

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984

2959 HSA HB 301 - HB 362

2959

TREASURY MANAGEMENT

	Col. 1	Col. 2	Col. 3	Col. 4	Col. 5
	FY 84 EBB 1 VERSION	PFD RESIDUAL ¹	SUBTOTAL (COL. 1 LESS COL. 2) ²	CONTINGENT PFD OPERATING ³	TOTAL FY 84 CONTINGENT REQUEST
FUNDING					
100 Personal Services	969.3		969.3	59.3	1,028.6
200 Travel	30.7		30.7	4.3	35.0
300 Contractual	1,157.8		1,157.8	95.4	1,253.2
400 Commodities	8.0		8.0	3.2	11.2
500 Equipment					
TOTAL	2,165.8		2,165.8	162.2	2,328.0
STAFFING					
PFT			22	1	23
PPT				1	1
MM			264	18	282

¹ Denotes the balance left by OMB in the EBB 1 to handle the completion of the FY 82 distribution program in FY 84, assuming repeal

² This column represents the BRU operating budget request with neither funds nor positions for PFD

³ This column represents the contingent funding and positions considered necessary for administering the PFD program in FY 84, assuming an on-going program

I. REQUEST

Bill/Resolution No: HB 301
Title: Appropriation for 1983 PFD's
Sponsor: Adams
Requestor: _____

II. FISCAL DETAIL

Agency Affected: Revenue
Program Category Affected: General Govt.
BRU, Program of Subprogram(s) Affected:
Admin. Svc., Enforcement, Public Services,
Treasury

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES	-0-	1,666.8	-0-	-0-	-0-	-0-
200 TRAVEL	-0-	116.7	-0-	-0-	-0-	-0-
300 CONTRACTUAL	-0-	1,061.5	-0-	-0-	-0-	-0-
400 COMMODITIES	-0-	13.7	-0-	-0-	-0-	-0-
500 EQUIPMENT	-0-	125.0	-0-	-0-	-0-	-0-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC.	-0-	183,865.0	-0-	-0-	-0-	-0-
TOTAL OPERATING	-0-	186,848.7	-0-	-0-	-0-	-0-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	2,983.7	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source) PFD-F	-0-	183,865.0	-0-	-0-	-0-	-0-
	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-0-	34	-0-	-0-	-0-	-0-
PART-TIME	-0-	31	-0-	-0-	-0-	-0-
TEMPORARY	-	-	-	-	-	-
	-	-	-	-	-	-

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The assumption is that the operating costs for the Permanent Fund Dividend distribution would be an appropriation from the General Fund to be added back to the BRU's budgets reflected in the Executive Budget Book 1.

IV. ANALYSIS: Attach a separate page for any Analysis.

Prepared By: William E. Joch
Division: Administrative Services
Approved by Commissioner: Joseph K. Monahan
Department: Revenue

Phone: 465-3336
Date: 4/7/83
Date: 4/17/83

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Alaska Department of Revenue

Fiscal Notes to HB 301

Fiscal note A assumes that the operating costs for the Permanent Fund Dividend payments will be an allocation from the \$183,865,000 appropriated by HB 301.

Fiscal note B assumes that the operating costs will be an appropriation from the General Fund to be added to the BRU's involved in the distribution program and that the Dividends will be paid out of the \$183,865,000.

The back up information for the two fiscal notes is identical.

IV. ANALYSIS

An allocation to Department of Health and Social Services should also be considered to fund payments of "hold harmless" for Public Assistance recipients.

ADMINISTRATIVE SERVICES

	Col. 1	Col. 2	Col. 3	Col. 4	Col. 5
	FY 84 EBB 1 VERSION	PFD RESIDUAL ¹	SUBTOTAL (COL. 1 LESS COL. 2) ²	CONTINGENT PFD OPERATING ³	TOTAL FY 84 CONTINGENT REQUEST
FUNDING					
100 Personal Services	1,506.0	(80.0)	1,426.0	677.2	2,103.2
200 Travel	19.4		19.4		19.4
300 Contractual	1,181.5		1,181.5	447.8	1,629.3
400 Commodities	17.5		17.5	2.2	19.7
500 Equipment	5.0		5.0	125.0	130.0
TOTAL	2,729.4	(80.0)	2,649.4	1,252.2	3,901.6
STAFFING					
PFT			34	6	40
PPT			5	14	19
TEMPORARY			17		17
MM			526	174.8	700.8

¹ Denotes the balance left by OM in the operating budget to handle the completion of the FY 82 distribution and the trust accounting in FY 84, assuming repeal

² This column represents the BRU operating budget request with neither funds nor positions for PFD

³ This column represents the contingent funding and positions considered necessary for administering the PFD program in FY 84, assuming an on-going program

PUBLIC SERVICE

	Col. 1	Col. 2	Col. 3	Col. 4	Col. 5
	FY 84 EBB 1 VERSION	PFD RESIDUAL ¹	SUBTOTAL (COL. 1 LESS COL. 2) ²	CONTINGENT PFD OPERATING ³	TOTAL FY 84 CONTINGENT REQUEST
FUNDING					
100 Personal Services	838.0	(60.0)	778.0	425.7	1,203.7
200 Travel	60.2		60.2	68.9	129.1
300 Contractual	712.6		712.6	360.6	1,073.2
400 Commodities	11.1		11.1	3.2	14.3
500 Equipment					
TOTAL	1,621.9	(60.0)	1,561.9	858.4	2,420.3
STAFFING					
PFT			27	6	33
PPT			1	16	17
MM			328	166	494

¹ Denotes the balance left by OMB in the EBB 1 to handle the completion of the FY 82 distribution program in FY 84, assuming repeal

² This column represents the BRU operating budget request with neither funds nor positions for PFD

³ This column represents the contingent funding and positions considered necessary for administering the PFD program in FY 84, assuming an on-going program

ENFORCEMENT

	Col. 1	Col. 2	Col. 3	Col. 4	Col. 5
	FY 84 EBB 1 VERSION	PFD RESIDUAL ¹	SUBTOTAL COL. 1 LESS COL. 2) ²	CONTINGENT PFD OPERATING ³	TOTAL FY 84 CONTINGENT REQUEST
FUNDING					
100 Personal Services	1,068.0	(80.0)	988.0	724.6	1,712.6
200 Travel	54.9		54.9	43.5	98.4
300 Contractual	116.2		116.2	157.7	273.9
400 Commodities	7.1		7.1	5.1	12.2
500 Equipment					
TOTAL	1,246.2	(80.0)	1,166.2	930.9	2,097.1

STAFFING

PFT			35	21	56
MM			420	252	672

¹ Denotes the balance left by OMB in the EBB 1 to handle the completion of the FY 82 distribution program, assuming repeal

² This column represents the operating budget request with neither funds nor positions for PFD

³ This column represents the contingent funding and positions considered necessary for administering the PFD program in FY 84, assuming an on-going program

TREASURY MANAGEMENT

	Col. 1	Col. 2	Col. 3	Col. 4	Col. 5
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FUNDING					
100 Personal Services	969.3		969.3	59.3	1,028.6
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300 Contractual	1,157.8		1,157.8	95.4	1,253.2
400 Commodities	8.0		8.0	3.2	11.2
500 Equipment					
TOTAL	2,165.8		2,165.8	162.2	2,328.0
STAFFING					
PFT			22	1	23
PPT				1	1
MM			264	18	282

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² This column represents the BRU operating budget request with neither funds nor positions for PFD

³ This column represents the contingent funding and positions considered necessary for administering the PFD program in FY 84, assuming an on-going program

Alaska State Legislature
House of Representatives



Official Business

Al Adams
Chairman
Committee on Finance

WHILE IN SESSION
Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3706

OUT OF SESSION
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Juneau, Alaska 99752
(907) 442-3320

1024 W. 6th
Anchorage, Alaska 99501
(907) 274-0615

April 11, 1983

MEMORANDUM

TO: Representative Mitch Abood, Chairman
House State Affairs Committee

FROM: Representative Al Adams *ADA*

SUBJECT: HB 301 - Special Appropriation for the Payment
of 1983 Permanent Fund Dividends

House Bill 301 appropriates \$183,865,000 for payment of 1983 permanent fund dividends. This figure is based on an estimate by the Department of Revenue of the balance in the Dividend Account, plus estimates on the earnings of the Permanent Fund itself, the total of which would be available for payment of dividends. These amounts are explained on the attached page.

1983 PERMANENT FUND DIVIDEND APPROPRIATION

Dividend fund balance available for payment of dividends	\$ 78,730,526
Earnings from investment of the Permanent Fund (50% based on five year average)	<u>107,134,474</u>
Total of funds available for dividends	\$185,865,000

Based on a population of 470,000 in 1983, each dividend
would be \$395.46.

H B

307

Introduced: 3/30/83
Referred: State Affairs
and Finance

1 IN THE HOUSE

BY FLOOD

2

HOUSE BILL NO. 307

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the powers, duties and organiza-
7 tion of the Alaska Public Broadcasting Commission;
8 restricting the use of state money for public broad-
9 casting; and requiring competitive bidding as a
10 condition for state grants to public broadcasters."

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

12 * Section 1. AS 44.21.258 is amended by adding new subsections to read:

13 (c) An employee of a public broadcasting station may not be
14 appointed to membership on the commission.

15 (d) A member of the commission may not serve more than one ^{full} term.

16 * Sec. 2. AS 44.21.268(a)(3) is amended to read:

17 (3) except as provided in AS 44.21.269, make [PROVIDE]
18 grants to locally controlled non-profit telecommunications entities
19 which lease, purchase, construct, own, operate and manage and are the
20 licensees of public broadcasting stations, production centers, and
21 other related equipment and facilities for the production and trans-
22 mission of open circuit, closed circuit, 2,500 megahertz, and other
23 transmission means necessary to provide fully effective public broad-
24 casting in the state;

25 * Sec. 3. AS 44.21 is amended by adding a new section to read:

26 Sec. 44.21.269. LIMITATIONS ON THE USE OF STATE MONEY FOR
27 GRANTS. (a) The commission may not use state money to make a grant

28 under AS 44.21.268(a)(3) if the grant applicant

29 (1) broadcasts commercial advertising;

83

84
reg
F

6,300

6,755,2

grants

1 (2) allows any persons to rent or use equipment for profit
2 or personal benefits;

3 (3) employs, as paid employees, more than twice as many
4 full-time or full-time equivalent employees as are employed by the
5 largest commercial broadcasting station, if any, located in the ser-
6 vice area of the grant applicant;

7 (4) pays more than twice as much for employee salaries and
8 contract labor services than is paid by the largest commercial broad-
9 casting station, if any, located in the service area of the grant
10 applicant;

11 (5) duplicates programming or broadcasting services avail-
12 able from other sources in the service area of the grant applicant;

13 (6) does not use sealed bid competitive bidding to obtain
14 products or services that cost more than \$3,000 annually, accepting
15 the lowest bid from a qualified bidder; or

16 (7) fails to maintain a register of qualified bidders for
17 the purposes of (6) of this subsection or fails to provide written
18 notice of a bid proposal at least 30 days before the bids are opened
19 to the qualified bidders on the register.

20 (b) In this section

21 (1) "commercial advertising" means a broadcast endorsement
22 or description of a product, service, or business enterprise other
23 than the naming of a business enterprise as the sponsor or underwriter
24 of a public broadcast;

25 (2) "service area" means an area in which the broadcast
26 signals of a public broadcasting station can normally be received.

27 [* Sec. 4. AS 44.21.268(b) is repealed.]

Not ok

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: HB 307
 Title: AK Pub. Broadcast. Comm./Restr. St. Mon
 Sponsor: Flood
 Requestor: House State Affairs

II. FISCAL DETAIL

Agency Affected: Administration
 Program Category Affected: Telecommunications
 BRU, Program of Subprogram(s) Affected: Alaska Public Broadcasting Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		124.6	130.8	137.3	144.2	151.4
200 TRAVEL	0	12.3	12.9	13.6	14.2	15.0
300 CONTRACTUAL	0	28.1	29.5	31.0	32.5	34.0
400 COMMODITIES	0	3.4	3.6	3.8	4.0	4.2
500 EQUIPMENT	0	19.8	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC	0	36.0	37.8	39.7	41.7	43.8
TOTAL OPERATING	0	224.2	214.6	225.4	236.6	248.4
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	224.2	214.6	225.4	236.6	248.4
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Source)	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	3	3	3	3	3
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

APBC has not been notified by the Sponsor or the Committee as to where reductions will occur that will allow the above expenditures.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Julianne L. Day, Deputy Comm, Telecommunications for,
Charles M. Northrip Phone: 465-2846
 Division: Alaska Public Broadcasting Commission Date: April 15, 1983
 Approved by Commissioner: Lisa Rudd Date: 4/15/83
 Department: Administration

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APBC ANALYSIS OF FISCAL DATA
ON HB307
April 15, 1983

ASSUMPTIONS

All assumptions relate to various subparagraphs of proposed new section: AS 44.2i.269, which would require the APBC to monitor certain public and commercial station activities.

(3) and (4) lead to the assumption that APBC would gather work-force, salary, and other data from all public and commercial stations in markets where both public and commercial stations exist.

