

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672  
6674 SENATE STATE AFFAIRS

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official without benefit of the oath so long as the official states, in writing, that the affidavit is signed under penalty for perjury; or

(2) pay, within 30 days after receipt of the assessment notice described in (c) or (d)(2) of this section, the civil penalty assessed.

(f) If a lobbyist or employer of a lobbyist subject to a civil penalty assessment for the late filing of a report refuses, or fails, within the time required, to submit an affidavit or make payment, then commission staff will refer the matter to the attorney general for appropriate action. The commission will not hear an appeal if an affidavit is not filed within the time required.

(g) An affidavit filed with the commission will be considered at the next regular meeting of the commission. If a lobbyist's or employer of a lobbyist's appeal is

(1) denied by the commission, commission staff will notify the lobbyist or employer of a lobbyist of its decision within 15 days, and require that the civil penalty originally assessed be paid within 30 days after the date of the letter containing notification of the commission's decision; or

(2) accepted by the commission, commission staff will notify the lobbyist or employer of a lobbyist of its decision within 15 days, informing him or it that the civil penalty assessment has been waived and that the matter is considered closed; or

(3) accepted, in part, by the commission, commission staff will notify the lobbyist or employer of lobbyist of its decision within 15 days, and require that the reduced civil penalty assessment be paid within 30 days after the date of the letter containing notification of the commission's decision.

(h) a lobbyist or employer of a lobbyist may appeal the commission's decision to deny or partially accept his reasons for lateness to the superior court within 30 days after his receipt of the notice under Rule 45 of the Appellate Rules of the Alaska Court System. If no appeal is made within 30 days and no payment is made, the matter will be referred to the attorney general for appropriate action.

(i) If, upon review of a report or registration, the commission's staff finds substantial or continuous noncompliance with AS 24.45 or a provision of this chapter, the matter must be brought to the commission for review. The commission, will, in its discretion, reduce or waive

the initial civil penalty, uphold the initial civil penalty, increase the amount of the initial civil penalty to an amount not exceeding the maximum in AS 24.45.141, or instruct its staff to begin a preliminary investigation into the matter. (Eff. 7/22/78, Reg. 67; am 5/14/80, Reg. 74; am 5/24/81, Reg. 78)

Authority: AS 24.45.021(b)  
AS 24.45.041  
AS 24.45.051  
AS 24.45.061  
AS 24.45.081  
AS 24.45.131(a)(1)  
AS 24.45.141

2 AAC 50.510. PERSONS EXEMPT FROM REGISTERING AND REPORTING AS A LOBBYIST. Repealed 4/28/79.

2 AAC 50.511. REGISTERING AND REPORTING BY A REPRESENTATIONAL LOBBYIST AND HIS EMPLOYER. (a) An individual who attempts to influence legislative or administrative action, and receives only reimbursement for his travel and personal living expenses, is considered a representational lobbyist. "Representational lobbyist" means that the individual is not employed by the person or group on whose behalf he is lobbying and receives no salary, fee, retainer, or any economic consideration whatsoever, other than reimbursement of travel and personal living expenses, for his services as a lobbyist. A representational lobbyist need not submit reports pursuant to AS 24.45.051, but must register his representation on a form prescribed by the commission. "Personal living expenses" is considered to be an amount equal to the per diem currently allowed by the Administrative Manual of the State of Alaska. "Travel" means the cost of traveling to the capital city or the location of official proceedings of standing, interim, or special legislative or administrative committees or agencies.

(b) The person or group which reimburses a representational lobbyist for his expenses must register and report as the employer of a lobbyist in accordance with the requirements of AS 24.45.061 and 2 AAC 50. (Eff. 4/28/79, Reg. 70)

Authority: AS 15.13.030(10) AS 24.45.061  
AS 24.45.021(b) AS 24.45.171(8)  
AS 24.45.031(a)(1)

**2 AAC 50.512. FILING A ZERO REPORT.** Each lobbyist or employer of a lobbyist required to file a report of his or her activities in accordance with AS 24.45 and this chapter shall report in accordance with the reporting periods set forth in AS 24.45.081, regardless of the amount of the expenditures made or payments received, for so long as the lobbyist or the employer of a lobbyist remains registered. In the absence of any reportable lobbying activity during a reporting period, a lobbyist or the employer of a lobbyist shall certify that no expenditures were made or payments received by submitting a zero report for that period. (Eff. 4/28/79, Reg. 70)

Authority: AS 15.13.030(10) AS 24.45.061  
AS 24.45.021(b) AS 24.45.081  
AS 24.45.051

**2 AAC 50.513. AGENCY ENFORCEMENT OF ADMINISTRATIVE LOBBYING ACTIVITIES.** For the purpose of enforcing AS 24.45.171(1) and 2 AAC 50, reportable administrative lobbying does not include those attempts to influence

(1) a proceeding or action to determine the rights or duties of a person under existing laws, regulations, or policies;

(2) a proceeding involving the issuance, amendment, or revocation of a permit, license, or entitlement for use;

(3) a proceeding or action to enforce compliance with existing law or to impose sanctions for violations of existing law;

(4) a proceeding at which an action is taken involving the purchase or sale of property, goods, or services by the agency;

(5) a proceeding at which an action is taken awarding a grant or contract;

(6) a proceeding or action involving the issuance of, or ensuring compliance with, a legal opinion; and

(7) a proceeding or action to establish or enforce the terms and conditions of a collective

bargaining agreement. (Eff. 4/28/79, Reg. 70; am 5/14/80, Reg. 74)

Authority: AS 15.13.030(10)  
AS 24.45.021(b)  
AS 24.45.171(1)

**2 AAC 50.515. REGISTERING AND REPORTING BY A BUSINESS ENTITY RETAINED TO LOBBY.** (a) A firm, corporation, or other business entity which is retained for the purpose of influencing legislative or administrative action shall register as required by AS 24.45.041, on a form prescribed by the commission, stating the name of the business entity and, in addition, the names of any members, employees, or agents of the business entity who will be assigned to lobby by the business entity on behalf of the employer.

(b) A business entity as described in (a) of this section shall report on a form prescribed by the commission and need only report in the aggregate the information required by AS 24.45.051 for all members, employees, or agents assigned to lobby by the business entity on behalf of the employer. The individual members, employees, or agents of the business entity who have been assigned to lobby need not file separate reports with the commission. However, individual records must be maintained for each member, employee or agent assigned to lobby by the business entity and must be available to the commission upon request. (Eff. 12/29/77, Reg. 64)

Authority: AS 24.45.021(b)  
AS 24.45.041  
AS 24.45.051

**2 AAC 50.520. REGISTERING AND REPORTING BY THE EMPLOYER RETAINING A BUSINESS ENTITY AS A LOBBYIST.** (a) Any person retaining a firm, corporation, or other business entity as a lobbyist for the purpose of influencing legislative or administrative action shall file a statement as required by AS 24.45.061(a), on a form prescribed by the commission, stating the name of the business entity retained to lobby and, in addition, the names of those members, employees, or agents of the business entity who will be assigned to lobby on behalf of the employer.

(b) An employer of a lobbyist as described in (a) of this section shall report on a form prescribed by the commission the information required by AS 24.45.061(b). The employer need file only one report covering all lobbying activities for the business entity retained and need not file a separate report for each of the members, employees, or agents assigned to lobby by the business entity on behalf of the employer. (Eff. 12/29/77, Reg. 64)

Authority: AS 24.45.021(b)  
AS 24.45.061

**2 AAC 50.525. ASSOCIATIONS AS EMPLOYERS OF LOBBYISTS.** (a) When a lobbyist is employed by a bona fide association, including any bona fide business, trade union, or membership organization, association or society, that association is an employer of lobbyist. The members of the association are not employers of that lobbyist under AS 24.45.061(a) merely because of that membership and the names of the members need not be reported.

(b) Dues or similar payments made by any person for membership in a bona fide association, including any bona fide business, trade union, or membership organization, association or society, some portion of which is used to influence legislative or administrative action, need not be included for the purpose of determining whether a person must file reports pursuant to AS 24.45.061(b).

(c) For purposes of (a) and (b) of this section, "bona fide association," including any bona fide business, trade union, or membership organization, association or society, means

(1) an association certified by an officer of the association as having legal status as a corporation or partnership;

(2) an association certified by an officer of the association as operating on the dues of its members, with no one member paying in excess of 25 percent of the total paid by all members;

(3) an association certified by an officer of the association as operating on the dues of its members, having a sliding dues-assessment scale under which no member exceeds an allotted assessment by 25 percent solely for the purpose of supporting lobbying activities, unless

that member's name is reported to the commission; or

(4) an association certified by an officer of the association as having annual expenditures for administrative and legislative lobbying, as based on the previous year's experience or current year's estimate, which do not equal or exceed 50 percent of its total expenditures for the year.

(d) The commission will in its discretion determine, on a case-by-case basis, the reporting requirements and procedures pursuant to AS 24.45 for those associations not qualifying for the exemptions under (a) and (b) of this section. (Eff. 12/29/77, Reg. 64; am 10/18/81, Reg. 80)

Authority: AS 24.45.021(b) AS 24.45.071  
AS 24.45.061 AS 24.45.131

**2 AAC 50.530. REPORTING ON THE ACCRUAL BASIS BY THE LOBBYIST.** For the purposes of filing reports required by AS 24.45.051, the lobbyist shall report all costs incurred and income earned during the reporting period, whether or not actual cash payments and receipts have been made or received. (Eff. 12/29/77, Reg. 64)

Authority: AS 24.45.021(b)  
AS 24.45.051

**2 AAC 50.535. REPORTING ON A CASH BASIS BY THE EMPLOYER OF LOBBYIST.** Repealed 2/22/79.

**2 AAC 50.536. REPORTING ON THE ACCRUAL BASIS BY THE EMPLOYER OF LOBBYIST.** For the purpose of filing reports as required by AS 24.45.061(b), the employer shall report the date and amount of all payments made, or costs incurred, for the purpose of influencing legislative or administrative action during a reporting period. When reporting food and beverage on the accrual basis, it is not necessary to list the date and amount of each item charged to the employer. In such instances, the amount of payments made or incurred by the employer to each vendor during the reporting period must be listed in the aggregate. (Eff. 2/22/79, Reg. 69)

Authority: AS 15.13.030(10)  
AS 24.45.021(b)  
AS 24.45.061(b)  
AS 24.45.171(9)

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

Authority: AS 24.45.021(b)

AS 24.45.061(b)(3) and (6)

AS 24.45.171(10)(A),(B),(D)  
and (E)

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

Authority: AS 24.45.021(b)

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

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

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

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

material which is submitted as part of the record.

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

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

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

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

influencing legislative or administrative action as defined in AS 24.45.171(1), (6), (7) and this chapter; when a person becomes a lobbyist upon meeting the tests of this section, he must register in accordance with AS 24.45.041 and must report in accordance with AS 24.45.051 and 2 AAC 50. (Eff. 12/29/77, Reg. 64)

Authority: AS 24.45.021(b)

AS 24.45.041

AS 24.45.051

AS 24.45.061(b)

AS 24.45.171(1),(6),(7),(8)(A),  
(10)(B),(11) and (12)

## ARTICLE 5. GENERAL PROVISIONS

### Section

905. Advisory opinions

910. Availability of reports filed with the commission

920. Definitions

**2 AAC 50.905. ADVISORY OPINIONS.** (a) A person or group may request an advisory opinion, concerning AS 15.13, AS 39.50, AS 24.45, or this chapter.

