

HB

305

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

January 22, 2008

SUBJECT: Changes in CSHB 305(STA) (Work Order No. 25-LS1226\K)

TO: Representative Bob Lynn
Chairman of the House Committee on State Affairs
Attn: Nancy Manly

FROM: Alpheus Bullard *A for AB*
Legislative Counsel

This memorandum accompanies the Committee Substitute you requested.

The requested Committee Substitute for HB 305 changed "candidate or individual" to "a legislator or legislative employee" at page 1, line 5 of 25-LS1226\E. The attached Committee Substitute includes this change. Please note, that such a change creates an overlap with the bill's sec 15.13.072(d)(2), page 2, lines 3 - 12 of CSHB 305(STA) (25-LS1226\K). The phrase "who is a legislator or legislative employee" at the beginning of sec. 15.13.070(d)(2) should be deleted since the introductory language of (d) is now limited to those people. But even if that were done, there would still be a conceptual overlap because "state office" includes the office of state legislator, which is covered in (d)(1). There also is an overlap with AS 15.13.074(j), added by bill sec. 2 and its companion provision, AS 24.60.031(c), added by bill sec. 4. The next committee may want to review these provisions.

If you have any questions, or if I can be of further assistance, please do not hesitate to contact me.

TLAB:med
08-033.med

Enclosure

AMENDMENT

OFFERED IN THE HOUSE

TO: HB 305

HOUSE STATE AFFAIRS
COMMITTEE
Amendment # 1

To Bill Number HB 305

Sponsor: Johnson

Date: 1-22-08 Logged By: IVM

1 Page 1, line 2, following "session":

2 Insert "; and providing for an effective date"

3

4 Page 2, line 4, following "contribution":

5 Insert "for the legislator or legislative employee's own campaign"

6

7 Page 2, line 7:

8 Delete "candidate or individual"

9 Insert "legislator or legislative employee"

10

11 Page 2, line 11, through page 3, line 7:

12 Delete all material and insert:

13 **** Sec. 2.** AS 15.13.074 is amended by adding a new subsection to read:

14 (j) While the legislature is convened in a regular or special legislative session,
15 a legislator may not solicit or accept a contribution to be used for the purpose of
16 influencing the outcome of an election under this chapter unless

17 (1) it is an election in which the legislator is a candidate;

18 (2) the solicitation or acceptance occurs during the 90 days
19 immediately preceding that election; and

20 (3) the solicitation or acceptance occurs in a place other than the
21 capital city or a location in which the legislature is convened in a regular or special
22 session if the location is other than the capital city.

23 * **Sec. 3.** AS 24.60.031(a) is amended to read:

1 (a) A [LEGISLATOR OR] legislative employee may not

2 (1) on a day when either house of the legislature is in regular or special
3 session, solicit or accept a contribution or a promise or pledge to make a contribution
4 for a campaign for municipal, state, or federal office [THE STATE
5 LEGISLATURE]; however, a [LEGISLATOR OR] legislative employee may, except
6 in the capital city or in the location in which the legislature is convened in regular
7 or special session if the location is other than the capital city, solicit or accept a
8 contribution, promise, or pledge for a campaign for municipal, state, or federal
9 office [THE STATE LEGISLATURE] that occurs during the 90 days immediately
10 preceding the [AN] election for that office; or

11 (2) accept money from an event held on a day when either house of the
12 legislature is in regular or special session if a substantial purpose of the event is to
13 raise money on behalf of the [MEMBER OR] legislative employee for [STATE
14 LEGISLATIVE] political purposes; however, this paragraph does not prohibit a
15 [LEGISLATOR OR] legislative employee from accepting money from an event held
16 in a place other than the capital city or a location in which the legislature is
17 convened in regular or special session if the location is other than the capital city
18 during the 90 days immediately preceding an election for public office in which the
19 legislative employee is a candidate [; OR

20 (3) IN A CAMPAIGN FOR THE STATE LEGISLATURE, EXPEND
21 MONEY THAT WAS RAISED ON A DAY WHEN EITHER HOUSE OF THE
22 LEGISLATURE WAS IN A LEGISLATIVE SESSION BY OR ON BEHALF OF A
23 LEGISLATOR UNDER A DECLARATION OF CANDIDACY OR A GENERAL
24 LETTER OF INTENT TO BECOME A CANDIDATE FOR PUBLIC OFFICE;
25 HOWEVER, THIS PARAGRAPH DOES NOT APPLY TO MONEY RAISED IN A
26 PLACE OTHER THAN THE CAPITAL CITY DURING THE 90 DAYS
27 IMMEDIATELY PRECEDING AN ELECTION].

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29 (c) A legislator may not

30 (1) on a day when either house of the legislature is in regular or special
31 session, solicit or accept a contribution or a promise or pledge to make a contribution

1 (A) for the legislator's own campaign for public office, unless
2 the solicitation, acceptance, promise, or pledge occurs in a place other than the
3 capital city or a location in which the legislature is convened in regular or
4 special session if the location is other than the capital city during the 90 days
5 immediately preceding the election in which the legislator is a candidate;

6 (B) for another candidate in an election for municipal, state, or
7 federal office; or

8 (C) to influence a state ballot proposition or question;

9 (2) accept money from an event held on a day when either house of the
10 legislature is in regular or special session if a substantial purpose of the event is to
11 raise money on behalf of the legislator's campaign for public office; however, this
12 paragraph does not prohibit a legislator from accepting money from an event held in a
13 place other than the capital city or a location in which the legislature is convened in
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15 days immediately preceding an election in which the legislator is a candidate; or

16 (3) in a campaign for municipal, state or federal office, expend money
17 that was raised on a day when either house of the legislature was in a legislative
18 session by or on behalf of a legislator under a declaration of candidacy or a general
19 letter of intent to become a candidate for public office; however, this paragraph does
20 not apply to money raised in a place other than the capital city or a location in which
21 the legislature is convened in regular or special session if the location is other than the
22 capital city during the 90 days immediately preceding an election in which the
23 legislator is a candidate.

