

254

HJ

HB 808

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HB 857

2

HB

808

House Judiciary Committee  
April 12, 1976

The meeting was called to order by Chairman Gardiner at 1:30. Members present were Cotten, Eliason, Parr, Gardiner, Specking and Bradley.

HB 808            HIPPIE HOMESTEAD BILL

HB  
808

Oral Freeman, sponsor:

Land should be made available for homesites for Alaskan residents. \$10.00 is to cover paperwork when receive patent.

Mr. Parr moved page 1, line 24, change to read "shall classify and survey"  
No objection, adopted.

Mr. Parr moved page 2, line 1 after "years" add "and after paying cost of survey of the land" No objection, adopted.

Mr. Gardiner moved page 3 (D) change to read "agree to pay for land survey made under this subsection." No objection, adopted.

Mr. Cotten moved that page 2-3, change age of majority to 18 years of age. No objection, adopted.

The meeting was adjourned at 3:00 p.m.

39.50.200 (9). Mr. Specking objected. Question : 3-3 so motion failed.

HB 808            HIPPIE HOMESTEAD BILL

HB  
808

Oral Freeman, sponsor:

Regarding remarks by Department of Natural Resources:

- 1) A lottery would defeat the purpose of making land available to Alaskan citizens.
- 4) False statements on residency, cancellation should be punishment enough. Burden of proof is on applicant.
- 3) 300 sites on a 2 year cycle. Trial program. Not very many sites. Should be able to do more than 300 sites in 2 years. According to fiscal note, this would be \$2000/site. a bit ridiculous!

Mr. Specking moved that only one permit be issued per household. No objection, adopted.

Page 2, line 5, Change "2" to "2 1/2" No objection, adopted.

Mr. Cotten moved page 3, line 17, add "and conveyed," No objection, adopted.

Mr. Cotten moved on page 2, line 29 to change "seven" to "three" Question: 2-4 so failed.

Mr. Parr moved to change (2) on page 2 so that DNR does not have an out to do nothing. Suggests that perhaps should be on a rotating basis of Judicial districts. Question: 4-1 so adopted.

Mr. Cotten moved that publication should be at least 3 times. Page 2 (3). No objection, adopted.

The meeting was adjourned at 9:55.

House Judiciary Committee  
April 17, 1976

The meeting was called to order by Chairman Gardiner at 9:00 a.m. Present were Brown, Cotten, Specking, Bradley and Gardiner.

SB 696 TELECOMMUNICATIONS

SB  
696

George Shaganaw, GOT:  
Larry Golden:

Groups other than government should have access to the use of the transponder when not being used otherwise.

Shaganaw: we are not ready for use by public.

Village sites shall be chosen on bases of criteria, not political whim, be AFN.

Mr. Bradley moved to adopt Eric Eckholm's new language for Senate HESS letter of intent.

Mr. Brown moved to change "stations" to "facilities" in proposed change. No objection, adopted.

Senate HESS letter of intent with changes adopted.

Mr. Specking moved to include \$150,000 for public radio network. No objection, adopted.

Mr. Bradley moved HCS out of committee with letter of intent.

SB 484 ABANDONED MOTOR VEHICLES

SB  
484

Page 3, lind 16: Mr. Brown moved to change "disposal" to "sale or relinquishment". Question 3-1 so adopted.

Mr. Specking moved that in order to be eligible, the tower must be certified. Withdrawn.

Mr. Brown moved HCS out of committee. No objection,so ordered.

HB 808 HIPPIE HOMESTEAD BILL

HB  
808

Mr. Specking concerned that trailer owners are being discriminated against.

Mr. Specking requested standards in a letter of intent. No objection, so ordered.

**TERM SPECIAL USE PERMIT**

Act of March 4, 1915, as amended July 28, 1956,  
or Act of March 30, 1948  
(Ref. FSM 2710)

a. Record no. (1-2) <p style="text-align: center;">70</p>	b. Region (3-4) <p style="text-align: center;">---</p>	c. Forest (5-6) <p style="text-align: center;">---</p>
d. District (7-8) <p style="text-align: center;">---</p>	e. User number (9-12) <p style="text-align: center;">-----</p>	f. Kind of use (13-15) <p style="text-align: center;">---</p>
g. State (16-17) <p style="text-align: center;">---</p>	h. County (18-20) <p style="text-align: center;">---</p>	k. Card no. (21) <p style="text-align: center;">1</p>

Permission is hereby granted to \_\_\_\_\_

of \_\_\_\_\_  
hereinafter called the permittee, to use subject to the conditions set out below, the following described lands or improvements for the period of \_\_\_\_\_ years from the date thereof:

This permit covers \_\_\_\_\_ acres and is issued for the purpose of:

1. Construction or occupancy and use under this permit shall begin within \_\_\_\_\_ months, and construction, if any, shall be completed within \_\_\_\_\_ months, from the date of the permit. This use shall be actually exercised at least \_\_\_\_\_ days each year, unless otherwise authorized in writing.

2. In consideration for this use, the permittee shall pay to the Forest Service, U.S. Department of Agriculture, the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) for the period from \_\_\_\_\_ 19\_\_\_\_, to \_\_\_\_\_, 19\_\_\_\_, and thereafter annually on \_\_\_\_\_ Dollars (\$ \_\_\_\_\_):

*Provided, however,* That the charges for this use shall be readjusted as of, and effective on, the beginning of each 5-year period from the due date of the first annual payment in order to place the charges on a basis commensurate with the value of use authorized by this permit.

3. This permit is accepted subject to the conditions set forth herein, and to conditions \_\_\_\_\_ to \_\_\_\_\_ attached hereto and made a part of this permit.

PERMITTEE	NAME OF PERMITTEE	SIGNATURE OF AUTHORIZED OFFICER	DATE
		TITLE	
ISSUING OFFICER	NAME AND SIGNATURE	TITLE	DATE

4. Development plans; lay-out plans; construction, reconstruction, or alteration of improvements; or revision of lay-out or construction plans for this area must be approved in advance and in writing by the forest supervisor. Trees or shrubbery on the permitted area may be removed or destroyed only after the forest officer in charge has approved, and has marked or otherwise designated that which may be removed or destroyed. Timber cut or destroyed will be paid for by the permittee as follows: Merchantable timber at appraised value; young-growth timber below merchantable size at current damage appraisal value; provided that the Forest Service reserves the right to dispose of the merchantable timber to others than the permittee at no stumpage cost to the permittee. Trees, shrubs, and other plants may be planted in such manner and in such places about the premises as may be approved by the forest officer in charge.

5. The permittee shall maintain the improvements and premises to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the forest officer in charge.

6. This permit is subject to all valid claims.

7. The permittee, in exercising the privileges granted by this permit, shall comply with the regulations of the Department of Agriculture and all Federal, State, county, and municipal laws, ordinances, or regulations which are applicable to the area or operations covered by this permit.

8. The permittee shall take all reasonable precaution to prevent and suppress forest fires. No material shall be disposed of by burning in open fires during the closed season established by law or regulation without a written permit from the forest officer in charge or his authorized agent.

9. The permittee shall exercise diligence in protecting from damage the land and property of the United States covered by and used in connection with this permit, and shall pay the United States for any damage resulting from negligence or from the violation of the terms of this permit or of any law or regulation applicable to the national forests by the permittee, or by any agents or employees of the permittee acting within the scope of their agency or employment.

10. The permittee shall fully repair all damage, other than ordinary wear and tear, to national forest roads and trails caused by the permittee in the exercise of the privilege granted by this permit.

11. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this agreement or to any benefit that may arise herefrom unless it is made with a corporation for its general benefit.

12. Except as provided in Clause 16 below, upon abandonment, termination, revocation, or cancellation of this permit, the permittee shall remove within a reasonable time all structures and improvements except those owned by the United States, and shall restore the site, unless otherwise agreed upon in writing or in this permit. If the permittee fails to remove all such structures or improvements within a reasonable period, they shall become the property of the United States, but that will not relieve the permittee of liability for the cost of their removal and the restoration of the site.

13. This permit is not transferable. If the permittee through voluntary sale or transfer, or through enforcement of contract, foreclosure, tax sale, or other valid legal proceeding shall cease to be the owner of the physical improvements other than those owned by the United States situated on the land described in this permit and is unable to furnish adequate proof of ability to redeem or otherwise reestablish title to said improvements, this permit shall be subject to cancellation. But if the person to whom title to said improvements shall have been transferred in either manner above provided is qualified as a permittee, and is willing that his future occupancy of the premises shall be subject to such new conditions and stipulations as existing or prospective circumstances may warrant, his continued occupancy of the premises will be authorized by a permit to him, which may be for the unexpired term of this permit or for such new period as the circumstances justify.

14. The permittee may sublease the use of land and improvements covered under this permit and the operation of concessions and facilities authorized; Provided the express written permission of the Forest Supervisor has been secured. The permittee shall continue to be responsible for compliance with all conditions of this permit by persons to whom such premises may be sublet.

15. This permit may be revoked upon breach of any of the conditions herein.

16. If during the term of this permit or any extension thereof, the Secretary of Agriculture or any official of the Forest Service acting by or under his authority shall determine that the public interest requires termination of this permit, this permit shall terminate upon thirty days' written notice to the permittee of such determination, and the United States shall have the right thereupon to purchase the permittee's improvements, to remove them, or to require the permittee to remove them, at the option of the United States, and the United States shall be obligated to pay an equitable consideration for the improvements or for removal of the improvements and damages to the improvements resulting from their removal. The amount of the consideration shall be fixed by mutual agreement between the United States and the permittee and shall be accepted by the permittee in full satisfaction of all claims against the United States under this clause; *Provided*, That if mutual agreement is not reached, the Forest Service shall determine the amount and if the permittee is dissatisfied with the amount thus determined to be due him he may appeal the determination in accordance with the Appeal Regulation (36 C.F.R. 211.20 - 211.37) and the amount as determined on appeal shall be final and conclusive on the parties hereto; *Provided further*, That upon the payment to the permittee of 75% of the amount fixed by the Forest Service, the right of the United States to remove or require the removal of the improvements shall not be stayed pending final decision on appeal.

17. The permittee agrees that the amount which the United States shall be required to pay for improvements in accordance with Clause 16 shall in no event exceed \$ \_\_\_\_\_, and that this instrument may be introduced in any judicial proceedings for the acquisition of such improvements by the United States as the stipulation of the permittee and the United States with regard to the maximum amount which the United States shall be required to pay for the taking thereof.

18. In case of change of address the permittee shall immediately notify the forest supervisor.

19. In the event of any conflict between any of the preceding printed clauses or any provision thereof and any of the following clauses or any provisions thereof, the following clauses will control.

**SPECIAL USE PERMIT**

Act of June 4, 1897  
This permit is revocable and nontransferable  
(Ref. FSM 2710)

a. Record no. (1-2)	b. Region (3-4)	c. Forest (5-6)
70 --	--	--
d. District (7-8)	e. User number (9-12)	f. Kind of use (13-15)
--	----	----
g. State (16-17)	h. County (18-20)	k. Card no. (21)
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Permission is hereby granted to \_\_\_\_\_

of \_\_\_\_\_  
hereinafter called the permittee, to use subject to the conditions set out below, the following described lands or improvements:

This permit covers \_\_\_\_\_ acres and/or \_\_\_\_\_ miles and is issued for the purpose of:

1. Construction or occupancy and use under this permit shall begin within \_\_\_\_\_ months, and construction, if any, shall be completed within \_\_\_\_\_ months, from the date of the permit. This use shall be actually exercised at least \_\_\_\_\_ days each year, unless otherwise authorized in writing.

2. In consideration for this use, the permittee shall pay to the Forest Service, U.S. Department of Agriculture, the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) for the period from \_\_\_\_\_ 19\_\_\_\_, to \_\_\_\_\_, 19\_\_\_\_, and thereafter annually on \_\_\_\_\_ Dollars (\$ \_\_\_\_\_):

*Provided, however,* Charges for this use may be made or readjusted whenever necessary to place the charges on a basis commensurate with the value of use authorized by this permit.

3. This permit is accepted subject to the conditions set forth herein, and to conditions \_\_\_\_\_ to \_\_\_\_\_ attached hereto and made a part of this permit.

PERMITTEE	NAME OF PERMITTEE	SIGNATURE OF AUTHORIZED OFFICER	DATE
		TITLE	
ISSUING OFFICER	NAME AND SIGNATURE	TITLE	DATE

4. Development plans; layout plans; construction, reconstruction, or alteration of improvements; or revision of layout or construction plans for this area must be approved in advance and in writing by the forest supervisor. Trees or shrubbery on the permitted area may be removed or destroyed only after the forest officer in charge has approved, and has marked or otherwise designated that which may be removed or destroyed. Timber cut or destroyed will be paid for by the permittee as follows: Merchantable timber at appraised value; young-growth timber below merchantable size at current damage appraisal value; *provided* that the Forest Service reserves the right to dispose of the merchantable timber to others than the permittee at no stumpage cost to the permittee. Trees, shrubs, and other plants may be planted in such manner and in such places about the premises as may be approved by the forest officer in charge.

5. The permittee shall maintain the improvements and premises to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the forest officer in charge.

6. This permit is subject to all valid claims.

7. The permittee, in exercising the privileges granted by this permit, shall comply with the regulations of the Department of Agriculture and all Federal, State, county, and municipal laws, ordinances, or regulations which are applicable to the area or operations covered by this permit.

8. The permittee shall take all reasonable precautions to prevent and suppress forest fires. No material shall be disposed of by burning in open fires during the closed season established by law or regulation without a written permit from the forest officer in charge or his authorized agent.

9. The permittee shall exercise diligence in protecting from damage the land and property of the United States covered by and used in connection with this permit, and shall pay the United States for any damage resulting from negligence or from the violation of the terms of this permit or of any law or regulation applicable to the National Forests by the permittee, or by any agents or employees of the permittee acting within the scope of their agency or employment.