(5) leads to the assumption that the APBC would monitor the programming activities of all public and commercial stations in the above markets.

(6) and (7) lead to the assumption that the APBC would monitor all purchases in excess of \$3,000 by all public stations and that public stations would incur some increased costs in maintaining a bid register.

PROGRAM SUMMARY

1. Positions: One Accounting Clerk II - for activities listed under assumptions resulting from (3), (4), (6), and (7) above; One Broadcast Programming Specialist - for activities listed under assumption resulting from (5) above; and one Clerk Typist II - to provide clerical support to the first two positions.

2. Other expenditures: Travel - Broadcast Programming Specialist would have to visit all public/commercial markets and monitor actual on-air programming in order to verify that duplicative programming is or is not being presented by public stations; Contractual - rent for additional office space; new personnel; Commodities - additional office supplies for new positions; Grants - estimate of total cost of maintaining registers of qualified bidders at all public stations (2,000 per year per grantee).

3. Funding: All funding would be from the State's General Fund. No federal or other funds are available for these purposes.

COMPUTATIONS

The costs for the fiscal years beyond FY'84 are estimated to rise at 5% per year. Salaries may vary due to negotiated contracts.

ECONOMIC IMPACT

None expected on the general economy.

LOCAL GOVERNMENT IMPACT

None expected.

ATTACHMENTS

APBC comments on this bill are attached.

1.	POSITION TITLE (Broadcast Programming Specialist)			RANGE/STEP 21	BARG. UNIT G	FORM 12 PAGE/LINE	GOV.	APPRO.	DISAPP.																					
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 4	LEG.																						
3.	CONTINUATION LEVEL		ADDITION	X	JUSTIFICATION																									
4.	TYPE OF EXPENDITURE			AMOUNT																										
	1	2		3																										
	PERSONAL SERVICES																													
5.	Salary	41,700																												
6.	Benefits	12,910																												
7.	Supplemental Benefits	2,240																												
8.	Fixed Benefits	2,880																												
9.	TOTAL PERSONAL SERVICES	01	59,730																											
10.	Travel	02	12,300																											
11.	Contractual	03	9,360																											
12.	Commodities	04	1,133																											
13.	Equipment	05	3,230																											
14.	Other																													
15.	TOTAL COST	85,753																												
<table border="1"> <thead> <tr> <th>RECEIPT CODE</th> <th>FUNDING SOURCE</th> <th>AMOUNT</th> </tr> </thead> <tbody> <tr> <td>16.</td> <td>Federal Receipts 1002</td> <td></td> </tr> <tr> <td>17.</td> <td>G.F. Match 1003</td> <td></td> </tr> <tr> <td>18.</td> <td>General Funds 1004</td> <td>85,753</td> </tr> <tr> <td>19.</td> <td>I-A Receipts 1005</td> <td></td> </tr> <tr> <td>20.</td> <td>Program Receipts 1028</td> <td></td> </tr> <tr> <td>21.</td> <td>Other</td> <td></td> </tr> </tbody> </table>										RECEIPT CODE	FUNDING SOURCE	AMOUNT	16.	Federal Receipts 1002		17.	G.F. Match 1003		18.	General Funds 1004	85,753	19.	I-A Receipts 1005		20.	Program Receipts 1028		21.	Other	
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21.	Other																													
<p>FOR B&M USE ONLY</p> <p>4A KEY NUMBER _____</p>																														

In order for the APBC to ascertain that public stations are not duplicating programming or broadcasting services "available from other sources" (proposed new section AS 44.21.269 (5)), actual monitoring of commercial and public signals will be necessary in all communities where public and commercial stations are located.

This position would perform the monitoring, compare program listings, investigate allegations of duplicative programming, etc. Extensive travel would be required in order to actually verify that stations are programming as their schedules indicate.

13 REQUEST FOR
NEW POSITION

AGENCY Administration

PROGRAM Telecommunications

BRU Alaska Public Broadcasting Commis.

COMPONENT APBC

FY 84

Page 1 of 3

Revised Date _____

1.	POSITION TITLE Accounting Technician II				RANGE/STEP 14	BARG. UNIT G	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 4	LEG.		
3.	CONTINUATION LEVEL	ADDITION	X	JUSTIFICATION						
4.	TYPE OF EXPENDITURE			AMOUNT						
	1	2	3							
	PERSONAL SERVICES									
5.	Salary	25,740								
6.	Benefits	7,969								
7.	Supplemental Benefits	1,578								
8.	Fixed Benefits	2,880								
9.	TOTAL PERSONAL SERVICES	01	38,167							
10.	Travel	02	0							
11.	Contractual	03	9,360							
12.	Commodities	04	1,134							
13.	Equipment	05	3,430							
14.	Other									
15.	TOTAL COST		52,091							
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts	1002							
17.		G.F. Match	1003							
18.		General Funds	1004	52,091						
19.		I-A Receipts	1005							
20.		Program Receipts	1028							
21.		Other								
FOR B&M USE ONLY										
4A KEY NUMBER - - - - -										

In order for the APBC to enforce the proposed new section, AS 41.21.269.(2), (3), (4), (5), and (7), extensive fiscal monitoring of all commercial and public stations in communities where both public and commercial stations are located would be necessary (a total of over 40 stations, without considering local Cable TV outlets).

This position would collect rental income data from public stations; staff, salary, and contractual data from all stations; and bid procedure information from public stations and analyze the data to assure compliance with the provisions of the proposed new section.

13 REQUEST FOR
NEW POSITION

AGENCY Administration
PROGRAM Telecommunications
BRU AK Public Broadcasting Commission
COMPONENT APBC

FY 84

Page 2 of 3
Revised Date _____

1.	POSITION TITLE Clerk Typist II				RANGE/STEP 7	BARG. UNIT G	FORM 12 PAGE/LINE	GOV.	APPRDV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	FCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 4	LEC.		
3.	CONTINUATION LEVEL		ADDITION		JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT	<p>This position would provide necessary clerical support for the Broadcast Programming Specialist and the Accounting Technician II.</p>					
	1	2	3							
	PERSONAL SERVICES									
5.	Salary		17,340							
6.	Benefits		5,368							
7.	Supplemental Benefits		1,068							
8.	Fixed Benefits		2,880							
9.	TOTAL PERSONAL SERVICES	01		26,656						
10.	Travel	02		0						
11.	Contractual	03		9,360						
12.	Commodities	04		1,133						
13.	Equipment	05		13,150						
14.	Other									
15.	TOTAL COST			50,299						
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts	1002							
17.		G.F. Match	1003							
18.		General Funds	1004	50,299						
19.		I-A Receipts	1005							
20.		Program Receipts	1028							
21.		Other								
FOR B&M USE ONLY										
4A KEY NUMBER										

13 REQUEST FOR
NEW POSITION

AGENCY Administration

PROGRAM Telecommunications

BRU AK Public Broadcasting Commission

COMPONENT APBC

FY 84

Page 3 of 3

Revised Date

HB 307
POSITION PAPER

HB 307 would place two additional restrictions on Alaska Public Broadcasting Commission appointees, delete the section of the statutes that prohibits the APBC from exercising control over program content and place seven limitations on grantees (stations) receiving State funds.

The Department of Administration opposes this bill because significant portions of it are unnecessary, and contrary to existing Federal and State policy relating to public broadcasting.

However, the Department can support new subsections (c) and (d) which amend AS 44.21.258.

Subsection (c), which prohibits a public station employee from attaining a Commission appointment, is supportable because it merely formalizes a practice presently in place. To date, there has never been a public station employee appointed to the APBC. Certain safeguards already exist in that the APBC does not make the appointments; appointments are made by the Governor and confirmed by the legislature. Further, AS 42.21.258(a) states "In making appointments the Governor shall give due consideration to representation from such fields as higher education, elementary and secondary education, communications, commercial broadcasting, public health, public works, labor, commerce and the professions."

The Department supports subsection (d) with minor modification, by inserting the word "full" before "term". This prevents a member from serving more than one full (5-year) term, but does not prevent a member from serving a partial term and then one full term.

The Department opposes the repeal of AS 42.21.268(b) because this section provides the necessary insulation from State interference or control over program content. This insulation from even the appearance of State control was felt to be so important that language was inserted four times in AS 42.21.300 (telecommunications divisions) as well as in the APBC statute in 1981. 44.21.305 requires the Deputy Commissioner for Telecommunications to "assure that division activities in no way constitute an influence on the content or airing of programming" and to report any activity of this nature to the Governor, Commissioner of Administration and the APBC. Similar language appears in 44.21.310(5) (c), 44.21.315(7)(g) and 44.21.320(2)(d). The first two subsections prohibit either telecommunications division from making programming decisions and the last subsection references the Television Project and the role of the RATNET Council.

The proposed new section 44.21.269 would require the APBC grantees (stations or other entities) to comply with seven new stipulations in order to qualify for State funding. A grantee will not qualify for State funds if it:

(1) "broadcasts commercial advertising"

Public stations do not presently broadcast commercials and although underwriting guidelines have been relaxed, do not plan to air commercials in the future. Existing APBC statutes and Federal restrictions prohibit commercial advertising; therefore, this provision is unnecessary.

(2) "...rent or use equipment for profit or personal benefits"

Federal NTIA-funded equipment use restrictions have been relaxed to encourage less dependency of Federal support. Although Alaskan public stations have taken advantage of this opportunity, most have policies stating that equipment can only be rented if no other vendor source is available. Finally, the APBC can place restrictions on funds it distributes, but cannot impose these restrictions on funds received by the stations from other sources.

(3) "employs...more than twice as many...employees as are employed by the largest commercial broadcasting station..."

This section would not effect single market stations or those located in major urban areas. However, there are five stations that share small town audiences with commercial radio stations. In Petersburg the commercial station provides religious programming with an all-volunteer staff. In all cases, a comparison of staff at stations in these locations would be difficult because the types of programming and duties of personnel are quite dissimilar. Public stations have a commitment to local programming which requires a different and larger staff than is dictated by commercial stations' formats. This local commitment (10% must be locally produced programs other than "record shows") requires staff to produce the programs or coordinate and train local volunteer programmers.

(4) "pays more than twice as much...than is paid by the largest commercial broadcasting station..."

If enacted, this section would require the APBC to inquire into commercial stations' financial information. Commercial stations are not required to make this information public; therefore, it would be unlikely that the APBC could comply with this section.

(5) "duplicates programming or broadcast services..."

The Department feels that the language in this section is ambiguous and that the intent is unclear. It may be intended as a replacement for AS 42.21.268(b) which relates to programming control and would be repealed if this bill becomes law. If so, this section would be illegal as AS 42.21.305 requires the Deputy Commissioner for Telecommunications to report all occurrences of program control to the Governor,

Commissioner of Administration and the APBC. Also, a concern for freedom of the press is raised as well as very practical monitoring considerations.

- (6) "does not use...competitive bidding to obtain products or services that cost more than \$3,000 annually, accepting the lowest bid..."

Competitive bidding for equipment purchases is presently a common practice at public stations. Federal PTFP equipment grants require competitive bidding and the APBC Engineer provides advice and information to stations about technological advances and equipment vendors. The requirement to accept the lowest bid would not provide the quality and durability necessary for broadcast equipment. Ultimately, it would be more expensive for stations to replace equipment frequently and would limit the flexibility stations have now to tailor their purchases to fit some rather unusual, Alaskan situations.

Some items, such as dues, subscriptions and programming, are not biddable. A large part of stations' program schedules come from PBS or NPR, both of which must be sole source procurements and both of which cost considerably more than \$3,000 per year.

- (7) "fails to maintain a register of qualified bidders...or fails to provide written notice of a bid proposal at least 30 days before the bids opened..."

In order to comply with this section public stations would require additional personnel. If, however, the previous section is not required due to present practices of the APBC and public stations, this section is also unnecessary.

Julianna Guy Julianna Guy
Deputy Commissioner for Telecommunications
Department of Administration

4-18-83
Date

Lisa Rudd Lisa Rudd
Commissioner
Department of Administration

4/19/83
Date

HB 307
POSITION PAPER
Developed by the Alaska Broadcasting Commission

HB 307 proposes additional restrictions on the use of State money for public broadcasting and would require competitive bidding as a condition for state grants to public broadcasters. It would accomplish both these purposes by amending the enabling statute of the Alaska Public Broadcasting Commission, AS 44.21.

The first section of the bill amends AS 44.21.258 by adding two new subsections, one of which would prohibit an employee of a public broadcasting station from being appointed to membership on the APBC and the other would limit members of the Commission to serving only one term. The APBC has no objection to the first addition. It should be noted, however, that in the 13 year history of the APBC, an employee of a public broadcasting station has never served as a member of the Commission. The Commission's current enabling statute, AS 44.21.258, empowers the Governor to appoint the members of the Commission after giving due consideration to representation from such fields as higher education, elementary and secondary education, communications, commercial broadcasting, public health, public works, labor and commerce and the professions. There is, therefore, no requirement in the current statute for public broadcasting employees to be appointed to the Commission, and none have been so appointed. In two instances over the last 13 years, Commission members have resigned their seats on the Commission in order to apply for positions at public broadcasting stations. A prohibition against employees of public broadcasting stations serving as members of the Commission may be unnecessary since such membership would clearly violate common law provisions with regard to conflict of interest.

