ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 8672

3655 HSTA HB 48 - HB 49

531

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James O Smith
Signature of Camera Operator

9/11/89
Date

02-519 (REV 8/78)

HOUSE STATE AFFAIRS COMMITTEE

Bill Number 48 Title Compensation of Legislators Date Rec'd _____

Fiscal Note	Position Paper	Date requested	From	Amount	Date Rec'd Note	Date Rec'd Paper
DOA		2/20/85	Retirement			
LAA			Admin		✓	

CONTACTS

M. Davis signing on as co-sponsor

BACKUP LIST

DOA F. note
LAA F. note
11/26/85 HSA minutes

HEARING INFORMATION

NOTES:

KH contacting Patsy John Perchot
M. Davis to testify & co-sponsor
KH talk to M.M. Miller

HB 48 puts pay back to where it was before 1983

FINAL ACTION

passed out of committee 2/28/85

3/1

COMMITTEE REPORT

HOUSE

(7)

FURTHER: (Judiciary) ~~Finance~~

Date: 2/28/85

The Committee on State Affairs has had HB 48

"An Act relating to compensation of legislators."

under consideration and recommends:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for ______ [ ] same title [ ] new title

and recommends ______

[ ] AND attaches a "Letter of Intent" [X] New Fiscal Note [ ] Zero Fiscal Note Attached

[X] reports it back without *individual* recommendation

[ ] referred to the ______ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
[signature]	[signature] - [illegible]
[signature]	[signature] - DO NOT PASS
	[signature]
	w/ amendments
	[signature]
	with amendments

[signature]

CHAIRMAN

Introduced: 1/14/85
Referred: State Affairs, Judiciary
and Finance

BY HURLEY, POURCHOT, BOUCHER
AND PETTYJOHN & DAVIS

IN THE HOUSE

HOUSE BILL NO. 48

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to compensation of legislators."

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

* Section 1. AS 24.15 is amended by adding a new section to read:

Sec. 24.15.011. LEGISLATIVE PER DIEM. (a) A member of the legislature is entitled to receive per diem at the same rate allowed for a state employee under AS 39.20.110 and 39.20.160, including regional variations in the rate where applicable.

(b) A legislator is entitled to receive per diem at the short-term rate

(1) during a legislative session if the legislator is not living in the legislator's place of permanent residence during the session; and

(2) while on committee business for an interim committee of the legislature in a place that is not the legislator's place of permanent residence.

(c) A legislator is entitled to receive per diem at the long-term rate

(1) during a legislative session if the legislator is living in the legislator's place of permanent residence during the session; and

(2) while engaged in committee business for an interim committee of the legislature at the legislator's place of permanent residence.

(d) In this section

(1) "long-term rate" means the long-term per diem rate for a state employee established in regulations adopted by the commissioner of administration under AS 39.20.160;

(2) "short-term rate" means the short-term per diem rate for a state employee established in regulations adopted by the commissioner of administration under AS 39.20.160.

* Sec. 2. AS 24.15.020 is amended to read:

Sec. 24.15.020. SALARY OF LEGISLATORS. The monthly salary for each member of the legislature is equal to Step A, Range <u>10</u> [22] of the salary schedule in AS 39.27.011(a) for Juneau, Alaska. The president of the senate and the speaker of the house of representatives are each entitled to an additional $500 a year during tenure of office.

* Sec. 3. AS 24.15.040 is amended to read:

Sec. 24.15.040. METHOD OF PAYMENT. Salaries<u>, per diem</u> and additional allowances for members of the legislature shall be paid by warrants drawn on vouchers approved by the legislative fiscal officer.

Workings / 48

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 48
Title: "An Act Relating to Compensation for Legislators"
Sponsor: Hurley
Requestor: State Affairs
Date of Request: 2/20/85

FISCAL DETAIL
Agency Affected: Administration
Program Category Affected: EPORS
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

Operating	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
100 Personal Svcs						
100 Rtmnt & Bnfts	-0-	[298.2]	[322.1]	[347.8]	[375.6]	[405.7]
200 Travel						
300 Contractual						
400 Supplies						
500 Equipment						
600 Land & Struct						
700 Grants, Claims						
700 TRS Match						
TOTAL OPERATING	-0-	[298.2]	[322.1]	[347.8]	[375.6]	[405.7]
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		[298.2]	[322.1]	[347.8]	[375.6]	[406.7]
FEDERAL FUNDS						
OTHER						
TOTAL		[298.2]	[322.1]	[347.8]	[375.6]	[405.7]

POSITIONS:	-0-	-0-	-0-	-0-	-0-	-0-
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

J.K. Humphreys

Prepared By: J.K. Humphreys, Director Phone: 465-4470
Division: Retirement & Benefits Date: 2/20/85

Approved by Commissioner: Lisa Rucd for Date: 2-25-85
Agency: Department of Administration

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Rev. 7/1/84

House Bill 48
Fiscal Note Analysis
Prepared by Division of Retirement & Benefits
Department of Administration

February 20, 1985

Analysis:

Passage of this bill would decrease the current monthly salary for legislators and would consequently reduce monthly benefit payments to some members of the Elected Public Officers Retirement System (EPORS). We estimate that 17 current EPORS retirees would receive reduced benefits and that six future retirees would also be affected.

The FY 86 savings to the State of $298.2 is calculated by applying the reduction in salary to the EPORS benefit formula and recalculating the total FY 86 project cost for each EPORS retiree.

The projected FY 86 savings would be $298.2 and is estimated to increase by .8% each year thereafter.

[redacted]/48

STATE OF ALASKA 1985 LEGISLATIVE SESSION

FISCAL NOTE

Revision Date:

REQUEST

Bill/Resolution No.: [redacted]HB 48

Title: An Act relating to Compensation of Legislators

Sponsor: Katie Hurley

Requestor: Katie Hurley per Patti Macklin

Date of Request: 1/25/85 3:15 pm

FISCAL DETAIL

Agency Affected: Legislative Affairs

Program Category Affected: General Government

BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES	-0-	<1,108.7>				
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		<1,108.7>				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		<1,108.7>				
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Repealing the legislators pay raise of 1983 would be a ~~cost savings of $1,108.7~~. This includes 1) ~~reducing their monthly salary from $3,900 a month (Range 22A) to $1,757 a month (Range 10A)~~ 2) re-instating ~~per diem during session $80 a day per diem x 120 days x 57 legislators and $60 a day per diem x 120 days x 3 legislators.~~

Pamela A. Calhoon

Prepared By: Pamela A. Calhoon, Manager — Phone: 465-3850

Division: Administrative Services — Date: [redacted]1/25/85

by Billy O'Connor

Approved by Dep. Exec. Director: Don Fisher — Date:

Agency: Legislative Affairs Agency

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

.7/1/84

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 1/31/86

REQUEST
Bill/Resolution No.: HB 48
Title: "An Act relating to compensation of legislators."

Sponsor: Hurley
Requestor: Judiciary Committee
Date of Request: 1/31/86

FISCAL DETAIL
Agency Affected: Administration
BRU: Retirement & Benefits

Components: EPORS

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
RTMNT & BNFTS						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	-0-	[275.3]	[297.3]	[321.1]	[346.8]	[374.5]
TRS MATCH						
TOTAL OPERATING	-0-	[275.3]	[297.3]	[321.1]	[346.8]	[374.5]
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	[275.3]	[297.3]	[321.1]	[346.8]	[374.5]
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	[275.3]	[297.3]	[321.1]	[346.8]	[374.5]
POSITIONS:	-0-	-0-	-0-	-0-	-0-	-0-
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

See attached

Prepared By: J.K. Humphreys, Director
Division: Retirement & Benefits
Phone: 465-4470
Date: 1/31/86

Approved by Commissioner: Eleanor Andrews
Agency: Department of Administration
Date: 2/3/86

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Rev. 11/15/85

House Bill 48
Fiscal Note Analysis
Prepared by Division of Retirement & Benefits
Department of Administration

January 31, 1986

Analysis:

Passage of this bill would decrease the current monthly salary for legislators and would consequently reduce monthly benefit payments to some members of the Elected Public Officers Retirement System (EPORS). We estimate that 17 current EPORS retirees would receive reduced benefits and that three of the five members eligible to retire in FY 87 would also be affected.

The FY 87 savings to the State of $275.3 is calculated by applying the reduction in salary to the EPORS benefit formula and recalculating the total FY 87 projected cost for each EPORS retiree.

The projected FY 87 savings would be $275.3 and is estimated to increase by 8% each year thereafter.

This fiscal note reflects cost savings relating to EPORS only. Savings in PERS and TRS benefits will presumably be reflected in the fiscal note prepared by the Legislative Affairs Agency in the Personal Services Component since these costs are charged as a percent of salary.

TESTIMONY OF REPRESENTATIVE PAT POURCHOT ON HB 48, THE LEGISLATIVE PAY REPEAL

Before the House Committee on State Affairs

January 26, 1985

Anchorage, Alaska

MADAME CHAIR, I AM PROUD TO JOIN YOU AS A SPONSOR OF THE BILL BEFORE THE COMMITTEE AND APPRECIATE THIS OPPORTUNITY TO TESTIFY IN SUPPORT OF REPEALING THE RECENT PAY RAISE OF LEGISLATORS.

I THINK IT IS APPROPRIATE THAT THE FIRST HEARING AT WHICH PUBLIC TESTIMONY IS SOUGHT ON THIS CONTROVERSIAL ISSUE IS BEING HELD IN ANCHORAGE AND, VIA THE TELECONFERENCE NETWORK, IN MANY OTHER AREAS OF ALASKA. BOTH YOU AND I KNOW THAT IF PUBLIC TESTIMONY HAD BEEN SOUGHT IN 1983, THERE WOULD BE NO NEED FOR THIS HEARING TODAY BECAUSE THERE WOULD NOT HAVE BEEN A HUGE PAY RAISE FOR LEGISLATORS PASSED IN THE CLOSING MOMENTS OF THE 1983 SESSION.

IT IS PRECISELY BECAUSE THE PAY RAISE WAS PASSED IN 1983 WITHOUT PUBLIC HEARINGS, WITHOUT DATA AND INFORMATION ON COMPENSATION AND WITHOUT REGARD TO PUBLIC OPINION THAT WE HAVE INTRODUCED LEGISLATION THAT WOULD UNDO WHAT OUR PREDECESSORS DID. THE NEED FOR HB 48 IS, IN SHORT, THE RESULT OF THE DISREGARD SHOWN FOR PUBLIC DEBATE.

I FEEL STRONGLY THAT WE MUST UNDO WHAT WAS DONE IN 1983 FOR THREE REASONS:

1) THE PAY RAISE GRANTED WAS TOO HIGH;

2) IN A PERIOD OF DECLINING OIL REVENUES, REPEAL OF THE PAY RAISE SAVES IN THE NEIGHBORHOOD OF ONE MILLION DOLLARS, ACCORDING TO PRELIMINARY FIGURES, AND

3) THE PROCESS BY WHICH IT WAS GRANTED REVEALED AN EXTRAORDINARY LACK OF SENSITIVITY TO PUBLIC VALUES, PUBLIC CONCERNS AND PUBLIC OPINION.