24 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c)."

Alaska State Legislature

Chairman
State Affairs Committee

Vice-Chairman
Economic Development, Trade & Tourism
Committee

Member
Judiciary Committee
Joint Armed Services Committee

Finance Subcommittees
Corrections
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety



A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
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Juneau, AK 99801-1182

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Toll Free: (800) 870-4391

Interim:
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Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

FAX

To: Legal Services

Fax #: 2029

From: Nancy Manly x2794
Alaska State Capitol, room 104
Juneau, AK 99801-1182

of Pages (including cover): 4

Phone: 907-465-4931

Fax: 907-465-4316

Re: HB 305 - CAMPAIGN FUND RAISING DURING SESSIONS

1/22/08

HB 305 passed out of the House State Affairs committee this morning with two amendments.
Please draft a final CS

Amendment #1 (Johnson)
25-LS1226/E.2 (see attached)

Amendment #2 (Coghill)
Page 1 Line 5 *delete* A candidate or an individual *inset* a legislator or legislative employee

Amendment #3 (Coghill) withdrawn

AMENDMENT

OFFERED IN THE HOUSE

TO: HB 305

1 Page 1, line 2, following "session":

2 Insert "; and providing for an effective date"

3

4 Page 2, line 4, following "contribution":

5 Insert "for the legislator or legislative employee's own campaign"

6

7 Page 2, line 7:

8 Delete "candidate or individual"

9 Insert "legislator or legislative employee"

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11 Page 2, line 11, through page 3, line 7:

12 Delete all material and insert:

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4 for a campaign for municipal, state, or federal office [THE STATE
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7 or special session if the location is other than the capital city, solicit or accept a
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9 office [THE STATE LEGISLATURE] that occurs during the 90 days immediately
10 preceding the [AN] election for that office; or

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12 legislature is in regular or special session if a substantial purpose of the event is to
13 raise money on behalf of the [MEMBER OR] legislative employee for [STATE
14 LEGISLATIVE] political purposes; however, this paragraph does not prohibit a
15 [LEGISLATOR OR] legislative employee from accepting money from an event held
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19 legislative employee is a candidate [; OR

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3 capital city or a location in which the legislature is convened in regular or
4 special session if the location is other than the capital city during the 90 days
5 immediately preceding the election in which the legislator is a candidate;

6 (B) for another candidate in an election for municipal, state, or
7 federal office; or

8 (C) to influence a state ballot proposition or question;

9 (2) accept money from an event held on a day when either house of the
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22 capital city during the 90 days immediately preceding an election in which the
23 legislator is a candidate.

24 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c)."

HOUSE BILL NO. 305

IN THE LEGISLATURE OF THE STATE OF ALASKA
 TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES MEYER, Chenault, Fairclough, Olson, Neuman, Ramras

Introduced: 1/15/08
 Referred: State Affairs

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to campaign fund raising by a legislator, legislative employee, or
 2 candidate for election to the legislature during a regular or special legislative session."

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

4 * Section 1. AS 15.13.072(d) is amended to read:

5 (d) A candidate or an individual who has filed with the commission the
 6 document necessary to permit that individual to incur election-related expenses under
 7 AS 15.13.100

8 (1) for election [OR REELECTION] to the state legislature may not
 9 solicit or accept a contribution while the legislature is convened in a regular or special
 10 legislative session unless the solicitation or acceptance occurs

11 (A) [(1)] during the 90 days immediately preceding an election
 12 in which the candidate or individual is a candidate; and

13 (B) [(2)] in a place other than the capital city or a location in
 14 which the legislature is convened in a regular or special session if the

1 location is other than the capital city;

2 (2) who is a legislator or legislative employee and who is seeking
 3 election to state office or to municipal office may not solicit or accept a
 4 contribution while the legislature is convened in a regular or special legislative
 5 session unless the solicitation or acceptance occurs

6 (A) during the 90 days immediately preceding an election in
 7 which the candidate or individual is a candidate; and

8 (B) in a place other than the capital city or a location in
 9 which the legislature is convened in regular or special session if the
 10 location is other than the capital city.

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 16 LEGISLATURE]; however, a legislator or legislative employee may, except in the
 17 capital city or in the location in which the legislature is convened in regular or
 18 special session if the location is other than the capital city, solicit or accept a
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 20 office [THE STATE LEGISLATURE] that occurs during the 90 days immediately
 21 preceding the [AN] election for that office:

22 (2) accept money from an event held on a day when either house of the
 23 legislature is in regular or special session if a substantial purpose of the event is to
 24 raise money on behalf of the member or legislative employee for [STATE
 25 LEGISLATIVE] political purposes; however, this paragraph does not prohibit a
 26 legislator or legislative employee from accepting money from an event held in a place
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 28 regular or special session if the location is other than the capital city during the 90
 29 days immediately preceding an election for public office in which the legislator or
 30 legislative employee is a candidate; or

31 (3) in a campaign for municipal, state, or federal office [THE

1
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5
6
7

STATE LEGISLATURE], expend money that was raised on a day when either house of the legislature was in a legislative session by or on behalf of a legislator under a declaration of candidacy or a general letter of intent to become a candidate for public office; however, this paragraph does not apply to money raised in a place other than the capital city or a location in which the legislature is convened in regular or special session if the location is other than the capital city during the 90 days immediately preceding an election.

[Faint handwritten notes and a stamp are visible in the background of the page.]

Do not pass

*Johnson, moved
Lynn B. ...
...*

25-LS1226E.2
Bullard
1/21/08

AMENDMENT

OFFERED IN THE HOUSE
TO: HB 305

HOUSE STATE AFFAIRS
COMMITTEE
Amendment # 1
To Bill Number HB 305
Sponsor Johnson
Date: 1-22-08 Logged By: DM

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22 capital city during the 90 days immediately preceding an election in which the
23 legislator is a candidate.

