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(III) The convening of a special session of the general assembly or the specification of business to be transacted at such special session;

(IV) The drafting, consideration, amendment, adoption, or defeat of any rule, standard, or rate of any state agency having rule-making authority.

(b) Subject to the exclusions and provisions of this paragraph (b), for the purpose of determining when contributions and expenditures become reportable in disclosure statements, "lobbying" includes activities undertaken by the person engaging in lobbying and persons acting at his request to prepare for lobbying which in fact ultimately occurs, provided:

(I) No such reports shall be required for activities occurring prior to the preceding calendar year;

(II) Expenditures shall not be reported when such expenditures are incurred by a person in the ordinary course of the business or affairs of such person and are not made for lobbying. Such nonreportable expenditures will include, but not be limited to, the keeping of books of account and the routine collection of statistics and other data.

(c) "Lobbying" does not include communications made by a person in response to a statute, rule, regulation, or order requiring such a communication.

(d) (I) "Lobbying" does not include communications by a person who appears before a committee of the general assembly or a rule-making board or commission solely as a result of an affirmative vote by the committee, board, or commission issuing a mandatory order or subpoena commanding that he appear and testify, or making such a person a respondent in such a proceeding whether or not he is reimbursed by the committee, board, or commission for his expenses incurred in making such appearance.

(II) Subject to the provisions of subparagraph (I) of this paragraph (d), "lobbying" includes such communications by any person who makes more than three such appearances before any committee, board, or commission in a calendar year. "Appearance", for the purpose of this paragraph (d), means the testimony given before a committee, board, or commission on a single issue, rule, rate, or bill, regardless of the actual number of physical appearances necessary to present the testimony.

(e) "Lobbying" does not include communications made by an attorney-at-law when such communications are made on behalf of a client whose name has been identified and when such communications constitute the practice of law subject to control by the judicial branch of the state of Colorado.

(f) "Lobbying" does not include duties performed by employees of the legislative department.

(g) "Person" means an individual, partnership, committee, association, corporation, or any other organization or group of persons.

(h) "Political committee" means any committee, association, or organization which accepts contributions or makes expenditures for the purpose of influencing or attempting to influence the election of candidates or

2 AAC 50.540. REPORTING COMPENSATION OR PAYMENTS BY THE EMPLOYER OF LOBBYIST. When reporting compensation to a lobbyist or payment to an employee, as required by AS 24.45.171(10)(A), (B), (D) and (E), the amount shown must include the gross wages paid or payable, and prorated as applicable, plus any benefits which are in place of wages, such as stock options or the purchase of annuities. Routine fringe benefits such as the employer's contribution to health plans, retirement plans, etc., which are made on behalf of all employees and the payment of employer's payroll taxes, are not payments to influence legislative or administrative action and are not reportable. (Eff. 12/29/77, Reg. 64)

Authority: AS 24.45.021(b)
AS 24.45.061(b)(3) and (6)
AS 24.45.171(10)(A),(B),(D)
and (E)

2 AAC 50.542. GIFTS AND EXCHANGES. "Gifts" and "exchanges," as used in AS 24.45.051(3) and (4), and for the purposes of AS 24.45 and 2 AAC 50, are not reportable by the lobbyist under AS 24.45.051 if the gift or exchange of an item of value is between members of the immediate family of the lobbyist. (Eff. 7/22/78, Reg. 67)

Authority: AS 24.45.021(b)

2 AAC 50.545. DEFINITIONS FOR 2 AAC 50.505 - 2 AAC 50.545. (a) In 2 AAC 50.505 - 2 AAC 50.545

(1) "person," in addition to the terms set out in AS 01.10.060(7), includes a labor union;

(2) "public official" means a public official as defined in AS 39.50.200(1); however, it does not include a judicial officer or an elected or appointed municipal officer.

(b) "Administrative action," as defined in AS 24.45.171(1), does not include normal inquiries of administrative agencies, or routine actions made necessary by law, or the actions of a person who limits his lobbying activities to appearances before any public proceeding of a regulatory or administrative agency which conducts proceedings in open public hearing for which public notice is given and which creates a record of all proceedings and provides access to the public records or transcripts and to all

material which is submitted as part of the record.

(c) "Communicate directly," as used in AS 24.45.171(8)(A), means to talk, either in person or by telephone, with any public official or legislative employee; it does not include time spent in the research, drafting, preparation, or adaptation of documents for use by the lobbyist.

(d) "Legislative action," as defined in AS 24.45.171(7), includes the actions of an "employee of the legislature acting in his official capacity," and any attempt to influence legislative action includes not only the elected official, but an employee of the legislature as well; money and time spent on lobbying activities involving a legislative employee is reportable by the lobbyist as required by AS 24.45.051 and the employer of a lobbyist as required by AS 24.45.061(b) and by this chapter. "Legislative employee" means an employee of the legislature acting in his "official capacity," as that term is used in AS 24.45.171(7).

(e) "Payments in support of or assistance to a lobbyist or his activities," as used in AS 24.45.171(10)(B), includes direct costs and expenses incurred by the employer in the current research, drafting, preparation and adaptation of documents for use by the lobbyist for the purpose of influencing legislative or administrative action.

(f) "Substantial or regular," as used in AS 24.45.171(8)(A), means that a person who is not employed specifically for the purpose of influencing legislative or administrative action, or a person whose contractual services are not specifically for the purpose of influencing legislative or administrative action, is considered to be a lobbyist if, within a 30-day period, he spends in excess of four hours in direct communication with a public official or legislative employee in activities directed toward

Sec. 39.50.050. Administration and inspection.

NOTES TO DECISIONS

Quoted in State, Pub. Offices Comm'n v. Marshall, Sup. Ct. Op. No. 2406 (File No. 5614), 633 P.2d 227 (1981).

Sec. 39.50.060. Penalty for wilful violation of disclosure requirements.

NOTES TO DECISIONS

Quoted in State, Pub. Offices Comm'n v. Marshall, Sup. Ct. Op. No. 2406 (File No. 5614), 633 P.2d 227 (1981).

Sec. 39.50.070. Failure to report by department, division, or deputy department heads.

NOTES TO DECISIONS

Cited in State, Pub. Offices Comm'n v. Marshall, Sup. Ct. Op. No. 2406 (File No. 5614), 633 P.2d 227 (1981).

Sec. 39.50.080. Failure to report by a commission or board chairman or member.

NOTES TO DECISIONS

Cited in State, Pub. Offices Comm'n v. Marshall, Sup. Ct. Op. No. 2406 (File No. 5614), 633 P.2d 227 (1981).

Sec. 39.50.110. Report of financial interests of judicial officers.

NOTES TO DECISIONS

Cited in State, Pub. Offices Comm'n v. Marshall, Sup. Ct. Op. No. 2406 (File No. 5614), 633 P.2d 227 (1981).

Sec. 39.50.200. Definitions. (a) In AS 39.50.010 — 39.50.200:

(1) "public official" means a judicial officer, a member of the legislature, the governor, the lieutenant governor, a person hired or

h

appointed as a department chairman or appointed or

(2) "judicial supreme court district court

(3) "child" stepchild;

(4) "committed under A

(5) "instruction agency, whether including state housing

(6) "municipal assemblyman board member planning or borough, AS 29.68.010

(7) "mother parent, and

(8) "source formed or whose income is because source of his proprietorship in which he a controlling proprietorship the origin of whom the se

(9) "assistant, administrative person similar

(b) In AS: the

(1) Agriculture assist in administrative

(2) Alaska

(3) Alcohol

(4) State

(5) Capital

(6) Board

appointed as the head or deputy head of, or director of a division within, a department in the executive branch, an assistant to the governor, chairman or member of a state commission or board, and each appointed or elected municipal officer;

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

(3) "child" includes a biological child, an adoptive child, and a stepchild;

(4) "commission" means the Alaska Public Offices Commission created under AS 15.13.020(a);

(5) "instrumentality of the state" means a state department or agency, whether in the legislative, judicial, or executive branch, including such entities as the University of Alaska and the Alaska State Housing Authority;

(6) "municipal officer" includes a borough or city mayor, borough assemblyman, city councilman, school board member, elected utility board member, city or borough manager, members of a city or borough planning or zoning commission within a home rule or general law city or borough, including but not limited to a unified municipality under AS 29.68.010 — 29.68.580;

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

(8) "source of income" means the entity for which service is performed or which is otherwise the origin of payment; if the person whose income is being reported is employed by another, his employer is the source of his income; but if he is self-employed by means of a sole proprietorship, partnership, professional corporation, or a corporation in which he or his spouse or his children, or a combination of them, hold a controlling interest, the "source" is the client or customer of the proprietorship, partnership or corporation, but if the entity which is the origin of payment is not the same as the client or customer for whom the service is performed, both are considered the source;

(9) "assistant to the governor" includes any executive, legislative, special, administrative or press assistant to the governor, and any person similarly employed.

(b) In AS 39.50.010 — 39.50.200 "state commission or board" means the

- (1) Agricultural Loan Advisory Board (created administratively to assist in administration of AS 03.10.010 — 03.10.060);
- (2) Alaska State Council on the Arts (AS 44.27.040);
- (3) Alcoholic Beverage Control Board (AS 04.06.010);
- (4) State Assessment Review Board (AS 43.56.040);
- (5) Capital Selection Committee (AS 44.06.110);
- (6) Board of Education (AS 14.07.075);

(4) "immediate family" means the spouse and dependent children of an individual;

(5) "individual" means a natural person;

(6) "influencing legislative or administrative action" means promoting, advocating, supporting, modifying, opposing or delaying or seeking to do the same with respect to any legislative or administrative action by means including but not limited to the provision or use of information, statistics, studies, analyses in written or oral form or format;

(7) "legislative action" means the preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, defeat or rejection of any bill, resolution, amendment, motion, report, nomination, appointment or other matter by the legislature, or by a standing, interim or special committee of the legislature, or by a member or employee of the legislature acting in his official capacity; it includes, but is not limited to, the action of the governor in approving or vetoing a bill or the action of the legislature in considering, overriding or sustaining that veto and the action of the legislature in considering, confirming or rejecting an executive appointment of the governor;

(8) "lobbyist" means

(A) a person who is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, to communicate directly or through his agents with any public official for the purpose of influencing legislative or administrative action if a substantial or regular portion of the activities for which he receives consideration is for the purpose of influencing legislative or administrative action; or

(B) a person who represents himself as engaging in the influencing of legislative or administrative action as a business, occupation or profession;

(9) "payment" means the disbursement, distribution, transfer, loan, advance, deposit, gift or other rendering or tendering of money, property, goods or services or anything else of value;

(10) "payment to influence legislative or administrative action" means any of the following:

(A) a direct or indirect payment to a lobbyist whether for salary, fee, compensation for expenses, or any other purpose, by a person employing, retaining or contracting for the services of the lobbyist separately or jointly with other persons;

(B) a payment in support of or assistance to a lobbyist or his activities, including but not limited to the direct payment of expenses incurred at the request or suggestion of the lobbyist;

(C) a payment which directly benefits a public official or a member of the immediate family of that official;

THE FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

Table 29
REGISTRATION OF LOBBYISTS

Activity reports					
State	Lobbyist registers with	Filed with	Frequency	Expenditures reported	Penalties for non-compliance
Alabama	Ethics Commission	Ethics Commission	Monthly(a,b)	•	Fine of not more than \$10,000 or more than 10 years imprisonment, or both.
Alaska	Public Offices Commission	Public Offices Commission	Monthly(c)	•	Fine of not more than \$1,000 or more than 1 year imprisonment, or both; civil penalty of \$1 per day (after 30 days, \$10 per day).
Arizona	Secretary of State	Secretary of State	Annually(d,e)	•	Prosecuted as a misdemeanor.
Arkansas	Clerk of House, Secy. of Sen.	Secretary of State	Quarterly	•	None specified.
California	Secretary of State	Secretary of State	Quarterly	•	Prosecuted as misdemeanor, subject to civil fines and 4-year prohibition from public office following conviction.
Colorado	Secretary of State	Secretary of State	Monthly(f)	•	Fine of not more than \$5,000 or 1 year imprisonment, or both; registration may be revoked.
Connecticut	Ethics Commission	Ethics Commission	Quarterly(g)	•	Fine of not more than \$1,000 or more than 1 year imprisonment, or both.
Delaware	Legislative Council	Legislative Council	Quarterly	•	(h)
Florida	Clerk of House, Secy. of Sen.	Clerk of House, Secy. of Sen.	Monthly(i); Semi-annually	•	Reprimand, censure or prohibit from lobbying(j)
Georgia	Secretary of State	Secretary of State	...	•	Prosecuted as a misdemeanor.
Hawaii	Ethics Commission	Ethics Commission	Biannually	•	Prosecuted as a misdemeanor.
Idaho	Secretary of State	Secretary of State	Quarterly(k)	•	Prosecuted as a misdemeanor subject to civil fines and possible per diem penalty.
Illinois	Secretary of State	Secretary of State	Jan., April & July (during ses.)	•	Prosecuted as a Class 3 felony (fine of not more than \$10,000 or more than 5 years imprisonment, or both).
Indiana	Secretary of State	Secretary of State	Following session	•	Prosecuted as a felony.
Iowa	Clerk of House, Secy. of Sen.	Clerk of House, Secy. of Sen.	Monthly	•	House suspension from lobbying; Senate: cancellation of registration.
Kansas	Secretary of State	Secretary of State	Jan-April(l)	•	Prosecuted as a Class II misdemeanor.
Kentucky	Attorney General	Attorney General	Following session	•	Fine up to \$5,000 or up to 5 years imprisonment, or both.
Louisiana	Clerk of House, Secy. of Sen.	Secretary of State	Monthly following ses. & annually	•	Fine of not more than \$500 or more than 6 months imprisonment, or both.
Maine	Secretary of State	Secretary of State	Semiannually	•	Fine of not more than \$1,000 or more than 11 months imprisonment, or both.
Maryland	Ethics Commission	Ethics Commission	...	•	Prosecuted as a misdemeanor.
Massachusetts	Secretary of State	Secretary of State	Semiannually	•	Fine of not less than \$100 or more than \$5,000.
Michigan	Secretary of State	Secretary of State	...	•	Prosecuted as a felony.
Minnesota	Ethical Practices Board	Ethical Practices Board	Four times yearly	•	Fine of \$5 per business day to maximum of \$100 and prosecuted as a misdemeanor.
Mississippi	Secretary of State	Secretary of State	Following session	•	Fine of not more than \$1,000 or 6 months in county jail for (f)(c) offense, or both.
Missouri	Clerk of House, Secy. of Sen.	Clerk of House, Secy. of Sen.	Three times session	•	Prosecuted as a misdemeanor.
Montana	Secy. of State	Secretary of State	Monthly	•	Prosecuted as a misdemeanor.
Nebraska	Clerk of Legislature	Clerk of Legislature	Monthly	•	Prosecuted as a misdemeanor.
Nevada	Legis. Counsel Bureau	Legis. Counsel Bureau	(n)	•	Prosecuted as a misdemeanor; perjury is a felony.
New Hampshire	Secretary of State	Secretary of State	Following session	•	Prosecuted as a misdemeanor.
New Jersey	Attorney General	Attorney General	Quarterly	•	Prosecuted as a crime of the fourth degree.

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Handwritten notes:
Lobbyist...
Secretary of State

New Mexico	Secretary of State	Secretary of State	(p)	•	Prosecuted as a misdemeanor; revocation of registration and prohibited from lobbying.
New York	N.Y. Temporary State Commission on Regulation of Lobbying	N.Y. Temporary State Commission on Regulation of Lobbying	Following session	•	Prosecuted as a misdemeanor.
				•	Prosecuted as a misdemeanor.

Nebraska	Clerk of Legislature	Clerk of Legislature	Monthly	•	Prosecuted as a misdemeanor.
Nevada	Legis. Counsel Bureau	Legis. Counsel Bureau	(a)	•	Prosecuted as a misdemeanor; perjury is a felony.
New Hampshire	Secretary of State	Secretary of State	Following session	•	Prosecuted as a misdemeanor.
New Jersey	Attorney General	Attorney General	Quarterly	•	Prosecuted as a crime of the fourth degree.