10. The permittee shall fully repair all damage, other than ordinary wear and tear, to national forest roads and trails caused by the permittee in the exercise of the privilege granted by this permit.

11. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this agreement or to any benefit that may arise herefrom unless it is made with a corporation for its general benefit.

12. Upon abandonment, termination, revocation, or cancellation of this permit, the permittee shall remove within a reasonable time all structures and improvements except those owned by the United States, and shall restore the site, unless otherwise agreed upon in writing or in this permit. If the permittee fails to remove all such structures or improvements within a reasonable period, they shall become the property of the United States, but that will not relieve the permittee of liability for the cost of their removal and restoration of the site.

13. This permit is not transferable. If the permittee through voluntary sale or transfer, or through enforcement of contract, foreclosure, tax sale, or other valid legal proceeding shall cease to be the owner of the physical improvements other than those owned by the United States situated on the land described in this permit and is unable to furnish adequate proof of ability to redeem or otherwise reestablish title to said improvements, this permit shall be subject to cancellation. But if the person to whom title to said improvements shall have been transferred in either manner provided is qualified as a permittee and is willing that his future occupancy of the premises shall be subject to such new conditions and stipulations as existing or prospective circumstances may warrant, his continued occupancy of the premises may be authorized by permit to him if, in the opinion of the issuing officer or his successor, issuance of a permit is desirable and in the public interest.

14. In case of change of address, the permittee shall immediately notify the forest supervisor.

15. The temporary use and occupancy of the premises and improvements herein described may be sublet by the permittee to third parties only with the prior written approval of the forest supervisor but the permittee shall continue to be responsible for compliance with all conditions of this permit by persons to whom such premises may be sublet.

16. This permit may be terminated upon breach of any of the conditions herein or at the discretion of the regional forester or the Chief, Forest Service.

17. In the event of any conflict between any of the preceding printed clauses or any provisions thereof and any of the following clauses or any provisions thereof, the following clauses will control

## TITLE 2700 - LAND USES MANAGEMENT

2713 - POLICIES APPLICABLE TO INDIVIDUAL USES50 - Residence

Other than Recreation. Residence, for other than recreation purposes, may be permitted in isolated locations when needed for the exercise of legitimate use of the Forest or adjacent areas. In addition, old settlers who formerly made their living from use of the National Forest or adjacent areas in the locality applied for, and have no other homes, may be granted residence permits. Residence areas for group occupancy will be approved by the Regional Forester. All residence use shall be located where there will be no conflict with present or planned recreational development or with other resource use.

Authorization for such residence use will be on an annual permit basis without promise of elimination. Individual permits within approved group areas will be issued by the Forest Supervisor. Residence permits may not be granted for sites within designated or anticipated roadside, waterfront, or other near-natural zones.

Residence permits issued under this policy are intended for use as a headquarters for the permittee during the entire year. (See FSH 2713, Item No. 9.)

Recreation and Year-long.g. Sample Specifications for Development of Recreation Residence Sites

(3) Building Materials. In approving construction of recreation or yearlong residence, there is no obligation to accept building materials simply because they are cheaper or more convenient for the permittee. However, as stated in FSH 2315, "There is no prejudice against the use of any durable building material which can be applied or adapted to meet the principles of design." On the other hand, caution must be exercised to avoid emphasizing durability at the expense of appearance

The following materials are approved for use in Region 10 under the circumstances specified:

(a) Foundations. Full Cell treated timbers may be used for foundation material in areas where it is impractical to transport materials for concrete or masonry foundations, and if the design accomplishes the objectives of FSH 2713 and 2315.24 for foundations. Construction using treated timbers must meet proper engineering

## TITLE 2700 - LAND USES MANAGEMENT

standards. Adequate footings and bracing for piers will be required. Clearance between bottom of floor joints and the ground level shall not be less than 18 inches as specified in FSH 2713.

\*-Cedar or hemlock piling 12" or more in diameter may be used for foundation material when treated with wood preservative and anchored below the frost line.

Untreated timbers may be used for foundation material for hunters' cabins authorized under the provisions of FSH 2713, if approved by Forest Supervisors.-\*

(b) Roofing. The only metal roofing authorized for residences is embossed brown or green enameled aluminum with a minimum thickness of .024 inches. It must meet or exceed the standards for roofing specified for Region 10 A-frame cabins. Use of \*-unpainted-\* aluminum roofing for residences will be permitted only in remote locations where \*-the buildings are not visible from the water.-\* One type of rolled roofing will be permissible only for residences in remote locations or for hunter cabins. This is two-ply, 19-inch selvage edge, 17-inch mineral surfaced, rolled roofing, 60-pound weight, in acceptable colors.

Composition shingles are approved for use in all situations. They should be asphalt tab strip shingles of acceptable colors (see FSH 2315.23) with a minimum weight of 168 pounds per square.

(c) Chimneys and Fireplaces. Metal, factory-built chimneys, roofjacks, and/or fireplaces may be approved provided they meet Underwriter's Laboratory standards and are properly installed. However, if stone, brick, or concrete chimneys and fireplaces are permitted, adequate foundations must be required.

Original sponsors: Freeman, Anderson,  
H. Beirne, et al

Offered: 4/6/76  
Referred: Judiciary

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 808

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing state land to be made available a  
7 homesites."

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

9 \* Section 1. PURPOSE OF ACT. The longstanding policy of the state, de-  
10 clared in the Constitution of the State of Alaska (art. VIII, sec. 1) and t.  
11 Alaska Land Act (AS 38.05.350), has been to encourage the settlement of the  
12 state's land and the development of its resources by making them available  
13 for maximum use consistent with the public interest. In authorizing the  
14 classification of land for settlement as homesites, this Act is intended to  
15 further that policy explicitly, by recognizing that the immediate production  
16 of revenues to the state through the auction of land to the highest bidder,  
17 virtually the only method by which state land has been made available to the  
18 public for residential use, is secondary in importance to the primary, and  
19 ultimately more beneficial and productive goal, of providing land for Alaska  
20 to settle at a cost reasonably within their means, and that the highest and  
21 best use of some land may clearly be for habitation.

22 \* Sec. 2. AS 38.05 is amended by adding a new section to read:

23 Sec. 38.05.327. CLASSIFICATION OF LAND FOR HOMESITE ENTRY. (a)  
24 The director <sup>shall</sup> ~~may~~ classify <sup>and survey</sup> ~~for~~ homesite entry state land which is other-  
25 wise vacant, unappropriated and unreserved and is suitable for erection  
26 of a residential dwelling to use as a permanent abode. A person quali-  
27 fied under law to acquire state land may enter upon homesite entry land  
28 under a permit issued by the director and, after occupying the land in  
29 habitable dwelling for a period of not less than seven months each year

for three consecutive years, <sup>and after paying for the ~~entry~~ <sup>cost of the</sup> survey of the</sup> he shall be issued a patent to the land <sup>land</sup> conveying an unencumbered title. Entry and patent under this section are subject to the following conditions and procedures:

(1) Homesite entry land shall be divided into parcels not exceeding two <sup>one half</sup> acres, in reasonably compact form.

(2) As far as feasible, offerings of homesite entry land shall be made on a rotating regional basis, <sup>among the judicial districts of</sup> and at a rate consistent with <sup>the state</sup> the planning processes of the division and taking into account other statutory responsibilities of the division.

<sup>3 publications</sup> (3) Following classification of land for homesite entry, the director shall publish notice of the availability of the land in at least three newspapers of general circulation in the state, at least one of which, if possible shall be a newspaper of general circulation in the vicinity of the available lands.

(4) Fees for filing an application may not exceed \$10. An applicant may apply for more than one available homesite but, no applicant may be issued more than one homesite entry permit or patent during the lifetime of the applicant.

(5) If the number of applicants qualified for homesite entry exceeds the number of available homesites offered, or if several applicants apply and qualify for the same homesite, priority in award of an entry permit shall be accorded on the basis of proof of length of residence within the state and to an applicant who, at the time of application, holds no title to, or interest, other than as a tenant for a limited term, in a dwelling suitable as a permanent place of abode (including but not limited to a mobile home irrespective of whether or not it is attached to land or connected to utilities).

(6) To qualify for homesite entry, an applicant shall

(A) at the time of application have attained the legal

1 age of <sup>18 years</sup> majority as provided in AS 25.25.010;

2 (B) submit proof of not less than three years' contin-  
3 uous residence in the state immediately preceding the date his  
4 application was submitted;

5 *Place in a* (C) within a period of time determined to be reasonable  
6 *different section* by the director, erect the habitable dwelling;

7 (D) agree to <sup>pay for</sup> have a land survey <sup>required under this sub-</sup> made which is approved <sup>section</sup>  
8 by the director and is made at the applicant's expense; and

9 (E) agree to occupy the habitable dwelling for the re-  
10 quired time as provided in this subsection.

11 (b) An applicant satisfying the requirements for homesite entry  
12 under this section shall be issued a revocable permit to occupy and im-  
13 prove the homesite for patent as provided in this section. The appli-  
14 cation fee is the sole rent chargeable on the permit for its duration.  
15 The permit may not be revoked except for substantial breach of the terms  
16 and conditions of the homesite entry under (a) of this section. The  
17 permit may not be assigned, <sup>convoid</sup> or otherwise transferred, but rights under  
18 the permit may devolve by testate or intestate succession. An attempt  
19 to assign, <sup>convoid</sup> or to otherwise transfer the permit, is void and constitutes  
20 a substantial breach.

21 (c) Upon revocation and termination of a permit, improvements or  
22 chattels upon the homesite shall be managed, and subsequent issuance of  
23 a permit for entry on the homesite shall be conditioned, in the same  
24 manner as provided in sec. 90 of this chapter for removal or reversion  
25 of improvements upon termination of leases of state land.

26 (d) No state land which is located within the boundaries of an  
27 organized borough or city may be classified for homesite entry under  
28 this section until the proposed use of the land has been studied and  
29 reviewed jointly by the director and the local planning authority.

1 Nothing in this section or AS 29.18.190 prevents the director from  
2 selecting and classifying for homesite entry land which would otherwise  
3 be available for borough or city selection under AS 29.18.190. If clas-  
4 sified for homesite entry, the land shall not be available for city or  
5 borough selection.

6 (e) Nothing in this section obligates the state to provide ser-  
7 vices to lands which are the subject of homesite entry and patent.

8 (f) In this section "habitable dwelling" means a dwelling of a  
9 permanent nature, together with fixtures and facilities, including  
10 sanitary facilities, required or customary in the vicinity of the land  
11 made available for homesite entry. The commissioner by regulation shall  
12 establish reasonable requirements to satisfy the standard of a habitable  
13 dwelling set out in this subsection.  
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4-17-76

Fast home site building requirements  
Letter of intent  
Proslgate regulations

Multifaseted program  
this is not to be insted of other programs

These standards are not to make it  
unreasonable language

4-7151 Ken Mitchell

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Spicific to regional areas

Standards for different uses -

Recreation Residence

Should waterfront property be limited to 400 ft.

Carrying is a problem. Should it not be done before moving on land. Should state pay that.

Page 1 line 24 put in committee report that there shall be a reasonable amount of land not all land.

Department must do this

$$\begin{array}{r} 2 \\ 2.25 \overline{) 450} \\ \underline{450} \\ 0 \end{array}$$

4-14-76

limit it one permit per household

lined should be 2 1/2 acres rather than 2

have to live on land for 7 months

HB

809

# COMMITTEE REPORT

3/17/76

HOUSE

Mr. Speaker:

Date 5-11-26, 1976

The Committee on JUDICIARY has had HB 809

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

(X) recommends it BE REPLACED WITH CS FOR 11-27 AND THAT

CS FOR 11-27 DO PASS

( ) "and" recommends it BE REFERRED TO THE \_\_\_\_\_

COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

Tommy Hardaway - Do Pass \_\_\_\_\_

\_\_\_\_\_ - Do Pass \_\_\_\_\_

\_\_\_\_\_ - Do Pass \_\_\_\_\_

A. S. Beaudry - Do Pass \_\_\_\_\_

Members NOT concurring in the Majority report:

\_\_\_\_\_ recommends: \_\_\_\_\_

Beaudry recommends: Do Not Pass

\_\_\_\_\_ recommends: \_\_\_\_\_

\_\_\_\_\_ recommends: \_\_\_\_\_

\_\_\_\_\_ recommends: \_\_\_\_\_

Tommy Hardaway Chairman

## MEMORANDUM

State of Alaska

TO: Representative Terry Gardiner  
House Judiciary Committee  
Alaska State Legislature  
State Capitol Building

DATE: March 4, 1976

FILE NO:

TELEPHONE NO:

FROM: Gary L. Jenks  
Director  
Audit Division

SUBJECT: House Bill 809

In reviewing House Bill 809 several questions have come up which I feel are pertinent to this legislation.

1. What expenses may be funded from the net proceeds of the Games operated by a political party or club? Does it include any operating expenses of the club or party as well as expenses incurred in support of candidates?
2. The last paragraph of the bill states that the net proceeds of a game conducted by a political party may be distributed to candidates for a particular office, but that equal amounts must be given to each candidate from the party for that office. Can the funds be distributed to unsuccessful primary candidates as well as the successful ones who go on the general election ballot? This does not appear to be prohibited. Is it intended that political clubs could distribute the money which they raise to candidates? With the restrictive wording "political party", I would interpret the law that they could not.

With the above aside, I have some very serious philosophical concerns with this bill. As one reads the current law, the apparent intent is that the law was enacted so that groups or communities could raise funds for community betterment projects, or to improve the community through religious, educational, self-help or social projects. Thus, a group could raise monies for a community center, church, school, hospital, Little League, college scholarships, and a whole host of other projects. To provide that monies could be raised and expended for political campaigns appears to be a complete departure from the intent of the original law.

This legislation seems to be further unnecessary in light of the current liberal campaign credit law which is currently in existence in Alaska. The \$50 credit per individual would appear to be more than sufficient to raise all funds necessary for political campaigns.