24 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c)."



REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

Sponsor Statement for House Bill 305

"An Act relating to campaign fund raising by a legislator, legislative employee, or candidate for election to the legislature during a regular or special legislative session."

In 1998, the Legislature changed AS 24.60.031(b) to allow a legislator to raise campaign funds during a legislative session as long as the funds were not for a legislative campaign. This enabled sitting members to raise money for a gubernatorial, federal or municipal campaign. House Bill 305 reverses this change and prohibits any fundraising by a legislator during a legislative session.

If the goal of the Legislative Ethics Act (AS 24.60) is to set ethical guidelines for legislators, it seems inconsistent to allow fundraising during a session for some offices but not others. HB 305 will bring consistency to the Legislative Ethics Act's guidelines on fundraising and ensure that a legislative session remains a forum for policy debates rather than an opportunity to fundraise for future elected office.

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 305
 () Publish Date: _____

Identifier (file name): HB305-DOA-APOC-1-18-08 Dept. Affected: Administration
 Title: "An Act relating to campaign fund raising by a legislator..." RDU: AK Public Offices Commission
 Component: AK Public Offices Commission
 Sponsor: Representative Meyers
 Requester: House State Affairs Component Number: 70

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()								
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other Interagency Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

Full-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Part-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

Section 1 of this bill amends the campaign disclosure law to restrict any candidate for legislative office from soliciting or accepting campaign contributions during a legislative session in any location in which the legislature is convened. This section of law is not enforceable by the Public Offices Commission, under the ruling of the Alaska Supreme Court in *State v. Alaska Civil Liberties Union (ACLU)*, No. 5108, 199 WL 21944 (Alaska April 16, 1999). See Attorney General's Opinion 661-99-0513, June 22, 1999. This bill will not increase the operating costs for APOC.

Prepared by: Brooke Miles Phone 907-334-1726
 Division: Alaska Public Offices Commission Date/Time 1/18/2008 9:16 a.m.
 Approved by: Kevin Brooks, Deputy Commissioner Date 1/18/2008
Department of Administration



REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

MEMORANDUM

DATE: January 10, 2008
TO: Representative Kevin Meyer
FROM: Mike Pawlowski
RE: Sectional Analysis for HB 305
(Version No. 25 - LS1226E)

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Amends AS 15.13.072(d), State Election Campaigns, to prohibit fundraising in the capital city or a location where the legislature is convened unless it is within 90 days of an election for legislative or municipal office.

Section 2. Amends AS 24.60.031(a), Legislative Ethics Act, to prohibit a legislator or legislative employee from fundraising for statewide, municipal or federal office during a legislative session unless it is within 90 days of the applicable election.

Alaska State Legislature

**Select Committee on
Legislative Ethics**

716 W. 4th, Suite 230
Anchorage, AK
(907) 258-8172
FAX: 258-2106

Mailing Address:
P.O. Box 101468
Anchorage, AK
99510

January 24, 1994

ADVISORY OPINION 94-04

Subject: Campaigning During Session

RE: May a legislator who is a candidate for a statewide elective office engage in fund raising activities for that office during the legislative session?

You are a legislator, covered by the Legislative Code of Ethics. You have filed a general letter of intent and you have announced that you are running for Lieutenant Governor in the next election. You ask whether you may engage in fund raising activities concerning that campaign during the legislative session.

Discussion

To begin with, the committee notes that campaign contributions that you report as required by law are excluded from the provisions concerning gifts by AS 24.60.080(e).¹

Under AS 24.60.031, a legislator's fund raising activities are restricted during the legislative session. The section states:

Sec. 24.60.031. RESTRICTIONS ON FUND RAISING. (a) A legislator or legislative employee may not

(1) while the legislature is in regular or special session, solicit or accept a contribution or a promise or pledge to make a contribution for a state legislative campaign:

¹ AS 24.60.080(e) states:

(e) A political contribution that is reported under AS 15.13.040 is not a gift under this section.

(2) accept money from an event held during a legislative session if a substantial purpose of the event is either to raise money on behalf of the member or legislative employee for campaign purposes or to raise money for state legislative political purposes; or

(3) expend money in a state legislative campaign that was raised by or on behalf of a legislator during a legislative session under a general letter of intent to become a candidate for public office.

(b) In this section, "contribution" has the meaning given in AS 15.13.130.

Under paragraph (1) of subsection (a), legislators are prohibited from soliciting or accepting contributions during the legislative session for state legislative campaigns. Under paragraph (3), legislators may not spend money in a state legislative campaign that was raised during the session. The scope of paragraph (2) is not clearly limited to "state legislative campaigns." That paragraph prohibits legislators from accepting money raised at events held during the session if the event was to raise money on behalf of the legislator for campaign purposes or for state legislative political purposes. Unlike the other two paragraphs, this paragraph does not, on its face, limit the prohibition related to "campaign purposes" to "state legislative campaigns."

The committee believes that the language of the statute should be interpreted as it is written. Accordingly, a legislator running for statewide office may solicit and accept contributions for that office during the legislative session (as permitted by paragraph (1) of 24.60.031(a)) and a legislator who has filed a general letter of intent to become a candidate for public office may spend money raised during the session on a campaign for statewide office (as permitted by paragraph (3)). However, under paragraph (2), a legislator may not accept money from an event held during the legislative session if the purpose of the event was to raise money for the legislator's campaign for any elective office. The committee recognizes that this result appears inconsistent, but the committee believes that any change from this result should be made by amendment to the statute, not by interpretation of it.

Conclusion

For the reasons discussed above, the committee finds that the prohibition contained in AS 24.60.031(a)(2), concerning accepting money from an event held during the legislative session, applies to statewide campaigns, including your campaign for lieutenant governor. Therefore, you may not accept money raised during the session at fundraising events.