New Mexico	Secretary of State	Secretary of State	(p)	•	Prosecuted as a misdemeanor; revocation of registration and prohibited from lobbying.
New York	N.Y. Temporary State Commission on Regulation of Lobbying	N.Y. Temporary State Commission on Regulation of Lobbying	Following session	•	Prosecuted as a misdemeanor.
North Carolina	Secretary of State	Secretary of State	Annually	•	Prosecuted as a misdemeanor.
North Dakota	Secretary of State	Secretary of State	Annually	•	Prosecuted as a Class B misdemeanor.
Ohio	Senate Clerk	Senate Clerk	Jan. & July(q)	•	Prosecuted as a first or fourth degree misdemeanor.
Oklahoma	Joint Legis. Ethics Cmte.	Joint Legis. Ethics Cmte.	Annually	•	Prosecuted as a misdemeanor.
Oregon	Ethics Commission	Ethics Commission	Quarterly	•	Civil penalty for individuals not to exceed \$250, for other than individual, not to exceed \$1,000 for each violation.
Pennsylvania	Clerk of House, Secy. of Sen.	Clerk of House, Secy. of Sen.	Biannually	•	Prosecuted as a third degree misdemeanor.
Rhode Island	Secretary of State	Secretary of State	Three times/session	•	Fine of not less than \$100 or more than \$1,000 for agent; fine of not less than \$200 or more than \$5,000 for corporation; disbarment from agent capacity for 3 years from date of conviction.
South Carolina	Secretary of State	Secretary of State	Annually	•	Prosecuted as a misdemeanor.
South Dakota	Secretary of State	Secretary of State	Annually(r)	•	Fine of not more than \$1,000 or 1 year imprisonment, or both.
Tennessee	State Library & Archives	State Library & Archives	Following session	•	Prosecuted as a misdemeanor.
Texas	Secretary of State	Secretary of State	Monthly(d)	•	Prosecuted as a Class A misdemeanor and subject to additional fine, prosecuted as third degree felony if compensation contingent upon passage, defeat, approval or veto of a bill.
Utah	Lieutenant Governor	Prosecuted as a Class C misdemeanor.
Vermont	Secretary of State	Secretary of State	Annually(s)	•	Fine of not less than \$100 or more than \$500.
Virginia	Secy. of Commonwealth	Secy. of Commonwealth	Following session	•	Penalty of \$50/day for late filing for lobbyist and employer individually plus \$80 for each day after tenth day late.
Washington	Pub. Disclosure Commission	Pub. Disclosure Commission	Monthly	•	Prosecuted as a civil offense. Fine of not more than \$10,000. Registration can be revoked.
West Virginia	Clerk of House, Clerk of Sen.	Clerk of House, Clerk of Sen.	Following session	•	None specified.
Wisconsin	Secretary of State	Secretary of State	Semiannually	•	Fine of not more than \$5,000 depending on offense.
Wyoming	Dir., Legis. Service Office	Prosecuted as a misdemeanor. Subject to fine of not more than \$200.
Guam	Legislative Secretary	Legislative Secretary	Quarterly	•	Misdemeanor fine not more than \$5,000 or imprisonment of not more than 12 months, or both; prohibited from lobbying for three years.

- (a) Established by secretary of state.
 (b) During session.
 (c) In months when lobbying occurs.
 (d) During session; quarterly during interim.
 (e) Supplemental reports shall be filed monthly, on or before the 10th day of the following month, to list any expenditures in excess of \$25 occurring during the month and which must be reported pursuant to this section.
 (f) Plus cumulative statement yearly.
 (g) Monthly during session, if lobbyist attempts to influence legislative action.
 (h) Criminal penalty for a false financial report. Failure to report cancels the registration.
 (i) For senate only.
 (j) For house only.
 (k) And within 20 days after special session.

- (l) Quarterly basis thereafter; only when required expenses are made.
 (m) Name and address of person retaining records (lobbyist, his employer, or agent).
 (n) Information presented reflects current laws. The constitutionality of an initiative that would change the lobbying laws is presently being considered by the Supreme Court.
 (o) Final report must be filed within 30 days after the close of the legislative session. In addition, each registrant who attempts to influence legislative action must file, between the first and the 10th day of the month subsequent to each month that the legislature is in session, a report concerning his lobbying activities during the previous month.
 (p) Upon filing of registration statement and prior to the 60th day after the end of any regular or special session.
 (q) Report of certain financial transactions must be filed within 30 days after the transaction.
 (r) Following year of registration.
 (s) And after two months of session.

THE LEGISLATURES

Table 30
LOBBYISTS AS DEFINED IN STATE STATUTES

State or other jurisdiction	Anyone receiving compensation in influence legislative action	Anyone spending money to influence legislation	Anyone representing someone else's interest	Anyone attempting to influence legislation	Any executive branch employee attempting to influence legislation	Public officials acting in an official capacity	Persons who speak only before committees or boards	Any person with professional knowledge acting as a professional witness	Religious organizations	Members of the media	Attorneys representing clients on legal matters	Professional bill drafters	Other
Alabama	*												
Alaska	*												
Arizona	*				*								
Arkansas	*		*										
California	*				*								
Colorado	*										*		A*, B*
Connecticut	*(d)	*(d)					*(c)						C*
Delaware			*(f)				*(f)						
Florida	*	*											
Georgia	*		*	*(c)			*				*		
Hawaii	*	*(g)	*(g)	*(g)									
Idaho	*												
Illinois	*												
Indiana	*						*(h)						E*
Iowa	*			*(a)			*(a)						E*
Kansas	*	*	*										F*
Kentucky	*			*(c)									C*
Louisiana	*(i)												
Maine	*												
Maryland	*	*							*		*		G*, H*, I*
Massachusetts	*												
Michigan	*												
Minnesota	*	*(b)											H*
Mississippi	*												
Missouri	*												
Montana	*						*						
Nebraska	*		*										
Nevada	*		*										N*, O*, P*
New Hampshire	*												
New Jersey	*								*				E*
New Mexico	*					*					*		
New York	*												
North Carolina	*												
North Dakota	*			*									
Ohio	*	*	*			*(m)	*	*	*	*	*	*	E*, G*, J*, M*
Oklahoma	*(a)	*	*				*	*	*	*	*	*	
Oregon	*	*	*		*		*	*	*	*	*	*	H*, K*
Pennsylvania	*	*	*	*			*	*	*	*	*	*	
Rhode Island	*	*	*	*			*	*	*	*	*	*	I*
South Carolina	*	*	*	*			*	*	*	*	*	*	I*, M*
South Dakota	*	*	*	*(c)	*	*	*	*	*	*	*	*	
Tennessee	*	*	*				*	*	*	*	*	*	
Texas	*(k)	*(k)	*	*	*	*	*	*	*	*	*	*	E*
Utah	*	*	*	*	*	*	*	*	*	*	*	*	
Vermont	*	*	*	*	*	*	*	*	*	*	*	*	
Virginia	*	*	*	*	*	*	*	*	*	*	*	*	D*
Washington	*	*	*	*(l)	*	*	*	*	*	*	*	*	C*, Q*, (l)
West Virginia	*	*	*	*	*	*	*	*	*	*	*	*	
Wisconsin	*	*	*	*	*	*	*	*	*	*	*	*	
Wyoming	*	*	*	*	*	*	*	*	*	*	*	*	
American Samoa	*	*	*	*	*	*	*	*	*	*	*	*	
Guam	*	*	*	*	*	*	*	*	*	*	*	*	
Puerto Rico	*	*	*	*	*	*	*	*	*	*	*	*	
Virgin Islands	*	*	*	*	*	*	*	*	*	*	*	*	

Key:
 * - Definition of lobbyist
 - Exceptions to who
 1 - All regulations
 A - Communication
 regulation or order res
 B - In Colorado, an
 parliament duties; in O
 capacity)
 C - Any lobbyist
 D - Any unemploye
 of less than \$100 in a
 E - Political parties
 F - Non profit in
 G - Anyone spend
 H - Any paid expert
 I - Members of ass
 ties and local govern
 J - Charitable organ
 K - Persons who do
 in any calendar quar
 L - Anyone employe
 pension, to influen
 amendment, report, c
 M - Anyone exper
 legislature.
 N - Employees of

Alaska State Legislature

Sandy

Advisory Council Members
Senator Kerttula, Chairman
Senator Bennett
Senator Vic Fischer
Senator Fahrenkamp

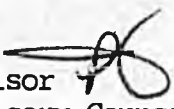


Pouch V
State Capital
Juneau, Alaska 99811
Phone: (907) 465-3114

SENATE ADVISORY COUNCIL

MEMORANDUM

TO: Senator Faiks
Alaska State Legislature

FROM: Pete Jeans 
Senior Advisor
Senate Advisory Council

DATE: March 18, 1983

RE: Lobbying Regulations

In response to your request for information regarding lobbying by public officials and employees, attached are profiles of the lobbying laws from the eight states which specifically include public officials and governmental employees under their lobbying statutes.

I hope you will find this information useful, please call if you should have any questions.

PJ;lal
Attachments

ALABAMA

LOBBYING LAWS

(Code of Alabama, Title 36, Sections 36-25-1 through 36-25-30; House Rules 62-70; Senate Rules 78-86)

WHO is a "Lobbyist"

Any person employed or retained for compensation except for ordinary travel expenses or who on his own behalf, promotes or opposes legislation through direct communication with the Governor or a member of the Legislature. The Senate and House Rules also include in the term "lobbyist" any person representing any segment of government and a newsperson compensated by someone other than his news media employer.

Excludes:

- (1) An individual appearing one day on an isolated basis to represent himself or his firm for no compensation other than reasonable travel expenses.
- (2) Members of the State Legislature.
- (3) Persons who provide professional services in drafting bills.
(Section 36-25-1)

WHO Registers

- (1) Principal - NO
- (2) Lobbyist/Employee - YES

WHERE to Register and File Reports

State Ethics Commission
State Capitol
Montgomery, Alabama 36130
(205) 832-5871

Registration statements must also be filed with the House Clerk and Secretary of the Senate.

WHEN to Register

The lobbyist must register within five days of initiating lobbying activities. Any substantial change in information must be reported within ten days. Incomplete statements must be completed within fifteen days of notice of incompleteness. Notice of termination must be filed. (Sections 36-25-18, 36-25-19, 36-25-20)

The principal must certify to the Commission the names and addresses of the lobbyist he employs. Within fifteen days of the lobbyist's filing, the principal must verify the lobbyist's statement. The principal must also verify notice of termination.
(Sections 36-25-18, 36-25-19)

Registration Fee: None Required.

Contents of Registration Statement

- (1) Lobbyist's full name and address.
- (2) Lobbyist's normal business and business address.
- (3) Name and address of principal.
- (4) Subject matter on which lobbyist is interested.
- (5) Statement by principal that he has read registration and authorizes lobbyist to act on his behalf. (Section 36-25-18)

WHO Files Reports

- (1) Principal - YES
- (2) Lobbyist/Employee - YES

WHEN to File Reports

Filed with the State Ethics Commission between the 1st and 15th day of the month following each month that the legislature was in regular session. (Section 36-25-19)

Lobbyist Disclosure Statement

The reports shall:

- (1) Indicate expenditures or receipts as a) less than \$1,000
b) \$1,000 to \$3,000, or c) more than \$3,000, giving the name, address amount, and date (exclusive of personal living expenses or income).
- (2) Give a detailed statement of any money loaned or promised to legislators or to anyone on their behalf.
- (3) Give the name, address, and government position of any public official with whom he has a direct business association.
- (4) List the legislation which he has supported or opposed.
(Section 36-25-19)

HOW to Identify a Lobbyist

List of registered lobbyists' names and business addresses, principals' names and business addresses, legislative interests, and duration of agency shall be published by the Clerk of the House, the Secretary of the Senate and the State Ethics Commission. (House Rule 63, Senate Rule 79; Section 36-25-4)

Prohibited Practices

- (1) No person shall knowingly or willfully make any false statement of fact to a legislator for the purpose of influencing legislation. (Section 36-25-26)
- (2) No person shall offer or give to a public official or employee anything of value to influence official action. (House Rule 65, Senate Rule 81)

- (3) No former House or Senate member has floor privileges in a lobbying capacity. (Section 36-25-23)
- (4) No lobbyist shall be permitted on the floor of the Senate or House while it is in session. (House Rule 63, Senate Rule 79)

Penalties

An individual violating the lobbying regulations shall be fined a maximum of \$10,000 or imprisoned for ten years, or both.
(Section 36-25-27)

The House or Senate may prohibit a violator from lobbying for the duration of the session, and from appearing before any committee.
(House Rule 68, Senate Rule 84)

FLORIDA

LOBBYING LAWS

(Florida Statutes, Sections 11.045 through 11.061)

WHO is a "Lobbyist"

Any person who seeks to encourage the passage, defeat or modification of any legislation in the House or Senate or any committee thereof. (Section 11.045(2))

Also any person employed by any executive, judicial or quasi-judicial department of the state for such purpose. (Section 11.061)

Excludes:

- (1) Members of the legislature or their authorized aides.
- (2) A person appearing before the legislature or a committee in his individual capacity for the purpose of self-representation, without compensation or reimbursement. (Section 11.045(2))

WHO Registers

- (1) Principal - NO
- (2) Lobbyist/Employee - YES

WHERE to Register and File Reports

Joint Legislative Office
Office of House Clerk
State Capitol, Room 427
Tallahassee, Florida 32304
(904) 488-1234

WHEN to Register

Prior to the time of lobbying. Separate registration required for each principal represented. (Section 11.045(2))

Registration Fee: None Required.

Contents of Registration Statement

- (1) Name and business address of lobbyist.
- (2) Business address of principal.
- (3) General and specific areas of legislative interest.
- (4) Any business association or partnership with any current member of the legislature. (Section 11.045(2))

WHO Files Reports

- (1) Principal - NO
- (2) Lobbyist/Employee - YES

WHEN to File Reports

January 15 and July 15 of each year. (Section 11.045(3))

Lobbyist Disclosure Statement

Statement of session expenditures, for the period January 1 through January 30, shall be filed by July 15 of each year. A statement of interim expenses shall be filed by January 15 including expenditures for any special sessions. Expenditures shall not include personal expenses for lodging, meals and travel. A statement shall be filed even if there have been no expenditures. (Section 11.045(3))

HOW to Identify a Lobbyist

All reports and registrations shall be open to the public.
(Section 11.045(3))

Prohibited Practices: None

Penalties

Either the House or the Senate can prohibit a person from lobbying for violating their rules, in addition to any prosecution or penalties otherwise provided by law. (Sections 11.045(6),(7))

IOWA

LOBBYING LAWS

(Iowa Senate and House Rules Governing Lobbyists)

WHO is a "Lobbyist"

Section 688.10 of the Iowa Code requires each House to adopt rules concerning lobbying. In addition, certain state officials are required to adopt departmental rules concerning public disclosure of gifts.

A lobbyist is a person who:

- (1) Is paid compensation to encourage the passage, defeat or modification of legislation.
- (2) Expends money in an attempt to encourage the passage, defeat, or modification of legislation.
- (3) Represents on a regular basis an organization which has as one of its main purposes the encouragement of the passage, defeat, or modification of legislation.
- (4) Is a federal, state, or local government official or employee representing an official position of his department, board, or agency, and who attempts to encourage the passage or defeat or modification of legislation.

Excludes:

- (1) Officials and employees of a political party, having more than two percent of the total votes cast in last gubernatorial election, representing that party.
- (2) Newspersons.
- (3) Federal, state, or local government employees or officials who submit proposed legislation, provide information, or appear before Senate committees, provided they do not actively encourage the passage, defeat, or modification of legislation.
- (4) Elected officials.
- (5) Constituents representing their own interests before their legislators. (Senate Rule 1, House Rule 1)

WHO Registers

- (1) Principal - NO
- (2) Lobbyist/Employee - YES

WHERE to Register and File Reports

Secretary of Senate or Chief House Clerk, depending on where the individual intends to lobby.

WHEN to Register

Before beginning lobbying activities. In addition:

Senate: Registration expires at the end of each General Assembly; Amendments are filed within 10 days of the change.

House: No other specific provisions. (Senate Rule 4, House Rule 2)

Registration Fee: None Required.

Contents of Registration Statement

- (1) Names, addresses, phone numbers of all lobbyists and principals.
- (2) General subjects of interest to lobbyist, number of bills and resolutions which will be lobbied and whether lobbyist will oppose each bill.

In addition, the Senate Rules require a detailed description of any contingent fee arrangement. (Senate Rule 4, House Rule 2)

WHO Files Reports

- (1) Persons who have made gifts on any one occasion which have a value in excess of \$15 to any legislator, legislative employee or any immediate family member of a legislator or legislative employee.
- (2) Senators or Senate employees who themselves or through their families have received gifts valued over \$15 on any one occasion.
- (3) Persons who have made gifts to two or more members or employees of the General Assembly and their immediate families which cannot be precisely attributed to each recipient shall file reports averaging the cost among all recipients if the cost per recipient exceeds \$15 (Senate Rule 19, House Rule 10)

WHEN to File Reports

The 15th day of a month, for gifts made or received during the preceding month. (Senate Rule 18, House Rule 10)

Lobbyist Disclosure Statement

The donor reports shall include:

- (1) A list of donee legislators, employees or immediate family members receiving gifts valued in excess of \$15 at any time, the donor, the date, the nature and amount of the gift.
- (2) A monthly total of all gifts by persons and their principals to Senators, Senate employees and families, regardless of dollar value.
- (3) The amount of an honorarium for speaking in excess of \$15 paid to a Senator or employee, including reimbursement for or payment of actual expenses.
- (4) If a legal entity other than a natural person makes a gift to a House member, the legal entity shall report the gift as a donor.

The reports by Senators and Senate employees shall include:

- (1) The nature, amount, date and donor of a gift valued over \$15 paid to them or to each immediate family member.
- (2) All honoraria in excess of \$15 paid to Senators for speaking.
(Senate Rule 19, House Rule 10)

HOW to Identify a Lobbyist

All statements filed under these rules will be public records subject to public inspection. (Senate Rule 17, House Rule 3)

Prohibited Practices

No lobbyist shall:

- (1) Supply a Senator with a charge account.
- (2) Offer economic opportunity or promise employment for the purpose of exerting undue influence over a member of either House.
- (3) Pay membership fees to clubs on behalf of Senators.
- (4) Be permitted on the floor while the House or Senate is in session.
- (5) Be paid a contingent fee or bonus for his services before the House.
- (6) Lobby as a designated representative of a governmental office, without authorization from such office. (Senate Rules 5-11, House Rules 4-6)

Penalties

Penalties are prescribed by the Senate or House Ethics Committee. Violations may result in suspension if such action is directed by two-thirds vote of the House wherein the violation occurred.

