODUCTION OF RESOLUTIONS (Senate)

Constitutional  
Convention  
Committee

SENATE CONCURRENT RESOLUTION NO. 9, by the Rules Committee by Request of the Legislative Council (for the Interim Committee on the Constitutional Convention of the Eleventh Legislature). Establishes a joint House and Senate committee concerned with the organization and procedures of a state constitutional convention. Provides for appointment of three members of each house, appointed respectively by the Speaker and President to comprise a joint committee of the Twelfth Legislature to examine matters pertaining to the organization and conduct of constitutional conventions in Alaska. States that committee has authority both as a special and an interim committee and that work be undertaken with the full voting participation of a judge or justice of the Alaska court system appointed by the chief justice of the supreme court, the lieutenant governor, and by a person appointed by the governor. Resolves that the committee be dissolved November 30, 1982 and that its final report be submitted to the First Session of the Thirteenth Legislature not later than 1/25/83.

Introduced February 10 and referred to Judiciary, then to Finance.

COMMITTEE REPORTS (Senate)

Special  
Education

SENATE BILL NO. 18, (see page 10). Reported back to the Senate on February 12 by HESS with the committee recommending it be replaced with a SUBSTITUTE (HESS), and that it do pass. The substitute provides that to receive aid a district must apply to the department and outlines application requirements. States department shall project amount needed to finance state aid and shall request an appropriation from the legislature annually. Provides monies to be appropriated and if insufficient, shall be distributed pro rata among

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Article 2. Administration.

Section

- 21. Administration
- 31. Powers and duties

Sec. 24.45.021. Administration. (a) This chapter shall be administered by the Alaska Public Offices Commission created under AS 15.18.020(a).

(b) The commission shall promulgate regulations under the Administrative Procedure Act (AS 44.62) to implement the provisions of this chapter. (§ 2 ch 167 SLA 1976)

Sec. 24.45.031. Powers and duties. (a) In addition to the other duties under this chapter, the commission shall

(1) prescribe the forms for registration, reports, statements, notices and other documents required by this chapter;

(2) prepare and publish instructions setting out the methods of accounting, bookkeeping and preservation of records required to facilitate compliance with and enforcement of this chapter and explaining the duties of persons subject to the provisions of this chapter; the instructions shall be updated periodically;

(3) provide assistance to persons in complying with the provisions of this chapter;

(4) prepare and publish an annual report of its activities, findings and recommendations under this chapter, which shall be made available to the governor, legislature and to the public by February 1 of each calendar year;

(5) report suspected violations of this chapter to the attorney general.

(b) The commission may

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

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

(3) prepare, publish, and make available to the public, periodic, but at least quarterly and annually, summaries of the statements and reports received; these summaries shall list separately individual lobbyists and employers of lobbyists. (§ 2 ch 167 SLA 1976)

Article 3. Disclosure: Registration and Reports.

Section

- 41. Registration
- 51. Reports
- 61. Reports by employers of lobbyists
- 71. Certification of reports
- 81. Reporting periods

Section

- 91. Publication of reports
- 101. Public records
- 111. Preservation of records
- 116. Disclosure of contributions

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Sec. 24.45.041. Registration. (a) Before engaging in lobbying, a lobbyist shall file a registration statement on a form prescribed by the commission.

(b) The registration form prescribed by the commission shall include

(1) the lobbyist's full name and complete permanent residence and business address and telephone number, as well as any temporary residential and business address and telephone number in the state capital during a legislative session;

(2) the full name and complete address of each person by whom the lobbyist is retained or employed;

(3) whether the person from whom the lobbyist receives compensation employs him solely as a lobbyist or whether he is a regular employee performing other services for his employer which include but are not limited to the influencing of legislative or administrative action;

(4) the nature or form of the lobbyist's compensation for engaging in lobbying, including salary, fees or reimbursement for expenses received in consideration for, or directly in support of or in connection with, the influencing of legislative or administrative action;

(5) a general description of the subjects or matters on which the registrant expects to lobby or to engage in the influencing of legislative or administrative action;

(6) the full name and complete address of the person, if other than the registrant, who has custody of the accounts, books, papers, bills, receipts and other documents required to be maintained under this chapter.

(c) At the option of the registrant, the registration form may be accompanied by four two and one-half inch by two and one-half inch black and white photographs of the lobbyist. The photographs may not be more than five years old. These photographs shall be included in the directory published under (e) of this section.

(d) If a change occurs in any of the information contained in a registration statement filed under (a) of this section, or in any accompanying document, an appropriate amendment shall be filed with the commission within 10 days after the change.

(e) Within 45 days after the convening of each regular session of the legislature, the commission shall publish a directory of registered lobbyists, containing the information prescribed in (b) of this section for each lobbyist and the photograph, if any, furnished by a lobbyist under (c) of this section. From time to time thereafter the commission shall publish those supplements to the directory that in the commission's judgment may be necessary. The directory shall be made available to public officials and to the public at the following locations: a public place adjacent to the legislative chambers in the state capitol building, the

office of the lieutenant governor, the legislative reference library of the Legislative Affairs Agency and the commission's central office.

(f) Each lobbyist shall renew his registration annually by filing a new registration statement together with a new authorization to act as a lobbyist before engaging in lobbying. The lobbyist also shall file any reports or statements he has failed to file for a previous reporting period. The commission may not renew lobbying credentials until this provision is complied with. (§ 2 ch 167 SLA 1976)

**Sec. 24.45.051. Reports.** Each lobbyist registered under § 41 of this chapter shall file with the commission a report concerning his activities during each reporting period prescribed in § 81 of this chapter, so long as the lobbyist continues to engage in lobbying activities. The report shall be made on a form prescribed by the commission and filed in accordance with §§ 71 and 81 of this chapter. The report also shall include any changes in the information required to be supplied under § 41(b) of this chapter and the following information for the reporting period, as applicable:

(1) the source of income, as defined in AS 39.50.200(8) and the monetary value of all payments, including but not limited to salary, fees, and reimbursement of expenses, received in consideration for or directly or indirectly in support of or in connection with influencing legislative or administrative action, and the full name and complete address of each person from whom amounts or things of value have been received and the total monetary value received from each person;

(2) the aggregate amount of disbursements or expenditures made or incurred during the period in support of or in connection with influencing legislative or administrative action by the lobbyist, or on behalf of the lobbyist by his employer in the following categories:

- (A) food and beverages;
- (B) living accommodations;
- (C) travel;

(3) the date and nature of any gift exceeding \$100 in value made to a public official and the full name and official position of that person;

(4) the name and official position of each public official, and the name of each member of the immediate family of any of these officials, with whom the lobbyist has engaged in an exchange of money, goods, services or anything of more than \$100 in value and the nature and date of each of these exchanges and the monetary values exchanged;

(5) the name and address of any business entity in which the lobbyist knows or has reason to know that a public official is a proprietor, partner, director, officer or manager, or has a controlling interest, with whom the lobbyist has engaged in an exchange of money, goods, services, or anything of value and the nature and date of each exchange and the monetary value exchanged if the total value of these exchanges is \$100 or more in a calendar year; and

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(6) a notice of termination if the lobbyist has ceased the lobbying activity which required his registration under this chapter and if this report constitutes the final report of his activities. (§ 2 ch 167 SLA 1976)

**Cross reference.** — As to the publication of the reports required under Chapter 50 of Title 39 in order to facilitate the filing of information required to be provided under paragraphs (4) and (5) of this section, see AS 39.50.050(d).

**Editor note.** — Section 10 of ch. 167, SLA 1976 provides that "the initial reports required under AS 24.45.051 — 24.45.061 are due for the reporting period beginning January 1, 1977, and shall be filed not later than February 28, 1977."

**Sec. 24.45.061. Reports by employers of lobbyists.** (a) Within 15 days after employing, retaining or contracting for the employment or retention of a lobbyist, the person who employs, retains or who contracts for the services of a lobbyist shall file a statement with the commission authorizing or verifying that employment, retention or contract for lobbying services.

(b) A person who employs, retains or who contracts for the services of one or more lobbyists, whether independently or jointly with other persons, and who directly or indirectly makes payments to influence legislative or administrative action shall file a quarterly report containing

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

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

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

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

(5) a general description of the legislative or administrative action which the person making the report has attempted to influence;

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

(7) a notice of termination if the person filing a report has ceased employing or retaining a lobbyist registered under this chapter and if this report constitutes the final report of the lobbyist's activities on behalf of the maker of the report. (§ 2 ch 167 SLA 1976)

**Editor's note.** — Section 10 of ch. 167, SLA 1976, provides that "the initial reports required under AS 24.45.061 — 24.45.061

are due for the reporting period beginning January 1, 1977, and shall be filed not later than February 28, 1977."

**Sec. 24.45.071. Certification of reports.** Every statement or report required to be filed under this chapter shall identify the full name of the person preparing it, his complete address and telephone number, and shall be certified as complete and correct, both by the person preparing it and by the person on whose behalf it is filed. (§ 2 ch 167 SLA 1976)

**Sec. 24.45.081. Reporting periods.** Reports required under this chapter 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. However, if a lobbyist registered under this chapter has declared that he seeks only to influence administrative action and not legislative action he need only file a report required under this chapter for each calendar quarter. The period covered shall be the calendar month or the calendar quarter, as applicable, and shall in any event cover the period from the date of the last report filed under this chapter to the date of the end of the calendar month or quarter, as applicable, for which the report is being filed. The period covered shall not include any months covered in previous reports filed by the same person. When total amounts are required to be reported, totals shall be stated both for the period covered by the statement and for the entire calendar year to date. (§ 2 ch 167 SLA 1976)

**Sec. 24.45.091. Publication of reports.** Copies of the statements and reports filed under this chapter shall be made available to the public at the commission's central office, the office of the lieutenant governor, the legislative reference library of the Legislative Affairs Agency, and at the commission's district offices prescribed in AS 15.18.020(j) as soon as practicable after each reporting period. (§ 2 ch 167 SLA 1976)

**Sec. 24.45.101. Public records.** Statements and reports filed under this chapter are public records and shall be available for public inspection and copying during normal business hours at the expense of the person requesting copies; however, the charge for copying may not exceed actual cost to the commission. (§ 2 ch 167 SLA 1976)

**Sec. 24.45.111. Preservation of records.** (a) A person required to register or report as a lobbyist shall preserve all accounts, bills, receipts, books, papers and documents necessary to substantiate the reports required to be made and filed under this chapter for a period of at least one year from the date of the filing of the report containing these items. These accounts, bills, receipts, books, papers and other documents shall be made available for inspection by the commission, or members of its staff, at any time. If a lobbyist is required under the terms of his employment contract to turn any records over to his employer, responsibility for the preservation of these records under this section rests with the employer.

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(b) The commission shall preserve the statements and reports required to be filed under this chapter for a period of six years from the date of filing. If the commission's central office is not in the state capital, copies of all statements and reports filed under this chapter shall be maintained in an office established by the commission in the state capital or in the office of the lieutenant governor. (§ 2 ch 167 SLA 1976)

**Sec. 24.45.116. Disclosure of contributions.** Before a civic league or organization may be eligible for the benefits of AS 43.20.031(f)(4), it must agree to comply with the requirements of this section. The civic league or organization shall report the total amount of contributions received for the reporting period and for any contribution over \$100, the name of the contributor and the amount contributed. The civic league or organization may establish a separate fund to account for receipts and expenditures arising out of activities to influence legislative action. Reports shall be made on a form provided by the commission on February 10, April 25, and July 10 of each year, listing contributions received during the period that ended 10 days earlier. (§ 5 ch 133 SLA 1977)

**Editor's note.** — This section was originally enacted as AS 24.45.121 and has been redesignated as AS 24.45.116.

The reference to AS 43.20.031(f)(4) in the first sentence is incorrect. The reference should be to AS 43.20.031(f).

#### Article 4. Enforcement.

##### Section

- 121. Prohibitions
- 131. Examination of statements, reports
- 141. Civil penalty: Late registration, filing of required statements or reports
- 151. Criminal penalties

##### **Sec. 24.45.121. Prohibitions.** (a) No lobbyist may

- (1) engage in any activity as a lobbyist before registering under § 41 of this chapter;
- (2) do anything with the intent of placing a public official under personal obligation to him or to his employer;
- (3) intentionally deceive or attempt to deceive any public official with regard to any material fact pertinent to pending or proposed legislative or administrative action;
- (4) cause or influence the introduction of a legislative measure for the purpose of thereafter being employed to secure its defeat;
- (5) cause a communication to be sent to a public official in the name of any fictitious person or in the name of any real person, except with the consent of that person;
- (6) accept or agree to accept any payment in any way contingent upon the defeat, enactment or outcome of any proposed legislative or administrative action.

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political party to participate in the canvassing of the vote. Each person who is appointed and serves is entitled to the same rate of compensation paid election judges. Each political party may present to the lieutenant governor a list of three or more names from which he shall select the persons to represent the party. The list of names may be submitted in writing at least 30 days before the date of the election. The persons to represent the party on the canvassing board may be selected by the state party central committee or in any other manner prescribed by the bylaws of the party. The list of names shall be certified by the chairman of the state central committee of the party or by the person authorized by the party bylaws to act in the absence of the chairman. (§ 2.18 ch 83 SLA 1960)

### Chapter 13. State Election Campaigns.

Section	Section
10. Applicability	80. Statement by contributor
20. Alaska Public Offices Commission	90. Identification of communication
30. Duties of the commission	100. Expenditures before filing
40. Contributions, expenditures and supplying of services to be reported	110. Filing of reports
45. Investigations, hearings	120. Penalty; limitations on actions
50. Groups	122. Legal counsel
60. Campaign treasurers	125. Civil penalty; late filing of required reports
70. Contributions and expenditures; amount and form of payment	130. Definitions

**Sec. 15.13.010. Applicability.** (a) This chapter applies in every election for governor, lieutenant governor, a member of the state legislature, a delegate to a constitutional convention, or judge seeking electoral confirmation. It also applies to every candidate for election to a municipal office in a city or borough with a population of more than 1,000 inhabitants according to the latest United States census figures or estimates of population certified as correct for administrative purposes by the Department of Community and Regional Affairs. A municipality may exempt its elected municipal officers from the requirements of this chapter if a majority of the voters voting on the question at any regular election, as defined by AS 29.78.010(14), or a special municipality-wide election called for that purpose, vote to exempt its elected municipal officers from the requirements of this chapter. The question of exemption from the requirements of this chapter may be submitted by the city council or borough assembly by ordinance or by initiative ordinance. Nothing in this chapter prohibits a municipality from regulating by ordinance campaign contributions and expenditures.

(b) Except as otherwise provided, this chapter applies to contributions, expenditures and communications made by a candidate, group, municipality or individual for the purpose of influencing the outcome of a ballot proposition or question as well as those made to influence the nomination or election of a candidate. (§ 1 ch 76 SLA 1974; am §§ 1, 2 ch 189 SLA 1975)

**Effect of amendment.** — The 1975 amendment designated the provisions of the section as subsection (a), and in that subsection, substituted "a delegate to a constitutional convention, or judge seeking electoral confirmation" for "or for a municipal office" at the end of the first sentence, added the present second and fourth sentences and substituted "its elected municipal officers" for "itself" and for "the municipality" and the language beginning "voting on the question" and ending "called for that purpose" for "at a general election" in the present third sentence. The amendment also added subsection (b).

Initiative substantially similar to ch. 76, SLA 1974, correctly withheld from

ballot. — Substantial similarity existed between ch. 76, SLA 1974, which enacted this chapter, relating to election campaigns, and an initiative relating to campaign contributions and expenditures, which was filed with the lieutenant governor prior to the regular 1974 session of the legislature. The act effectively displaced the initiative, and the lieutenant governor was correct in withholding the initiative from the ballot. *Warren v. Boucher*, Sup. Ct. Op. No. 1206 (File No. 2315), 543 P.2d 731 (1975).

For comparison of ch. 76, SLA 1974, and the initiative, see *Warren v. Boucher*, Sup. Ct. Op. No. 1206 (File No. 2315), 543 P.2d 731 (1975).

**Sec. 15.13.020. Alaska Public Offices Commission.** (a) There is created in the office of the lieutenant governor the Alaska Public Offices Commission consisting of five members.

(b) 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 preceding general election at which a governor was elected. The two appointees from each of these two parties shall be chosen from a list of four names to be submitted by the central committee of each party.

(c) The four members selected under (b) of this section shall, by a majority vote, appoint the remaining fifth member of the commission.

(d) Upon selection of the commission's fifth member, the commission's four members selected under (b) of this section shall draw lots to determine the length of their terms of office so that one commission member serves one year, one serves two years, one serves three years and one serves four years. However, the terms of no two commission members who are members of the same political party may expire in consecutive years. The term of office of the fifth member, appointed under (c) of this section, expires in the fifth year. Terms of office of the initial appointees to the commission, 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 term of office of a member of the commission is five years, or until his successor is appointed and qualifies. No commission member may serve more than one term. However, initial appointees to the commission who do not serve a full five-year term and a person appointed to fill the unexpired term of his predecessor may be appointed to a successive full five-year term.

(e) No member of the commission, during tenure, may

(1) hold or campaign for elective office;

(2) be an officer of a political party, political committee or group;

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(3) permit his name to be used, or make any contributions whatsoever, in support of or in opposition to a candidate or proposition or question that appears on any ballot in the state including but not limited to that of a municipality; however, contributions may be made to a candidate for the office of President of the United States;

(4) participate in any way in an election campaign or participate in or contribute to any political party; or

(5) lobby, employ or assist a lobbyist.

