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(Drafted by Committee counsel, Gross and Burke)
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(Alaska Statutes)

14-1708
Cook
2/3/86

1 IN THE SENATE

BY THE STATE AFFAIRS
COMMITTEE

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act annulling regulations adopted by the Alaska
7 Public Offices Commission."

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

9 * Section 1. The following regulations are annulled: 2 AAC 50.310, 2
10 AAC 50.313, 2 AAC 50.314, 2 AAC 50.315, 2 AAC 50.316, 2 AAC 50.319, 2 AAC
11 50.320, 2 AAC 50.321, 2 AAC 50.324, 2 AAC 50.326, 2 AAC 50.332, 2 AAC
12 50.333, 2 AAC 50.334, 2 AAC 50.340, 2 AAC 50.342, 2 AAC 50.351, 2 AAC
13 50.357, 2 AAC 50.360, 2 AAC 50.362, 2 AAC 50.363, 2 AAC 50.369, 2 AAC
14 50.370, 2 AAC 50.375, 2 AAC 50.380, 2 AAC 50.390, 2 AAC 50.397, 2 AAC
15 50.400, 2 AAC 50.401, 2 AAC 50.405, 2 AAC 50.450, 2 AAC 50.460, 2 AAC
16 50.470, 2 AAC 50.905, 2 AAC 50.910.

Bill as introduced on Senate Floor.

Introduced: 1/22/86
Referred: State Affairs, Community and
Regional Affairs and Finance

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE

2 SENATE BILL NO. 356

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to election campaign financing; and
7 providing for an effective date."

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

9 * Section 1. AS 15 is amended by adding a new chapter to read:

10 CHAPTER 14. ELECTION CAMPAIGN FINANCING.

11 ARTICLE 1. ALASKA PUBLIC OFFICES COMMISSION.

12 Sec. 15.14.010. APPLICABILITY. (a) This chapter applies in
13 each election for governor, lieutenant governor, a member of the state
14 legislature, a delegate to a constitutional convention, and a judge
15 seeking electoral retention.

16 (b) This chapter applies to each election for mayor, assembly,
17 or school board in a municipality with a population of more than 1,000
18 according to the latest United States census figures or estimates of
19 population certified by the Department of Community and Regional
20 Affairs under with AS 29.60.020. A municipality may exempt its elec-
21 tions from the requirements of this chapter if a majority of the
22 voters voting on the question at a regular election as defined by
23 AS 29.71.800 or a special municipality-wide election called for that
24 purpose vote to exempt its elections from the requirements of this
25 chapter. The question of exemption from the requirements of this
26 chapter may be submitted to the voters by initiative or by the city
27 council or borough assembly by ordinance.

28 (c) This chapter does not prohibit a municipality from addition-
29 al regulation of campaign contributions and expenditures by ordinance.

1 (d) Except as otherwise provided, this chapter applies to a
2 contribution, an expenditure or a communication made by a candidate, a
3 political interest group, a municipality, or a person for the purpose
4 of influencing the outcome of a ballot proposition or question as well
5 as that made to influence the nomination or election of a candidate.

6 (e) This chapter does not apply to contributions or expenditures
7 made for the sole purpose of acquiring signatures on a state or munic-
8 ipal initiative or referendum petition.

9 Sec. 15.14.020. ALASKA PUBLIC OFFICES COMMISSION. (a) The
10 Alaska Public Offices Commission is established in the Department of
11 Administration.

12 (b) The commission consists of five members.

13 (c) The governor shall appoint two members from each of the two
14 political parties whose candidates for governor received the highest
15 and second highest number of votes in the most recent preceding gener-
16 al election at which a governor was elected. The governor shall
17 appoint each member from a party from a list of two or more names
18 submitted to the governor by the central committee or other governing
19 body of the party.

20 (d) The four members who were appointed by the governor from
21 nominations submitted by political parties shall, by a majority vote,
22 appoint the fifth member.

23 (e) The governor shall fill a vacancy or appoint a successor to
24 a member appointed under (c) of this section within 30 days after
25 receiving the nominations from the central committee or other govern-
26 ing body of the party. An appointment may be made in anticipation of
27 an impending vacancy, and the appointment takes effect on the actual
28 vacancy.

29 (f) When the term of the member appointed under (d) of this

1 section expires or the position becomes vacant, a majority of the four
2 members appointed under (c) of this section shall appoint a successor
3 within 30 days after the position becomes vacant. An appointment may
4 be made in anticipation of an impending vacancy, and the appointment
5 takes effect on the actual vacancy.

6 (g) The term of office for each member of the commission is five
7 years and until a successor is appointed and qualifies. If a vacancy
8 occurs before the expiration of a member's term, the member appointed
9 to fill the vacancy serves for the remainder of the unexpired term. A
10 commission member may not serve more than one term, but a person
11 appointed to fill an unexpired term may be appointed to a successive
12 full five-year term.

13 (h) A member of the commission, during tenure, may not

14 (1) hold or campaign for elective office;

15 (2) be an officer of a political party, political commit-
16 tee, or political interest group;

17 (3) publicly support or oppose or make a contribution in
18 support of or in opposition to a candidate or proposition or question
19 that appears on a state, municipal or other ballot in the state;

20 (4) participate in an election campaign or participate in
21 or contribute to a political party; or

22 (5) lobby, employ, or assist a lobbyist.

23 (i) Members of the commission are entitled to receive compen-
24 sation of \$100 a day while attending commission meetings and are
25 entitled to travel expenses and per diem authorized by law for state
26 employees.

27 (j) The members of the commission shall elect a chairman. A
28 majority of the commission constitutes a quorum. The ^{AFFIRMATIVE} vote of at least
29 three members is required to take official action. A vacancy does not

1 impair the power of the remaining members to exercise the powers of
2 the commission.

3 (k) . The commission may employ an executive director and other
4 employees it considers necessary. The executive director and an
5 employee of the commission may not, during tenure, serve as a member
6 of the commission.

7 (l) The commission shall establish a central office and shall
8 establish or designate a commission office in each election district
9 of the state for the filing and public inspection of the reports,
10 registrations, or statements required to be filed with the commission.
11 Only one commission office may be established or designated in a
12 municipality that contains more than one election district. A dis-
13 trict office designated under this section may be a municipal or other
14 public office.

15 (m) The forms and material required for compliance with this
16 chapter shall be made available in each commission office to candi-
17 dates, persons, and political interest groups required to file reports
18 under this chapter.

19 (n) The commission shall promptly forward a copy of each report
20 filed by a statewide candidate to each district office and it shall
21 promptly forward a copy of each report filed by a legislative candi-
22 date to the district office in the election district where the candi-
23 date is seeking office.

24 (o) The commission shall ensure that copies of each report filed
25 by a candidate for municipal office are made available for public
26 inspection in the municipality in which the candidate is seeking
27 office.

28 Sec. 15.14.030. DUTIES OF THE COMMISSION. The commission shall

29 (1) develop and provide forms for the reports,

1 registrations, and statements required under this chapter, AS 24.45,
2 and AS 39.50;

3 (2) prepare and publish a manual setting out uniform meth-
4 ods of bookkeeping and reporting for use by persons required to make
5 reports, registrations, and statements under this chapter and other-
6 wise assist candidates, political interest groups, and persons in
7 complying with this chapter;

8 (3) receive and hold open for public inspection reports,
9 registrations, and statements required to be filed under this chapter
10 and, upon request, furnish copies to an interested person at cost;

11 (4) compile and maintain a current list of each report,
12 registration, and statement filed with the commission;

13 (5) prepare a summary of each report, registration, or
14 statement filed under this chapter and make a copy of the summary
15 available to an interested person at cost;

16 (6) notify, by registered or certified mail, each person
17 whom the commission or its staff has probable cause to believe is
18 delinquent in filing a report, registration, or statement required
19 under this chapter;

20 (7) compile within 60 days after each election a list of
21 the names of all persons, candidates, and political interest groups
22 who have failed to timely file a report, registration, or statement
23 required under this chapter and make the list available to the public;

24 (8) examine, investigate, and compare reports, registra-
25 tions, statements, and actions required by this chapter, AS 24.45, and
26 AS 39.50 and report to the attorney general the names of each person
27 or political interest group that the commission has probable cause to
28 believe has committed a crime under this chapter, AS 24.45, or AS 39.-
29 50;

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

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

8 ARTICLE 2. REGISTRATION AND REPORTS.

9 Sec. 15.14.040. REGISTRATION BY CANDIDATES. (a) An individual
10 shall register with the commission on a form prescribed by the commis-
11 sion within 10 days after the individual either

12 (1) accepts contributions of \$1,000 or more in the aggre-
13 gate from persons or from political interest groups for the purpose of
14 seeking elective office; or

15 (2) files for an elective office.

16 (b) The registration under (a) of this section must designate
17 the year of the election for which the campaign will be conducted, and
18 designate whether the election is for a state or a municipal office.
19 If a candidate has filed for office at the time of registration, the
20 registration must designate the office. An individual who registers
21 under this section before having filed for an elective office shall,
22 within 10 days after filing for the office, file a supplemental regis-
23 tration with the commission designating the office.

24 (c) An individual required to register under this section shall
25 include with the registration information required under AS 15.14.170.

26 Sec. 15.14.050. REGISTRATION BY POLITICAL INTEREST GROUPS. (a)
27 A political interest group shall register with the commission on a
28 form prescribed by the commission within 10 days after the political
29 interest group either

1 (1) accepts contributions of \$1,000 in the aggregate; or

2 (2) makes

3 (A) a contribution to an individual who has registered
4 with the commission under AS 15.14.040; or

5 (B) an expenditure in support of or in opposition to
6 the election of an individual to an office covered by this chap-
7 ter, or on behalf of or in opposition to a ballot proposition or
8 question.

9 (b) A political interest group formed solely for the purpose of
10 sponsoring an initiative, a referendum or a recall shall register with
11 the commission within 30 days after it files a petition with the
12 lieutenant governor or with a municipal clerk.

13 (c) The registration of a political interest group is valid from
14 the date of registration until the following January 16.

15 (d) A political interest group may not use or file with the
16 commission a name that is the same as or materially similar to the
17 name of a political interest group whose registration is then on file
18 with the commission.

19 (e) If a political interest group intends to support or oppose
20 only one candidate or to contribute to or expend more than 50 percent
21 of its funds on behalf of or in opposition to one candidate, the name
22 of the candidate must be part of the name of the political interest
23 group. On receipt of the registration, the commission shall promptly
24 notify the candidate of the political interest group's organization
25 and its intent.

26 (f) A political interest group that makes expenditures or re-
27 ceives contributions with the authorization or consent, express or
28 implied, or under the control, direct or indirect, of a candidate is
29 controlled by the candidate. A political interest group whose major

1 purpose is to further the nomination, election, or candidacy of only
2 one candidate or that intends to expend more than 50 percent of its
3 money on one candidate, is controlled by the candidate and its actions
4 done with the knowledge and consent of the candidate unless the candi-
5 date, within 10 days from the date the candidate learns of the exis-
6 tence of the group, files with the commission, on a form provided by
7 the commission, an affidavit that the group is operating without the
8 control of the candidate.

9 (g) A group organized for more than one year preceding an elec-
10 tion and endorsing candidates for more than one office or more than
11 one political party is not controlled by a candidate, but a group that
12 contributes more than 50 percent of its money to or on behalf of one
13 candidate is considered to support only one candidate for purposes of
14 (f), whether or not control of the group has been disclaimed by the
15 candidate.

16 (h) A political interest group required to register under this
17 section shall include with the registration the information required
18 under AS 15.14.170 and shall designate the year of the election for
19 which the campaign will be conducted or shall indicate that it antici-
20 pates continuing existence.

21 Sec. 15.14.060. REPORTS BY CANDIDATES OF CONTRIBUTIONS AND
22 LOANS. (a) A candidate shall make full reports upon a form pre-
23 scribed by the commission of the contributions and loans received by
24 the candidate for the designated election campaign, including

25 (1) the full name, complete address, principal occupation,
26 and employer of each individual and the full name and complete address
27 of each other person or political interest group from which contribu-
28 tions in the aggregate amount of \$250 or more were received, and the
29 date and amount of the contributions;

1 (2) for each person or political interest group that lent
2 \$250 or more in the aggregate to the candidate or that guaranteed or
3 otherwise agreed to assume a financial obligation of \$250 or more in
4 the aggregate for or on behalf of a candidate,

5 (A) the full name, complete address, principal occupa-
6 tion, and employer of each individual;

7 (B) the full name and complete address of each other
8 person or political interest group;

9 (C) the date and total value of the loan or financial
10 obligation;

11 (D) the interest rate of the loan or financial obliga-
12 tion;

13 (E) the date the loan or financial obligation is due;
14 and

15 (F) the security, if any, for the loan or financial
16 obligation;

17 (3) the total number and amount of all contributions re-
18 ceived of less than \$250;

19 (4) a total of all contributions received;

20 (5) the total amount of all funds that the candidate con-
21 tributed or lent to the campaign of the candidate.

22 (b) A report containing the information required under (a) of
23 this section must list the contributions and loans received during the
24 period ending three days before the due date of the report and begin-
25 ning on the last day covered by the most recent previous report. The
26 report shall be filed in the central office or a district office of
27 the commission at the following times:

28 (1) 30 days before the election unless the deadline for
29 filing a nominating petition or declaration of candidacy is less than

1 34 days before the election;

2 (2) seven days before the election.

3 (c) A candidate shall file a special contribution or loan report
4 with the commission for each contribution or loan of \$500 or more that
5 is received within the last 10 days before the election. The report
6 must include the full name, complete address, principal occupation and
7 employer of the contributor or lender and the date and amount of the
8 contribution or loan. The report shall be filed within 24 hours after
9 the contribution or loan is received.

10 (d) A candidate shall file an annual report on or before Janu-
11 ary 16 of each year. The annual report must include all of the infor-
12 mation required under (a) of this section for contributions and loans
13 received between January 1 and December 31 of the immediately preced-
14 ing year, except that an annual report covering contributions and
15 loans received during the year in which an election designated under
16 AS 15.14.040(b) is held need include only the contributions and loans
17 that were not reported to the commission in the reports required under
18 (b) and (c) of this section.

19 (e) The report required under (d) of this section covering
20 contributions and loans received during the year in which an election
21 designated under AS 15.14.040(b) is held is the final report for
22 contributions and loans of a candidate.

23 Sec. 15.14.070. REPORTS BY CANDIDATES OF EXPENDITURES. On
24 January 16 of each year after a candidate registers with the commis-
25 sion under AS 15.14.040(a), the candidate shall file in the central
26 office or a district office of the commission a report listing the
27 date, amount, purpose, and recipient of each expenditure made by the
28 candidate between January 1 and December 31 of the preceding year.
29 The report required under this section that follows the year in which

1 an election designated under AS 15.14.040(b) is held must also include
2 the amount and disposition of surplus campaign funds and is the final
3 report for expenditures of the candidate.

4 Sec. 15.14.080. REPORTS BY POLITICAL INTEREST GROUPS OF CONTRI-
5 BUTIONS, LOANS, AND EXPENDITURES. (a) A political interest group
6 shall make a report on a form prescribed by the commission of contri-
7 butions and loans received by the political interest group, including

8 (1) the full name, complete address, principal occupation,
9 and employer of each individual, and the full name and complete ad-
10 dress of each other person and political interest group from which
11 contributions in the aggregate amount of \$250 or more were received,
12 and the date and amount of the contributions;

13 (2) for each person or other political interest group that
14 lent \$250 or more in the aggregate to the reporting political interest
15 group or that guaranteed or otherwise agreed to assume a financial
16 obligation of \$250 or more in the aggregate for or on behalf of the
17 reporting political interest group,

18 (A) the full name, complete address, principal occupa-
19 tion, and employer of each individual;

20 (B) the full name and complete address of each other
21 person or political interest group;

22 (C) the date and total value of the loan or financial
23 obligation;

24 (D) the interest rate of the loan or financial obli-
25 gation;

26 (E) the date the loan or financial obligation is due;
27 and

28 (F) the security, if any, for the loan or financial
29 obligation;

1 (3) the total number and amount of all contributions re-
2 ceived of less than \$250;

3 (4) a total of all contributions received;

4 (5) a total of all expenditures made or obligated;

5 (6) the date, check number, full name of each payee, and
6 the purpose of each expenditure including

7 (A) for each expenditure that is a contribution to a
8 candidate or a political interest group, the name of the candi-
9 date or political interest group; and

10 (B) for each expenditure that is an independent expen-
11 diture, the name of the candidate or ballot proposition or ques-
12 tion supported or opposed by the independent expenditure.

13 (b) A report containing the information required under (a) of
14 this section must list the contributions and loans received during the
15 period ending three days before the due date of the report and begin-
16 ning on the last day covered by the most recent previous report. The
17 report shall be filed in the central office or a district office of
18 the commission at the following times:

19 (1) 30 days before the election;

20 (2) seven days before the election.

21 (c) A political interest group shall file a special contribution
22 or loan report with the commission for each contribution or loan of
23 \$500 or more that is received within the last 10 days before the
24 election. The report must include the full name, complete address,
25 principal occupation and employer of the contributor or lender and the
26 date and amount of the contribution or loan. The report shall be
27 filed within 24 hours after the contribution or loan is received.

28 (d) A political interest group shall file an annual report on or
29 before January 16 of each year. The annual report must include all of

1 the information required under (a) of this section for contributions
2 and loans received and expenditures made between January 1 and Decem-
3 ber 31 of the immediately preceding year, except that an annual report
4 covering contributions and loans received and expenditures made during
5 the year in which an election designated under AS 15.14.050(f) is held
6 need include only those contributions, loans, and expenditures that
7 were not reported to the commission in the reports required under (b)
8 and (c) of this section. If the political interest group has not
9 indicated a continuing existence under AS 15.14.050(h) the report
10 filed under this section is the final report.

11 Sec. 15.14.090. STATEMENT BY PERSON MAKING CONTRIBUTION OR
12 EXPENDITURE. (a) A person who makes a contribution of \$250 or more
13 in goods, services, or money to a candidate or political interest
14 group or who makes an independent expenditure described in AS 15.14.-
15 100 with a value of \$250 or more to influence the election of a candi-
16 date or the passage of a ballot proposition or question shall make and
17 file in the central or a district office of the commission a signed
18 statement on a form made available by the commission reporting the
19 activity within 10 days after the contribution or expenditure is made.

20 (b) The statement must list the name, address, principal occupa-
21 tion, and employer of the person who paid for the contribution or
22 expenditure and include the date, amount, payee, and purpose of the
23 contribution or expenditure.

24 (c) The statement must include a certification by the person
25 making the statement that the contribution or expenditure consists of
26 funds or property belonging to the contributor and that the funds have
27 not been given or furnished by another person or political interest
28 group.

29 (d) The person filing the statement shall furnish a copy of the

1 statement to the candidate or the campaign treasurer of the political
2 interest group at the time the statement is filed with the commission.

3 Sec. 15.14.100. INDEPENDENT EXPENDITURE. (a) An independent
4 expenditure is an expenditure by a person or political interest group
5 for a communication expressly advocating the election or defeat of a
6 clearly identified candidate that is made without arrangement, coordi-
7 nation, or direction with or by the candidate or the agent of the
8 candidate before the publication, distribution, display, or broadcast
9 of the communication. An expenditure is a contribution and not an
10 independent expenditure if it is based on information about the candi-
11 date's plans, projects, or needs provided to the expending person or
12 political interest group by the candidate or by an agent of the candi-
13 date with a view toward having an expenditure made.

14 (b) An expenditure is made in coordination with the candidate or
15 the agent of the candidate if it is made by or in consultation with a
16 person

17 (1) who is or within one year before the date of the expen-
18 diture has been authorized by the candidate or by a campaign officer
19 to raise or expend funds on behalf of the candidate;

20 (2) who is or within one year before the date of the expen-
21 diture has been an officer of a campaign committee of the candidate;
22 or

23 (3) who is or within one year before the date of the expen-
24 diture has been receiving any form of compensation or reimbursement
25 from the candidate or from campaign funds for professional services
26 that require the exercise of discretion or judgment relating to the
27 conduct of the campaign.

28 (c) In this section, an "agent of the candidate" means an indi-
29 vidual

1 (1) who has actual oral or written authority, either ex-
2 press or implied, to make or to authorize the making of an expenditure
3 on behalf of a candidate; or

4 (2) who has been placed in a position within the campaign
5 organization where it would reasonably appear that in the ordinary
6 course of campaign related activities the individual may authorize an
7 expenditure.

8 Sec. 15.14.110. CERTIFICATION OF REPORTS. Each report, regis-
9 tration, or statement required under this chapter shall be certified
10 as correct by the campaign treasurer of the candidate, by the campaign
11 treasurer of the political interest group, or by the person making the
12 report, registration, or statement. The report, registration, or
13 statement must include or be accompanied by the following affidavit
14 signed by the individual filing the report, registration, or state-
15 ment:

16 "I do solemnly swear or affirm that the foregoing state-
17 ment is in all respects true and correct, and fully shows
18 all information required to be reported by me under AS 15.14."

19 ARTICLE 3. CONTRIBUTIONS AND EXPENDITURES.

20 Sec. 15.14.120. CONTRIBUTIONS BY A PERSON. (a) A person may
21 not make a contribution in the form of a cash payment in excess of
22 \$100 in the aggregate during a calendar year to a candidate or a
23 political interest group.

24 (b) A person may not contribute more than \$2,000 in the aggre-
25 gate during a calendar year in money, goods, or services to a candi-
26 date.

27 (c) Except as provided in (d) of this section, a person may not
28 contribute more than \$1,000 in the aggregate during a calendar year in
29 money, goods, or services to a political interest group.

1 (d) Except as provided in (a) of this section, a person may
2 contribute any amount in money, goods, or services

3 (1) to a political interest group formed solely for the
4 purpose of sponsoring or opposing an initiative or referendum; or

5 (2) to a political party.

6 Sec. 15.14.130. CONTRIBUTIONS BY A POLITICAL INTEREST GROUP.

7 (a) A political interest group may not make a contribution in the
8 form of a cash payment in excess of \$100 in the aggregate during a
9 calendar year to a candidate or political interest group.

10 (b) Except as provided in (c) of this section, a political
11 interest group may not contribute or make an expenditure, other than
12 as an independent expenditure, of more than \$1,000 in the aggregate
13 during a year to a candidate or to a political interest group, and may
14 not contribute more than \$25,000 in the aggregate during a calendar
15 year to candidates or political interest groups generally, other than
16 to political interest groups formed solely for the purpose of support-
17 ing or opposing a ballot proposition or question.

18 (c) Except as provided in (a) of this section, a political
19 interest group may contribute any amount in money, goods, or services
20 to

21 (1) a political interest group formed solely for the pur-
22 pose of sponsoring or opposing an initiative or referendum; or

23 (2) a political party.

24 (d) Two or more political interest groups sharing a majority of
25 their officers are considered to be a single group for purposes of the
26 contribution limitations under (a) and (b) of this section.

27 (e) An expenditure for a communication in support of the elec-
28 tion of more than one candidate shall be prorated equally among the
29 candidates for purposes of calculating the amount of the expenditure

1 made on behalf of one of the candidates.

2 (f) A political party and its state, regional, and local subdi-
3 visions are not subject to the limitations prescribed in this section,
4 but they are subject to the reporting requirements of AS 15.14.080,
5 15.14.090, and 15.14.100.

6 Sec. 15.14.140. LIMITATIONS ON ACCEPTING CASH CONTRIBUTIONS. A
7 candidate or a political interest group may not accept a contribution
8 in the form of a cash payment in excess of \$100 in the aggregate
9 during a year from a person or a political interest group.

10 Sec. 15.14.150. EXPENDITURES. (a) A political party may make a
11 contribution or expenditure of money, goods, or services without
12 limitation as to amount or value.

13 (b) Except as provided under AS 15.14.180, a candidate may make
14 expenditures of money, goods, or services on behalf of the candidate's
15 own campaign without limitation as to amount or value.

16 (c) A person or political interest group may make an independent
17 expenditure as defined in AS 15.14.100 of money, goods, or services
18 without limitation as to amount or value on behalf of or in opposition
19 to a candidate or ballot proposition.

20 Sec. 15.14.160. PROHIBITED CONTRIBUTIONS. (a) A contribution
21 may not be made and an expenditure may not be made or incurred either
22 directly or indirectly in a fictitious name, anonymously, or by one
23 person or political interest group in the name of another.

24 (b) A contribution made by a person wishing to remain anonymous
25 and received by a candidate or political interest group may not be
26 used or expended, but shall be returned to the donor if the identity
27 of the donor is known. If the identity of the donor is not known, the
28 contribution shall be disposed of under AS 15.14.200(a)(1).

29 (c) A candidate or political interest group may not accept a

1 contribution described in this section. A contribution under this
2 section is accepted unless it is returned or disposed of under
3 AS 15.14.200(a)(1) within 10 days after the candidate or political
4 interest group knows or should have known that the contribution is
5 prohibited under this section.

6 ARTICLE 4. CAMPAIGN CONDUCT AND ADMINISTRATION.

7 Sec. 15.14.170. CAMPAIGN OFFICERS. (a) Each candidate may and
8 each political interest group shall appoint a campaign chairman. Each
9 candidate and each political interest group shall appoint a campaign
10 treasurer who is responsible for receiving, holding, and disbursing
11 all contributions and expenditures, and for filing all reports and
12 statements required by law. Each candidate and each political inter-
13 est group may appoint deputy campaign treasurers at any time. A
14 candidate may be a campaign treasurer.

15 (b) At the time a candidate registers with the commission under
16 AS 15.14.040, the candidate shall file a statement in the central or a
17 district office of the commission listing the name, address, and
18 telephone number of the candidate's campaign treasurer. At the time a
19 political interest group registers with the commission under AS 15.-
20 14.050, the political interest group shall file a statement in the
21 central or a district office of the commission listing the name,
22 address, and telephone number of the political interest group's cam-
23 paign treasurer. Each candidate who appoints a campaign chairman and
24 each political interest group shall include in the statement the name,
25 address, and telephone number of the campaign chairman.

26 (c) An individual may not act as the campaign chairman, campaign
27 treasurer, or deputy campaign treasurer for a candidate or political
28 interest group until the name, address, and telephone number of the
29 individual has been filed with the commission. The address of a

1 candidate's campaign treasurer is the address of the candidate unless
2 the candidate files a different mailing address with the commission.

3 (d) In the case of the death, resignation, or removal of a
4 campaign officer required to be appointed under this section, the
5 candidate or political interest group shall file the name, address,
6 and telephone number of the successor in the central or a district
7 office of the commission within 10 days after the vacancy occurs.

8 (e) A candidate may receive contributions and make expenditures
9 only in person or through a campaign chairman, a campaign treasurer,
10 or a deputy campaign treasurer. A political interest group may re-
11 ceive contributions and make expenditures only through the campaign
12 chairman, campaign treasurer, or deputy campaign treasurer of the
13 political interest group. A person does not receive or make a contri-
14 bution under this section on behalf of a candidate or political inter-
15 est group if

16 (1) the person solicits a contribution and transfers or
17 delivers that contribution to a candidate or a campaign officer of a
18 candidate or political interest group and discloses to the candidate
19 or political interest group the identity of the contributor;

20 (2) the person does not exercise discretion or control as
21 to the amount or as to the identity of the recipient of the contribu-
22 tion; and

23 (3) the person is not a campaign officer of the candidate
24 or political interest group ultimately receiving the contribution.

25 (f) The candidate is responsible for the performance of the
26 campaign officers of the candidate. The campaign chairman of a polit-
27 ical interest group is responsible for the performance of the other
28 officers of the political interest group. A default or violation by
29 the officer is considered a default or violation by the candidate if

1 the candidate knew or had reason to know of the default or violation.
2 A default or violation by the officer of the political interest group
3 is considered a default or violation by the campaign chairman of the
4 political interest group if the campaign chairman knew or had reason
5 to know of the default or violation.

6 Sec. 15.14.180. USE OF CAMPAIGN FUNDS. (a) Campaign funds
7 received by a candidate or by a political interest group may be used
8 only to

9 (1) influence or attempt to influence the actions of the
10 voters for or against the election of a candidate or the passage or
11 defeat of a ballot proposition or question; or

12 (2) repay a loan made to the campaign of the candidate.

13 (b) Campaign funds may not be used to repay a loan not timely
14 reported as a loan under AS 15.14.060(a)(2).

15 (c) Surplus campaign funds shall be disposed of under AS 15.14.-
16 200.

17 Sec. 15.14.190. TERMINATION OF CAMPAIGN ACTIVITY AND CLOSING OF
18 CAMPAIGN ACCOUNTS. (a) A candidate shall close each campaign account
19 relating to a designated election campaign on or before one of the
20 following dates:

21 (1) for a legislative or statewide candidate in the general
22 election, the date on which the successful candidate in the designated
23 election is sworn into office;

24 (2) for a candidate in a municipal election, 30 days after
25 the date of the election;

26 (3) for a candidate who loses in a primary election, 30
27 days after the date of the election;

28 (4) for a candidate who withdraws before an election, 30
29 days after filing a notice of withdrawal; or

1 (5) for a candidate who withdraws after registering under
2 AS 15.40.040 but before filing for office, 30 days after the deadline
3 for filing a declaration of candidacy or a nominating petition.

4 (6) for a judicial candidate or a delegate to a constitu-
5 tional convention, 30 days after the date of the election.

6 (b) A candidate may not solicit or accept a contribution for the
7 designated election campaign after the date on which the candidate is
8 required to close campaign accounts under (a) of this section.

9 (c) A candidate may not make expenditures of any kind, except
10 for the disposition of surplus funds, after the date on which the
11 candidate is required to close campaign accounts under (a) of this
12 section for

13 (1) goods or services provided to the candidate with re-
14 spect to the designated election campaign;

15 (2) the payment of campaign debts to an individual, person,
16 or political interest group; or

17 (3) the payment of loans made by the candidate to the
18 campaign of the candidate.

19 Sec. 15.14.200. SURPLUS CAMPAIGN FUNDS. (a) A candidate shall
20 dispose of campaign funds that are not spent during the designated
21 election campaign by

22 (1) donating the funds to an organization that qualifies as
23 a charitable organization under 26 U.S.C. 501(c);

24 (2) donating the funds to the general fund of the state or
25 of a municipality organized under AS 29;

26 (3) after registering with the commission under AS 15.14.-
27 040, transferring the funds to a newly designated election campaign
28 account for a designated state election to be held not more than four
29 years after the election designated under AS 15.14.040(b);

1 (4) paying an individual who worked in the candidate's
2 designated election campaign;

3 (5) transferring the funds to an account for the office, in
4 the case of a successful candidate only, and using the funds only for
5 communication with constituents and other voters in the state by
6 telephone or newsletter;

7 (6) returning the funds to contributors on a pro rata
8 basis.

9 (b) A candidate shall dispose of surplus funds under (a) of this
10 section before the date on which a final report of expenditures is
11 required to be filed under AS 15.14.070.

12 Sec. 15.14.210. SOLICITATION OF CONTRIBUTIONS. (a) A candi-
13 date, a political interest group, or a campaign officer of a candidate
14 or a political interest group may not solicit or receive a campaign
15 contribution obtained through a threat of physical force, job dis-
16 crimination, or financial reprisal.

17 (b) A public officer or employee of the state or of a municipal-
18 ity of the state may not, while on the premises of a state or municipi-
19 pal office, solicit or request a contribution to a candidate, politi-
20 cal interest group or political party.

21 (c) A public officer or employee of the state may not solicit or
22 request another public officer or employee to contribute to a candi-
23 date, political interest group, or political party while the other
24 public officer or employee is on the premises of a state or municipal
25 office.

26 (d) The provisions of (b) - (c) of this section do not apply to
27 a public officer elected to office by popular vote.

28 Sec. 15.14.220. IDENTIFICATION OF COMMUNICATION. (a) An adver-
29 tisement, billboard, handbill, paid-for television or radio

1 announcement, or other communication intended to influence the elec-
2 tion of a candidate or the outcome of a ballot proposition or question
3 shall be clearly identified by the words "paid for by" followed by the
4 name and address of the candidate, political interest group, or the
5 person or persons paying for the communication.

6 (b) A person or political interest group making an independent
7 expenditure for an item described in (a) of this section shall, within
8 the printed material or during a broadcast, state: "This communication
9 was not authorized by any candidate."

10 (c) The information required under (a) and (b) of this section
11 need not be included on an object used for a campaign advertisement,
12 if the object is one that the commission, by regulation, has deter-
13 mined is too small to practicably include the information.

14 ARTICLE 5. UNLAWFUL CONDUCT, PENALTIES, AND PROCEDURES.

15 Sec. 15.14.230. CAMPAIGN FINANCING MISCONDUCT IN THE FIRST
16 DEGREE. (a) A person commits the crime of campaign financing miscon-
17 duct in the first degree if the person

18 (1) knowingly and intentionally fails to file before an
19 election a report of contributions or independent expenditures re-
20 quired to be filed under AS 15.14.060(b) or 15.14.080(b) and the
21 aggregate amount of contributions or independent expenditures that
22 should have been reported is in excess of \$5,000;

23 (2) knowingly and intentionally fails to file before an
24 election a report of a contribution or independent expenditure re-
25 quired to be filed within 24 hours under AS 15.14.060(c) or 15.14.-
26 080(c) and the contribution or expenditure is in excess of \$5,000;

27 (3) knowingly and intentionally files a report required to
28 be filed under this chapter containing false and misleading informa-
29 tion as to the identity of a contributor, and the amount of the

1 aggregate contributions received from the contributor is in excess of
2 \$5,000;

3 (4) knowingly and intentionally files a report required to
4 be filed under this chapter containing false information as to the
5 amount of a contribution from a single contributor, and the difference
6 between the amount reported and the actual amount of the aggregate
7 contributions from the contributor is in excess of \$5,000;

8 (5) knowingly and intentionally files a report or statement
9 required to be filed under this chapter that contains false or mis-
10 leading information as to the purpose or amount of an independent
11 expenditure and the aggregate amount of the expenditure is in excess
12 of \$5,000;

13 (6) knowingly and intentionally makes or accepts a contri-
14 bution, or makes an expenditure other than an independent expenditure,
15 in violation of the contribution limitations under AS 15.14.120(b) or
16 (c) or 15.14.130, and the total aggregate amount of the contribution
17 or expenditure is more than \$5,000 in excess of the limitation;

18 (7) knowingly and intentionally makes or accepts a contri-
19 bution in excess of \$5,000 in the form of a cash payment in violation
20 of AS 15.14.120(a), 15.14.130(a), or 15.14.140;

21 (8) knowingly and intentionally makes or accepts a contri-
22 bution in excess of \$5,000 made anonymously, in a fictitious name, or
23 under the name of another; or

24 (9) knowingly and intentionally solicits or accepts a
25 contribution obtained by threat of physical force, job discrimination,
26 or financial reprisal in violation of AS 15.14.210(a).

27 (b) Campaign financing misconduct in the first degree is a class
28 C felony.

29 Sec. 15.14.240. CAMPAIGN FINANCING MISCONDUCT IN THE SECOND

1 DEGREE. (a) A person commits the crime of campaign financing miscon-
2 duct in the second degree if the person

3 (1) knowingly and intentionally fails to file before an
4 election a report of contributions or independent expenditures re-
5 quired to be filed under AS 15.14.060(b) or 15.14.080(b) and the
6 aggregate amount of contributions or independent expenditures that
7 should have been reported is \$5,000 or less;

8 (2) knowingly and intentionally fails to file before an
9 election a report of a contribution or independent expenditure
10 required to be filed within 24 hours under AS 15.14.060(c) or 15.14.-
11 080(c) and the contribution or expenditure is \$5,000 or less;

12 (3) knowingly and intentionally fails to file a report,
13 statement or registration required under AS 15.14.040, 15.14.050,
14 15.14.060(d), 15.14.070, 15.14.080(d), or 15.14.090(a) on or before
15 the date the report, statement, or registration is due;

16 (4) knowingly and intentionally files a report required to
17 be filed under this chapter containing false and misleading informa-
18 tion as to the identity of a contributor and the amount of the aggre-
19 gate contributions received from that contributor is \$5,000 or less;

20 (5) knowingly and intentionally files a report required to
21 be filed under this chapter containing false information as to the
22 amount of a contribution from a single contributor, and the difference
23 between the amount reported and the actual amount of the aggregate
24 contributions from that contributor is \$5,000 or less;

25 (6) knowingly and intentionally files a report or statement
26 required to be filed under this chapter containing false and mislead-
27 ing information as to the purpose or amount of an independent expendi-
28 ture and the aggregate amount of the expenditure is \$5,000 or less;

29 (7) knowingly and intentionally makes a contribution in

1 violation of the contribution limitations under AS 15.14.120(b) or
2 (c), or makes an expenditure other than an independent expenditure in
3 violation of the limitation under AS 15.14.130, and the total aggregate
4 amount of the contribution or expenditure in excess of the limitation
5 is \$5,000 or less;

6 (8) knowingly and intentionally makes or accepts a contribution
7 in the form of a cash payment in violation of AS 15.14.120(a),
8 15.14.130(a), or 15.14.140 and the total amount of the contribution is
9 \$5,000 or less;

10 (9) knowingly and intentionally makes or accepts a contribution
11 of \$5,000 or less made anonymously, in a fictitious name, or
12 under the name of another;

13 (10) knowingly and intentionally solicits a contribution
14 from a state or municipal employee in a manner prohibited under
15 AS 15.14.210(b) or (c);

16 (11) knowingly and intentionally solicits or accepts a
17 contribution or makes an expenditure, other than a disposition of
18 surplus funds, after the date that campaign accounts are required to
19 be closed under AS 15.14.190;

20 (12) knowingly and intentionally uses campaign funds for a
21 purpose not permitted under AS 15.14.180;

22 (13) knowingly and intentionally uses surplus campaign funds
23 for a purpose not permitted under AS 15.14.200;

24 (14) knowingly and intentionally circulates or has written,
25 printed, or circulated a letter, circular, or publication intended to
26 influence the election or defeat of a candidate, or the outcome of a
27 ballot proposition or question without the name and address of the
28 candidate, the political interest group or person or persons paying
29 for the advertising appearing on the face of the letter, circular, or

1 publication;

2 (15) knowingly and intentionally prints or publishes an
3 advertisement, billboard, placard, poster, handbill, paid-for tele-
4 vision or radio announcement, or other communication intended to
5 influence the election of a candidate or the outcome of a ballot
6 proposition or question without the words "paid for by" followed by
7 the name and address of the candidate, political interest group, or
8 individual paying for the communication and, if a political group,
9 with the name of the campaign chairman; or

10 (16) with respect to an independent expenditure only, know-
11 ingly and intentionally prints or publishes an advertisement, bill-
12 board, placard, poster, handbill, paid-for television or radio an-
13 nouncement, or other communication intended to influence the election
14 of a candidate without the statement, "This communication was not
15 authorized by any candidate."

16 (b) Campaign financing misconduct in the second degree is a
17 class A misdemeanor.

18 Sec. 15.14.250. CAMPAIGN FINANCING VIOLATIONS. (a) A person
19 commits a campaign financing violation if the person negligently or
20 inadvertently

21 (1) fails to file on or before the date that the report is
22 due a report of contributions or independent expenditures required to
23 be filed before the election under AS 15.14.060(b), (c), or 15.14.-
24 080(b), or (c);

25 (2) fails to file on or before the date that the report or
26 statement is due a report or statement required to be filed under
27 AS 15.14.070, 15.14.090(a), or 15.14.100;

28 (3) fails to timely appoint or file the name of a campaign
29 officer as required under AS 15.14.170(a), (b), or (d);

1 (4) fails to register as a candidate or political interest
2 group at the time required under AS 15.14.040 or 15.14.050;

3 (5) fails to include information in a report, statement, or
4 registration required to be included under this chapter or includes
5 false or misleading information as to the identity of a contributor,
6 the purpose of an independent expenditure, or as to the amount of a
7 contribution received or independent expenditure made;

8 (6) makes or accepts a contribution or makes an expenditure
9 other than an independent expenditure in excess of the contribution
10 limitations provided under AS 15.14.120(b) or (c) or 15.14.130;

11 (7) makes or accepts a contribution in the form of a cash
12 payment in excess of \$100 in violation of AS 15.14.140;

13 (8) makes a contribution, or accepts a contribution made,
14 anonymously, in a fictitious name, or under the name of another;

15 (9) solicits or accepts a contribution or makes an expendi-
16 ture, other than a disposition of surplus funds, after the date that
17 campaign accounts are required to be closed under AS 15.14.190;

18 (10) uses campaign funds for a purpose not permitted under
19 AS 15.14.180;

20 (11) uses surplus campaign funds for a purpose not permitted
21 under AS 15.14.200;

22 (12) disposes of surplus funds after the date required for
23 disposition under AS 15.14.200(b);

24 (13) acts as a campaign officer and the name of the cam-
25 paign officer has not been filed with the commission as the holder of
26 the campaign office;

27 (14) fails to include in a communication intended to influ-
28 ence the election of a candidate or the outcome of a ballot proposi-
29 tion or question the information required to be included under

1 AS 15.14.220.

2 (b) A person found to have committed a campaign financing vio-
3 lation under (a)(1) of this section is subject to a fine of not less
4 than \$25 nor more than \$300 per day for each day a report is due but
5 not filed, up to a maximum fine of \$5,000 for each violation under
6 (a)(1) of this section with respect to a designated election campaign.

7 (c) A person found to have committed a campaign financing viola-
8 tion under (a)(2), (3), or (4) of this section is subject to a fine of
9 not less than \$10 nor more than \$20 a day for each day a report,
10 statement or registration is due but not filed, up to a maximum fine
11 of \$2,000 for each violation under (a)(2), (3), or (4) of this section
12 with respect to a designated election campaign.

13 (d) A person found to have committed a violation under (a)(5),
14 (6), (7), (8), or (9) of this section is subject to a fine of four
15 times the amount of the contribution or expenditure involved in the
16 violation, not to exceed \$2,500.

17 (e) A person found to have committed a violation under (a)(10),
18 (11), (12), (13), or (14) of this section is subject to a fine of not
19 less than \$100 nor more than \$2,000.

20 Sec. 15.14.260. PAYMENT OF FINES. Fines imposed by the commis-
21 sion under AS 15.14.250 or by a court upon conviction under AS 15.14.-
22 230 or 15.14.240 may not be paid from campaign funds.

23 Sec. 15.14.270. REMOVAL FROM OFFICE. (a) If, after being sworn
24 into office, a person who was a successful candidate is convicted of a
25 crime under AS 15.14.230 or 15.14.240, proceedings shall be held and
26 appropriate action taken under

27 (1) art. II, sec. 12, Constitution of the State of Alaska,
28 if the candidate is a candidate for the state legislature;

29 (2) art. II, sec. 20, Constitution of the State of Alaska,

1 if the candidate is a candidate for governor or lieutenant governor;
2 (3) AS 29.20.170, if the candidate is a candidate for
3 borough assembly;

4 (4) AS 29.20.280, if the candidate is a candidate for
5 borough mayor;

6 (5) AS 29.20.170, if the candidate is a candidate for city
7 council;

8 (6) AS 29.20.280(a), if the candidate is a candidate for
9 city mayor;

10 (7) the provisions of the call for the constitutional
11 convention, if the candidate is a candidate for constitutional conven-
12 tion delegate;

13 (8) art. IV., sec. 10, Constitution of the State of Alaska,
14 if the candidate is a candidate for judicial retention.

15 (b) Information developed by the commission under AS 15.14.290
16 shall be considered during a proceeding under (a) of this section.

17 (c) When, after being sworn into office, a successful candidate
18 is charged with a misdemeanor or felony under AS 15.14.230 or 15.14.-
19 240, the court shall promptly try the case and accord it a preferred
20 position for purposes of argument and decision so as to assure a
21 speedy disposition of the matter.

22 Sec. 15.14.280. LIMITATIONS ON ACTIONS. (a) A prosecution
23 under AS 15.14.230 must be commenced within four years from the date
24 of the alleged offense.

25 (b) A prosecution under AS 15.14.240 must be commenced within
26 two years from the date of the alleged offense.

27 (c) Proceedings by the commission under AS 15.14.250 must be
28 commenced within 18 calendar months from the date of the alleged
29 violation.

1 (d) For the purposes of this section, an offense or violation
2 involving the failure to file a report, statement, or registration is
3 considered to have been committed on the day after the report, state-
4 ment or registration was due.

5 Sec. 15.14.290. INVESTIGATIONS. (a) The commission may inves-
6 tigate alleged misconduct and alleged violations of AS 15.14.230,
7 15.14.240, 15.14.250, AS 24.50 and AS 39.50, on its own motion or upon
8 receiving a signed and sworn complaint from any person.

9 (b) If an investigation is commenced by a signed and sworn
10 complaint by a person other than a member of the commission or its
11 employees, the commission shall, within five days after receiving the
12 complaint, mail a copy of the complaint to each person named in the
13 complaint. If the commission terminates an investigation without
14 filing an accusation or without referring the matter to the attorney
15 general or special prosecutor, the commission shall, within five days
16 after terminating the investigation, inform the complainant and each
17 person named in the complaint only of the fact that the commission has
18 terminated the investigation and will not be taking further action
19 concerning the complaint.

20 (c) If the commission, following its investigation, has probable
21 cause to believe a felony or misdemeanor has been committed, the
22 commission shall promptly refer the matter and any evidence the com-
23 mission has compiled concerning the matter to the attorney general or
24 to a special prosecutor if a special prosecutor has been appointed.
25 After a matter has been referred to the attorney general or a special
26 prosecutor, the commission may not take further action concerning the
27 matter.

28 (d) If, after an investigation, the commission determines that
29 there is probable cause to believe that a person has committed a

1 violation and if the commission has not referred the matter to the
2 attorney general or special prosecutor for criminal prosecution, the
3 commission may commence violation proceedings by filing and serving an
4 accusation on the person alleged to have committed the violation. The
5 commission shall serve an accusation in the manner provided by court
6 rules for serving a complaint in a civil action.

7 Sec. 15.14.300. ACCUSATIONS. (a) The accusation must be a
8 written statement of the charges setting out in ordinary and concise
9 language the acts or omissions with which the respondent is charged,
10 so that the respondent is able to prepare a defense. The accusation
11 must also specify the statute or regulation that the respondent is
12 alleged to have violated, and the maximum penalty provided for the
13 violation. The accusation may not consist merely of charges phrased
14 in the language of the statute and regulation.

15 (b) The commission shall include in or with the accusation a
16 statement in substantially the following form:

17 "To the Respondent: Unless you deliver or mail a written
18 request for a hearing signed by you or on your behalf to
19 the commission within 15 days after this accusation was
20 personally served on you or mailed to you, the commission
21 may proceed upon the accusation without a hearing. You
22 may request a hearing by delivering or mailing the en-
23 closed form entitled 'Notice of Defense,' or by delivering
24 or mailing a notice of defense under AS 15.14.310 to the
25 commission at its central office address (insert central
26 office address)."

27 (c) The commission shall include with the accusation served upon
28 the respondent a post card or other form entitled, "Notice of Defense"
29 that, when signed by or on behalf of the respondent and returned to

1 the commission constitutes a notice of defense under AS 15.14.310.

2 Sec. 15.14.310. NOTICE OF DEFENSE. (a) Within 15 days after
3 service upon the respondent of the accusation, the respondent may file
4 with the commission a notice of defense. In the notice the respondent
5 may

6 (1) deny the accusation in whole or in part and request a
7 hearing;

8 (2) object to the accusation on the ground that it does not
9 state acts or omissions upon which the commission may proceed;

10 (3) object to the form of the accusation on the ground that
11 it is so indefinite or uncertain that the respondent cannot identify
12 the transaction or prepare a defense;

13 (4) present new matter by way of defense;

14 (5) admit or plead no contest to the accusation in whole or
15 in part, and present material in mitigation of penalty.

16 (b) Within the time specified in (a) of this section, the re-
17 spondent may file one or more notices of defense upon any or all of
18 the grounds set out in (a) of this section but all of the notices must
19 be filed within the period unless the commission in its discretion
20 authorizes the filing of a later notice.

21 (c) The respondent is entitled to a hearing on the merits if the
22 respondent files a notice of defense. The notice of defense is con-
23 sidered a specific denial of all parts of the accusation not expressly
24 admitted. Failure to file a notice of defense within the time spec-
25 ified in (a) of this section constitutes a waiver of the respondent's
26 right to a hearing, but the commission in its discretion may neverthe-
27 less grant a hearing. Unless objection is taken as provided in (a)(3)
28 of this section, all objections to the form of the accusation are
29 waived.

1 (d) The notice of defense must be in writing, signed by or on
2 behalf of the respondent, and must state the respondent's address.
3 The notice of defense need not be verified or follow a particular
4 form.

5 Sec. 15.14.320. HEARINGS. (a) If a respondent requests a
6 hearing on a contested accusation or, in the absence of a request, the
7 commission in its discretion decides to hold a hearing, the commission
8 shall mail or deliver a notice of hearing to the respondent at least
9 10 days before the hearing. The hearing may not be held before the
10 expiration of the time within which the respondent is entitled to file
11 a notice of defense. The notice to respondent must be consistent with
12 the form for notice of hearing under AS 44.62.420.

13 (b) The commission shall conduct its hearings under AS 44.62.-
14 440 - 44.62.500, except that

15 (1) the commission may, but is not required to, appoint a
16 hearing officer under AS 44.62.350; and

17 (2) if a hearing officer is not appointed, the chairman of
18 the commission, or the commission member designated by the chairman,
19 shall preside at the hearing, and the attorney general shall assign an
20 assistant attorney general to the commission to advise it on matters
21 of law during the hearing.

22 (c) A hearing under this section shall be open to the public
23 except that a respondent may request and the hearing officer or the
24 presiding commission member may order that the hearing be closed if
25 one or more of the requirements for holding an executive session under
26 AS 44.62.310(c) is met.

27 Sec. 15.14.330. IMPOSITION OF PENALTY. (a) The commission may
28 impose the penalty provided by law for the violation only if the
29 accused person, having been advised of the rights to a hearing, admits

1 or pleads no contest to the allegations contained in the accusation,
2 or if the commission

3 (1) holds a hearing at which the person accused is afforded
4 the right to appear, with or without counsel, the right to present
5 witnesses or other evidence and the right to cross examine witnesses;
6 and

7 (2) following the hearing, determines by clear and convinc-
8 ing evidence that the person has committed the violation of which the
9 person was accused.

10 (b) The executive director and an employee of the commission may
11 make a recommendation to the commission for the imposition of a par-
12 ticular penalty in a matter, provided that the respondent is first
13 given notice of the recommendation and is afforded an opportunity to
14 respond to the staff's recommendation in person or in writing.

15 (c) The executive director and an employee of the commission may
16 not formally or informally make a recommendation to the commission as
17 to a particular penalty in a pending matter or make a commitment to
18 the respondent to make a particular recommendation to the commission
19 in the future until after the respondent has admitted or pleaded no
20 contest to the accusation or until after a hearing and a final deter-
21 mination by the commission that the respondent has committed the acts
22 charged in the accusation.

23 (d) In imposing a penalty, the commission shall consider

24 (1) the seriousness of the violation in terms of the extent
25 to which the violation has impeded public disclosure of information
26 required to be filed with the commission as to the amount and source
27 of contributions that are large enough to be of significant interest
28 to voters; and

29 (2) the extent to which the respondent's conduct, including

1 prior violations of this chapter, AS 24.50, AS 39.50, or of former
2 AS 15.13 shows a continuing disregard for the law.

3 Sec. 15.14.340. SUMMARY DISPOSITION OF VIOLATIONS. (a) Not-
4 withstanding the provisions of AS 15.14.300 - 15.14.330, the commis-
5 sion may establish by regulation the violations under AS 15.14.250
6 that are amenable to summary disposition without formal accusation or
7 hearing and may establish a schedule of fines, not to exceed \$500, for
8 each violation.

9 (b) If an investigation by the commission discloses that a
10 person has committed a violation included in the schedule of fines
11 established under (a) of this section, the commission may, in lieu of
12 serving an accusation on the person, mail a notice of fine to the
13 person indicating the circumstances of the violation and the amount of
14 the fine established in the schedule for the violation. The person to
15 whom the notice is directed may pay the fine within 15 days after
16 receiving the notice or may file a notice of defense under AS 15.14.-
17 310.

18 (c) If the person does not pay the fine under (b) of this sec-
19 tion, the notice of fine constitutes an accusation under AS 15.14.300
20 and the commission shall proceed against the person under AS 15.14.-
21 300 - 15.14.330 and, upon determining that the person committed the
22 violation, may impose a penalty for the violation not to exceed the
23 maximum provided for the violation under AS 15.14.250.

24 Sec. 15.14.350. CONFIDENTIALITY. (a) An investigation by the
25 commission under AS 15.14.290 is confidential unless and until the
26 investigation results in the filing of an accusation under AS 15.-
27 14.300.

28 (b) A member or a former member of the commission and an em-
29 ployee or a former employee of the commission may not divulge the fact

1 of or any particular concerning a pending, past, or contemplated
2 investigation by the commission unless and until the filing of an
3 accusation by the commission.

4 (c) Knowing violation of the provisions of (b) of this section
5 is a class A misdemeanor.

6 Sec. 15.14.360. JUDICIAL REVIEW. Judicial review of a final
7 order of the commission may be had by filing a notice of appeal under
8 applicable rules of court governing appeals from administrative agen-
9 cies.

10 Sec. 15.14.370. POWERS OF THE COMMISSION. (a) In connection
11 with an investigation or hearing under AS 15.14.290 - 15.14.330, the
12 commission may compel the attendance of witnesses and production of
13 papers, books, records, accounts, documents, and testimony, and may
14 have the depositions of witnesses taken in a manner prescribed by
15 court rule or law for the taking of depositions in civil actions when
16 consistent with the powers and duties assigned to the commission by
17 law.

18 (b) The commission may examine the papers, books, records,
19 accounts and documents of a person subject to this chapter to deter-
20 mine the correctness of a report filed with the commission or in
21 conjunction with an investigation or inspection conducted under (a) of
22 this section.

23 (c) Subpoenas may be issued and shall be served in the manner
24 prescribed by AS 44.62.430 and court rule. The failure, refusal, or
25 neglect to obey a subpoena is punishable as contempt in the manner
26 prescribed by law or court rule. The superior court may compel obedi-
27 ence to the commission's subpoena in the same manner as prescribed for
28 obedience to a subpoena issued by the court.

29 Sec. 15.14.380. LEGAL COUNSEL. (a) The attorney general is

1 legal counsel for the commission. The attorney general shall advise
2 the commission in legal matters arising out of the discharge of its
3 duties and represent the commission in actions to which it is a party.
4 If, in the opinion of the commission, the public interest warrants,
5 the commission may request the attorney general to appoint a special
6 prosecutor to prosecute alleged misconduct under AS 15.14.230 or
7 15.14.240.

8 (b) When the public interest warrants, and if the attorney
9 general concurs, the commission may employ temporary legal counsel
10 from time to time in matters in which the commission is involved.

11 ARTICLE 6. GENERAL PROVISIONS.

12 Sec. 15.14.900. DEFINITIONS. In this chapter

13 (1) "candidate" means an individual who

14 (A) files for election to the state legislature, for
15 governor, for lieutenant governor, for municipal office, for
16 retention in judicial office, or for constitutional delegate;

17 (B) campaigns as a write-in candidate for an elective
18 office; or

19 (C) accepts contributions totalling \$1,000 or more in
20 the aggregate from another person or political group for the
21 purpose of seeking elective office or retention in judicial
22 office;

23 (2) "contribution"

24 (A) means the purchase, payment, promise or obligation
25 to pay, loan or loan guarantee, deposit or gift of money, goods
26 or services for which charge is ordinarily made and that is made
27 for the purpose of influencing the nomination or election of a
28 candidate or for the purpose of influencing a ballot proposition
29 or question, including the payment by a person other than a

1 candidate or political party, of compensation for the personal
2 services of another person that are rendered to the candidate or
3 political party;

4 (B) does not include

5 (i) services provided without compensation by an
6 individual volunteering on behalf of a candidate or ballot
7 proposition or question, unless the services are volunteered
8 by an individual who would ordinarily be paid a fee or wage
9 for the services and the services are of an aggregate value
10 of \$1,000 or more;

11 (ii) services provided by an accountant or other
12 person to prepare reports and statements required by this
13 chapter;

14 (iii) ordinary hospitality in a home;

15 (3) "expenditure"

16 (A) means a purchase or a transfer of money or any-
17 thing of value or a promise or agreement to purchase or transfer
18 money or anything of value, incurred or made for the purpose of

19 (i) influencing the nomination or election of a
20 candidate or of any individual who files for nomination at a
21 later date and becomes a candidate;

22 (ii) influencing the outcome of a ballot proposi-
23 tion or question; or

24 (iii) providing payment of compensation for the
25 personal services of another person that are rendered to a
26 candidate or political party;

27 (B) does not include a candidate's filing fee or the
28 cost of preparing reports and statements required by this chap-
29 ter;

1 (4) "individual" means a natural person;
2 (5) "municipality" has the meaning given by AS 01.10.-
3 060(4);

4 (6) "person" has the meaning given in AS 01.10.060 but does
5 not include an entity organized to influence an election;

6 (7) "political interest group" means a person or combina-
7 tion of persons, including a political party and its state, regional,
8 or local subdivisions that accepts contributions for the purpose of
9 influencing an election and exercises discretion over the expenditure
10 of the contributions;

11 (8) "political party"

12 (A) means a group of organized voters that

13 (i) claims to represent a political program; and

14 (ii) nominated a candidate for governor who received
15 at least five percent of the total vote cast at the preced-
16 ing general election for governor;

17 (B) does not include the campaign committee of a
18 candidate.

19 * Sec. 2. AS 11.56.130 is amended to read:

20 Sec. 11.56.130. DEFINITION. In AS 11.56.100 - 11.56.130, "bene-
21 fit" has the meaning given [ASCRIBED TO IT] in AS 11.81.900 but does
22 not include

23 (1) political campaign contributions reported under AS 15.-
24 14 [IN ACCORDANCE WITH AS 15.13];

25 (2) concurrence in official action in the cause of legiti-
26 mate compromise between public servants; or

27 (3) support, including a vote, solicited by a public ser-
28 vant or offered by any person in an election.

29 * Sec. 3. AS 15.56.130 is amended to read:

1 Sec. 15.56.130. TIME LIMITATION. Except as provided in AS 15.-
2 14.280, a [A] prosecution for an offense described in the Alaska
3 Election Code (AS 15.05 - 15.60) may not be maintained unless it is
4 begun within one year after the date of the election in connection
5 with which the offense is alleged to have been committed.

6 * Sec. 4. AS 24.45.021(a) is amended to read:

7 Sec. 24.45.021. ADMINISTRATION. (a) This chapter shall be
8 administered by the Alaska Public Offices Commission established
9 [CREATED] under AS 15.14.020 [AS 15.13.020(a)].

10 * Sec. 5. AS 24.45.091 is amended to read:

11 Sec. 24.45.091. PUBLICATION OF REPORTS. Copies of the state-
12 ments and reports filed under this chapter shall be made available to
13 the public at the commission's central office, the office of the
14 lieutenant governor, the legislative reference library of the Legisla-
15 tive Affairs Agency, and at the commission's district offices [PRE-
16 SCRIBED IN AS 15.13.020(j)] as soon as practicable after each re-
17 porting period.

18 * Sec. 6. AS 24.60.080 is amended to read:

19 Sec. 24.60.080. GIFTS. Unless otherwise provided for under
20 AS 24.60.030, a person to whom this chapter applies may not solicit a
21 gift in any amount, or accept or receive, directly or indirectly, a
22 gift, whether in the form of money, services, a loan, travel, enter-
23 tainment, hospitality, or other form, if the gift was intended as a
24 reward or inducement for an official action by the person. A gift of
25 travel and hospitality within the state received by a member of the
26 legislature in obtaining information on matters of legislative concern
27 is not prohibited by this section, nor are political contributions
28 received and reported under AS 15.14 [AS 15.13.040].

29 * Sec. 7. AS 29.20.170 is amended to read:

1 Sec. 29.20.170. VACANCIES. The governing body may provide by
2 ordinance the manner in which a vacancy occurs in any elected office
3 except the office of mayor or school board member. Unless otherwise
4 provided by ordinance, the governing body shall declare an elective
5 office, other than the office of mayor or school board member, vacant
6 when the person elected

7 (1) fails to qualify or take office within 30 days after
8 election or appointment;

9 (2) is physically absent from the municipality for 90
10 consecutive days unless excused by the governing body;

11 (3) resigns and the resignation is accepted;

12 (4) is physically or mentally unable to perform the duties
13 of office as determined by two-thirds vote of the governing body;

14 (5) is convicted of a felony or of an offense involving a
15 violation of the oath of office;

16 (6) is convicted of a felony or misdemeanor described in
17 AS 15.56 and two-thirds of the members of the governing body concur in
18 expelling the person elected;

19 (7) is convicted of a violation of AS 15.14 or former
20 AS 15.13;

21 (8) no longer physically resides in the municipality and
22 the governing body by two-thirds vote declares the seat vacant; or

23 (9) if a member of the governing body, misses three con-
24 secutive regular meetings and is not excused.

25 * Sec. 8. AS 29.20.280(a) is amended to read:

26 Sec. 29.20.280. VACANCY IN THE OFFICE OF MAYOR. (a) The gov-
27 erning body shall, by two-thirds concurring vote, declare the office
28 of mayor vacant only when the person elected

29 (1) fails to qualify or take office within 30 days after

1 election or appointment;

2 (2) unless excused by the governing body, is physically
3 absent for 90 consecutive days;

4 (3) resigns and the resignation is accepted;

5 (4) is physically or mentally unable to perform the duties
6 of office;

7 (5) is convicted of a felony or of an offense involving a
8 violation of the oath of office;

9 (6) is convicted of a felony or misdemeanor described in
10 AS 15.56;

11 (7) is convicted of a violation of AS 15.14 or former
12 AS 15.13;

13 (8) no longer physically resides in the municipality; or

14 (9) if a member of the governing body in a second class
15 city, misses three consecutive regular meetings and is not excused.

16 * Sec. 9. AS 39.50.050(a) is amended to read:

17 Sec. 39.50.050. ADMINISTRATION AND INSPECTION. (a) The Alaska
18 Public Offices Commission established [CREATED] under AS 15.14.020
19 [AS 15.13.020(a)] shall administer the provisions of this chapter. The
20 commission shall prepare and keep available for distribution, stan-
21 dardized forms on which the reports required by this chapter shall be
22 filed.

23 * Sec. 10. AS 39.50.200(a) is amended to read:

24 (a) In this chapter:

25 (1) "assistant to the governor" includes any executive,
26 legislative, special, administrative or press assistant to the gover-
27 nor, and any person similarly employed;

28 (2) "child" includes a biological child, an adoptive
29 child, and a stepchild;

1 (3) "commission" means the Alaska Public Offices Commis-
2 sion established [CREATED] under AS 15.14.020 [AS 15.13.020(a)];

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

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

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

12 (7) "municipal officer" includes a borough or city mayor,
13 borough assemblyman, city councilman, school board member, elected
14 utility board member, city or borough manager, members of a city or
15 borough planning or zoning commission within a home rule or general
16 law city or borough, or a unified municipality;

17 (8) "public official" means a judicial officer, a member
18 of the legislature, the fiscal analyst of the legislative finance
19 division, the legislative auditor of the legislative audit division,
20 the executive director of the Legislative Affairs Agency and the
21 directors of the divisions within the Legislative Affairs Agency, the
22 governor, the lieutenant governor, a person hired or appointed as the
23 head or deputy head of, or director of a division within, a department
24 in the executive branch, and assistant to the governor, chairman or
25 member of a state commission or board, and each appointed or elected
26 municipal officer;

27 (9) "source of income" means the entity for which service
28 is performed or which is otherwise the origin of payment; if the
29 person whose income is being reported is employed by another, the

1 employer is the source of income; but if the person is self- employed
2 by means of a sole proprietorship, partnership, professional corpora-
3 tion., or a corporation in which the person, the person's spouse or
4 children, or a combination of them, hold a controlling interest, the
5 "source" is the client or customer of the proprietorship, partnership
6 or corporation, but if the entity which is the origin of payment is
7 not the same as the client or customer for whom the service is per-
8 formed, both are considered the source;

9 * Sec. 11. AS 39.50.200(b) is repealed and reenacted to read:

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

11 (1) Agricultural Revolving Loan Fund Board (created admin-
12 istratively to assist in administration of AS 03.10);

13 (2) Alaska Coastal Policy Council members and their alter-
14 nates (AS 44.19.155);

15 (3) Alaska Commercial Fisheries Entry Commission (AS 16.-
16 43.020);

17 (4) Alaska Commission on Postsecondary Education (AS 14.-
18 42.015);

19 (5) Alaska Energy Center (AS 46.12);

20 (6) Alaska Housing Finance Corporation (AS 18.56.010 -
21 18.56.210);

22 (7) Alaska Judicial Council (art. IV, sec. 8, Alaska Con-
23 stitution);

24 (8) Alaska Medical Facility Authority (AS 18.26.010 -
25 18.26.900);

26 (9) Alaska Municipal Bond Bank Authority (AS 44.85.020);

27 (10) Alaska Power Authority public directors (AS 44.83.030);

28 (11) Alaska Oil and Gas Conservation Commission (AS 31.05.-
29 005 - 31.05.170);

- 1 (12) Alaska Public Broadcasting Commission (AS 44.21.256);
- 2 (13) Alaska Public Offices Commission (AS 15.14.020);
- 3 (14) Alaska Public Utilities Commission (AS 42.05.010);
- 4 (15) Alaska Resources Corporation (AS 37.12.010);
- 5 (16) Alaska Royalty Oil and Gas Development Advisory Board
- 6 (AS 38.06.020);
- 7 (17) Alaska Seafood Marketing Institute (AS 16.51.010);
- 8 (18) Alaska State Council on the Arts (AS 44.27.040);
- 9 (19) Alaska State Housing Authority (AS 18.55.020);
- 10 (20) Alaska Teachers' Retirement Board (AS 14.25.035);
- 11 (21) Alcoholic Beverage Control Board (AS 04.06.010);
- 12 (22) Board of Education (AS 14.07.075);
- 13 (23) Board of Fisheries (AS 16.05.221(a));
- 14 (24) Board of Game (AS 16.05.221(b));
- 15 (25) Board of Parole (AS 33.16.020);
- 16 (26) Board of Trustees and executive director of the Alaska
- 17 Permanent Fund Corporation (AS 37.13.040);
- 18 (27) Commission on Judicial Conduct (art. IV, sec. 10,
- 19 Alaska Constitution);
- 20 (28) Council on Domestic Violence and Sexual Assault
- 21 (AS 18.66.010);
- 22 (29) Employment Security Advisory Council (AS 23.20.025);
- 23 (30) Fishermen's Fund Advisory and Appeals Council (AS 23.-
- 24 35.010);
- 25 (31) Governor's Commission on the Administration of Justice
- 26 (AS 44.19.110);
- 27 (32) Local Boundary Commission (AS 44.47.565);
- 28 (33) Occupational Safety and Health Review Board (AS 18.60.-
- 29 057);

- 1 (34) Public Employees' Retirement Board (AS 39.35.030);
2 (35) State Assessment Review Board (AS 43.56.040);
3 (36) State Commission for Human Rights (AS 18.80.010);
4 (37) State Personnel Board (AS 39.25.060);
5 (38) University of Alaska Board of Regents (AS 14.40.120);
6 (39) Workers' Compensation Board (AS 23.30.005).

7 * Sec. 12. AS 15.13 is repealed.

8 * Sec. 13. AS 15.56.010(1) and (2) are repealed.

9 * Sec. 14. Alaska Public Office Commission members serving on the
10 effective date of this Act continue to serve out their terms as provided
11 under AS 15.13.020, repealed in sec. 12 of this Act. Vacancies occurring
12 after the effective date of this Act shall be filled in accordance with
13 AS 15.14.020 enacted in sec. 1 of this Act.

14 * Sec. 15. Notwithstanding AS 15.14.010(b) as enacted in sec. 1 of this
15 Act, the election of a municipality held under former AS 15.13.010(a) to
16 exempt its officers from the application of AS 15.13 is confirmed as an
17 exemption from the application of AS 15.14.

18 * Sec. 16. AS 15.14.190 as enacted in sec. 1 of this Act does not apply
19 to campaign accounts for election campaigns held before the effective date
20 of this Act and does not apply to contributions solicited or accepted and
21 to expenditures made for the purpose of retiring campaign debts incurred by
22 a candidate in an election campaign held before the effective date of this
23 Act.

24 * Sec. 17. This Act applies to election campaign activities that take
25 place after January 1, 1987, and that relate to state or municipal elec-
26 tions held after January 16, 1987.

27 * Sec. 18. This Act takes effect January 16, 1987.

NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE ALASKA PUBLIC OFFICES
COMMISSION

Notice is hereby given that the Alaska Public Offices Commission, under authority vested in AS 15.13.030(10), proposes to adopt, amend and repeal regulations in Title 50 of the Alaska Administrative Code, dealing with Campaign Disclosure, complaints, Preliminary Investigations, and Hearings to interpret AS 15.13, AS 24.45 and AS 39.50 as follows:

2 AAC 50.313. CONTRIBUTIONS is proposed to consolidate the definition of reportable contributions. It would include treatment of loans, non-monetary contributions, donation of in-kind services, media broadcasting, extensions of credit for an unreasonable time, and expenditures made in cooperation with a campaign. It would exclude from reporting volunteer services, internal business or organizational communications, non-monetary contributions of small value, and contributions for an election recount. It also provides treatment for a married person's contribution from joint funds.

2 AAC 50.325. RECORDKEEPING REQUIREMENTS FOR NON-MONETARY CONTRIBUTIONS is repealed.

2 AAC 50.330. REPORTING CAMPAIGN EXPENDITURES FOR TRANSPORTATION is repealed.

2 AAC 50.350. CONTRIBUTION OF PROFESSIONAL SERVICES is repealed.

2 AAC 50.355. LOANS is repealed.

2 AAC 50.405(4). "contribution" is repealed.

2 AAC 50.315. CONTRIBUTION LIMITATION EXEMPTION is amended by adopting a new subsection (d) which clarifies that political parties must report all contributions and expenditures.

2 AAC 50.316. PERSONAL CONTRIBUTIONS BY A CANDIDATE is proposed to clarify and define when a candidate may make unlimited contributions of his or her personal funds and assets in the form of money, goods, loan proceeds, and proceeds from a sale of assets.

2 AAC 50.319. DESIGNATED CAMPAIGN DEPOSITORY is proposed for candidates or groups contemplating raising or spending more than \$5,000.00 in a calendar year. They shall deposit all contributions and make all expenditures from a designated campaign depository. Campaigns shall designate on a report the bank or banks in which funds are held or which credit cards for travel expenses are issued. The proposal sets forth an accounting and reporting procedure for contributions that cannot be determined to be legal.

2 AAC 50.360. MUNICIPALITIES is amended in section (a) by providing that municipalities engaged in political activity using budgeted funds shall report in

the same fashion as individuals. Section (d) is added to provide that municipalities shall report as groups when they receive contributions for political activity.

2 AAC 50.356. GROUP is proposed to define a political group required to file periodic Campaign Disclosure Statements and to provide exceptions for those entities or organizations permitted to report their political activity as individuals.

2 AAC 50.385. REPORTING BY ORGANIZATIONS and BUSINESS OR TRADE ASSOCIATIONS is repealed.

2 AAC 50.395. REPORTING BY A BUSINESS ENTITY OR LABOR ORGANIZATION is repealed.

2 AAC 50.357. CONTRIBUTIONS IN THE NAME OF ANOTHER is proposed to prohibit voluntary or involuntary transfers of money or other things of value between persons for the purpose of making contributions to candidates or political groups unless the persons engaged in the activity register with the Alaska Public Offices Commission and report on periodic Campaign Disclosure Statements as a group.

2 AAC 50.369. PROPER IDENTIFICATION OF COMMUNICATION is amended by adopting a new subsection (e) which proposes to define campaign materials that must bear the paid for by disclaimer and providing that envelopes need not bear the disclaimer if they contain properly identified campaign material.

2 AAC 50.370. OBJECTS TOO SMALL TO CONTAIN THE PROPER IDENTIFICATION is amended by adopting a proposal that objects not more than 3 1/2" x 5" need not bear the paid for by disclaimer. However, all media advertisements shall contain the paid for by disclaimer.

2 AAC 50.380. EARLY CAMPAIGNING is amended by adopting a new subsection (b) and deleting inconsistent portions of subsection (a). It proposes to provide that a state candidate may begin making expenditures upon filing a letter of intent with the Alaska Public Offices Commission certifying the individual and his or her campaign will comply with AS 15.13.

2 AAC 50.390. CIVIL PENALTY ASSESSMENTS FOR THE LATE FILING OF A CAMPAIGN DISCLOSURE REPORT is amended by changing subsections (d)(1)(A), (d)(1)(B), (d)(1)(C), and (d)(1)(D) to raise civil penalty assessments to the amount permitted by law. Further, the proposal deletes the Commission's case-by-case review of reports over 30 days delinquent in the aforementioned sections.

2 AAC 50.401. POST ELECTION FUNDRAISING BY CANDIDATES AND CONTROLLED GROUPS is proposed to permit limited post-election fundraising to discharge an indebtedness from a prior campaign, including such items as reported personal contributions before the election, disclosed debts to others, and the costs of winding up the campaign.

2 AAC 50.450. COMPLAINTS would be amended to specify notifying the subject of a complaint where a complaint file is closed for failure to state a violation.