MICHIGAN
LOBBYING LAWS

(Michigan Compiled Laws, Sections 4.401 through 4.410)

WHO is a "Lobbyist"

A person who is employed by a person, firm, association or corporation, or by any board, department or agency of the State of Michigan, or any political subdivision thereof, to engage in promoting, advocating, or opposing any matter pending before or which might legally come before the legislature or its committees. (Section 4.401)

Excludes:

- (1) Any person who confines his lobbying activities to written communications or formal appearances before legislative committees and who in writing clearly identifies himself and each person, firm, association, corporation, and other interest he represents.
- (2) Any person whose contact with the legislature is limited to furnishing information at the request of any legislator or legislative committee. (Section 4.403)

WHO Registers

- (1) Principal - NO
- (2) Lobbyist/Employee - YES

WHERE to Register and File Reports

Secretary of State
Department of State
1st Floor, Treasury Building
Lansing, Michigan 48918
(517) 373-2510

WHEN to Register

Before engaging in lobbying activities. Amendments are filed within one week of the change. Certificate expires December 31. (Sections 4.404, 405, 409)

Registration Fee: \$5 (Section 4.409)

Contents of Registration Statement

- (1) Name, residence, and place of business of lobbyist.
- (2) Name of principal, position held, primary occupation of firm, firm's address.
- (3) Name and address of person or firm who will keep required accounts and records. (Section 4.404)

WHO Files Reports

- (1) Principal - NO
- (2) Lobbyist/Employee - YES

WHEN to File Reports

A lobbyist shall file a statement within 5 days of a financial transaction with any member of the legislature. (Section 4.407)

Lobbyist Disclosure Statement

The lobbyist's statement shall set forth in detail the nature of the transaction and the name of the legislator. The lobbyist shall also file an address at which records of all expenses and compensation associated with lobbying will be maintained for six years from the year in which expended or received. (Sections 4.406, 407)

HOW to Identify a Lobbyist

The Secretary of State shall issue a certificate to each registered lobbyist and shall send each legislator a copy of the registration information he has received. All information filed is open to public inspection. (Section 4.405)

Prohibited Practices

No lobbyist shall accept employment with his fee contingent upon the outcome of legislation. (Section 4.408)

Penalties

Violation is a felony punishable by a fine of \$200 to \$1,000 or imprisonment of three months to one year. (Section 4.410)

NOTE

Michigan attempted to revise its lobbying law by enacting P.A. 1975, No. 227, but the Michigan Supreme Court in an advisory opinion, 240 NW 2d 193, declared P.A. 1975, No. 227, unconstitutional for embracing more than one subject in violation of the Constitution, Article 4, Section 24, and therefore void in its entirety.

Again the legislature acted, in 1978, when it passed SB 674 (Public Act 472) to be enacted only after rules to implement the law had been promulgated by the Secretary of State. In late 1980 these rules were finally drawn, but just before the law was to become effective in mid-1981, a suit was filed in circuit court seeking a temporary restraining order against implementing the law, which was claimed to be unconstitutionally vague. The order was granted and remains in effect in June, 1982.

MISSISSIPPI

LOBBYING LAWS

(Mississippi Code, Sections 5-7-1 through 5-7-15)

WHO is a "Lobbyist"

Any employee of a person, firm, corporation, government agency or association whether said employment be by fee, contractual arrangement, retainer agreement, or salary basis who is assigned, as a regular function of his employment, to influence in any manner, including the dissemination of information, the act or vote of any legislator or to advocate, oppose or amend any matter that is before or might come before the legislature or its committees, even though the individual may receive no additional or different compensation. (Section 5-7-1)

Excludes:

- (1) An individual representing his own interest or his principal's interest where that is not the primary function of his employment.
- (2) One who appears in response to an invitation.
- (3) A professional who drafts bills or advises clients on the effect of proposed legislation.
- (4) A person, not employed by a firm or association as described above who attempts to influence by argument or briefs the legislature or its committees.
- (5) A newspaperman.

WHO Registers

- (1) Principal - YES
- (2) Lobbyist/Employee - YES

WHERE to Register and File Reports

Secretary of State
414 North Street
P.O. Box 136
Jackson, Mississippi 39205
(601) 354-6541

WHEN to Register

Within fifteen days of employment, the lobbyist and principal shall furnish a signed statement of their names, business addresses, the nature of their business, and the legislation they seek to influence. Changes must be recorded by principal and lobbyist within five days of such change. (Section 5-7-1)

Registration Fee: \$25.00. (Section 5-7-5)

Contents of Registration Statement

- (1) If an individual: Name, residence, and business address.
- (2) If a firm: Name and address of the firm, and the name and residence of each partner.
- (3) If a corporation: Name and address of the corporation, and the name and residence of each officer.
- (4) Nature of business.
- (5) Name, address, occupation and duration of employment of each agent.
- (6) Subject matter that might come before legislature or its committees. (Section 5-7-1)

WHO Files Reports

- (1) Principal - YES
- (2) Lobbyist/Employee - YES

WHEN to File Reports

- (1) Every principal who has expended, promised to expend, or caused to be expended anything of value for the purpose of influencing legislation shall file an itemized statement on May 30 of each year.
- (2) Every lobbyist who receives anything of value for the purpose of influencing legislation shall file an itemized statement on May 30 of each year. (Section 5-7-13)

Lobbyist Disclosure Statement

The principal's report shall contain in detail all expenses incurred during the preceding twelve months with the names of the payees and the amount paid each. The lobbyist's report shall contain all value received or expended by him and all liabilities directly or indirectly incurred by him with the complete names and addresses of the reporter, and the names and addresses of the recipients giving the place, date, and amount of each item.

Both the lobbyist's and principal's reports will list any legislator who received in excess of \$25, giving the name and date.
(Section 5-7-13)

HOW to Identify a Lobbyist

All information on file with the Secretary of State is open to public inspection for five years from date of receipt. (Section 5-7-1)

Prohibited Practices

No person or firm to be employed on a contingent basis. (Section 5-7-9)

Penalties

Individuals: First offense fined not more than \$1,000 or imprisonment in county jail for six months or both. Second or subsequent offenses fined not more than \$5,000 or imprisonment in a penitentiary for three years, or both.

Corporations: Fined not more than \$5,000. (Section 5-7-15)

MISSOURI
, LOBBYING LAWS

(Revised Statutes of Missouri, Section 105.470)

WHO is a "Lobbyist"

Any person, including a person employed by or representing federal or state agencies and all political subdivisions thereof, who acts in the course of his employment or who engages himself for pay or for any valuable consideration for the purpose of attempting to influence legislation or the promulgation of any rule or regulation; or any person who receives any direct or indirect benefits or expenses for lobbying activities, by grant or otherwise from any state, the federal government, or any private not-for-profit foundation.

Excludes members of the General Assembly or elected state officers.

WHO Registers

- (1) Principal - NO
- (2) Lobbyist/Employee - YES

WHERE to Register and File Reports

The Secretary of the Senate and the Chief Clerk of the House.

WHEN to Register

The lobbyist shall file not later than five days after beginning lobbying activities. Amendments shall be filed by the lobbyist within one week of any change.

Registration Fee: None Required.

Contents of Registration Statement

- (1) Name and business address of lobbyist.
- (2) Name and address of anyone employed by lobbyist.
- (3) Name and address of principal.

WHO Files Reports

- (1) Principal - NO
- (2) Lobbyist/Employee - YES

WHEN to File Reports

The lobbyist shall file itemized expense reports with the Clerk of the House and the Secretary of the Senate within ten days after the convening of any regular session of the General Assembly, 45 days before the adjournment of any regular session and within 30 days

after each session in each year in which a lobbyist continues to engage in lobbying activities.

Lobbyist Disclosure Statement

The reports shall contain:

- (1) The lobbyist's total expenditures on lobbying categorized as printing and publication expenses, media and other advertising expenses, travel, and entertainment.
- (2) A list showing the name of the recipient and the amount of each honorarium, gift or loan including a service or anything of value exceeding \$25 provided during a calendar month to a legislative official.
- (3) Separate statements for each principal the lobbyist represented, describing the legislative action sought to be influenced.
- (4) Reports shall cover the time period since the filing of the last report or since the lobbyist's representation began, whichever is more recent.

HOW to Identify a Lobbyist

All information filed with the Secretary of the Senate and the Clerk of the House is open to public inspection for two years from the date of filing.

Prohibited Practices: None.

Penalties

Maximum fine not to exceed \$1,000 or one year imprisonment, or both. Lobbyist prohibited from registering for two years following conviction.

OREGON

LOBBYING LAWS

(Oregon Revised Statutes, Sections 171.725 through 171.992)

WHO is a "Lobbyist"

- (1) Any person who is compensated, or receives a consideration of any kind, for influencing or attempting to influence legislative action.
- (2) Any noncompensated person who expends, in addition to his personal travel, meals, and lodging expenses, \$50 or more during any reporting period.
- (3) Any noncompensated person who provides his personal services as a representative of a corporation, organization or other group for the purpose of lobbying.
- (4) Any public official who lobbies on behalf of a public agency.

Excludes:

- (1) Newspersons.
- (2) Persons whose lobbying activities are limited to formal appearances at legislative or state agency public hearings, who receive no additional compensation for their appearances and who register their appearances in the committee or agency records.
- (3) A legislative official acting in an official capacity.
- (4) Any person who spends no more than sixteen hours during any calendar quarter lobbying, excluding personal travel time, and spends no more than \$50 per calendar quarter, excluding the cost of personal travel, meals and lodging. (Sections 171.725, 171.735)

WHO Registers

- (1) Principal - NO
- (2) Lobbyist/Employee - YES

WHERE to Register and File Reports

Governmental Ethics Commission
102 Public Service Building
Salem, Oregon 97310
(503) 378-5105

WHEN to Register

A lobbyist must register within three working days of engaging in any activity by which he attempts to influence legislative action. If a lobbyist, within one of the exceptions, exceeds the limit of the exception (that is, he spends more than \$50 or 16 hours outside of formal committee testimony), he should at the time he exceeds the limit register as a lobbyist. The principal signs an authorization for the lobbyist. Notice of termination is immediately filed by the

lobbyist when he ceases to engage in activities to influence legislation. (Sections 171.735, 171.740)

Registration Fee: None Required.

Contents of Registration Statement

- (1) Name and address of the lobbyist.
- (2) Name and address of each person or agency by whom lobbyist is employed or in whose interest he appears or works, a description of the business or area of endeavor of such principal, and a designation by each such principal that the lobbyist is authorized to lobby for that person or agency.
- (3) The name of any member of the Legislative Assembly who is in any way employed by the lobbyist or the lobbyist's principal or is associated with a business with which the lobbyist is in any way associated.
- (4) The general subject(s) of the lobbyist's legislative interest. (Section 171.740)

WHO Files Reports

- (1) Principal - YES
- (2) Lobbyist/Employee - YES

WHEN to File Reports

The lobbyist shall file a quarterly expense report by the last day of the succeeding month. During an interim, the lobbyist shall file a quarterly expense report by 5:00 PM on the last day of the succeeding month. The principal of a registered lobbyist shall file an annual expenditure report by 5:00 PM on January 31. (Sections 171.745, 171.750)

Lobbyist Disclosure Statement

The lobbyist's quarterly reports shall contain any expenditures for the purpose of influencing legislation, categorized as:

- (1) Food, beverage, and entertainment.
- (2) Printing, postage and telephone.
- (3) Advertising, public relations, education, and research.
- (4) Miscellaneous: a) Any single expenditure in excess of \$36 shall be listed, giving date, name of payee, purpose, the amount, b) The name of any legislative or executive official to whom or for whose benefit an expenditure of \$36 is made, giving the date, name of the payee, purpose, and amount.

Excludes:

- (1) Lobbyist's compensation for personal travel, meals, and lodging expenses.
- (2) Political contribution or expenditure if it is reported elsewhere.
- (3) Office overhead if reported by the principal in his annual expenditure.

The principal's annual expenditure report shall contain all expenditures incurred for the purpose of influencing legislation. The principal's report need not be itemized. This includes:

- (1) All payments for compensation, overhead support personnel, other personnel expenses.
- (2) All expenditures reported by the principal's lobbyist in his monthly or quarterly reports.
- (3) The name of any legislative or executive official to whom or for whose benefit an expenditure in excess of \$25 is made by the principal, the date, name of payee, and the purpose and amount unless this information is previously reported in the lobbyist's reports.
- (4) The portion of funds spent on a public affairs program that is related to lobbying.
(Sections 171.745, 171.750)

HOW to Identify a Lobbyist

All registration and other statements which are filed within the Government Ethics Commission are available for public inspection.

Prohibited Practices

No lobbyist shall:

- (1) Instigate the introduction of legislative action for the purpose of later being employed to oppose it.
- (2) Attempt to influence a legislator's vote by the promise of financial support for his candidacy or opposition to his candidacy in a future election.
- (3) Accept a fee contingent upon the outcome of the legislation.
- (4) Knowingly provide false information to a legislator.
- (5) Promise or make a monetary payment, during a legislative session, in order to meet a legislator's campaign expenditures or deficits.

In addition, no person shall offer during any calendar year any gifts with an aggregate value in excess of \$100 to any public official or candidate, or member of his household, if that person has a legislative or administrative interest in a governmental agency in which the official has any official position or over which the official exercises any authority; nor shall any such official or candidate accept such gifts from a single source who could reasonably be known to have a legislative or administrative interest.

"Legislative or administrative interest" means an economic interest, distinct from that of the general public, in one or more matters subject to the formal vote or official action of a public official.
(Section 171.756)

Penalties

Violation results in a civil penalty of not more than \$250 per violation for an individual. Violation by one other than an individual results in a maximum fine of \$1,000 per violation.
(Section 171.992)

- (2) It is unlawful to use state-owned property for campaign advertising and unlawful to use public buildings or facilities unless reasonably equal access is provided to all sides. (Section 2-19-206)
- (3) It is a misdemeanor to knowingly publish or distribute false campaign literature. (Section 2-19-142)

Penalties

Every executive officer, agent, or other representative of any corporation who shall knowingly consent to the use of corporate funds for the support or defeat of a candidate or proposition shall be fined between \$500 and \$2000 and shall be imprisoned between two and six months. (Section 2-19-133)

A corporation which violates the contribution restrictions shall forfeit its charter. (Section 2-19-140)

A candidate or campaign committee that fails to file a statement shall be fined up to \$1000. Willful violation of the campaign disclosure statute by any person is a misdemeanor. (Section 2-10-110)

TENNESSEE

LOBBYING LAWS

(Tennessee Code, Sections 3-6-101 through 3-6-110)

WHO is a "Lobbyist"

Any person communicating directly or indirectly with any official in the Legislative or Executive Branch with the purpose of influencing any legislative or administrative action. Any person who makes an expenditure, excluding payment of membership dues in excess of \$200 in any report period, to solicit others, either directly or by an advertising campaign, or to communicate with any official in the Legislative or Executive Branch with the purpose of influencing legislative or administrative action. Includes any official of the Executive or Judicial Branch, or any state educational institution who communicates directly or indirectly with any official in the Legislative Branch with the purpose of influencing legislative action. (Section 3-6-102)

Excludes:

- (1) Persons giving information at the request of a legislator.
- (2) Persons testifying at an official hearing.
- (3) Representatives of a bona fide religion.
- (4) Public official performing the duties of his office.

