

LEG. FINANCE - BILLS 1985 - ~~1986~~ 2243

SB 356 cont.

2243

1 commission that the respondent has committed the acts charged in the
2 accusation.

3 (c) Before the executive director of the commission may make a
4 recommendation to the commission for the imposition of a particular
5 penalty in a matter, the respondent must first be given notice of the
6 recommendation and afforded an opportunity to respond to the recom-
7 mendation in person or in writing.

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

9 (1) the seriousness of the violation in terms of the extent
10 to which the violation has impeded public disclosure of information
11 required to be filed with the commission as to the amount and source
12 of contributions that are large enough to be of significant interest
13 to voters; and

14 (2) the extent to which the respondent's conduct, including
15 prior violations of this chapter, AS 24.50, AS 39.50, or of former
16 AS 15.13 shows a continuing disregard for the law.

17 Sec. 15.14.320. SUMMARY DISPOSITION OF VIOLATIONS. (a) Not-
18 withstanding the provisions of AS 15.14.280 - 15.14.310, the commis-
19 sion may establish by regulation the violations under AS 15.14.230
20 that are amenable to summary disposition without formal accusation or
21 hearing, and may establish a schedule of fines, not to exceed \$500, for
22 each violation.

23 (b) If an investigation by the commission discloses that a
24 person has committed a violation included in the schedule of fines
25 established under (a) of this section, the commission may, in lieu of
26 serving an accusation on the person, mail a notice of fine to the
27 person indicating the circumstances of the violation and the amount of
28 the fine established in the schedule for the violation. The person to
29 whom the notice is directed may pay the fine within 15 days after

1 receiving the notice or may file a notice of defense under AS 15.14.-
2 290.

3 (c) If the person does not pay the fine under (b) of this sec
4 tion, the notice of fine constitutes an accusation under AS 15.14.280
5 and the commission shall proceed against the person under AS 15.14.-
6 280 - 15.14.310 and, upon determining that the person committed the
7 violation, may impose a penalty for the violation not to exceed the
8 maximum provided for the violation under AS 15.14.230.

9 Sec. 15.14.330. CONFIDENTIALITY. (a) An investigation by the
10 commission under AS 15.14.270 is confidential unless and until the
11 investigation results in the filing of an accusation under AS 15.-
12 14.280.

13 (b) A member or a former member of the commission and an em-
14 ployee or a former employee of the commission may not divulge the fact
15 of or any particular concerning a pending, past, or contemplated
16 investigation by the commission unless and until the filing of an
17 accusation by the commission.

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

20 Sec. 15.14.340. JUDICIAL REVIEW. Judicial review of a final
21 order of the commission may be had by filing a notice of appeal under
22 applicable rules of court governing appeals from administrative agen-
23 cies.

24 Sec. 15.14.350. POWERS OF THE COMMISSION. (a) In connection
25 with an investigation or hearing under AS 15.14.270 - 15.14.310,
26 AS 24.45, or AS 39.50, the commission may compel the attendance of
27 witnesses and production of papers, books, records, accounts, docu-
28 ments, and testimony, and may have the depositions of witnesses taken
29 in a manner prescribed by court rule or law for the taking of

1 depositions in civil actions when consistent with the powers and
2 duties assigned to the commission by law.

3 (b) The commission may examine the papers, books, records,
4 accounts and documents of a person subject to this chapter to deter-
5 mine the correctness of a report filed with the commission or in
6 conjunction with an investigation or inspection conducted under (a) of
7 this section.

8 (c) Subpoenas may be issued and shall be served in the manner
9 prescribed by AS 44.62.430 and court rule. The failure, refusal, or
10 neglect to obey a subpoena is punishable as contempt in the manner
11 prescribed by law or court rule. The superior court may compel obedi-
12 ence to the commission's subpoena in the same manner as prescribed for
13 obedience to a subpoena issued by the court.

14 Sec. 15.14.360. LEGAL COUNSEL. (a) The attorney general is
15 legal counsel for the commission. The attorney general shall advise
16 the commission in legal matters arising out of the discharge of its
17 duties and represent the commission in actions to which it is a party.

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

21 ARTICLE 6. GENERAL PROVISIONS.

22 Sec. 15.14.900. DEFINITIONS. In this chapter

23 (1) "candidate" means an individual who

24 (A) files for election to the state legislature, for
25 governor, for lieutenant governor, for municipal office, for
26 retention in judicial office, or for constitutional delegate;

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

29 (C) accepts contributions totalling \$1,000 or more in

1 the aggregate from another person or political action committee
2 for the purpose of seeking elective office or retention in judi-
3 cial office;

4 (2) "contribution"

5 (A) means the purchase, payment, promise or obligation
6 to pay, loan or loan guarantee, deposit or gift of money, goods
7 or services for which charge is ordinarily made and that is made
8 for the purpose of influencing the nomination or election of a
9 candidate or for the purpose of influencing a ballot proposition
10 or question, including the payment by a person other than a
11 candidate or political party, of compensation for the personal
12 services of another person that are rendered to the candidate or
13 political party;

14 (B) does not include

15 (i) services provided without compensation by an
16 individual volunteering on behalf of a candidate or ballot
17 proposition or question, unless the services are volunteered
18 by an individual who would ordinarily be paid a fee or wage
19 for the services;

20 (ii) services provided by an accountant or other
21 person to prepare reports and statements required by this
22 chapter;

23 (iii) services provided by an attorney relating to
24 AS 15;

25 (iv) ordinary hospitality in a home;

26 (3) "expenditure"

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

1 (i) influencing the nomination or election of a
2 candidate or of any individual who files for nomination at a
3 later date and becomes a candidate;
4 (ii) influencing the outcome of a ballot proposi-
5 tion or question; or
6 (iii) providing payment of compensation for the
7 personal services of another person that are rendered to a
8 candidate or political party;
9 (B) does not include a candidate's filing fee or the
10 cost of preparing reports and statements required by this chap-
11 ter;
12 (4) "individual" means a natural person;
13 (5) "municipality" has the meaning given by AS 01.10.-
14 060(4);
15 (6) "person" has the meaning given in AS 01.10.060 but does
16 not include an entity organized to influence an election;
17 (7) "political action committee" means a person or combina-
18 tion of persons, including a political party and its state, regional,
19 or local subdivisions that accepts contributions for the purpose of
20 influencing an election and exercises discretion over the expenditure
21 of the contributions;
22 (8) "political party"
23 (A) means a group of organized voters that
24 (i) claims to represent a political program; and
25 (ii) nominated a candidate for governor who re-
26 ceived at least five percent of the total vote cast at the
27 preceding general election for governor;
28 (B) does not include the campaign committee of a
29 candidate.

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

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

5 (1) political campaign contributions reported under AS 15.-
6 14 [IN ACCORDANCE WITH AS 15.13];

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

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

11 * Sec. 3. AS 15.56 is amended by adding a new section to read:

12 Sec. 15.56.025. UNLAWFUL SOLICITATION OF CONTRIBUTIONS. (a) A
13 person commits the crime of unlawful solicitation of campaign contri-
14 butions if the person intentionally solicits a campaign contribution
15 through a threat of physical force, job discrimination, or financial
16 reprisal.

17 (b) Unlawful solicitation of campaign contributions is a class C
18 felony.

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

20 (a) This chapter shall be administered by the Alaska Public
21 Offices Commission established [CREATED] under AS 15.14.020 [AS 15.-
22 13.020(a)].

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

24 Sec. 24.45.091. PUBLICATION OF REPORTS. Copies of the state-
25 ments and reports filed under this chapter shall be made available to
26 the public at the commission's central office, the office of the
27 lieutenant governor, the legislative reference library of the Legisla-
28 tive Affairs Agency, and at the commission's district offices [PRE-
29 SCRIBED IN AS 15.13.020(j)] as soon as practicable after each

1 reporting period.

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

3 Sec. 24.60.080. GIFTS. Unless otherwise provided for under
4 AS 24.60.030, a person to whom this chapter applies may not solicit a
5 gift in any amount, or accept or receive, directly or indirectly, a
6 gift, whether in the form of money, services, a loan, travel, enter-
7 tainment, hospitality, or other form, if the gift was intended as a
8 reward or inducement for an official action by the person. A gift of
9 travel and hospitality within the state received by a member of the
10 legislature in obtaining information on matters of legislative concern
11 is not prohibited by this section, nor are political contributions
12 received and reported under AS 15.14 [AS 15.13.040].

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

14 Sec. 29.20.170. VACANCIES. The governing body may provide by
15 ordinance the manner in which a vacancy occurs in any elected office
16 except the office of mayor or school board member. Unless otherwise
17 provided by ordinance, the governing body shall declare an elective
18 office, other than the office of mayor or school board member, vacant
19 when the person elected

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

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

24 (3) resigns and the resignation is accepted;

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

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

29 (6) is convicted of a felony or misdemeanor described in

1 AS 15.56 and two-thirds of the members of the governing body concur in
2 expelling the person elected;

3 (7) is convicted of a misdemeanor under former [VIOLATION
4 OF] AS 15.13 or is found to have committed a violation in the first
5 degree under AS 15.14.220;

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

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

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

11 (a) The governing body shall, by two-thirds concurring vote,
12 declare the office of mayor vacant only when the person elected

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

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

17 (3) resigns and the resignation is accepted;

18 (4) is physically or mentally unable to perform the duties
19 of office;

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

22 (6) is convicted of a felony or misdemeanor described in
23 AS 15.56;

24 (7) is convicted of a misdemeanor under former [VIOLATION
25 OF] AS 15.13 or is found to have committed a violation in the first
26 degree under AS 15.14.220;

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

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

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

2 (a) The Alaska Public Offices Commission es^ablished [CREATED]
3 under AS 15.14.020 [AS 15.13.020(a)] shall administer the provisions
4 of this chapter. The commission shall prepare and keep available for
5 distribution, standardized forms on which the reports required by this
6 chapter shall be filed.