I WANT TO DRAW A SIMPLE ANALOGY. IF EACH OF THE 60 LEGISLATORS IN 1983 OWNED A BUSINESS, AND IF A TRUSTED EMPLOYEE IN THAT BUSINESS GAVE THEMSELVES A 12,000 DOLLAR PAY RAISE, WHAT WOULD HAPPEN? OBVIOUSLY, MOST OF THOSE LEGISLATORS WOULD EITHER FIRE THAT EMPLOYEE OR REPEAL THE PAY RAISE AUTHORIZATION. THE 1983 LEGISLATURE DID WHAT THEY WOULD NOT TOLERATE IN OTHERS--THEY UPPED THEIR PAY 12,000 DOLLARS WITHOUT DISCUSSING THE ISSUE WITH THEIR BOSSES--THE VOTERS. ONLY THE VOTERS CAN "FIRE" LEGISLATORS, BUT WE IN THE LEGISLATURE NOW CAN CERTAINLY REPEAL THE PAY RAISE AUTHORIZATION.

I WOULD LIKE TO TOUCH BRIEFLY ON SOME OF THE ARGUMENTS WE HAVE HEARD AND WILL BE HEARING IN DEFENSE OF THE PAY RAISE. FIRST, THERE ARE THOSE WHO SAY THAT THE SUBSTANCE OF OUR

BILL WILL BE ON THE BALLOT IN 1986 AND THE VOTERS CAN DECIDE WHETHER OR NOT LEGISLATORS DESERVE THEIR PAY RAISE. I THINK THE INITIATIVE PROCESS IS ONE OF THE GREAT TOOLS OF DEMOCRACY, AND I COMMEND THOSE WHO SECURED THE SIGNATURES TO PLACE THIS ON THE BALLOT. BUT I THINK I AM A GOOD ENOUGH JUDGE OF MY CONSTITUENTS TO KNOW THAT THE BALLOT INITIATIVE WILL PASS BY 60 TO 70 PERCENT OF THE VOTE. I SIMPLY CAN NOT, IN GOOD CONSCIENCE, SIT AROUND FOR TWO YEARS DRAWING A FAT PAYCHECK WHILE DOING NOTHING ABOUT A SITUATION THAT MY CONSTITUENTS DO NOT LIKE AND WON'T HAVE THE CHANCE TO OFFICIALLY TELL ME UNTIL 1986.

IT IS INCUMBENT ON THE LEGISLATURE TO PASS THIS LEGISLATION BEFORE US AND TO REMOVE THE NECESSITY TO HAVE THE VOTERS SLAP OUR HANDS IN 1986.

ANOTHER ARGUMENT THAT I HAVE HEARD IS THAT THE OLD SALARY, PLUS THE PER DIEM ALLOWED WHILE IN SESSION IN JUNEAU, ACTUALLY RESULTED IN HIGHER REIMBURSEMENT TO LEGISLATORS THAN UNDER THE NEW PAY RAISE. THAT TRULY STRETCHES ANYONE'S IMAGINATION TO BELIEVE THAT THE 1983 LEGISLATURE SWIFTLY AND CLANDESTINELY VOTED TO DECREASE THEIR BENEFITS. PERHAPS THERE ARE SPECIAL CASES WHERE UNIQUE TAX CIRCUMSTANCES MIGHT MAKE THIS TRUE, BUT MY ARITHMETIC LEADS ME TO BELIEVE THAT 46,800 DOLLARS PER YEAR WHILE IN JUNEAU, EQUALS A LOT MORE

THAN 20,000 DOLLARS PER YEAR PLUS 80 DOLLARS PER DAY FOR 120 DAYS (29,600 DOLLARS).

IT IS TRUE, THE FORMER PER DIEM WAS NOT TAXED AND, HENCE, EFFECTIVELY MEANT MORE CASH TO LAWMAKERS. BUT, IT IS ALSO TRUE THAT UNDER THE CURRENT PAY SCHEME LAWMAKERS ARE LEGALLY ENTITLED TO DEDUCT LIVING EXPENSES WHILE IN JUNEAU FROM THEIR GROSS INCOME. FOR MYSELF, AND I ASSUME MOST LEGISLATORS, THE TAX CONSIDERATIONS UNDER THE OLD PAY, COMPARED TO THE CURRENT PAY, ARE ESSENTIALLY A WASH.

AND FINALLY, THERE ARE THOSE WHO QUITE STRAIGHTFORWARDLY AND HONESTLY ARGUE THAT STATE LEGISLATORS DESERVE AND REQUIRE MORE THAN THE OLD LEVEL OF COMPENSATION. THIS IS REALLY THE MOST SERIOUS ARGUMENT AND ONE THAT DOES WARRANT MUCH STUDY, ANALYSIS, AND PUBLIC INPUT. FRANKLY, I AM NOT SAYING THAT SOME INCREASE IN LEGISLATIVE PAY IS NOT WARRANTED.

I AM SORRY THAT THE 1983 PROCESS WAS SO FLAWED AND THE PAY RAISE SO GREAT THAT WE ARE NOW REQUIRED TO GO BACK TO SQUARE ONE AND START OVER. IF THE LAST LEGISLATURE HAD CONDUCTED A MORE OPEN DEBATE ON THE SUBJECT, AND IF THE RAISE HAD NOT BEEN AN AMOUNT THAT LEFT SUCH A TASTE OF GREED WITH THE VOTERS, WE PROBABLY WOULD NOT BE FACING A REPEAL INITIATIVE AND BE DISCUSSING THIS BILL TODAY.

ONCE WE ENACT THIS REPEAL, PERHAPS THE SUBJECT OF FAIR AND ADEQUATE COMPENSATION FOR LEGISLATORS CAN BE REOPENED, AND OPENED TO THE LIGHT OF DAY. PERHAPS ONE POSSIBLE MECHANISM MIGHT BE THE CREATION OF AN INDEPENDENT SALARY COMMISSION ALONG THE LINES UTILIZED BY THE MUNICIPALITY OF ANCHORAGE.

I APPRECIATE, MADAME CHAIR, THE OPPORTUNITY TO TESTIFY TODAY, AND I LOOK FORWARD TO WORKING WITH YOU AND YOUR COMMITTEE IN A JOINT EFFORT TO ENACT HB ~~46~~ 48 AND REPEAL OF THE LEGISLATIVE PAY RAISE.

PJP:KE:jl

Alaska State Legislature

House Committee on State Affairs

PLEASE SIGN-IN AS A WITNESS OR AN OBSERVER. YOUR ADDRESS AND PHONE NUMBER MUST BE INCLUDED IN THE DESIGNATED BLOCK.

HEARING DATE: 2/28 MTWTF

BILLS TO BE HEARD: HB 48
HB 107 HB 45

NAME (PRINT PLEASE)	ADDRESS, CITY, STATE, ZIP	REPRESENTING	PHONE	ARE YOU A WITNESS OR AN OBSERVER? IF YOU ARE TESTIFYING, WHICH BILL?
BOB STALNAKER	POUCH C R	DIVISION RETIREMENT	465-4460	TESTIFYING HB 48, HB 107 + HB 45
[illegible]	KNC	SOA		
BRUCE SCANDLING	JUNEAU	ASSOCIATED PRESS	586-1515	—
Kay Diebels	8973 Tanis Juneau 99801	self	789-7586	Observing

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

House State Affairs 3pm 1-26-88

STATE OF ALASKA 1985 LEGISLATIVE SESSION

FISCAL NOTE

Revision Date:

REQUEST

Bill/Resolution No.: HB 48

Title: An Act relating to Compensation of Legislators

Sponsor: Katie Hurley

Requestor: Katie Hurley per Patti Macklin

Date of Request: 1/25/85 3:15 pm

FISCAL DETAIL

Agency Affected: Legislative Affairs

Program Category Affected: General Government

BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES	-0-	<1,108.7>				
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		<1,108.7>				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		<1,108.7>				
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Repealing the legislators pay raise of 1983 would be a cost savings of $1,108.7. This includes 1) reducing their monthly salary from $3,900 a month (Range 22A) to $1,757 a month (Range 10A) 2) re-instating per diem during session $80 a day per diem x 120 days x 57 legislators and $60 a day per diem x 120 days x 3 legislators.

Pamela A. Calhoon

Prepared By: Pamela A. Calhoon, Manager Phone: 465-3850

Division: Administrative Services Date: 1/25/85

for Billy Bennett

Approved by Dep. Exec. Director: Don Fisher Date:

Agency: Legislative Affairs Agency

Distribution (by Agency preparing fiscal note):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

7/1/84

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

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

February 5, 1985

MEMORANDUM

TO: Representative John Sund

FROM: Rob Waldman
Legislative Analyst

RE: Legislative Salaries and Expense Allowances
Research Request 85-145

You requested this agency to provide information on two issues:

- the adoption date of a $4,000 expense allowance for legislators; and
- the per diem limitations imposed by the proposed initiative on legislative salary and per diem.

Expense Allowance

Alaska Statute 24.15.030 states that each member of the legislature is entitled to receive an annual allowance for postage, stationary, stenographic services and other expenses. Allowances amounting to $4000 became effective in 1970. These allowances have not increased since that date. The following table provides the legislative history of expense allowances:

Session Law	Action
§3 ch 193 SLA 1961	Established AS 24.15.030 (Additional Allowances) and prescribed $300 as the annual allocation.
§1 ch 8 SLA 1970	Increased the allowance to $1,000.
§10 ch 193 SLA 1970	Increased the allowance to $4,000.
§8 ch 263 SLA 1976	Substituted "prescribed in accordance with AS 39.23" for the specific figure of $4,000.
§37 ch SLA 1980	Repealed AS 39.23, thereby eliminating the commission responsible for determining the allowance.

With the repeal of AS 39.23 in 1980, the legislature eliminated the Alaska Salary Commission. Among other duties, the commission was responsible for prescribing the amount of the expense allowances mentioned in AS 24.15.030. According to Bill Berrier, Director of the Legal Services Division of the Legislative Affairs Agency, the repeal of AS 39.23 did not repeal the allowances or prevent the distribution of the allowances. Although the commission no longer functions, the $4,000 allowance will stand until the legislature either specifically sets a new dollar figure or develops a new method to prescribe allowances.

Legislative Per Diem

The initiative "An act relating to the compensation for State legislators" will reestablish legislative per diem (legislative per diem was repealed by 7 ch SLA 1983) and amend AS 24.15.020 to decrease the salary of legislators. This initiative does not breach the topic of changing the methodology for determining per diem levels for State workers. Under regulatory authority set out in AS 39.20.160 (as amended), per diem for State officials and employees of State agencies is prescribed and determined by the Commissioner of Administration in consultation with the heads of agencies concerned.

Per diem levels can be raised following enactment of this initiative.[1] Per diem rates can be raised by the Commissioner of Administration at any time if the commissioner determines that increases are justified. In addition, methods for prescribing per diem rates can be modified by amending the initiative or by session law reinstating or amending statutes addressing legislative per diem.

I hope that this review is useful. If you need additional analysis or would like to discuss the initiative or HB 43 and its effects, please call.

RW

[1]Enactment of HB 48 (or similar legislation reinstating legislative per diem) would make the initiative void (Article XI, Sec. 4, Alaska Constution). The discussion also applies to the enactment of HB 48.

JOINT SPECIAL COMMITTEE ON LEGISLATIVE SALARIES

PRE-PAY RAISE PER DIEM SYSTEM

SESSION: NON-JUNEAU LEGISLATOR.....$80.00/day
JUNEAU LEGISLATOR.....$60.00/day

NOTE: rates are same as set for all state employees except the Juneau legislator received an extra $10.00/day. This change made in 1/82

TRAVEL HOME DURING SESSION
- ROUND TRIP TRAVEL PAID
- TAXI FARE OR CAR RENTAL-WITH APPROVAL FROM SENATE PRESIDENT OR HOUSE SPEAKER
- NO OTHER EXPENSES COVERED-IT WAS FELT THAT THEY WERE RECEIVING PER DIEM ALREADY AND THE STATE SHOULD NOT HAVE TO COVER ANY ADDITIONAL EXPENSES WHEN THEY WERE IN THEIR HOME TOWN.

