

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILE 8672
2174 SCOMM 82: SENATE SPEC. COMM. ON ETHICS REFORM, 1991-92

192

1 advisory opinion. Except as provided in this chapter an advisory opinion is confidential but shall
2 [MAY] be made public if a written request by the person who requested the opinion is filed with
3 the committee.

4 * Sec. 20. AS 24.60.170 is repealed and reenacted to read:

5 Sec. 24.60.170. PROCEEDINGS BEFORE THE COMMITTEE. (a) The committee
6 shall consider a complaint alleging a violation of this chapter if the alleged violation occurred
7 within five years of the date that the complaint is filed with the committee and, when the subject
8 of the complaint is a former member of the legislature, the complaint is filed within one year of
9 the subject's departure from the legislature. The committee may not consider a complaint filed
10 against a person employed by the legislative branch of government after the person has
11 terminated legislative service. The committee may also initiate complaints on its own motion,
12 subject to the same time limitations. The time limitations of this subsection do not bar
13 proceedings against a person who intentionally prevents discovery of a violation of this chapter.

14 (b) A complaint may be initiated by any person. The complaint must be in writing and
15 signed under oath by the person making the complaint. The committee shall upon request
16 provide a form for a complaint to a person wishing to file a complaint. The committee shall
17 immediately provide a copy of the complaint to the person who is the subject of the complaint.

18 (c) When the committee receives a complaint under (a) of this section, it shall determine
19 whether the allegations of the complaint, if true, constitute a violation of this chapter. If the
20 committee determines that the allegations, if proven, would not give rise to a violation, or if the
21 committee's lack of jurisdiction is apparent on the face of the complaint, the committee shall
22 dismiss the complaint, and shall notify the complainant and the subject of the complaint of the
23 dismissal.

24 (d) If the committee determines that some or all of the allegations of a complaint, if
25 proven, would constitute a violation of this chapter, or if the committee has initiated a complaint,
26 the committee shall investigate the complaint, on a confidential basis. Before beginning an
27 investigation of a complaint not initiated by the committee, the committee shall adopt a resolution
28 defining the scope of the investigation. A copy of this resolution shall be provided to the
29 complainant and to the subject of the complaint. As part of its investigation, the committee shall
30 afford the subject of the complaint an opportunity to explain the conduct alleged to be a violation
31 of this chapter.

1 (e) If the committee determines after investigation that there is not probable cause to
2 believe that the subject of the complaint has violated this chapter the committee shall dismiss
3 the complaint. The committee may also dismiss portions of a complaint if it finds no probable
4 cause to believe that the subject of the complaint has violated this chapter as alleged in those
5 portions. The committee shall issue a decision explaining its dismissal. A copy of the dismissal
6 order and decision shall be sent to the complainant and to the subject of the complaint.
7 Notwithstanding (l) of this section, a dismissal order and decision is open to inspection and
8 copying by the public.

9 (f) If the committee investigation determines that a probable violation of this chapter
10 exists that may be corrected by action of the subject of the complaint and that does not warrant
11 sanctions other than correction, the committee may issue an opinion recommending corrective
12 action. This opinion shall be provided to the complainant and to the subject of the complaint,
13 and is open to inspection by the public. The subject of the complaint may comply with the
14 opinion or may request a hearing before the committee under (h) of this section. After the
15 hearing the committee may amend or affirm the opinion.

16 (g) If the subject of a complaint fails to comply with an opinion issued under (f) of this
17 section, or if the committee determines after investigation that there is probable cause to believe
18 that the subject of the complaint has committed a violation of this chapter that may require
19 sanctions instead of or in addition to corrective action, the committee shall formally charge the
20 person. The charge shall be served on the person charged, in a manner consistent with the
21 service of summons under the rules of civil procedure, and a copy of the charge shall be sent to
22 the complainant. The person charged may file a responsive pleading to the committee admitting
23 or denying some or all of the allegations of the charge.

24 (h) If the committee has issued a formal charge under (g) of this section, and if the
25 person charged has not admitted the allegations of the charge, the committee shall schedule a
26 hearing on the charge. The hearing shall be scheduled for a date more than 20 days after service
27 of the charge on the person charged, unless the person agrees to an earlier hearing date. At the
28 hearing, the person charged shall have the right to appear personally before the committee, to
29 subpoena witnesses and require the production of books or papers relating to the proceedings, to
30 be represented by counsel, and to cross-examine witnesses. A witness shall testify under oath.
31 The committee is not bound by the rules of evidence but the committee's findings must be based

1 upon clear and convincing evidence. Testimony taken at the hearing shall be recorded and
2 evidence shall be maintained.

3 (i) Following the hearing, the committee shall issue a decision stating whether or not the
4 subject of the complaint violated this chapter, and explaining the reasons for the determination.
5 The committee's decision may also indicate whether the subject cooperated with the committee
6 in its proceedings. If the committee finds a violation, or lack of cooperation by the subject, the
7 decision shall recommend what sanctions, if any, the committee believes are appropriate. If there
8 has not been a hearing because the person charged admitted to the allegations of the charge, the
9 committee shall issue a decision outlining the facts of the violation and containing a sanctions
10 recommendation.

11 (j) If the committee issues a decision finding that a member of the legislature has
12 violated a provision of this chapter or that the member has failed to cooperate with the
13 committee, it shall refer the decision to the presiding officer of the house of the legislature to
14 which the member belongs. The legislature shall act on the decision as it considers appropriate.

15 (k) If the committee issues a decision finding that an employee of the legislative branch
16 of government has violated a provision of this chapter, or that the employee has failed to
17 cooperate with the committee, it shall refer the decision to the chair of the legislative council.
18 The legislative council shall act on the decision as it considers appropriate.

19 (l) Proceedings of the committee relating to complaints before it are confidential until
20 the committee determines that there is probable cause to believe that a violation of this chapter
21 has occurred. The complaint and all documents produced or disclosed as a result of the
22 committee investigation are confidential and not subject to inspection by the public, except that
23 the committee may transmit a report of its investigation, including documents disclosed by the
24 investigation, to a law enforcement agency, including the Alaska Public Offices Commission.
25 All meetings of the committee before the determination of probable cause are closed to the
26 public. The confidentiality provisions of this subsection may be waived by the subject of the
27 complaint.

28 (m) All documents issued by the committee after a determination of probable cause to
29 believe that the subject of a complaint has violated this chapter, including an opinion
30 recommending corrective action under (f) of this section and a formal charge under (g) of this
31 section, are subject to public inspection. All hearings of the committee under (h) of this section

1 are open to the public, and all documents presented at a hearing, and all motions filed in
2 connection with the hearing, are subject to inspection by the public. Deliberations of the
3 committee following a hearing, deliberations on motions filed by the subject of a charge under
4 (g) of this section, and deliberations concerning appropriate sanctions are confidential.

5 (n) The committee shall dismiss a complaint against a person employed by the legislative
6 branch of government if the person terminates legislative service. The committee may in its
7 discretion dismiss a complaint against a former member of the legislature whether the complaint
8 was filed before or after the former member departed from the legislature.

9 (o) A committee member or member of the committee staff who divulges information
10 concerning a proceeding, except as permitted by this chapter, is guilty of a class A misdemeanor.

11 * Sec. 21. AS 24.60 is amended by adding a new section to read:

12 Sec. 24.60.175. EMPLOYMENT DISCRIMINATION GRIEVANCES. (a) A person
13 employed or formerly employed by the legislative branch of government may file a grievance
14 with the committee alleging a violation of AS 18.80.220 by the person's employer or former
15 employer. The committee shall adopt procedures concerning the filing, the investigation, the
16 mediation, and the hearing of grievances under this subsection. In adopting procedures, the
17 committee shall consider regulations of the office of equal employment opportunity adopted
18 under AS 44.19.443 and shall protect the confidentiality of grievances.

19 (b) In accordance with the procedures established under (a) of this section the committee
20 may

21 (1) provide for mediation of a grievance;

22 (2) dismiss a grievance without prejudice; or

23 (3) after a hearing, make appropriate recommendations concerning a grievance
24 to the president of the senate, the speaker of the house, or the head of the legislative agency
25 where the grievant is or was employed.

26 (c) This section does not diminish rights under other state or federal law relating to
27 employment discrimination.

28 (d) In this section, "committee" means the legislative members of the house
29 subcommittee when the grievant is or was employed by a member or a committee of the house,
30 the legislative members of the senate subcommittee when the grievant is or was employed by a
31 member or a committee of the senate, and the legislative members of the full committee when

1 the grievant is or was an employee of an agency of the legislature.

2 * Sec. 22. AS 24.60 is amended by adding a new section to read:

3 ARTICLE 2. RESTRICTIONS ON FORMER LEGISLATORS
4 AND LEGISLATIVE EMPLOYEES.

5 Sec. 24.60.200. RESTRICTIONS ON FORMER LEGISLATORS AND LEGISLATIVE
6 EMPLOYEES. (a) A person to whom this chapter applied may not, for a period of one year
7 after this chapter ceased to apply to the person, represent another person for compensation before
8 a court, agency, board, or commission of the state with regard to a matter in which the person
9 participated personally and substantially while this chapter applied to the person.

10 (b) A person who violates this section may be enjoined from continuing to violate it, and
11 is subject to a civil penalty of up to \$5,000.

12 * Sec. 23. AS 39.50.090(c) is amended to read:

13 (c) A public official may not represent a client before a state agency for a fee. However,
14 this prohibition does not apply to a person to whom AS 24.60 applies, to a municipal officer,
15 or to the chair [CHAIRMAN] or a member of a state commission or board except with regard
16 to representation before that commission or board; this exception from the general prohibition
17 does not apply to one whose service on the commission or board constitutes the person as a full-
18 time state employee under this title.

19 * Sec. 24. AS 24.60.060, 24.60.080(b), and 24.60.120 are repealed.

20 * Sec. 25. TRANSITIONAL PROVISIONS RELATING TO PUBLIC MEMBERS OF SELECT
21 COMMITTEE ON LEGISLATIVE ETHICS. Notwithstanding AS 24.61.130(g), as amended by sec. 16
22 of this Act, one of the public members of the Select Committee on Legislative Ethics shall serve until
23 the commencement of the 1992 regular session of the Alaska State Legislature; one of the public
24 members shall serve until the commencement of the 1993 regular session; and the remaining public
25 member shall serve until the commencement of the 1994 regular session. The length of each public
26 member's term under this section shall be determined by lot.

SCOMM

82:6

Alaska State Legislature

During Session
P.O. Box V
Juneau, Alaska 99811
(907) 465-2828



During Interim
3111 C Street, Suite 510
Anchorage, Alaska 99503
(907) 561-2040

Senator Virginia Collins

May 13, 1991

MEMORANDUM

TO: Senator Jay Kerttula, Co-Chair
Senate Finance Committee

FROM: Senator Virginia Collins. Chair *VM*
Senate Special Committee on Ethics Reform

SUBJECT: SB 291 - Legislator's Office Allowance

I respectfully request that you schedule SB 291 for a committee hearing before the end of session. If we plan to address this issue before the session adjourns. the public hearing process needs to be expedited.

Thank you for your consideration of this request.

Attachments



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Alaska State Legislature

During Session
P.O. Box V
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During Interim
3111 C Street, Suite 510
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(907) 561-2040

Senator Virginia Collins

March 25, 1991

MEMORANDUM

TO: Senator Rick Halford

FROM: Senator Virginia Collins 

SUBJECT: Legislative Office Allowance

In response to your question on whether or not the current \$4,000 is adequate for a legislative office allowance, I have found that during my six years as a Representative I have spent a minimum of \$3,000 each year from my personal funds.

As the Senator from District F, I will have to continue to subsidize my senate office allowance. I foresee that I will be spending at a minimum an additional \$6,000 from my personal funds.

The Senate Special Committee on Ethics Reform is going to address the office allowance issue. I am providing you with a copy of a proposed committee bill. However, the committee has not yet had an opportunity to meet on this draft. If you have any questions, please call Shirley Armstrong. She has been working as staff to the committee.

Enclosure



7-LS1069A
Gaguine
3/21/91

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE SPECIAL COMMITTEE ON ETHICS REFORM

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the legislative office allowance."