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

(g) The members shall elect a chairman. Three members of the commission constitute a quorum. A vacancy does not impair the powers of the remaining members to exercise all of the powers of the commission.

(h) A vacancy on the commission shall be filled by the appropriate appointing authority within 30 days of the occurrence of the vacancy. The appointee shall serve for the remaining term of his predecessor.

(i) The commission may employ an executive director and other employees it considers necessary. Neither the executive director nor an employee may have a vote.

(j) The commission shall establish an office, which may be called a regional office, in each senate district in the state to keep on file for public inspection copies of all reports filed with the commission by candidates for statewide office and by candidates for legislative office in that district; however, where one municipality contains more than one election district, only one commission office shall be established in that municipality. The regional office shall make all forms and pertinent material available to candidates. All reports shall be filed by candidates, groups and individuals directly with the commission's central district office. The commission shall insure that copies of all reports by statewide and legislative candidates in each senate district are forwarded promptly to that district or regional office.

(k) The commission shall insure that copies of reports filed by candidates for municipal office are made available for public inspection in the appropriate municipality. (§ 1 ch 76 SLA 1974; am § 23 ch 25 SLA 1975; am §§ 3-10 ch 189 SLA 1975)

*Effect of amendments.* — The first 1975 amendment substituted "Alaska Public Offices Commission" for "Alaska Election Campaign Commission" in subsection (a).

The second 1975 amendment substituted "Alaska Public Offices Commission consisting of five members" for "Alaska Election Campaign Commission" at the end of subsection (a), inserted "fifth" in subsection (c), rewrote subsection (d), so changed subsections (e) and (j) as to make

a detailed comparison impracticable, and, in subsection (f), substituted "\$50" for "\$100," deleted "necessary" preceding "travel expenses," and added "authorized by law for members of other boards and commissions" to the end. The amendment also substituted "A vacancy" for "Vacancy" at the beginning of the first sentence of subsection (h), substituted "authority" for "officer" in that sentence, and added subsection (k).

Sec. 15.18.080. Duties of the commission. The commission shall

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

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

(3) receive and hold open for public inspection reports and statements required to be made under this chapter and, upon request, furnish copies at cost to interested persons;

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

(5) prepare a summary of each report filed under § 110 of this chapter and make copies of this summary available to interested persons at their actual cost;

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

(7) report within 60 days after the election the names of all persons and groups who have failed to comply with any of the provisions of the chapter to the office of the attorney general;

(8) examine, investigate and compare all reports, statements and actions required by this chapter, AS 24.45 and AS 39.50 and to report to the attorney general the names of all persons or groups which the commission has substantial reason to believe have violated this chapter, AS 24.45 or AS 39.50;

(9) prepare and publish an annual report to the legislature concerning the activities of the commission, the effectiveness of this chapter, its enforcement by the attorney general's office, and recommendations and proposals for change;

(10) adopt regulations 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). (§ 1 ch 76 SLA 1974; am § 24 ch 25 SLA 1975; am §§ 11, 12 ch 189 SLA 1975; am §§ 3-5 ch 167 SLA 1976)

Effect of amendments. — The first 1975 amendment in paragraph (10), substituted "implement" for "effectuate," inserted "AS 39.50 and," and added "subject to the provisions of the Administrative Procedure Act (AS 44.62)" to the end.

The second 1975 amendment substituted "candidates, groups, and individuals" for "candidates and groups" in paragraph (2),

deleted "and publish" following "prepare" near the beginning of paragraph (5), and added "and make copies of this summary available to interested persons at their actual cost" at the end of that paragraph.

The 1976 amendment added "AS 24.45 and AS 39.50" at the end of paragraph (1), and in paragraph (8) substituted "examine, investigate and compare all reports" for

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"investigate all reports" at the beginning, inserted "AS 24.45 and AS 39.50" near the middle, and added "AS 24.45 or AS 39.50" to the end. The amendment also inserted "AS 24.45" in paragraph (10).

Legislative committee report. — For report on ch. 167, SLA 1976 (FCCS SCS CSHB 522), see 1976 House Journal, pp. 470, 562.

**Sec. 15.13.040. Contributions, expenditures and supplying of services to be reported.** (a) Each candidate shall make a full report, upon a form prescribed by the commission, listing the date and amount of all expenditures made by the candidate, 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 filed in accordance with § 110 of this chapter and shall be certified correct by the candidate or campaign treasurer.

(b) Each group shall make a full report upon a form prescribed by the commission, listing

(1) the name and address of each officer and director;

(2) the aggregate amount of all contributions made to it; and, for all contributions in excess of \$100 in the aggregate a year, the name, address, principal occupation, and employer of the contributor, and the date and amount contributed by each contributor; and

(3) the date and amount of all contributions made by it and all expenditures made, incurred or authorized by it.

(c) The report required under (b) of this section shall be filed in accordance with § 110 of this chapter and shall be certified as correct by the group's treasurer.

(d) Every individual, person or group making 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 at more than \$100 a year to any group or candidate; or

(2) any expenditure whatsoever for advertising in newspapers, on radio or on television; or, for the publication, distribution or circulation of brochures, flyers, or other campaign material for any candidate or ballot proposition or question.

(e) The report required under (d) of this section shall contain the name, address, principal occupation and employer of the individual filing the report, and an itemized list of expenditures. The report shall be filed with the commission by the contributor no later than 10 days after the contribution or expenditure is made. A copy of the report shall be furnished to the candidate, campaign treasurer or deputy campaign treasurer at the time the contribution is made.

(f) During each year in which an election occurs, all businesses, persons, or groups which furnish any of the following services, facilities, or supplies to a candidate or group shall maintain a record of each

transaction: newspapers, radio, television, advertising, advertising agency services, accounting, billboards, printing, secretarial, public opinion polls, or research and professional campaign consultation or management, media production or preparation, or computer services. The records shall be maintained on the forms provided and in the manner required by the commission. The supplier shall file a report of the complete record of each transaction with all candidates or groups to whom he provides services, facilities or supplies in excess of \$250 in the aggregate in accordance with § 110 of this chapter. All records shall be available for public inspection. (§ 1 ch 76 SLA 1974; am § 13 ch 189 SLA 1975)

Effect of amendment. — The 1975 amendment rewrote this section.

Sec. 15.13.045. Investigations, hearings. (a) The commission may issue subpoenas, administer oaths, hold hearings and conduct investigations.

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

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

(d) Subpoenas may be issued and shall be served in the manner prescribed by AS 44.62.480 and court rule. The failure, refusal or neglect to obey a subpoena is punishable as contempt in the manner prescribed by law or court rule. The superior court may compel obedience to the commission's subpoena in the same manner as prescribed for obedience to a subpoena issued by the court. (§ 14 ch 189 SLA 1975)

Sec. 15.13.050. Groups. Each group, before making an expenditure on behalf of, or in opposition to, a candidate or a contribution to a candidate, shall register, on forms provided by the commission, with the commission. If the group intends to support or oppose only one candidate, or to contribute to or expend on behalf of, or in opposition to, one candidate 50 per cent or more of its funds, the name of the candidate shall be a part of the name of the group. Promptly upon receiving the registration, the commission shall notify the candidate of the group's organization and intent. (§ 1 ch 76 SLA 1974; am § 15 ch 189 SLA 1975)

Effect of amendment. — The 1975 amendment inserted "or in opposition to" in the first sentence and "or oppose" and the language beginning "or to contribute to" and ending "more of its funds" in the second sentence.

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**Sec. 15.13.060. Campaign treasurers.** (a) Each candidate and group shall appoint a campaign treasurer who is responsible for receiving, holding, and disbursing all contributions and expenditures, and for filing all reports and statements required by law. A candidate may be a campaign treasurer.

(b) Each group shall file the name and address of its campaign treasurer with the commission at the time it registers with the commission under § 50 of this chapter.

(c) Each candidate shall file the name and address of the campaign treasurer with the commission no later than seven days after the date of filing his declaration of candidacy or his nominating petition. The name of the candidate may be placed on the ballot by the lieutenant governor or municipal clerk only if the candidate has complied with this subsection.

(d) In the case of the death, resignation or removal of a campaign treasurer, the candidate shall appoint a successor as soon as practicable and file his name and address with the commission within 48 hours of the appointment. The candidate is disqualified when he has been found to have been in wilful violation of this subsection.

(e) A campaign treasurer may appoint as many deputy campaign treasurers as he considers necessary. The candidate shall file the names and addresses of the deputy campaign treasurers with the commission.

(f) The candidate is responsible for the performance of his campaign treasurer, and any default or violation by the treasurer also shall be considered a default or violation by the candidate if he knew or had reason to know of the default or violation. (§ 1 ch 76 SLA 1974; am §§ 16 — 19 ch 189 SLA 1975)

**Effect of amendment —** The 1975 amendment substituted "its" for "the" and "it registers with the commission under § 50 of" for "the first contribution or expenditure report is required to be filed by the group under" in subsection (b), inserted "seven days after" in the first sentence of

subsection (c) and "by the lieutenant governor or municipal clerk" in the second sentence of that subsection, substituted "when he has been found to have been in wilful violation of" for "if he fails to comply with" in the second sentence of subsection (d), and added subsection (f).

**Sec. 15.13.070. Contributions and expenditures; amount and form of payment.** (a) No person or group, including but not limited to all political committees, businesses, corporations, and labor unions, may contribute to or expend more than \$1,000 a year on behalf of or in opposition to the competing candidates for each elective office. Political parties and their subdivisions are not subject to the limitation prescribed in this subsection, but they are subject to the reporting requirements prescribed by §§ 40(b) and 110 of this chapter. Nothing in this chapter prohibits

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

(2) individuals or groups, including but not limited to all political committees, businesses, corporations, and labor unions, from contributing to or expending on behalf of a ballot proposition or question more than \$1,000 a year; however, these contributions and expenditures shall be reported in accordance with §§ 40 and 110 of this chapter.

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

(c) No expenditures over \$100 may be made in cash or by cash payment unless a written receipt is obtained and filed with the commission.

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

(e) Contributions to a candidate or a political committee may be received by, and expenditures of a candidate or political committee may be made by, only the candidate, campaign treasurer, or deputy campaign treasurer.

(f) The total amount of expenditures made by a candidate and by all groups operating under his control may not exceed (1) 40 cents times the total population of the state according to the latest United States census figures, or estimates of population certified as correct for administrative purposes by the Department of Community and Regional Affairs, if the candidacy is for governor or lieutenant governor, of which amount no more than 50 per cent may be spent in a primary election campaign and no more than 50 per cent in the general election campaign; (2) \$1 times the total population of the geographical area of the constituency according to the latest United States census figures, or estimates of population certified as correct for administrative purposes by the Department of Community and Regional Affairs, divided by the number of seats in the senate district if the candidacy is for the state senate; (3) \$1 times the total population of the geographical area of the constituency according to the latest United States census figures, or estimates of population certified as correct for administrative purposes by the Department of Community and Regional Affairs, divided by the number of seats in the house district if the candidacy is for the state house of representatives. The expenditure limitations in this section include expenditures for both a primary and a general election campaign, or for a special election.

(g) Each general election year the commission shall adjust the campaign expenditure limitations for each category of (f) of this section

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(h) No campaign expenditure of any type whatsoever shall be made by any candidate, treasurer, or group unless the source is disclosed as required by the provisions of this chapter whether or not those funds were received prior to May 10, 1974. (§ 1 ch 76 SLA 1974; am §§ 20, 21 ch 189 SLA 1975)

**Effect of amendment.** — The 1975 amendment rewrote subsection (a), and in the first sentence of subsection (f), inserted the language beginning "or estimates of population" and ending "Department of Community and Regional Affairs" in clauses (1) through (3), substituted "50 per cent" for "40 per cent" and for "60 per

cent" in clause (1), and deleted "if the candidacy is for governor and no more than 50 per cent in the primary election campaign and no more than 50 per cent in the general election if the candidacy is for lieutenant governor" following "general election campaign" in that clause.

**Sec. 15.13.080. Statement by contributor.** A person or group contributing to a candidate over \$250 or contributing goods or services to a candidate with a value of more than \$250 to influence the election of a candidate shall furnish the commission a signed statement, on a form made available by the commission. The statement shall itemize the contributions and goods and state that the contributor is not a person or group prohibited by law from contributing and that the contribution consists of funds or property belonging to the contributor and has not been given or furnished by another person or group. The contributor's statement shall be filed with the commission by the contributor no later than 10 days after the contribution is made. A copy of the statement shall be furnished the candidate, campaign treasurer, or deputy campaign treasurer at the time the contribution is made. (§ 1 ch 76 SLA 1974; am § 29 ch 189 SLA 1975)

**Effect of amendment.** — The 1975 amendment substituted "\$250" for "\$100" twice in the first sentence.

**Sec. 15.13.090. Identification of communication.** All advertisements, billboards, handbills, paid-for television and radio announcements and other communications intended to influence the election of a candidate or outcome of a ballot proposition or question shall be clearly identified by the words "paid for by" followed by the name and address of the candidate, group or individual paying for the advertising. In addition, candidates and groups must identify the name of their campaign treasurer. (§ 1 ch 76 SLA 1974; am § 22 ch 189 SLA 1975)

**Effect of amendment.** — The 1975 amendment inserted "or outcome of a ballot proposition or question" in the first sentence, substituted "clearly" for "signed or" and "group or individual paying for the

advertising" for "or campaign treasurer of the candidate or group on whose behalf the communication appears" in that sentence, and added the second sentence.

**Sec. 15.13.100. Expenditures before filing.** No political campaign expenditure may be made or incurred by a person in an election or by a person or group with his knowledge and on his behalf before the date upon which he or she files for nomination for the office which the person seeks, except for personal travel expenses or for opinion surveys or polls. These expenditures shall be charged against the spending limitation that applies to the office for which he subsequently files, and shall be included in the first report required under this chapter after filing for office. (§ 1 ch 76 SLA 1974; am § 23 ch 189 SLA 1975)

**Effect of amendment.** — The 1975 amendment added the second sentence.

**Sec. 15.13.110. Filing of reports.** (a) Each candidate and group shall make a full report in accordance with § 40 of this chapter 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 three days before the due date of the report. The report shall be filed at the following times:

- (1) 30 days before the election; however, this report is not required if the deadline for filing a nominating petition or declaration of candidacy is within 30 days of the election;
- (2) one week before the election;
- (3) ten days after the election; and
- (4) December 31 of each year for expenditures and contributions received which were not reported that year.

(b) Each contribution or expenditure which exceeds \$250 and which is made within one week of the election shall be reported to the commission by date, amount, and contributor or recipient within 24 hours of receipt or expenditure by the candidate or campaign treasurer.

(c) The reports of candidates shall be filed with the commission's central office. All reports required by this chapter shall be kept open to public inspection. Within 30 days after each election, the commission shall prepare a summary of each report which shall be made available to the public at cost upon request. Each summary shall use uniform categories of reporting.

(d) Within 30 days after each election, each supplier shall make a full report to the commission in accordance with § 40 of this chapter. Within 60 days after each election, the commission shall prepare a summary by candidate or group of the transactions and make the summaries public. (§ 1 ch 76 SLA 1974; am § 24 ch 189 SLA 1975)

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**Effect of amendment.** — The 1975 amendment rewrote subsections (a) and (d), reenacted subsection (b) without change, and in subsection (c), deleted "statewide" preceding "candidates" in the first sentence, substituted "commission's central office" for "commission at the state

capital and," other reports shall be filed in the appropriate senate district office" at the end of that sentence, substituted "30 days" for "one month" in the third sentence, and substituted "use" for "utilize" in the fourth sentence.

**Sec. 15.13.120. Penalty; limitations on actions.** (a) A person who violates a provision of this chapter is guilty of 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) failing to make a 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) making a campaign contribution or expenditure which exceeds the limitations of § 70(f) of this chapter;

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

(4) giving or furnishing money to another person or group 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 § 70(d) of this chapter;

(5) making a communication to support or defeat a candidate without identification of sponsorship, in violation of § 90 of this chapter;

(6) knowingly accepting a contribution in violation of § 70 of this chapter.

(b) The nomination for, or election to, an office of a candidate who violates a provision of this chapter, or whose campaign treasurer or deputy campaign treasurer violates a provision of this chapter, is void, and, if he is elected, the successful candidate may not hold office and the office shall be filled as required by law in the case of a vacancy. When a violation of this chapter is alleged, the candidate's right to the nomination or the office may be tested in an action brought in the supreme court as a matter of original jurisdiction. All cases of this nature shall be in a preferred position for purposes of argument and decision, so as to assure a speedy disposition of the matter.

(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 § 40 of this chapter, 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 in an election whose campaign treasurers have failed to file the reports required by this chapter.

(d) A person who believes a violation of this chapter has occurred may file a complaint with the commission. If the commission determines there is substantial reason to believe that a violation has occurred, it shall

expeditiously make an investigation, which may also include an investigation of reports and statements filed by the complainant if he is a candidate, of the matter complained of. When, in the judgment of the commission, after affording due notice and an opportunity for a hearing, a person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of a provision of this chapter, or a regulation or order issued under it, it shall promptly report the information to the attorney general for appropriate action. The commission shall report its determination and recommendation to the person who filed the complaint with the commission within 60 days of receiving the complaint unless circumstances require additional time to make an adequate investigation. The finding of the commission may be appealed to the superior court.