TRAVEL TO AREA OTHER THAN HOME DURING SESSION
- ROUND TRIP TRAVEL PAID
- TAXI FARE OR CAR RENTAL-SUBJECT TO APPROVAL
- SHORT TERM PER DIEM RATE PAID FOR THE AREA TRAVEL TO (FOR HOTEL & MEAL EXPENSES)

INTERIM

HOME TOWN LEGISLATIVE DUTIES
- ELIGIBLE FOR LONG TERM PER DIEM RATE FOR LEGISLATIVE DUTIES (VERY FEW REQUESTED THIS, BUT A FEW RECEIVED ALMOST DAILY PER DIEM)

HOME TOWN COMMITTEE MEETINGS
- ELIGIBLE FOR LONG TERM PER DIEM IF ATTENDING COMMITTEE HEARING (MANY DID REQUEST THIS)

TRAVEL AWAY FROM HOME TOWN DURING INTERIM
- ROUND TRIP TRAVEL PAID
- TAXI FARE OR CAR RENTAL-SUBJECT TO APPROVAL
- SHORT TERM PER DIEM RATE FOR AREA TRAVELED TO (FOR HOTEL AND MEAL EXPENSES)

NOTE: Current federal per diem rates are: Anchorage $116, Juneau $109, Fairbanks $104, Barrow $139, Kodiak $129, Sitka $113, Valdez $129.

Current state per diem rates are: South East-ST $80 LT $50, Central-ST $80 LT $50, Far North-ST $90 LT $55, South West-ST $85 LT $55, Outside-ST $80 LT 50.

CURRENT TRAVEL REIMBURSEMENT SYSTEM

SESSION: NO PER DIEM PAID DURING SESSION

TRAVEL HOME DURING SESSION
- ROUND TRIP TRAVEL PAID
- TAXI FARE OR CAR RENTAL-WITH APPROVAL FROM SENATE PRESIDENT OR HOUSE SPEAKER
- NO OTHER EXPENSES COVERED

TRAVEL TO AREA OTHER THAN HOME DURING SESSION
- ROUND TRIP TRAVEL PAID
- TAXI FARE OR CAR RENTAL-SUBJECT TO APPROVAL
- HOTEL EXPENSE PAID
- $31.00 MEAL ALLOWANCE PER DAY

INTERIM

HOME TOWN LEGISLATIVE DUTIES
- NOT ELIGIBLE FOR ANY ALLOWANCES

HOME TOWN COMMITTEE MEETING
- NOT ELIGIBLE FOR ANY ALLOWANCES

TRAVEL AWAY FROM HOME TOWN DURING INTERIM
- SAME AS DURING SESSION

NOTE: ALL TRAVEL IS ASSUMED TO BE COMMITTEE RELATED, IF NOT EXPENSES AS SUBJECT TO APPROVAL FROM SENATE PRESIDENT OR HOUSE SPEAKER DURING SESSION AND HOUSE AND SENATE MAJORITY LEADERS IN THE INTERIM. THIS APPLIES TO PRE-RAISE AND CURRENT TRAVEL REIMBURSEMENT SYSTEM.

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 2/10/86

REQUEST
Bill/Resolution No.: CS HB 48(Jud)
Title: "An Act relating to compensation of legislators."

Sponsor: Hurley
Requestor: House Finance
Date of Request: 2/10/86

FISCAL DETAIL
Agency Affected: Administration
BRU: Retirement & Benefits

Components: EPORS

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
OPERATING						
PERSONAL SERVICES						
RTMNT & BNFTS						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	-0-	[114.7]	[297.3]	[321.1]	[346.8]	[374.5]
TRS MATCH						
TOTAL OPERATING	-0-	[114.7]	[297.3]	[321.1]	[346.8]	[374.5]
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	[114.7]	[297.3]	[321.1]	[346.8]	[374.5]
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	[114.7]	[297.3]	[321.1]	[346.8]	[374.5]
POSITIONS:	-0-	-0-	-0-	-0-	-0-	-0-
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

See attached

for John A. Logon

Prepared By: J.K. Humphreys, Director
Phone: 465-4470
Division: Retirement & Benefits
Date: 2/10/86

Approved by Commissioner: Eleanor Andrews
Date: 2/10/86
Agency: Department of Administration

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Rev. 11/15/85

CS House Bill 48
Fiscal Note Analysis
Prepared by Division of Retirement & Benefits
Department of Administration

February 10, 1986

Analysis:

Passage of this bill would decrease the current monthly salary for legislators and would consequently reduce monthly benefit payments to some members of the Elected Public Officers Retirement System (EPORS). Seventeen current EPORS retirees would receive reduced benefits and for this analysis, we have estimated that three of the five members eligible to retire in FY 87 would also be affected.

The FY 87 savings to the State of $114.7 is calculated by applying the reduction in salary to the EPORS benefit formula and recalculating the total FY 87 projected cost for each EPORS retiree.

Savings for FY 87 are projected for five months. Savings in successive fiscal years are for full years and increase at a rate of 8%.

This fiscal note reflects cost savings relating to EPORS only. Savings in PERS and TRS benefits will presumably be reflected in the fiscal note prepared by the Legislative Affairs Agency in the Personal Services Component since these costs are charged as a percent of salary.

RECORDS CERTIFICATION

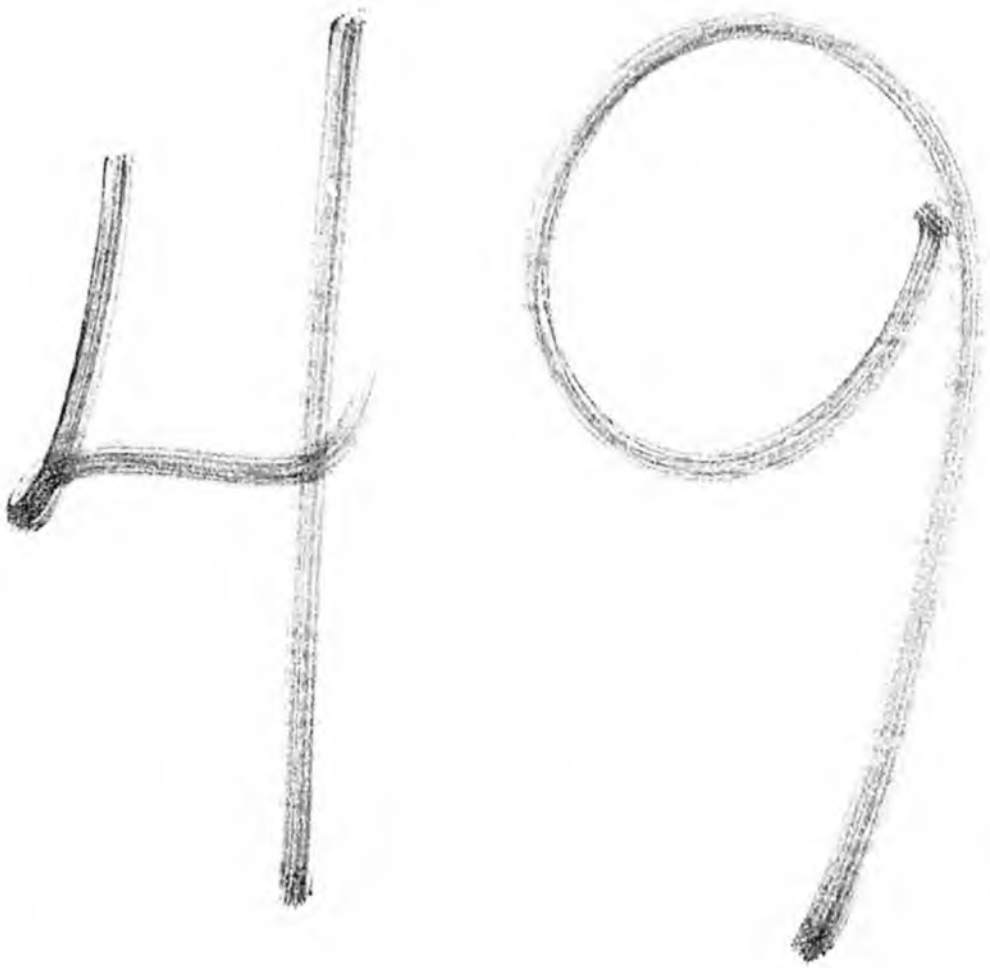
I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O Smith
Signature of Camera Operator

9/11/89
Date

02-519 (REV 8/78)


HB


49

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

M E M O R A N D U M January 21, 1985

SUBJECT: Limitations on campaign financing (HB49)

TO: Representative Katie Hurley
Chair, House State Affairs Committee

FROM: Richard A. Bradley
Legislative Counsel

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

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

The bill adds a sec. 75 to AS 15.13, the chapter dealing with state election campaigns. It provides that a "resident individual" may obtain a refund for a contribution of a candidate for governor, lieutenant governor, or member of the legislature under AS 43.20.013 only if the candidate has filed a statement agreeing to limit expenditures under this section during the primary and general election. Certain specific aspects of the section may be noted:

(1) Only a resident individual may qualify. That is, a corporation, partnership, association, labor union, etc. cannot make the contribution and be eligible for the contribution refund. And only a resident of the state may apply; this qualification had more meaning, perhaps, when the credit was to be applied against existing personal income taxes owed to the state; as you may know, many individuals who were nonresidents of the state were paying income taxes to the state; they were not eligible for the refund before or under this legislation. See AS 43.20.013.

(2) This amendment has no implications to the applicability of the existing law to all other political or other candidates or to contribution to their campaigns for office. See the list in the amendment to AS 43.20.013 in sec. 3 of the bill.

(3) The statement of the candidate agreeing to accept the limitation must be on file with the commission at the time of the contribution, if the contribution is made to the candidates for governor, lieutenant governor, and member of the legislature.

(4) The limitation covers all expenditures, whether made by the candidate before the statement was filed or not.

(5) The statement, once made during a campaign, remains in effect for the remainder of the campaign and may not be rescinded.

Section 2 of the bill amends the existing penalty provisions of AS 15.13.120(a) to deal with the implications of sec. 1 of the bill; see sec. 120(a)(6). Sec. 120(a)(2) is repealed because the paragraph is obsolete and has been for several years; the amendment is a clean-up of existing law and does not deal with the issues raised by this bill.

Section 3 is the provisions authorizing the campaign contributions refund; it is amended simply to acknowledge the implications of sec. 1 of the bill.

Section 4 of the bill amends obsolete law; the amendment has nothing directly to do with the goals of this legislation.

Since the bill does not have an effective date, it is effective 90 days after enactment.

If I may be of further assistance, please advise.

RAB:ojb
J11/017

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date

REQUEST
Bill/Resolution No: HB 49
Title: An Act relating to limitation on campaign financing
Sponsor: M. M. Miller and Duncan
Requestor: House State Affairs
Date of Request: 1/17/85

FISCAL DETAIL
Agency Affected: REVENUE
Program Category Affected: General Government
BRU, Program of Subprogram(s) Affected:
1) Administration and Support - Admin Srvc
2) Refundable Credits

EXPENDITURES/REVENUES: (Thousands of Dollars)

		FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
	OPERATING						
100	PERSONAL SERVICES	-	-	-	-	-	-
200	TRAVEL	-	-	-	-	-	-
300	CONTRACTUAL	-	-	-	-	-	-
400	SUPPLIES	-	-	-	-	-	-
500	EQUIPMENT	-	-	-	-	-	-
600	LANDS & STRUCTURES	-	-	-	-	-	-
700	GRANTS, CLAIMS	-	-	-	-	-	-
800	MISCELLANEOUS	-	-	-	-	-	-
	TOTAL OPERATING	0	-	-	-	-	-
	CAPITAL	0	-	-	-	-	-
	REVENUE	0	-	-	-	-	-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

(See attached)

ANALYSIS: Attach a separate page for analysis.