GLJ:lc

HB

833

Memo to Terry Gardiner and Bill Parker

Re: Act Relating to the Abatement of Nuisances

#### Purpose and Effect of Bill

Suits to enjoin pollution have been taking place for hundreds of years (contrary to the popular belief that the Sierra Club doctored up the idea). Prior to modern environmental and pollution statutes the classic garden variety case was one to abate a "nuisance" in the courts of equity. In order to facilitate the growing number of suits as population and industrial growth clashed the courts evolved a distinction between "public nuisances" and "private nuisances."

The so-called "private nuisance" is classically defined as "an interference with the use and enjoyment of land." Prosser, Law of Torts p. 611.

"So long as the interference is substantial and unreasonable, and such as would be offensive or inconvenient to the normal person, virtually any disturbance of the enjoyment of the property may amount to a nuisance." Supra, p. 613.

"No better definition of a public nuisance has been suggested than that of an act or omission 'which obstructs or causes inconvenience or damage to the public in the exercise of rights common to all Her Majesty's subjects.'" Prosser, supra p. 605. The term comprehends a miscellaneous group of acts or omissions which interfere with the interests of the community, or the comfort or convenience of the general public.

To be considered public, the nuisance must affect an interest common to the general public, rather than peculiar to one individual, or several. Thus, while the mere pollution of a stream inconveniencing property owners along the stream would be a private nuisance, the nuisance would become public if fish began to die from the pollution.

In the latter situation the courts have long held that a private individual cannot abate such a public nuisance unless his damage is in some way to be distinguished from that sustained by other members of the general public. The effect of this bill, if passed into law, would be to grant standing to any member of the public affected by the pollution to abate that pollution after the individual went through the specified drill.

#### Need For the Bill

A. Small Picture-right now the Dept. of Law initiates actions at the request of DEC. As you might suspect the requests for action cover situations such as cesspools overflowing into a creek as well as the big cases such as the Galbraith Lake oilspill. As a practical matter the DOL-Civil Section is swamped with the big cases. Result: the small public nuisance pollution cases are prioritized to the bottom of a big list. DEC requests for action in small cases invariably is initiated by a citizen complaint. Prioritization often leaves an outraged citizenry, disgusted with red tape, with no remedy and worse no answer to the problem he complained of.

B. Big Picture-every day Reserve Mining dumps 60,000 tons of asbestos like fibers into Lake Superior near Duluth. 40% of Duluth drinks bottled water. A study of the history of the Reserve case reveals that this "public nuisance" has been such for years, yet for some reason in the past the public body responsible for protecting the public interest in public nuisances would not force a settlement with Reserve for cleaner, healthier water. Now the equities in balance are staggering. It's simply a matter of balancing the interests in the health of thousands versus the interest in employing thousands. Had Minnesota a law on the books such as this years ago when the Reserve health hazard became apparent, the politics of the times could have been checked by a citizen suit resulting in the problem being dealt with in 1946 when solutions were workable rather in 1976 when no solution is equitable for the public interest.

#### Committee Testimony

For the sponsor, Bill Parker, Doug Pope testified essentially the same as the above material. Commissioner Mueller testified that DEC approved of the bill. Will Condon, DOL, approved a letter from the AG's that stated no opposition to concept or form.

#### Questions to Field

A. Is this another non-problem? There's no telling how many small cases have been prioritized to the bottom of the list, but I saw several in 3 months time in Fairbanks. The bigger cases are more obvious and for the most part have been dealt with very well by the AG. There have been abuses though, most notably in recent years the Collier Chemical destruction of water supplies in Kenai. Although there may have been politics in the Galbraith Lake cases, it's important to note how this overlaps with the answer to the next question.

B. Does this open the door to the environmental groups from the states to barge in? No, emphatically no. It's important to remember that before an individual can proceed he must be part of the general public sustaining damage. That puts the standing question right where it should be--with the court. This bill merely eliminates the public-private distinction when the right drill is followed. A person still has to show that he is part of the public being damaged. Returning to the Galbraith Lake situation, the court would inquire whether any ~~public~~ public damage is alleged. In short, it's arguable that only the State can still proceed in an area so remote that there is no definable public. More clear would be an example of pollution in Dillingham. If the Dillingham public is damaged, then it must be a member of the Dillingham public before standing is granted.

C. Does this interfere with the boroughs? No. Read the bill, it forces the person to contact the DEC or "the local authority vested with pollution control powers."

D. Will this bill result in increased litigation? Only if DEC is not doing its job. Comm. Mueller agreed that in regard to the little cases that this might provide them with a more satisfying relief. Right now DEC couldn't let the citizen get in the action even if they wanted him to, which they would prefer in some of the smaller cases.

E. Who could file an action after the appropriate steps are taken? "Person" is defined in title 46 so broadly that it could include an individual, a partnership or corporation, or any municipal or government body.

F. Does this mean that DEC will have to file suits when they would otherwise settle a pollution problem? No. Abate means to either put an end to or to decrease in amount or degree. If DEC responds to the demand that they are settling the problem through avenues short of litigation then the spirit of the bill is complied with.

G. Do any other states have a law like this? At least one-- Wisconsin.

H. Who would object to a bill such as this? Business or industrial concerns who make or save capital by polluting rather than complying. When a lot of money is at stake private interests can be lobbied against public officials who must make the determination whether to proceed with a plan to abate an infringement on the public interest. This bill democratizes that decision making process. Another one of the many ideas from the boys who brought you open government.

1 IN THE HOUSE

BY PARKER

2 HOUSE BILL NO. 833

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the abatement of nuisances."

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

8 \* Section 1. AS 46.03.760(e) is amended to read:

9 (e) Nothing in this section affects an individual's right to re-  
10 cover damages or to obtain injunctive relief under sec. 870(c) of this  
11 chapter, other applicable statutes or the common law.

12 \* Sec. 2. AS 46.03.870(a) is amended to read:

13 (a) Except as specified in secs. 822 - 828 of this chapter, the  
14 bases for proceedings or actions resulting from violations of this  
15 chapter or a regulation promulgated under this chapter inure solely to  
16 and are for the benefit of the state, and are not intended to in any way  
17 create new, or enlarge existing rights of persons or groups of persons  
18 in the state except as provided in (c) of this section.

19 \* Sec. 3. AS 46.03.870(c) is amended to read:

20 (c) This chapter does not estop the state, persons or political  
21 subdivisions of the state in the exercise of their rights to suppress  
22 nuisances, to seek damages, or to otherwise abate or recover for the  
23 effects of pollution or other environmental degradation. If a person  
24 has submitted a formal request to the department that it take action to  
25 abate a form of pollution or environmental degradation declared to be a  
26 nuisance under this chapter and that request either has been rejected or  
27 the department has not responded to the request within 30 days after it  
28 has been submitted, nothing in this chapter affects the right to bring  
29 an action to abate that pollution or environmental degradation as a

1 nuisance. A person bringing the action need not show injury different  
2 in kind, or in degree, from that sustained by the general public to  
3 prevail.  
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# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K — STATE CAPITOL  
JUNEAU 99811

JAY S. HAMMOND, GOVERNOR

February 27, 1976

The Honorable Terry Gardiner  
Chairman  
House Judiciary Committee  
Pouch V  
Juneau, Alaska 99811

Re: HB 833

Dear Representative Gardiner:

In regards to your request as to our view of HB 833, the Department of Law, after consultation with the Department of Environmental Conservation, has no objections to HB 833.

Sincerely,

AVRUM M. GROSS  
ATTORNEY GENERAL

By:

  
John R. Messenger  
Assistant Attorney General

JRM:jeh

AS 46.03.760(e) is amended to read:

(e)Nothing in this section affects an individual's right to recover damages or to obtain injunctive relief under sec. 895 of this chapter, ~~or~~ other applicable statutes of the common law.

AS 46.03.870(a) is amended to read:

(a)Except as specified in secs. 822-828 of this chapter, the bases for proceedings or actions resulting from violations of this chapter or a regulation promulgated under this chapter inure solely to and are for the benefit of the state, and are not intended to in any way create new, or enlarge existing rights of persons or groups of persons in the state except as provided in sec. 895 of this chapter.

AS 46.03 is amended by adding a new section to read:

46.03.895(a) A person has standing to enforce the provisions of this chapter in abating pollution, environmental degradation or any other matter declared to be a nuisance under this chapter if that person has submitted a formal request to the department or an appropriate municipality vested with local pollution control powers, that either the department or municipality take action to abate a form of air or water pollution, environmental degradation or nuisance and that request has been formally rejected or the department or municipality has not affirmatively responded to the request within 30 days after it has been submitted. A person bringing the action need not show injury different in kind, or degree, from that sustained by the general public to prevail.

(1)"affirmatively responded" as used in ~~xxxx~~ this section means that the department or appropriate municipality has determined and formally replied that action will be taken to abate the pollution, degradation or nuisance complained of.

Doug Pope

1 IN THE HOUSE

BY PARKER

2 HOUSE BILL NO. 833

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the abatement of nuisances."

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

8 \* Section 1. AS 46.03.760(e) is amended to read:

9 (e) Nothing in this section affects an individual's right to re-  
10 cover damages or to obtain injunctive relief under sec. 870(c) of this  
11 chapter, other applicable statutes or the common law.

12 \* Sec. 2. AS 46.03.870(a) is amended to read:

13 (a) Except as specified in secs. 822 - 828 of this chapter, the  
14 bases for proceedings or actions resulting from violations of this  
15 chapter or a regulation promulgated under this chapter inure solely to  
16 and are for the benefit of the state, and are not intended to in any way  
17 create new, or enlarge existing rights of persons or groups of persons  
18 in the state except as provided in (c) of this section.

19 \* Sec. 3. AS 46.03.870(c) is amended to read:

20 (c) This chapter does not estop the state, persons or political  
21 subdivisions of the state in the exercise of their rights to suppress  
22 nuisances, to seek damages, or to otherwise abate or recover for the  
23 effects of pollution or other environmental degradation. If a person  
24 has submitted a formal request to the department that it take action to  
25 abate a form of pollution or environmental degradation <sup>of any matter</sup> declared to be a  
26 nuisance under this chapter and that request either has been <sup>formally</sup> rejected or  
27 the department has not <sup>affirmatively</sup> responded to the request within 30 days after it  
28 has been submitted, nothing in this chapter affects the right to bring  
29 an action to abate that pollution or environmental degradation as a

1 nuisance. A person bringing the action need not show injury different  
2 in kind, or in degree, from that sustained by the general public to  
3 prevail.  
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Am 1

If a person  
*and*  
has submitted a formal request to the department, that it take  
action to abate a form of pollution, environmental degradation  
or any other matter declared to be a nuisance under this chapter  
and that request either has been formally rejected or the department  
has not affirmatively responded to the request within 30 days after  
it has been submitted, nothing in this chapter affects the right to  
bring an action to abate that pollution, environmental degradation,  
or nuisance. A person bringing the action need not show injury  
different in kind, or degree, from that sustained by the general  
public to prevail.

HB

851

"An Act relating to the quasi-judicial regulatory agencies in state government; and providing for an effective date."

# COMMITTEE REPORT

HOUSE

3/13/76

Mr. Speaker:

Date

April 8, 1976

The Committee on JUDICIARY has had HB 851

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

() recommends it BE REPLACED WITH CS FOR \_\_\_\_\_ AND THAT

CS FOR \_\_\_\_\_ DO PASS

( ) "and" recommends it BE REFERRED TO THE \_\_\_\_\_

COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

<u>[Signature]</u>	<u>DO PASS</u>	_____	_____
<u>[Signature]</u>	<u>DO PASS</u>	_____	_____
<u>[Signature]</u>	<u>DO PASS</u>	_____	_____
_____	_____	_____	_____

Members NOT concurring in the Majority report:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

[Signature] Chairman

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 A M E N D M E N T NO. 2

3 TO: HB 851 (permits commissioners rather than governor to select  
4 commission chairman; reduces APUC chairman's term from  
5 four to two years; limits chairman to one two-year term)

6 On page 1, between lines 20 and 21, insert a new section,  
7 and renumber the sections of the bill accordingly:

8 "\* Sec. 2. AS 42.05.020(b) is amended to read:

9 (b) The commission members [GOVERNOR] shall elect [DESIGNATE]  
10 one member of the commission as chairman of the commission. This member  
11 shall serve as chairman for a term of two [FOUR] years, and [BUT] may not be  
12 re-elected [APPOINTED] for a successive term [TERMS]."

13  
14 On page 4, between lines 1 and 2, insert a new section and renumber the  
15 sections of the bill accordingly:

16 "\* Sec. 8. AS 42.06.030(b) is amended to read:

17 (b) The commission members [GOVERNOR] shall elect [DESIGNATE]  
18 one member of the commission as chairman of the commission. This member  
19 shall serve as chairman for a term of two years, and may not be re-elected  
20 [APPOINTED] for a successive term [TERMS]."

21 On page 5, between lines 28 and 29, insert a new section and renumber the  
22 sections of the bill accordingly:

23 "\* Sec. 14. AS 42.07.011(b) is amended to read:

24 (b) The commission members [GOVERNOR] shall elect [DESIGNATE]  
25 one member of the commission as chairman of the commission. This member  
26 shall serve as chairman for a term of two years, and [BUT] may not be  
27 re-elected [APPOINTED for a successive term [TERMS]."

