IDITAROD REVISED BUDGET

HB 141 - An Act making a special appropriation to the Department of Commerce & Economic Development for payment as a grant for the Iditarod Trail Committee, Inc., for construction of a permanent Iditarod sled dog race headquarters; and providing for an effective date. - $422,800

Land (26,000)

The Iditarod Trail Commission are optimistic that the land will be donated

Tables, benches, landscaping, artwork, etc. (7,800)

It is expected that many of these will be either donated or worked on by volunteers

Revised appropriation - $389,000

HB 142 - An Act making a special appropriation to the Department of Commerce & Economic Development for payments as a grant for the Iditarod Trail Committee, Inc., for expenses of conducting the 1984 Iditarod sled dog race; and providing for an effective date. - $113,050

Eliminiate need of Maule M-6 (48,000)

Revised appropriation $ 65,050

IDITAROD TRAIL COMMITTEE, INC.

POUCH X

WASILLA, AK. 99687

GRANT PROPOSAL

IDITAROD TRAIL COMMITTEE, INC

January 19, 1983

Ronald L. Larson
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Ak. 99811

Dear Mr. Larson:

Iditarod '83 will start our second decade of the longest sled dog race in the world. And, quite frankly, we are proud of our contribution to promoting Alaska and long distance sled dog racing. Our emphasis has always been on strict rules regarding treatment of dogs on the trail and sportsmanship among the mushers. ITC has always wanted to reflect the most positive image possible on both the Iditarod and the State of Alaska.

This race we are expecting a record breaking number of mushers to sign up. In addition to the teams, we have hundreds of volunteers working hundreds of hours seeing to the details of the race from Anchorage to Nome. Our volunteers give of their time a: many put expensive equipment, such as HAM radios and airplanes, on the line for us. People from every walk of life, lawyers, vetranarians, pilots, trappers, engineers clerks, subsistence dwellers, all join together in a special comaraderie.

Our news media coverage is international. The race has been filmed and reported by the British, Spaniards, Canadians, Germans, and we are working with STV in Japan on the possibility of filming Iditarod '83. CBS and ABC have covered the race. The thirty minute ABC 20/20 show last spring on the race and Susan Butcher has prompted inquiries from all over the lower 48.

The January issue of GEO Magazine has an article on Iditarod. National Geographic will follow with a story in their March issue. And once again, CBS has international rights to live coverage of Iditarod '83.

Iditarod Sled Dog Race has become a year 'round business. Although we have tremendous sponsors for the race, we must turn to the State again and hope you merit our contributions to tourism and State exposure worthy of support of our two proposals.

The first proposal deals with the race itself. These requests are ones we feel will enhance the quality, safety, and organization of the Iditarod.

Our second proposal is for a much needed permanent headquarters. This building would include our offices, a sales outlet, and a museum.

IDITAROD '84

MEDICIAL CARE AND DRUG TESTING PROGRAM FOR DOGS

Our vetranarians try to be at every checkpoint to check and administer any needed care to the dogs. The vets have the final say on a dog continuing in the Race. They also have medical supplies available to treat minor irritations and injuries. And, as our rules state, any dog that expires on the trail must have an autopsy.

Because of the rich purse and intense competition among mushers, ITC makes it a priority to keep drugs from being used on a dog. The vets have a right to randomly check dogs during the race for drugs. Then all dogs are checked at the end of the race. These samples are sent to Cornell University in New York for analysis.

For medical supplies, autopsies, drug testing supplies, sample shipping cost, and analysis.

Cost.....$9,850.00

IDITAROD AIR FORCE

Our trail Air Force is composed of volunteers who are willing to fly their planes along the trail to move dog food, vets, hams, dropped dogs, race officials, and any other person or object needing to go from checkpoint to checkpoint. Because of the financial restrictions on the Iditarod, we have never been able to provide the full protection the private pilot needs. Airplanes and parts have become so expensive, we can no longer recruit pilots and expect them to "outofpocket" any damage to their plane while flying for the Iditarod.

Full coverage aviation insurance for Iditarod Air Force during March.....$5,050.00

AIRCRAFT

Each year our trail manager must start earlier flying up the trail. Checkpoints and checkers must be secured. Trail breaking, marking, and maintenance must be coordinated. All of this is done before the race.

During the race, it is becoming essential IDC have a plane at our disposal. Each year brings different emergencies. We must get our Race Marshal to a checkpoint, or a doctor in to treat an injured musher, or a vet to an injured dog. To ensure the safety of our mushers and their teams, the enforcements of our rules, and a organized operation, we are requesting funding for a Maule M-6 airplane.

Cost.....$48,000.00

RADIOS

For better communications so we are able to respond to problems and emergencies, we need high frequency portable radios. These radios may be used by our pilots or ground crews.

Four (4) HF Radios.....$4,750.00

SNOWMACHINES

Of course there are times when all air support is grounded by weather. But our race continues. To enable our officials and trail breaking crews to operate we need double track machines. If we have an emergency somewhere a plane cannot land, we need the machines to get to the location. And, just to have the ability to maintain surveillance between checkpoints, the machines would be invaluable.

Two Alpine double track snowmachines.....$10,400.00

Each year we offer a $100,000.00 purse to the top twenty mushers. This distinguished the Iditarod as not only the longest sled dog race in the world, but also the richest. This purse also ensures the Iditarod a place in the major athletic events in the world. The purse gives mushers the incentive to train for the race. Consequently we have mushers and teams that are physically and mentally prepared to challenge the Iditarod Trail.

Money for purse.....$35,000.00

TOTAL OF PROPOSAL #1 $113,050.00

PERMANENT IDITAROD HEADQUARTERS

Each year interest in the Iditarod Sled Dog Race grows. According to surveys done with our out of state visitors, the Iditarod fulfills the image and fantasy of Alaska. News media from the world over come to report the "Last Great Race." Because of the coverage, more and more tourists want to visit Iditarod Headquarters and see first hand the operation of the race.

After ten years we have collected invaluable paraphernalia connected with each race. These items are a part of our history, but are perilously close to being lost because we have no place to store them. The impression each visitor or reporter leaves our headquarters with reflects on the Iditarod and our great state.

At present we are located above Teeland's Country Store in Wasilla. As our volumn of traffic increases, not only is it disruptive to Teelands, but our own space is grossly strained. We have no place to store our race records or paraphernalia. Nor do we have the space to accommodate volunteers working on the race and visitors at the same time.

Because of the problems listed above, the Iditarod Sled Dog Race is requesting funding for a permanent headquartes in Wasilla. We want our building to be in the true spirit of Alaskan history and dog mushing, so our decor would be styled on a log cabin -- Roadhouse theme. To complement our building, we need an acre of land that can be landscaped to encourage visitors to stop and enjoy.

In our headquarters we need office space, storage area, conference room, retail sales outlet and a museum. Maximum exposure for our building is a must to ensure us the tourist and drop in trade we

will count on to cover operation and maintence.

Our request is for: a 3350 sq. ft. building at $100 per foot building .

Cost.....$335,000.00

One acre land located on Parks Highway in or about Wasilla.

Cost .....$ 26,000.00

Office equipment, furnishings, display cases, cash register, shelves, hangers, and protective equipment for museum.

Cost.....$ 44,000.00

Landscaping, artwork, outside tables and benches and plaques.

Cost.....$ 17,800

TOTAL REQUEST.....$422,800.00

HB

165

STATE OF ALASKA
THE LEGISLATURE

COPY

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M May 5, 1983

SUBJECT: Public Offices Commission
(CSSSHB 165 (State Affairs) am)

TO: Representative Rick Uehling

FROM: Richard A. Bradley
Legislative Counsel

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

As a preliminary matter, I must advise you that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill; the bill itself is the best statement of its contents. For a full explanation of any point, please consult the bill itself; if you would like an interpretation of the bill as it may apply to a particular set of circumstances, please address a specific request to this office.

The substantive provisions of the bill amend three sections of AS 15.13: sec. 40 (which requires certain contributions and expenditures to be reported), sec. 60 (which deals with responsibilities of campaign officers), and sec. 110 (which deals with with the timing of certain reports). The amendments to sec. 70 contained in the bill are essentially conforming amendments, conforming the provisions of sec. 70 to the changes made in sec. 40.

Section 1 amends AS 15.13.040(a). It requires the reporting of contributions in excess of $250 (in place of the former $100). The requirement that the "principal occupation and employer of the contributor" be identified is repealed. In place of the former requirement that the report be certified "by the candidate or campaign treasurer" the amendment requires that the report be certified "under AS 15.-13.060(a)"; this latter section is discussed below.

Section 2 repeals and reenacts AS 15.13.040(b); as written it incorporates sec. 40(c) which is repealed in sec. 17. Sec. 40(c) was repealed as a separate subsection to make the provisions of (b) (as rewritten) parallel to sec. 40(a). For your information, the two subsections now read as follows:

> (b) Each group shall make a full report upon a form prescribed by the commission, listing
>
> (1) the name and address of each officer and director;
>
> (2) the aggregate amount of all contributions made to it; and, for all contributions in excess of $100 in the aggregate a year, the name, address, principal occupation, and employer of the contributor, and the date and amount contributed by each contributor; and
>
> (3) the date and amount of all contributions made by it and all expenditures made, incurred or authorized by it.
>
> (c) The report required under (b) of this section shall be filed in accordance with AS 15.13.110 and shall be certified as correct by the group's treasurer.

The existing requirements of sec. 40(b)(1): that a group provide the name and address of each officer and director -- is deleted because sec. 60(a) as amended requires the identification of the group's campaign chairman and campaign treasurer. Consistently with the floor amendment to sec. 40(a), the requirement that the "principal occupation and employer of contributor" in sec. 40(b)(2) is repealed. The provisions of sec. 40(b) (group responsibilities) are then parallel to sec. 40(a) (candidate responsibilities).

As suggested, sec. 40(c) is repealed in sec. 17.

Section 3 amends AS 15.13.040(d). The amendment to sec. 40(d) is intended to address a problem that has concerned the commission since its establishment but which the law did not address. That problem relates to the fact that two different kinds of groups exist. An "ad hoc" group, formed only for the purposes of a particular campaign or for the support of a particular candidate is the first kind of

group and sec. 50 governs the activities of this group. The second kind of group is exemplified by the League of Women Voters, a preexisting organization that is not organized for political campaign purposes but that engages to some extent in a campaign. The latter kind of organization is the kind described in the new phrase: a "group that is not required to register under AS 15.13.050"; that kind of group is required only to report the particular kind of campaign activity specified in sec. 40(d)(1) or (2). The latter kind of group is analogous to the individual making the same kinds of contributions or expenditures; identical report are required from each.

Section 4 adds a new subsection (g) to AS 15.13.040. The concept of an "independent expenditure" was introduced in sec. 40(d)(2); the term is defined in sec. 40(g) and I believe the definition should be clear. The activity of the second kind of "group" described in the comments to sec. 40(d) insofar as the commission is concerned will usually be an "independent expenditure."

Section 5 amends AS 15.13.060(a). It recaptions the section as "CAMPAIGN OFFICERS" in place of "CAMPAIGN TREASURERS." Under existing law, I believe that the only reference to a campaign chairman is located in AS 15.13.090, "IDENTIFICATION OF COMMUNICATIONS." Though that section imposes responsibilities on a campaign chairman, existing law does not require the appointment of a campaign chairman or require the identification of a campaign chairman to the commission.

The amendments provide that a candidate may appoint a campaign chairman and a campaign treasurer; if a candidate fails to make the appointments, the candidate "is" the campaign chairman or campaign treasurer, as appropriate, or both. A group (that is required to register under AS 15.13.050) shall appoint both a campaign chairman and campaign treasurer.

A campaign chairman and a campaign treasurer (of either a candidate or of a group) may be the same individual.

The amendment to sec. 60(a) makes clear that the "candidate, the campaign chairman or campaign treasurer of a candidate, and the campaign chairman and the campaign treasurer of a group" may certify all reports and statements required by law; by inference, no one else may.

Section 6 amends AS 15.13.060(b). The provision provides that each group (that is required to report under AS 15.-13.050) shall file the name and the address of the campaign chairman and the campaign treasurer with the commission when it registers. (Sec. 60(a) provides that one individual may fill both positions.)

Section 7 repeals and reenacts AS 15.13.060(c). It provides that an individual may not act as campaign chairman or campaign treasurer of a candidate for state or local office until the candidate has filed the name and address with the commission; the language as changed simplifies the existing provision which provides:

> (c) Each candidate for state office shall file the name and address of the campaign treasurer with the commission, or submit, in writing, the name and address of the campaign treasurer to the director for filing with the commission, no later than 15 days after the date of filing the declaration of candidacy or the nominating petition. Each candidate for municipal office shall file the name and address of the campaign treasurer with the commission no later than seven days after the date of filing the declaration of candidacy or the nominating petition. If the candidate does not designate a campaign treasurer, the candidate is the campaign treasurer.

Section 8 amends AS 15.13.060(d). The section makes several changes to the existing provision. It acknowledges that the office of campaign chairman exists. It implicitly acknowledges that only a group must have officers; if the appointed officers of a candidate resign or are otherwise removed, the candidate assumes the responsibilities until new appointments are made. And it usefully deletes the sentence

> The candidate is disqualified when he has been found to have been in wilful violation of this subsection.

Section 9 amends AS 15.13.060(e). It permits, as under existing law, the campaign treasurer to appoint as many deputy campaign treasurers as the campaign treasurer considers necessary. But it changes the existing law that requires the candidate to advise the commission of the appointments; the amendment puts the burden of advice to the commission on appointments on the person exercising the position of campaign treasurer.

Section 10 amends AS 15.13.060(f). Nothing except a few dangling phrases remain from existing law; as amended the section provides that (1) a candidate is responsible for the performance of the campaign chairman and the campaign treasurer; and (2) the campaign treasurer of a candidate or of a group is responsible for the performance of deputy campaign treasurers. The complicated and essentially unenforceable bit about defaults and violations and "knew or has reason to know" is repealed.

Section 11 adds a new AS 15.13.060(g). It is quite clear; its purpose is to make clear who can (and cannot) do the acts that are critical to the role of the commission.

Sections 12 and 13 amend AS 15.13.070(b) and (c). The changes make the provisions of the law consistent with the changes made in AS 15.13.040(a) and (b).

Section 14 amends AS 15.13.110(a). The first change provides that the reports filed under this section will be certified under sec. 60(a).

The time that a report is to be filed under this section is changed in one instance: In place of the former December 31 report (which was supposed to include information through the date of the report), the amendment requires that the report be filed "15 days after the end of the year" for expenditures and contributions not reported that year. A more orderly reporting system should result.

Section 15 amends AS 15.13.110(b). It deletes the concept of "expenditures" from the section; as I understand the commission's position, the section does not really apply to expenditures.

It changes three thresholds for the special reports required for the "larger" contributions made immediately before an election -- (1) it will apply to contributions that exceed $500 (in place of the former $250); (2) that are made within nine days of the election (in place of the former one week; and (3) it will require the report to the commission within 48 hours from receipt of the contribution (in place of the former 24 hours). It also changes the reporting officers to acknowledge the changes made in sec. 60(a).

Section 16 amends AS 15.13.110(c). The change acknowledges the changes made in sec. 60(a).

Section 17 repeals AS 15.13.040(c) [which is set out above] as well as repealing AS 15.13.070(f) and (g). The latter provisions have been a dead letter since enactment because of a U.S. Supreme Court decision. For your information they provide:

> (f) The total amount of expenditures made by a candidate and by all groups operating under his control may not exceed (1) 40 cents times the total population of the state according to the latest United States census figures, or estimates of population certified as correct for administrative purposes by the Department of Community and Regional Affairs, if the candidacy is for governor or lieutenant governor, of which amount no more than 50 per cent may be spent in a primary election campaign and no more than 50 per cent in the general election campaign; (2) $1 times the total population of the geographical area of the constituency according to the latest United States census figures, or estimates of population certified as correct for administrative purposes by the Department of Community and Regional Affairs, divided by the number of seats in the senate district if the candidacy is for the state senate; (3) $1 times the total population of the geographical area of the constituency according to the latest United States census figures, or estimates of population certified as correct for administrative purposes by the Department of Community and Regional Affairs, divided by the number of seats in the house district if the candidacy is for the state house of representatives. The expenditure limitations in this section include expenditures for both a primary and a general election campaign, or for a special election.
>
> (g) Each general election year the commission shall adjust the campaign expenditure limitations for each category of (f) of this section to reflect cost-of-living changes as determined and published by the Bureau of Labor Statistics of the United States Department of Labor.

No effective date provision is added; it will take effect 90 days after approval by the governor or 90 days after it becomes law without the approval of the governor.

If I may be of further assistance, please advise.

RAB:ljb
17/033

CSSSHB 165(SA) am
POSITION PAPER

CSSSHB 165(SA) am raises the reporting threshold (from $100 to $250) for disclosure of contributors' names to ease reporting burdens without sacrificing the intent of disclosure. It also clarifies the roles of campaign chairman, treasurer, and deputy treasurer, as well as the nature of an independent expenditure. Language on expenditure limitations similar to that which has been determined to be unconstitutional by a U.S. Supreme Court decision is repealed.