Prepared By: Erwin D. Jones
Division: Administrative Services
Phone: 465-2313
Date: 1/21/85

Approved by Commissioner:
Agency: Revenue
Date: 1/21/85

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

FISCAL NOTE, HB 49
Attachment

The effect of this bill is to limit the refundable political campaign contribution credit to claimants who contributed to candidates (for Governor, Lt. Governor, and Alaska Legislature) who filed a statement on or before the day the contribution was made, said statement agreeing to limit campaign expenditures.

The Refundable Credits system is run on the Department of Revenue's mini-computer and so there is little out-o- pocket cost associated with the modification envisioned by this bill. There is considerable re-programming which will have to be done and the claim form for 1985 claims should reflect a statement of the new law, but those efforts can be accomodated with current staff. Specifically, the changes to the automated system would be as follows:

1) Create a sub-program for those candidates who ran for Governor, Lt. Governor, or Alaska Legislature.
2) Data entry and build a file of those candidates who filed such a statement with APOC, including the name of the candidate and the date of filing the statement.
3) Isolate "candidate names" in their derivatives (e.g., Duncan for House, Jim Duncan, Jim Duncan for Representative, Re-Elect Jim Duncan, etc.) and group by the name of the candidate.
4) Compare candidate name and date of contribution to list from APOC.
5) Generate denial or adjustment letter to the claimants whose claim is based in whole or part on a contribution to a candidate who did not file a statement with APOC on or before the date of the claimant's contribution

The following two amendments are offered for consideration to make the administration of the changes more workable and in the interest of fair notice.

1) An implementation date should be set which gives adequate public notice, e.g., amend line 11 to read "...who makes a contribution after July 1, 1985 to a candidate..."
2) Section 1 should have a paragraph added which reads:
(d) On or before January 15 of each year, the Executive Director of the Alaska Public Office Commission shall prepare and submit to the Commissioner of Revenue a list of all candidates for Governor, Lt. Governor and the Alaska Legislature who filed a statement under AS 15.13.075(a) during the previous calendar year.

SENATE STATE AFFAIRS COMMITTEE

REPORT OF SPECIAL COUNSEL

December 14, 1984

BIRCH, HORTON, BITTNER, PESTINGER & ANDERSON

1127 WEST 7TH • ANCHORAGE, ALASKA 99501

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PRELIMINARY REPORT

SENATE STATE AFFAIRS COMMITTEE

December 1984

CAMPAIGN FINANCING PRACTICES 1984

I. Preface

Committee Counsel were retained by the Senate State Affairs Committee in September of 1984 to investigate two campaign fundraising programs in effect during the 1984 election. The first was an employee deduction fundraising plan conducted by the Alaska Political Action Committee. This plan was established for the employees of VECO, Inc. and related companies. The second subject of inquiry was a series of Democratic Party fundraisers held in the form of birthday parties for Governor Sheffield. The specific focus of this inquiry was the manner in which funds were solicited from State employees.

As part of its investigative function, Committee Counsel accumulated thousands of pages of documents and became familiar with the structure of payroll deduction plans. At that point, Committee Counsel were directed to shift emphasis from a factual investigation to the preparation of a report comparing these and other specific fundraising activities described in a memorandum to the Committee from Representative Terry Martin. Counsel were to address the issues presented by these fundraising plans, and review existing federal and state laws to develop alternatives for legislative reform.

As a result of the direction given by the Committee, Committee Counsel did not exhaustively investigate the specific campaign fundraising activities in place during 1984. While counsel began taking depositions, the depositions scheduled in Committee Counsel's original investigative plan were not completed. Counsel were, however, able to obtain a sufficient understanding of the structure of the various plans to evaluate the impact of various campaign disclosure and practice laws from other jurisdictions upon these plans.

Thus, in this report's description of the various programs in place during 1984, it is important to recognize that our understanding of the manner in which these fundraising programs were created and executed is incomplete. For purposes of possible legislative reform, however, it is not necessary to focus on the details of a particular fundraising scheme. The general structure of the fundraising plans studied presents a number of public policy issues which provide a good starting point for public discussion on appropriate legislative reform.

II. Campaign Contribution Programs Reviewed.

A. Solicitation of State Employees for Democratic Party Fundraisers - Juneau.

The Alaska Democratic Party, in conjunction with the Governor's office, conducted a campaign fundraising

drive involving a series of parties celebrating the birthday of Governor Sheffield. Fundraising events in Juneau were held on Wednesday, July 25, 1984. The events consisted of a reception followed by a birthday dinner. Invitations were sold for $50 per person for the reception, and $250 per person for the dinner. The invitations stated that the reception and dinner were sponsored by the Democratic Finance Committee and that the invitations themselves were paid for by the Alaska Democratic Party.

The Juneau fundraising event was organized by an ad-hoc committee. The chairman of the ad-hoc committee was Michael Price, Director of the Division of Family and Youth Services at the Department of Health and Social Services. Also on the committee in an organizing role was Laurie Herman, Executive Assistant, Office of the Governor. The other members of the committee consisted of exempt and partially exempt employees from the departments of Administration, Revenue, Transportation, Labor, Fish and Game, Office of Management and Budget, Education, Commerce, Community and Regional Affairs and Law. Committee members met once a week after working hours at locations outside of state office buildings.

State employees were solicited to purchase invitations. Solicitation occurred at the employees' workplace during working hours. Committee counsel were originally instructed to determine whether improper pressure had been exerted on employees by their superiors. [1] Additionally, an issue was raised as to whether there was inherent pressure created by state employees being solicited for a campaign contribution by a superior.

After a state employee purchased an invitation, his or her name was placed on an agency-by agency list of employees throughout state government who had purchased invitations.

Assuming the absence of actual coercion or duress--which is prohibited by Alaska law--such a fundraising drive is currently lawful. The result is different under the laws of other states. Some states prohibit <u>any</u> solicitation of state employees. Other states allow such a solicitation to occur subject to various restrictions designed to reduce the possibility of coercion. The following features of the Democratic Party's

---

[1] At the time committee counsel terminated its investigation, no direct and reliable evidence either indicating or disproving actual coercion of state employees had been discovered.

solicitation of state employees would be material in states which allow these solicitations subject to restrictions:

1) The solicitations were made at the work place and during working hours;
2) Lists of invitation purchases were kept by superiors;
3) Solicitation of employees was actually conducted by supervisors; and
4) Safeguards were apparently not established to ensure that all employees were assured that no adverse consequences would result from a decision not to contribute.

Finally, and independent of the question of potential coercion, the Democratic Party's fundraiser raises the question of whether an incumbent administration commands an unfair advantage over public employees.

B. VECO.

In June, 1983, VECO began making telephonic inquires to the Alaska Public Offices Commission (APOC) concerning campaign disclosure requirements. In August, 1983, VECO representatives inquired about the group reporting requirements under AS 15.12.

In October/November 1983, the Alaska Political Action Committee (AKPAC) issued a memo to VECO employees describing a payroll deduction plan and providing a form that employees wishing to participate could fill out. This solicitation was delivered to employees at the work place.

While the program was described as "voluntary," there was no statement assuring employees that failure to contribute would have no adverse consequences to their continued employment. AKPAC compiled a list of those employees who decided to contribute. As a result, management had access to the names of non-contributing employees.

The authorization to deduct funds for political contributions read as follows:

AUTHORIZATION FOR PAYROLL DEDUCTION

> I hereby authorize the deduction of $100.00 from my next paycheck. The withheld money should be paid according to the recommendation of the Alaska Political Action Committee unless within 15 days after receiving the Committee's recommendation I revoke this authorization. I understand that you will provide me with evidence of who received my contributions and in what amounts so that I can use this information to take the tax credit off my Federal Income Taxes. Also I will use this information to apply for the $100.00 maximum political contribution refund from the State of Alaska provided I qualify as an Alaska resident and provided that the Legislature appropriate funds for paying the refunds.
>
> _____
> Employee Signature
>
> Employee ID Number_____
>
> Date:_____

The purpose of the employee solicitation--as described in the AKPAC memorandum--was:

> to hold the line on further taxation of the oil and gas industry in Alaska.

The program was not represented as a deduction plan designed to encourage employees to select their own recipients for contributions. Rather, the solicitation noted that AKPAC would do the following: 1) interview candidates to determine their views on oil and gas taxation in Alaska; 2) recommend candidates as recipients; 3) urge AKPAC members and their employees to channel contributions to these recommended candidates; and 4) distribute information to employees concerning candidates which AKPAC believed deserved support.

Pursuant to the memorandum, AKPAC published a list of recommended candidates. Employees were informed that their contributions would be made to one of the listed candidates unless contrary instructions were received within 15 days. The total number of contributions made as a result of the 1983 solicitation was $41,080. Only three employees out of 415 directed that their contribution be distributed according to their specific instructions.

In proceedings before APOC, the commission staff maintained that the AKPAC solicitation of VECO employees vested sufficient managerial control over these contributions so that the companies involved were each, for APOC purposes, a "group" subject to the reporting requirements and campaign contribution limits of Alaska law.

VECO and AKPAC maintained that the companies' function was sufficiently ministerial so that the employee deduction program did not constitute a group under AS 15.13.130. APOC initially levied fines and ordered the return of campaign contributions based upon the APOC staff recommendation. VECO/AKPAC then requested a hearing, and APOC granted their request. The hearing has not been held.

Committee counsel did not have the opportunity to interview VECO employees to determine whether this specific deduction plan resulted in actual or implied coercion of VECO employees. During the short period of time during which counsel conducted its active investigation, however, there were no reports of intimidation or coercion by VECO employees.

The broader issue presented by the VECO/AKPAK plan involves the structure of the program itself. Based upon the following undisputed facts about the deduction plan, that plan would have violated several statutes in effect in other jurisdictions. Specifically, the following facts about the structure of the plan are material:

1) Solicitations were made at the workplace;

2) Lists of contributors were actually or potentially available to company management;

3) The plan manager selected candidates, and that selection was subject to the affirmative act of employee who desired a different recipient;

4) There were no assurances accompanying the solicitation that no adverse consequences attached to a decision not to contribute.

A separate issue, not at all unique to this particular plan, is the potential impact of these plans on the electoral process. The full revenue potential of the VECO/AKPAK solicitation was not realized. According to the deposition of Senator Don Gillman, at one time the employee deduction plan was thought capable of raising $35,000 each for 6-7 state senate candidates. Had the deduction plan not become the focal point of the press and law enforcement agencies, the $35,000 figure appears to be a realistic estimate.

Senator Gillman estimated that--had he run for office--his campaign would have had a $50,000 budget. Had the full potential of this one deduction plan been realized, and if Senator Gillman's budget were typical, this plan alone could have provided 70% of a state senatorial campaign budget. Obviously, if these fundraising plans became more prevalent, they could lead to disproportionate influence on elections by a single interest group. Ultimately, the result would be further escalation of campaign

expenditures--with an increased reliance on large scale, organized fundraising plans.