Adopted by the Select Committee on Legislative Ethics on January 24, 1994. Members present and concurring in this opinion were:

Joseph P. Donahue, Chair
Ed Granger, Vice-Chair
Senator Drue Pearce

Margie MacNeille
Representative Brian Porter
Shirley A. McCoy
Senator Jay Kerttula

Members absent were:

Edith Vorderstrasse
Representative Jerry Mackie

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94-038.glc

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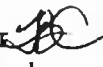
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 23, 1999

SUBJECT: Effect of the court's decision in State v. ACLU on AS 24.60.031

TO: Shirley McCoy, Chair
Select Committee on Legislative Ethics
Attn: Susie Barnett, Professional Assistant

FROM: Teresa B. Cramer 
Legislative Counsel

You have asked for an opinion from this office regarding the interplay of the state supreme court's recent decision in State v. ACLU, -- P.2d -- (Alaska) (Alaska Supreme Court Opinion No. April 16, 1999) and the ethics law regarding the prohibition on fund raising during session (AS 24.60.031(a)).

Short answer: The answer to your question is not clear. Having said that, it seems to me somewhat more likely than not that the ban on accepting contributions during session contained in the ethics code would survive a challenge under the reasoning in the ACLU case.

1. AS 24.60.031.

In 1992, the legislature substantially revised the legislative ethics code. The ban on accepting contributions during the legislative session was part of that legislation. As enacted, AS 24.60.031(a) read:

Sec. 24.60.031 RESTRICTIONS ON FUND RAISING. (a) A legislator or legislative employee may not

(1) while the legislature is in regular or special session, solicit or accept a contribution or a promise or pledge to make a contribution for a state legislative campaign;

(2) accept money from an event held during a legislative session if a substantial purpose of the event is either to raise money on behalf of the member or legislative employee for campaign purposes or to raise money for state legislative political purposes; or

(3) expend money in a state legislative campaign that was raised by or on behalf of a legislator during a legislative session under a general letter of intent to become a candidate for public office.

(b) In this section, "contribution" has the meaning given in AS 15.13.130.

AS 24.60.031 was amended in 1996 by the campaign reform legislation that formed the basis for the ACLU case, but only to conform the citation to the definition of "contribution" in subsection (b) to the new statute number in AS 15.13. (Sec. 27, chapter 48, SLA 1996.)

In the last legislative session, AS 24.60.031(a) was amended to allow fund raising during the 90 days before elections, except in Juneau. The statute now reads:

Sec. 24.60.031. Restrictions on fund raising. (a) A legislator or legislative employee may not

(1) on a day when either house of the legislature is in regular or special session, solicit or accept a contribution or a promise or pledge to make a contribution for a campaign for the state legislature; however, a legislator or legislative employee may, except in the capital city, solicit or accept a contribution, promise, or pledge for a campaign for the state legislature that occurs during the 90 days immediately preceding an election;

(2) accept money from an event held on a day when either house of the legislature is in regular or special session if a substantial purpose of the event is to raise money on behalf of the member or legislative employee for state legislative political purposes; however, this paragraph does not prohibit a legislator or legislative employee from accepting money from an event held in a place other than the capital city during the 90 days immediately preceding an election; or

(3) in a campaign for the state legislature, expend money that was raised on a day when either house of the legislature was in a legislative session by or on behalf of a legislator under a declaration of candidacy or a general letter of intent to become a candidate for public office; however, this paragraph does not apply to money raised in a place other than the capital city during the 90 days immediately preceding an election.

(b) In this section, "contribution" has the meaning given in AS 15.13.400.

The legislative ethics code applies to legislators and legislative employees. (AS 24.60.020) It does not apply to candidates for the legislature unless they are incumbent legislators running for reelection or for election to a different legislative office. (AS 24.60.020(a)(2)) Therefore, when the ban on accepting campaign contributions during session in AS 24.60.031 was first enacted in 1992, the prohibition did not apply to challengers who were not themselves legislators. This circumstance is important given the supreme court's reasoning in ACLU.

2. The ACLU decision on fund raising during sessions.

The 1996 amendment to election campaign laws enacted AS 15.13.074(c), which limits the time when persons and groups may make contributions to candidates. (Section 11, Ch. 48, SLA 1996.) Under AS 15.13.074(c)(2) as it read when the ACLU suit was filed, contributions to legislative candidates, both incumbents and challengers, may not be made during a regular legislative session. (In footnote 194 of the ACLU opinion, the court notes that AS 15.13.074(c)(2) and AS 15.13.072(d) were both amended in 1998 to permit candidates for the legislature to solicit and accept contributions during the 90 days immediately preceding the election in which they are competing, except in Juneau. The court does not discuss this loosening of the restrictions on campaign fund raising.)

The court acknowledges that the state may impose restraints on the exercise of First Amendment free speech rights in order to prevent corruption or the appearance of corruption. Id. at 82. The court also notes that the receipt of contributions by incumbents is relevant to the appearance of impropriety. Id. at 82. The court distinguishes this factual situation from the receipt of contributions by challengers, and finds that there is not a comparable justification for prohibiting challengers from accepting contributions during legislative sessions. Because of this finding, the prohibition against accepting contributions during sessions is not narrowly tailored to the State's compelling interest: it is invalid as to non-incumbents. Id. at 83. The court finds that invalidating the ban only as to challengers (and leaving the ban in place as to incumbent legislators) "would fundamentally unbalance a restriction which the legislature clearly intended to apply to incumbents and challengers alike, and would defeat the legislature's clear intention as to this prohibition." Id. at 83. The court therefore invalidates the ban on accepting contributions during sessions both as to challengers and as to legislators. Id. at 83.