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

3 * Section 1. AS 24.10.110 is amended to read:

4 Sec. 24.10.110. LEGISLATIVE OFFICE ALLOWANCE. Each [ADDITIONAL
5 ALLOWANCES. IN ADDITION, EACH] member of the legislature is entitled to
6 reimbursement by the Legislative Affairs Agency [AN ANNUAL ALLOWANCE
7 PRESCRIBED IN ACCORDANCE WITH AS 39.23] for the lawful expenses of maintaining
8 legislative session and district offices, including but not limited to postage, stationery, and
9 stenographic services, up to a maximum of \$8,500 for members of the senate and \$6,000 for
10 members of the house of representatives [AND OTHER EXPENSES].

11 * Sec. 2. AS 24.10.110 is amended by adding a new subsection to read:

12 (b) The legislative council shall adopt guidelines to implement this section. The
13 guidelines must include procedures for submission of vouchers by legislators, review of those
14 vouchers, and, when appropriate, payment by the Legislative Affairs Agency.

Work Draft for Office Allowance bill for the
Senate Special Committee on Ethics Reform

Sec. 24.10.110. LEGISLATIVE OFFICE [ADDITIONAL] ALLOWANCE.

(a) [In addition,] Each member of the legislature is entitled to an annual allowance for the lawful expenses of maintaining a legislative session and district office [in accordance with AS 39.23] for but not limited to postage, stationery, stenographic services and other expenses. Members of the Senate are authorized to submit reimbursement vouchers up to \$8,500 and members of the House are authorized to submit reimbursement vouchers up to \$6,000 to the Legislative Affairs Agency for payment.

(b) The Legislative Council Committee shall draft guidelines to implement the legislative office allowance voucher system.

Separate Bill for Allowance

(C) as an employee serving on only a temporary basis in case of fire,
storm, snow, earthquake, flood, or similar emergency;

* Sec. 9. AS 24.10 is amended by adding a new section to read:

Sec. 24.10.111. LEGISLATIVE OFFICE ALLOWANCE. (a) A legislator may be reimbursed for the lawful expenses of maintaining a legislative office to supplement resources generally provided to legislators by the legislature and its agencies. Expenses eligible for reimbursement under this section include those incurred in a district office or an office in the capital city.

(b) Expenses that may be paid with public funds under AS 24.61 (Legislative Ethics Act) are presumed to be lawful.

(c) The legislative council shall, within 10 days of the beginning of a regular session of the legislature in an odd-numbered year, set a maximum amount that may be reimbursed under (a) of this section. If the council does not set a maximum amount under this section, the previously established maximum amount remains in effect. The council may vary the maximum amount according to the number of constituents a legislator represents.

(d) Expenses relating to newsletters may be reimbursed under this section only if the newsletter complies with guidelines on newsletters that the legislative council shall adopt and with the provisions of AS 24.61.

* Sec. 10. AS 24.10.130 is amended by adding a new subsection to read:

(b) During each regular session of the legislature, a member of the legislature may be reimbursed for up to two round trip tickets from Juneau to a city in the district from which the legislator was elected. This section does not apply to travel as a part of a legislative committee or subcommittee or for other official business of the legislature.

* Sec. 11. AS 24.45.121(a) is amended to read:

(a) A lobbyist may not

(1) engage in any activity as a lobbyist before registering under AS 24.45.041;

(2) do anything with the intent of placing a public official under personal obligation to the lobbyist or to the lobbyist's employer;

(3) intentionally deceive or attempt to deceive any public official with regard to any material fact pertinent to pending or proposed legislative or administrative action;

(4) cause or influence the introduction of a legislative measure for the purpose

MAR 20 1991

WORK ORDER REQUEST FORM

W.O. [17] LS-1069

KEYWORDS: LEGISLATORSASSIGNED: GaguineREQUEST FOR: New BillTAKEN BY: GaguineSUBJECT: Legislator's Office AllowanceREQUESTED FOR: SC ETHBY: S. ArmstrongPHONE: 465-2828DELIVER TO: Sen. Collins, Attn: S. Armstrong, Cap 7

INSTRUCTIONS: Per attached, draft bill providing for a legislative office allowance.

OBTAIN

SPECIAL DRAFTING INSTRUCTIONS ATTACHED []
AUTHORIZED TO CONFER WITH _____

RETURN _____

_____ TO REQUESTOR

APPROVED: X DIRECTOR, LEGAL SERVICES

REVIEWED _____

IN 03/20/91 DUE _____

TYPED: Draft _____ Date _____

Final _____ Date _____

PROOFED _____ DELIVERED _____

SPECIAL INSTRUCTIONS to TYPING/PROOFING

Request for DRAFT

SCOMM

82:7

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

*P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029*

*Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101*

MEMORANDUM

May 3, 1991

SUBJECT: 26 U.S.C. 162

TO: Senator Virginia Collins
Chair, Special Committee on Ethics Reform
Attn: Shirley Armstrong

FROM: John B. Gaguine *JBG*
Legislative Counsel

The members of the special committee yesterday said that they wanted to see a copy of 26 U.S.C. 162, which is referenced in proposed AS 15.13.074(a)(4), on page 5 of the bill. Here it is. The central part of the statute is the first few lines, which really give no detail as to what is allowable. To my surprise, the IRS regulations on section 162 also give little detail on what is an "ordinary and necessary" expense. I guess that this question must be determined on a case-by-case basis.

Incidentally, note subsection (h), which makes deductible the per diem that state legislators get for attending session.

If I may be of further assistance, please advise.

JBG:lmb
91-160.lmb

PART VI.—ITEMIZED DEDUCTIONS FOR INDIVIDUALS AND CORPORATIONS

Sec.

161. Allowance of deductions.
162. Trade or business expenses.
163. Interest.
164. Taxes.
165. Losses.
166. Bad debts.
167. Depreciation.
168. Accelerated cost recovery system.
169. Amortization of pollution control facilities.
170. Charitable, etc., contributions and gifts.
171. Amortizable bond premium.
172. Net operating loss deduction.
173. Circulation expenditures.
174. Research and experimental expenditures.
175. Soil and water conservation expenditures.
176. Payments with respect to employees of certain foreign corporations.
178. Amortization of cost of acquiring a lease.
179. Election to expense certain depreciable business assets.
180. Expenditures by farmers for fertilizer, etc.
183. Activities not engaged in for profit.
184. Amortization of certain railroad rolling stock.
186. Recoveries of damages for antitrust violations, etc.
187. Repealed.
188. Amortization of certain expenditures for child care facilities.
190. Expenditures to remove architectural and transportation barriers to the handicapped and elderly.
191. Amortization of certain rehabilitation expenditures for certified historic structures.
192. Contributions to black lung benefit trust.
193. Tertiary injectants.
194. Amortization of reforestation expenditures.
- 194A. Contributions to employer liability trusts.
195. Start-up expenditures.
196. Deduction for certain unused business credits.

In '96, P.L. 99-514, Sec. 201(d)(2)(B), amended item 178. Prior to amendment, item 178 read as follows:

178. Depreciation or amortization of improvements made by a lessee on lessor's property.

—P.L. 99-514, Sec. 241, deleted item 177. Prior to deletion, item 177 read as follows:

177. Trademark and trade name expenditures.

—P.L. 242(b)(3), deleted item 183. Prior to deletion, item 183 read as follows:

183. Amortization of railroad grading and tunnel boring.

—P.L. 99-514, Sec. 402(b)(3), deleted item 182. Prior to deletion, item 182 read as follows:

182. Expenditures by farmers for clearing land.

—P.L. 99-514, Sec. 803(c)(2), deleted item 189. Prior to deletion, item 189 read as follows:

189. Amortization of real property construction period interest and taxes.

In '94, P.L. 98-369, Sec. 94(b), substituted "expenditures" for "expenses" in the item for Code Sec. 195. Sec. 474(r)(8)(B), substituted "business" for "investment" in the item for Code Sec. 196.

In '83, P.L. 97-448, Sec. 305(a)(2), redesignated item 194A relating to contributions to employer liability trusts as item 194A.

In '82, P.L. 97-248, Sec. 205(a)(3)(C), added item 196.

In '81, P.L. 97-34, Sec. 201(d), added item 168.

In '79, P.L. 96-245, Sec. 201(d), amended item 179. Prior to amendment, item 179 read as follows:

"179. Additional first-year depreciation allowance for small business."

In '80, P.L. 96-405, Sec. 162(b), added item 193.

—P.L. 96-431, Sec. 301(c)(2), added item 194(a).

—P.L. 96-364, Sec. 209(c)(2), added item 194.

—P.L. 96-223, Sec. 251(a)(2)(A), added item 193.

In '78, P.L. 95-22, Sec. 4(b)(2), added item 192.

In '77, P.L. 95-30, Sec. 402(a)(4), amended the item for Code

Sec. 188. Prior to amendment, that item read as follows:

"188. Amortization of certain expenditures for on-the-job training and child care facilities."

In '76, P.L. 94-455, Sec. 201(b), added item 189.

—P.L. 94-455, Sec. 1901(b)(1)(B), deleted item 187. Prior to

repeal, item 187 read as follows:

"187. Amortization of certain coal mine safety equipment."

—P.L. 94-455, Sec. 1951(c)(2)(D), deleted item 168. Prior to

repeal, item 168 read as follows:

"168. Amortization of emergency facilities."

—P.L. 94-455, Sec. 2122(b)(1), added item 190.

—P.L. 94-455, Sec. 2124(a)(3)(A), added item 191.

In '71, P.L. 92-178, Sec. 303(c)(6), added item 183.

In '69, P.L. 91-172, Sec. 213(c)(1), added item 183.

In '67, P.L. 91-172, Sec. 704(b)(1), substituted "pollution control"

for "grain storage" in item 169.

—P.L. 91-172, Sec. 705(b), added items 184 and 185.

—P.L. 91-172, Sec. 707(b), added item 187.

—P.L. 91-172, Sec. 904(b), added item 186.

In '64, P.L. 88-272, deleted item 181 which had provided for

deduction of certain unused investment credit.

In '63, P.L. 87-434 added items 181 and 182.

In '60, P.L. 86-779 added item 180.

In '58, P.L. 85-666 added items 178 and 179.

In '56, P.L. 84-629 added item 177.

In '54, P.L. 761 added item 176.

Sec. 161. Allowance of deductions.

In computing taxable income under section 63, there shall be allowed as deductions the items specified in this part, subject to the exceptions provided in part IX (sec. 261 and following, relating to items not deductible).

In '77, P.L. 95-30, Sec. 102(b)(1), substituted "section 63" for

"section 63(a)" in Code Sec. 161, for tax yrs. begin. after '76.

Sec. 162. Trade or business expenses.

(a) In general.

There shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including—

(1) a reasonable allowance for salaries or other compensation for personal services actually rendered;

(2) traveling expenses (including amounts expended for meals and lodging other than amounts which are lavish or extravagant under the circumstances) while away from home in the pursuit of a trade or business; and

(3) rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity.

For purposes of the preceding sentence, the place of residence of a Member of Congress (including any Delegate and Resident Commissioner) within the State, congressional district, or possession which he represents in Congress shall be considered his home, but amounts expended by such Members within each taxable year for living expenses shall not be deductible for income tax purposes in excess of \$3,000.

(b) Charitable contributions and gifts excepted.

No deduction shall be allowed under subsection (a) for

any contribution or gift which would be allowable as a deduction under section 170 were it not for the percentage limitations, the dollar limitations, or the requirements as to the time of payment, set forth in such section.

(c) **Illegal bribes, kickbacks, and other payments.**

(1) **Illegal payments to government officials or employees.** No deduction shall be allowed under subsection (a) for any payment made, directly or indirectly, to an official or employee of any government, or of any agency or instrumentality of any government, if the payment constitutes an illegal bribe or kickback or, if the payment is to an official or employee of a foreign government, the payment is unlawful under the Foreign Corrupt Practices Act of 1977. The burden of proof in respect of the issue, for the purposes of this paragraph, as to whether a payment constitutes an illegal bribe or kickback (or is unlawful under the Foreign Corrupt Practices Act of 1977) shall be upon the Secretary to the same extent as he bears the burden of proof under section 7454 (concerning the burden of proof when the issue relates to fraud).