2 AAC 50.460. PRELIMINARY INVESTIGATION would be amended to clarify that a staff recommendation may include assessment of civil penalties.

2 AAC 50.470. HEARINGS would be amended to specify that a hearing officer will conduct the hearing.

2 AAC 50.905. ADVISORY OPINIONS is proposed to assist persons or groups who are or may be subject to the Conflict of Interest Law, Campaign Disclosure Law or Regulation of Lobbying Law by written advisory opinions issued by the Alaska Public Offices Commission and providing when a requesting party may rely upon an advisory opinion.

2 AAC 50.910. AVAILABILITY OF REPORTS FILED WITH THE COMMISSION is an amendment providing that all reports filed with the Alaska Public Offices Commission may be provided at cost except for those reports filed by persons who have shown to the satisfaction of the Alaska Public Offices Commission they would be the subject of undue harassment, threats, or economic reprisals.

Notice is also given that any person interested may present oral or written comments relevant to the proposed action at a hearing to be held in the Quadrant Room at the Captain Cook Hotel, 5th Avenue and K Street, Anchorage, Alaska, at 1:30 p.m. on August 22, 1985. Individuals wishing to testify by telephone may do so by making arrangements with the Commission staff by August 19, 1985. The Alaska Public Offices Commission telephone number is 276-4176. In addition, written comments to be considered by the Alaska Public Offices Commission, must be received no later than August 19, 1985.

It is estimated this action will require an increased appropriation as follows:

FY 1986, \$24,747.50; FY 87, \$24,747.50; FY 88, \$24,747.50; FY 89, \$24,747.50

Copies of the proposed regulations may be obtained by writing to the Alaska Public Offices Commission, 610 C Street, Suite 211, Anchorage, Alaska 99501 or by calling 276-4176.

The Alaska Public Offices Commission, upon its own motion or at the instance of any interested person, may at the hearing or after it adopt proposals within the scope of this notice without further notice or may decide to take no action on them.

Date: *July 12, 1985*

Theda S. Pittman

Theda S. Pittman
Executive Director

Senator Vic Fischer

Alaska State Legislature
Pouch V • Juneau, Alaska 99811 • (907) 465-4954



RECEIVED
FEB 11 1986

TO: Senator Mitch Abood, Chair
Senate State Affairs

FR: Senator Vic Fischer *Vic Fischer*

RE: February 12, 1986 State Affairs Committee meeting on SB
356 Campaign Finance

DT: February 11, 1986

I will not be able to attend Wednesday's committee meeting on SB 356. Therefore, I'm using this means of bringing to your attention a problem I see in the bill.

Sec. 15.14.170 (e) (page 19, lines 8-24) doesn't seem to carry out committee intent. As I remember the discussion, we wanted to exclude the courier type activity from requiring registration as a deputy treasurer.

The way the draft reads, "A person does not receive ... a contribution .. if ... the person solicits a contribution ..." Aside from this not making logical sense, I don't think that solicitors should be excluded from registration requirements. If making them deputy treasurer seems too onerous, maybe a category of "solicitor" could be created (and all attorneys would be automatically included).

cc. Members of Senate State Affairs Committee

ALASKA STATE AFL-CIO

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(907) 338-6284



819 1st Ave.
Fairbanks, Alaska 99701
(907) 456-2030

MANO FREY
Executive President

By Dixie Hudish
AFL-CIO Legislative
Representative

AFL-CIO POSITION PAPER ON SB 356, CAMPAIGN FINANCING

SB 356 proposes a complete revision of the present campaign disclosure law, therefore one needs to look at the goals of the campaign disclosure law.

The two major goals for the State Campaign Financing Practices Act, as pointed out in the report to the Senate Finance Affairs Committee by the Gross & Burke report, was to limit individuals' contributions to candidates in order to limit the amount of influence that any one contributor could have over a particular candidate. The second goal was to provide public disclosure of the source of funds for campaigns.

Major changes have been proposed, many that would not be in keeping with the above goals.

SECTION 15.14.050 REGISTRATION BY POLITICAL GROUPS

This section now refers to political action committees as political interest groups (PIGS).

Political groups I represent take strong exception to the acronym "PIGS". I believe PACs or PAGs are preferable and much more appropriate terms.

SECTION 15.14.060 (1) REPORTS BY CANDIDATES OF CONTRIBUTIONS AND LOANS

This section changes the disclosure of contributors to \$250.00 or more. Current law requires disclosure of contributors in excess of \$100.00.

This proposal does not enhance the goal of more public disclosure but inhibits it instead. The record would not reflect contributors who have given between \$100 and \$250.

Recommendation is to keep the current law, allowing for disclosure of contributors in excess of \$100.

SECTION 15.14.070 REPORTS BY CANDIDATES OF EXPENDITURES

This section decreases the expenditure reports to one annual report following the election.

An expenditure disclosure is not only important to the public but to those who contribute money to the candidate. One should be allowed to see where the contributions are being spent while the campaign is in progress and not after the campaign. Chances are, if the public knew for example, that Joe Smith is spending money on "outside" firms for media, consulting, etc., less contributions would be forthcoming. Most contributors would like to know where, what and on whom the candidate's money is being spent and public disclosure laws should provide for this.

The AFL-CIO is opposed to eliminating the expense reports during the campaign to one following the election.

Recommendation is to keep the current law.

SECTION 15.14.100 REPORTS OF EXPENDITURES BY PERSONS OR GROUPS INDEPENDENT OF THE CANDIDATE

Independent expenditure definition in this section is very confusing as to what exactly is an independent expenditure versus an expenditure.

Recommendation is to rework this area.

SECTION 15.14.120 CONTRIBUTIONS BY A PERSON

This section increases the contribution limit from \$1,000 to \$2,000 to a candidate.

A \$2,000 contribution is a substantial amount in most campaigns for one person to give to a candidate, and whether or not that amount could have great influence over a particular candidate, it certainly would have the appearance of undue influence.

As representing many unions which have PAC's (Political Action Committees) comprised of volunteer member contributions, it would seem fairer by far to raise the contribution limit for PAC's, yet we stand opposed to any increase in contribution limits.

Recommendation is to keep the current law.

SECTION 15.14.130 CONTRIBUTIONS BY POLITICAL INTEREST GROUPS

(b) This section limits to \$1,000 the allowable contribution to a political group that another political group can

The AFL-CIO finds it unreasonable to place such an unfair limit on groups when in fact, political groups are comprised of many individuals. If one looks back

in the records, I'm sure this area has not been abused by political groups.

Recommendation is to keep the current law.

(b) This section also limits to \$25,000 per year the allowable contributions by a political group.

Again the argument is that an unfair limit is being imposed on groups. Groups are made up of many individuals and, as long as one candidate cannot receive more than \$1,000, there is already a built-in threshold as to what a political group can give.

Recommendation is to delete this section.

(d) This section essentially eliminates a PAC from forming sub-PAC's, if the groups share a majority of the same officers.

The present law allows for subgroups of a statewide group to form as long as they are autonomous units and have completely separate accounting systems.

Recommendation is that this section should remain as the present law reads.

SECTION 15.14.170 (e) CAMPAIGN OFFICERS

This section exempts a person from registering as a deputy campaign treasurer if the person's only activity is soliciting and transferring contribution checks from contributors to candidates.

This section is a very confusing and contradictory area. If one solicits and accepts a contribution only to transfer or deliver it to a candidate or campaign officer of a candidate or political group, one doesn't need to register. Yet 15.14.170 states that only a campaign treasurer is responsible for receiving and disbursing all contributions and expenditures. Does this also mean that a candidate might appoint him/herself as the person responsible, yet hire someone who never has to register who actually disburses the funds?

This section needs clarification.

SECTION 15.14.190 TERMINATION OF CAMPAIGN ACTIVITY AND CLOSING OF CAMPAIGN ACCOUNTS

This section requires candidates to close their campaign books as of the date a candidate is sworn in.

This will be found to be insufficient time to raise money for a debt to a campaign.

SECTION 15.14.200 SURPLUS FUNDS

This section eliminates the use of surplus funds for one's own personal use. The section further describes permissible uses of surplus campaign funds.

This is a most appropriate new section and a long time coming.

SECTION 15.14.210 SOLICITATION OF CONTRIBUTION

This is a new section that restricts soliciting contributions from state and municipal officers and employees from other public officials or employees while either the person soliciting or the person being solicited is on the premises of a state or municipal office.

Various union members work for the state or municipalities. As I interpret this section, it would prevent meeting with union employees on the premises for the purpose of soliciting contributions. In order to contact our members for various reasons, scheduled meetings are allowed on the premises and this would inhibit discussions of volunteer PAC payroll deductions.

Recommendation is to keep the present law.

ARTICLE 5 UNLAWFUL CONDUCT, CRIMINAL AND CIVIL PENALTIES; INVESTIGATIONS;
PROCEDURES; HEARINGS.

The various sections under this article would cause a higher burden of proof and of criminal intent for violators of APOC regulations. These regulations have gone from one extreme to the other. One who inadvertently is late or who makes a mistake on their APOC report will not only feel like a criminal but will be prosecuted as a criminal. The average lay person who wishes to run for office will have to hire a professional lawyer or accountant just to have the regulations interpreted. One surely will have second thoughts in running for a public office when regulations and violations become too complex. We don't think that this should be the purpose of this campaign reform bill.

Recommendation is that this section needs to be totally reworked.

SECTION 15.14.290 INVESTIGATIONS

This section does not allow the commission to take further action following an investigation.

As it is very important for political violations to be handled in a most expedient manner, referring all cases to the Attorney General's office will not encourage the above.

We cannot support this section.

1/31/86

PROPOSED AMENDMENTS TO SB 356, "An Act relating to campaign financing."

BY SEN. ABOOD

414
Amendment # 1

Page 4, line 6, after "commission." Add "The prohibitions against political activity by a member of the commission under (h) of this section apply to the executive director and non-clerical employees of the commission."

470
Amendment # 2

Page 15, line 16, after "affirm" Add " to the best of my knowledge"

Amendment # 3

480
Page 17, line 7, after "candidate" Add ", a campaign treasurer, deputy campaign treasurer"

520
Amendment # 4

Sec. _____ Conflict of interest. The executive director and non-clerical employees of the commission are subject to AS 39.50 (conflict of interest).

(This is patterned after the conflict of interest provision for the Ombudsman and the professional staff of the Ombudsman, AS 24.55.310.)

Amendments to APOC Bill (1/14 Draft)

(1) At page 7, line 9, add the following new subsection (b) and renumber remaining subsections accordingly:

(b) Two or more groups that share a common officer shall be treated as a single group for the purpose of determining whether the group has received contributions of \$1,000 in the aggregate.

Kelly

V. FISCHER

#1

Amendments to APOC Bill (1/14 Draft)

(3) Page 15, line 19, after "person" add "other than a corporation or labor union"

(4) Page 15, line 22, after "person" add "other than a corporation or labor union"

(5) Page 17, line 7, add the following new subsections (a) and (b), and renumber remaining subsections accordingly:

(a) A corporation or a labor union may not make a contribution in any amount to a candidate, political party or to a political interest group other than a political interest group formed solely for the purpose of supporting or opposing a ballot proposition or question.

(b) A candidate, a political party, and a political interest group other than a political interest group formed solely for the purpose of supporting or opposing a ballot proposition or question, may not accept a contribution from a corporation or a labor union.

Amendments to APOC Bill (1/14 Draft)

- (6) Page 16, line 10, after "group" add the following:

and may not contribute in the aggregate more than \$10,000 during a year to candidates or groups generally other than to groups formed solely for the purpose of supporting or opposing a ballot proposition or question.

- (7) Page 16, line 15, delete subsection (d) and replace it with the following:

A political party and its state, regional, and local subdivisions may not contribute in the aggregate more than \$5,000 to each candidate for political office.

#2

MEMORANDUM

State of Alaska

TO: Theda Pittman
Executive Director
Alaska Public Offices Commission
Department of Administration

DATE: January 30, 1986

FILE NO: 366-209-86

TELEPHONE NO: 465-3600

FROM: Harold M. Brown
Attorney General

SUBJECT: SB 356

By: Richard D. Monkman
Assistant Attorney General

You have requested that this office review SB 356, "An Act relating to election campaign financing." This bill is presently before the Senate State Affairs Committee. It is our understanding that a substitute for this bill may be prepared by the House State Affairs Committee, using SB 356 as a starting point.

There are several serious problems, and many minor areas of concern, with SB 356 in its present form. The bill is cleverly worded, with very complex interactions between different sections. As a result, many significant changes to present law are not readily apparent to the casual reader. We are still reviewing the bill and comparing it with present law. The following is, however, the most important of the issues we have identified from the Department of Law's perspective.

Enforcement and Penalties. SB 356 increases the penalties for violation of the disclosure laws. It also significantly decreases the probability that enforcement action will actually take place.

First, all violations which involve "knowing" or "intentional" violation of the disclosure laws are misdemeanors or felonies under SB 356. [AS 15.14.230; AS 15.14.240]. Once the Commission determines that "probable cause to believe a felony or misdemeanor had been committed" it must "promptly refer the matter ... to the attorney general." [AS 15.14.290(c)]. The Commission "may not take further action concerning the matter." [Id.].

As the Commission is well aware, the district attorney offices are swamped with criminal cases involving injury to persons and property. Disclosure cases are highly charged politically and involve relatively small amounts of money. Presently, disclosure cases are very low on any district attorney's list of priorities. There is no reason to believe

Theda Pittman, Executive Director
Alaska Public Offices Commission
File No.: 366-209-86

January 30, 1986
page 3

will require an additional full-time DA, a paralegal, and additional clerical help. 3/

More important from the public perspective will be the delay involved. A public figure charged with a crime will vigorously defend the case, using every means at hand to delay, postpone or defeat the charges. There will be charges of political motives behind every prosecution -- instead of defending against the staff of a bi-partisan, independent Commission, the candidates will be prosecuted by a District attorney responsible to the attorney general, who is appointed by the governor. Cries of connivance and persecution will obscure the issues; the intricacies of the criminal trial process will delay resolution of cases significantly.

In sum, SB 356 drastically limits the Commission's jurisdiction to investigate and administratively prosecute violations of the Campaign Disclosure Act. The administrative process of adjudicating complaints of campaign disclosure violations is swift and relatively inexpensive, and fully protects the rights of those involved to due process of law. In place of this process, SB 356 requires that all intentional violations of the disclosure laws be prosecuted by the Department of Law. This will result in fewer actions to enforce the law, greater delay in those cases filed, and an increasing politicization of the entire process. The end result is to significantly decrease the probability that violations of the disclosure law will be punished.

HMB:RDM:cck

cc: Art Peterson
Regulations Attorney
Department of Law/Juneau

3/ We will prepare a fiscal note concerning these costs. The best rough estimate we have now is about \$190,000. This does not include figures for investigative services of the State Troopers.

Theda Pittman, Executive Director
Alaska Public Offices Commission
File No.: 366-209-86

January 30, 1986
page 3

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Regulations Attorney
Department of Law/Juneau

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Alaska State Legislature

INTERIM OFFICE
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-2843

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4714



Senator Mitch Abood
CHAIRMAN

Senate Committee on State Affairs

November 25, 1985

Jean Rogers, Chairman
Alaska Public Offices Commission
1790 Evergreen Drive
Juneau, Alaska 99801

file

Dear Ms. Rogers:

On behalf of the Senate Committee on State Affairs, I would like to give notice under AS 44.62.190 and AS 24.37.010, of the Committee's intent to review the administrative regulations which have been recently proposed by the Alaska Public Offices Commission.

My intent is to take up the APOC regulations as one of the first orders of business during the 1986 legislative session.

Very truly yours,

Mitch Abood/CA

Senator Mitch Abood

MEA:tdd
Enclosures

cc: Members of the Committee on State Affairs
Commissioner Eleanor Andrews, Dept. of Admin.
Billy G. Bernier, Director, Division of Legal Services

Document #2

Chapter 37. Review of Administrative Regulations by Standing Committees of the Legislature

Section

10. Review of administrative regulations by standing committees of the legislature

Sec. 24.37.010. Review of administrative regulations by standing committees of the legislature. (a) A standing committee of the legislature furnished notice of a proposed action under AS 44.62.190 shall review the proposed regulation, amendment of a regulation, or repeal of a regulation before the date the regulation is scheduled by the department or agency to be adopted, amended, or repealed.

(b) A standing committee conducting a review of a regulation under (a) of this section shall determine whether the regulation properly implements legislative intent.

(c) A standing committee shall conduct preliminary reviews under this section while the legislature is in session and during the interim between legislative sessions.

(d) If a standing committee determines that a regulation, amendment to a regulation, or repeal of a regulation does not properly implement legislative intent, the standing committee's findings shall be transmitted to the Administrative Regulation Review Committee. (AS ch 1 SLA 1982; AS 24.99.001)

Editor's notes. — This chapter and section were enacted as AS 24.99 and AS 24.99.001 but were renumbered by the revisor of statutes pursuant to AS 01.05.031.

Chapter 45. Regulation of Lobbying.

Article

- 2. Administration (§ 24.45.031)
- 3. Disclosure: Registration and Reports (§ 24.45.051)
- 4. Enforcement (§ 24.45.121)
- 5. General Provisions (§ 24.45.171)

NOTES TO DECISIONS

Cited in State, Pub. Offices Comm'n v. Marshall, Sup. Ct. Op. No. 2406 (File No. 3614), 633 P.2d 227 (1981).

Section

31. Powers and duties

Sec. 24.45.031. duties under this c

(1) prescribe the and other documen

(2) prepare and accounting, bookke: tate compliance wit the duties of persc instructions shall b

(3) provide assist this chapter;

(4) prepare and p and recommendatio able to the governor calendar year;

(5) report suspec general.

(b) The commissi.

(1) hold hearings provisions of this ch.

(2) in conjunction pel the attendance : affirmations, and r documents or other i under this chapter;

(3) prepare, publi. at least quarterly s reports received; th lobbyists and emplo

Editor's notes. — This above to correct an error: phlet.

Article 3. I

Section

31. Reports

Sec. 24.45.051. R 24.45.041 shall file activities during eac long as the lobbyist

Supplement

Sec. 44.62.180. Effective date. A regulation or an order of repeal filed by the lieutenant governor becomes effective on the 30th day after the date of filing unless

(1) otherwise specifically provided by the statute under which the regulation or order of repeal is adopted, in which event it becomes effective on the day prescribed by the statute;

(2) it is a regulation prescribing the organization or procedure of an agency, in which event it becomes effective upon filing by the lieutenant governor or upon a later date specified by the state agency in a written instrument submitted with, or as part of, the regulation or order of repeal;

(3) it is an emergency regulation or order of repeal adopted under AS 44.62.250, in which case the finding and the statement of the facts constituting the emergency shall be submitted to the lieutenant governor, together with the emergency regulation or order of repeal, which, in that event only, becomes effective upon filing by the lieutenant governor or upon a later date specified by the state agency in a written instrument submitted with, or as part of, the regulation or order of repeal;

(4) a later date is prescribed by the state agency in a written instrument submitted with, or as part of, the regulation or order of repeal. (§ 3 art IV (ch 1) ch 143 SLA 1959; am § 7 ch 40 SLA 1969.

NOTES TO DECISIONS

Cited in *Mukluk Freight Lines v. No. 967* (File No. 1870), 516 P.2d 40- Nabors Alaska Drilling, Inc., Sup. Ct. Op. (1973).

Sec. 44.62.190. Notice of proposed action. (a) At least 30 days before the adoption, amendment, or repeal of a regulation, notice of the proposed action shall be

(1) published in the newspaper of general circulation, or trade or industry publication, which the state agency prescribes;

(2) mailed to every person who has filed a request for notice of proposed action with the state agency;

(3) if the agency is within a department, mailed or delivered to the commissioner of the department;

(4) when appropriate in the judgment of the agency, (A) mailed to a person or group of persons whom the agency believes is interested in the proposed action, and (B) published in the additional form and manner the state agency prescribes;

(5) furnished the Department of Law together with a copy of the proposed regulation, amendment, or order of repeal for the department's use in preparing the opinion required after adoption and before filing by AS 44.62.060;

(6) furnished to all Legislative Affairs

(7) furnished to the legislature having legislative authority, together with the regulation or order of repeal authorized by AS

(8) furnished to the Com-

§ 44.62.1

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adoption of rule
Op. Att'y Gen., No

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as. 1959

Where a lengthy r... on one sub-
ject is to be proposed the best policy would
be to briefly summarize the content and
purpose of the regulation. 1959 Op. Att'y
Gen., No. 26.

If only a very short regulation is
proposed then ordinarily it would be most
practicable to set forth the regulation in
full. 1959 Op. Att'y Gen., No. 26.

Where a great many regulations are to
be promulgated which are of a varied
nature, such as fish and game regulations,
or oil leasing regulations, then the only
practical thing to do would be to give a
general listing of the subjects to be
covered, a reference to any other existing
body of regulations which are being
adopted, amended or superseded which
might be informative to the particular
public or industry concerned (such as a
reference to existing regulations of a state
agency or department or to existing
federal regulations) and a brief listing of

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statute under which the
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VS

File No. 1870), 516 P.2d 404

tion. (a) At least 30 days
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y prescribes; and
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(6) furnished to all incumbent State of Alaska legislators and the
Legislative Affairs Agency;

(7) furnished to the standing committee of each house of the legis-
lature having legislative jurisdiction over the subject matter treated in
the regulation under the Uniform Rules of the Alaska State Legis-
lature, together with a copy of the proposed regulation, amendment,
order of repeal for the committee's use in conducting the review autho-
rized by AS 24.37.010;

(8) furnished to the staff of the Administrative Regulation Revi-
Committee.

(b) If the form or manner of notice is prescribed by statute, in ad-
dition to the requirements of filing and mailing notice under this sec-
tion, the notice shall be published, posted, mailed, filed or otherwise
publicized as prescribed by the statute.

(c) The failure to mail notice to a person as provided in this sec-
tion does not invalidate an action taken by an agency under AS 44.62
— 44.62.290. (§ 5 art IV (ch 1) ch 143 SLA 1959; am § 2 ch 149 SLA
1962; am § 1 ch 3 SLA 1968; am § 16 ch 143 SLA 1968; am § 4 ch 64
SLA 1978; am § 5 ch 1 SLA 1982)

Effect of amendments. — The 1982
amendment added paragraphs (7) and (8)
to subsection (a).

Opinions of attorney general. —
There are few cases and little text discus-
sion of the requirements of notice and the
sufficiency of notice in proceedings for
adoption of rules and regulations. 1959
Op. Att'y Gen., No. 26.

Where a lengthy regulation on one sub-
ject is to be proposed the best policy would
be to briefly summarize the content and
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If only a very short regulation is
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general listing of the subjects to be
covered, a reference to any other existing
body of regulations which are being
adopted, amended or superseded which
might be informative to the particular
public or industry concerned (such as a
reference to existing regulations of a state
agency or department or to existing
federal regulations) and a brief listing of

any significant changes which are
proposed if an existing body of regulations
is to be effected. In such case it would be
well to indicate that copies of the proposed
regulations can be obtained from the
agency in order to indicate the agency has
done everything reasonably possible to
give the public affected by its regulations
an opportunity to familiarize itself with
the regulations and to prepare itself to
submit its views at the hearing. This
should constitute substantial compliance
with the Administrative Procedure Act
and would serve the purpose of the act.
1959 Op. Att'y Gen., No. 26.

And when a summary of a large number
of proposed regulations is to be used it
would be safe for the departments and
agencies of the state government to follow
the Ohio and federal practice and to give
notice of the areas in which regulations
may or may not be promulgated by listing
the subject matter to which the proposed
rules would relate. 1959 Op. Att'y Gen.,
No. 26.

Public notice referring only to regu-
lation numbers and subject headings. —
See 1959 Op. Att'y Gen., No. 26.

For illustrations of the notice required
by this section, see 1959 Op. Att'y Gen.,
No. 26, Exhibits A, B, C and D.

MEMORANDUM

State of Alaska [28]

TO: Theda Pittman
Executive Director
Alaska Public Offices Commission
Department of Administration

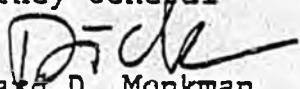
DATE: November 14, 1985

FILE NO: 399-069-85

TELEPHONE NO: 465-3600

FROM: Harold M. Brown
Attorney General

SUBJECT: Regulations

By: 
Richard D. Monkman
Assistant Attorney General

Attached are the edited version of your regulations. There has been drastic pruning, especially of the definitions within definitions. Hopefully, the corrections will be self-explanatory and will not outrage your staff.

The regulations need to be retyped and a new adoption order written signed. Although the changes are drastic in terms of deletions, additions to the text are minor. Thus, Peter Froehlich and I concur that the regulations will not need to be re-noticed. If the regulations are back here by November 25, there should be no problem filing them in time for a January 1, 1986 effective date.

Aside from the editing, two points. The present definition of "contribution" 2 AAC 50.405(4), was not repealed by the regulations as adopted and sent down. Looking over the notice, it appears that 50.405(4) was intended to be repealed -- which explains why a new section 50.313 was adopted. However, the place for a definition of statutory terms is in the definition section of your regulations. Thus, I reorganized what was left of 50.313 after editing as several subsections of 50.405. Secondly, the proposed regulations repeal 50.355, "loans," and spread the "loans" sections out in several different places. This, according to Art, is a mistake. We recommend that the Commission not repeal 50.355. The present language seems to me to accomplish everything the reorganized language does, and it is better to have it in one spot.

Unfortunately, I will be out of state (on business this time) during the Commission meeting of November 19 - 20, and will be unable to go over the changes in detail with the Commission. Hopefully Pat Kennedy will be available to answer any questions the Commission might have.

HMB:RDM:cck
Attachment
cc w/attach.: Pat Kennedy
Assistant Attorney General
Anchorage AGO

15

2 AAC 50.313 is amended by adding a new section ^{sub} 313 to read:

~~2 AAC 50.313 CONTRIBUTION (a) The term "contribution" includes the following, payments of money, services, or anything of value:~~

~~(1) A gift, subscription, loan, advance, payment, transfer of funds, deposit, or anything of value made by any person or group for the purpose of influencing any election for state or municipal office or influencing the passage or defeat of a ballot proposition or question.~~

~~(2) For purposes of 2 AAC 50.313(a)(1), the term "loan" includes a guarantee, endorsement, and any other form of security.~~

~~(A) A loan which exceeds the contribution limitations of AS 15.13.070 shall be unlawful whether or not it is repaid.~~

~~(B) A loan is a contribution at the time it is made, and is a contribution to the extent it remains unpaid. A loan, to the extent it is repaid, is no longer a contribution.~~

~~(C) Except as provided in 2 AAC 50.316(1)(C), a loan is a contribution by each endorser or guarantor. Each endorser or guarantor shall be deemed to have contributed that portion of the total amount of the loan which he or she agreed to be liable in a written agreement. Any reduction in the unpaid balance of the loan shall reduce proportionately the amount endorsed or guaranteed by each endorser or guarantor in such written agreement. In the event the agreement does not stipulate the portion of the loan for which each endorser or guarantor is liable, the loan shall be considered a loan by each endorser or guarantor in the same proportion to the unpaid balance that each endorser or guarantor bears to the total number of endorsees or guarantors.~~

~~(b) For purposes of 2 AAC 50.313(a), the term "money" includes currency of the United States or of any foreign nation, checks, money orders, or any negotiable instruments payable on demand.~~

~~(7) For purposes of 2 AAC 50.313(a), the term "anything of value" includes all kind or non-monetary contributions. Examples of such in-kind goods or services include facilities, equipment, polling information, supplies, personnel, advertising services, membership lists, mailing lists, and any item of tangible or intangible real or personal property, but does not include volunteer services specified in 2 AAC 50.313(b)(1), other than paid personal services. "Paid personal services" are personal services of every kind and nature the cost or consideration for which is paid or provided by a person other than the candidate or group for whom the services are rendered.~~

Not should they be in the right place.
HAC 50.405 (4)

As duplicates of 15.13.130(2) necessary

Letter to keep 50.355 as is unclear

ARRIVED

NOV 15 1985

9/9/85 399-132-85

APOC-ANOH PM (AC)

2 AAC 50.405(4) is amended by adding new subsections to read:

(A) The provision of any goods or services without charge or at a charge which is less than the usual and normal charge for such goods and services is a contribution. If goods or services are provided at less than the usual or normal charge, the amount of the non-monetary contribution is the difference between the usual and normal charge for the goods or services at the time of the contribution and the amount charged.

(B) For purposes of 2 AAC 50.313(a)(4)(A), the "usual and normal charge" for goods means the price of those goods in the market which they ordinarily would have been purchased at the time of the contribution; and "usual and normal charge" for any services, other than those provided by unpaid volunteers, means the hourly or piecework charge for the services at a commercially reasonable rate prevailing at the time the services were rendered.

OUT unnecessary unclear

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+ 10-2-1-1
1-1-1-1-1

(B) ~~(B)~~ The entire amount paid to attend or participate in a fundraiser or other political event, and the entire amount paid as the purchase price for a fundraising item sold by a group or candidate is a contribution.

(C) ~~(C)~~ The payment by any person of compensation for the personal services of another person to a group or candidate for any purpose, except for legal and accounting services necessary to complete reports, is a contribution. ~~No compensation is considered paid to any employee under any of the following circumstances:~~
 contribution results in

(A) If an employee is paid on an hourly or salaried basis and is expected to work a particular number of hours per period, no contribution results if the employee engages in political activity during what would otherwise be a regular work period, provided that the taken or released time is made up or completed by the employee within a reasonable period of time.

OUT unworkable

(i) ~~(i)~~ No contribution results where an employee engages in political activity during what would otherwise be normal working hours if the employee is paid on a commission or piecework basis, or is paid only for work actually performed and the employee's time is considered his or her own to use as he or she sees fit.

(ii) ~~(ii)~~ No contribution results ^{where} time used by the employee to engage in political activity ~~if the time used~~ is bona fide, although compensable, vacation or other earned leave time.

(D) ~~(D)~~ The extension of credit by any person to a candidate or political group for a length of time beyond normal business ~~or trade~~ practice is a contribution, unless the creditor has made a commercially reasonable attempt to collect the debt, or pursued its remedies in a manner similar in intensity to that employed by the creditor in pursuit of a non-political debtor, including lawsuits if filed in similar circumstances.

~~(A) A debt owed by a political group or candidate which is forgiven or settled for less than the amount owed is a contribution unless the negotiated settlement receives the prior approval of the Commission, which will be granted when it is convinced the following conditions are met:~~

~~(i) At the time the debt was incurred, both the creditor and the candidate or political group expected full repayment within a reasonable period of time;~~

~~(ii) The campaign has made a good faith effort to repay all outstanding debts;~~

~~(iii) The creditor has taken steps it normally takes against debtors in the same financial condition as the campaign;~~

~~(iv) The proposed settlement agreement between the creditor and the campaign is similar to previous settlements made by the creditor and other debtors;~~

~~(v) The campaign has treated equally all creditors since it became aware of the difficulty in repaying all debts;~~

~~(vi) The proposed settlement agreement is similar to others proposed by the campaign.~~

*OUT
no authority
inconsistent with
AS 15.13.130 (2)*

~~(E) An expenditure made by any person in cooperation, consultation, or in concert with, or at the request or suggestion of a candidate, his or her campaign, its agents, or campaign consultants is a contribution to the candidate, and the financing by any person of the issuance, republication, or distribution of any broadcast or any written, graphic, or other form of campaign material provided by the candidate, his or her campaign committee, campaign agents, or campaign consultants is a contribution to ~~the~~ candidate.~~

~~(A) For purposes of 2 AAC 50.314(8), "cooperation, consultation, or in concert with, or at the request of" means any arrangement, coordination, course of communication or direction by or with the candidate or his or her campaign agents prior to the publication, distribution, display or broadcast of any communication. Any expenditure is presumed to be so made when it is:~~

~~(i) Based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate or his or her campaign agents with a view to having an expenditure made;~~

~~(ii) Made by or through any person who is, or has been, authorized to raise or expend funds for the candidate, who is, or has been, an agent of a candidate's campaign, or has received any form of compensation or reimbursement from the candidate, members of his campaign committee, campaign agents or campaign consultants.~~

*OUT
one year
unnecessary*

no definition within which are sufficient to

communication is of the same format and nature used by the organization when it has communicated in the past on nonpolitical subjects, does not request members or their families to provide goods and services to a campaign other than to exercise the right to vote, and does not solicit individual contributions to a clearly identified candidate or group chosen by the organization.

(iii) ~~is~~ A gift, subscription, loan, advance, or deposit of money or anything of value made with respect to a recount of a state or municipal election is not a contribution.

(F) ~~is~~ contribution or payments made by a married individual shall not be attributed to that individual's spouse, unless otherwise specified in writing by the spouse at the time the contribution is made. (Eff. / / ,

Register)

Authority: ~~AS 15.13.010(9)~~
~~AS 15.13.030(2) & (10)~~
~~AS 15.13.040~~

~~AS 15.13.070~~
~~AS 15.13.110~~
~~AS 15.13.130(2) & (9)~~

2 AAC 50.315 CONTRIBUTION LIMITATION EXEMPTION is amended by adopting a new subsection (d) which reads:

(d) Groups satisfying the criteria of subsection (a) and groups granted an exemption under subsection (b) are subject to the requirement that political parties report contributions and expenditures as provided by AS 15.13. (Eff. 6/29/84; Register 90; am / / , Register)

Authority: ~~AS 15.13.030(10)~~

~~AS 15.13.040~~
~~AS 15.13.070~~
~~AS 15.13.130(2) & (9)~~

2 AAC 50. is amended to add a new section 316 to read:

2 AAC 50.316. PERSONAL CONTRIBUTIONS BY A CANDIDATE. (a) Candidates for state or municipal office may make unlimited contributions from ~~their personal funds or assets.~~

(1) For purposes of this section, ~~"personal funds or assets" means~~

~~(A) Any assets which, under Alaska law, at the time he or she intended to seek elective office, the candidate had legal right of access to or control over, and with respect to which the candidate had either~~

~~(i) legal and rightful title~~ including

~~(ii) an equitable interest~~

~~(b) (1)~~ salary and other earned income from bona fide employment; dividends and proceeds from the sale of the candidate's stock or other investments; bequests to the candidate; income from trusts established before he or she intended to become a candidate; income from trusts established by bequest after candidacy of which the candidate is a beneficiary; and gifts of a personal nature which had been customarily received prior to candidacy.

(b) ~~(1)~~ A candidate may use a portion of assets jointly owned as personal funds. The portion of the jointly owned assets that shall be considered as personal funds shall be that portion which is the candidate's share under the instruments of conveyance or ownership. With respect to spouses, if no specific share is indicated by an instrument of conveyance or ownership, the value of one-half of the property used shall be considered the personal funds of the candidate. In the case of property jointly owned by a non-spouse where there is no instrument of conveyance or ownership, the percent of the asset belonging to the candidate shall be the pro rata share of the purchase price paid by the candidate, or, if no purchase was made, the amount determined by dividing the value by the number of owners.

(c) ~~(1)~~ A candidate's personal donation of goods remaining from a prior campaign are not a contribution.

(d) ~~(1)~~ No contribution is made from a loan of money by a regulated banking institution to a candidate if the loan is made in accordance with applicable banking laws and regulations and made in the ordinary course of business. A loan is made in the ordinary course of business if it: bears the usual and customary interest rate for the category of the loan involved; is evidenced by a written instrument; and is subject to a due date or amortization schedule. ~~Loans under this section are reported as a candidate's personal contribution.~~

(5) The absolute sale of all legal and equitable interest of a candidate's real or personal property is not a contribution from the purchasers if the proceeds are received by a candidate in a legitimate arm's length transaction documented in writing, and all or a portion of the proceeds are used in a campaign. Sale proceeds used by a candidate in a campaign are reported as personal contributions. (Eff. / / , Register)

unnecessary
2 AAC
50.316
(a) covers

not repealed, 50.316 is
still in effect

- Authority: AS 15.13.010(1)
~~AS 15.13.030(2)~~
~~AS 15.13.030(10)~~
~~AS 15.13.040~~
 AS 15.13.070(a)(1)
 AS 15.13.110
~~AS 15.13.130(1)~~
~~AS 15.13.130(2)~~
~~AS 15.13.130(4)~~
~~AS 15.13.130(5)~~

2 AAC 50 is amended to add a new section 319 to read:

2 AAC 50.319. DESIGNATED CAMPAIGN DEPOSITORY. (a) Each candidate and political group intending to raise or spend more than \$5,000.00 in a calendar year shall designate on a Registration Statement or the first Campaign Disclosure Statement filed with the commission one or more regulated banking institutions as its campaign depository or depositories, whose title shall indicate it is a campaign account.

The account

(b) All monetary contributions to and expenditures by a candidate or political group shall be deposited to or made from a designated campaign depository.

(c) Any candidate or political group required to designate a campaign account may obtain and use credit cards in making travel-related campaign expenditures, transportation, lodging, meals, and other expenses in connection with traveling for campaign purposes, and shall indicate it is a campaign account.

The credit card account name

(d) Contributions which appear to be illegal shall, within ten days, be returned to the contributor or deposited into the campaign depository and reported. If deposited, the treasurer shall make and retain a written record noting the basis for the appearance of illegality. A statement noting that the legality of a contribution is in question shall be included in the report. The treasurer shall make his or her best efforts to determine the legality of a contribution.

(e) When a contribution cannot be determined to be legal, refunds shall be made within a reasonable time, and the treasurer shall note the refund by amending the current report or noting the change on the next required report. (Eff / / , Register)

Authority:

- ~~AS 15.13.030(1)~~
- ~~AS 15.13.050(2)~~
- ~~AS 15.13.030(8)~~
- ~~AS 15.13.070(10)~~
- ~~AS 15.13.050~~
- ~~AS 15.13.060~~
- ~~AS 15.13.070(5)~~
- ~~AS 15.13.070(7)~~
- ~~AS 15.13.070(8)~~

2 AAC 50.325 is repealed.
2 AAC 50.325 / / .

2 AAC 50.330 is repealed.
2 AAC 50.330 / / .

2 AAC 50.350 is repealed.
2 AAC 50.350 / / .

2 AAC 50.355 is repealed.
2 AAC 50.355 / / .

405
2 AAC 50 is amended to add a new section to read:

~~2 AAC 50.356. GROUP~~ ^{sub (7)} ~~the "group" is defined as including~~ ^{es}

^{combination of}
(1) every two or more persons who are elected, appointed, or otherwise chosen or who cooperate for the purpose of raising, soliciting, collecting, or disbursing money or anything of value, or directing or controlling the raising, solicitation, or disbursement of money or anything of value for securing or defeating the election to public office of an individual or candidate or securing or defeating a ballot proposition. A group includes a political action committee, ~~political party (or the official subdivisions thereof), draft group, association, club, or two or more persons that receive contributions or make expenditures to support or oppose any person for election or defeat or passage of any ballot proposition.~~ A group is any corporation, partnership, trade association, incorporated or unincorporated association, or labor organization organized to aid or promote the nomination, election, defeat or recall, of any candidate for political office or to aid the passage or defeat of any ballot proposition. Two or more persons who make a contribution in the name of another as provided in 2 AAC 50.357 create a political group.

(2) A corporation, partnership, sole proprietorship, trade association, fraternal, charitable organization, incorporated or unincorporated association, firm, or business trust may report its contributions and expenditures as an individual pursuant to AS 15.13.040(d) and (e) ^{jointly} on APC Form 15-5 and 15-6 if

(A) All contributions and expenditures to influence the outcome of an election are made from the organization's general day to day operating account;

(B) The organization does not conduct a fundraising drive or assessment among those ~~satisfying the conditions of membership or employment~~ for the purpose of influencing an election; ^{its}

(C) The organization does not exercise direction, control, or discretion over ~~the choice of the recipient candidate or group with money or other things of value collected, pooled, solicited, or otherwise paid by others for the purpose of influencing an election. An organization exercises direction and control over a contribution or expenditure, and then must file as a group, when it makes the final selection of the recipient candidate or group.~~ (Eff. / / , Register)

necessary

Handwritten notes on the right margin, including "15-5 & 15-6" and "APC Form 15-5 and 15-6".

- Authority: ~~AS 15.13.010~~
✓ AS 15.13.030(10)
~~AS 15.13.030(2)~~
~~AS 15.13.050(10)~~
✓ AS 15.13.040(b), (c), (d) and (e)
~~AS 15.13.070(1)~~
~~AS 15.13.070(1)~~
✓ AS 15.13.130(7)

2 AAC 50. is amended to add a new section 357 to read:

2 AAC 50.357. CONTRIBUTIONS IN THE NAME OF ANOTHER. (a) No contribution may be made, directly or indirectly, by any person other than in the legal name of the original source of the contribution.

(1) No person, employer, principal, supervisor or contractor shall lend, pay, advance, or reimburse employees, agents, or other persons for contributions to a candidate or group in the employees, agents, or other persons name, or in a name other than the original source of the contribution.

(2) A contribution controlled by or made at the direction of another person, including a parent organization, subsidiary, division, department, branch, or local unit, is a contribution in the name of another.

(A) Two or more organizations are controlled for purposes of 2 AAC 50.357(a)(2) when such organizations

(i) Share the majority of members of their board of directors;

(ii) Share two or more corporate or organizational officers;

(iii) Are owned or controlled by the same shareholders or members;

(iv) Are in a parent subsidiary relationship.

(b) Unless a group registration statement is filed with the Commission, no persons, acting alone or with or through any other person may directly or indirectly subject any person to undue influence, command, coercion, direction or control with the result of inducing a contribution to a clearly identified candidate or political group.

(1) "Undue influence" occurs when a person secures a contribution from another by physical or economic threats, making contributions to candidates a term or condition of employment, or use of a reverse check-off in a payroll deduction plan.

(b) If a minor makes a contribution the source of which is money or a thing of value given to the child by a parent for that purpose, the parent has made a contribution in the name of another. (Eff. / / , Register)

- Authority: ~~AS 15.13.010(b)~~
- ~~AS 15.13.030(2)~~
- AS 15.13.030(10)
- ~~AS 15.13.048~~
- AS 15.13.050
- ~~AS 15.13.070(a)~~
- AS 15.13.070(d)
- ~~AS 15.13.070(h)~~

- ~~AS 15.13.130(2)~~
- ~~AS 15.13.130(3)~~
- ~~AS 15.13.130(4)~~
- ~~AS 15.13.130(5)~~

no undue coercion

if registration can be made with definition

2 AAC 50.360, ^(a) MUNICIPALITIES, is amended to read:

(a) When a municipality seeks to influence the outcome of an election, using budgeted municipal funds, it shall report under AS 15.13.040(d) and (e), ~~on APOC forms 15-3 and 15-4~~

(b) All ~~communications~~ which are paid for by a municipality and which are related to an election are considered to be intended to influence the outcome of an election unless they are only notices of the election or unless they are required by statute, charter, or ordinance.

(c) The municipality shall file with the commission a list of candidates and their mailing addresses within seven days following the deadline for filing for municipal office.

2 AAC 50.360, MUNICIPALITIES, is amended by adding a new subsection to read:

(d) When a municipality seeks to influence the outcome of an election using funds contributed to it for that purpose, it shall register and report as a group, ~~in accordance with 2 AAC 50.342, and AS 15.13.050, .040(b) and (c)~~ (Eff. 5/16/76, Register 58; am / / , Register)

Authority: ~~AS 15.13.010~~
AS 15.13.030(10)
~~AS 15.13.060~~
~~AS 15.13.090~~

2 AAC 50.369, PROPER IDENTIFICATION OF POLITICAL COMMUNICATIONS, is amended by adding a new subsection (e) to read:

(e) "Communications" as used in AS 15.13.090 includes all material related to campaign fund-raisers, campaign letterhead, thank you notes, and press releases but does not include envelopes paid for by the campaign which are used solely to convey the campaign's properly identified communications. (Eff. 4/28/79, Register 70; am 10/18/81, Register 80; am 6/29/84; Register 90; am / / , Register)

Authority: AS 15.13.030(10)
AS 15.13.090

2 AAC 50.370, OBJECTS TOO SMALL TO CONTAIN THE PROPER IDENTIFICATION, is amended to read:

If the size of an object utilized for a campaign advertisement is such that it is impractical to print the identification of the candidate, group, or person paying for the advertisement on the object, the advertisement shall instead be identified in a regular expenditure report to the commission. Objects considered too small for full identification include pencils, pens, buttons, and other objects which are smaller than 3 1/2" x 5" in size. Television, radio, cable or other electronic media advertisements shall be identified, regardless of size. (Eff. 5/16/76, Register 58; am 5/14/80, Register 74; am / / , Register)

Authority: AS 15.13.030(10)
AS 15.13.090

reports present language

2 AAC 50.380. EARLY CAMPAIGNING is amended to read:

2 AAC 50.380. EARLY CAMPAIGNING. (a) An individual wishing to campaign for municipal elective office shall comply with AS 15.13.100 by providing written notification to the commission of his or her candidacy for a particular municipal office only if the filing period has not opened. An individual wishing to campaign for state elective office shall comply with AS 15.13.100 by filing a declaration of candidacy with the lieutenant governor or a letter of intent with the commission.

(b) A letter of intent is valid only for the next election or until withdrawn by the individual, whichever occurs first. A letter of intent must include a statement certifying that the individual will comply with the requirements of AS 15.13 although he or she has not satisfied the filing requirements as a candidate. A letter of intent need not include the specific seat for which the individual may file.

(Eff. 5/16/76, Register 58; am 5/14/80, Register 74; am / / , Register)

Authority: ~~AS 15.13.030(10)~~
~~AS 15.13.100~~

2 AAC 50.385 is repealed.
2 AAC 50.385 / / .

2 AAC 50.390(d)(1) CIVIL PENALTY ASSESSMENTS FOR THE LATE FILING OF A CAMPAIGN DISCLOSURE REPORT is amended to read:

(d) Upon receipt of a delinquent campaign disclosure report, commission staff will

(1) calculate the initial civil penalty as follows:

(A) \$10 a day for each 30 Day Report or 10 Day Report

(B) \$10 a day for each Year-end Report received after January 16;

(C) \$50 a day for each 7 Day Report; and

(D) \$50 a day up to a maximum of \$300 for each 24 Hour Report of contributions received by a candidate or a group;

(Eff. 7/22/78; Register 67; am 5/14/80, Register 74; am / / , Register)

Authority: ~~AS 15.13.010~~
~~AS 15.13.030(10)~~
~~AS 15.13.040(b), (c), (d) & (e)~~
~~AS 15.13.100(1)~~

2 AAC 50.395 is repealed.
2 AAC 50.395 / / .

AS 15.13.125

TSP: use debt

2 AAC 50. is amended to add a new section 401 to read:

2 AAC 50.401. POST-ELECTION FUNDRAISING BY CANDIDATES AND CONTROLLED GROUPS. (a) A candidate or his or her controlled group may make expenditures for the purpose of raising funds to discharge a ~~reported indebtedness~~ from his or her ~~own previous~~ campaign.

Assets candidate

(b) Absent an ~~indebtedness~~ arising from a prior campaign, a person may not spend money for the purpose of seeking public office unless the individual is in compliance with AS 15.13.100, the early campaigning provisions of 2 AAC 50.380, or is in compliance ~~with~~ an advisory opinion under 2 AAC 50.401(c).

(c) A ^{candidate} person who has not extinguished his or her ~~indebtedness~~ ^{issued} from a prior campaign and who has not complied with either AS 15.13.100 or 2 AAC 50.380 by December 31st of the year after the election, shall request an advisory opinion under 2 AAC 50.905 concerning the applicability of AS 15.13.100 to further expenditures to ~~extinguish his or her indebtedness~~. ^{is in debt} Absent such an advisory request, the Commission staff ~~will~~ ^{may, in its discretion,} commence a preliminary investigation to review the applicability of AS 15.13.100 to expenditures by the ~~person~~. Among the criteria which may be considered are:

- (1) whether the indebtedness to vendors or suppliers of campaign goods or services should be considered a contribution under 2 AAC 50.313(a)(7);
- (2) whether personal funds or assets are included in the indebtedness; and
- (3) the nature and extent of efforts which have been made to discharge the indebtedness.

unnecessary

(d) For purposes of 2 AAC 50.401(a)-(c), an indebtedness arising from a previous campaign shall include

- (1) a candidate's personal contributions or loans made from his or her personal funds or assets before the date of the prior election;
- (2) any campaign debts to others remaining unpaid after the candidate or controlled group has reported the same on a 10 Day Post-election Campaign Disclosure Statement;
- (3) any post-election expenditures made for the purpose of discharging an indebtedness arising from a previous campaign; and
- (4) the costs reasonably associated with winding up the affairs of the prior campaign including social events held immediately after the election for the benefit of campaign workers or volunteers, communications of acknowledgement, and legal and accounting fees to comply with the

Do it and include unnecessary

TSP phone: (d) can probably be resolved

2 AAC 50.401
2 AAC 50.450

Campaign ~~Disclosure~~ Law.

(Eff. / / , Register)

Authority: ~~AS 15.13.010(b)~~
~~AS 15.13.030(2)~~
~~AS 15.13.030(8)~~
✓ AS 15.13.030(10)
✓ AS 15.13.040
~~AS 15.13.050~~
✓ AS 15.13.070
~~AS 15.13.100~~
✓ AS 15.13.110
~~AS 15.13.130(1)~~
~~AS 15.13.130(2)~~
~~AS 15.13.130(3)~~
~~AS 15.13.130(4)~~

2 AAC 50.450(d) is amended to read:

(d) If the staff determines that a complaint does not set out facts which, if true, would constitute a violation of the law, it shall promptly inform the complainant, inform the respondent, and close the file. Following a determination under this subsection,

(1) the staff, upon request of the respondent, shall furnish a copy of all of the information in its file on the complaint to the respondent;

(2) the complainant may request that the commission review the staff's determination; the review will be conducted in closed session; following the review, the commission will, by majority vote:

(A) uphold the staff's determination and close the matter; or

(B) determine that the complaint is sufficient on its face, and will be handled under (e), (1), (2), and (4) of this section.

(Eff. 5/16/76, Register 58; am 12/29/77, Register 64; am 6/29/84, Register 90; am / / , Register)

Authority: ✓ AS 15.13.030(8)
✓ AS 15.13.030(10)
✓ AS 15.13.045
✓ AS 15.13.120(d)
✓ AS 24.45.021(b)
✓ AS 24.45.131
✓ AS 39.50.050(b)

OK

2 AAC 50.460(d) ~~PRELIMINARY INVESTIGATION~~, is amended to read:

(d) Upon ~~completion~~ of a preliminary investigation, the staff shall provide a written summary of the investigation to the commission at the next regularly scheduled meeting, or at a special meeting. The summary must include a staff recommendation for dismissal, for continued investigation, that the matter be addressed in a hearing, or that civil penalties be assessed subject to appeal as provided in 2 AAC 50.110(e), 2 AAC 50.135(f), 2 AAC 50.390(e), or 2 AAC 50.507(e). Notice of the meeting and a copy of the summary must be provided to the respondent and complainant in advance of the meeting. The decision of the commission with respect to the findings of the preliminary investigation will be sent by certified mail to the complainant and respondent. (Eff. 5/16/76, Register 58; am 12/29/77, Register 64; am 6/29/84, Register 90; am / / , Register)

Authority: AS 15.13.030(8)
AS 15.13.030(10)
AS 15.13.045(a)
AS 15.13.120(d)
AS 18.65.090
AS 24.45.021(b)
AS 24.45.131
AS 39.50.050(b)

2 AAC 50.470, HEARINGS, is amended to read:

2 AAC 50.470. HEARINGS. (a) If the commission decides that a hearing will be held, a notice of hearing will be issued in place of the accusation or statement of issues required by AS 44.62.360 and AS 44.62.370.

(b) Notice of a hearing ^{will} ~~must~~ be provided to all parties ~~at least 30 days~~ ^{under AS 44.62.470} before a hearing.

(c) 2 AAC 50.470(c) ^{is} repealed.

(d) The commission staff is responsible for presenting the facts, verified by investigation, which it has determined appear to constitute a violation of the law. In the course of the hearing, the staff will be given no special consideration, ~~but~~ will be considered as a party to the hearing.

(e) ~~The only~~ parties to the hearing will be the staff, representing the complainant or itself, and the respondent.

(f) A party has the right to present evidence and be represented by an attorney. Entities may be represented by an official within the entity, an authorized agent, counsel, or a combination of these.

(g) The rules of evidence are ~~the same as~~ in AS 44.62.460. In addition

(l) ~~documentary evidence may be presented in the form of copies if the original is not readily available; upon request, the parties will be given the opportunity to compare the copy to the original.~~

(2) in the discretion of the hearing officer, nonparties may present a sworn statement; if such a statement is presented, all parties will be given an opportunity to challenge, cross-examine, or rebut.

(3) 2 AAC 50.470(g)(3) ³repealed.

(h) 2 AAC 50.470(h) ³repealed.

(i) 2 AAC 50.470(i) ⁵repealed.

(j) Before the hearing, upon request during regular business hours, the respondent will have access to read or copy at cost any information contained in the case file held by the staff, with the exception of internal memos and documents privileged under the attorney-client privilege.

(k) At the discretion of the hearing officer, all or part of the hearing may be conducted by telephone, audio or video teleconferencing, or other electronic means, provided the parties have an opportunity to participate in the hearing while it is taking place.

(l) The hearing will be recorded by tape recording or stenographic notes at the commission's expense. The recording will be maintained with the public file of the proceedings. The commission will not prepare a transcript unless such a requirement is imposed by law. If the hearing is open, and at the commission's discretion, any person may pay for additional recordings or for a transcript from the commission's recording. ~~If a transcript is prepared by the commission, the respondent may have access to it for the purpose of duplication.~~

Handwritten note: "Public Access" with arrows pointing to the text in block (l).

(m) A hearing will be open to the public except when the respondent requests a closed hearing and the hearing officer finds that it should be closed under AS 44.62.310, ~~or when the hearing officer, for any good cause, determines that a closed hearing is appropriate.~~ If the hearing is open but is conducted by telephone, audio or video teleconferencing, or other electronic means, the public notice will designate at least one public access place, ~~and whatever recording is made by the commission will be made available to the public.~~

(n) 2 AAC 50.470(n) ⁶repealed.

(o) 2 AAC 50.470(o) ⁷repealed.

(p) 2 AAC 50.470(p) ⁷repealed.

(q) If the commission decides to forward a case to the attorney general's office for prosecution, the staff shall prepare and send to the attorney general's office a record comprised of

(1) a copy of the commission's hearing decision, including its findings of fact and conclusions of law;

and (2) a verbatim transcript of the proceedings before the commission;

(3) copies of all documentary evidence, memoranda, exhibits, correspondence, and other tangible evidence contained in the public file of the proceeding.

(r) The commission will, in its discretion, reconsider its decision in accordance with AS 44.62.540. A decision will be reconsidered only if

(1) there was a substantial procedural error in the original proceeding;

(2) the commission acted without jurisdiction in the original proceeding;

(3) the original vote was based on fraud, misrepresentation, material mistake of fact or law; or

(4) new evidence has come to light which, if presented at hearing, would have substantially altered a material finding of fact.

(s) Contempt before the commission will be handled under AS 44.62.590.

(t) A commission member is disqualified from participation in a hearing if the member has a substantial financial relationship with the complainant or with the alleged violator. A commission member is disqualified from participation in a hearing if the member ~~facts~~ states on the public records that he or she is unable to consider the complaint in an unbiased manner and reach a fair and impartial decision.

(u) A commission member has a conflict of interest if the member, a person in the member's immediate family, or the member's employer, business, or business associate has a financial relationship with the complainant or the alleged violator or with an immediate family member, business or business associate of the complainant or alleged violator. The commission member shall state publicly the nature of the conflict and a majority of the remaining members present may authorize the member to participate. Other relationships with the principals of the hearing, which may cause an appearance of impropriety or conflict, must be publicly disclosed by a member, and the member's participation is subject to approval by the majority of the remaining members present. In conflict cases, approval to participate will depend upon whether

(1) the financial relationship or interest is relatively insignificant; and

(2) the interest held by the member or the member's family, business or business associate is similar to that possessed by a large class of persons; or

(3) the nonfinancial relationship is such that a reasonable person would believe the member capable of fair and impartial judgment. (Eff. 6/29/84, Register 90, am / / , Register)

Authority: AS 15.13.030(8)
AS 15.13.030(10)
AS 15.13.045
AS 15.13.120(d)
AS 24.45.021(b)
AS 24.45.131
AS 39.50.050(b)

2 AAC 50. is amended by adding a new section 905 to read:

2 AAC 50.905. ADVISORY OPINIONS (a) Any person or group may request an advisory opinion concerning the Campaign Disclosure Law (AS 15.13), the Conflict of Interest Law (AS 39.50), or the Lobbying Act (AS 24.45).

(b) ^{Each} ~~any~~ advisory opinion request shall ^{must describe} ~~set forth~~ a specific transaction or activity that the requesting party plans to undertake, is presently engaged, or intends to undertake in the future. Advisory opinion requests ~~shall include a complete description of all facts relevant to the specific transaction or activity with respect to which the request is made. Requests representing a general description of interpretation or posing a hypothetical situation, or regarding the activities of third parties, do not qualify as advisory opinion requests.~~ ^{will be considered by the Commission staff.}

(c) The Commission staff shall review all requests for advisory opinions submitted under 2 AAC 50.905(a)-(b). ^{and} ~~if~~ the staff determines a request is incomplete or otherwise ^{does} ~~is~~ not qualified under (a)-(b), it shall notify the requesting person or political group and specify the deficiencies in the request. ^{Requests which are incomplete will not be}

(d) Advisory opinion requests are public records. ^{considered in the}

(e) The Commission staff shall issue ^{an advisory opinion} ~~a staff advice letter~~ approving or disapproving of the activity, and ^{may} ~~set forth any staff recommendations it will~~ ^{make other} ~~make~~ to the Commission. ^{in its discretion,}

(f) At its next regularly scheduled meeting, the Commission shall review the ~~staff recommendation,~~ written or oral comments by any person ^{and} ~~any other~~ relevant evidence, and shall approve, disapprove or modify the staff recommendation. ~~If the Commission is unable to approve an advisory opinion by the affirmative vote of 4 members, the staff recommendation shall be disapproved.~~ ^{or the advisory opinion will be deemed disapproved}

(g) An advisory opinion rendered by the Commission may be relied upon to the extent Commission staff shall not commence a preliminary investigation pursuant to 2 AAC 50.460, 2 AAC 50.390(1), or 2 AAC 50.507(1) of:

① and may, in its discretion, consider

Insert so as not to trigger hearing procedures!

(1) ~~any~~ person involved in the specific transaction or activity with respect to which an advisory opinion is rendered approving the activity, or

(2) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

(h) The Commission may reconsider an advisory opinion at any time upon the motion of a Commissioner who voted with the majority that originally approved the opinion, and the Commission adopts the motion to reconsider by the affirmative vote of 4 members. Adoption of a motion to reconsider vacates the advisory opinion to which it relates. ~~and~~ actions taken in good faith reliance by the requesting party ~~until~~ they receive written notice of reconsideration shall not be the subject of a preliminary investigation under 2 AAC 50.460, 2 AAC 50.390(i) or 2 AAC 50.507(i). (Eff. / /, Register)

before

Authority: A.S. 15.13.030(2)
A.S. 15.13.030(10)

2 AAC 50.910 is amended to read:

2 AAC 50.910. AVAILABILITY OF REPORTS FILED WITH THE COMMISSION. Except as provided under 2 AAC 50.351(d), copies of any report required to be filed with the commission may be obtained at cost. (Eff. 5/16/76, Register 58; am / /85, Register)

Authority: AS 15.13.030(10)
AS 15.13.040(f)
AS 15.13.110(c)
AS 39.50.020(b)
AS 39.50.050(c)

Publisher:
pls add new §§ 313, 314, 316, 319, 357, + 401
to the Register
The content of Art. 2.
1/25/95

Carols

2 AAC 50. is amended by adding a new section 313^{and 314} to read:
~~DEFINITION OF~~ In 2 AAC 50.310-2 AAC 50.315 except as otherwise provided in this section

2 AAC 50.313 CONTRIBUTION (a) ~~The term "contribution" includes the following payments, of money, services, or anything of value:~~
~~of money (services), gift, subscription, loan, advance, payments, transfer, of funds~~
or deposit, or anything of value made by any person or group for the purpose of influencing any election for state or municipal office or influencing the passage or defeat of a ballot proposition or question; ~~and includes a personal contribut.~~
as described in 2 AAC 50.316.

(b) IN this section and in 2 AAC 50.314, "loan" includes a guarantee, endorsement, and any other form of security. The following apply to loans:

(1) ~~(A)~~ A loan ~~that~~ exceeds the contribution limitations of AS 15.13.070 shall be unlawful, whether or not it is repaid.

(2) ~~(B)~~ A loan is a contribution at the time it is made.

(3) ~~(C)~~ Except ~~as provided in 2 AAC 50.316~~ ^{for a personal contribution loan as described in} a loan is a contribution by each endorser or guarantor. Each endorser or guarantor is considered shall be deemed to have contributed that portion of the total amount for of the loan which he or she agreed to be liable in a written agreement. Any reduction in the unpaid balance of the loan shall reduce proportionately the amount endorsed or guaranteed by each endorser or guarantor in such written agreement. ~~In the event the agreement does not stipulate~~ ^{Disagree with 12.} the portion of the loan for which each endorser or guarantor is liable, the loan shall be considered a loan by each endorser or guarantor in the same proportion to the unpaid balance that each endorser or guarantor bears to the total number of endorsees or guarantors.

(c) IN this section, ~~(3)~~ the term "money" includes currency of the United States or of any foreign nation, checks, money orders, or any negotiable instruments payable on demand.

(d) IN this section, ~~(4)~~ the term "anything of value" includes facilities, equipment, polling information, supplies, advertising services, membership lists, mailing lists, any item of real or personal property, and personal services of any kind, the cost or consideration for which is paid by a person other than the candidate or group for whom the services are rendered.

(e) ~~(5)~~ The provision of ~~any~~ goods or services without charge, or at a charge which is less than the usual and normal charge for ~~such~~ goods and services in the market, is a contribution. If goods or services are provided at less than the usual or normal charge in the market, the amount of the non-monetary contribution is the difference between the usual and normal charge for the goods or services at the time of the contribution and the amount charged.

(f) ~~(6)~~ The entire amount paid to attend or participate in a fundraiser or other political event, and the entire amount paid as the purchase price for a fundraising item sold by a group or candidate, is a contribution.

(g) ~~(7)~~ The payment by ~~any~~ person of compensation for the personal services of another person to a group or candidate for any purpose, except for legal and accounting services necessary to complete reports, is a contribution. No contribution results in the following circumstances:

(1) ~~(a)~~ ^{when} ~~where~~ an employee who ~~is~~ paid on an hourly or salaried basis and ~~is~~ expected to work a particular number of hours per period, engages in political activity during what would otherwise be a regular work period, ~~provided that the taken or release time is made up or completed~~ ^{is} by the employee within a reasonable period of time;

(2) ~~(b)~~ ^{when} ~~where~~ an employee ~~engages in political activity during normal working hours only if the employee is paid on a commission or piecework basis, or is paid only for work actually performed and the~~ ^{employee's} time is considered ~~his or her own, to use as he or she sees fit~~ ^{engages in political activity during normal working hours;}

(3) ~~(c)~~ ^{if} ~~where~~ time used by the employee during normal working hours to engage in political activity is bona fide, ~~although compensable~~ vacation or other earned leave time.

(h) ~~(8)~~ The extension of credit by ~~any~~ person to a candidate or political group for a length of time beyond normal business practice is a contribution, unless the creditor has made a commercially reasonable attempt to collect the debt, or pursued its remedies in a manner similar in intensity to that employed by the creditor in pursuit of a non-political debtor, including lawsuits if filed in similar circumstances.

(i) ~~(1)~~ A debt owed by a political group or candidate, which is forgiven or settled for less than the amount owed is a contribution. The Commission will, in its discretion, ~~may~~ consider the following factors before directing staff to commence a preliminary investigation:

(1) ~~(A)~~ Whether, at the time the debt was incurred, both the creditor and the candidate or political group expected full repayment within a reasonable period of time;

(2) ~~(B)~~ Whether the campaign has made a good faith effort to repay all outstanding debts;

(3) ~~(C)~~ Whether the creditor has taken steps it normally takes against debtors in the same financial condition as the campaign;

(4) ~~(D)~~ Whether the proposed settlement agreement between the creditor and the campaign is similar to previous settlements made by the creditor and other debtors;

(5) ~~(E)~~ Whether the campaign has treated equally all creditors since it became aware of the difficulty in repaying all debts;

(6) ~~(F)~~ Whether the proposed settlement agreement is similar to others proposed by the campaign.

(j) ~~(1)~~ An expenditure made by ~~any~~ person in cooperation, consultation, or in concert with, or at the request or suggestion of a candidate, ~~his or her~~ ^{committee, campaign,} ~~the candidate~~ ^{her} campaign, ~~his or her~~ ^{committee, campaign,} agents, or campaign consultants is a contribution to the candidate. The financing by ~~any~~ person of the issuance, republication, or distribution of ~~any~~ broadcast or ~~any~~ written, graphic, or other form of campaign material provided by the candidate, ~~his or her~~ ^{the candidate's} campaign committee, campaign agents, or campaign consultants is a contribution to the candidate. This includes ~~any~~ expenditure:

(1) ~~(A)~~ Based on information about the candidate's plans, projects, or needs provided ~~to the expending person~~ by the candidate or ~~his or her~~ ^{the candidate's} campaign agents; ~~with a view to having an expenditure made,~~

(2) ~~(B)~~ Made by or through ~~any~~ person who is, or has been, authorized to raise or expend ~~money~~ ^{money} for the candidate, who is, or has been, an agent of a candidate's campaign, or ~~has received any~~ ^{who} form of compensation or reimbursement from the candidate, members of ~~his~~ ^{of the candidate} campaign committee, campaign agents, or campaign consultants;

~~(3) (4)~~ Made by any person or group based on data from a candidate's former pollster or campaign consultant or any other person who has received, or is receiving, compensation or reimbursement from the campaign;

~~(4) (8)~~ Made by a political group for soliciting contributions to be paid or delivered directly to a candidate or his or her ~~campaign agents~~ ^{the candidate}.

(k) In (j) of this section, ~~(5) For purposes of 2 AAC 50.313(8),~~ "campaign agents" includes all officers, campaign managers, treasurers, deputy treasurers, campaign consultants, and persons who reasonably appear to have authority to make expenditures and solicit contributions for a candidate's campaign.

(l) In 2 AAC 50.310--2 AAC 50.405,

~~(b) The term~~ "contribution" does not include the following payments, services, or other things of value:

(1) ~~any~~ ^a costs incurred in covering or carrying a news story by ~~any~~ ^a broadcasting station, newspaper, or periodical of regular publication, unless the facility is owned by or controlled by ~~any~~ ^a political party, political group, or candidate; ~~In that case, the cost of the news story is a contribution, unless the news story represents a bona fide news account and it is part of a general pattern of campaign-related news accounts which gives reasonably equal coverage to all opposing candidates in the circulation or listening area.~~

(2) ~~Any~~ ^a non-monetary contribution or in-kind donation of a single item with a usual and normal ~~charge~~ ^{cost} of \$50.00 or less.

(3) ~~A~~ ^a payment made by any individual for his or her own travel expenses, if such payments are voluntary ~~and~~ ^{are made} without any understanding that they will be directly or indirectly repaid.

(4) ~~No contribution is~~ ^{a payment} made by a business, corporation, trade association, labor organization, or other organization not organized primarily to influence elections ~~when it makes payments~~ ^{to} communicate directly with its members or employees, or their families, on any subject, ~~provided the~~ ^{if}

the communication is of the same format and nature used by the organization when it has communicated in the past on nonpolitical subjects, does not request members or their families to ~~provide goods and services to a campaign~~ other than ~~to~~ exercise the right to vote, and does not solicit individual contributions to a clearly identified candidate or group chosen by the organization.

(5) ~~any~~ gift, subscription, loan, advance, or deposit of money or anything of value made with respect to a recount of a state or municipal election, ~~is not a contribution.~~

(M) ~~for~~ A contribution made by a married individual ~~shall~~ not be attributed to that individual's spouse, unless otherwise specified in writing by the spouse at the time the contribution is made. (Eff. / / , Register)

Authority: ~~AS 15.13.010(b)~~
AS 15.13.030(2) & (10)
AS 15.13.040

AS 15.13.070
~~AS 15.13.110~~
AS 15.13.130(2) & (4)

2 AAC 50.314. DEFINITION OF "GROUP". [Publisher, Pls INSERT new § 314 from p. 8.]

2 AAC 50.315 CONTRIBUTION LIMITATION EXEMPTION is amended by adopting a new subsection (d) which reads:

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(d) Groups satisfying the criteria of ~~subsection (a)~~ ^{of this section,} and groups granted ~~an~~ exemption under ~~subsection (b)~~ ^{of this section} are subject to the requirement that political parties report contributions and expenditures as provided by AS 15.13. (Eff. 6/29/84; Register 90; am / / , Register)

Authority: AS 15.13.030(10)
AS 15.13.040
AS 15.13.070
~~AS 15.13.130(2) & (4)~~

2 AAC 50. is amended to add a new section 316 to read:

A

2 AAC 50.316. PERSONAL CONTRIBUTIONS BY A CANDIDATE. (a) ^{personal} Candidates ~~for state or municipal office~~ may make unlimited contributions from any ~~assets~~ ^{personal} assets which, under Alaska law, at the time he or she ~~became a candidate~~ ^{became a candidate} elective office, ~~the candidate had legal right of access to or control over~~ ^{and with respect to which the candidate had legal and rightful title} including salary and other earned income from bona fide employment; dividends; ~~and~~ proceeds from the sale of ~~the candidate's stock or other investments~~; bequests to the candidate; income from trusts established before he or she intended to ~~become a candidate~~ ^{become a candidate}; income from trusts established by bequest after candidacy; ~~of which the candidate is a beneficiary~~ and gifts of a personal nature which had been customarily received ~~prior to~~ ^{before} candidacy.

These assets include

(b) A candidate may use a portion of ~~assets jointly owned~~ ^a as a personal contribution, ~~personal funds shall be that portion which~~ ^{is} the candidate's share under the instruments of conveyance or ownership. With respect to spouses, if no specific share is indicated by an instrument of conveyance or ownership, the value of one-half of the property used ~~shall be~~ ^{shall} be considered the personal funds of the candidate. In the case of property jointly owned by a non-spouse, ~~where~~ ^{where} if there is no instrument of conveyance or ownership, the ~~portion~~ ^{portion} of the asset belonging to the candidate ~~shall be~~ ^{shall be} the pro rata share of the purchase price paid by the candidate, or, if no purchase was made, the amount determined by dividing ~~the value~~ ^{the value} by the number of owners.

(c) A candidate's ~~personal~~ ^{personal} donation of goods remaining from a prior campaign is ~~not a contribution~~.

(d) ~~No contribution is made from a loan of money by a regulated banking institution to a candidate if the loan is made in accordance with applicable banking laws and regulations; and made in the ordinary course of business. A loan is made in the ordinary course of business if it bears the usual and customary interest rate for the category of the loan involved; is evidenced by a written instrument; and is subject to a due date or amortization schedule. Loans under this section are reported as a candidate's personal contribution.~~

(e) The absolute sale of all legal and equitable interest of a candidate's real or personal property is not a contribution from the purchasers if the proceeds are received by a candidate in a legitimate arm's length transaction documented in writing, ~~and all or a portion of the proceeds are used in a campaign.~~ Sale proceeds used by a candidate in a campaign ~~are~~ ^{must} be reported as personal contributions. (Eff. / / , Register)

- Authority: ~~AS 15.13.010(b)~~
~~AS 15.13.030(2)~~
AS 15.13.030(10)
AS 15.13.040
AS 15.13.070(a)(1)
~~AS 15.13.110~~
AS 15.13.130(1)
~~AS 15.13.130(2)~~
~~AS 15.13.130(4)~~
~~AS 15.13.130(5)~~

2 AAC 50 is amended to add a new section 319 to read:

2 AAC 50.319. DESIGNATED CAMPAIGN DEPOSITORY; (a) Each candidate and political group intending to raise or spend more than \$5,000.00 in a calendar year shall designate on a Registration Statement or the first Campaign Disclosure Statement filed with the commission, one or more regulated banking institutions as its campaign depository or depositories. ^{The} ~~an~~ account title shall ^{must} ~~be~~ indicate ^{it} ~~that~~ is a campaign account. ^(each)

(b) All monetary contributions to, and expenditures by, a candidate or political group ^{must} ~~shall~~ be deposited to or made from a designated campaign depository.

(c) ^{(by (a) of this section)} Any candidate or political group required to designate a campaign depository ~~account~~ may obtain and use credit cards in making travel-related campaign expenditures for transportation, lodging, meals, and other expenses in connection with traveling for campaign purposes. The credit card account name ~~shall~~ ^{must} indicate it is a campaign account.

(d) Contributions ~~which~~ ^{that} appear to be illegal ^{must} ~~shall~~, within ten days ^{after receipt} be returned to the contributor ~~or~~ deposited into the campaign depository and reported. If ^{deposited}, the treasurer shall make and retain a written record noting the basis for the appearance of illegality. A statement noting that the legality of a contribution is in question ~~shall~~ ^{must} be included in ^{the report} ~~the report~~.
A campaign treasurer shall make his or her best efforts to determine the legality of a contribution.