As amended on the floor of the House, the bill has one major defect -- the floor amendment which deleted (for candidates only) the requirement to disclose a contributor's occupation and employer -- which is destrctive to the purpose of disclosure as discussed on attachment A. Restoration of that requirement on page 1, line 14 is requested. The requirement is an effort for the group or candidate's campaign, but it is one which can be reasonably complied with as indicated by the guidelines -- especially in light of the change in the threshold from $100 to $250.

The Commission actively supported the $250 threshold in 1982 in recognition of the fact that campaign disclosure reporting must strike a realistic balance between the public's right to information and the reporting burden on candidates and groups. In supporting the revision to $250, the Commission noted both the ever-increasing average size of campaigns and the broad spread of campaign size. On the state level, (see attachment B), there's a very even distribution of campaigns in the upper middle range. On the municipal level, the bulk of the candidates spend next to nothing and those who spend minimum amounts rely on their own personal funds.

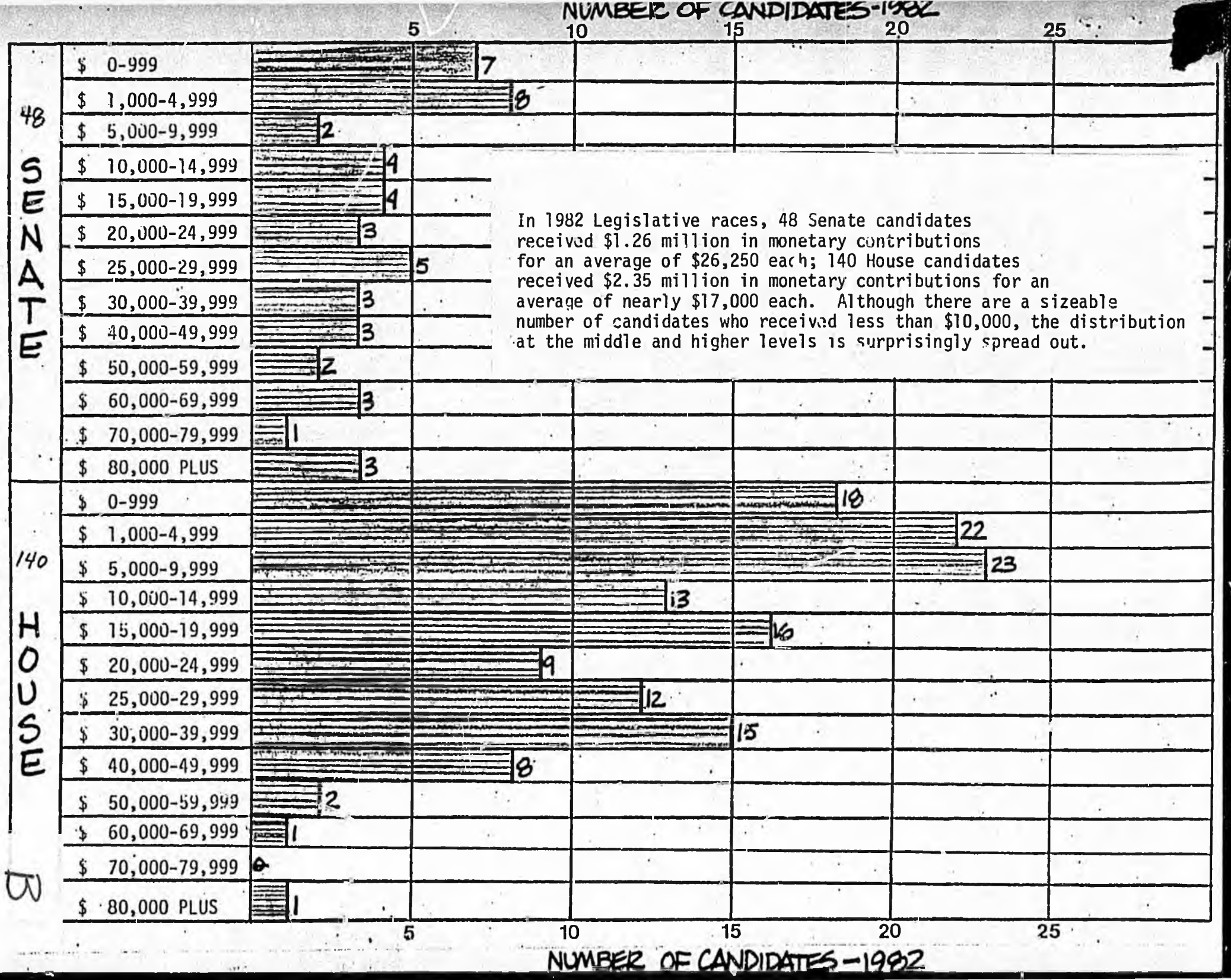
Recently the Commission reviewed its proposal for the $250 threshold relative to municipal campaigns. An individual in Fairbanks and one in Ketchikar expressed the concern that $100 is still a significant contribution on the municipal level and asked whether the proposal could be modified to provide a $100 threshold on the municipal level and a $250 threshold on the state level. In looking at municipal campaign levels in 1982, 380 candidates received a total of $475,000; of that amount an estimated $50,000 was in contributions between $100 and $250. With the exception of the 4-5 largest municipalities (in which the controversial campaigns are spending money at levels equivalent to House campaigns), overall spending is so modest, and the confusion inherent in having two different levels sufficient, that the Commission continues to support one threshold of $250 for all campaigns.

Department of Administration

_____
Commissioner Date

Alaska Public Offices Commission

_____
Executive Director Date


NUMBER OF CANDIDATES-1982
5
10
15
20
25
MONETARY CONTRIBUTIONS
48 SENATE
$ 0-999
$ 1,000-4,999
$ 5,000-9,999
$ 10,000-14,999
$ 15,000-19,999
$ 20,000-24,999
$ 25,000-29,999
$ 30,000-39,999
$ 40,000-49,999
$ 50,000-59,999
$ 60,000-69,999
$ 70,000-79,999
$ 80,000 PLUS
7
8
2
4
4
3
5
3
3
2
3
1
3
140 HOUSE
$ 0-999
$ 1,000-4,999
$ 5,000-9,999
$ 10,000-14,999
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$ 20,000-24,999
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$ 30,000-39,999
$ 40,000-49,999
$ 50,000-59,999
$ 60,000-69,999
$ 70,000-79,999
$ 80,000 PLUS
18
22
23
13
16
9
12
15
8
2
1
0
1
In 1982 Legislative races, 48 Senate candidates received $1.26 million in monetary contributions for an average of $26,250 each; 140 House candidates received $2.35 million in monetary contributions for an average of nearly $17,000 each. Although there are a sizeable number of candidates who received less than $10,000, the distribution at the middle and higher levels is surprisingly spread out.
5
10
15
20
25
NUMBER OF CANDIDATES-1982

The requirement that reports include occupation and employer is an important one for the benefit of the public and the press in analyzing the sources of campaign contributions. Absent the information intended by the requirement, one loses important tools for learning what common interests, if any, exist among those who support a particular candidate or political group. If Campaign Disclosure reports are to have any utility for those who are not already part of the politically astute, then the name and address of the contributor is simply too little information. Despite our fondness for the "Alaska is a small state; everybody knows everybody" philosophy, the population turnover is extremely rapid and it would probably be more accurate to say that "there are a few who know everybody."

There are several kinds of contributors and the Commission can appreciate the fact that campaigns need to know how much information is enough to provide on their reports. The answer depends on the nature of the contributor and the Commission feels the following may clear up some of the confusion:

1) If contributor is an individual, list name of employer - include department if it's a state agency;

2) If contributor is self-employed, list name of business or type of work;

3) If contributor is a business, association, or organization, list type of business where that is not self-explanatory;

4) If contributor is a political action committee, list parent organization, if any; and

5) If contributor is retired, unemployed, a housewife/homemaker, or a child use either or those terms or "N/A."

4/22/83
APOC

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS COMMITTEE
SENATOR VIC FISCHER, CHAIRMAN
POUCH V, JUNEAU 99811
(907) 465-4954

May 17, 1983 Butrovich Room

Members Present

Senator Vic Fischer, Chair
Senator Tim Kelly
Senator Arliss Sturgulewski

Agenda

HB 6 Driving a motor vehicle

HB 17 Advisory vote on raising the drinking age to 21

HJR 28 Native Allotments

HB 184 Title for Vehicles

HCR 9 Veterans' memorial

HCR 17 State medal of heroism

HCR 18 Display of flags

HB 106 Alaska bidder preference

HB 165 Relating to the Alaska Public Offices Commission

HB 6 Driving a motor vehicle

Committee staff presented a proposed committee substitute. The committee substitute is an amended version of SB 61 which has been considered previously by the committee.

Alan Baily, Anchorage Municipal Prosecutor and Gayle Horetski, Department of Law, testified in favor of the committee substitute.

Senator Sturgulewski asked if there are latent constitutional problems with administrative revocation of driver's licenses. Ms. Horetski replied that there are no problems per se.

Senator Fischer called attention to Sec. 13, sobriety check points, which has been added to the bill.

Senator Kelly moved and asked unanimous consent to adopt the committee substitute and pass it from committee with individual recommendations. There was no objection.

HB 17 Advisory vote on raising the drinking age to 21

Senator Kelly asked to withdraw his proposed committee substitute. He then moved and asked unanimous consent to pass the bill from committee with individual recommendations. There was no objection.

HJR 28 Native Allotments

Senator Fischer proposed a committee substitute which refined and clarified certain language but made no substantive changes.

The committee substitute was passed from committee with individual recommendations.

HB 184 Title for vehicles

Wally Kubley, representing himself, testified for the bill.

There was discussion regarding whether the definition of "mobile home" should be by statute or by regulation. It was decided to follow the written recommendation of the Department of Public Safety and have the definition by regulation. Committee staff was directed to prepare a committee substitute to that effect.

HCR 9 Veterans' memorial

Senator Fischer expressed concerns about the resolution including the issue of censorship of art and possible copyright law violations.

Natalie Rauthaus, Juneau Arts and Humanities Council, spoke in favor of leaving the sculpture "Nimbus" where it is. She felt that there would be negative repercussions from the National Endowment for the Arts if the State of Alaska did not hold up its grant agreement.

Senator Sturgulewski said she favors leaving "Nimbus" alone.

Peter Kelley, Vietnam Veterans of Alaska, testified in favor of moving "Nimbus" to another location and placing a veterans' memorial at that location.

Senator Fischer said he favored a resolution which would look at the entire capital city area for potential sites for a veterans' memorial.

Steve Smith, Southeast Alaska Visual Artists Association, testified he personally thought that the present site is not ideal for a work such as "Nimbus" but that he had reservations about moving the work. He suggested that a more appropriate memorial could be dedicated to all those who have been lost in Alaska's waters, with special emphasis on veterans.

The resolution was held over pending study by staff.

HCR 17 State Medal of Heroism

The resolution was passed with a unanimous do pass recommendation without discussion.

HCR 18 Display of flags

Representative Milo Fritz (prime sponsor) testified for the resolution. He has noticed that during holidays the flag poles in Juneau are often empty. He finds this situation deplorable. He thinks flags should be flown on state government buildings throughout the state.

Senator Fischer suggested that there be a slight wording change to clarify that flags are to be flown only when there is a security or maintenance person on regular duty.

Senator Sturgulewski moved and asked unanimous consent to adopt a committee substitute to that effect and to move the bill from committee with individual recommendations. There was no objection.

HB 106 Alaska bidder preference

Senator Fischer introduced a proposed committee substitute for the Committee's consideration.

Resa King, Associated General Contractors, testified against the bill and bidder's preferences in general because of increased costs.

Bob Link, Director of the Division of General Services and Supply, Department of Administration, said that the bidder's preference was easy to administer. He said the bill could lead to significantly increased costs.

Dave Hutchins, Alaska Rural Electric Cooperative Association, testified against raising the bidder's preference to 15%.

The bill was held over pending additional staff work.

HB 165 Relating to the Alaska Public Offices Commission

Representative Rick Uehling (prime sponsor) testified for the bill and gave a brief legislative history of the bill.

Theda Pittman, Executive Director of the Alaska Public Offices Commission, testified in favor of the bill and recommended that a House floor amendment deleting certain requirements be added back into the bill by this committee.

Senator Fischer stated that the bill would be held over pending preparation of a committee substitute.

The meeting was adjourned at 4:32 p.m.

by
David Doyle
committee aide

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS COMMITTEE
SENATOR VIC FISCHER, CHAIRMAN
POUCH V, JUNEAU 99811
(907) 465-495

May 19, 1983
3:00 p.m.

Butrovich Room

Members Present

Senator Vic Fischer, Chair
Senator Tim Kelly
Senator Pat Rodey
Senator Arliss Sturgulewski

Agenda

HB 106 Alaska bidder's preference

HB 165 Relating to the Alaska Public Offices Commission

HB 184 Title for vehicles

HB 128 Child prostitution penalties

HJR 2 Constitutional Amendment--length of legislative session

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HB 106 Alaska bidder's preference

The bill was discussed by the committee and the consensus was that the portion of the bill dealing with the percentage of preference should be deleted and made the subject matter of a separate state affairs committee bill. The new committee substitute for HB 106 would thus contain the "purpose" section and a section relating to joint venture.

Senator Rodey moved and asked unanimous consent to adopt the committee substitute and to pass the bill from committee with individual recommendations. There was no objection.

General discussion ensued on the topic of session extensions once the limit had been met.

The committee adjourned at 3:45 p.m.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 165 Date on Bill: 02/04/83
Title: "An Act relating to reports to the Public Offices Commission"
Sponsor: Uehling, Barnes, Bussell, Cowdery, Furnace, Ward and Herrmann
Requestor:

RECEIVED
MAR 4 1983

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total			0	0	0	0		

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor.

Prepared By: Theda S. Pittman Theda S. Pittman /sjw Phone:
Division: Alaska Public Offices Commission Date: March 4, 1983

Approved by Commissioner: Lisa Rudd Rebecca Brink for the Commissioner Date: March 4, 1983
Department: Administration

5. Distribution:

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS COMMITTEE
SENATOR VIC FISCHER, CHAIRMAN
POUCH V, JUNEAU 99811
(907) 465-4954

May 19, 1983
3:00 p.m.

Butrovich Room

Members Present

Senator Vic Fischer, Chair
Senator Tim Kelly
Senator Pat Rodey
Senator Arliss Sturgulewski

Agenda

HB 106 Alaska bidder's preference

HB 165 Relating to the Alaska Public Offices Commission

HB 184 Title for vehicles

HB 128 Child prostitution penalties

HJR 2 Constitutional Amendment--length of legislative session

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HB 106 Alaska bidder's preference

The bill was discussed by the committee and the consensus was that the portion of the bill dealing with the percentage of preference should be deleted and made the subject matter of a separate state affairs committee bill. The new committee substitute for HB 106 would thus contain the "purpose" section and a section relating to joint venture.

Senator Rodey moved and asked unanimous consent to adopt the committee substitute and to pass the bill from committee with individual recommendations. There was no objection.

HB 165 Relating to the APOC

Committee staff presented the committee with a proposed committee substitute containing changes discussed in a prior committee meeting.

Senator Sturgulewski moved and asked unanimous consent to adopt the committee substitute and pass it from committee with individual recommendations. There was no objection.

HB 184 Title for vehicles

Committee staff presented the committee with a proposed committee substitute containing changes previously agreed to.

Senator Sturgulewski moved and asked unanimous consent to adopt the committee substitute and pass it from committee with individual recommendations. There was no objection.

HB 128 Child prostitution penalties

Dorothy Peavy, aide to Representative Lindauer (prime sponsor), testified for the bill.

Senator Rodey asked how many prosecutions there were last year for this crime. The witness said "none."

Gayle Horetski, Department of Law, testified for the bill. She said that raising the penalty to an "A" felony would result in a mandatory minimum sentence whereas the current "B" felony does not.

Senator Rodey moved and asked unanimous consent to pass the bill out of committee with individual recommendations.

HJR 2 Constitutional Amendment--length of legislative session

---

Neil Phelps Munson, aide to Speaker Hayes (prime sponsor) testified for the bill.

CSSSHB 165(SA) am
POSITION PAPER

CSSSHB 165(SA) am raises the reporting threshold (from $100 to $250) for disclosure of contributors' names to ease reporting burdens without sacrificing the intent of disclosure. It also clarifies the roles of campaign chairman, treasurer, and deputy treasurer, as well as the nature of an independent expenditure. Language on expenditure limitations similar to that which has been determined to be unconstitutional by a U.S. Supreme Court decision is repealed.

As amended on the floor of the House, the bill has one major defect -- the floor amendment which deleted (for candidates only) the requirement to disclose a contributor's occupation and employer -- which is destrctive to the purpose of disclosure as discussed on attachment A. Restoration of that requirement on page 1, line 14 is requested. The requirement is an effort for the group or candidate's campaign, but it is one which can be reasonably complied with as indicated by the guidelines -- especially in light of the change in the threshold from $100 to $250.

The Commission actively supported the $250 threshold in 1982 in recognition of the fact that campaign disclosure reporting must strike a realistic balance between the public's right to information and the reporting burden on candidates and groups. In supporting the revision to $250, the Commission noted both the ever-increasing average size of campaigns and the broad spread of campaign size. On the state level, (see attachment B), there's a very even distribution of campaigns in the upper middle range. On the municipal level, the bulk of the candidates spend next to nothing and those who spend minimum amounts rely on their own personal funds.