(2) **Other illegal payments.** No deduction shall be allowed under subsection (a) for any payment (other than a payment described in paragraph (1)) made, directly or indirectly, to any person, if the payment constitutes an illegal bribe, illegal kickback, or other illegal payment under any law of the United States, or under any law of a State (but only if such State law is generally enforced), which subjects the payor to a criminal penalty or the loss of license or privilege to engage in a trade or business. For purposes of this paragraph, a kickback includes a payment in consideration of the referral of a client, patient, or customer. The burden of proof in respect of the issue, for purposes of this paragraph, as to whether a payment constitutes an illegal bribe, illegal kickback, or other illegal payment shall be upon the Secretary to the same extent as he bears the burden of proof under section 7454 (concerning the burden of proof when the issue relates to fraud).

(3) **Kickbacks, rebates, and bribes under medicare and medicaid.** No deduction shall be allowed under subsection (a) for any kickback, rebate, or bribe made by any provider of services, supplier, physician, or other person who furnishes items or services for which payment is or may be made under the Social Security Act, or in whole or in part out of Federal funds under a State plan approved under such Act, if such kickback, rebate, or bribe is made in connection with the furnishing of such items or services or the making or receipt of such payments. For purposes of this paragraph, a kickback includes a payment in consideration of the referral of a client, or customer.

(d) **Capital contributions to Federal National Mortgage Association.**

For purposes of this subtitle, whenever the amount of capital contributions evidenced by a share of stock issued pursuant to section 303(c) of the Federal National Mortgage Association Charter Act (12 U.S.C. sec. 1718) exceeds the fair market value of the stock as of the issue date of such stock, the initial holder of the stock shall treat the excess as ordinary and necessary expenses paid or incurred during the taxable year in carrying on a trade or business.

(e) **Appearances, etc., with respect to legislation.**

(1) **In general.** The deduction allowed by subsection (a) shall include all the ordinary and necessary expenses (including, but not limited to, traveling expenses described in subsection (a)(2) and the cost of preparing

testimony) paid or incurred during the taxable year in carrying on any trade or business—

(A) in direct connection with appearance before, submission of statements to, or sending communications to, the committees, or individual members, of Congress or of any legislative body of a State, a possession of the United States, or a political subdivision of any of the foregoing with respect to legislation or proposed legislation of direct interest to the taxpayer, or

(B) in direct connection with communication of information between the taxpayer and an organization of which he is a member with respect to legislation or proposed legislation of direct interest to the taxpayer and to such organization,

and that portion of the dues so paid or incurred with respect to any organization of which the taxpayer is a member which is attributable to the expenses of the activities described in subparagraphs (A) and (B) carried on by such organization.

(2) **Limitation.** The provisions of paragraph (1) shall not be construed as allowing the deduction of any amount paid or incurred (whether by way of contribution, gift, or otherwise)—

(A) for participation in, or intervention in, any political campaign on behalf of any candidate for public office, or

(B) in connection with any attempt to influence the general public, or segments, thereof, with respect to legislative matters, elections, or referendums.

(f) **Fines and penalties.**

No deduction shall be allowed under subsection (a) for any fine or similar penalty paid to a government for the violation of any law.

(g) **Treble damage payments under the antitrust laws.**

If in a criminal proceeding a taxpayer is convicted of a violation of the antitrust laws, or his plea of guilty or nolo contendere to an indictment or information charging such a violation is entered or accepted in such a proceeding, no deduction shall be allowed under subsection (a) for two-thirds of any amount paid or incurred—

(1) on any judgment for damages entered against the taxpayer under section 4 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (commonly known as the Clayton Act), on account of such violation or any related violation of the antitrust laws which occurred prior to the date of the final judgment of such conviction, or

(2) in settlement of any action brought under such section 4 on account of such violation or related violation.

The preceding sentence shall not apply with respect to any conviction or plea before January 1, 1970, or to any conviction or plea on or after such date in a new trial following an appeal of a conviction before such date.

(h) **State legislators' travel expenses away from home.**

(1) **In general.** For purposes of subsection (a), in the case of any individual who is a State legislator at any time during the taxable year and who makes an election under this subsection for the taxable year—

(A) The place of residence of such individual within the legislative district which he represented shall be considered his home,

(B) He shall be deemed to have expended for living expenses (in connection with his trade or business as a legislator) an amount equal to the sum of the

amounts determined by multiplying each legislative day of such individual during the taxable year by the greater of

(i) the amount generally allowable with respect to such day to employees of the State of which he is a legislator for per diem while away from home, to the extent such amount does not exceed 110 percent of the amount described in clause (ii) with respect to such day, or

(ii) the amount generally allowable with respect to such day to employees of the executive branch of the Federal Government for per diem while away from home but serving in the United States, and

(C) he shall be deemed to be away from home in the pursuit of a trade or business on each legislative day.

(2) **Legislative days.** For purposes of paragraph (1), a legislative day during any taxable year for any individual shall be any day during such year on which—

(A) The legislature was in session (including any day in which the legislature was not in session for a period of 4 consecutive days or less), or

(B) The legislature was not in session but the physical presence of the individual was formally recorded at a meeting of a committee of such legislature.

(3) **Election.** An election under this subsection for any taxable year shall be made at such time and in such manner as the Secretary shall by regulations prescribe.

(4) **Section not to apply to legislators who reside near capitol.** For taxable years beginning after December 31, 1980, this subsection shall not apply to any legislator whose place of residence within the legislative district which he represents is 50 or fewer miles from the capitol building of the State.

(i) Repealed.

(j) Certain foreign advertising expenses.

(1) **In general.** No deduction shall be allowed under subsection (a) for any expenses of an advertisement carried by a foreign broadcast undertaking and directed primarily to a market in the United States. This paragraph shall apply only to foreign broadcast undertakings located in a country which denies a similar deduction for the cost of advertising directed primarily to a market in the foreign country when placed with a United States broadcast undertaking.

(2) **Broadcast undertaking.** For purposes of paragraph (1), the term "broadcast undertaking" includes (but is not limited to) radio and television stations.

(k) Stock redemption expenses.

(1) **In general.** Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred by a corporation in connection with the redemption of its stock.

(2) **Exceptions.** Paragraph (1) shall not apply to—

(A) Certain specific deductions. Any—

(i) deduction allowable under section 163 (relating to interest), or

(ii) deduction for dividends paid (within the meaning of section 561).

(B) **Stock of certain regulated investment companies.** Any amount paid or incurred in connection with the redemption of any stock in a regulated investment company which issues only stock which is redeemable upon the demand of the shareholder.

(l) Special rules for health insurance costs of self-employed individuals.

(1) **In general.** In the case of an individual who is an

employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to 25 percent of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

(2) Limitations.

(A) **Dollar amount.** No deduction shall be allowed under paragraph (1) to the extent that the amount of such deduction exceeds the taxpayer's earned income (within the meaning of section 401(c)) derived by the taxpayer from the trade or business with respect to which the plan providing the medical care coverage is established.

(B) **Other coverage.** Paragraph (1) shall not apply to any taxpayer who is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the spouse of the taxpayer.

(3) **Coordination with medical deduction.** Any amount paid by a taxpayer for insurance to which paragraph (1) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a).

(4) **Deduction not allowed for self-employment tax purposes.** The deduction allowable by reason of this subsection shall not be taken into account in determining an individual's net earnings from self-employment (within the meaning of section 1402(a)) for purposes of chapter 2.

(5) **Treatment of certain S corporation shareholders.** This subsection shall apply in the case of any individual treated as a partner under section 1372(a), except that—

(A) for purposes of this subsection, such individual's wages (as defined in section 3121) from the S corporation shall be treated as such individual's earned income (within the meaning of section 401(c)(1)), and

(B) there shall be such adjustments in the application of this subsection as the Secretary may by regulations prescribe.

(6) **Termination.** This subsection shall not apply to any taxable year beginning after September 30, 1990.

(m) Cross reference.

(1) For special rule relating to expenses in connection with subdividing real property for sale, see section 1237.

(2) For special rule relating to the treatment of payments by a transferee of a franchise, trademark, or trade name, see section 1253.

(3) For special rules relating to—

(A) funded welfare benefit plans, see section 419, and

(B) deferred compensation and other deferred benefits, see section 404.

In '89, P.L. 101-239, Sec. 6202(b)(3)(A), repealed subsec. (l), effective for items and services furnished after 12/19/89. Prior to repeal subsec. (l) read as follows:

"(i) Group health plans.

"(1) Coverage relating to end stage renal disease. The expenses paid or incurred by an employer for a group health plan shall not be allowed as a deduction under this section if the plan differentiates in the benefits it provides between individuals having end stage renal disease and other individuals covered by such plan on the basis of the existence of end stage renal disease, the need for renal dialysis, or in any other manner.

"(2) Group health plan. For purposes of this subsection the term "group health plan" means any plan of, or contributed to by, an employer to provide medical care (as defined in section 213(d)) to his employees, former employees, or the families of such employees or former employees, directly or through insurance, reimbursement or otherwise."

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

April 19, 1991

SUBJECT: Sectional analysis of SB 243

TO: Senator Virginia Collins
Chair, Special Committee on Ethics Reform
Attn: Shirley Armstrong

FROM: John B. Gaguine
Legislative Counsel

You have requested a sectional analysis of the above described bill.

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

Section 1 requires the APOC to render an advisory opinion within 30 days of a request, unless the requestor agrees to a longer period; it also makes the advisory opinion binding on the APOC in a subsequent proceeding unless the requestor has misstated or omitted material facts in the request.

Section 2 adds two new sections to AS 15.13, one prohibiting the solicitation and acceptance of campaign contributions in state or municipal buildings, and the other prohibiting use of public resources (including a public employee's time) to influence an election and posting of campaign material in public buildings.

Section 3 provides that two or more groups with overlapping officers are to be considered as one group for the purposes of the ceiling on campaign contributions.

Section 4 provides that a person required to register as a lobbyist, except for a person whose only compensation for lobbying is reimbursement of expenses, may not serve as a campaign treasurer or deputy campaign treasurer during a calendar year in which the person was required to register.

Section 5 makes clear that the \$1,000 contribution maximum includes the value of goods and services, and pertains to a calendar year.

Section 6 makes absolute the prohibition on cash campaign expenditures over \$100; it abolishes an exception allowing such expenditures if a written receipt for the expenditure is filed with the APOC.

Section 7 amends the requirement that anonymous contributions be returned to require that they be returned in 10 days. It also provides that contributions by unemancipated, unmarried minors are automatically charged toward the contribution limits of the minor's parents.

Section 8 adds several new subsections to AS 15.13.070. Subsection (i) prohibits candidates and groups controlled by candidates from contributing campaign funds to another candidate. Subsection (j) prohibits all loans and loan guarantees, except for 1) loans from a candidate and a candidate's family to the campaign; 2) regular extensions of credit to a campaign by a business; and 3) regular loans by financial institutions. Subsection (k) prohibits people from acting as intermediaries in the transmission of campaign contributions. Subsection (l) prohibits legislators running for any office, and all candidates for the legislature, from fundraising during a session and from accepting money that is raised during a session fundraiser. And subsection (m) prohibits municipalities and school districts from making contributions to a candidate or a group.

Section 9 adds several new sections to AS 15.13. AS 15.13.072 prohibits the conversion of campaign funds, and goods purchased with campaign funds, to personal use. AS 15.13.074 requires that campaign accounts be closed out after an election, and restricts the uses to which surplus funds can be put. AS 15.13.076 provides that a candidate is responsible for violations of AS 15.13 by his or her campaign officers, and that a group chair is responsible for violations of AS 15.13 by other officers of the group. And AS 15.13.078 prohibits the state, municipalities, and school districts from spending public money on an election, except for appropriate public information functions (such as running newspaper ads on the dates of a municipal election).

Section 10 amends AS 15.13.120(d) to require that complaints filed with the APOC be under oath, and that the APOC act on a complaint within 45 days instead of the current 60.

Section 11 makes a complaint filed with the APOC, and all documents produced during an APOC investigation, confidential until such time as the APOC finds probable cause to believe a violation of AS 15.13 has occurred. Under current law the complaint and the response to the complaint are public, as is the APOC staff's investigative report when it is presented to the APOC.