(e) ~~When~~ ^{If} a contribution cannot be determined to be legal, a refund ~~shall~~ ^{must} be made within a reasonable time, and the treasurer shall note the refund by amending the current report or noting the change on the next required report. (Eff / / , Register Authority:)

- Alternatively, the contribution may be
- | | |
|-----------------------------|----------------------------|
| AS 15.13.030(1) | AS 15.13.060 |
| AS 15.13.030(2) | AS 15.13.070(b) |
| AS 15.13.030(8) | AS 15.13.070(c) |
| AS 15.13.030(10) | AS 15.13.070(h) |
| AS 15.13.050 | |

2 AAC 50.325 is repealed.

2 AAC 50.325 / / .

2 AAC 50.330 is repealed.

2 AAC 50.330 / / .

2 AAC 50.350 is repealed.

2 AAC 50.350 / / .

2 AAC 50.355 is repealed.

2 AAC 50.355 / / .

LOANS. Repealed

Publisher: Please set out the section heading + "Repealed" for all repealed sec as I have for §3

Thx
PBF
12/4/85

Publisher:
Pls move new
§ 314 to p. 5.
The
POT
12/4/85

2 AAC 50 is amended to add a new section to read:

314 DEFINITION OF "GROUP"; REPORTING BY BUSINESSES.

2 AAC 50.358. ~~GROUP~~ (a) The word "group" is defined as including ^{es}
~~(in 2 AAC 50.310 -- 2 AAC 50.405)~~

(1) every combination of two or more persons who are elected, appointed, or otherwise chosen, or who cooperate for the purpose of raising, soliciting, collecting, or disbursing money or anything of value, or directing or controlling the ~~raising, solicitation, or disbursement of money or anything~~ ^{of value} to ~~of value for securing or defeating the election to public office of an individual or candidate or securing or defeating a ballot proposition;~~ ~~A group includes~~ a political action committee, draft group, association, club, corporation, partnership, trade association, incorporated or unincorporated association, or labor organization ^{organized} to aid or promote the nomination, election, defeat, or recall, of any candidate for political office or to aid the passage or defeat of ~~any~~ ballot proposition; ~~(2) Two or more persons who~~ ^{jointly} make a contribution in the name of another as ~~provided in 2 AAC 50.357.~~ ^{described} ~~create a political group.~~

(b) ~~(2)~~ A corporation, partnership, sole proprietorship, trade association, fraternal or charitable organization, incorporated or unincorporated association, firm, or business trust may report its contributions and expenditures as ~~an individual pursuant to AS 15.13.040(d) and (e) on APOC Forms~~ ^{required by} ~~15-5 and 15-6 if~~ as an indivi

(1) ~~(A)~~ All contributions and expenditures to influence the outcome of an election are made from the organization's general day-to-day operating account;

(2) ~~(B)~~ The organization does not conduct a fundraising drive or assessment among its members or employees for the purpose of influencing an election;

(3) ~~(C)~~ The organization does not exercise direction, control, or discretion over the choice of the recipient candidate or group, and the organization does not exercise direction, control, or discretion over the expenditure of money or other things of value collected, pooled, solicited, or otherwise paid by others for the purpose of influencing an election. (Eff. / / , Register)

- Authority: ~~AS 15.13.010~~
~~AS 15.13.030(1) e~~
~~AS 15.13.030(2) e~~
AS 15.13.030(10)
~~AS 15.13.040(b), (c) e~~
~~(d) and (e) e~~
~~AS 15.13.070(d) e~~
~~AS 15.13.070(h) e~~
AS 15.13.130(3)

2 AAC 50. is amended to add a new section 357 to read:

2 AAC 50.357. CONTRIBUTIONS IN THE NAME OF ANOTHER. (a) No contribution may be made, directly or indirectly, by any person other than in the legal name of the original source of the contribution.

(b) ~~112~~ No person, employer, principal, supervisor, or contractor ~~shall~~ ^{may} lend, pay, advance, or reimburse employees, agents, or other persons for contributions to a candidate or group in the employees, agents, or other persons' name, or in a name other than the original source of the contribution.

(c) ~~120~~ A contribution ~~controlled by or~~ made at the direction of another person, including a parent organization, subsidiary, division, department, branch, or local unit, is a contribution in the name of another. ^{corporations or} ~~two or more corporations or organizations are controlled for purposes of this paragraph when such organizations to the same recipient are in the name of another if the~~ ^{corporations or organizations}

(1) ~~121~~ share the majority of members of their board of directors;

(2) ~~122~~ share two or more corporate or organizational officers;

(3) ~~123~~ are owned or controlled by the same shareholders or members;

(4) ~~124~~ are in a parent-subsidary relationship.

(d) ~~125~~ If a minor makes a contribution ~~the source of which is~~ money or any thing of value given to the child by a parent for that purpose, the parent has made a contribution in the name of another. (Eff. / / , Register)

Authority: ~~AS 15.13.010(b)~~
~~AS 15.13.030(2)~~
AS 15.13.030(10)
AS 15.13.040
~~AS 15.13.050~~
AS 15.13.070(a)
~~AS 15.13.070(d)~~
~~AS 15.13.070(h)~~

AS 15.13.130(2)
~~AS 15.13.130(3)~~
~~AS 15.13.130(4)~~
~~AS 15.13.130(5)~~

2 AAC 50.360(a), MUNICIPALITIES, is amended to read:

(a) ~~When~~ ^{IF} a municipality seeks to influence the outcome of an election, using budgeted municipal funds, it shall report under AS 15.13.040(d) and (e) ~~on 1986 forms 15-5 and 15-2~~ ^{as an individual}

2 AAC 50.360, MUNICIPALITIES, is amended by adding a new subsection to read:

(d) ^{IF} When a municipality seeks to influence the outcome of an election using funds contributed to it for that purpose, it shall register and report as a group ^{WPC} ~~in accordance with 2 AAC 50.342, and AS 15.13.050~~ .040(b) and (c) ^{and 15.13} (Eff. 5/16/76, Register 58; am / / , Register)

Authority: AS 15.13.010
AS 15.13.030(10)
~~AS 15.13.060~~ ^{AS 15.13.040}
AS 15.13.090 ^{AS 15.13.050}

2 AAC 50.369, PROPER IDENTIFICATION OF POLITICAL COMMUNICATIONS, is amended by adding a new subsection (e) to read:

^{IN THIS SECTION AND IN AS 15.13.090,}
(e) ~~"Communications"~~ ^{as used in AS 15.13.030} include all material related to campaign fund-raisers, campaign letterhead, thank you notes, and press releases but does not include envelopes paid for by the campaign which are used solely to convey the campaign's properly identified communications. (Eff. 4/28/79, Register 70; am 10/18/81, Register 80; am 6/29/84; Register 90; am / / , Register)

Authority: AS 15.13.030(10)
AS 15.13.090

2 AAC 50.370, OBJECTS TOO SMALL TO CONTAIN THE PROPER IDENTIFICATION, is amended to read:

2 AAC 50.370. ^{sed} If the size of an object ~~used~~ ^{used} for a campaign advertisement is such that it is impractical to print the identification of the candidate, group, or person paying for the advertisement on the object, the advertisement ~~shall~~ ^{must} instead be identified in a regular expenditure report to the commission. Objects considered too small for full identification include pencils, pens, buttons, and other objects ~~which~~ ^{that} are smaller than 3 1/2" x 5" in size. All media advertisements ~~shall~~ ^{must} be identified, regardless of size. (Eff. 5/16/76, Register 58; am 5/14/80, Register 74; am / / , Register)

Authority: AS 15.13.030(10)
AS 15.13.090

2 AAC 50.380 EARLY CAMPAIGNING is amended to read:

2 AAC 50.380. EARLY CAMPAIGNING. (a) An individual wishing to campaign for municipal elective office shall ~~comply with AS 15.13.100~~ ^{AS 15.13.100 by} providing ²¹⁹ written notification to the commission of his or her candidacy ~~for a particular municipal office~~ only if the filing period has not ^{yet} opened. An individual wishing to campaign for state elective office shall ~~comply with AS 15.13.100~~ ^{comply with} a declaration of candidacy with the lieutenant governor or a letter of intent with the commission.

(b) A letter of intent ^{filed under (a) of this section} is valid only for the next election or until it is withdrawn by the individual, whichever occurs first. A letter of intent must include a statement certifying that the individual will comply with the requirements of AS 15.13 although he or she has not satisfied the filing requirements as a candidate. A letter of intent need not include the specific seat for which the individual may file. (Eff. 5/16/76, Register 58; am 5/14/80, Register 74; am / / , Register)

Authority: AS 15.13.030(10)
AS 15.13.100

2 AAC 50.385 is Repealed:

2 AAC 50.385. / / 2

~~REPORTING BY ORGANIZATIONS AND BUSINESS OR TRADE ASSOCIATIONS.~~

2 AAC 50.390(d)(1) ~~CIVIL PENALTY ASSESSMENTS FOR THE LATE FILING OF A CAMPAIGN DISCLOSURE REPORT~~ is amended to read:

(d) Upon receipt of a delinquent campaign disclosure report, commission staff will

(1) calculate the initial civil penalty, ^(for each day of delinquency) as follows:

- (A) \$10 a day for each 30-Day Report or 10-Day Report
- (B) \$10 a day for each Year-end Report received after January 16;
- (C) \$50 a day for each 7-Day Report; and

(D) \$50 a day up to a maximum of \$300 for each 24-hour Report ^{of contributions received by a candidate or a group;} (Eff. 7/22/78; Register 67; am 5/14/80, Register 74; am 5/24/81, Register 78; am 6/29/84, Register 90, am / / , Register)

Authority: AS 15.13.010

AS 15.13.030(10)

~~AS 15.13.040(b), (c), (d) & (e)~~

~~AS 15.13.130(2)~~

AS 15.13.125

2 AAC 50.395 is repealed.

2 AAC 50.395. / / 2

~~REPORTING BY A BUSINESS ENTITY OR LABOR ORGANIZATION, Repealed~~

2 AAC 50. is amended to add a new section 401 to read:

2 AAC 50.401. POST-ELECTION FUNDRAISING BY CANDIDATES AND CONTROLLED GROUPS. (a) A candidate or ~~candidate~~ ^{a candidate} controlled group may make ~~expenditures~~ ^{expenditures} for the purpose of raising ~~funds~~ ^{funds} to discharge a ~~reported indebtedness~~ ^{reported indebtedness} from a prior campaign, ~~in accordance with (c) of this section.~~ ^{in accordance with (c) of this section.}

(b) Absent a debt arising from a prior campaign, a candidate may not spend money for the purpose of seeking public office unless the individual ~~is~~ ^{has} is in compliance with AS 15.13.100, the early campaigning provisions of 2 AAC 50.380, or an advisory opinion ~~issued under 2 AAC 50.401(c) of this section and 2 AAC 50.905.~~ ^{issued under 2 AAC 50.401(c) of this section and 2 AAC 50.905.}

(c) A candidate who ~~has not extinguished his or her indebtedness~~ ^{is in debt} from a prior campaign and who has not complied with either AS 15.13.100 or 2 AAC 50.380 by December 31st of the year after the election, shall request an advisory opinion under 2 AAC 50.905 concerning the applicability of AS 15.13.100 to further expenditures to pay off the debt. Absent an advisory ~~request,~~ ^{request,} the Commission staff may, ~~in its discretion,~~ ^{in its discretion,} commence a preliminary investigation to review the applicability of AS 15.13.100 to expenditures by the candidate.

(d) ~~For purposes of 2 AAC 50.401(a) - (c), an indebtedness arising from a prior campaign shall include~~ ^{A debt}

(1) a candidate's personal contributions ~~or loans made from his or her personal funds or assets~~ ^{or loans made from his or her personal funds or assets} before the date of the prior election;

(2) ~~any~~ ^{any} campaign debts to others ~~remaining unpaid after the candidate or group has reported the same on a 10-Day Post-election Campaign Disclosure Statement;~~ ^{that were}

(3) ~~any~~ ^{any} post-election expenditures made for the purpose of discharging ~~an indebtedness~~ ^{an indebtedness} arising from a ~~previous~~ ^{previous} campaign; and

(4) the costs reasonably associated with winding up the affairs of the prior campaign, including social events held immediately after the election for the benefit of campaign workers or volunteers, communications of acknowledgement, and legal and accounting fees ~~to comply with the AS 15.13 and~~ ^{reasonably incurred}

2 AAC 50.310 -- 2 AAC 50.405.

Register

1987

2 AAC 50.401
2 AAC 50.450

~~Campaign Disclosure Law~~

(Eff. / / , Register)

Authority: ~~AS 15.13.010(b)~~ ~~AS 15.13.030(2)~~
~~AS 15.13.030(9)~~ ~~AS 15.13.030(10)~~
AS 15.13.040 → ~~AS 15.13.050~~
AS 15.13.070 → AS 15.13.100
AS 15.13.110 → AS 15.13.130(1)
~~AS 15.13.130(2)~~ ~~AS 15.13.130(3)~~
~~AS 15.13.130(4)~~

2 AAC 50.405(4) is repealed.

~~2 AAC 50.405(4)~~ / /
 ~~repealed~~

(Eff 7/22/78, Register 67; am 6/29/84, Register 90; am / / , Register)

Authority: AS 15.13.030(10)
AS 15.13.130

2 AAC 50.450(d) is amended to read:

(d) If the staff determines that a complaint does not set out facts which, if true, would constitute a violation of the law, it shall promptly inform the complainant, inform the respondent, and close the file. Following a determination under this subsection,

(1) the staff, upon request of the respondent, shall furnish a copy of all of the information in its file on the complaint to the respondent;

(2) the complainant may request that the commission review the staff's determination; the review will be conducted in closed session; following the review, the commission will, by majority vote

(A) uphold the staff's determination and close the matter; or

(B) determine that the complaint is sufficient on its face, and it will be handled under (e) ~~(1), (2), and (3)~~ of this section.

(Eff. 5/16/76, Register 58; am 12/29/77, Register 64; am 6/29/84, Register 90; am / / , Register)

Authority: AS 15.13.030(8)
AS 15.13.030(10)
AS 15.13.045
AS 15.13.120(d)
AS 24.45.021(b)
AS 24.45.131
AS 39.50.050(b)

~~11/25/85 399-069 95~~

2 AAC 50.460(d), PRELIMINARY INVESTIGATION, is amended to read:

(d) Upon completion of a preliminary investigation, the staff shall provide a written summary of the investigation to the commission at the next regularly scheduled meeting, or at a special meeting. The summary must include a staff recommendation for dismissal, for continued investigation, that the matter be addressed in a hearing, or that civil penalties be assessed subject to appeal as provided in 2 AAC 50.110(e), 2 AAC 50.135(f), 2 AAC 50.390(e), or 2 AAC 50.507(e). Notice of the meeting and a copy of the summary must be provided to the respondent and complainant in advance of the meeting. The decision of the commission with respect to the findings of the preliminary investigation will be sent by certified mail to the complainant and respondent. (Eff. 5/16/76, Register 58; am 12/29/77, Register 64; am 6/29/84, Register 90; am / / , Register)

Authority: AS 15.13.030(8)
AS 15.13.030(10)
AS 15.13.045(a)
AS 15.13.120(d)
AS 18.65.090
AS 24.45.021(b)
AS 24.45.131
AS 39.50.050(b)

Publisher: all of 5 470 set out unchanged amendments to which approved. are disapproved. TTX PBF 12/5/85

2 AAC 50.470, HEARINGS, is amended to read:

~~2 AAC 50.470. HEARINGS. (a) If the commission decides that a hearing will be held, a notice of hearing will be issued in place of the accusation or statement of issues required by AS 44.62.260 and AS 44.62.370.~~ *Disapp PBF 12/5/85*

~~(b) Notice of a hearing will be provided to all parties under AS 44.62.~~ *←*

~~(c) 2 AAC 50.470(c) is Repealed.~~ *1 / . ← Approved*

~~(d) The commission staff is responsible for presenting the facts, verified by investigation, which it has determined appear to constitute a violation of the law. In the course of the hearing, the staff will be given no special consideration, but will be considered as a party to the hearing.~~ *←*

~~(e) The only parties to the hearing will be the staff, representing the complainant or itself, and the respondent.~~ *Disapp PBF 12/5/85 ←*

~~(f) A party has the right to present evidence and be represented by an attorney. Entities may be represented by an official within the entity, an authorized agent, counsel, or a combination of these.~~ *←*

(g) The rules of evidence are in AS 44.62.460. In addition *← Approved*

~~(1) documentary evidence may be presented in the form of copies if the original is not readily available.~~

Disapp
PBF
12/5/85

(2) in the discretion of the hearing officer, nonparties may present a sworn statement; if such a statement is presented, all parties will be given an opportunity to challenge, cross-examine, or rebut.

← approved

~~(3) 2 AAC 50.470(g)(3) is repealed.~~

~~(h) 2 AAC 50.470(h) is repealed.~~

Repealed / /

← approved

~~(i) 2 AAC 50.470(i) is repealed.~~

Disapp
PBF
12/5/85

~~(j) Before the hearing, upon request during regular business hours, the respondent will have access to read or copy at cost any information contained in the case file held by the staff, with the exception of internal memos and documents privileged under the attorney-client privilege.~~

(k) At the discretion of the hearing officer, all or part of the hearing may be conducted by telephone, audio or video teleconferencing, or other electronic means, provided the parties have an opportunity to participate in the hearing while it is taking place.

~~(l) The hearing will be recorded by tape recording or stenographic notes at the commission's expense. The recording will be maintained with the public file of the proceedings. The commission will not prepare a transcript unless such a requirement is imposed by law. If the hearing is open, and at the commission's discretion, any person may pay for additional recordings or for a transcript from the commission's recording.~~

Disapp
PBF
12/5/85

(m) A hearing will be open to the public except when the respondent requests a closed hearing and the hearing officer finds that it should be closed under AS 44.62.310. If the hearing is open but is conducted by telephone, audio or video teleconferencing, or other electronic means, the public notice will designate at least one public access place.

~~(n) 2 AAC 50.470(n) is Repealed. / / .~~

~~(o) 2 AAC 50.470(o) is Repealed. / / .~~

~~(p) 2 AAC 50.470(p) is Repealed. / / .~~

↑
← Approved
←

~~(q) If the commission decides to forward a case to the attorney general's office for prosecution, the staff shall prepare and send to the attorney general's office a record comprised of~~

~~(1) a copy of the commission's hearing decision, including its findings of fact and conclusions of law;~~

Disapp
PBF
12/5/85

All changes on this page are Done Done 12/15/85

~~and (2) a verbatim transcript of the proceedings before the commission~~

~~(3) copies of all documentary evidence, memoranda, exhibits, correspondence, and other tangible evidence contained in the public file of the proceeding~~

~~(r) The commission will, in its discretion, reconsider its decision in accordance with AS 44.62.540. A decision will be reconsidered only if~~

~~(1) there was a substantial procedural error in the original proceeding;~~

~~(2) the commission acted without jurisdiction in the original proceeding;~~

~~(3) the original vote was based on fraud, misrepresentation, material mistake of fact or law; or~~

~~(4) new evidence has come to light which, if presented at hearing, would have substantially altered a material finding of fact.~~

~~(s) Contempt before the commission will be handled under AS 44.62.590.~~

~~(t) A commission member is disqualified from participation in a hearing if the member has a substantial financial relationship with the complainant or with the alleged violator. A commission member is disqualified from participation in a hearing if the member states on the public record that he or she is unable to consider the complaint in an unbiased manner and reach a fair and impartial decision.~~

~~(u) A commission member has a conflict of interest if the member, a person in the member's immediate family, or the member's employer, business, or business associate has a financial relationship with the complainant or the alleged violator or with an immediate family member, business or business associate of the complainant or alleged violator. The commission member shall state publicly the nature of the conflict and a majority of the remaining members present may authorize the member to participate. Other relationships with the principals of the hearing, which may cause an appearance of impropriety or conflict, must be publicly disclosed by a member, and the member's participation is subject to approval by the majority of the remaining members present. In conflict cases, approval to participate will depend upon whether~~

~~(1) the financial relationship or interest is relatively insignificant; and~~

~~(2) the interest held by the member or the member's family, business or business associate is similar to that possessed by a large class of persons;~~

(3) ~~the nonfinancial relationship is such that a reasonable person would believe the member capable of fair and impartial judgments~~ (Eff. 6/29/84, Register 90, am / / , Register)

Dist. 12/18/85

- Authority: AS 15.13.030(8)
- AS 15.13.030(10)
- AS 15.13.045
- AS 15.13.120(d)
- AS 24.45.021(b)
- AS 24.45.131
- AS 39.50.050(b)

Publisher: is and new 1985 to the 1st Art. 5, PB 12/18/85

2 AAC 50. is amended by adding a new section 905 to read:

2 AAC 50.905. ADVISORY OPINIONS (a) Any person or group may request an advisory opinion concerning ~~the Campaign Disclosure Law (AS 15.13), the Conflicts of Interest Law (AS 39.50), or the Lobbying Act (AS 24.45)~~ ^{person or group} ~~or this chapter.~~ ^{See}

(b) Each advisory opinion request must describe ~~set forth~~ a specific transaction or activity that the requesting ~~person or group~~ ^{person or group} ~~plans to undertake~~ is presently engaged in, or intends to undertake in the future. Advisory opinion requests must include a complete description of all relevant facts. Requests posing a hypothetical situation, or regarding the activities of third parties, will not be considered by the Commission staff.

(c) The Commission staff shall review all requests for advisory opinions submitted under ~~2 AAC 50.905(a) & (b)~~ ^{2 AAC 50.905(a) & (b)}. If the staff determines a request is incomplete or does not qualify ~~under (a) & (b)~~ ^{under (a) & (b)}, it shall notify the requesting person or ~~political~~ group and specify the deficiencies in the request.

(d) Advisory opinion requests and advisory opinions are public records.

(e) The Commission staff shall issue ~~an~~ ^{a proposed} advisory opinion approving or disapproving of the activity, and may make other recommendations ~~it will make~~ to the Commission.

(f) ~~The Commission will review the proposed advisory opinion and will, at its next regularly scheduled meeting, the Commission may, in its discretion, review the staff recommendations written or oral comments by any person, or any other relevant evidence. The Commission will, in its discretion, approve, disapprove, or modify the staff recommendations. The Commission must will approve an advisory opinion by the affirmative vote of 4 members, or the advisory opinion will be deemed disapproved.~~ ^{The Commission will review the proposed advisory opinion and will, in its discretion, approve, disapprove, or modify the staff recommendations. The Commission will approve an advisory opinion by the affirmative vote of 4 members, or the advisory opinion will be deemed disapproved.} ^(at least 4) ^{else}

(g) An advisory opinion rendered by the Commission may be relied upon to the extent Commission staff ~~shall~~ ^{may} not commence a preliminary investigation ~~under~~ ^{under} ~~2 AAC 50.460, 2 AAC 50.390(i), or 2 AAC 50.507(i) of~~

(1) any person involved in the specific transaction or activity with respect to which an advisory opinion ~~is rendered~~ approving the activity, ~~or~~ was rendered.

(2) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which ~~such~~ advisory opinion ~~is~~ rendered.

(h) The ~~Commission~~ ^{will, in its discretion,} ~~may~~ reconsider an advisory opinion at any time upon the motion of a Commissioner who voted with the majority that originally approved the opinion, and the Commission adopts the motion to reconsider by the affirmative vote of ~~its~~ members. Adoption of a motion to reconsider vacates the advisory opinion to which it relates. Actions taken in good faith reliance by the requesting party before they receive written notice of reconsideration ~~shall~~ not be the subject of a preliminary investigation under 2 AAC 50.460, 2 AAC 50.390(i), or 2 AAC 50.507(i). (Eff. / /, Register)

Authority: A.S. 15.13.030(2) ~~A.S. 15.13.030(10)~~

2 AAC 50.910 is amended to read:

2 AAC 50.910. AVAILABILITY OF REPORTS FILED WITH THE COMMISSION. Except as provided under 2 AAC 50.351(d), copies of any report required to be filed with the commission may be obtained at cost. (Eff. 5/16/76, Register 58; am / /86, Register)

Authority: AS 15.13.030(10)
AS 15.13.040(f)
AS 15.13.110(c)
AS 39.50.020(b)
AS 39.50.050(c)

Alaska State Legislature

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IN SESSION:
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Senator Mitch Aboud
CHAIRMAN

Senate Committee on State Affairs

Subject: APOC Reality Check (a sampling of criminal penalties)

CLASS C FELONIES

Criminally negligent homicide
Sexual abuse of a minor in the 3rd degree
Incest
Endangering the welfare of a minor
Escape in the 3rd degree
Promoting contraband in the 3rd degree
Terrorist threatening
Riot
Distribution of child pornography
Promoting prostitution in the 3rd degree
Jury tampering
Tampering with a witness in the 3rd degree
Misconduct involving a controlled substance in the 4th degree
Assault in the 3rd degree
Coercion
Theft in the 2nd degree (more than \$500 but less than \$25,000)
Custodial interference in the 1st degree (causing the victim to be removed from the State)
Issuing a bad check (more than \$500 but less than \$25,000)
Obtaining a credit card by fraudulent means
Burglary in the 2nd degree
Commercial bribe receiving

CLASS A MISDEMEANORS

Sexual abuse of a minor in the 4th degree
Assault in the 4th degree
Theft in the 3rd degree
Criminal nonsupport
Unlawful marrying
Tampering with a witness in the 2nd degree
Driving while intoxicated
Resisting or interfering with arrest
Misuse of confidential information
Interference with constitutional rights
Misconduct involving a corpse

CLASS B MISDEMEANORS

Indecent exposure
Prostitution

Theda 276-4176

During this morning's meeting, the Committee asked for a detailed analysis of the specific areas of SB 356 that the APOC does not support. *Sections*

Sen. Abood also wants to obtain the copy of the communication to or from the Commission members showing that they do not support these provisions.

Please send the information by telecopy
AS SOON AS POSSIBLE

called
1/31/84
1:25 pm

Bradley
2/20/86

Original sponsor: State Affairs
Committee

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE
 2 CS FOR SENATE BILL NO. 356 (State Affairs)
 3 IN THE LEGISLATURE OF THE STATE OF ALASKA
 4 FOURTEENTH LEGISLATURE - SECOND SESSION
 5 A BILL

6 For an Act entitled: "An Act relating to election campaign financing and
 7 the Alaska Public Offices Commission; and providing
 8 for an effective date."

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

10 * Section 1. AS 15 is amended by adding a new chapter to read:

11 CHAPTER 14. ELECTION CAMPAIGN FINANCING.

12 ARTICLE 1. ALASKA PUBLIC OFFICES COMMISSION.

13 Sec. 15.14.010. APPLICABILITY. (a) This chapter applies in
 14 each election for governor, lieutenant governor, a member of the state
 15 legislature, a delegate to a constitutional convention, and a judge
 16 seeking electoral retention.

17 (b) This chapter applies to each election for mayor, assembly,
 18 or school board in a municipality with a population of more than 1,000
 19 according to the latest United States census figures or estimates of
 20 population certified by the Department of Community and Regional
 21 Affairs under AS 29.60.020. A municipality may exempt its elections
 22 from the requirements of this chapter if a majority of the voters
 23 voting on the question at a regular election as defined by AS 29.71.-
 24 800 or a special municipality-wide election called for that purpose
 25 vote to exempt its elections from the requirements of this chapter.
 26 The question of exemption from the requirements of this chapter may be
 27 submitted to the voters by initiative or by the city council or
 28 borough assembly by ordinance.

29 (c) This chapter does not prohibit a municipality from

1 additional regulation of campaign contributions and expenditures by
2 ordinance.

3 (d) Except as otherwise provided, this chapter applies to a
4 contribution, an expenditure or a communication made by a candidate, a
5 political action committee, a municipality, or a person for the pur-
6 pose of influencing the outcome of a ballot proposition or question as
7 well as that made to influence the nomination or election of a candi-
8 date.

9 (e) This chapter does not apply to contributions or expenditures
10 made for the sole purpose of acquiring signatures on a state or munic-
11 ipal initiative or referendum petition.

12 Sec. 15.14.020. ALASKA PUBLIC OFFICES COMMISSION. (a) The
13 Alaska Public Offices Commission is established in the Department of
14 Administration.

15 (b) The commission consists of five members.

16 (c) The governor shall appoint two members from each of the two
17 political parties whose candidates for governor received the highest
18 and second highest number of votes in the most recent preceding gener-
19 al election at which a governor was elected. The governor shall
20 appoint each member from a party from a list of four names submitted
21 to the governor by the central committee or other governing body of
22 the party.

23 (d) The four members who were appointed by the governor from
24 nominations submitted by political parties shall, by a majority vote,
25 appoint the fifth member.

26 (e) The governor shall fill a vacancy or appoint a successor to
27 a member appointed under (c) of this section within 30 days after
28 receiving the nominations from the central committee or other govern-
29 ing body of the party. An appointment may be made in anticipation of

1 an impending vacancy, and the appointment takes effect on the actual
2 vacancy.

3 (f) When the term of the member appointed under (d) of this
4 section expires or the position becomes vacant, a majority of the four
5 members appointed under (c) of this section shall appoint a successor
6 within 30 days after the position becomes vacant. An appointment may
7 be made in anticipation of an impending vacancy, and the appointment
8 takes effect on the actual vacancy.

9 (g) The term of office for each member of the commission is five
10 years and until a successor is appointed and qualifies. If a vacancy
11 occurs before the expiration of a member's term, the member appointed
12 to fill the vacancy serves for the remainder of the unexpired term. A
13 commission member may not serve more than one term, but a person
14 appointed to fill an unexpired term may be appointed to a successive
15 full five-year term.

16 (h) A member of the commission, during tenure, may not

17 (1) hold or campaign for elective office;

18 (2) be an officer of a political party, political commit-
19 tee, or political action committee;

20 (3) publicly support or oppose or make a contribution in
21 support of or in opposition to a candidate or proposition or question
22 that appears on a state, municipal or other ballot in the state;

23 (4) participate in an election campaign or participate in
24 or contribute to a political party; or

25 (5) lobby, employ, or assist a lobbyist.

26 (i) Members of the commission are entitled to receive compen-
27 sation of \$100 a day while attending commission meetings and are
28 entitled to travel expenses and per diem authorized by law for state
29 employees.

1 (j) The members of the commission shall elect a chairman. A
2 majority of the commission constitutes a quorum. The affirmative vote
3 of at least three members is required to take official action. A
4 vacancy does not impair the power of the remaining members to exercise
5 the powers of the commission.

6 (k) The commission may employ an executive director and other
7 employees it considers necessary. The executive director and an
8 employee of the commission may not, during tenure,

9 (1) serve as a member of the commission;

10 (2) engage in an activity described in (h) of this section.

11 (l) The commission shall establish a central office and shall
12 establish or designate a commission office in each election district
13 of the state for the filing and public inspection of the reports,
14 registrations, or statements required to be filed with the commission.
15 Only one commission office may be established or designated in a
16 municipality that contains more than one election district. A dis-
17 trict office designated under this subsection may be a municipal or
18 other public office.

19 (m) The forms and material required for compliance with this
20 chapter shall be made available in each commission office to candi-
21 dates, persons, and political action committees required to file
22 reports under this chapter.

23 (n) The commission shall promptly forward a copy of each report
24 filed by a statewide candidate to each district office and it shall
25 promptly forward a copy of each report filed by a legislative candi-
26 date to the district office in the election district where the candi-
27 date is seeking office.

28 (o) The commission shall ensure that copies of each report filed
29 by a candidate for municipal office are made available for public

1 inspection in the municipality in which the candidate is seeking
2 office.

3 Sec. 15.14.030. DUTIES OF THE COMMISSION. The commission shall

4 (1) develop and provide forms for the reports, registra-
5 tions, and statements required under this chapter, AS 24.45, and
6 AS 39.50;

7 (2) prepare and publish a manual setting out uniform meth-
8 ods of bookkeeping and reporting for use by persons required to make
9 reports, registrations, and statements under this chapter and other-
10 wise assist candidates, political action committees, and persons in
11 complying with this chapter;

12 (3) receive and hold open for public inspection reports,
13 registrations, and statements required to be filed under this chapter
14 and, upon request, furnish copies to an interested person at cost;

15 (4) compile and maintain a current list of each report,
16 registration, and statement filed with the commission;

17 (5) prepare a summary of each report, registration, or
18 statement filed under this chapter and make a copy of the summary
19 available to an interested person at cost;

20 (6) notify, by registered or certified mail, each person
21 whom the commission or its staff has probable cause to believe is
22 delinquent in filing a report, registration, or statement required
23 under this chapter;

24 (7) compile within 60 days after each election a list of
25 the names of all persons, candidates, and political action committees
26 who have failed to timely file a report, registration, or statement
27 required under this chapter and make the list available to the public;

28 (8) examine, investigate, and compare reports, registra-
29 tions, statements, and actions required by this chapter, AS 24.45, and

1 AS 39.50;

2 (9) prepare and publish an annual report to the legislature
3 concerning the activities of the commission, the effectiveness of this
4 chapter, and recommendations and proposals for change;

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

8 ARTICLE 2. REGISTRATION AND REPORTS.

9 Sec. 15.14.040. REGISTRATION BY CANDIDATES. (a) An individual
10 shall register with the commission on a form prescribed by the commis-
11 sion within 10 days after the individual either

12 (1) accepts contributions of \$1,000 or more in the aggre-
13 gate from persons or from political action committees for the purpose
14 of seeking elective office; or

15 (2) files for an elective office.

16 (b) The registration under (a) of this section must designate
17 the office and the year of the election for which the campaign will be
18 conducted, and designate whether the election is for a state or a
19 municipal office.

20 (c) An individual required to register under this section shall
21 include with the registration information required under AS 15.14.160.

22 Sec. 15.14.050. REGISTRATION BY POLITICAL ACTION COMMITTEES.

23 (a) A political action committee shall register with the commission
24 on a form prescribed by the commission within 10 days after the polit-
25 ical action committee either

26 (1) accepts contributions of \$1,000 in the aggregate; or

27 (2) makes

28 (A) a contribution to an individual who has registered
29 with the commission under AS 15.14.040; or

1 (B) an expenditure in support of or in opposition to
2 the election of an individual to an office covered by this chap-
3 ter, or on behalf of or in opposition to a ballot proposition or
4 question.

5 (b) A political action committee formed solely for the purpose
6 of sponsoring an initiative, a referendum or a recall shall register
7 with the commission within 30 days after it files a petition with the
8 lieutenant governor or with a municipal clerk.

9 (c) The registration of a political action committee is valid
10 from the date of registration until the following January 31.

11 (d) A political action committee may not use or file with the
12 commission a name that is the same as or materially similar to the
13 name of a political action committee whose registration is then on
14 file with the commission.

15 (e) If a political action committee intends to support or oppose
16 only one candidate or to contribute to or expend more than 50 percent
17 of its funds on behalf of or in opposition to one candidate, the name
18 of the candidate must be part of the name of the political action
19 committee. On receipt of the registration, the commission shall
20 promptly notify the candidate of the political action committee's
21 organization and its intent.

22 (f) A political action committee that makes expenditures or re-
23 ceives contributions with the authorization or consent, express or
24 implied, or under the control, direct or indirect, of a candidate is
25 controlled by the candidate. A contribution to a political action
26 committee controlled by a candidate is a contribution to the candi-
27 date.

28 (g) A political action committee required to register under this
29 section shall include with the registration the information required

1 under AS 15.14.160 and shall designate the year of the election for
2 which the campaign will be conducted or shall indicate that it antici-
3 pates continuing existence.

4 Sec. 15.14.060. REPORTS BY CANDIDATES OF CONTRIBUTIONS, LOANS,
5 AND EXPENDITURES. (a) A candidate shall make full reports upon a
6 form prescribed by the commission of the contributions and loans
7 received and the expenditures made by the candidate for the designated
8 election campaign, including

9 (1) for each individual, person, or political action com-
10 mittee from which contributions in the aggregate amount of \$250 or
11 more were received:

12 (A) the full name, complete address, principal occupa-
13 tion, and employer of each individual;

14 (B) the full name, complete address, and principal
15 business activity of each person other than an individual;

16 (C) the full name, complete address, and principal
17 area of interest of each political action committee; and

18 (D) the date and amount of each contribution;

19 (2) for each person or political action committee that lent
20 any amount to the candidate or that guaranteed or otherwise agreed to
21 assume a financial obligation in any amount for or on behalf of a
22 candidate,

23 (A) the full name, complete address, principal occupa-
24 tion, and employer of each individual;

25 (B) the full name, complete address, and principal
26 business activity of each person other than an individual;

27 (C) the full name, complete address, and principal
28 area of interest of each political action committee;

29 (D) the purpose of the loan;

1 (E) the date and total value of the loan or financial
2 obligation;

3 (F) the interest rate of the loan or financial obliga-
4 tion;

5 (G) the date the loan or financial obligation is due;
6 and

7 (H) the security, if any, for the loan or financial
8 obligation;

9 (3) the total number and amount of all contributions re-
10 ceived of less than \$250;

11 (4) a total of all contributions received;

12 (5) the total amount of all funds that the candidate con-
13 tributed or lent to the campaign of the candidate; and

14 (6) the date, amount, and purpose of each expenditure.

15 (b) A report containing the information required under (a) of
16 this section must list the contributions and loans received and the
17 expenditures made during the period ending three days before the due
18 date of the report and beginning on the last day covered by the most
19 recent previous report. The report shall be filed in the central
20 office or a district office of the commission at the following times:

21 (1) 30 days before the election unless the deadline for
22 filing a nominating petition or declaration of candidacy is less than
23 34 days before the election;

24 (2) seven days before the election.

25 (c) A candidate shall file a special contribution or loan report
26 with the commission for each contribution or loan of \$500 or more that
27 is received within the last 10 days before the election. The report
28 must include the full name, complete address, principal occupation and
29 employer of the contributor or lender and the date and amount of the

1 contribution or loan. The report shall be filed within 24 hours after
2 the contribution or loan is received.

3 (d) A candidate shall file an annual report on or before Janu-
4 ary 31 of each year. The annual report must include all of the infor-
5 mation required under (a) of this section for contributions and loans
6 received and expenditures made between January 1 and December 31 of
7 the immediately preceding year, except that an annual report filed by
8 January 31 following the year in which an election designated under
9 AS 15.14.040(b) is held

10 (1) need include only the contributions, loans, and expen-
11 ditures that were not reported to the commission in the reports
12 required under (b) and (c) of this section;

13 (2) must include contributions and loans received and
14 expenditures made through the date that a campaign account is required
15 to be closed under AS 15.14.180; and

16 (3) must include the amount and the disposition of surplus
17 funds.

18 (e) The report required under (d) of this section covering
19 contributions and loans received and expenditures made during the year
20 in which an election designated under AS 15.14.040(b) is held is the
21 final report for contributions, loans, and expenditures of a candi-
22 date.

23 Sec. 15.14.070. REPORTS BY POLITICAL ACTION COMMITTEES OF CON-
24 TRIBUTIONS, LOANS, AND EXPENDITURES. (a) A political action commit-
25 tee shall make a report on a form prescribed by the commission of
26 contributions and loans received by the political action committee,
27 including

28 (1) for each individual, person, or political action com-
29 mittee from which contributions in the aggregate amount of \$250 or

1 more were received:

2 (A) the full name, complete address, principal occupa-
3 tion, and employer of each individual;

4 (B) the full name, complete address, and principal
5 business activity of each person other than an individual;

6 (C) the full name, complete address, and principal
7 area of interest of each political action committee; and

8 (D) the date and amount of each contribution;

9 (2) for each person or other political action committee
10 that lent any amount to the reporting political action committee or
11 that guaranteed or otherwise agreed to assume a financial obligation
12 in any amount for or on behalf of the reporting political action
13 committee,

14 (A) the full name, complete address, principal occupa-
15 tion, and employer of each individual;

16 (B) the full name, complete address, and principal
17 business activity of each person other than an individual;

18 (C) the full name, complete address, and principal
19 area of interest of each political action committee;

20 (D) the purpose of the loan;

21 (E) the date and total value of the loan or financial
22 obligation;

23 (F) the interest rate of the loan or financial obli-
24 gation;

25 (G) the date the loan or financial obligation is due;
26 and

27 (H) the security, if any, for the loan or financial
28 obligation;

29 (3) the total number and amount of all contributions

1 received of less than \$250;

2 (4) a total of all contributions received;

3 (5) a total of all expenditures made or obligated;

4 (6) the date, check number, full name of each payee, and
5 the purpose of each expenditure including

6 (A) for each expenditure that is a contribution to a
7 candidate or a political action committee, the name of the candi-
8 date or political action committee; and

9 (B) for each expenditure that is an independent expen-
10 diture, the name of the candidate or ballot proposition or ques-
11 tion supported or opposed by the independent expenditure.

12 (b) A report containing the information required under (a) of
13 this section must list the contributions and loans received during the
14 period ending three days before the due date of the report and begin-
15 ning on the last day covered by the most recent previous report. The
16 report shall be filed in the central office or a district office of
17 the commission at the following times:

18 (1) 30 days before the election;

19 (2) seven days before the election.

20 (c) A political action committee shall file a special contribu-
21 tion or loan report with the commission for each contribution or loan
22 of \$500 or more that is received within the last 10 days before the
23 election. The report must include the full name, complete address,
24 principal occupation and employer of the contributor or lender and the
25 date and amount of the contribution or loan. The report shall be
26 filed within 24 hours after the contribution or loan is received.

27 (d) A political action committee shall file an annual report on
28 or before January 31 of each year. The annual report must include all
29 of the information required under (a) of this section for

1 contributions and loans received and expenditures made between Janu-
2 ary 1 and December 31 of the immediately preceding year, except that
3 an annual report covering contributions and loans received and expen-
4 ditures made during the year in which an election designated under
5 AS 15.14.050(f) is held need include only those contributions, loans,
6 and expenditures that were not reported to the commission in the
7 reports required under (b) and (c) of this section. If the political
8 action committee has not indicated a continuing existence under AS 15.-
9 14.050(h), the report filed under this section is the final report.

10 Sec. 15.14.080. STATEMENT BY PERSON MAKING CONTRIBUTION OR
11 EXPENDITURE. (a) A person who makes contributions of \$250 or more in
12 the aggregate in goods, services, or money to a candidate or political
13 action committee or who makes independent expenditures described in
14 AS 15.14.090 with a value of \$250 or more in the aggregate to influ-
15 ence the election of a candidate or the passage of a ballot proposi-
16 tion or question shall make and file in the central or a district
17 office of the commission a signed statement on a form made available
18 by the commission reporting the activity within 10 days after the
19 contribution or expenditure is made.

20 (b) The statement must list the name, address, principal occupa-
21 tion, and employer of the person who paid for the contribution or
22 expenditure and include the date, amount, payee, and purpose of the
23 contribution or expenditure.

24 (c) The statement must include a certification by the person
25 making the statement that the contribution or expenditure consists of
26 funds or property belonging to the contributor and that the funds have
27 not been given or furnished by another person or political action
28 committee.

29 (d) The person filing the statement shall furnish a copy of the

1 statement to the candidate or the campaign treasurer of the political
2 action committee at the time the statement is filed with the commis-
3 sion.

4 Sec. 15.14.090. INDEPENDENT EXPENDITURE. (a) An independent
5 expenditure is an expenditure by a person or political action commit-
6 tee for a communication expressly advocating the election or defeat of
7 a clearly identified candidate that is made without arrangement,
8 coordination, or direction with or by the candidate or the agent of
9 the candidate before the publication, distribution, display, or broad-
10 cast of the communication. An expenditure is a contribution and not
11 an independent expenditure if it is based on information about the
12 candidate's plans, projects, or needs provided to the expending person
13 or political action committee by the candidate or by an agent of the
14 candidate with a view toward having an expenditure made.

15 (b) An expenditure is made in coordination with the candidate or
16 the agent of the candidate if it is made by or in consultation with a
17 person

18 (1) who is or within one year before the date of the expen-
19 diture has been authorized by the candidate or by a campaign officer
20 to raise or expend funds on behalf of the candidate;

21 (2) who is or within one year before the date of the expen-
22 diture has been an officer of a campaign committee of the candidate;
23 or

24 (3) who is or within one year before the date of the expen-
25 diture has been receiving any form of compensation or reimbursement
26 from the candidate or from campaign funds for professional services
27 that require the exercise of discretion or judgment relating to the
28 conduct of the campaign.

29 (c) In this section, an "agent of the candidate" means an

1 individual

2 (1) who has actual oral or written authority, either ex-
3 press or implied, to make or to authorize the making of an expenditure
4 on behalf of a candidate; or

5 (2) who has been placed in a position within the campaign
6 organization where it would reasonably appear that in the ordinary
7 course of campaign related activities the individual may authorize an
8 expenditure.

9 Sec. 15.14.100. CERTIFICATION OF REPORTS. Each report, regis-
10 tration, or statement required under this chapter shall be certified
11 as correct by the campaign treasurer of the candidate, by the campaign
12 treasurer of the political action committee, or by the person making
13 the report, registration, or statement. The report, registration, or
14 statement must include or be accompanied by the following certifica-
15 tion signed by the individual filing the report, registration, or
16 statement:

17 "I certify that, to the best of my knowledge, this report
18 is true, correct, and complete."

19 ARTICLE 3. CONTRIBUTIONS AND EXPENDITURES.

20 Sec. 15.14.110. CONTRIBUTIONS BY A PERSON. (a) A person may
21 not make a contribution in the form of a cash payment in excess of
22 \$100 in the aggregate during a calendar year to a candidate or a
23 political action committee.

24 (b) A person may not make a contribution in excess of \$2,000 in
25 the aggregate during a calendar year in money, goods, or services to a
26 candidate.

27 (c) Except as provided in (d) of this section, a person may not
28 make a contribution in excess of \$2,000 in the aggregate during a
29 calendar year in money, goods, or services to a political action

1 committee.

2 (d) Except as provided in (a) of this section, a person may
3 contribute any amount in money, goods, or services

4 (1) to a political action committee formed solely for the
5 purpose of sponsoring or opposing an initiative or referendum; or

6 (2) to a political party.

7 (e) An individual or person may not make a contribution in any
8 amount to a candidate or political action committee in the form of a
9 loan or loan guarantee. This subsection does not prohibit

10 (1) a contribution in the form of a loan by a candidate or
11 the spouse, parent, or child of the candidate to the campaign of the
12 candidate; or

13 (2) an extension of credit by a person providing goods or
14 services in the normal course of business to a political action com-
15 mittee, a candidate, or a candidate's campaign.

16 Sec. 15.14.120. CONTRIFUTIONS BY A POLITICAL ACTION COMMITTEE.

17 (a) A political action committee may not make a contribution in the
18 form of a cash payment in excess of \$100 in the aggregate during a
19 calendar year to a candidate or political action committee.

20 (b) Except as provided in (c) of this section, a political
21 action committee may not contribute or make an expenditure, other than
22 as an independent expenditure, of more than \$2,000 in the aggregate
23 during a year to a candidate or to a political action committee, and
24 may not contribute more than \$25,000 in the aggregate during a calen-
25 dar year to candidates or political action committees generally, other
26 than to political action committees formed solely for the purpose of
27 supporting or opposing a ballot proposition or question.

28 (c) Except as provided in (a) of this section, a political
29 action committee may contribute any amount in money, goods, or

1 services to

2 (1) a political action committee formed solely for the pur-
3 pose of sponsoring or opposing an initiative or referendum; or

4 (2) a political party.

5 (d) A political action committee may not make a loan or a loan
6 guarantee to a candidate or to another political action committee.

7 (e) Two or more political action committees sharing a majority
8 of their officers are considered to be a single group for purposes of
9 the contribution limitations under (a) and (b) of this section.

10 (f) An expenditure for a communication in support of the elec-
11 tion of more than one candidate shall be prorated equally among the
12 candidates for purposes of calculating the amount of the expenditure
13 made on behalf of one of the candidates.

14 (g) A political party and its state, regional, and local subdi-
15 visions are not subject to the limitations prescribed in this section,
16 but each is subject to the reporting requirements of AS 15.14.070.

17 Sec. 15.14.130. LIMITATIONS ON ACCEPTING CONTRIBUTIONS. (a) A
18 candidate, a campaign officer of a candidate, a political action
19 committee, and an officer of a political action committee may not
20 accept a contribution in the form of a cash payment in excess of \$100
21 in the aggregate during a year from a person or a political action
22 committee.

23 (b) A candidate and a campaign officer of a candidate may not
24 accept a contribution in excess of \$2,000 in the aggregate during a
25 calendar year in money, goods, or services.

26 (c) Except as provided in this subsection, a political action
27 committee and an officer of a political action committee may not
28 accept a contribution in excess of \$2,000 in the aggregate during a
29 calendar year in money, goods, or services. A political action

1 committee formed solely for the purpose of sponsoring or opposing an
2 initiative or a referendum may

3 (1) accept any amount in money, goods, or services;

4 (2) not accept a contribution in the form of a cash payment
5 in excess of \$100 in the aggregate during a calendar year from a
6 person.

7 (d) A candidate and a political action committee may not accept
8 a contribution in the form of a loan or a loan guarantee.

9 Sec. 15.14.140. EXPENDITURES. (a) A political party may make a
10 contribution or expenditure of money, goods, or services without
11 limitation as to amount or value.

12 (b) Except as provided under AS 15.14.170, a candidate may make
13 expenditures of money, goods, or services on behalf of the candidate's
14 own campaign without limitation as to amount or value.

15 (c) A person or political action committee may make an independ-
16 ent expenditure as defined in AS 15.14.090 of money, goods, or ser-
17 vices without limitation as to amount or value on behalf of or in
18 opposition to a candidate or ballot proposition.

19 Sec. 15.14.150. PROHIBITED CONTRIBUTIONS. (a) A contribution
20 may not be made and an expenditure may not be made or incurred either
21 directly or indirectly in a fictitious name, anonymously, or by one
22 person or political action committee in the name of another. A con-
23 tribution made by a corporation is not a contribution in the name of a
24 shareholder of the corporation for the purposes of this subsection.

25 (b) A contribution made by a person wishing to remain anonymous
26 and received by a candidate or political action committee may not be
27 accepted, but shall be returned to the donor if the identity of the
28 donor is known. If the identity of the donor is not known, the con-
29 tribution shall be donated to an organization that qualifies as a
charitable organization under 26 U.S.C. 501(c).

1 (c) A candidate, a campaign officer of a candidate, political
2 action committee, and a campaign officer of a political action commit-
3 tee may not accept a contribution described in this section. A con-
4 tribution under this section is accepted unless it is returned or
5 donated under (b) of this section within 10 days after the candidate
6 or political action committee knows or should have known that the con-
7 tribution is prohibited under this section.

8 ARTICLE 4. CAMPAIGN CONDUCT AND ADMINISTRATION.

9 Sec. 15.14.160. CAMPAIGN OFFICERS. (a) Each candidate may and
10 each political action committee shall appoint a campaign chairman.
11 Each candidate and each political action committee shall appoint a
12 campaign treasurer who is responsible for receiving, holding, and
13 disbursing all contributions and expenditures, and for filing all
14 reports and statements required by law. Each candidate and each
15 political action committee may appoint deputy campaign treasurers at
16 any time. A candidate may be a campaign treasurer.

17 (b) At the time a candidate registers with the commission under
18 AS 15.14.040, the candidate shall file a statement in the central or a
19 district office of the commission listing the name, address, and
20 telephone number of the candidate's campaign treasurer. At the time a
21 political action committee registers with the commission under AS 15.-
22 14.050, the political action committee shall file a statement in the
23 central or a district office of the commission listing the name,
24 address, and telephone number of the political action committee's cam-
25 paign treasurer. Each candidate who appoints a campaign chairman and
26 each political action committee shall include in the statement the
27 name, address, and telephone number of the campaign chairman.

28 (c) An individual may not act as the campaign chairman, campaign
29 treasurer, or deputy campaign treasurer for a candidate or political

1 action committee until the name, address, and telephone number of the
2 individual has been filed with the commission. The address of a
3 candidate's campaign treasurer is the address of the candidate unless
4 the candidate files a different mailing address with the commission.

5 (d) In the case of the death, resignation, or removal of a
6 campaign officer required to be appointed under this section, the
7 candidate or political action committee shall file the name, address,
8 and telephone number of the successor in the central or a district
9 office of the commission within 10 days after the vacancy occurs.

10 (e) A candidate may receive contributions and make expenditures
11 only in person or through a campaign chairman, a campaign treasurer,
12 or a deputy campaign treasurer. A political action committee may re-
13 ceive contributions and make expenditures only through the campaign
14 chairman, campaign treasurer, or deputy campaign treasurer of the
15 political action committee. A person does not receive or make a
16 contribution under this section on behalf of a candidate or political
17 action committee if

18 (1) the person solicits a contribution and transfers or
19 delivers that contribution to a candidate or a campaign officer of a
20 candidate or political action committee and discloses to the candidate
21 or political action committee the identity of the contributor;

22 (2) the person does not exercise discretion or control as
23 to the amount or as to the identity of the recipient of the contribu-
24 tion; and

25 (3) the person is not a campaign officer of the candidate
26 or political action committee ultimately receiving the contribution.

27 (f) The candidate is responsible for the performance of the
28 campaign officers of the candidate. The campaign chairman of a polit-
29 ical action committee is responsible for the performance of the other

1 officers of the political action committee. A default or violation by
2 the officer is considered a default or violation by the candidate if
3 the candidate knew or had reason to know of the default or violation.
4 A default or violation by the officer of the political action commit-
5 tee is considered a default or violation by the campaign chairman of
6 the political action committee if the campaign chairman knew or had
7 reason to know of the default or violation.

8 Sec. 15.14.170. USE OF CAMPAIGN FUNDS. (a) Campaign funds
9 received by a candidate or by a political action committee may be used
10 only to

11 (1) influence or attempt to influence the actions of the
12 voters for or against the election of a candidate or the passage or
13 defeat of a ballot proposition or question; or

14 (2) repay a loan made to the campaign of the candidate.

15 (b) Campaign funds may not be used to repay a loan not timely
16 reported as a loan under AS 15.14.060(a)(2).

17 (c) Surplus campaign funds shall be disposed of under AS 15.14.-
18 190.

19 Sec. 15.14.180. TERMINATION OF CAMPAIGN ACTIVITY AND CLOSING OF
20 CAMPAIGN ACCOUNTS. (a) A candidate shall close each campaign account
21 relating to a designated election campaign on or before one of the
22 following dates:

23 (1) for a legislative or statewide candidate in the general
24 election, the date on which the successful candidate in the designated
25 election is sworn into office;

26 (2) for a candidate in a municipal election, 30 days after
27 the date of the election;

28 (3) for a candidate who loses in a primary election, 30
29 days after the date of the election;

1 (4) for a candidate who withdraws before an election, 30
2 days after filing a notice of withdrawal; or

3 (5) for a candidate who withdraws after registering under
4 AS 15.40.040 but before filing for office, 30 days after the deadline
5 for filing a declaration of candidacy or a nominating petition.

6 (6) for a judicial candidate or a delegate to a constitu-
7 tional convention, 30 days after the date of the election.

8 (b) A candidate and a campaign officer of a candidate may not
9 solicit or accept a contribution for the designated election campaign
10 after the date on which the candidate is required to close campaign
11 accounts under (a) of this section.

12 (c) A candidate and a campaign officer of a candidate may not
13 make expenditures of any kind, except for the disposition of surplus
14 funds, after the date on which the candidate is required to close
15 campaign accounts under (a) of this section for

16 (1) goods or services provided to the candidate with re-
17 spect to the designated election campaign;

18 (2) the payment of campaign debts to an individual, person,
19 or political action committee; or

20 (3) the payment of loans made by the candidate to the
21 campaign of the candidate.

22 Sec. 15.14.190. SURPLUS CAMPAIGN FUNDS. (a) A candidate shall
23 dispose of campaign funds that are not spent during the designated
24 election campaign by

25 (1) donating the funds to an organization that qualifies as
26 a charitable organization under 26 U.S.C. 501(c);

27 (2) donating the funds to the general fund of the state or
28 of a municipality organized under AS 29;

29 (3) after registering with the commission under

1 AS 15.14.040, transferring the funds to a newly designated election
2 campaign account for a designated state election to be held not more
3 than four years after the election designated under AS 15.14.040(b);

4 (4) paying an individual who worked in the candidate's
5 designated election campaign;

6 (5) transferring the funds to an account for the office, in
7 the case of a successful candidate only, and using the funds only for
8 communication with constituents and other voters in the state by
9 telephone or newsletter;

10 (6) returning the funds to contributors on a pro rata
11 basis.

12 (b) A candidate shall dispose of surplus funds under (a) of this
13 section before the date on which a final report of expenditures is
14 required to be filed under AS 15.14.070.

15 Sec. 15.14.200. SOLICITATION OF CONTRIBUTIONS. (a) A public
16 officer or employee of the state or of a municipality of the state may
17 not, while on the premises of a state or municipal office, solicit or
18 request a contribution to a candidate, political action committee or
19 political party.

20 (b) A public officer or employee of the state may not solicit or
21 request another public officer or employee to contribute to a candi-
22 date, political action committee, or political party while the other
23 public officer or employee is on the premises of a state or municipal
24 office.

25 (c) A candidate, an officer of a candidate, a political action
26 committee, and an officer of a political action committee may not
27 knowingly accept a contribution obtained in violation of this section.

28 (d) Subsections (a) and (b) of this section do not apply to a
29 public officer elected to office by popular vote.

1 Sec. 15.14.210. IDENTIFICATION OF COMMUNICATION. (a) An adver-
2 tisement, billboard, handbill, paid-for television or radio announce-
3 ment, or other communication intended to influence the election of a
4 candidate or the outcome of a ballot proposition or question shall be
5 clearly identified by the words "paid for by" followed by the name and
6 address of the candidate, political action committee, or the person or
7 persons paying for the communication.

8 (b) A person or political action committee making an independent
9 expenditure for an item described in (a) of this section shall, within
10 the printed material or during a broadcast, state: "This communication
11 was not authorized by any candidate."

12 (c) The information required under (a) and (b) of this section
13 need not be included on an object used for a campaign advertisement,
14 if the object is one that the commission, by regulation, has deter-
15 mined is too small to practicably include the information.

16 ARTICLE 5. VIOLATIONS, CIVIL PENALTIES, AND PROCEDURES.

17 Sec. 15.14.220. CAMPAIGN FINANCING VIOLATIONS IN THE FIRST
18 DEGREE. (a) A person who, with intent to avoid disclosure, fails to
19 file a report of contributions or expenditures required to be filed 30
20 days or seven days before an election under AS 15.14.060(b) or fails
21 to file a report within 24 hours after receiving a contribution or
22 making an expenditure under AS 15.14.060(c) is subject to a civil
23 penalty of not less than \$100 nor more than \$300 for each day that the
24 report is due but not filed up to a maximum of \$25,000 for each
25 report.

26 (b) A political action committee that, with intent to avoid
27 disclosure, fails to file a report of contributions or expenditures
28 required to be filed 30 days or seven days before an election under
29 AS 15.14.070(b) or fails to file a report within 24 hours after

1 receiving a contribution or making an expenditure under AS 15.14.-
2 070(c) is subject to a civil penalty of not less than \$100 nor more
3 than \$300 for each day that the report is due but not filed up to a
4 maximum of \$25,000 for each report.

5 (c) A person who, with intent to avoid disclosure, files a
6 report of contributions or expenditures containing a false or mislead-
7 ing statement as to a contributor, contribution, loan, or expenditure
8 required to be included in a report under AS 15.14.060(a) is subject
9 to a civil penalty

10 (1) of not less than \$500 nor more than \$5,000 for each
11 false or misleading statement; and

12 (2) not to exceed twice the amount of the contribution or
13 expenditure involving the false or misleading statement.

14 (d) A political action committee that, with intent to avoid
15 disclosure, files a report of contributions or expenditures containing
16 a false or misleading statement as to a contributor, contribution,
17 loan, or expenditure required to be included in a report under AS 15.-
18 14.070(a) is subject to a civil penalty

19 (1) of not less than \$500 nor more than \$5,000 for each
20 false or misleading statement; and

21 (2) not to exceed twice the amount of the contribution or
22 expenditure involving the false or misleading statement.

23 (e) A person who knowingly makes a contribution in excess of the
24 \$2,000 limitation under AS 15.14.110(b) or (c) is subject to a civil
25 penalty

26 (1) of not less than \$1,000 nor more than \$5,000; and

27 (2) not to exceed twice the amount that the contribution
28 exceeds the limitation.

29 (f) A political action committee that knowingly makes a

1 contribution in excess of the \$2,000 limitation under AS 15.14.120(b)
2 or in excess of the \$25,000 limitation under AS 15.14.120(b) is sub-
3 ject to a civil penalty

4 (1) of not less than \$1,000 nor more than \$5,000; and

5 (2) not to exceed twice the amount that the contribution
6 exceeds the limitation.

7 (g) Except as provided in AS 15.14.130(c), a political action
8 committee that knowingly accepts a contribution in excess of the
9 \$2,000 limitation established in AS 15.14.130(c) is subject to a civil
10 penalty

11 (1) of not less than \$1,000 nor more than \$5,000; and

12 (2) not to exceed twice the amount that the contribution
13 exceeds the limitation.

14 (h) A person who knowingly makes a contribution in the form of
15 cash during the year of more than \$100 in the aggregate in violation
16 of AS 15.14.110(a) is subject to a civil penalty of

17 (1) not less than \$100 nor more than \$1,000 if the contri-
18 bution is less than \$500, in the aggregate; and

19 (2) an additional civil penalty of not to exceed twice the
20 amount of the cash contribution if it amounts to \$500 or more in the
21 aggregate.

22 (i) A political action committee that knowingly makes a contri-
23 bution in the form of cash during the year of more than \$100 in the
24 aggregate in violation of AS 15.14.120(a) is subject to a civil penal-
25 ty of

26 (1) not less than \$100 nor more than \$1,000 if the contri-
27 bution is less than \$500, in the aggregate; and

28 (2) an additional civil penalty of not to exceed twice the
29 amount of the cash contribution if it amounts to \$500 or more in the

1 aggregate.

2 (j) A person or political action committee that knowingly ac-
3 cepts a contribution in the form of cash during the year of more than
4 \$100 in the aggregate in violation of AS 15.14.130(a) is subject to a
5 civil penalty of

6 (1) not less than \$100 nor more than \$1,000 if the contri-
7 bution is less than \$500, in the aggregate; and

8 (2) an additional civil penalty of not to exceed twice the
9 amount of the cash contribution if it amounts to \$500 or more in the
10 aggregate.

11 (k) A person or political action committee that, with intent to
12 avoid disclosure, makes or accepts a contribution in violation of
13 AS 15.14.150(a) or (c) is subject to a civil penalty of

14 (1) not less than \$500 nor more than \$5,000; and

15 (2) if the contribution amounts to \$500 or more, an addi-
16 tional civil penalty of not to exceed twice the amount of the contri-
17 bution.

18 (l) A person or political action committee that knowingly ac-
19 cepts a contribution obtained in violation of AS 15.56.025 through a
20 threat of physical force, job discrimination, or financial reprisals
21 is subject to a civil penalty of not less than \$1,000 nor more than
22 \$10,000.

23 (m) A person or political action committee that intentionally
24 solicits or requests a contribution from a public officer or employee
25 of the state or a municipality of the state in a manner prohibited
26 under AS 15.14.200(a) or (b) is subject to a civil penalty of not less
27 than \$500 nor more than \$5,000.

28 (n) A person or political action committee that knowingly
29 accepts a contribution from a public officer or employee of the state

1 or a municipality of the state in a manner prohibited under AS 15.14.-
2 200(a) or (b) is subject to a civil penalty of not less than \$500 nor
3 more than \$5,000.

4 Sec. 15.14.230. CAMPAIGN FINANCING VIOLATIONS IN THE SECOND
5 DEGREE. (a) A person who fails to file a report of contributions or
6 expenditures required to be filed 30 days or seven days before an
7 election under AS 15.14.060(b) or fails to file a report within 24
8 hours after receiving a contribution or making an expenditure under
9 AS 15.14.060(c) is subject to a civil penalty of not less than \$25 nor
10 more than \$100 for each day that the report is due but not filed up to
11 a maximum of \$5,000 for each report.

12 (b) A political action committee that fails to file a report of
13 contributions or expenditures required to be filed 30 days or seven
14 days before an election under AS 15.14.070(b) or fails to file a
15 report within 24 hours after receiving a contribution or making an
16 expenditure under AS 15.14.070(c) is subject to a civil penalty of not
17 less than \$25 nor more than \$100 for each day that the report is due
18 but not filed up to a maximum of \$5,000 for each report.

19 (c) A person who fails to file a report, registration, or state-
20 ment required to be filed under this chapter, other than a report
21 described in (a) or (b) of this section, is subject to a civil penalty
22 of not less than \$10 nor more than \$100 per day for each day that the
23 report, registration, or statement is due but not filed, up to a
24 maximum fine of \$3,000 for each report, registration, or statement.

25 (d) A person who files a report of contributions or expenditures
26 containing a false or misleading statement as to a contributor, con-
27 tribution, loan, or expenditure required to be included in a report
28 under AS 15.14.060(a) is subject to a civil penalty

29 (1) of not less than \$50 nor more than \$500 for each false

1 or misleading statement; and

2 (2) not to exceed the amount of the contribution or expen-
3 diture involving the false or misleading statement.

4 (e) A political action committee that files a report of contri-
5 butions or expenditures containing a false or misleading statement as
6 to a contributor, contribution, loan, or expenditure required to be
7 included in a report under AS 15.14.070(a) is subject to a civil
8 penalty of

9 (1) not less than \$50 nor more than \$500 for each false or
10 misleading statement; and

11 (2) not to exceed the amount of the contribution or expen-
12 diture involving the false or misleading statement.

13 (f) A person who makes a contribution in excess of the \$2,000
14 limitation under AS 15.14.110(b) or (c) is subject to a civil penalty

15 (1) of not less than \$50 nor more than \$500; and

16 (2) not to exceed the amount that the contribution exceeds
17 the limitation.

18 (g) A political action committee that makes a contribution in
19 excess of the \$2,000 limitation under AS 15.14.120(b) or in excess of
20 the \$25,000 limitation under AS 15.14.120(b) is subject to a civil
21 penalty

22 (1) of not less than \$50 nor more than \$500; and

23 (2) not to exceed the amount that the contribution exceeds
24 the limitation.

25 (h) A person who makes a contribution in the form of cash during
26 the year of more than \$100 in the aggregate in violation of AS 15.14.-
27 110(a) is subject to a civil penalty

28 (1) of not less than \$50 nor more than \$500; and

29 (2) not to exceed the amount that the contribution exceeds

1 the limitation.

2 (i) A person who knowingly makes a contribution in the form of
3 cash during the year of more than \$100 in the aggregate in violation
4 of AS 15.14.110(a) is subject to a civil penalty of not to exceed the
5 amount of the cash contribution.

6 (j) A political action committee that makes a contribution in
7 the form of cash during the year of more than \$100 in the aggregate in
8 violation of AS 15.14.120(a) is subject to a civil penalty of not to
9 exceed the amount of the cash contribution.

10 (k) A candidate or political action committee that knowingly
11 accepts a contribution in the form of cash during the year of more
12 than \$100 in the aggregate in violation of AS 15.14.130(a) is subject
13 to a civil penalty of not to exceed the amount of the cash contribu-
14 tion.

15 (l) A candidate who fails to close a campaign account by the
16 date established in AS 15.14.180(a) is subject to a fine of not less
17 than \$25 nor more than \$100 per day for each day that the account
18 should have been but was not closed, up to a maximum of \$2,000.

19 (m) A person who fails to dispose of surplus funds by the date
20 established in AS 15.14.190(b) is subject to a civil penalty of not
21 less than \$25 nor more than \$100 per day for each day that the surplus
22 funds should have been but were not disposed of, up to a maximum of
23 \$2,000.

24 (n) A person is subject to a civil penalty of not less than \$100
25 nor more than \$2,000 if the person

26 (1) solicits or accepts a contribution or makes an expendi-
27 ture, other than a disposition of surplus funds, after the date that
28 campaign accounts are required to be closed under AS 15.14.180;

29 (2) uses campaign funds for a purpose not permitted under

1 AS 15.14.170;

2 (3) uses surplus funds for a purpose not permitted under
3 AS 15.14.190;

4 (4) acts as a campaign officer at a time when the name of
5 the person has not been filed with the commission; or

6 (5) fails to include in a communication intended to influ-
7 ence the election of a candidate or the outcome of a ballot proposi-
8 tion or question the information required under AS 15.14.210(a) or
9 (b).

10 Sec. 15.14.240. PAYMENT OF CIVIL PENALTY. A civil penalty
11 imposed by the commission under AS 15.14.220 or 15.14.230 may not be
12 paid from campaign funds.

13 Sec. 15.14.250. REMOVAL FROM OFFICE. (a) If, after being sworn
14 into office, a person who was a successful candidate is found to have
15 committed a violation in the first degree under AS 15.14.220, proceed-
16 ings shall be held and appropriate action taken under

17 (1) art. II, sec. 12, Constitution of the State of Alaska,
18 if the candidate is a candidate for the state legislature;

19 (2) art. II, sec. 20, Constitution of the State of Alaska,
20 if the candidate is a candidate for governor or lieutenant governor;

21 (3) AS 29.20.170, if the candidate is a candidate for
22 borough assembly;

23 (4) AS 29.20.280, if the candidate is a candidate for
24 borough mayor;

25 (5) AS 29.20.170, if the candidate is a candidate for city
26 council;

27 (6) AS 29.20.280(a), if the candidate is a candidate for
28 city mayor;

29 (7) the provisions of the call for the constitutional

1 convention, if the candidate is a candidate for constitutional conven-
2 tion delegate;

3 (8) art. IV., sec. 10, Constitution of the State of Alaska,
4 if the candidate is a candidate for judicial retention.

5 (b) Information developed by the commission under AS 15.14.270
6 shall be considered during a proceeding under (a) of this section.

7 (c) When, after being sworn into office, a successful candidate
8 is charged with a violation in the first degree under AS 15.14.220(a),
9 the commission shall promptly hear the matter and accord it a pre-
10 ferred position for purposes of argument and decision so as to assure
11 a speedy disposition of the matter.

12 Sec. 15.14.260. LIMITATIONS ON ACTIONS. (a) A proceeding
13 alleging a violation of AS 15.14.220 must be commenced within four
14 years from the date of the alleged violation.

15 (b) A prosecution alleging a violation of AS 15.14.230 must be
16 commenced within two years from the date of the alleged offense.

17 (c) For the purposes of this section, a violation involving the
18 failure to file a report, statement, or registration is considered to
19 have been committed on the day after the report, statement or regis-
20 tration was due.

21 Sec. 15.14.270. INVESTIGATIONS. (a) The commission may inves-
22 tigate a violation of AS 15.14.220, 15.14.230, AS 24.50 and AS 39.50
23 on its own motion or upon receiving a signed and sworn complaint from
24 any person.

25 (b) If an investigation is commenced by a signed and sworn
26 complaint by a person other than a member of the commission or its
27 employees, the commission shall, within five days after receiving the
28 complaint, mail a copy of the complaint to each person named in the
29 complaint.

1 (c) If, after an investigation, the commission determines that
2 there is probable cause to believe that a person has committed a
3 violation, the commission may commence violation proceedings by filing
4 and serving an accusation on the person alleged to have committed the
5 violation. The commission shall serve an accusation in the manner
6 provided by court rules for serving a complaint in a civil action.

7 (d) If the commission terminates an investigation without filing
8 an accusation, the commission shall, within five days after terminat-
9 ing the investigation, inform the complainant and each person named in
10 the complaint only of the fact that the commission has terminated the
11 investigation and will not be taking further action concerning the
12 complaint.

13 Sec. 15.14.280. ACCUSATIONS. (a) The accusation must be a
14 written statement of the charges setting out in ordinary and concise
15 language the acts or omissions with which the respondent is charged,
16 so that the respondent is able to prepare a defense. The accusation
17 must also specify the statute or regulation that the respondent is
18 alleged to have violated, and the maximum penalty provided for the
19 violation. The accusation may not consist merely of charges phrased
20 in the language of the statute and regulation.

21 (b) The commission shall include in or with the accusation a
22 statement in substantially the following form:

23 "To the Respondent: Unless you deliver or mail a written
24 request for a hearing signed by you or on your behalf to
25 the commission within 15 days after this accusation was
26 personally served on you or mailed to you, the commission
27 may proceed upon the accusation without further notice to
28 you. You may request a hearing by delivering or mailing
29 the enclosed form entitled 'Notice of Defense,' or by

1 delivering or mailing a notice of defense under AS 15.14.290
2 to the commission at its central office address (insert central
3 office address)."

4 (c) The commission shall include with the accusation served upon
5 the respondent a post card or other form entitled, "Notice of Defense"
6 that, when signed by or on behalf of the respondent and returned to
7 the commission constitutes a notice of defense under AS 15.14.290.

8 Sec. 15.14.290. NOTICE OF DEFENSE. (a) Within 15 days after
9 service upon the respondent of the accusation, the respondent may file
10 with the commission a notice of defense. In the notice the respondent
11 may

12 (1) deny the accusation in whole or in part and request a
13 hearing;

14 (2) object to the accusation on the ground that it does not
15 state acts or omissions upon which the commission may proceed;

16 (3) object to the form of the accusation on the ground that
17 it is so indefinite or uncertain that the respondent cannot identify
18 the transaction or prepare a defense;

19 (4) present new matter by way of defense;

20 (5) admit or plead no contest to the accusation in whole or
21 in part, and present material in mitigation of penalty.

22 (b) Within the time specified in (a) of this section, the re-
23 spondent may file one or more notices of defense upon any or all of
24 the grounds set out in (a) of this section but all of the notices must
25 be filed within the period unless the commission in its discretion
26 authorizes the filing of a later notice.