3. Application of the ACLU holding to AS 24.60.031.

The reasons for the court's holding in the ACLU case do not apply to the Ethics Code prohibition against accepting contributions for legislative races during the session. As discussed in the first part of this opinion, AS 24.60.031, the Ethics Code prohibition against legislators' accepting contributions during sessions, was enacted without a comparable prohibition imposed on non-incumbent challengers. Therefore, there is no basis for saying that the legislature's intent with respect to AS 24.60.031 requires that the ban be applied equally to challengers and incumbents. The court in ACLU acknowledged that preventing corruption or the appearance of corruption is a compelling state interest and that prohibiting incumbent candidates from accepting contributions during a session is relevant to that interest. Therefore, the court is not likely to find that the ban against legislators accepting contributions during session fails as an infringement of legislators' First Amendment Rights. It appears to me that the court, under the reasoning expressed in ACLU, would uphold the provisions of AS 24.60.031 at least as the ban applies to legislators.

There is another basis on which the legislature's placing of a prohibition on its members might be upheld. Under art. 2, sec. 12, each house of the legislature is the judge of the

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qualifications of its members. AS 24.60.031 can be viewed as an exercise of that power and, if so, a court might decline to intervene in a matter that was within the unique jurisdiction of the legislative branch of government.

The ethics code prohibition against campaign fund raising during sessions applies to both legislators and legislative employees. The court in the ACLU case was not asked to examine the role of employees in the legislative process. The evidence cited by the court in support of the need for campaign fund-raising restrictions with respect to legislators describes the public response, expectations of lobbyists, and perceptions of elected officials with respect to legislators only. *Id.* at 6 - 7, 40 - 41, 53 - 56, and 74 - 76. The ACLU decision cannot, therefore, be directly applied to legislative employees.

The courts generally have permitted restraints on the right of public employees to participate actively in political campaigns because of the government's interest in enforcing the law and executing programs without bias or favoritism for or against political parties, in avoiding the appearance of political favoritism, and in using or appearing to use a government workforce as a political machine. United States Civil Service Commission v. National Association of Letter Carriers, 413 U.S. 548, at 565, 93 S.Ct. 2880, 37 L.Ed.2d 796 (1973). The case arose in the context of Executive Branch employees, but at least the last argument applies equally to Legislative Branch employees. In any case, it indicates that the court has recognized the importance of separating the political campaigning process from governmental functions. The interest of the government in prohibiting fund raising by employees as well as by legislators during session furthers this goal. It seems to me likely that the court would uphold the prohibition as it applies to employees.

TC:pl
99-054.plm

Memorandum

State of Alaska

Department of Law

TO: Karen Boorman Executive Director Alaska Public Offices Comm'n	DATE: June 22, 1999
FROM: Jan Hart DeYoung Assistant Attorney General	FILE NO: 661-99-0513 TEL. NO: 269-5135 SUBJECT: Questions following <i>State v. Alaska Civil Liberties Union</i>

You have asked a number of questions about the decision of the Alaska Supreme Court in *State v. Alaska Civil Liberties Union (ACLU)*, No. 5108, 1999 WL 219443 (Alaska April 16, 1999). In that decision the Court upheld most of the campaign finance law reforms adopted in 1996. However, the Court did invalidate as unconstitutional two provisions: the bans on nonelection year contributions in AS 15.13.074(c)(1) and on contributions to legislative candidates during the legislative session in AS 15.13.074(c)(2). You have several questions about how the Court's decision affects other sections of the law that the Court did not address.

Summary: our opinion is that the deadline for making contributions in AS 15.13.074(c) is 45 days after the date of the election; candidates for the legislature may raise funds during the legislative session unless barred by the legislative ethics law in AS 24.60.130, and candidates for statewide office may not solicit or accept contributions in Juneau during the legislative session under AS 15.13.072(g). Your questions and our analysis follow.

1. What effect does invalidating the ban on nonelection year contributions in AS 15.13.074(c)(1) have on AS 15.13.074(c)(4) and (5), which address post election contributions and contributions to statewide candidates in Juneau during the legislative session?

The answer depends on whether the provision is compatible with the delayed repeal and reenactment of AS 15.13.074(c).

When the legislature adopted the 1996 campaign finance reforms, it set time limits on fund raising. AS 15.13.074(c), as it was enacted in 1996, prohibited persons or groups from making contributions except during an allowed period, generally, from January 1 of the year of the election to 45 days following the election. The legislature also adopted a contingent provision that would take effect only if the Court found "the dates before which campaign contributions may not be accepted" unconstitutional. Sec. 12, ch. 48, SLA 1996 (contingent provision); sec. 33(b), ch. 48, SLA 1996 (setting out contingency that causes contingent provision in section 12 to become effective). This contingent provision ("section 12") would allow campaign contributions to be made earlier -- 18 months before the election.

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In *State v. ACLU*, the Court did find "the dates before which campaign contributions may not be accepted" unconstitutional. The Court held that prohibiting contributions in nonelection years significantly interfered with the constitutional right of association because the time period for contributions was relatively short without appearing to address the State's interests of preventing corruption or its appearance. 1999 WL 219443, at *28, slip op. at 78-79. The Court expressly invalidated AS 15.13.074(c)(1), (2), and (3) and noted that its action caused the contingency in section 12 to take effect. 1999 WL 219443, at *28 & n. 192, slip op. at 79 & n. 192.

However, in 1998 (after the ACLU filed its lawsuit but before the Court's decision), the legislature amended AS 15.13.074. Sec. 5, ch. 74, SLA 1998. First, it amended AS 15.13.074(o)(4) to expand the period for contributions from 45 days to 60 days following the election or to December 31, whichever came first. Second, it added AS 15.13.074(c)(5) to prohibit contributions to statewide candidates in Juneau during the legislative session. Sec. 5, ch. 74, SLA 1998. When adopting the amendments, the legislature apparently overlooked the contingent provision; the legislature did not amend section 12 of the 1996 reforms to conform to the changes it made to AS 15.13.074.