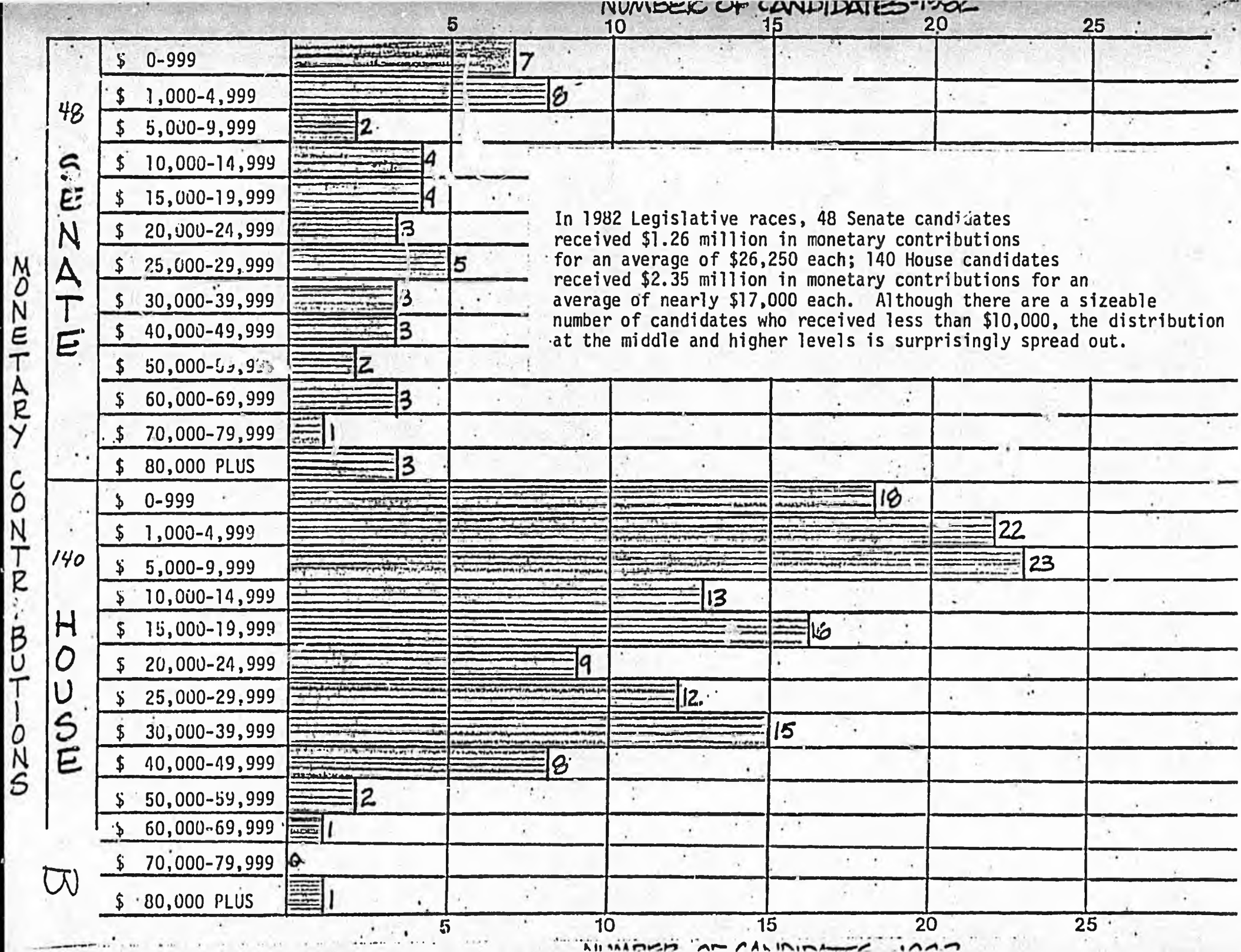
Recently the Commission reviewed its proposal for the $250 threshold relative to municipal campaigns. An individual in Fairbanks and one in Ketchikan expressed the concern that $100 is still a significant contribution on the municipal level and asked whether the proposal could be modified to provide a $100 threshold on the municipal level and a $250 threshold on the state level. In looking at municipal campaign levels in 1982, 380 candidates received a total of $475,000; of that amount an estimated $50,000 was in contributions between $100 and $250. With the exception of the 4-5 largest municipalities (in which the controversial campaigns are spending money at levels equivalent to House campaigns), overall spending is so modest, and the confusion inherent in having two different levels sufficient, that the Commission continues to support one threshold of $250 for all campaigns.

Department of Administration

Commissioner Date

Alaska Public Offices Commission

Executive Director Date


NUMBER OF CANDIDATES-1982
5
10
15
20
25
MONETARY CONTRIBUTIONS
48 SENATE
$ 0-999
$ 1,000-4,999
$ 5,000-9,999
$ 10,000-14,999
$ 15,000-19,999
$ 20,000-24,999
$ 25,000-29,999
$ 30,000-39,999
$ 40,000-49,999
$ 50,000-59,999
$ 60,000-69,999
$ 70,000-79,999
$ 80,000 PLUS
7
8
2
4
4
3
5
3
3
2
3
1
3
140 HOUSE
$ 0-999
$ 1,000-4,999
$ 5,000-9,999
$ 10,000-14,999
$ 15,000-19,999
$ 20,000-24,999
$ 25,000-29,999
$ 30,000-39,999
$ 40,000-49,999
$ 50,000-59,999
$ 60,000-69,999
$ 70,000-79,999
$ 80,000 PLUS
18
22
23
13
16
9
12
15
8
2
1
0
1
In 1982 Legislative races, 48 Senate candidates received $1.26 million in monetary contributions for an average of $26,250 each; 140 House candidates received $2.35 million in monetary contributions for an average of nearly $17,000 each. Although there are a sizeable number of candidates who received less than $10,000, the distribution at the middle and higher levels is surprisingly spread out.
5
10
15
20
25

The requirement that reports include occupation and employer is an important one for the benefit of the public and the press in analyzing the sources of campaign contributions. Absent the information intended by the requirement, one loses important tools for learning what common interests, if any, exist among those who support a particular candidate or political group. If Campaign Disclosure reports are to have any utility for those who are not already part of the politically astute, then the name and address of the contributor is simply too little information. Despite our fondness for the "Alaska is a small state; everybody knows everybody" philosophy, the population turnover is extremely rapid and it would probably be more accurate to say that "there are a few who know everybody."

There are several kinds of contributors and the Commission can appreciate the fact that campaigns need to know how much information is enough to provide on their reports. The answer depends on the nature of the contributor and the Commission feels the following may clear up some of the confusion:

1) If contributor is an individual, list name of employer - include department if it's a state agency;

2) If contributor is self-employed, list name of business or type of work;

3) If contributor is a business, association, or organization, list type of business where that is self-explanatory;

4) If contributor is a political action committee, list parent organization, if any; and

5) If contributor is retired, unemployed, a housewife/homemaker, or a child use either or those terms or "N/A."

A

Sounds fair... still helps individual campaign contributions, our primary concern.

S.24 MAY 27 1983

Vic -

You've seen most of this before... in SSA. I'm totally embarrassed by the condition of the testimony I sent your committee via the Legislative Information Office. They said they would have it to Juneau in minutes... in my ignorance I thought they'd type it into the computer. Learned later that it went as it was, complete with last minute corrections! Sorry.

Thanks for "fixing up" the occupation & employer clause. It helps a lot... but there are still too many problems. Perhaps there were some good 7500 arguments in your committee, wish I knew... the session will be over before I can get a transcript.

Your committee's good use of the teleconference network is appreciated.

I am learning a lot from Capitol Bs!

Peg.

NS
- This isn't my bill - D2 yours?
I don't know who's NB
covering it.
fs

6/1

LS

League of Women Voters of Alaska

Box 602
Soldotna, Alaska 99669
May 24, 1983

Senate Finance Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Fischer,

This letter is in reference to HB165 which would make significant changes in Alaska's Campaign Disclosure Law. The League of Women Voters of Alaska adopted Election Laws and Procedures as a program item at its convention in 1973. Campaign Disclosure was an integral part of the study by local leagues and the following comments are based on the result of that study. These basic positions were reaffirmed two weeks ago during a discussion of HB165 by delegates at our 1983 state convention.

We favor disclosure of campaign contributions and expenditures of hard cash monies, goods and services. Raising the amount at which the name of a contributor must be reported from $100 to $250 is cause for concern. The inflation argument for raising the figure may have some merit for a statewide campaign. But it is our feeling that $100 remains a significant contribution at the municipal level and the name of the contributor should continue to be reported.

The group gave a collective groan upon hearing that HB165 would delete (on p.1, line 14) the "principal occupation, and employer" clause. As one delegate put it, "It is sometimes difficult to tell from a candidate's public statements where he or she really stands on an issue. Knowing where their financial support is coming from helps to flesh out the political profile of a candidate." If the current language were changed, identification of special interest support would be very difficult. We feel that a candidate who can intelligently and objectively represent diverse community interests will have broad-based financial support. We note that Senate State Affairs considered the aforementioned clause to be worthwhile, and that it is back in their version of the bill.

"Disclosure", as defined in our position, means disclosure of contributions before elections and disclosure of expenditures and other financial transactions by a

stated deadline. For this reason, we are opposed to changing the reporting period for large contributions and expenditures from 24 to 48 hours at the end of a campaign (p.5, line 9). It is not uncommon for large sums of money to flow into and out of a campaign treasury at the eleventh hour. Extending the reporting period to 48 hours would delay or in some cases, effectively deny, public access to this information. In our opinion, expenditures (p.5, line 6) should not be deleted. Major financial transactions should continue to be reported.

A question arises regarding accountability (p.3, Section 9, sub-section f). We would hope that the "accountability buck" still stops with the most logical person to be held responsible for any violations or defaults in campaign reporting...the candidate.

While we appreciate the effort of the Senate State Affairs committee to correct one major problem with this bill, it is not enough. The interests of the people of Alaska would still be better served under the existing statute.

Sincerely,

Peggy Mullen

Peggy Mullen, chair
Election Laws and Procedures
League of Women Voters of Alaska

... to Senate State Affairs

This testimony is in reference to HB165 which would make significant changes in Alaska's Campaign Disclosure Law. The League of Women Voters of Alaska adopted Election Laws and Procedures as a program item at its convention in 1973. Campaign Disclosure was an integral part of that study by local leagues and the following comments are based on the result of that study. These basic positions were reaffirmed 10 days ago during a discussion of HB165 by delegates at our state convention.

We favor disclosure of campaign contributions and expenditures of hard cash monies, goods and services. Raising the amount at which the name of a contributor must be reported from $100 to $250 is cause for concern. The inflation argument for raising the figure may have some merit for a statewide campaign. But it is our feeling that $100 remains a significant contribution at the municipal level and the name of the contributor should continue to be reported.

The group gave a collective groan upon hearing that HB165 would delete (on p.1, line 14) the "principal occupation, and employer" clause. As one delegate put it, "It is sometimes difficult to tell from a candidate's public statements where he or she really stands on an issue. Knowing where their financial support is coming from helps to flesh out the political profile of a candidate." If the current language were changed, identification of special interest support would be very difficult. We feel that a candidate who can intelligently and objectively represent diverse community interests will have broad-based financial support.

"Disclosure", as defined in our position, means disclosure of contributions before elections and disclosure of expenditures and other financial transactions by a stated deadline. For this reason, we are ~~not prepared to support~~ opposed to changing the reporting period for large contributions and expenditures from 24 to 48 hours at the end of a campaign. (p.5, line8)

It is not uncommon for large sums of money to flow into and out of a campaign treasury at the eleventh hour. Extending the reporting period to 48 hours would delay or in some cases, effectively deny, public access to this information. In our opinion, expenditures (p.5, line 5) should not be deleted. This part of the statute has value. Major financial transactions should continue to be reported.

A question arises regarding accountability (p.3, Section 9, sub-section 'f). We would hope that the 'accountability buck' still stops with the most logical person to be held responsible for any violations or defaults in campaign reporting...the candidate.

In the final analysis, we find a little merit in this bill that we would support its ~~peaceful~~ QUICK demise.

Peggy Mullen, chair
Election Laws and Procedures
League of Women Voters of Alaska

STATE OF ALASKA
THE LEGISLATURE

COPY

POUCH Y · STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3801

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M May 5, 1983

SUBJECT: Public Offices Commission
(CSSSHB 165 (State Affairs) am)

TO: Representative Rick Uehling

FROM: Richard A. Bradley
Legislative Counsel

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

As a preliminary matter, I must advise you that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill; the bill itself is the best statement of its contents. For a full explanation of any point, please consult the bill itself; if you would like an interpretation of the bill as it may apply to a particular set of circumstances, please address a specific request to this office.

The substantive provisions of the bill amend three sections of AS 15.13: sec. 40 (which requires certain contributions and expenditures to be reported), sec. 60 (which deals with responsibilities of campaign officers), and sec. 110 (which deals with with the timing of certain reports). The amendments to sec. 70 contained in the bill are essentially conforming amendments, conforming the provisions of sec. 70 to the changes made in sec. 40.

Section 1 amends AS 15.13.040(a). It requires the reporting of contributions in excess of $250 (in place of the former $100). The requirement that the "principal occupation and employer of the contributor" be identified is repealed. In place of the former requirement that the report be certified "by the candidate or campaign treasurer" the amendment requires that the report be certified "under AS 15.-13.060(a)"; this latter section is discussed below.

Section 2 repeals and reenacts AS 15.13.040(b); as written it incorporates sec. 40(c) which is repealed in sec. 17. Sec. 40(c) was repealed as a separate subsection to make the provisions of (b) (as rewritten) parallel to sec. 40(a). For your information, the two subsections now read as follows:

> (b) Each group shall make a full report upon a form prescribed by the commission, listing
>
> (1) the name and address of each officer and director;
>
> (2) the aggregate amount of all contributions made to it; and, for all contributions in excess of $100 in the aggregate a year, the name, address, principal occupation, and employer of the contributor, and the date and amount contributed by each contributor; and
>
> (3) the date and amount of all contributions made by it and all expenditures made, incurred or authorized by it.
>
> (c) The report required under (b) of this section shall be filed in accordance with AS 15.13.110 and shall be certified as correct by the group's treasurer.

The existing requirements of sec. 40(b)(1): that a group provide the name and address of each officer and director -- is deleted because sec. 60(a) as amended requires the identification of the group's campaign chairman and campaign treasurer. Consistently with the floor amendment to sec. 40(a), the requirement that the "principal occupation and employer of contributor" in sec. 40(b)(2) is repealed. The provisions of sec. 40(b) (group responsibilities) are then parallel to sec. 40(a) (candidate responsibilities).

As suggested, sec. 40(c) is repealed in sec. 17.

Section 3 amends AS 15.13.040(d). The amendment to sec. 40(d) is intended to address a problem that has concerned the commission since its establishment but which the law did not address. That problem relates to the fact that two different kinds of groups exist. An "ad hoc" group, formed only for the purposes of a particular campaign or for the support of a particular candidate is the first kind of

group and sec. 50 governs the activities of this group. The second kind of group is exemplified by the League of Women Voters, a preexisting organization that is not organized for political campaign purposes but that engages to some extent in a campaign. The latter kind of organization is the kind described in the new phrase: a "group that is not required to register under AS 15.13.050"; that kind of group is required only to report the particular kind of campaign activity specified in sec. 40(d)(1) or (2). The latter kind of group is analogous to the individual making the same kinds of contributions or expenditures; identical report are required from each.

Section 4 adds a new subsection (g) to AS 15.13.040. The concept of an "independent expenditure" was introduced in sec. 40(d)(2); the term is defined in sec. 40(g) and I believe the definition should be clear. The activity of the second kind of "group" described in the comments to sec. 40(d) insofar as the commission is concerned will usually be an "independent expenditure."

Section 5 amends AS 15.13.060(a). It recaptions the section as "CAMPAIGN OFFICERS" in place of "CAMPAIGN TREASURERS." Under existing law, I believe that the only reference to a campaign chairman is located in AS 15.13.090, "IDENTIFICATION OF COMMUNICATIONS." Though that section imposes responsibilities on a campaign chairman, existing law does not require the appointment of a campaign chairman or require the identification of a campaign chairman to the commission.

The amendments provide that a candidate may appoint a campaign chairman and a campaign treasurer; if a candidate fails to make the appointments, the candidate "is" the campaign chairman or campaign treasurer, as appropriate, or both. A group (that is required to register under AS 15.13.050) shall appoint both a campaign chairman and campaign treasurer.

A campaign chairman and a campaign treasurer (of either a candidate or of a group) may be the same individual.

The amendment to sec. 60(a) makes clear that the "candidate, the campaign chairman or campaign treasurer of a candidate, and the campaign chairman and the campaign treasurer of a group" may certify all reports and statements required by law; by inference, no one else may.

Section 6 amends AS 15.13.060(b). The provision provides that each group (that is required to report under AS 15.-13.050) shall file the name and the address of the campaign chairman and the campaign treasurer with the commission when it registers. (Sec. 60(a) provides that one individual may fill both positions.)