(b) Each advisory opinion request must describe a specific transaction or activity that the requesting person or group is presently engaged in, or intends to undertake in the future. Advisory opinion requests must include a complete description of all relevant facts. Requests posing a hypothetical situation, or regarding the activities of third parties, will not be considered by the commission staff.

(c) The commission staff shall review all requests for advisory opinions submitted under this section. If the staff determines a request is incomplete or does not qualify for consideration under (a) and (b) of this section, it shall notify the requesting person or group and specify the deficiencies in the request.

(d) Advisory opinion requests and advisory opinions are public records.

(e) The commission staff shall issue a proposed advisory opinion approving or disapproving of the activity, and may make other recommendations to the commission.

(f) The commission will review the proposed advisory opinion and will, in its discretion, review written or oral comments by any person, or any other relevant evidence. The commission will approve, disapprove, or modify the proposed advisory opinion. The commission will approve an advisory opinion by the affirmative vote of at least four members, or else the advisory opinion will be considered disapproved.

(g) An advisory opinion rendered by the commission may be relied upon to the extent that commission staff may not commence a preliminary investigation under 2 AAC 50.390(i), 2 AAC 50.460, or 2 AAC 50.507(i) of

(1) any person involved in the specific transaction or activity with respect to which an advisory opinion approving of the activity was rendered.

(2) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which an advisory opinion was rendered.

(h) The commission will, in its discretion, reconsider an advisory opinion at any time upon the motion of a commissioner who voted with the majority that originally approved the opinion, and if the commission adopts the motion to reconsider by the affirmative vote of at least four members. Adoption of a motion to reconsider vacates the advisory opinion to which it relates. Actions taken in good faith reliance by the requesting party before they receive written notice of reconsideration may not be the subject of a preliminary investigation under 2 AAC 50.390(i), 2 AAC 50.460, or 2 AAC 50.507(i). (Eff. 1/4/86, Reg. 97)

Authority: AS 15.13.030

**2 AAC 50.910. AVAILABILITY OF REPORTS FILED WITH THE COMMISSION.** Except as provided under 2 AAC 50.351(d), copies of any report required to be filed with the commission may be obtained at cost. (Eff. 5/16/76, Reg. 58; am 1/4/86, Reg. 97)  
 Authority: AS 15.13.030(10) AS 39.50.020(b)  
 AS 15.13.040(f) AS 39.50.050(c)  
 AS 15.13.110(c)

**2 AAC 50.920. DEFINITIONS.** In this chapter, "commission" means the Alaska Public Offices Commission. (Eff. 5/16/76, Reg. 58)  
 Authority: AS 15.13.020(a)  
 AS 15.13.030(10)

## CHAPTER 55. PUBLIC BROADCASTING COMMISSION

**Editor's Note:** In light of the Executive Order No. 50 (1981) relocation of the Alaska Public Broadcasting Commission from the Department of Education to the Department of Administration, the commission's regulations have been relocated from 4 AAC 63 to 2 AAC 55, as of Register 1 (January 1983). The history notes under each section in the new location carry forward the history from the old location.

### Section

10. Commission goals
20. Financial support
30. Qualified corporations
40. Requirements of qualified corporations
50. Noncompliance
60. Requirements for institutional licensees to receive financial support
70. Commission designee
80. Definitions

**2 AAC 55.010. COMMISSION GOALS.** The goals of the commission are to

(1) assist in the establishment and support of public broadcasting facilities in the state in order to provide the people of Alaska with the opportunity to

(A) make informed decisions as participants in local, state, and national governments;

(B) understand complex issues in both the private and public sectors;

(C) further their general education, welfare, health, safety, cultural enrichment, and entertainment;

(D) understand in detail the problems, needs, and strengths of their local communities and encourage them to participate in solving those problems, meeting those needs, and celebrating those strengths; and

(E) have access to public broadcast media.

(2) provide Alaskans with the goals and objectives of public broadcasting as defined in the Public Broadcasting Act of 1967 (47 USC § 396) and the Carnegie Commission Report. (Eff.

9/1/73, Reg. 47; am 6/24/79, Reg. 70; am 7/10/83, Reg. 87)

Authority: AS 44.21.264  
AS 44.21.266  
AS 44.21.268

**2 AAC 55.020. FINANCIAL SUPPORT.** The commission will, in its discretion, make grants of funds and property to nonprofit corporations which use the funds or property to establish and operate public broadcasting stations in accordance with the provisions of this chapter, and with the understanding that all property purchased with commission-granted money reverts to the commission if the nonprofit corporation is dissolved, or if the broadcast facility declares a surplus. (Eff. 9/1/73, Reg. 47; am 6/24/79, Reg. 70)

Authority: AS 44.21.264  
AS 44.21.266

**2 AAC 55.030. QUALIFIED CORPORATIONS.** A corporation is qualified to receive funds and properties from the commission and to establish and operate public broadcasting facilities in this state if

(1) the corporation is organized as a nonprofit organization under AS 10.20 and is qualified as tax exempt by the United States Internal Revenue Service; and

(2) the corporation's articles of incorporation provide for

(A) a board of directors consisting of a minimum of five members representative of the geographic area and population served by the facility;

(B) a plan for rotation of membership on the board of directors among the people served by the facility;

(C) an agent of the commission to be a nonvoting, ex-officio member of the board of directors;

(D) all meetings of the board of directors to be open to the public;

(E) the giving of reasonable notice to the public of board of directors meetings;

(F) board of directors meetings to be held at least quarterly on a specified day of specified months;

(G) a prohibition against the use of proxies at board of directors meetings, however proxies may be used to establish a quorum at membership meetings of the corporation;

(H) any action taken at a board of directors meeting which is not a public meeting to be void;

(I) all meetings to be consistent with the provisions of AS 44.62.310 and 44.62.312 regarding public meetings, as if the qualified corporation where a governmental entity subject to AS 44.62.310 and 44.62.312; and

(J) a prohibition against allowing any employee of the corporation to be a board member. (Eff. 9/1/73, Reg. 47; am 6/24/79, Reg. 70; am 7/10/83, Reg. 87)

Authority: AS 44.21.264  
AS 44.21.266  
AS 44.21.268

**2 AAC 55.040. REQUIREMENTS OF QUALIFIED CORPORATIONS.** If a corporation qualifies under 2 AAC 55.030, it shall then

(1) provide the commission, for its review and comment,

(A) a statement of objectives responsive to the needs of the area served by the facility;

(B) a schedule of proposed programs that would meet identified objectives as described in (A) of this paragraph;

(C) proposed position descriptions, staff chart, personnel policies, and salary schedules; and

(D) a proposed budget showing all anticipated sources of income and objects of expenditures;

(2) agree to

(A) submit to the executive director of the commission, for review and comment, the

# Municipality of Anchorage



JIM BARNETT  
Assemblyman  
10050 Prospect Drive  
Anchorage Alaska 99516

P.O. BOX 196650  
ANCHORAGE, ALASKA 99519-6650  
(907) 264-4311

January 15, 1990

Senator Pat Fourchot  
Representative David Finkelstein  
P. O. Box V  
Juneau, AK 99811

Dear Pat and David:

Recently I was invited, along with other persons holding elective office in the State, to comment on proposed regulations now being contemplated by the Alaska Public Offices Commission. My reply did not concentrate on the issues raised by the Commission, but instead expounded upon the significant abuses which exist in the current law.

In recent conversations with AFOC staff, they indicated that recommendations about these abuses needed to be directed to the Legislature, as their are apparently bills being authored by you both for consideration this session.

As a result, I recommend changes to AS 15.13.070(a) to eliminate the exemption of political parties and their subdivisions from the \$1,000 per year campaign contribution limitation. If such a change is considered too sensitive in the highly charged partisan atmosphere surrounding legislative and statewide races, I recommend at least that the exemption be eliminated for non-partisan races.

The best example I can give is from Assembly races from South Anchorage. In both campaigns that I have been involved, and the campaigns of Assemblyman Evans, our opponents have received substantial monetary and in-kind contributions from the Republican Party and its subdivisions--substantially in excess of \$1000! This year, for example, my opponent received \$1,500 from the Republican Party and was the beneficiary of a last-minute slur brochure

paid for by District 3 Republicans valued at another \$2,239.80. (They called me a "Democrat attorney!")

I received no contributions from the Democratic Party, or its subdivisions, and did not solicit any.

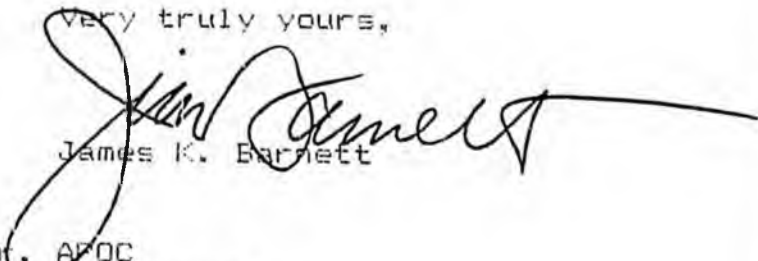
It is unclear to me why the parties and their subdivisions are afforded this exemption, since they seem to be the most excessive in their political chicanery. Nonetheless, as an Anchorage Assemblyman, it is problematic to me whether parties should be permitted to participate at any level in non-partisan, Municipal races. Assuming for the sake of argument that some level of participation by the parties in non-partisan races should be permitted, I strongly recommend that they bear the \$1,000 limit like everyone else.

This loophole in the law is, in my view, compounded by permitting unlimited contributions to political parties. A substantial precedent was achieved by APOC with the VECO employee donation scheme utilized to funnel large sums to certain candidates several years ago. It seems that VECO would have been within its rights under current law to have those funds laundered through the Republican Party to those same favored candidates, and the \$1,000 limit would have been inapplicable! Certainly the Legislature must close this loophole as well.

I would be grateful for your consideration and support of this change. If you deem it advisable, I will assist in drafting and/or advocacy of this position before the Legislature this session.

By copy of this letter to Jean Ruppert, Assembly Budget Analyst, I ask that she prepare an Assembly Resolution to obtain Anchorage Assembly support for the elimination of the exemption for political parties in non-partisan races.

Very truly yours,

  
James K. Barnett

cc: Ms. Karla Forsythe, Director, APOC  
Ms. Jean Ruppert, Assembly Budget Analyst

STATE OF ALASKA  
THE LEGISLATURE

FOUCHY STATE CAPITOL  
JUNEAU ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 16, 1990

SUBJECT: Meaning of "Nonpartisan Informational Purposes"  
(CSSB 384(SA))

TO: Senator Pat Pourchot  
Chair, Senate State Affairs Committee

FROM: David R. Dierdorff *D. R. Dierdorff*  
Revisor of Statutes

Enclosed is the redraft you requested.

You have also asked for a brief discussion of the probable judicial interpretation of the phrase "nonpartisan informational purposes," used in sec. 4 of the draft. The terms "nonpartisan" and "informational" both have commonly accepted meanings, and, in the context of this legislation, those meanings are reinforced by the prohibition against the use of public funds for advocacy purposes. I am confident that a court would look at the communication as a whole, both its content and the manner of presentation, and determine whether the communication is an objective, neutral, and factual presentation related to the ballot proposition or question. The ultimate test would be whether the primary purpose of the communication was to inform the voters or to convince them to vote a certain way. The duty of the public agency would be similar to that given the Legislative Affairs Agency under AS 15.58.020(6)(C), which requires the agency to provide a "neutral summary" of ballot propositions.