Section 12 purports to repeal all of AS 15.13.074(c).¹ Because section 12 was not amended to increase the time for postelection contributions or to ban contributing in Juneau

¹ The complete text of section 12 follows:

*Sec. 12. AS 15.13.074(c) is repealed and reenacted to read:

(c) A person or group may not make a contribution

- (1) to a candidate or an individual who files with the commission the document necessary to permit that individual to incur certain election-related expenses as authorized by AS 15.13.100 when the office is to be filled at a general election before the date that is 18 months before the general election;
- (2) to a candidate or an individual who files with the commission the document necessary to permit that individual to incur certain election-related expenses as authorized by AS 15.13.100 for an office that is to be filled at a special election or municipal election before the date that is 18 months before the date of the regular municipal election or that is before the date of the proclamation of the special election at which the candidate or individual seeks election to public office; or
- (3) to any candidate later than the 45th day
 - (A) after the date of a primary election if the candidate
 - (i) has been nominated at the primary election or in running as a write-in candidate; and
 - (ii) is not opposed at the general election;

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during the legislative session, applying section 12 literally would repeal the 1998 amendments and reinstate parts of the earlier version of AS 15.13.074(c). The result would be to return the postelection deadline to 45 days and to extinguish the restrictions on contributing in Juneau.

However, a rule of statutory construction allows intervening amendments to survive repeal when a delayed enactment takes effect. The rule appears in the principal treatise on statutory construction, Norman J. Singer, *Sutherland Statutory Construction* § 23.29 (5th ed. 1993):

The reenactment of a statute is a continuation of the law as it existed prior to the reenactment as far as the original provisions are repeated without change in the reenactment. Consequently, an intermediate statute which has been superimposed upon the original enactment as a modification of its provisions is likewise not repealed by the reenactment of the original statute, but is construed to be in force to modify the reenacted statute as it modified the original enactment. However, this immunity from repeal is extended only to those provisions of intermediate acts which are consistent with the reenactment; any provisions in the intermediate act which are inconsistent with the reenactment are repealed.

This rule is applied in Alaska. It was applied in Alaska before statehood, *U.S. Smelting Refining & Mining Co., v. Lowe*, 11 Alaska 429, 74 F. Supp. 917, 921, 922 (D. Alaska Terr. 1947),² and the Legislative Affairs Agency has incorporated the rule into the state's legislative drafting manual:

If a statutory amendment is to be delayed, the following question may arise: Do intervening amendments to the same AS section survive once the delayed amendment takes effect. The general rule is that intervening amendments will survive unless incompatible with the delayed

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- (B) after the date of a primary election if the candidate was not nominated at the primary election; or
 - (C) after the date of the general election, or after the date of a municipal or municipal runoff election.

² *U.S. Smelting Refining & Mining Co., v. Lowe*, 11 Alaska 429, 74 F. Supp. 917, 921, 922 (D. Alaska Terr. 1947), *aff'd Lowe v. United States Smelting Refining & Mining*, 175 F.2d 486, 489 (9th Cir. 1949) ("Enough to say that repeals by implication are regarded with disfavor; but where the latest legislative word on a subject is so incompatible with a previous enactment that the two can not exist together the courts have not hesitated to hold the earlier enactment repealed insofar as it is in conflict with the later"), *and vacated on other grounds*, 338 U.S. 954, 70 S.Ct. 493 (1950).

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amendment. See *U.S. Smelting, Refining & Mining Co. v. Lowe*, 12 Alaska 423 (9th Cir. 1949) and the discussion in the same case at 11 Alaska 429 (D. Alaska 1947). If intervening amendments are to be allowed, it is best to draft the delayed amendment as an amendment rather than a repeal and reenactment. If intervening amendments are to be wiped out once the delayed amendment takes effect, it is best to draft the delayed amendment as a repeal and reenactment and include an intent section stating that intervening amendments are not to be carried forward once the repeal and reenactment takes effect. [Legislative Affairs Agency, Manual of Legislative Drafting 21 (1999).]

The preferred practice is for the legislature to state when it enacts legislation with a delayed effective date whether it intends intervening amendments to survive the reenactment. According to the manual, delayed legislation that does not extinguish intervening amendments should be in the form of an amendment. On the other hand, delayed legislation that repeals intervening amendments should be in the form of a repeal and reenactment with a statement of intent that intervening amendments are not carried forward. In adopting section 12 in 1996, the legislature did not follow this practice. It used the form of the delayed repeal and reenactment but did not state any intention about the survival of intervening amendments. Because the legislature did not declare its intention, we apply the rule of construction, which carries intervening amendments forward unless they are incompatible with the delayed enactment, and because the intervening amendments are incompatible, conclude that the amendments do not carry forward.

a. Because postelection fund raising deadlines of 60 days and 45 days following the election are in direct conflict, the longer deadline in the intervening amendment is not carried forward and does not survive reenactment.

The 1996 campaign finance law reforms established a deadline for post election fund raising of 45 days following an election. AS 15.13.074(c)(4), sec. 11, ch. 48, SLA 1996. This 45-day deadline also appears in the contingent provision, section 12. AS 15.13.074(c)(3), sec. 12, ch. 48, SLA 1996. In 1998 the legislature amended AS 15.13.074(c)(4), expanding the deadline to 60 days following the election or December 31, whichever came first. Sec. 5, ch. 74, SLA 1998. The deadlines in the intervening amendment and the reenacted AS 15.13.074(c) are in direct conflict and cannot be reconciled. Because the intervening amendment is inconsistent with the reenactment of AS 15.13.074(c), under the rule of construction, the 1998 amendment to AS 15.13.074(c)(4) may not carry forward and is repealed. Thus, the postelection deadline for contributing returns to 45 days following the election.³

³ During the 1999 legislative session following the issuance of *ACLU v. State*, the legislature considered a bill that would have expanded the post election deadline for making contributions to the earlier of 60 days following the election or December 31 of the year of the

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b. Because prohibiting contributions to candidates for statewide office in Juneau during the legislative session is incompatible with section 12, it does not survive reenactment.