27 (c) The respondent is entitled to a hearing on the merits if the
28 respondent files a notice of defense. The notice of defense is con-
29 sidered a specific denial of all parts of the accusation not expressly

1 admitted. Failure to file a notice of defense within the time spec-
2 ified in (a) of this section constitutes a waiver of the respondent's
3 right to a hearing, but the commission in its discretion may neverthe-
4 less grant a hearing. Unless objection is taken as provided in (a)(3)
5 of this section, all objections to the form of the accusation are
6 waived.

7 (d) The notice of defense must be in writing, signed by or on
8 behalf of the respondent, and must state the respondent's address.
9 The notice of defense need not be verified or follow a particular
10 form.

11 Sec. 15.14.300. HEARINGS. (a) If a respondent requests a
12 hearing on a contested accusation or, in the absence of a request, the
13 commission in its discretion decides to hold a hearing, the commission
14 shall mail or deliver a notice of hearing to the respondent at least
15 10 days before the hearing. The hearing may not be held before the
16 expiration of the time within which the respondent is entitled to file
17 a notice of defense. The notice to respondent must be consistent with
18 the form for notice of hearing under AS 44.62.420.

19 (b) The commission shall conduct its hearings under AS 44.62.-
20 440 - 44.62.500, except that

21 (1) the commission may, but is not required to, appoint a
22 hearing officer under AS 44.62.350; and

23 (2) if a hearing officer is not appointed, the chairman of
24 the commission, or the commission member designated by the chairman,
25 shall preside at the hearing, and the attorney general shall assign an
26 assistant attorney general to the commission to advise it on matters
27 of law during the hearing.

28 (c) A hearing under this section shall be open to the public
29 except that a respondent may request and the hearing officer or the

1 presiding commission member may order that the hearing be closed if
2 one or more of the requirements for holding an executive session under
3 AS 44.62.310(c) is met.

4 Sec. 15.14.310. IMPOSITION OF PENALTY. (a) The commission may
5 impose the penalty provided by law for the violation only if the
6 accused person, having been advised of the right to a hearing, admits
7 or pleads no contest to the allegations contained in the accusation,
8 or if the commission

9 (1) holds a hearing at which the person accused is afforded
10 the right to appear, with or without counsel, the right to present
11 witnesses or other evidence and the right to cross examine witnesses;
12 and

13 (2) following the hearing, determines by clear and convinc-
14 ing evidence that the person has committed the violation of which the
15 person was accused.

16 (b) The executive director of the commission may not formally or
17 informally make a recommendation to the commission as to a particular
18 penalty in a pending matter or make a commitment to the respondent to
19 make a particular recommendation to the commission in the future until
20 after the respondent has admitted or pleaded no contest to the accusa-
21 tion or until after a hearing and a final determination by the com-
22 mission that the respondent has committed the acts charged in the
23 accusation.

24 (c) Before the executive director of the commission may make a
25 recommendation to the commission for the imposition of a particular
26 penalty in a matter, the respondent must first be given notice of the
27 recommendation and afforded an opportunity to respond to the recom-
28 mendation in person or in writing.

29 (d) In imposing a penalty, the commission shall consider

1 (1) the seriousness of the violation in terms of the extent
2 to which the violation has impeded public disclosure of information
3 required to be filed with the commission as to the amount and source
4 of contributions that are large enough to be of significant interest
5 to voters; and

6 (2) the extent to which the respondent's conduct, including
7 prior violations of this chapter, AS 24.50, AS 39.50, or of former
8 AS 15.13 shows a continuing disregard for the law.

9 Sec. 15.14.320. SUMMARY DISPOSITION OF VIOLATIONS. (a) Not-
10 withstanding the provisions of AS 15.14.280 - 15.14.310, the commis-
11 sion may establish by regulation the violations under AS 15.14.230
12 that are amenable to summary disposition without formal accusation or
13 hearing and may establish a schedule of fines, not to exceed \$500, for
14 each violation.

15 (b) If an investigation by the commission discloses that a
16 person has committed a violation included in the schedule of fines
17 established under (a) of this section, the commission may, in lieu of
18 serving an accusation on the person, mail a notice of fine to the
19 person indicating the circumstances of the violation and the amount of
20 the fine established in the schedule for the violation. The person to
21 whom the notice is directed may pay the fine within 15 days after
22 receiving the notice or may file a notice of defense under AS 15.14.-
23 290.

24 (c) If the person does not pay the fine under (b) of this sec-
25 tion, the notice of fine constitutes an accusation under AS 15.14.280
26 and the commission shall proceed against the person under AS 15.14.-
27 280 - 15.14.310 and, upon determining that the person committed the
28 violation, may impose a penalty for the violation not to exceed the
29 maximum provided for the violation under AS 15.14.230.

1 Sec. 15.14.330. CONFIDENTIALITY. (a) An investigation by the
2 commission under AS 15.14.270 is confidential unless and until the
3 investigation results in the filing of an accusation under AS 15.-
4 14.280.

5 (b) A member or a former member of the commission and an em-
6 ployee or a former employee of the commission may not divulge the fact
7 of or any particular concerning a pending, past, or contemplated
8 investigation by the commission unless and until the filing of an
9 accusation by the commission.

10 (c) Knowing violation of the provisions of (b) of this section
11 is a class A misdemeanor.

12 Sec. 15.14.340. JUDICIAL REVIEW. Judicial review of a final
13 order of the commission may be had by filing a notice of appeal under
14 applicable rules of court governing appeals from administrative agen-
15 cies.

16 Sec. 15.14.350. POWERS OF THE COMMISSION. (a) In connection
17 with an investigation or hearing under AS 15.14.270 - 15.14.310,
18 AS 24.45, or AS 39.50, the commission may compel the attendance of
19 witnesses and production of papers, books, records, accounts, docu-
20 ments, and testimony, and may have the depositions of witnesses taken
21 in a manner prescribed by court rule or law for the taking of depo-
22 sitions in civil actions when consistent with the powers and duties
23 assigned to the commission by law.

24 (b) The commission may examine the papers, books, records,
25 accounts and documents of a person subject to this chapter to deter-
26 mine the correctness of a report filed with the commission or in
27 conjunction with an investigation or inspection conducted under (a) of
28 this section.

29 (c) Subpoenas may be issued and shall be served in the manner

1 prescribed by AS 44.62.430 and court rule. The failure, refusal, or
2 neglect to obey a subpoena is punishable as contempt in the manner
3 prescribed by law or court rule. The superior court may compel obedi-
4 ence to the commission's subpoena in the same manner as prescribed for
5 obedience to a subpoena issued by the court.

6 Sec. 15.14.360. LEGAL COUNSEL. (a) The attorney general is
7 legal counsel for the commission. The attorney general shall advise
8 the commission in legal matters arising out of the discharge of its
9 duties and represent the commission in actions to which it is a party.

10 (b) When the public interest warrants, and if the attorney
11 general concurs, the commission may employ temporary legal counsel
12 from time to time in matters in which the commission is involved.

13 ARTICLE 6. GENERAL PROVISIONS.

14 Sec. 15.14.900. DEFINITIONS. In this chapter

15 (1) "candidate" means an individual who

16 (A) files for election to the state legislature, for
17 governor, for lieutenant governor, for municipal office, for
18 retention in judicial office, or for constitutional delegate;

19 (B) campaigns as a write-in candidate for an elective
20 office; or

21 (C) accepts contributions totalling \$1,000 or more in
22 the aggregate from another person or political action committee
23 for the purpose of seeking elective office or retention in judi-
24 cial office;

25 (2) "contribution"

26 (A) means the purchase, payment, promise or obligation
27 to pay, loan or loan guarantee, deposit or gift of money, goods
28 or services for which charge is ordinarily made and that is made
29 for the purpose of influencing the nomination or election of a

1 candidate or for the purpose of influencing a ballot proposition
2 or question, including the payment by a person other than a
3 candidate or political party, of compensation for the personal
4 services of another person that are rendered to the candidate or
5 political party;

6 (B) does not include

7 (i) services provided without compensation by an
8 individual volunteering on behalf of a candidate or ballot
9 proposition or question, unless the services are volunteered
10 by an individual who would ordinarily be paid a fee or wage
11 for the services;

12 (ii) services provided by an accountant or other
13 person to prepare reports and statements required by this
14 chapter;

15 (iii) services provided by an attorney relating to
16 AS 15;

17 (iv) ordinary hospitality in a home;

18 (3) "expenditure"

19 (A) means a purchase or a transfer of money or any-
20 thing of value or a promise or agreement to purchase or transfer
21 money or anything of value, incurred or made for the purpose of

22 (i) influencing the nomination or election of a
23 candidate or of any individual who files for nomination at a
24 later date and becomes a candidate;

25 (ii) influencing the outcome of a ballot proposi-
26 tion or question; or

27 (iii) providing payment of compensation for the
28 personal services of another person that are rendered to a
29 candidate or political party;

1 (B) does not include a candidate's filing fee or the
2 cost of preparing reports and statements required by this chap-
3 ter;

4 (4) "individual" means a natural person;

5 (5) "municipality" has the meaning given by AS 01.10.-
6 060(4);

7 (6) "person" has the meaning given in AS 01.10.060 but does
8 not include an entity organized to influence an election;

9 (7) "political action committee" means a person or combina-
10 tion of persons, including a political party and its state, regional,
11 or local subdivisions that accepts contributions for the purpose of
12 influencing an election and exercises discretion over the expenditure
13 of the contributions;

14 (8) "political party"

15 (A) means a group of organized voters that

16 (i) claims to represent a political program; and

17 (ii) nominated a candidate for governor who re-
18 ceived at least five percent of the total vote cast at the
19 preceding general election for governor;

20 (B) does not include the campaign committee of a
21 candidate.

22 * Sec. 2. AS 11.56.130 is amended to read:

23 Sec. 11.56.130. DEFINITION. In AS 11.56.100 - 11.56.130, "bene-
24 fit" has the meaning given [ASCRIBED TO IT] in AS 11.81.900 but does
25 not include

26 (1) political campaign contributions reported under AS 15.-
27 14 [IN ACCORDANCE WITH AS 15.13];

28 (2) concurrence in official action in the cause of legiti-
29 mate compromise between public servants; or

1 (3) support, including a vote, solicited by a public ser-
2 vant or offered by any person in an election.

3 * Sec. 3. AS 24.45.021(a) is amended to read:

4 (a) This chapter shall be administered by the Alaska Public
5 Offices Commission established [CREATED] under AS 15.14.020 [AS 15.-
6 13.020(a)].

7 * Sec. 4. AS 24.45.091 is amended to read:

8 Sec. 24.45.091. PUBLICATION OF REPORTS. Copies of the state-
9 ments and reports filed under this chapter shall be made available to
10 the public at the commission's central office, the office of the
11 lieutenant governor, the legislative reference library of the Legisla-
12 tive Affairs Agency, and at the commission's district offices [PRE-
13 SCRIBED IN AS 15.13.020(j)] as soon as practicable after each re-
14 porting period.

15 * Sec. 5. AS 24.60.080 is amended to read:

16 Sec. 24.60.080. GIFTS. Unless otherwise provided for under
17 AS 24.60.030, a person to whom this chapter applies may not solicit a
18 gift in any amount, or accept or receive, directly or indirectly, a
19 gift, whether in the form of money, services, a loan, travel, enter-
20 tainment, hospitality, or other form, if the gift was intended as a
21 reward or inducement for an official action by the person. A gift of
22 travel and hospitality within the state received by a member of the
23 legislature in obtaining information on matters of legislative concern
24 is not prohibited by this section, nor are political contributions
25 received and reported under AS 15.14 [AS 15.13.040].

26 * Sec. 6. AS 29.20.170 is amended to read:

27 Sec. 29.20.170. VACANCIES. The governing body may provide by
28 ordinance the manner in which a vacancy occurs in any elected office
29 except the office of mayor or school board member. Unless otherwise

1 provided by ordinance, the governing body shall declare an elective
2 office, other than the office of mayor or school board member, vacant
3 when the person elected

4 (1) fails to qualify or take office within 30 days after
5 election or appointment;

6 (2) is physically absent from the municipality for 90
7 consecutive days unless excused by the governing body;

8 (3) resigns and the resignation is accepted;

9 (4) is physically or mentally unable to perform the duties
10 of office as determined by two-thirds vote of the governing body;

11 (5) is convicted of a felony or of an offense involving a
12 violation of the oath of office;

13 (6) is convicted of a felony or misdemeanor described in
14 AS 15.56 and two-thirds of the members of the governing body concur in
15 expelling the person elected;

16 (7) is convicted of a violation of AS 15.14 or former
17 AS 15.13;

18 (8) no longer physically resides in the municipality and
19 the governing body by two-thirds vote declares the seat vacant; or

20 (9) if a member of the governing body, misses three con-
21 secutive regular meetings and is not excused.

22 * Sec. 7. AS 29.20.280(a) is amended to read:

23 (a) The governing body shall, by two-thirds concurring vote,
24 declare the office of mayor vacant only when the person elected

25 (1) fails to qualify or take office within 30 days after
26 election or appointment;

27 (2) unless excused by the governing body, is physically
28 absent for 90 consecutive days;

29 (3) resigns and the resignation is accepted;

1 (4) is physically or mentally unable to perform the duties
2 of office;

3 (5) is convicted of a felony or of an offense involving a
4 violation of the oath of office;

5 (6) is convicted of a felony or misdemeanor described in
6 AS 15.56;

7 (7) is convicted of a violation of AS 15.14 or former
8 AS 15.13;

9 (8) no longer physically resides in the municipality; or

10 (9) if a member of the governing body in a second class
11 city, misses three consecutive regular meetings and is not excused.

12 * Sec. 8. AS 39.50.050(a) is amended to read:

13 (a) The Alaska Public Offices Commission established [CREATED]
14 under AS 15.14.020 [AS 15.13.020(a)] shall administer the provisions
15 of this chapter. The commission shall prepare and keep available for
16 distribution, standardized forms on which the reports required by this
17 chapter shall be filed.

18 * Sec. 9. AS 39.50.200(a) is amended to read:

19 (a) In this chapter:

20 (1) "assistant to the governor" includes any executive,
21 legislative, special, administrative or press assistant to the gover-
22 nor, and any person similarly employed;

23 (2) "child" includes a biological child, an adoptive
24 child, and a stepchild;

25 (3) "commission" means the Alaska Public Offices Commis-
26 sion established [CREATED] under AS 15.14.020 [AS 15.13.020(a)];

27 (4) "instrumentality of the state" means a state depart-
28 ment or agency, whether in the legislative, judicial, or executive
29 branch, including such entities as the University of Alaska and the

1 Alaska State Housing Authority;

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

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

7 (7) "municipal officer" includes a borough or city mayor,
8 borough assemblyman, city councilman, school board member, elected
9 utility board member, city or borough manager, members of a city or
10 borough planning or zoning commission within a home rule or general
11 law city or borough, or a unified municipality;

12 (8) "public official" means a judicial officer, a member
13 of the legislature, the fiscal analyst of the legislative finance
14 division, the legislative auditor of the legislative audit division,
15 the executive director of the Legislative Affairs Agency and the
16 directors of the divisions within the Legislative Affairs Agency, the
17 governor, the lieutenant governor, a person hired or appointed as the
18 head or deputy head of, or director of a division within, a department
19 in the executive branch, and assistant to the governor, chairman or
20 member of a state commission or board, and each appointed or elected
21 municipal officer;

22 (9) "source of income" means the entity for which service
23 is performed or which is otherwise the origin of payment; if the
24 person whose income is being reported is employed by another, the
25 employer is the source of income; but if the person is self-employed
26 by means of a sole proprietorship, partnership, professional corpora-
27 tion, or a corporation in which the person, the person's spouse or
28 children, or a combination of them, hold a controlling interest, the
29 "source" is the client or customer of the proprietorship, partnership

1 or corporation, but if the entity which is the origin of payment is
2 not the same as the client or customer for whom the service is per-
3 formed, both are considered the source;

4 * Sec. 10. AS 39.50.200(b) is repealed and reenacted to read:

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

6 (1) Agricultural Revolving Loan Fund Board (created admin-
7 istratively to assist in administration of AS 03.10);

8 (2) Alaska Coastal Policy Council members and their alter-
9 nates (AS 44.19.155);

10 (3) Alaska Commercial Fisheries Entry Commission (AS 16.-
11 43.020);

12 (4) Alaska Commission on Postsecondary Education (AS 14.-
13 42.015);

14 (5) Alaska Energy Center (AS 46.12);

15 (6) Alaska Housing Finance Corporation (AS 18.56.010 -
16 18.56.210);

17 (7) Alaska Judicial Council (art. IV, sec. 8, Alaska Con-
18 stitution);

19 (8) Alaska Medical Facility Authority (AS 18.26.010 -
20 18.26.900);

21 (9) Alaska Municipal Bond Bank Authority (AS 44.85.020);

22 (10) Alaska Power Authority public directors (AS 44.83.030);

23 (11) Alaska Oil and Gas Conservation Commission (AS 31.05.-
24 005 - 31.05.170);

25 (12) Alaska Public Broadcasting Commission (AS 44.21.256);

26 (13) Alaska Public Offices Commission, including the execu-
27 tive director and employees of the commission (AS 15.14.020);

28 (14) Alaska Public Utilities Commission (AS 42.05.010);

29 (15) Alaska Resources Corporation (AS 37.12.010);

- 1 (16) Alaska Royalty Oil and Gas Development Advisory Board
2 (AS 38.06.020);
- 3 (17) Alaska Seafood Marketing Institute (AS 16.51.010);
4 (18) Alaska State Council on the Arts (AS 44.27.040);
5 (19) Alaska State Housing Authority (AS 18.55.020);
6 (20) Alaska Teachers' Retirement Board (AS 14.25.035);
7 (21) Alcoholic Beverage Control Board (AS 04.06.010);
8 (22) Board of Education (AS 14.07.075);
9 (23) Board of Fisheries (AS 16.05.221(a));
10 (24) Board of Game (AS 16.05.221(b));
11 (25) Board of Parole (AS 33.16.020);
12 (26) Board of Trustees and executive director of the Alaska
13 Permanent Fund Corporation (AS 37.13.040);
- 14 (27) Commission on Judicial Conduct (art. IV, sec. 10,
15 Alaska Constitution);
- 16 (28) Council on Domestic Violence and Sexual Assault
17 (AS 18.66.010);
- 18 (29) Employment Security Advisory Council (AS 23.20.025);
19 (30) Fishermen's Fund Advisory and Appeals Council (AS 23.-
20 35.010);
- 21 (31) Governor's Commission on the Administration of Justice
22 (AS 44.19.110);
- 23 (32) Local Boundary Commission (AS 44.47.565);
24 (33) Occupational Safety and Health Review Board (AS 18.60.-
25 057);
- 26 (34) Public Employees' Retirement Board (AS 39.35.030);
27 (35) State Assessment Review Board (AS 43.56.040);
28 (36) State Commission for Human Rights (AS 18.80.010);
29 (37) State Personnel Board (AS 39.25.060);

1 (38) University of Alaska Board of Regents (AS 14.40.120);

2 (39) Workers' Compensation Board (AS 23.30.005).

3 * Sec. 11. AS 15.56 is amended by adding a new section to read:

4 Sec. 15.56.025. UNLAWFUL SOLICITATION OF CONTRIBUTIONS. (a) A
5 person commits the crime of unlawful solicitation of campaign contri-
6 butions if the person intentionally solicits a campaign contribution
7 through a threat of physical force, job discrimination, or financial
8 reprisal.

9 (b) Unlawful solicitation of campaign contributions is a class C
10 felony.

11 * Sec. 12. AS 15.13 is repealed.

12 * Sec. 13. AS 15.56.010(1) and (2) are repealed.

13 * Sec. 14. Alaska Public Office Commission members serving on the
14 effective date of this Act continue to serve out their terms as provided
15 under AS 15.13.020, repealed in sec. 12 of this Act. Vacancies occurring
16 after the effective date of this Act shall be filled in accordance with
17 AS 15.14.020 enacted in sec. 1 of this Act.

18 * Sec. 15. Notwithstanding AS 15.14.010(b) as enacted in sec. 1 of this
19 Act, the election of a municipality held under former AS 15.13.010(a) to
20 exempt its officers from the application of AS 15.13 is confirmed as an
21 exemption from the application of AS 15.14.

22 * Sec. 16. AS 15.14.180 as enacted in sec. 1 of this Act does not apply
23 to campaign accounts for election campaigns held before the effective date
24 of this Act and does not apply to contributions solicited or accepted and
25 to expenditures made for the purpose of retiring campaign debts incurred by
26 a candidate in an election campaign held before the effective date of this
27 Act.

28 * Sec. 17. This Act applies to election campaign activities that take
29 place after January 1, 1987, and that relate to state or municipal

1 elections held after January 16, 1987.

2 * Sec. 18. This Act takes effect January 1, 1987.

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situation, and one which may even cause her/him criminal liability if a bill over \$1000 becomes a contribution.

2AAC 50.316

6. It is unfeasible for the Kerttula campaign to discharge the remaining accrued campaign debts as you are prescribing. What can be done about them if it is impossible to pay them immediately as requested?

7. I feel you are placing an extreme hardship on candidates who are not wealthy. People with money can pay the bills, but those of us without a substantial private income will find it extremely difficult to do so. It could also be impossible to borrow this much from a lending institution without sufficient collateral.

8. This regulation will make it impossible for a person without private funds to run for office. While wealthy persons will find it easy to comply.

1984 was a difficult campaign year for all candidates. Not buying proper media could have meant defeat for many. I feel that good candidates may lose campaigns as a result of the regulation you are asking for since they will have to restrict their spending. Your requested regulation will simply have the effect of limiting spending in a campaign.

This rule will benefit the wealthy and hurt the poor candidates.

A criminal law should not be applied retroactively.

The fact that bills over \$1,000.00 are not due until the future does not overcome the fact that the law would be retroactive. Since candidates relied on the old regulations in planning and unless the time allowed to pay back bills is truly reasonable then candidates could find themselves criminally liable under the new regulations when their actions were legitimate under the old regulations.

The new regulations should only be applicable to future campaigns when all candidates can plan ahead and so no one will be caught by a personal inability to get a bank loan, thus subjecting themselves to possible criminal liability.

For the above stated reasons, I protest the passage of the "contribution" regulation, 2.AAC.50.(a)(7).

I would like the opportunity for Senator Kerttula or myself to be allowed to speak before the Commission when they meet on this subject.

[8A], 8/21/85

Page 4

Would you please notify me if this cannot be done, or if there are any changes in the meeting dates, times or places? Thank you.

Sincerely,

Joyce Kerttula
Joyce Kerttula
Campaign Manager
Kerttula for Senate

[18A], 8/21/85

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MEMORANDUM

State of Alaska

TO: Carol Horos
Staff Assistant
Senate State Affairs Committee

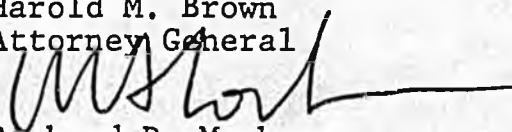
DATE: February 11, 1986

FILE NO: 366-209-86

TELEPHONE NO: 465-3600

FROM: Harold M. Brown
Attorney General

SUBJECT: SB 356 (Election financing)

By: 
Richard D. Monkman
Assistant Attorney General

The attached list identifies some technical problems we have identified with SB 356. Most of these are minor and can be easily changed. Assuming the Committee has no objection, perhaps you could pass this list on to the legislative drafters when the next draft of the bill is drawn up.

As far as substance goes, we have identified nine areas of Department of Law concern which I will be prepared to address tomorrow morning. These are:

1. Enforcement;
2. Expenditure reports;
3. Solicitation of contributions from public officers;
4. Investigations;
5. Hearings;
6. Statutes of limitations/fine schedules;
7. Deputy campaign treasurers;
8. Candidate responsibility;
9. Definition of contribution.

These nine areas have been discussed in detail with Ms. Burke, and she has recommended that we take them up directly with the Committee.

Please give me a call if you have any questions or comments.

HMB:RDM:cck

Attachment

cc w/attach.:

Harold M. Brown
Attorney General
Department of Law

Theda S. Pittman, Executive Director
Alaska Public Offices Commission
Anchorage

Page	SECTION #	PROBLEM
3	15.14.020(c)	Changes number of nominees to 2 from 4
3	15.14.020(j)	Poorly worded re: number of votes required to take action. "The <u>affirmative</u> vote of at least three members..." would be better.
5	15.14.030(8)	Delete clause "and report to the AG," lines 26 - 29.
6	15.14.040(a)	Does not cover situation where a candidate spends \$1,000 of own money to begin campaign ("makes expenditures of \$1,000 or more..." would be better approach)
7	15.14.050	" <u>Political Interest Group</u> " is particularly unappealing acronym. "Political action committee" tracks federal practice and common use.
7-8	15.14.050(e) and (f)	These sections are poorly drafted, esp. (f). Could lead to confusion in interpretation.
8	15.14.060	No disclosure of line of business, occupation, or principal interest of PIGs and corporate contributors. Burke says unintentional and will be fixed.
13	15.14.090(a)	Should be "A person who makes contributions <u>with an aggregate amount of \$250 or more...</u> " to track present law.
15	15.14.110	If this is intended to be sworn under penalty of perjury, should so state in the text of "affidavit."
16	15.14.130(d)	"[s]haring a majority of officers" is very vague and probably unenforcable. "Sharing two or more common officers" or "with two or more officers in common" would be better.
17	15.14.160	Language in sections (a) and (b) does not match. (b) should read "a contribution made in violation of section (a) ...shall be returned." Section (c) contains left-over "acceptance/reciept" language from early drafts and should be deleted.
29	15.14.260	Delete "or by a court..."
30	15.14.280	Should change statutes of limitation to reflect de-criminalization. 2 years for 2cd degree and 4 years for 1st degree best.
31	15.14.290(b), (c), and (d)	Delete (b) lines 13 - 19; all of (c); and referral clause in (d) after de-criminalization
32-34	15.14.300-.340	Conflict with the Administrative Procedures Act, 44.62. Burke says will be fixed.
35	15.14.330(a)	No provision for default. If person does not appear, Comm'n can't fine. Conflicts with 15.14.300(b).
36	15.14.330(b)	Change in court established burden of proof may require 2/3ds vote of Legislature to stand up.

Page	Section #	Problem
37	15.14.370	Takes away present powers to subpoena documents etc. during investigation of lobbying and conflict of interest cases. Burke says unintentional and will be fixed.
38	15.14.380	Delete lines 4 - 7.
39	15.14.900(2) (B)(i)	Allows professionals \$3,000 contribution (\$2,000 cash and \$1,000 in-kind). Left over from original "no-limit" draft, should be deleted.
40	15.14.900(6)	Does not include PIGs. Enforcement section only refer to "persons," if Comm'n is to enforce limit etc. against PIGs, must include them in this definition.

NEW APOC REGULATIONS EFFECTIVE JANUARY 4, 1986

NO CHANGE FROM PREVIOUS REGULATION OR LANGUAGE

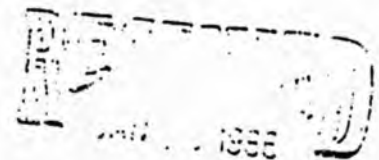
NEW PROVISION OR LANGUAGE

ALASKA PUBLIC OFFICES COMMISSION

Administrative Regulations

AS 15.13 - Campaign Disclosure,
Complaints and Hearings, General Provisions

January 4, 1986



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ALASKA ADMINISTRATIVE CODE
Title 2. DEPARTMENT OF ADMINISTRATION
ALASKA PUBLIC OFFICES COMMISSION REGULATIONS

CHAPTER 50. CONFLICT OF INTEREST, CAMPAIGN
DISCLOSURE AND REGULATION OF LOBBYING

Articles 2, 3. & 5.

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2 AAC 50.310. FILING. (a) All reports that are required to be filed under the provisions of AS 15.13 and this chapter must be received by the commission on or before the due date. Except for the 24 Hour Report, "received" means either

(1) hand-carried to the commission's central office or its branch office in the state capital; or

(2) postmarked. The date shown by the postmark is presumed to be the date it was deposited in the United States mail.

(b) The 24 Hour Report required by AS 15.13. 110(b) must be filed with the commission's central office either by a collect telegram or by actual physical delivery within the prescribed time. 24 hour Reports may not be mailed.

(c) All forms will be available at the commission's central and branch offices, at district offices during state election years, and at the participating municipalities. (Eff. 5/14/80, Register 74)

Authority: AS 15.13.020(j) and (k); AS 15.13.030(10)
AS 15.13.110(a) and (b)

2 AAC 50.313. DEFINITION OF "CONTRIBUTION." (a) In 2 AAC 50.310 — 2 AAC 50.405, except as otherwise provided in this section, "contribution" includes a payment, gift, subscription, loan, advance, transfer, deposit of money, services, or anything of value made by a person or group for the purpose of influencing an election for state or municipal office or influencing the passage or defeat of a ballot proposition or question; and includes a personal contribution as described in 2 AAC 50.315.

(b) In this section and in 2 AAC 50.321, "loan" includes a guarantee, endorsement, and any other form of security. The following apply to loans:

(1) A loan that exceeds the contribution limitations of AS 15.13.070 is unlawful, whether or not it is repaid.

(2) A loan is a contribution at the time it is made.

(3) Except for a personal contribution loan as described in 2 AAC 50.315(d), a loan is a contribution by each endorser or guarantor. Each endorser or guarantor is considered to have contributed that portion of the total amount for which he or she agreed to be liable in a written agreement. If the agreement does not state the portion of the loan for which each endorser or guarantor is liable, the loan is considered a loan by each endorser or guarantor in the same proportion that each endorser or guarantor bears to the total number of endorsees or guarantors.

(c) In this section, "money" includes currency of the United States or of any foreign nation, checks, money orders, or any negotiable instruments payable on demand.

(d) In this section, "anything of value" includes facilities, equipment, polling information, supplies, advertising services, membership lists, mailing lists, any item of real or personal property, and personal services of any kind, the cost or consideration for which is paid by a person other than the candidate or group for whom the services are rendered.

(e) The provision of goods or services without charge, or at a charge which is less than the usual and normal charge for the goods and services in the market, is a contribution. If goods or services are provided at less than the usual or normal charge in the market, the amount of the nonmonetary contribution is the difference between the usual and normal charge for the goods or services at the time of the contribution and the amount charged.

(f) The entire amount paid to attend or participate in a fundraiser or other political event, and the entire amount paid as the purchase price for a fundraising item sold by a group or candidate, is a contribution.

(g) The payment by a person of compensation for the personal services of another person to a group or candidate for any purpose, except for legal and accounting services necessary to complete reports, is a contribution. No contribution results in the following circumstances:

(1) when an employee paid on an hourly or salaried basis engages in political activity during what would otherwise be a regular work period, if the time spent is made up by the employee within a reasonable period of time;

(2) when an employee paid on a commission or piecework basis, or an employee paid only for work actually performed whose time is considered the employee's own, engages in political activity during normal working hours;

(3) if time used by the employee during normal working hours to engage in political activity is bona fide vacation or other earned leave time.

(h) The extension of credit by a person to a candidate or political group for a length of time beyond normal business practice is a contribution, unless the creditor has made a commercially reasonable attempt to collect the debt, or pursued its remedies in a manner similar in intensity to that employed by the creditor in pursuit of a non-political debtor, including lawsuits if filed in similar circumstances.

(i) A debt owed by a political group or candidate, which is forgiven or settled for less than the amount owed is a contribution. The commission will, in its discretion, consider the following factors before directing staff to commence a preliminary investigation:

(1) whether, at the time the debt was incurred, both the creditor and the candidate or political group expected full repayment within a reasonable period of time;

(2) whether the campaign has made a good faith effort to repay all outstanding debts;

(3) whether the creditor has taken steps it normally takes against debtors in the same financial condition as the campaign;

(4) whether the proposed settlement agreement between the creditor and the campaign is similar to previous settlements made by the creditor and other debtors;

(5) whether the campaign has treated equally all creditors since it became aware of the difficulty in repaying all debts;

(6) whether the proposed settlement agreement is similar to others proposed by the campaign.

(j) An expenditure made by a person in cooperation, consultation, or in concert with, or at the request or suggestion of a candidate, the candidate's campaign committee, campaign agents, or campaign consultants is a contribution to the candidate. The financing by a person of the issuance, republication, or distribution of a broadcast or of a written, graphic, or other form of campaign material provided by the candidate, the candidate's campaign committee, campaign agents, or campaign consultants is a contribution to the candidate. This includes an expenditure:

(1) based on information about the candidate's plans, projects, or needs provided by the candidate or the candidate's campaign agents;

(2) made by or through a person who is, or has been, authorized to raise or expend money for the candidate, who is, or has been, an agent of a candidate's campaign, or who has received any form of compensation or reimbursement from the candidate, members of the candidate's campaign committee, campaign agents, or campaign consultants;

(3) made by any person or group based on data from a candidate's pollster or campaign consultant or any other person who has received, or is receiving, compensation or reimbursement from the campaign;

(4) made by a political group for soliciting contributions to be paid or delivered directly to a candidate or the candidate's campaign agents.

(k) In (j) of this section, "campaign agents" includes all officers, campaign managers, treasurers, deputy treasurers, campaign consultants, and persons who reasonably appear to have authority to make expenditures and solicit contributions for a candidate's campaign.

(l) In 2 AAC 50.310 — 2 AAC 50.405, "contribution" does not include the following payments, services, or other things of value:

(1) costs incurred in covering or carrying a news story by a broadcasting station, newspaper, or periodical of regular publication, unless the

facility is owned by or controlled by a political party, political group, or candidate; in that case, the cost of the news story is a contribution, unless the news story is a bona fide news account that is part of a general pattern of campaign-related news accounts which gives reasonably equal coverage to all opposing candidates in the circulation or listening area.

(2) a non-monetary contribution or in-kind donation of a single item with a usual and normal cost of \$50.00 or less.

(3) a payment made by any individual for his or her own travel expenses, if such payments are voluntary and are made without any understanding that they will be directly or indirectly repaid.

(4) a payment is made by a business, corporation, trade association, labor organization, or other organization not organized primarily to influence elections to communicate directly with its members or employees, or their families, on any subject, if the communication is of the same format and nature used by the organization when it has communicated in the past on nonpolitical subjects, does not request members or their families to do anything other than exercise the right to vote, and does not solicit individual contributions to a clearly identified candidate or group chosen by the organization.

(5) a gift, subscription, loan, advance, or deposit of money or anything of value made with respect to a recount of a state or municipal election.

(m) A contribution made by a married individual is not attributed to that individual's spouse, unless otherwise specified in writing by the spouse at the time the contribution is made. (Eff. 1/4/86, Register 97)

Authority: AS 15.13.030(10)
AS 15.13.040

AS 15.13.070
AS 15.13.130

2 AAC 50.314. DEFINITION OF "GROUP"; REPORTING BY BUSINESS. (a) In 2 AAC 50.310 -- 2 AAC 50.405, "group" includes

(1) every combination of two or more persons who are elected, appointed, or otherwise chosen, or who cooperate for the purpose of raising, soliciting, collecting, or disbursing money or anything of value, or for directing or controlling those activities to secure or defeat the election to public office of an individual or candidate or to secure or defeat a ballot proposition;

(2) a political action committee, draft group, association, club, corporation, partnership, trade association, incorporated or unincorporated association, or labor organization organized to aid or promote the nomination, election, defeat, or recall, of any candidate for political office or to aid the passage or defeat of a ballot proposition;

(3) two or more persons who jointly make a contribution in the name of another as described in 2 AAC 50.357.

(b) A corporation, partnership, sole proprietorship, trade association, fraternal or charitable organization, incorporated or unincorporated association, firm, or business trust may report its contributions and expenditures as required by AS 15.13.040(d) and (e) as an individual* if

(1) all contributions and expenditures to influence the outcome of an election are made from the organization's general day-to-day operating account;

(2) the organization does not conduct a fundraising drive or assessment among its members or employees for the purpose of influencing an election;

(3) the organization does not exercise direction, control, or discretion over the choice of the recipient candidate or group, and the organization does not exercise direction, control, or discretion over the expenditure of money or other things of value collected, pooled, solicited, or otherwise paid by others for the purpose of influencing an election. (Eff. 1/4/86, Register 97)

Authority: AS 15.13.030(10)
AS 15.13.040

AS 15.13.130(3)

2 AAC 50.315. CONTRIBUTION LIMITATION EXEMPTION. (a) Groups that nominated a candidate for governor who received at least three percent of the total vote cast at the 1982 general election for governor are considered to be exempt from the contribution limitation set out in AS 15.13.070(a).

(b) Until the effective date of a statutory definition of "political party" that replaces AS 15.60.010(20) as it exists on the effective date of this section (and was held invalid in Wooler v. Miller, 660 P.2d 1192 (Alaska 1983)), a group, other than a group described in (a) of this section, desiring an exemption from the contribution limitation set out in AS 15.13.070(a) must submit to the commission an application for exemption. In accordance with (c) of this section, the commission will review the application and, in its discretion and on a case-by-case basis, grant the exemption.

(c) Among the criteria which will be considered in deciding whether to grant an exemption are:

(1) an organized membership, composed of registered voters, which represents a political program;

~~APPLICABLE TO GROUPS AND INDIVIDUALS ONLY. THIS SECTION DOES NOT APPLY TO CORPORATIONS, PARTNERSHIPS, SOLE PROPRIETORSHIPS, TRADE ASSOCIATIONS, FRATERNAL OR CHARITABLE ORGANIZATIONS, INCORPORATED OR UNINCORPORATED ASSOCIATIONS, FIRMS, OR BUSINESS TRUSTS.~~

2 AAC 50.314
2 AAC 50.315

(2) prior history as a political group under AS 15.13.050 including the receipt of substantial contributions and the disbursement of substantial expenditures made for the purpose of influencing the election of legislative candidates in more than one district; and

(3) the percentage of votes received by a statewide candidate nominated in the name of the group in the preceding general election.

(4) Groups satisfying the criteria of (a) of this section and groups granted exemptions under (b) of this section are subject to the requirement that political parties report contributions and expenditures as provided by AS 15.13. (Eff. 6/29/84; Register 90; am 1/4/86, Register 97)

Authority: AS 15.13.030(10)
AS 15.13.040

AS 15.13.070

2 AAC 50.316. PERSONAL CONTRIBUTIONS BY A CANDIDATE. (a) A candidate may make unlimited personal contributions from assets which, under Alaska law, the candidate had legal right of access to or control over and to which the candidate had legal and rightful title at the time he or she became a candidate. These assets include salary and other earned income from bona fide employment; dividends; proceeds from the sale of investments; bequests to the candidate; income from trusts established before candidacy; income from trusts established by bequest after candidacy; and gifts of a personal nature which had been customarily received before candidacy.

(b) A candidate may use a portion of jointly owned assets as a personal contribution. The portion of the jointly owned assets that may be used is the candidate's share under the instruments of conveyance or ownership. With respect to spouses, if no specific share is indicated by an instrument of conveyance or ownership, the value of one-half of the property used is considered the personal funds of the candidate. In the case of property jointly owned by a non-spouse, if there is no instrument of conveyance or ownership, the portion of the asset belonging to the candidate is the pro rata share of the purchase price paid by the candidate, or, if no purchase was made, the amount determined by dividing the present value by the number of owners.

(c) A candidate's donation of goods remaining from a prior campaign is a personal contribution.

(d) A loan of money by a regulated banking institution to a candidate is a personal contribution if the loan is made in accordance with applicable banking laws and regulations; bears the usual and customary interest rate for the category of the loan involved; is evidenced by a written instrument; and is subject to a due date or amortization schedule. Loans under this section are reported as a candidate's personal contribution.

2 AAC 50.315
2 AAC 50.316

(e) The absolute sale of all legal and equitable interest of a candidate's real or personal property is not a contribution from the purchasers if the proceeds are received by a candidate in a legitimate arm's length transaction documented in writing. Sale proceeds used by a candidate in a campaign must be reported as personal contributions. (Eff. 1/4/86, Register 97)

Authority: AS 15.13.030(10)
AS 15.13.040

AS 15.13.070
AS 15.13.130

2 AAC 50.319. DESIGNATED CAMPAIGN DEPOSITORY. (a) Each candidate and political group intending to raise or spend more than \$5,000 in a calendar year shall designate on a registration statement or on the first campaign disclosure statement filed with the commission, one or more regulated banking institutions as its campaign depository or depositories. Each account title must indicate that it is a campaign account.

(b) All monetary contributions to, and expenditures by, a candidate or political group must be deposited to or made from a designated campaign depository.

(c) A candidate or political group required by (a) of this section, to designate a campaign depository may obtain and use credit cards in making travel-related campaign expenditures for transportation, lodging, meals, and other expenses in connection with traveling for campaign purposes. The credit card account name must indicate that it is a campaign account.

(d) Contributions that appear to be illegal must, within ten days after receipt, be returned to the contributor.

(e) A campaign treasurer shall make his or her best efforts to determine the legality of a contribution. If a contribution cannot be determined to be legal, a refund must be made within a reasonable time, and the treasurer shall note the refund by amending the current report or noting the change on the next required report. Alternatively, the contribution may be deposited into the campaign depository and reported. If it is deposited, the treasurer shall make and retain a written record noting the basis for the appearance of illegality. A statement noting that the legality of the contribution is in question must be included in the next required report. (Eff. 1/4/86, Register 97)

Authority: AS 15.13.030
AS 15.13.050

AS 15.13.060
AS 15.13.070

2 AAC 50.320. GENERAL BOOKKEEPING REQUIREMENTS FOR CANDIDATES AND GROUPS. (a) Every candidate and group required to report contributions or expenditures under the provisions of AS 15.13 shall maintain detailed records of all contributions received and expenditures made in accordance with the uniform methods of bookkeeping set out in the commission's bookkeeping guide.

(b) A candidate or his treasurer, and the treasurer of a group, may issue a receipt, and shall record the receipt of every contribution received, unless otherwise exempted by this chapter, regardless of the dollar amount or value of the contribution. While the identity of a person who has contributed no more than \$100 to a campaign is not required to be individually reported by the treasurer on a campaign disclosure report, the name of such a contributor, along with the amount and type of his contribution, must be recorded by the treasurer and maintained by the treasurer, for comparative purposes, in case that person makes additional contributions which total over \$100.

(c) The identity of a person who has contributed over \$100 in the aggregate per year to a candidate's or group's campaign must be reported in accordance with 2 AAC 50.321.

(d) Each bookkeeping record required under this section shall be maintained by the candidate or the treasurer of a group and may not be destroyed for a period of four years from the date of the contribution. The records shall be available for inspection by the commission upon request of the commission. (Eff. 5/14/80, Register 74)

Authority: AS 15.13.020(2)
AS 15.13.030(10)

AS 15.13.040
AS 15.13.120(e)

2 AAC 50.321. REPORTING CONTRIBUTIONS AND EXPENDITURES. (a) Each candidate or group filing reports under AS 15.13 must identify

(1) each monetary contribution, or aggregate of contributions from the same contributor, which totals in excess of \$100 by reporting

- (A) the date received;
- (B) the check number;
- (C) the name and address of the contributor;
- (D) the principal occupation and employer of the contributor; and
- (E) the amount;

(2) each non monetary contribution, or aggregate of non monetary contributions from the same contributor, valued at more than \$100 a year, by reporting

- (A) the date received;
- (B) the name and address of the contributor;

(C) the principal occupation and employer of the contributor;

(D) a description of the contributions; and

(E) its estimated fair market value;

(3) each loan, or aggregate of loans from the same contributor which totals in excess of \$100, by reporting

(A) the date received;

(B) the name and address of the lender, guarantor or cosigner;

(C) the principal occupation and employer of the lender, loan guarantor or cosigner;

(D) the interest rate; and

(E) the amount;

(4) each paid expenditure by reporting

(A) the date of the payment;

(B) the check number;

(C) the name and address of the payee;

(D) the purpose of the expenditure; and

(E) the amount;

(5) each accrued expenditure by reporting

(A) the date the expenditure was incurred;

(B) the name and address of the business or individual with whom the debt was incurred;

(C) the purpose of the accrued expenditure; and

(D) the amount.

(b) When reporting monetary and non-monetary contributions or loans, a cumulative total must be kept by each candidate or group of the contributions (including loans) made to it, regardless of the total, and reported pursuant to (a) of this section when

(1) monetary contributions by the same contributor bring the total to over \$100; or

(2) nonmonetary contributions by the same contributor bring the estimated total value to over \$100; or

(3) loans by the same lender, guarantor, or cosigner bring the total to over \$100; or

(4) a combination of monetary or nonmonetary contributions or loans by the same contributor brings the total to over \$100. (Eff. 7/22/78, Register 67)

Authority: AS 15.13.030(10)
AS 15.13.040(a) and (b)

AS 15.13.130(2) and (4)

2 AAC 50.322. RECORDKEEPING REQUIREMENTS FOR AUCTIONS AND GARAGE SALES. Repealed 5/14/80.

2 AAC 50.323. RECORDKEEPING REQUIREMENTS FOR CONTRIBUTIONS RECEIVED FROM THE SALE OF CAMPAIGN MATERIAL. Repealed 5/14/80.

2 AAC 50.324. SHARED CAMPAIGN REPORTING. Except for expenditures by the candidates for governor and lieutenant governor of the same political party who have been nominated to run in the general election, the following provisions apply to all candidates and groups, other than a political party, subject to the provisions of AS 15.13 and this chapter:

(1) The use, by one candidate, of the money, goods or services raised or generated by his campaign, to influence the election of another candidate, is considered a contribution and cannot exceed the \$1000 limitation set by AS 15.13.070(a); nothing in AS 15.13 or this chapter, however, limits an individual's right to make any expenditure whatsoever to influence the election of a candidate, so long as that expenditure is not made at the suggestion of that candidate, directly or indirectly paid for by that candidate, or otherwise controlled by that candidate.

(2) An expenditure made by one group, other than a political party, on behalf of another group which is controlled by a candidate is considered a contribution and may not exceed the \$1000 limitation set by AS 15.13.070(a).

(3) A candidate may not join his campaign committee with that of one or more candidates in order that they may file a single report of their joint campaign, nor may a group join with one or more groups in order that they may file a single report of their joint efforts.

(4) Candidates or groups prohibited from forming a joint campaign under (3) of this section may share in campaign efforts, under (5) of this section, so long as they keep separate campaign accounts and file separate statements of their contributions and expenditures under AS 15.13 and 2 AAC 50.

(5) Two or more candidates, or two or more groups, may share in campaign efforts so long as the cost of, and receipts from, shared efforts are allocated equally to each participating candidate or group's campaign.

(6) So long as the costs of, and receipts from, shared efforts are allocated equally to each participant of a shared campaign, neither the costs or receipts are considered as a contribution from one participant to any of the other participants.

(7) Each candidate or group filing reports pursuant to AS 15.13 and 2 AAC 50 must complete an APOC Form 15-SA, the "Shared Campaign Activities" form, which represents his or its proportionate share of the receipts and expenditures of a shared campaign effort.

(8) A proportionate share of the amount of an expenditure benefiting one or more candidates, or one or more groups, of a shared campaign effort, but paid for in full by one of the candidates, or by one of the groups, will be considered a contribution by

(A) the paying candidate to the other candidates; or

(B) the paying group to the other groups.

(9) Media communications regarding a shared campaign activity are considered properly identified so long as the identification includes the words "paid for by" and the name of each candidate or group sharing in the cost of the communications. The address and treasurer of each participating candidate or group need not be listed. However, if a communication is paid for in its entirety by only one of the participants then, in accordance with 2 AAC 50.369, full and proper identification is required. (255. 7/22/78, Register 67; am 5/14/80, Register 74; am 5/29/84, Register 90)

Authority: AS 15.13.030(10) AS 15.13.070(a)
AS 15.13.040(a) and (b) AS 15.13.090

2 AAC 50.325. RECORDKEEPING REQUIREMENTS FOR NONMONETARY CONTRIBUTIONS.

2 AAC 50.326. RECORDKEEPING REQUIREMENTS AND EXEMPTIONS WHEN REPORTING A FUND-RAISER. (a) A candidate or his treasurer, and the treasurer of a group, shall report all the contribution and expenditure activity related to a campaign fund-raiser in a format designated by the commission, and in accordance with this section. Fund-raisers sponsored in conjunction with several candidates or groups are viewed as shared fund-raising activities and, while subject to the provisions of this section, must be reported separately on APOC Form 15-BSA and in accordance with 2 AAC 50.324.

(b) When reporting a fund-raiser, a candidate or his treasurer, and the treasurer of a group, shall state the total number of contributing participants, the date and place where the event was held, if applicable, a description of the type of fund-raising activity, and the total costs of, and receipts from, the event.

(c) For the purposes of this section, "fund-raiser" includes, but is not limited to, a garage sale; a raffle or drawing; an auction; a spaghetti feed or pot-luck dinner; the sale of campaign material, such as posters, buttons, stickers, clothing, key chains and ashtrays; or a sponsored concert.

(d) The requirement in AS 15.13.040 and 2 AAC 50.320 that a candidate or his treasurer, or the treasurer of a group, must record the name of every person making a contribution, regardless of the amount of that contribution, does not apply to events which meet the following criteria:

(1) fund-raisers, similar in nature to spaghetti feeds, bingo games, dances, or concerts, where

(A) there are 25 or more paying participants; and

(B) except as described in (f) of this section, the cash amount received from any one person does not exceed \$50;

(2) fund-raisers, such as a raffle, lottery or a drawing, where

(A) 25 or more tickets are sold; and

(B) except as described in (f) of this section, the price of a ticket or the amount received from any one person purchasing chances does not exceed \$50;

(3) fund-raisers, the income from which is based on the sale of campaign material, where, except as described in (g)

(A) the price of an item being sold does not exceed \$10; or

(B) the amount received from any one person purchasing items does not exceed \$50;

(4) fund-raisers, such as garage sales and auctions, where, except as described in (g)

(A) the fair market value of an item donated for sale or auction does not exceed \$50; or

(B) the amount received from any one person purchasing items at the garage sale or auction does not exceed \$50.

(e) When reporting receipts from a fund-raiser which meets the recording exemption set out in (d) of this section, the candidate or his treasurer, or

the treasurer of a group, need only report the total amount of contributions received from or generated by the fundraiser, along with the total number of paying participants, tickets sold, or items purchased, as applicable.

(f) If a person contributes in excess of the exempted amounts stated in (d)(1)(B) or (d)(2)(B) of this section, then the name of that person, and the amount and type of that contribution, must be recorded as set out in 2 AAC 50.320.

(g) If the cost of or value of an item exceeds the exempted amount, or if a person contributes or pays in excess of the exempted amounts stated in (d)(3) or (4), then the name of that contributor or buyer must be recorded as set out in 2 AAC 50.320.

(h) A contribution made by a person to attend or otherwise participate in a "fund-raiser," as defined in (c) of this section, whether or not exempted from full recording under this section, may not be received by or on behalf of a candidate in violation of AS 15.13.070(a). (See 5/14/80, Register 74; am 5/24/81, Register 78; am 6/29/84, Register 90)

Authority: AS 15.13.030(10)
AS 15.13.040

2 AAC 50.330 REPORTING CAMPAIGN EXPENDITURES FOR TRANSPORTATION.

2 AAC 50.332. REPORTING ZERO CONTRIBUTION OR EXPENDITURE ACTIVITY.

(a) Each candidate or group required to file a full report of all contributions received and expenditures made in accordance with AS 15.13 and this chapter shall report in accordance with the reporting schedule set out in AS 15.13.110(a), regardless of the amount of their reportable contributions or expenditures. In the absence of any contribution or expenditure activity whatsoever during a reporting period, each candidate or group not already exempt from reporting under (b) or (c) of this section shall submit by the appropriate due date the "Short Form" on Schedule A of the Campaign Disclosure Statement certifying that no contributions have been received or expenditures made.

(b) A candidate who does not intend to receive or accept contributions, or make expenditures during his campaign for municipal or state public office, including any personal campaign contributions or expenditures, may file APOC Form 15-0, the "Campaign Reporting Exemption Form." A candidate who files the exemption form is not required to submit any other reports to the commission concerning his campaign. The reporting exemption is revoked if a candidate accepts contributions or spends money to influence his election. A candidate whose exemption is revoked must immediately register his change of status on APOC Form 15-1 and, in accordance with AS 15.13.110, must disclose his campaign contribution and expenditure activity beginning with the first campaign disclosure report due following his change in status. Failure to report campaign

contribution or expenditure activity after the reporting exemption is revoked subjects the candidate to both civil and criminal penalties for noncompliance with the reporting requirements of AS 15.13 and 2 AAC 50.

(c) The treasurer of a political party subdivision or political action committee previously registered with the commission which does not intend to receive or accept contributions, or make expenditures, during a municipal campaign may, in accordance with the requirements set forth in (b) of this section, file APOC Form 15-0. (Eff. 7/22/78, Reg. 67; am 5/14/80, Reg. 74)

Authority: AS 15.13.030(10) AS 15.13.110
AS 15.13.040(a) and (b)

2 AAC 50.333. REPORTABLE DATE OF A CONTRIBUTION. A contribution is considered received, and reportable as such, on the day in which that contribution is in the possession of a candidate, or a treasurer or deputy treasurer of a candidate or group, in accordance with AS 15.13.070(e) and this chapter. (Eff. 7/22/78, Reg. 67)

Authority: AS 15.13.030(10)
AS 15.13.070(e)

2 AAC 50.334. PERSONS WHO MAY ACCEPT CONTRIBUTIONS. (a) A candidate's campaign committee, or a group, may authorize a person who is not registered as a deputy treasurer to accept or solicit campaign contributions on its behalf for any single event. Campaign committees or groups are not in violation of AS 15.13.070(e) if contributions collected by the authorized person are turned over to a candidate, treasurer, or deputy treasurer of the intended committee or group within 72 hours.

(b) An individual who is, or will be, fund-raising on a regular basis throughout a political campaign must be registered as a deputy treasurer in accordance with AS 15.13.060(e).

(c) Individuals that have not been "authorized" to accept campaign contributions by either a candidate or his treasurer, or the treasurer of a group, are prohibited from collecting campaign contributions on behalf of a candidate's campaign committee or a group. (Eff. 4/28/79, Register 70; am 5/14/80, Register 74)

Authority: AS 15.13.030(10) AS 15.13.070(e)
AS 15.13.060 AS 15.13.130(2)

2 AAC 50.340. EXPENDITURES TO ADVERTISING AGENCIES OR CAMPAIGN MANAGEMENT SERVICES. Whenever a required report includes an expenditure to an advertising agency, or to an individual or business which provides campaign

consultation or management services, the report shall be accompanied by a statement detailing all services rendered, including the identity of each business from which campaign goods or services were purchased or subcontracted, or media advertising placed, and their costs. (Eff. 5/16/76, Register 58; am 5/14/80, Register 74).

Authority: AS 15.13.030(10)
AS 15.13.040(f)

2 AAC 50.342. REGISTRATION OF GROUPS SUPPORTING OR OPPOSING BALLOT ISSUES. Each group, before making an expenditure in support of or in opposition to a ballot proposition, shall register with the commission on forms provided by the commission. (Eff. 5/14/80, Register 74)

Authority: AS 15.13.010(b) AS 15.13.040(b)
AS 15.13.030(10) AS 15.13.050

2 AAC 50.350. CONTRIBUTION OF PROFESSIONAL SERVICES.

2 AAC 50.351. INDEPENDENT EXPENDITURES. (a) An independent expenditure is a disbursement of funds which is made expressly to support or oppose an individual's candidacy or a ballot issue. An independent expenditure is not made with the cooperation, consent, in consultation with, or at the request or suggestion of, a candidate, a candidate's campaign committee, or a group, and must be reported in accordance with AS 15.13.040(d)(2) and (e) by the maker of the expenditure.

(b) An expenditure made at the request of, in consultation with, or at the suggestion of a candidate, a candidate's campaign committee, or a group supporting or opposing a ballot issue, is considered an in-kind contribution by the person making the expenditure, and must be reported in accordance with AS 15.13.040(a) by the candidate or group benefiting from the contribution, and by the "contributor" in accordance with AS 15.13.040 (d)(1) and (e).

(c) There is no limit on the amount or frequency of independent expenditures.

(d) The report of an expenditure to influence the outcome of a ballot issue required to be filed under AS 15.13.040(d)(2) will be closed to the public only if the commission determines, in response to a written request, that the individual who makes the expenditure would likely be subject to undue harassment, threats, or economic reprisals as the result of public disclosure. After publication, the person granted an exemption shall provide the commission with

a copy of the communication in order to enable the commission to verify which communications were sponsored by that person. (Eff. 5/14/80, Register 74; am 6/29/84, Register 90)

Authority: AS 15.13.030(10)
AS 15.13.040

AS 15.13.090

2 AAC 50.355. LOANS. ~~AS 15.13.040(10)~~

2 AAC 50.357. CONTRIBUTIONS IN THE NAME OF ANOTHER. (a) No contribution may be made, directly or indirectly, by a person other than in the legal name of the original source of the contribution.

(b) No person, employer, principal, supervisor, or contractor may lend, pay, advance, or reimburse employees, agents, or other persons for contributions to a candidate or group in the employee's, agent's, or other person's name, or in a name other than the original source of the contribution.

(c) A contribution made at the direction of another person, including a parent organization, subsidiary, division, department, branch, or local unit, is a contribution in the name of another. Contributions by two or more organizations to the same recipient are in the name of another if the organizations

- (1) share the majority of members of their board of directors;
- (2) share two or more corporate or organizational officers;
- (3) are owned or controlled by the same shareholders or members;
- (4) are in a parent-subsidiary relationship.

(d) If a minor makes a contribution of money or any thing of value given to the child by a parent for that purpose, the parent has made a contribution in the name of another. (Eff. 1/4/86, Register 97)

Authority: AS 15.13.030(10)
AS 15.13.040

AS 15.13.070
AS 15.13.130

2 AAC 50.360. MUNICIPALITIES. (a) If a municipality seeks to influence the outcome of an election, using budgeted municipal funds, it shall report as an individual under AS 15.13.040(d) and (e).

All communications which are paid for by a municipality and which are related to an election are considered to be intended to influence the outcome of an election unless they are only notices of the election or unless they are required by statute, charter, or ordinance.

(c) The municipality shall file with the commission a list of candidates and their mailing addresses within seven days following the deadline for filing for municipal office.

If a municipality seeks to influence the outcome of an election using funds contributed to it for that purpose, it shall register and report as a group under AS 15.13.040(b) and (c) and AS 15.13.050. (Eff. 5/16/76, Register 58; am 1/4/86, Register 97)

Authority: AS 15.13.010 AS 15.13.040 AS 15.13.090
AS 15.13.030(10) AS 15.13.050

2 AAC 50.361. REPORTING BY SPECIAL INTEREST GROUPS. Repealed 10/18/81.

2 AAC 50.362. DRAFT GROUPS. (a) A draft group must report its contribution and expenditure activity as a group, under the requirements of AS 15.13 and this chapter.

(b) A draft group

(1) may make expenditures in order to raise, through contributions to the group, the money necessary to

(A) defray its own administrative costs; and

(B) attempt to draft persons to become candidates, including the expenditure of money to

(i) extoll the qualities of persons the group is attempting to draft; and

(ii) inform the general public both of the group's position on issues, as well as the qualities of leadership it seeks in potential candidates; and

(2) may not

(A) engage in any political activity other than an activity described in (b)(1) and (c) of this section;

(B) accept contributions in excess of \$1000 from any person or group;

(C) except for personal travel expenses, opinion surveys, or polls, make any expenditure that might benefit a person who the group has successfully drafted for office and who has made it known that he or she will be seeking election to public office; however, the group may continue in its attempts to draft other persons for elective office; and

RECEIVED

PAXTON OBORN

4500 BAYVIEW • ANCHORAGE, ALASKA 99516 • (907) 345-2124

AUG 20 1985

APOC-ANOH

PM HC

8/19

August 16, 1985

State of Alaska Alaska Public Offices Commission
610 C Street Suite 211
Anchorage, Alaska 99501

Att. Rebecca Dye O'Hara

Dear Ms. O'Hara,

This letter is to reply to your inquiry regarding my outstanding campaign debts.

I have paid a portion of the debt that was outstanding on January 1, of this year. That payoff and any subsequent will be reflected in my yearend report to be filed this coming January.

Let me point out that these debts are in fact debts which I must pay off. I am paying them off as fast as I can. For you to say they are subject to the \$1000.00 limit would be to say they are a contribution and to assume that I do not have a responsibility to pay them, this is something you have no basis to assume.

While I can understand the staff's concern, and appreciate the potential for abuse of long outstanding campaign debts, to assume that because some abuses take place everyone must be punished is unfair. Also I question your authority to change the regulations to make them retroactive to the the 1984 campaign.

Finally, after reading your proposed changes to the regulations, I feel that the inclusion of loans as a contribution is unfair to the first time campaigner and would shift even more advantage to the incumbant candidates. There are few newcomers to the political contests that can launch a campaign without obtaining loans or credits.

[18A], 8/21/85

Page 6

It is one thing to require the reporting of loans and obligations and quite another to limit the amount. The effect of the first is make the public aware of where the candidates money is coming from and the second is to limit the amount an individual can donate to his own campaign. This would be a very dangerous step and quite possibly unconstitutional.

Sincerely,



Paxton Oborn

[8A], 8/21/85

Page 7

IT'S A MESSAGE TO THEDA FITTMAN RE THE APOC HEARINGS TOMORROW AND FRIDAY AND READS:

[18B]

TO: THEDA FITTMAN
FROM: WALTER WOOD, BOX 868, VALDEZ, AK 99686

PER OUR CONVERSATION SEVERAL MONTHS AGO, I PROPOSE:

- (1) NO EXPENDITURES AFTER NOON ON THE DAY BEFORE THE ELECTION POLLS OPEN,
- (2) NO CONTRIBUTIONS AFTER NOON BEFORE THE DAY THE POLLS OPEN,
- (3) NO CONVERSION OF CONTRIBUTIONS TO PERSONAL INCOME,
- (4) NO FUNDS CARRY OVER TO NEXT ELECTION, AND
- (5) ALL EXCESSES MUST BE RETURNED TO CONTRIBUTORS OR DONATED TO CHARITIES.

THANKS FOR LISTENING.

EOM



ALASKA PUBLIC OFFICES COMMISSION
MINUTES
August 22-23, 1985

A regular meeting of the Alaska Public Offices Commission was called to order at 9:00 a.m., Thursday, August 22, 1985 by Chairman Jean Rogers. The meeting was held in the Quadrant Room of the Hotel Captain Cook in Anchorage.

- Commissioners: Chairman Jean Roger Knox; Mildred Op' -Chairman Arlayne O'Tierney.
- Staff: Theda Pittman, Asso-; Jane B; Inter; Chris Johansen, Disclosure; Conflict of Secretary.
- Others: Roy Gen-Joyce mann; in; er;

*August Commission mtg
Regulation Hearing*

Available via

Jeanette
p. Dist. 18.

85-2-CD: S.

Mr. JOHANSEN explained that the Dept. of Environmental Conservation was engaged in influencing the outcome of an election by way of placing a television ad. Staff believes this is not a matter of influencing an election, and recommends dismissal of the complaint. Action has been taken on this matter since some time to get a Hearing Officer assigned. Conference in the near future, after which the staff for the Commission.

85-4-CD: McGowan v. Dept. of Conservation [2]

Mr. JOHANSEN explained that the Dept. of Environmental Conservation was engaged in influencing the outcome of an election by way of placing a television ad. Staff believes this is not a matter of influencing an election, and recommends dismissal of the complaint.

Ms. OPLAND asked if staff checked to see if the ad was permissible. Mr. JOHANSEN said that he had the tape, but hadn't seen the ad itself. Federal law provides that the Dept. of Environmental Conservation has a duty to undertake public information on this subject or risk loss of federal funds to the state.

Ms. OPLAND voiced her approval of dismissing the complaint.

Mr. JOHANSEN stated that this was a pretty clear-cut case, as there is an Attorney General's opinion that says the Campaign Disclosure Law does not cover state agencies.

ALASKA PUBLIC OFFICES COMMISSION
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A regular meeting of the Alaska Public Offices Commission was called to order at 9:00 a.m., Thursday, August 22, 1985 by Chairman Jean Rogers. The meeting was held in the Quadrant Room of the Hotel Captain Cook in Anchorage.

Commissioners: Chairman Jean Rogers; Vice-Chairman Arlayne Knox; Mildred Opland; Daniel O'Tierney.

Staff: Theda Pittman, Executive Director; Chris Johansen, Associate Coordinator, Campaign Disclosure; Jane Barcott, Associate Coordinator, Conflict of Interest; Teresa Garrison, Recording Secretary.

Others: Elizabeth Page Kennedy, Assistant Attorney General; Bob Manners, Secretary, NEA-PACE; Joyce Kerttula; Rep. Katie Hurley; Jean von Dohrmann; Maureen Kennedy; Dale Fox; Rep. Terry Martin; Patty Macklin; Catherine Zalewski; Janet Moyer; Steve DeLisio, Individuals for Randolph.

Available via telephone: Allen Vezey, Chairman, Rep. Dist. 18; Jeanette James, Treasurer; and Gary Wood, Rep. Dist. 18.

85-2-CD: Staff v. Clossey, McConkey, Norris [11]

Mr. JOHANSEN explained to the Commission that no action has been taken on this matter since the June meeting, as it took some time to get a Hearing Officer assigned. There will be a pre-hearing conference in the near future, after which the staff will have more information for the Commission.

85-4-CD: McGowan v. Dept. of Environmental Conservation [2]

Mr. JOHANSEN explained that a complaint was filed by Mr. McGowan alleging that the Dept. of Environmental Conservation was engaged in influencing the outcome of an election by way of placing a television ad. Staff believes this is not a matter of influencing an election, and recommends dismissal of the complaint.

Ms. OPLAND asked if staff checked to see if the ad was permissible. Mr. JOHANSEN said that he had the tape, but hadn't seen the ad itself. Federal law provides that the Dept. of Environmental Conservation has a duty to undertake public information on this subject or risk loss of federal funds to the state.

Ms. OPLAND voiced her approval of dismissing the complaint.

Mr. JOHANSEN stated that this was a pretty clear-cut case, as there is an Attorney General's opinion that says the Campaign Disclosure Law does not cover state agencies.

Ms. Knox MOVED, to dismiss the McGowan complaint.
SECONDED by Ms. Opland,

Mr. O'TIERNEY stated that apparently this was an educational-type TV advertisement. Mr. JOHANSEN said that the Dept. of Environmental Conservation has a duty to promote general welfare, and that is what protects them.

Mr. O'TIERNEY stated that the Commission has concluded that this act was not intended to influence the outcome of an election. Ms. ROGERS and Mr. JOHANSEN said yes.

Motion passed unanimously.

Fink 1984 Mayoral Campaign [27]

Mr. JOHANSEN said that staff sent a letter to Mr. Fink asking him to obtain signatures of those who contributed on joint checking accounts but did not actually sign the checks. Mr. Fink will provide the information and staff will present it at the November meeting. There is also an excessive contribution from the Holland family which staff has asked Mr. Fink to return. This was a non-monetary contribution of leased space.

Mr. O'TIERNEY asked if Mr. Fink's response may be that this situation is similar to the Quadrant contribution issue, and to protest requiring that a candidate carry the burden if it is an excessive contribution.

Mr. JOHANSEN stated that it was a non-monetary contribution and a different issue. Staff will present more information on this matter at the November meeting.

84-12-CD: Zency v. Tischer [13]

Mr. JOHANSEN explained that Mr. Zency alleged Mae Tischer didn't use a disclaimer on a newsletter. Staff concluded that the newsletter was to promote the election of the candidate and should have a disclaimer. Staff believes the mailer was worth approximately \$1,400 and believes a letter of admonition should be sent to Ms. Tischer.

Ms. KNOX said she was disturbed by the comment on page 2 of the August 6 letter where Ms. Tischer maintains this was not reportable. Mr. JOHANSEN said that perhaps Ms. Tischer had overlooked the question or didn't understand it.

Ms. KNOX stated that Ms. Tischer is asking for contributions to her campaign, and it sounds like this is from a campaign fund. Mr. JOHANSEN said that there is nothing which says a candidate has to distinguish different accounts. Staff believes Ms. Tischer's reports were in substantial non-compliance for failing to report the newsletter expense.

Mr. O'TIERNEY asked if she was to be admonished because the action was reportable. Mr. JOHANSEN said that contributions were to be mailed to the campaign, which suggested Ms. Tischer used the money from this mailer as a campaign fund.

Ms. Opland MOVED, to send a letter of admonition to Ms. Tischer.
SECONDED by Mr. O'Tierney,

Ms. KNOX stated the Commission should include in the letter of admonition a request that Ms. Tischer amend her reports.

Motion passed unanimously.

84-18-CD: Schade v. Marrou [verbal]

Mr. JOHANSEN explained that the Conflict of Interest complaint against Rep. Marrou is still continuing, and that staff has made an effort to go ahead with this complaint also, making it clear there are two separate issues involved. Staff will continue this matter at the next meeting.

85-1-CD: Schade v. Davis [verbal]

Mr. JOHANSEN explained that Mr. Davis did not use a disclaimer and that this issue is being delayed because it is tied in with the Marrou matter. Staff is continuing the investigation.

85-3-CD: Stout v. McAlpine [verbal]

Mr. JOHANSEN explained that Mr. Stout filed a complaint against Lt. Governor McAlpine because he received \$30,000 from Lewis Dischner in 1982. Mr. McAlpine stated that Mr. Dischner was a client and the money was a fee for services. Mr. Stout believes this is an excessive contribution. Since this issue involves a legal fee, staff referred the matter to the Alaska Bar Association. Staff believes it could not be a campaign contribution if it was not an excessive fee. The Bar Association will determine if it was an excessive fee. Staff has just received correspondence from the Bar Association dismissing the complaint and would like the Commission to set the matter over for further investigation, pending review of the Bar letter. If there is no merit to the complaint, staff would like the authority to dismiss the matter, or the Commission could take it up again at the November meeting.

Ms. ROGERS suggested it be taken care of via teleconference.

Ms. OPLAND asked if the \$30,000 appears on Mr. McAlpine's 1982 Conflict of Interest Statement. Mr. JOHANSEN couldn't say for sure.

Ms. OPLAND said that it would be substantiated as income if it was reported on the Conflict of Interest Statement. If the Commission gives staff the authority to dismiss the matter, staff should consult with Pat Kennedy.

Ms. ROGERS said that she prefers the Commission consider the matter themselves. All Commissioners agreed to deny staff's request for authority to dismiss the matter.

Advisory Opinions

Barbara Lacher, State Recall Group, 8/7/85 [3A]

Ms. PITTMAN explained that an inquiry regarding this matter was received

in July of 1985. Ms. PITTMAN and Ms. Kennedy had discussed this matter, and felt that a group campaigning for recall and the individual defending himself from recall should be in the same situation in regards to the campaign contribution limit of \$1,000. Staff responded only to the group inquiry as there is no recallee at this time.

Ms. OPLAND stated that she was bothered about people calling and asking for Advisory Opinions, and that there should be a written request, so a record can be kept of all questions and responses. Ms. PITTMAN noted that the draft regulations state the inquiry should be in written form.

Mr. O'TIERNEY noted that page 2, cites the \$1,000 limit as applicable to candidates competing for office. Does that mean, if there is only one candidate in a race, he is not subject to the limitation?

Ms. PITTMAN said she didn't presume that.

Mr. O'TIERNEY stated that he thought the Advisory Opinion was well done. Ms. ROGERS said she hoped the people will follow staff's advice.

Ann Parrish, Defense Fund - Draft [3C]

Ms. PITTMAN stated that staff tried to call Ms. Parrish back to request her inquiry be in written form. The concepts in the draft letter have been discussed by the Commission before. Subsequent to the phone call, the press reported that Governor Sheffield did not intend to seek help with his defense funds. There is no difference if it is an office or personal expense - whoever gives more than \$100 needs to be disclosed on the official's Conflict of Interest Statement.

Sen. Paul Fischer, Outside Employment, 7/25/85 [3B]

Ms. BARCOTT explained that Senator Fischer wrote to staff on July 5, 1985, regarding Legislators working for a company that gave campaign contributions. Staff stated there is no prohibited acts section under the Campaign Disclosure Law, but there are Prohibited Acts under the Conflict of Interest Law. Senator Fischer has not made an additional inquiry.

Mr. O'TIERNEY inquired as to the prohibited acts in the Conflict of Interest Law. Ms. BARCOTT explained that a public official is prohibited against using his or her office for financial gain; soliciting money for advice given during the official's public employment; and representing a client before a state agency for a fee. There does not seem to be such a problem in this instance.

Individuals for Randolph [16]

Personal appearance by Mr. Steve DeLisio

Mr. JOHANSEN explained that this group was being assessed \$80/day until names and addresses are provided for contributors of more than \$100. Staff believed there to be approximately 501 places where either names and/or addresses were missing from the group's reports. Staff made an error in the math calcu-

lations on the May 1985 correspondence in regard to the maximum civil penalty assessment. It should be \$6,080. Staff received material that the group sent to contributors asking for their employers, and also received the groups completed reports in September. Staff has not heard why the information was missing from the original reports, but the Commission can hear the mitigation and set forth any amount of civil penalty they feel applicable, or direct staff to send a letter of admonishment to the group. This is the first major group that staff has had to request such a tremendous amount of information from, and the group has made a substantial effort to provide the information. Staff believes mitigation should be brought forth, or the maximum civil penalty be assessed.

Mr. O'TIERNEY asked what the civil penalty is accruing for. Mr. JOHANSEN said that it is for failing to submit the information initially on their reports. The civil penalty is from the date staff gave the group notice of their incomplete reports, and the assessment ended on the last date that staff received the information.