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

8 (a) In this chapter:

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

12 (2) "child" includes a biological child, an adoptive
13 child, and a stepchild;

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

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

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

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

25 (7) "municipal officer" includes a borough or city mayor,
26 borough assemblyman, city councilman, school board member, elected
27 utility board member, city or borough manager, members of a city or
28 borough planning or zoning commission within a home rule or general
29 law city or borough, or a unified municipality;

1 (8) "public official" means a judicial officer, a member
2 of the legislature, the fiscal analyst of the legislative finance
3 division, the legislative auditor of the legislative audit division,
4 the executive director of the Legislative Affairs Agency and the
5 directors of the divisions within the Legislative Affairs Agency, the
6 governor, the lieutenant governor, a person hired or appointed as the
7 head or deputy head of, or director of a division within, a department
8 in the executive branch, and assistant to the governor, chairman or
9 member of a state commission or board, and each appointed or elected
10 municipal officer;

11 (9) "source of income" means the entity for which service
12 is performed or which is otherwise the origin of payment; if the
13 person whose income is being reported is employed by another, the
14 employer is the source of income; but if the person is self-employed
15 by means of a sole proprietorship, partnership, professional corpora-
16 tion, or a corporation in which the person, the person's spouse or
17 children, or a combination of them, hold a controlling interest, the
18 "source" is the client or customer of the proprietorship, partnership
19 or corporation, but if the entity which is the origin of payment is
20 not the same as the client or customer for whom the service is per-
21 formed, both are considered the source;

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

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

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

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

28 (3) Alaska Commercial Fisheries Entry Commission (AS 16.-
29 43.020);

- 1 (4) Alaska Commission on Postsecondary Education (AS 14.
- 2 42.015);
- 3 (5) Alaska Energy Center (AS 46.12);
- 4 (6) Alaska Housing Finance Corporation (AS 18.56.010 -
- 5 18.56.210);
- 6 (7) Alaska Judicial Council (art. IV, sec. 8, Alaska Con-
- 7 stitution);
- 8 (8) Alaska Medical Facility Authority (AS 18.26.010 -
- 9 18.26.900);
- 10 (9) Alaska Municipal Bond Bank Authority (AS 44.85.020);
- 11 (10) Alaska Power Authority public directors (AS 44.83.030)
- 12 (11) Alaska Oil and Gas Conservation Commission (AS 31.05.-
- 13 005 - 31.05.170);
- 14 (12) Alaska Public Broadcasting Commission (AS 44.21.256);
- 15 (13) Alaska Public Offices Commission, including the execu-
- 16 tive director and employees of the commission (AS 15.14.020);
- 17 (14) Alaska Public Utilities Commission (AS 42.05.010);
- 18 (15) Alaska Resources Corporation (AS 37.12.010);
- 19 (16) Alaska Royalty Oil and Gas Development Advisory Board
- 20 (AS 38.06.020);
- 21 (17) Alaska Seafood Marketing Institute (AS 16.51.010);
- 22 (18) Alaska State Council on the Arts (AS 44.27.040);
- 23 (19) Alaska State Housing Authority (AS 18.55.020);
- 24 (20) Alaska Teachers' Retirement Board (AS 14.25.035);
- 25 (21) Alcoholic Beverage Control Board (AS 04.06.010);
- 26 (22) Board of Education (AS 14.07.075);
- 27 (23) Board of Fisheries (AS 16.05.221(a));
- 28 (24) Board of Game (AS 16.05.221(b));
- 29 (25) Board of Parole (AS 33.16.020);

1 (26) Board of Trustees and executive director of the Alaska
2 Permanent Fund Corporation (AS 37.15.040);

3 (27) Commission on Judicial Conduct (art. IV, sec. 10,
4 Alaska Constitution);

5 (28) Council on Domestic Violence and Sexual Assault
6 (AS 18.66.010);

7 (29) Employment Security Advisory Council (AS 23.20.025);

8 (30) Fishermen's Fund Advisory and Appeals Council (AS 23.-
9 35.010);

10 (31) Governor's Commission on the Administration of Justice
11 (AS 44.19.110);

12 (32) Local Boundary Commission (AS 44.47.565);

13 (33) Occupational Safety and Health Review Board (AS 18.60.-
14 057);

15 (34) Public Employees' Retirement Board (AS 39.35.030);

16 (35) State Assessment Review Board (AS 43.56.040);

17 (36) State Commission for Human Rights (AS 18.80.010);

18 (37) State Personnel Board (AS 39.25.060);

19 (38) University of Alaska Board of Regents (AS 14.40.120);

20 (39) Workers' Compensation Board (AS 23.30.005).

21 (b) Unlawful solicitation of campaign contributions is a class C
22 felony.

23 * Sec. 12. AS 44.62.330(a)(39) is amended to read:

24 (39) Alaska Public Offices Commission except to the extent
25 that AS 44.62.350 - 44.62.630 is inconsistent with AS 15.14.270 -
26 15.14.350

27 * Sec. 13. AS 15.13 and AS 15.56.010(1) and (2) are repealed.

28 * Sec. 14. Alaska Public Office Commission members serving on the
29 effective date of this Act continue to serve out their terms as provided

1 under AS 15.13.020, repealed in sec. 13 of this Act. Vacancies occurring
2 on or after January 1, 1987, shall be filled in accordance with AS 15.14.-
3 020 enacted in sec. 1 of this Act.

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

8 * Sec. 16. In accordance with AS 15.14.180 as enacted in sec. 1 of this
9 Act, a candidate shall, no later than January 31, 1987, close each campaign
10 account relating to a campaign for an election held before January 1, 1987,
11 unless the campaign has outstanding debts. If the campaign has outstanding
12 debts, the candidate may keep campaign accounts open after January 31,
13 1987, but shall close each campaign account within 30 days after all debts
14 have been paid and in no event later than January 1, 1988, whether or not
15 there are outstanding debts remaining on that date. During the time that
16 an account remains open under this section, contributions may be solicited
17 and accepted and expenditures made only for the purpose of retiring
18 outstanding debts of a campaign for an election held before January 1,
19 1987. An outstanding campaign debt remaining on January 1, 1988, becomes
20 the personal debt of the candidate.

21 * Sec. 17. This Act applies to election campaign activities that take
22 place after January 1, 1987.

23 * Sec. 18. This Act takes effect January 1, 1987.

TO: CSSB 356 (C & RA)

By: Faiks

Amendment #1 *Sackett moved & split 7:*

1st half of

Page 8, line 11, delete "\$100" and insert "\$250"

Page 9, line 10, delete "\$100" and insert "\$250"

Page 9, line 29, delete "\$250" and insert "\$500"

Page 11, line 3, delete "\$100" and insert "\$250"

Page 12, line 3, delete "\$100" and insert "\$250"

~~Page 12, line 24, delete "\$250" and insert "\$500"~~

~~Page 13, line 15, delete "\$250" and insert "\$500"~~

~~Page 13, line 18, delete "\$250" and insert "\$500"~~

*2-5
P. Fischer
approved*

*Faiks
withdrawn
- E*

Amendment #2

Sackett - withdrawn (incorrect wording)

Page 19, line 19, after "time", insert:

"An individual who receives a contribution for a candidate shall be appointed by the candidate as a deputy campaign treasurer. An individual who receives a contribution for a political action committee shall be appointed by the political action committee as a deputy campaign treasurer."

Amendment #3

*Sackett - withdrawn
see 3 on 34.*

Page 18, after line 10, insert new subsection to read:

"(e) Notwithstanding (b) and (c) of this section, a contribution from a ^{shareholder} corporation does not violate this section because a ~~parent, subsidiary, or related~~ ^{the} corporation had ^{already} made the maximum contribution permitted by law."

Amendment #4

Sackett - 04. (5) 04

Page 23, after line 20, insert a new subsection to read:

"(c) A candidate who is a public official may at any time use funds raised for a campaign for a purpose described in (a)(5) of this section."

Insert Halford Amend p. 23 line 15 side 10
Amendment #5

Fail - 3 on 45 2011

04
Page 2, line 16 - page 3, line 8, delete all material and insert:

"(c) The governor shall appoint four members of the commission. Each of the two political parties whose candidates for governor received the highest and the second highest number of votes for the office of governor at the most recent preceding gubernatorial election is, as vacancies occur, entitled to submit nominations of four ~~or more~~ individuals to the governor for two members of the

commission. The four members appointed by the governor under (d) of this section shall appoint, by a majority vote, the fifth member when a vacancy in that position occurs.

(d) In filling a vacancy that is subject to appointment by the governor, the governor shall make the appointment within 30 days after receiving the nominations *of your names* from the central committee or other governing body of the party. The governor shall make the appointment from nominees submitted to the governor by the central committee or other governing body of the party."

Reletter remaining subsections accordingly.

Page 4, line 10, delete "(h) and insert "(f)"

14
Amendment #6 *Sarkis 3-*

Page 21, line 29 - page 2, line 1,

Delete: "30 days after the date of the election"

Insert: "by December 31 of that year"

Amendment #7

Page 15, lines 25 - 26, delete:

"in excess of \$100 in the aggregate during the
calendar year"

Page 16, lines 22 - 23, delete:

"in excess of \$100 in the aggregate during the
calendar year"

Page 17, lines 20 - 21, delete:

"in excess of \$100 in the aggregate during the
calendar year"

Page 18, line 7, delete:

"in excess of \$100 in the aggregate during the
calendar year"

Page 26, line 18, delete:

"in excess of \$100 in the aggregate during the
calendar year"

Page 26, lines 26 - 27, delete:

"in excess of \$100 in the aggregate during the
calendar year"

Page 27, lines 6 - 7, delete:

"in excess of \$100 in the aggregate during the
calendar year"

Page 29, lines 27 - 28, delete:

"in excess of \$100 in the aggregate during the
calendar year"

Page 30, line 3, delete:

"in excess of \$100 in the aggregate during the
calendar year"

Page 30, lines 20 -21, delete:

"in excess of \$100 in the aggregate during the
calendar year"

Amendment #8

Page 24, line 6, insert new subsection to read:

"(e) Subsections (a) and (b) of this section do not
apply to a scheduled meeting held by a labor union
representing public employees of the state or of a
municipality of the state if the meeting is held with the
permission of the employer."

Amendment #9

Page 14, after line 7, insert a new section to read:

"Sec. 15.14.085. STATEMENT BY CANDIDATE OR POLITICAL
ACTION COMMITTEE MAKING CONTRIBUTION OR EXPENDITURE. (a)
If a candidate makes a contribution in goods, services, or
money or an expenditure from the campaign funds of the
candidate that benefits another candidate directly, the
candidate or the treasurer of the candidate making the
contribution or expenditure shall make and file in the
central or a district office of the commission a signed

statement on a form made available by the commission reporting the activity within 10 days after the contribution or expenditure is made.

(b) If a political action committee makes a contribution in goods, services, or money or an expenditure from the campaign funds of the political action committee that benefits a candidate directly, the treasurer of the political action committee making the contribution shall make and file in the central or a district office of the commission a signed statement on a form made available by the commission reporting the activity within 10 days after the contribution or expenditure is made.