I would suggest, however, that you substitute "neutral" for "nonpartisan". Ballot questions rarely are partisan issues; that is, issues in which one political party is pitted against the other. Strictly speaking, "nonpartisan" means "nonpolitical" rather than "neutral".

DRD:lmb  
L9/125

Enclosure

STATE OF ALASKA  
THE LEGISLATURE

POUCHY STATE CAPITOL  
JUNEAU ALASKA 998  
907 465 1500

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 13, 1990

SUBJECT: Election campaigns  
(CSSB 384 (State Affairs))

TO: Senator Pat Pourchot, Chair  
Senate State Affairs Committee

FROM: Richard A. Bradley *RAB/LMB*  
Legislative Counsel

Jeanne Larson has asked that I comment on a series of questions.

I. Expenditure limitations.

Her first question asks generally about limitations on expenditures. The committee understands that there are essentially two kinds of expenditures. A candidate or a group makes "expenditures" when they pay bills incurred in an election campaign; this occurs under AS 15.13.040(a): "Each candidate shall make a full report, \* \* \* listing the date and amount of all expenditures made by the candidate . . . ."

An entirely different kind of "expenditure" report, required under AS 15.13.040(d)(2), occurs when the so-called "independent expenditure" is made. AS 15.13 confuses the issue by using the same term for each: "expenditure", but experience has taught us that they are quite different.

The problem arises when an individual or group makes an "independent expenditure." The "independent" usage arises because to qualify as such, it must be made without the supervision or control of the candidate or group; under the law, if the candidate or group participates in the decision on how to spend the "independent expenditure," it ceases to be "independent" and becomes a contribution to the candidate or group for whose benefit it was intended.

In Buckley v. Valeo, the U.S. Supreme Court held that an independent expenditure was a species of free speech protected by the First Amendment and not subject to limitation. The court used the telling analogy that permitting an individual to say anything the person wanted limited by a dollar amount was like saying that a driver can drive anywhere he wants on a single tank of gasoline. Independent expenditures are not subject to limitation by either the Congress or state legislatures.

## II. Limitations on executive spending.

Your next question asked that I comment on the extent to which the legislature could control executive spending in favor of or in opposition to a candidate or a ballot proposition or ballot question.

I believe that the legislature may (that is, has the power to) prohibit the executive branch from making expenditures of public funds in any of these areas. The more difficult question arises as to whether it wishes to-- or if it wishes to, how does it achieve it.

In the nature of things, the governor and other executive officials make political statements. In my view, this is not regrettable; it is necessary that they be free to argue their view of the development of the public policy of the state. The question that arises in my mind is whether a prohibition against the expenditure of public funds (in favor of or in opposition to a candidate or ballot proposition or ballot question) is implicated when these officials make their political statements.

I believe that it is effective to provide

The state, agencies of the state, public corporations of the state, and the University of Alaska may not use public funds of the state to support or oppose the election of a candidate. Public funds of the state . . . may not be used to urge the adoption of or the rejection of a ballot proposition or question. This . . . does not prohibit the use of public funds of the state to provide information on a public issue, including a ballot proposition or question, if the information does not advocate a particular position.

Senator Pat Fourchot  
Page 3  
February 13, 1990

III. Limitations on municipal spending.

The municipalities of the state are creatures of law; the legislature may control their actions. What it may do as to the executive it may certainly do as to municipalities.

And I include school districts within the understanding of "municipality."

If I may be of further assistance, please advise.

RAB:gc  
G13/090

STATE OF ALASKA  
THE LEGISLATURE

COPY

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907 463 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 3, 1990

SUBJECT: Election campaigns  
(CSSB 384 (State Affairs))

TO: Senator Pat Pourchot

FROM: Richard A. Bradley  
Legislative Counsel

Jeanne Larson has requested a committee substitute.

As I have advised her, I am unaware of any state that has sought to limit contributions to candidates only to those from individuals or parties, closing off PAC contributions ("groups", in Alaska). While I can only speculate on the constitutionality of seeming First Amendment free speech limitations, I do note that the Governor's bill, SSSB 231, contained just such a limitation. See Sec. 2.

Since I assume that the Attorney General's office signed off on the contents of that bill, it seems that they are prepared to defend the constitutionality of the proposition.

At that point, I have no reservations.

RAB:pl:mi  
WKP1/089

STATE OF ALASKA  
THE LEGISLATURE

COPY

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 2, 1990

SUBJECT: Election Campaigns (CSSB 384 (SA))  
TO: Senator Pat Pourchot  
FROM: Richard A. Bradley  
Legislative Counsel

Jeanne Larson has asked for a CS that would do two things that I am concerned about.

First, it would apparently set independent expenditure limits. I believe that the U.S. Supreme Court, in Buckley v. Valeo, determined that such independent expenditures were an aspect of free speech and not subject to federal or state regulation. I note that an article in "State Legislatures," a NCSL publication, agrees that independent expenditures are constitutionally protected. See the copy enclosed.

Second, I understand that the committee would like to prohibit contributions from political action committees to candidates while permitting such contributions to the support or defeat of ballot propositions or questions. I am not aware of that having been tried before and I am aware of no court decisions addressing that matter. But some language from Buckley seems to suggest that the courts may not favor the prohibition of contributions from specified segments of society.

The Act's contribution and expenditure limitations also impinge on protected associational freedoms. Making a contribution, like joining a political party, serves to affiliate a person with a candidate. In addition, it enables like-minded persons to pool their resources in furtherance of common political goals. The Act's contribution ceilings thus limit one important means of associating with a candidate or committee, but leave the contributor free to become a member of any political association and to assist personally in the association's efforts on behalf of candidates. And the Act's

YEARLY CONTRIBUTION LIMITS

	<u>Alaska</u>	<u>Other States</u>
Candidate	Unlimited	43 states: unlimited 3 states: same as individual 5 states: varies from \$5K to \$50K
Individuals (other than candidate or family)	\$1,000 per year for each elective office	Ranges from no limit in 25 states to \$60K (in MN for Gov. and Lt. Gov. in election year, down to \$150 (in MN for state Representative in nonelection year). *
Candidate's family	Same as individual	11 states: same as individual 3 states: same as candidate 31 states: unlimited 5 states: spouse unlimited
Corporations	Same as individual	20 states: prohibit 15 states: unlimited 16 states: some limitations, from \$500 to \$5K.
Labor Unions	Same as individual	8 states: prohibit 22 states: unlimited 13 states: same as corporations 6 states: some limits
PACS	Same as individual	29 states: unlimited 9 states: same as corporations 6 states: same as labor unions 4 states: some limits
Party	No limit	33 states: unlimited 8 states: some limits 4 states: same as corporations 2 states: same as unions

Note

Some states have varying limitations depending on the office, such as Minnesota. New York, for example, has different limits depending on party and bases contribution limit for state legislative races on the number of registered voters in candidate's district.

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

STATE OF ALASKA  
THE LEGISLATURE

COPY

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 2, 1990

SUBJECT: Election Campaigns (CSSB 384 (SA))  
TO: Senator Pat Pourchot  
FROM: Richard A. Bradley  
Legislative Counsel

Jeanne Larson has asked for a CS that would do two things that I am concerned about.

First, it would apparently set independent expenditure limits. I believe that the U.S. Supreme Court, in Buckley v. Valeo, determined that such independent expenditures were an aspect of free speech and not subject to federal or state regulation. I note that an article in "State Legislatures," a NCSL publication, agrees that independent expenditures are constitutionally protected. See the copy enclosed.

Second, I understand that the committee would like to prohibit contributions from political action committees to candidates while permitting such contributions to the support or defeat of ballot propositions or questions. I am not aware of that having been tried before and I am aware of no court decisions addressing that matter. But some language from Buckley seems to suggest that the courts may not favor the prohibition of contributions from specified segments of society.

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Senator Pat Pourchot  
Page 2  
February 2, 1990

contribution limitations permit associations and candidates to aggregate large sums of money to promote effective advocacy. Buckley, at 44 U.S.L.W. 4133.

The Court may not have used its terminology carefully. When it suggested that the laws then permitted individuals to become members of "political associations", I do not believe that it was only talking about parties. Permitting them to associate but, under your proposal, not to make contributions, seems too strong a limitation.

RAB:pl  
WKP1/085

Enclosure

YEARLY CONTRIBUTION LIMITS

	<u>Alaska</u>	<u>Other States</u>
Candidate	Unlimited	43 states: unlimited 3 states: same as individual 5 states: varies from \$5K to \$50K
Individuals (other than candidate or family)	\$1,000 per year for each elective office	Ranges from no limit in 25 states to \$60K (in MN for Gov. and Lt. Gov. in election year, down to \$150 (in MN for state Representative in nonelection year). *
Candidate's family	Same as individual	11 states: same as individual 3 states: same as candidate 31 states: unlimited 5 states: spouse unlimited
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PACS	Same as individual	29 states: unlimited 9 states: same as corporations 6 states: same as labor unions 4 states: some limits
Party	No limit	33 states: unlimited 8 states: some limits 4 states: same as corporations 2 states: same as unions

Note

Some states have varying limitations depending on the office, such as Minnesota. New York, for example, has different limits depending on party and bases contribution limit for state legislative races on the number of registered voters in candidate's district.

PROPOSED CS FOR SB 384  
"CAMPAIGN FINANCE REFORM"

- 1) Prohibit post-election fund-raising after December 31 following November election or 45 days after local election.
- 2) Prohibit any use of campaign funds as personal income.
- 3) Mandate closure of campaign account and disposal of surplus campaign funds by January 12 of year following election.
- 4) Limit use of surplus campaign funds to the following:
  - a) Transfer to a legislative office account; expenditures must qualify as a business expense under the IRS Code.
  - b) Donate to a charitable organization that qualifies as a charity under the IRS Code.
  - c) Transfer to an account for a future election campaign.
  - d) Return to contributors.
  - e) Donate to state general fund or to a municipality.
- 5) Prohibit a registered lobbyist from serving as a campaign treasurer or deputy treasurer or from collecting, or handling, campaign contributions for a candidate. Would not include representational lobbyists or volunteer lobbyists and would not specifically bar "solicitation" of funds.
- 6) Close the current preelection reporting gap for contributions received on days 8 and 9 before the election.
- 7) Mandate a January 31 deadline for submission of year-end reports for campaign expenditures and contributions - including disposition of campaign surpluses and amount transferred to an account for a future campaign.
- 8) Codify existing APOC procedures by exempting municipal candidates from campaign disclosure reporting if financial activity is \$1,000 or less.
- 9) Revise APOC penalties to establish civil penalty for late filing of required reports and a maximum civil penalty of \$250 for failure to properly identify who paid for a political advertisement.

Senator Pourchot  
January 29, 1990

ADDITIONAL DISCUSSION ITEMS FOR INCLUSION  
IN THE CS FOR SB 384 -  
CAMPAIGN FINANCE REFORM

- 1) Prohibition of contributions by businesses, corporations or labor unions.
- 2) Prohibition of contributions by PACs.
- 3) Limitations on contributions to and/or from political parties.
- 4) Prohibition or limitation of contributions by local or state governments.

SB 384 - ELECTION CAMPAIGNS

Proposed CS

Prohibits acceptance of post-election campaign contributions after Dec. 31 following Nov. election or 45 days after local election; immediate effective date.

Prohibits use of campaign funds as personal income.

Limits use of surplus campaign funds.

Prohibits transfer of more than \$10,000 to an account for a future election campaign.

Closure of campaign account by Jan. 12.

Disposal of surplus campaign funds by Jan. 12.

Establishes Jan. 31 deadline for submission of year-end report, including disposition of campaign surpluses and amount transferred to account for future campaign.