Mr. DELISIO stated that the group has not alleged fraud, but harassment. The Commission has had many issues which have been more severe than this, where no civil penalties were levied. By contrast, the Libertarians are hit every time they turn around. Staff has acknowledged that there has been no hiding of the contributions, and no fraud on the group's part, but just a failure to provide all of the information. The group submitted the requested information in two and one half months, with great effort. All the information has been provided, and there was no attempt to trick the public or hide information. By assessing a maximum civil penalty, it makes it appear the group made a wilful attempt to evade the law or to trick the public and the Commission. Mr. DELISIO said that many names had addresses and occupations when the reports were submitted and he doesn't know why all the information was not available. Some people felt the information required was an invasion of privacy. The group is outraged by staff's suggestion of the maximum civil penalty, which suggests to the group that Libertarians get zapped by the Commission and these instances are insignificant compared to other instances. It is not appropriate for a state or federal agency to pick on a select group of people, and staff should help and inform the groups instead of coming down like a ton of bricks. This group does not feel they've done anything wrong.

Mr. JOHANSEN stated that the group has made a substantial effort to provide the information, but when substantial non-compliance is found, staff has no choice but to assess a maximum civil penalty until the mitigation is presented. Addresses or occupations were lacking for 501 people.

Ms. KNOX stated that Mr. Delisio said there were names that had all of the information required, and she would like to know the percentage of those that did not provide all the information.

Mr. DELISIO said he didn't know the percentage, but of the \$500,000 contributed, the majority of the contributions ranged from \$1 to \$5.

Mr. JOHANSEN said that the percentage was probably less than 50% where people omitted both addresses and occupations.

Mr. DELISIO stated that names were disclosed, but there was a technical failure on the group's part to disclose occupations and addresses, although the

omissions were not of malicious intent, rather a failure to gather the information.

Ms. OPLAND stated that the group must have had the addresses, or they wouldn't have been able to send the contributors a letter asking for the information needed.

Mr. DELISIO said that he agrees that not all of the information was unavailable.

Mr. O'TIERNEY stated for the record, that on page 25, last paragraph, there is a mention of fraud. He would like this statement clarified.

Mr. DELISIO said that statement was to point out that if the Commission drives out this group for this small violation, then the Commission is encouraging fraud when they don't fine others for more substantial violations.

Ms. ROGERS said that each person who comes before the Commission with their mitigation feels they've been "selected."

Mr. O'TIERNEY said he doesn't see how the Commission is an instrument of fraud when it is the statutes that set forth the requirements.

Mr. DELISIO inquired as to the fine for the Democratic Party not reporting names, addresses or occupations. Ms. PITTMAN said staff has no knowledge of missing information from their reports. The issue was of birthday fund-raisers, and the information was provided.

Mr. O'TIERNEY said there is no question that the information was omitted on the reports from Individuals for Randolph and there was a great effort to comply with staff's request.

Mr. DELISIO stated the group complied as soon as possible, as there was quite a lot of information to gather and supply, which took time.

Mr. O'TIERNEY informed him that the civil penalty wouldn't have accrued if the information would have been supplied at the beginning, and the group now believes that the Commission should not assess the maximum fine.

Mr. DELISIO replied that the fine should be minimal or none, and inquired as to the appropriate way to deal with oversights. Mr. O'TIERNEY stated that the Commission is not responsible for the resistant attitude of the Libertarian Party if they don't want to provide the information required.

Mr. DELISIO said that hopefully, it will help to understand that there was no deliberate attempt to avoid the issue.

Ms. ROGERS said that the Commission hopes he understands that it is not selective and that the Commission tries to be fair and is obliged to follow through on complaints and investigations.

Ms. OPLAND said that the group made a substantial effort to provide the information requested, and although she was not in favor of dismissing the is-

sue, she does think the civil penalty is excessive.

Ms. Opland MOVED, to assess 50% of the civil penalty (\$3,040)
SECONDED by Mr. O'Tierney,

Ms. KNOX stated she would like to remind Mr. Delisio that candidates are responsible for the information required on the forms. The Commission does not want to discourage volunteers, but people should be better informed of the requirements.

Motion passed unanimously.

NEA-ALASKA PACE [17B]

Personal appearance by Mr. Bob Manners

Mr. MANNERS stated that the concerns in this issue are timeliness in filing reports in 1981 and 1982. He said that for over 1 year, all reports were timely and accurate, and the group requests a waiver or reduction of the civil penalty, or perhaps a letter of admonishment. Mr. MANNERS does not contest the untimely filings in 1981 and 1982, and when the group was notified they responded promptly. The group employed an auditor to review the reports and also sent staff people to the APOC office to get information. All information for reports is now computerized. This group has a membership organization of 6,000 members and dues are not used in political contributions to candidates. The group raises the money for contributions through direct solicitations, fundraisers, and a payroll deduction dues check off system. The recordkeeping and reporting is substantial and the group has improved their techniques to report timely. The Commission staff has been tremendously helpful, but Mr. MANNERS requested a reduction or waiver of the fine.

Mr. JOHANSEN said that although staff agrees with Mr. Manners' mitigation, and the group has made a good effort to comply, staff's recommendation is for a \$4,225 civil penalty assessment.

Mr. O'TIERNEY stated that it is now August of 1985, and the missing information was discovered in 1981. Why did it take 3 years to find the extent of the group's problems?

Mr. JOHANSEN explained that staff had sent audits to the group which were never answered or followed up. Staff has been using a more extensive audit process since 1984.

Mr. O'Tierney MOVED, to accept staff's recommendation of reducing the
SECONDED by Ms. Knox, civil penalty to 50% (\$4,225).

Ms. KNOX stated that there should also be a letter of admonishment for the reporting problems of 1981 through 1983. She also said she would like to commend them for their improvement.

Motion passed unanimously.

The Commission recessed for lunch and reconvened at 1:00, at which time they approved a motion by Daniel O'Tierney, seconded by Arlayne Knox to go into Executive Session to discuss Litigation reports.

No motion was offered following the Executive Session and the Commission opened its public hearing on proposed regulations.

Campaign Disclosure Regulations [18], [18A], [18B], [19], [19A]

Ms. PITTMAN explained that approximately 1,000 copies of the draft regulations were mailed out to officials and the public, and notices of the hearing were published in the newspapers. Written public comments are included in [18A] and [18B].

Personal appearance by Ms. Joyce Kerttula

Ms. KERTTULA stated that she was present because she functions as a Campaign Manager and Treasurer for Jalmar Kerttula. She asked, in regard to the proposal making a contribution of a debt if it is not paid off within a certain period of time, what would happen if the debt could not be paid? A candidate would have to finance his own campaign, which would probably be no problem for a candidate with private income. But others may not be able to fund their own campaigns, which may cause less people to become candidates.

Mr. JOHANSEN said there is an existing policy decision that if a debt is not paid within 30 days, it becomes a contribution. The new regulations require that if accrued expenditures remain unpaid beyond a normal amount of time, they will then become a contribution. The procedures provide candidates the option of coming before the Commission. Mr. JOHANSEN stated that for debts which occurred before the date the regulations pass, a candidate should be given perhaps a year to pay off the debt, or the Commission could address this issue when such a situation arises.

Ms. PITTMAN said she had received a call from Sen. Abood regarding the timing of the regulations package in light of the Senate State Affairs contract with Gross and Burke to re-draft the Campaign Disclosure Law. Senator Abood informed Ms. Pittman that in September or October of 1985 the draft should be ready, he would like the Commission's cooperation in reviewing it, and believed the regulations hearing today may be a disadvantage to this process. Ms. PITTMAN said she explained to Senator Abood that the Commission needs to make regulation changes in between elections, and the regulations address the existing statute. Ms. PITTMAN informed him that she would convey his concern to the Commission. Ms. KENNEDY said she had received a call from Mr. Gross and his concerns were the same as Sen. Abood's. He felt there was a difference of opinion regarding the regulations and that this was an unfortunate time to hold a hearing on them. He expressed concerns about 2 AAC 50.401 which Ms. Kennedy found to be justified and she indicated she would discuss those concerns when that item came up. Ms. KENNEDY had asked Mr. Gross if he would like to testify, and he said no.

Mr. O'TIERNEY asked why Sen. Abood and Mr. Gross thought there was a problem with the timing of the regulations hearing. Ms. PITTMAN explained that it was frustrating to know others are working on a proposal with similar subjects when their draft is not ready yet. Mr. O'TIERNEY asked whether the Gross draft would speak to the changes the Commission has made. Ms. KENNEDY said maybe, maybe not. There was general discussion that the Commission had to proceed with its regulations, as there is no guarantee that the statutory changes would

be passed by the Legislature. Ms. ROGERS stated that it would have been helpful to have Sen. Abood, Mr. Gross or Ms. Burke present at the Commission's hearing.

Personal appearance by Katie Hurley

Rep. HURLEY stated that she is Chairman of the House State Affairs Committee and she would like to see the Commission proceed with work on the regulations, as it takes a long time for regulations to go into effect. She still has debts because she borrowed money to pay off her campaign debts, so it is possible to have debts many years after the campaign. With these regulations, maybe a candidate wouldn't incur such debts.

Ms. ROGERS asked her if she thought the proposal on ending campaigns would pose a hardship. Rep. HURLEY said it is somewhat discriminatory against people who don't have assets, but if there is a limited amount of time to pay off the debts, a candidate may not go so far into debt.

Ms. KNOX said that after the regulations pass, any debts then are subject to be paid off as required. Ms. KENNEDY agreed.

No other members of the public wished to speak at this time and the Commission suggested taking up each regulation in turn.

Ms. PITTMAN noted that packets [18] and [19] were the drafts prepared by staff, based on the Commission's suggestions at its last meeting. Packet [18A] included the appropriate repealers, written comments by Joyce Kerttula and Paxton Oborn, as well as staff re-drafts for 2 AAC 50.313(a)(4), 2 AAC 50.313(a)(8)(A)(iii) and 2 AAC 50.313(b)(4). She noted that the definition of contribution should be numbered 2 AAC 50.313 rather than .314. Packet [19A] included a staff re-draft to 2 AAC 50.460(d) and counsel's rationale for that change.

Mr. JOHANSEN gave an individual summary of each section of the regulations so the Commission could address their concerns for each:

2 AAC 50.313, CONTRIBUTION [18], pages 1-8; [18A], pages 8-9.

There was a comment from the audience that if candidates and contributors are required to report, consultants should also be required to report their activities. Ms. KENNEDY said the point is that candidates are responsible for their campaign people - if campaign people make an arrangement for an independent expenditure, they should be aware that such an expenditure is a non-monetary contribution.

This section was discussed and the Commission agreed to adopt 2 AAC 50.313, Contributions, as amended by [18A], pages 8-9.

Ms. Knox MOVED, to adopt 2 AAC 50.313 as amended by [18A], pages
SECONDED by Ms. Opland, 8-9.

Motion passed unanimously.

Chairman ROGERS noted that she wished to pause to allow additional public comment on the regulations.

Personal appearance by Jean von Dohrmann

Ms. VON DOHRMANN stated that she was in favor of the revisions to 2 AAC 50.380, Early Campaigning, because potential candidates are presently too limited in what they can do in deciding whether to run. Prospective candidates are too vulnerable to potential violations especially when traveling to an area where a candidate is not well known. Ms. VON DOHRMANN said she thought the "letter of intent" section is good.

Ms. VON DOHRMANN said that there is beginning to be a problem for volunteer treasurers, especially in large campaigns. She believes there will be a need for professional treasurers soon or legal help, and she hopes the regulations will simplify matters.

Personal appearance by Maureen Kennedy, Director of AKPIRG

Ms. M. KENNEDY said she would like to compliment staff on the regulation changes and additions regarding loans and advisory opinions. In general, a good job was done. Ms. M. KENNEDY asked if the disclaimer size is still a minimum of 3 1/2" x 5". Ms. OPLAND said yes. She expressed a concern about the possibility of association officers making contributions without authority of the members. Mr. JOHANSEN replied that the section she referred to dealt with reporting of associates' contributions.

There being no further public comments, the Commission continued with packet [18].

2 AAC 50.401, POST-ELECTION FUNDRAISING BY CANDIDATES AND CONTROLLED GROUPS [18],
pages 9-10.

Mr. JOHANSEN explained that the Commission needs to determine when one campaign ends and another begins because of the provisions in AS 15.13.100. Ms. KENNEDY said she has no real problems with subsections (a) and (b) but the statute, by establishing the year-end report deadline implies that a campaign may not close for 2-3 years. She also stated that the Commission had no authority to require that money be given to the General Fund, or that the ending date of a campaign be December 31 of a particular year. Ms. PITTMAN requested more time for staff to address Ms. Kennedy's concern in light of the fact that this objection has just been brought up. Ms. OPLAND suggested deleting some of the repetitious language near the end of subsection (b).

The Commission returned to discussion of 2 AAC 50.380, EARLY CAMPAIGNING, [18], page 11.

Ms. KNOX observed that Ms. von Dohrmann's comments suggested the proposal would simplify things for potential candidates and that was the Commission's intent.

Ms. Knox MOVED, to adopt 2 AAC 50.380, Early Campaigning.
SECONDED by Ms. Opland,

Motion passed unanimously.

2 AAC 50.319, DESIGNATED CAMPAIGN DEPOSITORY [18], pages 12-13.

Mr. Johansen summarized the draft.

Mr. Dale FOX, a member of the audience, inquired as to what was considered a banking institution - how about E. F. Hutton? There was general discussion on this, and it was agreed that a banking institution included a savings and loan institution, and E. F. Hutton would be considered an acceptable depository under the regulation.

The Commission discussed this section and agreed to amend it as follows: Eliminate all of (d) except "...and shall indicate it is a campaign account," which should be added at the end of (c). Ms. OPLAND suggested the changes as she felt it was too restrictive to require that the depository and campaign credit cards be from the same institution.

Ms. Opland MOVED, to adopt 2 AAC 50.319 with the amended language.
SECONDED by Mr. O'Tierney,

2 AAC 50.905, ADVISORY OPINIONS [18], Pages 14-15

Ms. OPLAND expressed concern that the regulation does not require the request to be in writing. Mr. JOHANSEN urged that staff be allowed some discretion to respond to oral requests in situations where the time element required such.

After discussion, the Commission directed the following changes: Under (g): third line, "by" should be changed to "of"; Under (g)(1): second line, "such" should be changed to "an"; "and" should be deleted, and add: "...approving the activity; or..." after the word rendered.

Ms. Knox MOVED, to adopt 2 AAC 50.905 with the amended language.
SECONDED by Ms. Opland,

At this time the Commission recessed until 9:00 a.m. Friday, August 23, 1985.

Minutes, June 24-25, 1985 [1]

The Commission discussed the June meeting minutes and agreed to amend them as follows:

Page 1: "Chairperson" should be changed to "Chairman"; Page 4: third paragraph - "Mr. McKay" should be in capital letters.

Ms. Opland MOVED, to accept the June minutes as amended.
SECONDED by Ms. Knox,

Motion passed unanimously.

Also on the June minutes, the Commission took a final vote on the amended motion dealing with [17C], Substantial Non-compliance: Senator V. Fischer.

Ms. Knox MOVED, to accept the motion as amended at the June
SECONDED by Ms. Opland, meeting.

Motion passed unanimously.

The Commission resumed its regulations hearing.

Campaign Disclosure Regulations & Staff Re-draft/Written Testimony [18], [18A]

Personal appearance by Rep. Terry Martin

Rep. MARTIN stated that he had one major concern with the regulations, this being the number of years that people sometimes run for office. There needs to be an end date for campaigns. He believes that 90 days after an election should be enough time to get things in order. A candidate could pay the bills in advance, so there would be no debts accrued. There are numerous loopholes, e.g., Campaign '84, which should be looked into, for filtering money and targeting 5 candidates. He believes the group got away with it because they are affiliated with the Democratic Party. There is a way of filtering money so no one knows who really gave the money to a candidate, and that's the information people are really after.

Ms. PITTMAN explained that there was a point in time where the Commission asked the Parties to inform them as to how they are organized. The purpose of the request was to determine how the Commission could know that an entity was an official party subdivision. The result of this was a situation where the Commission decided they could not tell the Parties how to organize or whether an entity qualified as a Party subdivision, but would rely on notice from the Parties.

Mr. JOHANSEN said that there is a problem with party subdivisions and the policy has been for non-geographical subdivisions to submit a letter from the Party confirming official subdivision status. There are loopholes for abuse, but maybe these can be tightened up.

Rep. MARTIN suggested use of the voting structure at Party conventions as a guideline to whether a group is truly party affiliated.

2 AAC 50.356, GROUP [18], Pages 16-17

Mr. JOHANSEN explained that staff had no changes to suggest in the initial draft. He noted that the new language continues the provision that an on-going organization may report like an individual. He said staff hoped the new regulation would make it easier for organizations to understand whether they were required to register and report as a group.

Mr. O'TIERNEY asked about the use of the words "...final decision of the recipient candidate or group." After discussion, the Commission requested that the word "decision" be changed to "selection." Ms. OPLAND suggested adding the phrase "and the organization must file as a group." Staff requested additional time to double check the effect of such a change on the grammatical structure of the language.

2 AAC 50.316, PERSONAL CONTRIBUTIONS BY A CANDIDATE, [18], Pages 18-19

Ms. KNOX asked how personal contributions by a candidate differ from a personal loan to the campaign? She understands a loan to be made in anticipation of repayment.

Mr. JOHANSEN said that in the past, the Commission has said that personal contributions create a debt. Some people believe that a campaign is a separate entity that can owe money to the candidate.

Ms. PITTMAN said she believed that when the Commission established this philosophy, it was on the basis that if recovery of personal funds wasn't prohibited, it was allowed. The policy was reflected in the manual as the fact that one could put money into a campaign and recover it whenever able to do so. The Commission can change the interpretation of what is allowed. The Commission used to believe that personal contributions and personal loans were not distinguishable.

Mr. JOHANSEN asked how much money the Commission should let a candidate recover.

Ms. PITTMAN said there was an absence of any specific item in the Statute saying a candidate could not take money as personal income. Ms. KNOX asked if this regulation should deal with how much money a candidate can get back. Mr. JOHANSEN said then there is a problem with post-election fund-raisers. Ms. OPLAND said the public should know if a candidate is contributing to, or loaning money to, a campaign.

Ms. KENNEDY said that contribution is defined in the Statute to include loans. Ms. KNOX stated that many post-election fund-raisers are held to recoup the candidate's money. Ms. PITTMAN said that in regard to the candidate hoping to recoup the money, maybe the candidate should be asked if he or she was planning to recoup the money. If a candidate gives a definite answer, the Commission could deal with his or her adherence to that answer.

Ms. ROGERS suggested holding this item until after the scheduled phone call with Republican District 18.

Campaign Disclosure Affidavits [20]

Available by phone - Allen Vezey, Gary Wood & Jeanette James

Republican District 18 - Allen Vezey, Trsr.

This group requested reconsideration of the civil penalty assessed them for the following:

\$ 1,090 CPA, 30 Day Pre-primary, 109 days late;
\$ 4,350 CPA, 7 Day Pre-primary, 87 days late;
\$ 700 CPA, 10 Day Post-primary, 70 days late;
\$ 380 CPA, 30 Day Pre-general, 38 days late;
\$ 50 CPA, 7 Day Pre-general, 17 days late.
\$ 6,570 CPA total

At the June meeting the Commission accepted staff's recommendation for reduction of the assessment to 10%. This group did not know their affidavit was to be reviewed at that meeting, and wanted a chance to respond and be heard.

The representatives of the group presented their mitigation. The Commission agreed to uphold the staff recommendation of 10% of \$6,570 (\$657), which is to be paid within 30 days and noted that if this is a hardship on the group, they should contact staff and request an extension of time to pay the fine.

2 AAC 50.316, PERSONAL CONTRIBUTIONS BY A CANDIDATE - continued

Personal appearance by Patti Macklin

Ms. MACKLIN stated she had a question in subsection (c) regarding jointly owned assets. She owns a duplex with her mother - is that an asset? She also had some concern regarding assets owned with a spouse. Mr. JOHANSEN said that assets owned jointly with any other person can be used by the candidate.

Ms. MACKLIN inquired as to why she could contribute an unlimited amount of money to her own campaign, but only \$1,000 to another. Ms. KENNEDY informed her that was set in the statute.

Ms. ROGERS suggested striking out (c). Mr. JOHANSEN said that by including "his or her spouse" typifies the usual situation. Without this language, a person can assert that it is acceptable to convey the property to a candidate just before an election, so the candidate can then convert his share of the assets into his or her campaign.

Mr. O'TIERNEY said that there could be an unlimited number of jointly owned assets, which are legitimate. To resolve this dilemma, "including but not limited to spouse" could be entered.

The Commission discussed this section and agreed to amend it as follows: change (C) to (2); strike out "with his or her spouse"; add "In the case of property jointly owned with a spouse, if no specific share...."; add a new sentence to read, "In the case of property jointly owned by a non-spouse where there is no instrument of conveyance or ownership, the percent of the asset belonging to the candidate shall be the pro rata share of the purchase price paid by the candidate, or, if no purchase was made, the amount determined by dividing the value by the number of owners."; change (2) to (3); (3) to (4); (4) to (5); and on the second line of (5), correct the typo of "nto" to "not."

Ms. Opland MOVED, to adopt 2 AAC 50.316 as amended.
SECONDED by Ms. Knox,

Motion passed unanimously.

2 AAC 50.357, CONTRIBUTIONS IN THE NAME OF ANOTHER, [18], Pages 20-21

Mr. JOHANSEN said the purpose of the regulation was to provide specificity about the conduct considered to be a prohibited contribution in the name of another. Such specificity is especially important for provisions that are subject to criminal prosecution. He noted that (a)(2) represents a change in interpretation with respect to whether the contribution limitation applies to the com-

bined value of contributions by a corporation and its subsidiary or by a parent organization and its local units. He expressed the view that this language represents uniform treatment for corporations, unions, and other entities and would not be greeted with objection on that basis.

Personal appearance by Catherine Zalewski

Ms. ZALEWSKI said that a 17 year old child who has political knowledge, should be allowed to make a contribution. The voting age has been discussed as determining the age at which a person could be considered old enough to decide for themselves if they want to make a contribution. Ms. MACKLIN said she thought the voting age was a good idea. Ms. ROGERS stated that she felt anyone under the age of 18 should not be allowed to make a contribution, as that is the age when they are considered to be adults. In her view, it would be logical to go by the voting age.

Ms. MACKLIN stated that people under the age of 18 could show their support in ways other than contributing money. Ms. KNOX stated that it should be the voting age, as the contribution process deals with an election. Ms. ROGERS said she believes it to be clear and fair to require a person to be 18 years old in order to contribute.

Ms. ZALEWSKI asked if it was the really young children that the Commission wants to cover in this. A 16 or 17 year old may be politically oriented and may want to help by contributing money to a campaign. Ms. PITTMAN said there is a problem with parents giving children money to make a contribution. Ms. ZALEWSKI said it could be worded "a child using money received from a parent specifically for political purposes."

Ms. OPLAND noted that subsection (e) should be "(c)."

Ms. Knox MOVED, to adopt 2 AAC 50.357.
SECONDED by Ms. Opland,

After further discussion on the provision related to contributions by minors, Ms. ROGERS called for the vote which failed 2-2. Mr. O'Tierney and Ms. Opland voted nay; Ms. Knox and Ms. Rogers voted yea.

Ms. OPLAND suggested that the language could be more specific concerning a child using money received from a parent specifically for contributing. Mr. O'TIERNEY suggested that the need to signal potential problems with children's contributions could be served by including a reference in (a)(2).

The Commission agreed to take this subject up again after lunch.

85-1-LOB: Moyer v. Caverly Center, Salvation Army, Chugiak Center [31]

Personal appearance by Janet Moyer

Ms. MOYER said she began lobbying in 1982, and when she began to see the amount of money spent, was shocked. She feels state agencies have blocked her from finding out information and is curious why three agencies didn't have registered lobbyists, yet received several million dollars. She requested the APOC to check into this, but did not get a response. She feels that she is

harmd by these groups and wanted help from the APOC. She understands that Ms. Miles needed more information, so she provided her with a sworn statement. People need to be aware of the laws, and it is only fair that other organizations adhere to the rules and laws. There is a need for consistency in applying the laws and standards.

Ms. PITTMAN explained that staff response to the complaint has been slow. The problem is that although Ms. Moyer's letter was given to Brooke Miles in January, Ms. Pittman received it in March, as Brooke was under the impression that she was to hold onto it for awhile, so there was a problem of misunderstanding. Of the three statutes, the APOC has the least people to work on AS 24.45. When Ms. Pittman received the letter, she discussed it with staff and Ms. Kennedy, and believed it to be insufficient. At this point, staff is prepared to proceed with the complaint.

Ms. MOYER said that it looks like proving this case is left up to her. It should be up to the Commission. Ms. PITTMAN said she would encourage Ms. Moyer to document events that support her allegations to allow staff to do its work more efficiently. Ms. MOYER said she would try to get more documentation, but believes the Commission is able to get information to which she does not have access. Ms. ROGERS said that the staff and Commission will do their best.

The Commission recessed for lunch and reconvened at approximately 1:30.

2 AAC 50.357, CONTRIBUTIONS IN THE NAME OF ANOTHER - continued

Ms. MACKLIN asked how the Commission would know that a parent's purpose in giving a child money was to contribute. Ms. ROGERS noted that the Commission frequently had to deal with issues of that nature.

Language changes were discussed to allow a child to make a contribution with the child's own money.

The Commission agreed to accept this subsection worded as: "(c) If a minor makes a contribution, the source of which is money or a thing of value given to the child by a parent for that purpose, the parent has made a contribution in the name of another."

Ms. Opland MOVED, to adopt 2 AAC 50.357 as amended.
SECONDED by Mr. O'Tierney,

Motion passed unanimously.

2 AAC 50.401, POST-ELECTION FUNDRAISING BY CANDIDATES AND CONTROLLED GROUPS - continued
[18C]

Ms. PITTMAN explained that staff had redrafted this section, which is presented in [18C]. The focus of the draft is to establish a time line for Commission review of whether outstanding debts are considered to be debts or contributions. Ms. KENNEDY indicated that the re-draft removed the approach which she had found objectionable in the previous version. The Commission discussed the redraft, and agreed to accept it with one addition: on page 2, seventh line, add "...a candidate's personal contributions or loans made from his or her...."

Ms. Knox MOVED, to adopt the [18C] re-draft of 2 AAC 50.401.
SECONDED by Ms. Opland,

2 AAC 50.910, AVAILABILITY OF REPORTS FILED WITH THE COMMISSION [18], Page 22

Mr. JOHANSEN noted that this was a technical amendment suggested by the Department of Law to make this regulation compatible with the fact that 2 AAC 50.351(d) allows some reports to be kept confidential. Subsection 351(d) was promulgated in response to the Court's suggestion in the Messerli Case.

Ms. Opland MOVED, to adopt 2 AAC 50.910.
SECONDED by Mr. O'Tierney,

Motion passed unanimously.

2 AAC 50.360, MUNICIPALITIES [18], Page 23

Ms. PITTMAN explained that the effect of the proposed changes is to reverse the Commission's instructions to municipalities about the way to report. The new language allows them to report as individuals rather than groups so long as they are using budget funds, not accepting donations to fund their activity.

Staff has not found any examples of municipalities using solicited funds and feels that group reports create more paper but do not disclose meaningful information.

Mr. O'Tierney MOVED, to adopt the amendments to 2 AAC 50.360(a) and
SECONDED by Ms. Opland, the new subsection (d).

Motion passed unanimously.

2 AAC 50.369, PROPER IDENTIFICATION OF POLITICAL COMMUNICATIONS [18], Page 24

Ms. PITTMAN explained that campaigns have frequently overlooked the fact that fund raiser invitations are considered by the Commission to be subject to the identification requirements. This new subsection is intended to help campaigns understand the "paid for by" requirements.

Ms. Opland MOVED, to adopt 2 AAC 50.369(e).
SECONDED by Ms. Knox,

Motion passed unanimously.

2 AAC 50.370, OBJECTS TOO SMALL TO CONTAIN THE PROPER IDENTIFICATION [18], Page 25

Ms. PITTMAN explained that the Commission established a policy some time ago that objects which are no bigger than minimum mailing size need not be identified. This language adds that decision to the regulation.

Ms. OPLAND suggested that the language should read "...other objects which are smaller than '3 1/2 x 5'..." to accurately convey the fact that an item large enough to be accepted by the Post Office must be identified. The Commission agreed.

Ms. Knox MOVED, to adopt 2 AAC 50.320 as amended.
SECONDED by Mr. O'Tierney,

2 AAC 50.390(d)(1), CIVIL PENALTY ASSESSMENTS FOR LATE FILING OF A CAMPAIGN
DISCLOSURE REPORT [18], Page 11.

Ms. OPLAND asked whether the new proposal would eliminate the Commission's ability to mitigate a fine. Ms. PITTMAN said that would not be the case. The new language provides for initial assessments to be made at the statutory maximums; there would no longer be any regulatory limit confining the Commission to fining only \$1 or \$5 for particular reports. Initial assessments will be higher but the Commission will still be able to reduce fines that are appealed.

Ms. Opland MOVED, to adopt 2 AAC 50.390(d)(1) as presented.
SECONDED by Ms. Knox,

2 AAC 50.315(d), CONTRIBUTION LIMITATION EXEMPTION [18], Page 27

Ms. Opland MOVED, to adopt the new subsection (d) of 2 AAC 50.315.
SECONDED by Ms. Knox,

The Commission discussed these sections and agreed to accept them as presented.

Repealers [18A], Page 2

Ms. PITTMAN noted that the adoption of the items in packet [18] meant that some of the existing regulations need to be repealed:

- 2 AAC 50.325: Recordkeeping Requirements for non-monetary contributions;
- 2 AAC 50.330: Reporting Campaign Expenditures for Transportation;
- 2 AAC 50.350: Contribution of Professional Services;
- 2 AAC 50.355: Loans;
- 2 AAC 50.405(4): "Contribution";
- 2 AAC 50.385: Reporting by Organizations & Business or Trade Associations;
- 2 AAC 50.395: Reporting by a Business Entity or Labor Organization.

Ms. Knox MOVED, to repeal the existing regulations listed on
SECONDED by Mr. O'Tierney, page 2 of [18A].

Motion passed unanimously.

2 AAC 50.460(d), PRELIMINARY INVESTIGATION, [19A], Page 1

Ms. KENNEDY explained that the intent of this proposal was to make it clearer that one of the options available as the result of a preliminary investigation was the assessment of civil penalties, subject to appeal by affidavit.

Ms. Opland MOVED, to accept the amendment to 2 AAC 505.460(d) in
SECONDED by Ms. Knox, [19A].

Motion passed unanimously.

Complaint/Inves./Hearing Reg. Amendments [19], Page 1; pages 3-8

Ms. PITTMAN explained that the amendment on Page 1 was a minor one suggested by the Ombudsman. It requires staff to notify the subject of a rejected complaint that the complaint has been rejected.

Ms. Knox MOVED, to adopt the amendment to 2 AAC 50.450(d).
SECONDED by Ms. Opland,

Ms. PITTMAN explained that pages 3-8 are proposed amendments to the hearing regulation. The draft reflects a change in advice concerning whether APOC hearings are subject to the requirements of the Administrative Procedures Act that a hearing officer be used. The current position of the Dept. of Law is that when the APOC holds a hearing, it must be in accordance with the APA.

Ms. Knox noted that in line 1 of 2 AAC 40.470(g), the word "there" should be changed to "those."

Ms. Knox MOVED, to adopt 2 AAC 50.470 as amended.
SECONDED by Ms. Opland,

Motion passed unanimously.

Campaign Disclosure Affidavits [20]

Mr. Johansen presented the Campaign Disclosure Affidavits.

Alaska Life Underwriters PAC - Denise Perry, Treasurer

Appeal: \$1,700 CPA 7 Day Pre-primary report, 34 days late;
\$ 10 CPA 10 Day Post-primary report, 17 days late;
\$ 50 CPA 7 Day Pre-general report, 11 days late;
\$ 10 CPA 10 Day Post-general report, 13 days late.

Total: \$1,770 CPA
Appeal accepted; fine waived.

Democrats for Pignalberi

Appeal: \$ 970 CPA 10 Day Post-primary report, 97 days late.
Appeal accepted in part; fine reduced to \$48.50 if paid within 30 days.

Ketchikan Education Association PACE - Carol Mitchel, Chairperson

Appeal: \$ 2,180 CPA 30 Day Pre-general report, 218 days late;
\$ 9,800 CPA 7 Day Pre-general report, 196 days late;
\$ 1,790 CPA 10 Day Post-general report, 179 days late.

Total: \$13,770 CPA
Appeal accepted in part; fine reduced to \$68.50 if paid within 30 days.

Art Vergere - Candidate, Valdez City Council

Appeal: \$ 50 CPA 7 Day Pre-municipal report
Appeal denied; fine upheld.

Ms. Knox MOVED, to accept all actions taken on the Campaign
SECONDED by Mr. O'Tierney, Disclosure Affidavits.

Motion passed unanimously.

Conflict of Interest Statutory Recommendations [5]

Ms. BARCOTT stated that staff would like to suggest the Commission propose three statutory recommendations for the Conflict of Interest Law and proposed Ethics Legislation:

1) Revision of the definition of "Public Official"

Staff would like the definition of "public official" to be revised to incorporate changes in job titles in the executive branch and include key administrative personnel with the Court System and the University of Alaska.

2) Revision of the definition of "Municipal Officer"

Staff would like the definition of "municipal officer" to read "...city or borough manager or administrator...."

Staff would further propose that a new definition be added which would read (10) "candidates for elective municipal office" includes only candidates for those offices defined in AS 39.50.200(a)(6).

3) Ethics Legislation

While the scope and shape of a proposed ethics bill for the executive branch is not known, staff would like the Commission to endorse the concept that the ethics bill be tied to the existing Conflict of Interest Law. Staff believes it appropriate that positions covered by the ethics bill be required to file Conflict of Interest Statements.

Conflict of Interest Affidavits [6]

Ms. Barcott presented the Conflict of Interest Affidavits.

Jacob Stepetin - Mayor, City of Akutan

Appeal: \$ 24 CPA 1985 COI Statement filed 8 days after receipt of delinquency notice.

Appeal accepted; fine waived.

Jennie Robinson - Member, Akutan City Council

Appeal: \$ 24 CPA 1985 COI Statement filed 8 days after receipt of delinquency notice.

Appeal accepted; fine waived.

Colleen Kuderin - Member, Akutan City Council

Appeal: \$ 24 CPA 1985 COI Statement filed 8 days after receipt of delinquency notice.

Appeal accepted; fine waived.

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Zenia Borenin - Member, Akutan City Council

Appeal: \$ 24 CPA 1985 COI Statement filed 8 days after receipt of delinquency notice.

Appeal accepted; fine waived.

John Pingayak - Mayor, City of Chevak

Appeal: \$ 64 CPA 1985 COI Statement filed 16 days after receipt of delinquency notice.

Appeal accepted; fine waived.

Tony Umugak - Member, Chevak City Council

Appeal: \$ 64 CPA 1985 COI Statement filed 16 days after receipt of delinquency notice.

Appeal accepted; fine waived.

Joseph Paniyak - Member, Chevak City Council

Appeal: \$ 34 CPA 1985 COI Statement filed 10 days after receipt of delinquency notice.

Appeal accepted; fine waived.

Peter Boy Scout - Member, Chevak City Council

Appeal: \$ 34 CPA 1985 COI Statement filed 10 days after receipt of delinquency notice.

Appeal accepted; fine waived.

Leo Moses - Member, Chevak City Council

Appeal: \$ 34 CPA 1985 COI Statement filed 10 days after receipt of delinquency notice.

Appeal accepted; fine waived.

Eugene Asicksik - Mayor, City of Shaktoolik

Appeal: \$ 49 CPA 1985 COI Statement filed 13 days after receipt of delinquency notice.

Appeal accepted; fine waived.

Matilda Hardy - Member, Shaktoolik City Council

Appeal: \$ 54 CPA 1985 COI Statement filed 14 days after receipt of delinquency notice.

Appeal accepted; fine waived.

Ethel Takak - Member, Shaktoolik City Council

Appeal: \$ 54 CPA 1985 COI Statement filed 14 days after receipt of delinquency notice.

Appeal accepted; fine waived.

Mary Katchatag - Member, Shaktoolik City Council

Appeal: \$ 54 CPA 1985 COI Statement filed 14 days after receipt of delinquency notice.

Appeal accepted; fine waived.

Edgar Jackson - Member, Skaktoolik City Council

Appeal: \$ 29 CPA 1985 COI Statement filed 9 days after receipt of delinquency notice.

Appeal accepted; fine waived.

Gabriel Takak - Member, Shaktoolik City Council

Appeal: \$ 9 CPA 1985 COI Statement filed 5 days after receipt of delinquency notice.

Appeal accepted; fine waived.

James Carroll - Member, Fort Yukon City Council

Appeal: \$ 14 CPA 1985 COI Statement filed 6 days after receipt of delinquency notice.

Appeal accepted; fine waived.

Val Angason - Member, Board of Fisheries

Appeal: \$ 187 CPA 1985 COI Statement filed 32 days late.

Appeal denied; fine upheld.

Barbara Dale - Member, Commission on Judicial Conduct

Appeal: \$ 147 CPA 1985 COI Statement filed 28 days late.

Appeal accepted in part; fine reduced to \$73.50 if paid within 30 days of notice.

Michael Minder - Member, Oil & Gas Conservation Commission

Appeal: \$ 57 CPA 1985 COI Statement filed 17 days late.

Appeal accepted; fine waived.

Sylvester Neal - Director, Division of Fire Protection

Appeal: \$ 97 CPA 1985 COI Statement filed 23 days late

Appeal accepted in part; fine reduced to \$48.50 if paid within 30 days of notice.

Jana Varrati - Member, Council on Domestic Violence & Sexual Assault

Appeal: \$ 77 CPA 1985 COI Statement filed 21 days late

Appeal accepted in part; fine reduced to \$38.50 if paid within 30 days of notice.

Municipal Reporting Statistics [6A]

Ms. BARCOTT explained that 11 municipal officials had not yet filed their 1985 Conflict of Interest Statements and that continued failure to do so may subject them to criminal charges. AS 39.50.060.

Concerning the officials from Anvik, there seems to be confusion over who has filed their Statements and the date they were filed. Staff has requested that the City Clerk submit a sworn statement listing the name of each public official who has filed, the date the Statement was filed, and copies of the Statements.

Attorney General - Civil Referrals [4]

Failure of State Public Officials to Pay COI Civil Penalties

Ms. BARCOTT explained that the following four people have been referred to the Attorney General's Office for civil collection of outstanding civil penalty assessments for late filing of their 1985 Conflict of Interest Statements: Edward Janzen, Darryl Pederson, Morgan Solomon, and Marco Pignalberi.

Municipal Officials Who Failed to File 1985 Conflict of Interest Statements [7]

Ms. BARCOTT explained that staff is requesting that the Office of the Attorney General pursue formal collection efforts on the civil penalties which are accruing at \$10/day for those officials who have not filed a 1985 COI Statement. Additionally, staff is giving notice to the local city attorney that the APOC recommends the official(s) be removed from office for failure to comply with AS 39.50.

Ms. ROGERS stated that she feels staff is pursuing the right course of action.

84-4-COI: Bradley Exemption Request [Verbal]

Ms. BARCOTT explained that a Hearing Officer has been appointed, but she does not know if a hearing date has been set. The hearing will take place in Juneau.

Next Meeting Dates [23]

The Commission agreed that the next regular meeting will be held on November 19-20, 1985 in Anchorage. The tentative date for a February meeting was set for February 27-28, 1985 in Anchorage.

FY 87 Budget Request [22]

Ms. PITTMAN explained the budget request that has been submitted to date.

85-3-COI: Staudenmaier 1985 Municipal Candidate COI [8]

Ms. BARCOTT explained that staff requests a hearing to decide if Mr. Staudenmaier's name should be withheld from the ballot for failure to properly file a Conflict of Interest Statement. If the Commission grants this request, there is immediate need for a hearing officer, as the hearing regulation requires 30 days notice to the individual.

Mr. O'TIERNEY asked if Mr. Staudenmaier had ever filed the client names required on his COI Statement as a 1984 state candidate. Ms. BARCOTT said that he has not filed them with the APOC, nor the Attorney General's Office.

Ms. Opland MOVED, to accept staff's recommendation for a hearing
SECONDED by Ms. Knox, on this matter.

Motion passed unanimously.

Ms. BARCOTT said that staff would try to schedule the hearing as soon as possible within the timeline for notice set by the regulation; it appeared that it might be possible to hold it around September 23, 1985.

84-7-COI: Sheldt v. Wilson (Thorne Bay)
85-2-COI: Barnes v. Thorne Bay City Council [Verbal]

Ms. BARCOTT explained that staff has requested a response date of August 28 from officials in Thorne Bay. This is a serious complaint which involves many people and serious allegations.

85-1-COI: Miller v. Rutledge, et. al. (Cold Bay) [Verbal]

Ms. BARCOTT explained that there has been no progress on this complaint, and staff will take this matter up at the next Commission meeting.

Ms. Opland MOVED, to adjourn the meeting.
SECONDED by Ms. Knox,

Motion passed unanimously.

The meeting adjourned at 4:20 p.m. on August 23, 1985.

ALASKA PUBLIC OFFICES COMMISSION
MINUTES
June 24-25, 1985

A regular meeting of the Alaska Public Offices Commission was called to order at 9:05 a.m., Monday, June 24, 1985 by Chairman Jean Rogers. The meeting was held in the Easter Island Room of the Captain Cook Hotel in Anchorage.

Commissioners: Chairman Jean Rogers; Vice-Chair Arlayne Klein; Mildred Opland; Burke Riley.

Staff: Theda Pittman, Executive Director; Chris Johansen, Associate Coordinator, Campaign Disclosure; Jane Barcott, Associate Coordinator, Conflict of Interest; Brooke Miles, Juneau Branch Administrator; and Teresa Garrison, Recording Secretary.

Others: Elizabeth Page Kennedy, Assistant Attorney General; Senator Vic Fischer; William Moffatt; John McKay, counsel for William McConkey; John Wood, counsel for Sarah Clossey Norris and Joe Norris; Tom Staudenmaier.

Available via telephone: Rep. Andre Marrou; Robert Reed Shelley, counsel for Rep. Marrou.

Ms. PITTMAN explained that Commissioner O'Tierney was in Seattle, and that he had given her a telephone number where he could be reached.

Ms. Opland MOVED, for the Commission to go into Executive Session to discuss Litigation Reports. AS 44.62.310(c)(3).
SECONDED by Ms. Klein,

Motion passed unanimously, at which time the Commission went into Executive Session, and reconvened at 9:25 a.m. No motions were made following the Executive Session.

Draft Complaint/Inves./Hearing Reg. Amendments [9]

Ms. PITTMAN explained that the existing hearing regulation, 2 AAC 50.470, was written by Ms. Kennedy to account for a perceived difference between APOC decisions and the kinds of decisions addressed by Administrative Procedure Act hearing procedures. A recent memorandum by Assistant Attorney General Dick Monkman suggests that APOC hearings are subject to the Administrative Procedure Act. The draft revisions to 2 AAC 50.470 would make that regulation consistent with the Administrative Procedure Act. This is appropriate in

light of recent decisions by the Commission to hold Administrative Procedure Act-type hearings either at the request of respondents or because such appears prudent due to probable litigation. The draft does not explicitly address the criteria for determining when an Administrative Procedure Act hearing would be held. Nor does it respond to the statutory language regarding civil penalties which provides that they can be appealed via affidavit.

Ms. Kennedy and Mr. Monkman are in disagreement over whether civil penalties are subject to hearing procedures. Staff suggests Ms. Kennedy be asked to draft language for the Commission which might clarify the review process for civil penalties.

Ms. KENNEDY said that a formal hearing process for civil penalty affidavits would be a slow mechanism for respondents. Ms. OPLAND agreed and indicated a concern that the Commission would never get anything done if hearings were conducted on all civil penalties.

Ms. PITTMAN said that under Mr. Monkman's suggestion, he recommended that only a Hearing Officer be present to listen to a staff presentation and the affiant. She believes there is a disadvantage to a person not being able to appear before the Commission. The appeal process would be more difficult and impersonal than it is at present.

Ms. KENNEDY said that the Commission may want to think over the hearing process as it relates to civil penalties. Ms. OPLAND asked if anyone could request a hearing. Ms. KENNEDY said not necessarily.

Ms. KLEIN asked if there was a problem in using the word "hearing" and if another term was available for the civil penalty items. Ms. KENNEDY said that "appearance" may be used as opposed to "hearing," which could be used for formal proceedings. Ms. ROGERS stated that she would like to be as informal as possible.

Ms. PITTMAN noted that if the Commission approved these revisions for public notice, a regulations hearing could be held in August. Ms. ROGERS asked if that was agreeable to the Commission.

Mr. Riley MOVED, to approve the draft revisions of 2 AAC 50.450,
SECONDED by Ms. Opland, .460, and .470 for hearing at the August meeting.

Motion passed unanimously.

85-2-CD: Staff v. Clossey, McConkey, Norris [3]

Mr. JOHANSEN said that staff requests an issuance of Notice of Hearing, with the hearing separate from the regular Commission meeting. At the meeting, the Commission should address the matter of whether one or all of the persons should be referred for criminal prosecution or if civil penalties should be assessed. The Commission should institute criminal proceedings when there is evidence of criminal conduct. Ms. Clossey was informed of the

need to file disclosure reports when she inquired about distributing flyers, but she filed late. Staff also attempts to show that a campaign cannot be conducted independently of a candidate when it is prepared by his or her campaign consultants, and staff believes that this is a serious enough matter for criminal referral.

Personal appearances by Mr. John Wood, counsel for Sarah Clossey and Joe Norris; and John McKay, counsel for William McConkey.

Mr. WOOD stated that his clients don't want to prolong the matter in front of a political body, and that he differs with staff on the level of evidence necessary to commence with criminal proceedings. They request no hearing, but request that the matter be sent to the Attorney General for determination of criminal prosecution. Regarding depositions of Ms. Clossey and Mr. Norris, he would like to add that the depositions are unsigned, and his clients cannot be forced to sign them now. He has advised his clients to take the 5th Amendment.

Ms. ROGERS explained that the Attorney General would not take the case without a hearing from the Commission first. Mr. WOOD stated that the present hearing was enough to satisfy his clients. Ms. ROGERS said that may not satisfy the Attorney General.

Mr. WOOD stated that the evidence would not satisfy the Attorney General. Mr. Wood had asked if the matter was instituted by a complaint and the staff has said no. Mr. Wood said that he had looked at the Abood and Flood files. He believed the Commission was aware of the fliers in November of 1983 and also of the Flood lawsuit against Ms. Clossey, which has been settled. According to Mr. Wood, it appears the true complaintant is Joe Flood. If the Commission thinks a hearing is necessary, the respondents should have the right to depose Joe Flood, Charles Dunnagan, and Chris Johansen. Mr. Wood then submitted to the Commission, a letter from Mr. William McConkey to Sarah Clossey showing the expenditures for the flier.

Mr. WOOD said that there is confusion over the May 13, 1985 meeting between his clients and Chris Johansen, at which time his clients were granted an extension to May 31, 1985 to respond to staff. At that time, their attorney failed to show. Ms. Clossey filed a disclosure report and did not try to hide any information. Mr. WOOD asked how broadly the Commission defines group - if a husband drives his wife to place an ad, is this a group? If they go to a political consultant, is this a group? Mr. McConkey was involved with Senator Abood's campaign, but was also involved in 17 other campaigns. Mr. WOOD asked the Commission to dismiss the matter, file a civil penalty assessment so they can appeal, or refer the matter to the Attorney General.

Ms. ROGERS asked if there were any questions. In the absence of any questions, Ms. ROGERS asked John McKay, counsel for Mr. McConkey, to proceed.

Mr. MCKAY stated that Mr. McConkey has been a professional campaign consultant for 10 years and has never had a complaint against him. He stressed that there are three people involved in this matter and all three are lumped together. He has consulted with Mr. McConkey who said that there had been no

continuing relationship between McConkey and the other two. He sees no reason to proceed further against Mr. McConkey. Proceeding with a hearing could take a year or longer, which would damage Mr. McConkey's business and his reputation. The statutes provide regulations for professional campaign consultants and until now, Mr. McConkey never considered it group activity when he consulted with his clients. He wants fair notice of what is considered group behavior.

Mr. McKAY noted that staff's case appears to be based on a single fact, that Senator Abood had the same information about Flood as Ms. Clossey. Further, staff contends that as a matter of law Mr. McConkey's actions could not have been independent of Senator Abood. But staff offers no case law to support its contention.

Mr. McKAY asserted the only relevant evidence is that it is clear Mr. McConkey wasn't consulted as a campaign manager for Senator Abood. Ms. Clossey had a Constitutional right to make expenditures against Joe Flood. Why can contributions be limited but not expenditures? The courts have said that expenditures are a right of "free speech." Contributions are limited to limit corruption of candidates. There is no danger of this between Abood and Clossey as there is no evidence that ties them together.

Ms. ROGERS asked if there were any questions.

Ms. OPLAND said that Mr. McKay spoke to a lot of issues but not all of them. In a two-candidate race, an expenditure against one candidate is considered a contribution to the other candidate. Mr. McKAY stated that if this is a contribution issue, it would exceed the limit, but it was an expenditure. The regulations require Ms. Clossey to report her expenditures and she did file a report. She did have the right to make an independent expenditure. It may be a contribution depending on the case (if Ms. Clossey wanted to support Senator Abood). If she just wanted to oppose Joe Flood, she had the right to make an independent expenditure.

Ms. ROGERS said that the Commission needs to decide if there is any evidence to conduct a hearing against any of these three people. Mr. JOHANSEN stated there is evidence of a failure to report, and this supports cause for a hearing. Staff has depositions that raise questions of the need for these people to file reports, and staff is suspicious of the actions taken by Sarah Clossey on the flier. Ms. Clossey and Mr. Norris will not disclose from whom they received the money to pay for the flier. Staff believes there is evidence of criminal conduct. Although the depositions of Ms. Clossey and Mr. Norris are not signed, they are sworn documents.

Ms. OPLAND said that a hearing should be held, and if the evidence is not substantial, the matter could be dismissed.

Ms. Opland MOVED, to give Notice of Hearing, as requested by
SECONDED by Ms. Klein, staff.

Motion passed unanimously.

Ms. KENNEDY asked whether there were any issues in the staff paper that the Commission did not want to raise in the hearing. Commissioners replied negatively.

Mr. WOOD requested authority to take depositions. Ms. KENNEDY stated that was up to the Hearing Officer. Mr. WOOD said that staff does not want to give him all of the evidence, but he wants any and all evidence. Mr. JOHANSEN said that was to be decided by the Hearing Officer, but that staff doesn't see any problem with that. What causes staff's reluctance at this time, is protection of witnesses. There is no problem with the documents, but the witness names will be given only if the Hearing Officer specifies.

Mr. MCKAY said that he hoped to get all the information and doesn't understand the need for a hearing. He has heard no evidence that Mr. McConkey did anything wrong, and a Hearing Officer cannot decide a matter of law. The hearing portion on where the money came from may decide if Mr. McConkey is implicated, but at this time there is no basis for proceedings against Mr. McConkey. Mr. MCKAY asked that the Commission consider all three people as separate individuals and wait to see if Mr. McConkey needs to go through the hearing process.

Ms. OPLAND said that the Commission has the option to divide it into two separate hearings. Mr. MCKAY said that would be appropriate. Ms. KENNEDY said that all three should be at one hearing.

Mr. RILEY asked if the matter is divisible at the option of the Hearing Officer. Ms. KENNEDY said yes. Ms. OPLAND suggested the hearing be handled in two segments, with the matter of Ms. Clossey and Mr. Norris being taken up first. Mr. MCKAY asked if the Hearing Officer has the power to wait on the McConkey matter. Ms. KENNEDY stated that the Hearing Officer has the authority to separate people for hearings.

Ms. ROGERS said that the Commission would like to proceed with Notice of Hearing.

Substantial Non-compliance: Senator V. Fischer [17C]

Mr. JOHANSEN explained that there has been an initial finding by staff that three reports of Senator Vic Fischer's 1982 Senatorial campaign are in substantial noncompliance with the requirements to file properly completed Campaign Disclosure Statements. Omissions of \$3,653 from the 1982 30 Day Pre-primary report and \$3,426 from a 10 Day Post-general report occurred. Staff recommends the Commission find both are substantially incomplete. The 1982 Year-end omitted in the aggregate the amount of \$800 in contributions but did not omit a maximum contribution. Staff did not feel fines were appropriate for omission of a single \$500 contribution and \$300 in contributions of \$100 or less, especially when the total campaign activity is over \$60,000. At most, staff sees the Year-end report situation as appropriate for a strongly worded letter of Admonishment rather than the assessment of a civil penalty.

Staff recommends reduction of the civil penalties to 50%, as the candidate provided staff with all requested information. The problem was with the treasurer not completing the reports and lack of coordination between the treasurer and the candidate.

Ms. OPLAND asked if \$26,550 was the total civil penalty assessment for the three reports. Mr. JOHANSEN said that there was no fine recommended for the 1982 Year-end report. A civil penalty assessment of \$8,000 for a report that omits \$800 is excessive.

Ms. OPLAND asked, in regard to the 1982 10 Day Post-general report omitting the raffle, if the Commission had changed the policy on raffles. Ms. PITTMAN explained that the Attorney General's memo on this subject was dated December, 1982, which was after the date of Senator Fischer's raffle.

Senator FISCHER stated that he felt the staff recommendation was totally unreasonable. There is no question that the omissions were unintentional and resulted from a problem in the bookkeeping and the treasurer's interpretation of the regulations. The problem was brought to the Senator's attention on March 18, 1985, in a letter from staff, and was the first notice he had received. The letter asked for information and the information was supplied within 10 days. That was almost 2 1/2 years after the problem was discovered.

Senator FISCHER said that he believed the assessment should start from the time he was informed of the problem. All the letters from staff were very "light," and said that staff and the campaign treasurer were working on the problem. Staff should have said the problem was more serious. The raffle omissions were an honest mistake. The problem was due to a misinterpretation of the regulations regarding raffles. The contributions were reported to the Department of Revenue, and Sen. FISCHER believes the reduction of civil penalties from \$10/day to \$5/day is not generous. If the report had been the first to be audited, the civil penalty assessment may have been minimal. It wasn't taken care of because the Alaska Public Offices Commission is understaffed and could not take care of the matter immediately. Sen. FISCHER said that he feared being penalized for supporting the Commission. The Commission may feel it necessary to lean over backwards to fine him to show that they are not partial.

Ms. KLEIN said that the questions began in 1982 and asked if the problem hadn't been resolved because there was no communication between the treasurer and Sen. Fischer. Sen. FISCHER replied that his treasurer told him there were questions by staff and that he was giving them the requested information. Staff had not said anything about there being a violation or a civil penalty assessment.

Mr. JOHANSEN said that a stern audit request including the possibility of a civil penalty assessment was sent in the 1983 Year-end audit report. The audit said that there was a negative cash-on-hand and the questions had continued through the reporting period. On the 1982 Year-end report there had been a question about the negative cash-on-hand. On these reports, the questions were still not answered. A stern letter (dated March 15, 1984) was sent to the campaign asking them to explain this.

Ms. KLEIN asked if this letter was addressed to the treasurer, and if it stated the possibility of a civil penalty assessment. Mr. JOHANSEN said yes.

Sen. FISCHER said that he received a copy of that along with a memo from the Executive Director which said staff was working on it. He spoke with his treasurer regarding the audit and was informed that the treasurer was following up on it. At that time, he assumed all was in order.

Ms. KLEIN said that this has taken too long to resolve, and there is also a problem in Sen. Fischer's interpretation of the civil penalty assessment. Statutes set the time the assessments are to start accruing, not the Commission. The solution is to have sufficient staff to get things done quicker.

Ms. ROGERS asked if there was further discussion. Ms. OPLAND said that a misunderstanding of the requirement to report the raffle is part of the problem.

Ms. Opland MOVED,
SECONDED by Ms. Klein,

to reduce the civil penalty assessments as follows: 50% on the 30 Day Pre-primary report; 10% on the 10 Day Post-general report; and 10% on the Year-end report, for a total of \$5,550, if paid within 30 days of notice.

Ms. KLEIN asked if there was any correspondence from staff prior to the March 18, 1985 letter that mentioned the possibility of civil penalties. Mr. JOHANSEN said that it was mentioned in the March 15, 1984 audit.

Ms. KLEIN said she thought the civil penalty assessment should begin from the time of the first notice, since there was no mention of the civil penalty assessment prior to that.

Sen. FISCHER stated that there was carelessness on the campaign's part, but that assessing a fine back to 2 1/2 years ago is unreasonable. With a timely warning it could have been corrected, and the assessment should not start from 1982.

Ms. KLEIN said that 377 days had passed from the March 15, 1984 notice until March 27, 1985 when staff received the requested information. The maximum civil penalty assessment for this would be \$3,770 for each report.

Ms. Opland MOVED,
SECONDED by Ms. Klein,

to amend the motion for the civil penalty assessment to begin March 15, 1984 and to conclude on March 27, 1985. The assessments would be mitigated as follows:

30 Day Pre-primary report - 50% (\$1,885);
10 Day Post-general report - 10% (\$377); and
Year-end report - 10% (\$377).

Mr. RILEY stated that while there may be the rationale of one report being a greater offense than the others, he would like the assessment of the 30 Day Pre-primary report to be 20% instead of 50%.

Ms. OPLAND said that in this case, the contribution amounts are substantial and it is careless to let these slip by when they should have been reported.

There was a roll call vote on the motion:

Commissioner Riley - Nay
Commissioner Klein - Yea
Commissioner Opland - Yea
Commissioner Rogers - Nay

Ms. ROGERS suggested the assessment of the 30 Day Pre-primary report be 10%.

Mr. Riley MOVED, to amend the motion for assessment of 20% on
SECONDED by Ms. Klein, the 30 Day Pre-primary report.

There was a roll call vote:

Commissioner Riley - Yea
Commissioner Klein - Yea
Commissioner Opland - Nay
Commissioner Rogers - Nay

Ms. Opland MOVED, to amend the motion for assessment of 30% on
SECONDED by Ms. Klein, the 30 Day Pre-primary report.

There was a roll call vote:

Commissioner Riley - Nay
Commissioner Klein - Yea
Commissioner Opland - Yea
Commissioner Rogers - Yea

Motion to amend passed 3-1.

(NOTE: A final vote for the amended motion was not taken. Staff will ask the Commission to address this action at its August meeting.)

Mr. JOHANSEN asked if this was for 30% of \$3,770 for a total of \$1,885.
Ms. ROGERS said yes.

Ms. KLEIN asked if this was to be paid within 30 days. Ms. ROGERS said yes, and asked Senator Fischer if this was a hardship for him. Sen. FISCHER said yes, and he would like to have 4 months to pay the fine.

Ms. ROGERS asked if there were any objections to this. Mr. JOHANSEN said staff had no objections.

Campaign Disclosure Affidavits [23]

Personal appearance by William Moffatt

William Moffatt - 1984 District 12 House Candidate

Appeal: \$400 CPA, 10 Day Post-general report, 40 days late.

Ms. O'HARA said that staff's recommendation is to deny the affidavit and uphold the fine. Mr. Moffatt has a history of late reporting and unpaid fines. Furthermore, Mr. Moffatt has provided staff with insufficient reasons for the extreme lateness of this report. In addition, he has been delinquent in the appeal procedure set forth by the Commission. The late report in question did contain campaign financial activity that should have been available for public review at the appointed time. Staff sees no basis for the mitigation of this assessment.

Mr. MOFFATT stated that his appearance does not indicate recognition of the Commission's constitutionality, and that he has a complaint filed with the Ombudsman. He wanted to note that he shares the opinion of Cliff Groh that the Commission is improper.

Mr. MOFFATT said that he was unaware of being delinquent in his appeal, as he made his appeal in a timely manner to the Commission instead of to staff. He stated that his letters to the Commission were timely postmarked, and now staff says he was late so as to pillory him in the press. Staff is in error. He stated that as to his history of late filings, his extreme sin is that he was once 7 days late. He believes his position with regard to the Commission is irritating to staff and that staff is selective in who they "go after." Mr. MOFFATT said his report was not extremely late. It was due after the election. Since he was a minor candidate, there was no public thirst for knowledge of a minor campaign. The fines should be consistent and not depend on whether a person is friendly with the Commission.

Ms. ROGERS asked if this was his reason for requesting mitigation. Mr. MOFFATT stated that the report was 40 days late and he was assessed \$1/day for the first 30 days. He believes it is distasteful that there is no set policy for civil penalty assessments.

Ms. ROGERS asked him to stick to his own assessment and mitigation.

Mr. MOFFATT stated that he wants the Commission to be consistent and not base the assessments on friendliness to the Commission. Ms. ROGERS informed him that the Commission does not base the civil penalty assessments on friendliness.

Mr. MOFFATT asked on what the assessments and their mitigation is based. Ms. ROGERS said that most commonly they are based on lateness due to illness.

Mr. MOFFATT said that he was being facetious in his affidavit but could give all kinds of reasons for his late reporting. Mr. MOFFATT said that despite the feelings of the Commission, he has a right to believe what he wants.

He believes \$400 is excessive for what the Commission does for others. He said he did not avoid making the report, and that he didn't feel well at the time. He asked for the assessment to be reduced, and for the Commission to be consistent in reducing fines.

Ms. ROGERS said that the Commission will accept his statement that the civil penalty is excessive and that he would like a reduction in his fine.

Mr. Riley MOVED, to accept staff's recommendation of a civil
SECONDED by Ms. Klein, penalty assessment of \$400.

Ms. KLEIN stated that the statutes, not the Commission, set the fines for reports. When the Commission considers the fine, they consider the history of the person. Here there is a history of noncompliance. It shows that Mr. Moffatt does not comply with the Laws. Also, the Commission does not appreciate verbal abuse.

Ms. OPLAND said that if a person has a history of filing reports on time, the civil penalty may be reduced. If a person is consistently late, the Commission feels the repetition of error is the fault of the filer.

Motion passed unanimously.

Ms. ROGERS said that the Commission isn't "out to get" anyone, and is not responsible for "pillorying" in the press. The Commission does its best as a citizen Commission to uphold the laws of the state.

Mr. MOFFATT asked how long he has to pay the fine and would like four months. Ms. ROGERS asked if there were any objections to allowing 4 months for payment. There were no objections.

84-8-CD: McConkey v. Flood [verbal]

Mr. JOHANSEN said that Mr. McConkey and Senator Abood filed a complaint alleging that there had been a violation of the Campaign Disclosure Law. Staff recommended and the Commission upheld that a request be made to recipient candidates of Quadrant contributions to repay excessive amounts. Mr. Knowles repaid the contributions. Don Smith contacted staff and said the money he received wasn't a contribution. It was to defeat a municipal air quality proposition and so wasn't a political contribution.

Mr. JOHANSEN said that Tom Fink informed staff he was not going to repay the money. Staff has not heard from Jalmar Kerttula. Rather than complete this item piecemeal, staff would like to take the matter up at the next Commission meeting in order to be able to contact all candidates and get their responses.

Ms. ROGERS agreed with staff's recommendation.

Mr. JOHANSEN said that the complaint alleged that Joe Flood received excessive contributions from Alaskan Star. Mr. Flood will make a repayment to

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Quadrant, but his attorney has stated that he can't make the repayment to Alaskan Star. On the Alaskan Star matter, contributions were on separate checks (from Alaskan Star) for separate sales agents.

Ms. PITTMAN said she didn't think this matter was ready for Commission review until staff requests that Mr. Flood make the Alaskan Star repayment also.

Ms. ROGERS directed staff to ask Mr. Flood to repay Alaskan Star.

84-6-COI: R. Schade v. Andre Marrou [2]

Telephone call to Andre Marrou and Robert Reed Shelley

Ms. BARCOTT explained that in December of 1984, staff received a complaint filed against Rep. Marrou by Ms. Roxie Schade alleging the following violations: that on his 1984 Conflict of Interest Statement, Rep. Marrou failed to disclose the sources of commission income received from Bay Realty during 1983; that on his 1982 Conflict of Interest Statement he failed to disclose the source of commission income received in 1981 from the Land Market; that on his 1984 Conflict of Interest Statement he failed to disclose clients of Eagle Realty from whom more than \$100 was received in 1983; that he failed to disclose a contract with the City of Homer; that he intentionally withheld disclosure of the contract between the City of Homer and Eagle Realty because he reimbursed himself \$2,500 more than owners of adjoining property of similar size were paid.

Ms. BARCOTT explained that staff considers the most serious aspect of the complaint to be the failure to properly designate major sources of income and identify client names. The failure to properly report, by category and client name, income from Bay Realty and Eagle Real Estate, despite an audit specifically explaining the sources of income definition and requesting information on these firms, is a major flaw in the accuracy of the report itself. The failure in June, 1984, and thereafter, to amend the Statement and furnish the required information is seen by staff as the basis of a hearing into the omissions representing a refusal, knowing failure, or knowingly providing false or misleading information on the report. Staff puts a lesser emphasis on the failure to report clients of the Land Market on the 1982 Statement. This report was unaudited. However, once notice was given in December, 1984, on these clients, the failure to comply is also seen by staff as a refusal to file.

As a result of completing a preliminary investigation, staff finds reason to believe that sources of income were not properly reported on the 1984 and 1982 Conflict of Interest Statements and that the failure to properly complete a Statement is subject to a civil penalty assessment of \$10/day. Staff also finds there is reason to believe the omissions on the 1984 Conflict of Interest Statement were knowingly and recklessly committed.

On March 20, 1985, Mr. Shelley filed, in Superior Court, a Complaint for Declaratory Judgment and Injunctive Relief. No judgment has been had to date.

Ms. BARCOTT said that staff recommends Notice of Hearing, and if the Commission accepts staff's recommendation, the Notice of Hearing be deferred until the court case is completed. A civil penalty can be assessed when the client list is submitted, which can then be appealed.

Mr. SHELLEY said that he agrees with deferring the hearing until after the court case has been decided. In regard to the client list being acknowledged, Rep. Marrou has not acknowledged this. Since the lawsuit is still going on, he won't acknowledge the list at this time. Staff keeps pointing to the June 1984 audit. Rep. Marrou believed that he didn't have to submit a client list.

Rep. MARROU said that he had nothing further to add.

Mr. SHELLEY said that in regard to the civil penalty assessment, if Rep. Marrou had acknowledged the client list, the assessment would be halted at that point. Mr. SHELLEY requested that the civil penalties be stopped at the time the information was received from the subpoenas issued by staff.

Ms. BARCOTT stated that this information may or may not be complete and that the civil penalty assessment should accrue until the court decides if the information is required.

Mr. SHELLEY said fine, and had nothing further to add.

Ms. Klein MOVED,
SECONDED by Ms. Opland,

to accept staff's recommendation for notice and opportunity for a hearing, and that the hearing be delayed until the litigation can be decided.

Motion passed unanimously.

84-18-CD: L. Schade v. A. Marrou [verbal]

Mr. JOHANSEN said that Rep. Marrou has been informed of the complaint and asked to respond. The Conflict of Interest complaint was filed at the same time as the Campaign Disclosure complaint. Since both were quite lengthy, staff believed it appropriate to proceed on them one at a time.

Ms. OPLAND asked if staff was requesting more time to continue with the investigation. Mr. JOHANSEN said yes. Ms. OPLAND asked if Rep. Marrou understood that the staff had been holding off on this complaint. Mr. JOHANSEN said no, but that staff will inform him of such. Ms. OPLAND stated that it makes sense to do the complaints separately.

The Commission agreed with staff's recommendation for continuance.

84-12-CD: Zency v. Tischer [verbal]

Mr. JOHANSEN stated that this complaint arose out of a primary campaign in regards to "paid for by" disclaimers. Staff is continuing investigation.

Campaign Disclosure Advisory Opinions [15]

Kerttula - Mat-Su Mayoral Poll, 1/16/85

Mr. JOHANSEN explained that this arose out of a possible oral complaint by Barbara Lacher saying that Jalmar Kerttula conducted a poll regarding the Mat-Su Mayoral Race. Mr. Kerttula informed staff that the poll was done, and that access was provided to all mayoral candidates who wished to look at it. The Kerttula campaign says that they informed Barbara Lacher that she could look at the poll, but that she didn't. Staff doesn't believe there is a contribution in this situation, because access was provided. Staff believes it is not necessary to continue with a preliminary investigation as there was no contribution to the opposing candidate.

Ms. KLEIN asked staff if, when a letter from Joyce Kerttula stated that Ms. Lacher was informed she could look at the poll, staff contacted Ms. Lacher. Mr. JOHANSEN said yes, and that Ms. Lacher had no response.

Ms. ROGERS asked if Ms. Lacher had been informed that staff believes it is not necessary to pursue the matter. Mr. JOHANSEN said that he will confirm it in writing to her.

Brady - '86 Group, 3/1/85

Mr. JOHANSEN said there was an advisory opinion issued to Mr. Brady of Bayly, Martin and Fay setting forth the reporting consequences for a draft/controlled group. Staff does not see any major issues in the opinion letter. It was given to the Commission as a review of the regulations in this complex area.

Sea-land Services, Inc., 4/25/85

Mr. JOHANSEN said that Sea-land, Inc. recently requested an opinion on the limitations and reporting consequences for attendance of Governor Sheffield, Mayor Knowles and Commissioner Knapp at a dock dedication ceremony in Seattle, Washington. Staff has opined that the event is reportable under the Conflict of Interest Law (by the public officials), the Lobbying Act, and under the Campaign Disclosure Law if certain conditions are fulfilled.

Draft Campaign Disclosure Regulations: [8]

Mr. JOHANSEN reviewed the regulation package and briefed the Commission on proposed changes drafted by staff.

The Commission recessed until 9:00 AM Thursday at which time it reconvened for a regulations hearing on amendments to the Conflict of Interest Regulations.

Conflict of Interest Regulations - Hearing & Adoption [5]

Ms. BARCOTT noted that notice had been given for oral hearings from 9-11 AM. No member of the public was present to testify. One letter had been received. Ms. BARCOTT reviewed the regulation package and briefed the Commission on minor changes to the draft package.

The Commission reviewed the written testimony received from the Mat-Su Borough. There was a question regarding reportable clients. Ms. BARCOTT said that Mr. Sharp's comments are inaccurate because the statute stipulates who are "reportable clients."

Ms. ROGERS stated that Mr. Sharp may have misinterpreted the intent of the regulations and requested that staff inform him that he has misread the intent. Staff indicated it wished to review his comments further before recommending final adoption of the regulations.

Ms. BARCOTT suggested the public hearing be left open to see if anyone wishing to testify comes in. The Commission agreed.

Campaign Disclosure Affidavits [23]

Ms. Rebecca O'Hara presented the Campaign Disclosure Affidavits.

John Danner - 1984 North Slope Borough Assembly Candidate

Appeal: \$1,760 CPA, 10 Day Post-municipal report, 176 days late.

Appeal accepted in part; fine reduced to \$88.00 (5%) if paid within 30 days of notice.

Neta Dortland - 1984 Wasilla City Council Candidate

Appeal: \$1,030 CPA, 10 Day Post-municipal report, 103 days late.

Appeal accepted in part; fine reduced to \$51.50 (5%) if paid within 30 days of notice.

Kent Harding - 1984 Bethel City Council Candidate

Appeal: \$40 CPA, 7 Day Pre-municipal report, 8 days late.

Appeal denied; fine upheld.

Katie Hurley - 1984 District 16 House Candidate

Appeal: \$550 CPA, 1984 Year-end report, 55 days late.

Appeal accepted in part; fine reduced to \$55.00 (10%) if paid within 30 days of notice.

William Moffatt - 1984 District 12 House Candidate - Personal Appearance
(See Pg. 8-10)

Appeal: \$400 CPA, 10 Day Post-general report, 40 days late.

Appeal denied; fine upheld.

Leslie Simutis - 1984 Seward City Council Candidate

Appeal: \$420 CPA, 10 Day Post-municipal report, 42 days late.

Appeal accepted in part; fine reduced to \$42.00 (10%) if paid within 30 days of notice.

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Johnny Watson - 1984 District 15 House Candidate

Appeal: \$1,080 CPA, 10 Day Post-general report, 108 days late.

Appeal accepted in part; fine reduced to \$108.00 (10%) if paid within 30 days of notice.

Jules Wright - 1984 House District 24 Candidate

Appeal: \$450 CPA, 1984 Year-end report, 45 days late.

Appeal accepted in part; fine reduced to \$225.00 (50%) if paid within 30 days of notice.

APEA - Fairbanks North Star Borough Chapter EPIC - by Juanita Rice, Treasurer

Appeal: \$4,550 CPA, 7 Day Pre-general report, 91 days late.

Appeal accepted in part; fine reduced to \$45.50 (1%) if paid within 30 days of notice.

Ms. ROGERS suggested the Commission wait to vote on the affidavits until the appearance by Tom Staudenmaier representing the Alaska Conservative PAC.

Draft Lobbying Regulations [10]

Ms. MILES presented the proposed Lobbying regulations to the Commission for their review. The Commission unanimously accepted the regulations for notice. Ms. MILES noted that she would be on vacation in August and staff did not anticipate a hearing until November.

Ms. Opland MOVED, to give notice of proposed lobbying regulations
SECONDED by Ms. Klein, (no A.G. file number) as drafted by staff.

Motion passed unanimously.

Lobbying Affidavit [14]

Anchorage Convention & Visitor's Bureau

Appeal: \$125 CPA, 1st Quarter Employer of Lobbyist report, 29 days late.