Senator Virginia Collins
April 19, 1991
Page 3

Section 12 adds definitions to AS 15.13.

Section 13 repeals two subsections of the legislative ethics act, AS 24.60, that prohibit fundraisers in Juneau during the session and exclude Juneau legislators from the prohibition. These subsections are redundant to the provisions of this bill prohibiting all fundraising during session.

JBG:mi
91-073.mai

TABLE ONE

Post-election Surplus/Deficit Status Alaska State Senate Candidates in the 1990 General Election

Explanation of Columns

This table was prepared from reports filed with APOC by 1990 State Senate candidates and includes transactions through the close of the 1990 Year-end reporting period (12/31/90).

The "Cash-on-hand" column shows a candidate's campaign account balance on 12/31/90.

The "Debts" column shows a campaign's total unpaid expenses on 12/31/90 and includes any loan balances owed to contributors other than the candidate.

The "Personal Loans" column shows the balance the campaign owes the candidate for his or her personal loans. A negative total means that during the 1989-90 campaign cycle the candidate withdrew more funds than he or she contributed - either to pay back personal loans to a prior campaign, for "office allowance account" expenses, or as personal income.

The "Surplus or Deficit" column shows what a candidate's 1990 surplus or deficit would be if repayment of personal loans to past campaigns, transfers to office allowance accounts, and withdrawals for personal income were prohibited.

WON	CANDIDATE'S NAME	CASH-ON HAND(12/90)	DEBTS	PERSONAL LOANS	SURPLUS(+) / DEFICIT(-)
*	RODEY, PATRICK	-1018	0	-38000	38988
*	FAHRENKAMP, BETTYE	33043	0	-3500	38543
*	UEHLING, RICK	5380	3750	-27270	28860
*	DUNCAN, JIM	27740	0	0	27740
*	ADAMS, AL	18850	0	-3700	23650
*	COLLINS, VIRGINIA	11177	0	-8000	16177
*	MENARD, CURT	888	0	-18000	15888
*	HOFFMAN, LYMAN	13123	0	0	13123
*	JONES, LLOYD	7601	0	0	7601
	REAKOFF, RICK	0	0	0	0
	GRAMES, JOHN	0	0	0	0
	BURTON, RICHARD	0	0	424	-424
	RYAN, JOE	141	250	1200	-1309
	WHITTAKER, RICHARD	-771	525	2330	-3625
	FURNACE, WALT	255	0	3950	-3695
*	COTTEN, SAM	-478	-1053	5500	-4925
	SWANSON, LESLIE	22	22	5617	-5617
	HAVELOCK, JOHN	0	0	17881	-17881
	HOVANEK, GARY	-370	6963	25658	-33318
	AVG WINNING CAND	11719	268	-8687	20147
	AVG UNSUCCESSFUL CAND	6	906	6854	-7756
	TOTAL 18 SENATE CANDIDATES	-118474	10487	-29813	135800

TABLE TWO

Post-election Surplus/Deficit Status Alaska State House Candidates in the 1990 General Election

Explanation of Columns

This table was prepared from reports filed with APOC by 1990 State House candidates and includes transactions through the close of the 1990 Yearend reporting period (12/31/90).

The "Cash-on-hand" column shows a candidate's campaign account balance on 12/31/90.

The "Debts" column shows a campaign's total unpaid expenses on 12/31/90 and includes any loan balances owed to contributors other than the candidate.

The "Personal Loans" column shows the balance the campaign owes the candidate for his or her personal loans. A negative total means that during the 1989-90 campaign cycle the candidate withdrew more funds than he or she contributed - either to pay back personal loans to a prior campaign, for "office allowance account" expenses, or as personal income.

The "Surplus or Deficit" column shows what a candidate's 1990 surplus or deficit would be if repayment of personal loans to past campaigns, transfers to office allowance accounts, and withdrawals for personal income were prohibited.

WON	CANDIDATE'S NAME	CASH ON HAND (12/31/91)	DEBTS	PERSONAL LOANS	SURPLUS(+) / DEFICIT(-)
*	DONLEY, DAVE	77034	0	-2000	79034
*	BARNES, RAMONA	48023	0	0	48023
*	GRUBBENDORF, BEN	42037	0	0	42037
*	LARSON, RONALD	23650	0	-15154	38804
*	LEMAN, LOREN	22767	0	-2000	24767
*	ULMER, FRAN	21887	0	-148	21832
*	DAVIDSON, CLIFF	12044	0	-8825	20869
*	FOSTER, RICHARD	18504	0	0	18504
*	ELLIS, JOHNNY	15883	0	-3000	18883
*	ZAWACKI, JIM	10138	0	-7000	17138
*	SHULTZ, RICHARD	12363	0	-4700	17063
*	HUDSON, BILL	10538	0	-6500	17038
*	FINKELSTEIN, DAVID	351	228	-12648	12771
*	JACKO, JR. GEORGE	909	33	-10321	11197
*	KUBINA, EUGENE	9881	1	-1500	11180
*	BROWN, KAY	784	1	-10047	10810
*	BOYER, MARK	7132	0	-2000	9132
*	IVAN, IVAN	6682	0	0	6682

Post-election Surplus/Deficit Status
Alaska State House Candidates in the 1990 General Election

(Continued)

WON	CANDIDATE'S NAME	CASH ON HAND (12/31/91)	DEBTS	PERSONAL LOANS	SURPLUS(+) DEFICIT(-)
*	NAVARRE, MIKE	6248	0	0	6248
	WAGGONER, L. WAYNE	218	0	-6000	6218
	WALLIS, KAY	6810	1118	877	4814
*	BRUCKMAN, ELIZABETH	2245	0	-2200	445
	BENNETT, BEV	4439	0	100	4339
*	LINCOLN, GEORGIANNA	3763	24	0	3766
*	TAYLOR, ROBIN	3422	0	0	3422
	TAYLOR, JOHN	4230	14	1156	3068
*	SHARP, BERT	2606	1	0	2605
*	PHILLIPS, RANDY	1988	0	0	1988
*	MACLEAN, EILEEN	315	0	-1500	1815
	SCOTT, MIKE	1317	0	0	1317
	AUSTERMAN, ALAN	738	0	0	738
	RYBACHEK, ROSE	1	1	-444	444
*	PHILLIPS, GAIL	359	0	-38	398
*	BAKER, LARRY	349	0	0	349
	JENKINS, C.E.	0	0	-242	242
*	CHOQUETTE, DAVE	63	0	-76	169
	THOMPSON, CLARENCE	507	0	356	149
*	MILLER, MICHAEL	0	0	0	0
	ARROWOOD, SAM	0	0	0	0
	GINSBURG, JOHN	957	0	1000	-43
	TUCKER, EDWARD	0	0	50	-50
	O'HARE, SEAN	544	0	600	-56
	SLOAN, LARRY	0	0	200	-200
	SARTAIN, RONALD	-288	0	0	-288
*	GRUENBERG, JR., MAX	-740	0	42	-782
	TERRY, KENNETH	110	0	1100	-990
	SMITH, DON	0	0	1185	-1185
	CRAWFORD, CATHERINE	62	0	1261	-1199
*	DAVIS, BETTYE	1366	2700	0	-1336
	O'REILLY, MARJORIE	200	0	1562	-1362
	YOUNG, PAUL	1	1448	0	-1447
	WILLIAMS, JR. BILLY	0	0	1471	-1471
	PEIRCE, R. MERRICK	100	0	1591	-1591

Post-election Surplus/Deficit Status
Alaska State House Candidates in the 1990 General Election

(Continued)

WON	CANDIDATE'S NAME	CASH ON HAND (12/31/91)	DEBTS	PERSONAL LOANS	SURPLUS(+) DEFICIT(-)
	ERIKSSON, CURTIS	0	0	1886	-1886
*	HANLEY, MARK	418	0	2730	-2312
	YOUNG, EDWARD	88	1020	2152	-3088
	ABNEY, PAT	0	0	3092	-3092
	SPOHNHOLZ, ANN	30	4114	0	-4084
*	CARNEY, PATRICK	360	936	3757	-4343
	FRISBY, PERCY	436	0	5053	-4617
*	MARTIN, TERRY	57	-1	5134	-5076
*	DAVIS, CHERI	519	0	5600	-5081
	WILSON, LYDIA	0	1570	3531	-5101
*	MILLER, MARY	226	0	5106	-5881
	CHENHALL, DON	2	0	5881	-5879
*	MACKE, JERALD	4507	0	11433	-6926
*	KOPONEN, NILO	32	0	8484	-8452
*	PARNELL, KEVIN	501	6582	3047	-9134
	DICKEY, CHARLES	0	0	9400	-9400
	JOHN, RUBY	0	0	10994	-10994
	WILSON, ROD	0	0	13394	-13394
*	MOYER, THOMAS	1885	0	15500	-13615
	SABCOCK, TUCKERMAN	1185	2827	12088	-13731
	RAMOI, URBAN	151	3111	17800	-20780
	ARLINGTON, JIM	512	0	21710	-21198
	EAGLE, FRANKLIN	371	0	24807	-24436
	SANDERS, JERRY	28	18100	13814	-29888
	GARRISON, LIN	-174	0	56141	-56315

	Total (77) House candidates in General	392203	41615	181109	169276
	Average House candidate in General	5028	538	2322	2170
	Average winning House candidate in General	9015	256	672	8087
	Avg unsuccessful House candidate in General	594	824	5480	-5720

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR COLLINS

TO: SB 243

Page 7, following line 21:

Insert a new bill section to read:

**** Sec. 13.** AS 15.58.030 is amended by adding a new subsection to read:

(h) A candidate, or a person on behalf of a candidate, submitting material under this section shall swear that factual statements contained in the material are true to the best of the candidate's or person's knowledge. A candidate or person who knowingly swears falsely is guilty of perjury under AS 11.56.200."

Renumber the following bill section accordingly.

HOUSE BILL NO. 74

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE MARTIN

Introduced: 1/24/91

Referred: State Affairs, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act requiring that factual material filed for inclusion in the election pamphlet be
2 certified as true."

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

4 * Section 1. AS 15.58.030 is amended by adding a new subsection to read:

5 (h) A candidate, or a person on behalf of a candidate, submitting material under this
6 section shall swear that factual statements contained in the material are true to the best of the
7 candidate's or person's knowledge. A candidate or person who knowingly swears falsely is
8 guilty of perjury under AS 11.56.200.

SCOMM

82:8

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSIONBILL NO. SB 299
JAN 30 1992

Revision Date: December 3, 1991

Title: An Act relating to reporting and
disclosure requirements under various APOC laws

Sponsor: Rules Committee

Requestor: Governor

Department Affected: Administration

BRU: Alaska Public Offices Commission

Component: Alaska Public Offices Commission

COMPONENT SERIAL NO.

0 0 7 0

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE: Fund Source	0	0	0	0	0	0
--	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE: Fund Source	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.) There will be no fiscal impact.

Prepared by: Jim Kentch, Assistant Director

Division: Alaska Public Offices Commission

Phone: (907) 276-4176

Date: December 2, 1991

Approved by Commissioner: Nancy Bear Usara

Agency: Administration

Date: 1/30/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

BILL ANALYSIS

SB 299

This bill amends the Campaign Disclosure Law, AS 15.13 (Sections 1-5), the Regulation of Lobbying Law, AS 24.45 (Sections 6-10) and the Conflict of Interest Law, AS 39.50 (Sections 11-13). In so doing, it would raise certain thresholds of reporting, exempt certain persons and entities from filing and simplify some reporting requirements. This would facilitate filing by those subject to the law, reduce APOC's statutory requirements but retain the public interest in disclosure of information under the three laws.

CAMPAIGN DISCLOSURE

Section 1 and 2. AS 15.13.040(a). The bill raises the threshold of individual campaign contributions to be reported by candidates and groups from those over \$100 to over \$250 and eliminates reporting requirements for state or municipal candidates who do not receive or spend more than \$1,000 during a campaign for office.

Section 3. 15.13.040. Accrued expenditures, defined as expenses incurred but not yet paid, that cumulatively total \$1,000 or less per payee would not be reported unless they were not paid within 90 days.