(e) Prosecution for violation of a provision of this chapter may not be commenced after four years have elapsed from the date of the alleged violation. (§ 1 ch 76 SLA 1974; am § 25 ch 189 SLA 1975)

**Effect of amendment.** — The 1975 amendment substituted "may" for "shall" in the second sentence and "superior court" for "supreme court" in the fifth sentence. and deleted "by the person who filed the complaint with the commission" from the end of the fifth sentence.

**Sec. 15.13.122. Legal counsel.** (a) The attorney general is legal counsel for the commission. He shall advise the commission in legal matters arising in the discharge of its duties and represent the commission in actions to which it is a party. If, in the opinion of the commission, the public interest warrants, the commission may request the chief justice of the supreme court to appoint a special prosecutor to represent the commission in a proceeding involving an alleged violation of this chapter and to prosecute that violation.

(b) When the public interest warrants, the commission may employ temporary legal counsel from time to time in matters in which the commission is involved. (§ 26 ch 189 SLA 1975)

**Sec. 15.13.125. Civil penalty: late filing of required reports.** A person who fails to file a properly completed and certified report within the time required by § 110(a)(1), (3), (4) or 110(d) of this chapter is subject to a civil penalty of not more than \$10 a day for each day the delinquency continues as determined by the commission subject to right of appeal to the superior court. A person who fails to file a properly completed and certified report within the time required by § 110(a)(2) or 110(b) of this chapter is subject to a civil penalty of not more than \$50 a day for each day the delinquency continues as determined by the commission subject to right of appeal to the superior court. An affidavit stating facts in mitigation may be submitted to the commission by a person against whom a civil penalty is assessed. However, the imposition of the penalties prescribed in this section or in § 120 of this chapter does not excuse that person from filing reports required by this chapter. (§ 6 ch 167 SLA 1976)

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Editor's note. — The section originally numbered AS 15.13.123 was repealed by § 27, ch. 189, SLA 1975, and derived from § 1, ch. 76, SLA 1974.

Legislative committee report. — For report on ch. 167, SLA 1976 (FCCS SCS CSHB 522), see 1976 House Journal, pp. 470, 562.

**Sec. 15.13.130. Definitions.** In this chapter,

(1) "candidate" means a person who files for election to the state legislature, for governor, for lieutenant governor, for municipal office, for retention in judicial office, or for constitutional convention delegate, or who campaigns as a write-in candidate for any of these offices;

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

(A) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or ballot proposition or question, but it does include professional services volunteered by individuals for which they ordinarily would be paid a fee or wage;

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

(C) ordinary hospitality in a home;

(3) "group" means every state and regional executive committee of a political party and, in addition, means any combination of two or more persons or individuals acting jointly who take action the major purpose of which is to influence the outcome of an election; a group that makes expenditures or receives contributions with the authorization or consent, express or implied, or under the control, direct or indirect, of a candidate shall be considered to be controlled by that candidate; a group whose major purpose is to further the nomination, election, or candidacy of only one person, or intend to expend more than 50 per cent of its money on a single candidate, shall be considered to be controlled by that candidate and its actions done with his knowledge and consent unless, within 10 days from the date the candidate learns of the existence of the group he files with the commission, on a form provided by the commission, an affidavit that the group is operating without his control; a group organized for more than one year preceding an election and endorsing candidates for more than one office or more than one political party is presumed not to be controlled by a candidate; however, a group that contributes more than 50 per cent of its money to or on behalf of one candidate shall be considered to support only one candidate for purposes of § 70 of this chapter, whether or not control of the group has been disclaimed by the candidate;

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

(5) "individual" means a natural person;

(6) "municipality" means a home rule or general law borough or city including but not limited to a unified municipality organized under AS 29.68;

(7) "person", in addition to the terms set out in AS 01.10.060(7), includes a labor union. (§ 1 ch 76 SLA 1974; am § 28 ch 189 SLA 1975)

**Effect of amendment.** — The 1975 amendment added the language beginning "for retention in judicial office" to the end of paragraph (1), substituted "§ 10(b)" for "§ 123" in paragraph (2), inserted "or question" in that paragraph, added the language beginning "however,

'contribution' does not include" to the end of that paragraph, and made such changes in paragraph (3) as to make a detailed comparison impracticable. The amendment also added clause (D) to paragraph (4) and added paragraphs (5), (6) and (7).

### Chapter 15. General Procedure for Elections.

- Section**
- 10. General administrative supervision by lieutenant governor
  - 20. Date of general election
  - 30. Preparation of official ballot
  - 35. Printing of ballots and other material
  - 40. Preparation of other election materials
  - 50. Distribution of election materials
  - 60. Procurement of polling places and other supplies
  - 70. Public notice of election required
  - 80. Time for opening and closing polls
  - 90. Designation of precinct polling place
  - 100. Time off for voting
  - 110. General duties and oath of election board and clerks
  - 120. Filling vacancies in election board
  - 130. Majority decision of election board
  - 140. Permitted use of unofficial ballots
  - 150. Official opening of polls
  - 160. Prohibition of political discussion by election board
  - 170. Prohibition of political persuasion near election polls
  - 180. Keeping of original register

- Section**
- 190. Keeping of duplicate register
  - 200. [Repealed]
  - 210. Challenging of voters of suspect qualification
  - 212. Questioning a voter's ballot
  - 215. Disposition of challenged and questioned votes
  - 220. Administration of oaths
  - 230. Providing ballot to voter
  - 240. Assisting voter by judge
  - 250. Disposition of improperly marked ballot
  - 260. Returning ballot by voter
  - 270. Prohibiting the leaving of the polling place with ballot
  - 280. Prohibiting the exhibition of marked ballots
  - 290. Prohibiting the identification of ballots
  - 300. Prohibiting the count of exhibited ballots
  - 310. Official closing of polls
  - 320. Voters in line when polls close
  - 330. Commencement of canvass
  - 340. Report, oath and vacancies of counters

- Section**
- 350. General provisions
  - 360. Rules for election
  - 370. Completion of election
  - 380. Payment of election
  - 390. Certifying election
  - 400. Preparation of election
  - 410. Plural voting
  - 420. Duty to cast vote

**Sec. 15.15.010**  
governor. The supervision of regulations necessary for the voter and governor is and regulations upon election, approval of the vote, and election (1963)

There appears to be a history pertaining to this section. Coghill v. State, No. 900 (File No. 1973).

The lieutenant governor's administration of alternative regulations. Coghill v. State, Op. No. 900 (File No. 1973).

Legislative intent in the presence of the Administrative Procedure Act section reflects that the Administrative Procedure Act mandatorily applied to regulations promulgated in this provision. Coghill v. State, No. 900 (File No. 1973).

If the lieutenant governor's regulations under the Administrative Procedure Act must be promulgated in accordance with the Administrative Procedure Act, Boucher, Sup. Ct. 1798, 511 P.2d 12.

**References**  
Administrative Procedure Act in

**Sec. 15.15.010**  
on the Tuesday of the numbered year

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chairman, no" at the beginning of the fourth sentence, inserted "the state party chairman" near the end of the section, and deleted the former last sentence of the section, which read: "The lieutenant

governor may prescribe regulations governing the conduct of watchers to assure the privileges of the watchers and the proper conduct of the election."

**Sec. 15.10.180. Appointment of party representatives for state canvass [Effective January 1, 1981].** The director shall appoint two persons from each political party to participate in the canvassing of the vote. Each person who is appointed and serves is entitled to compensation as provided in AS 15.15.380. Each political party may present to the director a list of three or more names from which he shall select the persons to represent the party. The list of names may be submitted in writing at least 30 days before the date of the election. The persons to represent the party on the canvassing board may be selected by the state party central committee or in any other manner prescribed by the bylaws of the party. The list of names shall be certified by the chairman of the state central committee of the party or by the person authorized by the party bylaws to act in the absence of the chairman. (§ 2.18 ch 83 SLA 1960; am § 35 ch 100 SLA 1960)

**Effect of amendment.** — The 1980 amendment, effective January 1, 1981, substituted "director" for "lieutenant governor" where it appears at the beginning of the first sentence and near the beginning of the third sentence, deleted "the same rate of preceding compensation" near the middle of the

second sentence, and substituted "as provided in AS 15.15.380" for "paid elections judges" at the end of the second sentence.

**Applied in:** *Gildee v. Thomas*, Sup. Ct. Op. No. 136, File Nos. 2019, 2020, 2021), 559 P.2d 80 (1977).

### Chapter 13. State Election Campaigns.

**Section**

- 11. Inapplicability to presidential primary
- 20. Alaska Public Offices Commission

**Section**

- 60. Campaign treasurers
- 60. Identification of communication
- 1:8. Filing of reports

**Sec. 15.13.011. Inapplicability to presidential primary [Effective January 1, 1981].** The provisions of this chapter do not apply to a presidential primary election conducted under AS 15.25.220 — 15.25.280. (§ 3 ch 20 SLA 1980)

**Effective date.** — Section 5, ch. 20, SLA 1980, makes this section effective January 1, 1981.

**Sec. 15.13.020. Alaska Public Offices Commission.** (a) There is created in the Department of Administration the Alaska Public Offices Commission consisting of five members. (am Executive Order No. 41 § 2 (1980))

**Effect of amendment.**

Section 2, Executive Order No. 41 (1980), effective July 1, 1980, substituted "Department of Administration" for "office of the lieutenant governor" following "There is created in the" near the beginning of subsection (a).

As the rest of the section was not affected by the amendment, it is not set out.

Subsection (j) requires forms to be made available in a regional office in each senate district. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Furnishing forms to Nome regional office constituted compliance with law. — Nome is designated center for forms pursuant to both subsection (j) and AS 15.10.110, and since Nome is the central office for Senate District P, which encompasses House District 21 and therefore Kotzebue, the lieutenant governor complied with the law by virtue of furnishing forms to the Nome regional office, even though such forms were not available in Kotzebue. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

**Sec. 15.13.030. Duties of the commission.**

No regulations were necessary to implement the mandatory provisions for filing an appointment of campaign treasurer established by AS 15.15.07(c).

*Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

**Sec. 15.13.045. Investigations, hearings.**

Cited in *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

**Sec. 15.13.060. Campaign treasurers.**

(c) Each candidate for state office shall file the name and address of the campaign treasurer with the commission, or submit, in writing, the name and address of the campaign treasurer to the lieutenant governor for filing with the commission, no later than 15 days after the date of filing his declaration of candidacy or his nominating petition. Each candidate for municipal office shall file the name and address of the campaign treasurer with the commission no later than seven days after the date of filing his declaration of candidacy or his nominating petition. If the candidate does not designate a campaign treasurer, the candidate is the campaign treasurer.

(am § 1 ch 133 SLA 1977)

**Effect of amendments.**

The 1977 amendment rewrote subsection (c).

As the rest of the section was not affected by the amendment, it is not set out.

This section is not unconstitutional in that it sets up "invalid class legislation." *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

The two groups classified by virtue of this section are those candidates who have complied with the law and those who have not; the failure to comply with this section is the dividing line. Therefore, under any possible equal protection test this section passes constitutional muster. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Statutory requirement that a candidate's designation of treasurer

be filed by a constitutional. *Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021).

Alaska's administrative are confusing legislature in goals of simplification. *Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021).

Subsection (c) enforced. — His of subsection (c) appointment of fatal to a candid vested no discr governor in the noncompliance, strictly enforced. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Effect of unen 39.50.020 on enfi (c). — Unenq 39.50.020, which file a financial t not require the ca had in fact subst: filing requirement the record did not purposeful discr candidate. *Silides* No. 1362 (File No P.2d 80 (1977).

Subsection (c): "file" campaign within a specified *Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021).

The definition established in U consistently held t

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be filed by a specified due date is not conditionally unreasonable. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Alaska's election laws and administrative practices thereunder are confusing and require revision by the legislature in order to achieve needed goals of fairness, accessibility, simplification and clarity. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Subsection (c) should be strictly enforced. — Since it is clear from the text of subsection (c) that untimely filing of an appointment of treasurer notification is fatal to a candidacy, and that the statute vests no discretion in the lieutenant governor in the circumstance of such noncompliance, subsection (c) should be strictly enforced. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Effect of unequal enforcement of AS 39.50.030 on enforcement of subsection (c). — Unequal enforcement of AS 39.50.030, which requires candidates to file a financial disclosure statement, did not require the conclusion that a candidate had not substantially complied with the filing requirements of subsection (c) where the record did not show any intentional or purposeful discrimination against the candidate. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Subsection (c) requires candidates to "file" campaign treasurer statements within a specified time limit. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

The definition of "file" is well established in the law. It has been consistently held that a document is filed

only when the proper officer has received it, and that it is not considered filed when it is deposited in the mails. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Telephone conversation not appropriate filing. — Given the text of subsection (c), the legal meaning of the term "file" and the supreme court's adoption of the doctrine that statutory election deadlines are to be strictly enforced, a telephone conversation between the candidate's treasurer and the Alaska Public Offices Commission seven days after the declaration of candidacy was filed cannot be deemed an appropriate filing within the intentment of subsection (c). *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Prohibition of subsection (c) applies to lieutenant governor. — Under subsection (c) it is the lieutenant governor who is prohibited from placing the names of candidates on the ballot if they fail to timely file. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

No regulations were necessary to implement the mandatory provisions for filing an appointment of campaign treasurer established by subsection (c) of this section. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Due process of law did not entitle a candidate to a hearing before his name could be excluded from the ballot by the lieutenant governor since the pertinent statutes do not require a hearing and the record showed that none of the relevant facts were in dispute. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

**Sec. 15.13.090. Identification of communication [Effective January 1, 1981].** All advertisements, billboards, handbills, paid-for television and radio announcements and other communications intended to influence the election of a candidate or outcome of a ballot proposition or question shall be clearly identified by the words "paid for by" followed by the name and address of the candidate, group or individual paying for the advertising. In addition, candidates and groups must identify the name of their campaign chairman. (§ 1 ch 76 SLA 1974; am § 22 ch 189 SLA 1975; am § 36 ch 100 SLA 1980)

Effect of amendment.  
The 1980 amendment, effective January

1, 1981, substituted "chairman" for "treasurer" at the end of the section.

**Sec. 15.13.110. Filing of reports.**

(e) A group formed to sponsor an initiative, a referendum or a recall shall report 30 days after its first filing with the lieutenant governor. Thereafter each group shall report within 10 days after the end of each calendar quarter on the contributions received and expenditures made during the preceding calendar quarter until reports are due under (a) of this section.

(am § 2 ch 133 SLA 1977)

**Effect of amendments.**

The 1977 amendment added subsection (a).

As the rest of the section was not affected by the amendment, it is not set out.

**Chapter 15. General Procedure for Elections.**

Section	Section
10. General administrative supervision by director	300. Prohibiting the count of exhibited ballots
30. Preparation of official ballot	330. Commencement of ballot count
35. Printing of ballots and other material	340. Report, oath and vacancies of counters
40. Preparation of other election materials	350. General procedure for ballot count
50. Distribution of election materials	360. Rules for counting hand-marked ballots
60. Procurement of polling places and other supplies	361. Stickers
70. Public notice of election required	370. Completion of ballot count
90. Designation of precinct polling place	380. Payment of election board members
130. Filling vacancies in election board	390. Certifying election expenses
140. Permitted use of unofficial ballots	400. Preparation of voter list
170. Prohibition of political persuasion near election polls	410. Plural voting
180. Keeping of register	420. Duty to review the ballot counting
190. [Repealed]	430. Scope of the review of ballot counting
195. Voters on official registration list	440. Dates for opening and closing state ballot counting review
198. Voters not on official registration list	450. Certification of state ballot counting review
210. [Repealed]	460. Tie votes
218. Disposition of questioned votes	470. Preservation of election ballots, papers, and materials
230. Administration of oaths	480. Security of ballots
225. Voter identification at polls	
230. Providing ballot to voter	
240. Assisting voter by judge	
260. Placing ballot in ballot box by voter	

**Sec. 15.15.010. General administrative supervision by director** (Effective January 1, 1981). The director shall provide general administrative supervision over the conduct of state elections, and may issue regulations under the Administrative Procedure Act (AS 44.62) necessary for the administration of state elections. (§ 3.01 ch 83 SLA 1960; am § 5 ch 80 SLA 1963; am § 3: ch 100 SLA 1980)

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**Sec. 39.45.040. Additional benefits.** The deferred compensation program established under this chapter exists and serves in addition to any existing retirement, pension, or benefit system established by the state or its political subdivisions and may not effect a reduction in benefits receivable under an existing system. (§ 1 ch 40 SLA 1973)

**Revisor's note.** — In ch. 40, SLA 1973, the section contained the phrase "may not affect a reduction." That appears to involve a typographical error, and "affect" has been changed to "effect" here.