In 1998 the legislature added a new provision, AS 15.13.074(c)(5), which prohibits contributions in Juneau to statewide candidates during a legislative session, thereby expanding the circumstances in AS 15.13.074(c) in which "a person or group may not make a contribution." Sec. 5, ch. 74, SLA 1998. Whether banning some contributing in Juneau is compatible with the delayed enactment of section 12 provides a more difficult question than the expanded postelection deadline in AS 15.13.074(c)(4), discussed in the previous section.

Other legislative session contribution limits preceded the Juneau ban in AS 15.13.074(c)(5). AS 15.13.074(c)(2) banned contributions during the session to all candidates for legislative office.⁴ In addition, during the legislative session, legislators and legislative staff may not raise campaign funds regardless of the political office they are seeking under AS 24.60.031. This prohibition in the legislative ethics law handicaps those legislators seeking elective office against an opponent not subject to the prohibition. By adopting the Juneau ban in AS 15.13.074(c)(5), the legislature narrowed the opportunities for candidates not otherwise restricted by the legislative ethics law to raise campaign funds during the legislative session. It thereby helped level the playing field for legislators and legislative staff running for statewide office.

Applying the rule of construction, we must examine the compatibility of the Juneau ban in AS 15.13.074(c)(5) with section 12. Section 12 was intended to expand the time period for preelection contributions if the Alaska Supreme Court found the time period in AS 15.13.074(c)(1) too restrictive. The legislature stated, "if a court order is entered and becomes final declaring that the dates set out in AS 15.13.074(c), as enacted by sec. 11 of this Act, as the dates before which campaign contributions may not be accepted, are unconstitutional," then section 12 takes effect. Sec. 33(b), ch. 48, SLA 1996. The legislature obviously intended section 12 to fill the void created if a court invalidated the short preelection contributions period and to cure any constitutional deficiency by expanding the time for contributing. On the other hand, the Juneau ban narrows, rather than expands, opportunities for fund raising. Retaining the Juneau ban in AS 15.13.074(c)(5) also seems inconsistent with the repeal of AS 15.13.074(c)(2). The legislative session ban in AS 15.13.074(c)(2) banned contributions to all candidates for the

election. House Bill 225, §1, 21st Legislature, First Session (1999). The bill was not enacted during the first session. 1999 House Journal 1635, 1672 (5/18-19/99) (unfinished business).

⁴ In addition, all candidates for legislative office at the time the Juneau ban in AS 15.13.074(c)(5) was adopted were prohibited from soliciting or accepting contributions during the legislative session under AS 15.13.072(d).

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legislature during the legislative session. The Court found the legislative session ban unconstitutional in *State v. ACLU*, 1999 WL 219443, at *28-29, slip op. at 81-83, due to its impact on the right of association through making contributions to nonincumbent candidates. The legislative session ban was then repealed through the repeal and reenactment of AS 15.13.074(c) in section 12 when the Court found the date contributions could begin unconstitutional. Sec. 33(b), ch. 48, SLA 1996. Because the legislature intended the repeal of the legislative session ban in AS 15.13.074(c)(2) when AS 15.13.074(c) was repealed and reenacted, it probably would not intend to carry forward even a partial legislative session ban. Thus, we conclude that carrying forward the Juneau legislative session ban is inconsistent with section 12. Moreover, we have reservations about the constitutionality of AS 15.13.074(c)(5) after *State v. ACLU*.⁵ Because carrying forward AS 15.13.074(c)(5) is inconsistent and incompatible with the goals of expanding opportunities for fund raising and responding to a Court's decision that the time period was unconstitutionally restrictive, it does not meet the test of the rule of construction. We therefore conclude that the ban on contributions to candidates for statewide office in the capital city during the legislative session should not carry forward.

2. **What effect does invalidating the ban on contributing during the legislative session in AS 15.13.074(c)(2) have on AS 15.13.072(d), which prohibits candidates from soliciting or accepting contributions while the legislature is in session?**

The effect is to invalidate AS 15.13.072(d). Making a contribution is not a meaningful expression of association if the candidate may not accept the contribution.

Alaska's campaign finance laws set contribution limits in two ways: they impose limits on the makers of contributions in AS 15.13.074 and they limit the candidates' ability to solicit and accept contributions in AS 15.13.072. In *State v. ACLU*, the Court found certain

⁵ The constitutionality of the Juneau ban in AS 15.13.074(c)(5) after *State v. ACLU* provides a close question. The Court did not address AS 15.13.074(c)(5) in the decision. But a rule prohibiting contributing in Juneau during the legislative session (AS 15.13.074(c)(5)), resembles a rule prohibiting contributions to legislative candidates during the session (AS 15.13.074(c)(2)), which the Court found unconstitutional. Like the legislative session ban in AS 15.13.074(c)(2), the Juneau ban in AS 15.13.074(c)(5) limits the opportunities for expressing support for candidates and thereby encroaches on the right of association of contributors. The key is whether the Juneau ban succeeds in combating corruption and its appearance where the legislative session ban in AS 15.13.074(c)(2) did not. Because the prohibition in AS 15.13.074(c)(5) is much narrower — it only applies to candidates for statewide office and in the capital city — it can be distinguished from the legislative session ban found unconstitutional. Thus, while *State v. ACLU* raises a question about the constitutionality of AS 15.13.074(c)(5), it does not compel the answer. See Court's discussion of the legislative session ban, 1999 WL 219443, at *28-29, slip op. at 81-83.