(c) The statement shall list the name, address of the candidate or political action committee that paid for the contribution or expenditure and include the date, amount, payee, and purpose of the contribution or expenditure. The candidate, the treasurer of the candidate, or the treasurer of the political action committee filing the statement shall furnish a copy of the statement to the candidate who benefits from the contribution or expenditure at the time the statement is filed with the commission."

A M E N D M E N T

Am #1

Offered in the SENATE

By Faiks

TO: CSSB 356 (C&RA)

Page 9, line 14, delete "and"

Page 9, line 16, after "expenditure" insert:

"; and

(8) for each fundraiser held under AS 15.14.150(d), the date and place of the fundraiser, the total number of paying participants at the fundraiser, the total cost of the fundraiser, and the amount of contributions received"

Page 12, line 13, after "expenditure," insert:

"; and

(7) for each fundraiser held under AS 15.14.150~~(d)~~(e), the date and place of the fundraiser, the total number of paying participants at the fundraiser, the total cost of the fundraiser, and the amount of contributions received"

Page 15, line 24, after "(a)" delete "A" and insert:

"Except as provided in AS 15.14.155, a"

Page 15, lines 25 - 26, delete:

"in excess of \$100 in the aggregate during a calendar year"

Page 16, lines 22 - 23, delete:

"in excess of \$100 in the aggregate during a calendar year"

Page 17, line 17, after "(a)" delete "A" and insert:

"Except as provided in AS 15.14.155, a"

Page 17, lines 20 - 21, delete:

"in excess of \$100 in the aggregate during a year"

Page 18, line 6, after "(2)" insert:

"except as provided in AS 15.14.155,"

Page 18, line 7, delete:

"in excess of \$100 in the aggregate during a calendar year"

Page 19, after line 10, insert a new bill section to read:

"Sec. 15.14.155. PERMITTED CASH CONTRIBUTIONS. Notwithstanding the prohibition against the contribution in the form of a cash payment to a candidate or a political action committee, an individual may contribute and a candidate or a political action committee may accept cash at a fundraiser held by the candidate or the political action committee if food will be served at the fundraiser, if the contribution for admission to the fundraiser from any one individual is not in excess of \$25, and if there are 25 or more paying participants."

Page 26, line 18, delete:

"during the year of more than \$100 in the aggregate"

Page 26, lines 26 - 27, delete:

"during the year of more than \$100 in the aggregate"

Page 27, lines 6 - 7, delete:

"during the year of more than \$100 in the aggregate"

Page 29, lines 27 - 28, delete:

"during the year of more than \$100 in the aggregate"

Page 30, line 3, delete:

"during the year of more than \$100 in the aggregate"

Page 30, lines 20 - 21, delete:

"during the year of more than \$100 in the aggregate"

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST Draft 5/ /86
Bill/Resolution No. : HCS CSSB 356(SA)
Title : Campaign Financing & APOC

Sponsor : Senate State Affairs
Requestor : House State Affairs
Date of Request : 5/9/86

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	0	120.2	120.2	120.2	120.2	120.2
TRAVEL	0	1.0	1.0	1.0	1.0	1.0
CONTRACTUAL	0	93.0	93.0	35.0	35.0	35.0
SUPPLIES	0	1.5	1.5	1.5	1.5	1.5
EQUIPMENT	0	45.0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	260.7	215.7	157.7	157.7	157.7

CAPITAL	0	0	0	0	0	0
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REVENUE ¹	0	0	0	0	0	0
-----------------------------	----------	----------	----------	----------	----------	----------

- 1 - no basis for estimate

FUNDING : (Thousands of Dollars)

GENERAL FUND	0	260.7	215.7	157.7	157.7	157.7
FEDERAL FUNDS						
OTHER						
TOTAL	0	260.7	215.7	157.7	157.7	157.7

POSITIONS :	3	3	3	3	3	3
FULL-TIME	2	2	2	2	2	2
PART-TIME	1	1	1	1	1	1
TEMPORARY						

ANALYSIS : Attach a separate page if necessary FY 87 equipment includes microcomputer link between Juneau & Anchorage offices; FY 87 and FY 88 contractual services include computer consulting services plus design/graphic work for campaign disclosure recordkeeping system and forms.

Prepared by : Mel Pittman Phone : 465-4864/276-4176
 Division : Alaska Public Offices Commission Date : 5/9/86

Approved by Commissioner : [Signature] Date : 5/9/86
 Agency : Department of Administration

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : CSSB 356 (C&RA)
 Title : Act relating to election
campaign financing
 Sponsor : State Affairs
 Requestor : _____
 Date of Request : _____

FISCAL DETAIL

Agency Affected : Dept. of Admin.
 BRU : Alaska Public Offices
Commission
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS	0	256.6	0	0	0	0
TOTAL OPERATING	0	256.6	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND	0	256.6	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

The Senate's proposed FY 87 budget for APOC makes a miscellaneous reduction of \$256.6. This fiscal note will bring the Commission's funding to that requested in the Governor's revised budget.

Prepared by : _____ Phone : 465-4523
 Division : Senator Jan Faiks, Co-chairman Date : Apr. 15, 1986
Senate Finance Committee
 Approved by Commissioner : _____ Date : _____
 Agency : _____

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : CSSB 356 (C&RA)
 Title : Act relating to election
campaign financing

 Sponsor : State Affairs
 Requestor : _____
 Date of Request : _____

FISCAL DETAIL

Agency Affected : Dept. of Admin.
 BRU : Alaska Public Offices
Commission

 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS	0	256.6	0	0	0	0
TOTAL OPERATING	0	256.6	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND	0	256.6	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

The Senate's proposed FY 87 budget for APOC makes a miscellaneous reduction of \$256.6. This fiscal note will bring the Commission's funding to that requested in the Governor's revised budget.

Prepared by : _____ Phone : 465-4523
 Division : Senator Jan Faiks, Co-chairman Date : April 25, 1986
Senate Finance Committee
 Approved by Commissioner : _____ Date : _____
 Agency : _____

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA 1986 LEGISLATIVE SESSION

FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : CSSB 356 (State Affairs)
 Title : "An Act relating to election campaign financing and the Alaska Public Offices Commission; .."
 Sponsor : Sen. State Affairs Committee
 Requestor : Governor's Office/OMB
 Date of Request : February 28, 1986

FISCAL DETAIL

Agency Affected : Department of Law
 BRU : Legal Services
 Components : Legal Services Operations

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		72.9	100.2	103.2	106.3	109.5
TRAVEL		4.0	4.9	5.0	5.2	5.4
CONTRACTUAL		10.8	13.4	13.8	14.2	14.6
SUPPLIES		6.0	3.7	3.8	3.9	4.0
EQUIPMENT		9.5	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		103.2	122.2	125.8	129.6	133.5

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND		103.2	122.2	125.8	129.6	133.5
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME		1	1	1	1	1
PART-TIME		1	1	1	1	1
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Please see attached analysis.

Prepared by : Richard I. Pegues, Director Phone : 465-3672
 Division : Administrative Services Division Date : 3-3-86
 Approved by Commissioner : Richard I. Pegues / FOR
Harold M. Brown, Attorney General Date : 3-3-86
 Agency : Department of Law

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 356 (State Affairs)

This bill completely revises existing statutes governing election campaign financing and the operations of the Alaska Public Offices Commission. Because of the number of changes contained in the bill, it will be necessary to adopt a substantial body of regulations, both substantive and technical, to implement the bill's provisions. In this respect, regulations drafting will be a major undertaking, particularly in the areas of accusations, contested accusations, and summary disposition of violations. Such an undertaking can be expected to take a large portion of an attorney's time (40% to 50% in the three months before the bill's effective date and 20% to 30% in the 12 months following implementation.)

Moreover, the bill provides that the commission may conduct hearings without a hearing officer and, in such circumstances, the attorney general shall assign an assistant attorney general to advise the commission on matters of law during hearings. The attorney general is also legal counsel to the commission and advises the commission in legal matters arising out of the discharge of its duties and represents the commission in actions to which it is a party. These latter duties require that a second assistant attorney general be assigned to advise the APOC staff in order to avoid conflicts of representation that would otherwise occur if the same attorney advised both the commission and the APOC staff in matters brought before the commission by the staff.

Although the department currently devotes considerable attorney time to APOC matters, the multi-level representation necessitated by the bill will require that additional Department of Law attorney and support staff resources be provided to the APOC and its staff. Complaints handled by the APOC are increasing, and they are becoming more controversial. Contested accusations are more contentious and, as they generally receive the greatest public attention, there is a public expectation that the accusations will be speedily resolved. To do so in a manner that protects the rights of candidates, public officials, and the public requires that the legal advice furnished to the commission and its staff be provided as promptly and as efficiently as possible. The Department of Law therefore requests that an Attorney IV, together with a part-time legal secretary, be added to its Anchorage civil office to accomplish the purposes of this bill.

Funding Summary CSSB 356 (State Affairs)

	<u>Attorney IV</u>	<u>Legal Sec. I (PPT)</u>	<u>Total</u>
71000	60.0	12.9	72.9
72000	4.0	-0-	4.0
73000	6.2	4.6	10.8
74000	3.5	2.5	6.0
75000	<u>1.5</u>	<u>8.0</u>	<u>9.5</u>
Total	75.2	28.0	103.2

The fiscal note costs shown above are for 10-month start-up costs for FY 87. Costs after FY 87 are on 12-month, full-year basis and include a 3% annual inflation factor, less one-time costs that occur in FY 87.