Prohibits lobbyist from collecting or handling campaign contributions or serving as campaign treasurer or deputy treasurer; immediate effective date.

Contributions or expenditures exceeding \$250 made within 9 days of election must be reported to commission within 24 hours (Closes reporting gap for days 8 and 9.); immediate effective date.

Exempts municipal candidates from campaign disclosure reporting if financial activity is \$1,000 or less; immediate effective date.

Existing Law

Not addressed in statute.

No restrictions.

No real restrictions because surplus can be taken as personal income.

No restriction.

No deadline.

No restrictions.

January 16 deadline for submission of year-end report.

No restrictions other than registering as campaign treasurer or deputy treasurer.

Current statute specifies money received within 7 days of election must be reported to commission with 24 hours.

Not addressed in statute. Codifies existing APOC procedures.

Allows APOC to assess up to \$250 in civil penalties for failure to properly identify a political communication; immediate effective date.

Currently a criminal violation.

Prohibits local or state use of public funds on behalf of a candidate or ballot initiative except for informational neutral purposes; subject to APOC reporting requirements; immediate effective date.

Restriction on local or state government contributions to candidates unclear - no limit on ballot measures. Local government must report to APOC; reporting requirement for state government unclear.

AMENDMENT

(1) Place a \$10,000 cap on contributions to a political party.

No restrictions.

Senator Pourchot  
February 21, 1990

SUMMARY OF CS FOR SB 384  
"ELECTION CAMPAIGNS"

- 1) Prohibits post-election contributions after December 31 following November election or 45 days after local election. (Section 2)
- 2) Prohibits any use of campaign funds as personal income. (Section 4)
- 3) Mandates closure of campaign account and disposal of surplus campaign funds by January 12 of year following election. (Section 2)
- 4) Limits use of surplus campaign funds to the following: (Section 2)
  - a) Transfer to a legislative office account; expenditures must qualify as a business expense under the IRS Code.
  - b) Donate to a charitable organization that qualifies as a charity under the IRS Code.
  - c) Transfer up to \$10,000 to an account for a future election campaign.
  - d) Return to contributors.
  - e) Donate to state general fund or to a municipality.
- 5) Mandates a January 31 deadline for submission of year-end reports for campaign expenditures and contributions - including disposition of campaign surpluses and amount transferred to an account for a future campaign. (Section 6)
- 6) Prohibits a person who has registered as a lobbyist within the last 12 months from serving as a campaign treasurer or deputy treasurer or from collecting, or handling, campaign contributions for a candidate. Would not include representational lobbyists or volunteer lobbyists and would not specifically bar "solicitation" of funds. (Section 5)
- 7) Closes the current preelection reporting gap for contributions received on days 8 and 9 before the election. Immediate effective date. (Section 7)
- 8) Codifies existing APOC procedures by exempting municipal candidates from campaign disclosure reporting if financial activity is \$1,000 or less. Immediate effective date. (Section 1)
- 9) Revises APOC penalties to establish civil penalty for late filing of required reports and a maximum civil penalty of \$250 for failure to properly identify who paid for a political advertisement. Immediate effective date. (Section 8)

- 10) Prohibits state or local government (including school districts) from using public funds to a) support a candidate or b) on behalf of a ballot initiative except for informational neutral purposes only; expenditures subject to APOC reporting requirements; immediate effective date. (Section 3)
- 11) Sections 1, 3, 5, 7 and 8 have immediate effective dates. Sections 2, 4 and 6 become effective February 1, 1991.

Proposed Amendment

- 1) Place a \$10,000 cap on contributions to a political party.

SB 384 - ELECTION CAMPAIGNS

Proposed CS

Prohibits acceptance of post-election campaign contributions after Dec. 31 following Nov. election or 45 days after local election; immediate effective date.

Prohibits use of campaign funds as personal income.

Limits use of surplus campaign funds.

Closure of campaign account by Jan. 12.

Disposal of surplus campaign funds by Jan. 12.

Establishes Jan. 31 deadline for submission of year-end report, including disposition of campaign surpluses and amount transferred to account for future campaign.

Prohibits lobbyist from collecting or handling campaign contributions or serving as campaign treasurer or deputy treasurer; immediate effective date.

Contributions or expenditures exceeding \$250 made within 9 days of election must be reported to commission within 24 hours (Closes reporting gap for days 8 and 9.); immediate effective date.

Exempts municipal candidates from campaign disclosure reporting if financial activity is \$1,000 or less; immediate effective date.

Existing Law

Not addressed in statute.

No restrictions.

No real restrictions because surplus can be taken as personal income.

No deadline.

No restrictions.

January 16 deadline for submission of year-end report.

No restrictions other than registering as campaign treasurer or deputy treasurer.

Current statute specifies money received within 7 days of election must be reported to commission with 24 hours.

Not addressed in statute. Codifies existing APOC procedures.

February 16, 1990

Page 2

Allows APOC to assess up to \$250 in civil penalties for failure to properly identify a political communication; immediate effective date.

Currently a criminal violation.

Prohibits local or state use of public funds on behalf of a candidate or ballot initiative except for informational neutral purposes; subject to APOC reporting requirements; immediate effective date.

Restriction on local or state government contributions to candidates unclear - no limit on ballot measures. Local government must report to APOC; reporting requirement for state government unclear.

#### AMENDMENTS

(1) Place a \$10,000 cap on contributions to a political party.

No restrictions.

SUMMARY OF PROPOSED CS FOR SB 384  
"ELECTION CAMPAIGNS"

- 1) Prohibit post-election contributions after December 31 following November election or 45 days after local election. (Section 2)
- 2) Prohibit any use of campaign funds as personal income. (Section 5)
- 3) Mandate closure of campaign account and disposal of surplus campaign funds by January 12 of year following election. (Section 2)
- 4) Limit use of surplus campaign funds to the following: (Section 2)
  - a) Transfer to a legislative office account; expenditures must qualify as a business expense under the IRS Code.
  - b) Donate to a charitable organization that qualifies as a charity under the IRS Code.
  - c) Transfer to an account for a future election campaign.
  - d) Return to contributors.
  - e) Donate to state general fund or to a municipality.
- 7) Mandate a January 31 deadline for submission of year-end reports for campaign expenditures and contributions - including disposition of campaign surpluses and amount transferred to an account for a future campaign. (Section 8)
- 5) Prohibit a person who has registered as a lobbyist within the last 12 months from serving as a campaign treasurer or deputy treasurer or from collecting, or handling, campaign contributions for a candidate. Would not include representational lobbyists or volunteer lobbyists and would not specifically bar "solicitation" of funds. (Section 6)
- 6) Close the current preelection reporting gap for contributions received on days 8 and 9 before the election. Immediate effective date. (Section 9)
- 8) Codify existing APOC procedures by exempting municipal candidates from campaign disclosure reporting if financial activity is \$1,000 or less. Immediate effective date. (Section 1)
- 9) Revise APOC penalties to establish civil penalty for late filing of required reports and a maximum civil penalty of \$250 for failure to properly identify who paid for a political advertisement. Immediate effective date. (Section 10)

*Include*

*Change limited (6) on p. 2 "Contributions to another candidate"*

*date change from Dec. 31*

*new*

*Change*

*new*  
10) Prohibition of campaign contributions from local or state government or Political Action Parties except for ballot measures. Requires report to APOC. Immediate effective date. (Section 4) (Conforming amendment in Section 3.)

*new*  
11) Sections 1, 9 and 10 have immediate effective dates. All other sections become effective February 1, 1991.

Proposed Amendment

- 1) Place a \$10,000 cap on contributions to a political party.
- 2) Place a \$10,000 cap on transfer of surplus campaign funds to a future campaign account.

DISCUSSION TOPICS

1. The extent to which the legislature can legally control use of public monies spent on behalf of election campaigns or in support of a ballot measure. Addressed in the 2/13/90 legal opinion.

Choices:

- a. Prohibit expenditure of public funds in support of or in opposition to a candidate, (Section 4) and/or
- b. Limit or prohibit use of public funds in support of or in opposition to a ballot proposition or question (Section 4, limits contributions)
- c. Allow use of public funds for informational purposes only, but not to advocate a particular position. (Washington law)

Other Considerations:

- Washington State adopted legislation (14 years ago) prohibiting use of public funds for partisan issues.
- APOC supports our adoption of similar measure.
  - More work intensive but easier to administer.
  - Additional funding would be needed.
- Possible veto if there is attempt to curtail Governor's ability to spend discretionary monies as he/she sees fit.

*Some candidates may have already accepted 1990 money from PACs.*

2. Extent to which Legislature can restrict contributions from PACs to candidates or on behalf of ballot measures. Addressed in 2/2/90 legal opinion:

Choices:

- Prohibit any and all PAC contributions.
- Prohibit contributions from PACs to candidates (in Sec. 4 of bill) only - not ballot initiatives.
- Keep status quo on PAC contributions
- Limit instead contributions from unions and corporations.
  - House State Affairs recently passed bill prohibiting contributions from unions and corporations, but not PACS.

Considerations:

- PACs can evade restriction by incorporating.
- Restrictions on PACs will impact unions more than corps.
- Courts may not favor the prohibition of contributions from specified segments of society.
- The A.G. signed off on Governor's bill (SB 231) so apparently is prepared to defend constitutionality of provision.

- PAC channel is way of keeping special interest money regulated and open to public scrutiny.
  - In 1988 elections, PACs money was only 8% of total received by candidates.
  - Doesn't address "independent expenditures".
4. Independent expenditures can be limited only if coupled with public funding of elections. Addressed in 2/2 and 2/13/90 legal opinions
  5. Contribution limits.

Choices:

- Limit amount contributed to political parties (proposed amendment)
- Limit amount candidate may contribute to a future campaign from surplus campaign funds (proposed amendment)

Effective dates:

Adopt immediate effective date for provision prohibiting local and state government from contributing to a candidate.

Senator Pourchot  
February 14, 1990

SB 384 - ELECTION CAMPAIGNS

<u>Proposed Changes in CS</u>	<u>Existing Law</u>
Prohibit acceptance of post-election campaign contributions after Dec. 31 following Nov. election or 45 days after local election.	Not addressed in statute.
Prohibit use of campaign funds as personal income.	No restrictions.
Limit use of surplus campaign funds.	No real restrictions because surplus can be taken as personal income.
Closure of campaign account by Jan. 12.	No deadline.
Disposal of surplus campaign funds by Jan. 12.	No restrictions.
Establishes Jan. 31 deadline for submission of year-end report, including disposition of campaign surpluses and amount transferred to account for future campaign.	January 16 deadline for submission of year-end report.
Prohibit lobbyist from collecting or handling campaign contributions or serving as campaign treasurer or deputy treasurer.	No restrictions other than registering as campaign treasurer or deputy treasurer.
Contributions or expenditures exceeding \$250 made within 9 days of election must be reported to commission within 24 hours. (Closes reporting gap for days 8 and 9.)	Current statute specifies money received within 7 days of election must be reported to commission with 24 hours.
Exempts municipal candidates from campaign disclosure reporting if financial activity is \$1,000 or less.	Not addressed in statute. Codifies existing APOC procedures.
Allows APOC to assess up to \$250 in civil penalties for failure to properly identify a political communication.	Currently a criminal violation.

Prohibits campaign contributions by PACs, except for ballot measures which must be reported to APOC.

PACs may contribute up to \$1,000/candidate/year; no limit on ballot measures. Must report to APOC.

Prohibits campaign contributions by local or state government, except for ballot measures which must be reported to APOC.