The public policy implications of the foregoing are obviously not limited to this particular deduction plan, or to the oil and gas industry. Were the position taken by VECO and AKPAC before the APOC sustained, there would be neither contribution limits nor public disclosure of any similar fundraising plans under existing law.

Lastly, the AKPAC/VECO deduction plan raised serious questions about the clarity of existing campaign disclosure and practice laws. Attorneys for VECO persuasively argued before APOC that the laws as written, coupled with contacts with APOC, misled VECO management into believing that their program was in compliance with existing campaign laws. APOC staff, while disputing the degree to which VECO and AKPAC were misled, nevertheless conceded that there was insufficient evidence to justify a conclusion that the program was put in place with a knowing or intentional disregard of the law. Moreover, candidates receiving VECO/AKPAK funds asserted that their campaigns were damaged by the receipt of funds from a program that they thought was legal. VECO employees, in turn, became concerned about being potentially disenfranchised by the controversy--since

the candidates they supported were subject to adverse publicity and law enforcement scrutiny.

The source of this problem is the vague statute involved. The definition of "group" under AS 15, and the absence of any provision dealing with potential over-reaching by management, made this controversy difficult to resolve. The resolution of the VECO issue before APOC will likely leave all parties to the controversy unsatisfied that the matter was handled promptly or predictably. The public, in turn, would be justified in feeling confused about which of the conflicting actions of the parties is credible.

The foregoing suggests that applicable provisions of AS 15 need simplification and clarification in order to both improve notice to the public and assist regulators in proving violations of the law.

C. A.L.I.V.E./Regular.

The Alaska Teamsters Union Local 959 has established two fundraising organizations called A.L.I.V.E./Voluntary and A.L.I.V.E./Regular. A.L.I.V.E./Voluntary, the primary fundraising organization, is a federal fundraising account registered with the Federal

Elections Commission (FEC). A.L.I.V.E./Regular acts principally on Alaska matters and is funded primarily by the A.L.I.V.E./Voluntary account, and occasionally Teamsters Union Local 959. A.L.I.V.E./Regular reports to APOC.

A.L.I.V.E./Voluntary raises funds by conducting one or two raffles per year. Tickets are sold to the public, advertising for the raffle is directed only to members of the Teamsters Union [illegible]. The purchase of raffle tickets is voluntary. A.L.I.V.E./Regular raises no funds through any assessment or payroll deduction plan.

D. Employee's Political Information Committee (EPIC).

Employee's Political Information Committee (EPIC) is the political action committee established by members of the Alaska Public Employees Association (APEA). EPIC reports to APOC. Prior to May 1984, EPIC raised funds through voluntary contributions. Subsequently, the APEA delegates voted to donate 50¢ of each member's monthly dues to EPIC. If an APEA member does not wish to contribute, he so notifies EPIC in writing. Each member who so notifies EPIC receives a refund at the end of EPIC's fiscal year. The member does not have to state any reason for his action. The written notice must be made by a specific date.

EPIC selects political candidates for its support through a state-wide committee of EPIC members. This state-wide committee bases its actions upon the decisions of local EPIC committees in which individual members participate.

E. Plumbers and Pipefitters LU 262 Political Action Committee Fund.

The Plumbers and Pipefitters LU 262 Political Action Committee Fund is a "contingency fund" as defined in 2 AAC 50.395(b) for the Plumbers and Pipefitters Local 262. The fund receives its money from union members by means of a uniform assessment. Pursuant to the union contract, employers pay the union a specified amount each pay period for each employee. Of this amount, 15 cents per hour is allocated to the Political Action Committee Fund for each employee who has signed a form called a "Voluntary Contribution Agreement." Otherwise, the union pays this money to the employee upon its receipt. An employee may revoke his Voluntary Contribution Agreement by written request.

Union members participate in determining which candidates receive contributions, and how much a candidate receives, through participation in membership meetings.

F. Eleanor Roosevelt Club.

The Eleanor Roosevelt Club did not file reports with APOC in either 1983 or 1984. As a result of its apparent inactivity during the last election campaign, committee counsel did no further investigation.

III. Statement of Issues Presented.

The following issues are presented by the various plans considered by Committee Counsel:

A. Is Legislative Reform Needed To Insure That Employee Contributions Are Voluntary?

This issue arises whether the fundraising is conducted within the private or public sectors. In analyzing the problem, one should consider the following:

1) Was the solicited employee informed of the political purpose of the solicitation?

2) Was the solicited employee meaningfully informed of the right to participate without reprisal?

3) Was the employee's freedom of choice affected by the structure of the solicitation (such as the maintenance of lists of contributors)?

4) Was the employee solicited at work during working hours?

B. Is Legislative Reform Needed To Prevent The Use Of State Property And Time In Soliciting Political Contributions.

In the case of state employees, an additional issue is raised by the use of state time and resources for political fundraising when employees are solicited on the job.

C. Is Legislative Reform Necessary To Curb The Ability Of Special Interest Groups To Influence Elections?

These issues will be treated in turn in the remainder of this report.

IV. Statutory Regulation Of Employee Solicitation In Alaska and Other Jurisdictions.

One of the major issues presented by this report is the voluntariness of employee contributions in the face of campaign solicitations by their employers. This section discusses how Alaska law currently deals with this issue, and how this issue is handled under federal law and the laws of other states.

A. Solicitation of Private Employees.

Rather than encouraging only voluntary campaign contributions, Alaska law appears to sanction non-voluntary contributions. While Alaska law prohibits the use of actual coercion or extortion to obtain campaign contributions (AS 11.41.520-530), it is silent on the legality of other means of obtaining contributions. 2 A.A.C. 50.395(g), a regulation promulgated by APOC, establishes reporting requirements for a business entity or labor organization which levies a "special assessment upon its employees or members, the proceeds of which are to be used for political purposes." This regulations seems to grant tacit approval to the use of funds raised by involuntary assessments.

Under Federal law, the situation is different. For example, the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. §§ 431-455 (1980) established the Federal Elections Commission. The law applies to federal elections only. 2 U.S.C. § 441b prohibits corporations or labor organizations from making any political contributions or expenditures. 2 U.S.C. §441b(b)(2)(C) permits entities to establish a contingency fund similar to the fund described in 2 AAC 50.395. However, 2 U.S.C. §441b(b)(3)(A) specifically provides that it is unlawful:

> to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the

> threat of force, job discrimination, or financial reprisal; or by dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment, or by monies obtained in any commercial transaction. (emphasis added)

Alaska law has no comparable provision.

Several states laws specifically require that funds comparable to the political fund described in 2 AAC 50.395 be funded only through voluntary contributions. The statutory provisions of West Virginia Code § 3-8-8, Alabama Code § 10-1-2, Missouri Revised Statutes § 9.130.028, and North Carolina General Statutes § 163-278.19(b), are all similar in language and scope to 2 U.S.C. § 441b(b)(3).

Federal law also seeks to promote contributions which are not only voluntary but are as well the product of an informed decision on the part of the contributor. It does so by requiring any person soliciting contributions for a political contingency fund to inform the person solicited--at the time of the solicitation--of the political purposes of such fund. See 2 U.S.C. § 441b(b)(3)(B). Furthermore, the person solicited must be informed at the time of solicitation that he has a right to refuse to make a contribution without reprisal. 2 U.S.C. § 441b(b)(3)(c).

Federal law also restricts the objects of solicitation by political contingency funds. In the case of a corporation, solicitation is limited to the corporation's stockholders, executive administrative personnel, and their families. See 2 U.S.C. § 441b(b)(4)(A)(i). In the case of a labor organization, solicitation is limited to the labor organization's members and their families. 2 U.S.C. § 441b(b)(4)(A)(ii). Federal law also restricts the manner in which contributions may be solicited. Only two written solicitations are allowed during a calendar year. 2 U.S.C. § 441b(b)4(B). Furthermore, the solicitation may be made only by mail addressed to the employee's residence and not at the workplace. Id. Finally, the solicitation may not be designed so as to reveal the identities of either donors of less than $50 or persons who refuse to donate. Id.

B. Solicitation of State Employees

Alaska law prohibits nonvoluntary political contributions from state employees. AS 39.25.160(c) provides:

> A person may not require an assessment, subscription, contribution, or service for a political party from a state employee.

However, the scope of AS 39.25.160(c) is restricted to contributions to a "political party". Thus, it appears that a contribution may be required for ballot propositions,

political action groups, other non-partisan political groups, and possibly even a political candidate. Moreover, the scope of A.S. 39.25.160(c) might be further restricted if the term "require" is construed to include only overt acts of coercion, rather than acts that are inherently coercive, but not overt--for example a solicitation of a "voluntary" contribution by one's superior.

In addition to AS 39.25.160(c), other state laws as well cover actual coercive action. AS 39.25.160(f) protects classified state employees from any personnel action "taken or withheld for a reason not related to merit." AS 35.25.160(g) protects classified state employees from any personnel action "taken or withheld on the basis of unlawful discrimination due to political beliefs." AS 39.26.010(a)(1) and (4) prohibit the coercion of a state employee to participate in any activity not related to the performance of official duties, or the coercion of any state employee to make a contribution.

Under Federal law and the laws of other states, the solicitation of public employees has been regulated in a variety of ways. Some laws simply prohibit the use of actual coercion in soliciting campaign contribution. 18 U.S.C. §606; Oregon Statute 260.432(1). Under other laws, any solicitation of public employees is prohibited. New

Hampshire Statute 664:4-a (classified employees). Other laws prohibit solicitation of public employees by other public employees. 18 U.S.C. § 602; 74 Oklahoma Statutes § 3114. Still other laws prohibit the solicitation of public employees by their superiors. Alabama Statute 36-26-38(a). Finally, some laws allow solicitation to occur so long as it does not occur during working hours. Minnesota Statutes § 210A.081; Wisconsin Statute 11.36.

C. Use of Public Property And Facilities For Solicitation.

An additional issue with respect to the solicitation of public employees has been the possible use of state property and facilities. The misapplication of state property is a criminal offense under AS 11.46.620. However, "misapplication" occurs only when the use of the property is contrary to some other "law." AS 11.46.620(c). Since there is currently no other "law" prohibiting the use of state property for political purposes, absent actual theft the practice in Alaska seems lawful at this time.

In contrast to A.S. 11.46.620, North Dakota Code § 16.1-10-02 specifically provides:

> (1) No person shall use any property belonging to or leased by, or any service which is provided to or carried on by, either directly or by contract, the state or any agency, department, bureau, board,

or commission thereof for any political purpose.

(2) The following definitions shall be used for the purposes of this section:

(a) "Political purpose" means any activity directly undertaken by a candidate for any office in support of his own election to such office, or aid and assistance to any candidate, political party, political committee, or organization, but shall not include activities undertaken in the performance of a duty of state office.

(b) "Property" includes, but is not limited to, motor vehicles, telephones, typewriters, adding machines, postage or postage meters, funds of money, and buildings. However, nothing in this section shall be construed to prohibit any candidate, political party, committee, or organization from using any public building for such political meetings as may be required by law, or to prohibit such candidate, party, committee, or organization from hiring the use of any public building for any political purpose if such lease or hiring is otherwise permitted by law.

(c) "Services" includes, but is not limited to, the use of employees during regular working hours for which such employees have not taken annual or sick leave or other compensatory leave.