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 A M E N D M E N T NO. 3

3 TO: HB 851 (shifts commission employees from classified service to  
4 exempt service)

5 On page 2, strike out lines 28 and 29, and on page 3, strike out lines  
6 1 - 12, inclusive, and insert:

7 "(a) The commission may employ an executive director who shall  
8 have had at least five years of experience in an administrative capacity and  
9 who is experienced in public utility management or regulation. [THE EXECU-  
10 TIVE DIRECTOR MAY BE ONE OF THE COMMISSION MEMBERS.] The commission may  
11 employ engineers, hearing officers, experts, clerks, accountants, and  
12 other agents, [AND] assistants and employees it considers necessary. The  
13 executive director[, IF NOT A MEMBER OF THE COMMISSION,] and all other  
14 employees and agents of the commission[, OTHER THAN LEGAL COUNSEL,] are  
15 in the exempt [CLASSIFIED] service under AS 39.25.110. [THE COMBINED  
16 SALARY OF AN EXECUTIVE DIRECTOR WHO IS A MEMBER OF THE COMMISSION MAY NOT  
17 EXCEED THAT OF A SUPERIOR COURT JUDGE.]

18  
19 On page 5, strike out lines 9 - 13, inclusive, and insert:

20 "(c) The executive director, his deputy and all [HIS SECRETARY, ARE  
21 IN THE PARTIALLY EXEMPT SERVICE DESCRIBED IN AS 39.25. ALL.] other employees  
22 of the commission[, OTHER THAN LEGAL COUNSEL,] are in the exempt service  
23 under AS 39.25.110.

24  
25 On page 7, strike out lines 15 - 20, inclusive, and insert:

26 "(a) The commission may employ an executive director, engineers,  
27 hearing officers, experts, clerks, accountants, and other agents, [AND]  
28 assistants and employees it considers necessary. Employees and agents of  
29 the commission[, OTHER THAN LEGAL COUNSEL,] are in the exempt [CLASSIFIED]

1 service under AS 39.25.110.

2  
3 On page 7, strike out lines 26 and 27, and insert:

4 "(13) commissioners and employees of the Alaska Public Utilities  
5 Commission, Alaska Pipeline Commission, and Alaska Transportation Commission

6  
7 On page 7, strike out lines 28 and 29, and on page 8, strike out lines 1  
8 and 2.

4/16  
Milton

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 A M E N D M E N T NO. 1

3 TO: HB 851 (Re Removal Power)

4 On page 1, between lines 25 and 26, insert:

5 Alternatively, the legislature, by a concurrent resolution adopted by a  
6 roll call vote of (~~two thirds~~/a majority) of the members in each house  
7 entered in the journal, may remove a commissioner from office for cause  
8 as prescribed in this section.

*Gov. must concur.  
No override.*

9 On page 4, between lines 6 and 7, insert:

10 (The same language as above.)

11 On page 6, line 4, after "session.", insert:

12 (The same language as above.)

Original Sponsor: Judiciary Committee

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 851

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the quasi-judicial regulatory  
7 agencies in state government; and providing for an  
8 effective date."

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

10 \* Section 1. AS 42.05.010 is amended to read:

11 Sec. 42.05.010. ALASKA PUBLIC UTILITIES COMMISSION CREATED. There  
12 is created [WITHIN THE DEPARTMENT OF COMMERCE] the Alaska Public Utili-  
13 ties Commission. The commission is a quasi-judicial regulatory agency  
14 within the meaning of art. III, secs. 22 and 26, of the Constitution of  
15 the State of Alaska. The commission may request, and the Departments of  
16 Administration and Commerce and Economic Development shall provide,  
17 administrative support services. However, the commission is not a divi-  
18 sion in either department, and its members, executive director and  
19 employees are not subject to the direction of the commissioner of either  
20 department.

21 \* Sec. 2. AS 42.05.020(b) is amended to read:

22 (b) The commission members [GOVERNOR] shall elect [DESIGNATE] one  
23 member of the commission as chairman of the commission. This member  
24 shall serve as chairman for a term of two [FOUR] years, and [BUT] may  
25 not be reelected [APPOINTED] for a successive term [TERMS].

26 \* Sec. 3. AS 42.05.035 is amended to read:

27 Sec. 42.05.035. REMOVAL OF COMMISSIONERS. The governor may remove  
28 a commissioner from office for cause, including but not limited to  
29 incompetence, neglect of duty or misconduct in office, by and with the

1 consent of a majority of the members of the legislature in joint session.  
2 Alternatively, the legislature, by a concurrent resolution adopted by a  
3 roll call vote of a majority of the members in each house, may remove a  
4 commissioner from office for cause as prescribed in this section, sub-  
5 ject to the approval of the governor. However, if the governor disap-  
6 proves the resolution, that veto is not subject to a vote by the  
7 legislature to override it.

8 \* Sec. 4. AS 42.05.111 is amended to read:

9       Sec. 42.05.111. LEGAL COUNSEL. (a) The attorney general is legal  
10 counsel for the commission. He shall assign an assistant attorney  
11 general to the commission on a full-time basis. He shall advise and  
12 assist the commission in legal matters arising in the discharge of its  
13 duties and represent the commission in actions to which it is a party  
14 whether in state or federal courts. He shall also represent the commis-  
15 sion in proceedings before federal regulatory agencies if so requested  
16 by the commission. If, in the opinion of the commission, the public  
17 interest is not adequately represented by counsel in a proceeding, the  
18 attorney general or his designated assistant attorney general, upon  
19 request of the commission, shall represent the public interest.

20       (b) If the attorney general is unable to assign an assistant  
21 attorney general to the commission on a full-time basis, the [THE] com-  
22 mission may employ [TEMPORARY] legal counsel to advise and assist the  
23 commission in legal matters arising in the discharge of its duties and  
24 to represent the commission in actions or proceedings to which it is a  
25 party, in which the state has an interest, or in which there is a public  
26 interest [FROM TIME TO TIME IN PROCEEDINGS BEFORE THE COMMISSION IN  
27 WHICH THE ATTORNEY GENERAL IS REPRESENTING THE PUBLIC INTEREST OR A  
28 PARTY BEFORE THE COMMISSION].

29 \* Sec. 5. AS 42.05.111 is amended by adding new subsections to read:

1 (c) Legal counsel employed by the commission under (b) of this  
2 section shall be selected by the commission from a list of at least  
3 three but not more than five candidates submitted by the attorney  
4 general. The commission may request additional candidates for considera-  
5 tion. After appointment, legal counsel is subject to removal by the  
6 commission only for cause.

7 (d) With the approval of the commission, the legal counsel may  
8 employ additional attorneys or other persons needed to carry out his  
9 duties.

10 \* Sec. 6. AS 42.05.121(a) is amended to read:

11 (a) The commission may employ an executive director who shall have  
12 had at least five years of experience in an administrative capacity and  
13 who is experienced in public utility management or regulation. The  
14 executive director may not be one of the commission members. The com-  
15 mission may employ engineers, hearing officers, experts, clerks, account-  
16 ants, [AND OTHER] agents, [AND] assistants and other employees it con-  
17 siders necessary. The executive director [, IF NOT A MEMBER OF THE  
18 COMMISSION,] and all other employees and agents of the commission [,  
19 OTHER THAN LEGAL COUNSEL,] are in the exempt [CLASSIFIED] service under  
20 AS 39.25. The [COMBINED] salary of an executive director [WHO IS A  
21 MEMBER OF THE COMMISSION] may not exceed that of a member of the com-  
22 mission [SUPERIOR COURT JUDGE].

23 \* Sec. 7. AS 42.05.121 is amended by adding a new subsection to read:

24 (c) The commission shall, by regulation, establish a personnel  
25 management system for its employees.

26 \* Sec. 8. AS 42.05 is amended by adding a new section to read:

27 Sec. 42.05.133. BUDGETS. The commission shall submit a budget of  
28 its anticipated needs for each fiscal year to the governor and to the  
29 legislature under the Executive Budget Act (AS 37.07).

1 \* Sec. 9. AS 42.06.020 is amended to read:

2 Sec. 42.06.020. ALASKA PIPELINE COMMISSION CREATED. There is  
3 created [WITHIN THE DEPARTMENT OF COMMERCE] the Alaska Pipeline Commis-  
4 sion, to regulate pipeline facilities and pipeline carriers, to regulate  
5 the access of information concerning pipeline facilities and carriers  
6 to this state, and to represent the interests of the state in any pro-  
7 ceedings relating to them as provided for in this chapter. The commis-  
8 sion is a quasi-judicial regulatory agency within the meaning of art.  
9 III, secs. 22 and 26, of the Constitution of the State of Alaska. The  
10 commission may request, and the Departments of Administration and Com-  
11 merce and Economic Development shall provide, administrative support  
12 services. However, the commission is not a division in either depart-  
13 ment, and its members, executive director and employees are not subject  
14 to the direction of the commissioner of either department.

15 \* Sec. 10. AS 42.06.030(b) is amended to read:

16 (b) The commission members [GOVERNOR] shall elect [DESIGNATE]  
17 one member of the commission as chairman of the commission. This member  
18 shall serve as chairman for a term of two years, and may not be re-  
19 elected [APPOINTED] for a successive term [TERMS].

20 \* Sec. 11. AS 42.06.050 is amended to read:

21 Sec. 42.06.050. REMOVAL OF COMMISSIONERS. The governor may remove  
22 a commissioner from office for cause, including but not limited to  
23 incompetence, neglect of duty or misconduct in office, by and with the  
24 consent of a majority of the members of the legislature in joint session.  
25 Alternatively, the legislature, by a concurrent resolution adopted by a  
26 roll call vote of a majority of the members in each house, may remove a  
27 commissioner from office for cause as prescribed in this section, sub-  
28 ject to the approval of the governor. However, if the governor disap-  
29 proves the resolution, that veto is not subject to a vote by the

legislature to override it.

\* Sec. 12. AS 42.06.110 is amended to read:

Sec. 42.06.110. LEGAL COUNSEL. (a) The attorney general is legal counsel for the commission. He shall assign an assistant attorney general to the commission on a full-time basis. He shall advise and assist the commission in legal matters arising in the discharge of its duties and represent the commission in actions to which it is a party whether in state or federal courts. He shall also represent the commission in proceedings before federal regulatory agencies if so requested by the commission. If, in the opinion of the commission, the public interest is not adequately represented by counsel in a proceeding, the attorney general or his designated assistant attorney general, upon request of the commission, shall represent the public interest.

(b) If the attorney general is unable to assign an assistant attorney general to the commission on a full-time basis, the [THE] commission may employ [TEMPORARY] legal counsel to advise and assist the commission in legal matters arising in the discharge of its duties and to represent the commission in actions or proceedings to which it is a party, in which the state has an interest, or in which there is a public interest [FROM TIME TO TIME IN MATTERS IN WHICH THE COMMISSION IS INVOLVED].

\* Sec. 13. AS 42.06.110 is amended by adding new subsections to read:

(c) Legal counsel employed by the commission under (b) of this section shall be selected by the commission from a list of at least three but not more than five candidates submitted by the attorney general. The commission may request additional candidates for consideration. After appointment, legal counsel is subject to removal by the commission only for cause.

(d) With the approval of the commission, the legal counsel may

1 employ additional attorneys or other persons needed to carry out his  
2 duties.

3 \* Sec. 14. AS 42.06.120(c) is amended to read:

4 (c) The executive director, his deputy, and all [HIS SECRETARY, ARE  
5 IN THE PARTIALLY EXEMPT SERVICE DESCRIBED IN AS 39.25. ALL] other  
6 employees of the commission [, OTHER THAN LEGAL COUNSEL,] are in the  
7 exempt [CLASSIFIED] service under AS 39.25. The salary of an executive  
8 director may not exceed that of a member of the commission.

9 \* Sec. 15. AS 42.06.120 is amended by adding a new subsection to read:

10 (d) The commission shall, by regulation, establish a personnel  
11 management system for its employees.

12 \* Sec. 16. AS 42.06 is amended by adding a new section to read:

13 Sec. 42.06.135. BUDGETS. The commission shall submit a budget of  
14 its anticipated needs for each fiscal year to the governor and to the  
15 legislature under the Executive Budget Act (AS 37.07).

16 \* Sec. 17. AS 42.07.011(a) is amended to read:

17 (a) There is created the Alaska Transportation Commission [WITHIN  
18 THE DEPARTMENT OF COMMERCE]. The commission is a quasi-judicial regu-  
19 latory agency within the meaning of art. III, secs. 22 and 26, of the  
20 Constitution of the State of Alaska. The commission may request, and  
21 the Departments of Administration and Commerce and Economic Development  
22 shall provide, administrative support services. However, the commission  
23 is not a division in either department, and its members, executive direc-  
24 tor and employees are not subject to the direction of the commissioner  
25 of either department. The commission consists of three members appointed  
26 by the governor and confirmed by the legislature in joint session.

27 \* Sec. 18. AS 42.07.011(b) is amended to read:

28 (b) The commission members [GOVERNOR] shall elect [DESIGNATE]  
29 one member of the commission as chairman of the commission. This member

shall serve as chairman for a term of two years, and [BUT] may not be reelected [APPOINTED] for a successive term [TERMS].

\* Sec. 19. AS 42.07.021(d) is amended to read:

(d) The governor may remove a commissioner from office for cause, including but not limited to incompetence, neglect of duty or misconduct in office, by and with the consent of a majority of the members of the legislature in joint session. Alternatively, the legislature, by a concurrent resolution adopted by a roll call vote of a majority of the members in each house, may remove a commissioner from office for cause as prescribed in this section, subject to the approval of the governor. However, if the governor disapproves the resolution, that veto is not subject to a vote by the legislature to override it. [A COMMISSIONER, TO BE REMOVED FOR CAUSE, SHALL BE GIVEN A COPY OF THE CHARGES AGAINST HIM AND AFFORDED AN OPPORTUNITY TO BE PUBLICLY HEARD IN PERSON OR BY COUNSEL IN HIS OWN DEFENSE UPON NOT LESS THAN 10 DAYS NOTICE. IF A COMMISSIONER IS REMOVED FOR CAUSE, THE GOVERNOR SHALL FILE WITH THE LIEUTENANT GOVERNOR A COMPLETE STATEMENT OF ALL CHARGES MADE AGAINST THE COMMISSIONER AND HIS FINDING BASED ON THE CHARGES, TOGETHER WITH A COMPLETE RECORD OF THE PROCEEDINGS.]