Position Title Attorney IV			No. of Positions 1	Range/Step 24A	Barg. Unit PX	Gov.	Approv.	Disapp.
Time Status PFT	Staff Months 10	RP Number	Location Anchorage		Election District 8	Leg.		
Type of Expenditure			Justification					
1		2	3					
Salary		46,870	This Attorney IV position will be required to handle the additional workload that will occur as a result of the enactment of CSSB 356. This bill, which completely revises the statutes governing election campaign financing and the operations of the Alaska Public Offices Commission, will require that the Department of Law provide attorney legal services at both the APOC commission and staff levels. Different attorneys must be used for these purposes to avoid any conflicts of representation. Because the accusations brought before the commission involve the rights and reputations of candidates and public officials, allocation of this position to the full-working level of Attorney IV is recommended.					
Benefits		13,174						
Premium								
Other								
Total Personal Services		60,044						
Travel		4,000						
Contractual		6,180						
Commodities		3,500						
Equipment		1,500						
Other								
Total Cost		75,224						
Receipt Code		Funding Source						
		Federal Receipts 1002						
		C. F. Match 1003						
		General Funds 1004		75,224				
		I-A Receipts 1005						
		Program Receipts 1028						
		CIP Receipts 1061						
		Other						
For B&M Use Only Key Number _____								

Request For
New Position

Agency Department of Law
BRU Legal Services
Component Legal Services Operations

Page 1 of 1
Revised Date

FY 87

Position Title Legal Secretary I			No. of Positions 1	Range/Step 10B	Barg. Unit GGU	Gov.	Approv.	Disapp.
Time Status PPT	Staff Months 10	RP Number	Location Anchorage		Election District 8	Leg.		
Justification								
This part-time position is requested to provide law office support services for the attorney who will be needed to handle the increased workload required by CSSB 356. The position will provide typing of legal forms, briefs, legal opinions, and memcranda. The position will also provide office communication and schedule appointments and travel. The typing load is expected to be particularly heavy in view of the overall changes to the state elections campaign financing statutes, which will require the drafting of a substantial body of procedural and substantive regulations. Allocation to the Legal Secretary I level is recommended in view of the specialized nature of the assignments to be undertaken.								
Type of Expenditure			Amount					
1			2			3		
Salary			9,470					
Benefits			3,429					
Premium Pay								
Other								
Total Personal Services						12,899		
Travel						-0-		
Contractual						4,570		
Commodities						2,500		
Equipment						8,000		
Other								
Total Cost						27,969		
Receipt Code			Funding Source					
			Federal Receipts 1002					
			G. F. Match 1003					
			General Funds 1004			27,969		
			I-A Receipts 1005					
			Program Receipts 1028					
			CIP Receipts 1061					
			Other					
For B&M Use Only Key Number _____								

**Request For
New Position**

Agency Department of Law
 BRU Legal Services
 Component Legal Services Operations

Page 1 of 1
 Revised Date

FY 87

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST _____ Revision Date: _____
 SB Resolution No.: SB 155 FISCAL DETAIL
 Title: An act relating to election campaign financing
 Sponsor: State Affairs
 Committee: _____
 Components: _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
OPERATING						
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
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TOTAL	0	0	0	0	0	0
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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	0	0	0	0	0	0
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

FY87-FY91: RSA with Dept. of Law for Attorney A Part-time Secretary.
 FY87 & FY88 Only: Contractual services for computer program adaptation and instruction materials/forums design and drafting.

Prepared by: Theda Pittman *Theda Pittman* Phone: 276-4176
 Division: ALASKA PUBLIC UTILITIES COMMISSION Date: 11/30/86
 Approved: Elmer Spahr *Elmer Spahr* State
 Agency: ALASKA PUBLIC UTILITIES COMMISSION

Distribution: (By Agency preparing fiscal note):

- Legislative Branch
- Legislative Services
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

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

ALASKA PUBLIC OFFICES COMMISSION

BILL SHEFFIELD, GOVERNOR

REPLY TO:

- 610 C STREET, SUITE 211
ANCHORAGE, ALASKA 99501-3598
(907) 276-4176
- JUNEAU BRANCH OFFICE
POUCH CO
JUNEAU, ALASKA 99811-0222
(907) 465-4864

April 23, 1986

RECEIVED APR 23 1986

The Honorable Jan Faiks, Co-Chairman
The Honorable John C. Sackett, Co-Chairman
Senate Finance Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senators Faiks and Sackett and Members of the Committee:

When Senate Bill 356 was in the Community and Regional Affairs Committee, the Alaska Public Offices Commission gave testimony expressing its concerns with the proposed legislation and cited particular sections which the commission thought the most problematic. The Community and Regional Affairs Committee took no action with respect to the commission's suggestions. For that reason, the Alaska Public Offices Commission believes this legislation needs serious work.

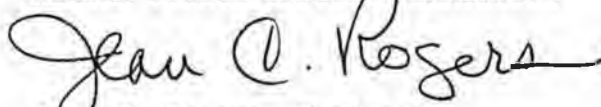
Before the Community and Regional Affairs Committee passed SB 356, one of the committee members asked Susan Burke, counsel for the Senate State Affairs Committee, if there were any substantive issues raised in the commission's testimony and the March 6, 1986 letter from the commission's executive director. Ms. Burke responded that there were not. The commission does not agree.

As an update to the fiscal note information, please note that if the Governor's request of 706.6 for an operating budget in FY 87 and the Department of Law's March 3, 1986 fiscal note were funded, the Commission's fiscal note could probably be reduced to approximately 55.0 for FY 87 and 55.0 for FY 88.

Attached is a copy of the testimony and letter which were submitted to the Community and Regional Affairs Committee. If you have any questions concerning the Commission's position on SB 356, please contact the commission's staff.

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION



Jean C. Rogers, Chairman

Attachment

CC: Theda S. Pittman
APOC Members
Marsha Hubbard

STATE OF ALASKA

ALASKA PUBLIC OFFICES COMMISSION

BILL SHEFFIELD, GOVERNOR

REPLY TO

910 C STREET, SUITE 211
ANCHORAGE, ALASKA 99501-3538
(907) 278-4176

JUNEAU BRANCH OFFICE
POUCH CO
JUNEAU, ALASKA 99811-0222
(907) 485-4884

March 6, 1986
Telecopy

The Honorable Edna DeVries, Chairman
Senate Community & Regional Affairs
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Senator DeVries and members of the Committee:

Enclosed is a copy of Jean Rogers' testimony on CSSB 356(SA) as provided at the teleconference meeting on February 28.

The Commission discussed the additional questions raised by members of the Committee at its meeting on Friday and asked that I provide you with a summary of their discussion.

Provisions on Loans:

It appears that CSSB 356(SA) contains inconsistent provisions with respect to loans that would make it difficult to administer. Which provisions are intended to be controlling? For example, the definition of "contribution" includes "[L]oan or loan guarantee...." Page 40, line 10. Candidates and PACs may not accept a contribution in the form of a loan or a loan guarantee. Page 18, line 12; page 17, line 8. Loans and loan repayments are required to be reported by candidates and PACs. Page 8, line 4; page 10, line 26.

Page 16, line 10, AS 15.14.110(3) reads:

(e) An individual or person may not make a contribution in any amount to a candidate or political action committee in the form of a loan or a loan guarantee. This subsection does not prohibit

(1) a contribution in the form of a loan by a candidate or the spouse, parent, or child of the candidate to the campaign of the candidate; or

(2) an extension of credit by a person providing goods or services in the normal course of business to a political action committee, a candidate, or a candidate's campaign.

The Commission's experience has shown there is, unfortunately, no simple solution to the problem of pre-campaign loans to a potential

candidate or non-campaign loans to an existing candidate. The Commission has had many discussions about ways to delineate by statutory or regulatory language allowable loans from those which are not allowable. No single, simple test has been found so far. Individuals who are candidates or who may become candidates can not be, nor should they be, deprived by a campaign finance law of their right to engage in other financial transactions unrelated to the campaign.

Under the language in AS 15.14.110(e)(1), the Commission would be required, in cases of alleged violation, to determine whether a loan transaction to a candidate from someone other than a spouse, parent or child of the candidate was, in reality, a contribution. The determination problem is the same as under present law. The change produced by the new language is that it appears to limit those who may make any loans to the campaign at all to those who fit into the four specified categories: candidate, spouse, parent, child. The language in subsection (e)(2) does not indicate that spouse/parent/child loans may exceed \$2,000; presumably they may not.

Case Law Reference re: return of prohibited contributions.

People v. de Grazia, 434 NE2d 543 (Ill. App. Ct 1982). See also 27 Am. Jur. 2d Sec. 879 Escheat at notes 15-16 (1966).

SB 401 - Repeal of Campaign Disclosure Regulations and Regulations on complaints, preliminary investigations, hearings, advisory opinions:

A position paper has been filed on this bill. Copy enclosed.

Summary Statement with respect to CSSB 356(SA):

There are some provisions the Commission can support and others which it can not support. The provisions related to violations, enforcement, and procedures must provide realistic and useful tools for administering the Law. In the absence of such tools, the other changes may never be implemented effectively.

The Commission asked that I convey to you again its appreciation for the special efforts that were made to set up the audio conference. I look forward to hearing from you, should you have any questions about the enclosed information.

Sincerely,
ALASKA PUBLIC OFFICES COMMISSION

THEDA PITTMAN
Executive Director

cc: Mike McMullen, Dept. of Administration
APOC Members

February 28, 1986

Senate Community & Regional Affairs
Teleconference
CSSB 356(SA)

My name is Jean Rogers. I'm the chairman of the Alaska Public Offices Commission. Arlayne Knox from Fairbanks who is the vice-chairman of the Commission is here with me as is our newest member, Annie Laurie Howard of Anchorage. Yesterday afternoon the Commission spent some time discussing the bill before you. We find there are things in the bill we support and things in the bill we oppose. I'll try to give you a few examples of each in just a moment.

But first, the members of the Commission wish to point out that this bill is very different from both the one that was initially introduced into State Affairs and from the proposals which received public testimony in October. Quite frankly, with such complex language on a subject of intense public interest, a proposal needs to be put on the table and left there in the same form long enough for people to obtain a copy, read it, and think about it before they testify. Unless that is done, the debate takes place only on a few key issues and many other critical provisions are adopted without scrutiny.

All fall the public discussion centered on Mr. Gross's proposal to abolish the contribution limitation. Now we know that provision is not to be part of the language, but the debate about that proposal has created the impression that everyone knows what's in the bill.

With respect to the the provisions we discussed yesterday, we were reviewing the State Affairs Committee Substitute dated February 24th. The items we like the most include the registration section for candidates and political action committees, the codification of independent expenditures, the requirement to terminate a campaign, the ban on solicitations under force or in public offices. While there may well be room for improvement in these sections, we believe the concepts to be good ones and worth pursuing.

Now let me turn to the provisions which give us the most concern. They are listed in the order they appear in the bill.

Page 18, line 27, subsection 150(a) - As you know we do not support the continuation of contributions by subsidiaries. The records of the past two elections amply illustrate how the limitation is undermined by this practice.

Page 19, line 1, subsection 150(b) - The law needs to spell out that any kind of prohibited contribution must be returned whether was anonymous, in the name of another, in a fictitious name, an excess contribution, etc. We have found case law elsewhere that suggest both the present statute and the proposal before you are inadequate on this subject.