Section 7 repeals and reenacts AS 15.13.060(c). It provides that an individual may not act as campaign chairman or campaign treasurer of a candidate for state or local office until the candidate has filed the name and address with the commission; the language as changed simplifies the existing provision which provides:

> (c) Each candidate for state office shall file the name and address of the campaign treasurer with the commission, or submit, in writing, the name and address of the campaign treasurer to the director for filing with the commission, no later than 15 days after the date of filing the declaration of candidacy or the nominating petition. Each candidate for municipal office shall file the name and address of the campaign treasurer with the commission no later than seven days after the date of filing the declaration of candidacy or the nominating petition. If the candidate does not designate a campaign treasurer, the candidate is the campaign treasurer.

Section 8 amends AS 15.13.060(d). The section makes several changes to the existing provision. It acknowledges that the office of campaign chairman exists. It implicitly acknowledges that only a group must have officers; if the appointed officers of a candidate resign or are otherwise removed, the candidate assumes the responsibilities until new appointments are made. And it usefully deletes the sentence

> The candidate is disqualified when he has been found to have been in wilful violation of this subsection.

Section 9 amends AS 15.13.060(e). It permits, as under existing law, the campaign treasurer to appoint as many deputy campaign treasurers as the campaign treasurer considers necessary. But it changes the existing law that requires the candidate to advise the commission of the appointments; the amendment puts the burden of advice to the commission on appointments on the person exercising the position of campaign treasurer.

Section 10 amends AS 15.13.060(f). Nothing except a few dangling phrases remain from existing law; as amended the section provides that (1) a candidate is responsible for the performance of the campaign chairman and the campaign treasurer; and (2) the campaign treasurer of a candidate or of a group is responsible for the performance of deputy campaign treasurers. The complicated and essentially unenforceable bit about defaults and violations and "knew or has reason to know" is repealed.

Section 11 adds a new AS 15.13.060(g). It is quite clear; its purpose is to make clear who can (and cannot) do the acts that are critical to the role of the commission.

Sections 12 and 13 amend AS 15.13.070(b) and (c). The changes make the provisions of the law consistent with the changes made in AS 15.13.040(a) and (b).

Section 14 amends AS 15.13.110(a). The first change provides that the reports filed under this section will be certified under sec. 60(a).

The time that a report is to be filed under this section is changed in one instance: In place of the former December 31 report (which was supposed to include information through the date of the report), the amendment requires that the report be filed "15 days after the end of the year" for expenditures and contributions not reported that year. A more orderly reporting system should result.

Section 15 amends AS 15.13.110(b). It deletes the concept of "expenditures" from the section; as I understand the commission's position, the section does not really apply to expenditures.

It changes three thresholds for the special reports required for the "larger" contributions made immediately before an election -- (1) it will apply to contributions that exceed $500 (in place of the former $250); (2) that are made within nine days of the election (in place of the former one week; and (3) it will require the report to the commission within 48 hours from receipt of the contribution (in place of the former 24 hours). It also changes the reporting officers to acknowledge the changes made in sec. 60(a).

Section 16 amends AS 15.13.110(c). The change acknowledges the changes made in sec. 60(a).

Section 17 repeals AS 15.13.040(c) [which is set out above] as well as repealing AS 15.13.070(f) and (g). The latter provisions have been a dead letter since enactment because of a U.S. Supreme Court decision. For your information they provide:

> (f) The total amount of expenditures made by a candidate and by all groups operating under his control may not exceed (1) 40 cents times the total population of the state according to the latest United States census figures, or estimates of population certified as correct for administrative purposes by the Department of Community and Regional Affairs, if the candidacy is for governor or lieutenant governor, of which amount no more than 50 per cent may be spent in a primary election campaign and no more than 50 per cent in the general election campaign; (2) $1 times the total population of the geographical area of the constituency according to the latest United States census figures, or estimates of population certified as correct for administrative purposes by the Department of Community and Regional Affairs, divided by the number of seats in the senate district if the candidacy is for the state senate; (3) $1 times the total population of the geographical area of the constituency according to the latest United States census figures, or estimates of population certified as correct for administrative purposes by the Department of Community and Regional Affairs, divided by the number of seats in the house district if the candidacy is for the state house of representatives. The expenditure limitations in this section include expenditures for both a primary and a general election campaign, or for a special election.
>
> (g) Each general election year the commission shall adjust the campaign expenditure limitations for each category of (f) of this section to reflect cost-of-living changes as determined and published by the Bureau of Labor Statistics of the United States Department of Labor.

No effective date provision is added; it will take effect 90 days after approval by the governor or 90 days after it becomes law without the approval of the governor.

If I may be of further assistance, please advise.

RAB:ljb
17/033

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 165 Date on Bill: 02/04/83
Title: "An Act relating to reports to the Public Offices Commission"
Sponsor: Uehling, Barnes, Bussell, Cowdery, Furnace, Ward and Herrmann
Requestor:

RECEIVED
MAR 4 1983

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86	
Capital							
Operating							
Total			0	0	0	0	

b. Revenues:

Revenue							

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor.

Prepared By: Theda S. Pittman Theda S. Pittman /sgw Phone:
Division: Alaska Public Offices Commission Date: March 4, 1983

Approved by Commissioner: Lisa Rudd Rebecca Brink for the Commissioner Date: March 4, 1983
Department: Administration

5. Distribution:

HB 165

The requirement that reports include occupation and employer is an important one for the benefit of the public and the press in analyzing the sources of campaign contributions. Absent the information intended by the requirement, one loses important tools for learning what common interests, if any, exist among those who support a particular candidate or political group. If Campaign Disclosure reports are to have any utility for those who are not already part of the politically astute, then the name and address of the contributor is simply too little information. Despite our fondness for the "Alaska is a small state; everybody knows everybody" philosophy, the population turnover is extremely rapid and it would probably be more accurate to say that "there are a few who know everybody."

There are several kinds of contributors and the Commission can appreciate the fact that campaigns need to know how much information is enough to provide on their reports. The answer depends on the nature of the contributor and the Commission feels the following may clear up some of the confusion:

1) If contributor is an individual, list name of employer - include department if it's a state agency;

2) If contributor is self-employed, list name of business or type of work;

3) If contributor is a business, association, or organization, list type of business where that is not self-explanatory;

4) If contributor is a political action committee, list parent organization, if any; and

5) If contributor is retired, unemployed, a housewife/homemaker, or a child use either or those terms or "N/A."

Offered: 4/7/83
Referred: Judiciary

Original sponsors: Uehling, Barnes, Bussell, et al

IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 165 (State Affairs) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the Public Offices Commission."

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

* Section 1. AS 15.13.040(a) is amended to read:

(a) Each candidate shall make a full report, upon a form prescribed by the commission, listing the date and amount of all expenditures made by the candidate, the total amount of all contributions, including all funds contributed by the candidate [HIMSELF], and for all contributions in excess of $250 [$100] in the aggregate a year, the name, address, [PRINCIPAL OCCUPATION, AND EMPLOYER OF THE CONTRIBUTOR] and the date and amount contributed by each contributor. The report shall be filed in accordance with AS 15.13.110 and shall be certified as correct under AS 15.13.060(a) [BY THE CANDIDATE OR CAMPAIGN TREASURER].

* Sec. 2. AS 15.13.040(b) is repealed and reenacted to read:

(b) Each group shall make a full report, upon a form prescribed by the commission, listing the date and amount of all expenditures made by the group, the total amount of all contributions, and for all contributions in excess of $250 in the aggregate a year, the name, address, and the date and amount contributed by each contributor. The report shall be filed in accordance with AS 15.13.110 and shall be certified as correct under AS 15.13.060(a).

* Sec. 3. AS 15.13.040(d) is amended to read:

(d) Every individual or [,] person and every [OR] group that is not required to register under AS 15.13.050 [MAKING A CONTRIBUTION OR

EXPENDITURE] shall make a full report, upon a form prescribed by the commission, of the following contributions or expenditures:

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

(2) any independent expenditure [WHATSOEVER] for advertising in newspapers, on radio or on television [;] or [,] for the publication, distribution or circulation of brochures, flyers, or other campaign material for or against any candidate, [OR] ballot proposition or question.

* Sec. 4. AS 15.13.040 is amended by adding a new subsection to read:

(g) As used in this section, an "independent expenditure" is a disbursement of funds made to support or oppose the election of a candidate or the passage of a ballot proposition or question not made with the cooperation, consent, or at the request of a candidate, a campaign committee or controlled group of a candidate, or a group that is supporting or opposing the candidate or ballot proposition or question for which the funds are disbursed.

* Sec. 5. AS 15.13.060(a) is amended to read:

Sec. 15.13.060. CAMPAIGN OFFICERS [TREASURERS]. (a) Each candidate may and each group shall appoint a campaign chairman. Each candidate may and each group shall appoint a campaign treasurer. The candidate, the campaign chairman or the campaign treasurer of a candidate, and the campaign chairman or the campaign treasurer of a group may certify [WHO IS RESPONSIBLE FOR RECEIVING, HOLDING, AND DISBURSING ALL CONTRIBUTIONS AND EXPENDITURES, AND FOR FILING] all reports and statements required by law. The campaign chairman and the campaign treasurer may be the same individual. A candidate who does not appoint a campaign chairman is the campaign chairman. A candidate who does not appoint a campaign treasurer is the campaign treasurer. [A

CANDIDATE MAY BE A CAMPAIGN TREASURER.]

* Sec. 6. AS 15.13.060(b) is amended to read:

(b) Each group shall file the name and the address of its campaign chairman and its campaign treasurer with the commission at the time it registers with the commission under AS 15.13.050.

* Sec. 7. AS 15.13.060(c) is repealed and reenacted to read:

(c) An individual may not act as either a campaign chairman or a campaign treasurer of a candidate for state or for municipal office until the candidate has filed the name and the address of the campaign chairman or the campaign treasurer with the commission.

* Sec. 8. AS 15.13.060(d) is amended to read:

(d) In the case of the death, resignation or removal of a campaign chairman or a campaign treasurer of a group, the group [CANDIDATE] shall appoint a successor as soon as practicable and file the [HIS] name and address with the commission within 48 hours of the appointment. [THE CANDIDATE IS DISQUALIFIED WHEN HE HAS BEEN FOUND TO HAVE BEEN IN WILFUL VIOLATION OF THIS SUBSECTION].

* Sec. 9. AS 15.13.060(e) is amended to read:

(e) A campaign treasurer may appoint as many deputy campaign treasurers as the campaign treasurer [HE] considers necessary. The campaign treasurer [CANDIDATE] shall file the names and addresses of the deputy campaign treasurers with the commission.

* Sec. 10. AS 15.13.060(f) is amended to read:

(f) A [THE] candidate is responsible for the performance of the campaign chairman and of the [HIS] campaign treasurer and a campaign treasurer of a candidate or of a group is responsible for the performance of the deputy campaign treasurers [, AND ANY DEFAULT OR VIOLATION BY THE TREASURER ALSO SHALL BE CONSIDERED A DEFAULT OR VIOLATION BY THE CANDIDATE IF HE KNEW OR HAD REASON TO KNOW OF THE DEFAULT OR

VIOLATION].

* Sec. 11. AS 15.13.060 is amended by adding a new subsection to read:

(g) Contributions to a candidate may be received and expenditures of a candidate may be made only by the candidate, the campaign chairman, the campaign treasurer, or a deputy campaign treasurer of the candidate. Contributions to a group may be received and expenditures of a group may be made only by the campaign chairman, campaign treasurer, or a deputy campaign treasurer of the group.

* Sec. 12. AS 15.13.070(b) is amended to read:

(b) No contribution over $250 [$100] may be made in cash or by cash payment and it may not be accepted by or on behalf of a candidate.

* Sec. 13. AS 15.13.070(c) is amended to read:

(c) No expenditures over $250 [$100] may be made in cash or by cash payment unless a written receipt is obtained and filed with the commission.

* Sec. 14. AS 15.13.110(a) is amended to read:

(a) Each candidate and group shall make a full report in accordance with AS 15.13.040 during the period ending three days before the due date of the report and beginning on the last day covered by the most recent previous report, or, if a first report, all contributions received and expenditures made before three days before the due date of the report. The report shall be certified under AS 15.13.-060(a) and filed at the following times:

(1) 30 days before the election; however, this report is not required if the deadline for filing a nominating petition or declaration of candidacy is within 30 days of the election;

(2) one week before the election;

(3) 10 [TEN] days after the election; and

(4) 15 days after the end [DECEMBER 31] of each year for expenditures and contributions received which were not reported that year.

* Sec. 15. AS 15.13.110(b) is amended to read:

(b) Each contribution [OR EXPENDITURE] which exceeds $500 [$250] and which is received [MADE] within nine days [ONE WEEK] of the election shall be reported to the commission by date, amount, and contributor [OR RECIPIENT] within 48 [24] hours of receipt [OR EXPENDITURE] by a campaign officer described in AS 15.13.060(a) [THE CANDIDATE OR CAMPAIGN TREASURER].

* Sec. 16. AS 15.13.110(c) is amended to read:

(c) The reports of a campaign officer described in AS 15.13.060(a) [CANDIDATES] shall be filed with the commission's central office. All reports required by this chapter shall be kept open to public inspection. Within 30 days after each election, the commission shall prepare a summary of each report which shall be made available to the public at cost upon request. Each summary shall use uniform categories of reporting.

* Sec. 17. AS 15.13.040(c) and AS 15.13.070(f) and (g) are repealed.

HB 165

ABEC

The requirement that reports include occupation and employer is an important one for the benefit of the public and the press in analyzing the sources of campaign contributions. Absent the information intended by the requirement, one loses important tools for learning what common interests, if any, exist among those who support a particular candidate or political group. If Campaign Disclosure reports are to have any utility for those who are not already part of the politically astute, then the name and address of the contributor is simply too little information. Despite our fondness for the "Alaska is a small state; everybody knows everybody" philosophy, the population turnover is extremely rapid and it would probably be more accurate to say that "there are a few who know everybody."

There are several kinds of contributors and the Commission can appreciate the fact that campaigns need to know how much information is enough to provide on their reports. The answer depends on the nature of the contributor and the Commission feels the following may clear up some of the confusion:

1) If contributor is an individual, list name of employer - include department if it's a state agency;

2) If contributor is self-employed, list name of business or type of work;

3) If contributor is a business, association, or organization, list type of business where that is not self-explanatory;

4) If contributor is a political action committee, list parent organization, if any; and

5) If contributor is retired, unemployed, a housewife/homemaker, or a child use either or those terms or "N/A."

HB

176

POSITION PAPER
CS FOR HOUSE BILL 176

This bill is a committee substitute for House Bill No. 176. It would amend the State Personnel Act contained in chapter 25 of title 39, Alaska Statutes. The CS for HB 176 would amend subsection (19) which provides an employment preference for honorably discharged veterans with 181 days of military service during one of the specified periods of time during which the United States was engaged in armed conflict, i.e., wartime service.

Under the statute now in effect, a veteran (as described above) is entitled to have an additional 5 points added to his or her passing score for the purpose of obtaining employment in the classified service. A "disabled veteran" as defined in AS 39.25.150 (19)(B) is entitled to have an additional 10 points added to his or her score. This assistance in obtaining employment is limited in that it is of no benefit for promotional purposes and "the additional points may be used only the first time a veteran obtains a position in the classified service...." The CS for HB 176 would remove the above quoted provision. This proposed modification of statute would enable a qualified veteran or disabled veteran to exercise his or her preference on more than one occasion. The statutory provision which provides that the preference is not for application "within the area of promotion..." would remain unchanged. Therefore the effect of the proposed statutory amendment would be to allow a veteran to utilize the preference in obtaining a job in the state classified service, discontinue that employment with the state, and subsequently apply for state employment and again take advantage of the statutory preference.

The Department of Administration is unable to support the CS for HB 176. A purpose of the veterans preference statute is to assist qualified veterans in obtaining a job with the state of Alaska subsequent to discharge from military service. The statute now in effect accomplishes this purpose. If the bill were enacted, a qualified veteran would be able to envoke preferential treatment for employment purposes many times, throughout the veterans lifetime. This would result in an adverse impact on the ability of non-veterans to obtain state jobs.

Frank Raye — 6/17/83

Approved : Frank Raye, Director
Div. of Personnel — Date

Lisa S Rudd — 6/17/83

Approved: Lisa Rudd, Commissioner
Department of Administration — Date

LNL/LNL

AMERICAN ASSOCIATION OF UNIVERSITY WOMEN

ALASKA DIVISION

April 1981

To: Members of the Senate State Affairs
From: Susan R. Clark, Legislative Chair, Alaska Division of the American Association of University Women
1109 C Street, Juneau, Alaska 99801 (586-6952)

Re: Veterans' Preference for State Employment (SB 193, SB 104)

I would like to begin first with an acknowledgement to Sen. Bradley, because I know that his hard work in this area has been done in good faith and out of a sincere concern for the welfare of those men and women who made personal sacrifices for the sake of our country's safety.

I also want to point out that I personally grew up in the military. My father, godfather, and father-in-law were all career officers in the armed services, and my husband and brother were both active in the military during the Vietnam war. I had planned at one time to make the Navy a career. I also wnat to point out that the new Alaska division president of A.A.U.W. is herself a vetran.

A.A.U.W. feels that we must bring to the attention of the legislature that while the goals of preference are legitimate, and while the current state statute may not have been enacted for the purpose of discriminating against women, the exclusionary impact upon women is so severe as to require the state to further its goals through a more limited form of preference.