**Sec. 39.45.050. Tax deferred investments.** The administrator of a deferred compensation program under this chapter shall invest only in contracts which allow for deferment of the state and federal income tax until benefits are receivable under the program and shall make appropriate withholding adjustments in each participating employee's payroll. (§ 1 ch 40 SLA 1973)

**Sec. 39.45.060. Definitions.** In this chapter "employee" means a person, whether appointed, elected or under contract, who provides services for the state or a political subdivision of the state for which compensation is given. (§ 1 ch 40 SLA 1973)

### Chapter 50. Conflict of Interest.

- Section**
- 10. Findings and purpose
  - 20. Report of financial and business interests
  - 30. Contents of statements
  - 35. Exemptions
  - 40. Blind trusts
  - 50. Administration and inspection
  - 60. Penalty for willful violation of disclosure requirements
  - 70. Failure to report by department, division, or deputy department heads
  - 80. Failure to report by a commission or board chairman or member

- Section**
- 90. Prohibited acts
  - 100. Enforcement by private citizens
  - 110. Report of financial interests of judicial officers
  - 120. Report of financial interests of legislators
  - 130. Report of financial interests of governor and lieutenant governor
  - 135. Civil penalty: Late filing of required reports
  - 140. [Repealed]
  - 145. Participation by municipalities
  - 150. [Obsolete]
  - 200. Definitions

**Editor's note.** — Section 2, 1974 Initiative Proposal No. 2, provides: "Severability. If any provision of this chapter or portion of a provision is declared by a court of competent jurisdiction to be invalid, for any cause, such invalid provision or portion of it shall be considered to be nonexistent and the remainder of this chapter shall continue in full force and effect."

Section 3, 1974 Initiative Proposal No. 2, provides: "Repeal of Inconsistent Law. In case of conflict between provisions of this chapter and other provisions contained in the Alaska Statutes, the provisions of this chapter shall take precedence."

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### Chapter 50. Conflict of Interest.

**Section**

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**Sec. 39.50.010.** Sec. 39.50.010. People of the State of Alaska shall have the right to (1) to a fair and efficient business system; (2) to a government that does not influence the economy; (3) to a government that does not interfere with the office, employment, and citizens' rights; (4) to a government that does not restrict access to public lands; (5) to a government that does not perform its duties in an inefficient manner; (6) The State shall (1) protect the public interest; (2) the public interest; (3) a government that does not hold office; (4) reasonable right to public office; (5) reasonable chilling of public office.

**Purpose of Interest Law.** Interest law have been legitimate Offices Com (File No. 32). The purpose statute is to actual and Pub. Offices 1512 (File N). Financial purpose of government and fairness fact and in Pub. Offices 1512 (File N). To deter disclosure; Interest is extent of the strength of disclosure Alaska Pub.

**Sec. 39.50.010. Findings and purpose.** (a) It is declared by the people of the State of Alaska that the purposes of this chapter are:

(1) to discourage public officials from acting upon a private or business interest in the performance of a public duty;

(2) to assure that public officials in their official acts are free of the influence of undisclosed private or business interests;

(3) to develop public confidence in persons seeking or holding public office, enhance the dignity of the offices and make them attractive to citizens who are motivated to public service; and

(4) to develop accountability in government by permitting public access to information necessary to judge the credentials and performance of those who seek and hold public office.

(b) The people of the State of Alaska declare that:

(1) public office is a public trust which should be free from the danger of conflict of interest;

(2) the public has a right to know of the financial and business interests of persons who seek or hold public office;

(3) a compelling state interest requires that candidates for office and office holders disclose their personal and business financial interests;

(4) reasonable disclosure requirements do not violate an individual's right to privacy when the individual seeks or holds public office and a compelling state interest in the disclosure exists; and

(5) reasonable disclosure requirements do not have the effect of chilling the exercise of the right of a qualified person to seek or hold public office. (1974 Initiative Proposal No. 2, § 1)

Purposes of Alaska's Conflict of Interest law as set forth in this section have been generally regarded as legitimate goals. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

The purpose of the Conflict of Interest statute is to bring to light all conflicts — actual and potential. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

Financial disclosure laws have the purpose of promoting efficient, ethical government and preserving the integrity and fairness of the political process both in fact and in appearance. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

To determine the validity of the disclosure provisions of the Conflict of Interest law, both the nature and the extent of the privacy invasion and the strength of the state interest requiring disclosure must be considered. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op.

No. 1512 (File No. 3220), 570 P.2d 469 (1977).

Governmental interest balanced against individual's privacy interest. — The extent to which the governmental interest in promoting fair and honest government would be impeded by not strictly complying with the Conflict of Interest law does not outweigh the individual's privacy interest — protecting sensitive personal information from public disclosure. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

Certain types of information communicated in the context of the physician-patient relationship fall within a constitutionally-protected zone of privacy. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

Reporting names of physician's patients. — Until appropriate regulations are promulgated, the Conflict of Interest law may not be applied so as to require

reporting the names of individual patients of a physician. *Falcon v. Alaska Pub. Offices Comm'n. Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).*

**Sec. 39.50.020. Report of financial and business interests.** (a) A judicial officer, commissioner, chairman or member of a state commission or board specified in AS 39.50.200(b), person hired or appointed as head or deputy head of, or director of a division within, a department in the executive branch, person appointed as assistant to the governor, and a municipal officer, shall file a statement giving his income sources and business interests, under oath and on penalty of perjury, within 30 days after he takes office as a public official. Candidates for state elective office shall file such a statement at the time of filing a declaration of candidacy or within 30 days of the filing of any nominating petition, or within 30 days of becoming a candidate by any other means. Candidates for elective municipal office shall file such a statement at the time of filing a nominating petition, declaration of candidacy, or other required filing for the elective municipal office. Refusal or failure to file within the time prescribed shall require that the candidate's filing fees, if any, and filing for office be refused or that his previously accepted filing fee be returned and his name removed from the filing records. A statement shall also be filed by public officials no later than April 15 or 15 days after the person files his federal income tax return in each following year, whichever shall come first. Persons who, on or after December 11, 1974, were members of boards or commissions not named in AS 39.50.200(b) are not required to file financial statements.

(b) The governor, lieutenant governor, members of the legislature and candidates for these offices, judicial officers, each commissioner, head or deputy head of, or director of a division within, a department in the executive branch, assistant to the governor or chairman or member of a commission or board required to report under this chapter, shall file the statement with the Alaska Public Offices Commission. Municipal officers, and candidates for elective municipal office, shall file with the municipal clerk or other municipal official designated to receive their filing for office. All statements required to be filed under this chapter are public records. (1974 Initiative Proposal No. 2, § 1; am §§ 1, 2 ch 25 SLA 1975)

The proper location for the filing of the financial disclosure statement is unclear. *Silides v. Thomas, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).*

Subsection (b) of this section requires financial disclosure statements to be filed in the office of the Alaska Public Offices Commission in Anchorage, but the administrative practice of the lieutenant governor's office has been customarily to

accept financial disclosure statements from candidates and then forward the statements to the Alaska Public Offices Commission. *Silides v. Thomas, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).*

Subsection (a) contemplates filing concurrent with filing of declaration of candidacy. — Subsection (a) of this section contemplates that the act of filing a financial disclosure statement by a

candidate with the candidacy No. 1362 P.2d 80

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candidate is to be carried out concurrently with the act of filing the declaration of candidacy. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

But such filing is impossible for Juneau resident. — It is "patently impossible" for a Juneau resident to have filed his financial disclosure statement at the same time he filed his declaration of candidacy, since the latter may be filed in Juneau (AS 15.25.040(c)) while the only authorized place of filing the former is Anchorage (this section). *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Substantial compliance with filing requirements is sufficient. — Given the lack of clarity inherent in this section and the impossibility of compliance with this section for a would-be candidate living in Juneau who files his declaration of candidacy near the June deadline, substantial compliance with the filing requirements of this section will suffice. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

**Sec. 39.50.030. Contents of statements.** (a) Each statement shall be an accurate representation of the financial affairs of the public official or candidate and shall contain the same information for each member of his family, as specified in (b) of this section, to the extent that it is ascertainable by the public official or candidate. An asset or liability under \$500, household goods, and personal effects need not be identified.

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

(1) the source of all income over \$100, including capital gains, whether or not taxable, received by him or his spouse or dependent child of his or nondependent child of his who is living with him during the preceding calendar year;

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

(3) the identity and nature of each interest owned by him or his spouse or dependent child of his or nondependent child of his who is living with him, in any business during the preceding calendar year;

(4) the identity and nature of each interest in real property, including an option to buy, owned by him or his spouse or dependent child of his or nondependent child of his who is living with him, at any time during the preceding calendar year;

If a Juneau resident mailed his financial disclosure statement to the Alaska Public Offices Commission in Anchorage on June 1, 1976, then his name was to appear on the forthcoming primary ballot. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Effect of unequal enforcement of this section on filing requirements of AS 15.13.060(c). — Unequal enforcement of this section did not require the conclusion that a candidate had in fact substantially complied with the filing requirements of AS 15.13.060(c) where the record did not show any intentional or purposeful discrimination against the candidate. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

ALR reference. — Validity and construction of enactments requiring public officers or candidates for office to disclose financial condition and relationships, 37 ALR3d 1338.

(5) the identity of each trust or other fiduciary relation in which he or his spouse or dependent child of his or nondependent child of his who is living with him, held a beneficial interest during the preceding calendar year, a description and identification of the property contained in each trust or relation, and the nature and extent of the beneficial interest in it;

(6) any loan or loan guarantee made to him or his spouse or dependent child of his or nondependent child of his who is living with him, and the identity of the maker of the loan or loan guarantor and the identity of each creditor to whom he or his spouse or dependent child of his or nondependent child of his who is living with him owed \$500 or more;

(7) a list of all contracts and offers to contract with the state, or an instrumentality of the state, during the preceding calendar year, held, bid or offered by him, his spouse, dependent child of his or nondependent child of his who is living with him, his mother or father, or a partnership or professional corporation of which he is a member, or a corporation in which he or his spouse or his children, or a combination of them, hold a controlling interest; and

(8) a list of all mineral, timber, oil, or any other natural resource lease held, or lease offer made, during the preceding calendar year by him, a dependent child of his or nondependent child of his who is living with him, his mother or father or a partnership or professional corporation of which he is a member, or a corporation in which he or his spouse or his children, or a combination of them, hold a controlling interest.

(c) Repealed by § 26 ch 25 SLA 1975. (1974 Initiative Proposal No. 2, § 1; am §§ 3, 4, 26 ch 25 SLA 1975)

To determine the validity of the disclosure provisions of the Conflict of Interest law, both the nature and the extent of the privacy invasion and the strength of the state interest requiring disclosure must be considered. *Falcon v. Alaska Pub. Offices Comm'n.*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

Certain types of information communicated in the context of the physician-patient relationship fall within a constitutionally-protected zone of privacy. *Falcon v. Alaska Pub. Offices Comm'n.*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

Patient of a physician is a client for medical services and falls within the scope of this chapter. *Falcon v. Alaska Pub. Offices Comm'n.*, Sup. Ct. Op. No.

1512 (File No. 3220), 570 P.2d 469 (1977).

And source of income. — The Conflict of Interest law encompasses a physician's individual patients as sources of income. *Falcon v. Alaska Pub. Offices Comm'n.*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

Reporting individual names of physician's patients. — Until appropriate regulations are promulgated, the Conflict of Interest law may not be applied so as to require reporting the names of individual patients of a physician. *Falcon v. Alaska Pub. Offices Comm'n.*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

Applied in *Warren v. Thomas*, Sup. Ct. Op. No. 1464 (File No. 2919), 568 P.2d 400 (1977).

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**Sec. 39.50.035. Exemptions.** No person subject to this chapter is exempt from any of its provisions except to the extent state courts determine that legally privileged professional relationships preclude complete compliance. (§ 5 ch 25 SLA 1975)

This section applies only to legal privileges, not ethical mandates. *Falcon v. Alaska Pub. Offices Comm'n, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).*

professional discipline for revealing the names of patients does not create a "legal privilege." *Falcon v. Alaska Pub. Offices Comm'n, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).*

Fact that a physician is subject to

**Sec. 39.50.040. Blind trusts.** (a) A public official may transfer all or a portion of his assets to a blind trust for the duration of his service in public office. The original assets placed in the blind trust shall be listed by the official in the statement required to be filed under this chapter. The instrument creating the blind trust must be included with the statement.

(b) For a trust to qualify under this section,

- (1) assets transferred to the trust shall be marketable;
- (2) the trustee shall be a bank or other institutional fiduciary;
- (3) the trustee shall have full authority to manage the trust, including the purchase, sale, and exchange of its assets in accordance with fiduciary principles;
- (4) information regarding the identity and the nature of its assets shall be confidential from the trustor for the duration of the trust;
- (5) the trustee shall be required to report any known breach of confidentiality or the termination of the trust to the office where the trustor is required to file statements under this chapter; and
- (6) Repealed by § 26 ch 3 SLA 1975. (1974 Initiative Proposal No. § 1; am §§ 6, 26 ch 25 SLA 1975)

Cited in *Warren v. Thomas, Sup. Ct. Op. No. 1484 (File No. 2919), 568 P.2d 600 (1977).*

**Sec. 39.50.050. Administration and inspection.** (a) The Alaska Public Offices Commission created under AS 15.13.020(a) shall administer the provisions of this chapter. The commission shall prepare and keep available for distribution, standardized forms on which the reports required by this chapter shall be filed.

(b) The commission shall promulgate regulations to implement and interpret the provisions of this chapter; regulations or interpretation shall be within the intents and purposes of this chapter and are subject to judicial review in accordance with the provisions of the Administrative Procedure Act (AS 44.62).

(c) Reports filed under this chapter shall be kept on file for at least six years and are public records.

(d) To facilitate the filing of reports under AS 24.45 (Regulation of Lobbying) and the information required to be provided under AS 24.45.051(4) and (5), the commission shall publish copies of the reports required under this chapter not later than the convening of each regular session of the legislature. Copies of this publication shall be provided on request; however, the commission may make a charge for the publication which may not exceed the actual cost of printing, postage and handling. (1974 Initiative Proposal No. 2, § 1; am §§ 7, 8 ch 25 SLA 1975; am § 7 ch 167 SLA 1976)

**Effect of amendment.** — The 1976 amendment added subsection (d).

This section requires the commission to promulgate regulations to implement and interpret the provisions of the Conflict of Interest law. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

**Scope of regulations.** — The commission may well wish to promulgate regulations which apply to relationships other than that of physician-patient. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

**Sec. 39.50.060. Penalty for wilful violation of disclosure requirements.** (a) A person required to file a report of financial or business interests under this chapter who refuses or knowingly fails to disclose required information within the time required in this chapter, or who provides false or misleading information, knowing it to be false or misleading, is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000, or by imprisonment for a period of not more than six months, or by both.

(b) Any person failing to comply with the requirements of this chapter, in addition to the penalties prescribed, shall forfeit his nomination to office and shall not be seated or installed in office if he has not complied. Nominated, hired, or appointed officials, commissioners, chairmen or members of commissions or boards specified in AS 39.50.200(b) shall not be confirmed by the legislature if compliance has not been made. In the case of elected officials, the lieutenant governor, or other certifying authority, shall not certify a person's nomination for office or his election to office if compliance was not made within the time required. The nomination to office or election to office shall be certified to the highest vote getter for that nomination for that office or election to that office who has complied within the times required and who shall be declared nominated or elected. (1974 Initiative Proposal No. 2, § 1; am § 9 ch 25 SLA 1975)

Applied in *Warren v. Thomas*, Sup. Ct. Op. No. 1464 (File No. 2919), 568 P.2d 400 (1977).

**Sec. 39.50.070. Failure to report by department, division, or deputy department heads.** A person hired or appointed as the head or deputy head of, or director of a division within, a department in the executive branch who refuses or fails to file a report of financial interests required under this chapter when due may not hold office or have his name submitted to the legislature for confirmation until he complies. He may not be confirmed, hired, or appointed, and he forfeits and may not be paid any salary or per diem and travel expenses until he complies. If, after installation as the head or deputy head of, or director of a division within, a department, he refuses or fails to file the required statement when due, he is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000 and shall be removed from office if compliance is not made within 30 days after the due date of the report. (1974 Initiative Proposal No. 2, § 1; am § 10 ch 25 SLA 1975)

Applied in *Warren v. Thomas*, Sup. Ct. Op. No. 1484 (File No. 2919), 568 P.2d 400 (1977).

**Sec. 39.50.080. Failure to report by a commission or board chairman or member.** A person hired or appointed as a commissioner, chairman or member of a state commission or board specified in AS 39.50.200(b) who fails to file a report of financial interests required under this chapter when due shall not hold office or have his name submitted to the legislature until he complies. He may not be confirmed, and he forfeits and shall not be paid any salary or per diem or travel expenses until he complies. If, after being seated as commissioner, chairman or member of such a commission or board he refuses or fails to file the required statement when due, he is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000 and shall be removed from office if compliance is not made within 30 days after the due date. (1974 Initiative Proposal No. 2, § 1; am § 11 ch 25 SLA 1975)

**Sec. 39.50.090. Prohibited acts.** (a) No public official may use his official position or office for the primary purpose of obtaining financial gain for himself or his spouse, child, mother, or father, or business with which he is associated or owns stock.

(b) No person may offer or pay to a public official, and no public official may solicit or receive money for legislative advice or assistance, or for advice or assistance given in the course of the official's public employment or relating to his public employment. However, this prohibition does not apply to a chairman or member of a state commission or board or municipal officer if the subject matter of the legislative advice or assistance is not related directly to the function of the commission, board, or municipal body served by the municipal

officer; this exception from the general prohibition does not apply to one whose service on a state commission or board constitutes him a full-time state employee under AS 39.