- (5) Any attorney representing his client's rights.
- (6) Newspersons.
- (7) An individual acting solely on his own behalf who does not spend in excess of \$200 during any reporting period.
- (8) A person whose sole means of soliciting is by means of an employee or an independent agent who is a registered lobbyist.
(Sections 3-6-102, 3-6-104)

WHO Registers

- (1) Principal - NO
- (2) Lobbyist/Employee - YES

WHERE to Register and File Reports

State Librarian and Archivist
Division of Library and Archives
Department of Education
403 Seventh Avenue, North
Nashville, Tennessee 37219
(615) 741-2451

WHEN to Register

Within five days after becoming a lobbyist. Before lobbying shall file written proof of his authority to lobby. Supplemental registration forms are filed within fifteen days of any change in information filed. (Section 3-6-104)

Registration Fee:

\$25 per year. Those lobbyists who are officials of the Executive or Judicial Branch or any state educational institution are exempt from the fee. (Section 3-6-104)

Contents of Registration Statement

- (1) Registrant's full name and address.
- (2) Full name and address of each client of the registrant.
- (3) Full name and address of registrant's employees retained for the purpose of lobbying.
- (4) A list of general categories on which the registrant lobbies.
- (5) A statement by each principal that he has read the registration, knows its contents, and has authorized the registrant to be a lobbyist on his behalf. (Section 3-6-105)

WHO Files Reports

- (1) Principal - NO
- (2) Lobbyist/Employee - YES

WHEN To File Reports

Each lobbyist must file a sworn report concerning lobbying activities annually to cover the period from the last report through the day following the end of the regular annual session of the General Assembly. Such report shall be filed not later than thirty days after the end of such legislative sessions. (Section 3-6-106)

Lobbyist Disclosure Statement

- (1) Details of any direct business arrangements or partnerships with any candidate for public office and any official in the Legislative and Executive Branch, provided, however, that this section shall not apply to arrangements or partnerships entered into prior to the effective date of the Act, July 1, 1975.
- (2) An itemized list of each gift of \$25 or more and each political contribution of \$100 or more made by the registrant or anyone acting in his behalf to benefit a candidate for public office, an official of the Legislative or Executive Branch, a member of his staff or a candidate for public office or such official. (Section 3-6-106)

HOW to Identify a Lobbyist

Each lobbyist shall include with his registration a black and white glossy photograph. (Section 3-6-105)

State librarian shall make all information filed available for public inspection. (Section 3-6-103)

Prohibited Practices

- (1) Offering anything of value to an official in the Executive or Legislative Branch or immediate family with the understanding that the official's action, vote or judgment will be influenced thereby.
- (2) Making false statements or misrepresentations concerning lobbying matters to officials in the Legislative or Executive Branch.
- (3) Making a loan of money to any candidate for public office, officials in the Executive or Legislative Branch, or to anyone on their behalf. (Section 3-6-108)

Penalties

Violation of prohibited activities is a misdemeanor. When one fails to file a required report on time, he shall have ten days after notice from the librarian to comply. Failure to file within that period shall result in suspension of the lobbyist's registration. (Section 3-6-110)

SB 137

Position Paper

SB 137 would repeal the current exemption from the provisions of AS 24.45 -- The Regulation of Lobbying Law -- for "an elected or appointed state or municipal public officer or an employee of the state or a municipality acting in his official capacity or within the scope of his employment."

The repeal could have the effect of subjecting to the Law:

- 1) The governor, the lieutenant governor, and their staff members when any of the above communicate directly with legislators or legislative staff members in order to influence legislative action;
- 2) Legislators who lobby each other, the governor, the lieutenant governor, a commissioner, deputy commissioner, assistant commissioner, division director, or member of certain boards and commissions;
- 3) Legislative employees who lobby legislators, other legislative employees or public officials listed in No. 2 above;
- 4) Elected and appointed municipal officials and employees who attempt to influence state elected officials, legislative employees, or other state public officials listed in No. 2 above;
- 5) State officials or employees who attempt to influence the administrative action of other state officials or employees; and
- 6) State officials or employees who lobby legislators or legislative employees.

The only apparent exceptions to the above would be for those individuals who limited their contact to 4 hours in a 30 day period, or to public proceedings, or who were invited by either or both houses of the legislature or a legislative committee to appear and explain a pending matter.

Rough calculations indicate that simple repeal of Section 161(a)(2) could subject some 2,000 state and municipal officials and employees to the registration and reporting requirements of the Law. While it is likely that substantially fewer than 2,000 persons would actually take action such that they are covered by the Law, the APOC would, nevertheless, be forced to undertake an educational/ outreach program to inform all those potentially subject of the Law's requirements.

The Commission is of the opinion that simple repeal of the existing exemption would be undesirable. The aforementioned possible impact of the repeal speaks for

itself in terms of the extensiveness of the activities which might be covered. The amount of time and energy spent by public officials and employees to determine and measure their reportable legislative and administrative lobbying activity could have the unanticipated effect of making government less efficient and productive. The potential for numerous Attorney General opinions concerning reportable activity abounds.

Sixteen states have lobbying laws which cover public officials and/or employees. Of these, nine include some sort of administrative agency lobbying provision. Based on discussions with persons from three of these states, the following are frequent considerations:

- elected state and local officials are exempt
- legislative employees are exempt
- inter and intra departmental lobbying is exempt
- special reporting requirements are established for public sector lobbyists (e.g. only the agency reports)
- agency responses to legislative inquiries are excluded from the definition of lobbying

Primarily what survives is the reporting of legislative lobbying activities by state and municipal employees. It seems to the Commission that much information about related costs of employees who lobby is already available: departments have highly visible legislative liaisons whose salary level is public information and the travel authorization forms of non-Juneau based employees are public documents. Further, public employees who spent fewer than 4 hours in a 30 day period in direct communication with legislators or legislative staffers or who limited their contact to public proceedings would not need to register and report. Hence, the information on file with the APOC would not necessarily capture the complete public employee lobbying picture or reveal data which is not elsewhere available.

The Commission opposes repeal of Section 161(a)(2). The fiscal ramifications as outlined in the attached fiscal note and the resultant confusion over what activities would constitute reportable lobbying would not seem to support repeal of the exemption.

Should simple repeal of the exemption be set aside in favor of a less sweeping version, staff contends a couple of points might be considered: The lobbying law suggests that administrative lobbying is as important as legislative lobbying; hence, if it is deemed significant for public officials and employees who are outside the legislative branch to report costs associated with legislative lobbying, perhaps it is equally relevant for those outside the executive branch to report costs associated with attempts to influence administrative action. Attention should also be given to a statutory definition of public official/employee,



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Administration	Sponsor (Principal) Senator Faiks	Bill Number SB 137
Department Position Oppose due to wide-ranging effects, likely to be unanticipated; confusion and inefficiency would result as efforts were made to determine which interchanges among public officials/employees qualify as lobbying; information concerning salaries & travel is already available.		
Division Director	Date	Commissioner's Signature
		Date

GOVERNOR'S OFFICE USE

Comments:

Position Noted By _____ Date _____

SUMMARY

1. a) Related Bills (Similar or Conflicting) HB 107	1. b) Other Agencies Affected by Bill All
2. a) Organizational Support for Bill	2. b) Organizational Opposition to Bill

3. Program Effects of Bill

Would require all state and municipal officials and employees who, acting within their official capacity, attempt to influence legislative and/or administrative action to register and report under AS 24.45, the Regulation of Lobbying Law. The governmental employer would also be required to file periodic reports. Practically speaking, approximately 2,000 officials/employees are in positions where their actions could require registration; it appears likely that the number of registered lobbyists would, at minimum, double from more than 300 to more than 600.

4. Fiscal Impact: None Fiscal Note Attached

5. Amendments Proposed:

6. Comments:

In its present form, the bill has a wide-ranging effect that would have to be addressed by numerous legal opinions as well as regulations to interpret what types of interaction between the executive and legislative branches of government as well as between the state and municipal entities are covered.

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: SB 137
 Title: Public officers & employees subject to
 Sponsor: Faiks, Kerttula & Bennett
 Requestor: Senate State Affairs

II. FISCAL DETAIL

Agency Affected: Administration
 Program Category Affected: _____
 24.4 BRU, Program of Subprogram(s) Affected: Alaska Public Offices Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		40.9	44.3	47.5	51.1	54.8
200 TRAVEL		3.0	3.2	3.4	3.6	3.8
300 CONTRACTUAL		13.0	13.8	14.6	15.5	16.4
400 COMMODITIES		.6	.6	.7	.7	.8
500 EQUIPMENT		17.4	0	0	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		74.9	61.9	66.2	70.9	75.8
CAPITAL		0	0	0	0	0
REVENUE		0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	74.9	61.9	66.2	70.9	75.8
FEDERAL FUNDS	0	0	0	0	0
OTHER (Specify Source)	0	0	0	0	0

POSITIONS:

FULL-TIME	1	1	1	1	1
PART-TIME	0	0	0	0	0
TEMPORARY	0	0	0	0	0

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

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard S. Pittman, Executive Director Phone: 276-4176
 Division: Alaska Public Offices Commission Date: 3/24/83

Approved by Commissioner: _____ Date: _____
 Department: Administration

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

SB 137 Fiscal Note

ANALYSIS

Assumptions: All figures are in addition to the Governor's Request of \$590.6 for FY 84 (6 F/T and 3 P/T positions). The personal services estimates for FY 85-88 include an annual step increase, an annual 4% cost-of-living factor, and an employer charge of 32% of base salary to cover benefits, unemployment compensation, etc.

100 - Personal Services \$40.9

A new Regulations Specialist II position to handle additional questions and report auditing generated by state and municipal official and employees being subject to the Law.

200 - Travel 3.0

Anticipate AA III traveling twice to Anchorage to attend Commission meetings or hearings.

Airfare and per diem: \$1,080

Anticipate three trips to various municipalities to conduct workshops with officials and employees concerning requirements.

Airfare estimated at \$500 per trip: \$1,500
two days per diem per trip: 480
1,980

300 - Contractual 13.0

Telephone \$1.2

Postage \$.6

Printing (RSA Central Dup.) \$2.0

Legal Services (RSA to Dept. of Law; 6 hours/month @ \$100 per hour) \$7.2

Office Space (RSA to General Services & Sup) \$2.0

400 - Commodities .6

500 - Equipment (one-time items) 17.4

Word Processor Terminal \$15.9
desk, chair, etc. \$1.5

FY 84 Total 74.9

FY 85: Delete one-time items; salary increase as noted above; inflation factor of 6%. 61.9

FY 86: Salary increase as noted above; inflation factor of 6%. 66.2

FY 87: Salary increase as noted above; inflation factor of 6%. 70.9

POSITION TITLE Regulations Specialist II				RANGE/STEP 16A	BARG. UNIT X	FORM	AGE/LINE	GOV.	APPRDY.	DISAPP.
TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION JNU	ELECTION DISTRICT		LEC.		

CONTINUATION LEVEL	ADDITION	AMOUNT
TYPE OF EXPENDITURE		
1	2	3
PERSONAL SERVICES		
Salary 2591 x 12	31,092	
Benefits	5,037	
Supplemental Benefits	1,906	
Fixed Benefits	2,880	
TOTAL PERSONAL SERVICES	01	40,915
Travel	02	3,000
Contractual	03	13,000
Commodities	04	600
Equipment	05	17,400
Other		
TOTAL COST		74,915

RECEIPT CODE	FUNDING SOURCE	AMOUNT
	Federal Receipts 1002	
	G.F. Match 1003	
	General Funds 1004	74,915
	I-A Receipts 1005	
	Program Receipts 1028	
	Other	

JUSTIFICATION

If the Regulation of Lobbying Law is amended to include state and municipal officials, elected and appointed, as well as state and municipal employees, it is estimated that an additional 2,000 persons could become subject to the Law were they to attempt to influence legislative or administrative action. This increase would necessitate a sizeable educational/outreach program regarding when and how a public official/employee must register and report. The number of telephone and written inquiries received by the APOC would increase dramatically and the number of registered lobbyists and employers of lobbyists filing reports would at least double. The resultant workload increase would require the full-time services of a Regulations Specialist II.

Job Duties: Establish and monitor systems for persons subject to the Regulation of Lobbying Law; develop forms and manuals for persons subject to the Lobbying Law; interpret the Regulation of Lobbying Law (and Administrative Regulations) for affected individuals and other interested persons; conduct informal preliminary investigations of complaints against persons subject to the law; write policy decisions, papers and proposed Administrative Regulations for Commission review and action; audit lobbyist and employer of lobbyist reports; prepare monthly and quarterly summaries based upon information contained in reports; monitor legislation affecting the Commission and attend Legislative Committee meetings as required. Supervise Administrative Assistant II and Clerk III.

FOR B&M USE ONLY
4A KEY NUMBER _____

3 REQUEST FOR NEW POSITION

AGENCY Department of Administration
PROGRAM Independent Operations
BRU Alaska Public Offices Commission
COMPONENT Alaska Public Offices Commission

FY 84

Page _____ of _____
Revised Date _____

TESTIMONY IN FAVOR OF PASSAGE OF HB 79

THANK YOU, MR. CHAIRMAN.

I AM REP. MILO FRITZ FROM ANCHOR POINT, NEAR HOMER ALASKA.

THE FIRST COURT OF JUSTICE IN ALASKA WAS ESTABLISHED BY THE U.S. IN 1900 UNDER JUDGE JAMES WICKERSHAM IN EAGLE ON THE YUKON RIVER. SINCE THEN, THE COURT SYSTEM HAS GROWN IN SIZE AND COMPLEXITY TO MEET THE CHANGING NEEDS OF THE TIMES AND THE INCREASE IN POPULATION.

GENERALLY SPEAKING, THE LEGAL NEEDS OF THE PEOPLE OF ALASKA, EXCEPTING THE DISSIDENTS AND ECCENTRICS PRESENT IN ANY AGE, WERE ADEQUATELY MET. UNTIL 1967, PEREMPTORY DISQUALIFICATION OF A JUDGE COULD ONLY BE INVOKED FOR CAUSE, THAT IS, FOR A GOOD, TRENCHANT REASON. AND I BELIEVE, MR. CHAIRMAN, THAT NO REASONABLE PERSON CAN OBJECT TO THAT.

IN 1967, ACCORDING TO THE SESSION LAWS OF ALASKA FOR THAT YEAR AND APPEARING IN ALASKA STATUTES, THAT IS THE LAWS OF ALASKA KNOWN AS ~~THE~~^{AS} 22.20.022, AN ADDITION WAS MADE, MAKING IT POSSIBLE FOR THE PETITIONER, THAT IS THE LAWYER OR THE CLIENT TO DISQUALIFY A JUDGE WITHOUT PROVIDING ANY REASON WHATSOEVER. AND IT IS THE PURPOSE OF HB 79 TO STRIKE THIS 1967 AMENDMENT TO ALASKA LAW FROM THE BOOKS MAKING PEREMPTORY CHALLENGE OF A JUDGE POSSIBLE ONLY FOR CAUSE, THAT IS, FOR A VALID REASON.

IN THE ELECTION OF NOVEMBER 2, 1982, THE VOTERS IN THE THIRD JUDICIAL DISTRICT VOTED 57,000 TO 38,000 TO RETAIN JUDGE JAMES C. HORNADAY ON THE BENCH. ON THE KENAI PENINSULA, WHERE

JUDGE HORNADAY RESIDES AND HOLDS COURT IN THE SMALL CITY OF HOMER, THE VOTE WAS 6000 TO 3000 IN FAVOR--AN IMPRESSIVE VOTE.

NOW IT HAPPENS THAT JUDGE HORNADAY HANDS OUT TOUGH SENTENCES TO THOSE CONVICTED OF DRUNK DRIVING. SO QUITE NATURALLY, THE TRANSGRESSOR AND HIS LAWYER, QUITE LOGICALLY AND WITHOUT HAVING TO GIVE A REASON, PEREMPTORILY CHALLENGED JUDGE HORNADAY ASKING THAT THE CASE BE HEARD BEFORE ANOTHER JUDGE SINCE, OF COURSE, THE SENTENCE ^{IS NOT GENERALLY} ~~CAN'T LEGALLY BE~~ MADE ANY MORE SEVERE AND MIGHT QUITE POSSIBLY BE LIGHTER. ANY GOOD LAWYER WHO DOES THIS IS QUITE WITHIN HIS RIGHTS, SINCE IT HIS DUTY TO OBTAIN FOR HIS CLIENT THE LIGHTEST POSSIBLE SENTENCE. IN OTHER WORDS, THE LAWYER IS NOT AT FAULT, THE LAW IS, AND THAT IS WHY I ASK YOU AND YOUR COMMITTEE TO REMEDY THIS DEFECT BY FAVORABLY PASSING OUT HB 79.

NOW, IN A STATEMENT AT A HEARING REGARDING JUDGE HORNADAY HELD IN HOMER ON JANUARY 5, 1983, SUP. COURT JUDGE MARK ROWLAND TESTIFIED THAT JUDGE HORNADAY WAS PEREMPTORILY CHALLENGED IN ABOUT 80% OF THE CASES COMING BEFORE HIM, ONLY A SMALL PERCENTAGE OF WHICH HAD TO DO WITH DRUNKEN DRIVING. IN OTHER WORDS, BY ACCIDENT OR DESIGN, MOST OF THE LAWYERS ON THE KENA PENINSULA INDULGED IN A VENDETTA AGAINST JUDGE HORNADAY PEREMPTORILY DISQUALIFYING HIM. IN EFFECT, THESE LAWYERS SAID, "OKAY, SO YOU ARE GOING TO HAND OUT MAXIMUM SENTENCES AGAINST OUR DRUNK DRIVING CLIENTS. THEREFORE, WE WILL PEREMPTORILY DISQUALIFY YOU FOR ALL OUR CASES." OF COURSE, THIS LEFT JUDGE HORNADAY WITH LITTLE TO DO AND MADE IT NECESSARY FOR SUP. COURT JUDGE

MARK ROWLAND TO DISPATCH A JUDGE FROM ANCHORAGE AT NEEDLESS EXPENSE TO HOMER TO HEAR JUDGE HORNADAY'S CASES. AND SINCE HORNADAY HAS BEEN RENDERED INEFFECTIVE, ROWLAND HAS TRANSFERRED HIM TO ANCHORAGE AS OF JUNE 1, THUS QUITE LEGALLY TRANSGRESSING THE WILL OF THE PEOPLE OF THE KENAI PENINSULA. JUDGE ROWLAND IS NOT WRONG; THE LAWYERS ARE NOT WRONG; THE LAW IS WRONG AND HB 79 RECTIFIES THE SITUATION.