Appeal denied; fine upheld.

Mr. Riley MOVED, to deny the appeal.
SECONDED by Ms. Opland,

Motion passed unanimously.

Campaign Disclosure Affidavits - continued [23]

Alaska Conservative PAC - Appearance by Tom Staudenmaier, Treasurer

Appeal: \$ 570 CPA, 30 Day Pre-primary report, 57 days late;

\$ 1,750 CPA, 7 Day Pre-primary report, 35 days late;

\$ 880 CPA, 30 Day Pre-general/10 Day Post-municipal report, 88 days late;

\$ 3,500 CPA, 7 Day Pre-general report, 70 days late;

\$ 530 CPA, 10 Day Post-general report, 53 days late.

\$ 7,230 Total CPA

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Mr. STAUDENMAIER indicated there were two reasons for the late filings: the death of his father required a trip to Wisconsin and activities involved in the Electric Merger. He asserted that he was responsible for the reports and would willingly pay the \$1,214 recommended by staff but would appreciate an extension of time to make payment.

Ms. Klein MOVED, to accept the appeal in part (for Primary re-
SECONDED by Ms. Opland, reports-10%; for General reports-20%); and reduce
the fine to \$1,214 if payment is received with-
in 4 months.

Motion passed unanimously.

Ms. Opland MOVED, to accept the entire packet of Campaign Dis-
SECONDED by Mr. Riley, closure Affidavits as amended.

Motion passed unanimously.

Draft Campaign Disclosure Regulations - continued [8]

Mr. Johansen and Ms. Pittman finished staff's review of the proposed Campaign Disclosure regulation amendments. The Commission recommended the following amendments to staff's draft be made prior to notice being issued:

- 2 AAC 50.314(a)(6)(c), Contribution - clarify that the phrase "bonafide" applies to the use of time;
- 2 AAC 50.314(a)(8)(A) - use parallel grammatical structure;
- 2 AAC 50.314(b)(1) - add reference to AS 15.13.100;
- 2 AAC 50.380(b), Early Campaigning - substitute "designate" for "include" in the last sentence;
- 2 AAC 50.370 - Substitute reference to electronic media for television or cable in the last sentence;
- 2 AAC 50.315(d) - delete "all" before expenditures and delete the phrase "as provided by..."

Ms. Klein MOVED, to give notice of proposed regulations (A.G.
SECONDED by Ms. Opland, File 399-132-85) with the changes suggested
by the Commission.

Motion passed unanimously.

Minutes, April 1985 Meeting [1]

The Commission reviewed the draft minutes and requested the following changes:

At the bottom of page 1, last paragraph, the word "jive" should be "jibe"; on page 2, third paragraph, there should be an "es" added to "business"; on page 4, fourth paragraph, the word "from" should be changed to "by"; on page 16, second paragraph, this should be one sentence instead of two; and on page 20, for the District 5 Republicans, the amount assessed should be "225.00" instead of "\$275.00"

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Ms. Klein MOVED, to accepted the minutes of the April meeting
SECONDED by Ms. Opland, as corrected.

Motion passed unanimously.

Minutes, Special Meeting, May 1985 [1A]

The Commission reviewed the draft minutes of the May meeting and requested that at the bottom of the page, the word "count" should be changed to "call."

Ms. Opland MOVED, to accept minutes as corrected.
SECONDED by Ms. Klein,

Motion passed unanimously.

Campaign Disclosure Statutory Recommendations [24]

Ms. PITTMAN summarized the 1985 statutory recommendations on Campaign Disclosure and stated that the Governor may ask for 1986 APOC recommendations prior to the Gross & Burke draft. Ms. PITTMAN said that, although the problem areas are serious and need attention, she could not in good conscience recommend a 1986 effective date for major changes. Perhaps the changes could be made after the 1986 elections.

Campaign Disclosure Reporting Schedule [25]

The Commission unanimously accepted the 1985 due date of September 5 for the 30 Day Pre-municipal report.

Next Meeting Dates: August 22-23 & November [28]

The Commission confirmed August 22 - 23, 1985, as the next regularly scheduled meeting of the Commission and set November 14-15, 1985 as the tentative dates for the following meeting.

Budget Request [26]

Ms. PITTMAN stated that she will be requesting a 1986 upgrade, and will include the cost of moving the office to another location. The current lease is up in October. Typically, in late August, the vendor will be requesting bid waiver, etc. She stated that she is somewhat unsure of the actual budget allotment and whether pay raises will be funded or come out of an approved budget. The budget request should come in August.

Moffatt Complaint/Ombudsman's Report [27]

Ms. PITTMAN explained that on July 30, 1984, Bill Moffatt filed a complaint with the Anchorage Office of the Ombudsman. The allegations being:

1. contrary to law, the Commission improperly elects its officers and appoints its members in closed session and without notice to the public;
2. contrary to law, the Commission fails to hold open meetings to decide on the appeals of civil penalties;
3. contrary to law, the Commission fails to hold open meetings to decide on the removal of candidates from the ballot;
4. the Commission acted unfairly by failing to notify the complainant of the meeting to decide on his appeal of a civil penalty and of the meeting to decide on the removal of candidates from the ballot;
5. the Commission acts unfairly by failing to notify candidates that a complaint has been filed against them or that the Commission plans to investigate candidates on its own motion.

On February 4, 1985, Ms. Pittman received a letter from the Ombudsman stating that he had decided to conclude the investigation and close the case file in this matter. The letter stated that in acting to advise the Lieutenant Governor or other state officers concerned with the administration of an election, the Commission must convene and meet as a prerequisite to recommending removal of candidates from the ballot. It is staff's understanding that the bylaws' reference to decisions made by telephone now conforms to state law because of a teleconferencing bill which passed and the Commission is authorized to conduct its business by teleconference or telephone conference call meetings.

According to the Ombudsman, the Commission should give notice of the time and date on which civil penalty appeals will be decided and also specify that the person filing the appeal may address the Commission at the meeting. Staff has already adopted that practice.

The Ombudsman also noted the staff of the APOC should clarify the point at which a staff initiated investigation begins; be consistent with applicable regulation; provide for notice to a respondent prior to the initiation of any investigation; and provide to each respondent a copy of the staff's complaint, documentation, and a copy of the hearing process and investigations procedures.

Ms. PITTMAN said that there is a question as to when an audit becomes an investigation. Sometimes second and third audit notices are given. Staff does not know how serious the problem is until a response is received. She noted that the Ombudsman investigator had been able to offer no assistance in addressing the question.

Brochure/Press Release/Misc. [29]

The APOC Brochure draft was passed around for the Commission's review, and Ms. Pittman presented a draft press release regarding affidavits. Ms. PITTMAN said that in the matter of business cards for the Commissioners, she

will contact them regarding telephone numbers to be used.

Ms. Klein MOVED, to go into Executive Session to discuss audit
SECONDED by Ms. Opland, criteria - AS 44.62.310(c)(2)

Motion passed unanimously.

The Commission reconvened at 2:17 p.m. No motions were made following the Executive Session.

Conflict of Interest Regulations - Hearing & Adoption [5]

Ms. BARCOTT noted that no members of the public had appeared to give oral testimony. The only written comments received were from the Mat-Su Borough Attorney. Staff had discussed the letter with Ms. Kennedy as well as some concerns about the filing procedures for candidates.

As recommended by counsel and staff, the Commission agreed to the following amendments in the proposed language:

1) 2 AAC 50.010 - 1st sentence to read, "Retail businesses are characterized by high volume sales of fixed maximum price goods or services available to the general public."

2) 2 AAC 50.010 - 3rd sentence to read, "However, customers who represent ongoing business through an established line of credit not payable in a single billing cycle; a contract to purchase multiple goods or services; or, a discount not available to the general public on volume sales are required to be disclosed."

3) 2 AAC 50.105 - Delete the sentence which reads, "Such statement will be considered timely filed upon receipt by the commission."

4) 2 AAC 50.105(g) - First sentence to read, "An incumbent municipal official who becomes a candidate for state elective office must file a state conflict-of-interest statement with the commission or in accordance with 2 AAC 50.105(h)."

Ms. BARCOTT noted that staff will ask the Division of Elections to establish a policy of providing candidates with proof that Elections accepted the Statement.

Ms. KLEIN asked if there was some way to highlight that the signature on the Statement must be an original. Ms. BARCOTT said that it could not be taken care of in the regulations format. Ms. PITTMAN stated that if staff has an opportunity to proof read the Running Booklet, it might be done that way.

Ms. Opland MOVED, to close the public hearing and adopt the Conflict of Interest regulations package (A.G. File 399-102-85) with amendments recommended by staff.
SECONDED by Ms. Klein,

Motion passed unanimously.

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Conflict of Interest Affidavits [no number]

Pedro Denton - Director, Department of Natural Resources

Appeal: \$17 CPA, 1985 Conflict of Interest Statement, 9 days late.

Appeal accepted; fine waived.

Robert Morga - Member, Alaska Seafood Marketing Institute

Appeal: \$27 CPA, 1985 Conflict of Interest Statement, 11 days late.

Appeal accepted in part; fine reduced to \$13.50 (50%) if paid within 30 days of notice.

Cheryl Taylor - Member, Alaska Coastal Policy Council

Appeal: \$47 CPA, 1985 Conflict of Interest Statement, 15 days late.

Appeal accepted in part; fine reduced to \$11.75 (25%) if paid within 30 days of notice.

Bix Bonney - Member, Board of Fisheries

Appeal: \$157 CPA, 1985 Conflict of Interest Statement, 29 days late.

Appeal accepted in part; fine reduced to \$78.50 (50%) if paid within 30 days of notice.

Jonathan Solomon - Member, City Council of Fort Yukon

Appeal: \$39 CPA, 1985 Conflict of Interest Statement, 11 days late.

Appeal accepted in part; fine reduced to \$19.50 (50%) if paid within 30 days of notice.

David Allison - Member, Alaska Power Authority

Appeal: \$97 CPA, 1985 Conflict of Interest Statement, 23 days late.

Appeal denied; fine upheld.

Sarah Scanlan - Member, Board of Game

Appeal: \$217 CPA, 1985 Conflict of Interest Statement, 35 days late.

Appeal accepted in part; fine reduced to \$160.00 if paid within 30 days of notice.

Kay Wallis - Representative

Appeal: \$107 CPA, 1985 Conflict of Interest Statement, 24 days late.

Appeal accepted; fine waived.

Keith Hursh - Member, Kenai Peninsula Borough Planning & Zoning Commission

Appeal: \$14 CPA, 1985 Conflict of Interest Statement, 6 days late.

Appeal accepted in part; fine reduced to \$7.00 (50%) if paid within 30 days of notice.

Gerry Winner - Member, Assessment Review Board

Appeal: \$47 CPA, 1985 Conflict of Interest Statement, 15 days late.

Appeal accepted in part; fine reduced to \$23.50 (50%) if paid within 30 days of notice.

Clark Boston - Director, Department of Community and Regional Affairs

Appeal: \$27 CPA, 1985 Conflict of Interest Statement, 11 days late.

Appeal accepted in part; fine reduced to \$13.50 (50%) if paid within 30 days of notice.

APOC Minutes - June 24-25, 1985

Joseph Inukuk - Member, Tununak City Council

Appeal: \$2 CPA, 1985 Conflict of Interest Statement, 2 days late.
Appeal denied; fine upheld.

Agnes Holmberg - Member, Sand Point City Council

Appeal: \$1 CPA, 1985 Conflict of Interest Statement, 1 day late.
Appeal denied; fine upheld.

Lloyd Morris - Member, Alaska Public Broadcasting Commission

Appeal: \$157 CPA, 1985 Conflict of Interest Statement, 29 days late.
Appeal accepted in part; fine reduced to \$78.50 (50%) if paid within 30 days of notice.

Peter Green - Member, Eek City Council

Appeal: \$19 CPA, 1985 Conflict of Interest Statement, 7 days late.
Appeal accepted in part; fine reduced to \$5.00 if paid within 30 days of notice.

Susan Jerue - Member, Anvik City Council

Appeal: \$54 CPA, 1985 Conflict of Interest Statement, 14 days late.
Appeal accepted; fine waived.

Charity Kadow - Director of Public Services, Legislative Affairs Agency

Appeal: \$57 CPA, 1985 Conflict of Interest Statement, 17 days late.
Appeal accepted in part; fine reduced to \$28.50 (50%) if paid within 30 days of notice.

Mark Tall - Member, Hooper Bay City Council

Appeal: \$29 CPA, 1985 Conflict of Interest Statement, 9 days late.
Appeal accepted in part; fine reduced to \$10.00 if paid within 30 days of notice.

Ms. Opland MOVED, to accept the actions on the entire packet of
SECONDED by Ms. Klein, Conflict of Interest Affidavits.

Motion passed unanimously.

84-7-COI: Sheldt v. Wilson (Thorne Bay) [verbal]

85-1-COI: Miller v. Rutledge, et. al. (Cold Bay) [verbal]

Ms. BARCOTT explained that these two municipal Conflict of Interest complaints have been filed and staff is proceeding with preliminary investigations.

84-4-COI: Bradley Exemption Request [verbal]

Ms. BARCOTT explained that this matter is continuing.

84-11-CD: Staff v. Citizens For A Better Legislature [verbal]

Ms. BARCOTT explained that this group was assessed a civil penalty of \$240.00 for failing to file a properly completed 1984 30 Day Pre-general report. The fine was paid June 24, 1985.

COI Advisory Opinion: Muni of Anchorage, 5/30/85 [4]

Ms. BARCOTT explained that staff received an inquiry regarding the application of the Conflict of Interest Law to hearing officers for the Planning and Zoning Commission of Anchorage. Staff's position is that they are not subject to the Law. While there may be a compelling argument in favor of their filing disclosure Statements, given the broad delegation of authority they have, staff's negative response is based largely on the opinion of the Attorney General (84-70). Since the Law has criminal provisions, it must be strictly construed. Only those offices expressly stated in the Law are subject to it. While the hearing officers have many powers of the Commission, they serve at the Commission's pleasure. They appear to be adjunct to, rather than a replacement, for the Commission. Finally, their decisions are subject to appeal to the Commission as a whole.

Conflict of Interest Statutory Recommendations [6]

Ms. BARCOTT stated that staff has been preparing a proposal for two statutory amendments to the Conflict of Interest Law. The first recommendation would be to revise the definition of public official to include some of the positions at the University of Alaska, staff at the Alaska Court System, and provide for changes in executive branch job titles.

The other proposal is one which specifically exempts candidates for municipal service area boards from the Law. These people are currently required to file because they are a candidate for an elective municipal office. However, once elected to office, they are not required to file annual Statements since they are not, by statutory definition, municipal officials.

In regard to the existing proposal on exempting cities under 1,000 from the Law, the past year has seen a growth in the number of inquiries on municipal complaints, which may be reason to retain existing language. On the other hand, this part of the Law is impossible to administer - there is no "quality control" on the reports filed; haphazard distribution of information to officials by the clerks; resistance to filing Statements by officials who live in rural towns where such information is common knowledge; and unclear authority to take any action for failure to file, other than civil penalties or referral on charges of criminal "willfulness."

Ms. KLEIN stated that she likes the procedures staff used this year in trying to get the municipal officials to file their Statements, and would like to continue these efforts at least one more year.

Guidelines for Municipal Officers on Conflicts of Interest [6A]

Ms. BARCOTT presented a handout on "What is a Conflict of Interest?" There were suggestions from Ms. Pittman and Ms. Kennedy that have given cause for staff to do further work on this guideline. Ms. BARCOTT said that she would pursue the questions of prohibited acts.

Conflict of Interest Update [7]

Ms. BARCOTT explained the staff procedure for contacting all cities subject to the Conflict of Interest Law, and the results of such.

Ms. ROGERS asked if there was any remaining business.

Ms. Opland MOVED, to adjourn the meeting.
SECONDED by Ms. Klein,

Motion passed unanimously, at which time the meeting adjourned.

MEMORANDUM

State of Alaska

TO: APOC Members

DATE: October 17, 1985

TELEPHONE NO: 276-4176

FROM: ^{TSP} Theda S. Pittman
Executive Director
Chris Johansen
Associate Coordinator

SUBJECT: Campaign Disclosure
Revisions - 9/19/85 Draft
of AS 15.14.

The September 19 Work Draft by Gross & Burke as well as a Sectional Analysis of the same date were sent to you immediately following the Senate State Affairs Committee meeting. The following remarks represent staff's follow-up on technical/administrative provisions and includes notations concerning changes the Committee recommended. By copy of this memo, Ms. Kennedy and Mr. Monkman are requested to provide any observations they deem appropriate. Major policy issues such as abolition of the \$1,000 limitation are not discussed in this paper. The Committee has scheduled a public hearing on the next draft October 29. Within the next few days, we will poll you by telephone to see whether it is your desire to offer a Commission position on the policy questions at the October 29th hearing. A courtesy copy of this memo is being provided to Mr. Gross and Ms. Burke in the event that some of the technical information may be helpful.

Before proceeding with a sectional discussion, we note that Mr. Gross has described the two major purposes of this effort as to provide adequate disclosure and permit unlimited contributions (rather than through a proliferation of groups) to candidates. Campaign Disclosure touches upon the fundamental rights of expression and association. As you may recall from the COGEL meeting in Seattle, Charles Steele, General Counsel of the FEC, stressed the value of a clearly-worded "Findings and Purpose" section, especially in statutes touching upon the free exercise of fundamental rights. With respect to the two purposes articulated, it is ~~questionable whether the draft provides better disclosure.~~ A substantial portion of that question may be the result of confusion in the sections on independent expenditure reports which will be discussed later. ~~It is clear that the proposal,~~ in an apparent effort to alleviate some of the present burden on candidates and groups, ~~provides less disclosure~~ prior to an election. ~~It is not clear whether allowing corporations, organizations and individuals to make unlimited contributions to candidates will have much effect on the growth of groups.~~ With the exception of the political parties, many groups are created to give a particular interest a unique identity in the candidates' perception, e.g., the insurance industry. That purpose may continue to be a viable reason to give money to a group even if one can give an unlimited amount to a candidate directly.

ARTICLE I

ALASKA PUBLIC OFFICES COMMISSION

AS 15.14.010 - Applicability

(a) - The Committee agreed that language such as "every election for state office" should be included to reflect the possible creation of new elective offices on the state level (i.e., Attorney General). In addition, the language about municipal elections is to be made more specific to delete applicability to service area candidates. Although the present regulatory exemption for those making no expenditures [2 AAC 50.332(b)] works quite well, the universal tendency of service area candidates to spend almost nothing suggests that a statutory exemption would not deprive the public of information.

(b) - If the Committee is in agreement with Ms. Kennedy that contributions or expenditures made solely for petition costs to establish a ballot issue are not reportable, it would be helpful to include such a statement in this subsection. An additional question which might be clarified here is whether activity by the State or the University is reportable. See Attorney General's Opinion J-66-365-78, dated January 5, 1978, copy enclosed.

AS 15.14.020 - Alaska Public Offices Commission

(d) - The specific "February 1" to determine beginning and end of a Commissioner's term has been deleted. Its presence is useful in preserving the specific 5-year terms despite occasional slippage in prompt appointments, i.e., a late appointment does not change the effective date of the term.

(e)(3) - The Committee deleted the provision allowing Commissioners to donate to Presidential campaigns.

(f) - The Committee reduced the honorarium from \$200 a day to \$100 a day, a figure which is still an improvement over the present \$50 a day. Mr. Gross cites Billy Berrier of Legislative Affairs as his source that the average commission honorarium is \$200 a day.

(g) - The Committee suggested changing the quorum requirement from three to four so that two votes would not be sufficient to decide a matter. Your by-laws already require three votes to carry a measure. Since the present quorum requirement is three, you can hold a meeting with three Commissioners, but they must be in unanimity to take action. The effect of changing the quorum requirement in the statute would be to prohibit any meeting unless four of you could attend. This would prohibit you from appointing a three member subcommittee to hear a particular matter. During bad weather, travel problems might disrupt a whole meeting if more than one of you could not attend. If the Committee could be so persuaded, it would be wise to leave the quorum at three for that rare occasion when only three of you could attend.

(i) & (j) - These subsections which deal with regional or district offices, where reports may be filed, and where forms and copies are available have been redrafted to come somewhat closer to practicality and actual procedure. The language still causes considerable confusion among those who aren't familiar

with our actual procedures. At the request of the Committee, we have tried to suggest some further changes:

(i) - All state reports shall be filed directly with one of the Commission's offices. In major population areas where the Commission has no office, regional offices ~~shall be established~~ to maintain copies of reports filed by statewide candidates and by Legislative candidates in that region. Regional offices will also supply forms and pertinent materials supplied by the Commission to candidates, groups, and persons required to file reports under this chapter.

(j) - In municipalities subject to this chapter where the Commission has no office, the Commission will supply the municipal clerk with forms and pertinent materials for candidates, groups, and persons required to file reports of activity in the elections of that municipality. In municipalities where the Commission has no office, municipal reports shall be filed with the municipal clerk who shall insure that copies are made available for public inspection and that the originals are forwarded to the Commission promptly.

AS 15.14.030 - Duties of the Commission

The body of section .030 incorporates present law except for a minor modification in the language which provides that, within 60 days of an election, a list of all persons and political groups who have failed to comply with the law be made available to the public instead of sent to the Attorney General. The language needs additional modification to reflect what can actually be done. The literal meaning of the existing language would require staff to list and allege, within 60 days of an election, each and every possible campaign disclosure violation against candidates, groups, individuals, corporations, etc. More realistically, a list can be compiled of candidates and registered groups which have failed to file reports or have filed delinquent reports.

Although times and circumstances can always change, the Attorney General's report is more of an internal document for our purposes than of any use by the Attorney General. We have prepared this report for a number of years and consider it to be a public document. It is unclear whether the Attorney General has ever found it to be useful. However, the document could be of use to the public and that may be sufficient justification for retaining some form of the provision.

ARTICLE 2

REGISTRATION AND REPORTS

AS 15.14.040 - Registration by Candidates

(a) - This provision, coupled with the new definition of candidate, requires an individual who has not filed a declaration to register with the Commission and abide by the requirements of the law. Two suggestions come to mind: use the word "individual" rather than "person" since only individuals can become candidates and insert "in the aggregate" after "more than \$1,000".

(b) - The draft is somewhat more restrictive than the Commission's proposed regulation in that those who have not filed must indicate whether they are seeking legislative, statewide or municipal office. For administrative purposes, the designation of state or municipal may be sufficient. Potential opponents may be more interested in the difference between "legislative" and "statewide" and we wonder whether it wouldn't be better to avoid fruitless hassles over whether someone hedged when they indicated the level of state race for which they might file.

(c) - A new subsection should be added specifying that the registration shall include required information about campaign officers as provided in AS 15.14.170.

AS 15.14.050 - Registration by Political Groups

(a) & (b) - These subsections are much like the present law in requiring a group to register prior to making a contribution to a candidate. The draft adds the making of an independent expenditure as a trigger for registration, but not ballot proposition expenditures which the Commission has added by regulation. 2 AAC 50.342.

Noticeably lacking in both AS 15.13 and AS 15.14 is detail about the required contents of a registration statement or any requirement to re-register annually. Content requirements might be handled by a cross-reference to AS 15.14.170. Annual registration would assure accurate information about officers and assist in determining the applicability of Political Contribution Credits in a given year to a given group. Failure to re-register should invoke civil penalties because effective reporting enforcement is dependent upon accurate registration information.

Public awareness of groups could also be enhanced by requiring groups to specify "type" (e.g., official party subdivision, corporate PAC, labor PAC, etc.) or affiliation, and to include as part of the registered name the name of any sponsoring organization. At present staff uses the following categories for its annual summary of group activity: Ad Hoc, controlled, corporate, municipal entity, political party, special interest, trade association, and Union. FPPC bulletin, October 1, 1985, enclosed.

(b) - Continues the present reference only to state initiative groups, without mention of their municipal counterparts. See also the question raised under applicability.

(c) - Contains provisions related to the VECO litigation. The Committee suggested a re-drafting effort. The FEC addresses this type of provision in 2 CFR 110.6.

A question not clear in subsection (c) is what actions a "conduit" can take in the normal course of business in passing on an earmarked contribution without running afoul of the general prohibitions against making a fictitious contribution or one in the name of another. AS 15.14.160; 15.13.070(d). It seems natural and logical that one element (but not the only element) of these crimes is an act of nondisclosure to the recipient candidate or group. See

Aboud v. Flood, Staff Memorandum, dated August 16, 1985, not considered by the Commission as of yet. (enclosed). Payroll deduction checks are usually issued by the "conduit," but the recipient candidates or political groups often follow the check masthead rule and do not record or report the contribution as received from the original member or employee. This custom raises the appearance the original source was intentionally, knowingly, or inadvertently undisclosed. It not only causes confusion on the Campaign Disclosure Statements, but confusion with the Political Contribution Credit as well. A requirement that conduits report in writing to the recipients that the check is a payroll withholding or other earmarked contribution, file some special report with the Commission, or provide recipients with a copy of the payroll authorization form might be in order.

AS 15-14.060 - Reports by Candidates of Contributions and Loans Received

This section begins the unusual split reporting system for candidates. Candidates make pre-election disclosure of "contributions" and post-election disclosure of "expenditures." In our review of other states, we have not seen a bifurcated reporting system (although we will continue to look) and we look forward to discussion which may emerge at the October 29 hearing.

The requirement to identify "occupations and employers" was omitted in the draft and a restoration requested by the Committee. Federal law [11 CFR 104.8(a)] and all of the states with these type of laws require this information. Contributor names without identifying information simply don't represent significant disclosure.

Subsection .060(a) requires reporting of contributions received by a candidate. "Received" contributions are reportable when they are "accepted." Subsection (b) provides that acceptance occurs when the contributions are used for campaign purposes or retained at the end of the reporting period.

We see no substantial problems with adopting a special acceptance rule for candidates for the 30 Day, 7 Day, and Final Reports; however, substantial non-disclosure could occur if the "acceptance rule" is applied during the 24 Hour Reporting period. We can speculate a candidate could receive a contribution at the beginning of the 24 Hour reporting period, hold on to it until the end, and then report it on election day when it is too late for anyone to have meaningful access to the information. Under present law, acceptance comes when the candidate, treasurer, or deputy treasurer has possession of the contribution, and we think the Commission's rule is in conformity with a large number of states and the FEC. See 2 CFR 102.8. It may be possible to use a special "possession rule" for the 24 Hour contributions and preserve the policy of section (b) for other contributions.

The allowance of 30 days after a report is due to return non-accepted contributions and the lengthy reporting period covered by 30 Day reports will effectively mean that funds can be held for months before a decision to accept is required. With contributors required to report within 10 days of making a contribution, it appears probable that confusion will arise in some cases over whether a contribution was not reported or not accepted. See U.S. v. Hankins, 607 F.2d 611 (3rd Cir. 1979) for some problems.

There has been substantial litigation in California concerning candidates who allegedly manipulate an acceptance rule to avoid meaningful and timely disclosure to the public. Our worse fear with this new "acceptance rule" is that it will provide an avenue for abuse that we have largely avoided to date. ~~The "acceptance rule" has its own simplicity and it may be preferable.~~ See 2 AAC 50.333. If the intent is to establish criteria dictating the circumstances under which a contribution can be returned without any reporting, the timespan between receipt and ~~it should be short.~~

Paragraph .060(a)(2) puts in different words the present Commission regulations that loans and loan guarantees are reportable. See 2 AAC 50.355. Proposed 2 AAC 50.313(a)(2). It adds a provision that campaign loans not reported in a timely fashion cannot be repaid from campaign funds. Although not clear from the statute, it appears the ~~Commission could expand upon~~ its present regulations and provide for complete disclosure of all personal contributions by a candidate from his or her personal funds and assets for the benefit of a campaign. Under present statute and regulations, a candidate can report personal contributions as a lump sum with no further documentation on the terms, guarantors, or security for the loan. If it is the intent of the provision that the APOC and public will demand to know more about these otherwise lump sum contributions, the statute should make some further reference for clarification purposes to what is reportable under paragraph (a)(2).

Paragraph .060(a)(3) provides for lump sum reporting of contributions of \$250 or less but does not require reporting the number of contributors. The increased amount is in conformity with previous Commission proposals to alleviate the burdens of itemization for the "small" contributors. However, the staff is not quite certain the present Commission still has the same views with regard to raising the disclosure threshold from \$100 to \$250. ~~The number of small contributors is a useful audit tool which should be included.~~

Subsection .060(c) requires 30 Day, 7 Day and December 31 (or Final) contribution reports. Location of filing should be clarified consistent with AS 15.14.020(i). The December 31 due date means that activity occurring on December 29-31 is not required to be included. ~~A January 16 deadline would allow~~ treasurers a breather over the holidays and account for the fact that January 15 is a federal holiday with no postal service.

AS 15.14.070 - Reports by Candidates of Expenditures Made

(a) - Suggested due date would be January 16, see comment above. Expenditure reports should also include the address of the recipient of the expenditure. (December 31 due date also appears in sections .080 and .090.)

AS 15.14.080, .090, & .100 - Political Group Reporting

A Political Group reporting under AS 15.14 must review all three sections for the due dates of different kinds of activity. Some expenditure activity appears not to be required to be reported at all. In addition, the reports required of individuals and entities not meeting the definition of group are also specified in section 100. The result is both confusing and subject to serious abuse by groups which might wish to take advantage of the lack of clarity.

As nearly as we can track a group's reporting requirements, the schedule would look like this:

<u>Section</u>	<u>Information Required</u>	<u>Due Date(s)</u>
.080	Incoming Contributions & Loans ("... all information required under .060(a) for candidates." Because the reference is about candidate requirements, it reads as though a group should report loans to candidates).	30 Day, 7 Day, December 31, 24 Hour
.090	Independent Expenditures of any size on behalf of a candidate	30 Day, 7 Day, December 31, 24 Hour
.100	Expenditures of more than \$250 which are monetary or non-monetary contributions to candidates or other political groups or which are not independent expenditures.	within 10 days.
N/A	Expenditures of \$250 or less which are monetary or non-monetary contributions to candidates or groups or which are not independent expenditures.	Not required.

It is our impression that a group treasurer is intended to comply with the due dates set out in three separate sections: .080, .090, and .100. Presumably AS 15.14.080 and .090 intend that a group which has both incoming contributions and outgoing independent expenditures will show both on one report due 30 days before an election but the draft does not say that. Adding a "within 10 days" reporting requirement (AS 15.14.100) for large contributions made by the group will make a treasurer's task very confusing. It will also generate hundreds of separate reports to be collated by staff if a complete picture of a group's activity is to be available to the public. The picture will be incomplete in any event because group expenditures of \$250 or less are not required to be reported at all.

There's good reason to require groups to report both their income and expenses at the same time. Income tells you who is giving to the group, i.e., its actual sources of income. ~~Expenditures tell you which candidates are receiving the group's money as well as benefiting from any independent expenditures made by the group.~~ The fact that group expenditures are a combination of administrative expenses, contributions to candidates, and independent expenditures argues in favor of pre-election disclosure of expenditures. It would also be helpful to clarify in the statute that the group is required to identify on its expenditure report those items that are contributions or independent expenditures as well as the beneficiary of the contribution or expenditure.

Instructions for group reports should not be intermingled with instructions for organizations which are not required to report the source of their funds. The intermingling is likely to confuse both groups and "non-groups." It also

offers the potential for unnecessary litigation resulting from a group that uses the confusion to claim it is not required to report its income.

Our recommendation is that the "within 10 days" reporting deadline be reserved for individuals and organizations (not required to register as political groups) which:

- 1) make contributions exceeding \$250; or
- 2) make independent expenditures of any amount.

As explained above, a change to the registration language would assure that the Commission knows which groups exist and should report.

Paragraph (a)(1) incorporates the candidates' instructions in AS 15.14.060(a) pertaining to reportable information. For clarity, the group instructions should be expressly set out in the statute. There are practices that make a political group different from a candidate and the candidate language could be misconstrued by a group treasurer. Groups do not solicit funds or receive loans for a clearly identified candidate in most circumstances. Their fund-raising seems to be intended to influence the outcome of an election which, in most instances, concerns the political future of various candidates. Sometimes their activities are devoted to ballot propositions, initiatives and other purposes. Further, at the time their fundraising occurs the group usually has no identified candidate which to support because it has not chosen one to endorse. Both the staff and the Commission may be hard-pressed to show that a reportable contribution must be made for or on behalf of a candidate, much less an identified one.

As to the definition of "independent expenditures" we note this comes from 2 CFR 109. As a practical matter, ~~we suggest that the statutory provisions drawn upon in the Commission proposed regulation 2 AAC 50.313(8). As additional clarification,~~ it may be helpful to describe those campaign agents and actors which the Commission will construe as prima facie evidence of cooperation and consultation with a candidate's campaign.

In AS 15.14.060(b)(2) there is a reference to a candidate's "authorized committee." This was apparently picked off the above FEC regulation. If it has any independent significance, it may be helpful to describe what an "authorized committee" is. Our fear here is that it is being used in the same sense as the FEC, and we have some speculations whether all the duties under 2 CFR 102 are to apply with equal force to this provision for an "authorized committee."

~~AS 15.14.100(a)(3)~~ requires reporting of certain "expenditures...on behalf of a candidate which are not independent expenditures..." The Commission has always thought (and we think it is true of the majority of workers in other states and scholars in the field) that payments made "on behalf of" an identified candidate are either contributions or independent expenditures, and that the transactions are mutually exclusive. AS 15.14.100(a)(3) appears to be a restated version of the transactions contained in (1) or (2) which describe monetary and non-monetary contributions. ~~If so, its deletion should be considered.~~

There is no special acceptance rule in the draft for ~~contributions received by political group~~. The Commission would have to decide whether to retain its present "possession" regulation for groups or make a revision based on the candidate's "acceptance" rule in the draft.

There is a particular problem with the fundraising activities of groups under the laws concerning ~~games of skill and chance~~. The Commission has gone on record through legislative recommendations seeking to ban the use of funds raised through games of skill and chance by political groups and candidates. No organization using bingo, raffles, or monte carlo to raise funds can comply with the requirement to identify the source of each dollar it raises. By their very nature, games of chance and skill operate in a manner which defies an effort to name the spender. Such events are fertile territory for candidates and groups to accept funds which are otherwise banned, such as anonymous contributions and contributions in the name of another. A further issue which the Commission may be forced to litigate is the contention that game players are playing to win, not to influence elections. Such a contention argues that a raffle ticket purchase is not a contribution because it isn't intended to influence an election.

It seems doubtful that the draft intended to leave gaps in the requirements that groups report all their income and all their expenditures. It is less clear whether there is any utility in the suggestion that groups can be categorized into "independent expenditure" groups and "contributions to candidates" groups. Most groups in Alaska have mixed purposes. Many groups change their plans in mid-stream. Any provision that allows a group to maneuver around the disclosure of its income after the funds have been obtained will create intolerable enforcement problems. Manipulating the disclosure of income would allow groups to avoid the \$1,000 limitation on incoming contributions which is proposed.

ARTICLE 2

CONTRIBUTION AND EXPENDITURES - LIMITATIONS AND PROHIBITIONS

AS 15.14.120 - Contributions by Persons

This section allows unlimited contributions by a person to a political party, a candidate, or a group formed solely for the purpose of sponsoring an initiative. It establishes for the first time, a \$1,000 a year limit on the amount a person may give to a group. Discussion of the potential technical problems in the definition of "person" are contained on page _____. What if a group formed to sponsor an initiative decides to undertake independent expenditures on behalf of candidates? Such a group would be potentially much better financed to do than ordinary groups which have a \$1,000 limit on their incoming funds. Initiative campaigns are notoriously one-sided when it comes to financing. Some thought should be given to whether an unlimited income provision would tend to foster or ameliorate that situation. Such a concern may ultimately be overridden by constitutional questions. Limitations on contributions to candidates have been upheld on the grounds of public interest in avoiding corruption or its appearance. Limits on contributions to groups may be harder to justify.

With respect to the policy of unlimited contributions directly to candidates, the Commission has not taken a position. In the most recent discussion, some members favored a retention of the \$1,000 limit, and others continued to support an increase to \$2,000. The question of lifting the limit entirely for individuals, corporations, and entities other than PACs was not posed at that time.

AS 15.14.130 - Contributions By Political Groups

This section retains the \$1,000 per year limit on group contributions to a candidate and adds the same limit on group contributions to a group. It retains the political party exemption. It would be helpful if the law specified whether the exemption extends to political party organizations on the national level or in other states. Currently the statute does not do so. Only in the last two State elections have national party contributions begun to assume significance.

AS 15.14.140 - Limitations on Cash Contributions

This incorporates present law and could be clarified by inserting "single" between "a" and "cash" on line 25 so that it reads ~~"single cash payment"~~.

AS 15.14.150 - Expenditures

Subsection .150(a) states the ability of political parties and candidates to make unlimited expenditures subject only to the requirements of .180 that the purpose be limited to influencing elections, repaying loans, and that surpluses be disposed of as allowed by .200. This may mislead the reader into thinking that candidates can contribute more than \$1,000 per year to political groups in contravention of AS 15.14.120(b). The language raises the question of whether political parties are really intended to be able to fund PACs which are not official party subdivisions.

Subsection .150(b) states that independent expenditures, as defined by AS 15.14.090(b), on behalf of or in opposition to a candidate or ballot measure are unlimited. The definition of independent expenditures in .090(b) discusses activity only in relationship to a candidate and does not cover the concept of independence relative to ballot propositions. In discussing a situation involving expenditure activity supporting or opposing a ballot proposition, the real question would be whether the activity was independent of some group which is also trying to influence the outcome of the same measure. Suppose a group was the sponsor of an initiative and continued to be active supporting the proposition created by the initiative. Or suppose a group is simply supporting or opposing a ballot proposition. An individual whose expenditures to influence the passage or defeat of a measure were arranged, coordinated, or directed by a particular group would be making a contribution to the group rather than an independent expenditure.

(c) - This subsection appears intended to establish that political group expenditures on behalf of or in opposition to a single candidate or a single political group, are either independent expenditures or are contributions limited to \$1,000 per year. The either/or concept is accurate and well worth stating but the draft ~~uses a negative sentence construction~~ and would be more effective in the positive voice.

AS 15.14.160 - ~~Anonymous Contributions~~

The language used here comes directly from AS 15.13.070(d). Recent staff research into case law indicates the language may support escheat only in the case of anonymous contributions. (See Aboud v. Flood, staff memorandum dated August 16, 1985, not yet considered by the Commission.) The Commission needs clearly defined authority to require the return or escheat of any prohibited contribution.

ARTICLE 4

CAMPAIGN MISCONDUCT AND ADMINISTRATION

AS 15.14.170 - Campaign Officers

This section is similar to existing law on campaign chairmen, treasurers and deputy treasurers. In subsection (a), the language allowing the appointment of deputy campaign treasurers "at any time" may lead to confusion between the appointing process and the registration process. "As necessary to comply with AS 15.14.170(e)" or "~~in writing~~" might be preferable to "at any time."

Subsection (b) should indicate a requirement to list on the registration statement the name, address and telephone number of any deputy treasurers. Public disclosure of individuals authorized to solicit and accept contributions is important information about the extent of a campaign's organization and financial activity.

In subsection (e), ~~Page 22, line 17~~, the phrase "of the political group" should be deleted lest it cause confusion over the issue of whether a candidate's campaign committee is a "group." It would be particularly unfortunate in light of the different limits on contributions to candidates and to groups.

Similarly, ~~in line 80~~, subsection (f), the word "candidate's" should be deleted lest a group's chair be deemed responsible for a candidate's campaign officers.

AS 15.14.180 - Use of Campaign Funds

There appear to be no technical problems with this subsection.

~~AS 15.14.190 -~~ Termination of Campaign Activity and Closing of Campaign Accounts

This is similar to provisions in other states requiring close-out reports by candidates. We would like to suggest that close-out reports also be applied to political groups, perhaps as the appropriate mechanism for terminating the registration required in AS 15.14.050. This suggestion is brought forward mainly for the purposes of insuring that contributions to defunct political groups do not become entitled to a PCC and to help assure that an accurate listing of active groups be maintained.

Our strong felt suspicions have been there are a few political groups that have been registered for a long time and occasionally report no activity, but are raising substantial sums for ostensibly political activities that are in

fact not election-influencing. The contributions are usually obtained on some promise the group will lobby for some position or take a side on a ballot proposition. Once the registration statement is filed, the Department of Revenue will pay over PCCs even if there is no quantifiable political activity. A special provision for terminating group registration and reporting may save the State of Alaska some funds or, at least, reduce the number of groups from whom staff must unnecessarily seek reports.

AS 15.14.200 - Surplus Campaign Funds

We see no major technical points in this provision. Some additional thought may be warranted on the language in (a)(5) ~~directing the return of funds to contributors on a pro-rata basis~~. Given that most campaigns have many small contributions, a mandatory pro rata distribution to every contributor is probably not practical.

AS 15.14.210 - Solicitation of Contributions

Consideration should be given to applying the principle of ~~enforcement~~ to contributions solicited or accepted in violation of this section. See discussion of AS 15.14.160.

AS 15.14.220 - Identification of Communication

We see no technical problems with subsections (a), (b), and (c). The reference to AS 15.56.010(a)(2) raises two questions. First, is it the intent of this draft to suggest that the APOC would take some enforcement action on a provision which is outside its jurisdiction, as defined in AS 15.14.030, or is it intended to relieve the ~~Commission of the burden of sanctions for improper identification?~~ Second, is the lack of reference to AS 15.56.010(a)(1) an oversight?

If the Commission is intended to take an active role against newspapers or printers for identification failures, we are pessimistic of a productive result in light of substantial litigation on this issue. See 4 ALR 4th 724 and the case of Printing Industries v. Hill 382 F. Supp. 801 (S.D. Tex. 1974) with particular attention given to its writ history in State v. North Dakota Education Association, 262 NW2d 731 (N.D. 1978). Of course, a single opinion from a three judge federal court in Texas does not make Alaska law; however, the concerns expressed therein may indeed be real in any enforcement action initiated by the APOC ~~against a newspaper~~.

ARTICLE 5

UNLAWFUL CONDUCT; CRIMINAL AND CIVIL PENALTIES; INVESTIGATIONS; PROCEDURES; HEARINGS.

AS 15.14.230, .240 and .250 - Felonies, Misdemeanors, and Civil Penalties

An important aspect of the draft which needs review is the ~~mens rea~~ mental element specified in all three sections.

In general, both felonies and misdemeanors require actions or omissions to be "~~knowingly and intentionally~~". If the intent is to use the standard mental

elements in AS 11.81 (which is not specified in the draft), it may be simpler to mention a single felonious intent appropriate for the conduct. Under AS 11.81.610 an intentional act is done knowingly but a knowing violation does not include an intentional one. In effect, the knowing violation appears to be surplus usage and it may assist all concerned if consistency were maintained with the culpability standards in the criminal code. Further, if the mens rea selected is intended to have any meaning other than its uses in the criminal code, it would be helpful to have such laid out in AS 15.14.

In section AS 15.14.230(a)(5), three mental elements are provided for accepting excessive contributions, "knowingly and intentionally and willfully." "Willfully" has been subject to much litigation in the Alaska courts and it appears to have different meanings for different types of crimes. It may be appropriate to excise "willfully." See "Consciousness of Wrongdoing, Mens Rea in Alaska," Alaska Law Review; (1984).

With respect to the use of the "knowingly and intentionally" language in the misdemeanor section, "~~intentionally~~" seems to be quite a hefty mens rea for a misdemeanor. "~~knowingly~~" should be considered instead.

AS 15.14.250 inserts "negligently and inadvertantly" as mental elements for acts subject to a fine by the Commission. These mental elements are undefined in the criminal code and we assume the Commission will adopt its own standards through litigation. Further, we also assume the mental elements for a civil penalty are something more than a strict liability criminal offense and it is not necessary to provide an express legislative directive that these violations could become strict liability crimes through interpretation. AS 11.81.610.

The Commission has developed a wide ranging and detailed jurisprudence concerning the appropriateness of any assessment of civil penalties. Like the Alaska courts, the effort is aimed at deterring the offender, deterring others in like situations and, frankly, making it unprofitable for a candidate or political group to violate the law. ~~Therefore, the fine schedules~~ in the proposals ~~may be too low.~~ We support a cap on any fines levied by the Commission, but request that fines be capped at the ~~\$10,000~~ range rather than at the ~~\$5,000 and \$2,500~~ range.

AS 15.14.250(c) offers an example of why the fines may be too low. This subsection specifies a maximum fine of \$2,000 for failure to report expenditures in a year-end or final report. Since this is the only due date for expenditure reporting by candidates, \$2,000 seems too small to effectively sanction the failure to report expenditures, especially in races where expenditures range from ~~\$10,000~~ upwards.

Typographical Problems:

Page 29, line 15 - There is no AS 15.14.060(b)(3); it seems likely the intended reference was .060(c)(3) for year-end or final reports.

Page 30, line 21 - AS 15.14.220(b) deals with proper identification; the correct reference would be .210(b) which concerns solicitation.

Page 32, lines 15-18 - Civil penalties (at differing levels) are provided for AS 15.14.250(a)(9) in both .250(d) and .250(e).

Finally the use of the word "person" to describe the violator may pose a problem if the definition of "person" continues to indicate that "person does not include a political group."

AS 15.14.260 - Payment of Fines

Specifies that fines may not be paid from campaign funds. In the case of political groups, ~~this may be an impossible catch-22.~~ If the chair of a group pays the group's fine, the payment would appear to be a non-monetary contribution and hence, from "campaign funds."

AS 15.14.270 - Removal from Office

We have no technical concerns with this provision.

AS 15.14.280 - Limitations on Actions

AS 15.13 presently has a 4 year statute of limitations. The AS 15.14 draft sets out four years as the time limit for commencing felony prosecutions, two years for misdemeanors, and 18 months for civil penalties. The reduction to two years for misdemeanors may raise a policy issue for Commission concern, especially in light of the fact that some terms of office are three or four years.

~~It is a 18 month limitation for violations (Civil Penalties) that causes the most consternation on the staff level.~~ The provision is vague and unduly burdensome, and may result in substantial violations of the law going unprosecuted. The language in AS 15.14.280(c) should specifically provide that proceedings be instituted before the Commission within a certain time rather than by the Commission. If desired, a separate time frame could be set for judicial proceedings for collection of a civil penalty after a final decision by the Commission. This would avoid any apparent ambiguity in the statute that judicial proceedings need to be commenced within the 18 month window.

Many of the violations by candidates would not surface until the filing of a Final Report. These are due 30 days after the swearing in of a successful statewide or legislative candidate. AS 15.14.060(c)(3). Assuming the candidate is promptly audited (a large assumption considering the size of these reports and their February due date), and promptly responds, staff knowledge of a violation may not occur until 12-18 months after the violation. If such violations are time barred, our only alternative might be to proceed with misdemeanor or felony investigation with the hopes that the same violation reveals sufficient evidence the act was committed intentionally or knowingly.

An example may illustrate some of the practicalities of trying to enforce civil penalties under the ~~18 month~~ constraint.

Candidate Joe Jones accepts an excessive contribution from a known political group in the total amount of \$1,250 in checks with denominations of \$250 or less. This contribution is accepted in the beginning of his campaign which ~~could be months before the election.~~ ~~He does not report the contribution.~~ The staff receives a timely expenditure Final Report that shows candidate Jones ~~spent more money~~ than he reported as being received. His reports are audited

and the question asked whether he forgot to report a contribution. Candidate Jones takes about 30-45 days researching his records (some candidates hire a bookkeeper or auditor to straighten out their records), and responds he received an excessive contribution from a political group. By this time, a year has passed and the realities of the audit process have reached a point where we have to make the decision whether to proceed by accusation. Although we would like to find out more about this excessive contribution (Did the candidate know he received a contribution from a political group? Did the candidate negligently or inadvertantly accept an excessive contribution and negligently or inadvertantly fail to report it?), the staff must rush to judgment on this matter and guess whether there is sufficient clear and convincing evidence to conclude that the candidate negligently or inadvertantly failed to timely report an excessive contribution.

Because of the press of time, the only option would be to file an accusation to get inside the 18 month window. Because there are no standards for finding of negligence or inadvertance, a strict liability theory for accusations would initially prevail with the concurrent result that some candidates would suffer the consequences of an unnecessary adjudication.

It would be preferable that the statute of limitations for violations be at least compatible with the misdemeanor section. A short period of limitations will cause candidates to avoid responding to audit requests in the hopes any claims become time barred. ~~It will also put an undue strain on staff to commence accusations when we are not clearly convinced that an act was committed negligently or inadvertantly.~~

~~At present the staff proceeds~~ on any accusation against a candidate only when we believe there is sufficient evidence to convince the Commission or subsequent Court or jury that a prohibited act has occurred ~~beyond a reasonable doubt~~. Speculative claims or allegations without full and complete investigation cause undue embarrassment to the subject of the investigation and unnecessarily waste the public's resources.

Page 35, line 11 - should read AS 15.14.230.

AS 15.14.290 - .330 - Investigations, Accusations, Notice of Defense, Hearings, Imposition of Penalty

Page 36, line 4 and Page 42, line 11 - AS 24.50 should be AS 24.45.

Staff considers ~~two major items~~ to be of concern in the draft:

1) the effort to set out a ~~new~~ ~~version~~ of the Administrative Procedures Act requirements within AS 15.14 may create unnecessary and time consuming points of contention; and

~~The~~ the simple, direct appeal of civil penalties to the Commission now found in AS 15.13.125, AS 39.50.135, and AS 24.45.141 has been replaced by the cumbersome notice of defense language and procedures that will be both burdensome and intimidating to the majority of candidates and groups which simply filed late reports. The public, the respondents, and the Commission would be better served by continuation of the affidavit appeal for simple delinquency and a direct statement of the requirement to abide by the Administrative Procedures Act in circumstances requiring a hearing.

~~The staff has no objection to Mr. Gross's desire to extend his personal ban on the Commission to this arena.~~ See AS 15.14.330(d). It should be noted, however, that one or two persons are insufficient resources to police all the possible campaign violations throughout the state of Alaska. Unlike the District Attorney's Office with its abundant resources and personnel, it is sometimes difficult moving the multitude of campaign disclosure violations through administrative litigation if plea bargaining is not used to alleviate the crunch. However, we recognize there are basic judgment calls which the staff should not be making when it engages in activities designed to secure a written Consent Agreement and it may, indeed, be proper to reserve all these consent discussion determinations for the Commission. In fact, there have been few instances of plea bargaining; most have concerned appropriate charges ("charge bargaining").

In AS 15.14.330(a)(2) there is a requirement that violations be shown by clear and convincing evidence. Most administrative adjudications are by a preponderance of the evidence. ~~Clear and convincing evidence may be an undue burden to impose upon a small staff.~~

AS 15.14.340 - Confidentiality

A question regarding the proposed confidentiality of investigations [AS 15.14.030(8)] arises from the standard audit function. Most audits are performed to check the mathematics of reports, and otherwise assist campaigns in complying with the law. If one had to specify whether an audit is assistance [AS 15.14.030(2)] or an investigation [AS 15.14.030(8)], most audits are a means of rendering assistance to campaigns. Of course, audits are investigatory in one sense because matters of potential violation are usually first explored in an audit. If any and all audit reports are synonymous with investigations, it may be necessary to include by express language that audits are also confidential. See AS 09.25. 110, Public Records Act. ~~If audits are something different than investigations, clear statutory standards should be provided to determine when to close a file because it has entered the investigation arena.~~

~~A second question related to the proposed confidentiality of investigations concerns the effectiveness of a gag order on staff only. Those who have chaffed at press reports that their actions were under APOC review apparently assume that staff initiates press contact on such subjects. That is incorrect. The complainants are the ones seeking press coverage and they frequently do so before, or simultaneously with, sending a complaint to the Commission. The proposed "no comment" situation by staff will only leave complainants free to publicize their distorted views of what happened and whether or how the law might apply.~~

The wording of the draft would appear to require the "no comment" situation to continue ad infinitum in a case where the decision was made to file no accusation.

~~Staff does not support the confidentiality proposal~~ because it would not cure the perceived problem but rather increase the pressure to formulate an accusation. If the language remains, it should at least specify that complainants, respondents, and persons contacted in the course of an investigation be

subject to the same restrictions on confidentiality. See Bar Rule 22(b). Unlike the majority of Revenue investigations that concern documents and receipts, our investigations are directed towards conduct, state of mind, and actions by persons that may or may not be memorialized in a document. Gagging complainants, respondents, and persons contacted during the course of an investigation might discourage frivolous or spiteful complaints on election eve. Of course, it will also create another category of potential violations to monitor.

AS 15.14.350 - .370 - Judicial Review, Powers, Legal Counsel

Staff comments on these sections are primitive and subject to addition at a later date.

Section .360, Powers of the Commission, omits what appears to be broader boilerplate now appearing in AS 15.13.040(a). Potentially related is a concern raised by counsel in the past that AS 15.13.120(d) implies the Commission can issue orders but the plain statement "can issue orders" never appears.

Perhaps the sections on powers and legal counsel would be more appropriately included in Article I. Somehow the concept that there is a necessary relationship between "duties" and "powers" seems fitting.

Section .370 provides that a request for a special prosecutor be made to the Attorney General rather than the Chief Justice of the Supreme Court. In the Worthington case, the court indicated that it could not appoint a prosecutor as such a case might ultimately be appealed to the Court. While one can hypothesize a case involving the Attorney General or some member of the Administration where friction might arise over the request, there seems little alternative but to hope:

- 1) it won't happen; and
- 2) if it does, a denial by the Attorney General would create a public furor that would give cause for reconsideration or judicial relief.

The new language also limits a request for a special prosecutor to cases involving Campaign Disclosure misdemeanors or civil penalties (AS 15.14.240 and .250). ~~No such limitation is appropriate because of the wide range of appointed and elected officials subject to AS 39.50 and because AS 24.45 is also within the Commission's purview.~~

A second change in the section on legal counsel specifies that the Commission must have the concurrence of the Attorney General to hire temporary legal counsel. ~~This seems an unnecessary provision that will only give the appearance of a desire to unduly frustrate the Commission's efforts.~~

ARTICLE 6

MISCELLANEOUS PROVISIONS

AS 15.14.380 - Definitions

An area staff considers critical on a technical level is the language used in definitions. These words are extremely important, and define the subject matter jurisdiction of the Alaska Public Offices Commission. The scope and

content of AS 15.14, with its panoply of registration, reporting, criminal sanctions and administrative proceedings depends in the final analysis on the type of activity with which the Legislature wishes the Commission and staff to be concerned. Tight, concise, clear, and appropriate definitions gives the public notice constitutionally required and insures governmental restrictions do not lean too heavily upon fundamental freedoms. It may be an engrained bias of all administrators to be given a clear law which to administer, but we at the staff level (and most likely the public as well) need clear marching orders from the Legislature as to what is, and is not, reportable as well as what is, and is not, prohibited. Felony, misdemeanor and civil penalty violations need to be clear and convincing to the Commission and to a court as well.

AS 15.14.380(1) - "Candidate"

The definition of "candidate" conforms to the registration requirement of AS 15.14.040, and is substantially consistent with the Commission's recommendation that candidates register and report when they begin acting like candidates.

AS 15.14.380(2) and (3) - "Contribution" and "Expenditure"

The definitions of "contribution" and "expenditure" are transfers from AS 15.13 and correct one problem we have had under AS 15.13.100. See Al Adams, staff memorandum dated June 13, 1984, copy enclosed.

However, we do wish to caution that with the delayed reporting schedule for expenditures, the distinction between a contribution and an expenditure will become doubly important for reporting and enforcement. Candidates will first have to make their own judgments whether a pre-election transaction is a "contribution" or an "expenditure" and we suggest some care be used to insure that the definitions are mutually exclusive and crystal clear.

The distinction between "contributions" and "expenditures" may also be serious for groups if the group expenditure reporting questions are not addressed. For example, under the proposed schedule, when would a group report a non-monetary contribution it received if that contribution were used as an independent expenditure?

A final question about contributions which exists under the present statute and which is not addressed by the draft, is ~~a specification that any income raised by a candidate or group via fund-raising is a contribution.~~ See 2 AAC 50.405(4).

AS 15.14.380(4) and (5) - "Individual" and "Municipality"

These are the same as AS 15.13. For clarity, the population threshold might be added to the municipality definition.

AS 15.14.380(6) - "Person" and AS 15.14.380(7) - "Political Group"

The definitions of "person" and "political group" are critical.

In the "political group" definition, "a person or combination of persons... which accepts contributions" becomes a political group. The "joint action" phrase is eliminated.

In the Commission's most recent effort, proposed regulation 2 AAC 50.356, a group is:

...every two or more persons who are elected, appointed or otherwise chosen or who cooperate for the purpose of raising, soliciting, collecting, or disbursing money or anything of value, or directing or controlling the raising, solicitation, or disbursement of money or anything of value for securing or defeating the election to public office of an individual or candidate or securing or defeating a ballot proposition...

Our concern over the "political group" definition deals with the parameters of acceptance. If acceptance has the same meaning as the special acceptance rule for candidates (AS 15.14.060(b) - a contribution is accepted when used by the candidate or retained until the end of the reporting period), a combination of persons can raise funds to their hearts' content and not report the war chest until reports are due immediately before the election, as long as it can avoid making an "expenditure" (and, indeed, a nonreportable one at that). However, the staff believes acceptance by a group has some meaning different than the special rule for candidates.

As you know, acceptance can mean a lot of things to different people. It can range from an exclusive physical possession coupled with an intent to retain the item permanently, to the power to exercise dominion and control ("discretion?") over who receives the contribution. The "dominion and control" test seems to be the appropriate one because it meshes so cleanly with AS 15.14.050(c), the "VECO rule." However, additional clarification may be appropriate so that the Commission has a clear understanding as to the Legislature's intent.

The most serious of technical concerns are with the definition of "person." It provides:

"Persons" means an individual, partnership, committee, association, corporation, labor organization or other organization or persons for business or other purposes. Persons does not include a political group. (Emphasis added).

At first blush, this definition of "person" appears to be inconsistent with the definition of "political group." In the latter it is provided that a "political group" is "any person" who does certain described acts, i.e., accepts contributions. However, .380(6) provides a "person does not include a political group." If the exclusive language in .380(6) is given any substantive effect, a corporation, committee, association, or labor organization may do any and all acts that would commonly be understood to be group activity and still avoid registration and reporting because of the express exemption that committees, associations, corporations, and labor organizations are not political groups.

We also have some common sense hesitations with including "committees", "associations" or "organizations of persons for...any other purposes" in the definition of "person." It would be appropriate to either define these entities or exercise the reference altogether. Our review of the reports of political groups over the years leads us to believe that many (and, in fact, most of the groups) could qualify as a "committee," "organization" or "association" and thereby avoid registration and reporting as a political group.

The exclusion of "political group" as "persons" has a serious effect on how AS 15.14 is to be enforced. Violations and criminal sanctions can only be brought against "persons." "Persons" do not include "political groups." Since there are few if any sections in present law or the proposals imposing civil or criminal liability on any of the major actors in a "political group," the persons which compose the "political group" must be held responsible for each and every violation of the Campaign Disclosure Law. The "political group" will not be named as respondent, not responsible for paying a fine from its available assets, or complying with those portions of AS 15.14 requiring "persons" to do any act.

Our suggestion is that "persons" from AS 15.13 be retained without the surplus exclusionary language.

Since the "controlled" language in the group definition is primarily directed at the \$1,000 limitation on contributions to candidates, some brainstorming should be done on the validity of its continuation here. In any event the discrepancy between "more than 50%" here and "50% or more" in section .050 should be eliminated. The controlled group concept may have continued value to keep candidates from creating several subcommittees, each of which gets \$1,000 from the same political group. But it is likely the re-drafting and its placement in the statute could be more to the point.

cc: Pat Kennedy
Dick Monkman
Gross & Burke
Brooke Miles

Attachments: Memo to R. P. Burns from A. Gross, dated 1/5/78
FPPC Bulletin, dated 10/1/85
Memo from C. Johansen to APOC Members, dated 8/16/85
Memo from T. Pittman to APOC Members, dated 6/13/84

STATE
of ALASKA

MEMORANDUM

RECEIVED
JAN 10 1978

PUBLIC OFFICES COMMISSION

TO: [Randall P. Burns, Executive Director
Alaska Public Offices Commission
610 'C' Street, Suite 209
Anchorage, Alaska 99501

January 5, 1978

FILE NO: J-66-365-78

TELEPHONE NO:

FROM: AVRUM M. GROSS
ATTORNEY GENERALSUBJECT: Contribution of
state monies to
Friends of Higher
Education. Your
File No. 77-5.By:
Rodger W. Pegues
Assistant Attorney General

At the commission's request, you have asked whether a state agency, here the University of Alaska, may contribute to a private group to influence the outcome of an election. We had previously been asked, in regard to the same subject, whether the University of Alaska (or other state agencies) could expend state money to influence bond propositions.

The law on campaign contributions and expenditures applies to political parties, persons, individuals, candidates and groups. With respect to your question, which focuses on groups, "groups" are defined as being comprised of "persons or individuals". AS 15.13.130(3) The latter is described as a "natural person". AS 15.13.130(5). And a "person" is defined as, in addition to the terms set out in AS 01.10.060(7), including a labor union. AS 15.13.130(7). The definition of "person" in Title 1 includes corporations, partnerships, firms, associations, and the like but it does not include the state or its agencies. Thus, it appears that the law has no application to contributions made by a state agency.

Moreover, we are not at all certain that the so-called "Friends of Higher Education," constitutes a group within the meaning of the law. Given the university's complete control of the organization, its own official's serving as the organization's treasurer, and its funding of the organization's activities, the Friends of Public Higher Education appears to be an agent of the university. As indicated above, a combination of persons as a part of the state government is not covered by the law. Thus, there is a substantial question that the law even applies to this organization. Assuming that it does, it plainly does not apply to contributions from a state agency, because the latter is not covered by the act.

We concur with the staff's recommendation that no

SUG → 2-1-78

Randall P. Burns

- 2 -

January 5, 1978

action be taken on this one. If asked to do so, the university and its "Friends" will undoubtedly make full reports. If the commission believes that the university or other state agencies should be covered by the act or that they should be prohibited from spending state funds for campaign purposes, it is peculiarly within its authority, and indeed, among its duties, to make recommendations for a change in the law. AS 15.13.030(9).

RWP/pjg



October 1, 1985
Vol. 11, No. 10

BULLETIN

FAIR POLITICAL PRACTICES COMMISSION

428 J Street, Suite 800, Sacramento, CA 95814

(916) 322-5901

REFORM LEGISLATION ENACTED

Major reform legislation sponsored by the Fair Political Practices Commission has been signed into law by Governor Deukmejian.

Assembly Bill 688, authored by Assemblyman Patrick Johnston, will significantly strengthen the campaign disclosure provisions of the Political Reform Act.

The bill, commonly referred to as the "PAC ID" bill, requires the clear identification of organizations (e.g., associations, businesses, unions) that sponsor political action committees.

When AB 688 (Chapter 498, Statutes of 1985) becomes effective on January 1, 1986, the name of every political action committee which has a sponsor will be required to include the name of its sponsor on all campaign disclosure statements and political mailings sent by the committee.

Commission Chairman Dan Stanford commented, "One of the most important purposes of the Political Reform Act is to inform the public about the sources of campaign contributions. However, attaining this goal has been seriously impeded by the fact that many political action committees use names that are totally non-descriptive, confusing and misleading. In the past, the sources of large contributions often have been identified as nothing more than acronyms and 'good government' PACs. This legislation effectively resolves a serious problem."

Assembly Bill 688 addresses this problem by requiring the name of a "sponsored committee" (e.g., PAC) to include the name of its sponsor. The specific provisions of the new amendment to the Political Reform Act are:

- A "sponsored committee" is a committee sponsored by one or more "persons" (i.e., entities). Committees controlled or sponsored by an individual (e.g., a candidate's controlled committee) are excluded. Associations, businesses and unions will account for most "sponsors."
- An association, business, union or other entity sponsors a committee if any of the following occurs:
 - (1) It provides all or nearly all of the contributions received by the committee;
 - (2) It collects contributions for the committee by payroll deductions or dues from its members;
 - (3) It provides all or nearly all of the administrative services for the committee; or
 - (4) It sets policies for soliciting contributions or making expenditures of committee funds.
- The name of a sponsored committee must include the name of the sponsor. If the committee has more than one sponsor, and the sponsors are members of an industry or other identifiable group, the committee name must include a term identifying the common industry or identifiable group associated with the sponsors.
- A sponsored committee must identify its full name on its statement of organization when the committee registers with the Secretary of State. Only one name may be provided on the statement of organization (which can be amended), and this name must be used whenever identification of the committee is required by law.
- With respect to ballot measure committees, a statement that the committee is "a committee for (or against) Proposition ___" must be included in any reference to the committee required by law.

MEMORANDUM


State of Alaska

TO: Commission Members

DATE: August 16, 1985

[11]

TELEPHONE NO:

FROM: Chris Johansen 
Associate Coordinator

SUBJECT: McConkey v. Flood/Quadrant
Contribution Fund, Alaska Star

As you may recall (prior staff memorandums without exhibits are attached as items A₁ to A₁₅ this matter has been reduced to the filing of Campaign Disclosure Statements or reports by two previously unregistered groups (i.e., Quadrant Contribution Fund, Alaska Star), payment of money to the state treasury, and requests by the staff that the recipient candidates repay prohibited contributions.

As discussed at the June meeting, candidates Knowles, Fink, Flood and Smith were requested to make repayments to Quadrant. Pages B₁ to B₁₀. Mayor Knowles responded in writing raising the point he had no notice of the Quadrant investigation. He repaid Quadrant \$1,350.00. Page C₁ - C₃. Assemblyman Smith responds in writing stating the money received from the Quadrant employees was related to a nonelection municipal issue (vehicle inspection). Pages C₄ - C₆. Assemblyman Smith has not repaid the Quadrant Contribution Fund or the employees. Mr. Flood has received a written request for repayment of the Quadrant Contribution Fund excess contributions but none for the Alaska Star contributions. In a phone conversation from New Hampshire, Mr. Flood said he had tight finances but would be making repayment of the Quadrant funds shortly. Nothing further has been heard from Mr. Flood.

Mr. Fink refuses to make the repayment and explains in writing he was unaware of the Quadrant investigation or of the fact Quadrant employees received reimbursements from the Quadrant Contribution Fund for their individual contributions. Pages C₇ - C₈. He states:

We reported the contributions as we received them from individuals shown on the checks or check stubs. You should not place a burden on each candidate to cross examine each contributor to determine if the funds are proper so long as there is no apparent discrepancy or there is no actual knowledge of a discrepancy. We certainly were not aware of any discrepancy. (My emphasis).

.....

I hope you will weigh in your effort to enforce the law, the deleterious effect you will have on the election process. You are ferreting out items after the fact that put a candidate and a candidate's workers,

particularly treasurers, at risk. At best you are being arm-chair quarterbacks the day after the game and fining any player who called a play that you the spectator, felt was in error. And there are as many different questions of plays as there are arm-chair quarterbacks.

IS THERE STATUTORY OR REGULATORY AUTHORITY TO DEMAND REPAYMENT
OF EXCESS OR ILLEGAL CONTRIBUTIONS?

There is no statute or regulation clearly stating a candidate receiving illegal, excessive or prohibited contributions is compelled to make some sort of repayment or forfeiture to the contributor. AS 15.13.070(d) does provide a limited repayment duty. It provides, in part, as follows:

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.

Knowingly accepting a contribution in violation of any subsection of AS 15.13.070 is a criminal offense. AS 15.13.12(a)(6).

Of particular interest here is that repayment, escheat, or donation to a charity is not dependent upon the knowledge of the candidate at the time the contribution is received. By an express interpretation of the statute, the candidate must repay upon receipt of a contribution from a person "wishing to remain anonymous." Repayment can be demanded regardless of whether knowledge is brought home to the candidate that a contributor wishes to remain anonymous, and the candidate is strictly liable for escheat, repayment or donation whenever a contribution can be reasonably classified as "anonymous." Knowingly receiving an anonymous contribution or one made by a person wishing to remain anonymous is, in addition to escheat, repayment and/or donation, a criminal offense punishable as a misdemeanor if proven beyond a reasonable doubt. AS 15.13.120(a)(6).

The staff has no reason to doubt that Quadrant Employee contributions received by the candidates came by check that appeared properly issued. The Quadrant employee contributions were reported by the candidates as being received from an identified person who the candidates erroneously believed was the source. Likewise, the checks from the Quadrant Contribution Fund were incorrectly reported as being received from the subsidiary Quadrant companies instead of the Quadrant Contribution Fund, and, indeed, met the legal requirement that a contribution be identified as being received from a person.

The problem with all of the Quadrant contributions is not that they omitted a name altogether, but that the name for which the contribution was ostensibly made was a wrong one, with the result these employee and group contributions may have been in fictitious names or in the name of another.

A candidate's knowing acceptance of a fictitious contribution or one in the name of another maybe, under some circumstances, a criminal offense. AS 15.13.120(a)(6). However, AS 15.13.070(d) does not expressly provide these contributions are escheated to the state, required to be donated to a charity, or compelled to be repaid to a contributor. If the lack of any interim administrative remedies other than criminal prosecution indicates a legislative intent not to rely upon escheat, repayment or donation, it may be reasonably concluded the Commission could not compel the repayment of contributions in the name of another, fictitious contributions, or excessive contributions, unless it is prepared to begin a criminal investigation with concurrent notice and hearing in each individual case.

Further, the Commission should hesitate in construing a forfeiture requirement if it would lead to an unreasonable result. The alternative remedial methods for anonymous contributions are ill-suited for fictitious contributions or those in the name of another. Both sanctions seem directed at deterring persons from propping up a "straw man" with which to funnel money to campaigns in order to avoid disclosure or the contribution limitation. Although the "straw man" can be implicated in a criminal violation, it is the person who holds the purse strings and controls the flow of contributions through the "straw man" that may have knowingly committed all acts necessary to complete a criminal offense. It seems incongruous to staff for this Commission to permit a candidate to make a choice for disposition of an illegal contribution by making repayment to the very person that is primarily responsible for the commission of a criminal act in the first instance. As Mr. Fink states, a repayment order¹ under this set of circumstances places the candidates in the position of being guarantors that no "straw man" contributions are received, a burden that has no requirement the candidate have knowledge or reason to know that a "straw man" is involved in the transaction, or that the underlying facts could have, after exhaustive investigation, disclosed some form of an illegal contribution, at least to the extent that would trigger immediate election of escheat, repayment or donation. Staff believes that if the Campaign Disclosure Law requires such a result it would have expressly said so, and that the exclusive administrative remedy under the present statute and regulations² is a criminal proceeding for a knowing receipt of a fictitious contribution or one in the name of another.

¹Staff is of the opinion this Commission has absolute authority and discretion to make a repayment request at any time for any type of prohibited contribution in order to purge the campaign marketplace of any contributions reasonably construed as illegal. Candidates should be given the option to comply. If they choose not to comply with a reasonable Commission request, the Commission and its staff should be concerned, as here, whether it has clear authority or regulatory power to demand repayment, together with whether there is credible evidence to believe a criminal act has been committed.

²Under proposed 2 AAC 50.356 and 2 AAC 50.357, the "straw person" and the source would be, in addition, a group required to file Campaign Disclosure Statements.

Some persuasive force to staff's view is presented in the case of People v. de Grazia, 434 NE2d 543 (Ill. App.Ct 1982). There an Attorney General brought a civil action to compel escheat to the state of certain contributions (\$48,300.00) reported by a gubernatorial campaign as being made by a Mr. de Grazia (the "straw man") but actually made by another. In Count II the Attorney General sought imposition of a constructive trust and an accounting in favor of the state for the candidate's wrongful use, conversion, or appropriation of "anonymous" contributions. Id. at 544. Section 9-25 of the Illinois Election Code shares many of the prohibitions of AS 15.13.070(d) and provides:

No person shall make an anonymous contribution or a contribution in the name of another person, and no person shall knowingly accept an anonymous contribution made by one person in the name of another person. Anonymous contributions shall escheat to the state of Illinois. Id. at 545.

According to Illinois law, escheat is penal in nature and calls for a narrow construction. Anonymous contributions, like Alaska law, are undefined but, according to the Illinois court, occur where "the contributor is unknown, unnamed, or the source of origin (donorship) cannot be identified."¹

Anonymous contributions are not synonymous with those in the name of another because

...the statute plainly refers to two separate types of prohibited contributions, providing different sanctions for each type of contribution. Id.

.....

Applying a strict construction to section 9-25, we hold that it does not provide a statutory remedy to the Board of Elections for contributions made by one person in the name of another. Id. at 546.

Since the Attorney General could identify in the complaint that de Garzia (the "straw man") donated \$48,300 to the gubernatorial candidate but not in fact the person who supplied the funds, there was no anonymous contribution as a matter of law, and, alternatively, the state could not compel escheat for a contribution in the name of another. Therefore, the Court affirmed the lower court's order dismissing the Attorney General's complaint for failure to state a claim for which relief could be granted.

¹Donorship appears to be used by the Court in the gift sense requiring delivery of the money with an intent by the donor the donee retain the funds permanently.

If repayment authority is narrowly limited to anonymous contributions,¹ the only administrative remedy may be criminal proceedings pursuant to AS 15.13.120(a)(6). To proceed in this fashion, the staff has always taken the position there must be some credible evidence by which to form a preliminary opinion or belief that a criminal violation has occurred. Paul Fischer, February, 1985 (Consent Agreement); Staff v. Clossey, Norris and McConkey, June, 1985 (pending criminal and civil penalty matter).