(c) No public official may represent a client before a state agency for a fee. However, this prohibition does not apply to a municipal officer, or chairman or member of a state commission or board except with regard to representation before his own commission or board; this exception from the general prohibition does not apply to one whose service on the commission or board constitutes him a full-time state employee under AS 39.

(d) Violation of this section is a misdemeanor, punishable upon conviction by a fine of not less than \$500, nor more than \$2,000, by imprisonment up to one year, or by both.

(e) In this section, "public official" includes, in addition to the persons specified in AS 39.50.200(a)(1), chairmen and members of all commissions and boards created by statute or administrative action as agencies of the state.

(f) No municipal officer may represent a client for a fee before the municipal body which he serves. (1974 Initiative Proposal No. 2, § 1; am § 12 ch 25 SLA 1975; am § 1 ch 40 SLA 1975; am §§ 2, 3 ch 211 SLA 1975)

**Sec. 39.50.100. Enforcement by private citizens.** A qualified Alaska voter may bring a civil action to enforce any of the sections of this chapter. (Initiative Proposal No. 2, § 1, effective Dec. 11, 1974)

**Sec. 39.50.110. Report of financial interests of judicial officers.** Each judicial officer as defined in AS 39.50.200(a)(2) shall file reports of financial and business interests required by this chapter. A judicial officer who refuses or fails to file a report when it is due forfeits and may not be paid his salary, per diem, and travel expenses after the due date, until he complies, and is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000. He may not be appointed by the governor or other authority until he complies. Upon failure or refusal to comply within 30 days of the due date, he forfeits his office and shall be removed from office. (Initiative Proposal No. 2, § 1, effective Dec. 11, 1974; am § 13 ch 25 SLA 1975)

**Sec. 39.50.120. Report of financial interests of legislators.** Each legislator shall file the reports of financial or business interests required by this chapter. A legislator who refuses or fails to file the report when due forfeits and shall not be paid his salary and per diem and travel expenses after the due date until he complies and is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000. (Initiative Proposal No. 2, § 1, effective Dec. 11, 1974; am § 14 ch 25 SLA 1975)

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**Sec. 39.50.130. Report of financial interests of governor and lieutenant governor.** The governor and lieutenant governor shall each file a report of financial interests required by this chapter. If the governor or lieutenant governor fails to file the report when due, he forfeits and may not be paid his salary and per diem and travel expenses after the due date and until he complies, and is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000. (Initiative Proposal No. 2, § 1, effective Dec. 11, 1974; am § 15 ch 25 SLA 1975)

**Sec. 39.50.135. Civil penalty: Late filing of required reports.** A person who fails to file a properly completed and certified report within the time required by this chapter is subject to a civil penalty of not more than \$10 a day for each day the delinquency continues as the commission determines subject to appeal to the superior court. An affidavit stating facts in mitigation may be submitted to the commission by a person against whom a civil penalty is assessed. However, the imposition of the penalties prescribed in this section or in AS 39.50.060 — 39.50.130 does not excuse that person from filing reports required by this chapter. (§ 8 ch 167 SLA 1976)

**Sec. 39.50.140. Accepting bribe.**

Repealed by § 26 ch 25 SLA 1976.

*Editor's note.* — The repealed section derived from 1974 Initiative Proposal No. 2, § 1.

**Sec. 39.50.145. Participation by municipalities.** A municipality may exempt its municipal officers from the requirements of this chapter if a majority of the voters voting on the question at any regular election, as defined by AS 29.78.010(14), or a special municipality-wide election, vote to exempt its municipal officers from the requirements of this chapter. The question of exemption from the requirements of this chapter may be submitted by the city council or borough assembly by ordinance or by initiative ordinance. (§ 16 ch 25 SLA 1975; am § 1 ch 211 SLA 1975)

**Sec. 39.50.150. Initial filing date for public officials. [Obsolete]**

*Reviser's note.* — This section is obsolete. It reads as follows: "(a) Every person who is a public official or a public official-elect on December 11, 1974 shall file the statements required by this chapter before April 15, 1975. However, a public official who resigned his office or whose term of office expired on or after December 11, 1974 but before April 15, 1975, need not file a financial statement.

(b) Municipal officers shall file the statements required by this chapter before November 15, 1975. However, a municipal officer who resigns his office or whose term of office expires before November 15, 1975 need not file a financial statement."

*Editor's note.* — The obsolete section derived from Initiative Proposal No. 2, § 1, effective Dec. 11, 1974, § 1 ch 2 SLA 1975; § 17 ch 25 SLA 1975.

Applied in *Warren v. Thomas*, Sup. Ct. Op. No. 1484 (File No. 2919), 568 P.2d 400 (1977).

**Sec. 39.50.200. Definitions.** (a) In this chapter:

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

(2) "judicial officer" means a person appointed as a justice to the supreme court or as a judge to the court of appeals, superior court, district court, or magistrate court;

(3) "child" includes a biological child, an adoptive child, and a stepchild;

(4) "commission" means the Alaska Public Offices Commission created under AS 15.13.020(a);

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

(6) "municipal officer" includes a borough or city mayor, borough assemblyman, city councilman, school board member, elected utility board member, city or borough manager, members of a city or borough planning or zoning commission within a home rule or general law city or borough, including but not limited to a unified municipality under AS 29.68;

(7) "mother or father" includes a biological parent, an adoptive parent, and a step-parent;

(8) "source of income" means the entity for which service is performed or which is otherwise the origin of payment; if the person whose income is being reported is employed by another, his employer is the source of his income; but if he is self-employed by means of a sole proprietorship, partnership, professional corporation, or a corporation in which he or his spouse or his children, or a combination of them, hold a controlling interest, the "source" is the client or customer of the proprietorship, partnership or corporation, but if the entity which is the origin of payment is not the same as the client or customer for whom the service is performed, both are considered the source;

(9) "assistant to the governor" includes any executive, legislative, special, administrative or press assistant to the governor, and any person similarly employed.

(b) In this chapter "state commission or board" means the

(1) Agricultural Loan Advisory Board (created administratively to assist in administration of AS 03.10);

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- (2) Alaska State Council on the Arts (AS 44.27.040);
- (3) Alcoholic Beverage Control Board (AS 04.06.010);
- (4) State Assessment Review Board (AS 43.56.040);
- (5) Capital Selection Committee (44.06.110);
- (6) Board of Education (AS 14.07.075);
- (7) Educational Broadcasting Commission (AS 14.58.010);
- (8) Alaska Public Offices Commission (AS 15.13.020);
- (9) Employment Security Advisory Council (AS 23.20.025);
- (10) Alaska Commercial Fisheries Entry Commission (AS 16.43.020);
- (11) Fishermen's Fund Advisory and Appeals Council (AS 23.35.010);
- (12) Alaska State Housing Authority (AS 18.55.020);
- (13) State Commission for Human Rights (AS 18.80.010);
- (14) State Investment Advisory Committee (AS 37.10.070(f));
- (15) Alaska Judicial Council (art. IV, § 8, Alaska Constitution);
- (16) Commission on Judicial Qualifications (art. IV, § 10, Alaska Constitution);
- (17) Governor's Commission on the Administration of Justice (AS 44.9.110);
- (18) Local Boundary Commission (AS 44.47.512);
- (19) Occupational Safety and Health Review Board (AS 18.60.057);
- (20) State Board of Parole (AS 39.15.010);
- (21) State Personnel Board (AS 39.25.060);
- (22) Alaska Pipeline Commission (AS 42.06.020);
- (23) Public Employees Retirement Board (AS 39.35.030);
- (24) Alaska Public Utilities Commission (AS 42.05.010);
- (25) University of Alaska Board of Regents (AS 14.40.120);
- (26) Alaska Royalty Oil and Gas Development Advisory Board (AS 38.06.020);
- (27) Small Business Development Corporation of Alaska (AS 44.87.020);
- (28) Alaska State Development Corporation (AS 44.86.010);
- (29) Alaska Teachers' Retirement Board (AS 14.25.035);
- (30) Alaska Transportation Commission (AS 42.07.011);
- (31) Workers' Compensation Board (AS 23.30.005);
- (32) Alaska Commission on Postsecondary Education (AS 14.40.903);
- (33) Alaska Municipal Bond Bank Authority (AS 44.85.020);
- (34) New Capital Site Planning Commission (AS 44.06.200);
- (35) Alaska Medical Facility Authority (AS 18.26);
- (36) Alaska Oil and Gas Conservation Commission (AS 31.05);
- (37) Alaska Housing Finance Corporation (AS 18.56);
- (38) Alaska Coastal Policy Council members and their alternates (AS 44.19.155);

(39) [Terminates July 1, 1984] Alaska Agricultural Action Council (AS 44.33.450).

(40) Board of Fisheries (AS 16.05.221(a));

(41) Board of Game (AS 16.05.221(b));

(42) Board of Trustees and executive director of the Alaska Permanent Fund Corporation (AS 37.13.040);

(43) Alaska Energy Center (AS 46.12). (Initiative Proposal No. 2, § 1, effective Dec. 11, 1974; am §§ 18, 19 ch 25 SLA 1975; am § 3 ch 79 SLA 1976; am § 2 ch 170, SLA 1976; am § 18 ch 263 SLA 1976; am § 2 ch 67 SLA 1977; am § 2 ch 141 SLA 1978; am § 2 ch 158 SLA 1978; am § 9 ch 167 SLA 1978; am § 2 ch 66 SLA 1979; am § 3 ch 75 SLA 1979; am § 37 ch 3 SLA 1980; am § 28 ch 12 SLA 1980; am § 8 ch 18 SLA 1980; am §§ 39-43 ch 94 SLA 1980; am § 5 ch 148 SLA 1980; am Executive Order No. 44 § 2 (1980))

**Revisor's note.** — Under the authority of AS 01.05.031(b), this section was rearranged for clarity in 1980. The list of state boards and commissions formerly found at AS 39.50.200(9) has been placed in AS 39.50.200(b).

**Effect of amendments.** — The 1977, 1978, and 1979 amendments added paragraphs (34)-(39) of present subsection (b). The second 1979 amendment, which added paragraph (39), terminates July 1, 1984.

The first 1980 amendment repealed a former subparagraph to present paragraph (b), which read: "Alaska Salary Commission (AS 29.23)."

The second 1980 amendment inserted "court of appeals" following "a judge to the" near the middle of subparagraph (2) of paragraph (a).

The third 1980 amendment added subparagraph (42) in present paragraph (b).

The fourth 1980 amendment, in present paragraph (b), repealed former paragraphs, which read: "Board of Fish and Game (AS 16.05.220)," "State Section of Joint Federal-State Land Use Planning Commission (AS 41.40.030)," "Board of Directors, State-Operated Schools (AS

14.06.030)," and "Alaska Salary Commission (AS 29.23)," respectively, substituted "Workers" for "Workmen" in subparagraph (1), and added subparagraphs (40) and (41).

The fifth 1980 amendment added subparagraph (43) in present paragraph (b).

Section 2, Executive Order No. 44 (1980) substituted "AS 44.37.040" for "AS 44.19.900" at the end of subparagraph (2) of present paragraph (b).

**Purpose of the Conflict of Interest law** is to bring to light all conflicts — actual and potential. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3230), 570 P.2d 469 (1977).

**Patient of a physician** is a client for medical services and falls within the scope of this chapter. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3230), 570 P.2d 469 (1977).

**And source of income.** — The Conflict of Interest law encompasses a physician's individual patients as sources of income. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3230), 570 P.2d 469 (1977).

## Chapter 51. Abuse of Power by Public Officers and Employees.

### Section

10. [Repealed]

20. Obstruction of access to public information

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# STATE OF ALASKA

ALASKA PUBLIC OFFICES COMMISSION

JAY S. HAMMOND, GOVERNOR

JUNEAU BRANCH OFFICE:  
POUCH CO  
JUNEAU, ALASKA 99811

LOCATION:  
ROOM 302 GOLDSTEIN BUILDING  
130 SEWARD STREET  
PHONE: (907) 465-4864 OR 465-3471

February 5, 1981

The Honorable Senator Tim Kelly  
Pouch 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 FOCS 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 FOCS HB 230.

It is the understanding of the Commission, however, that FOCS 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 FOCS 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 Commissions 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 accommodated: 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.

FCCS 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 FCCS 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 FCCS 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 (mid 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 counter 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 renew 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. 39.50.070(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 same 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 obfuscated 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 indicated. 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 dangers of a charge of "wilful 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

February 11, 1981

SUBJECT: Model state conflict of interest/financial disclosure law (Work Order No. 12-0463)

TO: Senator Vic Fischer

FROM: Richard A. Bradley  
Legislative Counsel **B**

The bill was prepared from a bill draft prepared by the National Municipal League Model State Conflict of Interest and Financial Disclosure Act.

The bill establishes a new state ethics commission. It repeals the provisions of AS 15.13 that establish the Public Offices Commission and it repeals all of AS 39.50. New sections dealing with subjects in the law repealed are established.

Secs. 10 - 70 establish the new commission.

Sec. 80 establishes procedures for the commission.

Sec. 100 establishes a procedure under which complaints of violations are processed. Note that violations of the new AS 39.49, as well as AS 15.13 and AS 24.45 are covered.

Sec. 100 directs the commission to refer violations of the law to the Attorney General.

Sec. 120 establishes a concept new in Alaska though not elsewhere: The concept of advisory opinions from the commission which may be requested by state officials, candidates, and state employees.

Sec. 130 permits the commission to modify a reporting requirement.

Senator Vic Fischer  
Page 2  
February 11, 1981

Secs. 140 and 150 establish the requirements of financial disclosure. Note that financial disclosure is by "category" rather than by dollar amount. Sec. 150(a).

Sec. 160 details prohibitions on activity considered a conflict of interest. Special conflict of interest provisions for legislators appear at Sec. 170. Government contracting is regulated as Sec. 180. Conflicts of interest in employment are covered in Sec. 190. A state official or state employee other than legislator who has a personal situation that presents ethical problems is directed to a course of conduct under Sec. 210.

Sec. 220 deals with similar problems for a legislator.

Disclosure of confidential information is regulated under Sec. 240.

Sec. 250 regulates the conduct of former state officials or state employees for two years after termination of state service. Penalties are established in Sec. 260. Commission remedies for violations are established under Sec. 270, including civil penalties. Direct citizen action is authorized under Sec. 280.

The definitions section, Sec. 400 is a mix of the familiar and the new. Essentially no change was made in the list of public officials for whom financial disclosure is required. The term "candidate" is defined.

The term "gift" excludes campaign contributions reported under AS 15.13.

Secs. 3 - 19 of the bill respond to the implications of the repeal of AS 39.50 and portions of AS 15.13 and 24.45.

The Act takes effect July 1, 1981.

RAB:ljb

STATE OF ALASKA  
THE LEGISLATURE

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


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 5, 1981

SUBJECT: Model state conflict of interest/financial disclosure law (Work Order No. 12-0463)

TO: Senator Vic Fischer

FROM: Richard A. Bradley   
Legislative Counsel

Enclosed is the bill responsive to your request.

As you will immediately note from a comparison of this bill with the bill draft prepared by the National Municipal League Model State Conflict of Interest and Financial Disclosure Act, I have taken substantial liberties with the bill.

In part this is a result of the need to conform the bill to the Alaska legislative format but an equally compelling reason for the changes is that in places the bill did not seem to represent a coherent piece of legislation. In general, I will not identify changes in the bill that represent only a change in nonsubstantive language. Where I have had such difficulty that I departed from the model draft substantially, I will try to identify the changes and indicate my reasons for the departure.

Much of the material dealing with the establishment of the commission will of course duplicate existing law, most of which is contained within AS 15.13.020 and 15.13.030. The repeal of these sections will be dealt with in the latter sections of the bill.

Sec. 1, the short title is deleted; such titles are infrequently used in Alaska.

Sec. 2 of the draft becomes bill sec. 1. Consistently with our usual style, we have put the findings into temporary law.

Sec. 3 is the definitions section. It appears at the end of this section of the bill, as Sec. 39.49.400, amplified with definitions that were buried throughout the draft bill.

Sec. 4 of the draft is broken into two parts:

- (1) The commission is established; and
- (2) Provisions relating to the membership of the commission are collected into a single section. Bill sec. 20(e) eliminates the requirement that the legislature concur in the removal of a member of the commission. If you wish to have language offering procedural protections to the members of the commission beyond what is contained in the bill, we may do so legally. Article III, section 26 provides that members of a regulatory or quasi-judicial board or commission "may be removed as provided by law". Under that grant, the legislature may establish simple or elaborate procedures for the removal of such an officer by the governor.

You may recall the Breeze case from several years ago. At least one of the issues that that case presented was whether the legislature could "share" the power of the governor to remove an executive officer. The Alaska Pipeline Commission law states that the legislature has to concur in a removal for it to take effect. AS 42.06.050. The governor refused to acknowledge a legislative role. The Department of Law's position at a hearing on gubernatorial authority was that the law could be as elaborate as the legislature wished but the legislature could not share the power of removal.

Joe Josephson, who was attorney for Breeze at the time, told me that he did not agree with the Department of Law's position and thought that the Supreme Court stood a good chance of agreeing with his position, based on law in other states and several law review articles discussing this issue. As you may recall, complications in the case prevented the case from going to a decision.

I am agreeable to inserting such a provision into your bill, if you wish. But I should mention that it may incur a gubernatorial veto if past practice is at all predictive of future practice.