Looking at the current law as too broad, please consider who is covered: a person with a minimum of 90 (181 is a change currently being proposed) days active service serving during World War I, World War II, and Vietnam or Korea who has been honorably discharged. According to the Veterans' Preference Act of 1944, such preference was designed to reward veterans for the sacrifice of military service, to ease the transition from military to civilian life, to encourage patriotic service, and to attract loyal and well disciplined people to civil service occupations. In terms of the last reason, it should be pointed out that preference itself has little if any relevance to actual job performance. The first two reasons for preference seem the most pertinent to Alaska - reward for sacrifice and ease of transition into civilian life. Both reasons are valid, but as lifetime preferences, they are subject to the objection that they give the veteran more than a square deal. Certainly upon returning to civilian status, a veteran should have access to his or her job, and perhaps for 5 years or so after returning, preference could be given as reward and help for veterans, but there should be some sort of limit on the length of time one can reap rewards for what can be a brief and unhazardous term of service.

Because the extent to which the status of veteran is one that few women have been permitted to achieve, every hiring preference for veterans, however modest or extreme, must admit inherent gender-bias, and therefore legislated preference must be considered with due caution and careful consideration. The 5 points for veterans and 10 points for disabled veterans comes directly from the 1944 Federal Veterans' Preference Act. These points are added to a veteran's score after other writen tests are administered. In Alaska where mere hundreths of a single point can separate job applicants, the system is overly weighted, especially when compared with other handicapped, disadvantaged or suspect classes of people.

Conceding that the goal here is to benefit the veteran, there is no reason to absolve the legislature from awareness that the means chosen to achieve this goal reserves a major sector of public employment to an already established class, which, as a matter of historical fact, is already 80% male in catagories other than the clerical and para-professional jobs. The current point system and lifetime preference, only compounds and contributes to sex bias in all levels of state employment.

Women have been overtly excluded from the military, and not just by tradition and culture. During WW I for example "a variety of proposals were made to enlist women for work in the Army as doctors, telephone operators, and clerks, but all were rejected by the War Dept." Navy women did achieve military rank and status during this time, and were the first women to do so. While the Army Nurse Corps was the first official military unit for women they were not granted full military rank until 1944 - forty-three years later. During the Second World War several temporary women's units were formed including WAAC (Women's Army Auxiliary Corps), WAVES (Women Accepted for Voluntary Emergency Service), and WASP (Women Airforce Pilots). These women, however, were in fact civilians and had no regular military status, and thus no veteran status. In fact, although the WASP personnel were filling some of the most hazardous of flying jobs, that of towing targets for air gunnery practice, and testing planes fresh out of repair depots, they were denied commissions based on the fact that "the authority of the act of September 1941, to make temporary appointments as officers in the U.S. Army 'from among qualified persons' refers to and contemplates men exclusively, and may not be regarded as authority for commissioning women as officers...." These women finally won their hard earned veterans' status in September 1976, but other women who had been active in the war have not.

Women's services were finally established on a permanent basis in 1948, however quotas were placed on the numbers that could enlist. Women were not to exceed 2% of the total enlisted strength, their eligibility requirements were more stringent than were those for men, and career opportunities were also limited. In addition women were involuntarily removed from service for pregnancy, parenthood, and even marriage. These strictures have carried on into the '60's and '70's. Not until 1967 was the 2% quota lifted, and the many restrictive policies concerning women's participation in the military were not modified or eliminated until the 1970's. Amazingly, or perhaps not so, once the barriers were down women joined in large numbers.

In just three years from 1973-1975 the percentage of enlisted women in the military had doubled.

There are two ways to ameliorate the effects of the veterans' preference on women and minorities. One is to modify the point system and to place a time limit on prefential access to jobs. The other solution is to look to expanding what is considered by the word veteran, and thereby include in this law others who have served their country every bit as well and as patriotically as have those on "military active duty". Other states include language that recognizes nurses and other women who were discharged and so served in any "corps or unit of the United States established for the purpose of enabling women to serve with, or as auxiliary to, the armed forces of the United States..." Language should also recognize those who underwent severe hardship because of the war. In WW II both the Aleut Americans and the Japanese Americans were uprooted and forced into relocation camps. We have never rewarded their sacrifices with jobs or appeasements of any sort. In expanding the concept of who is a veteran, we need also to look at the men and women who served in civil defense jobs, with the American Red Cross, the Civil air patrol, as war correspondants, and in the merchant marine (who incidentally were in the same waters as navy destroyers and also under attack, but receive no reward in terms of their patriotism, personal sacrifice and danger).

Looking again at the contributions of women to the war effort, we are but slightly aware of the sacrifices and contributions of over 2 million World War II women who took the places of the absent men working in the American war industries: in shipyards, aircraft plants, ammunition plants. The call to "inlist" in the factories was every bit as organized and strong as for men in the armed forces. Concern about dangerous working conditions and long hours took a back seat to America's call to keep up the production to supply the war with weapons, and ammunition. For the short-handed women in the farm communities, the call was to get out the crops to feed the troops. If personal sacrifice, patriotism and danger is a standard for preference, then these women deserve veterans' status every bit as much as the service veterans. One amazing statistic of which you may be unaware is that during the war period "more deaths occurred from industrial accidents than from combat." Where was and is their reward? For their commitment and patriotism, they received not preferred lifetime access to civil service jobs, but firings. No one helped them with their transition back into "civilian" jobs. For many minority women who were even then the major financial support for their families, this transition meant leaving highly skilled, well paying jobs to go back to the dead end drudgery and poverty wages of domestic work.

It is interesting to note that the Federal Veterans' Preference Act of 1944 included in its preference the wives of disabled service personnel and the unmarried widows of deceased ex-service personnel. We tend to look at patriotic service and personal sacrifice as being a military male perogative, but I feel we need to look hard at the patriotism and sacrifice of the service personnel spouses who held the country and family together as essentially single parents, frequently having to hold down another job to

support their families because the salary range for enlisted personnel in the military is so low that those families qualify for government assistance. Vietnam vets, in addition, currently have the highest divorce rate of any class of Americans. a rate that is generally high among all military personnel. This means, for example, that those women who held families together during the father's service, and who now must have full time employment to support themselves and their children (of whom women still usually have custody), who traditionally are not educated for well paying jobs, and who have traditionally been denied many levels of employment advancement, now in addition find that the men to whom they gave support are receiving preferential treatment in the jobs the women need to support their families.

As you can see, equitable expansion of the term veteran would be a formitable legislative task, but should be attempted so that families of veterans and those who served alongside veterans can be recognized. As it now stands, the Alaska statute exacts a substantial price from a group of individuals who have long been subject to employment discrimination, and who, because of circumstances totally beyond their control, have had little if any chance of becoming members of the preferred class. Admitting that any hiring preference for veterans does at this time have a severe impact on the public employment opportunities of women, we nevertheless recognize the sacrifice and hardship of military veterans must not be ignored. Through workable modifications in the law, we can strive together to discover solutions that recognize the needs, sacrifices, and contributions of both the military veteran groups and the groups of minorities and women which are so impacted by historical discrimination.

Alaska State Legislature

MAY - 5 1983

REPRESENTATIVE
BARBARA LACHER
P.O. BOX 478
PALMER, ALASKA 99645
(907) 376-4215

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4894

House of Representatives

M E M O R A N D U M

TO: Senator Vic Fischer
Senate State Affairs Chairperson

FROM: Representative Barbara Lacher
House C&RA Chairperson

SUBJECT: HB 176

DATE: May 3, 1983

The purpose of this legislation is to amend the Statutes pertaining to veterans preference for employment with state agencies (AS 39.25.150 (19)).

The original form of the bill amended the Statutes so that an additional five points be added to a Veterans Merit System Examination any one [the first] time a veteran applies for employment in the classified service. The House State Affairs Committee CS amends the bill so that the vetera may add an additional five points to a Veterans Merit System Examination every [any one (the first)] time he/she applies for classified service employment. A disabled veteran could receive ten additional points in the existing law and in this proposed legislation.

I urge your support of this legislation.

STATE OF ALASKA
FISCAL NOTE

Revision Date: April 14 , 1983

I. REQUEST

Bill/Resolution No.: CSHB176 (St.Aff.)
Title: Employment Pref. for Veterans
Sponsor: Lacker, et.al
Requestor: House State Affairs

II. FISCAL DETAIL

Agency Affected: Administration
Program Category Affected: Cent. Adm. Svc.
BRU, Program of Subprogram(s) Affected: Personnel

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						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

None needed

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Frank Raye Phone: 465-4430
Division: Personnel Date: 04/14/83

Approved by Commissioner: Lisa Rudd Date: 04/14/83
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
Copy to Requestor (if different from Sponsor)

3/8/83

107D1/0414-1

The amendment proposed by the House State Affairs Committee substitue returns to the means of providing employment preference which was in effect prior to July 1, 1982. Very minor costs, which will be absorbed in the current year budget, will be incurred in returning to the former method.

Alaska State Legislature

House of Representatives

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

To: House Majority Caucus

From: Rep. Ramona Barnes,
House Majority Leader

Date: April 21, 1983

Re: CS HB 176 (State Affairs): "An Act relating to employment preference rights for veterans."

Existing statute allows a veteran to receive preference points only the first time the veteran obtains a position in the classified service.

Should objections in any form occur it would likely be to the preference point system in that it discriminates against all non-veterans. Veterans should be entitled these as they have given of themselves in the defense and protection of our country. There should however, be no serious opposition to this bill.

POSITION PAPER
CS FOR HOUSE BILL 176

This bill is a committee substitute for House Bill No. 176. It would amend the State Personnel Act contained in chapter 25 of title 39, Alaska Statutes. The CS for HB 176 would amend subsection (19) which provides an employment preference for honorably discharged veterans with 181 days of military service during one of the specified periods of time during which the United States was engaged in armed conflict, i.e., wartime service.

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The Department of Administration is unable to support the CS for HB 176. A purpose of the veterans preference statute is to assist qualified veterans in obtaining a job with the state of Alaska subsequent to discharge from military service. The statute now in effect accomplishes this purpose. If the bill were enacted, a qualified veteran would be able to envoke preferential treatment for employment purposes many times, throughout the veterans lifetime. This would result in an adverse impact on the ability of non-veterans to obtain state jobs.

Frank Raye — 6/17/83

Approved : Frank Raye, Director
Div. of Personnel — Date

Lisa Rudd — 6/17/83

Approved: Lisa Rudd, Commissioner
Department of Administration — Date

LNL/LNL

May 31, 1983

Memo
Vic from Lewis
Telephone conversation re HB 176

Vic, I just phoned Paul Faulkner (344-1017) about his request that the state affairs committee schedule this bill (veterans preference) at once.

Per our conversation I carefully explained to him that the remaining time of the committee would be necessarily taken up with House and Senate priorities, and that bills which cannot be taken up this session would, perforce, be held over until next year. I made no comment on the substance of the bill.

He responded that we could expect to be innundated with POMs, and that one should not make veterans angry. I politely asked him if I could "tell the senator that he had been threatened." Faulkner said that, no, you were his personal friend, but that he couldn't agree with not taking an action "that would take onle 15-20 minutes to deal with and the bill could be passed."

I suggested that the subject had been dealt with at length two years ago and that it was likely that the legislature would like to take the time to carefully consider the merits. He said that the state, because of this law, was in violation of federal guidelines.

This is no big deal, but I thought that you would like to know where this heat, if in fact it materializes, is coming from.

CHAPTER = 39.25
SECTION = 39.25.080
TITLE = 39
HEADINGS TITLE 39.
PUBLIC OFFICERS AND EMPLOYEES.
CHAPTER 25.
STATE PERSONNEL ACT.
ARTICLE 1.
ADMINISTRATION.
CITATION SEC. 39.25.080.
CATCH LINE
PUBLIC RECORDS.
TEXT (A) STATE PERSONNEL RECORDS, INCLUDING EMPLOYMENT APPLICATIONS AND EXAMINATION MATERIALS, ARE CONFIDENTIAL AND ARE NOT OPEN TO PUBLIC INSPECTION EXCEPT AS PROVIDED IN THIS SECTION.

(B) THE FOLLOWING INFORMATION IS AVAILABLE FOR PUBLIC INSPECTION, SUBJECT TO REASONABLE REGULATIONS ON THE TIME AND MANNER O' INSPECTION:

(1) THE NAMES AND POSITION TITLES OF ALL STATE EMPLOYEES;

(2) THE POSITION HELD BY A STATE EMPLOYEE;

(3) PRIOR POSITIONS HELD BY A STATE EMPLOYEE;

(4) WHETHER A STATE EMPLOYEE IS IN THE CLASSIFIED, PAR; ALLY EXEMPT, OR EXEMPT SERVICE;

(5) THE DATES OF APPOINTMENT AND SEPARATION OF A STATE EMPLOYEE; AND

(6) THE COMPENSATION AUTHORIZED FOR A STATE EMPLOYEE.

(C) A STATE EMPLOYEE HAS THE RIGHT TO EXAMINE THE EMPLOYEE'S

OWN PERSONNEL FILES AND MAY AUTHORIZE OTHERS TO EXAMINE THOSE FILES.

(D) AN APPLICANT FOR STATE EMPLOYMENT WHO APPEALS AN EXAMINATION SCORE MAY REVIEW WRITTEN EXAMINATION QUESTIONS RELATING TO THE EXAMINATION UNLESS THE QUESTIONS ARE TO BE USED IN FUTURE EXAMINATIONS.

HISTORY (SEC. 18 CH 144 SLA 1960; AM SEC. 5 CH 112 SLA 1982)
END OF DOCUMENT

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

May 5, 1981

MEMORANDUM

TO: Representative Pat O'Connell

FROM: Leslie Longenbaugh
Research Staff

RE: Rights of Discharged Military Personnel
Research Request Number 81-117

You have asked that we provide information on the rights and privileges accorded by the State and federal governments to those who, having served in the armed forces, receive a general or dishonorable discharge.

FEDERAL PRIVILEGES GIVEN TO HONORABLY DISCHARGED VETERANS

The federal laws regarding discharges from the armed forces distinguish three types of discharge: 1) general discharge; 2) dishonorable discharge; and 3) discharge "under conditions other than honorable." Those who receive general discharges are considered eligible, if other qualifications are met, for federal veterans' benefits. Those who receive dishonorable discharges have been tried by a court martial, usually for a serious offense, and are ineligible for any of the federal benefits accorded to generally discharged veterans. The third group, those whose separation from the armed forces took place under conditions other than honorable, are not categorically denied federal veterans' benefits. Their cases are reviewed by the Veterans' Administration, which decides on a case-by-case basis whether to allow them veterans' benefits.

According to Bill Harrell, of the Veterans' Administration office in Anchorage[1], cases of a true "dishororable discharge" are extremely rare; he estimates that in his twenty years with the VA, he has seen no more than six such cases. Of veterans whose discharge was under conditions other than honorable, however, the VA in Anchorage has reviewed 30 cases in the past year, deciding an estimated 20% in favor of granting veterans' benefit to the requesting veteran.

---

[1]Veterans' Administration, 235 E 8th Avenue, Anchorage; telephone: Zenith 2500.

Mr. Harrell listed the following privileges given to veterans who have been honorably discharged, and to those whose discharges under conditions other than honorable have been favorably reviewed by the Veterans' Administration's three-member Board of Adjudication.

- Counseling
- Educational benefits for Viet Nam veterans
- Guaranteed rehire of public employees who leave their jobs to serve in the military
- Health care in Veterans' Administration hospitals
- Housing loan guarantees
- Pensions
- Survivors' benefits and pensions
- Vocational rehabilitation services for disabled veterans

Dishonorably discharged veterans are ineligible for these benefits.

STATE PRIVILEGES GIVEN TO HONORABLY DISCHARGED VETERANS

In regard to the character of the discharge, Alaska statutes often state only that those wishing to be considered eligible for State veterans' benefits must have been discharged "under honorable conditions." Thus, a veteran who is discharged under conditions other than honorable may be eligible for federal veterans' benefits, but not for some of the State benefits offered only to honorably discharged veterans. A veteran who falls into this category may appeal his or her discharge to the Veterans' Administration, hoping to have the status changed to "honorable."

A search of the Alaska statutes reveals several instances where veterans are accorded privileges. These privileges are granted, in most cases, only when the veteran has been honorably discharged from the armed forces. (Some statutes require that the discharge be "other than dishonorable," which would make eligible, presumably, a veteran whose discharge is "under conditions other than honorable.") The qualifications for honorably discharged veteran status were established by the Alaska Legislature in 1980 (AS 18-56.101, attached), specifying dates between which the veteran must have served in order to be eligible for State benefits.

Below is a list, by category, of those Alaska statutes which afford privileges to qualified veterans.

Housing and Business Loans

AS 18.56.101. Alaska Housing Finance Corporation (AHFC) offers an interest rate of 9.0% to qualified, honorably discharged veterans and Alaska National Guard enlistees, on home improvement, home purchase and construction mortgages (nonveterans, veterans discharged under conditions other than honorable, and otherwise unqualified veterans pay 10.0%).

AS 44.47.380. The Nonconforming Housing Loan Program offers an interest rate of 9.0% for qualified veterans (the rate is 10% for nonveterans, and for veterans discharged under conditions other than honorable, and for other veterans who do not meet the eligibility requirements).