D. Regulation Of Campaign Contributions By Interest Groups.

A.S. 15.13.070 limits all individuals and groups to contributions and expeditures of $1,000.00 per year on behalf of or in opposition to any specific candidate. Federal law is more restrictive. Federal law prohibits any contributions and expenditures by corporations and labor organizations. 2 U.S.C. § 441b. Corporate contributions are also prohibited in Arizona, Massachussetts, Michigan, Minnesota, Kentucky, Montana, New Hampshire, Tennessee, Texas, West Virginia, Wisconsin and Wyoming.

V. General Constitutional Considerations Regarding The Regulation of Campaign Activities

In drafting any legislation intended to regulate the organization of political events, associations, and fund raising drives, the committee must be aware of the limits imposed by the United States and Alaska constitutions. This section discusses the applicable constitutional standards and how these standards relate to payroll deduction plans and government employee political participation.

Both the United States and Alaska supreme courts have held that activities designed to further public discussion and debate of election issues are the purest of speech activities protected by both the First Amendment of

the U.S. Constitution and Article 1, Section 5 of the Alaska Constitution. Buckley v. Valeo, 424 U.S. 1, 14 (1976); Messerli v. State, 626 P.2d 81, 83 (Alaska 1981). The U.S. and state constitutions afford the broadest possible protection to all such political expression in order to assure the unfettered expression of ideas; the bringing about of political and social changes desired by the people; and uninhibited and robust debate on public issues. Buckley, supra at 685; Messerli, supra at 87. In light of the strong constitutional guarantees afforded political speech, courts engage in the most exacting scrutiny of any regulation of political activities in order to ascertain whether the regulation is justified by a compelling interest and is accomplished in the least restrictive manner. Moreover, the right to engage in political activities may be broader under the Alaska Constitution than under the First Amendment of the United States Constitution. See Messerli, supra at 83.

The landmark opinion on regulation of campaign activities is Buckley v. Valeo. In that opinion, the United States Supreme Court upheld laws which imposed ceilings on certain political contributions, and established reporting and disclosure requirements associated with campaign contributions. The court held that there was a compelling government need to avoid corruption and the appearance of corruption, and also noted the potential value to the

electorate of information concerning campaign fund sources. However, the court struck down limits placed upon expenditures by a candidate on his own behalf and independent expenditures by individuals or groups advocating the election or defeat of specific candidates or issues.

Since the decision in Buckley v. Valeo, the Supreme Court has refined the constitutional limits on regulation of campaign activities. In First National Bank v. Bellotti, 435 U.S. 765 (1978), it held that corporations could not be restricted to engaging only in political activities related to their business activities. In California Medical Association v. Federal Election Commission, 453 U.S. 182 (1981), laws prohibiting individuals and unincorporated associations from contributing more than $5,000.00 to any multi-candidate political committee were upheld. Finally, in Citizens Against Rent Control/Coalition for Fair Housing v. City of Berkeley, 454 U.S. 290 (1981), the Court struck down laws limiting contributions or expenditures as to single issue ballot propositions, as opposed to similar activities with respect to candidates.

In Messerli, the Alaska Supreme Court upheld the state's disclosure requirements imposed on individuals making expenditures on ballot propositions. The court first held that the government must establish that its regulations are justified by a compelling government interest. Messerli, at 84. The court specifically recognized the

safeguards provided by a legislative record and public participation in enacting campaign legislation. Id. at 88. In short, the message of Messerli is that, in enacting any laws regulating the solicitation of campaign contributions, it is imperative that the State provide a record justifying its actions in terms of compelling government interests.

This report has focused on the specific campaign practices of employer-organized payroll deduction plans; the solicitation of state employees by their superiors; and the potential coercion underlying these activities. In the committee's consideration of possible legislation regulating these activities, the following matters should be considered.

The question of voluntariness has long been a concern of the United States Supreme Court with respect to political activities of government workers. For example, in Elrod v. Burns, 427 U.S. 347 (1976), the Supreme Court held that it was improper for a county government to require affiliation with or sponsorship by a specific political party as a condition of employment. In Abood v. Detroit Board of Education, 431 U.S. 209 (1977), the Court struck down the use of compulsory union dues paid by government workers to finance political and ideological activities unrelated to collective bargaining.

In attempting to insure that state employee participation in political activities is voluntary, the Committee might seek to require that a state employee be informed that no adverse consequences will result from any refusal to participate. For example, the United Supreme Court, in Pipefitters Local Union No. 562 v. United States, 407 U.S. 385 (1972), applied 18 U.S.C. § 610 to require a union-sponsored political action committee--in soliciting for contributions--to plainly indicate the purpose of any donations and to specifically inform union members that failure to contribute would have no effect on their job, membership, or any other reprisal.

A complete ban on the solicitation of public employees by other public employees is another option. In United States Civil Service Commission v. National Association of Letter Carriers, 413 U.S. 548 (1973), the United States Supreme Court upheld the constitutionality of a statutory prohibition on government employees engaging in specific political activities. The court held that the law was justified because it prevented coercion of government employees and preserved the appearance of non-partisan administration of the law. It would thus appear that State employees could constitutionally be prohibited from soliciting political contributions.

An additional concern with respect to payroll deduction plans lies in the potential ability of such a plan

to finance entire political campaigns. As has been discussed previously, the United States Supreme Court has upheld limitations on the amount of campaign contributions by organizations and individuals to any specific candidate. However, in doing so, it should be remembered that limits may not be placed on expenditures on behalf of a candidate or ballot propositions. See, Buckley v. Valeo, supra.

Regardless of the means which the committee chooses to regulate payroll deduction plans and the solicitation of state employees, the Committee must establish a record as to the compelling governmental interests which any proposed legislation will be advancing and the effect which the proposed legislation will have on a person's ability to engage in political activities.

VI. Recommendations.

The recommendations of this report are not intended to suggest public policy choices which are the domain of the legislature. Since neither the committee nor the legislature has had the opportunity to debate the issues raised by 1984 campaign practices, the recommendations made here relate to general goals upon which the legislature may wish to focus, rather than specific alternatives.

A. Notice

Campaign disclosure and regulatory statutes should be rewritten to provide adequate notice of the requirements of law. The Legislature should review both current APOC regulations and AS 15 for the purpose of providing more clarity. Problems that arose during the 1984 electorial campaign indicate that adequate notice to candidates, contributors, employers and public officials is lacking.

B. Election Laws Should Be Enforceable.

Alaska, like most states, relies ultimately upon the criminal sanction to enforce its most important provisions. In a criminal case, the prosecution usually must prove beyond a reasonable doubt that a defendant who violates even a malum prohibitum statute did so knowing his conduct was wrongful. Hentzner v. State, 613 P.2d 821 (Alaska 1980); Wheeler v. State, 659 P.2d 1241 (Alaska 1983). Most election laws create malum prohibitum offenses where this proof would be required. To the extent that election laws are vague, overly detailed, and complex, the prosecution of individuals for violation of these laws will be difficult due to the failure of the prosecution to be able to prove that the defendant knew that his actions were wrongful. As a practical matter, even in civil regulatory actions the effectiveness of civil penalties may depend

upon the degree to which enforcement officials can establish wrongful intent.

C. Constitutionality.

It is crucial that legislative revisions be tied to articulated public policy concerns. Restrictions on campaign financing necessarily tread upon activity protected by the First Amendment. A strong record of legislative intent needs to be made.

D. Curbing The Potential Impact Of Particular Campaign Practices.

The issue of whether specific campaign contribution activities have resulted in the concentration of political power in the hands of special interest groups is an issue that the legislature may wish to confront. Whether the potential for such abuse exists, and whether legislative reform is necessary to curb it, are questions appropriately addressed by the legislature. If the legislature finds that campaign financing by interest groups has resulted in undue influence on elections, committee counsel recommends outright prohibition of the offending fundraising practice. This has been a step taken by a number of jurisdictions. It is our view that attempting to regulate the degree of influence of such programs short of

outright prohibition will tend to defeat the goals of simplicity, notice, enforceability, and constitutionality discussed above.

RESPECTFULLY SUBMITTED this 14th day of December, 1984.

Timothy Petumenos
Special Counsel
Senate State Affairs
Committee

Jonathan K. Tillinghast
Special Counsel
Senate State Affairs
Committee

MAUREEN KENNEDY
DIRECTOR OF ALASKA PUBLIC INTEREST RESEARCH GROUP
TESTIMONY BEFORE THE SENATE STATE AFFAIRS COMMITTEE
JANUARY 9, 1985

Good afternoon. my name is Maureen Kennedy; I am the Director of AkPIRG, the Alaska Public Interest Research Group. We conduct research and advocacy around economic issues and have 600 members throughout the state.

AkPIRG has long been involved in campaign finance issues. Many of our members were involved in the initiative campaign of 1974 which led to the Campaign Disclosure Act and the establishment of the APOC. More recently, we published From Abood to Ziegler, the Dollars and Cents of the '82 Elections which lists campaign contributors of each elected representative. We were pleased to hear this fall that the APOC will be publishing its biennial listing both by contributor and by candidate for the '84 elections.

Since 1776, the United States has been fitfully addressing the healthy tension between the "one person one vote" doctrine and the right to free speech. The former, carried to its logical conclusion, would have us in a political world where all citizens are politically aware, interested and registered to vote, where

candidates speak only the barren truth about their positions, where any mother's son--or daughter--could truly run for president, and where all campaign bills are miraculously paid, up front.

On the other hand, the Bill of Rights calls for a system in which any citizen can use any means short of crime (money, influence, threats, access to media) to convince voters to vote a certain way or to convince elected officials to follow a certain path. We're looking for a middle ground.

We thought we had it in 1974, after Watergate and the initiative campaign and the passage of the Campaign Disclosure Act. We recognized that the State had a responsibility to regulate campaign contributions and expenditures, to make sure that certain individuals and interests did not exert undue influence over the political decisions of the rest of us and that well-heeled candidates did not "buy" elections. We limited expenditures and contributions, but we also opened up the books by imposing disclosure provisions, so citizens could know how and from w a candidate raised money, and add that knowledge to the rest in making an informed decision in the voting booth.

At the time, limiting expenditures and contributions overshadowed the disclosure provisions. Since the Buckley v. Valeo decision in 1976, Alaska discarded its overall expenditure limit but continued to rely on the disclosure provisions and the remenants of limits from the '74 law to maintain the balance between one person one vote and the right to free speech. But the teeth were gone. In many ways, we arrived at our present campaign finance system through the back door.

While walking through the mud room, we've come across the Worthington Ford arrangement, clearly intended to circumvent contribution limits and illegally influence elections, the VECO scheme, clearly intended to circumvent reporting requirements (and why, if the companies thought that massive infusions of oil money in a few key campaigns this year were appropriate?), and we happened to trip over Perry Green's apparently illegal loan to the Sheffield campaign. We know there are many other hidden skeletons looming in the dark. It's about time we went back around to th front door on this issue.

Each of these ploys violated the spirit if not the letter of our campaign financing laws. They both violated our contribution limits and disclosure provisions. They allowed certain interests to unduly influence the outcome of an election--they in certain ways disenfranchised us. In two of these cases, we didn't know what was happening at the time of the election. We still may not know the whole story.

You may wonder how far your responsibility to protect the electorate and our precious right to vote extends. That's the key question. We recognize that things will never be completely equal; but how fair is fair enough?

Clearly, the political financing system we have in place right now is not fair enough. The cost of Senate races increased by more than a third in the two short years between 1982 and 1984. House campaign costs have increased 500% since 1974 while the inflation rate has inched up at 90% over that period. Seventy five percent of those candidates spending the most won election. With

few exceptions, Alaskan politics has become the province of the rich and well-connected.