Senator Vic Fischer  
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February 5, 1981

The material in sec. 4(b) regarding the initial members is moved to the end of the bill as temporary law.

Sec. 4(c) is established as a new bill sec. 30 dealing with the presiding officer of the commission. A portion of the section is deleted as stating generally understood principles and the last sentence is restated.

Sec. 4(d) is found at sec. 40. I continued the P.O.C. compensation of \$50 per day in addition to travel expenses and per diem now found at AS 15.13.020(f). Sec. 4(e) has become sec. 50. I deleted the authority of the commission to engage its own legal counsel and in that regard I essentially continued the concepts now found at AS 15.-13.122. See bill sec. 90.

The material at draft sec. 4(g) is largely unnecessary. The requirements for public meetings are covered at AS 44.62.310. The authority of the commission exists and may be exercised at any point within the state though not, perhaps, outside the state. As suggested above, sec. 90 of the bill is derived from AS 15.13.122 but is substantially recast.

Draft sec. 5 becomes bill sec. 80; while largely recast, no substantive changes are made.

Sec. 90 is new material; it replaces draft sec. 5(d)(iii).

Draft sec. 6(a) seemed confused and wordy. I have rewritten the material and broken (a) into new subsections 100(a) - (c). Sec. 6(b) becomes sec. 100(d) and (e) and sec. 6(c) becomes sec. 110. Sec. 6(d) and (e) are eliminated as unnecessary; cf. Appellate Rule 45 of the Supreme Court Rules.

Draft sec. 7 is recast into sec. 120. Draft sec. 8 becomes sec. 130. Draft sec. 9 becomes sec. 140. The latter half of sec. 9(c) has been deleted from its location in the bill; it essentially states a definition and has been moved.

Sec. 9(d) is amended to delete the phrase "in its files" from the mandate. As I see the change, the files generated which are incredibly voluminous (as you are coming to know) need not be maintained within the offices of the commission but may be transferred to archives, etc. I also changed the date for destruction to ten years from the date on which

they were due rather than the date on which they were filed. The latter date has no meaning for records management.

Draft sec. 10 becomes sec. 150; the section adds financial disclosure requirements. I added the phrase "known to him" to sec. 150(a). The concept is contained within the existing law, AS 39.50.030(a): "to the extent that it is ascertainable by the public official or candidate". If it were not specified, it would need to be implied since while the law may require a public official or candidate to disclose information regarding his financial condition, I know of no mechanism by which family members may be compelled to disclose to the public official. The result is that the public official discloses what he himself knows or what is public knowledge already as to the finances of others.

Sec. 150(b) is undoubtedly a critical section. That being the case, I may say that I have made no attempt to compare the new list with the list contained within AS 39.50.030(b) nor have I sought to prepare an ideal list.

The section uses several different words to indicate what is "done" with the information. Among these words are "shown" and "disclosed". I have substituted "reported" for them wherever found. In sec. 150(b)(9), the draft had a blank requiring legislative discretion to determine the level of equity ownership in a business entity doing \$25,000 or more business with the state during the year for reporting purposes. I have used the figure of 50 percent as a reasonable threshold.

Similarly, a threshold for the level of gifts that need to be reported is required in sec. 150(b)(10). I have used the figure of \$100 which I took from the threshold in AS 39.50.030(b). The figure may be low and "has not been adjusted for inflation". [In my own view, a public official or candidate who is for sale for \$100 does not know his own value.]

Sec. 11 has become sec. 160.

I did not delete sec. 170(b) [Draft sec. 12] though I consider it redundant to the more substantive provisions of the bill. I do consider that sec. 12(c) is completely redundant and have deleted it.

February 5, 1981

Draft sec. 13 has become sec. 180. I have reorganized the subsections of sec. 180(a) for clarity. The latter half of sec. 180(b) is a definition and I have moved it to the definitions section.

Draft sec. 16 has become sec. 210 and is rewritten for clarity and to conform it to the Alaska structure of government. For the same reasons, I have rewritten sec. 220.

Draft sec. 18 becomes sec. 230. It is rewritten to eliminate the definition of a "gift" from the early part of the section. That material is moved to the definitions section.

Draft sec. 20 becomes sec. 250. It is rewritten for clarity. This section should be carefully reviewed for the policy it proposes; it appears that the prohibitions on representation after the termination of employment or the term of office are somewhat draconian. Note also that it applies to members of the legislature.

Draft sec. 21 becomes sec. 260. Sec. 21(d) is revised to eliminate what I believe may be an unconstitutional restriction on election to public office. The qualifications for election to public office are established in the constitution. The general rule is that the legislature may not vary the qualifications.

Since there is no similar restriction as to appointive office or to employment, I have left the disqualification in place as to those situations.

Sec. 22 becomes sec. 270. Sec. 270(b) is rewritten for clarity and to eliminate unnecessary material. The latter part of the section constitutes a definition and the material is moved to that section. Sec. 270(c) is substantially changed by the "not less than \$10" material which seemed desirable and by the addition of the references to AS 15.13 and AS 24.25. Note that I have repealed AS 15.-13.125 and AS 24.45.141 which are sections dealing with this subject.

Sec. 23 becomes sec. 290. Sec. 290(a)(1) is eliminated; the suggested language states the usual rule. Sec. 290(c) and

(d) are eliminated as unnecessary. Secs. 26 and 27 are also eliminated as unnecessary.

I have proposed a definitions section as Sec. 39.49.400.

Sec. 400(a)(1) defines assistant to the governor essentially the same as present law; see AS 39.50.200(a)(9).

Sec. 400(a)(2) defines "business". The definition from draft sec. 3(a) was used with modifications for clarity.

The draft law appears to require that "business with which a person is associated" be also defined. I have used draft sec. 3(b) with modifications for clarity. See sec. 400(a)(3).

The definition of "candidate" is derived from the latter portion of draft sec. 9(c).

The definition of "child" is derived from AS 39.50.-200(a)(3).

The definition of "gift" is derived from draft sec. 18(a).

The definition of "limited interest" is derived from the latter part of sec. 13(b).

The definition of "member of household" from the draft bill sec. 3(e) was extensively modified for clarity; it used the word "person" very obscurely.

I may also say that the reach of the section is extraordinarily broad and you may wish to review it to determine whether you wish to go that far. Part of the difficulty with the definition will arise from any implementation of the concept. If it is ever charged that a person has failed to report information regarding a member of the household (who may not live in the common residence of the reporting state official), sec. 400(a)(C), it will be very difficult to determine that fact without an extensive investigation that may approach the edges of a constitutional right of privacy.

The definition of "official action" is from draft sec. 22(b).

Senator Vic Fischer

Page 7

February 5, 1981

The definition of "parent" is derived from AS 39.50.200(a)(7).

The definition of security is derived from AS 45.55.130(12).

I used the draft's definition of "state employee" with modifications that seemed reasonable. And finally I abandoned the draft definition of "state official" and returned to AS 39.50.200(a)(1) for the definition. The draft's definition did not qualify as a useful definition and would have generated more heat than light.

The remaining sections of the bill deal with the repeal of the sections in AS 15.13 that establish the commission, the repeal of AS 39.50, and the implications these actions have for existing statutory sections that reference AS 39.50. Because there are essentially no subtleties to these amendments, I have not analyzed them.

If I can assist further, please advise.

RAB:ljb

Enclosure

SB 517. (cont'd)

States facility must maintain licensing to be eligible. Provides 75 percent of the grant shall be used for staff salaries and the remainder shall be used as determined appropriate by the facility to meet nutritional requirements, to purchase equipment appropriate for use by children and for staff training. Provides for issuance of regulations by Department to carry out purposes of section. Provides Act takes effect immediately.

Introduced April 24 and referred to Community & Regional Affairs, then to Finance.

Appropriations SENATE BILL NO. 518, by Senator Parr. Makes special appropriations (special) in the amount of \$4,050,000 from the general fund to the Department (Child Care Assistance) of Community and Regional Affairs to be distributed to licensed day care facilities under the Child Care Grant Program (\$4,000,000) and to be paid to municipalities for administrative costs of administering the Day Care Assistance Program (\$50,000). Provides unexpended and unobligated portions of the appropriations lapse into the general fund June 30, 1982. Provides Act takes effect on the effective date of SB 517.

Introduced April 24 and referred to Community & Regional Affairs, then to Finance.

Appropriations SENATE BILL NO. 519, by Senators Colletta, Mulcahy, Kerttula, Dankworth, Stimson, Rodey, Fischer, Sturgulewski and Bradley. Makes (special) special appropriations for Little League teams for capital improve- (Little League field improve-ments) ments to fields and facilities: \$240,000 for payment as a grant to the Municipality of Anchorage to be divided equally among various neighborhood areas of the city for capital improvements to fields and facilities; \$40,000 for payment to the Matanuska-Susitna Borough to be divided equally between the Wasilla and Mat Valley Little League teams for capital improvements to fields and facilities; \$20,000 for payment as a grant to the Kodiak Island Borough to be divided equally among the Kodiak Little League teams for capital improvements to fields and facilities. Provides Act takes effect immediately.

Introduced April 24 and referred to Community and Regional Affairs, then to Finance.

Code of Ethics SPONSOR SUBSTITUTE FOR SENATE BILL NO. 175, by Senators Fischer, (state officials & employees) Bohman, Stimson, Bradley, Kerttula, Rodey, Dankworth, Colletta, Parr, Kelly, Eliason and Sturgulewski. (original bill page 219). Incorporates provisions contained in Senate Bill No. 336 (page 561) as well as provisions of the original bill. Provides the purpose of the bill relating to ethics is to prescribe standards of conduct for public officials of the state and its municipalities and to establish an ethics commission to render advisory opinions and enforce the provisions of the bill so that public confidence in public officials will be preserved.

Adds new chapter to Title 29 relating to Ethics. Applicability section states: "This chapter applies to each elected or appointed public official, including an employee of the state, a state agency or a municipality. This chapter also applies to a person under a personal services contract to a state agency or to a municipality."



SSSB 175, (cont'd)

Outlines standards of conduct in relation to accepting of gifts, use or disclosure of confidential information, conflicts of interest, and fair treatment. Provides for action to be taken for a conflict of interest. Prohibits public official or a member of his household from having an interest in the profits or benefits of a state or municipal contract or an investment of state or municipal money. States that a contract entered into by the state or a municipality is voidable if entered into in violation of provisions of the chapter. Restricts former public officials for use of information which is not available to members of the public and which was acquired in the course of official duties. Provides a member of municipal governing bodies shall report conflicts of interest.

Establishes the State Ethics Commission in the Department of Administration to administer statutes dealing with Conflict of Interest, Regulation of Lobbying and State Election Campaigns. Provides Commission may issue advisory opinions upon request of public or former public official as to whether stated facts and circumstances may constitute a violation, accept or initiate charges concerning violations, initiate investigations and hold hearings, subpoena witnesses and take testimony relating to matters before the commission and require the production for examination of books or papers relating to a matter under investigation before the commission; publish summaries of opinions of decisions, and distribution of publications and initiation of programs to educate the public. Further sections deal with complaint procedures, determinations and disciplinary action for violation.

Technical amendments relate to the deletion of language relating to the Alaska Public Offices Commission and replacing it with the State Ethics Commission. Repeals provisions of AS 15.13 (State Election Campaigns): sec. 020 (Alaska Public Offices Commission), sec. 030 (Duties of the Commission), sec. 045 (Investigations, hearings), and sec. 122 (Legal counsel). AS 39.25.120(12) (Partially exempt service. "(12) the executive director and the staff of Alaska Public Offices Commission."). AS 39.50.090(a) - (e) (Conflict of Interest. Prohibited Acts). Provides for terms of the members of the State Ethics Commission and terminates members of APOC. Provides Act takes effect July 1, 1981.

Introduced April 21 and referred to State Affairs, Judiciary, then to Finance.

Hunting &  
Fishing License & Tag  
Fees

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 275, by Senator Kerttula by Request. (See page 435, original bill). Relates to the compensation of persons collecting hunting and fishing license and tag fees, amending section of the Fish & Game Code relating to the fee for issuance of licenses and tags (AS 16.05.390) providing a person is entitled to be compensated at a rate of \$50 per year or \$1 per license or tag sold during the year (was entitled to keep five percent of the fee or a fee of 25 cents, whichever is greater). Provides person transmit proceeds on the last day of each month, deleting "except the amount authorized to be retained".

Introduced April 20 and referred to Resources, then to Finance.

# STATE OF ALASKA

## ALASKA PUBLIC OFFICES COMMISSION

JAY S. HAMMOND, GOVERNOR

REPLY TO:

- 810 C STREET, SUITE 211  
ANCHORAGE, ALASKA 99501-3598  
(907) 276-4176
- JUNEAU BRANCH OFFICE  
POUCH CO  
JUNEAU, ALASKA 99811-0222  
(907) 485-4884

October 27, 1981

Senate State Affairs Committee

Public Hearing on SB 336 and SSSB 175

My name is Theda S. Pittman and I am the Executive Director of the Alaska Public Offices Commission. The purpose of this statement is to reaffirm the willingness of the Alaska Public Offices Commission and its staff to provide all possible technical assistance you desire in your deliberation of proposed legislation on ethics.

Beyond that, my remarks are limited to a specific concern about the effective date of any ethics legislation that may pass, especially if it is broadly applicable to 151 municipalities and the 21 REAAS without any option for local exemption via the ballot.

In considering effective dates, please be aware that between July 1, and December 31, 1982, any agency responsible for both AS 15.13, Campaign Disclosure, and a newly-passed ethics law — regardless of whether it is the five member Alaska Public Offices Commission as constituted presently or a newly formed seven member body as proposed by SSSB 175 — will be struggling with the largest election campaign in Alaska's history. That fact alone will have substantial

impact on how soon implementation of any new statute is achievable in practical terms.

The existing financial disclosure law, AS 39.50, is presently in effect in 101 municipalities. In comparison to an ethics law, AS 39.50 is relatively simple — it requires annual Conflict of Interest Statements to be filed with the municipal clerk. The Commission's experience shows that in a number of municipalities the required statements, correctly completed, are not on file with the municipal clerk. Each year, the Commission receives Conflict of Interest Statements from municipal clerks who have not comprehended that the Statement should be retained locally for filing. Many of the Statements that come to our attention in that fashion are virtually blank. Even had they been on file locally, a member of the public who reviewed them would not find the information such Statements are required to contain. A major reason for this deficiency is that the Commission simply has not been funded for the massive Statewide information/education effort that would be required to bring 100 municipalities into compliance or to keep them in compliance year after year.

Since SSSB 175 does bring municipalities of every size under the ethics law, as well as a larger number of State officials than covered by AS 39.50, you might wish to consider staggered effective dates such that municipalities would not be affected as soon as State government.

If passed by the 12th Legislature, an ethics law should not be applicable on the State level until either January 1, or July 1, 1983, and on the municipal

level a full year or more after that. Some sectors of the public will have high expectations about the impact of an ethics law on the conduct of State and municipal government. Realistic effective dates would do much to allay unreasonable expectations about the ability of the responsible agency to do a good job of implementing a new law.

Finally, the Commission's staff did prepare a Fiscal Note dated May 5, 1981, for SSB 175 and we will review it in light of the FY 83 Detailed Budget Request submitted just recently; the Fiscal Note may need some revision.

Thank you for the notice about this hearing and the opportunity to present these brief comments. In closing, allow me to reiterate the Commission's willingness to assist in anyway possible and to mention that the Commission will be meeting November 18 through 20, 1981, should you have specific questions you wish the members to address. In turn, I will certainly let you know should they wish to provide you with more detailed comments on this far-reaching legislation.

*Shida S. Pittman*  
10/27/81



TESIMONY

FOR THE

STATE AFFAIRS COMMITTEE

CODE OF ETHICS

OCTOBER 27, 1981

ACTIVITY AREAS

Personal Dynamics  
Leadership "  
Spiritual "  
Youth Assistance  
Human Improvement  
Criminal Justice  
Fund Raising  
Family life  
Economics  
Environment  
Health  
Safety  
Energy  
Communications  
Publications  
Governmental  
Affairs

STANDING COMMITTEES

FINANCE  
MEMBERSHIP  
PROGRAM  
COM. RELATIONS  
PUBLICATIONS  
RECOGNITION

SPECIAL COMMITTEES

ELECTION  
C P G

On November 1, 1979 the Gold Rush Jaycees presented to the legislators of Alaska. among others, a suggested Code of Ethics for elected officials.

We again welcome this opportunity to convey to this State Affairs Committee our interests in and concerns for the character and image our various elected officials portray and exhibit.

We want our elected officials to be responsible and accountable. Most peoples ethical standards of conduct often exceeds those required by law. Ethics are simply not acquired immediately upon entering a specific arena. They are carried around by us constantly.

Elected officials will be ethical when they conform to the rules of good conduct expected of them by the public and peers. Behavior should be above reproach so it will not reflect adversely upon their office or restrict their efficiency and independence.

Constituencies often demand from their officials not what is ethical and moral, but rather what is expedient and good for them. Therefore, compliance with these canons will help to assure mutual confidence, trust, respect, and responsible ideals.

We recommend that a Code of Ethics be incorporated into the Uniform Rules of the Legislature as well as the Administration.