AS 18.55.330. Alaska State Housing Authority (ASHA) is statutorily authorized to sponsor a housing loan program for the construction of moderately-priced housing; half of the housing financed by loans from the program must be offered initially to qualified, "honorably separated" veterans. This program is now inactive.

AS 26.15.010. The Division of Business Loans, in the Department of Commerce and Economic Development, may make loans for multiple-family dwellings and business owned by qualified, honorably discharged veterans. The Division is no longer making these loans.

Land Discounts

AS 38.05.058. A qualified, honorably discharged veteran who wishes to purchase land from the State at a restricted sale may receive a discount of up to 75%, or $37,500, from the price of the land. (Others may purchase the land at a discount of no more than 50%, or $25,000, depending upon the length of their residency in the state.)

Employment Benefits

AS 39.25.150(23). Honorably discharged veterans are given preference in hiring within the State's personnel division, which gives points for test scores, experience, and veteran status. Veterans are also given preference in layoffs within the State government, i.e., they are dismissed only after nonveterans have been laid off.

AS 39.35.340. The Public Employees' Retirement System benefits are increased for qualified veterans who "did not receive a dishonorable discharge," through a formula crediting military service as public employment for the purposes of computing retirement benefits.

AS 14.25.100. The Teachers' Retirement System benefits are increased by a method similar to that used in the Public Employees' Retirement System, where military service is credited as public employment for the purposes of computing reitirement benefits, for veterans who have received a discharge "other than dishonorable."

AS 26.10.060. Honorably discharged veterans who were employed by the State before their service in the military must be rehired upon their discharge from the armed forces.

Parking and Vehicle Registration

AS 28.10.181(d). Vehicles owned by disabled veterans (no further definition is given of "veteran") are entitled to special parking stickers which allow them to park in accesible parking slots.

AS 28.10.421(b)(3). Disabled veterans (no further definition is given of "veteran") pay no registration fee for their vehicles.

RIGHTS DENIED DISHONORABLY DISCHARGED VETERANS

According to Mr. Harrell, each state decides on the enfranchisement of its dishonorably discharged veterans. The Alaska State Division of Elections reports that dishonorably discharged veterans are not barred from voting in this State. Although some states do not allow the dishonorably discharged veteran to vote, no other rights are denied a dishonorably discharged veteran in this country, unless he or she has been convicted in a civilian court of a felony.

If we can be of further assistance, please call on us.

LL/dp

Encl.

trustee under the trust and that title to the mortgage loans subject to the trust shall be considered to have passed as provided in the trust agreement. To the extent provided in the trust agreement, the effect of a sale of a beneficial interest or participation in a mortgage loan is the same as the sale of the mortgage loan subject to the trust. (§ 27 ch 106 SLA 1980)

Cross reference. — For certain definitions applicable to this section, see AS 18.56.098(0).

Effective date. — Section 83, ch. 106, SLA 1980, makes this section effective June 21, 1980, in accordance with AS 01.10.070(c).

Sec. 18.56.100. Housing development fund.

(e) The corporation may provide for the issuance, at one time or from time to time, of housing development fund notes for the purposes of providing money for the fund.
(am § 28 ch 106 SLA 1980)

Effect of amendment. — The 1980 amendment, effective June 21, 1980, substituted "money" for "funds" near the end of present subsection (e), and deleted the last four sentences in subsection (e) as they appear in the main pamphlet.

As the rest of the section was not affected by the amendment, it is not set out.

Sec. 18.56.101. Eligibility for veterans' interest rates. The following persons are eligible veterans for the purposes of AS 18.56.098(d):

(1) a person who served in the armed forces of the United States for 90 days or more, or whose service was for less than 90 days because of injury or disability incurred in the line of duty, after April 6, 1917,

(A) who at the time of induction into the service was a resident of the territory or state, who had been a resident for not less than one year immediately before his induction, and who returned to the territory or state within one year after discharge as a resident with the intention of remaining in the territory or state; or

(B) who, not being a bona fide resident of the territory or state at the time of entry into the service, has been a resident of the territory or state for at least one year at the time of the loan application and has been a resident of the territory or state for at least five years; and

(C) whose discharge was under honorable conditions;

(2) the widow or widower of a member of the armed forces of an eligible veteran if

(A) The member or veteran was a resident of the territory or state for one year before induction into the service;

(B) the member or veteran served in the armed forces for at least 90 days after April 6, 1917; and

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

June 10, 1983

MEMORANDUM

TO: Representative Don Clocksin

FROM: Leslie Longenbaugh
Research Staff

RE: Veterans' Benefits
Research Request 83-191

Jan Rice asked that we provide a list of all benefits offered by the State of Alaska to qualified veterans of the armed services. I have attached a copy of a 1981 memorandum that addresses this question. The following are amendments or additions to the benefits listed in 81-117.

Fishing and Hunting Licenses

AS 16.05.341 (1982). A disabled veteran may receive a resident hunting and sport fishing license without charge.

Housing Loans

In November 1982, the electorate approved a constitutional amendment to allow the sale of general obligation bonds to finance veterans' housing loans. Since that time, Alaska Housing Finance Corporation (AHFC) has sold bonds and used the proceeds to buy the mortgages of qualified veterans. Because they are financed through the sale of tax-exempt bonds, veterans' mortgages over $90,000 carry lower interest rates than other loans offered by AHFC.

AS 18.56.098. In 1981, the legislature amended this part of AHFC's statute, which formerly specified an interest rate of 9.0 percent for qualified veterans and a rate of 10.0 percent for all other borrowers under the Special Mortgage Loan Purchase Program, AHFC's most active housing loan program. The amendment ties the interest rate to the cost of the funds, but retains the one-point advantage for veterans.

Land Disposal

AS 38.05.067. Before offering certain unoccupied residential lands for sale to the general public, the State must offer the land at a restricted sale at which only veterans may buy.

Tuition Assistance

AS 26.05.296. Active and retired members of the Alaska National Guard and the Alaska Naval Militia who are not eligible for federal veterans' student aid may receive 50 percent of the tuition and fees for an educational, vocational or technical training program.

* * *

We have listed only the statutory and constitutional benefits accorded veterans. Any benefit that might exist only in regulation is not included in these memoranda. If you have questions or further needs for research, please call on us.

LL

Attachment: Research Request 81-117, House Research Agency

(C) his discharge was under honorable conditions;

(3) a person who has served in the Alaska Army National Guard, the Alaska Air National Guard, or the Alaska Naval Militia or who has served in a reserve unit of the United States armed forces in Alaska if the reserve unit required, as a minimum, one weekend each month of duty and 15 consecutive days of active duty training each year for not less than five years and whose discharge was under honorable conditions. (§ 29 ch 106 SLA 1980)

Effective date. — Section 83, ch. 106, SLA 1980, makes this section effective June 21, 1980, in accordance with AS 01.10.070(c).

Sec. 18.56.103. Federal taxation of interest on bonds and bond anticipation notes. If the interest on bonds or bond anticipation notes of the corporation issued after June 1, 1980, becomes taxable under the income tax laws of the United States, the legislature may appropriate an amount sufficient to pay the outstanding principal and interest on the bonds or bond anticipation notes. Nothing in this section creates a debt or liability of the State of Alaska. (§ 29 ch 106 SLA 1980)

Effective date. — Section 83, ch. 106, SLA 1980, makes this section effective June 21, 1980, in accordance with AS 01.10.070(c).

Sec. 18.56.105. Allocation of lending activities. The corporation shall designate regions within the state which in the aggregate, encompass the entire state. In participating in the making or purchasing of loans under AS 18.56.090(1) — (3) or under AS 18.56.100, the corporation shall make its money available through the private financial institutions in the state within each region designated by the corporation under this section. The corporation shall allocate its money among the regions on the basis of recent and future anticipated lending activity as well as the potential need for the loans in each region and may reallocate its money among the regions as it considers appropriate to reflect changes in lending activity or need in the regions. (§ 29 ch 106 SLA 1980)

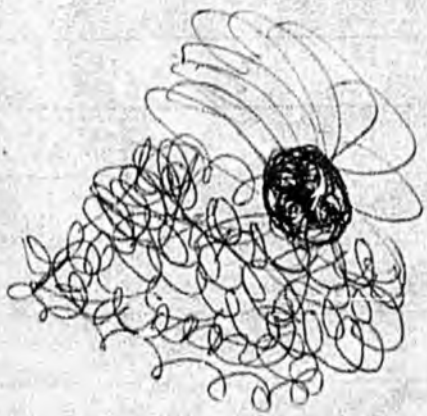
Effective date. — Section 83, ch. 106, SLA 1980, makes this section effective June 21, 1980, in accordance with AS 01.10.070(c).

Sec. 18.56.115. Independent financial advisor. In negotiating the private sale of bonds or bond anticipation notes to an underwriter, the corporation shall retain a financial advisor who is independent from the underwriter. (§ 4 ch 102 SLA 1974; am § 2 ch 130 SLA 1978)

Effect of amendment. — The 1978 amendment rewrote this section.

Editor's note. — Section 1, ch. 130, SLA 1978 provides: "FINDINGS. The legislature finds that there is a potential conflict of interest in negotiating a private sale of bonds or bond anticipation notes to underwriters and therefore, determines

Veteran's preference
— original bill.
- court case
- women in
- Military
- NOW, Susan
- Women's lobby
- Washington D/C.
Now - for position
Papers.



A Survey of Veterans' Preference Legislation in the States

By Charles E. Davis

FOR NEARLY 40 YEARS, the American military veteran has benefited from governmental personnel policies designed to provide compensation for services rendered and disrupted career plans.[1] The Veterans' Preference Act of 1944, for example, boosted employment opportunities of veterans seeking jobs in the federal government by adding individuals honorably discharged from active duty in the armed services or their dependents to the list of those eligible for preference.

Benefits ranged from absolute preference for selected positions (e.g., guards, elevator operators, messengers and custodians) to the addition of five points to any nondisabled veteran achieving a passing score on a civil service exam. It also provided preferential treatment for veterans in any subsequent reductions-in-force. Under the Veterans' Readjustment Act of 1966, these privileges were extended to peacetime veterans serving as little as six months of military service. The impact of these laws is illustrated by some recent statistics cited by Alan K. Campbell. Although veterans comprise only one fourth of the eligible workers in the United States, they make up 50 percent of the federal work force and hold 65 percent of the top civil service positions.[2]

Despite the continuing importance of veterans' preference legislation (hereafter referred to as VPL) in affecting the recruitment, selection, promotion and tenure of federal public employees, state-related developments have received little attention from personnel analysts or students of the administrative process. These trends merit a further look for two principal reasons. While much of the state veterans' preferential legislation is patterned after federal initiatives, there is, nevertheless, considerable diversity in the number and variety of benefits offered. For example, most states require reemployment rights for veterans in their premilitary vocation, preferred status vis-a-vis nonveteran public employees should reduction-in-force become necessary, and absolute preference for selected jobs usually associated with a bureau or division of veterans' affairs. In addition, however, a few states have granted bonus points for promotional considerations or employment privileges for the spouse of a nondisabled veteran as well as various idiosyncratic practices scattered throughout the country.

It is evident that state policymakers will be faced with serious questions regarding the compatibility of already generous VPL with an increasing number of women and minorities seeking public employment. Information about the kinds of benefits available to veterans in various states would better enable public officials to balance such differing values as "reward for prior military sacrifice and/or service" with "equity" and "merit" in the process of making personnel-related decisions. The central purpose of this article is to provide a brief analysis of state laws affecting the employment prospects of veterans. Of particular concern is the relative generosity of each state in awarding preference benefits to veterans and the sociodemographic characteristics which differentiate more liberal states from those providing fewer benefits.

Findings

To make valid comparisons about the relative strength of veterans' preference legislation, an index was constructed for each state (see Table 1). The criteria used in the calculation of these indices included appointment or promotional preference for nondisabled veterans in selected jobs (1 point), absolute preference or bonus points for all or most jobs under classification (2 points), and bonus points for promotions in all or most civil service jobs (2 points). A like number of points were also awarded in each category if the spouse of a nondisabled veteran were granted similar privileges. The cumulative scores ranged from no points (Delaware) to six points (Indiana and New Jersey), and a slight majority of the states (26) emerged with a three-point total.

The next step was to determine whether states providing generous veterans' preference benefits had any distinctive political or demographic features. As Table 2

Charles E. Davis is Assistant Professor in the Department of Public Management at Suffolk University in Boston.

indicates, the strength of the state VPL index was somewhat more pronounced in the Midwest and Northeast, while Western states were least likely to provide veterans with statutory advantages for public employment. For example, Arizona and New Mexico give preference to veterans seeking employment in their respective bureaus of veterans' affairs, but do not extend these privileges to include jobs classified under state civil service. No Western states awarded absolute preference or bonus points for promotions within the state civil service, and only Montana permitted the addition of bonus points to the test scores of a veteran's family members. A small number of Northeastern and Midwestern states, on the other hand, were inclined to adopt these measures.

Of equal importance are the socioeconomic and demographic characteristics of state governmental jurisdictions. States ranking high on the VPL index tend to be more populous, wealthier on a per capita basis, and less receptive to the influence of interest groups (see Table 2). These results would appear to contradict the more commonsensical view that military life and the well-being of its personnel have always been held in greater esteem in the more traditional parts of the country—i.e., the South and the West. One might presume that veterans would benefit not only from the good will and political support of Southern legislators wielding positions of authority in the armed services committees of the U.S. House of Representatives and the Senate, but also a favorable political climate which has resulted in the disproportionate allocation of federal military installations in the South.[3] Under these circumstances, politically conservative state legislators would perceive veterans' preference benefits not as social welfare legislation but as the just rewards for individual military service or sacrifice.

A more plausible interpretation of these findings, however, directs attention to the perception of veterans by state legislators as a significant political constituency. The negative relationship found between interest group strength in the states and the provision of generous veterans' preference benefits suggests that legislative success does not result from the organizational or lobbying skills of veterans organizations, such as the American Legion, the Veterans of Foreign Wars or the Disabled Veterans. As Levitan and Cleary have indicated, these groups have tended to play a more passive role in the legislative process, preferring to rely on the judgment of elected policymakers for the appropriate level of benefits received.[4] It thus appears that support for VPL may be less a function of group mobilization than the realization by individual political candidates of the electoral benefits to be gained from appeals to the interests of veterans and their families.

Discussion

The survey results indicate that the number and variety of veterans' preference laws in the states are affected by such demographic factors as population size, region, per capita income and interest group strength. Veterans seeking employment in state government are likely to compete with relatively greater advantage in the more populous, wealthier states of the Midwest and the Northeast.

Although it is beyond the scope of this paper to provide a detailed analysis of the interrelationships between veterans' preference and other personnel issues of concern to state decision-makers, a number of policy implications and suggestions for further research bear mention. Veterans' preference affects nearly all phases of personnel management, but it is obviously the selection of public employees which has provoked the most serious controversy. All states classified as "medium" or "high" on the VPL index gave nondisabled veterans at least a five-point bonus on civil service exams—a practice which is viewed with a measure of disdain by civil service reformers favoring strict adherence to merit principles as well as supporters of affirmative action programs who feel that minorities and women have long been excluded from responsible government jobs. An additional irritant to affirmative action proponents is the awarding of bonus points to veterans for promotional purposes by a few of the more generously inclined states. Clearly, more research on the impact of veterans' preference laws on the proportion of minorities and women hired by state government (in relation to their numbers in the general population or relevant labor markets) would be of interest to elected public officials as well as manpower analysts.[5]

To a lesser degree, state VPL is of concern to nonveteran members of public unions or employee associations. Any advantages enjoyed by ex-veteran public employees in regard to promotions or reductions-in-force may be viewed as contrary to the seniority principle, which is viewed by many labor officials as the fairest method of deciding who benefits (as well as who loses—a point often made by affirmative action proponents). Ultimately, policymakers hoping to achieve the allocation of human resources in an equitable and efficient manner will have to confront the necessity of trade-offs. The reconciliation of such diverse values as "reward," "merit," "equity," and "organizational tenure" into an integrated policy framework is an undertaking deserving a prominent place on the research agenda of the 1980s.

Notes

1. The most concise treatment of veterans' preference legislation in the federal government is found in O. Glenn Stahl, *Public Personnel Administration*, 6th ed. (New York, N.Y.: Harper & Row, 1971), p. 137-43.

2. Alan K. Campbell, "Civil Service Reform: A New Commitment," *Public Administration Review*, 38 (March/April 1978), pp. 99-103.

3. Nicholas Henry, *Public Administration and Public Affairs*, 2nd ed. (Englewood Cliffs, N.J.: Prentice-Hall, 1980), p. 420.

4. Sar Levitan and Karen A. Cleary, *Old Wars Remain Unfinished: The Veterans Benefit System* (Baltimore, Md.: Johns Hopkins University Press, 1973), p. 15.

5. The author has begun such a task in an exploratory fashion; see, e.g., Charles E. Davis, "Veterans' Preference, Affirmative Action, and Public Employment," a paper presented at the 1980 annual meeting of the Southwest Political Science Association in Houston.