The proposed provision to limit a member of the Commission to serving no more than one term leaves unanswered the possibility of serving a portion of an unexpired term and then serving a full term. This problem could be addressed by adding the word "full" between the words "one" and "term" on line 15 of page 1 of the bill. In point of fact, 38 different Alaskans have served as members of the APBC over the Commission's thirteen year history. Of that group, only three have served for more than five years (the length of one term on the Commission.) It would appear that normal attrition and the regular exercise of the Governor's appointing power has assured adequate turnover of the Commission's membership. Nevertheless, the Commission would not oppose either of the first two provisions of the bill.

HB 307, in Section 4, purposes to repeal AS 44.21.268(b). That provision prohibits any APBC control over the specific content or airing of any program material. The Commission opposes any repeal of that provision. The basic premise on which State support for public broadcasting has been based in Alaska, is the local control of broadcast programming by the independent non-profit corporations which serve as the licensees of the various public stations. This funding approach has a firm basis under the freedom of press and speech provisions of the First Amendment to the U.S. Constitution and avoids any possibility of government control of broadcast programming. Previous legislatures have felt so strongly about confirming this principle

that it is enunciated in three other locations in Alaska Statutes (AS 44.21.305(b)(2); AS 44.21.310(c); AS 44.21.315(g)). Even if Section 4 of HB 307 were to become law, the other provisions of the statute cited above would still prohibit the APBC from engaging in program control activity.

Section 3 of HB 307 proposes to add a new section to the APBC enabling statute which would cause the APBC to deny State grant funds to any station or other grant applicant, if the applicant:

(1) "Broadcasts commercial advertising." The Commission feels that this provision is unnecessary since its current statute and own regulations allow it to make grants only to non-profit telecommunications entities which lease, purchase, construct, own, operate, and manage and are the licensees of public broadcasting stations, etc. By definition, these entities are licensed by the Federal Communications Commission as non-commercial, educational stations. They are already prohibited by law from broadcasting commercial advertising. In addition, the Articles of Incorporation or basic institutional framework of each APBC grantee must state that the station will broadcast only non-commercial material.

(2) "Allows any person to rent or use equipment for profit or personal benefits." Current federal law allows any public station to rent its facilities in order to supplement its income, and therefore, become less dependent on federal and other governmental funding. Such an approach assures a broader base of support for each public station and has the potential for lessening the dependence of each station on government funds. In Alaska, each station which makes its facilities available for rent or contract use has established policies limiting those uses only to instances where potential users cannot procure those services elsewhere in the local area. The APBC opposes the blanket restriction proposed in HB 307. The APBC already prohibits grantees from using their facilities for the production of commercial messages or political announcements.

(3) "Employs, as paid employees, more than twice as many full-time or full-time equivalent employees as are employed by the largest commercial broadcasting station, if any, located in the service area of the grant applicant." While the APBC could probably support the spirit of this proposed provision, its practical enforcement would be confusing and vague at best. In one community where a public station and a commercial station are co-located, the commercial station is staffed entirely by volunteers of a particular religious persuasion. In other locations, the commercial radio "station" is simply a repeater of a larger commercial station in a distant urban market, or is an automated operation playing music tapes purchased from a syndicated music service. In communities of this sort, the public station may be the only source of local news, public affairs, emergency announcements and the like. Even a minimum full time staff at the public station would, however, violate the requirements of this proposed provision.

(4) "Pays more than twice as much for employees salaries and contract labor services than is paid by the largest commercial broadcasting station, if any, located in the service area of the grant applicant." The APBC opposes this provision because it would be impossible to enforce. In order to enforce the provision, the Commission would have to have detailed salary and contractual employment data from all commercial stations in markets

where public stations exist. The FCC does not require that financial information from commercial stations and it is highly unlikely that the commercial stations would provide it to the APBC on a voluntary basis. The same objections raised to (3) above would also apply to this provision.

(5) "Duplicates programming or broadcasting services available from other sources in the service area of the grant applicant." This provision would violate the other three provisions in Alaska Statutes which require government agencies to refrain from exercising control over program services of broadcast stations, even if AS 44.21.268(b) is repealed. The APBC opposes this provision on the philosophical grounds discussed above relating to freedom of speech and press and in view of the difficulties envisioned in enforcing the provision. What, for example, is duplicate programming? If a local commercial station provides weather information, must the APBC require its grantee station not to broadcast weather information? If a local commercial television station broadcasts network-provided feature films, must the APBC require the local public television station to refrain from the broadcast of a classic film series? The list of such judgmental difficulties is endless.

(6) "Does not use sealed bid competitive bidding to obtain products or services that cost more than \$3,000 annually, accepting the lowest bid from a qualified bidder." This provision appears, at first glance, to be a practical and prudent way of conserving State funds. In fact, all APBC grantees do use competitive bidding for procurement of major items of equipment and facilities. There are some items, however, many of which cost more than \$3,000, that stations simply could not procure through competitive bidding. Each public television station, for example, must pay its share of the cost of the nationally produced programs that make up its Public Broadcasting Service (PBS) schedule. Such programs as Masterpiece Theatre, Nova, Sesame Street, Over Easy, and The McNeal/Lehrer Report are part of a joint purchase made by all public television stations in the country each year. That purchase costs each station in excess of \$100,000. There is no way to make the PBS schedule a competitively-procured item. The fact that the total cost to all stations for all PBS programs is less than one-tenth the cost of the schedule of one of the three national commercial networks would indicate that the public stations are already exercising commendable budget restraint in such procurements. A similar situation exists with regard to public radio stations and the services received from National Public Radio which include All Things Considered and Morning Edition. In addition, in the procuring of less expensive items, public stations often provide a local or Alaska dealer preference in their purchasing procedures which would be prohibited by this proposed provision. For all of the above reasons, the APBC opposes this provision.

(7) "Fails to maintain a register of qualified bidders for purposes of (6) of this subsection or fails to provide written notice of a bid proposal at least 30 days before the bids are opened to qualified bidders on the register." The APBC would oppose this provision since it is totally dependent on (6) above. In addition, stations having to comply with this provision would require at least some additional funding assistance in order to provide the clerical support necessary to comply with this provision.

In conclusion, while the APBC has only minor or no objections to one or two provisions of HB 307, the Commission finds the vast majority of the provisions in the bill either unnecessary, contrary to First Amendment guarantees of free speech and press, or unenforceable. For those reasons, the APBC would recommend that the bill not be enacted.

4/15/83

DATE

Charles M. Northrip
Charles M. Northrip
Executive Director
Alaska Public Broadcasting Commission
465-2846

4/18/83

DATE

Lisa Rudd
Lisa Rudd, Commissioner
Department of Administration

REPRESENTATIVE
JOE FLOOD
3423 WEST 79TH
ANCHORAGE, ALASKA 99502
(907) 243-7511

MEMBER
FINANCE COMMITTEE

DISTRICT 9
SOUTHWEST ANCHORAGE

Alaska State Legislature



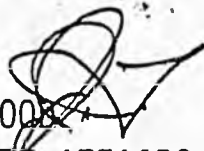
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STAFF COUNSEL
MARK K. JOHNSON

House of Representatives

APRIL 13, 1983

MEMORANDUM

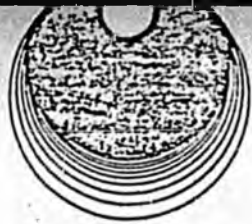
FROM: REPRESENTATIVE JOE FLOOD 
TO: ALL MEMBERS OF THE STATE AFFAIRS COMMITTEE

SUBJECT: SPONSOR AMENDMENT TO HB 307, AN ACT RELATING TO THE POWERS, DUTIES AND ORGANIZATION OF THE ALASKA PUBLIC BROADCASTING COMMISSION, RESTRICTING THE USE OF STATE MONEY FOR PUBLIC BROADCASTING; AND REQUIRING COMPETITIVE BIDDING AS A CONDITION FOR STATE GRANTS TO PUBLIC BROADCASTERS."

SPONSOR AMENDMENT # 1

PAGE 2, LINE 12

END OF LINE 12, DELETE ";" AND INSERT "FOR PROFIT;"



Raven Radio
KCAW • 104.7 FM

Post Office Box 520 • Sitka, Alaska 99835 • (907) 747-5877

April 1, 1983

Representative Ben Grussendorf
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Joe: what act
Take
This -
HB 307

Dear Ben,

I hope the session is going well for you. I have not been able to follow it as closely as in years past, because I have been either hospitalized or convalescing since mid-January. I am doing much better, and have been back at work full-time for about a week.

Yesterday a copy of House Bill 307 darkened my desk. The bill was introduced by Representative Joe Flood. If it becomes law, it will pose some real problems for KCAW and Public Radio in general. There is very little about the bill which I like, but I will focus on just a few points which I believe are particularly disastrous.

On page 2 line 1 is language which would prohibit anyone from using equipment for profit or personal purposes. There are times when it is in the best interest of Raven Radio and Sitka to allow such personal uses. Recently, for example, a producer received a contract from Alaska Arts Southeast to produce some radio spots for commercial stations promoting the Sitka Summer Fine Arts Camp around the State. Raven had the only facilities in Sitka suitable for producing and duplicating the tapes. The producer did benefit personally, but so did Raven Radio, Alaska Arts Southeast, and the community at large.

Of greater long-term concern, however, is the prohibition against the use of equipment for profit making purposes. The Federal Government has recently lifted that restriction, and has encouraged us to use our facilities to earn money which will make up for the Federal shortfall. National Public Radio has taken this admonition to heart and has plans to be completely off federal funds by 1986, (off the fix by '86 is the

slogan at NPR). In order to do this, NPR needs to be able to use the satellite downlinks at stations and the station's sub-carriers to distribute information for it's profit making ventures. This law would preclude Alaska's participation in these ventures, and would not only harm local stations, but weaken National Public Radio. I have asked N.P.R. to send you information about their plans. I hope you will be getting that soon.

Language on page 2, lines 3 - 10, would limit employment and overall salaries at public radio stations to twice the level at the largest commercial station in the service area. On the surface this seems generous, but there are some problems. This section first assumes that the commercial stations will release that data. Further, according to people at KIFW, salaries and contracts are only a small portion of employee compensation. There are commissions on advertising sales, bonuses, incentives and tradeouts which would not be listed under salaries and not available to non-commercial employees. This makes the provision less generous. The real question, however, is "what is the station trying to do?" Raven Radio has elected to put a heavy emphasis on local news, which I believe has raised the overall level of coverage of events, elections, and government in Sitka. KIFW does not choose to do that, because it is not profitable. KCAW has elected to become a regional station, serving outlying villages. This will raise our engineering personnel and contract costs, and will, hopefully, necessitate our paying some part-time news stringers in the villages served to phone in local news which would be of interest to both their communities and to people in Sitka. Must we limit the service we provide by what a local commercial station chooses to do? The real issue should be: What services should public radio deliver, and how can that be done most efficiently? not, What is commercial radio doing?

The most dangerous section of this bill, however, is on page two, lines 11 and 12. It would prohibit Public Radio from duplicating services already available in the service area. Marine Weather is available on KIFW and the NOAA weather radio; does that mean that KCAW cannot also read the marine forecast? That is admittedly a picky point, but what about news? KIFW and Cable News Network provide national news; does that mean that we cannot broadcast All Things Considered or Morning Edition? The Sentinel covers legislative elections; does that prohibit Raven from doing the same? If this bill is passed, the arbiter becomes a State Agency, the Alaska Public Broadcasting Commission. This is a dangerous power, one which is ripe with the possibility of abuse, and could leave us with a public radio system limited to classical music and Korean temple bells.

Finally, the section on page 2 lines 13 through 20 requiring sealed bids for purchases over \$3,000.00 will increase the costs for many of our purchases. Frankly, we do better in getting bids on the telephone and playing vendors off against each other. Raven Radio has one of the finest public radio facilities in the state for no more money than was spent on other stations because we used that system rather than the sealed bids. Also, there are times when we do not give the business to the lowest bidder. If a Sitka vendor, or an Alaska supplier gives us a bid within a few percentage points of a Seattle company, we will try to give the business to the local bidder. As much as possible, I believe we should spend money appropriated to a district in that district, and the extra few dollars we spend to, say, have the program guide printed in Sitka, pays off on other ways throughout the year.

Well, Ben, I have used up probably more paper than you really want to read, but this bill is just plain bad news. I hope you agree, and help us bury it very deep.

Sincerely,



Rich McClear

REPRESENTATIVE
JOE FLOOD
3423 WEST 79TH
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MEMBER
FINANCE COMMITTEE

DISTRICT 9
SOUTHWEST ANCHORAGE

Alaska State Legislature



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STAFF COUNSEL
MARK K. JOHNSON

House of Representatives

April 7, 1983

Mr. Rich McClear
RAVEN RADIO - KCAW
P.O. Box 520
Sitka, Alaska 99835

Dear Mr. McClear,

I would like to take this opportunity to respond to your letter addressed to your Representative Ben Grussendorf concerning HB 307, legislation concerning the Public Broadcast Commission; legislation which I introduced.