There are two types of potential violations by the recipient candidates in the Quadrant situation. The first concerns contributions in the name of another. AS 15.13.070(d). The second concerns acceptance of excessive group contributions. AS 15.13.070(a); AS 15.13.120(a)(6).

As explained in the foregoing, Quadrant employees made contributions to all the candidates and subsequently received reimbursement from the Quadrant Contribution Fund. If all or some of the recipient candidates (excluding Assemblyman Smith see attached correspondence at C₉) were aware of or had knowledge of the subsequent reimbursements, there may be some evidence to form a factual or legal justification for proceeding with a preliminary investigation. 2 AAC 50.460. However, based on the fact all employees of Quadrant first paid to the candidates by personal check, there does not appear to be any documentary evidence that could have alerted a candidate or treasurer of the appearance of a questionable donation, and all responding candidates steadfastly deny any awareness or knowledge of a collusion between the Quadrant Contribution Fund and the Quadrant employees, the staff feels hard pressed to find any knowledge by the candidates that contributions were received in the name of another. However, a somewhat clean documentary trail and conclusionary denials by the candidates should not preclude further scrutiny by way of a preliminary investigation if there is other credible evidence to form a belief the candidate's denials are not plausible.

It is on this basis staff recommends the matter be concluded. The candidate's written responses are candid, truthful, and appear to have been made in good faith. As pointed out in Mr. Fink's written response, the error which has been already disposed of by this Commission occurred in the Quadrant offices when funds were pooled and employees were reimbursed for contributions already made.²

¹The Illinois decision is solely based on an Illinois statute and has, at most, some persuasive force. It is by no means controlling, nor should this Commission feel bound by it. However, the general authority for the proposition that escheat is penal in nature and calls for a narrow construction of the statute is widely accepted, and you may come to that view after discussions with your attorney. 27 Am. Jur. 2d Sec. 879 Escheat at notes 15-16 (1966). If this reasoning is accepted, the staff can find no facts or rationale by which to conclude the Quadrant contributions are anonymous contributions and, likewise in the name of another.

²Proposed 2 AAC 50.357 clearly prohibits this type of conduct and provides civil as well as criminal penalties for doing so.

The second matter concerns the receipt by the candidates of single checks directly from the Quadrant Contribution fund in excess of \$1,000.00. As explained in prior staff memoranda, the Fund checks had attached an invoice that apparently intended to allocate portions of the check proceeds between several of the Quadrant affiliated companies. If the invoice intended to make such an allocation (an intent that appears to have been brought home to the candidates who reported the contributions as allocated by the invoice), the recipient candidates could be charged with knowledge they would be committing a criminal act if there was reasonable basis to conclude these contributions in excess of \$1,000.00 were from a single group.

It can be safely assumed that each of the recipient candidates had constructive notice of 2 AAC 50.395 at the time the contributions from the Fund were received. 2 AAC 50.395(q) in characteristically elliptical language defines a group as two or more person who engage in special fundraising and uniform assessments amongst its members. Political groups are also "contingency funds" wherein more of the money during a period is spent on political contributions than any other purpose. 2 AAC 50.395 (a).¹

This Commission has studied its group regulations with intensity over the past few months and proposed that 2 AAC 50.395 be repealed in its entirety. The reasons for repeal have been explained in prior staff memoranda and discussed with the Commission. Largely because the basis for any criminal prosecution against candidates would depend on the clarity of the notice given in present 2 AAC 50.395, and, indeed, the proposed regulations could be construed as an implicit admission they are unclear, the staff finds a criminal preliminary investigation would be insupportable under the present status of the regulations for the same reason changes were proposed by staff in the first instance.

The staff also finds as a factual matter that it is reasonable to conclude, as Mr. Fink points out, that they had no notice of the internal machinations of the Quadrant Contribution Fund prior to receipt of the Fund checks. It appears the candidates mistakenly assumed the invoice was a proper allocation of the check proceeds and reported the contributions accordingly. Although ample arguments exist to show that receipt of any check in excess of \$1,000 in this instance amounted to ordinary and, indeed, gross, negligence under the Campaign Disclosure Law, the staff cannot find any basis for concluding the recipient candidates had knowledge they were committing a criminal act at the time the check proceeds were received.²

¹2 AAC 50.395(a) has all the evils referred to in note 1 of the next page. A recipient candidate would have no reason to know he was dealing with an unregistered group under (a) until all the contingency fund money has been spent and the political funds were "more than any other single purpose."

²There has been some speculation at the staff level that if no evidence exists for showing the acceptance of the contributions were knowing at the time they were received, the knowledge element was indeed brought home to the candidates when they were informed of the results of the staff preliminary investigations. (Con't. on next page)

SHOULD THE COMMISSION ADMONISH RECIPIENT CANDIDATES WHO CONTINUE
TO RETAIN (or have already spent) CONTRIBUTIONS THEY SUBSEQUENTLY LEARN
ARE ILLEGAL?

As stated in the foregoing, this Commission should not hesitate to admonish candidates who fail to avoid through ordinary or gross negligence an appearance of wrongdoing under the Campaign Disclosure Law. This policy should apply regardless of whether it is before or after the fact. AS 15.13.070 is rather clear that a candidate cannot, directly or indirectly, accept fictitious or contributions in the name of another. This prohibition has been in Alaska statutes since 1974, and all candidates engaged in reportable activity should at least adopt procedures to prevent such a prohibited act from occurring.

The Alaska Public Offices Commission has the duty to investigate violations of the Campaign Disclosure Law. AS 15.13.030(8). It also has the duty to assist candidates so that they do not advertantly or knowingly violate the law. AS 15.13.030(2). Letters of Admonition are one form of rendering assistance to candidates. They express Commission condemnation of a campaign practice that the Commission considers serious and substantial, and, further, that the conduct is unreasonable.

The standard of care for candidates in accepting contributions has been stated in the current version of the candidate's manual. It provides:

Although you may wish to consult your own attorney on this matter (AS 15.13.122), we can find two problems with this approach.

The first is that AS 15.13.120(a)(6) provides criminal sactions for a knowing acceptance of a prohibited contribution, not a knowing retention of a contribution once the candidate becomes aware the contribution is prohibited. Alaska courts generally apply a strict construction to criminal statutes, and if the Legislature intended to subject candidates to criminal sanctions for a knowing retention of a prohibited contribution it should have expressly said so.

The second problem concerns the months between the act and the time when a candidate becomes aware the contribution is prohibited. Although your attorney may advise otherwise (AS 15.13.122), the staff sometimes strays into principles of hornbook criminal law. One of those has it that no crime is committed unless there is a concurrence of knowledge and acceptance at a single point in time. 21 Am.Jur.2d Criminal Law sec. 129 (1981); AS 11.81.600. An act is not criminal unless accompanied by a consciousness of wrongdong, and persons are not subject to criminal sanctions for guilty thoughts alone. Id.; AS 11.81.610. Knowledge obtained through the results of a staff preliminary investigation may be an independent subsequent event that cannot make an innocent act into a criminal one. Id. at sec. 4; Also see U.S. v. Fox, 95 US 670, 24 L.Ed. 538; Terry v. US, 131 F 2d 40 (8th Cir. 1942); Stern, "Consciousness of Wrongdoing," 1 Ak. L. Rev.1 (1984); Miller, Handbook on Criminal Law, §21 notes 39-41, (1934).

SUMMARY OF PROCEDURES FOR RECEIPTS

To review the accounting procedure, here is how the card system works, and what should be done at each step.

1. Collect the receipts both from the mail and from the direct sources.
2. Determine that all receipts are legally acceptable. Receipts should be divided into three groups:
 - a) Receipts and contributions that are clearly legally unacceptable. These receipts should be returned to the contributor immediately.
 - b) Receipts that are questionable as to whether or not they are legally acceptable. These receipts may be deposited, but a log should be maintained to determine the work you have performed, or documentation received, to ensure their legality. Call the Commission staff for assistance.
 - c) Receipts that are legally acceptable may be deposited. (original emphasis)

It has been the staff's general position that candidates are the first line of defense against prohibited campaign practices. The candidate should initially take some affirmative efforts to determine the legality of all contributions. In most cases, a single personal check from an individual within the aggregate limitation which appears in all other respects to be normal on its face is all that is required. However, checks in excess of the contribution limit are highly suspect and should call for more intensive investigation with subsequent reporting to the APOC of the efforts made to determine the legality of the contributions.

The staff believes there is no evidence for a showing of a lack of reasonable care by the candidates with respect to acceptance of personal checks from the Quadrant employees. They appeared normal on their face as individual contributions under the present regulatory system.¹

¹This is not to say blind acceptance of a series of over \$100 checks at a fund-raising event attended by persons who have known close occupational connections to the Quadrant companies is reasonable future conduct. Proposed 2 AAC 50.357 provides that a person cannot loan or advance money for contributions by agents or employees, and a candidate has an affirmative duty to make some inquiry or acquire documentation showing no prohibited contributions are being accepted by the campaign. Candidates should raise their own concerns and adopt procedures to detect questionable contributions and return those that cannot be determined to be legal.

Frankly, the APOC spends as well as collects a substantial amount processing and disposing of the well thoughtout citizen's complaints that are, in large part, directly drawn from the candidate's Campaign Disclosure Statements. Indeed, a citizen saw the tip of the iceberg in this instance and sought a staff preliminary investigation which indirectly alleged that certain candidates failed, at a minimum, to do their jobs and screen contributions so that reasonable compliance is had with AS 15.13.070. If all the candidates did their jobs in this instance, there would be no cause to complain and this, as well as all other prior matters in this proceeding, would have largely been unnecessary.

The Quadrant Contribution Fund Campaign Disclosure Statement show single checks from the Fund were received by two candidates who have yet to return any excess. They are:

	<u>Fink</u>		<u>Flood</u>
5/31/84	\$2,000	7/27/84	\$3,000
9/19/84	3,200		
10/01/84	1,000		
<hr/>			
Total	\$6,200		\$3,000
Total Excess	\$5,200		\$2,000

The staff position in prior matters has been that AS 15.13.070(a) clearly sets forth a \$1,000 contribution limit in Alaska, and that a candidate should exercise special care in the handling and reporting of maximum contributions. It would be clear to the staff that if these contributions were not reported at all, civil penalties for substantial noncompliance with the law would be a proper administrative remedy. 2 AAC 50.390(i).

Unlike the employee contributions, the Fund checks exceeded the contribution limit in the aggregate and individually, and do not appear regular on their face. From the written responses, the staff can safely conclude the recipient candidates raised no questions at all regarding the legality or the source of such large campaign contributions and incorrectly assumed through inaction that the Fund checks were proper. Eventhough the group regulatory framework in existence at the time the events took place was not a sterling example of clarity, the staff feels the lack of inquiry and disclosure to the APOC staff at the time they were accepted was unreasonable under the circumstances.

Therefore, the staff recommends this matter be concluded by the issuance of a Letter of Admonition to recipient candidates who have failed to return excessive contributions from the Quadrant Contribution Fund.

ALASKA STAR

The Abood complaint also alleged that candidate Flood received an excessive contribution from an unregistered group, to wit: Alaska Star. The amount of the contributions received and reported by Mr. Flood totalled \$2,600.00. The alleged excessive contribution was \$1,600.00. The Flood campaign has not, as of yet, been sent written demand to return the excess to Alaska Star. As you will also recall, the Alaska Star matter was resolved by a Consent Agreement, and Alaska Star paid an amount to the state general fund.

The Flood campaign was the lone recipient of the Alaska Star largesse, and none of the individual checks exceeded \$1,000.00.

Like the Quadrant matter, the first issue to be addressed is whether there is some evidence upon which to form a belief to conclude Mr. Flood knowingly received an excessive contribution. AS 15.13.070(a); AS 15.13.120(a)(6).

The written responses by Mr. Flood's attorney and investigation of Alaska Star reveals that fundraising tickets were sold to agents of Alaska Star on September 17, 1985. Each of the independent real estate agents with the firm had an account with Alaska Star through which they received their share of commissions on real estate sales. ~~Alaska Star's attorney points out (and we have no reason to doubt), it is a common practice in the real estate industry for a broker or other person who may be in control of the commission account, to advance funds to agents as a loan to be repaid from future commissions.~~ All or most of the political contributions to Mr. Flood by the agents were made on Alaska Star checks from the commission accounts, some of which were earned because the condition for payment to the agents (completion of the real estate sales) had been fulfilled. However, others (more than two) had not received nor were they entitled to commissions because the underlying property sale has not been completed, with the result the advance on future commissions was a loan.

After notice of the complaint, Mr. Flood responded through his attorney he believed at the time that each of the agent's contributions came from their "individual business accounts" that were, presumably, completely vested at the time they were made. He asserts that as far as he was concerned, and after inquiry, each of the agent contributions was individual. Corroboration the campaign was concerned about the Alaska Star contributions came in the form of an attachment filed with Mr. Flood's 30 Day Pre-general Campaign Disclosure Statement which, incidentally, came before the complaint was filed in this instance. Further, an appearance was had in the APOC offices by Ms. Myrna Flood at the time the report was filed (October 11, 1984) explaining that each of the independent agents had purchased fund raising tickets from their individual accounts.

The staff believes it can show from the facts that the candidate received a contribution in the aggregate that exceeded the \$1,000 contribution. It is clear that checks were issued, funds were drawn, and then deposited and reported by the candidate. The candidate exercised the minimal dominion and control over the funds to sufficiently conclude that the campaign received or accepted the campaign contributions. However, the crux of the matter is not whether they were in fact received, but whether the candidate knew at the time they were received that he accepted an excessive contribution from a political group that was, in this case, unregistered.

There are three general types of mental states defined in Title 11 of the Alaska Criminal Code which may be applicable to the Campaign Disclosure Law and the various criminal offenses contained in AS 15.13.120. They range in severity from the most to the least culpable. For our purposes, the "Knowingly" element of AS 15.13.120(a)(6) should be synonymous with the definition of "knowingly" in the criminal code,* which provides:

*The criminal definitions of culpable mental states are expressly limited to crimes contained in Title 11, AS 11.81.900(a), and are not applied by express language to crimes not contained in the criminal code. However, such an interpretation could easily be made when attempts are made to define "Knowingly" in AS 15.13.120(a)(6). The Campaign Disclosure Law does not define "Knowingly," and there is no provision in AS 15.13 that "knowingly" is anything less than what is contained in the criminal code.

a person acts "knowingly" with respect to conduct or to a circumstance described by a provision of law defining an offense when the person is aware that the conduct is of that nature or that circumstance exists... (or)... aware of a substantial probability of its existence, unless the person actually believe it does not exist.. AS 11.81.900(a)(2).
(My emphasis)

An actual awareness by the defendant that conduct is wrong is also applied to crimes that provide a "reckless" culpable mental state. A "reckless" criminal act occurs

...when the person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situations... AS 11.81.900(a)(3). (My emphasis)

"Criminal negligence" is the least culpable conduct and the easiest for the prosecution to prove. *Supra*, Stern, at 44. It occurs when a

...person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the result must be of such a nature and degree that the failure to perceived it constitutes a gross deviation from the standard of accure that a reasonable person would observe in the situation. AS 11.81.900(a)(4).
(My emphasis)

The difference between "reckless" and "criminal negligence" has been explained in Andrew v. State, 653 P.2d 1063, 1066 (Alaska Ct. App. 1982). Quoting from the Alaska Senate Journal Supp. No. 47 at 142 (June 12, 1978), the Appeals Court stated:

The test for recklessness is a subjective one-the defendant must actually be aware of the risk. On the other hand, if criminal negligence is the applicable culpable mental state, the defendant will be criminally liable if he "fails to perceive a substantial and unjustifiable risk that the circumstance exists." The test for criminal negligence is an objective one-the defendant's culpability stems from his failure to perceive the risk. *Id.* (My emphasis)

As a higher standard of culpability, "knowingly," like its lower case counterpart "recklessly," requires the defendant to be subjectively aware the conduct is wrong, and it is a complete defense to a "knowing" violation if the defendant actually believes the conduct is permissible. AS 11.81.610(c). It is more than "reckless" or "criminally negligent" conduct, and, indeed, far exceeds the requirement in civil cases that liability be founded upon ordinary negligence (e.g., both require a gross deviation from the standard of conduct that a reasonable person would observe in the situation.)

As shown in the foregoing, a "knowing" acceptance of an excessive contribution is a relatively serious culpable mental state. It requires the candidate to have subjective knowledge of all constituent elements of the offense. This case, at a minimum, requires the candidate to be aware of the campaign's receipt of a payment in excess of \$1,000 which has as its purpose the intent to influence the outcome of an election. This element is relatively simple because the definitions of "candidate," "contribution" and the limit are clearly set forth in the statute, and staff assumes there could be no real dispute Mr. Flood was subjectively aware of these elements at the time the money was accepted by the campaign.

A notice of hearing must also allege the status of the contributor as a political group, and that the candidate was subjectively aware of the group's status at the time. This in turn requires the candidate to know that joint action existed when a broker loans funds to an agent for political contributions. Even if there is sufficient proof Mr. Flood was aware of the nature and consequences of the lender-borrower relation between the broker and agent, it is not clear under present regulations that a candidate would know that acceptance of a contribution in excess of \$1,000 in the aggregate from such persons or groups is prohibited, at least by a specific APOC regulation that can withstand a narrow scrutiny in a criminal proceeding.* Therefore, the staff recommends no further criminal action.

The last matter for the Commission to consider is whether a Letter of Admonishment should issue to Mr. Flood for accepting this series of checks from Alaska Star.

In the Quadrant matter, the staff recommended admonishment against a candidate who failed to investigate or make any inquiry whatsoever of a single check in excess of \$1,000. It is the staff view maximum contributions are the most important under the act, and a candidate has the affirmative obligation to comply with the minimal bookkeeping functions or obtain written assurances that irregular contributions are proper.

In the Flood/Alaska Star matter, the candidate received a series of checks from a single source, ostensibly from separate vested commission accounts, none of which exceed the \$1,000 limit.

In this situation, the staff would recommend Admonishment if the contributions were questionable on their face and the candidate failed to make inquiry and receive written assurances from the contributor or the APOC staff that the contributions were proper. Eventhough there may be some

*Proposed 2 AAC 50.356 and 2 AAC 50.357 hopefully provide the specificity necessary for a criminal prosecution.

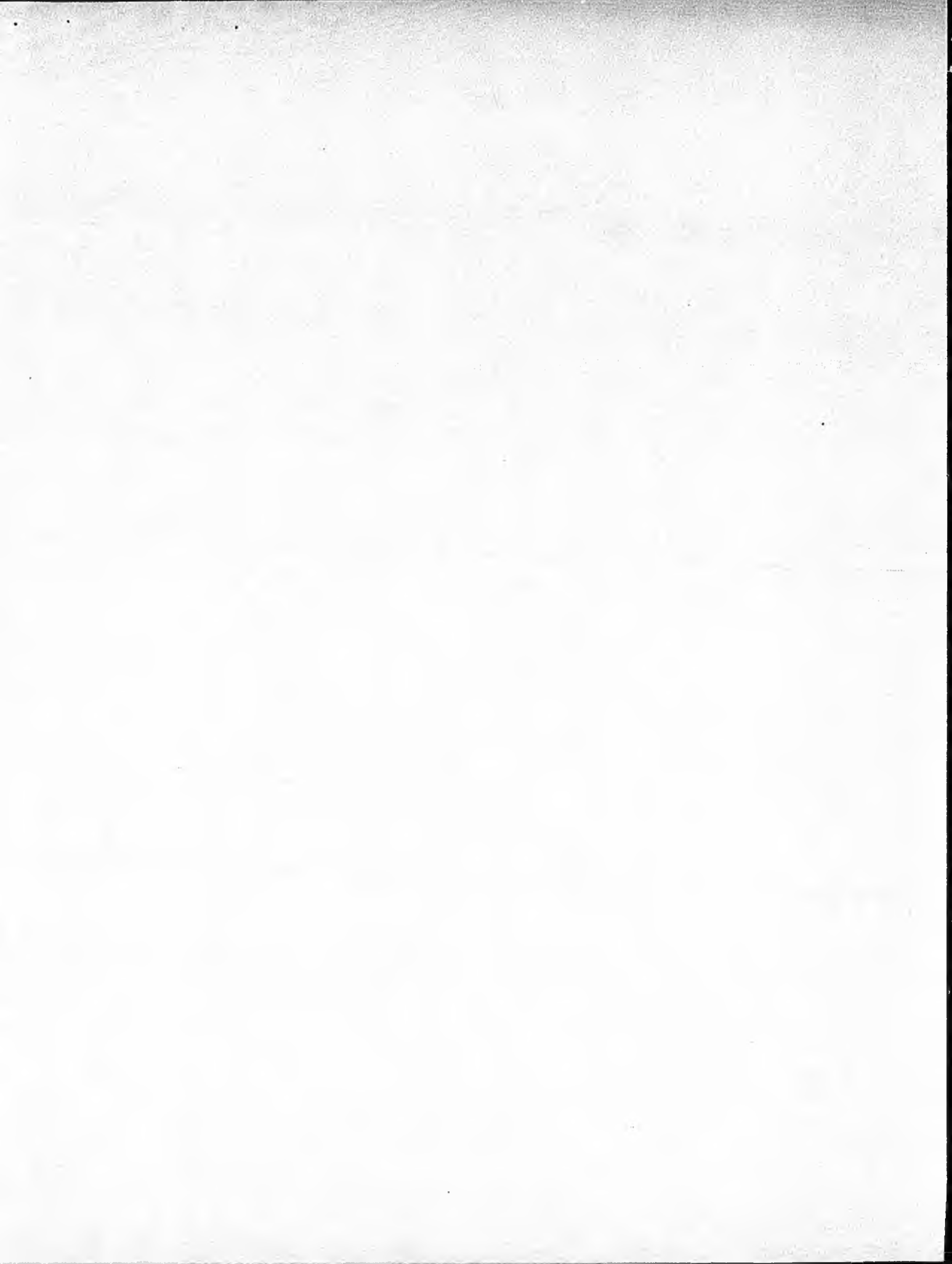
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evidence to support a conclusion the contributions are questionable on their face, the staff finds the candidate complied to a minimum with the duty to investigate, inquire, and inform the APOC staff. In short, Mr. Flood did everything the candidate's manual told him to do and the staff finds no basis for admonishment in this situation.

cc: Senator Mitch Abood
Bill McConkey
Chuck Dunnagan, Esq.
Richard Fossey, Esq.
Attorney General
Tom Fink
Don Smith



MEMORANDUM

State of Alaska

TO: Commission Members

DATE: June 13, 1984

TELEPHONE NO:

[8A]

FROM: Theda S. Pittman
Chris Johansen

SUBJECT: Expenditures Before Filing

On Tuesday, November 1, 1983, the Al Adams for State House campaign held a fundraiser at the home of Rita Gittens of Gittens Construction, Inc. The costs for the event were \$2,567.43. The event grossed approximately \$28,000.00 in contributions. Representative Adams filed his Declaration of Candidacy on November 1, 1983. The invitations for the event were paid for by Ice Block on October 18, 1983 in the amount of \$53.00.

The campaign reported a paid expenditure on October 31, 1983 for travel costs in the amount of \$391.00 and payment to Adams Management Service of Kotzebue in the amount of \$217.25 for sausage. Gittens Construction, Inc. was paid on November 21, 1983 the amount of \$1,819.18 for goods and services previously paid by the firm in connection with the November 1, 1983 fundraiser.

Beginning on October 28th and continuing until November 11, 1983, Rita Gittens, Carol Gallant and Gittens Construction, Inc. paid for or presumably incurred costs for fundraiser goods and services. Rita Gittens, Carol Gallant and Gittens Construction, Inc. each contributed \$1,000.00 at the November 1, 1983 fundraiser. The Gittens group (Carol Gallant, Rita Gittens, and Gittens Construction) were reimbursed by the Adams campaign on November 21, 1983.

The above facts may disclose a number of violations of the Campaign Disclosure Law. Several potential violation were described in a letter to Representative Adams dated May 7, 1984. Pages 1-4. Representative Adams' well thought out reply is dated May 28, 1984. Pages 5-11.

Based on the Adams' Year-end Report, voluntary disclosures to date, and Representative Adams' correspondence, staff finds that none of the potential violations of the Campaign Disclosure Law justify criminal referral to the Office of the Attorney General. However, staff finds that the Representative has made mistakes of law and not properly reported his 1983 campaign activities.

Excessive Non-monetary Contributions

The Campaign Disclosure Law defines a "contribution" to include

"... 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;" AS 15.13.130(2).

This statutory reference has been further interpreted by the Commission to provide that a business in which the candidate is involved (corporation or partnership) is a "person other than the candidate" and limited to paying campaign debts to the extent of \$1,000.00 for each calendar year. Assumed Debts Policy Decision 15.13 - 84.2. Likewise, even the temporary assumption of a campaign debt by someone other than the candidate is counted as a contribution and subject to the \$1,000.00 limit.

It is the position of staff that a non-monetary contribution is made when a person other than the candidate pays for and delivers the goods for the campaign's use, regardless of whether the candidate has made a promise to reimburse. AS 15.13.130(2). Staff considers the words "payment" to define when a contribution is made, with the last act necessary to complete the transaction being delivery of the goods for the candidate's use and benefit.

Representative Adams' position is that Gittens Construction, Rita Gittens, and Carol Gallant (hereinafter referred to as "Gittens group") paid for the fundraiser goods as a matter of convenience, and that he stood at all times ready to reimburse them for their costs. He argues that the payment by the Gittens group gave rise to an accrued expenditure for which payment was made within 30 days.

Staff notes the Commission considered a similar position at its August 26, 1981 meeting, wherein the Commission noted the practice of Gittens advancing unlimited campaign costs was irregular. However, the records of the Commission do not show whether the Commission considered the matter a contribution or an expenditure. It is the recent discussions of accrued expenditures, assumed debts, and loans which have clarified this type of situation

Based on the express terms of the contribution definition contained in the Campaign Disclosure Law, it is the position of the staff that a contribution in the amount of \$1,819.18 was made at the time the Gittens group paid for the goods and delivered them to the Adams' campaign. Representative Adams' repayment for the costs originally borne by the Gittens groups is not a discharge of an accrued expenditure but a refund of a campaign contribution which, in this case, exceeded the \$1,000.00 limit.

Although the mere fact the Gittens group is not in the retail business is not a controlling factor, staff notes Representative Adams' has consistently stated that the informal arrangement arises between "friends" who advance costs as a matter of convenience so that fundraisers can be run in urban centers. Staff can appreciate Representative Adams' logistical problem, especially in light of the financial realities of a rural campaign. However, staff interprets AS 15.13.130(2) broadly to include campaign receipts from whatever source derived and including goods donated to the campaign. Staff cannot, under these circumstances, interpret the Campaign Disclosure Law to allow friends and supporters to circumvent the \$1,000.00 limit by donating non-monetary support to the candidate.

Staff considers the prompt repayment of the Gittens' group in this instance not to indicate an intent to circumvent the law, especially when the candidate voluntarily disclosed all details of the transaction. Further, Representative Adams seems to have formulated a sufficient legal argument, although erroneous, that negates an intent to violate the law. However, staff recommends the Commission remind the Gittens group of the requirement to file a "Statement of Contributions" within ten days for any further non-monetary contributions to the Adams campaign.

Pre-Filing Expenditures

AS 15.13.100 prohibits a prospective candidate from making expenditures prior to filing a Declaration of Candidacy unless they are made for personal travel, opinion polls or surveys. It further prohibits others acting on behalf of the candidate from paying or incurring pre-filing expenditures for the benefit of the prospective candidate. Representative Adams' 1983 Year-end Report shows he directly made two paid expenditures on October 31, 1983:

Alaska Airlines - payment for campaign worker air travel, \$291.00

Adams Management Service - sausage for fundraiser, \$217.25.

Both of the foregoing expenditures occurred prior to filing the Declaration of Candidacy and are impermissible under AS 15.13.100.

Gittens Construction, Inc. also made or incurred expenditures in the amount of \$1,819.18 for the benefit of the Adams' fundraiser prior to November 1, 1983.

Representative Adams contends that he agreed to reimburse the Gittens' group prior to filing his Declaration of Candidacy and that no payment was actually made by the campaign until November 21, 1983.

Staff considers it somewhat conclusive that Mr. Adams agreed with the Gittens group prior to filing his Declaration of Candidacy that the Gittens group would pay for and incur expenditures for his campaign's benefit.

It is staff's position that the Gittens' group was Representative Adams agents and acting in all respects as if the Gittens' group were extensions of the future campaign of Representative Adams. AS 15.13.100 prohibits agents of the campaign as well as the candidate himself from incurring or making payment of unauthorized pre-filing expenditures.

Registered Treasurers

AS 15.13.060(a) prohibits persons from making campaign expenditures on a regular basis unless they have registered with the Commission. A general unstated purpose of AS 15.13.060(a) is to insure that those registered with the Commission have some understanding of the recording and reporting obligations under the Campaign Disclosure Law.

The staff is of the position that persons acting on behalf of the candidate or campaign are subject to the same pre-registration requirements as those directly involved in managing the candidate's campaign. Therefore, the staff is of the position that Representative Adams and the Gittens' group failed to register with the Commission prior to paying or incurring pre-filing expenditures.

Proper Identification of Fund-raiser Invitation

The fundraiser invitations were identified properly by Ice Block as evidenced by the copy provided by Representative Adams.

Unreported Monetary Contribution

Representative Adams indicated he received the Cominco-Alaska contribution after the first of the year and, hence, it was not reportable on his 1983 Year-end Report. Such delayed delivery is not uncommon, although staff believes that such contributions should be forwarded directly to the contributor rather than being delivered through an intermediary.

Conclusion

Staff finds that the payments for goods by the Gittens' group was an excessive non-monetary contribution until repayment was made by the Adams campaign. The advance payments were clearly intended to benefit the Adams campaign and are included within the contributions definition. Staff further finds that the Gittens group made excessive contributions to the campaign and that Representative Adams refunded the excessive portions. Further, staff finds that Representative Adams made pre-filing expenditures directly and through those acting on his behalf. Lastly, the Gittens group made and incurred pre-filing expenditures for the Adams campaign and should have been registered as treasurers or deputy treasurers.

Staff recommends the Commission not find probable cause to believe a violation of the Campaign Disclosure Law has occurred, but that the Commission direct staff to admonish Representative Adams against committing further violations.

BILL SHEFFIELD, GOVERNOR

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ALASKA PUBLIC OFFICES COMMISSION

May 1, 1985
Telecopy - This sheet plus 6

The Honorable Mitch Abood
Chairman, Senate State Affairs
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Senator Abood and members of the Committee:

At its April 29-30 meeting, the members of the Alaska Public Offices Commission reviewed the April 23, 1985 issue paper written by the law firm of Gross & Burke provided by your office. Following is a summary of their reactions to the questions posed in the papers. I have referenced the questions by subject and individual number.

I apologize for the general lack of background information in the following summary. The Commission wanted to provide the Committee with a written response prior to tomorrow's meeting. Hence, I found it necessary to focus on their decisions without extensive background material.

CONTRIBUTIONS TO CANDIDATES & EXPENDITURES BY CANDIDATES

1. As a group, the Commission presently has mixed feelings about increasing the contribution limitation to \$2,000. For the past three years the Commission recommended the increase without success. As individuals, the Commission members have mixed reactions. Some members still feel the increase is appropriate; others would just as soon see the proposal dropped.

2. The Commission continues to support strongly its recommendation that the threshold for disclosure of a contributor's identify be increased from "more than \$100" to "more than \$250."

3. The Commission disclosure of campaign expenditures continues to be a valid request for information from candidates and political groups. Both the public and campaign contributors have a legitimate interest in the use to which campaign funds are put. The purpose of a campaign expenditure is to "influence the outcome of an election." Donors have the right to information which will allow them to determine whether their funds are being used for the purpose intended.

From a practical standpoint, the reporting activity associated with expenditure schedules is probably the easiest requirement with which campaign treasurers have to cope. Absent the reporting requirement, any well managed campaign would, of necessity, maintain this information. The accurate recording of accrued expenditures and their payment is necessary to avoid unreported contribution activity.

4. It should be noted that it was about five years ago that the Commission discontinued an active effort to request the Supplier of Services reports specified in AS 15.13.040(f) and .110(d). Once the Commission stopped requesting the reports, suppliers stopped filing them. There are no records of a single public protest regarding the the absence of such reports.

It is true that the purpose of the requirement was to give the Commission a tool to monitor whether candidates complied with the spending limits. The U.S. Supreme Court decision striking down those limits obviated the need for the cross-check, except perhaps in individual instances where under-reporting was alleged. The Commission was never staffed at a level which would allow the cross-checks to occur. Since the statutory due date is 30 days after the election, the reports were of little practical use except to create an interesting statistical table.

Information about candidate time buys from radio and television stations is available by federal law in the public files of the broadcast stations. The Commission seldom encounters an investigatory situation which requires information from a supplier; when it does, subpoena power would be used if necessary to obtain the information.

If the requirement were repealed, the Commission may specify in its bookkeeping requirements that a campaign obtain and maintain an itemized listing of services and sub-suppliers when it made a payment to a supplier which included goods and services from other suppliers.

CONTRIBUTIONS TO PACS AND PARTIES AND EXPENDITURES BY PACS AND PARTIES

1. The Commission is aware of isolated instances where individuals have given significant contributions to PACS. The absence of any computerized recordkeeping has prevented any thorough analysis of these statistics by the Commission. However, the Commission shares the general dismay of campaigns and of the public at the ever-increasing costs of running for office. The Commission would support proposals which have a realistic hope of curbing those costs.

2. See number 1 above. The Commission is generally supportive of the need for a strong party system in American democracy. Many years ago when the proposal to exempt parties from the contribution limitation was first advanced, the Commission supported it in the belief that such an exemption would encourage strong political parties in Alaska. So long as parties do not abuse their exemption from the limitation by funneling money dedicated to particular candidates, the Commission will likely continue to support party exemption from the limitation.

3. See number 1 above.

4. The Commission believes circumvention of the contribution limit through "earmarking" is prohibited under the current provisions of AS 15.13. For example, if individual contributor X gives political party Y \$500 with the agreement that the funds will go to candidate Z, then a violation of the §.070(d) ban on contributions in the name of another has occurred even though no excessive contribution has been made. If employee X tells employer Y to withhold \$2,000 from his or her pay and give it to candidate Z, then employee X has made a contribution exceeding the \$1,000 limit -- assuming the employee specified a candidate by name and the employer exerted no direction or control over the selection.

5. The issue of "independent" expenditures will always be a difficult one and may never be subject to 100% successful enforcement. The Commission has long understood, based on Buckly v. Valeo, the concept that independent expenditures can not be limited. It has a regulation, 2 AAC 50,351, which works well for explaining the concept of "independence" to a layperson. However, public knowledge that independent expenditures are unlimited has not been widespread and the Commission has had no major case which challenged a Commission ruling on independence.

Statutory criteria for independent expenditures are desirable, but at present the Commission has no specific drafting suggestions. One area would could be explored concerns the individuals who make the expenditures and whether they have any relationship to a candidate's campaign committee. U.S. House and Senate committees have both held extensive hearings on the subject of independent expenditures and may be worth further research.

USE OF CAMPAIGN FUNDS, SURPLUS FUNDS, DEBT REPAYMENT.

1. The Commission recognizes that it would be difficult to define or monitor what expenditures were "legitimate campaign expenditures." Campaigns are creative endeavors and they frequently devise unusual methods of promoting their candidates or their causes. One candidate may need a haircut before a TV appearance; another may field an athletic team. In practice, there have been few examples of direct expenditures out of a campaign which were irrelevant to the campaign process. Sometimes successful candidates who leave their surplus in a campaign account between elections will spend funds periodically for office-related expenses. This causes potential problems with the ban against expenditures before filing, but does not appear to be a particularly offensive use of campaign funds.

2. The Commission feels strongly that it would be appropriate to ban candidates from taking surplus campaign funds as personal income exceeding their own personal contributions. This should be of particular concern from a public policy standpoint since public funds are the source of the Political Contribution Credits. The Commission feels that charitable contributions, holding funds for a future election, or making contributions to a political party should be considered legitimate means of disbursing a surplus. The State would also be an appropriate recipient.

3. The Commission believes it would be appropriate to require that campaigns terminate within a year of the election. The process should require the payment of all outstanding vendor debts and personal contributions. If that is financially impossible, Commission review would be required to determine how much can legally be converted to contributions through forgiveness and to assure that no inappropriate write-offs of debts occur. Candidates should be required to declare, at the time they make their own contributions, whether they intend repayment to themselves for personal contributions. No fund-raising to repay personal contributions should be allowed after the deadline.

The suggestion of one year is a compromise between various suggestions which have been made including prohibiting all fund-raising after the election or requiring termination in 60 days, 90 days, or by the end of the year of the election. The Commission is concerned that post-election fund-raising frustrates the purpose of disclosure before the election, but it feels that allowing no personal contribution recovery is disadvantageous to newcomers attempting to run.

CRIMINAL PENALTIES

The Commission suggests that revision of the criminal section of AS 15.13 could benefit from an analysis and comparison with the criminal code which was revised after the Campaign Disclosure Law was enacted. Whether the mental element required should be knowingly, recklessly, grossly neglectful, or willful is a Legislative concern but would be helpful to determine where campaign disclosure violations fit in the overall scheme of Alaska's criminal law.

The Commission would caution against an attempt to establish a complex system of categorizing various potential violations. Within broad public policy guidelines, effective enforcement should allow the Commission's referral process the power to make appropriate differentiations based on specific cases. One of the major reasons a citizen commission is appropriate for the administration of the Campaign Disclosure Law is the fact that those who are subject to the Law have a wide range of experience and activity level. A citizen commission is a cost effective way to provide a review process prior to referral to the Attorney General. One of the most important functions a citizen commission can perform for the public is to screen out cases which would be an inappropriate use of the public's criminal justice facilities.

Two points of information about the current situation should be noted. Prior to 1980, the Commission operated under the belief that intent was not supposed to be part of its considerations when deciding whether a criminal violation had occurred. In 1980, when the Commission referred Bill Parker to the Attorney General's Office for failure to report contributions, the case was returned to them, with verbal instructions to investigate willfulness prior to making such referrals. The Commission continues to adhere to this advice in criminal referral matters.

The 1980 enactment of a one year statute of limitations in AS 15.56.130

should not be regarded as superceding the four year limit in AS 15.13.120(e). In point of fact, the Election Code had a one year statute in 1974 when the Legislature enacted AS 15.13 with its own separate four year limit. A truncated statute of limitations simply conveys the message that a violation which can be successfully concealed is no longer a violation. Since the terms of Governor, Lt. Governor, and State Senators are four years in duration, the four year statute of limitations is necessary and logical.

CIVIL PENALTIES AND PROCEDURES

1. At present, the statute establishes the maximum civil penalty for a reporting problem based on the per day rate. The other factors listed in the issue paper are items which the Commission takes into consideration in the process of mitigating an appeal. A rigid classification system by statute would be less capable of responding appropriately to the changing circumstances of the various violations.

2. From the Commission's perspective daily fines are working reasonably well and probably do not need statutory amendment unless there is a desire to increase the per day rate. Historically, the Commission took a lenient stance when the Law was new and not well publicized. In the fall of 1983 the Commission adopted a policy which provided for a less lenient approach. The success of that attitude was noticeable almost immediately for those who report under the Lobbying Law. Those who had to pay full fines quickly spread the word among others and late reports are now virtually unheard of among lobbyists or their employers. Unfortunately, political groups and candidates are numerous and not in contact with each other; they have not made the same amount of progress in timely reporting in the 18 months since the Commission adopted its sterner policy.

The Commission is presently working on a revised regulation for civil penalty assessments for Campaign Disclosure. Although the outlines are not complete, it appears there will be no more \$1 per day fines and that the full statutory amount of \$50 per day will apply to 7 Day Pre-election reports and 24 Hour Reports. The Commission has yet to discuss a staff proposal that would allow lower rates only for municipal campaigns in communities of 5,000 or less.

3. There is already a maximum limit on the total amount of daily fines set by the statute in that there is a per day maximum and a statute of limitations. The Commission would oppose a proposal to allow daily fines to accrue only from the date the Commission notifies someone. That would be an arbitrary because it would depend on the staff's limited resources.

4. The Commission would welcome civil penalties for violations such as the "paid for by," for excessive contributions, and for contributions in the name of another. An awareness of such provisions in other states suggests that \$10,000 per violation would be appropriate.

5. In reality, neither the staff nor the Commission assesses the present civil penalty. It is set by the statute. The notice of assessment

registration and reporting requirements; and banning the use of raffles to fund activity reportable under AS 15.13.

The Commission is hopeful that the Committee will find the forgoing remarks useful and looks forward to further efforts in improving the disclosure laws.

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION



Theda Pittman
Executive Director

cc: Rebecca Burch, Special Assistant
Dept. of Administration

STATE OF ALASKA

ALASKA PUBLIC OFFICES COMMISSION

BILL SHEFFIELD, GOVERNOR

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October 28, 1985

The Honorable Mitch Abood, Chair
Senate State Affairs
1024 W. 6th Avenue
Anchorage, Alaska 99501

Dear Senator Abood & Members of the Committee:

The Commission is highly supportive of your efforts to undertake a comprehensive revision of AS 15.13, Alaska's Campaign Disclosure Law. This statute has had no substantive amendments in almost ten years despite the creative changes which campaigns have undergone and despite the enforcement difficulties experienced by the Commission.

The draft before you is a good beginning because it is a comprehensive effort to address most of the major problem areas. The members of the Alaska Public Offices Commission have discussed the draft and we wish to encourage you to continue your work.

We consider the most positive aspects of the draft to be in the sections which clarify the registration requirements of candidates, specify the use of campaign funds, the termination of accounts, the disposal of surplus funds, and the solicitation of contributions. We also think the sections on campaign financing misconduct are promising but need more work as do the definitions, the time limitations and the restrictions on Commission requests for a special prosecutor. In addition, there are two major areas of concern to the Commission not adequately addressed by the draft: registration and termination by groups; and the use of Games of Chance and Skill for campaign fund-raising.

It seems likely that most of the public feedback you receive will address the broad policy issues of contribution limits, allowable duration of campaigns, and candidate recovery of personal funds. The Commission is interested in those same public policy issues but we must additionally address your proposals with an eye toward their enforceability. The purposes of even the best draft can be defeated by administrative procedures that overburden a small staff and confuse the citizen who is trying to comply.

Based on comments that we have received individually, we believe that some aspects of the draft before you will elicit controversial testimony. As Commissioners we can emphathize with the difficulty you face in resolving strongly felt advice from diverse sources. We encourage you to persevere in both policy

and procedural changes because this law is long overdue for constructive amendments. Although the Commission cannot recommend adoption of the draft in its present form, we hope to see a subsequent draft that we can endorse without reservation. To that end, our staff has been directed to offer your drafters all possible assistance.

With respect to the major changes proposed, the Commission offers the following observations:

1. Elimination of the \$1,000 contribution limit for individuals or persons giving directly to candidates. At present there is no member of the Commission who can support this proposal as written. It is unlikely to do anything to cap the rising costs of campaigns. While it would make life easier for our staff, for campaigns, and for those selected contributors who are breaking the present law, we do not believe it would eradicate anonymous contributions, fictitious contributions or those made in the name of another. There will always be some contributors who do not wish the extent of their donations to be identified.

While it is true that 27 states do not limit the amount of campaign contributions to candidates, there are only 15 of those 27 which allow both individuals and entities to give. In the remaining 12 states, certain types of contributors, such as corporations, banks, unions, insurance companies, and other regulated industries, are prohibited entirely. If the draft is intended to promote disclosure of the real sources of campaign funds and to discourage the increased cost of campaigns, then we feel it must look to solutions other than allowing individuals and non-corporeal persons to give unlimited amounts.

Although the amounts may vary, there are 23 states which limit the amount of a contribution apparently in support of the policy that candidates should obtain their financial support from a wide base of contributors each making donations within an appropriate limit. In recent years the Commission has supported an increase in the existing \$1,000 limit to \$2,000. Several of us continue to feel that such would be desirable simply because of the effects of inflation on the value of an individual contribution, but we cannot support abolishing any limit whatsoever on contributions by such a broad range of contributors.

The continuation of a limit on the amount PACs can give to candidates and the new limit on the amount PACs can receive are useful provisions and should be retained in succeeding drafts.

2. Requiring candidates to terminate their campaigns. In our opinion, this proposal would do much to help curb increased costs. The inclusion of restrictions on surplus disposal should also be helpful. Our records over the years demonstrate that a losing candidate finds it very difficult to pay off a large deficit. Although people may be more willing to contribute to winners after the election, even winners find that post-election fund-raising is no fun. From our perspective, the best aspect of these new proposals for ending campaigns is that they clearly establish that the individual candidate is responsible for his or her campaign debts. If the candidate unwisely runs up a large deficit, this law will leave the candidate personally responsible - which to our mind is the only appropriate outcome.

3. Reporting Due Dates for Contributions and Expenditures. The proposal to raise the threshold for disclosure of contributor names from more than \$100 to \$250 has been supported by the Commission in the past. Our reason was almost exclusively based on a willingness to ease the treasurer's burden and because we believe the purpose of disclosure is to give the voters access to significant information about campaigns. (We do not believe contributor schedules are required for the purpose of assisting every grass roots lobbying organization that wants to build a mailing list.) Frankly, recent events have caused some of us to reconsider whether the increased threshold is appropriate.

In addition, those of us who would like to continue supporting the "\$250 or more" proposal find it difficult to do so in the situation at hand, wherein no expenditure information is filed until after the election. In our judgment the current proposal goes far beyond what is necessary or practical in the way of easing the reporting burdens. It offers a reporting schedule more likely to confuse people than assist them. There are many experienced, conscientious campaign treasurers in the state. We think that when you talk to them about content and timing of reports you'll find confirmation that what appears to be simple on the surface may create some real problems in practice.

In closing, we would like to reiterate that the Commission encourages you to continue work on this legislation. We support proposals that will ease reporting burdens while preserving adequate disclosure. We also support concepts that will slow down the growth rate of campaign costs. And, finally, we ask for your help in obtaining administrative procedures that will help us enforce the Law effectively.

Thank you for this opportunity to comment and for the commitment you have made to improving this Law. We look forward to hearing the public testimony you receive and to assisting in your work on the final draft.

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION



Jean Rogers, Chairman
Arlayne Knox, Vice-Chair
Mildred Opland
Daniel Patrick O'Tierney
Burke Riley

Amendments to APOC Bill (1/14 Draft)

- (6) Page 16, line 10, after "group" add the following:

and may not contribute in the aggregate more than \$10,000 during a year to candidates or groups generally other than to groups formed solely for the purpose of supporting or opposing a ballot proposition or question.

- (7) Page 16, line 15, delete subsection (d) and replace it with the following:

A political party and its state, regional, and local subdivisions may not contribute in the aggregate more than \$5,000 to each candidate for political office.

Amendments to APOC Bill (1/14 Draft)

(3) Page 15, line 19, after "person" add "other than a corporation or labor union"

(4) Page 15, line 22, after "person" add "other than a corporation or labor union"

(5) Page 17, line 7, add the following new subsections (a) and (b), and renumber remaining subsections accordingly:

(a) A corporation or a labor union may not make a contribution in any amount to a candidate, political party or to a political interest group other than a political interest group formed solely for the purpose of supporting or opposing a ballot proposition or question.

(b) A candidate, a political party, and a political interest group other than a political interest group formed solely for the purpose of supporting or opposing a ballot proposition or question, may not accept a contribution from a corporation or a labor union.

Amendments to APOC Bill (1/14 Draft)

(1) At page 7, line 9, add the following new subsection (b) and renumber remaining subsections accordingly:

(b) Two or more groups that share a common officer shall be treated as a single group for the purpose of determining whether the group has received contributions of \$1,000 in the aggregate.

1/31/86

PROPOSED AMENDMENTS TO SB 356, "An Act relating to campaign financing."

BY SEN. ABOOD

Amendment # 1

Page 4, line 6, after "commission." Add "The prohibitions against political activity by a member of the commission under (h) of this section apply to the executive director and non-clerical employees of the commission."

Amendment # 2

Page 15, line 16, after "affirm" Add " to the best of my knowledge"

Amendment # 3

Page 17, line 7, after "candidate" Add ", a campaign treasurer, deputy campaign treasurer"

Amendment # 4

Sec. _____ Conflict of interest. The executive director and non-clerical employees of the commission are subject to AS 39.50 (conflict of interest).

(This is patterned after the conflict of interest provision for the Ombudsman and the professional staff of the Ombudsman, AS 24.55.310.)

Alaska State Legislature

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Senator Mitch Aboud
CHAIRMAN

Senate Committee on State Affairs

Subject: APOC Reality Check (a sampling of criminal penalties)

CLASS C FELONIES

Criminally negligent homicide
Sexual abuse of a minor in the 3rd degree
Incest
Endangering the welfare of a minor
Escape in the 3rd degree
Promoting contraband in the 3rd degree
Terrorist threatening
Riot
Distribution of child pornography
Promoting prostitution in the 3rd degree
Jury tampering
Tampering with a witness in the 3rd degree
Misconduct involving a controlled substance in the 4th degree
Assault in the 3rd degree
Coercion
Theft in the 2nd degree (more than \$500 but less than \$25,000)
Custodial interference in the 1st degree (causing the victim to be removed from the State)
Issuing a bad check (more than \$500 but less than \$25,000)
Obtaining a credit card by fraudulent means
Burglary in the 2nd degree
Commercial bribe receiving

CLASS A MISDEMEANORS

Sexual abuse of a minor in the 4th degree
Assault in the 4th degree
Theft in the 3rd degree
Criminal nonsupport
Unlawful marrying
Tampering with a witness in the 2nd degree
Driving while intoxicated
Resisting or interfering with arrest
Misuse of confidential information
Interference with constitutional rights
Misconduct involving a corpse

CLASS B MISDEMEANORS

Indecent exposure
Prostitution

Alaska State Legislature



Senator Mitch Abood
CHAIRMAN

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Senate Committee on State Affairs

In this packet are the A.P.O.C. Administrative Regulations discussed during Senate State Affairs' January 17, 1986 hearing.

Enclosed is the following material:

11/14/85 Department of Law letter and edited A.P.O.C. regulations.

11/25/85 Letter from Chairman Abood - giving A.P.O.C. notice that the State Affairs Committee intended to review proposed regulations prior to promulgation.

Additional regulations edited by Department of Law on 12/5/85.

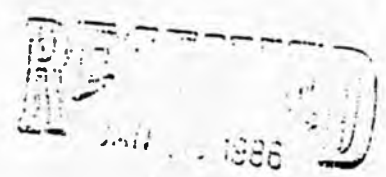
A.P.O.C. regulations adopted by Lt. Governors' office on 1/4/86.

Note: The Committee on State Affairs never received a written reply from A.P.O.C. to their 11/25/85 letter.

C
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ALASKA PUBLIC OFFICES COMMISSION
Administrative Regulations
AS 15.13 - Campaign Disclosure,
Complaints and Hearings, General Provisions

January 4, 1986



Document #4

In 1985, the Alaska Public Offices Commission added or amended seventeen administrative regulations, deleting seven. The new regulation on CONTRIBUTIONS, 2 AAC 50.313, replaces information previously found under NON-MONETARY CONTRIBUTIONS, TRANSPORTATION EXPENDITURES, PROFESSIONAL SERVICES, and LOANS. Language about GROUPS, 2 AAC 50.314, replaces REPORTING BY BUSINESS AND TRADE ASSOCIATIONS and REPORTING BY A BUSINESS ENTITY OR LABOR ORGANIZATION.

New concepts were introduced in three specific instances. DESIGNATED CAMPAIGN DEPOSITORY, 2 AAC 50.319, requires campaigns to label, identify, report, and limit activity to specific bank accounts, if their transactions exceed \$5000. POST ELECTION CAMPAIGN FUNDRAISING, 2 AAC 50.410, establishes a requirement for commission review of post-election fundraising if campaign debts are not paid off in the calendar year after an election. ADVISORY OPINIONS, 2 AAC 50.905, establishes a procedure for opinion requests of proposed activity.

Several policy changes were made of varying impact. MUNICIPALITIES, 2 AAC 50.360, now permits municipal entities to report their ballot issue and bond information affairs on the same forms used by individuals. PERSONAL CONTRIBUTIONS BY A CANDIDATE, 2 AAC 50.316, in addition to clarifying the use of personal assets, funds from property sales, jointly owned goods by a candidate, now requires that candidates report their own non-monetary contributions, such as goods from a prior campaign. EARLY CAMPAIGNING, 2 AAC 50.380, now permits state candidates to begin campaigning once they have filed a "letter of intent" with the Commission (formerly, they had to first register with the Division of Elections). CONTRIBUTIONS IN THE NAME OF ANOTHER, 2 AAC 50.357, prohibits parent organizations from directing contributions through their subsidiaries, sub-chapters or local units; prohibits parents from contributing in the name of their children; and prohibits employers from contributing in the name of their employees. Prior to 1986 corporate parent-subsidiary contributions had been permitted if the relationship was disclosed when the contributions were reported.

Of special interest to campaigns which have had difficulty meeting filing deadlines is CIVIL PENALTY ASSESSMENTS 2 AAC 50.390: the minimum initial CPA has been raised to \$10 per day for all reports, except the 7 Day Pre-election and the 14 Day reports, where the minimum has been raised to \$50 per day.

The remainder of the regulation changes were either limited in their impact or clarifications or formalization of prior policies. Please note the changes below: PROPER IDENTIFICATION, 2 AAC 50.369 - formalizes prior policy that envelopes do not have to be identified as "paid for by". OBJECTS TOO SMALL TO BE IDENTIFIED, 2 AAC 50.370, - formalizes that objects smaller than 3 1/2" x 5" need not be identified, and that all media advertising must be identified. AVAILABILITY OF REPORTS FILED WITH THE COMMISSION 2 AAC 50.910 - formalizes policy that reports filed with the Commission may be obtained at cost (usually 10¢ per page). COMPLAINTS, PRELIMINARY INVESTIGATION, and HEARINGS, 2 AAC 50.450, .460 and .470 deal with procedures to be followed in the event that a complaint is filed, a preliminary investigation is made, and a hearing results.

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ALASKA ADMINISTRATIVE CODE
Title 2. DEPARTMENT OF ADMINISTRATION
ALASKA PUBLIC OFFICES COMMISSION REGULATIONS

CHAPTER 50. CONFLICT OF INTEREST, CAMPAIGN
DISCLOSURE AND REGULATION OF LOBBYING

Articles 2, 3. & 5.

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2 AAC 50.310. FILING. (a) All reports that are required to be filed under the provisions of AS 15.13 and this chapter must be received by the commission on or before the due date. Except for the 24 Hour Report, "received" means either

(1) hand-carried to the commission's central office or its branch office in the state capital; or

(2) postmarked. The date shown by the postmark is presumed to be the date it was deposited in the United States mail.

(b) The 24 Hour Report required by AS 15.13. 110(b) must be filed with the commission's central office either by a collect telegram or by actual physical delivery within the prescribed time. 24 hour Reports may not be mailed.

(c) All forms will be available at the commission's central and branch offices, at district offices during state election years, and at the participating municipalities. (Eff. 5/14/80, Register 74)

Authority: AS 15.13.020(j) and (k); AS 15.13.030(10)
AS 15.13.110(a) and (b)

2 AAC 50.313. DEFINITION OF "CONTRIBUTION." (a) In 2 AAC 50.310 — 2 AAC 50.405, except as otherwise provided in this section, "contribution" includes a payment, gift, subscription, loan, advance, transfer, deposit of money, services, or anything of value made by a person or group for the purpose of influencing an election for state or municipal office or influencing the passage or defeat of a ballot proposition or question; and includes a personal contribution as described in 2 AAC 50.316.

(b) In this section and in 2 AAC 50.321, "loan" includes a guarantee, endorsement, and any other form of security. The following apply to loans:

(1) A loan that exceeds the contribution limitations of AS 15.13.070 is unlawful, whether or not it is repaid.

(2) A loan is a contribution at the time it is made.

(3) Except for a personal contribution loan as described in 2 AAC 50.316(d), a loan is a contribution by each endorser or guarantor. Each endorser or guarantor is considered to have contributed that portion of the total amount for which he or she agreed to be liable in a written agreement. If the agreement does not state the portion of the loan for which each endorser or guarantor is liable, the loan is considered a loan by each endorser or guarantor in the same proportion that each endorser or guarantor bears to the total number of endorsees or guarantors.

(c) In this section, "money" includes currency of the United States or of any foreign nation, checks, money orders, or any negotiable instruments payable on demand.

(d) In this section, "anything of value" includes facilities, equipment, polling information, supplies, advertising services, membership lists, mailing lists, any item of real or personal property, and personal services of any kind, the cost or consideration for which is paid by a person other than the candidate or group for whom the services are rendered.

(e) The provision of goods or services without charge, or at a charge which is less than the usual and normal charge for the goods and services in the market, is a contribution. If goods or services are provided at less than the usual or normal charge in the market, the amount of the nonmonetary contribution is the difference between the usual and normal charge for the goods or services at the time of the contribution and the amount charged.

(f) The entire amount paid to attend or participate in a fundraiser or other political event, and the entire amount paid as the purchase price for a fundraising item sold by a group or candidate, is a contribution.

(g) The payment by a person of compensation for the personal services of another person to a group or candidate for any purpose, except for legal and accounting services necessary to complete reports, is a contribution. No contribution results in the following circumstances:

(1) when an employee paid on an hourly or salaried basis engages in political activity during what would otherwise be a regular work period, if the time spent is made up by the employee within a reasonable period of time;

(2) when an employee paid on a commission or piecework basis, or an employee paid only for work actually performed whose time is considered the employee's own, engages in political activity during normal working hours;

(3) if time used by the employee during normal working hours to engage in political activity is bona fide vacation or other earned leave time.

(h) The extension of credit by a person to a candidate or political group for a length of time beyond normal business practice is a contribution, unless the creditor has made a commercially reasonable attempt to collect the debt, or pursued its remedies in a manner similar in intensity to that employed by the creditor in pursuit of a non-political debtor, including lawsuits if filed in similar circumstances.

(i) A debt owed by a political group or candidate, which is forgiven or settled for less than the amount owed is a contribution. The commission will, in its discretion, consider the following factors before directing staff to commence a preliminary investigation:

(1) whether, at the time the debt was incurred, both the creditor and the candidate or political group expected full repayment within a reasonable period of time;

(2) whether the campaign has made a good faith effort to repay all outstanding debts;

(3) whether the creditor has taken steps it normally takes against debtors in the same financial condition as the campaign;

(4) whether the proposed settlement agreement between the creditor and the campaign is similar to previous settlements made by the creditor and other debtors;

(5) whether the campaign has treated equally all creditors since it became aware of the difficulty in repaying all debts;

(6) whether the proposed settlement agreement is similar to others proposed by the campaign.

(j) An expenditure made by a person in cooperation, consultation, or in concert with, or at the request or suggestion of a candidate, the candidate's campaign committee, campaign agents, or campaign consultants is a contribution to the candidate. The financing by a person of the issuance, republication, or distribution of a broadcast or of a written, graphic, or other form of campaign material provided by the candidate, the candidate's campaign committee, campaign agents, or campaign consultants is a contribution to the candidate. This includes an expenditure:

(1) based on information about the candidate's plans, projects, or needs provided by the candidate or the candidate's campaign agents;

(2) made by or through a person who is, or has been, authorized to raise or expend money for the candidate, who is, or has been, an agent of a candidate's campaign, or who has received any form of compensation or reimbursement from the candidate, members of the candidate's campaign committee, campaign agents, or campaign consultants;

(3) made by any person or group based on data from a candidate's pollster or campaign consultant or any other person who has received, or is receiving, compensation or reimbursement from the campaign;

(4) made by a political group for soliciting contributions to be paid or delivered directly to a candidate or the candidate's campaign agents.

(k) In (j) of this section, "campaign agents" includes all officers, campaign managers, treasurers, deputy treasurers, campaign consultants, and persons who reasonably appear to have authority to make expenditures and solicit contributions for a candidate's campaign.

(l) In 2 AAC 50.310 — 2 AAC 50.405, "contribution" does not include the following payments, services, or other things of value:

(1) costs incurred in covering or carrying a news story by a broadcasting station, newspaper, or periodical of regular publication, unless the

facility is owned by or controlled by a political party, political group, or candidate; in that case, the cost of the news story is a contribution, unless the news story is a bona fide news account that is part of a general pattern of campaign-related news accounts which gives reasonably equal coverage to all opposing candidates in the circulation or listening area.

(2) a non-monetary contribution or in-kind donation of a single item with a usual and normal cost of \$50.00 or less.

(3) a payment made by any individual for his or her own travel expenses, if such payments are voluntary and are made without any understanding that they will be directly or indirectly repaid.

(4) a payment is made by a business, corporation, trade association, labor organization, or other organization not organized primarily to influence elections to communicate directly with its members or employees, or their families, on any subject, if the communication is of the same format and nature used by the organization when it has communicated in the past on nonpolitical subjects, does not request members or their families to do anything other than exercise the right to vote, and does not solicit individual contributions to a clearly identified candidate or group chosen by the organization.

(5) a gift, subscription, loan, advance, or deposit of money or anything of value made with respect to a recount of a state or municipal election.

(m) A contribution made by a married individual is not attributed to that individual's spouse, unless otherwise specified in writing by the spouse at the time the contribution is made. (Eff. 1/4/86, Register 97)

Authority: AS 15.13.030(10)
AS 15.13.040

AS 15.13.070
AS 15.13.130

2 AAC 50.314. DEFINITION OF "GROUP"; REPORTING BY BUSINESS. (a) In 2 AAC 50.310 — 2 AAC 50.405, "group" includes

(1) every combination of two or more persons who are elected, appointed, or otherwise chosen, or who cooperate for the purpose of raising, soliciting, collecting, or disbursing money or anything of value, or for directing or controlling those activities to secure or defeat the election to public office of an individual or candidate or to secure or defeat a ballot proposition;

(2) a political action committee, draft group, association, club, corporation, partnership, trade association, incorporated or unincorporated association, or labor organization organized to aid or promote the nomination, election, defeat, or recall, of any candidate for political office or to aid the passage or defeat of a ballot proposition;

(3) two or more persons who jointly make a contribution in the name of another as described in 2 AAC 50.357.

(b) A corporation, partnership, sole proprietorship, trade association, fraternal or charitable organization, incorporated or unincorporated association, firm, or business trust may report its contributions and expenditures as required by AS 15.13.040(d) and (e) as an individual* if

(1) all contributions and expenditures to influence the outcome of an election are made from the organization's general day-to-day operating account;

(2) the organization does not conduct a fundraising drive or assessment among its members or employees for the purpose of influencing an election;

(3) the organization does not exercise direction, control, or discretion over the choice of the recipient candidate or group, and the organization does not exercise direction, control, or discretion over the expenditure of money or other things of value collected, pooled, solicited, or otherwise paid by others for the purpose of influencing an election. (Eff. 1/4/86, Register 97)

Authority: AS 15.13.030(10)
AS 15.13.040

AS 15.13.130(3)

2 AAC 50.315. CONTRIBUTION LIMITATION EXEMPTION. (a) Groups that nominated a candidate for governor who received at least three percent of the total vote cast at the 1982 general election for governor are considered to be exempt from the contribution limitation set out in AS 15.13.070(a).

(b) Until the effective date of a statutory definition of "political party" that replaces AS 15.50.010(20) as it exists on the effective date of this section (and was held invalid in Vodler v. Miller, 660 P.2d 1192 [Alaska 1983]), a group, other than a group described in (a) of this section, desiring an exemption from the contribution limitation set out in AS 15.13.070(a) must submit to the commission an application for exemption. In accordance with (c) of this section, the commission will review the application and, in its discretion and on a case-by-case basis, grant the exemption.

(c) Among the criteria which will be considered in deciding whether to grant an exemption:

(1) an organized membership, composed of registered voters, which represents a political program;

*AFOC Note: Groups report on "Campaign Disclosure Statements." Individuals report on "Statement of Contributions" Form 15-5 or on "Statement of Expenditures" Form 15-6.

2 AAC 50.314
2 AAC 50.315

(2) prior history as a political group under AS 15.13.050 including the receipt of substantial contributions and the disbursement of substantial expenditures made for the purpose of influencing the election of legislative candidates in more than one district; and

(3) the percentage of votes received by a statewide candidate nominated in the name of the group in the preceding general election.

(d) Groups satisfying the criteria of (a) of this section and groups granted exemptions under (b) of this section are subject to the requirement that political parties report contributions and expenditures as provided by AS 15.13. (Eff. 6/29/84; Register 90; am 1/4/86, Register 97)

Authority: AS 15.13.030(10)
AS 15.13.040

AS 15.13.070

2 AAC 50.316. PERSONAL CONTRIBUTIONS BY A CANDIDATE. (a) .. candidate may make unlimited personal contributions from assets which, under Alaska law, the candidate had legal right of access to or control over and to which the candidate had legal and rightful title at the time he or she became a candidate. These assets include salary and other earned income from bona fide employment; dividends; proceeds from the sale of investments; bequests to the candidate; income from trusts established before candidacy; income from trusts established by bequest after candidacy; and gifts of a personal nature which had been customarily received before candidacy.

(b) A candidate may use a portion of jointly owned assets as a personal contribution. The portion of the jointly owned assets that may be used is the candidate's share under the instruments of conveyance or ownership. With respect to spouses, if no specific share is indicated by an instrument of conveyance or ownership, the value of one-half of the property used is considered the personal funds of the candidate. In the case of property jointly owned by a non-spouse, if there is no instrument of conveyance or ownership, the portion of the asset belonging to the candidate is the pro rata share of the purchase price paid by the candidate, or, if no purchase was made, the amount determined by dividing the present value by the number of owners.

(c) A candidate's donation of goods remaining from a prior campaign is a personal contribution.

(d) A loan of money by a regulated banking institution to a candidate is a personal contribution if the loan is made in accordance with applicable banking laws and regulations; bears the usual and customary interest rate for the category of the loan involved; is evidenced by a written instrument; and is subject to a due date or amortization schedule. Loans under this section are reported as a candidate's personal contribution.

2 AAC 50.315
2 AAC 50.316

facility is owned by or controlled by a political party, political group, or candidate; in that case, the cost of the news story is a contribution, unless the news story is a bona fide news account that is part of a general pattern of campaign-related news accounts which gives reasonably equal coverage to all opposing candidates in the circulation or listening area.

(2) a non-monetary contribution or in-kind donation of a single item with a usual and normal cost of \$50.00 or less.

(3) a payment made by any individual for his or her own travel expenses, if such payments are voluntary and are made without any understanding that they will be directly or indirectly repaid.

(4) a payment is made by a business, corporation, trade association, labor organization, or other organization not organized primarily to influence elections to communicate directly with its members or employees, or their families, on any subject, if the communication is of the same format and nature used by the organization when it has communicated in the past on nonpolitical subjects, does not request members or their families to do anything other than exercise the right to vote, and does not solicit individual contributions to a clearly identified candidate or group chosen by the organization.

(5) a gift, subscription, loan, advance, or deposit of money or anything of value made with respect to a recount of a state or municipal election.

(m) A contribution made by a married individual is not attributed to that individual's spouse, unless otherwise specified in writing by the spouse at the time the contribution is made. (Eff. 1/4/86, Register 97)

Authority: AS 15.13.030(10)
AS 15.13.040

AS 15.13.070
AS 15.13.130

2 AAC 50.314. DEFINITION OF "GROUP"; REPORTING BY BUSINESS. (a) In 2 AAC 50.310 — 2 AAC 50.405, "group" includes

(1) every combination of two or more persons who are elected, appointed, or otherwise chosen, or who cooperate for the purpose of raising, soliciting, collecting, or disbursing money or anything of value, or for directing or controlling those activities to secure or defeat the election to public office of an individual or candidate or to secure or defeat a ballot proposition;

(2) a political action committee, draft group, association, club, corporation, partnership, trade association, incorporated or unincorporated association, or labor organization organized to aid or promote the nomination, election, defeat, or recall, of any candidate for political office or to aid the passage or defeat of a ballot proposition;

(3) two or more persons who jointly make a contribution in the name of another as described in 2 AAC 50.357.

(b) A corporation, partnership, sole proprietorship, trade association, fraternal or charitable organization, incorporated or unincorporated association, firm, or business trust may report its contributions and expenditures as required by AS 15.13.040(d) and (e) as an individual if

(1) all contributions and expenditures to influence the outcome of an election are made from the organization's general day-to-day operating account;

(2) the organization does not conduct a fundraising drive or assessment among its members or employees for the purpose of influencing an election;

(3) the organization does not exercise direction, control, or discretion over the choice of the recipient candidate or group, and the organization does not exercise direction, control, or discretion over the expenditure of money or other things of value collected, pooled, solicited, or otherwise paid by others for the purpose of influencing an election. (Eff. 1/4/86, Register 97)

Authority: AS 15.13.030(10)
AS 15.13.040

AS 15.13.130(3)

2 AAC 50.315. CONTRIBUTION LIMITATION EXEMPTION. (a) Groups that nominated a candidate for governor who received at least three percent of the total vote cast at the 1982 general election for governor are considered to be exempt from the contribution limitation set out in AS 15.13.070(a).

(b) Until the effective date of a statutory definition of "political party" that replaces AS 15.60.010(20) as it exists on the effective date of this section (and was held invalid in Vowler v. Muller, 660 P.2d 1192 (Alaska 1983)), a group, other than a group described in (a) of this section, desiring an exemption from the contribution limitation set out in AS 15.13.070(a) must submit to the commission an application for exemption. In accordance with (c) of this section, the commission will review the application and, in its discretion and on a case-by-case basis, grant the exemption.

(c) Among the criteria which will be considered in deciding whether to grant an exemption are:

(1) an organized membership, composed of registered voters, which represents a political program;

*AFOC Note: Groups report on "Campaign Disclosure Statements." Individuals report on "Statement of Contributions" Form 15-5 or on "Statement of Expenditures" Form 15-6.

2 AAC 50.314
2 AAC 50.315

(2) prior history as a political group under AS 15.13.050 including the receipt of substantial contributions and the disbursement of substantial expenditures made for the purpose of influencing the election of legislative candidates in more than one district; and

(3) the percentage of votes received by a statewide candidate nominated in the name of the group in the preceding general election.

(d) Groups satisfying the criteria of (a) of this section and groups granted exemptions under (b) of this section are subject to the requirement that political parties report contributions and expenditures as provided by AS 15.13. (Eff. 6/29/84; Register 90; am 1/4/86, Register 97)

Authority: AS 15.13.030(10)
AS 15.13.040

AS 15.13.070

2 AAC 50.316. PERSONAL CONTRIBUTIONS BY A CANDIDATE. (a) A candidate may make unlimited personal contributions from assets which, under Alaska law, the candidate had legal right of access to or control over and to which the candidate had legal and rightful title at the time he or she became a candidate. These assets include salary and other earned income from bona fide employment; dividends; proceeds from the sale of investments; bequests to the candidate; income from trusts established before candidacy; income from trusts established by bequest after candidacy; and gifts of a personal nature which had been customarily received before candidacy.

(b) A candidate may use a portion of jointly owned assets as a personal contribution. The portion of the jointly owned assets that may be used is the candidate's share under the instruments of conveyance or ownership. With respect to spouses, if no specific share is indicated by an instrument of conveyance or ownership, the value of one-half of the property used is considered the personal funds of the candidate. In the case of property jointly owned by a non-spouse, if there is no instrument of conveyance or ownership, the portion of the asset belonging to the candidate is the pro rata share of the purchase price paid by the candidate, or, if no purchase was made, the amount determined by dividing the present value by the number of owners.

(c) A candidate's donation of goods remaining from a prior campaign is a personal contribution.

(d) A loan of money by a regulated banking institution to a candidate is a personal contribution if the loan is made in accordance with applicable banking laws and regulations; bears the usual and customary interest rate for the category of the loan involved; is evidenced by a written instrument; and is subject to a due date or amortization schedule. Loans under this section are reported as a candidate's personal contribution.

2 AAC 50.315
2 AAC 50.316

(e) The absolute sale of all legal and equitable interest of a candidate's real or personal property is not a contribution from the purchasers if the proceeds are received by a candidate in a legitimate arm's length transaction documented in writing. Sale proceeds used by a candidate in a campaign must be reported as personal contributions. (Eff. 1/4/86, Register 97)

Authority: AS 15.13.030(10)
AS 15.13.040

AS 15.13.070
AS 15.13.130

2 AAC 50.319. DESIGNATED CAMPAIGN DEPOSITORY. (a) Each candidate and political group intending to raise or spend more than \$5,000 in a calendar year shall designate on a registration statement or on the first campaign disclosure statement filed with the commission, one or more regulated banking institutions as its campaign depository or depositories. Each account title must indicate that it is a campaign account.

(b) All monetary contributions to, and expenditures by, a candidate or political group must be deposited to or made from a designated campaign depository.

(c) A candidate or political group required by (a) of this section, to designate a campaign depository may obtain and use credit cards in making travel-related campaign expenditures for transportation, lodging, meals, and other expenses in connection with traveling for campaign purposes. The credit card account name must indicate that it is a campaign account.

(d) Contributions that appear to be illegal must, within ten days after receipt, be returned to the contributor.

(e) A campaign treasurer shall make his or her best efforts to determine the legality of a contribution. If a contribution cannot be determined to be legal, a refund must be made within a reasonable time, and the treasurer shall note the refund by amending the current report or noting the change on the next required report. Alternatively, the contribution may be deposited into the campaign depository and reported. If it is deposited, the treasurer shall make and retain a written record noting the basis for the appearance of illegality. A statement noting that the legality of the contribution is in question must be included in the next required report. (Eff. 1/4/86, Register 97)

Authority: AS 15.13.030
AS 15.13.050

AS 15.13.060
AS 15.13.070

2 AAC 50.320. GENERAL BOOKKEEPING REQUIREMENTS FOR CANDIDATES AND GROUPS. (a) Every candidate and group required to report contributions or expenditures under the provisions of AS 15.13 shall maintain detailed records of all contributions received and expenditures made in accordance with the uniform methods of bookkeeping set out in the commission's bookkeeping guide.