Table 1
THE RELATIVE STRENGTH OF STATE VETERANS' PREFERENCE LEGISLATION

States (a)	Veterans' Preference Benefits						
	Selected positions			Civil Service positions			
	Appointment preference or bonus points	Appointment preference or bonus points (veteran's relatives)	Preference or bonus points for promotions	Appointment preference or bonus points	Preference or bonus points (veteran's relatives)	Preference or bonus points for promotion	Total points (b)
Alabama	1	1	..	2	..	..	4
Arizona	..	..	..	2	..	..	2
Arkansas	..	..	..	2	..	..	2
California	1	..	..	2	..	..	3
Colorado	1	..	..	2	..	..	3
Connecticut	..	..	..	1	2	..	4
Delaware	..	..	..	..	..	..	0
Florida	1	..	..	1	..	..	3
Georgia	1	1	..	2	..	..	4
Idaho	1	..	..	2	..	..	3
Illinois	1	..	1	2	..	..	4
Indiana	1	1	..	1	2	..	6
Iowa	1	..	..	2	..	2	5
Kansas	1	..	..	2	..	..	3
Kentucky	1	..	..	2	..	..	3
Louisiana	1	..	..	2	..	..	3
Maine	1	..	..	2	2	..	5
Maryland	1	..	..	2	..	..	3
Massachusetts	1	..	..	2	..	..	3
Michigan	1	..	..	2	..	..	3
Minnesota	1	..	..	2	..	..	3
Mississippi	1	..	..	2	..	..	3
Missouri	1	..	..	2	..	..	3
Montana	1	..	..	2	2	..	5
Nebraska	1	..	..	..	..	..	1
Nevada	1	..	..	2	..	..	3
New Hampshire	1	..	..	2	..	..	3
New Jersey	1	..	1	2	2	..	6
New Mexico	1	..	..	..	..	..	1
New York	1	..	..	2	..	2	5
North Carolina	1	..	..	2	..	2	5
North Dakota	1	..	..	2	..	..	3
Ohio	1	1	..	2	..	..	4
Oklahoma	1	..	..	2	..	..	3
Oregon	1	..	..	2	..	..	3
Pennsylvania	1	..	..	2	..	..	3
Rhode Island	1	..	..	2	..	..	3
South Carolina	1	..	..	2	..	..	3
South Dakota	1	..	..	2	..	2	5
Tennessee	1	..	..	2	..	..	3
Texas	1	..	1	2	..	..	4
Utah	1	..	1	2	..	..	4
Vermont	..	..	..	2	..	..	2
Virginia	..	..	..	2	..	..	2
Washington	1	..	..	2	..	..	3
West Virginia	1	..	..	2	..	..	3
Wisconsin	1	..	..	2	..	..	3
Wyoming	1	..	..	2	..	..	3

Source: U.S. Congress, Committee on Veterans' Affairs, *State Veterans' Laws*, House Committee Print No. 6, 96th Congress, 1st sess., 1979.

(a) Alaska and Hawaii were excluded from the analysis. Their politics are imbued with cultural and ethnic strains not typical of the contiguous United States, and their experience with veterans' preference legislation is comparatively recent.

(b) The criteria used in the calculation of these indexes included appointment or promotional preference for nondisabled veterans in selected jobs (one point), absolute preference or bonus points for all or most jobs under classification (two points), and bonus points for promotions in all or most civil service jobs (two points). A like number of points was also awarded in each category if the spouse of a nondisabled veteran were granted similar privileges. The decision to assign one point or two for a given benefit was based on the number of people likely to be affected by such legislation; for example, a statute reserving the directorship of a state veterans bureau for military veterans would have little impact and thus be assigned one point.

Table 2

THE STRENGTH OF VETERANS' PREFERENCE LEGISLATION, INCOME RANK, POPULATION RANK, REGION, AND INTEREST GROUP LEVERAGE

States	Strength of veterans' preference legislation (a)	Income rank (b)	Population rank (b)	Region (c)	Interest group leverage (d)
Alabama	strong	46	21	3	high
Arizona	weak	26	32	4	high
Arkansas	weak	50	33	3	high
California	moderate	7	1	4	high
Colorado	moderate	12	28	4	low
Connecticut	strong	3	24	1	low
Delaware	weak	15	48	1	medium
Florida	moderate	14	8	3	high
Georgia	strong	37	14	3	high
Idaho	moderate	36	41	4	..
Illinois	strong	8	5	2	medium
Indiana	strong	29	12	2	low
Iowa	strong	22	25	2	high
Kansas	moderate	20	31	2	medium
Kentucky	moderate	43	23	3	high
Louisiana	moderate	49	20	3	high
Maine	strong	44	38	1	high
Maryland	moderate	4	18	3	medium
Massachusetts	moderate	16	10	1	medium
Michigan	moderate	17	7	2	high
Minnesota	moderate	19	19	2	high
Mississippi	moderate	51	29	3	high
Missouri	moderate	33	15	2	low
Montana	strong	31	43	4	high
Nebraska	weak	27	35	2	high
Nevada	moderate	6	47	4	medium
New Hampshire	moderate	32	42	1	..
New Jersey	strong	5	9	1	low
New Mexico	weak	12	37	4	high
New York	strong	11	2	1	medium
North Carolina	strong	41	11	3	high
North Dakota	moderate	9	46	2	..
Ohio	strong	24	6	2	medium
Oklahoma	moderate	39	27	3	high
Oregon	moderate	21	30	4	high
Pennsylvania	moderate	30	4	1	medium
Rhode Island	moderate	25	39	1	low
South Carolina	moderate	45	26	3	high
South Dakota	strong	35	45	2	medium
Tennessee	moderate	42	17	3	high
Texas	strong	34	3	3	high
Utah	strong	38	36	4	medium
Vermont	weak	40	49	1	medium
Virginia	weak	18	13	3	medium
Washington	moderate	13	22	4	high
West Virginia	moderate	47	34	3	medium
Wisconsin	moderate	..	16	2	high
Wyoming	moderate	23	50	4	low

(a) The following criteria were employed to classify states as "weak," "moderate," or "strong": the allocation of appointment preference to nondisabled veterans or their relatives for selected jobs (1 point), the allocation of preference or bonus points to nondisabled veterans or their relatives for promotions in selected jobs (1 point), the allocation of appointment preference or bonus points to veterans and their relatives for jobs classified under state civil service (2 points), and the allocation of preference or bonus points for promotions to nondisabled veterans for civil service jobs (2 points). States receiving a cumulative score of two points or less were classified as "weak," those with three points were termed "moderate," and the "strong" states had more than three points.

(b) These figures were obtained from the *1977 City and County Data Book* (Washington, D.C.: Bureau of the Census).

(c) States were grouped into four regional categories: 1—Northeast, 2—Midwest, 3—South, 4—West. The classification scheme was adopted from studies conducted by the Center for Political Studies at the University of Michigan.

(d) The measure of interest group strength used here is actually a composite index based on three variables—strength of party competition, legislative cohesion, and the socioeconomic variables of the urban population including per capita income and the percentage of the population employed in occupations other than agriculture, forestry, and fishing). This index was adopted from L. Harmon Zeigler and Hendrick van Dalen, "Interest Groups in the American States," in Herbert Jacob and Kenneth N. Vines, eds. *Politics in the American States*, 2nd edition (Boston, Mass.: Little, Brown & Co., 1971), p. 127.

PERSONNEL ADMINISTRATOR OF MASSACHUSETTS et al., Appellants,

v

HELEN B. FEENEY

442 US 256, 60 L Ed 2d 870, 99 S Ct 2282

[No. 78-233]

Argued February 26, 1979. Decided June 5, 1979.

Decision: Massachusetts law operating to advantage of males by giving veterans lifetime preference for state employment, held not violative of equal protection.

SUMMARY

A female nonveteran who had taken and passed a number of open competitive examinations for civil service positions with the state of Massachusetts failed to secure employment for positions on several occasions because of the Massachusetts Veterans Preference Statute, which grants an absolute lifetime preference to veterans by requiring that "any person, male or female, including a nurse," qualifying for a civil service position, who was honorably discharged from the United States Armed Forces after at least 90 days of active service, at least one day of which was during wartime, must be considered for appointment to a civil service position ahead of any qualifying nonveterans. Alleging that the absolute preference formula, by inevitably operating to exclude women from consideration for the best Massachusetts civil service jobs, denied women equal protection of the laws in violation of the United States Constitution, the woman brought an action in the United States District Court for the District of Massachusetts. The District Court declared the law unconstitutional and enjoined its operation (415 F Supp 485), but on direct appeal from the decision of the three-judge District Court, the United States Supreme Court vacated the judgment and remanded the case for further consideration in light of an intervening Supreme Court decision holding that a neutral law does not violate the Fourteenth Amendment's equal protection clause solely because it results in a racially disproportionate impact, it being necessary to trace such disproportionate impact to a purpose to discriminate. On remand, the District Court reaffirmed its original judgment, concluding that a veterans' hiring

SUBJECT OF ANNOTATION

Beginning on page 1188, infra

Validity, under equal protection clause of Fourteenth Amendment, of gender-based classifications arising by operation of state law

Briefs of Counsel, p 1186, infra.

preference is inherently nonneutral because it favors a class from which women have traditionally been excluded, and that the consequences of the Massachusetts absolute preference formula for the employment opportunities of women were too inevitable to have been unintended (451 F Supp 143).

On direct appeal from the decision of the three-judge District Court, the United States Supreme Court reversed and remanded. In an opinion by STEWART, J., joined by BURGER, Ch. J., and WHITE, POWELL, BLACKMUN, REHNQUIST, and STEVENS, JJ., it was held that the Massachusetts Veteran's Preference Statute does not violate the equal protection clause of the Fourteenth Amendment on sex discrimination grounds, since the distinction drawn by the statute between veterans and nonveterans is not a pretext for gender discrimination, and it had not been shown that the law in any way reflects a purpose to discriminate on the basis of sex.

STEVENS, J., joined by WHITE, J., concurring, expressed the view that the claim that the law was intended to benefit males as a class over females as a class was refuted by the fact that the number of males disadvantaged by the law (1,867,000) was sufficiently large and sufficiently close to the number of disadvantaged females (2,954,000).

MARSHALL, J., joined by BRENNAN, J., dissenting, expressed the view that Massachusetts' choice of an absolute veterans preference system evinced purposeful gender-based discrimination and could not withstand scrutiny under the equal protection clause because the statutory scheme bore no substantial relationship to a legitimate governmental objective.

HEADNOTES

Classified to U. S. Supreme Court Digest, Lawyers' Edition

Constitutional Law § 325 — equal protection — state employment — veterans preference — sex discrimination

1a-1d. A state law granting an absolute lifetime preference to veterans, by requiring that "any person, male or female, including a nurse," qualifying for a civil service position, who was honorably discharged from the United States Armed Forces after 90 days of active service, at least one day of which was during wartime, must be considered for appointment to a civil service position ahead of any qualifying nonveterans, does not violate the equal protection clause of the Fourteenth Amendment as discriminating on the basis of sex, notwithstanding that the preference operates to the advantage of males, where the distinction drawn by the statute between veterans and nonveterans is not a pretext for gender discrimination, and it is not shown that the law in any way reflects a purpose to discriminate on the basis of sex. (Marshall and Brennan, JJ., dissented from this holding.)

[See annotation p 1188, infra]

Constitutional Law § 317 — Fourteenth Amendment — equal protection — classification

2. The equal protection guarantee of the Fourteenth Amendment does not take from the states all power of classification.

Courts § 92.7 — legislative and judicial responsibility — effects of law

3. The calculus of effects, the manner in which a particular law reverberates in a society, is a legislative and not a judicial responsibility.

Constitutional Law § 317 — equal protection — legislative classification

4. In assessing an equal protection challenge, a court is called upon only to measure the basic validity of the legislative classification.

Civil Rights § 4.5 — racial classification — equal protection

5. A racial classification, regardless of purported motivation, is presumptively invalid and can be upheld only upon an extraordinary justification, and such applies as well to a classification that is obstensibly neutral but is an obvious pretext for racial discrimination; however, even if a neutral law has a disproportionately adverse effect upon a racial minority, it is unconstitutional under the equal protection clause of the Fourteenth Amendment only if that impact can be traced to a discriminatory purpose.

Constitutional Law § 325 — sex classification

6. Classifications based upon gender must bear a close and substantial relationship to important governmental objectives.

[See annotation p 1188, infra]

Constitutional Law § 325; Officers §§ 5, 13 — public employment — states' discretion — preference of males — equal protection

7. Although public employment is not a constitutional right, and the states have wide discretion in framing employee qualifications, any state law overtly or covertly designed to prefer males over females in public employment will require an exceedingly pursuasive justification to withstand a constitutional challenge under the equal protection clause of the Fourteenth Amendment.

[See annotation p 1188, infra]

Constitutional Law § 314 — Fourteenth Amendment

8. The Fourteenth Amendment guarantees equal laws, not equal results.

Constitutional Law § 325 — gender-based distinctions — equal protection

9. For purposes of equal protection, when a statute gender-neutral on its face is challenged on the ground that its effects upon women are disproportion-

ably adverse, a two-fold inquiry is appropriate: the first question is whether the statutory classification is indeed neutral in the sense that it is not gender-based; if the classification itself, covert or overt, is not based upon gender, the second question is whether the adverse effect reflects invidious gender-based discrimination, and in the second inquiry, impact provides an important starting point, although purposeful discrimination is the condition that offends the United States Constitution.

[See annotation p 1168, infra]

Constitutional Law § 316 — equal protection — discrimination — intent — degree of discrimination

10. For purposes of equal protection, invidious discrimination does not become less so because the discrimination accomplished is of a lesser magnitude than that intended; discriminatory intent is not amenable to calibration.

Evidence §§ 166, 178 — presumption — intent — criminal and civil law

11. In both criminal and civil law, it is presumed that a person intends the natural and foreseeable consequences of his voluntary actions.

Constitutional Law § 316 — equal protection — discriminatory intent

12a, 12b. For purposes of equal protection analysis, the inevitability or foreseeability of consequences of a neutral rule may bear upon the existence of discriminatory intent, and when the adverse consequences of a law upon an identifiable group are inevitable, a strong inference that the adverse effects were desired can reasonably be drawn, but in such inquiry—made as it is under the United States Constitution—an inference is a working tool, not a synonym for proof, and when the impact is essentially an unavoidable consequence of a legislative policy that has always been deemed legitimate in itself, and when the statutory history and all of the available evidence affirmatively demonstrate the opposite of the inference, the inference does not ripen into proof.

SYLLABUS BY REPORTER OF DECISIONS

During her 12-year tenure as a state employee, appellee, who is not a veteran, had passed a number of open competitive civil service examinations for better jobs, but because of Massachusetts' veterans' preference statute, she was ranked in each instance below male veterans who had achieved lower test scores than appellee. Under the statute, all veterans who qualify for state civil service positions must be considered for appointment ahead of any qualifying nonveterans. The statutory preference, which is available to "any person, male or female, including a nurse," who was honorably discharged from the United States Armed Forces after at least 90 days of active service, at least one day of which was during "wartime," operates overwhelmingly to the advantage of males. Appellee brought an action in Federal District Court, alleging that the absolute-preference formula established in the Massachusetts statute inevitably operates to exclude women from consideration for the best state civil service jobs and thus discriminates against women in violation of the Equal Protection Clause of the Fourteenth Amendment. A three-judge court declared the statute unconstitutional and enjoined its operation, finding that while the goals of the preference were legitimate and the statute had not been enacted for the purpose of discriminating against women, the exclusionary impact upon women was so severe as to require the State to further its goals through a more limited form of preference. On an earlier appeal, this Court vacated the judgment and remanded the case for further consideration in light of the intervening decision in Washington v Davis, 426 US 229, 48 L Ed 2d 597, 96 S Ct 2040, which held that a neutral law does not violate the Equal Protection Clause solely because it results in a racially disproportionate impact and that, instead, the disproportionate impact must be traced to a purpose to discriminate on the basis of race. Upon remand, the District Court

reaffirmed its original judgment, concluding that a veterans' hiring preference is inherently nonneutral because it favors a class from which women have traditionally been excluded, and that the consequences of the Massachusetts absolute-preference formula for the employment opportunities of women were too inevitable to have been "unintended."

Held: Massachusetts, in granting an absolute lifetime preference to veterans, has not discriminated against women in violation of the Equal Protection Clause of the Fourteenth Amendment.

(a) Classifications based upon gender must bear a close and substantial relationship to important governmental objectives. Although public employment is not a constitutional right and the States have wide discretion in framing employee qualifications, any state law overtly or covertly designed to prefer males over females in public employment would require an exceedingly persuasive justification to withstand a constitutional challenge under the Equal Protection Clause.

(b) When a statute gender-neutral on its face is challenged on the ground that its effects upon women are disproportionably adverse, a twofold inquiry is appropriate. The first question is whether the statutory classification is indeed neutral in the sense that it is not gender-based. If the classification itself, covert or overt, is not based upon gender, the second question is whether the adverse effect reflects invidious gender-based discrimination.

(c) Here, the appellee's concession and the District Court's finding that the Massachusetts statute is not a pretext for gender discrimination are clearly correct. Apart from the fact that the definition of "veterans" in the statute has always been neutral as to gender and that Massachusetts has consistently defined veteran status in a way that has been inclusive of women who have served in the military, this is not a law that can plausibly, or even rationally, be explained only as a gender-based classification. Significant numbers of nonveterans are men, and all nonveterans—male as well as female—are placed at a disadvantage. The distinction made by the Massachusetts statute is, as it seems to be, quite simply between veterans and nonveterans, not between men and women.