Gold Rush Jaycees--2

We also recommend that a State Board of Ethics be established for oversight and enforcement

We support from the Second Session of the Eleventh Legislature SCR 57 (By the Rules Committee--Proposing an Amendment to the Uniform Rules adopting a legislative code of ethics)

We also support from the First Session of the Twelfth Legislature SSSB 175 (By Fischer Bradley, Colletta, Kelly, Sturgulewski, et al--An Act adopting a Code of Ethics for state officials and state employees, establish a State Ethics Commission repealing AS 39.50, and providing for an effective date.

The Jaycees a leadership training organization, believes that government should be of laws, rather than men. We appreciate this opportunity to express our views.

Larry Hayden  
Project Chairman  
Box 4-815  
Anchorage, Alaska 99509



Committee Minutes  
Senate State Affairs Committee

Anchorage, Alaska  
10-27-81, 3:00 p.m.

Members Present: Sen. Fischer, Chair  
Sen. Stimson

Hearing: Ethics legislation—all sites teleconference

Committee Calendar: Including, but not confined to SSSB 175, "An Act relating to a standard of conduct for public officials and employees; establishing a State Ethics Commission and providing for an effective date."

Witnesses:

Anchorage:

Roger H. Gay, representing self  
c/o P. O. Box 3-4103 ECB, Anchorage, Ak. 99501

Philip W. L. Cox, representing self  
1556 Garden St., Anchorage, Ak. 99504

Theda Pittman, Alaska Public Offices Commission  
610 C St., #211, Anchorage, Ak. 99501

John Durkin, representing self  
Box 8-752, Anchorage, Ak. 99504

Jan Bomhoff, FREE Committee  
4033 N. Point Dr., Anchorage, Ak. 99502

Jan Faiks, FREE Committee  
816 N. Bragaw St, Apt. 3, Anchorage, Ak. 99504

Proceedings:

Senator Fischer opened the meeting on ethics legislation, and welcomed the single teleconference participant in Sitka.

Roger Gay provided testimony on SSSB 175. He conducted a section by section analysis of the bill, beginning with the Findings and Purpose section (Section I). He stated that he saw no need to establish a bureaucracy to set up a code of ethics as there is already a code: the U. S. and state constitutions which those sworn into office have sworn to uphold. He cited a loophole he perceived in 39.49.190(1) of SSSB 175, which had said nullifies any protection this legislation may offer the citizen, namely a provision stating that the commission may ignore requests for an advisory opinion under certain circumstances. He proposed new language for this section: "Upon request an opinion must be issued within 30 days" or the violation would be assumed. Roger stated that the power to insure faithful execution of public duties rests with the governor, rather than the legislature. He cited

the Alaska Constitution, Article III, Sec. 16.

Senator Fischer made reference to the governor executing laws passed by the legislature. The legislature has the power to revise the laws if they don't work. The governor can't enforce laws with respect to the legislature, the judiciary, or municipal officials. He inquired if Roger Gay was opposed to enactment of a code of ethics.

Roger Gay responded that the U. S. and Alaska constitutions are adequate guidelines which public officials are sworn to uphold, in response to which Sen. Fischer stated that the constitution is silent on certain points of criminal behavior, as is the law. Enactment of this law, Sen. Fischer stated, addresses the gross abuse of power by public officials (i.e. dealing for one's self-interest). Roger Gay stated that he felt this code of ethics is good, and that the ethics commission is good, with the exception of the "loophole" he previously mentioned. He persisted in his point about the ethics commission overlapping the responsibility of the governor.

Sen. Fischer pointed out that a representative of the Attorney General's office testified on the legislation at an earlier hearing, and that no mention was made at that time of powers of the governor being usurped. He also stated that performance in accordance with the constitution was not the focus of this commission, and that other bodies were responsible for dealing with constitutional violations. With respect to Roger Gay's comments on 39.49.190, Sen. Fischer stated that he questioned the due process of producing an opinion within 30 days or assuming guilt of the party in question.

Philip Cox related some of his experiences of the abuse of power by public officials over the years, some of them in conjunction with his operation of a driving school in Anchorage. He stated a need for a people's ombudsman, having had an unsatisfying experience in the ombudsman's handling of a complaint he filed against a driving school he stated was operated using state cars, forms, and equipment. He related an incident which took place in the mid-70's when he reported a perceived safety violation to OSHA, and again was dissatisfied with the handling of his complaint. Mr. Cox stated that "if a person ignores something which he should pay attention to, and just collects his check, that's unethical." He related his experience with the city assembly and zoning violations which he felt the assembly did not respond correctly to, and also touched on experiences with the local (Anchorage) school board in relation to teachers' retirement accounts. Mr. Cox related all of these things to build a case for ethics legislation. He stated his support for "anything along the line of establishing an ethics commission." His dissatisfaction with the handling of his complaints filed with the state and municipal ombudsman offices led him to support the concept of a "people's ombudsman".

Theda Pittman, of the Alaska Public Offices Commission, stated that the APOC would provide all the support they could in developing the ethics legislation. She pointed out that there are 151 municipalities and 21 REAAs with which the APOC must contend, and that whatever agency will administer the proposed legislation will be dealing with

the biggest election in the state's history in the period between July 1 and December 1 of 1982. She pointed out some of the complications confronting the APOC in carrying out their work. In many municipalities the correct reports are not on file, or are not completely filled out, or for some reason are not retained in the municipality. The APOC is not funded for the massive education effort which would be required to bring municipalities into conformity with the law. SSSB 175 (which would set up an ethics commission which would absorb the existing APOC) if passed, Theda Pittman stated, should be effective 1-1-83 or 7-1-83 for the state level and one year later for municipalities. She also stated that the fiscal note for the legislation would need revision as it no longer reflected the actual costs associated with the coming 1982 election.

Sen. Fischer made reference to previous testimony provided by Theda Pittman and Rich Listowski in Juneau to the effect that smaller communities should be able to opt out, and inquired if that were still their position.

Theda Pittman responded that 75 of 150 municipalities have had votes, and half of those have opted out. She stated that there were problems with getting the municipalities to understand the opt-out provisions.

Sen. Fischer suggested working with the Dept. of Community and Regional Affairs on this problem as they have expertise in outreach to 2nd class municipalities. Theda Pittman confirmed that they had done some work with C & RA in this regard.

Sen. Stimson inquired whether the APOC had discussed the expansion of their responsibilities, and what the general attitude was.

Theda Pittman responded that the APOC had not "sat down and addressed SSSB 175 as a whole," but that they would try to do so at their November meeting. The legislation would reconstitute the present APOC or add a 4th statute to its present responsibilities, including adjudicatory requirements. The APOC consists of five citizen commissioners, and Theda Pittman stated that the APOC was not presently handling the three statutes for which it is already responsible.

John Durkin, representing himself provided testimony on the ethics legislation, and stated that he has followed the conflict of interest and ethics developments ever since 1976 when he was involved in the "Proposition 5 election affair". He stated that if the legislation before the committee were to fly it would be in joint conference committee. He made reference to Flavin's 1978 bill, HB 860, which he stated Rep. Terry Gardiner "killed in committee". He suggested that in further hearings on the ethics legislation that the committee give consideration to the legislation of other states. In addition he suggested that the membership of the commission (addressed in Sec. 10 of SSSB 175) include supreme court appointees. He expressed dissatisfaction with the quality of various APOC appointees in the past, and stressed the importance of quality appointments, and of supreme court appointees serving on the commission. He envisioned the bill would be torn up in Juneau, and stated that legislators become isolated in Juneau, that

the influx of foreign government interests beginning in 1975 affected legislation, and that lobbyists have a tremendous impact on legislation. He asked committee members how they planned to control foreign controlled corporations protecting their investments in Alaska. He advised committee members to "put some teeth in the bill" when it comes before joint conference committee, to check out the legislation Frank Flavin put together in 1978, to get other states in on it and he cited the Public Trust Doctrine, which he stated deals with a code of ethics, and was defined by the Supreme Court in 1948 in reference to the public trust of municipal, state and federal officials.

Senator Fischer then summarized for the record a statement of support for a Code of Ethics to be incorporated into the Uniform Rules of the Alaska Legislature submitted by the Gold Rush Jaycees.

Jan Faiks and Jan Bomhoff of the Anchorage Republican Women's Club FREE Committee were observing the teleconference, and Jan Faiks stated that they supported the Senate State Affairs Committee's efforts to develop ethics legislation. She further stated that "on first flush the bill (SSSB 175) looks very good". Speaking not for the FREE Committee but on her own behalf she mentioned that Common Sense for Alaska was doing an audit of personal service contracts let the latter half of 1980 by the executive branch for which the paperwork was "not in order". This sort of public interest lends its support to developing a code of ethics.

Roger Gay, who testified at the beginning of the teleconference, wished to state for the record that if his earlier suggested language for 39.49.190 was not used he wished the language to reflect that the commission should be bound to answer a request.

There was no further testimony that afternoon, and when the committee reconvened at 6:00 p.m. that evening there was no testimony offered. Sen. Fischer adjourned the meeting at 6:30 p.m.



DATE: 10-27-81  
 SITE/LOCATION: Anchorage  
 SPONSOR/SUBJECT: Senate State Affairs - Ethics Bill

BROADCAST CONSENT: This teleconference may be broadcast live or recorded for later broadcast by radio or television stations. Please indicate your consent by initialing appropriate box.

NAME/REPRESENTING	ADDRESS	PHONE	HERE TO PARTICIPATE	BROADCAST CONSENT
Roger H. Gay ✓	c/o P.O. Box 3-4103 ECB Anch. AK. 99501	274-4756	✓	✓
Philip W. L. COX (Jr.) ✓	1556 Garden St., Anchorage 99504	274-6875	✓	✓
Theda Pittman ✓	APOC 610 C# 211 99501	276-4176	✓	✓
Deise Morrison Sloan	Box 387 Talkeetna AK	None		
Dorn Sloan	3403 Bruce Ln.	None		
John Durkin ✓	Box F-752 Anch 99504	None 279-2931	✓	✓
Jan Bontoff ✓	4033 N. Pt. Dr. Anch. AK 99502	243-1099		
Jan Stokes ✓	SRA 62F Anch. 99507	344-0454		
<del>Jan Kabeff</del>	<del>816 N. Breguier St. Anch. 99504</del>			

SECTION BY SECTION OVERVIEW  
CSSSSB 175 (State Affairs)  
Work Draft

<u>Section</u>	<u>Title</u>	<u>Summary Statement</u>
1	Findings and Purpose	Statement of legislative intent
2		
39.49.010	Construction	This chapter is to be liberally construed to promote ethical conduct in state and municipal government.
39.49.020	Applicability	Applies to all elected and appointed officials including any state employee of the three branches of government and any municipal employee. Also applies to a person under a personal services contract to a state agency or municipality.
39.49.030	Gifts	A public official may not solicit or receive a gift under circumstances where it could be inferred that the gift was intended to influence or reward official action.
39.49.040	Confidential Information	A public official is prohibited from using information for personal gain. The public official is also prohibited from disclosing information which is not public information and which the public official acquires from official sources.
39.49.050	Fair Treatment	Specifically states what action is prohibited by a public official
39.49.060	Conflict of Interest	Spells out what constitutes a conflict of interest
39.49.070	Action on Conflict	Outlines the procedures a public official must take in the event of a personal conflict of interest
39.49.080	Government Contracts	Specifies the instances in which the public official or member of her/his household can contract with the state or municipality
39.49.090	Contracts Voidable	The state or municipality may void a contract if the contract entered into violates a provision of this chapter. States that the interest of innocent parties shall be considered in an action to

void a contract, and that the action must also be brought within 60 days after a violation is determined.

- 39.49.100 Restrictions on Former Public Officials A former public official is prohibited from
- 1) using information for personal gain that was acquired in the course of her/his official duties;
  - 2) disclose information not available to the public acquired during the course of her/his official duties;
  - 3) may not assist anyone for compensation on a matter in which she/he personally participated as a public official; and
  - 4) for twelve months after termination of employment from assisting anyone for compensation on matters before the state agency or municipality where she/he was employed.
- 39.49.110 Violation Establishes a two-year statute of limitations for prosecution of a public official or former public official
- 39.49.120 Reporting Conflicts of Interest by Members of Municipal Governing Bodies This section outlines the procedures for members of municipal governing bodies to follow when a conflict of interest exists.
- 39.49.130 Protections for Reporting a Violation "Whistleblow" statute" to protect state and municipal public officials for reporting a violation of the ethics code
- 39.49.150 Commission Established Establishes a seven member State Ethics Commission in the Department of Administration appointed by the governor and confirmed by the legislature. Term is five years with a 1 term limitation. Also outlines the qualifications and compensation for members. Gives the Commission the authority to hire an executive director and staff.
- 39.49.160 Offices of the Commission Establishes an office in each senate district but limits one office to each municipality. Campaign, financial disclosure and lobbyists' reports are to be filed in the Commission's central office. The reports are public information.
- 39.49.170 Duties of the Commission Outlines the duties of the Commission

- 39.49.180    Legal Counsel    Gives the Commission the authority to hire and employ an attorney or to use the attorney general's office for legal advice and representation
- 39.49.190    Powers of Commission    Incorporates the functions of the Alaska Public Offices Commission. Gives the Commission the authority to issue advisory opinions on ethics and also to initiate investigations and hold hearings.
- 39.49.200    Complaint Procedures    Establishes complaint procedures and due process requirements for conducting hearings
- 39.49.210    Determinations    Establishes procedures for the Commission to follow when a violation of the ethics code has been determined
- 39.49.220    Disciplinary Action for Violation    Gives the appointing authority of the public official the power to discipline a public official who has violated the ethics code. If no action is taken by the appointing authority, the Commission can discipline the public official and assess a civil penalty not to exceed \$2000.
- 39.49.300    Definitions    Self-explanatory
- 3    Provisions to amend sections of existing state law to make them consistent with this bill
- through  
9
- 10    Terminates the terms of the members of the Alaska Public Offices Commission and sets the terms of the new members of the State Ethics Commission.

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Sponsor Substitute for Senate Bill No. 175  
 Title An Act relating to a standard of conduct for public officials and employees: ....  
 Requested by Senators Fischer, Hohman, Stimson, Bradley, et al. Date April 21, 1981

II. FISCAL DETAIL

Agency Affected Department of Administration  
 Program Category Affected Legislative and Elective Operations  
 BRU, Program, or Subprogram(s) Affected Alaska Public Offices Commission  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		555.3	635.8	671.9		
200 TRAVEL		120.5	132.6	145.9		
300 CONTRACTUAL		13.4	185.2	203.7		
400 COMMODITIES		11.6	12.8	14.1		
500 EQUIPMENT		9.7	-	-		
600 LAND & STRUCTURES		-	-	-		
700 GRANTS, CLAIMS, ETC.		-	-	-		
TOTAL		965.5	966.4	1035.6		

FUNDING (Thousands of Dollars)

GENERAL FUND		865.5	966.4	1035.6		
FEDERAL FUNDS		-	-	-		
OTHER (Specify Fund Source)		-	-	-		

POSITIONS

FULL TIME		13	13	13		
PART TIME		3	3	3		
TEMPORARY			2			

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

PERSONAL SERVICES (including benefits) FY 82 Salary Schedule; 10% inflation factor projected

- FY 82 APOC Request: 290,800
- 1 Executive Director, range 24, 12 ms
  - 1 Assistant Director, range 21, 12 ms
  - 1 Regulations Specialist, range 16, 12 ms
  - 1 Administrative Assistant, range 14, 12 ms
  - 1 Research Analyst, range 16, 8 ms
  - 1 Secretary, range 10, 12 ms
  - 2 Clerk IV's, range 9, 12 ms
  - 1 Clerk III, range 8, 8 ms
  - 1 Data Entry Clerk, range 9, 6 ms

IV. DATE May 5, 1981 PREPARED BY *John A. Pukeman*  
 AGENCY Alaska Public Offices Commission  
 PHONL 276-4176

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

*Gov. Office*

*Senator Fischer*  
*Beth Spiering*

Additional Funding, Ethic's Commission

-- Reclass Executive Director: 24A to 26A	6,405
-- Attorney, range 24, 12 ms	59,689
-- Reclass Assistant Director; 21A to 23A	6,753
-- Assistant Director; 23, 12ms	55,854
-- Regulations Specialist to Administrative Officer; 16A to 17A	2,400
-- 2 Investigators; range 17, 12 ms	75,436
-- Reclass Secretary: 10A to 12A	2,883
-- Reclass Clerk to Auditor: 9A to 12A	,194
-- Reclass Clerk to Auditor: 9A to 12A	4,164
-- 2 Clerk IV's; range 9, 12ms	46,760
	<u>555,348</u>

TRAVEL - 10% inflation factor projected

FY 82 APOC Request	38,700
Additional Funding, Ethics Commission	
Staff Travel: 25 trips @ \$400/trip; 2 days each @ \$67/day	13,350
Convention: 1; 3 people @ \$1,000/ea; 5 days @ \$60/day	3,900
Commission Travel: 12 meetings per year 7 members x 12 @ \$400/trip (less FY 82 APOC Request)	26,000
7 members x 12 x 3 days @ \$67/day (less FY 82 APOC Request)	8,884
Non-Employee Travel 25 person @ \$400/trip	10,000
Honorarium 12 meetings @ 2 days each, 7 members @ 150/day (less FY 82 APOC Request level)	19,600
	<u>120,434</u>

CONTRACTUAL - 10% inflation factor projected

FY 82 APOC Request:	88,900
Additional Funding, Ethics Commission	
Communications	16,300
Printing and Advertising	10,800
Space Expense	16,200
Repair and Maintenance	6,000
Equipment Rental - word processing	14,600
Witness fees	600
Municipal Contracts (service & instruction)	15,000
	<u>168,400</u>

COMMODITIES - 10% inflation factor projected

FY 82 APOC Request:	6,800
Additional Funding, Ethics Commission	
Misc. Supplies	4,800
	<u>11,600</u>

EQUIPMENT - 10% inflation factor projected

FY 82 APOC Request:	2,100
Additional Funding, Ethics Commission	
6 desks	2,276
0 chairs	903
8 side chairs	698
3 tables	660
2 credenzas	706
6 file cabinets	1,221
2 calculators	822
1 bookcase	103
1 storage cabinet	185
	<u>9,674</u>

POSITION TITLE Assistant Director				RANGE/STEP 23 A	DAIS. UNIT. X	LOCATION Anchorage	GOV	APPROV.	DISAPP.
TYPE OF POSITION PPT	STAFF MONTHS 12	IMP No.	PCN No.	PRIORITY 1		FORM 12 PAGE/LINE	LEG		

TYPE OF EXPENDITURE	1	2	3
PERSONAL SERVICES:			
SALARY		44,952	
BENEFITS		7,098	
FICA		2,004	
HEALTH INS.		1,800	
TOTAL PERSONAL SERVICES	01		55,854
TRAVEL	02		12,300
CONTRACTUAL	03		10,270
COMMODITIES	04		800
EQUIPMENT	05		1,300
OTHER			
TOTAL COST			80,454

JUSTIFICATION:

This person would be one of two Assistant Directors reporting to the Executive Director of the Commission. The existing Assistant Director in the Commission's budget would be responsible for Administrative and Technical Services; the new position request is for an Assistant Director for Enforcement. The essential responsibility of this person would be to handle investigations which were necessary either as a result of audits conducted by Commission staff or in response to complaints filed by the public. Routine auditing of reports filed under all of the laws administered by the Commission would be handled by the staff in the Administrative and Technical Service division; in-depth investigations, including field audits, necessitated by complaints would be the responsibility of the Enforcement division. This division also would be responsible for presenting the investigation results to the Commission during the hearing process in order that the Commission could determine whether a violation had occurred and whether referral to the Attorney General was warranted.