Page 19, line 11, subsection 150(c) - If a person is allowed 10 days to return a prohibited contribution, then the Commission will end up

with cases where the issue is what to do about someone who returned a contribution in 11 days, or 12 days or 13 days. Complainants frequently use such provisions to their advantage. It would make more sense to require immediate return and give the Commission room to consider the facts in a specific situation.

Page 20, line 21, subsection 160(e) -- Much has already been said about the language which undermines the requirement to list deputy treasurers. Those of us who believe the public has the right to know who's carrying around campaign money would like to know how a person could solicit a contribution and carry it to a campaign without exercising any discretion over the identify of the campaign or the amount of the contribution. The real bagmen in life don't say, "I hope you give a contribution of some amount to some candidate and if you do, I'll take it to them." That's the only behavior this language would sanction.

Page 21, line 4, subsection 160(f) - This language parrots existing law about the responsibility of candidates. Our experience has shown that there's much room for improvement with respect to the candidates and the organizers of groups being required to be responsible. Anything you can do to strengthen this language would be appreciated.

Campaign Violations in the 1st and 2nd degree - subsections 220 and 230. Although it appears the Commission could levy substantial fines for 1st degree violations, that would be unlikely. In order to assess the larger fines, the Commission would have to prove by clear and convincing evidence that an act was taken with intent to avoid disclosure. This standard of proof is unreasonably high and would mean few penalties at the higher levels. In the second degree area, we feel that the fines may be too low.

Page 32, Statute of Limitations, section 260 - the term should be 4 years for both kinds of violations, especially since 4-year terms of office are covered by this law.

Page 36, subsection 310(b), "ban on plea bargaining," - The Commission staff serves at the pleasure of the Commission; those who are unhappy with its performance are most welcome to write and let us know.

Page 38, subsection 330, confidentiality - Even if we supported the premise - and we're not sure we do - this language is flawed. The confidentiality requirement is clearly imposed on the Commission and its staff but the complainant would still be free to talk. The language forbids discussion if no accusation is ever filed. Certainly the public has an interest in what cases are dismissed and why. The language in subsection (b) is so prohibitive that it might be illegal to conduct an investigation. If a subpoena were issued with the name of the respondent on it, such could be construed as divulging the existence of an investigation.

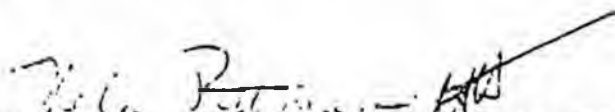
That concludes my remarks on behalf of the Commission. Thank you for this opportunity and for the special effort you made to arrange this teleconference. We're most appreciative.

POSITION PAPER
SB 401

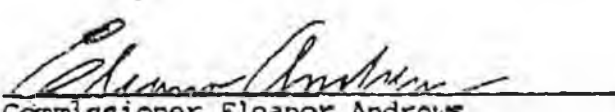
This legislation annuls 34 administrative regulations promulgated by the Alaska Public Offices Commission in accordance with the provisions of the Administrative Procedure Act (AS 44.62). The specific regulations to be annulled include all long-standing and newly-revised regulations, twenty-nine in number, "[N]ecessary to implement and clarify the provisions of" AS 15.13, Alaska's Campaign Disclosure Law. AS 15.13.030(10). The remaining five regulations annulled by the bill are general provisions, procedural in nature, which are also applicable to AS 24.45, Regulation of Lobbying, and to AS 39.50, Conflict of Interest. The latter regulations include the Commission's procedures for handling complaints, preliminary investigations, hearings, and advisory opinions.

These changes would affect approximately 200 state candidates, 350 municipal candidates in 24 municipalities, over 250 political groups, and their major contributors. Candidates, groups, and contributors desiring to comply with AS 15.13 would be unsure of their responsibilities and would swamp the Commission with anxious inquiries. Those desiring to operate unfettered by the requirements of Alaska law would claim they didn't know their actions were improper.

With the 1986 campaigns well underway, the Commission would be required -- in order to assist those campaigns and in order to comply with its enabling legislation -- to publicize its intent to adopt Campaign Disclosure regulations and then to undertake the adoption of emergency regulations. Since emergency regulations are effective only for a short period of time, a notice of intent to adopt permanent regulations would also be undertaken as soon as the emergency action was complete. The process would require 6-9 months and additional funding due to the size of the task and the requirements of the Administrative Procedures Act.


Exec. Dir., Public Offices Commission

2/18/86
Date


Commissioner Eleanor Andrews
Department of Administration

2/18/86
Date

2/20
O

Pass around please

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

APR 13 1986

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

MEMORANDUM

April 11, 1986

SUBJECT: Constitutional Power of the Legislature
over the budget

TO: Senator Jalmar Kerttula

FROM: Tamara Brandt Cook *IBC*
Director
Division of Legal Services

A. ? O.M.b. - questioned leg. authority

13. You have asked to what extent the legislature has constitutional authority over the preparation of the budget. For the following reasons, it is my conclusion that the ~~legislature has absolute power~~ over the preparation of the budget appropriation together with complete authority over enactment of the budget appropriation bill, subject to the governor's power to veto or strike or reduce appropriation items under Article II, Section 15 of the state constitution.

Article II, Section 1 of the Constitution of the State of Alaska provides

The legislative power of the State is vested in a legislature consisting of a senate with a membership of twenty and a house of representatives with a membership of forty.

The "power of the purse" is a basic legislative power under our form of government. Black's Law Dictionary defines legislative power as

The lawmaking power; the department of government whose function is the framing and enactment of laws.
(Citations omitted; emphasis added)

Our Supreme Court has specifically held that the blending of governmental powers is not to be inferred in the absence of an express constitutional provision. (Bradner v. Hammond, 553 P.2d 1 (Alaska, 1976)) This general principle would

indicate that, since the legislature is responsible for framing and passing laws, including appropriations, the executive branch has little constitutional authority over preparation of the budget. This notion is supported by the fact that no bill, including an appropriation bill, may become law unless it is passed by both houses of the legislature. (Article II, Section 14)

Article IX, Section 13 provides in part

No money shall be withdrawn from the treasury except in accordance with appropriations made by law.

As has been indicated, the legislature has the basic lawmaking power. In addition the terms "by law" and "by the legislature" are used interchangeably in the state constitution. (Article XII, Section 11) In considering Section 13 the Attorney General has concluded that it gives the legislature total power over the expenditure of state funds. (February 28, 1977, Op. Attorney General) This total power includes total power over the budget.

The governor has a distinct advisory role to play in the budget preparation process. Article IX, Section 12 provides

The governor shall submit to the legislature, at a time fixed by law, a budget for the next fiscal year setting forth all proposed expenditures and anticipated income of all departments, offices, and agencies of the State. The governor, at the same time, shall submit a general appropriation bill to authorize the proposed expenditures, and a bill or bills covering recommendations in the budget for new or additional revenues.

The governor is obligated to submit a budget to the legislature, but the legislature is not obligated to incorporate all or any of the governor's budget into the final budget appropriation bill. This appears to have been the intent of the framers of the state constitution. During the convention a question was raised as to the source of Section 12. The working of the section was explained by Delegate Barr as follows:

It was taken from several other constitutions. It says, (sic) that 'The governor shall also submit a general appropriation bill to authorize all proposed expenditures.' It doesn't say there that that will be

Senator Jalmar Kerttula

Page 3

April 11, 1986

the final appropriation bill. That is within the authority of the legislature, but it could be a suggested appropriation bill. He sets forth his ideas in that bill as to how much should be appropriated for each department. However, the finance committee and the ways and means committee could take his bill and work it over and submit that to the legislature. (Proceedings of the Alaska Constitutional Convention, page 2351, emphasis added)

As previously mentioned, the governor does have the power to modify the legislature's revision of the budget after its passage through the exercise of the line item veto power. However, even that power is subject to legislative override, strengthening the conclusion that under our constitution, the legislature has absolute power over the budget.

TBC:mkr
m4/101

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AVRUM M. GROSS
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(907) 586-2777

February 25, 1986

To: Members of the Senate Community and Regional Affairs
Committee

From: Avrum M. Gross
Susan A. Burke

SECTIONAL ANALYSIS OF CSSB 356 (State Affairs)
CAMPAIGN FINANCING PRACTICES REVISION

The following is a section by section analysis of CSSB 356 (State Affairs), which revises the campaign financing laws now contained in AS 15.13.

Article 1. ALASKA PUBLIC OFFICES COMMISSION.

Sec. 15.14.010. APPLICABILITY. This section is almost identical to existing AS 15.13.010. One change from existing law is to cite to the specific statute under which the Department of Community and Regional Affairs certifies municipal populations for purposes of identifying those municipalities with populations of more than 1,000 to which the chapter applies. Also, the language in the existing law that states that the law applies to elections "to a municipal office" has been replaced with language that specifically refers to the offices that are to be covered --

municipal governing body

mayor, ~~assembly~~, and school board. This change insures that service area elections are not covered by the law.

The bill contains no counterpart to existing AS 15.13.011, which exempts presidential primary elections from the provisions of the chapter, since the law providing for a presidential primary in Alaska has been repealed.

Sec. 15.14.020. ALASKA PUBLIC OFFICES COMMISSION.

Subsections (a) through (g) deal with the appointment of commissioners and are in substance the same as the appointment provisions contained in AS 15.13.020. However, existing law only provides for the initial appointment of commissioners; it contains no procedure for the appointment of successors. The new sec. 15.14.020 establishes such procedures consistent with that used for initial appointments and establishes a period of 30 days after a vacancy within which the appointment must be made.

Under existing law, a member of the commission is prohibited from certain kinds of political activity, but an exception is made for contributions by commission members to a candidate for President of the United States. Under subsection (h) of sec. 15.14.020, this exception is no longer allowed.

Subsection (i) of sec. 15.14.020 changes the amount of compensation received by APOC commissioners to \$100 per day.

Presently, members of the commission receive compensation of \$50 per day -- the generally applicable per diem rate when the commission was established approximately 12 years ago.

Subsection (j) of this section amends existing law dealing with a quorum of the commission to provide that while a majority of the commission constitutes a quorum, a vote of at least three members is required for the commission to take any affirmative action. The purpose of this change is to insure that all actions by the commission will be taken by a bipartisan majority.

Subsection (k) includes a new provision that prohibits the executive director and employees of the commission from engaging in the types of political activity that commission members are prohibited from undertaking under subsection (h).