\* Sec. 20. AS 42.07.091 is amended to read:

Sec. 42.07.091. LEGAL COUNSEL. (a) The attorney general is the legal counsel for the commission. He shall assign an assistant attorney general to the commission on a full-time basis. He shall advise and assist the commission in legal matters arising in the discharge of its duties and represent the commission in actions [SUITS] to which it is a party whether in state or federal courts. He shall also represent the commission in proceedings before federal regulatory agencies if so requested by the commission. If, in the opinion of the commission, the public interest is not adequately represented by counsel in a proceeding,

1 the [THE] attorney general or his designated assistant attorney general,  
2 upon request of the commission, shall [MAY] represent the public inter-  
3 est [IN ANY PROCEEDING BEFORE THE COMMISSION].

4 (b) If the attorney general is unable to assign an assistant  
5 attorney general to the commission on a full-time basis, the [THE] com-  
6 mission may employ [TEMPORARY] legal counsel to advise and assist the  
7 commission in legal matters arising in the discharge of its duties and  
8 to represent the commission in actions or proceedings to which it is a  
9 party, in which the state has an interest, or in which there is a public  
10 interest [IN PROCEEDINGS BEFORE THE COMMISSION IN WHICH THE ATTORNEY  
11 GENERAL IS REPRESENTING THE PUBLIC INTEREST OR A PARTY BEFORE THE COM-  
12 MISSION].

13 \* Sec. 21. AS 42.07.091 is amended by adding new subsections to read:

14 (c) Legal counsel employed by the commission under (b) of this  
15 section shall be selected by the commission from a list of at least three  
16 but not more than five candidates submitted by the attorney general. The  
17 commission may request additional candidates for consideration. After  
18 appointment, legal counsel is subject to removal by the commission only  
19 for cause.

20 (d) With the approval of the commission, the legal counsel may  
21 employ additional attorneys or other persons needed to carry out his  
22 duties.

23 \* Sec. 22. AS 42.07.101(a) is amended to read:

24 (a) The commission may employ an executive director, engineers,  
25 hearing officers, experts, clerks, accountants, [AND OTHER] agents, [AND]  
26 assistants and other employees it considers necessary. Employees and  
27 agents of the commission [, OTHER THAN LEGAL COUNSEL,] are in the exempt  
28 [CLASSIFIED] service under AS 39.25. The executive director may not be  
29 one of the commission members. The salary of an executive director may

1 not exceed that of a member of the commission.

2 \* Sec. 23. AS 42.07.101 is amended by adding a new subsection to read:

3 (c) The commission shall, by regulation, establish a personnel  
4 management system for its employees.

5 \* Sec. 24. AS 42.07 is amended by adding a new section to read:

6 Sec. 42.07.106. BUDGETS. The commission shall submit a budget of  
7 its anticipated needs for each fiscal year to the governor and to the  
8 legislature under the Executive Budget Act (AS 37.07).

9 \* Sec. 25. AS 39.25.110(13) is amended to read:

10 (13) commissioners and employees of the Alaska Public Utilities  
11 Commission, Alaska Pipeline Commission, and Alaska Transportation Com-  
12 mission;

13 \* Sec. 26. This Act takes effect immediately in accordance with AS 01.10.  
14 070(c).

HB

856



*American Guard & Alert, Inc.*

*N. B. Newbury*  
PRESIDENT

P. O. BOX 4-683  
ANCHORAGE, ALASKA 99509  
PHONE 907-272-8884

March 17, 1976

To Judiciary Committee members.

From N.B. Newbury, President American Guard and Alert, Inc.

RE: HB 856 Security Guards

I am in basic agreement with the aforementioned bill, however I feel the following sections should be modified as follows:

Sec. 18.65.410 A \$100.00 non-refundable application fee for each applicant is exhorbitant. The City of Anchorage license fee is \$20.00. The highest fee we know if is \$45.00 in Memphis Tenn. I recommend a \$100.00 fee for company applications and \$25.00 fee for individuals.

Sec. 18.65.420 Allow companies to furnish proof of bonding and insurance for their individual employees. It would probably be impossible for individuals to get the coverage required..

Sec. 18.65.460 Add to existing material:

"unless those employees are hired specifically to perform security functions." Example--Penny's Sears, Wards, etc., have an actual security staff that I feel should come under the same licensing requirements as private companies.

Sec. 18.65.430 Definitions:

- (2) In this section a person in the business of furnishing himself for hire should be included also.

## MEMORANDUM

*File with Fuel bill  
We Introduced*

TO:  The Honorable Jay S. Hammond  
Governor  
State of Alaska

DATE : March 3, 1976

FROM: *RB*  
Richard L. Burton  
Commissioner  
Department of Public Safety

SUBJECT: AS 23.10.025 - Use of Armed Guards  
BINKS SECURITY SYSTEM

The above firm has been using the permit of CAPITAL CITY SECURITY since acquisition of that firm in October 1975. Since that time, however, we have been attempting to obtain the information necessary in making our recommendation to you on the issuance of the permit for BINKS.

Applications have been received from the owner and eight (3) guards. Five of the guards have since resigned and one additional guard has not submitted an application.

At the present time the firm is reportedly made up of the owner and four guards. The owner and one guard falsified their applications in that they denied ever having been arrested or convicted of a crime. Both have been arrested several times with at least two convictions each.

It is our recommendation that the present interim permit (CAPITAL CITY SECURITY) be revoked, and that the BINKS SECURITY SYSTEM request for a permit be denied.

This action will not affect the firm's ability to continue in business. It will, however, disarm the owner and his employees, which in our opinion will be for the good of the community.

Addendum - We have just been verbally notified of the sale of this business to two of the employees. Our recommendation remains the same. In the event the new owners wish a permit, they are aware of the necessary procedures.

STATE OF ALASKA  
Inter-Department Route Slip

TO:  
MAIL STATION NUMBER 3100

DEPARTMENT Legislature

ATTENTION House Judiciary Com Ch. / Hardison

- |  |  |
|--|--|
| <input type="checkbox"/> Approval      | <input type="checkbox"/> Note & Return               |
| <input type="checkbox"/> Signature     | <input type="checkbox"/> Initial & Return            |
| <input type="checkbox"/> Comment       | <input type="checkbox"/> Return As Requested         |
| <input type="checkbox"/> Contact Me    | <input type="checkbox"/> Return For Approval         |
| <input type="checkbox"/> Prepare Reply | <input checked="" type="checkbox"/> Necessary Action |
| <input type="checkbox"/> For Your File | <input type="checkbox"/> Your Information            |

Remarks:

FROM:  
MAIL STATION NUMBER 1200

DEPARTMENT Public Safety

BY J.R. Neumann DATE 3-25

THE LEGISLATURE OF THE STATE OF ALASKA  
FISCAL NOTE

Second Session - Ninth Legislature

I. REQUEST

Bill No. HB 856  
 Title: Licensing of security guards  
 Requested by: \_\_\_\_\_ Date: 3/24/76  
 Return Date Requested: As soon as possible  
 Agency: Public Safety Program: Building Security

II. FISCAL DETAIL

Budget Request Unit(s) Affected: \_\_\_\_\_

A. EXPENDITURES: (Thousands of dollars)

OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100 PERSONAL SERVICES		9.7	10.0	12.0		
200 TRAVEL		1.0	1.0	1.2		
300 CONTRACTUAL		1.5	2.0	2.5		
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	12.2	13.0	15.7		

B. FUNDING: (Thousands of dollars)

GENERAL FUND	(27.8)	11.0	4.4		
FEDERAL FUNDS					
OTHER Program Revision	40.0	2.0	11.3		

C. POSITIONS:

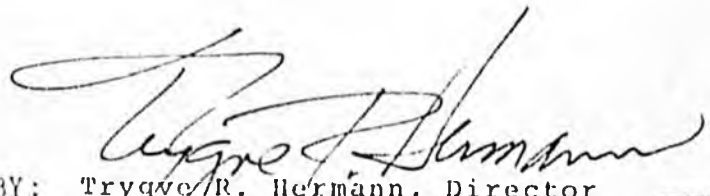
PERMANENT/TEMPORARY	/	1 /	1 /	1 /	/	/
MAN MONTHS (P./T.)	/	6 /	6 /	6 /	/	/

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

An initial estimate of 400 applicants is projected. The program receipts would be \$40,000. For a 5% increase in 1978, \$2,000. in program receipts is estimated. @ \$25,00 per renewal, program receipts in FY 79 will be \$10,000. in renewal fees and \$1,300. in new application fees (3%).

Personal services cost is not expected to go up substantially. Issuance as well as renewal require record check, public hearing and fingerprinting. Six month's clerk typist (PPT) position and less than 100 hours of overtime for Fingerprint Technician is anticipated.

IV. ATTACHMENTS



V. DATE: 3/24/76 PREPARED BY: Trygve R. Hermann, Director  
 Division of Administrative Services  
 Department of Public Safety

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

*Mr. Personnel*

Introduced: 3/8/76  
Referred: Judiciary

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 HOUSE BILL NO. 856

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the licensing of security  
7 guards; and providing for an effective date."

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

9 \* Section 1. AS 18.65 is amended by adding new sections to read:

10 ARTICLE 4. SECURITY GUARDS.

11 Sec. 18.65.400. LICENSE AS SECURITY GUARD. No person may be  
12 employed as a security guard until he has obtained a license from the  
13 commissioner of public safety under secs. 400--490 of this chapter.

14 Sec. 18.65.410. APPLICATIONS. Application for a license as a  
15 security guard must be on forms provided by the commissioner. The  
16 application must require the furnishing of information reasonably re-  
17 quired by the commissioner to carry out the provisions of secs. 400--  
18 490 of this chapter, including classifiable fingerprints to enable  
19 the search of criminal indices for evidence of a prior criminal record.  
20 The application must be accompanied by a non-refundable application  
21 fee of \$100. *200 G - 25 guards*

22 Sec. 18.65.420. BONDING AND INSURANCE. As a condition to issuance  
23 of a license, the applicant <sup>*of his employer*</sup> must furnish a bond or proof of a policy  
24 of insurance to protect the State of Alaska and its residents from  
25 damages arising out of the acts of the licensee.

26 Sec. 18.65.430. DURATION OF LICENSE. A security guard license  
27 issued under secs. 400--490 of this chapter is valid for a period of  
28 two years, and may be renewed for additional two-year terms. A renewal  
29 fee of \$25 must be paid for each renewal.

1           Sec. 18.65.440. REVOCATION OF LICENSE. A security guard license  
2 issued under secs. 400--490 of this chapter is subject to revocation  
3 in accordance with the Administrative Procedure Act (AS 44.62) for the  
4 following reasons:

5           (1) false statements in an application issued under secs.  
6 400--490 of this chapter;

7           (2) violation of a provision of secs. 400--490 of this  
8 chapter or a regulation adopted under sec. 450 of this chapter;

9           (3) conviction of a felony or a crime involving moral  
10 turpitude while licensed;

11           (4) <sup>intentional</sup> ~~impersonation~~ <sup>knowingly impersonate</sup> of a law enforcement official; or

12           (5) knowingly continuing the employment of an individual as  
13 a security guard who has been convicted of a felony or a crime involv-  
14 ing moral turpitude, or who has impersonated a law enforcement officer  
15 while employed by the licensee.

16           Sec. 18.65.450. REGULATIONS. The commissioner shall adopt  
17 regulations necessary to implement secs. 400--490 of this chapter, in-  
18 cluding provisions specifying the amount of bond or insurance required,  
19 and the types of uniforms, badges and insignia that may be used.

20           Sec. 18.65.460. EXCEPTIONS TO LICENSURE. An employer is not  
21 required to seek licensure for his employees who provide unarmed plant  
22 security on that employer's premises. ~~XXXXXX~~

23           Sec. 18.65.470. FIREARMS TRAINING. Security guards licensed  
24 under secs. 400--490 of this chapter may not be armed with a firearm  
25 for the purpose of protecting property until they have completed  
26 firearms training acceptable to the commissioner.

27           Sec. 18.65.480. PENALTY. A violation of a provision of secs.  
28 400--490 of this chapter or a regulation adopted under sec. 450 of  
29 this chapter is a misdemeanor and, upon conviction, is punishable by

1 imprisonment for not more than 60 days or by a fine of not more than  
2 \$1,000, or by both.

3 Sec. 18.65.490. DEFINITIONS. As used in secs. 400--490 of this  
4 chapter,

5 (1) "commissioner" means the commissioner of public safety;

6 (2) "security guard" means a person in the business of fur-  
7 nishing for hire private watchmen, patrol service, or other services  
8 designed to prevent the theft, misappropriation, or concealment of  
9 goods, money or valuable documents.

10 ARTICLE 5. BODYGUARDS.

11 Sec. 18.65.500. USE OF ARMED BODYGUARDS. A person who, in this  
12 state, hires another person to guard a person in this state with arms  
13 or deadly weapons, or a person who comes into this state armed with  
14 deadly weapons for the purpose of guarding a person, without a written  
15 permit from the commissioner of public safety, is guilty of a misde-  
16 meanor, and upon conviction is punishable by imprisonment for not more  
17 than 60 days or by a fine of not more than \$1,000, or by both.

18 \* Sec. 2. AS 44.62.330(a)(23) is amended to read:

19 (23) Department of Public Safety, as to suspension or revoca-  
20 tion of a security guard's license under AS 18.65.400--18.65.490, and  
21 as to suspension, revocation, cancellation or limitation of driver's  
22 licenses, except as to revocations and suspensions under AS 28.35.031--  
23 28.35.034, and except as to suspension, revocations, limitations, or  
24 denials under AS 28.15.282--28.15.288

25 \* Sec. 3. AS 23.10.025 is repealed.