IN ANCHORAGE, PEREMPTORY DISQUALIFICATION OF JUDGE HORNADAY WOULD COST NOTHING SINCE THERE ARE SEVERAL JUDGES OF JUDGE HORNADAY'S RANK AVAILABLE.

THEREFORE, IT SEEMS THAT PEREMPTORY CHALLENGE OF A JUDGE WITHOUT CAUSE SHOULD BE STRICKEN FROM THE BOOKS SINCE IT SERVES LAWYERS AND TRANSGRESSORS AND NOT THE ADMINISTRATION OF JUSTICE. REM ACU TETIGISTI.

IF, MR. CHAIRMAN, THIS 13TH STATE LEGISLATURE PROMPTLY PASSES OUT HB 79 WHICH WOULD ELIMINATE PEREMPTORY DISQUALIFICATION WITHOUT CAUSE, THE PEOPLE OF THE KENAI PENINSULA WILL KEEP THE JUDGE WHOSE ACTIONS THEY APPLAUDED BY VOTING FOR HIS RETENTION 2 TO 1.

PASSAGE OF THIS MEASURE WILL ALSO PREVENT THIS FROM OCCURRING IN OTHER ^{one -} JUDGE JURISDICTIONS WHERE, FOR FRIVOLOUS REASONS OR NO REASON AT ALL, A JUDGE MAY BE PEREMPTORILY DISQUALIFIED. THE JUDGES ARE NOT WRONG, THE LAWYERS ARE NOT WRONG, THE PEOPLE ARE NOT WRONG--THE LAW IS WRONG. LET US REPEAL IT BY PASSING HB 79.

I THANK YOU, MR. CHAIRMAN.

HB 79---PEREMPTORY CHALLENGE OF JUDGES REPEAL--

REMARKS BY REPRESENTATIVE JOHN LISKA

THANK YOU MR. SPEAKER:

I RISE TO SPEAK IN FAVOR OF HB 79. I PARTICIPATED, AS A MEMBER OF THE JUDICIARY COMMITTEE, IN HEARING THE MANY WITNESSES TESTIFY BOTH IN FAVOR AND AGAINST THE BILL ON THE TWO DAYS THE HEARINGS WERE HELD.

I ESPECIALLY NOTED THAT JUDGES WERE ALMOST UNIVERSALLY IN FAVOR OF THE BILL. ONE JUDGE STATED THAT AS AN ATTORNEY SHE WOULD BE OPPOSED, BUT THAT AS A JUDGE IT CERTAINLY MADE HER ROLE MORE DIFFICULT.

NOT ALL THE ATTORNEYS WERE OPPOSED TO THE BILL EITHER. IN PARTICULAR, ONE ATTORNEY FROM BETHEL, ONE OF THE VERY FIRST WITNESSES, SPOKE QUITE STRONGLY IN FAVOR OF PASSAGE OF HB 79. IT APPEARED SIGNIFICANT TO ME THAT SO MANY ATTORNEYS WERE OPPOSED TO THE BILL, AND SO MANY JUDGES AND LAYMEN WERE IN FAVOR OF IT, THAT IT APPEARS TO ME THAT THE ATTORNEYS MUST HAVE SOME DECIDED ADVANTAGE WHICH THEY ARE JEALOUSLY GUARDING AND DON'T WANT TO BE TAKEN AWAY FROM THEM.

WE WERE ESPECIALLY APPRECIATIVE OF THE REMARKS BY MS. KAREN HUNT OF ANCHORAGE FORMERLY PRESIDENT OF THE BAR ASSOCIATION. NEAR THE CONCLUSION OF HER TESTIMONY I ASKED HER IF THE SITUATION AT HOMER, ALASKA WAS SUCH THAT SO MANY PEOPLE ARE IN FAVOR OF THE BILL AND SHOWED SUCH SUPPORT FOR IT, COULD THE PEOPLE BE WRONG OR COULD THE LAW BE WRONG? SHE PROMPTLY REPLIED THAT THE LAW IS WRONG!!

TESTIMONY FROM WITNESSES, MR. SPEAKER, WAS ALMOST EVENLY DIVIDED, FOR AND AGAINST THE BILL. I FAVOR PASSAGE OF THIS BILL BECAUSE I FEEL A JUDGE SHOULD BE ALLOWED TO FOLLOW THE DICTATES OF HIS CONSCIENCE IN UPHOLDING THE LAW AND DISCHARGE THE DUTIES OF THE OFFICE, WITHOUT FEAR OF BEING TOSSED OFF THE BENCH BECAUSE A NUMBER OF ATTORNEYS WISH TO HAVE A CHANGE OF JUDGE WITHOUT HAVING TO BE RESPONSIBLE FOR GIVING THE REASONS FOR THAT CHANGE. WE HEARD TESTIMONY, MR. SPEAKER, THAT THE FACT THAT CHALLENGES TO A JUDGE ARE POSSIBLE HAS A DECIDED IMPACT ON DECISIONS THAT

THE JUDGE IS, BY LAW, REQUIRED TO MAKE. IT IS ATROCIOUS TO ME, MR. SPEAKER, TO HAVE A SITUATION IN OUR STATE WHERE OUR JUDGES ARE HAMPERED BY HAVING TO CONSIDER WHETHER OR NOT THEIR SENTENCING PRACTICES WILL LEAD TO CHALLENGES OR EVEN TO REMOVAL FROM ONE LOCATION TO ANOTHER. IT IS CLEAR THAT THE CHIEF JUSTICE HAS INDICATED THAT JUDGES HAVE TO BEAR THIS IN MIND. WITH THE PASSAGE OF THIS BILL, SUCH WOULD NO LONGER BE THE CASE AND JUSTICE WOULD BE BETTER SERVED. THANK YOU, MR. SPEAKER.

body. The ability to improve is there, as well as the desire, and I believe that a great deal can be accomplished without additional resources. Mainly, what needs to be done is to increase our efficiency by adherence to the internal operating procedures that we have already adopted.

Someone once said that the average congregation would be better served if sermons on the avoidance of sin were delivered by the worst sinner in the flock, rather than its minister, although I suppose the two titles are not necessarily inconsistent. In any event, being both the designated leader of the judicial flock and one of its worst sinners, I feel eminently qualified to preach on the continuing problem of delay in the courts.



A related problem is one caused by the right to a peremptory challenge. This right, which you gave to litigants in 1967, enables a party or his attorney to disqualify a judge without first establishing genuine cause. The problem is one of efficient administration of the courts, particularly in single judge locations.

As many of you know, it recently became necessary for the Presiding Judge in the Third Judicial District to transfer Judge Hornaday from Homer to Anchorage. The sole reason for this action is the fact that Judge Hornaday is

*From: A message by Chief Justice Edmund W. Burke to the -12- Thirteenth Alaska Legislature
February 15, 1983*

being challenged in over eighty percent of the criminal cases assigned to him for trial. In order to handle those cases it has been necessary to send other judges to Homer, a process that is both costly and disruptive of the business of the courts in other locations.

Similar problems have arisen elsewhere, although never to the degree seen in Homer. The potential, however, is there. At any moment, a judge in a single judge location can be rendered ineffective by use of the peremptory challenge. In multi-judge locations the problem is less serious because of the ability to reassign cases from one judge to another, without calling for outside help. Even in these locations, however, the peremptory challenge continues to influence the efficient operation of the courts.

Finding an acceptable solution for this problem is not an easy task. There are respectable arguments on both sides of the issue. The problem, however, is one that you should address.

CITY PROSECUTIONS

The performance of the Public Defender Agency has a direct impact on the operation of courts. Due to the agency's caseload, the efficient handling of criminal cases is a serious problem. One reason for this is the fact that a considerable part of the agency's work is the defense of

Memorandum

Alaska Court System

TO: Karla Forsythe
General Counsel

DATE : February 2, 1983

FROM: Robert G. Fisher
Fiscal Officer

SUBJECT: Travel Costs -
Pre-emptions

The following information is provided in response to your request for information on the cost of travel arising from the pre-emption of judges.

Several problems prevent an accurate reporting of these costs. To begin with, Technical Operations does not accumulate statistics strictly on the number of pre-emptions. Some statistics are available for all the categories of disqualifications, but not all courts are represented. Secondly, the travelling judges do not report the specific reason for travelling to other courts on their reimbursement claims. The result is the court does not have the capability to identify the actual cost of pre-emptive disqualifications.

Despite these problems, all judicial travel claims for the period of 7/1 through 12/31/82 were reviewed. Those claims which appeared to be related to the pre-emption or disqualification of a judge were analyzed further. While this method of estimating costs is not perfect, it provides an approximate cost figure.

The schedule presented below shows the travel costs of providing judicial coverage for disqualifications at various court locations during the six month period ending 12/31/82.

<u>COURT LOCATION</u>	<u>TRAVEL COSTS</u>
Juneau - District Court	\$ 2,500
- Superior Court	600
Ketchikan - District Court	1,250
- Superior Court	1,100
Bethel - Trial Courts	3,900
Kenai - Trial Courts	650
Homer - District Court	<u>2,700</u>
TOTAL	<u>\$12,700</u>

The approximate annual cost would be \$25,400. To obtain estimated costs for individual locations the six month figures should be doubled.

*Note -
With per diem
for travelling
judges, annual costs
would probably be
\$50,000 or so,
according to
Mr. Snowden -
- J J Brewer*

TESTIMONY OF JUDGE JAMES D. HORNADAY, HOMER
February 2, 1983

6-2-83
in the file

1968

Mr. Chairman and ladies and gentlemen of the Committee, thank you for holding this hearing and inviting me to address the Committee. I hope I am not the monster judge that everyone has been talking about. My name is James D. Hornaday and from a perspective of nearly 20 years in Alaska I am speaking to you today as a judge. The judicial cannons permit and even require that judges speak out for the improvement of the administration of justice. And with all of the comments by many of my lawyer friends I feel a little like David when he went up against Goliath. The men and women of good will can and do differ in their opinions, and it does remind a little of the old Alaska adage that if the lawyers are against something it must be worthwhile. I wish it were someone else who was on the line rather than me, frankly I would rather be playing basketball or working on a legal history project. But the question of the peremptory challenge is involved with the independence of the judiciary and the decreasing respect for the judiciary. First of all, the peremptory challenge is not a fundamental constitutional right; it does not even exist anywhere in the Federal system, and there are Federal judges in every state and territory. Apparently it does not even exist in the vast majority, about two-thirds of the states. Alaska is in the extreme minority. It did not exist in Alaska until a few years ago when some lawyers pushed it through the Legislature. The Federal system and the majority of states get along just fine without it. Now as one example, drunk driving cases are the most serious problem facing the Alaska Court System. Over half of all the jury trials in the entire Court System are drunk driving cases. Drinking was involved in over 80% of the traffic fatalities; over 200 thousand are killed or injured annually on our nation's highways. Let's make clear what the Legislature has already done; the Legislature has passed legislation providing for up to one year in jail and \$5,000 fine, revocation of licenses and community work. Now the statutes specifically states that for the first offense a defendant is to receive not less than 72 consecutive hours. It is too serious a problem to leave in the hands of the attorneys and that is the non-effect of the peremptory challenge without cause. Judges are concerned about the peremptory challenge; it is affecting sentences. The Chief Justice has stated publicly that the peremptory challenge moderates sentences and that a judge has to walk a fine line and if they get too far over they will be removed by the peremption. I was told by the presiding judge that I had to take peremptions into consideration when I sentence. It is the most frequent topic of conversation at the Annual Judicial Conference. The leading authority on court delay called the Alaska peremptory challenge an absolute abomination, those were his words. Representatives of the National Center of State Courts were amazed at the existence of the removal without cause. I have heard judges tell the Chief Justice they are concerned about the peremption. It is a problem state-wide, not just in Homer. You have heard the lawyer in Bethel and the problems there. You've heard the judges in Fairbanks. It exists in Kodiak, Ketchikan, Juneau and all over the state, even in multi-judge areas. Now we announced a pattern of sentencing in drunk driving cases in Homer about a year ago which was effective, but sentences were clearly within the sentences permitted by the Legislature. Fifteen days is less than 5% of the maximum penalty. Although the announced pattern is no longer in effect and was rescinded when the higher court ruled that it could not be applied. There are sentencing patterns in Alaska, attorneys keep records of the sentences of judges. So there are patterns but known only to the judges and the lawyers. The public, including the potential defenders, do not know the patterns. It is time to open up the System and bring it out from behind the closed doors of the

legal profession. Now I was a lawyer for 10 years and you are never going to satisfy the lawyers on sentencing. About 6 years ago we initiated the first work program, alternate work program, for drunk drivers in Alaska. Some lawyers supported, but other complained that work was a cruel and unusual punishment. Now the program has been reinstated pursuant to the community work which the Legislature has made a sentencing tool. Now the lawyers are complaining that we are giving too much community work. Also the argument that the System would be flooded with time consuming challenges for cause is questionable, as several attorneys have indicated that they would not use challenges for cause. Further the presiding judge denied a challenge because against me on hearing a DWI case after the announced policy was rescinded. The hearing took all of 10 minutes. The Court System and the people of Alaska should not be held held hostage by attorneys threatening to plug the System with challenges for cause. Further judges will disqualify themselves if for some reason they should not hear a case. There is already a procedure for this approach that is in effect. However, again note that a judge has to give a reason why they are disqualifying themselves. Related to the peremptory challenge is another deep concern which I have as a 20 year Alaskan and as a lawyer and a judge and a citizen, and that is the growing lack of respect for the Alaska Judiciary among the members of the public. Reportedly, concern over the Justice System trailed only the capitol move and subsistence in intensity in the recent election. Almost half of the voters in the Third District voted not to retain the trial judges last November. This negative vote is up nearly 10% in only 4 years. How many years will it be before all judges are defeated? Some of the longer serving judges remember when they received 85% approval ratings. For the first time in nearly 20 years in the legal profession, so many people told me they were voting against all of the judges that I lost count. And note that, at least to-date, that most of the people, most of the lay people, testifying to you are against the peremption, only the lawyers are testifying before you in favor of it. That should tell you something. We pride ourselves in Alaska on the merit selection appointment procedure for judges. The Judicial Council recommends the Governor appoints and the people vote, and yet the present situation with the peremptory challenge is worse than the most partisan political election of judges, and that a very few attorneys can remove a judge and hold the System hostage. The cost to the public and the wasted expense and time is high. The selection process of which we are so proud and the public vote means absolutely nothing. Just as an example, I was required to move to Homer to take the judgeship in Homer. The Judicial Council recommended me for Homer and the Governor specifically appointed me to Homer. The family moved here and has put down deep roots; we have children in school of all ages. I received good ratings from the lawyers and the highest rating from the Alaska Peace Officers and was retained overwhelming by the voters in the November election in my home area by a 2 to 1 margin. And although I appreciate Mrs. Barnes' invitation to Anchorage, I would prefer frankly to remain in Homer. I did live in Anchorage for a couple years and I have, we have, a lot of friends up there, however we are pretty deeply rooted in Homer at the present time. Two weeks after the election I was asked to transfer to Anchorage because of the peremptions. I have been assured that there is no other reasons for my transfer, only the peremptions. None of my sentences have ever been reversed as excessive. Now there are checks and balances that are far more appropriate than peremptions without cause and they are numerous. If a judge is doing something improper turn them over to the Judicial Qualifications Commission, or challenge the judge for cause, or test the judge in the retention elections, or appeal the judge's decision, or ask the judge to voluntarily disqualify himself. The message is going out loud and clear to the judges in Alaska, to the attorneys and to the public that inspite of the vote of thousands that vote means nothing, and a handful of attorneys can accomplish the transfer

of a judge, and threaten other judges through peremptions for which they do not even have to give a reason. All the attorneys have talked about before you are the rights of their clients, and these are important rights, no one would say that they are not. But what about the rights of the victims? What about the rights of society? The Constitution clearly requires a judge to sentence to protect society and reformation. No where in the Constitution, in the statutes or in the case law is there any indication that a judge is to sentence in order to avoid peremptions. And yet the Chief Justice of the Alaska Supreme Court has stated publicly that this is happening, and any judge who will level with you will tell you the same. The tail is wagging the dog at the present time as the attorneys are in effect controlling sentencing, and are now even controlling the transfer of judges. Thank you.

ALASKA

STATE LEGISLATURE

MEMORANDUM

TO: Members of the Legislature
FROM: Representative Milo H. Fritz *MHF*
DATE: March 14, 1983
RE: Peremptory Disqualification

This is a copy of the 1967 session law, Chapter 48, which gave the right of Peremptory Disqualification.



LAWS OF ALASKA

1967

Source

SB 66 am

Chapter No.

48

AN ACT

Relating to the disqualifications of judicial officers; and providing for an effective date.

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

* Section 1. AS 22.20.020 is repealed and re-enacted to read:

Sec. 22.20.020. DISQUALIFICATION OF JUDICIAL OFFICER FOR CAUSE. (a) A judicial officer may not act as such in a court of which he is a member in an action in which

- (1) he is a party or is directly interested;
- (2) he was not present and sitting as a member of the court at the hearing of a matter submitted for its decision;
- (3) he is a material witness;
- (4) he is related to either party by consanguinity or affinity within the third degree;
- (5) either party has retained him as their attorney or has been professionally counseled by him in any matter within two years preceding the filing of the action;
- (6) the judicial officer feels that, for any reason, he cannot give a fair and impartial decision.