Sec. 15.14.030. DUTIES OF THE COMMISSION. This section is nearly identical to the present 15.13.030, which spells out the responsibilities of the APOC. Existing law requires the commission to report violations of the law to the Attorney General. Because the bill now contains only civil penalties, to be administered by the commission under provisions similar to the Administrative Procedure Act, subsections (7) and (8) of sec. 15.14.030 do not contain a

requirement that violations be reported to the Attorney General.

Article 2. REGISTRATION AND REPORTS.

Sec. 15.14.040. REGISTRATION BY CANDIDATES. Sec. 040 establishes the point at which a person becomes subject to the requirements of the law for filing reports required to be filed by candidates. It is set as the time the candidate files for nomination or previously, if he accepts contributions from others of more than \$1000 in the aggregate. Present law has no similar provision; AS 15.13.100 does provide, however, that candidates may not make expenditures for other than travel or polls prior to filing for office. This bill does not include the existing prohibition on expenditures prior to filing. A person under the provisions of this bill would be free to spend any amount of his or her own money campaigning without having to register with the commission or actually file for office. Such expenditures would, of course, be reported to the commission once the person did file for office or began to receive contributions from others.

Sec. 15.14.050. REGISTRATION BY POLITICAL ACTION COMMITTEES. Subsection (a) of this section is nearly identical to the present AS 15.13.050. It requires that political action committees register prior to making any

contributions to a candidate or independent expenditures on behalf of or in opposition to a candidate. Subsection (b) applies to committees that are not supporting candidates but instead are formed solely to support initiatives or referendums. Registration for such a committee is required within 30 days after the committee files a petition commencing the process of the initiative or referendum, regardless of whether contributions are solicited or expenditures made.

Subsection (c) is new, and provides that the registration of a PAC is valid only from the date of registration until the following January 31. In effect, this subsection requires a political action committee to renew its registration annually.

Subsection (d) is also new, and provides that a political action committee may not register using a name that is the same or materially similar to the name of another political action committee already registered. Similar provisions are found in the corporations code, and are designed to avoid confusion as to the identity of PACs.

Subsections (e) and (f) deal with PACs that are formed for the purpose of supporting only one candidate or that are so much controlled by a candidate as to be, in essence, nothing more than a campaign committee of the candidate.

These provisions are modeled after provisions of existing law contained in the definition of "group."

Sec. 15.14.060. REPORTS BY CANDIDATES OF CONTRIBUTIONS, LOANS AND EXPENDITURES. This section describes the information that must be included in contribution and expenditure reports and establishes the dates at which those reports must be filed. Under present law, these requirements are set out in AS 15.13.110 and AS 15.13.040. The bill makes very few substantive changes in the existing reporting requirements.

Under existing law, reports of contributions and expenditures must be filed on December 31 of each year, 30 days before an election, one week before an election, and ten days after an election. In addition, a report must be filed within 24 hours of a contribution of \$250 or that is received within one week of an election. The first change made in the bill to existing law is to raise from \$100 to \$250 the amount of aggregate contributions by a single contributor that requires disclosure of the identity and business affiliation of the contributor. The second change is to raise from \$250 to \$500 the amount of a contribution that must be reported within 24 hours of receipt during the period immediately prior to the election. These changes

merely reflect the effects of inflation since the adoption of the existing provisions 12 years ago.

The bill also eliminates the requirement that a report of contributions and expenditures be filed ten days after an election. That report has no impact on the election itself. Moreover, since under AS 15.14.180 of the bill campaign accounts must be closed as of the date the successful candidate is sworn into office and a final report filed shortly thereafter, the same information contained in the report filed ten days after an election will be included in the final report. Thus there is little if anything to be gained by filing the ten day report. The ten day report has, in effect, been replaced in the bill with a "final report," to be filed on or before January 31 of the year following the election. There is no existing requirement that campaign books be closed at any time; accordingly, there is no requirement under present law for a final report.

The bill also deals with an apparent oversight in the existing law regarding the special reports required for contributions of greater than \$500 made within one week of an election. Since under present law, (AS 15.13.110) reports need only include contributions made up to three days before the date of the report, the general report filed

one week before the election actually only includes contributions made up to ten days before the election. The report that is required for larger contributions made within one week of the election, then, leaves a gap of three days during which such contributions need not be specially reported. The new AS 15.14.060(c) closes this inadvertent loophole by requiring reports of \$500 contributions commencing ten days before the election.

The date for the year end contribution and expenditure report by candidates has been also changed from December 31 to January 31, and covers all contributions received and expenditures made between January 1 and December 31 of the immediately preceding year. The same change has been made for contribution and expenditure reports by political action committees in Sec. 15.14.070.

The bill for the first time would require candidates to report all loans received, including the amount, purpose, terms and identity of the lender. Sec. 15.14.110(e) of the bill prohibits contributions to candidates and PACs in the form of loans. Unless candidates and PACs are required to report all loans, there is no way to effectively enforce the prohibition against contributions in the form of loans.

The bill eliminates the requirements of existing AS 15.13.070(f) that limit the total expenditures that may be

made in a campaign, since such limits are unconstitutional. It also eliminates the provision in AS 15.13.040(f) that requires businesses providing media services to a candidate to report the amount of expenditures made by the candidate and received by them. The APOC stopped enforcing this provision years ago and there is no reason to carry it forward in the law.

Sec. 15.14.070. REPORTS BY POLITICAL ACTION COMMITTEES OF CONTRIBUTIONS, LOANS, AND EXPENDITURES. This section is similar to the present AS 15.13.040 and 15.13.110, and establishes the same reporting requirements for political action committees as sec. 15.14.060 establishes for candidates. *CRA Committee reduced reportable amount to \$100 not \$250.*

Sec. 15.14.080. STATEMENT BY PERSON MAKING CONTRIBUTION OR EXPENDITURE. This section is nearly identical to existing AS 15.13.080, and requires that persons contributing \$250 or more to a candidate or PAC must file a statement with the commission to that effect. This section also requires persons to file such statements concerning "independent" expenditures of \$250 or more.

Sec. 15.14.090. INDEPENDENT EXPENDITURES. The definition of "independent expenditure" set forth in this section raises one of the more difficult issues in the area of campaign financing regulation. Because the United States

Supreme Court has held that there may not be any limits imposed on the amount a person or political action committee spends "independently" of a candidate, and because this bill maintains limits on contributions to candidates by persons and political action committees, some definition must be established to differentiate the truly "independent" expenditure by a person or political action committee from one that is made in coordination with a candidate and therefore subject to the contribution limits. While the differences are easy to distinguish conceptually, fashioning a distinction in statutory language that will work in practice is not so easy.

One of the difficult problems of enforcing the contribution limits as they apply to non-independent expenditures -- particularly in a relatively small state like Alaska -- arises from the fact that professional media consultants often work, during the same election, for a number of individual candidates and also for political action committees. If a consultant is advising a PAC and that PAC is making expenditures on behalf of a candidate who is also one of the consultant's clients, there is a strong possibility that knowledge gained by the consultant from working with the candidate will, consciously or unconsciously, be applied to the development of media

prepared on behalf of the candidate by the political action committee.

From the standpoint of enforcing the contribution limits on political action committees, it is difficult to prove affirmatively, without an objective standard in the law, that a consultant has used information from the candidate in developing "independent" media for a PAC. Unless there is a clear, objective test for nonindependent expenditures, there will be no way to enforce the contribution limits.

This section attempts to establish an objective standard for "independent" expenditures. It is modeled after federal law. It provides, in essence, that an expenditure is not an independent expenditure -- and thus subject to the contribution limitations -- if the expenditure is made in consultation with someone who either was an officer of the candidate's campaign or worked in a professional capacity for the candidate's campaign within one year before the expenditure is made. This does not mean that expenditures made in consultation with candidates or their consultants are illegal. The provision would simply be a means of letting PACs, candidates, campaign workers, and media consultants know when expenditures that are made by "independent" supporters of a candidate must be reported

as contributions and included within the \$2,000 contribution limitation. This provision will unquestionably have some effect on a media consultant's ability to take employment both from a candidate and from PACs that seek to spend more than \$2,000 on that candidate's behalf.

The definition is far from perfect, since it is going to be difficult in many cases to determine if an expenditure is truly independent or whether it has been made through consultation with a candidate. Communication with the Federal Election Commission staff indicates that there have been few, if any, successful efforts to enforce this provision a federal level. Nonetheless, the distinction must be made since under rulings of the Supreme Court, there are no limits on the amount of independent expenditures that may be made by a PAC or individual to support a candidate, while expenditures that are not independent are deemed contributions and may be limited.

Sec. 15.14.100. CERTIFICATION OF REPORTS. Present law requires in numerous sections that reports made to the commission be certified. The proposed section makes that requirement generally applicable to all reports and adds a specific form for the certification.

C+RA added that candidate can certify report.

C+RA Committee:
Kept present
limit of \$1000

ARTICLE 3. CONTRIBUTIONS AND EXPENDITURES.

Sec. 15.14.110. CONTRIBUTIONS BY A PERSON. Subsection (a) of this section includes the present limitation of \$100 on the amount that may be contributed to a candidate or PAC in the form of cash. Subsection (b) raises the present limit of \$1,000 for contributions made by persons directly to candidates to \$2,000. Subsection (c) imposes for the first time a limit on the amount that a person may contribute to a PAC, and sets that limit at \$2,000. Subsection (d) permits, as does existing law, unlimited contributions to political parties, and restates the constitutional rulings of the United States Supreme Court that no limits may be imposed on contributions to groups formed solely for the purpose of supporting or opposing ballot propositions or questions. Subsection (e) prohibits persons from making contributions in the form of loans in any amount to candidates or political action committees. The theory behind this prohibition is that a candidate will feel more of an ongoing obligation to a contributor who lends the candidate money than to a contributor who merely gives a contribution in the form of an outright gift. Loans to candidates made by themselves or by members of their immediate families would still be permitted, as would

ordinary extensions of business credit made in the course of a campaign.

Sec. 15.14.120. CONTRIBUTIONS BY A POLITICAL ACTION COMMITTEE. Subsections (a) through (c) contain the same limitations on contributions by political action committees that sec. 15.14.110 imposes on contributions by persons. Subsection (b) of this section additionally prohibits a PAC from contributing more than \$25,000 in the aggregate during a year to candidates and other political action committees generally. *CARA deleted subsection (b).*

Subsection (e) is concerned primarily with the potential problem of spinning off additional PACs from a "parent" PAC simply to avoid the contribution limitations. This subsection provides that multiple PACs are considered to be a single group for purposes of the contribution limits if the PACs share a majority of the same officers. This is far from an ideal solution to this problem; however, it is extremely difficult to draft objective indicators of "control" or "sameness" among PACs that will identify truly spurious spin-offs but that do not at the same time include genuinely distinct PACs.