If I may, I would like to address the issues singled out in your letter. You made reference to "page 2, line 1", the prohibition of a public broadcast facility receiving state grants if they allow persons to rent or use their equipment for profit or personal benefit. The instance you cite as your argument against this provision is fortified by your statement, "Raven had the only facility in Sitka suitable for producing and duplicating the tapes." Does that mean that KCAW is the only station in Sitka that is capable of producing radio spots? It would occur to me that KIFW, being a commercial broadcast facility would be able to produce radio spots suitable for broadcast. Correct me if I'm wrong, but, most commercial broadcast stations will produce and/or duplicate public service announcements, and air them free of charge. I find no conflict in the area of P.S.A.s or the exchange of P.S.A. tape production or distribution of those tapes. Sub-section A (2) directs the members of the Public Broadcasting Commission to disallow the profitable use of Alaska P.B.S equipment and consider that when reviewing applications for state grants.

Addressing your second concern about the prohibition of using your equipment for profit making. That statute has been and is currently in effect. Title 44, Chapter 21, Section 264 of the Alaska Statutes clearly

prohibits such commercial use of Alaska P.B.S. equipment.

"Sec. 44.21.264. PURPOSE OF THE COMMISSION. The commission is created to encourage and supervise the development of an integrated public broadcasting system for the state and for the coordination of all public broadcasting stations. The primary purpose of the commission is the encouragement and support of noncommercial public broadcasting in the state through the provision of operating and capital grants in support of the delivery of noncommercial programs intended for a general audience by locally controlled nonprofit broadcast stations or telecommunications entities. The commission may support stations and entities which also engage in the delivery of instructional, for-credit programs, and the commission may provide funds for those purposes, but the primary purpose of commission funds is the support of activities that result in the delivery of general audience, noncommercial material."

Thirdly, the employee and employee salary limitations are not based on a need for "generosity". The F.C.C. has strong requirements for commercial broadcast stations to provide for their service areas. Such as news, weather, sports, public awareness programming, as well as public service announcements. To provide these requirements they must employ and pay a staff sufficient to provide these services, along with an administrative, technical, engineering and sales staff to generate the amount of income needed in the commercial marketplace to guarantee the on-going financial survival of that station. How then can any P.B.S. station justify more than twice the number of employees and/or twice the salaries of those employees of any commercial broadcast station, when the operating costs are underwritten by state and federal grants? You quote, This makes this provision less than generous." When are state and federal grants issued on the basis of "generosity"? These grants are not provided or intended to produce a P.B.S. facility capable of competition in the free enterprise marketplace with non-subsidized commercial broadcast entities. In effect, you have private business competing against their own federal tax dollars and funds from their state government! I think that you can see this is not equitable.

As to your argument concerning the duplication of available broadcast services, I will concede that this is vague and not clearly worded, and should be looked at closely. This section (Sub-section A (5)) is not intended to prevent such broadcast services as you pointed out and I appreciate you bringing this misunderstanding to light. Thank you.

In closing, Mr. McClear, this legislation is designed to assist the Public Broadcasting Commission in their scrutiny of state grant applications and is

not intended to "do in" any public broadcast entity. I'm sure that we agree that KCAW fits the existing and proposed guidelines and shall continue to be eligible for state and federal grants and will also continue to provide quality P.B.S. programming to Sitka and the state of Alaska.

Respectfully yours,

Joe Flood
State Representative

HB 306, (cont'd)

amendment). Does not provide for an effective date (becomes law 90 days after Governor's approval).

Introduced March 30 and referred to State Affairs, Finance.

AK Public
Broadcasting
Commission

(membership/
use of funds/
edit. control)

HOUSE BILL NO. 307, by Rep. Flood. Relates to the Alaska Public Broadcasting Commission. Amends AS 44.21.258 (Membership and Term of Office) by adding language stating that an employee of a public broadcasting station may not be appointed to a membership on the commission, and that a member of the commission may not serve for more than one term.

Adds a new section setting limits on the use of state money for grants made by the Commission. The Commission may not make a grant if the grant applicant broadcasts commercial advertising; allows rental or use of equipment for profit or personal benefits; employs, as paid employees, more than twice as many full-time or full-time equivalent employees as are employed by the largest commercial broadcasting station located in the service area of the applicant; pays more than twice as much for employee salaries and contract labor services than is paid by the largest commercial broadcasting station in the service area of the applicant, duplicates programming or broadcasting services available from other sources in the service area of the applicant; does not use sealed competitive bidding to obtain products or services that cost more than \$3,000 annually, accepting the lowest bid from a qualified bidder; or fails to maintain a register of qualified bidders or fails to provide written notice of a bid proposal at least 30 days before the bids are opened to the qualified bidders on the register.

Repeals AS 44.21.268(b) (Powers of the Commission. "(b) In performing its duties and exercising its authority under AS 44.21.010 - 44.21.330, the commission may not exercise control over the specific content or airing of any program material."

Does not provide for an effective date (becomes law 90 days after Governor's approval).

Introduced March 30 and referred to State Affairs, Finance.

Workers'
Compensation
(municipal
self-insur.)

HOUSE BILL NO. 308, by the Labor & Commerce Committee. See the Labor & Commerce substitute for Senate Bill No. 66, page 407, identical.

Introduced March 30 and referred to Labor & Commerce.

Appropriations
(reappropriations,
transfers)

HOUSE BILL NO. 309, by the Finance Committee. Makes re-appropriations and transfers among appropriations (resulting in a zero fiscal impact):

--repeals a \$50,000 1981 appropriation to Mary's Igloo for design of an energy efficient community in conjunction with relocation, and appropriates \$37,000 for payment as a grant to the City of

CHAPTER = 44.21
SECTION = 44.21.258
TITLE = 44

HEADINGS TITLE 44.

State Government.
CHAPTER 21.
Department of Administration.
ARTICLE 6.
Alaska Public Broadcasting Commission.

CITATION Sec. 44.21.258.

CATCH LINE

MEMBERSHIP AND TERM OF OFFICE.

TEXT (a) The commission consists of nine members appointed by the governor, without regard to political affiliation, subject to confirmation by a majority of the members of the legislature in joint session. In making appointments to the commission, the governor shall give due consideration to representation from such fields as higher education, elementary and secondary education, communications, commercial broadcasting, public health, public works, labor, commerce and the professions. Members may be removed only for cause.

(b) The members of the commission shall serve staggered terms of five years, with the initial terms determined by lot.

HISTORY (Sec. 1 ch 153 SLA 1970; am sec. 2 ch 87 SLA 1976; AS 14.58.020)

CHAPTER = 44.21
SECTION = 44.21.268
TITLE = 44

HEADINGS TITLE 44.

State Government.
CHAPTER 21.
Department of Administration.
ARTICLE 6.
Alaska Public Broadcasting Commission.

CITATION Sec. 44.21.268.

CATCH LINE

POWERS OF THE COMMISSION.

TEXT (a) The commission may
(1) employ all consultative, technical and clerical personnel necessary for the implementation of AS 44.21.010 - 44.21.330, within the limits of available funds;
(2) employ a director, who shall be directly responsible to the commission in financial and administrative matters;
(3) provide grants to locally controlled non-profit telecommunications entities which lease, purchase, construct, own, operate and manage and are the licensees of public broadcasting stations, production centers, and other related

equipment and facilities for the production and transmission of open circuit, closed circuit, 2,500 megahertz, and other transmission means necessary to provide fully effective public broadcasting in the state;

(4) appoint unpaid advisory committees to assist in development of programs for public television broadcasts;

(5) provide assistance to licensed commercial broadcasting stations for the broadcast of public affairs programming.

(b) In performing its duties and exercising its authority under AS 44.21.010 - 44.21.330, the commission may not exercise control over the specific content or airing of any program material.

HISTORY (Sec. 1 ch 153 SLA 1970; am sec. 5 ch 87 SLA 1976; AS 14.58.070; am Executive Order No. 50, sec. 5 (1981))

AS44.21.268 DOCUMENT

CHAPTER = 44.21
SECTION = 44.21.268
TITLE = 44

HEADINGS TITLE 44.

State Government.

CHAPTER 21.

Department of Administration.

ARTICLE 6.

Alaska Public Broadcasting Commission.

CITATION Sec. 44.21.268.

CATCH LINE

POWERS OF THE COMMISSION.

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(a) The commission may

(1) employ all consultative, technical and clerical personnel necessary for the implementation of AS 44.21.010 - 44.21.330, within the limits of available funds;

(2) employ a director, who shall be directly responsible to the commission in financial and administrative matters;

(3) provide grants to locally controlled non-profit telecommunications entities which lease, purchase, construct, own, operate and manage and are the licensees of public broadcasting stations, production centers, and other related equipment and facilities for the production and transmission of open circuit, closed circuit, 2,500 megahertz, and other transmission means necessary to provide fully effective public broadcasting in the state;

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(b) In performing its duties and exercising its authority under AS 44.21.010 - 44.21.330, the commission may not exercise control over the specific content or airing of any program material.

HISTORY (Sec. 1 ch 153 SLA 1970; am sec. 5 ch 87 SLA 1976; AS 14.58.070; am Executive Order No. 5J, sec. 5 (1981))

H B

3 2 3

I. REQUEST

Bill/Resolution No: SCSCSHB 323 (SA)

Title: Residency and residency requirements

Sponsor: State Affairs Committee

Requestor: Senate Judiciary

II. FISCAL DETAIL

Agency Affected: Revenue

Program Category Affected: Coll. & Mgmt.

BRU, Program of Subprogram(s) Affected:
Administration & Support

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	0	1.0	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	0	3.0	1.3	1.4	1.5	-
500 EQUIPMENT	0	2.0	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC.	-	-	-	-	-	-
TOTAL OPERATING	0	6.0	1.3	1.4	1.5	-
CAPITAL						
	-	-	-	-	-	-
REVENUE						
	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	6.0	1.3	1.4	1.5	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-
Sport Fish Fund	0	(18.2)	(38.5)	(40.8)	(43.4)	-
Game Fund	0	(14.1)	(30.0)	(31.8)	(33.6)	-

POSITIONS:

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

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Cecilia A. Wagoner

Division: Revenue - Fish and Game

Phone: 465-2376

Date: 6/13/83

Approved by Commissioner: Joseph P. Donohue

Department: Revenue

Date: 6/14/83

Distribution:

Original to Legislative Finance

Copy to Office of Management and Budget (for Legislature introduced bills)

Copy to Department (for Governor introduced bills)

Copy to Sponsor

Copy to Requestor (if different from Sponsor)

IV. Analysis of SCSCSHB 323 (State Affairs)

Three thousand is needed to initially design and print applications and the permanent I.D. card and to order enough laminating jackets for the fiscal year. Each subsequent fiscal year we will have the cost of additional laminating jackets. The equipment cost is for three laminating machines; one for the Public Services Counter in Anchorage, one for Fairbanks, and one for Juneau. The travel expenditure is for the Records & Licensing Supervisor to go to Anchorage and Fairbanks and instruct the counter employees.

According to data received from the Department of Labor and the Committee for Older Alaskans, the percentage rate of senior citizens in our state is fairly stable from year to year.

Using FY 82 as the base, it is estimated that there will be a six percent increase in resident sales every year. It is also estimated that three percent of the resident sales are sold to residents sixty years or older.

We are recommending that this bill be amended to include an effective date of January 1, 1984, because license changes traditionally take place at the beginning of a calendar year. If implemented in the middle of the year, some licensees who could be eligible would have already purchased their license and it wouldn't be fair to them. Middle of the year implementation would also require special printing and mailing costs. Time is also needed to properly inform the public of the new law so that all who are eligible can apply.

Assuming that the bill goes into effect 1/1/84, there will be no effect in FY 83. There will be losses to both the Sport Fish and Game Funds in each subsequent fiscal year. FY 84 has a much smaller loss because only half of the fiscal year will be effected.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF ADMINISTRATION

POUCH C (MS 0200)
JUNEAU, ALASKA 99811
PHONE: (907) 465-2200

OFFICE OF THE COMMISSIONER

April 19, 1983

RECEIVED
APR 26 1984

Representative John Lindauer
Chairman, House Subcommittee on Dept. of Administration's
Budget
Pouch V
Juneau, Alaska 99811

Re: Classification Study

Dear Rep. Lindauer,

This is in response to an inquiry regarding the need for a classification study. Currently the state sets salary ranges for various job classifications on the traditional system of classification. This means that the goal is to set salaries on the basis of market wages and internal equity by comparing similar classifications.

The Problems

There are many problems with this system. It was established over 40 years ago and is administered manually by classifiers who try to properly match some 13,000 positions to some 1,200 definitions of classifications ("class specifications"). The matching is based on written job descriptions usually prepared by the employees. Our present system is too easily manipulated by the way position descriptions are creatively written and too readily influenced by subjective evaluations and fluctuating market values. The result has been that the state cannot now respond to complaints filed by women and minorities who demand to know for example, why carpenters are paid more than secretaries.