Restriction on local or state government contributions to candidate unclear - no limit on ballot measures. Local government must report to APOC; reporting requirement for state government unclear.

#### AMENDMENTS

- (1) Place a \$10,000 cap on contributions to a political party.
- (2) Place a \$10,000 cap on transfer of surplus campaign funds to future campaign account.

No restrictions.

No restrictions.

ALASKA  
STATE LEGISLATURE  
**MEMORANDUM**

DATE: February 17, 1990

FROM: Senator Pourchot

RE: Committee Substitute for  
SB 384

The Senate State Affairs Committee will hold a hearing on Wednesday, February 21 1:30 p.m. in the Beltz Room, 211 Capitol Building. Enclosed: copy of the latest draft committee substitute for SB 384 and a summary reviewing this bill in comparison to current law.

DRAFT

Senator Pourchot  
January 17, 1990

SUMMARY

SB 388, an Act relating to election campaigns, addresses important policy questions.

1. Restricts allowable uses of campaign account funds to the following:
  - a. Prohibits the taking of contributions as personal income.
  - b. Campaign account funds used by a legislator for his legislative office must qualify as a business expense under the IRS.
  - c. Funds may be transferred to an account for a future election campaign.
  - d. Funds may be donated to an organization that qualifies as a charitable organization under the IRS.
  - e. Funds may be returned to contributors.
  - f. Funds may be donated to the state general fund or a municipality.
  - ?- g. Funds may be contributed to another candidate or group by making independent expenditures.
2. Prohibits acceptance of campaign contributions after December 31 of the year in which the candidate sought office. *Should I include the 45-day provision for Maine candidates?*
3. Requires a candidate to dispose of his/her campaign account by January 1 of the year.
4. Requires that the campaign year-end report include a report on the disposal of any campaign funds that were not spent or obligated - including campaign funds transferred to an account for a future campaign.
5. Exempts municipal candidates from campaign disclosure reporting if financial activity is \$1000 or less.
6. Establishes civil penalty of not more than \$10 a day for failure to properly identify who paid for a political advertisement and for failure to disclose the name and address of the campaign treasurer.

\*

I need to check w/ Karla on this

# Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Faiks, Vice Chairman  
Sen. Al Adams  
Sen. Tim Kelly  
Sen. Rick Uehling



P.O. Box V  
State Capitol  
Juneau, Alaska 99811

907-465-3712

## Senate State Affairs Committee

### MEMORANDUM

TO: Senate State Affairs Committee Members  
FROM: Senator Pat Pourchot  
RE: Friday, February 23 Committee Hearing  
DATE: February 22, 1990

On Friday, February 23 at 1:30 p.m. in the Beltz Room the Senate State Affairs Committee will hold a teleconference hearing on the following bills:

CS SB 384. An Act relating to election campaigns and providing for an effective date.

Continuation of Wednesday hearing. Scheduled for final action.

Proposed CS for SS SB 150. An Act establishing a senior housing office and loan program in the Department of Community and Regional Affairs; and authorizing the issuance of bonds for senior housing.

Continuation of Wednesday hearing, brief update.

SB 416. An Act relating to the office of the ombudsman and to the powers and duties of the ombudsman.

This bill was introduced by the Legislative Council at the request of Duncan Fowler, State Ombudsman. The major provisions are to keep reports to agencies confidential while the agencies prepare responses to preliminary ombudsman reports; to ensure the ombudsman's access to confidential records; and general administrative changes such as requiring the appointment of a designee should the ombudsman become incapacitated, formalizing the office's relationship with the LAA and clarifying how school districts could opt for ombudsman services.

SJR 61. Relating to persons immigrating to and requesting asylum in the United States. Sponsored by Senator Faiks, this resolution urges the U.S. Immigration and Naturalization Service to allow political asylum to persons from Eastern Bloc countries, regardless of date of application and to not revoke political asylum already granted to persons from those Eastern Bloc countries of Hungary, Poland, East Germany, the Union of Soviet Socialist Republics, Czechoslovakia, Bulgaria and Romania. A copy of the companion house bill, CS HJR 63 is attached, showing the amendments.

# Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Faiks, Vice Chairman

Sen. Al Adams

Sen. Tim Kelly

Sen. Rick Uehling



P.O. Box V  
State Capitol  
Juneau, Alaska 99811

907-465-3712

## Senate State Affairs Committee

### SUMMARY

SB 384, an Act relating to election campaigns, addresses important policy questions.

1. Restricts allowable uses of surplus campaign account funds to the following:
  - a. Prohibits the taking of contributions as personal income.
  - b. Campaign account funds used by a legislator for his legislative office must qualify as a business expense under the IRS Code.
  - c. Funds may be transferred to an account for a future election campaign.
  - d. Funds may be donated to an organization that qualifies as a charitable organization under the IRS Code.
  - e. Funds may be returned to contributors.
  - f. Funds may be donated to the state general fund or a municipality.
2. Prohibits acceptance of campaign contributions after December 31 of the year in which the candidate sought office.
3. Requires a candidate to dispose of his/her campaign account by January 1.
4. Requires that the campaign year-end report include a report on the disposal of any campaign funds that were not spent or obligated - including campaign funds transferred to an account for a future campaign.
5. Codifies existing procedures by exempting municipal candidates from campaign disclosure reporting if financial activity is \$1000 or less.
6. Establishes civil penalty for failure to properly identify who paid for a political advertisement and for failure to disclose the name and address of the campaign treasurer.
7. Closes preelection reporting gap for contributions received on days 8 and 9 before the election.

# Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Faiks, Vice Chairman

Sen. Al Adams

Sen. Tim Kelly

Sen. Rick Uehling



P.O. Box V  
State Capitol  
Juneau, Alaska 99811

907-465-3712

## Senate State Affairs Committee

### MEMORANDUM

TO: Senate State Affairs Committee Members  
FROM: Senator Pat Pourchot  
RE: Wednesday, February 14 Committee Hearing  
DATE: February 13, 1990

On Wednesday, February 14 at 1:30 p.m. in the Beltz Room the Senate State Affairs Committee will hold a work session on the following bill:

Proposed CS SB 384. An Act relating to election campaigns.

At the January 29th hearing, our committee reviewed a list of provisions for a proposed CS. I have incorporated many of the committee's suggestions into the attached CS. CS SB 384 includes the following:

Provisions with February 1st, 1991 effective date:

prohibits use of campaign funds as personal income, provides account closure date and limits on use of surplus campaign funds, restricts registered lobbyists role in campaigns, prohibits post-election contributions after certain dates, prohibits contributions from local or state government or PACs except for ballot measures.

Provisions with immediate effective dates:

establishes civil penalties for failure to properly identify who paid for political advertising and/or information on campaign treasurer, closes preelection reporting gap, exempts municipal candidates with financial activity of \$1000 or less.

1/12/90

1. Ashley Reed (279-5350) will not be testifying but would like to pass along a recommendation: Require all contributions be reported, for the purpose of catching "organized contributions" i.e. VECO.

2. re: SB 384 Jim Crawford (563-0700) will be traveling on Wed. but has comments for Pat's attention: He would be prepared to support this bill if the political parties are included as potential recipients and asks that a careful analysis of Section 2 C.6 (line 20,21,22 of page 2) be completed by committee and eliminated if it increases level of expenditure. Feels this is a very dangerous provision.

3. SB 231: Pat Smutz (463-5422) feels the Gov's bill is targeted at labor unions and businesses but in reality only impacts unions. His feeling is that the business sector has a multitude of wealthy executives who can and do make individual contributions. Unions do not have this core of people and unions are strictly regulated by federal government whereas businesses are not. Feels this bill directly hurts democrats and helps republicans.

4. Jeanne has requested the fiscal note for SB 384

Contacted re: hearing \*=will testify

Rep. Finkelstein: will attend

Rep. Brown

John Pugh; AK. Demo. Party

John Shively

AKPIRG

Ashley Reed

John Shively

Av Gross; Av out of town for 2 weeks. Left info for Susan.

Jim Crawford: Repubs: see comments above. Will contact Cliff Groh to request he testify.

Don Mitchell; may be in Juneau on the 16th and will stay for hearing if it works out. He reminds Pat to look forward to seeing him!

Pat Smutz: Won't be testifying (we probably won't see any union testimony) but has comments on SB 231. see above.

\*Mary Halloran: OMB will testify

CAMPAIGN FINANCING:

CS SB 384, (Pourchot) An act relating to Campaign Financing and providing for effective dates.

SB 435, (Coghill) An Act relating to election campaigns and providing for an effective date.

SS SB 231, (Governor's bill), An Act relating to election campaign financing.

NOTIFIED: \* indicates will testify

\*Karla Forsythe, APOC on telephone from Anchorage.

\*Senator Coghill on SB 435

Mary Halloran, OMB

Representative Finkelstein

John Pugh

Jim Crawford

Av Gross

AKPIRG

Brooke Miles, Juneau APOC

Attorney General

NOTES;

CS SB 384: this is the ninth draft, the committee has seen 3 of the drafts. There may be some confusion, it will be difficult to know which one to refer to. The one the committee received in the blue notebook yesterday is the most recent.

CS SB 384: On the provision that prohibits acceptance of post-election campaign contributions after Dec. 31: Uehling may not like immediate effective date, according to Mike Abbott in his office.

SB 435: Coghill's office brought in volumes of papers referring to the constitutional convention, seemingly unrelated investigations by the Attorney General's office over the past 15 years and FCC rules on Political Broadcasting. I did not include in packets but he may refer to them.

CAMPAIGN FINANCING;

CS SB 384, (Pourchot) An act relating to Campaign Financing and providing for effective dates.

NOTIFIED: \* indicates will testify

Karla Forsythe, APOC on telephone from Anchorage.  
Mary Halloran, OMB  
Representative Finkelstein  
John Pugh  
Jim Crawford  
Av Gross  
AKPIRG  
Brooke Miles, Juneau APOC  
Attorney General

NOTES;

CS SB 384: this is the tenth draft, the committee has seen 4 of the drafts. The working draft for today's hearing has J-2-22-90 in the upper right hand corner and it includes the change of wording to "less than \$1000" in Section 1.(a)

# STATE OF ALASKA

STEVE COWPER, GOVERNOR

## ALASKA PUBLIC OFFICES COMMISSION

## REPLY TO:

- 2221 E. Northern Lights, Room 128  
Anchorage, AK 99508  
(907) 276-4176
- Juneau Branch Office  
Box CO  
Juneau, AK 99811-0222  
(907) 465-4864

February 14, 1990

Senator Pat Pourchot  
Pouch V  
Juneau, Alaska 99811

Dear Senator Pourchot:

It is my understanding that the Senate State Affairs Committee will be considering a proposed committee substitute for SB 384 at a work session on Wednesday, February 14, 1990.

The Alaska Public Offices Commission met by teleconference the morning of February 9, 1990, to discuss this measure (Commission members Annie Laurie Howard, Jane Behlke, Rodman Wilson, and Winston Burbank participating). The commission would appreciate your consideration of the following comments on the most recent version of the proposed committee substitute.

### Section 1

The commission favors this provision, which exempts small municipal campaigns from APOC reporting requirements.

### Sections 2 and 8

The commission supports language contained in this section which provides that contributions may not be received by state candidates after December 31 of an election year (although the commission continues to prefer an end to contributions as of election day). The commission also supports the language which requires campaign account closure on January 12, and the language in section 8 which requires a report to the commission on January 31.