Section 4 and 5. AS 15.13.070(b)(c). This raises the threshold for allowable cash contributions or expenditures from over \$100 to over \$250.

LOBBYING

Section 6. AS 24.45.031(b). This section would limit APOC's publication of lobbying activity summaries to twice a year instead of five times a year.

Section 7. AS 24.45.041(e). This would delete reference to the inclusion of a photograph of a lobbyist in the published directory. Copies would not be available to the public through the Lieutenant Governor's office or Legislative Reference Library.

Section 8. AS 24.45.061(a). The bill requires an employer of a lobbyist to sign the lobbyist's registration statement verifying employment instead of filing a separate statement.

Section 9 and 10. AS 24.45.061(b), AS 24.45.081. This bill reduces the number of reports filed by an employer of a lobbyist from four to one per year and sets a filing deadline.

CONFLICT OF INTEREST

Section 11 and 12. AS 39.50.030(a)(b). This bill: eliminates unnecessary language about assets and liabilities under \$500; raises the reporting threshold on sources of income from over \$100 to over \$1000, except for gifts which must be reported if over \$1000; establishes a threshold value of greater than \$1000 for reporting a beneficial interest in a trust; and increases the threshold of reportable loans from more than \$500 to more than \$1,000. Reporting requirements for state contracts and natural resource leases are made consistent and the filer is no longer required to report his or her parents' contracts or leases.

Section 13. AS 39.50. Municipal officers in a municipality with less than 1000 population would be exempted from filing Conflict of Interest Statements.

MISCELLANEOUS

Section 14. This section: a) eliminates the 10 day post election campaign report requirement for state and municipal candidates; b) eliminates the optional submission of a photograph by a lobbyist for the published directory; c) eliminates a lobbyist's requirement to report a business entity owned or managed by public officials with which the lobbyist has done business; d) eliminates from the lobbying law the requirement that civic organizations report contributions over \$100; e) eliminates mailout of AS 24.60 Standards of Conflict of Conduct to candidates for the legislature.

Section 15 establishes an effective date for this bill.

Alaska State Legislature

During Session
State Capitol
Juneau, Alaska 99801-1182
(907) 465-2828



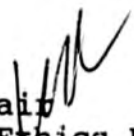
During Interim
3111 C Street, Suite 540
Anchorage, Alaska 99503
(907) 561-2040

Senator Virginia Collins

February 24, 1992

MEMORANDUM

TO: Bob Casey, Attorney
LAA Legal Services Division

FROM: Senator Virginia Collins, Chair 
Senate Special Committee On Ethics Reform

SUBJECT: Public hearing on SB 299 changes to APOC and SB 372
changes to Executive Branch Ethics statutes

The Senate Special Committee on On Ethics Reform will meet at 10:30 am on Thursday, February 27th, in the Beltz Room. The committee will have a public hearing on SB 299 and SB 372.



WALTER J. HICKEL
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

SB-299

May 16, 1991

The Honorable Richard I. Eliason
President of the Senate
P.O. Box V
Juneau, AK 99811

Dear President Eliason:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to reporting and disclosure requirements under the laws administered by the Alaska Public Offices Commission (APOC).

The bill has three main components: it amends the Alaska Campaign Disclosure Law, AS 15.13, the Regulation of Lobbying Law, AS 24.45, and the Conflict of Interest Law, AS 39.50. In doing so, it would raise certain thresholds of reporting, exempt certain persons and entities from filing, and simplify reporting requirements for lobbyists and persons who engage the services of a lobbyist.

The bill would raise the reporting thresholds under the Campaign Disclosure and Conflict of Interest laws. Campaign disclosure thresholds that trigger reporting of the names, occupations, and employers of contributors to a candidate or group and establish limits for cash contributions and expenditures would be raised from \$100 to \$250. Sections 1, 2, 4, and 5. More than a decade has passed since the Campaign Disclosure Law was adopted, and these amendments would raise thresholds to reflect inflation during this period. The changes would also provide campaigns with more flexibility in collecting and spending money.

The threshold for a public official to report sources of income on a conflict of interest statement would be raised from \$100 to \$1,000. This change would apply to all sources of income except gifts. Section 12. The change would take into account the inflation rate and require disclosure at a more reasonable level. This change would also eliminate reporting of minor income sources. A \$1,000 threshold would be required before a public official was required to report the identity of a trust or other fiduciary relation in which the person, spouse, or dependents

held a beneficial interest. Section 12. Additionally, the threshold for reporting loans and indebtedness on a conflict of interest statement would be raised from \$500 to \$1,000. Section 12. Language in AS 39.50.030(a) regarding the contents of a conflict of interest statement is deleted in sec. 11 of the bill. AS 39.50.030(b) specifies the information that must be included in a statement, making the language in subsec. (a) confusing and unnecessary.

The bill would provide exemptions from the Campaign Disclosure and Conflict of Interest reporting requirements. Campaigns that receive contributions and make expenditures of less than \$1,000 would be exempted from the reporting requirements of AS 15.13.040. Section 1. Accrued expenditures (defined as expenses incurred but not yet paid) that cumulatively total \$1,000 or less per payee would not have to be reported unless they were not paid within 90 days. Section 3. The bill would decrease the number of municipalities and boroughs subject to the conflict of interest reporting requirements by exempting any municipal officer in a municipality with a population of 1,000 or less from filing a conflict of interest statement. Section 13.

The bill amends the Campaign Disclosure law to eliminate the filing of 10-day post-election reports. Section 14. The 10-day reports usually cover a limited segment of a campaign's financial transactions and reveal activity that would be disclosed on the next required report.

The bill's changes to the Regulation of Lobbying law would eliminate the requirement of disclosure relating to exchanges between lobbyists and bona fide business entities owned or controlled by public officials. Section 14. Very few, if any, lobbyists report under this section and it does not generally constitute an area where a great element of influence is used.

The reporting requirements for persons who retain, employ, or contract for the services of a lobbyist would be simplified. A person would have to sign the lobbyist registration statement to verify the employment rather than be required to file a separate employer report. Section 8. A person who engages the services of a lobbyist would file an annual report 30 days after all lobbying activities are terminated or during the month following the fourth quarter of the calendar year, whichever occurs first, rather than filing the quarterly reports presently required under the law. Sections 9 and 10.

Summaries of the statements and reports of lobbyists would be prepared, published, and made available semi-annually rather than quarterly. Section 6. The lobbyist directory would be made available to the public and public officials but would no longer

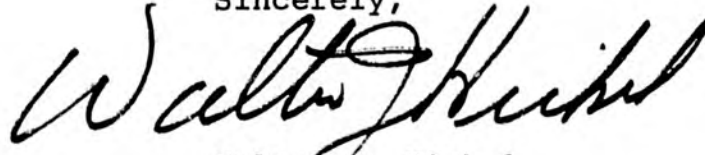
The Honorable Richard Eliason - 3 -

be distributed to the Office of the Lieutenant Governor and the legislative reference library. The current provision that allows a lobbyist's photograph to be voluntarily submitted with the lobbyist's registration form is repealed in the bill, and the requirement that the APOC publish such photographs in the lobbyist directory is deleted. Sections 7 and 14. Further, the APOC would be required to notify only elected legislators of the standards of conduct contained in AS 24.60 as opposed to the present requirement to notify all candidates running for the legislature.

Finally, the changes in the bill would eliminate the need for a filer to report on a conflict of interest statement his or her parent's contracts with the state or the parent's natural resources leases. Section 12. It would require full disclosure if the public official has an interest in a partnership or professional corporation contracting with the state. Section 12. It would also require a filer to disclose the interest of a spouse in any natural resources lease. Section 12. The changes would eliminate reporting requirements of a filer's parents' interest and make the law consistent regarding disclosure of a spouse's interest. The bill also contains several other minor changes which would permit the agency to operate more effectively.

I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in dark ink, appearing to read "Walter J. Hickel", written in a cursive style.

Walter J. Hickel
Governor

SCOMM

82:9

STATE OF ALASKA
1992 LEGISLATIVE SESSION
Bi. Version: SB 372(S) Publish Date: 1-27-92

Revision Date: _____ Department Affected: REVENUE
 Title: State Investment Officers BRU: Revenue Operations
comply with AS 39.50 Component: Treasury Management
 Sponsor: _____
 Requestor: _____ COMPONENT SERIAL NO.

0	1	2	1
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE:	0	0	0	0	0	0
-------------------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE:	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Darrel J. Rexwinkel Phone: 465-2300
 Division: Treasury Date: 12/10/91
 Approved by Commissioner: Darrel J. Rexwinkel *Darrel J. Rexwinkel*
 Agency: Department of Revenue Date: _____



Official Business

Alaska State Legislature

Senate

SPECIAL COMMITTEE ON ETHICS REFORM Senator Virginia Collins

Pouch V
State Capitol
Juneau, Alaska 99811

April 8, 1992

MEMORANDUM

TO: Members of the Senate

FROM: Senator Virginia Collins, Chair 
Special Committee on Ethics Reform

SUBJECT: SB 372 - requires investment officers and the state comptroller to comply with AS 39.50

Senate Bill 372 adds state investment officers and the state comptroller to comply to the list of public officials required to comply with the Executive Branch ethics statutes.

This legislation requires the state's investment officers and the state comptroller to file a statement giving income sources and business interests with APOC upon taking office. These individuals make significant independent decisions concerning financial management of various state funds. The disclosure of potential conflicts of interest allow for prudent management of the state's resources.

SB 372 received three "do pass" recommendations from the Special Committee on Ethics Reform and four "do pass" recommendations from the State Affairs Committee. The bill has a zero fiscal note.



Official Business

Alaska State Legislature

Senate

SPECIAL COMMITTEE ON ETHICS REFORM

Senator Virginia Collins

Pouch V
State Capitol
Juneau, Alaska 99811

AGENDA

10:30 am

February 27, 1992
Beltz Room

1. Call to Order
2. Public Hearing SB 299
 - a. Changes to Alaska Public Offices Commission
 - b. Teleconference to Anchorage - APOC
Karen Boorman, Executive Director
3. Public Hearing SB 372
 - a. Changes to Executive Branch Ethics Statutes
4. Adjourn

Alaska State Legislature

During Session
State Capitol
Juneau, Alaska 99801-1182
(907) 465-2828



During Interim
3111 C Street, Suite 540
Anchorage, Alaska 99503
(907) 561-2040

Senator Virginia Collins

February 11, 1992

MEMORANDUM

TO: Nancy Quinto, Senate Secretary

FROM: Senator Virginia Collins, Chair
Senate Special Committee On Ethics Reform

SUBJECT: Public hearing on SB 299 changes to APOC and SB 372
changes to Executive Branch Ethics statutes

The Senate Special Committee on On Ethics Reform will meet at 5:00 pm on Thursday, February 13th, in the Fahrenkamp Room. The committee will have a public hearing on SB 299 and SB 372.



WALTER J. HICKEL
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

SB372

January 27, 1992

*The Honorable Richard I. Eliason
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182*

Dear President Eliason:

Under the authority of art. III, sec. 18 of the Alaska Constitution, I am transmitting a bill that would require investment officers and the comptroller in the Department of Revenue to comply with the disclosure requirements and financial gain and representation prohibitions of Alaska's conflict of interest law, AS 39.50.

I am aware of no problems with these officials regarding conflicts of interest. However, given that the comptroller's duties include examining, auditing, and reporting on the state's financial condition, and that the investment officers' duties include investing the state's money, and managing the state's cash and debt, a requirement that they report their business interests and income sources is clearly warranted. Making the investment officers and the comptroller subject to the financial gain and representation prohibitions (AS 39.50.090) ensures that the highest standard of conduct will continue to be maintained.

I urge your prompt and favorable action on this bill.

Sincerely,



Walter J. Hickel
Governor

ETHICS

A Handbook
for
Public Employees



State of Alaska

Code of Ethics

For Public Employees

State of Alaska
1986



Prepared by:

The Department of Law and The Office of Management and Budget

printed by C.D.