Liability

The traditional system of classification which the state now uses does not have the ability to respond to these questions of "comparable worth". At the present time the Public Health Nurses have a complaint filed against the state with a current liability of approximately one million dollars because they claim they should be paid the same as physicians assistants. We do not even have a classification system which can tell if this claim is justified. Since all physicians assistants are men and the overwhelming majority of public health nurses are women,

Rep. John Lindauer
April 19, 1983
Page Two

the claim is made that the state is intentionally discriminating against women. Other groups of employees stand ready to challenge our present classification system on the same or similar bases. Therefore, we must obtain a new state-of-the-art classification system which can adequately respond to these charges of discrimination and which will allow employees salary ranges to be set on a more objective basis.

Necessary Legislative Action

What is needed is the necessary funds in order to publish a request for proposals to obtain a modern classification system. Many private companies have such systems which can be implemented by the state. Both unions and management should be involved in the selection process and agree ahead of time on the method to resolve disputes which will result from a new system. All positions in the state must be reevaluated and assigned to appropriate classifications as a result of implementing the new, more objective system. This system would be automated and accessible and the classification process would become an open process.

In order to know the approximate cost of such a large project, three private firms were contacted to obtain an unofficial estimate. The average was approximately \$500,000.00. This is a large amount of money and if we could obtain the new system for less, we would lapse the remaining funds. While this figure is high, it is small in comparison to our liability in the face of continuing complaints.

I will be glad to answer any questions you have on this subject.

Sincerely,



Lisa Rudd
Commissioner

LR/FR/gmw

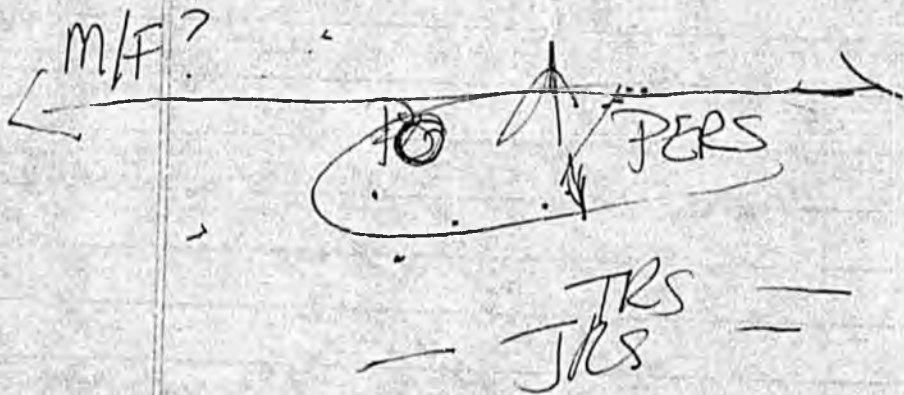
~~2500~~ 500

2500
1500

How job classif. vary
from Dept # 1510. for different rags

What skills are needed
for low-paying jobs?
Range 70-40

How many have college degrees?
How many overqualified, just
to get into system?



Bills

Court Adm removed from SRS

Teachers go back to 30 yr retirement

Open Registry System

Amend PA

Bargaining Unit Members by Range & Step Supervisors

Effective May 1, 1983

	A	B	C	D	E	F	J	K	L	M
9	0	0	0	0	0	0	0	0	0	0
10	0	0	0	0	1	0	0	0	0	0
11	0	2	0	0	0	1	0	0	0	0
12	2	7	2	3	4	1	4	2	0	0
13	0	0	1	1	0	2	0	0	0	0
14	9	5	10	3	3	7	3	0	0	0
15	0	5	2	3	4	3	0	1	0	0
16	6	9	5	3	5	6	1	4	1	0
17	3	5	3	2	3	6	4	4	2	0
18	20	27	19	9	19	18	11	18	2	2
19	6	8	5	12	11	20	8	7	2	0
20	23	27	26	28	25	42	31	39	10	3
21	12	11	13	10	12	15	19	18	7	1
22	17	13	17	13	24	25	14	25	5	1 154
23	7	10	11	8	7	16	10	12	4	1 86
24	0	5	4	4	4	6	5	6	0	0 31
25	1	0	1	0	2	0	3	1	0	0
26	0	0	0	0	0	1	0	1	1	0
27	0	0	0	0	0	1	1	0	1	0

Bargaining Unit Members by Range & Step GGU

Effective May 1, 1983

	A	B	C	D	E	F	J	K	L	M
5	48	0	0	0	0	0	0	0	0	0
6	35	4	11	5	2	4	0	1	0	0
7	255	156	51	28	12	25	2	14	3	1
8	259	299	155	66	43	69	32	28	8	1
9	265	156	73	36	23	37	8	17	6	3
10	116	28	75	46	43	52	23	17	6	0
11	228	134	54	26	18	20	9	9	4	0
12	170	131	90	77	45	39	33	25	3	0
13	140	208	68	40	47	75	17	25	8	1
14	227	155	104	73	43	62	33	19	3	0
15	55	32	26	26	34	32	23	26	8	1
16	270	214	146	97	65	87	31	47	6	2
17	62	50	26	15	4	17	7	2	1	0
18	112	131	90	80	57	77	49	66	16	4
19	62	38	49	34	30	37	15	20	4	0
20	16	30	20	20	20	23	11	6	1	2
21	25	16	28	15	16	29	9	15	1	1 309
22	1	2	6	3	5	6	2	6	0	0 31
23	2	0	0	0	0	0	0	0	0	0 2
24	1	0	1	0	0	0	0	4	0	0 6
25	0	0	0	0	0	0	0	0	0	0
26	0	0	0	0	0	0	0	0	0	0
27	0	0	0	0	0	1	0	0	0	0

NOTE: ORIGINAL DOCUMENT IS COLOR-CODED. IF NECESSARY
TO PROPER INTERPRETATION, REFER TO ORIGINAL DOCUMENT
IN THE ALASKA STATE ARCHIVES

STATE OF ALASKA

Survey

Salaries & Benefits

KENNETH L. KAREEN
DIRECTOR of PERSONNEL

DECEMBER
1982

analysis

problem w/ % of COLA increases. lower ends hit hardest. yet COLA is based on % of your salary rather than a flat rate. should be more equitable


what determines range w/ job title. how can it be adjusted? Does AFSA have a say in structure as it is set-up currently? do not believe to say a sup to say best 4-5 - most exp, most exp. understand that for, commr only have sev I & I numerical at II & III's, few IV. yet, secretaries work done by III's primarily, but they are not classified higher than large 8.

class

Admin Officers

budget process, new comparable study classification

House budget 1/2 million — Lindau

after security schedule in prepared 3 3/4 no 

changing — last

Name: John M. [unclear] / John M. [unclear] | Labor Relations Guy | Frank Payne ~~PTA~~
 4403 | 4430

Percentage of emp in range 8-12 classes MIF
 Range 13-18
 19-24
 25-27
 break down in groups & sep act.

give all back up on job titles that falling under (use check box) 37.5w/

Range 7A		CLT II
Range 8A	1,487	CLERK III
9A	1,578.00	CLERK IV
10A	1,673.00	Sec. I.
11A	1,782.00	Sec II
		Sec III
12A	1,889.00	Admin Admin ASST

what determines ~~class~~ range w/ job classification
 percentage that increase or raises vs. % of salaries.

can that job titles be raised, how

400 Salaries

Personnel Rules - in law + rules

Title 34 — Exa Gov off.
D/C, where: Politically exempt. No names
classified open to public
political appointees. 1 yr to get on list
or get fired

Met w Bert go thru rules
Ranking fine
Open list you could have more women on priority
than on top 5.

~~work place range~~ average for state
average for Adm ~~places~~ range 13+

special appro of. or amend Title 18 34) Chapter
~~for comparable work~~ 39.25 PA

to require d class
system to grow to
comparable work

H B

362

Introduced: 4/15/83
Referred: State Affairs,
Judiciary and Finance

BY THE RULES COMMITTEE
BY REQUEST OF THE
SPECIAL COMMITTEE ON
LEGISLATIVE REFORM

1 IN THE HOUSE

2 HOUSE BILL NO. 362

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to standards of conduct of legisla-
7 tors and legislative employees and establishing a
8 Legislative Ethics Commission; and providing for an
9 effective date."

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

11 * Section 1. AS 24 is amended by adding a new chapter to read:

12 CHAPTER 60. STANDARDS OF CONDUCT.

13 Sec. 24.60.010. LEGISLATIVE FINDINGS AND PURPOSE. The legisla-
14 ture finds that it is essential in the conduct of public business that
15 legislators hold the respect and confidence of the people. Legisla-
16 tors must avoid conduct that even appears to violate the trust the
17 people have placed in them. To ensure and preserve public confidence,
18 legislators should have the benefit of specific standards to guide
19 their conduct. Article II, sec. 12, Constitution of the State of
20 Alaska grants to each house of the legislature the power to judge the
21 qualifications of its members. It is the purpose of this Act to
22 establish standards of conduct for state legislators and legislative
23 employees and to establish the Legislative Ethics Commission to con-
24 sider alleged violations of this chapter and to render advisory opin-
25 ions to persons affected by this chapter.

26 Sec. 24.60.020. APPLICABILITY. (a) This chapter applies to a
27 member of the legislature, to a person employed by a member of the
28 legislature, and to a permanent or temporary employee of an agency of
29 the legislature. This chapter does not apply to

1 (1) a former member of the legislature or to a person
2 formerly employed by a member of the legislature or an agency of the
3 legislature unless the provision specifically states that it so ap-
4 plies;

5 (2) a person elected to the legislature who at the time of
6 election is not a member of the legislature;

7 (3) a person employed by a member of the legislature or an
8 employee of an agency of the legislature whose compensation is below
9 Step A, Range 18 of the state salary schedule established in AS 39.-
10 27.011(c).

II
A
11 (b) The provisions of this chapter specifically repeal the
12 provisions of the common law relating to legislative conflict of
13 interest that may apply to a member of the legislature, a person
14 employed by a member of the legislature, or to a permanent or tempo-
15 rary employee of an agency of the legislature. They do not supersede
16 or repeal provisions of the criminal laws of the state.

III
A
17 Sec. 24.60.030. CONFLICTS OF INTEREST. (a) A person to whom
18 this chapter applies may not use public office for private advancement
19 or gain. *ad*

20 (b) A conflict of interest *is defined to* exist when a person to whom this
21 chapter applies has discretion to take or withhold official action or
22 exert influence which could substantially benefit or harm a financial
23 matter in which the person has a direct or indirect private interest.

24 (d) Conflicts of interest are prohibited but there is not a
25 ~~conflict of interest~~ if, as to a specific matter, there is no substan-
26 tial ~~impropriety~~ or appearance of impropriety because

27 (1) the person's interest is relatively insignificant;

28 (2) the person's authority is relatively far removed from
29 any official action that could reasonably be affected by the potential

1 conflict of interest, provided that no attempt has been made to remove
2 the appearance of impropriety by delegating responsibility for offi-
3 cial action.

4 (d) A conflict does not exist if no benefit or detriment accrues
5 to a person to whom this chapter applies beyond that which accrues
6 uniformly to members of the profession, occupation or group to which
7 the person belongs, or to the public at large.

8 Sec. 24.60.040. CONTRACTS. (a) A person to whom this chapter
9 applies may not be a party to or have an interest in a state contract
10 unless the contract is let by competitive bidding under AS 37.05.230
11 or the total annual amount of the state contract is \$1000 or less. A
12 person has an interest in a state contract under this section if the
13 person receives direct or indirect financial benefits. A person has
14 an interest in a state contract under this section if the contract is
15 awarded to

16 (1) a firm, corporation, or association that has assets in
17 excess of \$5,000,000 and in which the person has an ownership interest
18 greater than 10 percent or ~~that has assets of \$5,000,000 or less and~~
19 ~~in which the person has an ownership interest greater than 25 percent;~~
20 ~~or~~

21 (2) a partnership in which the person is a partner.

22 (b) In this section, "direct or indirect financial benefits"
23 means income, profits or other financial benefits under a state con-
24 tract, without regard to whether the person is a party to the con-
25 tract, and without regard to whether the income, profits or other
26 financial benefits inure to the person as a partner, shareholder,
27 investor, agent, employee, consultant, or joint venturer of the con-
28 tractor.

29 Sec. 24.60.050. STATE LOANS. (a) It is not a conflict of

1 interest for a person to whom this chapter applies to participate in a
2 state program or to receive a loan from the state if the program or
3 loan is generally available to members of the public, is subject to
4 fixed eligibility standards, and minimal discretion is exercised in
5 determining qualification.

6 (b) In determining whether a conflict of interest exists with
7 respect to a state program or to a state loan other than those de-
8 scribed in (a) of this section, because a legislator may be in a
9 position to influence the loan agency, the ethics commission must
10 consider, but is not limited to, the adequacy of existing administra-
11 tive procedures for granting and reviewing loans to legislators.

12 (c) Upon application for a state loan by a person to whom this
13 chapter applies, other than loans described in (a) of this section,
14 the lending agency must send a copy of the application to the Alaska
15 Public Offices Commission, which will incorporate the material into
16 the applicant's financial disclosure statement, if the applicant is
17 required to file a disclosure statement. All records relating to a
18 state loan to a person to whom this chapter applies may be disclosed
19 to the ^{ethics} commission.