Subsection (f) makes it clear that if a political action committee makes a non-independent expenditure for a communication supporting a slate of candidates, the

committee must allocate that expenditure for purposes of the contribution limitation among those candidates on a pro rata basis.

Subsection (g) provides (as in present law) that political parties may make unlimited contributions to candidates. The distinction is made because political parties are far different than the new type of political action committees that have sprung up in the last decade. Political parties are democratically run, and they represent a wide spectrum of interests as compared with political action committee that more and more tend to represent narrow economic or political concerns.

Sec. 15.14.130. LIMITATIONS ON ACCEPTING CONTRIBUTIONS. The two previous sections (15.14.110 and 15.14.120) prohibit persons and PACs from making contributions beyond the limits provided in those sections. This section contains the counterpart provision that prohibits candidates, campaign officers, PACs and PAC officers from accepting contributions made in excess of those limits.

Sec. 15.14.140. EXPENDITURES. This section replaces the unconstitutional provisions of present AS 15.13.070(f) that limit campaign expenditures; the revision brings the law into conformity with U.S. Supreme Court decisions.

Subsection (a) provides that there is no limit on the amount a candidate may expend for his or her campaign. Subsection (b) provides that persons or PACs may also make unlimited expenditures of funds so long as those expenditures are independent expenditures.

Sec. 15.14.150. PROHIBITED CONTRIBUTIONS. This section continues the prohibition contained in present law, AS 15.13.070(d), against anonymous contributions or expenditures and against contributions and expenditures made in the name of another. This section also provides, contrary to regulations recently adopted by APOC, that contributions by a shareholder of a corporation are not contributions in the name of the corporation. This would permit a subsidiary corporation and its parent corporation each to contribute \$2,000 to the same candidate.

ARTICLE 4. CAMPAIGN CONDUCT AND ADMINISTRATION.

Sec. 15.14.160. CAMPAIGN OFFICERS. This section is similar to the existing provisions of AS 15.13.060. The new section retains the requirement of existing law that candidates and PACs must appoint a campaign treasurer. It adds a new requirement, however, that PACs must also appoint a campaign chairman. The existing statute requires candidates for state offices to file the name of their campaign treasurers with the director of the division of

elections, who then files it with the commission. The new section deletes the requirement of filing with the division of elections and instead provides for filing the names of campaign officers directly with the commission.

Under existing law, contributions may be "received" and expenditures made only through a campaign officer -- chairman, treasurer or deputy treasurer, or by a candidate personally. Sec. 15.14.160(e) of the bill would exempt a person from registering as a deputy campaign treasurer if the person's only activity is soliciting contributions and transferring contribution checks from contributors to candidates.

Subsection (f) is virtually identical to the existing provisions of AS 15.13.060(f), which provides that a default or violation of a campaign treasurer is considered a default or violation by the candidate if the candidate "knew or had reason to know of the default or violation." The new subsection expands the candidate's responsibility to all campaign officers, not just campaign treasurers.

Sec. 15.14.170. USE OF CAMPAIGN FUNDS. This section is new, and in effect prohibits the personal use of campaign funds by providing that campaign funds may be used only for campaign purposes. While the standards in the bill describing the permissible use of campaign funds --

"influencing or attempting to influence the actions of the voters" -- are very broad, attempts to develop a more precise definition inevitably resulted in banning things that arguably should be legitimate political expenditures. This section would also prohibit a candidate from repaying a loan made by the candidate to his own campaign if the loan was not timely reported as a loan under Sec. 060.

Sec. 15.14.180. TERMINATION OF CAMPAIGN ACTIVITY AND CLOSING OF CAMPAIGN ACCOUNTS. This section is new, and it is one of the major changes that this bill makes in the existing law. Existing law permits office holders to continue to solicit and accept contributions to pay off campaign debts during their terms in office. Not only does this give the winner in an election an enormous advantage over the losers in terms of the ability to raise post-election campaign contributions, but it also involves at the very least an appearance of impropriety, since the winner has the power -- at least in theory -- to assist contributors in ways that the losers do not. It also encourages candidates to run up large debts in their campaigns, since they can always hope that they will be successful and through subsequent fund raisers, be able to reduce or pay the debt.

C + RA Committee added language requiring legislative candidates to close the campaign account 30 days after the general election. Previous version allowed them to keep it open until being sworn into office.

This section requires candidates to close all accounts relating to a designated campaign no later than the date on which the successful candidate is sworn into office. Candidates who lose in the primary, municipal candidates, and candidates who withdraw before an election must close their accounts within a brief period after the election or withdrawal from the race. The section also prohibits candidates from soliciting or accepting contributions and from making any expenditures other than disposing of surplus funds after the date on which accounts must be closed.

Sec.15.14.190. SURPLUS FUNDS. This section is new. Under existing law, a candidate may use surplus campaign funds for any purpose, including as personal income, the only requirement being that the funds be declared as income for tax purposes. This section strictly limits the ways in which surplus campaign funds may be spent.

Sec. 15.14.200. SOLICITATION OF CONTRIBUTIONS. This section is new. There are currently no restrictions in law concerning the solicitation of contribution by and from public employees. Subsections (a) and (b) prohibit state and municipal officers and employees, except those elected to office by popular vote, from soliciting contributions from other public officials or employees while either the solicitor or the person being solicited is on the premises

↓ CTRA broadened coverage to include "A person may not solicit a public officer..."

of a state or municipal office. Subsection (c) prohibits candidates and PACs from accepting contributions obtained through those means.

Sec. 15.14.210. IDENTIFICATION OF COMMUNICATION.

Subsection (a) of section 210 is identical to existing AS 15.13.090, and requires that all advertisements and other political communications be identified by a "paid for by" statement. Subsection (b) is new. It requires a person or political action committee making an independent expenditure also to include a statement that the communication is not authorized by any candidate. This requirement is directed at independent advertisements that are ostensibly favoring one candidate, but that are so scurrilous as to require the candidate to adopt a defensive posture and disavow the advertisement after the fact. While there is no way constitutionally to prohibit scurrilous independent campaign efforts, this subsection at least offers the "benefited" candidate some protection.

Subsection (c) of this section is also new. In its most recent regulations, the commission adopted a provision that would exempt certain small campaign items -- buttons, pens, pencils, and so forth -- from including the phrase "paid for by." The regulation makes sense, but there is a real question as to whether the existing law provides

sufficient authority for the commission to adopt regulations to allow any exceptions to the statute's "paid for by" requirement. Subsection (c) would provide that authorization. The bill does not define in detail what constitutes "too small," as that is a matter more appropriately left to the commission to determine through regulations.

ARTICLE 5. VIOLATIONS, CIVIL PENALTIES, AND PROCEDURES.

As originally introduced, SB 356 contained three levels of penalties for violations of the provisions of Chapter 14 -- Class C felonies for knowing and intentional violations of the most important requirements of the law, Class A misdemeanors for knowing and intentional violations or less critical requirements, and civil penalties to be administered by the commission for inadvertent violations of the law. However, after the Attorney General testified before the Senate State Affairs Committee that the Department of Law did not want to be involved in prosecuting any violations of the act as crimes, the Committee totally revised the penalty provisions. The Committee Substitute for Senate Bill 356 now contains only civil penalties -- all to be administered by the Public Offices Commission. The bill does, however, continue to make a distinction between

intentional or knowing violations of the more important provisions of the law and those violations for which penalties may be imposed without proof of knowledge or intent.

Sec. 15.14.220. CAMPAIGN FINANCING VIOLATIONS IN THE FIRST DEGREE. This section deals with the more serious violations of the act that are committed either knowingly or with intent to avoid public disclosure. The heaviest potential penalty under this section is provided for a person or PAC that, with intent to avoid disclosure, fails to file a report due 30 days or seven days before the election or within 24 hours after receiving a contribution. Such a person or PAC would be subject to a penalty of not less than \$100 nor more than \$300 for each day the report was due but not filed, up to a maximum of \$25,000 for each report. The following are examples of the types of fines provided under this section for intentional violations of the law. A person or PAC that, with intent to avoid disclosure, files a 30 day, seven day, or 24 hour report containing false or misleading information would be subject to a fine of not less than \$500 nor more than \$5,000 plus an additional fine not to exceed twice the amount of the contribution or expenditure involving the false or misleading statement. Knowingly accepting or making

C+RA Committee added "loans" to this section

contributions in excess of the dollar limitations would carry a fine of not less than \$1,000 nor more than \$5,000, plus an additional fine not to exceed twice the amount that the contribution exceeded the limit. Knowingly accepting or making contributions in excess of the \$100 cash limitation would carry a fine of not less than \$100 nor more than \$500 if the cash contribution is less than \$500; if the cash contribution is \$500 or more, the commission would be authorized to assess an additional penalty not to exceed twice the amount of the cash contribution. Knowingly making or accepting a contribution made anonymously or in the name of another would carry a penalty of not less than \$500 nor more than \$5,000; if the contribution is \$500 or more, the commission would be authorized to assess an additional penalty not to exceed twice the amount of the contribution.

Sec. 15.14.230. CAMPAIGN FINANCING VIOLATIONS IN THE SECOND DEGREE. This section provides for lesser civil penalties for acts or omissions included under the previous section for which knowledge or intent to avoid public disclosure need not be proven -- in essence, inadvertent violations. These violations in the second degree carry maximum fines ranging between \$3,000 and \$5,000. This section also provides for civil penalties for less serious violations of the law -- primarily those that do not impede

pre-election disclosure of the sources and amounts of campaign contributions. Maximum penalties for these violations range between \$500 and \$2,000.

Under existing law, any violation of the law is a misdemeanor. As the Attorney General noted in his testimony before the Senate State Affairs Committee, there has never been a criminal case brought under this act in its 12 years of existence. By the same token, the only penalties that the commission is authorized to assess under the current law are daily fines for late reports. The new penalty provisions will ensure that for the first time persons who violate other provisions of the law -- not just those who file reports late -- will receive some penalty. These provisions are also more likely to result in having serious, intentional violators receive severe penalties, particularly in light of the fact that there have been no criminal prosecutions to date under the existing laws.

Sec. 15.14.240. PAYMENT OF FINES. This section is new, and prohibits a candidate or PAC from paying any fine imposed by the commission from campaign funds.