*3 old armed guard statute  
Governor*

26 \* Sec. 4. This Act takes effect January 1, 1977.  
27  
28  
29

H B

857

# COMMITTEE REPORT

3/23/76

HOUSE

Mr. Speaker:

Date May 14, 1976

The Committee on JUDICIARY has had HB 857

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

() recommends it BE REPLACED WITH CS FOR \_\_\_\_\_ AND THAT

CS FOR \_\_\_\_\_ DO PASS

( ) "and" recommends it BE REFERRED TO THE \_\_\_\_\_

COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

\_\_\_\_\_

\_\_\_\_\_

S. S. [Signature] \_\_\_\_\_ NO REL \_\_\_\_\_

\_\_\_\_\_

Members NOT concurring in the Majority report:

[Signature] recommends: do not pass

\_\_\_\_\_ recommends: \_\_\_\_\_

\_\_\_\_\_ recommends: \_\_\_\_\_

\_\_\_\_\_ recommends: \_\_\_\_\_

\_\_\_\_\_ recommends: \_\_\_\_\_

[Signature] Chairman

Original sponsor: State Affairs Committee

#1

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 857 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

9 \* Section 1. AS 15.13.020(j) is amended to read:

10 (j) The commission shall establish an office [, WHICH MAY BE  
11 CALLED A REGIONAL OFFICE,] in each senate district in the state to keep  
12 on file for public inspection copies of all reports required to be filed  
13 with the commission by candidates for statewide office and by candidates  
14 for legislative office in that district; however, where one municipality  
15 contains more than one election district, only one commission office  
16 shall be established in that municipality. Each [THE REGIONAL] office  
17 shall make all forms and pertinent material available to candidates.  
18 Reports [ALL REPORTS] shall be filed by candidates, groups and indivi-  
19 duals directly with the commission's central or district offices  
20 [OFFICE]. If the candidate files required reports with the commission's  
21 central office, the [THE] commission shall ensure [INSURE] that copies  
22 of all reports by statewide [AND LEGISLATIVE] candidates, by legislative  
23 candidates in each senate district, and by judges seeking electoral  
24 confirmation [IN EACH SENATE DISTRICT] are forwarded promptly to the  
25 [THAT DISTRICT OR REGIONAL] office located in the district in which the  
26 candidate or judge is seeking office.

27 \* Sec. 2. AS 15.13.040(d) and (f) are amended to read:

28 (d) Every individual or [,] person [OR GROUP] making a contribu-  
29 tion or expenditure shall make a full report, upon a form prescribed by

1 the commission, of the following contributions or expenditures:

2 (1) any contribution of cash, goods or services valued at  
3 more than \$250 [\$100] a year to any group or candidate; or

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

8 (f) During each year in which an election occurs, all [BUSINESSES,  
9 persons who [, OR GROUPS WHICH] furnish any of the following services,  
10 facilities, or supplies to a candidate or group shall maintain a record  
11 of each transaction: newspapers, radio, television, advertising,  
12 advertising agency services, accounting, billboards, printing, secre-  
13 taria], public opinion polls, or research and professional campaign  
14 consultation or management, media production or preparation, or computer  
15 services. The records shall be maintained on the forms provided and in  
16 the manner required by the commission. The supplier shall file a report  
17 of the complete record of each transaction with all candidates or groups  
18 to whom he provides services, facilities or supplies in excess of \$250  
19 for each candidate or group in the aggregate in accordance with sec. 110  
20 of this chapter. [ALL RECORDS SHALL BE AVAILABLE FOR PUBLIC INSPEC-  
21 TION.]

22 \* Sec. 3. AS 15.13.050 is amended by adding a new subsection to read:

23 (b) A group that makes expenditures or receives contributions with  
24 the authorization or consent, express or implied, or under the control,  
25 direct or indirect, of a candidate shall be considered to be controlled  
26 by that candidate. A group whose major purpose is to further the nomi-  
27 nation, election, or candidacy of only one person, or intends to expend  
28 more than 50 per cent of its money on a single candidate, shall be con-  
29 sidered to be controlled by that candidate and its actions done with his

1 knowledge and consent unless, within 10 days from the date the candidate  
2 learns of the existence of the group he files with the commission, on a  
3 form provided by the commission, an affidavit that the group is operat-  
4 ing without his control. A group organized for more than one year  
5 preceding an election and endorsing candidates for more than one office  
6 or more than one political party is presumed not to be controlled by a  
7 candidate.

8 \* Sec. 4. AS 15.13.060(c) and (d) are amended to read:

9 (c) Each candidate shall file the name and address of the campaign  
10 treasurer with the commission no later than seven days after the date of  
11 filing his declaration of candidacy or his nominating petition. [THE  
12 NAME OF THE CANDIDATE MAY BE PLACED ON THE BALLOT BY THE LIEUTENANT  
13 GOVERNOR OR MUNICIPAL CLERK ONLY IF THE CANDIDATE HAS COMPLIED WITH THIS  
14 SUBSECTION.]

15 (d) In the case of the death, resignation or removal of a campaign  
16 treasurer, the candidate shall appoint a successor as soon as practi-  
17 cable and file his name and address with the commission within 48 hours  
18 of the appointment. [THE CANDIDATE IS DISQUALIFIED WHEN HE HAS BEEN  
19 FOUND TO HAVE BEEN IN WILFUL VIOLATION OF THIS SUBSECTION.]

20 \* Sec. 5. AS 15.13.070(a) is amended to read:

21 (a) No person or group, including but not limited to all political  
22 committees, businesses, corporations, and labor unions, may contribute  
23 [TO OR EXPEND] more than \$1,000 a year to a candidate [ON BEHALF OF OR  
24 IN OPPOSITION TO THE COMPETING CANDIDATES] for each elective office.  
25 Political parties and their subdivisions are not subject to the limita-  
26 tion prescribed in this subsection, but they are subject to the report-  
27 ing requirements prescribed by secs. 40(b) and 110 of this chapter.  
28 Nothing in this chapter prohibits

29 (1) a candidate from contributing more than \$1,000 of his own

1 money to his own campaign; or

2 (2) individuals or groups, including but not limited to all  
3 political committees, businesses, corporations, and labor unions, from  
4 contributing to or expending on behalf of a ballot proposition or ques-  
5 tion more than \$1,000 a year; however, these contributions and expendi-  
6 tures shall be reported in accordance with secs. 40 and 110 of this  
7 chapter.

8 \* Sec. 6. AS 15.13.090 is amended to read:

9 Sec. 15.13.090. IDENTIFICATION OF COMMUNICATION. All advertise-  
10 ments, billboards, handbills, paid-for television and radio announce-  
11 ments and other communications intended to influence the election of a  
12 candidate or outcome of a ballot proposition or question shall be clear-  
13 ly identified by the words "paid for by" followed by the name and  
14 address of the candidate, group or individual paying for the advertis-  
15 ing. [IN ADDITION, CANDIDATES AND GROUPS MUST IDENTIFY THE NAME OF THEIR  
16 CAMPAIGN TREASURER.]

17 \* Sec. 7. AS 15.13.100 is amended to read:

18 Sec. 15.13.100. EXPENDITURES BEFORE FILING. Political [NO POLITI-  
19 CAL] campaign expenditure may be made or obligation for that expenditure  
20 incurred by a person in an election or by a person or group with his  
21 knowledge and on his behalf before the date upon which he or she files  
22 for nomination for the office which the person seeks [, EXCEPT FOR  
23 PERSONAL TRAVEL EXPENSES OR FOR OPINION SURVEYS OR POLLS]. However,  
24 these [THESE] expenditures [SHALL BE CHARGED AGAINST THE SPENDING LIMI-  
25 TATION THAT APPLIES TO THE OFFICE FOR WHICH HE SUBSEQUENTLY FILES, AND]  
26 shall be included in the first report required under this chapter [AFTER  
27 FILING FOR OFFICE].

28 \* Sec. 8. AS 15.13.110(b) and (c) are amended to read:

29 (b) Each contribution or expenditure which exceeds \$250 and which

1 is made within 10 days [ONE WEEK] of the election shall be reported to  
2 the commission by date, amount, and contributor or recipient within 24  
3 hours of receipt or expenditure by the candidate or campaign treasurer.

4 (c) [THE REPORTS OF CANDIDATES SHALL BE FILED WITH THE COMMIS-  
5 SION'S CENTRAL OFFICE.] All statements, records and reports required by  
6 this chapter are public records and shall be kept open for [TO] public  
7 inspection. Within 30 days after each election, the commission shall  
8 prepare a summary of reports [EACH REPORT] which shall be made available  
9 to the public at cost upon request. Each summary shall use uniform  
10 categories of reporting.

11 \* Sec. 9. AS 15.13 is amended by adding a new section to read:

12 Sec. 15.13.121. CRIMINAL AND CIVIL PENALTIES; FORFEITURE OF  
13 OFFICE; LIMITATIONS ON ACTIONS. (a) A person who violates a provision  
14 of this chapter is guilty of a misdemeanor and upon conviction is  
15 punishable by imprisonment for not more than one year or by a fine of  
16 not more than \$5,000. A violation includes but is not limited to any of  
17 the following acts or omissions:

18 (1) failing to make a statement or report required to be  
19 made, or at the time it is required to be made, under this chapter;

20 (2) knowingly making a false statement or false report under  
21 this chapter;

22 (3) giving or furnishing money to another person or group for  
23 the purpose of making a contribution or expenditure anonymously, in a  
24 fictitious name, or in the name of another, or contributing in violation  
25 of sec. 70(d) of this chapter;

26 (4) making a communication to support or defeat a candidate  
27 without identification of sponsorship, in violation of sec. 90 of this  
28 chapter;

29 (5) knowingly accepting a contribution in violation of sec.

1 70 of this chapter;

2 (6) providing false or misleading information in the course  
3 of an investigation.

4 (b) In addition to the penalties provided for in (a) of this sec-  
5 tion, a person who violates secs. 60 and 110 of this chapter is liable,  
6 in a civil action, to the state for a sum to be assessed by the court of  
7 not more than \$10,000 for each day on which the violation occurs and  
8 which shall reflect, where applicable:

9 (1) reasonable compensation in the nature of liquidated  
10 damages according to the benefit received by the candidate in not dis-  
11 closing his campaign expenses; or

12 (2) reasonable costs incurred by the state in detection, in-  
13 vestigation, and attempted correction of the violation.

14 (c) Action under (b) of this section may not be used for punitive  
15 purposes and sums assessed by the court must be compensatory or remedial  
16 in nature.

17 (d) The nomination for and election to an office of a candidate  
18 who himself violates or whose campaign treasurer or deputy campaign  
19 treasurer violates any of the following described provisions is voidable  
20 if it is determined in an action filed under (g) of this section that a  
21 candidate knowingly

22 (1) made a false statement on any report required of him  
23 under this chapter;

24 (2) accepted a contribution in violation of secs. 70(b) or  
25 70(d) of this chapter;

26 (3) made a campaign expenditure in violation of secs. 70(c),  
27 70(h), or 100 of this chapter.

28 (e) When a violation of (f) of this section is charged, the case  
29 shall be promptly tried and the case shall be accorded a preferred

1 status by the courts to ensure a speedy disposition on the matter.

2 (f) The commission by certified mail shall promptly notify all  
3 persons who are delinquent in filing reports and statements, including  
4 contributors who failed to file a statement in accordance with sec. 40  
5 of this chapter, and shall make available a list of delinquents for  
6 public inspection. The commission shall also report to the attorney  
7 general the names of all candidates in an election whose campaign  
8 treasurers have failed to file the reports required by this chapter.

9 (g) A candidate who, or whose campaign treasurer, has failed to  
10 file reports required under this chapter may not file a declaration of  
11 candidacy at a subsequent election for a public office subject to this  
12 chapter until all delinquent reports required under this chapter have  
13 been filed with the commission. The commission shall report to the  
14 lieutenant governor and to municipal clerks all candidates who, or whose  
15 campaign treasurers, have failed to file the required reports.

16 (h) A person who believes a violation of this chapter has occurred  
17 may file a complaint with the commission. The commission shall expedi-  
18 tiously make an investigation of the complaint. When the commission has  
19 reasonable cause to believe that a person has engaged or is about to  
20 engage in any acts or practices which constitute or will constitute a  
21 violation of a provision of this chapter, or a regulation or order  
22 issued under it, it shall promptly report the information to the attor-  
23 ney general for appropriate action. The commission shall promptly  
24 inform the person who filed the complaint of its disposition of the  
25 matter.

26 (i) Prosecution for violation of a provision of this chapter may  
27 not be commenced after four years have elapsed from the date of the  
28 alleged violation.