With regard to the language in the proposed committee substitute which provides that post-election contributions may be received by municipal candidates until 45 days after the election, it would be helpful if this language could be amended to provide that municipal campaign accounts must be closed 60 days after the election, with an additional two weeks allowed for filing a report with APOC. This amendment would conform the procedure for closing municipal campaigns with the proposed procedure for closing state campaigns.

Senator Pourchot  
February 14, 1990  
Page 2

As you know, the commission believes that surplus campaign funds should be returned pro rata to contributors or donated to charity. The commission has no objection to providing that these funds may be transferred to a general fund. With regard to pro rata return, the commission suggests return of contributions only if the amount to be returned exceeds \$100.

The commission continues to favor a prohibition on transferring surplus funds to a future campaign or to a legislative office account. It is the commission's view that each campaign is discrete, and that contributions from one campaign should not be used to fund a future, separate campaign.

As I have previously discussed with your staff, the portion of the committee substitute which authorizes transfer of surplus funds to future campaigns parallels a similar provision in existing commission regulations (2 AAC 50.400, copy attached). The Department of Law has advised that under current law a campaign can contribute no more than \$1000 to a future or different campaign. The reasoning is that a campaign is a group controlled by a candidate, and that a group may contribute no more than \$1,000 to a candidate. Since the commission currently plans to amend its regulations in accordance with this decision, the commission has suggested that Section 2 clearly indicate the legislature's intent on this issue.

It is my understanding that the committee will discuss a proposed amendment limiting transfers to future campaign accounts to \$10,000. Although the commission opposes transfer of funds in any amount, the commission appreciates the committee's effort to provide clear legislative intent.

#### Section 3

This section clarifies that groups would be required to report independent expenditures. The commission has no comment on this section.

#### Section 4

The proposed committee substitute prohibits group contributions, but allows union or corporate contributions to candidates. The commission continues to favor a complete ban on contributions by unions, corporations and political action committees.

Additionally, the commission does not favor a proposed amendment which would limit cap contributions to political parties

Senator Pourchot  
February 14, 1990  
Page 3

at \$10,000. The commission believes that political parties should not be limited in the amount of contributions they can receive.

This section also provides that state or municipal government may not contribute to a candidate.

A majority of commission members suggest the legislature adopt broader, more specific language which would include ballot propositions (copy attached). This is the approach taken by the State of Washington.

The commission further suggests that the subcommittee consider adopting a specific penalty for violations of this ban on public funds to support a candidate. Without additional language, the applicable penalty under AS 15.13 would be criminal prosecution for a misdemeanor. This could result in incarceration of borough assemblies and other municipal or state entities, which does not seem a rational remedy. The commission proposes including language authorizing the commission to assess a penalty, including personal liability for those persons who have authorized these expenditures, in an amount up to three times the amount expended. This would give the commission the flexibility to provide a penalty which is rationally related to the type of conduct involved. This approach is not unique to APOC; a similar penalty structure has been proposed for licensees or permittees found to have violated alcoholic beverage laws (see CSSB 157).

The commission is aware that administration of a provision similar to the Washington statute, could create substantial new responsibilities for the commission. The executive director of the Washington State Disclosure Commission has indicated that a large part of his agency's activities are devoted to these issues, particularly at the local level. He estimates that out of approximately 50 issues dealt with by his agency in the course of a year, from 10 to 25 involve use of public funds. The Washington Public Disclosure Commission has undertaken a preventive approach, through providing training and information to localities to help them avoid inadvertent violations of the law. Although this approach helps avoid complaints, it is also time-consuming. Since AS 15.13 authorizes complaint investigation as well as advice and assistance, adequate funding would be critical to effective administration of such a provision in Alaska law.

#### Section 5

The commission supports this section, which prohibits use of contributions as personal income.

Senator Pourchot  
February 14, 1990  
Page 4

#### Section 6

This section restricts lobbyist participation in fundraising. The commission believes this section has been adequately narrowed.

#### Section 7

This section amends AS 15.13.080 to eliminate the reference to groups.

#### Section 9

The commission supports the language in section 9, which would close the two day pre-election reporting gap.

#### Section 10

The commission supports the language in this section, which would provide a \$250 maximum civil penalty for failure to properly identify political communications, while retaining the criminal sanction in the event of an egregious violation. However, the commission also believes that substantive changes to AS 15.13.090 are needed to allow candidates more flexibility in identifying their communications.

The commission suggests one of two alternatives. The first alternative is to revise the statute to provide a more flexible approach to identification of political communications. Suggested language is attached. Alternatively, the commission suggests that the statute be amended to provide that political communications must be clearly identified as to source of payment, but that the remainder of existing law be deleted, with the commission given authority to determine by regulation what constitutes a clear communication.

Amendments to AS 15.13.090 could result in a positive change for both candidates and the commission, and the commission urges your consideration of these concerns.

\* \* \*

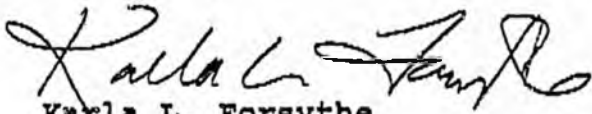
Although the commission does not agree with all of the proposed provisions in this bill, the commission commends the legislature, and the Senate State Affairs Committee for giving serious consideration to these issues. The commission will be glad to work with the committee to suggest alternative wording, or to offer any other assistance appropriate.

Senator Pourchot  
February 14, 1990  
Page 5

Thank you for the opportunity to submit comments.

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION



Karla L. Forsythe  
Executive Director

Attachments:

1. 2 AAC 50.400
2. RCW 42.17.130
3. 2 AAC 50.313(1)(4)
4. Proposed language, section 6

cc: APOC Members  
APOC Senior Staff  
Sioux Plummer, Special Assistant  
Dept. of Administration  
Nancy Gordon, Assistant Attorney General

WASHINGTON STATE STATUTE  
USE OF PUBLIC FUNDS IN CAMPAIGNS

RCW 42.17.130 Forbids use of public office or agency facilities in campaigns. No elective official nor any employee of his office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees or the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency: Provided, That the foregoing provisions of this section shall not apply to the following activities:

(1) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition so long as (a) any required notice of the meeting includes the title and number of the ballot proposition, and (b) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(2) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry;

(3) Activities which are part of the normal and regular conduct of the office or agency.

Proposed Addition to SB 384

Sec. 15.13.090 Repeal and rewrite to read:

Sec. 15.13.090. Identification of advertising.

(a) Advertisements, including handbills, billboards, yard signs and other communications intended to influence the election of a candidate or outcome of a ballot proposition or question, shall be clearly identified with the words "paid for by" followed by the name and address of the candidate, group, or individual paying for the advertisement.

(b) Lettering in an advertisement other than a newspaper shall be at least 3/8 inches high if the advertisement exceeds 12 inches in length or width.

(c) In radio and television advertisements the words "I paid for this ad" may be used and the address omitted if the words are spoken by the candidate.

(d) The "paid for by" line may be omitted from advertising items less than 3 inches in length or width and from motor vehicle bumper or window stickers.

If the above language is deemed to contain too much detail for a statute, rewrite Sec. 15.13.090, in order to allow more flexibility about the "paid for by" line, to read:

Sec. 15.13.090. Identification of communication.

Advertisements, including handbills, billboards, yard signs, other communications intended to influence the election of a candidate or outcome of a ballot proposition or question, and radio and television advertisements shall be identified as to payer in accordance with regulations promulgated by the commission.

Register 97, April 1986

## ADMINISTRATION

2 AAC 50.313

2 AAC 50.315

(3) a payment made by any individual for his or her own travel expenses, if such payments are voluntary and are made without any understanding that they will be directly or indirectly repaid;

(4) a payment made by a business, corporation, trade association, labor organization, or other organization not organized primarily to influence elections to communicate directly with its members or employees, or their families, on any subject, if the communication is of the same format and nature used by the organization when it has communicated in the past on nonpolitical subjects, does not request members or their families to do anything other than exercise the right to vote, and does not solicit individual contributions to a clearly identified candidate or group chosen by the organization;

(5) a gift, subscription, loan, advance, or deposit of money or anything of value made with respect to a recount of a state or municipal election.

(m) A contribution made by a married individual is not attributed to that individual's spouse, unless otherwise specified in writing by the spouse at the time the contribution is made. (Eff. 1/4/86, Reg. 97)

Authority: AS 15.13.030(10) AS 15.13.070  
AS 15.13.040 AS 15.13.130

**2 AAC 50.314. DEFINITION OF "GROUP"; REPORTING BY BUSINESSES.** (a) In 2 AAC 50.310 - 2 AAC 50.405, "group" includes

(1) every combination of two or more persons who are elected, appointed, or otherwise chosen, or who cooperate for the purpose of raising, soliciting, collecting, or disbursing money or anything of value, or for directing or controlling those activities to secure or defeat the election to public office of an individual or candidate or to secure or defeat a ballot proposition;

(2) a political action committee, draft group, association, club, corporation, partnership, trade association, incorporated or unincorporated association, or labor organization organized to aid or promote the nomination, election, defeat, or recall, of any candidate for political office

or to aid the passage or defeat of a ballot proposition;

(3) two or more persons who jointly make a contribution in the name of another as described in 2 AAC 50.357.

(b) A corporation, partnership, sole proprietorship, trade association, fraternal or charitable organization, incorporated or unincorporated association, firm, or business trust may report its contributions and expenditures as required by AS 15.13.040(d) and (e) as an individual if

(1) all contributions and expenditures to influence the outcome of an election are made from the organization's general day-to-day operating account;

(2) the organization does not conduct a fund-raising drive or assessment among its members or employees for the purpose of influencing an election;

(3) the organization does not exercise direction, control, or discretion over the choice of the recipient candidate or group, and the organization does not exercise direction, control, or discretion over the expenditure of money or other things of value collected, pooled, solicited, or otherwise paid by others for the purpose of influencing an election. (Eff. 1/4/86, Reg. 97)

Authority: AS 15.13.030(10)  
AS 15.13.040  
AS 15.13.130(3)

**2 AAC 50.315. CONTRIBUTION LIMITATION EXEMPTION.** (a) Groups that nominated a candidate for governor who received at least three percent of the total vote cast at the 1982 general election for governor are considered to be exempt from the contribution limitation set out in AS 15.13.070(n).

(b) Until the effective date of a statutory definition of "political party" that replaces AS 15.60.010(20) as it exists on the effective date of this section (and was held invalid in *Vogler v. Miller*, 660 P.2d 1192 [Alaska 1983]), a group, other than a group described in (a) of this section, desiring an exemption from the contribution limitation set out in AS 15.13.070(a) must submit to the commission an application

2 AAC  
50.313  
(1)(4)

Register 97, April 1986

## ADMINISTRATION

2 AAC 50.396

2 AAC 50.400

administer oaths or, if none of the preceding alternatives is available, may be signed by the official without benefit of the oath so long as the official states, in writing, that the affidavit is signed under penalty of perjury; or

(2) pay, within 30 days after receipt of the assessment notice described in (d)(2) of this section, the civil penalty assessed.

(f) If a candidate or group subject to a civil penalty assessment for the late filing of a campaign disclosure report refuses, or fails, within the time required, to submit an affidavit or make payment, then commission staff will refer the matter to the attorney general for appropriate action. The commission will not hear an appeal if an affidavit is not filed within the time required.