20 (d) Each February 1st, each loan agency ^{must} publish a listing
21 of all outstanding loans to persons to whom this chapter applies,
22 except for loans described in (a) of this section. The list ^{must} ~~must~~ ^{shall}
23 include the name of the person, the date of issuance and current
24 status of the loan.

25 (e) State agencies that have authority to grant loans shall
26 adopt regulations that establish separate procedures for granting and
27 reviewing loans to a person to whom this chapter applies. However,
28 the regulations need not govern loans described in (a) of this sec-
29 tion.

1 (f) The division of legislative audit shall annually review
2 state loans granted to or held by persons to whom this chapter applies
3 to determine whether appropriate procedures were observed in granting
4 or reviewing the loans. The division shall report its findings to the
5 ethics commission by April 1.

6 (g) For purposes of this section "state program" means a program
7 in which tangible assets of the state or a right to use tangible
8 assets of the state are transferred from the state to a private per-
9 son.

10 Sec. 24.60.060. CONFIDENTIAL INFORMATION. It is a conflict of
11 interest if a person to whom this chapter applies discloses or uses
12 for personal gain or for the personal gain of another, information
13 that by law is not available to the public and that the person ac-
14 quired in the course of official duties.

15 Sec. 24.60.070. INTERESTS BETWEEN PUBLIC OFFICIALS. (a) A
16 person to whom this chapter applies shall disclose to the commission
17 the formation or maintenance of a close economic association involving
18 a substantial financial matter with

19 (1) a supervisor who has responsibility or authority,
20 either directly or indirectly, over the person's employment, including
21 preparing or reviewing performance evaluations, or granting or approv-
22 ing pay raises or promotions;

23 (2) legislators;

24 (3) a public official in another branch, if the public
25 official is required to file a financial disclosure statement under
26 AS 39.50.

27 (b) It is a prohibited conflict of interest for a person to whom
28 this chapter applies to form or maintain a close economic association
29 involving a substantial financial matter with a lobbyist who is not a

legislator

1 member of the immediate family of the person.

2 Sec. 24.60.080. GIFTS. (a) A person to whom this chapter
3 applies may not solicit a gift in any amount, or accept or receive,
4 directly or indirectly, a gift in excess of \$100, whether in the form
5 of money, services, a loan, travel, entertainment, hospitality, or
6 other form, under circumstances in which it may reasonably be inferred
7 that the gift is intended to influence the person in the performance
8 of the duties of the person or is intended as a reward for an official
9 action by the person.

10 (b) It is not a conflict of interest under this section if a
11 person to whom this chapter applies accepts

12 (1) hospitality at another person's residence, including
13 meals, lodging or ground or water transportation;

14 (2) discounts that are generally available to the public or
15 a large class of persons to which the person belongs;

16 (3) an invitation to attend a meal or social event that
17 does not exceed \$100 in value received by the person for each meal or
18 event and that does not in the aggregate exceed \$250 in value during
19 the calendar year from one person; or

20 (4) gifts from the person's immediate family.

21 (c) The commission may establish policies that limit the extent
22 to which persons to whom this chapter applies may accept the benefits
23 set out in (b)(2) of this section, or that require public officials to
24 turn over the benefits to the agency.

25 Sec. 24.60.090. NEPOTISM. (a) An individual who is related to
26 a member of the legislature may not be employed in the house in which
27 the legislator is a member, by an agency of the legislature estab-
28 lished under AS 24.20, or in the other house during the interim be-
29 tween sessions. An individual who is related to an employee of the

1 legislature may not be employed in a position over which the employee
2 has supervisory authority. In this subsection, "an individual who is
3 related to" means a child, husband, wife, mother, father, sister,
4 brother, or a permanent member of the legislator's household.

5 (b) An individual is not employed if no compensation is received
6 from the state for the services provided.

7 Sec. 24.60.100. REPRESENTATION BY LEGISLATORS. (a) Except as
8 provided in this section, a member of the legislature or a person
9 employed by an agency of the legislature established under AS 24.20
10 may not represent another person for compensation before an agency,
11 board, or commission of the state.

12 (b) A member of the legislature may represent a client in

13 (1) an action before a court of the state; or

14 (2) a matter which was pending at the time a person to whom
15 this chapter applies assumes office or is employed.

16 (c) A legislator cannot avoid a conflict of interest under this
17 section by waiving compensation for representing another person under
18 circumstances where compensation would ordinarily be expected.

19 Sec. 24.60.110. ACTION ON A CONFLICT OF INTEREST. A legislator
20 who has a conflict of interest shall immediately

21 (1) resign the position;

22 (2) divest the interest that has resulted in the conflict
23 or potential conflict; or

24 (3) disclose the conflict of interest in the journal of the
25 appropriate body or if the legislature is not in session to the com-
26 mission which shall maintain a public record of the disclosure and
27 forward the disclosure to the respective house for inclusion in the
28 journal for the first day of the session.

29 Sec. 24.60.120. STATE PROPERTY AND FUNDS. A person to whom this

in the bill

1 chapter applies may not use state property or funds for private gain
2 or campaign purposes.

3 Sec. 24.60.130. LEGISLATIVE ETHICS COMMISSION. (a) There is
4 established within the legislative branch of the state government the
5 Legislative Ethics Commission.

6 (b) The commission consists of seven members appointed as fol-
7 lows:

8 (1) the president of the senate shall appoint one member to
9 the commission from the senate with the concurrence by roll call vote
10 of three-fourths of the full membership of the senate;

11 (2) the speaker of the house of representatives shall
12 appoint one member to the commission from the house of representatives
13 with the concurrence by roll call vote of three-fourths of the full
14 membership of the house;

15 (3) the president of the senate shall appoint to the com-
16 mission two persons who are citizens of the United States and resi-
17 dents of the state with the concurrence by roll call vote of two-
18 thirds of the full membership of the senate;

19 (4) the speaker of the house of representatives shall
20 appoint to the commission two persons who are citizens of the United
21 States and residents of the state with the concurrence by roll call
22 vote of two-thirds of the full membership of the house;

23 (5) one member of the commission shall be a former legisla-
24 tor of the state who is appointed by the other members of the commis-
25 sion. *no of votes to appoint may of govern?*

26 (c) No more than four members of the commission may be members
27 of the same political party or residents of the same borough or of the
28 unorganized borough.

29 (d) The members of the commission shall elect a chair and vice-

1 chair and may elect other officers. Those members of the commission
2 who are members of the legislature may not serve as chair or vice-
3 chair.

4 (e) The term of office of a public member of the commission is
5 four years from February 1 of the year of appointment and until a
6 successor is appointed and qualifies. A legislator appointed to the
7 commission may not serve beyond the expiration of the legislative term
8 of office. A commission member may not serve more than one full term.

9 (f) A member of the commission may not

10 (1) hold or seek elective office; *consider non party*

11 (2) be an officer of a political party, political commit-
12 tee, or group; or

13 (3) lobby. *defined by statute? 1 leg or adm 24.45*

14 (g) The provisions of (f) of this section do not apply to the
15 members of the commission appointed under (b)(1) and (2) of this
16 section.

17 (h) A vacancy on the commission shall be filled under (b) of
18 this section for the balance of the term.

19 (i) The commission may contract for professional services and
20 may employ staff as it considers necessary. A member of the commis-
21 sion may not serve on the staff of the commission.

22 (j) A member of the commission receives no compensation for
23 service on the commission. Members of the commission are entitled to
24 travel expenses and per diem authorized by law for members of boards
25 and commissions under AS 39.20.180, but a member of the commission who
26 is a legislator is not entitled to travel expenses and per diem from
27 the commission if the legislator is receiving travel expenses and per
28 diem as a legislator.

29 Sec. 24.60.140. DUTIES OF THE COMMISSION. The commission shall

1 (1) adopt regulations to facilitate the receipt of
2 inquiries and prompt rendition of its opinions;

3 (2) recommend legislation to the legislature the commission
4 considers desirable or necessary to promote and maintain high stan-
5 dards of ethical conduct in government;

6 (3) subpoena witnesses, administer oaths, and take testi-
7 mony relating to matters before the commission, and may require the
8 production for examination of any books or papers relating to any
9 matter under investigation before the commission;

10 (4) publish semi-annual summaries of decisions, advisory
11 opinions and informal advisory opinions, with sufficient deletions in
12 the summaries to prevent disclosing the identity of the persons in-
13 volved in the decisions or opinions which have remained confidential.

14 Sec. 24.60.150. ADVISORY OPINIONS. The commission shall issue
15 an advisory opinion on the request of a person to whom the chapter
16 applies as to whether the facts and circumstances of a particular case
17 constitute a violation of ethical standards. If an advisory opinion
18 is not issued within 30 days after the request is filed with the
19 commission, the facts and circumstances of the particular case do not
20 constitute a violation of the ethical standards. The opinion issued
21 or considered issued is binding on the commission and in any subse-
22 quent proceedings concerning the facts and circumstances of the par-
23 ticular case unless material facts were omitted or misstated in the
24 request for the advisory opinion. Except as provided in this chapter
25 an advisory opinion is confidential but may be made public if a
26 written request by the person who requested the opinion is filed with
27 the commission.

28 Sec. 24.60.160. COMPLAINTS. (a) The commission may initiate,
29 receive and consider complaints alleging a violation of this chapter.

1 (b) Before the commission may exercise power authorized in (c)
2 of this section, the commission shall by resolution, supported by a
3 vote of three members of the commission, define the nature and scope
4 of the inquiry.

5 (c) The commission may investigate a violation of this chapter
6 in a proceeding begun within four years after the alleged violation
7 occurs and within one year after termination of state service. Noth-
8 ing in this subsection bars proceedings against a person who by fraud
9 prevents discovery of a violation of this chapter. A proceeding is
10 commenced by the filing of a complaint with the commission. No com-
11 plaint, other than a complaint initiated by five or more members of
12 the commission may be received within a period of 60 days preceding a
13 state primary or general election. *Now Gen Elect*

14 (d) A complaint shall be in writing and signed under oath by the
15 person making the complaint. A complaint may also be initiated by
16 three or more members of the commission. The commission shall notify
17 in writing each person against whom a complaint is received and afford
18 the person an opportunity to explain the conduct alleged to be a
19 violation of this chapter. If the commission determines that a com-
20 plaint does not contain allegations of facts sufficient, if the al-
21 leged facts are treated as true, to constitute a violation of this
22 chapter the commission shall summarily dismiss the complaint.

23 (e) The commission shall investigate the charges filed under
24 this section and issue an advisory opinion to the person alleged to
25 have violated a provision of this chapter. The commission shall
26 investigate all complaints on a confidential basis. If the advisory
27 opinion indicates a probable violation, the person against whom the
28 complaint was made may request a formal opinion or comply with the
29 advisory opinion. If the person fails to comply with the advisory

1 opinion or if a majority of the members of the commission determine
2 that there is probable cause for belief that a violation of this
3 chapter has occurred, the commission shall file a complaint against
4 the person charged with a violation of this chapter and the complaint
5 and statement of the alleged violation shall be personally served on
6 the person charged. The alleged violator has 20 days after service of
7 the complaint and statement to respond in writing to the commission.

8 (f) The commission may set a time and place for a hearing with
9 notice to the complainant, if any, and to the person charged with a
10 violation of this chapter. A representative of the commission and the
11 person charged with a violation of this chapter shall have an oppor-
12 tunity to be heard, to subpoena witnesses and require the production
13 of books or papers relating to the proceedings, to be represented by
14 counsel, and to have the right of cross-examination. Each witness
15 shall testify under oath. The hearings are closed to the public
16 unless the person charged with a violation of this chapter requests an
17 open hearing. The commission is not bound by the rules of evidence
18 but the commission's findings must be based upon competent and sub-
19 stantial evidence. The testimony taken at the hearing shall be re-
20 corded and evidence shall be maintained. The testimony and evidence
21 is available only to the staff of the commission and to the person
22 charged with a violation of this chapter. If the person charged with
23 the violation of a provision of this chapter requests a copy of the
24 transcript of testimony, the copy shall be furnished by the commission
25 without charge.

26 (g) A decision of the commission shall be in writing and signed
27 by four or more members of the commission. Each decision of the
28 commission must be accompanied by a written order of the commission
29 determining that a violation of this chapter exists or does not exist.

1 The order is confined to this determination. This order is a public
2 record.

3 (h) If the commission issues a decision that a member of the
4 legislature has violated a provision of this chapter or that a legis-
5 lator has declined or failed to cooperate with the commission, it
6 shall refer the decision to the presiding officers of the legislature.
7 The decision shall contain a statement of the facts determined to
8 constitute the violation or the failure to cooperate and may contain
9 recommendations concerning any penalties the legislature may lawfully
10 impose including imposition of civil penalties in an amount not to
11 exceed \$25,000, divestment of the interest, repaying profits, censure,
12 removal from committee assignments, termination of legislative privi-
13 leges, or expulsion. The commission shall make the decision public 30
14 days after the referral. Days during which the legislature is not in
15 session may not be counted in determining the 30-day period. The
16 legislature shall act on the decision as it considers appropriate.