TABLE OF CONTENTS

Introduction	1
The Code of Ethics	2
Scope of Code	2
Misuse of Official Position	2
Improper Gifts	3
Improper Use or Disclosure of Information	5
Improper Influence in State Grants, Contracts Leases or Loans	5
Improper Representation	6
Outside Employment	7
Restriction of Employment After Leaving State Service	8
Aiding a Violation Prohibited	8
Disclosure Procedures	9
Complaints, Hearings and Enforcement	10



INTRODUCTION

This pamphlet is designed to introduce State employees to AS 39.52, the *Alaska Executive Branch Ethics Act*. This guide is not, however, a substitute for reading the law and its regulations. State employees who have further questions should contact the "designated supervisor" in their departments.

The Code of Ethics becomes effective on January 1, 1987. The law, AS 39.52, applies to all "public officers," that is, *all current and former executive branch public employees* and members of statutorily created boards and commissions.

As you read this pamphlet, please keep the following definitions in mind:

Benefit - anything that furthers a person's financial interest or from which a person hopes to gain in any way.

Financial Interest - any property, ownership, management, professional, or private interest from which the employee or a member of the employee's immediate family expects or receives a financial benefit.

Personal Interest - the interest or involvement of an employee (or a family or household member) in any organization or political party from which a person or organization receives a benefit.

Immediate Family - spouse, blood relation up to and including the second degree of kindred (for example: parents, grandparents, children and grandchildren), and regular household members.

Designated Supervisor - for employees of a department, the commissioner or the commissioner's designee; for staff of boards or commissions, the executive director of the board or commission.

Agency - department, public corporations, the University of Alaska, and statutorily created boards and commissions.

Administrative Unit - a division or other official subcategory of an agency.

THE CODE OF ETHICS

SCOPE OF CODE (AS 39.52.110)

The Code of Ethics considers a public office to be a public trust. Independent pursuits are not discouraged so long as those pursuits are arranged so that employees do not benefit financially or personally from their actions as public employees. The Code of Ethics accepts that minor and inconsequential conflicts of interest are unavoidable. However, those conflicts of interest which are substantial and material are prohibited.

In reading about the Code of Ethics and considering the examples given, this standard for judgment should be kept in mind: *minor and inconsequential* versus *substantial and material*.

MISUSE OF OFFICIAL POSITION (AS 39.52.120)

Public employees may not use their positions for personal gain or to give unwarranted benefit or treatment to any person. Specifically, public employees may not use their official positions to secure employment or contracts, accept pay from anyone other than the State for performance of official duties, or take or withhold official action on a matter in which they have a personal or financial interest. Employees are also prohibited from using State time, equipment, property or facilities for their own personal or financial benefit. A supervisor may not coerce subordinates for his/her personal or financial benefit.



Jack thought he'd do a favor for his friend Brian by letting him know about the right-of-way that his department would be buying up for a new highway; after all, Brian was his best friend. Brian bought up property along the right-of-way, planning to make a bundle and retire to Hawaii.



Jenny uses the phone each day to call her kids at the babysitter. She also photocopied a medical insurance form.



Bob reads the Wall Street Journal at the office every morning and then spends half an hour on the phone with his stockbroker.



Russ is asked by his professional society to head a national committee. The chairmanship is a personal honor. Russ asks his secretary to type committee letters and reports.



Joan's live-in sweetie, Paul, has been out of work for months; now he needs to refinance his Veteran's loan. Joan knew that Paul was good for the loan, and she intended to see to it that Paul had no trouble. Joan let the loan examiner who worked for her know that there had better be no trouble with the refinancing.

IMPROPER GIFTS (AS 39.52.130)

Public employees may not solicit or accept gifts that benefit the employee's personal or financial interest if it can be reasonably inferred that the gift is intended to influence the employee's action or judgment. "Gifts" include money, items of value, services, loans, travel, entertainment, hospitality, and employment.

Even if a gift is acceptable, it may have to be reported. When any gift with a value in excess of \$50 is received by an employee whose action can affect the giver, the employee must report the gift to his/her designated supervisor within 30 days of receipt. *Forms are available from the designated supervisor for this purpose.*

Ethics Disclosure Form Notification of Receipt of Gift	
To: <u>Deborah Cuperlo</u>	
Subject: <u>Notification of Acceptance with limits on the number of gifts received</u>	
In accordance with AS 29.12.130(c), I am hereby providing notice of my receipt of a gift with a value in excess of \$50.00.	
The gift is: _____ _____ _____	
My estimate of its value is: \$ _____ received from: _____	
The date I received was: _____	
The following is a statement which I made for with the donor, stating the value of the gift: _____ _____ _____ _____	
Date: _____ Signature: _____ Title: _____	Date: _____ Signature: _____ Title: _____

This restriction on gifts does not apply to lawful campaign contributions.



The Little Theater presents Allen with complimentary season tickets. Allen is reviewing their grant request.



Alexander is negotiating a contract with the SBS Company. At noon, they invite him out for a quick lunch at a nearby greasy spoon.



Harry has been a State auditor for years; all that time, he has audited the AJAX books. One of the company's execs offers to let him stay at his condo in Maui for free.



John schedules a field trip to look at a company's mining operations. The company flies up to the site every Monday and offers John a free trip. John takes the trip but notifies his designated supervisor.



Tom works on the tax returns of a Fortune 500 company. There are certain difficulties with the returns. The company president is on the Harvard board. He suggests that if Tom ignores the difficulties, Tom's son will have no trouble getting into Harvard.



IMPROPER USE OR DISCLOSURE OF INFORMATION (AS 39.52.140)

No former or current public employee may use or disclose any information gained from State employment when that use or disclosure could result in a financial or personal benefit to the employee (or to a family or household member), unless that information has already been disseminated to the public.

No former or current employee may use or disclose confidential information acquired during employment.



Dave was typing the next to final draft of a new land use plan for the Valley. It is clear that a new industrial area is going to be developed. Dave and his Dad make land purchases in the heart of the new industrial zone.



The department's investment officer receives a call from a Wall Street consultant retained by the department. The consultant tells him that stock of the SYN company is sure to increase by at least ten points. The investment officer calls his own stockbroker to buy 1000 shares for himself.

IMPROPER INFLUENCE IN STATE GRANTS, CONTRACTS, LEASES OR LOANS (AS 39.52.150)

No public employee whose action or inaction can affect the award or administration of a State grant, contract, lease or loan may apply for, be a party to, receive, or have an interest in that State grant, contract, lease or loan. This prohibition also applies to the employee's family or household members.

However, employees (or family or household members) may apply for or be a party to a *competitively solicited* State grant, contract or lease, so long as they do not work for the administrative unit awarding or administering the grant, contract, or lease *and* so long as they do not take official action with respect to the award or administration of the grant, contract, or lease.

Also, a public employee (or family or household member) may apply for and receive a State loan that is generally available to the public and has fixed eligibility standards, so long as the employee does not take (or withhold) official action affecting the award or administration of the loan.

A public employee must report to a designated supervisor any personal or financial interest (or that of a family or household member) in a State grant, contract, lease or loan that is awarded or administered by the agency the public employee serves. *A form is available from the designated supervisor for this purpose.*



Hal administers contracts for his department. He hasn't seen his daughter for nearly ten years, so he figures that it doesn't matter when she bids for a contract that is being negotiated by his division.



Anne's daughter has been accepted at college and she is now applying for a loan from the Post Secondary Education Commission. Anne usually evaluates loan applications. She asks her designated supervisor to assign her colleague, Harry, to evaluate Anne's loan application. When her daughter gets the loan, Anne notifies her designated supervisor in writing of the loan.

IMPROPER REPRESENTATION (AS 39.52.160)

A public employee may not represent, advise, or assist a person or business in any matter being handled by the employee's administrative unit if that representation, advice, or assistance is for pay or if it benefits a personal or financial interest of the employee.

This prohibition does not apply to collective bargaining activities.



Richard works for the department's public information office and is also on the board of the local Audubon Society. The board decides to apply for a public education grant being offered by the department's public information office. They ask Richard to prepare a grant application and to put his name on it as the group's contact person. They figure that Richard knows all the ins and outs and will give them a better shot at the grant.



Chris has worked long and hard to form a certain nonprofit organization in her town. She is staff to the board of a State commission which is considering a grant to the organization. Chris feels it will be OK to present the grant application to the board because she isn't actually a member of the nonprofit organization.

OUTSIDE EMPLOYMENT (AS 39.52.170)

No public employee may work for (paid or unpaid) a person or organization other than the employee's own department, if that work is incompatible or in conflict with the proper discharge of official duties.

A public employee must report outside employment or service for which he or she is paid to the designated supervisor. Changes in paid outside employment or services should be reported as they occur. *A form is available from the designated supervisor for this purpose.*



Debby, a State cartographer, works on the weekends for a local ski resort as a member of the ski patrol. She reports this outside employment to the designated supervisor.



Larry is a computer programmer for his department. He has just finished a computer study recommending Macintoshes. In his spare time, he sells Apple computers.



RESTRICTION ON EMPLOYMENT AFTER LEAVING STATE SERVICE (AS 39.52.180)

For two years after leaving State service, a former public employee may not work on any matter in which the former employee had personally and substantially participated while employed by the former administrative unit. This prohibition applies to cases, proceedings, applications, and contracts but not to work on legislative measures or administrative regulations.

With the approval of the Attorney General, a Commissioner may waive this prohibition if a determination is made that the public interest is not jeopardized.

Former public employees may be paid by a State agency to work on any matter.



As a State employee, Andy did all the work on the road permits for the Red Dog mine. Cominco wants to hire him to work on the permits for the harbor. He accepts, so long as they don't ask him to do any more work on the road permits.

AIDING A VIOLATION PROHIBITED (AS 39.52.190)

Aiding another public officer to violate this chapter is prohibited.

DISCLOSURE PROCEDURES

NOTIFICATION OF POTENTIAL ETHICAL VIOLATION (AS 39.52.210)

When a public employee is involved in a situation which may be in violation of the Code of Ethics (AS 39.52.110-190), the employee must not take official action related to that situation and must immediately disclose the matter in writing to the designated supervisor. (*The designated supervisor has forms for this disclosure.*) The designated supervisor will provide a written determination of whether a violation exists or will exist, and the supervisor may reassign duties to avoid the violation (where feasible), direct the removal by the employee of the conflicting personal or financial interest, or find another solution.

ATTORNEY GENERAL'S ADVICE (AS 39.52.240-250)

In making determinations regarding the Code of Ethics, designated supervisors may request a written advisory opinion from the Attorney General. These opinions are confidential. Versions without identifying information are available to the public.

Former public employees may request a written opinion directly from the Attorney General on the applicability of the Code of Ethics.

REPORTS BY THIRD PARTIES (AS 39.52.230)

A third party may report a suspected violation of the Code of Ethics by a public officer in writing and under oath to the public officer's designated supervisor. The supervisor will give a copy to the employee and review the report to determine whether a violation may or does exist. If the supervisor determines a violation exists, the employee's duties may be reassigned (where feasible), the employee may be directed to remove the conflicting personal or financial interest, or another solution may be found.

COMPLAINTS, HEARINGS AND ENFORCEMENT

COMPLAINTS (AS 39.52.310-330)

Complaints about the conduct of a current or former public employee can be filed with the Attorney General by any person. Complaints must be written and signed under oath. The Attorney General may also initiate complaints from information provided by designated supervisors. A copy of the complaint will be sent to the public employee who is the subject of the complaint.

All complaints are reviewed by the Attorney General. (Alleged violations by the Governor, Lieutenant Governor or the Attorney General are handled by independent counsel appointed by the Personnel Board.) If the Attorney General determines that a complaint does not warrant investigation, the complainant and the employee will be notified of the dismissal.

The Attorney General may refer a complaint to the employee's designated supervisor for resolution.

After investigation, the Attorney General may dismiss a complaint for lack of probable cause to believe a violation occurred. The complainant and employee will be promptly notified of this decision.

The Attorney General may recommend action to prevent or correct a violation.

The Attorney General may file an accusation alleging a violation of the Code of Ethics.

CONFIDENTIALITY (AS 39.52.340)

Complaints and investigations prior to formal hearings are confidential. Violation of confidentiality is a Class A misdemeanor.