CODE	FUNDING SOURCE	
	FED RCPTS. 1002	
	GF MATCH. 1003	
	GEN. FUND 1004	80,454
	I-ABCPTS. 1005	
	PGM RCPTS 1020	
	OTHER	

CONTINUATION		FOR B&M USE ONLY
ADDITION		

KEY NUMBER \_\_\_\_\_ COLUMN NO. \_\_\_\_\_

AGENCY Administration PROGRAM Legislative & Elective Operations

BRU Alaska Public Offices Commission

COMPONENT Alaska Public Offices Commission

**13** REQUEST FOR NEW POSITION.

**FY 82**

POSITION TITLE Attorney				RANGE/STEP 24 A	BARG. UNIT. X	LOCATION Anchorage	GOV.	APPROV.	DISAPP.
TYPE OF POSITION PFI	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY 1	FORM 12	PAGE/LINE	LEG.		

TYPE OF EXPENDITURE	AMOUNT	
1	2	3
PERSONAL SERVICES:		
SALARY	48,264	
BENEFITS	7,621	
FICA	2,004	
HEALTH INS.	1,800	
TOTAL PERSONAL SERVICES	01	59,689
TRAVEL	02	12,300
CONTRACTUAL	03	10,300
COMMODITIES	04	800
EQUIPMENT	05	1,300
OTHER		
TOTAL COST		84,389

**JUSTIFICATION:**

The major function of this position is the preparation of Advisory Opinions which the Commission would be required to issue to those subject to the Ethics Law who sought direction concerning their requirements in order to be considered in compliance. Such advisory opinions require the services of an attorney who is knowledgeable in both the Ethics Law and in business/financial matters as well. Under the Ethics Law, those subject to it or those contemplating a position under it will need to be advised concerning the potential and actual conflicts between their financial matters and their position in government. In some cases it may be necessary to recommend disposal of particular holdings; in others, some form of blind trust may be sufficient. The Commission's response to such requests are binding and, hence, must be timely, accurate and precise -- the services of an attorney "in-house" will be required to assure such. There are approximately 525 state officials who are subject to the present Conflict of Interest Law, AS 39.50. About the same number would be subject to this ethics legislation and, therefore, the workload dictates the full-time services of an attorney.

CODE	FUNDING SOURCE	
	FED RCPTS. 1002	
	GF MATCH. 1003	
	GEN. FUND. 1004	84,389
	L-ARCPTS. 1005	
	PGM RCPTS 1028	
	OTHER	

CONTINUATION	FOR GCM USE ONLY
ADDITION	
KEY NUMBER	COLUMN NO.

CY Administration PROGRAM Legislative & Elective Operations

BRU Alaska Public Offices Commission

COMPONENT Alaska Public Offices Commission

**13 REQUEST FOR NEW POSITION.**

**FY 82**

1	POSITION TITLE Investigator			RANGE/STEP 17 A	BARG. UNIT. X	LOCATION Anchorage	GOV	APPROV.	DISAPP.
2	TYPE OF POSITION PPT	STAFF MONTHS 12	IMP No.	PCN No.	PRIORITY 1	PGM 12	PAGE/LINE	LEG.	

3	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
4	PERSONAL SERVICES:		
	SALARY	29,460	
5	BENEFITS	4,652	
6	FICA	1,806	
7	HEALTH INS.	1,800	
8	TOTAL PERSONAL SERVICES	01	37,718
9	TRAVEL	02	18,400
10	CONTRACTUAL	03	10,200
11	COMMODITIES	04	800
12	EQUIPMENT	05	1,300
13	OTHER		
14	TOTAL COST		64,418

JUSTIFICATION:

This full-time position is vital if the proposed State Ethics Commission is to fulfill the enforcement provisions inherent in the legislation. Without adequate investigative staffing, the intent of any ethics legislation would be severely undermined. The person filling this position would report to the Executive Director, the Assistant Director for Enforcement and the Attorney, as necessary. He or she would investigate complaints filed by the public and perform other investigations required by the Commission. While it is anticipated that the majority of the investigative work would stem from enactment of the ethics bill, this person also would perform investigations relative to the Campaign Disclosure Law and the Regulation of Lobbying Law.

	CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17		GEN. FUND 1004	64,118
18		L-ARCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER	

21 CONTINUATION  
22 ADDITION

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AA KEY NUMBER \_\_\_\_\_ COLUMN NO. \_\_\_\_\_

AGENCY Administration PROGRAM Legislative & Elective Operations

DRU Alaska Public Offices Commission

COMPONENT Alaska Public Offices Commission

**13** REQUEST FOR NEW POSITION.

**FY 82**

1	POSITION TITLE Investigator			RANGE/STEP 17 A.	BARG. UNIT. X	LOCATION Anchorage	GOV	APPROV.	DISAP
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY 1	FORM 12 PAGE/LINE	LEG.		

3	TYPE OF EXPENDITURE	AMOUNT -
	1	2
4	PERSONAL SERVICES: SALARY	29,460
5	BENEFITS	4,652
6	FICA	1,806
7	HEALTH INS.	1,800
8	TOTAL PERSONAL SERVICES 01	37,718
9	TRAVEL 02	18,400
10	CONTRACTUAL 03	10,200
11	COMMODITIES 04	800
12	EQUIPMENT 05	1,300
13	OTHER	
14	TOTAL COST	64,418

**JUSTIFICATION:**

This full-time position is vital if the proposed State Ethics Commission is to fulfill the enforcement provisions inherent in the legislation. Without adequate investigative staffing, the intent of any ethics legislation would be severely undermined. The person filling this position would report to the Executive Director, the Assistant Director for Enforcement and the Attorney, as necessary. He or she would investigate complaints filed by the public and perform other investigations required by the Commission. While it is anticipated that the majority of the investigative work would stem from enactment of the ethics bill, this person also would perform investigations relative to the Campaign Disclosure Law and the Regulation of Lobbying Law.

	CODE	FUNDING SOURCE
15		FED RCPTS. 1002
16		GF MATCH. 1003
17		GEN. FUND 1004
18		I-A RCPTS 1005
19		PGM RCPTS 1028
20		OTHER
21	CONTINUATION	
22	ADDITION	

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AGENCY Administration PROGRAM Legislative & Elective Operations

BRU Alaska Public Offices Commission

COMPONENT Alaska Public Offices Commission

**13 REQUEST FOR NEW POSITION.**

**FY 82**

POSITION TITLE Clerk IV				RANGE/STEP 9 A	BARG. UNIT. X	LOCATION Anchorage	GOV	APPROV.	DISAPP.
TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY 1	FORM 12	PAGE/LINE	LEG		

TYPE OF EXPENDITURE		AMOUNT -
1	2	3
PERSONAL SERVICES:		
SALARY	17,700	
BENEFITS	2,795	
FICA	1,085	
HEALTH INS.	1,800	
TOTAL PERSONAL SERVICES	01	23,380
TRAVEL	02	
CONTRACTUAL	03	6,100
COMMODITIES	04	800
EQUIPMENT	05	1,200
OTHER		
TOTAL COST		31,480

JUSTIFICATION:

This full-time clerk position would function as support staff for the two Investigator positions. This position also would perform clerical functions for the Attorney as necessary. The person filling this position would utilize the word processing equipment for typing correspondence, investigative reports and recommendations, and advisory opinions. Filing and other clerical skills would be necessary.

CODE	FUNDING SOURCE	
	FED RCPTS. 1002	
	GF MATCH. 1003	
	GEN. FUND 1004	31,480
	I-A RCPTS. 1005	
	PGM RCPTS 1028	
	OTHER	

1 CONTINUATION  
2 ADDITION

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AA KEY NUMBER \_\_\_\_\_ COLUMN NO. \_\_\_\_\_

AGENCY Administration PROGRAM Legislative & Elective Operations

BRU Alaska Public Offices Commission

COMPONENT Alaska Public Offices Commission

**13** REQUEST FOR NEW POSITION.

**FY 82**

POSITION TITLE Clerk IV				RANGE/STEP 9 A	BARG. UNIT. X	LOCATION Anchorage	GOV	APPROV.	DISAPP.
TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY 1		FORM 12 PAGE/LINE	LEG		

TYPE OF EXPENDITURE	1	2	3
PERSONAL SERVICES:			
SALARY		17,700	
BENEFITS		2,795	
FICA		1,085	
HEALTH INS.		1,800	
TOTAL PERSONAL SERVICES	01		23,380
TRAVEL	02		
CONTRACTUAL	03		6,100
COMMODITIES	04		800
EQUIPMENT	05		1,200
OTHER			
TOTAL COST			31,480

JUS.TIFICATION:

This full-time clerk position would serve as direct support staff to the Assistant Director for Enforcement and the Attorney, as necessary. The person filling this position would utilize the word processing equipment for typing reports, findings, memoranda, and correspondence. This person also would be required to be able to retrieve information stored in the word processor's records management system. Filing and other clerical skills would be necessary.

CODE	FUNDING SOURCE	
	FED RCPTS. 1002	
	GF MATCH. 1003	
	GEN. FUND 1004	31,480
	I-A RCPTS. 1005	
	PGM RCPTS 1028	
	OTHER	

CONTINUATION	
ADDITION	FOR B&M USE ONLY

KEY NUMBER \_\_\_\_\_ COLUMN NO. \_\_\_\_\_

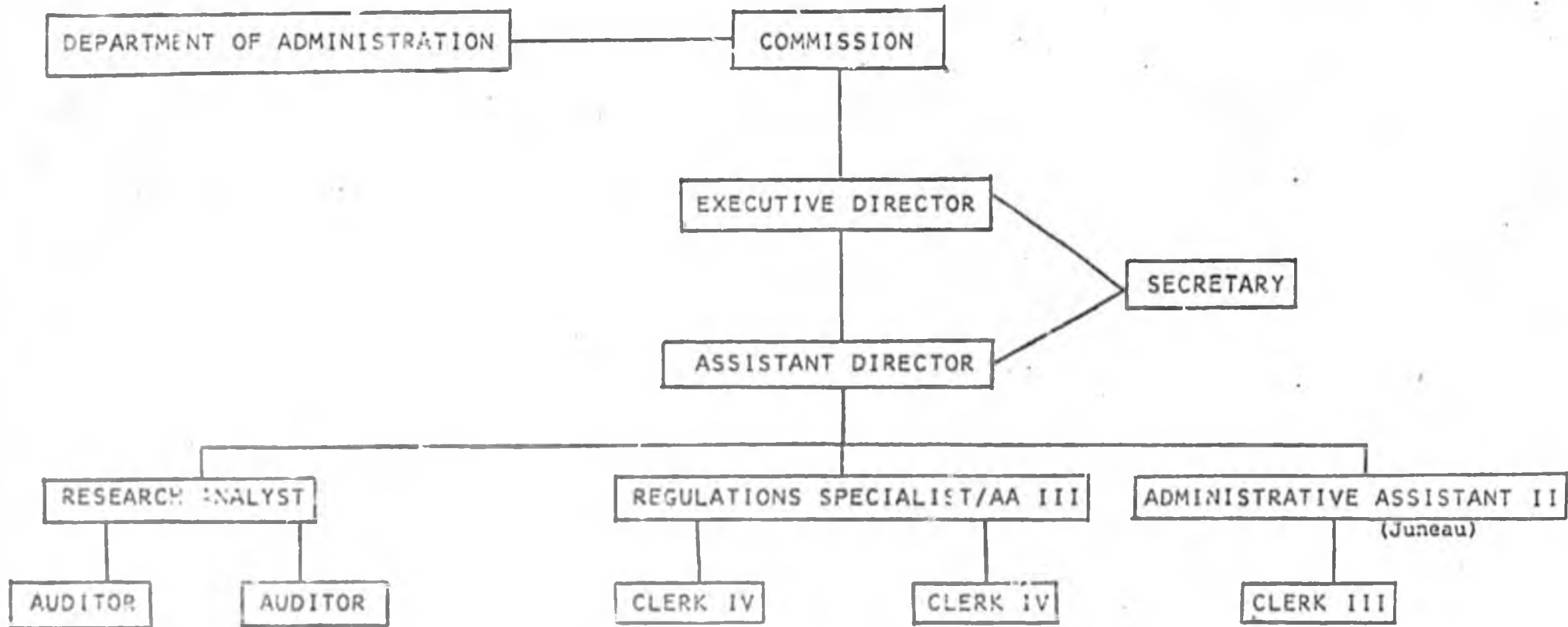
AGENCY Administration PROGRAM Legislative & Elective Operations

BRU Alaska Public Offices Commission

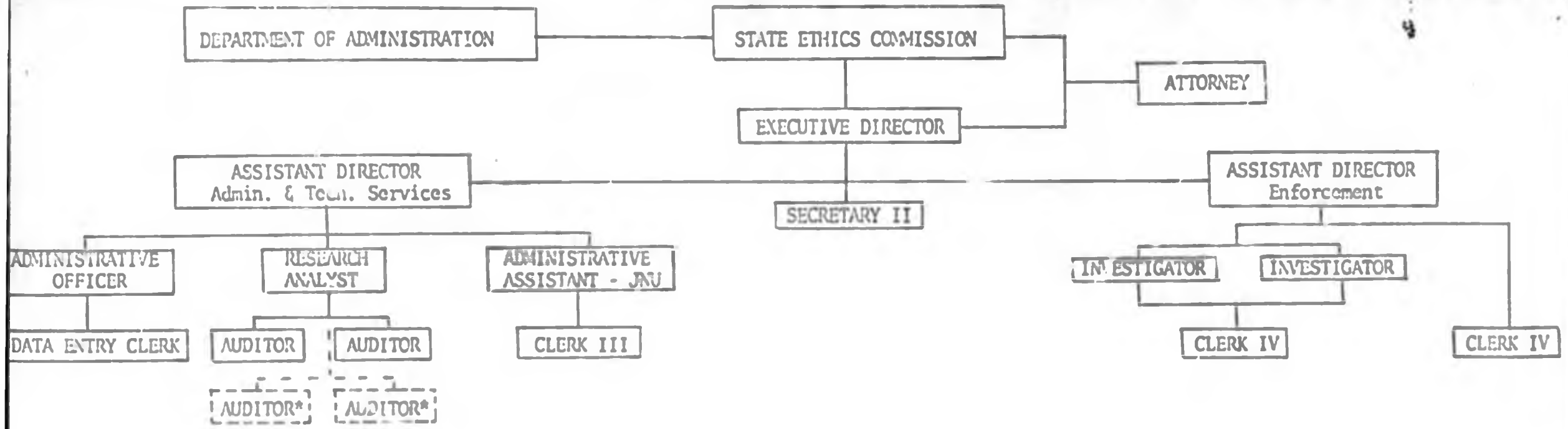
COMPONENT Alaska Public Offices Commission

**13** REQUEST FOR NEW POSITION.

**FY 82**



ALASKA PUBLIC OFFICES COMMISSION  
ORGANIZATIONAL CHART



STATE ETHICS COMMISSION  
ORGANIZATIONAL CHART

\*Positions required during  
state election years only