(b) In an action specified in (a)(4) and (5) of this section the disqualification may be waived by the parties and is waived unless a party raises the objection.

(c) If a judicial officer disqualifies himself or

consents to disqualification, the presiding judge of the district shall immediately transfer the action to another judge of that district to which the objections of the parties do not apply or are least applicable and if there be no such judge, then the chief justice of the supreme court shall assign a judge for the hearing or trial of the action. If a judicial officer denies his disqualification the question shall be heard and determined by another judge assigned for the purpose by the presiding judge of the next higher level of courts or, if none, by the other members of the supreme court. The hearing may be ex parte and without notice to the parties or judge.

* Sec. 2. AS 22.20 is amended by adding a new section to read:

~~_____~~
~~_____~~ (a) If a party or his attorney in a superior court action, civil or criminal, files an affidavit alleging under oath that he believes that he cannot obtain a fair and impartial trial, the presiding judge shall at once, and without requiring proof, assign the action to another judge of that district, or if there be none, then the chief justice of the supreme court shall assign a judge for the hearing or trial of the action. The affidavit shall contain a statement that it is made in good faith and not for the purpose of delay.

(b) No judge or court may punish a person for contempt for making, filing or presenting the affidavit provided for in this section, or a motion founded on the affidavit.

(c) The affidavit shall be filed within five days after the case is at issue upon a question of fact, or within five days after the issue is assigned to a judge, whichever event occurs later, unless good cause is shown for the failure to file it within that time.

(d) No party or his attorney may file more than one affidavit under this section in an action and no more than two affidavits in an action.

* Sec. 3. This Act applies to all actions pending, but not set for trial on the effective date of this Act.

* Sec. 4. This Act takes effect on the day after its passage and approval or on the day it becomes law without approval.

Christian Ministers Association of Kachemak Bay
P.O. Box 2018
Homer, Alaska 99603

December 9, 1982

Judge Mark C. Rowland
303 K Street, Courtroom D
Anchorage, AK 99501

Dear Judge Rowland,

Your office and the judicial system are held in high regard by us and our children. We value justice as one of the key ingredients in our democratic way of life. We regularly instruct our children to respect the law and to deal in a just way with their companions and fellow citizens.

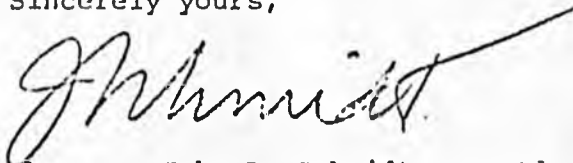
In this context we cannot understand why you should order Homer District Court Judge James Hornaday transferred to Anchorage against his will and against the overwhelming wishes of our community. As we understand, there is no precedence for this.

Therefore, we ask — for justice sake — that Judge Hornaday be retained as our District Court Judge. Secondly, you should know that we wholeheartedly endorse the policies of Judge Hornaday in sentencing DWI offenders. Finally, we request that the whole peremption policy be reviewed in light of these circumstances.

A judge serves his community in an exceptional manner. His policies are supported by the people he serves. He is an outstanding example for our children. Yet, he is transferred against his will. That seems a strange reward — even stranger justice.

Speaking for the Christian Ministers Association, I am

Sincerely yours,



The Rev. John D. Schmidt, President
235-7600

cc: Chief Justice Edmond Burke

ALASKA

STATE LEGISLATURE

MEMORANDUM

TO: Members of the Legislature

FROM: Representative Milo H. Fritz *MHF*

DATE: March 14, 1983

RE: Peremptory Challenge

This is a copy of the statute before the 1967 change, which allowed peremptory challenge.

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Appeal from joint judgment.—See Am. Jur. reference.—2 Am. Jur., Stanley v. Greenberg, 5 Alaska 178. Appeal and Error, § 1 et seq.

Sec. 22.15.250. Disposition of fines. When by law any fees, fines, forfeitures, or penalties are levied and collected by the district magistrate or deputy magistrate, the proceeds and all other money collected shall be accounted for and transmitted to the administrative director of the judicial system for transfer to the general fund of the state except as provided in § 270 of this chapter. (§ 21 ch 184 SLA 1959)

Sec. 22.15.260. Bond. Before entering upon his duties each district magistrate and deputy magistrate shall execute and file with the administrative director a surety bond in form and amount to be determined by rule of the supreme court. The state shall pay for the bond. (§ 22 ch 184 SLA 1959)

Am. Jur. reference.—30A Am. Jur., Judges, § 12.

Sec. 22.15.270. Retention of fines, etc., by political subdivisions. All fines, penalties and forfeitures resulting from violations of ordinances of political subdivisions shall be returned to the political subdivision whose ordinance is involved in the manner provided by rule of the supreme court. The political subdivision shall pay to the state administrative director of the court for transfer to the general fund of the state such sums as shall pay for the judicial services rendered to the political subdivision by the magistrate rendering the services. Fines, penalties and forfeitures imposed after appeals accrue to the state, unless the appeal is prosecuted by the political subdivision. (§ 23 ch 184 SLA 1959)

Chapter 20. Officers and Employees.

Article

1. Judicial Officers (§§ 22.20.010—22.20.030)
2. Attorneys (§§ 22.20.040—22.20.090)
3. Commissioner of Public Safety (§§ 22.20.100—22.20.140)

Article 1. Judicial Officers.

- | | |
|--|--------------------------------|
| Section | Section |
| 10. Judicial officer defined | 30. Power of judicial officers |
| 20. Disqualification of judicial officer | |

Sec. 22.20.010. Judicial officer defined. The term "judicial officer" means a supreme court justice, including the chief justice, a judge of the superior court, a district magistrate and a deputy magistrate. (§ 54-2-1 ACLA 1949)

Am. Jur. reference.—14 Am. Jur., Courts, § 22.

Sec. 22.20.020. Disqualification of judicial officer. (a) A judicial officer may not act as such in a court of which he is a member in any of the following cases:

Handwritten:
C O
B-1957
Law

(1) in an action or proceeding to which he is a party or in which he is directly interested;

(2) when he was not present and sitting as a member of the court at the hearing of a matter submitted for its decision;

(3) when he is related to either party by consanguinity or affinity within the third degree;

(4) when he has been attorney in the action or proceeding in question for either party;

(5) when a party, or an attorney for a party to an action or proceeding, civil or criminal, files an affidavit that the judge before whom the action or proceeding is to be tried or heard has a personal bias or prejudice either against him or his attorney or in favor of an opposite party, or attorney for an opposite party, to the suit, and that it is made in good faith and not for the purpose of delay, and the affidavit shall state the facts and the reasons for the belief that bias or prejudice exists, and shall be filed within one day after the action, suit, or proceeding is at issue upon a question of fact, unless good cause is shown for the failure to file it within that time. No party or attorney may file more than one such affidavit in any case. The provisions of this subdivision apply only to the superior court.

(b) In the cases specified in (3) and (4) of this section the disqualification may be waived by the parties and is waived unless a party raises the objection. (§ 54-2-1 ACLA 1949)

Revisor's note.—Also see the Rules of Civil Procedure relating to "Disability of a Judge."

This section contains the only conditions under which the judge should abandon the trial of a cause and send it to another judge. *United States v. Pratt*, 3 Alaska 400, affirmed in 170 F. 881.

The affidavit must assert facts from which a sane and reasonable mind may infer bias or prejudice. *United States v. Pioneer Packing Co.*, 10 Alaska 70; *Graff v. Electrical Enterprises, Inc.*, 12 Alaska 322.

And is subject to strict construction.—That affidavits of prejudice are to be strictly construed has been held consistently. *United States v. Pioneer Packing Co.*, 10 Alaska 70.

Personal bias must be shown.—The affidavit of prejudice must show that a personal bias exists, and the holding is that judicial bias or rulings of a judge which are the subjects of correction on appeal do not constitute personal bias. *United States v. Pioneer Packing Co.*, 10 Alaska 70.

Filing of affidavit.—The affidavit must be filed within the time speci-

fied by statute and the recused judge must determine the question. *United States v. Pioneer Packing Co.*, 10 Alaska 70.

Requires that cause be at issue upon question of fact.—This section specifically requires that the cause be at issue upon a question of fact before the affidavit may be filed. *United States v. Pioneer Packing Co.*, 10 Alaska 70.

When cause is at issue.—A cause is not at issue upon a question of fact until all permissible motions and demurrers have been waived or filed and passed upon, and the proper pleading, setting forth the claims of the respective parties, has been filed. *United States v. Pioneer Packing Co.*, 10 Alaska 70.

Mere assertion of bias insufficient.—A mere assertion of belief that the judge is biased or prejudiced, giving no reasons in its support, does not disqualify the judge under the provisions of this section. *Pacific Coal, etc., Co. v. Pioneer Min. Co.*, 205 F. 577.

It is a mistake to assume that a judge can be ousted from jurisdic-

tion to try a cause upon an allegation of mere bias or prejudice. United States v. Pratt, 3 Alaska 400, affirmed in 170 F. 881.

Attorney may allege prejudice in a respectful manner.—An attorney may in a proper case, in a respectful manner, allege that the judge is prejudiced against his client, and unless the act is done with reckless disregard of truth, or with the express intention to reflect upon the honor and integrity of the judge, it is not a contempt. Tjosevig v. United States, 225 F. 5.

And untrue or excess facts are not proper ground for contempt or criticism.—Where an attorney filed a proper affidavit of prejudice and of interest, if the facts therein stated were untrue, the fact that they were untrue is not a proper basis for adjudging a contempt, nor is the fact that the affidavit contained more than was necessary to accomplish the change of judges a ground for punishment or criticism. Paul v. United States, 36 F. (2d) 639.

Duty of judge not to withdraw from case where affidavit is insufficient.—A judge against whom an insufficient showing for recusation has been made owes it to his oath of

office and to the litigant who has invoked the jurisdiction of the court over which he regularly presides not to withdraw from the case, where an insufficient affidavit of prejudice has been filed, however much his personal feelings may incline him to do so. Graff v. Electrical Enterprises, Inc., 12 Alaska 322.

Statements made by the judge in a prior suit involving a different defendant, and in the case at bar, did not show any objectionable attitude on the part of the judge, or any personal bias against the defendant in the case at bar. United States v. Pioneer Packing Co., 10 Alaska 70.

Cited in Stringer v. United States, 16 Alaska 305, 233 F. (2d) 947.

ALR references.—Disqualification of judge by relative's ownership of stock in corporation which is party to action, 8 ALR 295; 110 ALR 472.

State's right to file affidavit disqualifying judge for bias, 115 ALR 866.

Right of party in course of litigation to challenge title or authority of judge, 144 ALR 1207.

Disqualification of judge in pending case as subject to revocation or removal, 162 ALR 641.

Sec. 22.20.030. Power of judicial officers. A judicial officer may

(1) preserve and enforce order in his immediate presence, and in the proceedings before him, when he is engaged in the performance of a duty imposed upon him by law;

(2) compel obedience to his lawful orders, as provided by law;

(3) compel the attendance of persons to testify in a proceeding pending before him in the cases and manner provided by law;

(4) administer oaths to persons, in a proceeding pending before him, and in all other cases where it may be necessary in the exercise of his powers and the performance of his duties;

(5) take and certify the proof and acknowledgment of a conveyance of real property, or any other written instrument authorized or required to be proved or acknowledged;

(6) take and certify the acknowledgment of satisfaction of a judgment in any court;

(7) take and certify an affidavit or deposition to be used in any court of justice or other tribunal of the state. (§§ 54-2-3, 54-2-5, 54-2-6 ACLA 1949)

The power to punish for contempt is the highest exercise of judicial power. United States v. Pratt, 3

Alaska 400, affirmed in 170 F. 881. It is not an incident to the mere exercise of judicial functions. United

December 13, 1982

K. H. Plourd, Sr.

Box 74

Anchor Point, Ak. 99556

Judge Mark C. Hornaday

303 K Street, Courtroom D

Anchorage, Ak. 99501

Dear Sir,

In regards to the case of Judge Hornaday.

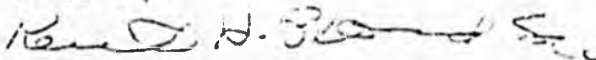
Your position in this matter is untenable to the people of the Homer area. After Judge Hornaday had been in Homer for some time as a temporary judge, a public meeting was held to determine the position of the people. The vote to keep him here permanently was unanimous. That seems to me to be a mandate from the people.

At the recent election, Judge Hornaday was again given an overwhelming vote of confidence by the people of this area. Another clear mandate.

When the news of his proposed removal from Homer reached the people, groundswell of indignation arose and is gaining momentum. In regards to this strong sentiment, the indignation on the part of most people of this area (except the drunks) as another mandate.

Are not the people in a democracy the ultimate source of power? I like to think so.

Sincerely,



Kenneth H. Plourd, Sr.

Copies: Governor Bill Sheffield
Rep. Kilo Fritz ✓
Rep. Hugh Malone

Chief Justice Edmond Burke
Sen. Donald Gilman
Sen. Paul Fischer

December 6, 1982

Filing
Office
Chamber of Commerce

Judge Mark C. Rowland
303 K Street
Courtroom D
Anchorage, AK 99501

Dear Judge Rowland:

The community and surrounding areas of Homer is greatly dismayed to learn of your decision to transfer Judge James C. Hornaday from Homer to Anchorage. We strongly urge your reconsideration in this matter.

Judge Hornaday has been an excellent judicial representative for Homer for many years. His home and family are here. We do not want to lose Judge Hornaday to this area.

This community has steadfastly supported Judge Hornaday's courageous stand against the crime of drunken driving and we wholeheartedly support his sentencing procedures.

Please find attached petitions of support in favor of Hornaday being retained as District Judge in this area.

Sincerely,

HOMER CHAMBER OF COMMERCE

Jim Daily,
President

JD:lag
Enclosures

cc: Governor Bill Sheffield
Judge Edmond Burke
Homer City Council
Kenai Peninsula Borough Assembly
Rep. Milo Fritz
Hugh Malone
Sen. Paul Fischer
Don Gilman

CITY OF HOMER
HOMER, ALASKA

RESOLUTION 82-20(S)

A RESOLUTION SUPPORTING A STIFF SENTENCING
POLICY FOR DRIVING WHILE INTOXICATED (DWI).

WHEREAS, the absence of sidewalks in Homer requires pedestrians to walk along the traveled ways, subjecting themselves to potential vehicle associated accidents; and,

WHEREAS, studies which have been conducted show that the higher the blood alcohol level, the greater the likelihood of an accident; and,

WHEREAS, there has been an increase in D.W.I. cases of some seventy-seven percent (77%) between 1980 and 1981 in the Homer District Court; and,

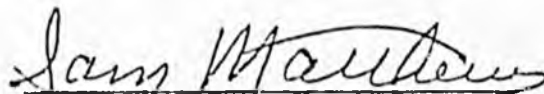
WHEREAS, the City Council of the City of Homer wishes to have life, liberty and property protected from potential injury by person(s) who drive while under the influence of alcohol;

NOW THEREFORE, BE IT RESOLVED that the Common Council of the City of Homer, Alaska, supports a stiff sentencing policy for Driving While Intoxicated (DWI).

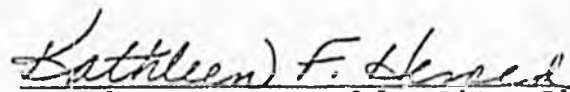
BE IT FURTHER RESOLVED that copies of this resolution be directed to the State legislators of Alaska.

DATED in Homer, Alaska this 14th day of June, 1982.

CITY OF HOMER


Sam Matthews, Mayor Pro tem

ATTEST:


Kathleen F. Herold, City Clerk

CITY OF HOMER
P. O. BOX 335
HOMER, ALASKA 99603-0335



Box 335
Homer, Alaska 99603

- REPLY TO:
- City Hall
Ph. (907) 235-6121
 - Port of Homer
Ph. (907) 235-3597
 - Harbor Master
Ph. (907) 235-3559
 - Public Works Dept.
Ph. (907) 235-8120
 - City Engineer
Ph. (907) 235-8333

December 6, 1982

The Honorable Marj Rowland
Presiding Judge of the Superior Court
303 "K" Street
Anchorage, AK 99501

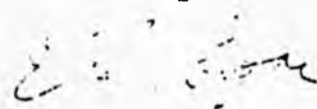
Dear Judge Rowland:

We, as a community, strongly oppose the transfer of Judge James Hornaday. Judge Hornaday's stance on drunk driving is looked upon as a favorable public service in the community. Perhaps the laws of pre-emption should be closely scrutinized and amended out of necessity in administering a trial court system.

Jim Hornaday is an active participant in community affairs, an impeccable family man, and contributes strong support to this rural community. The type of program he advocates serves the individual rights of our citizens to travel the streets of Homer with less probability of being harmed by drunk drivers.

As Mayor of Homer, I petition you to cancel the transfer order removing Judge Hornaday from this community as District Court Judge.