HEARINGS (AS 39.52.350-360)

An accusation by the Attorney General of an alleged violation may initiate a hearing. The time, place and other matters are determined by a hearing officer appointed by the Personnel Board. The parties to the hearing are the Attorney General, acting as prosecutor, and the accused public official, who can be represented by an attorney. Within 30 days of the conclusion of the hearing, the hearing officer files a report with the Personnel Board.

PERSONNEL BOARD ACTION (AS 39.52.370)

The hearing officer's report will be reviewed by the Personnel Board. The Personnel Board is responsible for determining whether a violation occurred and for imposing penalties. An appeal may be filed by the employee in the Superior Court.

PENALTIES (AS 39.52.410-460)

All penalties under this law are in addition to discipline under collective bargaining agreements.

The Personnel Board can order an employee in violation of the Code of Ethics to stop engaging in official actions related to the complaint, may order divestiture, establishment of a blind trust, restitution or forfeiture, and may recommend disciplinary action.

If a former employee is guilty of violating the Code of Ethics, the Personnel Board will issue a public statement about the case and will request the Attorney General to pursue any additional legal remedies.

A violation of the Code of Ethics by a public officer who is removable from office only by impeachment will be reported by the Personnel Board to the President of the Senate.

State grants, contracts and leases awarded in violation of the Code of Ethics are voidable.

Loans given in violation of the Code of Ethics may be made immediately payable.

Fees, gifts, or compensation received in violation of the Code of Ethics may be recovered by the Attorney General.

The Personnel Board may impose a fine of up to \$5,000 for violation of the Code of Ethics, and an employee may be required to pay twice the financial benefit received in violation of the Code of Ethics.

Criminal penalties are in addition to the civil penalties listed above.

For further information regarding the Code of Ethics,
Please contact:

The Department of Law
Box K, Juneau, Alaska 99811
465-3600

SCOMM

82:10

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SJR 14

Revision Date: _____ Department Affected: Office of the Governor-Elections
 Title: Amendment to the Constitution BRU: Division of Elections
relating to open meetings Component: II - Primary and General Elections
 Sponsor: Senator Rodey
 Requestor: Senate Spec. Comm. on Ethics COMPONENT SERIAL NO.

0	0	2	2
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Expenditures/Revenues: (Thousands of Dollars) ^{Reform}

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		2.2*				
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		2.2*				

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND		2.2*				
FEDERAL FUNDS						
OTHER						
TOTAL		2.2*				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: -0-

ANALYSIS: (Attach a separate page if necessary.) * This figure covers cost of inclusion of information about this issue in the Official Election Pamphlet as required by AS 15.58, and programming for DataVote counting of votes cast on this measure. However, only 4 measures can be printed on a single ballot card. Should this measure require printing an additional ballot card, the fiscal impact would be: 53.4.

Prepared By: Elizabeth Ziegler, Deputy Director Phone: 465-4611
 Division: Division of Elections Date: 2-7-91
 Approved by Commissioner: Charles E. Thickett
 Agency: Division of Elections Date: 2-7-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

SECTION 1

Section 1(a) states that except for the executive sessions authorized in 1(b), private and substantive discussions and debates on legislation under its jurisdiction by a quorum of a house of the legislature or a committee is prohibited. This is the heart of the amendment.

Private and substantive discussions and debates on legislation under its jurisdiction by a quorum of a house or its committee is prohibited under all circumstances other than executive sessions, but this is the only thing that is prohibited.

The treatment of a caucuses has been a difficult issue in the drafting of this amendment. SJR 1 handles this problem successfully by making clear that a quorum of a committee or of a house is prohibited from holding substantive debate on a legislation under its jurisdiction in any private setting, whether that private setting is a caucus, an informal meeting in the chairman's office, or on the bench during a legislative softball game.

Any grouping of legislators that is not a quorum, however, may discuss anything they wish in private and a quorum of legislators may discuss anything in private except substantive discussion and debate on legislation under the jurisdiction of their particular committee or house.

Section 1 (b) allows the legislature or its committees to hold executive sessions to consider matters authorized by law.

Section 1 (c) specifies that a court may not prescribe rules or procedures for the conduct of the legislature nor may it invalidate legislation because of a violation of open meeting requirements.

Section 1(d) allows the court to impose civil fines (not civil damages) and other sanctions authorized by the legislature upon individual legislators for wilful violations. This section is a limited grant of authority to the courts. It grants them the authority to impose the sanctions authorized by law (civil fines), but prevents the imposition of any other sanctions.

The imposition of a civil fine on an individual legislator, the amount of which can be set by the legislature, is the only

intrusion by the court into the legislative process this amendment allows. This is less draconian than invalidation of legislation which is the penalty prescribed in the OMA and which this amendment prohibits.

Section 1(a) specifies that the legislature may implement this section. Implementing legislation would be the appropriate place if the legislature wished to define "legislation," "under its jurisdiction," or other terms, establish a specific fine amount, or require courts to delay consideration of any open meeting law suit filed during the legislative session until the end of the session.

SECTION 2

This section is legislative intent. It does not go into the constitution nor on the ballot but will be considered by the Legislative Affairs Agency in its preparation of the neutral summary which will be placed in the voter's pamphlet.

Section 2(a) states the purpose of the amendment is to make openness in government the rule and secrecy the exception and to ensure the public is not excluded during substantive deliberative and decision making stages of the budgetary and lawmaking process.

Section 2(b) states that the amendment provides a basis for judicial enforcement of the existing open meeting law to the extent it is consistent with this amendment, notwithstanding article II, section 6 (legislative immunity) or section 12 (rule making authority). The last sentence makes clear that if the legislature adopts a fine amount or schedule, the court must follow that schedule.

Section 2(c) states that the amendment is not intended to prevent the free flow of ideas among legislators or their participation in public forums, community events, site visitations, or social events.

Section 2(d) is instructions to the Legislative Affairs Agency.

Section 3 puts the amendment on the ballot at the next general election.

The constitutional amendment proposed in SJR 1 is balanced, workable, and needed. Thank you for your support.

4.62.300

§ 44.62.310

STATE GOVERNMENT

§ 44.62.310

Article 6. Agency Meetings Public.

Section

310. Agency meetings public

312. State policy regarding meetings

Sec. 44.62.310. Agency meetings public. (a) All meetings of a legislative body, of a board of regents, or of an administrative body, board, commission, committee, subcommittee, authority, council, agency, or other organization, including subordinate units of the above groups, of the state or any of its political subdivisions, including but not limited to municipalities, boroughs, school boards, and all other boards, agencies, assemblies, councils, departments, divisions, bureaus, commissions or organizations, advisory or otherwise, of the state or local government supported in whole or in part by public money or authorized to spend public money, are open to the public except as otherwise provided by this section. Except for meetings of a house of the legislature, attendance and participation at meetings by members of the public or by members of a body may be by teleconferencing. Agency materials that are to be considered at the meeting shall be made available at teleconference locations. Except when voice votes are authorized, the vote shall be conducted in such a manner that the public may know the vote of each person entitled to vote. The vote at a meeting held by teleconference shall be taken by roll call. This section does not apply to any votes required to be taken to organize a public body described in this subsection.

(b) If excepted subjects are to be discussed at a meeting, the meeting must first be convened as a public meeting and the question of holding an executive session to discuss matters that come within the exceptions contained in (c) of this section shall be determined by a majority vote of the body. No subjects may be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. No action may be taken at the executive session.

(c) The following excepted subjects may be discussed in an executive session:

(1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the government unit;

(2) subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;

(3) matters which by law, municipal charter, or ordinance are required to be confidential.

(d) This section does not apply to

(1) judicial or quasi-judicial bodies when holding a meeting solely to make a decision in an adjudicatory proceeding;

(2) juries;

- (3) parole or pardon boards;
- (4) meetings of a hospital medical staff; or
- (5) meetings of the governing body or any committee of a hospital when holding a meeting solely to act upon matters of professional qualifications, privileges or discipline.

(e) Reasonable public notice shall be given for all meetings required to be open under this section. The notice must include the date, time, and place of the meeting, and if the meeting is by teleconference the location of any teleconferencing facilities that will be used.

(f) Action taken contrary to this section is void. (§ 1 art VI (ch 1) ch 143 SLA 1959; am § 1 ch 48 SLA 1966; am § 1 ch 78 SLA 1968; am § 1 ch 7 SLA 1969; am §§ 1, 2 ch 98 SLA 1972; am § 2 ch 100 SLA 1972; am § 1 ch 189 SLA 1976; am §§ 2, 3 ch 54 SLA 1985)

Effect of amendments. — The 1985 amendment in subsection (a) added the second, third, and next-to-last sentences and in the last sentence substituted "a

public body described" for "the bodies specified" and added the last sentence of subsection (e).

NOTES TO DECISIONS

"Meeting". — A private meeting between a quorum of the Anchorage Municipal Assembly and a developer to discuss in detail the developer's application for rezoning violated this section; a "meeting" for purposes of the Open Meetings Act includes every step of the deliberative and decision-making process when a governmental unit meets to transact public business. The rezoning ordinance later passed by the assembly that allowed a modified plan of development was therefore held void. *Brookwood Area Homeowners Ass'n v. Municipality of Anchorage*, Sup. Ct. Op. No. 2953 (File Nos. S-575, S-629), 702 P.2d 1317 (1985).

Findings. — There is nothing in the Administrative Procedure Act requiring a board to make any findings when exercising its quasi-legislative function, and therefore there is nothing in the act regulating the manner in which findings must be adopted or approved. *State v. Hebert*, Ct. App. Op. No. 748 (File A-1743), P.2d (1987).

Legislature's alleged violation of Open Meetings Act held nonjusticiable. — The Open Meetings Act, as it applies to the legislature, like the legislature's Uniform Rule 22, merely establishes a rule of procedure concerning how the legislature has decided to conduct its business; a failure to follow a rule of procedure is not the subject matter of judicial inquiry where there are no allegations that the legislature, acting pursuant to or in violation of one of its rules of procedure, has infringed on the rights of a third person not a member of a legislature or has ignored constitutional restraints or violated fundamental rights. *Aboud v. League of Women Voters*, Sup. Ct. Op. No. 3230 (File Nos. S-1831, S-1841, S-1957), 743 P.2d 333 (1987).

Applied in *Meiners v. Bering Strait School Dist.*, Sup. Ct. Op. No. 2857 (File Nos. S-125, S-140), 687 P.2d 287 (1984); *Aboud v. Gorsuch*, Sup. Ct. Op. No. 2958 (File No. S-706), 703 P.2d 1158 (1985).

Sec. 44.62.312. State policy regarding meetings. (a) It is the policy of the state that

(1) the governmental units mentioned in AS 44.62.310(a) exist to aid in the conduct of the people's business;

(2) it is the intent of the law that actions of those units be taken openly and that their deliberations be conducted openly;

(3) the people of this state do not yield their sovereignty to the agencies which serve them;

(4) the people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know;

(5) the people's right to remain informed shall be protected so that they may retain control over the instruments they have created;

(6) the use of teleconferencing under this chapter is for the convenience of the parties, the public, and the governmental units conducting the meetings.

(b) AS 44.62.310(c)(1) shall be construed narrowly in order to effectuate the policy stated in (a) of this section and avoid unnecessary executive sessions. (§ 3 ch 98 SLA 1972; am § 4 ch 54 SLA 1985)

Effect of amendments. — The 1985 amendment added paragraph (6) of subsection (a).

NOTES TO DECISIONS

Quoted in Brookwood Area Home-owners Ass'n v. Municipality of Anchorage, Sup. Ct. Op. No. 2953 (File Nos. S-575, S-629), 702 P.2d 1317 (1985).

Article 7. Legislative Review of Rules.

Sec. 44.62.320. Legislative annulment of regulations and review.

Editor's notes. — The Alaska Const., art. II, § 22 amendment proposal that was mentioned in the notes to decisions was defeated in the November, 1984 election.

Article 8. Administrative Adjudication.

Section	Section
330. Application of AS 44.62.330 — 44.62.630	410. Time and place of hearing
	600. Voting procedure

Sec. 44.62.330. Application of AS 44.62.330 — 44.62.630.