Sec. 15.14.250. REMOVAL FROM OFFICE. Subsection (a) is similar to existing AS 15.13.120(f), and outlines the procedures to be followed for removing a successful candidate from office. This section provides that these

procedures be initiated only a successful candidate is found to have committed an intentional or knowing violation in the first degree under sec. 15.14.220 of the bill.

Subsection (b) is taken from existing AS 15.13.120(g), and simply requires that the record developed by the commission shall be considered during any removal process. Subsection (c) is a slightly edited version of AS 15.13.120(h), which purports to require the courts to give priority on the calendar to criminal proceedings brought against successful candidates or their campaign officers under the existing act. The new subsection (c) requires that the commission give priority in its handling of cases to those involving successful candidates accused of first degree violations.

Sec. 15.14.260. LIMITATIONS ON ACTIONS. Existing law contains a four year statute of limitations for both crimes and violations under the existing law. Proposed sec. 260 adopts a series of statutes of limitation -- four years for first degree violations and two years for second degree violations. Subsection (c) makes it clear that for violations involving late reports, the violation is considered to have been committed on the day after the report was due.

Sec. 15.14.270. INVESTIGATIONS. This section is largely new. The existing statutes governing commission investigations and procedures are hopelessly confused. This section retains the provision of existing law (AS 15.13.120(d)), which permits the commission to commence an investigation upon receiving a citizen's complaint. The proposed section, however, incorporates into the law the commission's current regulation that requires such complaints to be signed and verified.

Subsection (b) requires the commission to send a copy of a citizen's complaint to the person charged in the complaint, and to inform both the complainant and the person being investigated if and when the investigation is closed or an accusation is filed. Existing law provides only that the complainant be informed of the closing of an investigation. Existing law permits the complainant to appeal a decision to terminate an investigation to the superior court. In light of Alaska Supreme Court decisions involving similar issues, a judicial order requiring the commission to prosecute a matter would be a violation of separation of powers. This bill therefore deletes that provision of existing law.

Sec. 15.14.280. ACCUSATIONS. Existing law contains very few provisions governing the actual administrative

procedures that the commission must follow in adjudicating contested violations and imposing penalties. To the extent that its regulations have filled that gap, the commission has generally followed the provisions contained in AS 44.62, the Administrative Procedure Act. It is preferable, however, to include the basic procedures in the law rather than leaving such an important matter to regulations. Sec. 280 thus is borrowed from the Administrative Procedure Act provisions which are applicable to the initiation of proceedings by nearly every other administrative agency in state government.

Sec. 15.14.290. NOTICE OF DEFENSE. Like proposed sec. 280, this section is also taken almost verbatim from the Administrative Procedures Act, and describes the "answering" document that the respondent to an accusation files with the commission.

Sec. 15.14.300. HEARINGS. Subsection (a) requires the commission to provide notice of contested hearings -- a requirement contained in the Administrative Procedure Act. Subsection (b) adopts by reference for the commission the general hearing procedures contained in the Administrative Procedure Act for other agencies' hearings -- mostly governing such things as the use of depositions, rules of evidence, and so forth. In contrast to the Administrative

Procedures Act, however, this section provides that the commission need not appoint hearing officers to preside at its hearings. Hearing officers must be attorneys, and they do not work for free. Requiring them in every case before the commission would add greatly to the commission's costs. This subsection does require, however, that an assistant attorney general must be present to advise the commission on legal matters during a hearing if a hearing officer is not appointed.

Sec. 15.14.310. IMPOSITION OF PENALTY. This section has no counterpart in the existing statute. It provides that the commission may impose penalties only after a person has admitted or pled no contest to an accusation or after the Commission holds a hearing at which certain rights have been afforded the respondent, and at which the commission determines that the person has committed the violation. This section also proposes that violations must be proved by clear and convincing evidence. The existing statute does not address standards of proof in hearings before the commission. Most agencies are governed by what the court terms "substantial evidence." For violations resulting from inadvertent errors where a report is late or contains inaccuracies, proof of the violation will be simple even under a heightened standard of proof such as "clear and

convincing." But a determination that someone deliberately attempted to deceive the public has obvious and major implications for one's life, to say nothing of one's political career. For these reasons, this section requires proof by "clear and convincing" evidence.

Subsection (b) contains what in essence is a ban on plea bargaining. It is worded similarly to the Department of Law's prohibition against plea bargaining in criminal cases.

Subsection (c) insures that the staff will not communicate penalty recommendations to the commission unless the respondent has notice of what the recommendation will be and has an opportunity to respond to it.

Subsection (d) contains broad guidelines for the commission to follow in imposing penalties in particular cases. In essence, this section suggests that the higher penalties should be reserved for egregious conduct involving relatively large contributions. Including a section like this will provide some guidance to the commission in exercising its discretionary "sentencing" authority, as well as provide some standards for judicial review of commission actions.

Sec. 15.14.340. SUMMARY DISPOSITION OF VIOLATIONS.

This section authorizes the commission to adopt a schedule

of fines for the least serious violations -- with maximum penalties of up to \$500 for a single violation. The vast majority of violations that have come or will come before the commission involve reports that are filed a few days late. This section will permit the commission to continue to deal with those minor violations in a summary fashion, without having to employ the more elaborate procedures of the Administrative Procedure Act. The concept of summary disposition of violations by means of a schedule of fines is modeled after the mail-in-bail provisions of the Motor Vehicle Code (AS 28).

Sec. 15.14.330. CONFIDENTIALITY. This section requires that all commission investigations -- including the fact that an investigation is even being conducted -- must remain confidential until such time as an accusation is filed. Subsections (b) and (c) are modeled after the confidentiality requirements governing employees of the Department of Revenue with respect to tax matters. Like the Revenue statute, this proposed section makes it a misdemeanor for a current or former commission member or current or former commission employee to divulge confidential information about a past, pending, or contemplated investigation.

Sec. 15.14.340. JUDICIAL REVIEW. This section is new, and is modeled after a similar section in the Administrative Procedure Act.

Sec. 15.14.350. POWERS OF THE COMMISSION. This section is, apart from minor editing, identical to existing AS 15.13.045, and provides the commission with the power to compel witnesses, issue subpoenas, and so forth, with respect to an investigation or hearing.

Sec. 15.14.360. LEGAL COUNSEL. This section is modeled after existing AS 15.13.122. It provides that the Attorney General is the legal counsel for the commission. The existing statute allows the commission to request the chief justice of the supreme court to appoint a special prosecutor "if the public interest warrants." Because the bill has removed criminal penalties for violations of the act, this provision was deleted from the bill. The existing statute also permits the commission, without the concurrence of any official, to employ temporary legal counsel. All other agencies must seek the concurrence of the Attorney General before legal counsel outside the Department of Law may be employed, since the Attorney General must be in charge of all state legal policy. Subsection (b) of the proposed section requires concurrence by the Attorney

General before the commission may employ its own legal counsel.

ARTICLE 6. MISCELLANEOUS PROVISIONS.

Sec. 15.14.900. DEFINITIONS.

The definition section is similar to Sec. 15.13.130 in the present law with the following major changes:

(a) Expenditure. The existing definition of "expenditure" is confusing primarily because it is poorly drafted. The new definition attempts to clarify the meaning of the term without changing the substance of the existing law.

(b) Political action committee. A definition of "political action committee" replaces the present definition of "group." A "political action committee" is not simply a combination of persons who act "jointly" for political purposes, but instead is defined as a person or combination of persons that accepts contributions for the purpose of influencing elections. It includes individuals who raise money and use their own discretion as to how that money is spent; present law does not specifically cover such individuals. Individuals who do not use the contributions of others but simply spend their own funds are not a political action committee -- the expenditures will be reported, however, under proposed sec. 15.14.080.

(c) Political Party. There is no current definition of a political party in Alaska. The previous definition contained in AS 15.60.010(20) defined a political party as a group of organized voters representing a political program and that nominated a candidate for governor who received at least 10 percent of the vote at the preceding general election. This definition was struck down in Vogler v. Miller, 660 P.2d 1192 (Alaska 1983) as unduly restrictive. Three members of the court indicated through reference to definitions from other states that replacing the ten percent figure with a five percent requirement would be sufficient to restore the validity of the definition. While two justices stated that their decision on a new definition would depend on the interplay between the rights of a political party to receive unlimited donations and the restriction on contributions to candidates who might not be supported by established political parties, it is nonetheless reasonable to believe that the court would approve the definition proposed in this section, based on a five percent support figure from the previous gubernatorial election.

OTHER SECTIONS OF THE BILL

Sections 2, 4, 5, 6, 7, 8, 9, 10, and 11 amend other statutes that refer to "AS 15.13." These references have

been changed to "AS 15.14." Additionally, in section 11 (page 47, lines 17-18) the conflict of interest statute is amended to require the executive director and employees of the APOC to file conflict of interest statements as well as members of the commission.

Section 3 of the bill adds a section to the criminal penalties for election code violations under AS 15.56. Under the original version of SB 356, it was a crime to intentionally solicit a contribution by threats of physical force, job discrimination or financial reprisal. The Senate State Affairs Committee believed that this was one type of campaign financing activity -- in essence extortion -- that should be a crime, regardless of the way other violations were treated. This section would make such a crime a class C felony.

Section 12 contains a technical amendment to the Administrative Procedure Act that makes it clear that the procedures contained in this bill will govern APOC investigations and hearings rather than any inconsistent provisions in the Administrative Procedure Act.

Section 13 of the bill repeals the existing campaign financing laws (AS 15.13.).

Section 14 repeals the two subsections of AS 15.56.010 that make it a misdemeanor to knowingly fail to include the

"paid for by" information in campaign communications and to knowingly print, publish or broadcast a communication without that information. These two provisions have been relocated to the civil penalty provisions of this bill.

Section 15 makes it clear that the members of the commission appointed under the existing statutes continue in office under the new law.

Section 16 provides that any municipality that has voted to exempt its elections from the provisions of AS 15.13 need not hold a new election after the effective date of this bill in order to maintain the exemption.

Section 17 provides that the provisions of this bill relating to the closing of campaign accounts do not require the closing of campaign accounts that were used during an election held before the effective date of the act. This section further provides that post-election fundraising is not prohibited for the purpose of raising funds to pay campaign debts from previous elections.

Section 18 describes the activities that will be covered by the bill -- those that take place after the general effective date of January 1987 and that relate to state and municipal elections held after January 1, 1987.

*C&RA Committee added requirement
that all campaign accounts from
prior elections must be closed
by January 1, 1988*

Section 19 provides for a general effective date of January 1, 1987, to ensure that the provisions of this bill do not apply to the 1986 election.