17 (i) If four members of the commission agree to a decision that a
18 former member of the legislature or an employee or a former employee
19 of a legislator or of an agency of the legislature has violated a
20 provision of this chapter, the commission shall issue a public state-
21 ment of its decision 30 days after the date of the decision. The
22 legislature shall act on the decision as it considers appropriate. In
23 the case of an employee the action may include suspension, demotion,
24 or dismissal.

25 (j) A commission member or individual who divulges information
26 concerning a charge before the filing of a complaint by the commis-
27 sion, except as permitted by this chapter, is guilty of misuse of
28 confidential information under AS 11.56.860. *Advisory opinion*
Confidentially

29 Sec. 24.60.170. DEFINITION. In this chapter, "commission" means

1 the Legislative Ethics Commission.

2 * Sec. 2. Section 24.60.130 and Sec. 24.60.140 enacted in sec. 1 of
3 this Act take effect immediately in accordance with AS 01.10.070(c).

Berrier
5-4-83

A M E N D M E N T

Offered in the SENATE

By the State Affairs Committee

TO: CSSB 257 (State Affairs)

Page 12, line 10 through page 15, line 11:

Delete all material and insert

"Sec. 24.60.130. PROCEEDINGS BEFORE THE COMMISSION. (a) The commission may initiate, receive and consider complaints alleging a violation of this chapter.

(b) The commission may investigate a violation of this chapter in a proceeding begun within four years after the alleged violation occurs and within one year after termination of state service. Nothing in this subsection bars proceedings against a person who by fraud prevents discovery of a violation of this chapter.

(c) Before the commission may exercise power authorized in this section, the commission shall by resolution, supported by a majority vote of the full membership of the commission, define the nature and scope of the inquiry. The commission shall investigate all complaints on a confidential basis.

(d) A proceeding is commenced by the filing of a complaint with the commission. A complaint may be initiated by a private person or by three or more members of the commission. A complaint shall be in writing and signed under oath by the person making the complaint. No complaint, other than a complaint initiated by five or more members of the commission may be received within a period of 60 days preceding a state primary or general election.

(e) The commission shall notify in writing each person against whom a complaint is received and afford the person an opportunity to explain the conduct alleged to be a violation of this chapter. If the commission determines that a complaint does not contain allegations of facts sufficient, if the alleged facts are treated as true, to constitute a violation of this chapter the commission may summarily dismiss the complaint.

(f) The commission shall investigate the charges filed under this section and issue an advisory opinion to the person alleged to have violated a provision of this chapter.

(g) If the commission determines that a probable violation exists that may be corrected by action of the person and that does not warrant sanctions other than correction, the advisory opinion shall recommend corrective action. The person against whom the complaint was made may comply with the opinion or may request a hearing before the commission. After the hearing the commission may amend or affirm the advisory opinion.

(h) If the person fails to comply with the advisory opinion or if a majority of the members of the commission determine that there is probable cause for belief that a violation of this chapter that may not be corrected under (g) of this section has occurred, the commission shall formally charge the person. The charge and statement of the alleged violation shall be personally served on the person charged. The alleged violator has 20 days after service of the charge and statement to respond in writing to the commission.

(i) The commission may set a time and place for a hearing before

the commission with notice to the complainant, if any, and to the person charged with a violation of this chapter. A representative of the commission and the person charged with a violation of this chapter shall have an opportunity to be heard, to subpoena witnesses and require the production of books or papers relating to the proceedings, to be represented by counsel, and to have the right of cross-examination. Each witness shall testify under oath. Hearings are closed to the public unless the person charged with a violation of this chapter requests an open hearing. The commission is not bound by the rules of evidence but the commission's findings must be based upon competent and substantial evidence. Testimony taken at the hearing shall be recorded and evidence shall be maintained. The testimony and evidence is available only to the commission and its staff and to the person charged with a violation of this chapter. If the person charged with the violation of a provision of this chapter requests a copy of the transcript of testimony, the copy shall be furnished by the commission without charge.

(j) A decision of the commission shall be in writing and signed by four or more members of the commission. Each decision of the commission must be accompanied by a written order of the commission determining that a violation of this chapter exists or does not exist. The order is confined to this determination. This order is a public record.

(k) If the commission issues a decision finding that a member of the legislature has violated a provision of this chapter or that a legislator has declined or failed to cooperate with the commission, it

shall refer the decision to the presiding officers of the legislature. The decision shall contain a statement of the facts determined to constitute the violation or the failure to cooperate and may contain recommendations concerning any penalties the legislature may lawfully impose including imposition of civil penalties in an amount not to exceed \$25,000, required divestiture of the interest, repaying profits, censure, removal from committee assignments, termination of legislative privileges, or expulsion. The commission shall make the decision public 30 days after the referral. Days during which the legislature is not in session may not be counted in determining the 30-day period. The legislature shall act on the decision as it considers appropriate.

(1) If four members of the commission agree to a decision that a former member of the legislature or an employee or a former employee of a legislator or of an agency of the legislature has violated a provision of this chapter, the commission shall issue a public statement of its decision 30 days after the date of the decision. The legislature shall act on the decision as it considers appropriate. In the case of an employee the action may include suspension, demotion, or dismissal. The employee is entitled to a hearing before final action is taken.

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

SB 257: ANALYSIS BY SECTION

BY MARK HIGGINS
APRIL 24, 1983

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SB 257: Analysis by Section

By Mark Higgins

April 24, 1983

I Sec. 24.60.010 LEGISLATIVE FINDINGS AND PURPOSE

Commentary: The language in this section is generally good. However, as the new chapter will apply to employees of the legislature as well as legislators, I would amend it as follows:

adopted
a) Lines 15-19 are amended to read: Legislators and legislative employees must avoid conduct that even appears to violate the trust the people have placed in them. To ensure and preserve public confidence, legislators and legislative employees should have the benefit of specific standards to guide their conduct.

b) Further Amendment: To the end of this section add the following sentence: This chapter shall be liberally construed to promote high standards of ethical conduct in the legislature."

The addition of this sentence would provide the commission and courts latitude in interpreting whether or not a situation violates the intent of the law, even if it does not specifically violate the letter of the law.

Traditionally, ethics laws are defined broadly to allow reasonable application of general principles to specific situations. This clause is designed for that purpose and has proven to be a valuable aid to the application and enforcement of ethics legislation. It is especially useful to the courts when a commission decision is appealed based on the language of the law.

II Sec. 24.60.020 APPLICABILITY

a) Sub. Sec. (b) is amended to read: {Lines 11-12}

The provisions of this chapter {specifically repeal} supercede the provisions of the common law relating to legislative conflict of . . .

(b) {Lines 15-16}: {They do not...} Nothing in this chapter shall exempt any person from applicable provisions of any other laws of this state.

Commentary: It is not possible to repeal common law. In addition, this subsection, (b), is probably unnecessary as specific law always supercedes general law.

III Sec. 24.60.030 CONFLICTS OF INTEREST

- W
- a) Sub. Sec. (a) is amended to read: A person to whom this chapter applies may not use public office for private advancement or gain, or for the advancement or gain of the person's immediate family, or an organization with which the person is associated.
- b) Sub. Sec. (b) is amended to read: A conflict of interest is deemed to exist {exists} when a person to whom this chapter applies has discretion to take or withhold official action or ~~exist~~ influence which could substantially benefit or harm a financial matter which the person, ~~the person's immediate family, or an organization with which the person is associated with~~ has a direct or indirect private interest.
- V
- c) Sub. Sec. (c) is repealed and replaced with: (c) A person to whom this chapter applies shall not acquire financial interests in any business or other undertaking which the person has reason to believe may be directly involved in official action to be taken by the person.
- d) Sub. Sec. (d) is repealed and replaced with: (c) from the bill as written.
- c) Need to add (e): (d) as bill is written.

Commentary: The proposed amendments are fairly self explanatory. The suggested added provision (c) is common to ethics legislation and is intended to prohibit self-dealing conduct such as was possibly demonstrated in the Isabelle Pass situation of last session. This clause is intended to draw a distinction between existing conflicts which, in a state with as small a population as Alaska, often can not be avoided and the intentional establishment of a conflict by a public official for the purpose of private gain.

The key phrases in this clause are "directly involved" and "official action". These should and can be carefully defined. A legislator would not as a result of this clause be prohibited from acquiring a business or financial interest which at some point in the future may be affected by the legislators vote. A vote would not constitute "direct involvement" or "official action" as intended by the clause.

However, a legislator could not, if this clause is adopted, acquire a financial interest and then as a function of his or her official position direct the state to transact with that business interest.

IV Sec. 24.60.040 CONTRACTS

Commentary: The wording of the prohibitions established in this section is good and most areas are sufficiently covered to prevent self-dealing by public officials. The requirement of open-competitive bidding on substantive contracts should substantially enhance the public perception of legislative integrity.

Further, because of these specific guidelines, public officials will enjoy the same privileges as the general public in regard to State contracts. This is an important consideration given the part time nature of Alaska's "citizen" legislature and given the level of State involvement in the economy.

Other comments on Sec. 24.60.040:

- a) ~~Does the definition of "contract" include leases? Some states specifically reference leases as well as contracts (eg - Wisconsin).~~
- b) Does a person have an interest "indirectly" if an immediate family member or associated organization qualifies under Subsection (A)? If not, perhaps wording should be added similar to suggested amendments to Sec. 24.60.030 (CONFLICTS OF INTEREST).
- c) The definition of "an interest in a state contract" as defined in (a) is perhaps too generous. Maybe a straight 10% figure should be adopted.

Some states, like Hawaii for example, qualify restrictions on state contracts based on a "controlling interest" which is defined as: "an interest in a business or other undertaking which is sufficient in fact to control, whether the interest be greater or less than fifty percent."

- d) Sole Source Contracts: the bill as written does not include a provision allowing the State to circumvent the open-bidding requirement when it is in the best interest of the State to do so. Sole source contracting, is an important consideration in Alaska, where conditions often dictate special requirements or time limitations.

Recommended Wording: (From Hawaii Statute 84-15(a))

"A State agency shall not enter into any contract with a legislator or an employee or with a business in which a legislator or an employee has a controlling interest, involving services or property of a value in excess of \$1,000 unless the contract has been awarded through an open, public process. A State agency may, however, enter into such contract without resort to a competitive

bidding process when, in the judgement of the agency, the property or services should not, in the public interest, be acquired through competitive bidding; provided that written justification for the non-competitive award of such contract shall be made a matter of public record and shall be filed with the state ethics commission at least ten days before such contract is entered into." (emphasis added).

c) Need Section on Contract Voidability:

The bill as written has no provision for voiding contracts joined in violation of this chapter. Contract voidability is an important provision and I would recommend the following wording (from: Hawaii 84-16):

"In addition to any other penalty provided by law, any contract entered into by the State in violation of this chapter is voidable on behalf of the state; provided that in any action to avoid a contract pursuant to this section the interests of third parties who may be damaged thereby shall be taken into account, and the action to void the transaction is initiated within sixty days after the determination of a violation under this chapter. The Attorney General shall have the authority to enforce this provision.

V Sec. 24.60.050 STATE LOANS

There are several questions regarding this section which will be addressed in relation to the subsection they fall under.

- A) Sub. Sec. (C): Requires lending agencies to send a copy of any application for loan not covered by (a) of the section to the Alaska Public Offices Commission. the APOC is to incorporate the material into the applicant's financial disclosure statement. The material may be disclosed to the ethics commission.

Commentary: This subsection raises several considerations:

- 1) What type of loan would not be subject to procedures outlined in (a) of this section? If there are such loans, is it desirable that state officials have access to them?
- 2) The bill as written states no time frame/limit within which the lending agency must submit the application to APOC. while this could probably be handled by regulation, it would be better to state it clearly in the statute.

- 3) Legislative employees are not required to file disclosure statements. Yet this chapter will apply to them as well as to legislators. What procedure is to be followed when they apply for a loan covered by this section?
- 4) APOC as receptor of loan application: A major problem relates to the assignment of APOC as receptor of the loan application. Financial disclosure statements required by AS 39.50.120 are not nearly as revealing as most loan applications. Individuals covered by this chapter would undoubtedly protest that their privacy would be jeopardized if the APOC had access to more intimate personal financial data than is currently required under present disclosure laws.

Further, records maintained by the APOC are open to public inspection. Given the requirement of confidentiality of investigation under all sections of this chapter, it would be contradictory to allow public inspection of official's loan applications, as would be the case if they were filed with the APOC.

Proposed Solution:

Given that most loans, if not all, would fall into sub category (a) of this section and realizing that any that did not should be carefully scrutinized if they involve a public official, I would recommend that the APOC not be assigned receptor of loan applications as defined in (C). The APOC has no jurisdiction in any other section of this chapter and would perform no function other than storage of the loan applications. Given the privacy issue which would be raised if the APOC is included, I would offer the following amendment to subsection (C).