As the cost of running politics in Alaska has exploded, special interests (corporations, PACs, unions, lobbyists and initiative committees) have taken over as banker. In 1978, these special interests gave 31.2% of total expenditures; by 1982, the figure was up to 92.5%. And those special interests certainly expect the investment to pay off. VECO staff openly agreed that the fundraising arrangement was established "to hold the line on further taxation of the oil and gas industry in Alaska." Politicians can publicly claim that ~~this~~ financial support is given with no strings attached, but national organizations release statistically irrefutable evidence of the link. AkPIRG did the same in the late seventies linking oil and gas contributions with tax policy votes.

AkPIRG believes that electoral politics should be the province of the individual just as only an individual may vote--that contributions should come from individuals or groups of individuals with like interests and not from legal entities like corporations or unions. Certainly workers or stockholders of corporations and members of unions should be able to organize for political action as individuals.

Voters should know where a candidate's money comes from, and should expect that if a candidate reports a $1,000 contribution that another $4-5,000 has not been laundered through a party or friend or unreported loan.

We find it ludicrous that policymakers are attempting to abolish or muzzle the APOC. An obvious conflict of interest

exists. The APOC is a bi-partisan/non-partisan board which has the authority and responsibility to interpret campaign financing laws. Someone has to do the tough stuff, and I am appalled at the abuse the commissioners and staff have taken this year. We do not doubt that the APOC could accomplish its job more efficiently and effectively--last year we pointed out some major problems we saw with contribution reports. But to emasculate the structure we have in place to protect Alaskans' right to a clean, fair election and their right to freely express their political beliefs based on election season squabbles is unconscionable.

We support the concept of the Political Contribution Credit--that citizens should be encouraged to participate in the political process, though many will choose not to even register. Campaign contributions are given to further the goals and positions of candidates and carry with them important responsibilities.

Public financing of elections is a good way to ensure that candidates aren't forced to rely on special interests to bankroll their campaigns and that those of us without $40,000 in the bank can run for election if we choose.

Practically, we must adopt and work within a financing law that is effective. We can throw up our hands and discuss loopholes and squeeze balloons and describe in detail shady dealings that APOC hasn't discovered yet and resort to a voter beware policy, but I think that's the easy way out. Our vote is too important to write off, and we're seriously flirting with a credibility gap in state politics.

The bills under consideration at this meeting are a step in the right direction. AkPIRG is generally supportive of them, though we are sure that they could be streamlined to some degree without sacrificing effectiveness.

I have the following comments concerning the bills under consideration today:

Regarding the "cleanup" bill: In Section 2 on page 2 and Section 4, page 3, we support the increase to $250 for reportable contributions. The $100 threshold for personal contributions has not been enforced in recent years, and the $250 figure is entirely workable.

We support the clarification of policy on loans above $1,000 found on page 4. In its final opinion on the Perry Green loan to the Sheffield campaign, the APOC expressly stated that the action it took on that case should not be taken as precedent. Rather than further complicating the regulatory arena and inviting further interpretation and abuse, the legislature should simply ban loans except through conventional, state or federally chartered banks and credit unions. As counsel to the committee noted in its report on page 30, "(i)f the legislature finds that campaign financing financing by interest groups has resulted in undue influence on elections, committee counsel recommends outright prohibition of the offending fundraising practice." We believe that the APOC has a tendency to over-rely on regulation and disclosure of marginal campaign practices rather than simply prohibiting them. For example, the APOC should not be encouraged to condone arrangements such as the one employed by VECO, setting up elaborate disclosure mechanisms. The APOC should be encouraged to make the tough calls on these practices and ban those it considers contrary to the public interest.

Part b of this same section addresses campaign surpluses,

another area of financing ripe for abuse. The press has reported the questionable use to which sometimes massive excess contributions have been put in the past. Some candidates continue to carry over surpluses in excess of $50,000 an election cycle. These contributions should be viewed as trust funds for a specific purpose, election expenses, and surpluses should be ~~to candidates should be~~ disposed of in the manner outlined here. Part c, section 2 is so broad, however, that the purpose of this section can easily be disregarded. Though we understand its intention, section 2 should be deleted. 4 We support the aggregate limits on contributions outlined in Section 8, page 5. We would suggest that individuals be limited to $10,000 in total contributions annually ($20,000 per election cycle), and political parties be limited to $5,000 per candidate per year ($10,000 per election cycle). Groups should follow the same contribution guidelines as individuals, that is, $1,000 per year. Aggregate limits on groups will not be workable, however, since groups will simply set up new groups to disburse additional funds.

On page 6, line 4 should read, "contributing to or expending on behalf of or in opposition to a ballot proposition or. . . ." Section 10 should clearly refer to campaign expenditures, as opposed to independent expenditures.

Large contributions or expenditures should be of particular concern to policymakers and the public as the elections draw near. We would suggest that parts (f) and (g) of Section 12 kick in only within 7 days of the election, rather than continually or

within 30 days of the election.

I assume that groups were inadvertently omitted from part b section 1 at the top of page 8.

Part d on that same page should be deleted as it seems unenforceable--a group might anticipate contributing only to a ballot initiative, collect funds from other groups, then decide to contribute to one particular candidate, or a dozen. Again, we may be encouraging the proliferation of groups in this section as a group supporting a proposition is forced to organize a group to support candidates.

The last portion of Section 15 (at the top of page 10) should be dropped. Though campaign signs are often an eyesore, I can imagine the midnight raids to put opponents' signs in illegal locations.

Section 16 should be tightened again by inserting "two or more" persons at line 6. Contributors should neatly and clearly fall either into the "individual" category, the "group" category or the "party" category.

Regarding the Campaign Expenditure Limits bill: We strongly support the provisions of Sec. 15.13.119 reinforcing the voluntary nature of political contributions.

The bill sets up a type of expenditure limit system on page 5, Section 6. We don't think that eligibility for the PCC refund is a large enough carrot to offer candidates in return for limiting expenditures. Moreover, the provisions in part (e) seem unenforceable.

Regarding the Fair Campaign Financing Fund: We prefer the clearer language in the clean up bill regarding loans (page 1).

The fines and penalties outlined in Section 7 (page 5) seem stiff enough to actually act as a deterrent. Since so much activity can take place under the table or behind closed doors, and since the APOC has been traditionally lenient with fines when violatio or transgressions are uncovered, heavy fines and the ever-present threat of a leak may be the only solution.

The Fair Campaign Finance Fund should be arranged to encourage candidates to convey their views on issues rather than demonstrate their creative fundraising abilities. The qualifying test at the top of page 7 should test the viability of the candidate rather than the number of friends in the district s/he can convince to donate. We should be encouraging candidates to convey their views on issues rather than demonstrate their creative fundraising abilities. We would suggest that candidates for House and Senate raise $2,000 from their districts and gubernatorial/lt. governor teams raise $30,000 from state residents in order to qualify. Contributions should be under $1,000 only.

In order to save the state's money, the program should kick in only during the general election. Candidates should be required to open a new set of books after the primary, though primary expenditures should be counted against the overall campaign expenditure total. Moreover, the state should pay campaigns on a matching basis, rather than in a lump sum. Many races in the state traditionally consume less than $10,000; candidates should not be encouraged to spend more simply because the state offers it. Unopposed candidates should not be eligible

for the program.

In order to receive one-for-one matching funds, a candidate should be required to agree to specific expenditure limits. We would suggest limits based on a dollar amount for each registered voter, similar to the system in place in 1976. The figures should translate into roughly $2 million for statewide teams, $40,000 for House races and $80,000 for Senate races.

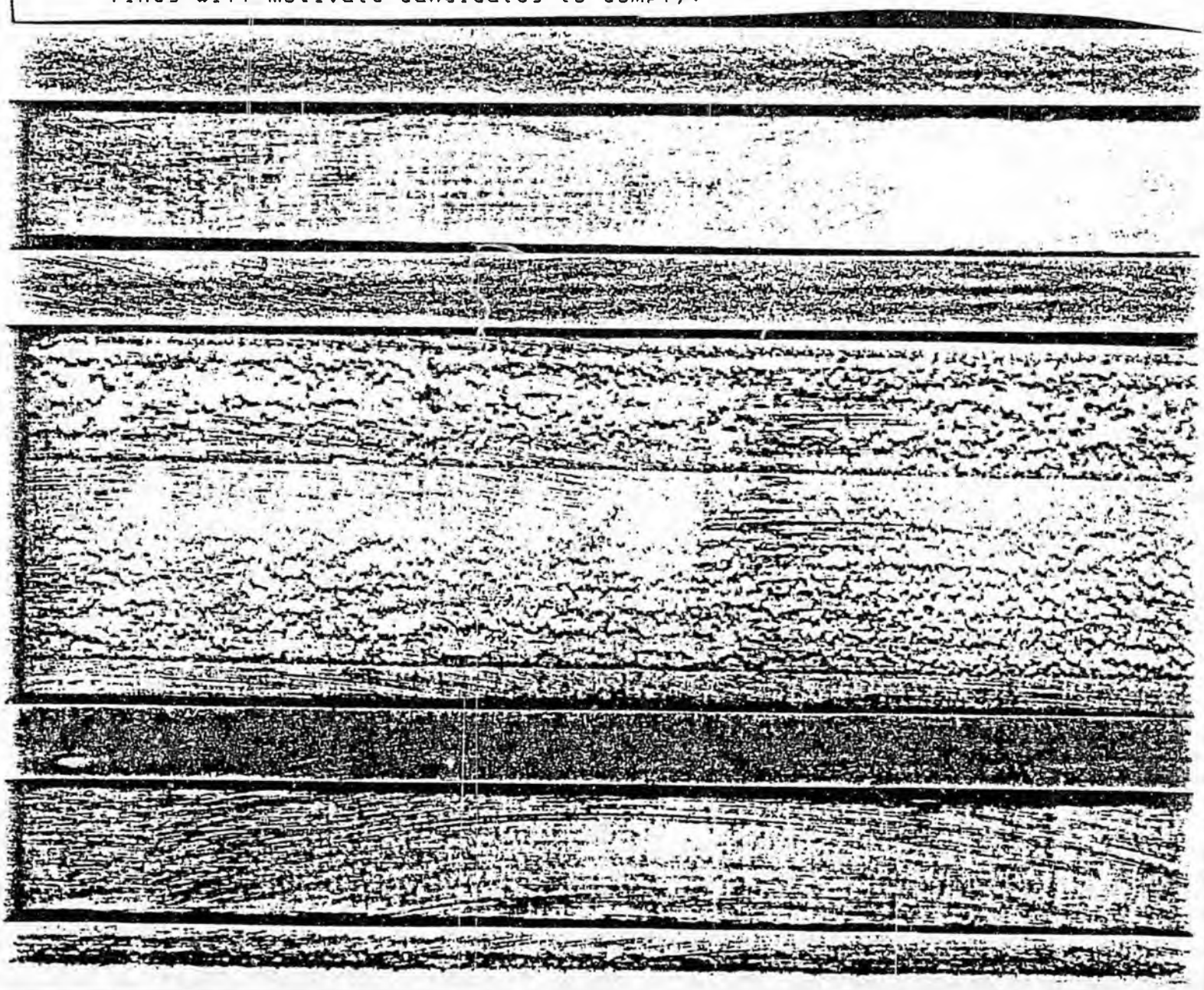
We have to assume that overall expenditure limits will encourage the use of in kind and hard-to-value resources such as telephone banks, Xeroxed lists, etc. The committee should develop language to address this tough issue.