(g) An affidavit timely filed with the commission will be considered at the next regular meeting of the commission. If a candidate or group's appeal is

(1) denied by the commission, commission staff will notify the candidate or group of its decision within 15 days, and require that the civil penalty originally assessed be paid within 30 days after the date of the letter containing notification of the commission's decision; or

(2) accepted by the commission, commission staff will notify the candidate or group of its decision within 15 days, informing him or it that the civil penalty assessment has been waived and that the matter is considered closed; or

(3) accepted, in part, by the commission, commission staff will notify the candidate or group of its decision within 15 days, and require that the reduced civil penalty assessment be paid within 30 days after the date of the letter containing notification of the commission's decision.

(h) A candidate or group may appeal the commission's decision to deny or partially accept reasons for lateness to the superior court within 30 days after his receipt of the notice under Rule 45 of the Appellate Rules of the Alaska Court System. If no appeal is made within 30

days and no payment is made, the matter will be referred to the attorney general for appropriate action.

(i) If, upon review of a report required by AS 15.13.110(a), (b), or (c), the commission's staff finds substantial or continuous noncompliance with AS 15.13 or any provision of this chapter, or with requests by staff for information required to be reported under this chapter, the matter must be brought to the commission for review. The commission will, in its discretion, reduce or waive any initial civil penalty, uphold any initial civil penalty, increase the amount of any initial civil penalty to an amount not exceeding the maximum amount established in AS 15.13.125, or instruct its staff to begin preliminary investigation into the matter. Where no initial civil penalty has been assessed, the commission will, in its discretion, assess a civil penalty up to the maximum amount established in AS 15.13.125 if the candidate or group in question does not comply. (Eff. 7/22/78, Reg. 67; am 5/14/80, Reg. 74; am 5/24/81, Reg. 78; am 10/18/81, Reg. 80; am 6/29/84, Reg. 90; am 1/4/86, Reg. 97)

Authority: AS 15.13.010  
AS 15.13.030(10)  
AS 15.13.125

**2 AAC 50.395. REPORTING BY A BUSINESS ENTITY OR LABOR ORGANIZATION.** Repealed 1/4/86.

**2 AAC 50.397. REPORTING BY PERSONS OUTSIDE THE STATE.** Persons residing outside the State of Alaska are subject to the same reporting requirements, restrictions, and responsibilities under AS 15.13 as those placed upon persons residing within the state. (Eff. 4/28/79, Reg. 70)

Authority: AS 15.13.030(10)

**2 AAC 50.400. DISBURSEMENT OF A SURPLUS BALANCE IN A CAMPAIGN ACCOUNT.** (a) The disbursement of a surplus balance of a candidate or group's campaign account must be reported to the commission within 10 days after final disposition of the balance.

(b) A candidate disbursing the surplus balance in his campaign account may

Register 97, April 1986

## ADMINISTRATION

2 AAC 50.400  
2 AAC 50.401

- (1) give the money to charity;
- (2) repay his contributors;
- (3) repay himself, if he made contributions to his own campaign;

(4) take, as income, any money which exceeds the amount which he personally contributed to his campaign;

(5) leave the money in a campaign account until the next time he campaigns for elective office; however, any interest realized from a surplus in a campaign account must remain in the account and be reported on the first report required of him when he is again a candidate for elective office;

(6) contribute the money to another candidate or a group controlled by a candidate, not to exceed the \$1,000 limitation, or to a political party or group supporting a ballot proposition or question; or

(7) transfer the money to his office allowance fund.

(c) A group disbursing the surplus balance in its campaign account may

- (1) give the money to charity; or
- (2) repay its contributors; or
- (3) leave the money in a campaign account until the following election, if the group plans to remain active; however, any interest realized from a surplus in a campaign account must remain in the account and be reported on the first report required of the group when it is again active in an election; or
- (4) contribute the money to a candidate or a group controlled by a candidate, subject to the \$1,000 limitation and other prohibitions under AS 15.13 and 2 AAC 50, or to a political party or group supporting a ballot proposition or question.

(d) Any candidate or group wishing to disburse the surplus balance in a campaign account in a manner not described in (b) or (c) of this

section may request commission review and approval of the manner in which he or it wishes to disburse the surplus. (Eff. 7/22/78, Reg. 67: am 10/18/81, Reg. 80)

Authority: AS 15.13.030(10)

**2 AAC 50.401. POST-ELECTION FUND-RAISING BY CANDIDATES AND CONTROLLED GROUPS.** (a) A candidate or a candidate-controlled group may make post-election expenditures for the purpose of raising money to discharge a debt from a prior campaign, in accordance with (c) of this section.

(b) Absent a debt arising from a prior campaign, a candidate may not spend money for the purpose of seeking public office unless the individual is in compliance with AS 15.13.100, the early campaigning provisions of 2 AAC 50.380, or an advisory opinion issued under (c) of this section and 2 AAC 50.905.

(c) A candidate who is in debt from a prior campaign and who has not complied with either AS 15.13.100 or 2 AAC 50.380 by December 31st of the year after the election, shall request an advisory opinion under 2 AAC 50.905 concerning the applicability of AS 15.13.100 to further expenditures to pay off the debt. Absent an advisory opinion request, the commission staff may commence a preliminary investigation to review the applicability of AS 15.13.100 to expenditures by the candidate.

(d) A debt arising from a prior campaign includes

- (1) a candidate's personal contributions made before the date of the prior election;
- (2) campaign debts to others that were reported on a 10-day post-election campaign disclosure statement;
- (3) post-election expenditures made for the purpose of discharging a debt arising from a prior campaign; and

(4) the costs reasonably associated with winding up the affairs of the prior campaign, including social events held immediately after the election for the benefit of campaign workers

FAKS - will increase previous year campaigning.

Senator Pourchot  
January 29, 1990

Immediate  
per FAKS?

March 1st for  
first year. May

PROPOSED CS FOR SB 384  
"CAMPAIGN FINANCE REFORM"

1990?

Uchling?  
40 days

- 1) Prohibit post-election fund-raising after December 31 following November election or 45 days after local election.
- 2) Prohibit any use of campaign funds as personal income.
- 3) Mandate closure of campaign account and disposal of surplus campaign funds by January 12 of year following election.
- 4) Limit use of surplus campaign funds to the following:
  - a) Transfer to a legislative office account; expenditures must qualify as a business expense under the IRS Code.
  - b) Donate to a charitable organization that qualifies as a charity under the IRS Code.
  - c) Transfer to an account for a future election campaign.
  - d) Return to contributors.
  - e) Donate to state general fund or to a municipality.

tighten up  
FAKS

- 5) Prohibit a registered lobbyist from serving as a campaign treasurer or deputy treasurer or from collecting, or handling, campaign contributions for a candidate. Would not include representational lobbyists or volunteer lobbyists and would not specifically bar "solicitation" of funds.

immediate 6)

- 6) Close the current preelection reporting gap for contributions received on days 8 and 9 before the election.

- 7) Mandate a January 31 deadline for submission of year-end reports for campaign expenditures and contributions - including disposition of campaign surpluses and amount transferred to an account for a future campaign.

- 8) Codify existing APOC procedures by exempting municipal candidates from campaign disclosure reporting if financial activity is \$1,000 or less.

immediate

- 9) Revise APOC penalties to establish civil penalty for late filing of required reports and a maximum civil penalty of \$250 for failure to properly identify who paid for a political advertisement.

ADDITIONAL DISCUSSION ITEMS FOR INCLUSION  
IN THE CS FOR SB 384 -  
CAMPAIGN FINANCE REFORM

- 1) Prohibition of contributions by businesses, corporations or labor unions.
- 2) Prohibition of contributions by PACs.
- 3) Limitations on contributions to and/or from political parties. — Kelly maybe, FAKS NO, Uehling, THW through.
- 4) Prohibition or limitation of contributions by local or state governments.

Support Kelly  
Uehling  
Not include

FAKS  
yes with

→ FAKS (except for ballot initiative, which would be accounted for in legislative process (budget appropriation) and APOC report)

→ FAKS (Prohibit School District from pushing bonds/initiatives)

TO DO: Testimony by parents of ASD kids

Kelly — Ballot Information or Promotion Groups, separate issue. Allow

Uehling — Prohibit any <sup>acceptance of</sup> campaign funds for the last 10 days?  
→ or 7

Kelly — 2 effective dates — determine which is which.

HB 45

1.29.90

Niilo Koponen

Yol Kilscher James Dugan:

Passed out with amendment

### CAMPAIGN FINANCE:

Forsythe:

Pending issues: exempting municipal candidates for less than \$1000 — exempts them from all ethical restrictions

Filing Timelines — extend report date to Jan. 31st

Level Playing Field:

Narrowing lobbyist actions — APOC agrees

Pre-election window — yes, APOC supports.

Personal Income: APOC supports  
Business/Union: APOC " plus PAC's.

APOC <sup>supports</sup> strengthens PARTY

??

Government Funds = for lobbyists

Public \$ for public purpose:

APOC recs:

Neither state nor municipal funds could be used to support a candidate: Atty. Gen. agrees.

Uehling Gov's office

Forsythe: Businesses / UNIONS / PAC'S

Attorney General:

Nothing in Campaign Disclosure that prohibits Senate from contributing

Uehling - Put in wordage to prohibit state, muni government from contributing to candidate.

Kelly: Legislative Branch should match Exec. Branch as to powers to expend funds i.e. to defeat initiatives

Halloran: SB 231 contributing to candidates  
Not re: ballot initiatives

Pat: If muni could contribute, could they be subject to \$ limit.

Pat requested Attorney General to address... governments contributing to... candidates initiatives

Pat - would unions/businesses be limited to limit

Halloran

~~Govt~~ Unions/businesses:

2,000 to Pol. Party

Independent Expenditure

unlimited on ballot initiatives

BAW PACS Allow business unions with limits

Halloran:

or

If You want to ban all <sup>business labor</sup> PACS put limit on PACS limit \$ to Pol. Parties limit \$ to candidates

Repubs Kelly... get rid of PACS, allow business and union.

Vehling: ban all PACS with exception of those for ballot initiatives.

DAVID: PACS -> Federal - \$10,000 per election cycle.

Don't eliminate PACS

STATES - no great proliferation in states w/out business labor contribution.

(4)

Finkelstein = Adams? Still support  
limit of \$500 — David — house  
won't go along with.

Katie Hurley: Set spending limit  
Jan. 22-28 — National Post Katie will send.  
"Too much \$ in politics"...

Rick Lawber — Lobbyist

Page 2, Sec. 3

"registered lobbyist"

Terminate, register, terminate

How long would one be prohibited if  
they engaged in campaign funding

PAT — Legislative lobbying — Not dealing  
with administrative lobbying

Campaign Treasurers are not limited from  
lobbying after ending Treasurer status

Lawber — by merely attaching to registered  
lobbyists you're missing the point.

Risa Terrell — Assoc. Gen. Contractors

Public disclosure is

PAC supported by raffle — usually  
individually.

Fishing Derby — more business blocks

Proposed GS  
Fails:

~~FAIKS~~ Accept #1-9 exempt #5

Fails

Lobbyist - signed contract approach?  
Needs more time - needs tightwvg

Uehling - (#1) concern - not enough  
time to deal with debts. 90 days?

Kelly - (#1) likes it - sets max  
for responsibility.  
Best if cleared up before  
legislative session.

FAIKS - Page 2  
Supp

Times 1125-90

# Closing loopholes

ONE OF THE better ideas to emerge from the early days of this legislative session in Juneau seems — on the surface, at least — to be a proposal by Democratic Sen. Pat Pourchot and Republican Tim Kelly to plug a few leaky loopholes in the state's current campaign finance reporting law.

We hedge our endorsement a bit, because of a long-standing wariness that instinctively says some things introduced in the legislature may appear on the surface to be one breed of tabby cat, but somewhere down the line turn out to be a rabid tiger.