(d) Appellee's contention that this veterans' preference is "inherently nonneutral" or "gender-biased" in the sense that it favors a status reserved under federal military policy primarily to men is wholly at odds with the District Court's central finding that Massachusetts has not offered a preference to veterans for the purpose of discriminating against women; nor can it be reconciled with the assumption made by both the appellee and the District Court that a more limited hiring preference for veterans could be sustained, since the degree of the preference makes no constitutional difference.

(e) While it would be disingenuous to say that the adverse consequences of this legislation for women were unintended, in the sense that they were not volitional or in the sense that they were not foreseeable, nevertheless "discriminatory purpose" implies more than intent as volition or intent to awareness of consequences; it implies that the decision-maker selected or reaffirmed a particular course of action at least in part "because of," not merely "in spite of," its adverse effects upon an identifiable group. When the totality of legislative actions establishing and extending the Massachusetts veterans' preference are considered, the law remains what it purports to be: a preference for veterans of either sex over nonveterans of either sex, not for men or women.

(f) Although absolute and permanent preferences have always been subject to the objection that they give the veteran more than a square deal, the Fourteenth Amendment "cannot be made a refuge from ill-advised . . . laws." District of Columbia v Brooke, 214 US 138, 150, 53 L Ed 941, 29 S Ct 560. The substantial edge granted to veterans by the Massachusetts statute may reflect unwise pol-

icy, but appellee has simply failed to demonstrate that the law in any way reflects a purpose to discriminate on the basis of sex.

451 F Supp 143, reversed and remanded.

Stewart, J., delivered the opinion of the Court, in which Burger, C. J., and White, Powell, Blackmun, Rehnquist, and Stevens, JJ., joined. Stevens, J., filed a concurring opinion, in which White, J., joined. Marshall, J., filed a dissenting opinion, in which Brennan, J., joined.

APPEARANCES OF COUNSEL

Thomas R. Kiley argued the cause for appellants.

Richard P. Ward argued the cause for appellee.

Briefs of Counsel, p 1186, infra.

OPINION OF THE COURT

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Mr. Justice Stewart delivered the opinion of the Court.

[1a] This case presents a challenge to the constitutionality of the Massachusetts veterans' preference statute, Mass Gen Laws Ann, ch 31, § 23, on the ground that it discriminates against women in violation of the Equal Protection Clause of the Fourteenth Amendment. Under ch 31, § 23,[1] all veterans who qualify for state civil service positions must be considered for appointment ahead of any qualifying nonveterans. The preference operates overwhelmingly to the advantage of males.

The appellee Helen B. Feeney is not a veteran. She brought this action pursuant to 42 USC § 1983 [42 USCS § 1983], alleging that the absolute preference formula established in ch 31, § 23, inevitably operates to exclude women from consideration for the best Massachusetts civil service jobs and thus unconstitutionally denies them the equal protection of the laws.[2] The three-judge District Court agreed, one judge dissenting. Anthony v Massachusetts, 415 F Supp 485 (Mass 1976).[3]

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The District Court found that the absolute preference afforded by Massachusetts to veterans has a devastating impact upon the employment opportunities of women. Although it found that the goals of the preference were worthy and legitimate and that the legislation had not been enacted for the purpose of discriminating against women, the court reasoned that its exclusionary impact upon women was nonetheless so severe as to require the State to further its goals through a more limited form of preference. Finding

1. For the text of ch 31, § 23, see n 10, infra. The general Massachusetts Civil Service law, Mass Gen Laws Ann, ch 31, was recodified on Jan. 1, 1979, 1978 Mass Acts, ch 393, and the veterans' preference is now found at Mass Gen Laws Ann, ch 31, § 26 (West 1979). Citations in this opinion, unless otherwise indicated, are to the ch 31 codification in effect when this litigation was commenced.

2. No statutory claim was brought under Title VII of the Civil Rights Act of 1964, 42 USC §§ 2000e et seq. [42 USCS §§ 2000e et seq.]. Section 712 of the Act, 42 USC § 2000e-11 [42 USCS § 2000e-11], provides that "[n]othing contained in this subchapter shall be construed to repeal or modify any Federal, State, territorial or local law creating special rights or preference for veterans." The parties have evidently assumed that this provision precludes a Title VII challenge.

3. The appellee's case had been consolidated with a similar action brought by Carol A. Anthony, a lawyer whose efforts to obtain a civil service Counsel I position had been frustrated by ch 31, § 23. In 1975, Massachusetts exempted all attorney positions from the preference, 1975 Mass Acts, ch 134, and Anthony's claims were accordingly found moot by the District Court. Anthony v Massachusetts, 415 F Supp 485, 495 (Mass 1976).

that a more modest preference formula would readily accommodate the State's interest in aiding veterans, the court declared ch 31, § 23, unconstitutional and enjoined its operation.[4]

Upon an appeal taken by the Attorney General of Massachusetts,[5] this Court vacated the judgment and remanded the case for further consideration in light of our intervening decision in Washington v Davis, 426 US 229, 48 L Ed 2d 597, 96 S Ct 2040. Massachusetts v Feeney, 434 US 884, 50 L Ed 2d 224, 97 S Ct 345. The Davis case held that a neutral law does not violate the Equal Protection Clause solely because it results in a racially disproportionate impact; instead the disproportionate impact must be traced to a purpose to discriminate on the basis of race. 426 US, at 238–244, 48 L Ed 2d 597, 96 S Ct 2040.

Upon remand, the District Court, one judge concurring and one judge again dissenting, concluded that a veterans' hiring preference is inherently nonneutral because it favors a class from which women have traditionally been excluded, and that

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the consequences of the Massachusetts absolute-preference formula for the employment opportunities of women were too inevitable to have been "unintended." Accordingly, the court reaffirmed its original judgment. Feeney v Massachusetts, 451 F Supp 143. The Attorney General again appealed to this Court pursuant to 28 USC § 1253 [28 USCS § 1253], and probable jurisdiction of the appeal was noted. 439 US 891, 58 L Ed 2d 236, 99 S Ct 247.

I

A

The Federal Government and virtually all of the States grant some sort of hiring preference to veterans.[6] The Massachusetts preference, which is loosely termed an "absolute lifetime" preference, is among the most generous.[7] It

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applies to all positions in the State's classified civil

4. The District Court entered a stay pending appeal, but the stay was rendered moot by the passage of an interim statute suspending ch 31, § 23, pending final judgment and replacing it with an interim provision granting a modified point preference to veterans. 1976 Mass Acts, ch 200, now codified at Mass Gen Laws Ann, ch 31, § 26 (West 1979).

5. The Attorney General appealed the judgment over the objection of other state officers named as defendants. In response to our certification of the question whether Massachusetts law permits this, see Massachusetts v Feeney, 429 US 66, 50 L Ed 2d 224, 97 S Ct 345, the Supreme Judicial Court answered in the affirmative. Feeney v Commonwealth, —— Mass ——, 366 NE2d 1262 (1977).

6. The first comprehensive federal veterans' statute was enacted in 1944. Veterans' Preference Act of 1944, 58 Stat 387. The Federal Government has, however, engaged in preferential hiring of veterans, through official policies and various special laws, since the Civil War. See, e.g., Res of Mar. 3, 1865, No. 27, 13 Stat 571 (hiring preference for disabled veterans). See generally House Committee on Veterans' Affairs, The Provision of Federal Benefits for Veterans: An Historical Analysis of Major Veterans' Legislation, 1862–1954, 84th Cong, 1st Sess, 258–265 (Comm Print 1955). For surveys of state veterans' preference laws, many of which also date back to the late 19th century, see State Veterans' Laws, Digests of State Laws Regarding Rights, Benefits, and Privileges of Veterans and Their Dependents, House Committee on Veterans' Affairs, 91st Cong, 1st Sess (1969); Fleming & Shanor, Veterans Preferences in Public Employment: Unconstitutional Gender Discrimination?, 26 Emory LJ 13 (1977).

7. The forms of veterans' hiring preferences vary widely. The Federal Government and approximately 41 States grant veterans a point advantage on civil service examinations, usually 10 points for a disabled veteran and 5 for one who is not disabled. See Fleming & Shanor, supra n 6, at 17, and n 12 (citing statutes). A few offer only tie-breaking preferences. Id., at n 14 (citing statutes). A very few States, like Massachusetts, extend absolute

service, which constitute approximately 60% of the public jobs in the State. It is available to "any person, male or female, including a nurse," who was honorably discharged from the United States Armed Forces after at least 90 days of active service, at least one day of which was during "wartime."[8] Persons who are deemed veterans and who are otherwise qualified for a particular civil service job may exercise the preference at any time and as many times as they wish.[9]

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Civil service positions in Massachusetts fall into two general categories, labor and official. For jobs in the official service, with which the proofs in this action were concerned, the preference mechanics are uncomplicated. All applicants for employment must take competitive examinations. Grades are based on a formula that gives weight both to objective test results and to training and experience. Candidates who pass are then ranked in the order of their respective scores on an "eligible list." Chapter 31, § 23, requires, however, that disabled veterans, veterans, and surviving spouses and surviving parents of veterans be ranked —in the order of their respective scores—above all other candidates.[10]

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hiring or positional preferences to qualified veterans. Id., at n 13. See, e.g., NJ Stat Ann § 11:27-4 (West 1976); SD Comp Laws Ann § 3-3-1 (1974); Utah Code Ann § 34-30-11 (1953); Wash Rev Code §§ 41.04.010, 73.16.010 (1976).

8. Massachusetts Gen Laws Ann, ch 4, § 7, Forty-third (West 1976), which supplies the general definition of the term "veteran," reads in pertinent part: "Veteran" shall mean any person, male or female, including a nurse, *(a)* whose last discharge or release from his wartime service, as defined herein, was under honorable conditions and who *(b)* served in the army, navy, marine corps, coast guard, or air force of the United States for not less than ninety days active service, at least one day of which was for wartime service . . . ."

Persons awarded the Purple Heart, ch 4, § 7, Forty-third, or one of a number of specified campaign badges or the Congressional Medal of Honor are also deemed veterans. Mass Gen Laws Ann, ch 31, § 26.

"Wartime service" is defined as service performed by a "Spanish War veteran," a "World War I veteran," a "World War II veteran," a "Korean veteran," a "Vietnam veteran," or a member of the "WAAC." Mass Gen Laws Ann, ch 4, § 7, Forty-third (West 1976). Each of these terms is further defined to specify a period of service. The statutory definitions, taken together, cover the entire period from September 16, 1940, to May 7, 1975. See ibid.

"WAAC" is defined as follows: "any woman who was discharged and so served in any corps or unit of the United States established for the purpose of enabling women to serve with, or as auxiliary to, the armed forces of the United States and such woman shall be deemed to be a veteran." Ibid.

9. The Massachusetts preference law formerly imposed a residency requirement, see 1954 Mass Acts, ch 627, § 3 (eligibility conditioned upon Massachusetts domicile prior to induction or five years' residency in State). The distinction was invalidated as violative of the Equal Protection Clause in Stevens v Campbell, 332 F Supp 102, 105 (Mass 1971). Cf. August v Bronstein, 369 F Supp 190 (SDNY 1974) (upholding, inter alia nondurational residency requirement in New York veterans' preference statute), summarily affd, 417 US 901, 41 L Ed 2d 208, 94 S Ct 2596.

10. Chapter 31, § 23, provides in full:

"The names of persons who pass examinations for appointment to any position classified under the civil service shall be placed upon the eligible lists in the following order:—

"(1) Disabled veterans . . . in the order of their respective standing; (2) veterans in the order of their respective standing; (3) persons described in section twenty-three B [the widow or widowed mother of a veteran killed in action or who died from a service-connected disability incurred in wartime service and who has not remarried] in the order of their respective standing; (4) other applicants in the order of their respective standing. Upon receipt of a requisition, names shall be certified from such lists according to the method of certification prescribed by the civil

Rank on the eligible list and availability for employment are the sole factors that determine which candidates are considered for appointment to an official civil service position. When a public agency has a vacancy, it requisitions a list of "certified eligibles" from the state personnel division. Under formulas prescribed by civil service rules, a small number of candidates from the top of an appropriate list, three if there is only one vacancy, are certified. The appointing agency

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is then required to choose from among these candidates.[11] Although the veterans' preference thus does not guarantee that a veteran will be appointed, it is obvious that the preference gives to veterans who achieve passing scores a well-nigh absolute advantage.

B

The appellee has lived in Dracut, Mass., most of her life. She entered the work force in 1948, and for the next 14 years worked at a variety of jobs in the private sector. She first entered the state civil service system in 1963, having competed successfully for a position as Senior Clerk Stenographer in the Massachusetts Civil Defense Agency. There she worked for four years. In 1967, she was promoted to the position of Federal Funds and Personnel Coordinator in the same agency. The agency, and with it her job, was eliminated in 1975.

During her 12-year tenure as a public employee, Ms. Feeney took and passed a number of open competitive civil service examinations. On several she did quite well, receiving in 1971 the second highest score on an examination for a job with the Board of Dental Examiners, and in 1973 the third highest on a test for an Administrative Assistant position with a mental health center. Her high scores, however, did not win her a place on the certified eligible list. Because of the veterans' preference, she was ranked sixth behind five male veterans on the Dental Examiner list. She was not certified, and a lower scoring veteran was eventually appointed. On the 1973 examination, she was placed in a position on the list behind 12 male veterans, 11 of whom had lower scores. Following the other examinations that she took, her name was similarly ranked below those of veterans who had achieved passing grades.

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Ms. Feeney's interest in securing a better job in state government did not wane. Having been consistently eclipsed by veterans, however, she eventually concluded that further competition for civil service positions of interest to veterans would be futile. In 1975, shortly after her civil defense job was abolished, she commenced this litigation.

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service rules. A disabled veteran shall be retained in employment in preference to all other persons, including veterans."

A 1977 amendment extended the dependents' preference to "surviving spouses," and "surviving parents." 1977 Mass Acts, ch 815.

11. A 1978 amendment requires the appointing authority to file a written statement of reasons if the person whose name was not highest is selected. 1978 Mass Acts, ch 393, § 11, currently codified at Mass Gen Laws Ann, ch 31, § 27 (West 1979).

C

The veterans' hiring preference in Massachusetts, as in other jurisdictions, has traditionally been justified as a measure designed to reward veterans for the sacrifice of military service, to ease the transition from military to civilian life, to encourage patriotic service, and to attract loyal and well-disciplined people to civil service occupations.[12] See, E.g., Hutcheson v Director of Civil Service, 361 Mass 480, 281 NE2d 53 (1972). The Massachusetts law dates back to 1884, when the State, as part of its first civil service legislation, gave a statutory preference to civil service applicants who were Civil War veterans if their qualifications were equal to those of nonveterans. 1884 Mass Acts, ch 320, § 14 (sixth). This tie-breaking provision blossomed into a truly absolute preference in 1895, when the State enacted its first general veterans' preference law and exempted veterans from all merit selection requirements. 1895 Mass Acts, ch 501, § 2. In response to a challenge brought by a male nonveteran, this statute was declared violative of state constitutional provisions guaranteeing that government should be

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for the "common good" and prohibiting hereditary titles. Brown v Russell, 166 Mass 14, 43 NE 1005 (1896).

The current veterans' preference law has its origins in an 1896 statute, enacted to meet the state constitutional standards enunciated in Brown v Russell. That statute limited the absolute preference to veterans who were otherwise qualified.[13] A closely divided Supreme Judicial Court, in an advisory opinion issued the same year, concluded that the preference embodied in such a statute would be valid. Opinion of the Justices, 166 Mass 589, 44 NE 625 (1896). In 1919, when the preference was extended to cover the veterans of World War I, the formula was further limited to provide for a priority in eligibility, in contrast to an absolute preference in hiring.[14] See Corliss v Civil Service Comm'rs. 242

12. Veterans' preference laws have been challenged so often that the rationale in their support has become essentially standardized. See, e.g., Koelfgen v Jackson, 355 F Supp 243 (Minn 1972), summarily affd, 410 US 976, 36 L Ed 2d 173, 93 S Ct 1502; August v Bronstein, supra; Rios v Dillman, 499 F2d 329 (CA5 1974); cf. Mitchell v Cohen, 333 US 411, 419 n 12, 92 L Ed 774, 68 S Ct 518. See generally Blumberg, De Facto and De Jure Sex Discrimination Under the Equal Protection Clause: A Reconsideration of the Veterans' Preference in Public Employment, 26 Buffalo L Rev 3 (1977). For a collection of early cases, see Annot, Veterans' Preference Laws, 161 ALR 494 (1946).

13. 1896 Mass Acts, ch 517, § 2. The statute provided that veterans who passed examinations should "be preferred in appointment to all persons not veterans . . ." A proviso stated: "But nothing herein contained shall be construed to prevent the certification and employment of women."

14. 1919 Mass Acts, ch 150, § 2. The amended statute provided that "the names of veterans who pass examinations . . . shall be placed upon the . . . eligible lists in the order of their respective standing, above the names of all other applicants," and further provided that "upon receipt of a requisition not especially calling for women, names shall be certified from such lists . . . ." The exemption for "women's requisitions" was retained in substantially this form in subsequent revisions, see, e.g., 1954 Mass Acts, ch 627, § 5. It was eliminated in 1971. 1971 Mass Acts, ch 219, when the State made all single sex-examinations subject to the prior approval of the Massachusetts Commission Against Discrimination. 1971 Mass Acts, ch 221.