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limits unconstitutional but in doing so addressed only the limits in AS 15.13.074 on persons or groups making the contribution. It did not address the closely related limits on the candidates in AS 15.13.072. This omission is not surprising because the Court's focus was the constitutional rights of the contributors. Nevertheless, the omission is confusing and raises the question whether requiring a candidate to refuse a contribution infringes on the contributors' constitutional right to associate with the candidate by making a contribution. The Court found that prohibiting contributions to candidates during the legislative session interfered with a contributor's right of association with nonincumbent candidates without promoting the government's interest in preventing corruption or its appearance. The contribution and act of association, however, would be pointless if the candidate could not accept the contribution. Based on the Court's decision in *State v. ACLU*, we believe the Court would conclude that prohibiting the solicitation and acceptance of contributions interferes with the constitutional right of association without promoting a governmental interest. Although the Court did not expressly invalidate the prohibition in AS 15.13.072(d), we believe it would find the prohibition on legislative candidates' soliciting or accepting contributions during the legislative session to be unconstitutional and unenforceable.

Please note that this opinion and the Court's decision in *State v. ACLU* should not affect the validity of the ban on fund raising during the legislative session in the legislative ethics law, AS 24.60.130. That section applies only to legislators and legislative staff. It was not at issue in *State v. ACLU* and remains effective. See opinion of the legislative counsel, Mem. from T. Cramer, Legislative Counsel, to Select Comm. Legislative Ethics (4/23/99).

3. Does *State v. ACLU* invalidate AS 15.13.072(g), which prohibits candidates for statewide office from soliciting or accepting contributions in the capital city while the legislature is in session?
No. AS 15.13.072(g) remains valid.

Earlier in this memorandum we determined that *State v. ACLU* and the consequent repeal of AS 15.13.074(c) by section 12 repealed the prohibition in AS 15.13.074(c)(5) against contributions to candidates for statewide office in Juneau during the legislative session. Your question is whether the parallel prohibition in AS 15.13.072(g) against candidates soliciting or accepting such contributions is now also invalid.

Our earlier determination that AS 15.13.074(c)(5) had been repealed followed the application of the rule of construction for delayed enactments. The 1996 legislation, however, did not contain a section comparable to section 12 that would repeal parts of AS 15.13.072, which limits candidates' solicitation or acceptance of contributions. The rule of construction for intervening amendments therefore does not apply. Moreover, we cannot say that prohibiting contributions in Juneau during the legislative session is unconstitutional. Although we have reservations about the constitutionality of legislative session limits on contributions to nonlegislative candidates following *State v. ACLU*, we believe the limits in AS 15.13.072(g) are distinguishable from the limits that the Court found unconstitutional. See discussion in note 5.

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While we have doubts about the constitutionality of AS 15.13.072(g), we cannot conclude that it is unconstitutional. Despite these doubts, because the rule of construction does not apply to make AS 15.13.072(g) ineffective, the limits in AS 15.13.072(g) on soliciting or accepting such contributions in the capital city remain valid.

I hope this discussion is helpful. If the foregoing discussion failed to answer your questions, please do not hesitate to contact me for clarification.

JHD:jv

State v. Alaska Civil Liberties Union, 978 P.2d 597, 631 (Alaska 1999):

The court case did overrule the prohibition against making contributions during the legislative session. Here is the text from the opinion if you are interested:

b. Ban on contributions during the legislative session; AS 15.13.074(c)

[24] Alaska Statute 15.13.074(c)(2) prohibits making contributions to legislative candidates, including both challengers and incumbents, during a regular legislative session. (FN194)

AkCLU argues that this ban severely constrains effective campaign advocacy by legislative candidates. "Given the length of the Alaska legislative session, fundraising [under the ban] is limited to a two-month period before a primary election and [to] two and one-half [additional] months before a general election." (FN195) Moreover, AkCLU claims the associational rights of potential contributors are severely restricted during the legislative session.

The State argues that this ban "addresses the perception that contributions are made to influence the conduct of elected officials during the session." It also contends that "the prohibition frees sitting legislators from the fund-raising treadmill and allows them to focus on the public's business during the legislative session." The State claims that this interest is compelling enough to support the ban. The Josephson Report survey, in which about sixty percent of legislators stated they believed fundraising during the legislative session needed to be regulated, supports this contention to a limited extent.

Considered in isolation, the "legislator-freing" rationale is not sufficiently compelling to justify this restriction. In *Rosenstiel v. Rodriguez*, the Eighth Circuit held that freeing legislators to deal with issues was only relevant as a by-product of corruption-fighting measures. (FN196) In other cases cited by the State, the interest was found sufficient

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only to promote a speech-enhancing measure. (FN197)

Preventing corruption or its appearance is a compelling interest justifying narrowly-tailored restraints on First Amendment rights. But the very circumstance most relevant to the appearance of corruption—receipt of contributions by incumbent candidates during the session—does not imply that in-session contributions to challengers also give the appearance of corruption. The ban is therefore not narrowly tailored to the State's compelling interest, and is invalid as to non-incumbents. But invalidating the ban only as to challengers would fundamentally unbalance a restriction which

the legislature clearly intended to apply to incumbents and challengers alike, and would defeat the legislature's clear intention as to this prohibition. We therefore decline to invalidate only part of this ban while upholding it with respect to incumbent candidates.

Accordingly, we affirm the decision holding these provisions invalid.

REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

MEMORANDUM

DATE: January 16, 2008

TO: Representative Bob Lynn, Chairman
House State Affairs Committee

FROM: Representative Kevin Meyer *K.*

RE: Hearing Request for House Bill 305 *Campaign Fundraising During Sessions*

Please schedule HB 305 *Campaign Fundraising During Sessions* for a hearing in the House State Affairs Committee at your earliest convenience.

HB 305 amends the legislative ethics act to prohibit fundraising during a legislative session for any political office.

Included in this packet:

- HB 305 25-LS1126/E
- Sponsor Statement
- Sectional Analysis
- Backup Information
 - Select Committee on Legislative Ethics Advisory Opinion 94-04
 - Legislative Legal Services Memorandum, April 23, 1999
 - Alaska Department of Law Memorandum, June 22, 1999

Thank you for your consideration of this request. If you have any questions, please feel free to contact me or my staff, Mike Pawlowski at x4945.