(a) The procedure of the state boards, commissions, and officers listed in this subsection or of their successors by reorganization under the constitution shall be conducted under AS 44.62.330 — 44.62.630. This procedure, including, but not limited to, accusations and statements of issues, service, notice and time and place of hearing, subpoenas, depositions, matters concerning evidence and decisions, conduct of hearing, judicial review and scope of judicial review, continuances, reconsideration, reinstatement or reduction of penalty, contempt, mail vote, oaths, impartiality, and similar matters shall be governed by this chapter, notwithstanding similar provisions in the statutes dealing with the state boards, commissions, and officers listed. Where indi-

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joint committee which acts between legislative sessions constitutes a subcommittee of the Legislative Council for administrative purposes. A special or joint committee may expend money only in accordance with an appropriation made for the work of the committee.

(d) A committee may not be established unless authorized by law or by the Uniform Rules.

OPEN AND EXECUTIVE SESSIONS

RULE 22. OPEN AND EXECUTIVE SESSIONS. (a) All meetings of a legislative body are open to all legislators, whether or not they are members of the particular legislative body that is meeting, and to the general public except as provided in (b) of this rule.

(b) A legislative body may call an executive session at which members of the general public may be excluded for the following reasons:

(1) discussion of matters, the immediate knowledge of which would adversely affect the finances of a government unit;

(2) discussion of subjects that tend to prejudice the reputation and character of a person;

(3) discussion of a matter that may, by law, be required to be confidential.

(c) When a legislative body desires to call an executive session in accordance with (b) of this rule, the body shall first convene as a public meeting and the question of holding an executive session shall be determined by a majority vote of the members present.

(d) The provisions of this rule may not be interpreted as permitting the exclusion of a legislator from an executive session, whether or not the legislator is a member of the body that is meeting. A legislator not a member of the body holding an executive session shall, however, be subject to the same rules of confidentiality and decorum as pertain to regular members of the body.

COMMITTEE MEETINGS

RULE 23. COMMITTEE MEETINGS. (a) Written notice of the time, place and subject matter of all meetings of standing, special, and joint committees during a week shall be provided by the person who chairs the committee to the chief clerk or secretary by 4:00 p.m. on the preceding Thursday. The person who chairs the committee to which a bill or resolution is first referred shall provide to the chief clerk or secretary written notice of the time and place of the first public hearing on the bill or resolution at least five days before the hearing. However, this requirement may be waived by motion of the person who chairs the committee to which a bill or resolution is first referred if concurred in by majority vote of the full membership of the house. The chief clerk or secretary shall publish and distribute copies of the weekly schedule of committee meetings and of the five-day notice of hearing.

SCOMM

82:11

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSIONN 1
Bill Version CSHB 86(STA)
(H) Publish Date: 2/25/91Revision Date: _____
Title: An Act relating to the date for
filing year-end campaign finance reports

Department Affected: Dept. of Administration

BRU: Alaska Public Offices Commission

Component: _____

Sponsor: Judiciary Committee

Requester: House State Affairs

COMPONENT SERIAL NO

7 0

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

There will be no fiscal impact

Prepared By: Karen Bookman *Karen Bookman*
Division: Alaska Public Offices Commission

Phone: 276-4176

Date: 2/12/91

Approved by Commissioner: Annie Laurie Howard, Chair

Agency: Alaska Public Offices Commission

Date: 2/12/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. CSHB86

Revision Date: _____ Department Affected: Administration
 Title: Year-end Campaign Finance BRU: AK Public Offices Commission
Reports Component: _____
 Sponsor: (H) Judiciary
 Requestor: (S) ETR COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

There will be no fiscal impact.

Prepared By: Karen Boorman Phone: 276-4176
 Division: AK Public Offices Commission Date: 3/20/91
 Approved by Commissioner: Annie Laurie Howard, Chair
 Agency: Alaska Public Offices Commission Date: 3/20/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).



Official Business

Alaska State Legislature

Senate

SPECIAL COMMITTEE ON ETHICS REFORM

Senator Virginia Collins

Pouch V
State Capitol
Juneau, Alaska 99811

March 18, 1991

MEMORANDUM

TO: Senator Jim Duncan

FROM: Senator Virginia Collins, Chair
Senate Special Committee On Ethics Reform

SUBJECT: Public hearing on HB 86 APOC reporting deadlines and
worksession on campaign financing reform

The Senate Special Committee on On Ethics Reform will meet
at 10:30 am on Thursday, March 21, 1991, in the Butrovich
Room.

Alaska State Legislature



MAR 14 1991

House of Representatives
House Judiciary Committee
Chairman Dave Donley

P. O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-4990
(907) 465-4712

M E M O R A N D U M

TO: Senator Virginia Collins, Chair
Senate Special Committee on Ethics Reform

FROM: Representative Dave Donley, Chair **DB**
House Judiciary Committee

RE: CSHB 86(Jud), "The Mini Campaign Reform Act"

DATE: March 14, 1991

I respectfully request that you consider scheduling CSHB 86(Jud) for a hearing before your committee at the earliest opportunity.

Attached you will find an explanation and analysis of the bill, as well as the APOC position paper.

Thank you for your consideration of this request.

REPRESENTATIVE DAVE DONLEY

ALASKA STATE LEGISLATURE
DISTRICT ELEVEN
SEAT A

3111 "C" STREET, SUITE 450
ANCHORAGE, ALASKA 99503
(907) 561-7629 (FAX) 562-4376

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CHAIRMAN
JUDICIARY COMMITTEE

VICE CHAIRMAN
REGULATION REVIEW COMMITTEE

MEMBER
RULES COMMITTEE
LABOR AND COMMERCE COMMITTEE

HB 86, "THE MINI CAMPAIGN REFORM ACT"

EXPLANATION AND ANALYSIS

This bill makes some long needed adjustments to our campaign reporting laws, the major feature of which is closing the two day reporting gap.

In Section 2, the two day reporting gap is closed. The law, since its inception in 1974, has contained an inadvertent two day gap which occurs between the seven day pre-election report and the 24 hour report. Thus, contributions over \$250, that should be reported during the week before the election are not reported until the 10 day post-election report, which has the effect of obscuring the public's right to know.

In Section 1, on page one, the new language clarifies the scope of the year-end report. The year-end reporting period starts with the most recent report filed or with the beginning of the campaign, whichever is later. The reporting period ends with the previous calendar year, i.e., on December 31.

In Section 1, on page two, lines 6 and 7, the filing of a zero report is made mandatory. This allows APOC to monitor report filing, notify filers if no report is received, and avoids the problem of discovering at a later date that a report should have been filed and that a significant fine has accrued.

Also, in Section 1, on page one, the deadline for filing year-end campaign reports is changed from December 31 to February 15. In recognition of the impracticality of the December 31st deadline, the Alaska Public Offices Commission has for several years allowed year-end reports to be filed well after the statutory date.

It is basically impossible to provide accurate information by the statutory December 31 deadline if the candidate or group has an interest bearing bank account or an account where one pays according to the number of checks written. The bank statements for December do not generally come out until the latter part of January. One must then file an

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amended report after the final accounting for December is made available.

Additionally, contributions can be received until midnight, December 31st, making it virtually impossible to comply with the statute if this happens. Conflict of interest statements and income tax returns are due on April 15. Under HB 86, APOC year-end reports are due a full two months earlier. There are no elections occurring in January or February; thus, there is no reason to rush the filing of year-end reports, resulting in incomplete and misleading reports which must be amended later anyway.

The Alaska Public Offices Commission supports this legislation and it received bi-partisan support in the House where it passed 38 to 2.

**1991 LEGISLATION
POSITION PAPER
DEPARTMENT OF ADMINISTRATION**

Division Alaska Public Offices Commission Bill Number HB 86

Bill Title An Act relating to the date for filing of year-end campaign finance reports.

Position Statement: Explain briefly what bill does, its impacts and Department's position, i.e.
a) support, b) do not support, c) neutral or d) oppose.

SEE ATTACHED

APPROVED:

Director Karen Boorman Division AK Public Offices Commission
print name

Signature Karen Boorman Date 2/12/91

Commissioner Millett Keller

Signature _____ Date _____

(For more information, call Barbara Pritchett 465-2200)

Rev. 1/23/91

Annie Laurie Howard Date 2-12-91

Annie Laurie Howard, Chair
Alaska Public Offices Commission

POSITION PAPER

APOC

HB 86

"An Act relating to the date for filing of year-end campaign finance reports."

This bill extends the deadline for year-end campaign disclosure reports from December 31 of each year to February 15 of the following year. This will allow candidates and groups the use of January bank statements and a longer time period to prepare a year-end report.

The Alaska Public Offices Commission has reviewed HB 86. This bill impacts the campaign disclosure law, AS 15.13 which the commission administers. The commission supports this legislation. The one month delay in year-end campaign disclosure report availability to the public is offset by more complete and accurate reports. (By APOC regulation 2 AAC 50.390, fines are not assessed until after January 16.)

The commission would like to request three additional changes to the legislation.

Amendment 1

The first clarifies the scope of the February 15 (year-end) report. The year-end reporting period starts with the most recent report filed or with the beginning of the campaign, whichever is later. The reporting period ends with the previous calendar year, not on February 12. This allows six weeks to fill out and file year-end reports.

Section 1, lines 6 and 7 ". . . day covered by the most recent

previous report[,] (or 1) If it is a first report, it shall cover all contributions received and expenditures made before three days before the due date of the report. If it is a report due February 15, it shall cover the period beginning on the last day covered by the most recent previous report or the beginning of the campaign, whichever is later, and ending with December 31 of the prior year. The report shall be filed . . .".

Amendment 2

The second would make zero year-end reports mandatory. This would allow APOC to monitor report filing and notify filers if no report is received. Currently, reports are filed only if activity has taken place since the last report. Filing a zero activity report is optional. APOC has no way of knowing and subsequently reminding a candidate or group whether a report should be filed. Requiring zero reports will avoid the problem of discovering at a later date that a report should have been filed and a significant fine has accrued.

Section 1, lines 13 and 14 "(4) February 15 [December 31 of each year for expenditures and contributions received which were not reported that year]."

When read in conjunction with 2 AAC 50.332(a), this change makes it clear that zero year-end reports are mandatory.

Amendment 3

The third suggestion involves a separate issue. Currently the statute is worded such that an inadvertent two day reporting gap occurs between the seven day pre-election reports and the 24 hour reports. Contributions over \$250 that should be reported during

the week before the election are not reported until the 10 day post-election report.

Amend AS 15.13.110(b) to read:

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

Since this last request changes the twenty four hour report filing, the title should be amended to delete "year-end".

REPORTING DATES

<u>REPORT TITLE</u>	<u>REPORTING PERIOD</u>	<u>DUE DATE</u>
1989 YEAR END	BEGINNING OF CAMPAIGN OR JANUARY 1 - DECEMBER 31, 1989	JANUARY 16, 1990
	<u>PRIMARY ELECTION</u> <u>AUGUST 28, 1990</u>	
30 DAY PRE-PRIMARY	BEGINNING OF CAMPAIGN - JANUARY 1, 1990 - JULY 26, 1990	JULY 30, 1990
7 DAY PRE-PRIMARY two day gap	JULY 27, 1990 - AUGUST 18, 1990	AUGUST 21, 1990
24 HOUR REPORT	AUGUST 21, 1990 - AUGUST 27, 1990	WITHIN 24 HOURS OF RECEIPT OF +\$250.
10 DAY POST-PRIMARY	AUGUST 19, 1990 - SEPTEMBER 4, 1990	SEPTEMBER 7, 1990
	<u>GENERAL ELECTION</u> <u>NOVEMBER 6, 1990</u>	
30 DAY PRE-GENERAL	SEPTEMBER 5, 1990 - OCTOBER 4, 1990	OCTOBER 9, 1990
7 DAY PRE-GENERAL two day gap	OCTOBER 5, 1990 - OCTOBER 27, 1990	OCTOBER 30, 1990
24 HOUR REPORT	OCTOBER 30, 1990 - NOVEMBER 5, 1990	WITHIN 24 HOURS OF RECEIPT OF +\$250.
10 DAY POST-GENERAL	OCTOBER 28, 1990 - NOVEMBER 13, 1990	NOVEMBER 16, 1990
1990 YEAR-END	NOVEMBER 14, 1990 - DECEMBER 31, 1990	JANUARY 15, 1991