29 \* Sec. 10. AS 15.13.130(2) is amended to read:

1 (2) "contribution" means purchase, payment, promise or obli-  
2 gation to pay, loan or loan guarantee, deposit or gift of money, goods  
3 or services for which charge is ordinarily made and which is made for  
4 the purpose of influencing the nomination or election of a candidate,  
5 and in sec. 10(b) of this chapter for the purpose of influencing a  
6 ballot proposition or question, including the payment by a person other  
7 than a candidate or political party of [, OR] compensation for [OF] the  
8 personal services of another person which are rendered to the candidate  
9 or political party; however, "contribution" does not include

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

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

17 (C) ordinary hospitality in a home;

18 \* Sec. 11. AS 15.13.130(3) is amended to read:

19 (3) "group" means every state and regional executive commit-  
20 tee of a political party and, in addition, means any combination of two  
21 or more persons or individuals acting jointly who take action the major  
22 purpose of which is to influence the outcome of an election; [A GROUP  
23 THAT MAKES EXPENDITURES OR RECEIVES CONTRIBUTIONS WITH THE AUTHORIZATION  
24 OR CONSENT, EXPRESS OR IMPLIED, OR UNDER THE CONTROL, DIRECT OR INDIRECT  
25 OF A CANDIDATE SHALL BE CONSIDERED TO BE CONTROLLED BY THAT CANDIDATE;  
26 A GROUP WHOSE MAJOR PURPOSE IS TO FURTHER THE NOMINATION, ELECTION, OR  
27 CANDIDACY OF ONLY ONE PERSON, OR INTENDS TO EXPEND MORE THAN 50 PER CENT  
28 OF ITS MONEY ON A SINGLE CANDIDATE, SHALL BE CONSIDERED TO BE CONTROLLED  
29 BY THAT CANDIDATE AND ITS ACTIONS DONE WITH HIS KNOWLEDGE AND CONSENT

1 UNLESS, WITHIN 10 DAYS FROM THE DATE THE CANDIDATE LEARNS OF THE EXIS-  
2 TENCE OF THE GROUP HE FILES WITH THE COMMISSION, ON A FORM PROVIDED BY  
3 THE COMMISSION, AN AFFIDAVIT THAT THE GROUP IS OPERATING WITHOUT HIS  
4 CONTROL; A GROUP ORGANIZED FOR MORE THAN ONE YEAR PRECEDING AN ELECTION  
5 AND ENDORSING CANDIDATES FOR MORE THAN ONE OFFICE OR MORE THAN ONE POLI-  
6 TICAL PARTY IS PRESUMED NOT TO BE CONTROLLED BY A CANDIDATE; HOWEVER, A  
7 GROUP THAT CONTRIBUTES MORE THAN 50 PER CENT OF ITS MONEY TO OR ON  
8 BEHALF OF ONE CANDIDATE SHALL BE CONSIDERED TO SUPPORT ONLY ONE CANDI-  
9 DATE FOR PURPOSES OF SEC. 70 OF THIS CHAPTER, WHETHER OR NOT CONTROL OF  
10 THE GROUP HAS BEEN DISCLAIMED BY THE CANDIDATE;]

11 \* Sec. 12. AS 15.13.070(f) and (g), 15.13.080, and 15.13.120 are re-  
12 pealed.

13 \* Sec. 13. This Act takes effect immediately in accordance with AS 01.10.  
14 070(c).

#2

Original sponsor: State Affairs Committee

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 857 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

9 \* Section 1. AS 15.13.020(j) is amended to read:

10 (j) The commission shall establish an office [, WHICH MAY BE  
11 CALLED A REGIONAL OFFICE,] in each senate district in the state to keep  
12 on file for public inspection copies of all reports required to be filed  
13 with the commission by candidates for statewide office and by candidates  
14 for legislative office in that district; however, where one municipality  
15 contains more than one election district, only one commission office  
16 shall be established in that municipality. Each [THE REGIONAL] office  
17 shall make all forms and pertinent material available to candidates.  
18 Reports [ALL REPORTS] shall be filed by candidates, groups and indivi-  
19 duals directly with the commission's central or district offices  
20 [OFFICE]. If the candidate files required reports with the commission's  
21 central office, the [THE] commission shall ensure [INSURE] that copies  
22 of all reports by statewide [AND LEGISLATIVE] candidates, by legislative  
23 candidates in each senate district, and by judges seeking electoral  
24 confirmation [IN EACH SENATE DISTRICT] are forwarded promptly to the  
25 [THAT DISTRICT OR REGIONAL] office located in the district in which the  
26 candidate or judge is seeking office.

27 \* Sec. 2. AS 15.13.040(d) and (f) are amended to read:

28 (d) Every individual or [,] person [OR GROUP] making a contribu-  
29 tion or expenditure shall make a full report, upon a form prescribed by

1 the commission, of the following contributions or expenditures:

2 (1) any contribution of cash, goods or services valued at  
3 more than \$250 [\$100] a year to any group or candidate; or

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

8 (f) During each year in which an election occurs, all [BUSINESSES,  
9 persons who [, OR GROUPS WHICH] furnish any of the following services,  
10 facilities, or supplies to a candidate or group shall maintain a record  
11 of each transaction: newspapers, radio, television, advertising,  
12 advertising agency services, accounting, billboards, printing, secre-  
13 tarial, public opinion polls, or research and professional campaign  
14 consultation or management, media production or preparation, or computer  
15 services. The records shall be maintained on the forms provided and in  
16 the manner required by the commission. The supplier shall file a report  
17 of the complete record of each transaction with all candidates or groups  
18 to whom he provides services, facilities or supplies in excess of \$250  
19 for each candidate or group in the aggregate in accordance with sec. 110  
20 of this chapter. [ALL RECORDS SHALL BE AVAILABLE FOR PUBLIC INSPEC-  
21 TION.]

22 \* Sec. 3. AS 15.13.050 is amended by adding a new subsection to read:

23 (b) A group that makes expenditures or receives contributions with  
24 the authorization or consent, express or implied, or under the control,  
25 direct or indirect, of a candidate shall be considered to be controlled  
26 by that candidate. A group whose major purpose is to further the nomi-  
27 nation, election, or candidacy of only one person, or intends to expend  
28 more than 50 per cent of its money on a single candidate, shall be con-  
29 sidered to be controlled by that candidate and its actions done with his

1 knowledge and consent unless, within 10 days from the date the candidate  
2 learns of the existence of the group he files with the commission, on a  
3 form provided by the commission, an affidavit that the group is operat-  
4 ing without his control. A group organized for more than one year  
5 preceding an election and endorsing candidates for more than one office  
6 or more than one political party is presumed not to be controlled by a  
7 candidate.

8 \* Sec. 4. AS 15.13.060(c) and (d) are amended to read:

9 (c) Each candidate shall file the name and address of the campaign  
10 treasurer with the commission no later than seven days after the date of  
11 filing his declaration of candidacy or his nominating petition. [THE  
12 NAME OF THE CANDIDATE MAY BE PLACED ON THE BALLOT BY THE LIEUTENANT  
13 GOVERNOR OR MUNICIPAL CLERK ONLY IF THE CANDIDATE HAS COMPLIED WITH THIS  
14 SUBSECTION.]

15 (d) In the case of the death, resignation or removal of a campaign  
16 treasurer, the candidate shall appoint a successor as soon as practi-  
17 cable and file his name and address with the commission within 48 hours  
18 of the appointment. [THE CANDIDATE IS DISQUALIFIED WHEN HE HAS BEEN  
19 FOUND TO HAVE BEEN IN WILFUL VIOLATION OF THIS SUBSECTION.]

20 \* Sec. 5. AS 15.13.070(a) is amended to read:

21 (a) No person or group, including but not limited to all political  
22 committees, businesses, corporations, and labor unions, may contribute  
23 [TO OR EXPEND] more than \$1,000 a year to a candidate [ON BEHALF OF OR  
24 IN OPPOSITION TO THE COMPETING CANDIDATES] for each elective office.  
25 Political parties and their subdivisions are not subject to the limita-  
26 tion prescribed in this subsection, but they are subject to the report-  
27 ing requirements prescribed by secs. 40(b) and 110 of this chapter.  
28 Nothing in this chapter prohibits

29 (1) a candidate from contributing more than \$1,000 of his own

1 money to his own campaign; or

2 (2) individuals or groups, including but not limited to all  
3 political committees, businesses, corporations, and labor unions, from  
4 contributing to or expending on behalf of a ballot proposition or ques-  
5 tion more than \$1,000 a year; however, these contributions and expendi-  
6 tures shall be reported in accordance with secs. 40 and 110 of this  
7 chapter.

8 \* Sec. 6. AS 15.13.090 is amended to read:

9 Sec. 15.13.090. IDENTIFICATION OF COMMUNICATION. All advertise-  
10 ments, billboards, handbills, paid-for television and radio announce-  
11 ments and other communications intended to influence the election of a  
12 candidate or outcome of a ballot proposition or question shall be clear-  
13 ly identified by the words "paid for by" followed by the name and  
14 address of the candidate, group or individual paying for the advertis-  
15 ing. [IN ADDITION, CANDIDATES AND GROUPS MUST IDENTIFY THE NAME OF THEIR  
16 CAMPAIGN TREASURER.]

17 \* Sec. 7. AS 15.13.100 is amended to read:

18 Sec. 15.13.100. EXPENDITURES <sup>and Contributions</sup> BEFORE FILING. Political [NO POLITI-  
19 CAL] campaign expenditures [EXPENDITURE MAY BE MADE] or obligations  
20 for those expenditures may be made or incurred by a person in an elec-  
21 tion or by a person or group with his knowledge and on his behalf before  
22 the date upon which he or she files for nomination for the office which  
23 the person seeks [, EXCEPT FOR PERSONAL TRAVEL EXPENSES OR FOR OPINION  
24 SURVEYS OR POLLS]. However, these [THESE] expenditures [SHALL BE  
25 CHARGED AGAINST THE SPENDING LIMITATION THAT APPLIES TO THE OFFICE FOR  
26 WHICH HE SUBSEQUENTLY FILES, AND] shall be included in the first report  
27 required under this chapter [AFTER FILING FOR OFFICE].

28 \* Sec. 8. AS 15.13.110(b) and (c) are amended to read:

29 (b) Each contribution or expenditure which exceeds \$250 and which

1 is made within 10 days [ONE WEEK] of the election shall be reported to  
2 the commission by date, amount, and contributor or recipient within 24  
3 hours of receipt or expenditure by the candidate or campaign treasurer.

4 (c) [THE REPORTS OF CANDIDATES SHALL BE FILED WITH THE COMMIS-  
5 SION'S CENTRAL OFFICE.] All statements, records and reports required by  
6 this chapter are public records and shall be kept open for [TO] public  
7 inspection. Within 30 days after each election, the commission shall  
8 prepare a summary of reports [EACH REPORT] which shall be made available  
9 to the public at cost upon request. Each summary shall use uniform  
10 categories of reporting.

11 \* Sec. 9. AS 15.13 is amended by adding a new section to read:

12 Sec. 15.13.121. CRIMINAL AND CIVIL PENALTIES; LIMITATIONS ON  
13 ACTIONS. (a) A person who violates a provision of this chapter is  
14 guilty of a misdemeanor and upon conviction is punishable by imprison-  
15 ment for not more than one year or by a fine of not more than \$5,000. A  
16 violation includes but is not limited to any of the following acts or  
17 omissions:

18 (1) knowingly failing to make a statement or report required  
19 to be made, or at the time it is required to be made, under this  
20 chapter;

21 (2) knowingly making a false statement or false report  
22 under this chapter;

23 (3) giving or furnishing money to another person or group  
24 for the purpose of making a contribution or expenditure anonymously,  
25 in a fictitious name, or in the name of another, or contributing in  
26 violation of sec. 70(d) of this chapter;

27 (4) making a communication to support or defeat a candidate  
28 without identification of sponsorship, in violation of sec. 90 of this  
29 chapter;

1 (5) knowingly accepting a contribution in violation of sec.  
2 70 of this chapter;

3 (6) providing false or misleading information in the course  
4 of an investigation.

5 (b) In addition to the penalties provided for in (a) of this sec-  
6 tion, a person who violates secs. 60 and 110 of this chapter is liable,  
7 in a civil action, to the state for a sum to be assessed by the court of  
not more than \$10,000 for each day on which the violation occurs and  
which shall reflect, where applicable:

11 (1) reasonable compensation in the nature of liquidated  
12 damages according to the benefit received by the candidate in not dis-  
closing his campaign expenses; or

13 (2) reasonable costs incurred by the state in detection, in-  
14 vestigation, and attempted correction of the violation.

15 (c) Action under (b) of this section may not be used for punitive  
16 purposes and sums assessed by the court must be compensatory or remedial  
17 in nature.

18 (d) The nomination for and election to an office of a candidate  
19 who himself violates or whose campaign treasurer or deputy campaign  
20 treasurer violates any of the following described provisions is voidable  
21 if it is determined in an action filed under (e) of this section that a  
22 candidate knowingly

23 (1) made a false statement on any report required of him  
24 under this chapter;

25 (2) accepted a contribution in violation of secs. 70(b) or  
26 70(d) of this chapter;

27 (3) made a campaign expenditure in violation of secs. 70(c),  
28 70(h), or 100 of this chapter.

29 (e) When a violation of (d) of this section is charged, the case

1 shall be promptly tried and the case shall be accorded a preferred  
2 status by the courts to ensure a speedy disposition on the matter.

3 (f) If in a proceeding under (e) of this section, a candidate is  
4 convicted of a violation of (d) of this section and the action involved  
5 a successful candidate at a general election for membership in the state  
6 legislature or, at a municipal election, for a seat on a city council or  
7 borough assembly, or to the office of borough or city mayor, [the court  
8 may not void the candidates election to office, but only] may recommend  
9 that the member-elect of the legislature, ~~city~~ city or borough assembly be  
10 expelled, or that the mayor be removed from office, subject to art. II,  
11 sec. 12, Constitution of the State of Alaska, or AS 29.23.060(c),  
12 29.23.130(f), 29.23.210(b) or 29.23.255, as applicable.

13 (g) The commission by certified mail shall promptly notify all  
14 persons who are delinquent in filing reports and statements, including  
15 contributors who failed to file a statement in accordance with sec. 40  
16 of this chapter, and shall make available a list of delinquents for  
17 public inspection. The commission shall also report to the attorney  
18 general the names of all candidates in an election whose campaign  
19 treasurers have failed to file the reports required by this chapter.

20 (h) A candidate who, or whose campaign treasurer, has failed to  
21 file reports required under this chapter may not file a declaration of  
22 candidacy at a subsequent election for a public office subject to this  
23 chapter until all delinquent reports required under this chapter have  
24 been filed with the commission. The commission shall report to the  
25 lieutenant governor and to municipal clerks all candidates who, or whose  
26 campaign treasurers, have failed to file the required reports.

27 (i) A person who believes a violation of this chapter has occurred  
28 may file a complaint with the commission. The commission shall expedi-  
29 tiously make an investigation of the complaint. When the commission has

1 reasonable cause to believe that a person has engaged or is about to  
2 engage in any acts or practices which constitute or will constitute a  
3 violation of a provision of this chapter, or a regulation or order  
4 issued under it, it shall promptly report the information to the attor-  
5 ney general for appropriate action. The commission shall promptly  
6 inform the person who filed the complaint of its disposition of the  
7 matter.