Sincerely,


Erle Cooper
Mayor

EC:lcr
CC: Governor Bill Sheffield
Judge Edmond Burke
District 5, Legislative Delegation

COMMUNITY MENTAL HEALTH CENTER

Box 2274
Homer, Alaska 99603-2274
(907) 235-7701



RESOLUTION

SOUTH PENINSULA MENTAL HEALTH ASSOCIATION, INC.

December 11, 1982

Whereas, Judge James Hornaday has proven to be an effective and competent District Court Judge serving the Homer Court, and

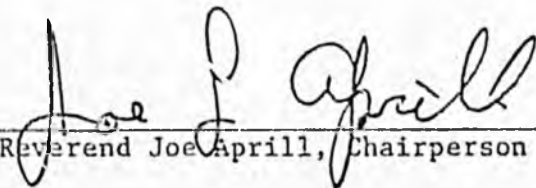
Whereas, Judge Hornaday was overwhelmingly endorsed by the residents of his jurisdiction during the recent election, and

Whereas, the right of the State Judicial system to move a Judge without public hearing or other procedural considerations is currently being questioned,

Be it hereby resolved that the South Peninsula Mental Health Association requests the retention of Judge Hornaday in the Homer District Court, and

Be it further resolved that the judicial pre-emption statutes in Alaska should be thoroughly reviewed and that the procedures for moving a Judge from one jurisdiction to another should be standardized through promulgation of appropriate regulations.

Resolution passed at the Board of Directors meeting on December 11, 1982.


Reverend Joe Aprill, Chairperson

C. R. BALDWIN
ATTORNEY
P. O. BOX 4210
KENAI, ALASKA 99611
TELEPHONE (907) 293-7167

December 23, 1982

Milo H. Fritz
Box 158
Anchor Point, Alaska 99556

Dear Milo:

This letter is prompted by the article concerning your position on certain legal reforms you have proposed which appears in the December 20 issue of The Clarion.

You were quoted as indicating that you expected the legal profession to oppose your bill removing the right of peremptory challenges. I know of very few attorneys who have ever exercised their right to file a peremptory challenge against a judge. I, myself, have never filed one and I agree that no such right should exist. I have not made a study of other jurisdictions but would be very surprised if the right exists in very many states. Presumably, the law was originally passed by well meaning individuals who enjoy tinkering with the system. I wish you well in pushing the legislation and offer you my support.

I was surprised that you were quoted as indicating your interest in enacting legislation which would impose a limit on attorney's fees in probate matters. Although I do not do any probate work myself at the present time, it has been my experience in the past that after the passage of the Uniform Probate Act and the institution of simplified probate procedures, many attorneys are now charging fees which are lower than they were in the past. In the case of a large estate I would suggest that a fee based upon the percentage of that estate would be unconscionable. From the attorney standpoint, it generally does not cost any more to probate a large estate than to probate a small one. Prior to the passage of the Uniform Probate Act, that was not the case.

Philosophically, I am opposed, as I am sure you are,

Milo H. Fritz
December 23, 1982
Page Two

to the State interfering in contract relationships between professionals and their clients. I would suggest that a legislature which would concern itself with fees charged by an attorney to his client would also not hesitate in interfering with the fees charged by a physician to his patient. As a practical matter, a client who is overcharged by an attorney presently has recourse to the fee arbitration panel which operates under the auspices of the Alaska Bar Association. In light of the foregoing, I would request that you rethink your position on supporting a limit on attorneys fees.

Thank you for your attention to my comments. I wish you well in Juneau this year.

Very truly yours,


C. R. BALDWIN

CRB/hs

P.O. Box 1555
Homer, AK 99603

December 9, 1982

Mr. Fritz Sir:

It appalls and infuriates me to realize a group of liberal attorneys can determine to whom they shall present a trial case for judgement.

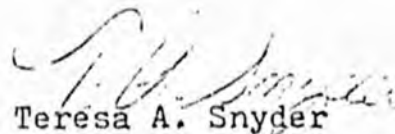
Residing in Homer, I encourage you to rescind the actions of those opposed to honest justice and request that Judge James C. Hornaday remain in his position as District Judge in Homer.

The precedent set in this matter should be one of great concern, Corruption has already seeped into our entire judicial system on all levels. The removal of a Judge that is of determined and forthright character proves only to place this great countries liberty in the hands of its' criminal offenders. This fact is more apparent over the years and also by the continual interpretation of our laws through legal gibberish.

I sincerely hope you will not disappoint me nor the countries integrity that was once established by great men and that which is continually preserved by the deths of even greater men.

"If it's peace you want---try working towards Justice."

Sincerely,


Teresa A. Snyder

RECEIVED
MILO F. FRITZ, M.D.
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Peninsula Eye Clinic
Peter E. Cannava, M.D., A.P.C.

OPHTHALMOLOGY
P.O. BOX 1629
SOLDOTNA, ALASKA 99589
TELEPHONE 262-4482

February 17, 1983

Rep. Hugh Malone
Pouch V
Juneau, AK 99801

Dear Hugh

Concerning the "pre-emption" bill of Milo's, I would like to suggest that the current law is indeed causing a "hardship." A "hardship" to the community at large who elected their local judges only to see him chastised in the form of a transfer because he is practicing in the fashion the people expected him to!

The current law usurps the right of the community to determine who their judge should be. It places that right in the hands of those attorneys and their clients who pre-empt him.

Please support Milo's solution and don't water it down on the floor! It seems as though the "bad guys" are winning, the "who's got rights" game these days.

Sincerely



Peter E. Cannava, M.D.

PEC/tc

cc Rep. Milo Fritz, M.D.
Rep. Paul Fischer
Sen. Don Gilman



CHRISTIAN COMMUNITY CHURCH

Phone 235-2645



"THE CHURCH WITH THE LIGHTED CROSS"

Rev. Raymond Arno
Box 1346
Homer, Alaska 99603

P.O. BOX 1346
HOMER, ALASKA 99603

December 10, 1982

Rep. Milo Fritz
P. O. Box 158
Anchor Point, Alaska 99556

Dear Sir:

The transfer of Judge James Hornaday has caused quite a stir here in Homer and we trust good will come of it.

I personally, along with most of Homer's population, am very disturbed by this move. I am writing to you hoping that something will be done about such action.

First, Judge Hornaday's transfer is a move against the innocent people of Alaska who are being asked to pay with their limbs and lives the price of drinking and driving. Why should this be? I am asking you to do something to increase the penalty for drunk driving state wide.

Secondly, I ask that you do something about the preempting policy that has caused this entire problem. To preempt a Judge without cause is just another advantage for the guilty. This advantage is being paid for by the innocent.

I as a husband, father, Pastor and citizen of Homer and Alaska, want to see our roads and highways safe from the killer loaded with booze and armed with an auto. Will you help us?

Thanks.

Sincerely,

Rev. Raymond Arno

RA:my

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Telegram

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FMS REPRESENTATIVE MILO FRITZ

PO BOX 158 2054

ANCHOR POINT AK 99556

JUDGE ROWLAND,

WE ARE GREATLY DISMAYED TO LEARN OF YOUR DECISION REGARDING
THE TRANSFER OF JUDGE HORNADAY FROM HOMER TO ANCHORAGE.
OUR COMMUNITY DOES NOT SUPPORT THIS ACTION. PLEASE GIVE
THIS YOUR RECONSIDERATION.

THE HOMER CHAMBER OF COMMERCE

BOARD OF DIRECTORS

243

PAUL SAYER, M.D.

A Professional Corporation

GENERAL SURGERY

BOX 2353
HOMER, ALASKA 99603

Telephone 235-7659

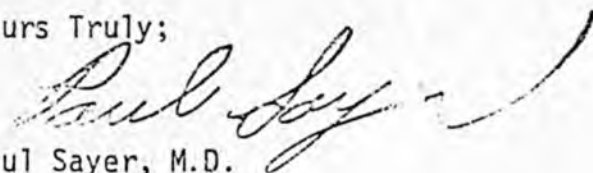
December 16, 1982

Milo Fritz, M.D.
Anchor Point, Alaska
99556

Dear Milo:

I want you to know that I strongly endorse and support your efforts to prohibit peremptory challenges of the sort which has been causing Judge Hornaday so much trouble. Whatever you can do to stop this kind of a thing I would appreciate it. I encourage your enthusiastic efforts on this bill.

Yours Truly;



Paul Sayer, M.D.

PS:jeh

Judge blames lawyers for high disc

Empire - 2-8-83

Lawyers counter that challenges are needed to guarantee fairness

By CHRIS JARVIS
Empire Staff Reporter

Lawyers, not judges, are to blame for the high frequency with which some judges are disqualified from cases, Juneau District Court Judge Gerald O. Williams

said today.

Williams is frequently disqualified from hearing cases because, in his opinion, "Alaska is the most lawyer-whipped state in a lawyer-whipped country."

Williams and Juneau Superior Court

Judge Rodger Pegues have been named as two of six Alaska trial judges most frequently disqualified from cases. Pegues is on vacation and was unavailable for comment.

Alaska Court Administrator Art Snowden said the peremptory challenges, which allow lawyers to ask for a different judge without stating a reason, are an "administrative nightmare," noting it costs the state an estimated \$30,000 a year to put judges into a jurisdiction to hear a case

Williams, a former Alaska State Trooper, said members of the bench should not be blamed.

Williams said it is his responsibility to make sure a person accused of a crime is brought to trial within 120 days of his arrest, he said. He thinks peremptory challenges are often used to prolong the time before trial.

Lawyers generally disagree. "I don't know of any attorney" who uses peremptory challenges only to prolong

Qualification rate

cases, said lawyer Richard Burnham.

According to current rules, an attorney on either side of a case can request a judge be disqualified without giving a reason.

Requiring attorneys to say why a judge should be disqualified would present problems if a judge is not disqualified and the attorney must then argue a case before him, Burnham said.

Although acknowledging it costs money to fly a judge to hear the cases of a disqualified judge, Burnham said there are

other solutions to the problem. For example, he said, a superior court judge could hear district court cases or, if that is not possible, another district judge could be hired.

"It doesn't seem to me the goal of the judicial system is to run cheaply. It's to give people their day in court," Burnham said.

Williams, however, said if a case is prolonged long enough, eventually a case

Continued on Page 2

Judge...

Continued from Page 1

could be dismissed because the time limit for trial has been passed.

Admitting he is sometimes cruel when on the bench, Williams said he finds it difficult to "put someone in jail in a nice way."

He defended his record, saying he treats everyone who is convicted in his court in the same way.

"I've still got friends who are mad at me (for sentencing them to jail), but it goes with the turf," he said.

"I admit I'm old fashioned," Williams said. He seldom likes to grant delays in

court proceedings because cases often end up dismissed when delayed too long, he said.

Peremptory challenges are often used by attorneys in a "tactical and strategic" manner, Williams said.

Of defense attorneys, Williams said, "It is in their interest to prolong to avoid a trial."

However, it is not always in the best interest of the defendant, Williams said. Peremptory challenges and continuances might result in an attorney's client staying in jail, if not able to make bail, he said.

It is the court's responsibility to assure efficiency in the system especially with criminal case loads in Juneau almost

doubling in four years, he said.

Sometimes 30 to 60 days will have elapsed since a person's arrest before making the first court appearance. That leaves as few as 60 days before the case may go to trial, Williams said, noting motions for continuances, if granted, could extend beyond the 120 day limit.

Although some people who see Williams on the bench for the first time might see him as "a combination of Atilla the Hun and Genghis Kahn," he said it is because his experience has taught him he must be absolute when passing judgment.

"I may appear cruel in court but I've learned through experience that you've got to do it," he said.

Judges

(Continued from page A-1)
cases are Juneau District Court Judge Gerald Williams, Fairbanks District Court Judge Stephen Cline, Anchorage Superior Court Judge Karl Johnstone, Juneau Superior Court Judge Roger Pegues, and Wrangell Superior Court Judge Henry Keene.

By law, attorneys have a right of pre-emption, called peremptory challenge, which means that each side in a case may excuse the judge assigned to that case one time. The parties involved do not have to state the reason. Lawyers have five days from the initiation of a case to file a notice for a change of judge. The legislature is now considering a bill to repeal lawyers' right to pre-empt a judge.

Court officials have called the pre-emption an "administrative nightmare" because of the problems in reassigning judges.

"It is more efficient without it,"

Snowden said, adding that the court system has not taken a policy on the peremptory challenge and is probably split on the issue.

Snowden called it "a destruction" that costs the state court system an average of \$20,000 yearly in extra costs of reassigning cases to other judges.

The biggest expense, Snowden said, is paying travel and expense money to have judges journey to one-judge areas to fill in where the only judge in town has been legally removed from a case.

That has happened so much in Homer that Hornaday has been ordered to pack up, leave town, and don his judicial robes in Anchorage. Even if lawyers pre-empt him there, the reasoning is, there are other judges to fill in. Presiding Judge Mark Rowland ordered Hornaday to move to Anchorage by June 1 to fill a judicial vacancy here.

Hornaday has been pre-empted from about 84 percent of the criminal cases assigned to him. His law-

yer, Henry Camarot, claims that Hornaday is pre-empted 8 percent of the time when all his cases are considered.

Cline, Williams and Johnstone are taken off cases up to half the time. All four of the most pre-empted judges have been retained in office by voters in recent elections.

Johnstone, the only Anchorage judge regularly excused, is also the only judge who hears civil cases almost exclusively. The others regularly hear criminal cases, too. Johnstone is pre-empted three times more than all the other Anchorage Superior Court civil judges put together, and his pre-emptions climbed to a high of 20 in December. Judges are assigned between 20 and 40 new cases monthly. Johnstone was pre-empted 133 times in 1982, up from 71 in 1981. And although Johnstone

said last summer that his pre-emp-

tions were going down, court records show they are on the rise. But in Anchorage, the state's biggest judicial district, Johnstone's cases are simply re-assigned to another Anchorage judge. That can't be done in Homer, where Hornaday is the only judge. His removal means that court administrators have to send in another judge to hear Hornaday's cases.

Last week the House Judiciary Committee held two days of hearings on the bill to abolish the pre-emption. Lawyers argued against the bill, claiming the pre-emption is used to excuse a judge who may not give their client a "fair shake."

Both defense attorneys and Anchorage municipal prosecutor Allan Bailey argued for keeping pre-emptions around so they have a tool to excuse a judge they think is either too lenient or too harsh when it comes to sentencing.

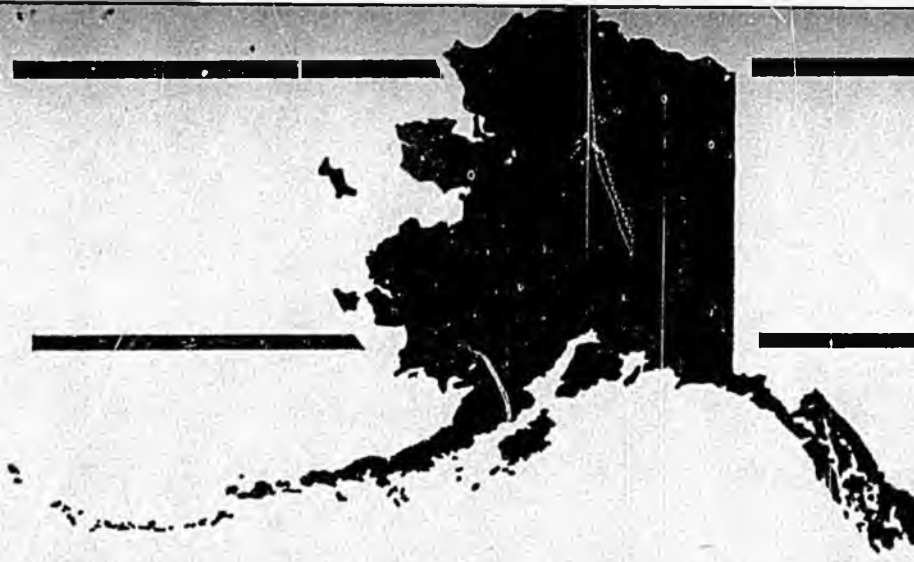
Pre-emption
of judges
Alternative
by Jeff Reithner

A handful of state judges are disappearing from the state court system because they are removed from cases so frequently, says state court administrator Art Snowden.

Court records show that one Anchorage judge and five other judges from around the state are excused from cases far more than their colleagues.

Although the current debate over pre-emption has focused on Homer District Court Judge James Hornaday, he is not the only judge regularly excused from cases by lawyers. There are several judges in the state, (the court appellate judges may not be pre-empted), and lawyers routinely excuse one of them.

According to court records, in addition to Hornaday, the judges being regularly humored from are Judges, page A-2



Recommendations

1 Alaska should become an activist state. It should take a lead among states to define the boundaries of state powers in our union.

In our two years of work, we have studied federal-state conflicts both past and present. We noted the powers at stake. We considered who won each argument, and why. Distilling these principles, we applied them to the state of Alaska.

Our conclusion is that action must force each issue.

If resource states feel threatened by propaganda from the Northeast-Midwest Institute, the solution is to generate our own research and distribute it in the same circles of press and Congress. If other resource states are slow to get underway on this, then Alaska should put up seed money to get a research agency started.

If we need an agreement with another state or a Canadian province, we should proceed to get it. We need not seek Congress's approval. Our research shows that the Supreme Court rarely invalidates such agreements for lack of congressional consent. In fact, seeking congressional approval often produces delay and unwanted conditions tied to this consent.