Require that:

- a) each loan which falls into category (C) be reviewed by the division of legislative audit before it is approved;
- b) in reviewing the loan application, the division of legislative audit could request from the APOC any financial disclosure data contained in the applicant's file;
- c) If after reviewing the loan application, the division of legislative audit found cause to suspect that the loan would violate the intent of the chapter, it would refer the application and all relevant documentation to the ethics commission for review;

- d) The ethics commission would be required to render an opinion regarding the appropriateness of the loan within a specified time. If no opinion was rendered within the specified time, it would be deemed that the application did not violate the intent of the chapter.

If adopted, this amendment would further assure the public that legislators and legislative employees would be carefully scrutinized when applying for state funds where discretion is exercised in determining qualifications. Given the small size of Alaska's legislature and given that few loans would fall into such a "discretionary" category, the above suggested procedure would not prove unjustifiably burdensome.

- B) Sub. Sec. (d): states that loan agencies shall annually publish a listing of all outstanding loans except for loans described in (a).

Question: Where do they publish the list? Shouldn't they be required to send a copy of the list to either the division of legislative audit or the ethics commission, or both?

- C) Sub. Sec. (e): Given the fact that the ethics commission will be the ultimate judge of conflicts involving state loans to persons covered by this chapter, wouldn't it be advisable to require state agencies to submit a proposed regulation for commission review or approval before it is implemented. Such a procedure would ensure the establishment of adequate administrative procedures and would limit commission rulings to whether or not these procedures were followed.

- D) Sub. Sec. (F): What action is to be taken by the commission if the loans are in violation of the chapter? Are they voidable? Can the state sue for recovery of funds and damages? What about innocent third parties?

VI Sec. 24.60.060 CONFIDENTIAL INFORMATION

Amend to: It is a conflict of interest if a person to whom this chapter applies discloses or uses for personal gain or for the personal gain of another person or organization, information that by law or practice is not available to the public and that the person acquired in the course of official duties.

Commentary: These amendments are fairly self-explanatory. By adding the words "or practice", the law would be substantially tightened. Such wording was strongly recommended by the executive director of Hawaii's Ethics Commission.

VII Sec. 24.60.070 INTERESTS BETWEEN PUBLIC OFFICIALS

This section as written is less restrictive than many state's statutes regarding financial dealings between public officials. But given the special conditions in Alaska, it is probably sufficient. I would, however, offer the following amendments:

- 1) Amend (a) to: A person to whom this chapter applies shall disclose in writing to the commission . . .
- 2) Amend (a)2 to: {legislators} another person to whom this chapter applies.
- 3) Amend (b) to: . . . involving a substantial financial matter with a lobbyist, as defined by AS 24.45.181, who is not a member of the immediate family of the person.

VIII Sec. 24.60.080 GIFTS

- A) Amend (a) to: A person to whom this chapter applies may not solicit a gift in any amount, or accept or receive, directly or indirectly, a gift having an aggregate value in excess of one hundred dollars (\$100) in any calendar year from any person or organization, whether in the form of money, services, a loan, travel, entertainment, hospitality, promise, or other form, under circumstances in which it may reasonably be inferred that the gift is intended to influence the person in the performance of the duties of the person or is intended as a reward for an official action or inaction, by the person.

Commentary: This amendment would prevent a person or organization from giving an official several gifts, each of an individual value less than \$100, but with a combined value in excess of \$100.

- B) Amend Sub. Sec. (b), to read: hospitality from another person at {another} that person's residence, including meals, lodging or ground or water transportation;

Commentary: This amendment would tighten the wording of this clause and would prevent a person or organization from skirting the intent of the gift provision by offering an official "hospitality" at a commercial lodge or guide service, etc.

For example, if this subsection is adopted as written, a person or organization could pay for a public officials trip or stay ("hospitality") at a commercial lodge, if the owner of the lodge ("another person") resided there, even though the person or organization funding the trip had no association with the residence. This amendment would prevent that.

- C) Amend (b)3 to read: an invitation to attend a meal or social event that does not exceed \$100 in value received by the person for each meal or event and that does not in the aggregate exceed \$250 in value during the calendar year from one person or organization; or
- D) Sub. Sec. needed: (d) No person or organization may offer or give to a public official to whom this chapter applies, directly or indirectly, any gift which the public official is prohibited from accepting pursuant to subsection (a) of this section.

Commentary: The addition of this clause, which is contained in many state's gift provisions, would make the giver or offerer of an illegal gift equally liable with the official who accepts it.

VIX Sec. 24.60.090 NEPOTISM

Question: What is the definition of "a permanent member of the legislators household"? Is this legally definable?

Most states are grappling with the problem of how to include "live-in lovers" in their laws. But will this clause accomplish that adequately? Would renters be considered "permanent members"?

X Sec. 24.60.100 REPRESENTATION BY LEGISLATORS

Amend subsection (a) to read: Except as provided in this section, a member of the legislature or a person employed by an agency of the legislature established under AS 24.20 may not represent another person or organization for compensation before an agency, board, or commission of the State.

Commentary on sub. sec. (b):

- 1) How does sub. sec. (b) interface with AS 39.50.090(C)? Are they mutually compatible?
- 2) Are Alaskan courts considered State agencies? If not, then (b) is unnecessary, as the usual rule in ethics legislation is that courts are not generally considered to be agencies of the State. Consequently, this section would implicitly not have representation before a court by a person covered by this chapter.
- 3) Subsection needed? (d) This section does not apply to representation by a person covered by this chapter if that person is acting in his or her official capacity.

XI Sec. 24.60.110 ACTION ON A CONFLICT OF INTEREST

Commentary: This section seems unusually brief and fails to address employees of the legislature who are faced with a conflict of interest. As this section is extremely important to the chapter, I would recommend that it be re-written as follows:

- a) A person covered by this chapter, who in the discharge of official duties, is involved or about to be involved in any matter that could result in a conflict of interests on his or her part shall:
 - 1) Divest the interest that has resulted in the conflict or potential conflict; or
 - 2) Prepare a written statement describing such matter and the nature of the possible conflict of interest and
 - a) in the case of a legislator, deliver copies of the statement to the commission and the presiding officer of the appropriate body of the legislature, who shall cause such statement to be printed in the journal of the appropriate body or if the legislature is not in session, shall request that the commission maintain a public record of such statement which shall subsequently be included in the journal for the first day of the following session. Upon request of the legislator, the presiding officer of the appropriate body, shall excuse the legislator from votes, deliberations and other actions in regard to such matter; or
 - b) in the case of an employee of the legislature covered by this chapter, deliver a copy of the statement to the commission and to his or her immediate superior, if any, who shall assign the matter to another, or if the employee has no immediate superior, he or she shall take such steps as the commission shall prescribe or advise to remove himself or herself from influence over actions and decisions on the matter.

XII Sec. 24.60.120 STATE PROPERTY AND FUNDS

Amend to read: A person to whom this chapter applies may not use state property or funds for private gain or for the gain of others or for campaign purposes.

XIII Sec. 24.60.130 LEGISLATIVE ETHICS COMMISSION

Commentary: This section looks pretty good. A few questions:

- A) Sub. Sec. (e) states: "A commission member may not serve more than one full term." Does this mean four years, or a term "unit"? In other words, could someone who was appointed to fill a vacancy, serve the remainder of the term of the person who's vacancy they were filling, plus another full term, or could they just serve for the remainder of the term?
- B) There is no provision for staggering the terms of the initial appointees to the commission. Such a practice is common when forming a commission and is intended to provide continuity on the commission and also prevent any one member from dominating the commission for a long periods of time.

Recommended Wording: e) the term of office of a public member of the commission is five {four} years from February 1 of the year of appointment and until a successor is appointed and qualifies, except that the members first appointed shall be appointed for terms of office of one, two, three, four, and five years, respectively, and until their successors have been appointed and have qualified.

I suggested increasing the term of service to five years so that no commission member's term of office would coincide with a legislator who appointed him or her, as could be the case with Senate approval and a four year term.

XIV Sec. 24.60.140 DUTIES OF THE COMMISSION

No comments other than that I would recommend that the commission be required to publish annual rather than semi-annual summaries of its decisions and opinions. Annual publications would be consistent with most states and would reduce the bureaucratic requirements of the commission.

XV Sec. 24.60.150 ADVISORY OPINIONS

Amend to read: {Lines 19-20} The opinion issued or considered issued, until amended or revoked, is binding on the commission and in any . . .

Commentary: This amendment would allow the commission to change or revise a decision if facts are brought to light, which in good faith were not known at the issuance or non-issuance of the opinion.

XVI Sec. 24.60.160 COMPLAINTS

Questions:

- 1) How long will evidence be maintained?
- 2) Should not the evidence gathered be available to the Attorney General as well as staff and the commission in the event a referral is recommended?
- 3) Is a referral to the Attorney General possible, desirable for legislators who violate this chapter? employees of the legislature?

XVII Sec. 24.60.170 DEFINITIONS

Commentary: The definitions sections is an essential component of any ethics statute, both for citizen comprehension and court interpretation. This bill's definition section is grossly inadequate.

The following terms need to be defined:

"official action", "relatively insignificant", "relatively far removed", "close economic association", "substantial financial matters", "campaign purposes", "competent and substantial evidence", "state agency", and "organization" (if suggested amendments are adopted).

XVIII OTHER SECTIONS NOT INCLUDED WHICH COULD BE CONSIDERED

- 1) Joint and Several Liability: eg - "If two or more persons are responsible for any violation, they shall be jointly and severally liable." (Calif. statute).
- 2) Referral to the AG: eg - "The commission shall refer to the Attorney General violations of the law which in its opinion merit prosecution. The Attorney General shall have responsibility for all prosecutions under the law and may request from the commission all evidence collected in its investigation."
- 3) Severability of Chapter: eg - "If a part of this Act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this Act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the valid applications."
- 4) Honorariums and Fees Section

M. Matthew Higgins

Proposed Amendments to:

Sec. 24.60.030 CONFLICTS OF INTEREST by Mark Higgins

a) Sub. Sec. (b) [Lines 20-23] is amended to read:

B
A conflict of interest exists ^{as amended to} when a person to whom this chapter applies has discretion to take or withhold official action or exert influence which would [substantially] benefit or harm a [financial] matter which the person has a substantial direct or indirect [private] financial interest. A person has a substantial financial interest in a matter if

- 1) The person is associated with a business, directly or indirectly, as an officer, director, owner, partner, employee or owner of more than ten percent (10%) of the fair market value of such business; or
- 2) receives an aggregate annual income of more than five thousand dollars (\$5,000.00) from such business.

b) Sub. Sec. (c) is repealed and replaced with (d) from the bill as written.

c) Add new Sub. Sec. (d):

In this section "business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, holding company, self-employed individual, joint stock company, receivership, trust or other legal entity or undertaking organizes for economic gain, whether or not for profit.

d) Add new Sub. Sec. (d):

In this section "official action" means a decision, recommendation, approval, disapproval, or other action, including inaction, which involves use of discretionary authority.

adopted

Suggested Amendments to HB 362

by Rep. M.M. Miller

- 1 Pg. 1, L-18, after "legislators" add "and legislative employees". *adopt*
2. Pg. 1, L-25, add the following sentence, "This chapter shall be liberally construed to promote high standards of ethical conduct in the legislature." *adopt*
3. Pg. 1, L-29, after legislature. add, "Except for AS 24.60.090," *deleted.*
4. Pg. 2, L-11, delete "specifically repeal" and add "supercede". *adopt*
5. Pg.3, L-7, add a new subsection(e) as follows:

(e) If a member of the legislature determines that an actual conflict of interest exists, or receives an advisory opinion finding that a conflict of interest exists, the member of the legislature shall declare the interest on the floor or in committee, ask to be permitted not to vote, and file a written statement of the conflict of interest with the ethics commission within 48 hours of the determination that a conflict of interest exists. If a person employed by a member of the legislature determines that an actual conflict of interest exists, the person shall file a written statement with the ethics commission within 48 hours of the determination that a conflict of interest exists and may not participate further in the matter.

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6. Pg. 3, delete lines 16-20 and add the following:

~~(1) a firm, corporation, or association that the person has an interest in which is in fact sufficient to control, whether the interest is greater or less than fifty percent, or an ownership interest greater than 10 percent in a firm, corporation, or association that has assets in excess of \$5,000,000 or that has assets of \$5,000,000 or less and in which the person has an ownership interest greater than 25 percent; or~~

7. Pg. 3, L-11, after "less." add "except as set forth in subsection (c)." *deleted*

Pg. 3, L-28, add the following subsections:

(c) A state agency may enter into a contract without resort to the competitive bidding process under AS 37.05.230 when, in the judgment of the agency, the property or services should not, in the public interest, be acquired through competitive bidding. Written justification for the noncompetitive award of such contract shall be made a matter of public record and shall be filed with the ethics commission at least ten days before such contract is entered into.

(d) In addition to any other penalty provided by law, any contract entered into by the state in violation of this chapter is voidable on behalf of the state; provided that in any action to avoid a contract pursuant to this section, the interests of third parties who may be damaged thereby shall be taken into account, and the action to void the transaction is initiated within sixty days after the determination of a violation under this chapter. The Attorney General shall have the authority to enforce this provision.