Candidates who participate in the program should be required to repay the state up to the amount matched during the campaign out of unexpended funds by March 15th following the election. State participation in a candidate's campaign should carry with it serious fiduciary responsibilities. The penalties outlined on page 9 should be stiffened at least to the level imposed on violators of general campaign contribution and expenditure laws, that is, to 4 times the amount of illegal contributions or $5,000, whichever is greater.

Again, to save the state money and to address the most pressing campaign finance issue, only statewide races for gov/lt. gov. and House and Senate races should be eligible for the program.

Finally, on page 12, penalties for late filing of reports should be increased dramatically. Candidates have made a shell game out of filing contribution reports, elevating the timing of filing to a piece of overall campaign strategy. And who wouldn't

if the fine for late filing were only $1 a day? Ten dollars a day (as a maximum) is a similarly insignificant figure. Most reports should carry a $100/day fine for late filing, while 7 day and 24 hour reports should carry a $500/day fine. Again, these figures are maxima; the law allows for arguing extenuating circumstances. The disclosure aspects of the entire campaign finance laws are meaningless unless the public has access to the information in a timely manner, before the elections. Heavy fines will motivate candidates to comply.



STATE OF ALASKA

ALASKA PUBLIC OFFICES COMMISSION

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January 22, 1985

House State Affairs: HB 49
Theda Pittman, Exec. Dir.
Public Offices Commission

Thank you for this opportunity to review HB 49 which proposes amendments to Alaska's Campaign Disclosure Law.

First, I'd like you to be aware of the fact that the Commission has a strong concern about the fact that no substantive amendments to AS 15.13 have become law in the last few years. Since 1980 there have been several major pieces of legislation proposed which have fallen prey to damaging amendments. Nonetheless the Commission remains willing to work with those who have new proposals to offer in hopes of accomplishing simplified reporting requirements which preserve the public's right to meaningful information about campaign finances.

Attached to this memo are several items for your reference. Attachment A is a brief overview of the major amendment efforts since 1980 and attachment B is a summary of six items related to campaign disclosure which the Commission submitted to the Governor last summer in response to his call for legislative proposals.

With respect to the bill before you, I would like to offer the following comments, observations, or suggestions:

1. Statement of Intent - strongly urge its inclusion both to make clear the goal of the legislation and to facilitate enforcement in any future court cases.

2. State Candidates -

a. Page 1, line 15 - perhaps the statement required of "candidates" should be a modification of the current registration and include the year of the election in which they plan to run. However, for legislative prospects, a requirement to show the particular office and seat might discourage such filing. Consider specifying that a "candidate" who files such a statement is subject to all the requirements of AS 15.13 which would include reporting at year-end (even if no declaration had been filed) and proper identification of campaign material. Reverse the present ban on expenditures before filing (a declaration) in AS 15.13.100.

b. Duration of Statement - Suggest Dec. 31 of year of election. Those who have debts to pay off should be required to file a statement annually until they have paid off their debts and filed a final report. Those who are simply accepting contributions for a new campaign should also be required to have a current statement on file.

c. Page 1, line 24 - require candidates to provide contributors with an identification number. The provision of a coordinated numbering system between Revenue and the Public Offices Commission would help assure accurate information about payments and help keep track of those who have more than one campaign, e.g., a previous campaign in debt and a current campaign.

d. Page 1, line 25 - delete "of the group" unless some group requirements are added.

e. Ability to rescind statement -

(1) What about those who never file declarations?

(2) What about a date, such as one month after the deadline for filing a declaration, by which a candidate might voluntarily rescind his or her statement through notification to the Commission and through certified letters to his or her contributors?

f. Potential requirements/prohibitions to consider -

(1) segregated campaign account?

(2) ban against use of campaign account for office expenses?

3. Penalty Provisions - It would cost nothing to violate the agreement unless a candidate was successfully prosecuted of for a misdemeanor and then the fine could be no more than $5,000.

a. Page 2, line 11 should be amended as follows: (2) making a campaign contribution that [OR EXPENDITURE WHICH] exceeds the limitations of AS 15.13.070 [15.13.070(f)];

b. Consider strengthening the consequences for exceeding the limitation -

(1) Authority to order repayment to the general fund?

(2) Civil penalty of 4 x the amount of the excess spending?

4. Administrative Concerns - the Commission's workload will be affected in several respects. A preliminary summary of candidate expenditures shows the 7 of 33 Senate candidates (21%) and 16 of 137 House candidates (12%) exceeded the proposed limitations in their 1984 campaigns. Attachment C. Under the $50,000/$25,000 limits proposed by SB 34, 9 Senate candidates and 40 House candidates spent more than the proposal. Under HB 49, it seems doubtful that the limitations will significantly reduce the Commission's workload in routine desk audits, but there are two areas in which there will plainly be increases in workload:

(a) interpretation requests for "non-campaign" expenditures; &

(b) formal complaints alleging excessive expenditures which will require field-type audits of candidate records.

Attachment D provides information about the history of the Commission's funding which has always been inadequate, but is steadily getting worse as campaigns become more vigorous and creative.

5. AS 15.13.070(a) should be amended as follows: (a) No person or group, including but not limited to all political committees, businesses, corporations, and labor unions, may contribute [TO OR EXPEND] more than..

6. Additional Considerations for the future - strengthening of group registration requirements to address questions about whether payments of political contribution credits to group contributors are consistent with legislative intent.

Memo to the File

January 21, 1985

276-4176

Theda Pittman, Executive Director
Public Offices Commission

Legislative History;
Campaign Disclosure

The following summary covers the major Legislative action concerning the Commission beginning in 1980. It is my understanding that prior to this time, bills which amended the disclosure laws were proposed, in response to court decisions or Commission request, by those who had helped establish the disclosure laws.

In 1980 Senator Glenn Hackney, on the floor of the Senate, successfully amended House Bill 230 dealing with initiative signatures so that AS 15.13 was abolished. The House declined the amended version and Governor Hammond vetoed FCCS HB 230 which had been frantically worked out in the remaining days of the Session and contained amendments to all three of the disclosure laws. The changes to Campaign Disclosure reporting deadlines which eliminated 30 Day Pre-election reports were highly objectionable and it appeared that reducing the complexity of reports, rather than the number, would be more helpful to campaigns without undermining the intent of disclosure.

In 1981, Senator Kelly, hoping to salvage the positive work of the free conference committee, introduced SB 167 which was a duplicate of the vetoed bill. The Commission worked with Senate State Affairs and Senate Judiciary on committee substitutes which contained only amendments to AS 15.13, but the bill was not sent to the Senate floor.

At the beginning of the 1982 Session, the Commission first recommended that the contribution limitation be raised to $2,000 and that both contributions and expenditures be itemized on reports only if they exceeded $250. Senate Rules agreed to incorporate the new recommendations into a rules substitute. CSSB 167 (Rls) am passed the Senate with a provision that a successful candidate must first be convicted of a misdemeanor violation before the election was voided by the Division of Elections. (In the fall of 1981 the Commission had petitioned the Supreme Court to void the election of Fairbanks municipal candidate Joe Marshall, but the court's decision to do so did not occur until the fall of 1982.) On the House side, the State Affairs committee chaired by Ray Metcalfe with Abood, Fanning, Martin and Mike M. Miller as members, produced a committee substitute which abolished the Commission; made the Director of Elections responsible for AS 15.13; made the Commissioner of Administration responsible for AS 24.45 and AS 39.50; and made Libertarians a political party under the provisions of AS 15.13.

The House Judiciary Committee Substitute removed only the section making limited political parties exempt from the contribution limitation and the bill was never put on the House floor. A House Bill, sponsored by Rep. Fred Brown, which specified that a candidate convicted of a misdemeanor could be removed from office did pass, repealing AS 15.13.120(b) and adding subsections (f) through (h).

File Memo: Campaign Disc.
Legislative History
January 21, 1985

In 1983 the Commission decided that it would continue to support an increase in the contribution limitation and in the threshold for disclosing contributors' names, but would not push changes to expenditure reporting based on the suggestions of experienced treasurers. Rep. Uehling introduced HB 165 which deleted the 7-Day pre-election reporting deadline, but indicated a willingness to work with alternate proposals which the Commission might suggest. Subsequent versions included the $250 disclosure threshold but increasing the limitation was not addressed.

The House Committee Substitute was amended on the floor of the House to delete the requirement to list occupation/employer of contributors and it passed. Senate State Affairs restored the requirement and the bill went to Senate Finance where an amended was added, without testimony, which exempted dentists, morticians, doctors, pharmacists, and veterinarians from reporting clients or customers when filing a Conflict of Interest Statement. The Governor's veto of SCS CSSSHB 165(Fin) was supported by the Commission.

In 1984 Senate Rules introduced SB 425, an Administration bill, which raised the contribution limitation to $2,000, raised the threshold or disclosing contributor names to $250, and repealed unconstitutional thresholds on expenditures by candidates. Senate State Affairs deleted the $2,000 limitation change and the bill went to Senate Finance.

In Finance, Senators Vic Fischer and Joe Josephson discussed a proposed amendment reversing the prohibition against expenditures before filing and requiring those who made such expenditures to report as though they were candidates. The Commission supported the proposed amendment. Senate Finance took no action on any version of the bill. Senators Faiks, Ferguson and Sackett expressed the view that a declaration should be filed before making campaign expenditures. The bill did not go to the Senate floor.

Public Offices Commission
Legislative Recommendations for Campaign Disclosure
August, 1984

1. Increase contribution limitation in AS 15.13.070(a) to a maximum of $2,000.

Rationale - Inflation is the simplest and most direct explanation. In addition, allowing contributions in larger amounts may simplify reports and make it somewhat easier to track large contributors. The issue of whether its appropriate for a campaign to accept $2,000 contributions should be largely left up to the campaigns and the voters.

2. Increase threshold for disclosure of itemized information about contributors to $250.

Rationale - The first $100 of an individual's contribution or the first $200 of a couple's contribution is rebated by the state under the political contribution credit. The ever-increasing size of state campaigns makes contributions of $250 or less almost neglible in terms of potential influence. The burden on the campaigns is not justified in terms of the goal of public information on the most significant contributors.

3. Reverse "expenditures before filing" prohibition and require that those who act like candidates are subject to AS 15.13 even though they've not filed a declaration of candidacy.

Rationale - The original prohibition against pre-filing expenditures (except for personal travel and opinion polls) was germaine to the limitation on expenditures which has subsequently been determined to be unconstitutional. In fact, it is almost impossible to enforce a prohibition on pre-filing expenditures especially since incumbents are not precluded from using campaign surpluses for office expenses or personal income. Public access to information about campaigns and the potential candidates themselves would be better served by allowing campaign expenditures before filing, but requiring that they be reported at year-end even though the individual has not filed for office at year-end.

4. Consolidate and expand the requirements of group registration (AS 15.13.050) with the concept of controlled groups [AS 15.13.130(3)]. Require more detail on group registration and require annual renewal if group contributors are to be eligible for political contribution credits. Require groups which employ lobbyists to segregate their AS 15.13 funds from their AS 24.45 funds to assure that political contribution credits are not used to lobby. Establish civil penalties for failure to update registration on an annual basis.

Rationale - The two major types of groups in Alaska (PACs and political party subdivisions) are expanding their activity at a substantial rate. Although Alaska's PAC phenomena doesn't approach that in federal elections, it is clear that the trend toward more and larger groups is irreversible. AS 15.13's requirements for groups are primitive and do not give the Commission the authority it needs to assure that groups disclose the relevant information. Particularly frustrating is the lack of ability to prevent PACs or organizations which employ lobbyists from subsidizing