(b) A candidate or his treasurer, and the treasurer of a group, may issue a receipt, and shall record the receipt of every contribution received, unless otherwise exempted by this chapter, regardless of the dollar amount or value of the contribution. While the identity of a person who has contributed no more than \$100 to a campaign is not required to be individually reported by the treasurer on a campaign disclosure report, the name of such a contributor, along with the amount and type of his contribution, must be recorded by the treasurer and maintained by the treasurer, for comparative purposes, in case that person makes additional contributions which total over \$100.

(c) The identity of a person who has contributed over \$100 in the aggregate per year to a candidate's or group's campaign must be reported in accordance with 2 AAC 50.321.

(d) Each bookkeeping record required under this section shall be maintained by the candidate or the treasurer of a group and may not be destroyed for a period of four years from the date of the contribution. The records shall be available for inspection by the commission upon request of the commission. (Eff. 5/14/80, Register 74)

Authority: AS 15.13.020(2)
AS 15.13.030(10)

AS 15.13.040
AS 15.13.120(e)

2 AAC 50.321. REPORTING CONTRIBUTIONS AND EXPENDITURES. (a) Each candidate or group filing reports under AS 15.13 must identify

(1) each monetary contribution, or aggregate of contributions from the same contributor, which totals in excess of \$100 by reporting

- (A) the date received;
- (B) the check number;
- (C) the name and address of the contributor;
- (D) the principal occupation and employer of the contributor; and
- (E) the amount;

(2) each non monetary contribution, or aggregate of non monetary contributions from the same contributor, valued at more than \$100 a year, by reporting

- (A) the date received;
- (B) the name and address of the contributor;

(C) the principal occupation and employer of the contributor;

(D) a description of the contributions; and

(E) its estimated fair market value;

(3) each loan, or aggregate of loans from the same contributor which totals in excess of \$100, by reporting

(A) the date received;

(B) the name and address of the lender, guarantor or cosigner;

(C) the principal occupation and employer of the lender, loan guarantor or cosigner;

(D) the interest rate; and

(E) the amount;

(4) each paid expenditure by reporting

(A) the date of the payment;

(B) the check number;

(C) the name and address of the payee;

(D) the purpose of the expenditure; and

(E) the amount;

(5) each accrued expenditure by reporting

(A) the date the expenditure was incurred;

(B) the name and address of the business or individual with whom the debt was incurred;

(C) the purpose of the accrued expenditure; and

(D) the amount.

(b) When reporting monetary and non-monetary contributions or loans, a cumulative total must be kept by each candidate or group of the contributions (including loans) made to it, regardless of the total, and reported pursuant to (a) of this section when

(1) monetary contributions by the same contributor bring the total to over \$100; or

(2) nonmonetary contributions by the same contributor bring the estimated total value to over \$100; or

(3) loans by the same lender, guarantor, or cosigner bring the total to over \$100; or

(4) a combination of monetary or nonmonetary contributions or loans by the same contributor brings the total to over \$100. (Eff. 7/22/78, Register 67)

Authority: AS 15.13.030(10) AS 15.13.130(2) and (4)
AS 15.13.040(a) and (b)

2 AAC 50.322. RECORDKEEPING REQUIREMENTS FOR AUCTIONS AND GARAGE SALES. Repealed 5/14/80.

2 AAC 50.323. RECORDKEEPING REQUIREMENTS FOR CONTRIBUTIONS RECEIVED FROM THE SALE OF CAMPAIGN MATERIAL. Repealed 5/14/80.

2 AAC 50.324. SHARED CAMPAIGN REPORTING. Except for expenditures by the candidates for governor and lieutenant governor of the same political party who have been nominated to run in the general election, the following provisions apply to all candidates and groups, other than a political party, subject to the provisions of AS 15.13 and this chapter:

(1) The use, by one candidate, of the money, goods or services raised or generated by his campaign, to influence the election of another candidate, is considered a contribution and cannot exceed the \$1000 limitation set by AS 15.13.070(a); nothing in AS 15.13 or this chapter, however, limits an individual's right to make any expenditure whatsoever to influence the election of a candidate, so long as that expenditure is not made at the suggestion of that candidate, directly or indirectly paid for by that candidate, or otherwise controlled by that candidate.

(2) An expenditure made by one group, other than a political party, on behalf of another group which is controlled by a candidate is considered a contribution and may not exceed the \$1000 limitation set by AS 15.13.070(a).

(3) A candidate may not join his campaign committee with that of one or more candidates in order that they may file a single report of their joint campaign, nor may a group join with one or more groups in order that they may file a single report of their joint efforts.

(4) Candidates or groups prohibited from forming a joint campaign under (3) of this section may share in campaign efforts, under (5) of this section, so long as they keep separate campaign accounts and file separate statements of their contributions and expenditures under AS 15.13 and 2 AAC 50.

(5) Two or more candidates, or two or more groups, may share in campaign efforts so long as the cost of, and receipts from, shared efforts are allocated equally to each participating candidate or group's campaign.

(6) So long as the costs of, and receipts from, shared efforts are allocated equally to each participant of a shared campaign, neither the costs or receipts are considered as a contribution from one participant to any of the other participants.

(7) Each candidate or group filing reports pursuant to AS 15.13 and 2 AAC 50 must complete an APOC Form 15-3A, the "Shared Campaign Activities" form, which represents his or its proportionate share of the receipts and expenditures of a shared campaign effort.

(8) A proportionate share of the amount of an expenditure benefiting one or more candidates, or one or more groups, of a shared campaign effort, but paid for in full by one of the candidates, or by one of the groups, will be considered a contribution by

(A) the paying candidate to the other candidates; or

(B) the paying group to the other groups.

(9) Media communications regarding a shared campaign activity are considered properly identified so long as the identification includes the words "paid for by" and the name of each candidate or group sharing in the cost of the communications. The address and treasurer* of each participating candidate or group need not be listed. However, if a communication is paid for in its entirety by only one of the participants then, in accordance with 2 AAC 50.369, full and proper identification is required. (Eff. 7/22/78, Register 57; am 3/14/80, Register 74; am 6/29/84, Register 90)

Authority: AS 15.13.030(10)
AS 15.13.040(a) and (b)

AS 15.13.070(a)
AS 15.13.090

2 AAC 50.325. RECORDKEEPING REQUIREMENTS FOR NONMONETARY CONTRIBUTIONS.
Repealed 1/4/86.

2 AAC 50.326. RECORDKEEPING REQUIREMENTS AND EXEMPTIONS WHEN REPORTING A FUND-RAISER. (a) A candidate or his treasurer, and the treasurer of a group, shall report all the contribution and expenditure activity related to a campaign fund-raiser in a format designated by the commission, and in accordance with this section. Fund-raisers sponsored in conjunction with several candidates or groups are viewed as shared fund-raising activities and, while subject to the provisions of this section, must be reported separately on APOC Form 15-3SA and in accordance with 2 AAC 50.324.

* has been changed to chairman in the statute.

(b) When reporting a fund-raiser, a candidate or his treasurer, and the treasurer of a group, shall state the total number of contributing participants, the date and place where the event was held, if applicable, a description of the type of fund-raising activity, and the total costs of, and receipts from, the event.

(c) For the purposes of this section, "fund-raiser" includes, but is not limited to, a garage sale; a raffle or drawing; an auction; a spaghetti feed or pot-luck dinner; the sale of campaign material, such as posters, buttons, stickers, clothing, key chains and ashtrays; or a sponsored concert.

(d) The requirement in AS 15.13.040 and 2 AAC 50.320 that a candidate or his treasurer, or the treasurer of a group, must record the name of every person making a contribution, regardless of the amount of that contribution, does not apply to events which meet the following criteria:

(1) fund-raisers, similar in nature to spaghetti feeds, bingo games, dances, or concerts, where

(A) there are 25 or more paying participants; and

(B) except as described in (f) of this section, the cash amount received from any one person does not exceed \$50;

(2) fund-raisers, such as a raffle, lottery or a drawing, where

(A) 25 or more tickets are sold; and

(B) except as described in (f) of this section, the price of a ticket or the amount received from any one person purchasing chances does not exceed \$50;

(3) fund-raisers, the income from which is based on the sale of campaign material, where, except as described in (g)

(A) the price of an item being sold does not exceed \$10; or

(B) the amount received from any one person purchasing items does not exceed \$50;

(4) fund-raisers, such as garage sales and auctions, where, except as described in (g)

(A) the fair market value of an item donated for sale or auction does not exceed \$50; or

(B) the amount received from any one person purchasing items at the garage sale or auction does not exceed \$50.

(e) When reporting receipts from a fund-raiser which meets the recording exemption set out in (d) of this section, the candidate or his treasurer, or

the treasurer of a group, need only report the total amount of contributions received from or generated by the fundraiser, along with the total number of paying participants, tickets sold, or items purchased, as applicable.

(f) If a person contributes in excess of the exempted amounts stated in (d)(1)(B) or (d)(2)(B) of this section, then the name of that person, and the amount and type of that contribution, must be recorded as set out in 2 AAC 50.320.

(g) If the cost of or value of an item exceeds the exempted amount, or if a person contributes or pays in excess of the exempted amounts stated in (d)(3) or (4), then the name of that contributor or buyer must be recorded as set out in 2 AAC 50.320.

(h) A contribution made by a person to attend or otherwise participate in a "fund-raiser," as defined in (c) of this section, whether or not exempted from full recording under this section, may not be received by or on behalf of a candidate in violation of AS 15.13.070(a). (SSS. 5/14/80, Register 74; am 5/24/81, Register 78; am 6/29/84, Register 90)

Authority: AS 15.13.030(10)
AS 15.13.040

2 AAC 50.330 REPORTING CAMPAIGN EXPENDITURES FOR TRANSPORTATION.
Repealed 1/4/36.

2 AAC 50.332. REPORTING ZERO CONTRIBUTION OR EXPENDITURE ACTIVITY.

(a) Each candidate or group required to file a full report of all contributions received and expenditures made in accordance with AS 15.13 and this chapter shall report in accordance with the reporting schedule set out in AS 15.13.110(a), regardless of the amount of their reportable contributions or expenditures. In the absence of any contribution or expenditure activity whatsoever during a reporting period, each candidate or group not already exempt from reporting under (b) or (c) of this section shall submit by the appropriate due date the "Short Form" on Schedule A of the Campaign Disclosure Statement certifying that no contributions have been received or expenditures made.

(b) A candidate who does not intend to receive or accept contributions, or make expenditures during his campaign for municipal or state public office, including any personal campaign contributions or expenditures, may file APOC Form 15-0, the "Campaign Reporting Exemption Form." A candidate who files the exemption form is not required to submit any other reports to the commission concerning his campaign. The reporting exemption is revoked if a candidate accepts contributions or spends money to influence his election. A candidate whose exemption is revoked must immediately register his change of status on APOC Form 15-1 and, in accordance with AS 15.13.110, must disclose his campaign contribution and expenditure activity beginning with the first campaign disclosure report due following his change in status. Failure to report campaign

contribution or expenditure activity after the reporting exemption is revoked subjects the candidate to both civil and criminal penalties for noncompliance with the reporting requirements of AS 15.13 and 2 AAC 50.

(c) The treasurer of a political party subdivision or political action committee previously registered with the commission which does not intend to receive or accept contributions, or make expenditures, during a municipal campaign may, in accordance with the requirements set forth in (b) of this section, file APOC Form 15-0. (Eff. 7/22/78, Reg. 67; am 5/14/80, Reg. 74)

Authority: AS 15.13.030(10) AS 15.13.110
AS 15.13.040(a) and (b)

2 AAC 50.333. REPORTABLE DATE OF A CONTRIBUTION. A contribution is considered received, and reportable as such, on the day in which that contribution is in the possession of a candidate, or a treasurer or deputy treasurer of a candidate or group, in accordance with AS 15.13.070(e) and this chapter. (Eff. 7/22/78, Reg. 67)

Authority: AS 15.13.030(10)
AS 15.13.070(e)

2 AAC 50.334. PERSONS WHO MAY ACCEPT CONTRIBUTIONS. (a) A candidate's campaign committee, or a group, may authorize a person who is not registered as a deputy treasurer to accept or solicit campaign contributions on its behalf for any single event. Campaign committees or groups are not in violation of AS 15.13.070(e) if contributions collected by the authorized person are turned over to a candidate, treasurer, or deputy treasurer of the intended committee or group within 72 hours.

(b) An individual who is, or will be, fund-raising on a regular basis throughout a political campaign must be registered as a deputy treasurer in accordance with AS 15.13.060(e).

(c) Individuals that have not been "authorized" to accept campaign contributions by either a candidate or his treasurer, or the treasurer of a group, are prohibited from collecting campaign contributions on behalf of a candidate's campaign committee or a group. (Eff. 4/28/79, Register 70; am 5/14/80, Register 74)

Authority: AS 15.13.030(10) AS 15.13.070(e)
AS 15.13.060 AS 15.13.130(2)

2 AAC 50.340. EXPENDITURES TO ADVERTISING AGENCIES OR CAMPAIGN MANAGEMENT SERVICES. Whenever a required report includes an expenditure to an advertising agency, or to an individual or business which provides campaign

consultation or management services, the report shall be accompanied by a statement* detailing all services rendered, including the identity of each business from which campaign goods or services were purchased or subcontracted, or media advertising placed, or their costs. (Eff. 5/16/76, Register 58; am 5/14/80, Register 74).

*Staff will request this information when clarification of a report is needed.

Authority: AS 15.13.030(10)
AS 15.13.040(f)

2 AAC 50.342. REGISTRATION OF GROUPS SUPPORTING OR OPPOSING BALLOT ISSUES. Each group, before making an expenditure in support of or in opposition to a ballot proposition, shall register with the commission on forms provided by the commission. (Eff. 5/14/80, Register 74)

Authority: AS 15.13.010(b) AS 15.13.040(b)
AS 15.13.030(10) AS 15.13.050

2 AAC 50.350. CONTRIBUTION OF PROFESSIONAL SERVICES. Repealed
1/4/86.

2 AAC 50.351. INDEPENDENT EXPENDITURES. (a) An independent expenditure is a disbursement of funds which is made expressly to support or oppose an individual's candidacy or a ballot issue. An independent expenditure is not made with the cooperation, consent, in consultation with, or at the request or suggestion of, a candidate, a candidate's campaign committee, or a group, and must be reported in accordance with AS 15.13.040(d)(2) and (e) by the maker of the expenditure.

(b) An expenditure made at the request of, in consultation with, or at the suggestion of a candidate, a candidate's campaign committee, or a group supporting or opposing a ballot issue, is considered an in-kind contribution by the person making the expenditure, and must be reported in accordance with AS 15.13.040(a) by the candidate or group benefiting from the contribution, and by the "contributor" in accordance with AS 15.13.040 (d)(1) and (e).

(c) There is no limit on the amount or frequency of independent expenditures.

(d) The report of an expenditure to influence the outcome of a ballot issue required to be filed under AS 15.13.040(d)(2) will be closed to the public only if the commission determines, in response to a written request, that the individual who makes the expenditure would likely be subject to undue harassment, threats, or economic reprisals as the result of public disclosure. After publication, the person granted an exemption shall provide the commission with

a copy of the communication in order to enable the commission to verify which communications were sponsored by that person. (Eff. 5/14/80, Register 74; am 6/29/84, Register 90)

Authority: AS 15.13.030(10)
AS 15.13.040

AS 15.13.090

2 AAC 50.355. LOANS. Repealed 1/4/86.

2 AAC 50.357. CONTRIBUTIONS IN THE NAME OF ANOTHER. (a) No contribution may be made, directly or indirectly, by a person other than in the legal name of the original source of the contribution.

(b) No person, employer, principal, supervisor, or contractor may lend, pay, advance, or reimburse employees, agents, or other persons for contributions to a candidate or group in the employee's, agent's, or other person's name, or in a name other than the original source of the contribution.

(c) A contribution made at the direction of another person, including a parent organization, subsidiary, division, department, branch, or local unit, is a contribution in the name of another. Contributions by two or more organizations to the same recipient are in the name of another if the organizations

- (1) share the majority of members of their board of directors;
- (2) share two or more corporate or organizational officers;
- (3) are owned or controlled by the same shareholders or members;
- (4) are in a parent-subsidiary relationship.

(d) If a minor makes a contribution of money or any thing of value given to the child by a parent for that purpose, the parent has made a contribution in the name of another. (Eff. 1/4/86, Register 97)

Authority: AS 15.13.030(10)
AS 15.13.040

AS 15.13.070
AS 15.13.130

2 AAC 50.360. MUNICIPALITIES. (a) If a municipality seeks to influence the outcome of an election, using budgeted municipal funds, it shall report as an individual under AS 15.13.040(d) and (e).

(b) All communications which are paid for by a municipality and which are related to an election are considered to be intended to influence the outcome of an election unless they are only notices of the election or unless they are required by statute, charter, or ordinance.

(D) except as provided in (c) of this section, make contributions to, contribute previously produced material to, or expend funds or behalf of, any person who has declared that he or she is seeking office or who has filed a declaration of candidacy or nominating petition or become a candidate by any other means.

(c) A draft group that expends more than 50 percent of its funds in an effort to draft one individual or, in the case of gubernatorial and lieutenant gubernatorial candidates, a team of individuals, to campaign for public office is, for the purposes of AS 15.13.130(3) and this chapter, considered a controlled group. If the person or team subject to the draft formally declares for public office, then the amount contributed to the draft group must be added to any contributions made the same year to the drafted candidate's or team's own campaign committee, in order to determine whether a contributor has made the maximum allowable contribution as outlined in AS 15.13.070(a). As a controlled group, the draft group may contribute the maximum allowed by law to the candidate or team of candidates. (Eff. 7/22/78, Register 67; am 5/14/80, Register 74; am 6/29/84, Register 90)

Authority:	AS 15.13.010	AS 15.13.040(b)	AS 15.13.100
	AS 15.13.030(10)	AS 15.13.070(a)	AS 15.13.130(2), (3) and (4)

2 AAC 50.363. SUBCOMMITTEES OF A CANDIDATE'S CAMPAIGN COMMITTEE OR OF A CONTROLLED GROUP. A subcommittee may be created within a candidate's campaign committee or within a controlled group. These subcommittees are not considered separate groups and shall not maintain separate bank accounts and records or file separate reports. The name of the candidate or controlled group must be a part of the name of the subcommittee. The name of the subcommittee shall not be used when identifying political advertising under AS 15.13.090 and 2 AAC 50.369. (Eff. 7/22/78, Register 67; am 5/14/80, Register 74)

Authority:	AS 15.13.030(10)	AS 15.13.040(a)
	AS 15.13.050	AS 15.13.090

2 AAC 50.369. PROPER IDENTIFICATION OF POLITICAL COMMUNICATIONS. (a) Except as provided in (d) of this section, "proper identification" of a communication intended to influence the election of a candidate or the outcome of a ballot issue means that the communication is clearly identified with the words "paid for by," followed by the name and full address of the candidate, group, or individual actually paying for the advertising. The name of the campaign chairman must also be identified. If the candidate and the chairman are the same person, the name need not be repeated.

(b) Standard English abbreviations may be used in the written identification.

(c) "Clearly identified," as used in AS 15.13.090, means that

(1) in all printed communications, the proper identification must be visible, separate from the text of the advertisement itself, and large enough to be read by a person with average vision without the aid of corrective lenses;

(2) in all audio-visual communications, the proper identification must either

(A) be visual, and of sufficient size and duration to be read in full by the viewer; or

(B) be spoken, and played at the same audio level as the text of the communication itself; or

(C) be both visual and spoken, in accordance with (A) and (B) of this paragraph;

(3) in all audio communications, the proper identification must be spoken at the same audio level as the text of the communication itself.

(d) If the commission determines, under 2 AAC 50.351(d), that an expenditure report will not be made public, the political communication intended to influence the outcome of a ballot proposition or question is properly identified if, in place of the "paid for by" phrase, the communication includes, in the manner required by (c) of this section, the commission waiver identification number assigned by the Commission to that communication.

(e) In this section and in AS 15.13.090, "communications" include all material related to campaign fund-raisers, campaign letterhead, thank you notes, and press releases but does not include envelopes paid for by the campaign which are used solely to convey the campaign's properly identified communications. (Eff. 4/28/79, Register 70; am 10/19/81, Register 80; am 5/29/84, Register 90; am 1/4/86, Register 97)

Authority: AS 15.13.030(10)
AS 15.13.090

2 AAC 50.370. OBJECTS TOO SMALL TO CONTAIN THE PROPER IDENTIFICATION. If the size of an object used for a campaign advertisement is such that it is impractical to print the identification of the candidate, group, or person paying for the advertisement on the object, the advertisement must instead be identified in a regular expenditure report to the commission. Objects considered too small for full identification include pencils, pens, buttons, and other objects that are smaller than 3 1/2" x 5" in size. All media advertisements must be identified, regardless of size. (Eff. 5/16/76, Register 58; am 5/14/80, Register 74; am 1/4/86, Register 97)

Authority: AS 15.13.030(10)
AS 15.13.090

(b) The report continues to be delinquent and subject to a civil penalty until received.

(c) Commission staff will send notice to each candidate or group of his or its delinquency under AS 15.13.110(a) within five working days after the due date of the report.

(d) Upon receipt of a delinquent campaign disclosure report of contributions received by a candidate or a group, commission staff will

(1) calculate the initial civil penalty, for each day of delinquency, as follows:

- (A) \$10 a day for each 30 day report or 10 day report;
- (B) \$10 a day for each year-end report received after January 16;
- (C) \$50 a day for each 7 day report; and
- (D) \$50 a day up to a maximum of \$300 for each 24 Hour Report;

(2) send notice of the civil penalty assessed against the candidate or group within five working days after receipt of a delinquent report, or in the case of non-receipt of a report required by AS 15.13.110(b), within 15 working days after receiving the information, and include

- (A) a statement of the amount of the assessment; and
- (B) an affidavit appeal form.

(e) A candidate or group subject to a civil penalty assessment may

(1) submit, within 30 days after receipt of the assessment notice described in (d)(2) of this section, an affidavit stating reasons for the late filing to show why a civil penalty should not be assessed; an affidavit

(A) is a statement in writing made under oath and upon penalty of perjury; and

(B) must be sworn to before a notary public, municipal clerk, court clerk, postmaster, or any other person authorized to administer oaths or, if none of the preceding alternatives is available, may be signed by the official without benefit of the oath so long as the official states, in writing, that the affidavit is signed under penalty of perjury; or

(2) pay, within 30 days after receipt of the assessment notice described in (d)(2) of this section, the civil penalty assessed.

(f) If a candidate or group subject to a civil penalty assessment for the late filing of a campaign disclosure report refuses, or fails, within the time

required, to submit an affidavit or make payment, then commission staff will refer the matter to the attorney general for appropriate action. The commission will not hear an appeal if an affidavit is not filed within the time required.

(g) An affidavit timely filed with the commission will be considered at the next regular meeting of the commission. If a candidate or group's appeal is

(1) denied by the commission, commission staff will notify the candidate or group of its decision within 15 days, and require that the civil penalty originally assessed be paid within 30 days after the date of the letter containing notification of the commission's decision; or

(2) accepted by the commission, commission staff will notify the candidate or group of its decision within 15 days, informing him or it that the civil penalty assessment has been waived and that the matter is considered closed; or

(3) accepted, in part, by the commission, commission staff will notify the candidate or group of its decision within 15 days, and require that the reduced civil penalty assessment be paid within 30 days after the date of the letter containing notification of the commission's decision.

(h) A candidate or group may appeal the commission's decision to deny or partially accept reasons for lateness to the superior court within 30 days after his receipt of the notice under Rule 45 of the Appellate Rules of the Alaska Court System. If no appeal is made within 30 days and no payment is made, the matter will be referred to the attorney general for appropriate action.

(i) If, upon review of a report required by AS 15.13.110(a), (b), or (e), the commission's staff finds substantial or continuous noncompliance with AS 15.13 or any provision of this chapter, or with requests by staff for information required to be reported under this chapter, the matter must be brought to the commission for review. The commission will, in its discretion, reduce or waive any initial civil penalty, uphold any initial civil penalty, increase the amount of any initial civil penalty to an amount not exceeding the maximum amount established in AS 15.13.125, or instruct its staff to begin preliminary investigation into the matter. Where no initial civil penalty has been assessed, the commission will, in its discretion, assess a civil penalty up to the maximum amount established in AS 15.13.125 if the candidate or group in question does not comply. (Eff. 7/22/78, Register 67; am 5/14/80, Register 74; am 5/24/81, Register 78; am 10/18/81, Register 30; am 6/29/84, Register 90; am 1/4/86, Register 97)

Authority: AS 15.13.010
AS 15.13.030(10)

AS 15.13.125

2 AAC 50.395. REPORTING BY A BUSINESS ENTITY OR LABOR ORGANIZATION.
Repealed 1/4/86.

2 AAC 50.397. REPORTING BY PERSONS OUTSIDE THE STATE. Persons residing outside the State of Alaska are subject to the same reporting requirements, restrictions, and responsibilities under AS 15.13 as those placed upon persons residing within the state. (Eff. 4/28/79, Register 70)

Authority: AS 15.13.030(10)

2 AAC 50.400. DISBURSEMENT OF A SURPLUS BALANCE IN A CAMPAIGN ACCOUNT.

(a) The disbursement of a surplus balance of a candidate or group's campaign account must be reported to the commission within 10 days after final disposition of the balance.

(b) A candidate disbursing the surplus balance in his campaign account may

- (1) give the money to charity;
- (2) repay his contributors;
- (3) repay himself, if he made contributions to his own campaign;
- (4) take, as income, any money which exceeds the amount which he personally contributed to his campaign;
- (5) leave the money in a campaign account until the next time he campaigns for elective office; however, any interest realized from a surplus in a campaign account must remain in the account and be reported on the first report required of him when he is again a candidate for elective office;
- (6) contribute the money to another candidate or a group controlled by a candidate, not to exceed the \$1000 limitation, or to a political party or group supporting a ballot proposition or question; or
- (7) transfer the money to his office allowance fund.

(c) A group disbursing the surplus balance in its campaign account may

- (1) give the money to charity; or
- (2) repay its contributors; or
- (3) leave the money in a campaign account until the following election, if the group plans to remain active; however, any interest realized from a surplus in a campaign account must remain in the account and be reported on the first report required of the group when it is again active in an election; or
- (4) contribute the money to a candidate or a group controlled by a candidate, subject to the \$1,000 limitation and other prohibitions under AS 15.13 and 2 AAC 50, or to a political party or group supporting a ballot proposition or question.

(d) Any candidate or group wishing to disburse the surplus balance in a campaign account in a manner not described in (b) or (c) of this section may request commission review and approval of the manner in which he or it wishes to disburse the surplus. (Eff. 7/22/78, Register 67; am 10/18/81, Register 80)

Authority: AS 15.13.030(10)

2 AAC 50.401. POST-ELECTION FUNDRAISING BY CANDIDATES AND CONTROLLED GROUPS. (a) A candidate or a candidate's controlled group may make post-election expenditures for the purpose of raising money to discharge a debt from a prior campaign, in accordance with (c) of this section.

(b) Absent a debt arising from a prior campaign, a candidate may not spend money for the purpose of seeking public office unless the individual is in compliance with AS 15.13.100; the early campaigning provisions of 2 AAC 50.380, or an advisory opinion issued under (c) of this section and 2 AAC 50.905.

(c) A candidate who is in debt from a prior campaign and who has not complied with either AS 15.13.100 or 2 AAC 50.380 by December 31st of the year after the election, shall request an advisory opinion under 2 AAC 50.905 concerning the applicability of AS 15.13.100 to further expenditures to pay off the debt. Absent an advisory opinion request, the commission staff may commence a preliminary investigation to review the applicability of AS 15.13.100 to expenditures by the candidate.

(d) A debt arising from a prior campaign includes

(1) a candidate's personal contributions made before the date of the prior election;

(2) campaign debts to others that were reported on a 10 day post-election campaign disclosure statement;

(3) post-election expenditures made for the purpose of discharging a debt arising from a prior campaign; and

(4) the costs reasonably associated with winding up the affairs of the prior campaign, including social events held immediately after the election for the benefit of campaign workers or volunteers, communications of acknowledgement, and legal and accounting fees reasonably incurred to comply with AS 15.13 and 2 AAC 50.310 — 2 AAC 50.405. (Eff. 1/4/86, Register 97)

Authority: AS 15.13.030(10) AS 15.13.070 AS 15.13.110
AS 15.13.040 AS 15.13.100 AS 15.13.130

2 AAC 50.405. DEFINITIONS For 2 AAC 50.310 — 2 AAC 50.405 and AS 15.13.
In 2 AAC 50.310 — 2 AAC 50.405 and in AS 15.13

(1) "business entity" means a sole proprietorship, partnership, corporation or professional corporation, company, firm, business trust, or any other business entity or a combination of these;

(2) "draft group" means a group of two or more persons organized for the purpose of drafting one or more individuals to run for elective office by becoming a candidate as defined in AS 15.13.130(1);

(3) "labor organization" means a local, national, or international union, or labor council, or any other labor organization recognized under state or federal laws;

(4) "contribution" — Repealed 1/4/86. (Eff. 7/22/78, Register 67; am 5/29/84, Register 90; am 1/4/86, Register 97)

Authority: AS 15.13.030(10)
AS 15.13.130

2 AAC 50.450. COMPLAINTS. (a) A complaint filed with the commission must be in writing and must contain the following:

(1) the full name and mailing address of the person making the complaint;

(2) the name of the person or group alleged to be in violation;

(3) allegations of specific facts which, if true, would constitute

(A) a violation of AS 15.13 or of a provision of 2 AAC 50.310 - 2 AAC 50.405;

(B) a violation of AS 24.45 or of a provision of 2 AAC 50.505 - 2 AAC 50.545;

(C) a violation of AS 39.50 or of a provision of 2 AAC 50.010 - 2 AAC 50.200;

(4) the basis of the complainant's knowledge of the alleged facts, differentiating between statements made upon personal knowledge and those made upon other sources of information and belief;

(5) any documentation, relevant to the facts alleged, which is available to the complainant.

(b) The complaint shall be signed by the complainant and the signature shall be verified by a notary public, municipal clerk, court clerk, postmaster, or any person authorized to administer oaths. Notarial service will be provided by the commission without cost.

(c) Upon receipt of a complaint properly filed and sworn, the commission staff shall promptly

(1) acknowledge receipt to the complainant; and

(2) determine whether the complaint sets out facts which, if true, would constitute a violation of law.

(d) If the staff determines that a complaint does not set out facts which, if true, would constitute a violation of the law, it shall promptly inform the complainant, inform the respondent, and close the file. Following a determination under this subsection,

(1) the staff, upon request of the respondent, shall furnish a copy of all of the information in its file on the complaint to the respondent;

(2) the complainant may request that the commission review the staff's determination; the review will be conducted in closed session; following the review, the commission will, by majority vote

(A) uphold the staff's determination and close the matter;

or

(B) determine that the complaint is sufficient on its face, and it will be handled under (e) of this section.

(e) If the staff or the commission under (d)(2)(B) of this section determines that a complaint sets out facts which, if true, would constitute a violation of the law, the staff will

(1) notify the complainant;

(2) notify the respondent, providing a copy of the complaint, any accompanying documents, and a copy of the commission's investigative and hearing procedures;

(3) inform the commission that a complaint has been filed, providing a copy of the complaint and any accompanying documents; and

(4) begin a preliminary investigation.

(f) A person against whom a complaint is filed may file an answer. The answer must

(1) specifically admit or deny all material allegations of the complaint;

(2) state any defenses expected to be raised by the respondent;

(3) include any relevant documentation in the possession of the respondent; and

(4) be a signed and sworn statement. (Eff. 3/16/76, Register 58; am 12/29/77, Register 64; am 6/29/84, Register 90; am 1/4/86, Register 97)

Authority: AS 15.13.030(8) AS 15.13.045 AS 24.45.021(b)
AS 15.13.030(10) AS 15.13.120(d) AS 24.45.131
AS 39.50.050(b)

2 AAC 50.460. PRELIMINARY INVESTIGATION. (a) The commission staff shall undertake a preliminary investigation if

(1) a properly filed and sworn complaint has been found to be sufficient; or

(2) information has been obtained by the commission or staff in the normal course of business which, if true, would constitute a violation of the law.

(b) When the staff initiates an investigation based on (a)(2) of this section, it shall set out in writing the facts, information, and law involved, along with documentation, and process this material in accordance with 2 AAC 50.450(e).

(c) In conducting a preliminary investigation, the staff may use any of the methods set out in AS 15.13.045. It may also

(1) request written and sworn statements from any party, witness, or other person which are relevant to the investigation; and

(2) use the services of the Alaska State Troopers or private investigators to secure factual information pertinent to the investigation.

(d) Upon completion of a preliminary investigation, the staff shall provide a written summary of the investigation to the commission at the next regularly scheduled meeting, or at a special meeting. The summary must include a staff recommendation for dismissal, for continued investigation, that the matter be addressed in a hearing, or that civil penalties be assessed subject to appeal as provided in 2 AAC 50.110(e), 2 AAC 50.115(f), 2 AAC 50.390(e), or 2 AAC 50.507(e). Notice of the meeting and a copy of the summary must be provided to the respondent and complainant in advance of the meeting. The decision of the commission with respect to the findings of the preliminary investigation will be sent by certified mail to the complainant and respondent. (Eff. 3/16/76, Register 58; am 12/29/77, Register 64; am 6/29/84, Register 90; am 1/4/86, Register 97)

Authority: AS 15.13.030(8); AS 15.13.030(10); AS 15.13.045(a); AS 15.13.120(d)
AS 19.55.090; AS 24.45.021(b); AS 24.45.131; AS 39.50.050(b)

2 AAC 50.470. HEARINGS. (a) If the commission decides that a hearing will be held, notice of hearing will be sent to the respondent by personal service or by certified mail, return receipt requested. If the respondent cannot be found after diligent effort, service will be made by publishing notice of the hearing in a newspaper of general circulation once a week for four weeks, the final notice appearing at least 30 days before the hearing.

(b) Notice of a hearing must be provided to all parties at least 30 days before a hearing. The time and place of the hearing will be set with due regard and consideration for the convenience of the parties, and the commission will consider a party's request for a change in the time or place of a hearing. The commission will, in its discretion, for any good cause and upon proper notice, change the time and place of a hearing.

(c) Repealed 1/4/86.

(d) The commission staff is responsible for presenting the facts, verified by investigation, which it has determined appear to constitute a violation of the law. In the course of the hearing, the staff will be given no special consideration, but will be considered as a party to the hearing.

(e) The only parties to the hearing will be the staff, representing the complainant or itself, and the respondent.

(f) A party has the right to present evidence and be represented by an attorney. Entities may be represented by an official within the entity, an authorized agent, counsel, or a combination of these.

(g) The rules of evidence are the same as in AS 44.62.460. In addition

(1) documentary evidence may be presented in the form of copies if the original is not readily available; upon request, the parties will be given the opportunity to compare the copy to the original;

(2) in the discretion of the hearing officer, nonparties may present a sworn statement; if such a statement is presented, all parties will be given an opportunity to challenge, cross-examine, or rebut;

(3) depositions or affidavits may be presented if a witness is unable to testify at a hearing.

(h) Repealed 1/4/86.

(i) Depositions must be taken according to AS 44.62.440(a).

(j) Before the hearing, upon request during regular business hours, the respondent will have access to read or copy at cost any information contained in the case file held by the staff, with the exception of internal memos and documents privileged under the attorney-client privilege.

(k) At the discretion of the hearing officer, all or part of the hearing may be conducted by telephone, audio or video teleconferencing, or other electronic means, provided the parties have an opportunity to participate in the hearing while it is taking place.

(l) The hearing will be recorded by tape recording or stenographic notes at the commission's expense. The recording will be maintained with the public file of the proceedings. The commission will not prepare a transcript unless such a requirement is imposed by law. If the hearing is open, and at the commission's discretion, any person may pay for additional recordings or for a transcript from the commission's recording. If a transcript is prepared by the commission, the respondent may have access to it for the purpose of duplication.

(m) A hearing will be open to the public except when the respondent requests a closed hearing and the hearing officer finds that it should be closed under AS 44.62.310. If the hearing is open but is conducted by telephone, audio or video teleconferencing, or other electronic means, the public notice will designate at least one public access place.

(n) Repealed 1/4/86.

(o) Repealed 1/4/86.

(p) Repealed 1/4/86.

(q) If the commission decides to forward a case to the attorney general's office for prosecution, the staff shall prepare and send to the attorney general's office a record comprised of

(1) a copy of the commission's hearing decision, including its findings of fact and conclusions of law;

(2) a verbatim transcript of the proceedings before the commission; and

(3) copies of all documentary evidence, memoranda, exhibits, correspondence, and other tangible evidence contained in the public file of the proceeding.

(r) The commission will, in its discretion, reconsider its decision in accordance with AS 44.62.340. A request for reconsideration must be filed within 10 days after the vote under (o) of this section has been taken, and must state specific grounds upon which reconsideration is requested. A decision will be reconsidered only if

(1) there was a substantial procedural error in the original proceeding;

(2) the commission acted without jurisdiction in the original proceeding;

(3) the original vote was based on fraud, misrepresentation, material mistake of fact or law; or

(4) new evidence has come to light.

(s) Contempt before the commission will be handled under AS 44.62.590.

(t) A commission member is disqualified from participation in a hearing if the member has a substantial financial relationship with the complainant or with the alleged violator. A commission member is disqualified from participation in a hearing if the member feels, and states on the public record, that he or she is unable to consider the complaint in an unbiased manner and reach a fair and impartial decision.

(u) A commission member has a conflict of interest if the member, a person in the member's immediate family, the member's employer, business, or business associate has a financial relationship with the complainant or the alleged violator or with an immediate family member, business, or business associate of the complainant or alleged violator. The commission member shall state publicly the nature of the conflict and a majority of the remaining members present may authorize the member to participate. Other relationships with the principals of the hearing, which may cause an appearance of impropriety or conflict, must be publicly disclosed by a member, and the member's participation is subject to approval by the majority of the remaining members present. In conflict cases, approval to participate will depend upon whether

(1) the financial relationship or interest is relatively insignificant; and

(2) the interest held by the member or the member's family, business, or business associate is similar to that possessed by a large class of persons; or

(3) the nonfinancial relationship is such that a reasonable person would believe the member capable of fair and impartial judgment. (Eff. 6/29/84, Register 90; am 1/4/86, Register 97)

Authority: AS 15.13.030(8); AS 15.13.030(10); AS 15.13.045; AS 15.13.120(d)
AS 24.45.021(b); AS 24.45.131; AS 39.50.050(b)

2 AAC 50.905. ADVISORY OPINIONS. (a) A person or group may request an advisory opinion concerning AS 15.13, AS 39.50, AS 24.45, or this chapter.

(b) Each advisory opinion request must describe a specific transaction or activity that the requesting person or group is presently engaged in, or intends to undertake in the future. Advisory opinion requests must include a complete description of all relevant facts. Requests posing a hypothetical situation, or regarding the activities of third parties, will not be considered by the commission staff.

(c) The commission staff shall review all requests for advisory opinions submitted under this section. If the staff determines a request is incomplete or does not qualify for consideration under (a) and (b) of this section, it shall notify the requesting person or group and specify the deficiencies in the request.

(d) Advisory opinion requests and advisory opinions are public records.

(e) The commission staff shall issue a proposed advisory opinion approving or disapproving of the activity, and may make other recommendations to the commission.

(f) The commission will review the proposed advisory opinion and will, in its discretion, review written or oral comments by any person, or any other relevant evidence. The commission will approve, disapprove, or modify the proposed advisory opinion. The commission will approve an advisory opinion by the affirmative vote of at least four members, or else the advisory opinion will be considered disapproved.

(g) An advisory opinion rendered by the Commission may be relied upon to the extent that commission staff may not commence a preliminary investigation under 2 AAC 50.390(i), 2 AAC 50.460, or 2 AAC 50.507(i) of

(1) any person involved in the specific transaction or activity with respect to which an advisory opinion approving of the activity was rendered.

(2) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which an advisory opinion was rendered.

(h) The commission will, in its discretion, reconsider an advisory opinion at any time upon the motion of a commissioner who voted with the majority that originally approved the opinion, and if the commission adopts the motion to reconsider by the affirmative vote of at least four members. Adoption of a motion to reconsider vacates the advisory opinion to which it relates. Actions taken in good faith reliance by the requesting party before they receive written notice of reconsideration may not be the subject of a preliminary investigation under 2 AAC 50.390(i), 2 AAC 50.460, or 2 AAC 50.507(i). (Eff. 1/4/86, Register 97)

Authority: A.S. 15.13.030

2 AAC 50.910. AVAILABILITY OF REPORTS FILED WITH THE COMMISSION. Except as provided under 2 AAC 50.351(d), copies of any report required to be filed with the commission may be obtained at cost. (Eff. 5/16/76, Register 58; am 1/4/86, Register 97)

Authority: AS 15.13.030(10); AS 15.13.040(5); AS 15.13.110(c);
AS 39.50.020(b); AS 39.50.050(c)

PROPOSED AMENDMENTS TO SB 356

- (1) At page 8, lines 25-29, amend subparagraph (1) to read:

(1) the full name, complete address, principal occupation, and employer of each individual [AND THE FULL NAME AND COMPLETE ADDRESS OF EACH OTHER PERSON OR POLITICAL INTEREST GROUP]; the full name, complete address and principal business activity of each person other than an individual; and the full name, complete address and principal area of interest of each political interest group from which contributions in the aggregate amount of \$250 or more were received, and the date and amount of the contributions;

- (2) At page 17, line 23, after "another." Add:

"Under this subsection, a contribution made by a corporation is not considered a contribution in the name of a shareholder of the corporation."

- (3) At page 37, line 11, after, "15.14.330," add, "AS 24.45 or AS 39.50"

- (4) At page 47, line 6-7, add a new section 12 to read:

* Sec. 12. AS 44.62.330 (a)(39) is amended to read:

(39) Alaska Public Offices Commission, except as provided in AS 15.14.290 - 15.14.380

AMENDMENTS TO SB 356 ADOPTED TO DATE (2/12/86)

(1) Page 4, line 6, after "commission." Add "The prohibitions against political activity by a member of the commission under (h) of this section apply to the executive director and employees of the commission.

(2) Page 6, lines 18-23, delete subsection (b) and replace it with the following

(b) The registration under (a) of this section must designate the office and the year of the election for which the campaign will be conducted.

(3) Page 10, line 11, change the date that final post-election reports must be filed in years following gubernatorial elections from January 16 to a date after the third Monday in January when the legislature convenes. (The drafters propose to change annual report dates and final report dates in all years from January 16 to January 31 in the interests of simplicity.)

(4) Prohibit contributions to candidates or to political interest groups in the form of loans in any amount (except for contributions in the form of loans made by the candidate or the candidate's immediate family):

-- At page 16, lines 5-6, add a subsection (e) to read:

(e) A person may not make a contribution in any amount to a candidate or political interest group in

the form of a loan or loan guarantee. This subsection does not prohibit

(1) a contribution in the form of a loan by a candidate, the candidate's spouse, parents or children to the candidate's campaign; or

(2) extensions of credit in the normal course of business to a political interest group, a candidate or candidate's campaign for goods or services provided in connection with a campaign by persons in the business of providing the type of goods or services for which the credit is extended.

-- At page 16, lines 23-24, add a subsection (d) to read:

(d) A political interest group may not make a contribution in any amount in the form of a loan or loan guarantee to a candidate or to a political interest group.

-- At page 9, line 2, page 9, lines 3-4, page 11, line 14, and page 11, line 16, delete "\$250 or more in the aggregate" and insert, "any amount".

-- At page 9, lines 10-11, and at page 11, lines 23-24, add a new subparagraph (D) to read, "the purpose of the loan;" Renumber remaining subparagraphs.

(5) Page 15, line 16, after "swear or affirm" add "to the best of my knowledge".

(6) At page 15, line 28 and page 16, line 12, change "\$1,000" to "\$2,000".

(7) At page 17, line 7, after "candidate" add ", campaign treasurer, deputy campaign treasurer"

--The same change will be made at page 17, line 29; page 21, line 6; and page 21, line 9.

(8) Page 46, line 2, after "Commission" add "executive director and employees of the commission"

2/10/86

PROPOSED AMENDMENTS TO SB 356 RE PENALTIES

(1) At page 23, line 14, change title of Article 5 to read, "VIOLATIONS, PENALTIES, AND PROCEDURES."

(2) Pages 23, line 15 through page 29, line 19, delete sections 230 - 250, replace with the following, and renumber remaining sections accordingly:

Sec. 15.14.230. CAMPAIGN FINANCING VIOLATIONS IN THE FIRST DEGREE. (a) If a person, with intent to avoid disclosure, fails to file a report of contributions or independent expenditures required to be filed 30 days or seven days before an election under AS 15.14.060(b) or AS 15.14.080(b), or within 24 hours after receiving a contribution or making an expenditure under AS 15.14.060(c) or 15.14.080(c), the person is subject to a fine of not less than \$100 nor more than \$300 for each day that the report is due but not filed up to a maximum of \$25,000 for each report.

(b) A person who, with intent to avoid disclosure, files a report of contributions or independent expenditures containing a false or misleading statement as to a contributor, contribution, loan or independent expenditure required to be included in a report under AS 15.14.060(a) or AS 15.14.080(a), is subject to

(1) a fine of not less than \$500 nor more than \$5,000 for each false or misleading statement; and

(2) a fine not to exceed twice the amount of the contribution or independent expenditure concerning which the false or misleading statement was made.

(d) A person who knowingly makes or accepts a contribution in excess of the \$2,000 limitation under AS 15.14.120 or AS 15.14.130 or in excess of the \$25,000 limitation under AS 15.14.130(b) is subject to

(1) a fine of not less than \$1,000 nor more than \$5,000; and

(2) a fine not to exceed twice the amount that the contribution exceeds the limitation.

(e) A person who knowingly makes or accepts a contribution in the form of cash in the aggregate during a year of more than \$100 in violation of AS 15.14.120(a), 15.14.130(a) or 15.14.140, is subject to a fine of not less than \$100 nor more than \$1,000 if the cash contribution is \$500 or less. If the cash contribution is \$500 or more, the commission may impose an additional fine not to exceed twice the amount of the cash contribution.

(f) A person who, with intent to avoid disclosure, makes or accepts a contribution made anonymously, in a fictitious name or in the name of another in violation of AS 15.14.160(a) or (c) is

subject to a fine of not less than \$500 nor more than \$5,000. If the amount of the contribution is \$500 or more, the commission may impose an additional fine not to exceed an amount equal to twice the amount of the contribution.

(g) A person who knowingly accepts a contribution obtained in violation of AS 15.56.025 through a threat of physical force, job discrimination or financial reprisals subject to a fine of not less than \$1,000 nor more than \$10,000.

(h) A person who intentionally solicits or knowingly accepts a contribution obtained from a public employee in a manner prohibited under AS 15.14.210(b) or (c) is subject to a fine of not less than \$500 nor more than \$5,000.

Sec. 15.14.050. CAMPAIGN FINANCING VIOLATIONS IN THE SECOND DEGREE. (a) A person who fails to file a report of contributions or independent expenditures required to be filed 30 days before an election, seven days before an election under AS 15.14.060(b) or 15.14.080(b), or within 24 hours after receiving a contribution or making an expenditure under AS 15.14.060(c) or 15.14.080(c), is subject to a fine of not less than \$25 nor more than \$100 per day for each day the report is due but not filed, up to a maximum fine of \$5,000 for each violation.

(b) A person who fails to file a report, registration or statement required to be filed under this chapter, other than a report described in (a) of this section, is subject to a fine of not less than \$10 nor more than \$100 per day for each day that the report, registration or statement is due but not filed, up to a maximum fine of \$3,000 for each report, registration or statement.

(c) A person who files a report of contributions or independent expenditures containing a false or misleading statement as to a contributor, contribution, loan or independent expenditure required to be included in a report under AS 15.14.060(a) or AS 15.14.080(a), is subject to

(1) a fine of not less than \$50 nor more than \$500 for each false or misleading statement; and

(2) a fine not to exceed the amount of the contribution or independent expenditure concerning which the false or misleading statement was made, if the contribution or independent expenditure is \$500 or more.

(d) A person who makes or accepts a contribution in excess of the \$2,000 limitation under AS 15.14.120 or AS 15.14.130 or in excess of the \$25,000 limitation under AS 15.14.130(b) is subject to

(1) a fine of not less than \$50 nor more than \$500; and

(2) a fine not to exceed the amount that the contribution exceeds the limitation.

(e) A person who makes or accepts a contribution in the form of cash in the aggregate during a year of more than \$100 in violation of AS 15.14.120(a), 15.14.130(a) or 15.14.140, is subject to a fine not to exceed the amount of the contribution.

(f) A person who fails to close a campaign account on or before the date required under AS 15.14.190(a) is subject to a fine of not less than \$25 nor more than \$100 per day for each day that the account should have been but was not closed, up to a maximum of \$2,000 for each violation.

(g) A person who fails to dispose of surplus funds on or before the date required under AS 15.14.200(b).

(h) A person is subject to a fine of not less than \$100 nor more than \$2,000 if the person

(1) solicits or accepts a contribution or makes an expenditure, other than a disposition of surplus funds, after the date that campaign accounts are required to be closed under AS 15.14.190;

(2) uses campaign funds for a purpose not permitted under AS 15.14.180;

(3) uses surplus funds for a purpose not permitted under AS 15.14.200;

(4) acts as a campaign officer and the name of the campaign officers has not been filed with the commission as the holder of the campaign office; or

(5) fails to include in a communication intended to influence the election of a candidate or the outcome of a ballot proposition or question the information required to be included under AS 15.14.220(a) or (b).

(3) Page 29, line 23 through page 30, line 22, delete section 270, "REMOVAL FROM OFFICE."

(4) At page 22, lines 12 - 16, delete subsection (a) (soliciting contributions by physical threats, job discrimination, financial reprisal) and add the following section to AS 15.56 (Election Offenses, Corrupt Practices, and Penalties):

Sec. 15.56.025. UNLAWFUL SOLICITATION OF CONTRIBUTIONS. (a) A person commits the crime of unlawful solicitation of campaign contributions if the person intentionally solicits a campaign contribution through a threat or physical force, job discrimination, or financial reprisal.

(b) Unlawful solicitation of campaign contributions is a Class C felony.

Alaska State Legislature

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(907) 274-2843

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4714

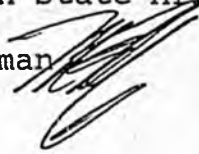


Senator Mitch Abood
CHAIRMAN

Senate Committee on State Affairs

MEMORANDUM

TO: Members of the Committee on State Affairs

FROM: Senator Mitch Abood, Chairman 

DATE: February 3, 1986

SUBJECT: APOC Regulations

This committee and its counsel, Mr. Gross & Ms. Burke, have been working on a comprehensive revision of the campaign financing laws since February of 1985. I might also add, that the APOC, Ms. Pittman and the Department of Law had been with us every step of the way.

In August 1985, we discovered that the APOC intended to make highly questionable deletions and changes to their regulations. Mr. Gross and I asked the APOC to postpone their new regs so that we would not be working at cross purposes with one another. The APOC refused our request.

On November 20, 1985, the Public Offices Commission held a meeting in Anchorage. I obtained a copy of the Commission's agenda, and the information packet put together by the Commission staff. Among the materials was a memorandum to Ms. Pittman from Mr. Monkman, from the Department of Law attached to a copy of the edited APOC regulations. "Edited" is probably the wrong word to use to describe these regs -- "ripped apart" is perhaps closer to truth.

The regulations were pitifully drafted; confusing and illogical. Most of the regulations had no statutory reason to exist. They were written by Mr. Johanson, an employee of the APOC, as a tool for selective enforcement involving two investigations which were ongoing at the time. One of these has since been terminated by a hearing officer.

Page 2

On November 25th, I wrote the APOC on behalf of the committee, notifying them of the committee's intent to exercise its authority by law as their standing committee. The law is clear -- it tells an agency to cease and desist in revising and repealing regulations until the standing committee has reviewed them to determine whether the regulations properly implemented legislative intent.

The APOC never responded to our letter. They simply ignored it.

On January 14th, I received a copy of the new APOC regulations from the Office of the Lt. Governor. They had become effective on January 4th.

It is ironic that a commission which preaches full public disclosure pushes through their regulations without legislative oversight. It is ironic that this commission which selectively subjects certain individuals to 'trial by press' rather than an examination of the facts, will not hesitate to give a litany of excuses for why they fail to obey their own laws.

The employees of the commission find the time to write and distribute press releases on such substantive issues as turning over the name of an individual to the Attorney General for prosecution for failure to pay a \$3.00 fine. However, they refuse to provide the Legislature with an annual report of their own activities as required by statute, and routinely neglect to notify complainants and respondents of commission hearings involving them, as required by their own regulations.

The Alaska Public Offices Commission was created to provide public disclosure and to assist candidates and private citizens in participating in the election process. They were not intended to become a political parole board.

In the campaign disclosure law, a candidate is held responsible for the actions of his or her campaign. The Public Offices Commission should be held equally responsible for the actions of its employees.

MEMORANDUM

State of Alaska

TO: Theda Pittman
Executive Director
Alaska Public Offices Commission
Department of Administration

DATE: January 30, 1986

FILE NO: 366-209-86

TELEPHONE NO: 465-3600

FROM: Harold M. Brown
Attorney General

SUBJECT: SB 356

By: Richard D. Monkman
Assistant Attorney General

You have requested that this office review SB 356, "An Act relating to election campaign financing." This bill is presently before the Senate State Affairs Committee. It is our understanding that a substitute for this bill may be prepared by the House State Affairs Committee, using SB 356 as a starting point.

There are several serious problems, and many minor areas of concern, with SB 356 in its present form. The bill is cleverly worded, with very complex interactions between different sections. As a result, many significant changes to present law are not readily apparent to the casual reader. We are still reviewing the bill and comparing it with present law. The following is, however, the most important of the issues we have identified from the Department of Law's perspective.

Enforcement and Penalties. SB 356 increases the penalties for violation of the disclosure laws. It also significantly decreases the probability that enforcement action will actually take place.

First, all violations which involve "knowing" or "intentional" violation of the disclosure laws are misdemeanors or felonies under SB 356. [AS 15.14.230; AS 15.14.240]. Once the Commission determines that "probable cause to believe a felony or misdemeanor had been committed" it must "promptly refer the matter ... to the attorney general." [AS 15.14.290(c)]. The Commission "may not take further action concerning the matter." [Id.].

As the Commission is well aware, the district attorney offices are swamped with criminal cases involving injury to persons and property. Disclosure cases are highly charged politically and involve relatively small amounts of money. Presently, disclosure cases are very low on any district attorney's list of priorities. There is no reason to believe

Theda Pittman, Executive Director
Alaska Public Offices Commission
File No.: 366-209-86

January 30, 1986
page 3

will require an additional full-time DA, a paralegal, and additional clerical help. 3/

More important from the public perspective will be the delay involved. A public figure charged with a crime will vigorously defend the case, using every means at hand to delay, postpone or defeat the charges. There will be charges of political motives behind every prosecution -- instead of defending against the staff of a bi-partisan, independent Commission, the candidates will be prosecuted by a District attorney responsible to the attorney general, who is appointed by the governor. Cries of connivance and persecution will obscure the issues; the intricacies of the criminal trial process will delay resolution of cases significantly.

In sum, SB 356 drastically limits the Commission's jurisdiction to investigate and administratively prosecute violations of the Campaign Disclosure Act. The administrative process of adjudicating complaints of campaign disclosure violations is swift and relatively inexpensive, and fully protects the rights of those involved to due process of law. In place of this process, SB 356 requires that all intentional violations of the disclosure laws be prosecuted by the Department of Law. This will result in fewer actions to enforce the law, greater delay in those cases filed, and an increasing politicization of the entire process. The end result is to significantly decrease the probability that violations of the disclosure law will be punished.

HMB:RDM:cck

cc: Art Peterson
Regulations Attorney
Department of Law/Juneau

3/ We will prepare a fiscal note concerning these costs. The best rough estimate we have now is about \$190,000. This does not include figures for investigative services of the State Troopers.

Theda Pittman, Executive Director
Alaska Public Offices Commission
File No.: 366-209-86

January 30, 1986
page 3

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cc: Art Peterson
Regulations Attorney
Department of Law/Juneau

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STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 3, 1986

SUBJECT: APOC regulations
(Work Order 14-1709)

TO: Senator Mitch Abood, Chair
Senate State Affairs Committee

FROM: Tamara Brandt Cook *TBC*
Director
Division of Legal Services

You have supplied me with material related to the adoption, repeal, and amendment of certain regulations of the Alaska Public Offices Commission effective January 4, 1986. It is my understanding that Senator Abood notified APOC on November 25, 1985 that the State Affairs Committee intended to review the proposed regulations. It is also my understanding that APOC did not respond to this letter or supply the committee with copies of the proposed regulations as they went through their various drafts. You have asked whether adoption of these regulations under these circumstances violates the law.

APOC is established in the Department of Administration under AS 15.13.020. Under Uniform Rule 20 of the Alaska State Legislature the State Affairs Committee has jurisdiction over the programs and activities of the Department of Administration. APOC is required to comply with the Administrative Procedure Act (AS 44.62) for purposes of adopting regulations. (AS 15.13.030(10)) Under AS 44.62.190(a)(7) at least 30 days before adoption, amendment, or repeal of a regulation, notice of the proposed action is to be

furnished to the standing committee of each house of the legislature having legislative jurisdiction over the subject matter treated by the regulation under the Uniform Rules of the Alaska State Legislature, together with a copy of the proposed regulation, amendment or order or repeal for the committee's use in conducting the review authorized by AS 24.05.182. . .

Senator Mitch Abood
Page 2
February 3, 1986

Under the facts as I understand them to be notice required under AS 44.62.190(a)(7) was not furnished to the Senate State Affairs Committee. Arguably, notice of the proposed action should have been provided to Senator Abood under AS 44.62.190(a)(2) and (a)(6) as well. It is my conclusion that APOC did not comply with the notice requirements of AS 44.62.190 when it adopted amended, and repealed certain regulations effective January 4, 1986.

It should be noted that failure to comply with AS 44.62.190(a) does not invalidate the regulatory actions taken by an agency. Subsection (c) specifically provides

The failure to mail notice to a person as provided in this section does not invalidate an action taken by an agency under AS 44.62.180 - 44.62.290.

TBC:mkr
M2:130

STATE OF ALASKA

ALASKA PUBLIC OFFICES COMMISSION

BILL SHEFFIELD, GOVERNOR

REPLY TO:

- 610 C STREET, SUITE 211
ANCHORAGE, ALASKA 99501-3588
(907) 276-4176
- JUNEAU BRANCH OFFICE
POUCH CO
JUNEAU, ALASKA 99811-0222
(907) 485-4864

February 3, 1986 - Hand-Carried

The Honorable Mitch Abood
Senate State Affairs

Dear Senator Abood:

On Friday afternoon, Tammy conveyed to me your request for an itemized list of sections in SB 356 with which the Commission is concerned. In my telephone poll of Commission members last week, the questions raised by Mr. Monahan were a major concern. The Commissioners felt it was impractical to adopt provisions for felony and misdemeanor prosecutions without in turn providing resources for their enforcement.

Since SB 356 was the first time a contribution limitation was included in the Committee's proposals, I specifically asked the Commissioners their feelings about "\$2,000" and naming of contributors of "\$250 or more." There is no longer the support for these changes which existed prior to the 1982 and 1984 elections. Even members who would not personally object, believe that the rising costs of campaigns and increased public concern make passage of an increased limit inadvisable.

The proposal to change the threshold for naming contributors from "more than \$100" to "\$250 or less" has some support among the Commission members as deserving of more discussion. Others think it should be discarded. My sense is that a Commission position on that issue would depend on the other provisions in a bill under consideration.

Additionally, Commission members individually indicated they were opposed to the provisions which undermine the disclosure of those soliciting and collecting money, which require only pre-election expenditure reporting, and which require 24 Hour Reports only at the \$500 level.

While I expect the Commission's detailed review of SB 356 will add to the foregoing, most items have been raised earlier, either with the Committee at its October meeting or with Mr. Gross and Ms. Burke.

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION

Theda Pittman

Theda Pittman
Executive Director

cc: APOC Members
Marsha Hubbard

MEMORANDUM

State of Alaska

TO: Bruce Botelho
Deputy Commissioner, Taxation
Department of Revenue

DATE: December 17, 1985

FILE NO: 366-221-86

TELEPHONE NO: 465-3600

FROM: Harold M. Brown
Attorney General

SUBJECT: Political tax credit
payments to minors

By: Richard D. Monkman
Assistant Attorney General

You have requested our opinion on whether the Department of Revenue may deny claims for individual political contribution credits made by parents "on behalf" of minors as young as six months old. The answer is yes.

The individual tax credit may be claimed only for contributions to campaigns for elective office in Alaska (state or federal), for contributions to groups seeking to influence the outcome of a ballot proposition in Alaska, and for contributions to groups organized primarily for the purpose of influencing elections in Alaska. AS 43.20.013. Any contribution in these three categories would necessarily fall under the Campaign Disclosure Act, AS 15.13.010.

The disclosure statutes prohibit contributions made anonymously or in the name of another person. AS 15.13.-120(a)(4). Violation is a misdemeanor, punishable by imprisonment for up to a year and a fine of up to \$5,000. *Id.* Additionally, a campaign or group which accepted contributions made on behalf of another person is subject to civil fines. AS 15.13.125. The Alaska Public Offices Commission has, by regulation, provided:

* If a minor makes a contribution of money or anything of value given to the minor by a parent for that purpose, the parent has made a contribution in the name of another.

2 AAC 50.357(d).

A contribution made by a parent "on behalf" of a minor is presumptively in violation of the Campaign Disclosure Act, and would be an illegal contribution. The Department of Revenue may

* Note - effective date of new regulations was 1-4-86

Bruce Botelho, Deputy Commissioner
Department of Revenue
366-221-86

December 17, 1985
Page 2

not grant claims for tax credits based on illegal contributions, and thus these claims should be denied. */

The Audit Division's practice of responding to questions about contribution by minors by stating that (1) the minor must use "their own money," and (2) the minor must make the decision to contribute, uses the appropriate analysis. In determining whether contributions are made with the minor's "own money," the department might look to indicia such as the name on the checking account, the name on the receipt for the contribution, or whether the contribution was made with PFD money claimed by the parent.

The question of whether the minor made the decision to contribute, rather than the parent, is likely to be more difficult. You have asked whether the department "[m]ay deny claims made by persons under the age of eighteen" as a blanket rule. While administratively this would be the easiest course of action, AS 43.23.013 states that "a resident individual is entitled to a tax credit" for contributions and does not provide an age limitation. Reading this statute in harmony with the Campaign Disclosure Act leads us to conclude that the department could certainly require claims made by unemancipated minors to be supported by affidavit or other documentation sufficient to prove that the decision to contribute was the minor's, and not the parent's. A blanket ban would probably go too far.

HMB:RDM:cck

cc: Ervin Jones, Director
Administrative Services
Department of Revenue

Theda S. Pittman, Executive Director
Alaska Public Offices Commission
Anchorage

*/ In this regard, we note that parents of unemancipated minors must sign the minor's Permanent Fund Dividend application, and "may claim" the dividend "on behalf" of the minor. AS 43.23.-005(c); AS 43.23(d). A contribution using the minor's PFD money and made at the discretion of the parent would violate the Campaign Disclosure Act.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS

DEPARTMENT Administration	DIVISION Public Offices Commis.	BILL NUMBER SB 356	SPONSOR State Affairs
DEPARTMENT POSITION Does Not Support			
PREPARED BY Theda Pittman, Exec. Dir. APOC	DATE 1/28/86	COMMISSIONER'S SIGNATURE	DATE

SUMMARY

OTHER AGENCIES AFFECTED BY BILL	CONSTITUENT GROUPS AFFECTED BY BILL
ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

This is the culmination of contractual work performed by Gross & Burke under a contract let by Senate State Affairs last spring. The stated purpose was a comprehensive revision of AS 15.13, the Campaign Disclosure Law. The contractor recommended repeal of any limit on contributions to a candidate from persons. That proposal was finally rejected officially by the Committee only recently.

ANALYSIS OF BILL/PROGRAM EFFECTS

See attached position paper.

Any proposal for such extensive changes represents substantial work for the Commission in familiarizing itself with the changes, interpreting the new requirements, amending regulations as necessary, and preparing information/instructional materials for those who must comply. The numerous problem areas in the bill would undermine the Commission's efforts at effective enforcement.

AMENDMENTS PROPOSED

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

POSITION PAPER
SB 356

This legislation is a complete revision of the Campaign Disclosure Law, replacing AS 15.13 with a new chapter, AS 15.14. Major features include:

- increase to \$2,000 the allowable contribution to a candidate;
- limit to \$1,000 the allowable contribution to a political group other than a political party;
- limit to \$25,000 per year the allowable contributions by a political group other than a political party;
- specify that expenditure reporting by candidates is not due until after the election;
- raise threshold for disclosing contributor names from "more than \$100" to "\$250 or more;"
- require identifying information only for contributors who are individuals;
- establish felony level violations;
- require termination of candidate campaigns; and
- specify allowable uses of a campaign surplus.

These changes would affect approximately 200 state candidates, 350 municipal candidates in 24 municipalities, over 250 political groups, and their major contributors. The quantity and quality of campaign disclosure information available to the public would also be affected.

The most positive aspects of the Legislation are those which: clarify the registration requirements of candidates and groups; limit the activity of Political Action Committees; and those which specify the use of campaign funds, the termination of accounts, and the disposal of surplus funds.

Unfortunately, there are numerous provisions of the Legislation which are flawed. Examples of problem areas include a higher burden of proof and of criminal intent than those used elsewhere in Alaska law, contradictory provisions concerning the solicitation and receipt of contributions, and restrictive time limitations on investigations. The Department does not support SB 356 because of the numerous provisions which would hamper effective enforcement.


Exec. Dir., Public Offices Commission

1/30/86
Date


Commissioner Eleanor Andrews
Department of Administration

1/30/86
Date

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : SB 356
 Title : An act relating to election
 campaign financing
 Sponsor : State Affairs
 Requestor : _____
 Date of Request : _____

FISCAL DETAIL

Agency Affected : Administration
 BRU : Alaska Public Offices Commis-
 sion
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	0	153.0	160.0	95.0	95.0	95.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	153.0	160.0	95.0	95.0	95.0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING : (Thousands of Dollars)

GENERAL FUND	0	153.0	160.0	95.0	95.0	95.0
FEDERAL FUNDS						
OTHER						
TOTAL	0	153.0	160.0	95.0	95.0	95.0

POSITIONS :	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

FY87-FY91: RSA with Dept. of Law for Attorney & Part-time Secretary,
 FY87 & FY88 Only: Contractural services for computer program adaptation and
 instruction materials/forms design and drafting.

Prepared by : Theda Pittman *Theda Pittman* Phone : 276-4176
 Division : Alaska Public Offices Commission Date : 1/30/86
 Approved by Commissioner : Eleanor Andrews *Eleanor Andrews* Date : _____
 Agency : Department of Administration

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

PROPOSED AMENDMENTS TO SB 356 RE PENALTIES

(1) At page 23, line 14, change title of Article 5 to read, "VIOLATIONS, PENALTIES, AND PROCEDURES."

(2) Pages 23, line 15 through page 29, line 19, delete sections 230 - 250, replace with the following, and renumber remaining sections accordingly:

Sec. 15.14.230. CAMPAIGN FINANCING VIOLATIONS IN THE FIRST DEGREE. (a) If a person, with intent to avoid disclosure, fails to file a report of contributions or independent expenditures required to be filed 30 days or seven days before an election under AS 15.14.060(b) or AS 15.14.080(b), or within 24 hours after receiving a contribution or making an expenditure under AS 15.14.060(c) or 15.14.080(c), the person is subject to a fine of not less than \$100 nor more than \$300 for each day that the report is due but not filed up to a maximum of \$25,000 for each report.

(b) A person who, with intent to avoid disclosure, files a report of contributions or independent expenditures containing a false or misleading statement as to a contributor, contribution, loan or independent expenditure required to be included in a report under AS 15.14.060(a) or AS 15.14.080(a), is subject to

(1) a fine of not less than \$500 nor more than \$5,000 for each false or misleading statement; and

(2) a fine not to exceed twice the amount of the contribution or independent expenditure concerning which the false or misleading statement was made.

(d) A person who knowingly makes or accepts a contribution in excess of the \$2,000 limitation under AS 15.14.120 or AS 15.14.130 or in excess of the \$25,000 limitation under AS 15.14.130(b) is subject to

(1) a fine of not less than \$1,000 nor more than \$5,000; and

(2) a fine not to exceed twice the amount that the contribution exceeds the limitation.

(e) A person who knowingly makes or accepts a contribution in the form of cash in the aggregate during a year of more than \$100 in violation of AS 15.14.120(a), 15.14.130(a) or 15.14.140, is subject to a fine of not less than \$100 nor more than \$1,000 if the cash contribution is \$500 or less. If the cash contribution is \$500 or more, the commission may impose an additional fine not to exceed twice the amount of the cash contribution.

(f) A person who, with intent to avoid disclosure, makes or accepts a contribution made anonymously, in a fictitious name or in the name of another in violation of AS 15.14.160(a) or (c) is

subject to a fine of not less than \$500 nor more than \$5,000. If the amount of the contribution is \$500 or more, the commission may impose an additional fine not to exceed an amount equal to twice the amount of the contribution.

(g) A person who knowingly accepts a contribution obtained in violation of AS 15.56.025 through a threat of physical force, job discrimination or financial reprisals subject to a fine of not less than \$1,000 nor more than \$10,000.

(h) A person who intentionally solicits or knowingly accepts a contribution obtained from a public employee in a manner prohibited under AS 15.14.210(b) or (c) is subject to a fine of not less than \$500 nor more than \$5,000.

Sec. 15.14.050. CAMPAIGN FINANCING VIOLATIONS IN THE SECOND DEGREE. (a) A person who fails to file a report of contributions or independent expenditures required to be filed 30 days before an election, seven days before an election under AS 15.14.060(b) or 15.14.080(b), or within 24 hours after receiving a contribution or making an expenditure under AS 15.14.060(c) or 15.14.080(c), is subject to a fine of not less than \$25 nor more than \$100 per day for each day the report is due but not filed, up to a maximum fine of \$5,000 for each violation.

(b) A person who fails to file a report, registration or statement required to be filed under this chapter, other than a report described in (a) of this section, is subject to a fine of not less than \$10 nor more than \$100 per day for each day that the report, registration or statement is due but not filed, up to a maximum fine of \$3,000 for each report, registration or statement.

(c) A person who files a report of contributions or independent expenditures containing a false or misleading statement as to a contributor, contribution, loan or independent expenditure required to be included in a report under AS 15.14.060(a) or AS 15.14.080(a), is subject to

(1) a fine of not less than \$50 nor more than \$500 for each false or misleading statement; and

(2) a fine not to exceed the amount of the contribution or independent expenditure concerning which the false or misleading statement was made, if the contribution or independent expenditure is \$500 or more.

(d) A person who makes or accepts a contribution in excess of the \$2,000 limitation under AS 15.14.120 or AS 15.14.130 or in excess of the \$25,000 limitation under AS 15.14.130(b) is subject to

(1) a fine of not less than \$50 nor more than \$500; and

(2) a fine not to exceed the amount that the contribution exceeds the limitation.

(e) A person who makes or accepts a contribution in the form of cash in the aggregate during a year of more than \$100 in violation of AS 15.14.120(a), 15.14.130(a) or 15.14.140, is subject to a fine not to exceed the amount of the contribution.

(f) A person who fails to close a campaign account on or before the date required under AS 15.14.190(a) is subject to a fine of not less than \$25 nor more than \$100 per day for each day that the account should have been but was not closed, up to a maximum of \$2,000 for each violation.

(g) A person who fails to dispose of surplus funds on or before the date required under AS 15.14.200(b).

(h) A person is subject to a fine of not less than \$100 nor more than \$2,000 if the person

(1) solicits or accepts a contribution or makes an expenditure, other than a disposition of surplus funds, after the date that campaign accounts are required to be closed under AS 15.14.190;

(2) uses campaign funds for a purpose not permitted under AS 15.14.180;

(3) uses surplus funds for a purpose not permitted under AS 15.14.200;

(4) acts as a campaign officer and the name of the campaign officers has not been filed with the commission as the holder of the campaign office; or

(5) fails to include in a communication intended to influence the election of a candidate or the outcome of a ballot proposition or question the information required to be included under AS 15.14.220(a) or (b).

(3) Page 29, line 23 through page 30, line 22, delete section 270, "REMOVAL FROM OFFICE."

(4) At page 22, lines 12 - 16, delete subsection (a) (soliciting contributions by physical threats, job discrimination, financial reprisal) and add the following section to AS 15.56 (Election Offenses, Corrupt Practices, and Penalties):

Sec. 15.56.025. UNLAWFUL SOLICITATION OF CONTRIBUTIONS. (a) A person commits the crime of unlawful solicitation of campaign contributions if the person intentionally solicits a campaign contribution through a threat or physical force, job discrimination, or financial reprisal.

(b) Unlawful solicitation of campaign contributions is a Class C felony.