8 (j) Prosecution for violation of a provision of this chapter may  
9 not be commenced after four years have elapsed from the date of the  
10 alleged violation.

11 \* Sec. 10. AS 15.13.130(2) is amended to read:

12 (2) "contribution" means purchase, payment, promise or obli-  
13 gation to pay, loan or loan guarantee, deposit or gift of money, goods  
14 or services for which charge is ordinarily made and which is made for  
15 the purpose of influencing the nomination or election of a candidate,  
16 and in sec. 10(b) of this chapter for the purpose of influencing a  
17 ballot proposition or question, including the payment by a person other  
18 than a candidate or political party of [, OR] compensation for [OF] the  
19 personal services of another person which are rendered to the candidate  
20 or political party; however, "contribution" does not include

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

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

28 (C) ordinary hospitality in a home;

29 \* Sec. 11. AS 15.13.130(3) is amended to read:

1 (3) "group" means every state and regional executive commit-  
2 tee of a political party and, in addition, means any combination of two  
3 or more persons or individuals acting jointly who take action the major  
4 purpose of which is to influence the outcome of an election; [A GROUP  
5 THAT MAKES EXPENDITURES OR RECEIVES CONTRIBUTIONS WITH THE AUTHORIZATION  
6 OR CONSENT, EXPRESS OR IMPLIED, OR UNDER THE CONTROL, DIRECT OR IN-  
7 DIRECT, OF A CANDIDATE SHALL BE CONSIDERED TO BE CONTROLLED BY THAT  
8 CANDIDATE; A GROUP WHOSE MAJOR PURPOSE IS TO FURTHER THE NOMINATION,  
9 ELECTION, OR CANDIDACY OF ONLY ONE PERSON, OR INTENDS TO EXPEND MORE  
10 THAN 50 PER CENT OF ITS MONEY ON A SINGLE CANDIDATE, SHALL BE CONSIDERED  
11 TO BE CONTROLLED BY THAT CANDIDATE AND ITS ACTIONS DONE WITH HIS KNOW-  
12 LEDGE AND CONSENT UNLESS, WITHIN 10 DAYS FROM THE DATE THE CANDIDATE  
13 LEARNS OF THE EXISTENCE OF THE GROUP HE FILES WITH THE COMMISSION, ON A  
14 FORM PROVIDED BY THE COMMISSION, AN AFFIDAVIT THAT THE GROUP IS OPERAT-  
15 ING WITHOUT HIS CONTROL; A GROUP ORGANIZED FOR MORE THAN ONE YEAR  
16 PRECEDING AN ELECTION AND ENDORSING CANDIDATES FOR MORE THAN ONE OFFICE  
17 OR MORE THAN ONE POLITICAL PARTY IS PRESUMED NOT TO BE CONTROLLED BY A  
18 CANDIDATE; HOWEVER, A GROUP THAT CONTRIBUTES MORE THAN 50 PER CENT OF  
19 ITS MONEY TO OR ON BEHALF OF ONE CANDIDATE SHALL BE CONSIDERED TO SUP-  
20 PORT ONLY ONE CANDIDATE FOR PURPOSES OF SEC. 70 OF THIS CHAPTER, WHETHER  
21 OR NOT CONTROL OF THE GROUP HAS BEEN DISCLAIMED BY THE CANDIDATE;]

22 \* Sec. 12. AS 15.13.070(f) and (g), 15.13.080, and 15.13.120 are re-  
23 pealed. *Delete limitation on expenditures* \*

24 \* Sec. 13. AS 29.13.100 is amended by adding a new paragraph to read:

25 (37) AS 29.23.060(c) (expulsion of borough assemblyman),  
26 AS 29.23.130(f) (removal of borough mayor from office), AS 29.23.210(b)  
27 (expulsion of city councilman from office), AS 29.23.255 (removal of  
28 mayor from office), AS 29.28.050(f) (expulsion, removal from office).

29 \* Sec. 14. AS 29.23.060(c) is amended to read:

1 (c) The assembly shall determine its own rules and order of  
2 business and provide for keeping a journal of its proceedings. The  
3 assembly is the judge of the election and qualifications of its members  
4 and may expel a member with the concurrence of two-thirds of its mem-  
5 bers, including but not limited to, a conviction for a violation of  
6 AS 15.13.121(d). The assembly shall consider that conviction during its  
7 organizational meeting following a municipal election.

8 \* Sec. 15. AS 29.23.130 is amended by adding a new subsection to read:

9 (f) Whether or not the borough mayor is a member of the assembly,  
10 the assembly may remove the mayor from office upon conviction for a  
11 violation of AS 15.13.121(d) with the concurrence of two-thirds of its  
12 members. The assembly shall consider that conviction during its or-  
13 ganizational meeting following a municipal election.

14 \* Sec. 16. AS 29.23.210(b) is amended to read:

15 (b) The council shall determine its own rules and order of busi-  
16 ness and provide for keeping a journal of its proceedings. The council  
17 is the judge of the election and qualifications of its members and may  
18 expel a member with the concurrence of two-thirds of its members, in-  
19 cluding but not limited to, a conviction for a violation of AS 15.13.-  
20 121(d). The council shall consider that conviction during its organi-  
21 zational meeting following a municipal election.

22 \* Sec. 17. AS 29.23 is amended by adding a new section to read:

23 Sec. 29.23.255. REMOVAL FROM OFFICE. Whether or not the mayor  
24 is a member of the council, the council may remove the mayor from office  
25 upon a conviction for a violation of AS 15.13.121(d) with the concurrence  
26 of two-thirds of its members. The council shall consider that convic-  
27 tion during its organizational meeting following a municipal election.

28 \* Sec. 18. AS 29.23.570(5) and (7) are amended to read:

29 (5) is removed or expelled from office;

1 (7) is convicted of a felony, [OR] of an offense involving a  
2 violation of his oath of office, or the provisions of AS 15.13.121(d).

3 \* Sec. 19. AS 29.28.050 is amended by adding a new subsection to read:

4 (f) Notwithstanding the provisions of (e) of this section, the  
5 expulsion of a member of a borough assembly, under AS 29.23.060(c) or of  
6 a member of a city council, under AS 29.23.210(b), or the removal of a  
7 borough mayor, under AS 29.23.130(e), or of a city mayor, under AS 29.-  
8 23.255, is not subject to judicial review.

9 \* Sec. 20. This Act takes effect immediately in accordance with AS 01.-  
10 10.070(c).

4/1  
Milton

Offered: 3/23/76  
Referred: Judiciary

Original sponsor: State Affairs Committee

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 857

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

9 \* Section 1. AS 15.13.020(j) is amended to read:

10 (j) The commission shall establish an office [, WHICH MAY BE  
11 CALLED A REGIONAL OFFICE,] in each senate district in the state to keep  
12 on file for public inspection copies of all reports required to be filed  
13 with the commission by candidates for statewide office and by candidates  
14 for legislative office in that district; however, where one municipality  
15 contains more than one election district, only one commission office  
16 shall be established in that municipality. Each [THE REGIONAL] office  
17 shall make all forms and pertinent material available to candidates.  
18 Reports [ALL REPORTS] shall be filed by candidates, groups and indivi-  
19 duals directly with the commission's [CENTRAL] district offices [OFFICE].

20 [The commission shall ensure [INSURE] that copies of all reports by  
21 statewide [AND LEGISLATIVE] candidates, by legislative candidates in  
22 each senate district, and by judges seeking electoral confirmation [IN  
23 EACH SENATE DISTRICT] are forwarded promptly to the [THAT DISTRICT OR  
24 REGIONAL] office located in the district in which the candidate or judge  
25 is seeking office.]

26 \* Sec. 2. AS 15.13.040(d) and (f) are amended to read:

27 (d) Every individual or [,] person [OR GROUP] making a contribu-  
28 tion or expenditure shall make a full report, upon a form prescribed by  
29 the commission, of the following contributions or expenditures:

*Handwritten note:*  
Have of reports that regional offices then to district

*Handwritten note:*  
I filed w/central copy sent to district

*Handwritten note:*  
Adopted

1. (1) any contribution of cash, goods or services valued at  
2. more than \$250 [\$100] a year to any group or candidate; or

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

7. (f) During each year in which an election occurs, all businesses  
8. or [,] persons [, OR GROUPS] which furnish any of the following services,  
9. facilities, or supplies to a candidate or group shall maintain a record  
10. of each transaction: newspapers, radio, television, advertising,  
11. advertising agency services, accounting, billboards, printing, secre-  
12. tarial, public opinion polls, or research and professional campaign  
13. consultation or management, media production or preparation, or computer  
14. services. The records shall be maintained on the forms provided and in  
15. the manner required by the commission. The supplier shall file a report  
16. of the complete record of each transaction with all candidates or groups  
17. to whom he provides services, facilities or supplies in excess of \$250  
18. for each candidate or group in the aggregate in accordance with sec. 110  
19. of this chapter. [ALL RECORDS SHALL BE AVAILABLE FOR PUBLIC INSPECTION.]

20. \* Sec. 3. AS 15.13.050 is amended by adding a new subsection to read:

21. (b) A group that makes expenditures or receives contributions with  
22. the authorization or consent, express or implied, or under the control,  
23. direct or indirect, of a candidate shall be considered to be controlled  
24. by that candidate. A group whose major purpose is to further the nomi-  
25. nation, election, or candidacy of only one person, or intends to expend  
26. more than 50 per cent of its money on a single candidate, shall be con-  
27. sidered to be controlled by that candidate and its actions done with his  
28. knowledge and consent unless, within 10 days from the date the candidate  
29. learns of the existence of the group he files with the commission, on a

*how sleeping*

*clarification*

*redundant*

*taken from defini-  
tion section &  
rearranged to  
here*

1 form provided by the commission, an affidavit that the group is operat-  
2 ing without his control. A group organized for more than one year  
3 preceding an election and endorsing candidates for more than one office  
4 or more than one political party is presumed not to be controlled by a  
5 candidate.

6 \* Sec. 4. AS 15.13.060(c) and (d) are amended to read:

7 (c) Each candidate shall file the name and address of the campaign  
8 treasurer with the commission no later than seven days after the date of  
9 filing his declaration of candidacy or his nominating petition. [THE  
10 NAME OF THE CANDIDATE MAY BE PLACED ON THE BALLOT BY THE LIEUTENANT  
11 GOVERNOR OR MUNICIPAL CLERK ONLY IF THE CANDIDATE HAS COMPLIED WITH THIS  
12 SUBSECTION.]

13 (d) In the case of the death, resignation or removal of a campaign  
14 treasurer, the candidate shall appoint a successor as soon as practi-  
15 cable and file his name and address with the commission within 48 hours  
16 of the appointment. [THE CANDIDATE IS DISQUALIFIED WHEN HE HAS BEEN }  
17 FOUND TO HAVE BEEN IN WILFUL VIOLATION OF THIS SUBSECTION.]

18 \* Sec. 5. AS 15.13.070(a) is amended to read:

19 (a) No person or group, including but not limited to all political  
20 committees, businesses, corporations, and labor unions, may contribute  
21 [TO OR EXPEND] more than \$1,000 a year to a candidate [ON BEHALF OF OR  
22 IN OPPOSITION TO THE COMPETING CANDIDATES] for each elective office.  
23 Political parties and their subdivisions are not subject to the limita-  
24 tion prescribed in this subsection, but they are subject to the report-  
25 ing requirements prescribed by secs. 40(b) and 110 of this chapter.  
26 Nothing in this chapter prohibits

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

29 (2) individuals or groups, including but not limited to all

*Specimen new  
enforcement  
section*

*conforms w/  
supp. inc. et.  
section on  
limits*

1 political committees, businesses, corporations, and labor unions, from  
2 contributing to or expending on behalf of a ballot proposition or ques-  
3 tion more than \$1,000 a year; however, these contributions and expendi-  
4 tures shall be reported in accordance with secs. 40 and 110 of this  
5 chapter.

6 \* Sec. 6. AS 15.13.090 is amended to read:

7 Sec. 15.13.090. IDENTIFICATION OF COMMUNICATION. All advertise-  
8 ments, billboards, handbills, paid-for television and radio announce-  
9 ments and other communications intended to influence the election of a  
10 candidate or outcome of a ballot proposition or question shall be clear-  
11 ly identified by the words "paid for by" followed by the name and  
12 address of the candidate, group or individual paying for the advertis-  
13 ing. [IN ADDITION, CANDIDATES AND GROUPS MUST IDENTIFY THE NAME OF THEIR  
14 CAMPAIGN TREASURER.]

15 \* Sec. 7. AS 15.13.100 is amended to read:

16 Sec. 15.13.100. EXPENDITURES BEFORE FILING. Political [NO POLITI-  
17 CAL] campaign expenditure may be made ~~or incurred~~ by a person in an  
18 election or by a person or group with his knowledge and on his behalf  
19 before the date upon which he or she files for nomination for the office  
20 which the person seeks [, EXCEPT FOR PERSONAL TRAVEL EXPENSES OR FOR  
21 OPINION SURVEYS OR POLLS]. However, these [THESE] expenditures [SHALL  
22 BE CHARGED AGAINST THE SPENDING LIMITATION THAT APPLIES TO THE OFFICE  
23 FOR WHICH HE SUBSEQUENTLY FILES, AND] shall be included in the first  
24 report required under this chapter. ~~after filing for office~~

25 \* Sec. 8. AS 15.13.110(b) and (c) are amended to read:

26 (b) Each contribution or expenditure which exceeds \$250 and which  
27 is made within 10 days [ONE WEEK] of the election shall be reported to  
28 the commission by date, amount, and contributor or recipient within 24  
29 hours of receipt or expenditure by the candidate or campaign treasurer.

*cannot make expenditures*

*not necessary*

*closes 3 day gap*