Some federal grants require a reorganization of state practices as a condition of receiving money. If we do not like to be thus dictated to, we should refuse the grant and take our protest to those who write the conditions.

In government, power flows to those who use it.

Across the nation, state officials moan about federal intrusion. Yet they have shunned using the built-in control the Constitution offers: the states' power to propose and ratify amendments

independent of Congress. The framers saw amendments suggested by the states sitting in convention as vital to equilibrium between states and the national government. But the states have never held such a convention.⁹ All proposals have seeped through Congress, which consistently favors federal sprawl at the expense of the states.

The greatest hindrance to a convention for proposing amendments is the lack of procedural rules. If the states want results, they should first assemble a constitutional convention solely to set rules for future conventions.

If Alaska or another state feels a federal action violates the constitutional balance of powers, it should promptly sue. As important as the suit is getting support from all states and municipalities affected by the action. The best way to organize this support is through a legal action fund.

Our point is simple: the federal government responds poorly to suggestions from the sidelines. To preserve their powers states must use their powers and accept the risks that such action brings.

2 Repeal of the Jones Act will serve Alaska's and the nation's interest, and Alaska should seek repeal. In the short term, the state should dedicate itself to obtaining an amendment to the Jones Act which would allow the use of foreign-built ships in the Jones Act trade.¹⁰

Alaskans have long felt that the federal law called the Jones Act also known as the Merchant

⁹It is important to add that states can--with their resolutions calling for a convention--push a reluctant Congress into action. The U.S. Senate long opposed direct election of senators, but after two-thirds of the state legislatures called for a convention to propose this amendment, Congress did pass a similar proposal which was ratified as the 17th Amendment in 1913. If 34 states call for a convention to propose rules for Article V conventions, Congress will probably propose the rules in legislation to prevent such a first convention being held.

¹⁰Commissioner Davic strongly disagrees with the commission's conclusions and recommendations concerning the Jones Act. Commissioner Davic submitted additional materials supporting his position which are part of the official record of the commission.

Marine Act of 1920, works to the state's disadvantage. Our research on the economic effects of the Jones Act on Alaska confirms this intuition. We also found that the Jones Act--intended to protect and nurture a merchant marine for the nation's benefit in war and peace--is in fact destroying it.

This is one of the ironies of the Jones Act...our merchant fleet has dropped by half since World War II while the world tonnage has gone up sixfold.

The Jones Act requires that vessels carrying goods between U.S. ports be built in the U.S.; registered in the U.S.; and owned and manned by U.S. nationals. Jones Act vessels enjoy protection from free-market competition by foreign ships, which have much lower construction and manning costs.¹¹

As typical of protected markets, higher freight rates result in the U.S. coastwise trade. In the contiguous states, where ships face lively competition from land transport, the coastwise liner trade in most cargoes has priced itself out of business. Rail and truck lines move the goods more cheaply.

This is one of the ironies of the Jones Act. It seeks to build a sheltered environment for U.S. vessels to create domestic prosperity and wartime security. Yet our merchant fleet has dropped by half since World War II while the world tonnage has gone up sixfold.¹²

Because they have no legal alternative to the Jones Act fleet, Alaska and Hawaii and the contiguous territories (except the Virgin Islands, which is exempt from the act) pay the higher freight rates which it imposes. These freight rates amount to a subsidy--the lifeline of the remaining Jones Act fleet.

If the nation feels it benefits from the Jones Act, it should distribute its costs evenly across the nation. *As matters are, the Alaska trade now supports nearly one-third of the entire Jones Act fleet.*

The Jones Act burdens Alaska in several ways. Its strongest effect is to reduce state oil revenue. The act also raises the cost of all domestic freight coming to Alaska. And it discourages the development of new oilfields and mineral deposits in Alaska.

The Jones Act decreases state oil revenues because the extra shipping costs it imposes decrease the "wellhead" price of Alaska oil. Each extra dollar of shipping costs decreases the wellhead price by a like amount.

Wellhead price is the price upon which Alaska levies royalties and taxes.¹³

Our research shows that the Jones Act, by requiring the use of high-priced American tankers, reduces the wellhead value of Alaska oil by at least \$225 million yearly, and perhaps as much as \$630 million yearly. Because Alaska would get about 28 cents of each dollar increase in wellhead value (in taxes and royalties), *this means Alaska is foregoing between \$63 and \$176 million dollars yearly in state revenue.*

In addition to its effect on oil income to the state, the Jones Act adds approximately \$41 million yearly to the cost of goods coming to Alaska in the liner trades, mostly consumer goods, building materials and business supplies.

The Jones Act chills the development of oil fields and mineral deposits which would be on the "margin" between profitable and unprofitable. An example is the huge Ugnu/Kuparuk oil-tar deposit west of Prudhoe Bay. If developed, it will have very high production costs. An extra dollar of shipping cost per barrel of oil can knell financial death for such a field.

This is perhaps the worst effect of the Jones Act--that down the years, the act will continue to sour the development of Alaska.

Strong lobbies back the Jones Act. We fear that total repeal of the act is unlikely to occur in the near term, though the entire nation would benefit from repeal. More domestic cargoes would move by water than now do (Tussing, p. 40). The federal government would reap \$135 to \$378 million more each year in revenue from Alaska oil, since it gets about 60 cents of each dollar increase in wellhead value.¹⁴

The state's long range goal must be to get the act repealed. One amendment to the Jones Act holds immediate promise. It would allow into the Jones Act trade *foreign-built ships* that meet American safety standards. It would keep in force the requirements of U.S. manning, U.S. registry, and U.S. ownership. The requirement of U.S. construction--by far the most expensive feature of the Jones Act--would be dropped. This would ease the burden on Hawaii, Alaska and other noncontiguous parts of the U.S. and would help expand the size of the U.S. merchant fleet.

¹¹See the Alaska Statehood Commission publication, *The Jones Act and its Impact on the State of Alaska*, by Simat, Helliesen and Eichner, Inc., 1982.

¹²See the Alaska Statehood Commission publication, *Alaska's Economy and the Merchant Marine Act of 1920*, by Arlon R. Tussing and Associates, Inc., 1982.

¹³Wellhead price equals the price a refinery pays for a barrel of oil *minus* the cost of moving that oil from well to refinery. The price the refinery pays is roughly the "world price" for that grade of oil as determined by world market conditions and actions of the Organization of Petroleum Exporting Countries.

¹⁴Based on an annual increase in wellhead price of \$225 to \$630 million (Tussing, 1982, p. 2).

Our research shows that this change would bring a net increase in U.S. shipping jobs. New jobs in the resurrected contiguous-states coast-wise trade would more than offset the jobs lost in U.S. shipyards now building merchant vessels.

We would hear the objection that some U.S. shipbuilding capacity would not be available should another protracted, non-nuclear conflict like World Wars I or II occur. Congress should weigh the alleged national defense benefits against the present-day costs of the act. The Jones Act breeds high prices and inefficiency. It is slowly destroying our U.S. merchant marine. The act must be amended; it ought to be repealed.

3

Alaska and our congressional delegation should vigorously oppose extension of that portion of the Export Administration Act of 1979 which effectively bans the export of Alaska North Slope oil.

Federal law prevents the export of Alaska North Slope oil and keeps it from a natural market:

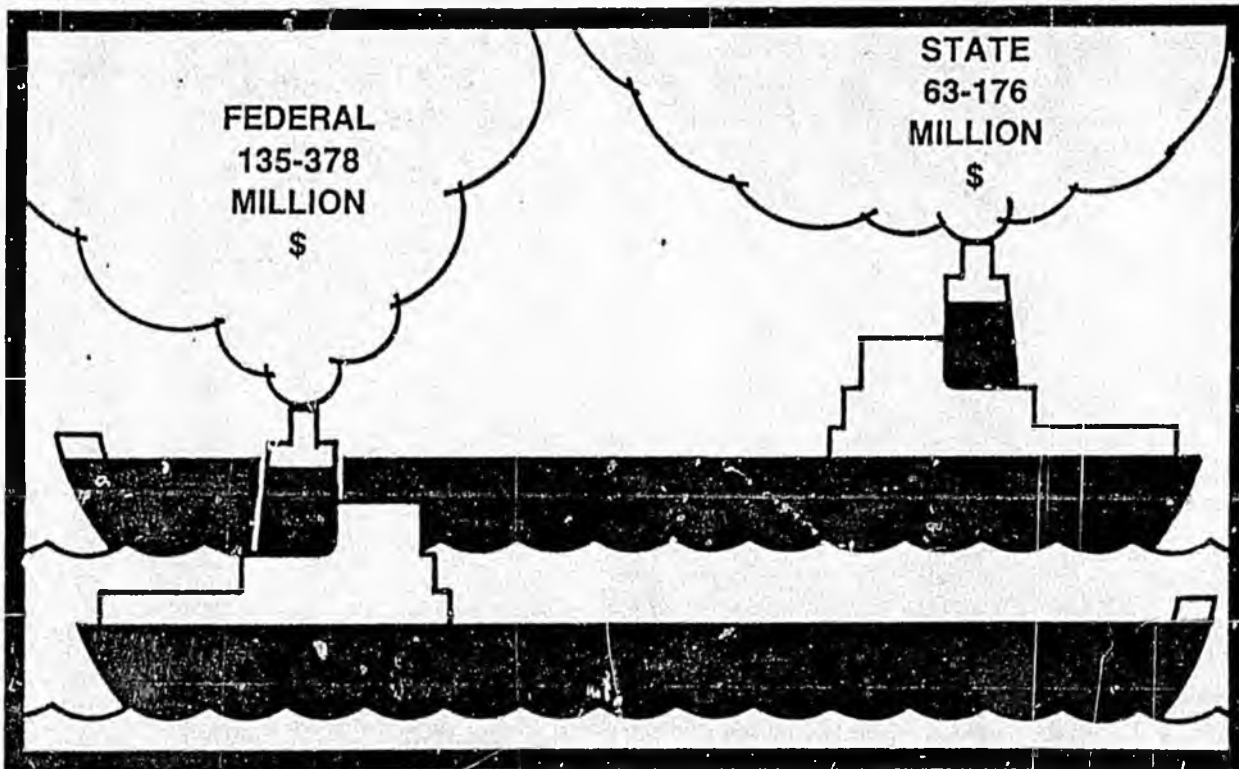
Japan and the Orient. It forces this oil into expensive American tankers and depresses the price of Alaska oil in other ways as well. Lifting the export ban might ultimately increase Alaska's oil revenue by \$500 to \$800 million annually.¹⁵

Two federal laws encumber the export of North Slope oil. One is the Trans-Alaska Pipeline Authorization Act of 1973. It places difficult, but not insurmountable, obstacles to the export of any oil which has flowed down a pipeline sitting on leased federal land. (This law covers the Alaska pipeline and some pipelines in other states as well.)

The second law is a section of the Export Administration Act of 1979. It aims only at Alaska North Slope oil. It sets conditions so numerous and so harsh that, in effect, it lays a total ban on the export of this oil.

The Export Administration Act of 1979 expires on Sept. 30, 1983. State officials and the Alaska congressional delegation should devote themselves to blocking extension of that part of the act relating to North Slope oil. If Congress renews it, a national opportunity to export our oil will not come again for years. North Slope production may be declining by then.

The export prohibition, by default, requires



OIL REVENUES LOST FROM JONES ACT RESTRICTIONS

The effect of the Jones Act on wellhead price depresses federal and state oil revenues, in the dollar ranges shown.

¹⁵See pp. 25-28 of the Alaska Statehood Commission publication *Alaska's Economy and the Merchant Marine Act of 1920*, by Arion R. Tussing and Associates, Inc., 1982.

COMMITTEE REPORT

SENATE

FURTHER: FINANCE

4/5/83

Date:

4/17/83

Mr. President:

The Committee on STATE AFFAIRS has had SB 137

Requiring public officers and employees who engage in lobbying to comply with the Regulation of Lobbying Act (AS 24.45); eff. date

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for SB 137 same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Tim Kelle No Rec

 CHAIRMAN

S B

143

POSITION PAPER

Senate Bill No. 143

"An Act making solicitation of a prostitute by a patron a crime of prostitution punishable as a class B misdemeanor."

Senate Bill No. 143 would make the act of soliciting another person to engage in prostitution a Class B misdemeanor. The maximum jail sentence for a Class B misdemeanor is 90 days of confinement. However, convictions for prostitution most often just result in a fine, rather than a sentence of confinement. It is assumed the same sentencing practice would be applied for those convicted of soliciting another person to engage in sexual conduct by offering to provide monetary or other compensation. Therefore, the impact on the Division of Adult Corrections is considered to be negligible.

Recommended by: for Roger C. Lange
Roger V. Endell, Director
Division of Adult Corrections

Date: April 20, 1983

Approved by: Robert London Smith
Robert London Smith, Ph.D.
Commissioner

Date: 4/26/83

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST
 Bill/Resolution No.: Senate Bill No. 143
 Title: "...solicitation of a prostitute.."
 Sponsor: Senator V. Fischer
 Requestor: State Affairs Committee

II. FISCAL DETAIL
 Agency Affected: Health & Social Services
 Program Category Affected: Justice
 BRU, Program of Subprogram(s) Affected: Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

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

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

Not Applicable

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange *Roger C. Lange AA* Phone: 465-3376
 Division: Adult Corrections Date: April 19, 1983

Approved by Commissioner: Robert Gordon Smith, Ph.D. Date: 4/26/83
 Department: Health & Social Services

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)

3/8/83

IV. ANALYSIS:

A. Assumptions

This bill would make the act of soliciting another person to engage in prostitution a Class B misdemeanor. The Department of Law estimates approximately 50 cases per year would be prosecuted, excluding Anchorage.

The maximum jail sentence for a Class B misdemeanor is 90 days of confinement. However, convictions for prostitution most often just result in a fine rather than a sentence of confinement. It is assumed the same sentencing practice would be applied for those convicted of soliciting another person to engage in sexual conduct by offering to provide monetary or other compensation. Therefore, the impact on the Division of Adult Corrections is considered to be negligible.



STATE OF ALASKA
OFFICE OF THE GOVERNOR

ALASKA COMMISSION ON THE STATUS OF WOMEN
338 DENALI STREET, SUITE 850
ANCHORAGE, ALASKA 99501

ACCOMPLISHMENTS OF THE COMMISSION

The following is a partial list of the accomplishments of the Alaska Commission on the Status of Women since its inception in October of 1978. Thousands of women have been contacted, heard and given the opportunity to address their needs and concerns to the Commission. Issues of importance to the women and girls of the state have been identified through the Commission's advocacy, study and action. In addition to the accomplishments listed here, the Commission plans to continue this year with an active program that will include: legislative advocacy; regional and rural conferences; continuation of the media campaign to combat sexrole stereotyping; Phase I of a baseline data study on the needs of Alaska Native Women; continued lobbying for improvement of the State's data sources on women's employment status, and the state's affirmative action goals; further development of the informal network of women's organizations which has been fostered through the Commission's prior work; and, updating current information about women's health needs.

ADVOCACY

Active member of Ad Hoc Training Committee for the Office of the Federal Inspector, re: opportunities for women on the pipeline. (6/81)*

Member of Equity Coordinating Council for Alaska, assisting school districts to implement the new Sex Equity in Education law.

Member of Interagency Task Force which wrote regulations for implementation of the state's new Sex Equity in Education law.

Alternate to Board of Directors of Alaska Plan Policy Board, working to open opportunities for women in non-traditional jobs.

Member of Advisory Board, Center for Alcohol and Addiction Studies, University of Alaska, Anchorage. Addressing concerns of Commission regarding women and alcohol and rural alcohol problems.

Testifying before numerous committees regarding affirmative action in public and private sector and other issues regarding Women and Employment.

*(Dates in parentheses refer to Commission meeting where discussed, if appropriate.)

ADVOCACY (Continued)

Speakers provided for community efforts such as:

Senior Citizens' Law Day, Fairbanks.

End Violence Against Women and Children Month, Rallies
and Marches, Anchorage and Fairbanks.

Fairbanks NOW, encouraging women to apply for boards
and commissions.

National Secretaries Association, Palmer.

Alaska and Yukon meeting of Latin Lionesses.

American Association of University Women.

Women's Political Caucus.

Alaska Native Women's Statewide Organization. Conferences,
1979, 1981.

EDUCATION

Produced: Alaska Statewide Women's Conference, 3/82.
Approximately 70 workshops; films; guest speakers;
over 1,000 attendees.

Co-sponsored: "Women in Apprenticeship Training," 5/82, with U.S.
Women's Bureau and Alaska Department of Community
and Regional Affairs.

"Women and Alcohol," 4/82, with State Office on Alcohol
and Drug Abuse and Salvation Army.

Workshop leaders provided for:

Petersburg B.P.W. seminar: "Horizons - A Second Look"

Anchorage Community College: "Women and the Law"

Kenai Regional Women's Conference: "Women and the Law"

Hoonah Regional Women's Conference: "Leadership Roles
for Women in the Community"

Statewide Women's Conference: "Women and Self Employment;"
"Strengthening Traditional Leadership of Native Women;"
"Collective Organization: An Alternative for Women;"
"Exploring Ways of Raising Liberated Children"