We do not suggest Mr. Pourchot and Mr. Kelly have any such smoke and mirrors in mind in their jointly sponsored bill to tighten some of the campaign laws. As a matter of fact, their proposal looks clean and neat.

IT IS A bill to change some of the requirements for reporting on campaign contributions and expenditures, and puts some limits on what can be done with surplus campaign money after the election is over and the bills are paid.

Good stuff.

For example, a candidate with money left over after a campaign could donate the dollars to charity or could give it to other candidates whose purses might have come up short.

If he doesn't want to do that, he could use the surplus bucks to help pay additional expenses in his legislative office. Or he could set the surplus aside for use in a future campaign.

But candidates would not, under this Pourchot-Kelly

bill, be able to pocket the money and take a trip to Hawaii or to buy a new car or to pay the dentist's bill.

He can do that under present law, which allows surplus campaign funds to be used for whatever personal need or whim the candidate so desires.

ANOTHER GOOD feature of the bill is that it would prohibit candidates in a state election from accepting contributions after Dec. 31 of the election year involved.

In local races, candidates could not accept a contribution more than 45 days after the balloting — and the campaign accounts would have to be balanced and closed out by year end.

Maybe it doesn't sound like much, all things considered.

But this bill addresses elements of campaign law that now can lead to abuse.

The bill might have its own loopholes, we acknowledge. It's unclear, for example, how the Alaska Public Offices Commission might track surplus funds held for future campaigns — if a candidate sat out future races over a 10-year period, and then just decided to bag politics forever, and in the process slip the money from a reserve account into his or her personal checking account.

But let's not nit-pick.

Any improvement is better than no improvement, and this bill with both Republican and Democratic sponsorship seems to offer that — in a way that shouldn't cause any kind of overt or covert opposition.

Taken from SB 231

10/31/89 Hearings  
campaigns  
10:10 am - 12 noon

Contacts

APOC: OK Karla Forsythe 276-4176  
assess problems: many if not most of complaints  
handled deal w/ specifics of race

→ ACLU

OMB: OK Mary Halloran (Jetta) 3568

call Thurs <sup>general work</sup> <sup>back Thurs</sup> Pat Smutz AFL-CIO & labor 241 } 2501 Commercial  
Mano Fye 258-6284 } Dr Anch 9950  
Resa PALS

Other: OK <sup>no</sup> Ashley Reed Heidi Bohi, POB 10-1093, 99510 (Anch) H 274-6472  
John Shively, AKPIRG 278-3661  
Don Mitchell 1335 F St, 276-1681  
Av Gross W 586-2777

~~Will try, or will send someone~~ John Pugh (Demo) 1011 D St 99801 W 789-4417  
Jim Crawford (Repub) 276-4467 # 563-0700  
405 W 36th Anch 99503 } or parcel to Tim Kelly

Leg: OK Winkelstein 561-7626  
Sponholtz (of Anch Gov's Office) #758/3601 C street 99503 561-4228  
Brown 561-7627  
Abood 277-3102

~~Bob Mann, WSEA~~

Teleconference

Back-Up

AKPIRG initiative

SSSB 231

agenda

Jetta's history

SAC  
~~Research report~~  
~~fed outline~~

2.14.90

SB 384 =

### Discussion Topics:

- 1.a) Want to prohibit public monies for candidates
- b) ? = " " for ballot measures
- c) Pat opposed to prohibiting

1.a.a. APOC: needs clear lines to enforce  
i.e. McCLEAN case — Advocacy vs Information

? Muni / Sch. Dist — 15,6 Form  
1989 = 5 muni / 5 sch. dist

Auch Muni — League of Women Voters on  
Sale of Telephone Utility

Fails > Define information  
Pat > Pursue Information only  
Kelly > Partisan — Non-Partisan

2. PAC'S: Pat — complex, controversial  
unless all Parties, PACS, unions, corps

PAT > are eliminated — why

Kelly, Fails > Dump PAC'S

4. Independent Expenditures

5. Contribution limits

Fails > opposed to Amendment 1  
Kelly > supports Amendment 1

Pat > Supports Amendment 1

Faiks  
Kelly  
Pat  
Supports

Amendment 2:

Surplus funds to future campaign  
(APOC reqs @ \$10,000)

Pat supports dollar maximum @ \$10,000

Kelly > Career instead one campaign at a time.  
Differs with Karla's view.

(Karla — \$1,000 limit)

Karla: Public may not want to  
contribute to next campaign

> Uehling = Josephson

Mary: ① language to clarify union ability  
to contribute — follow federal  
guidelines — Mechanical problem  
Dump PACs

KELLY: ??

MARY:

② Ban \$ from regulated industries  
Utilities, telephone co's,

FAIKS NO

lobbying  
and public expenditures > effective immediately

Barnett: <sup>Prohibit</sup> Parties unable to contribute to  
NON-partisan

**S B**

**389**

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER SB 389

SPONSOR Kerttola

BILL TITLE Pioneer Home

DATE REFERRED 1.17.90

HEARING SCHEDULED 2.7.90

FISCAL NOTE PREPARED ✓

SPONSOR CONTACTED

INTERESTED PARTIES CONTACTED

- ✓ Juneau Pioneers Home: Dan Mattleson 780-6122 (Lara Ende)
  - ✓ Anchorage Pioneers Home: 276-3414 (278-6006 FAX)
  - ✓ Fairbanks Pioneers Home
  - ✓ Palmer Pioneers Home: 745-4241 (Nola Bragg) 745-4241
  - Heritage Place (Nursing Facility) Dennis Murray 262-2545
- + List of 25 individual - list in this file.

Dennis Murray  
262-2545  
Soldotna

Heritage Place  
(nursing facility)

OTHER

NOTIFY SB 248

SENATE COMMITTEE REPORT  
FIRST COMMITTEE OF REFERRAL

DATE: 2/7/90

FURTHER: H E S S  
Finance

Date of 5-Day Notice: \_\_\_\_\_  
(in accordance with Uniform Rule 23)

DATE TURNED  
INTO OFFICE: \_\_\_\_\_

State Affairs \_\_\_\_\_ Committee considered \_\_\_\_\_ SSB 389

An Act relating to the Pioneers' Home..

and recommended:

replace with \_\_\_\_\_ CS \_\_\_\_\_  same title  
 attached amendment(s)  new title

\_\_\_\_\_ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

ATTACHES NEW FISCAL NOTE(S):

Department(s)/Date:

Department(s)/Date:

fiscal note(s) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

zero fiscal note(s) DOA  
\_\_\_\_\_  
\_\_\_\_\_

appropriation-no fiscal note

Governor's bill w/fiscal note

SIGNING DO PASS:

*Tim Kelly*  
*Jan Fink*

OTHER RECOMMENDATIONS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*[Signature]*  
*do pass*  
Chair: Signature and Recommendation

# Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Faiks, Vice Chairman  
Sen. Al Adams  
Sen. Tim Kelly  
Sen. Rick Uehling



P.O. Box V  
State Capitol  
Juneau, Alaska 99811

907-465-3712

## Senate State Affairs Committee

### MEMORANDUM

TO: Senate State Affairs Committee Members  
FROM: Senator Pat Pourchot  
RE: Wednesday, February 7 Committee Hearing  
DATE: February 6, 1990

TELECONFERENCE: Pioneers Homes: Anchorage, Fairbanks, Juneau, Palmer  
(Due to limited bridge capacity no other sites could join)

On Wednesday, February 7 at 1:30 p.m. in the Beltz Room the Senate State Affairs Committee will hear the following bills:

SS SB 389

\*SB 389: An Act relating to the Pioneers' Home, sponsored by Senator Kerttula.

\*SB 248, An Act relating to requirements for admission to the Pioneers' Home, sponsored by Senator Duncan.

Several issues exist concerning admission criteria to the Pioneers' Homes:

1. There is currently no age requirement in law for admission to the Pioneers' Home if the applicant is "destitute". If a person is not destitute, they must be at least 65 years of age to qualify for admission.
2. Current statutes give admission priority to applicants who are technically destitute. Those who are not technically destitute and are ineligible for Medicaid, but whose income is too low to pay for nursing care, have to wait one to two years for admission.

Bill sponsors may be presenting the committee with sponsor substitutes in response to concerns outlined by the Division of Pioneers Benefits and the Department of Administration.

\*Indicates first Senate State Affairs hearing

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER SB 389

SPONSOR Kerttula

BILL TITLE Pioneer Home

DATE REFERRED 1.17.90

HEARING SCHEDULED 2.7.90

FISCAL NOTE PREPARED ✓

SPONSOR CONTACTED

INTERESTED PARTIES CONTACTED

- ✓ Juneau Pioneers Home: Dan Mettleson 780-6122 (Carol Ende)
  - ✓ Anchorage Pioneers Home: 276-3414 (278-6006 FAX)
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  - ✓ Palmer Pioneers Home: 745-4241 (Nola Bragg) 745-4241
  - Heritage Place (Nursing Facility) Dennis Murray 262-2545
- + List of 25 individual - list in this file

Dennis Murray  
262-2545  
Soldotna

Heritage Place  
(nursing facility)

OTHER

NOTIFY SB 248

PHONE MESSAGE	TO	<i>Jusie</i>	DATE	<i>7/6</i>	TIME	<i>12:30</i>	AM PM	
	FROM	<i>Kathryn Snelling</i>	AREA CODE					
	OF	<i>Jetka Pioneer Home</i>	NO.	<i>747-2103</i>				
			EXT.					
	M E S S A G E	<i>Went to be in. on tomorrow's SA hearing via teleconference. Pily Confir</i>						
					SIGNED	<i>[Signature]</i>		
	PHONED	<input checked="" type="checkbox"/>	CALL BACK	<input type="checkbox"/>	RETURNED CALL	<input type="checkbox"/>	WANTS TO SEE YOU	<input type="checkbox"/>
			WILL CALL AGAIN	<input type="checkbox"/>	WAS IN	<input type="checkbox"/>	URGENT	<input type="checkbox"/>

PHONE MESSAGE	TO	<i>Jusie</i>	DATE	<i>2/5</i>	TIME	<i>8:35</i>	AM PM	
	FROM	<i>Nota Bragg</i>	AREA CODE					
	OF	<i>Palmer Pioneer Home</i>	NO.	<i>745-4241</i>				
			EXT.					
	M E S S A G E	<i>re Wed's S.A. hearing</i>						
					SIGNED	<i>[Signature]</i>		
	PHONED	<input checked="" type="checkbox"/>	CALL BACK	<input checked="" type="checkbox"/>	RETURNED CALL	<input type="checkbox"/>	WANTS TO SEE YOU	<input type="checkbox"/>
			WILL CALL AGAIN	<input type="checkbox"/>	WAS IN	<input type="checkbox"/>	URGENT	<input type="checkbox"/>

11 +

SENATE COMMITTEE REPORT  
FIRST COMMITTEE OF REFERRAL

DATE: 2/7/90

FURTHER: H E S S  
Finance

Date of 5-Day Notice: \_\_\_\_\_  
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: \_\_\_\_\_

State Affairs \_\_\_\_\_ Committee considered \_\_\_\_\_ SSSB 389

An Act relating to the Pioneers' Home..

and recommended:

replace with \_\_\_\_\_ CS \_\_\_\_\_  same title

attached amendment(s)  new title

\_\_\_\_\_ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

ATTACHES NEW FISCAL NOTE(S):

Department(s)/Date:

Department(s)/Date:

fiscal note(s) \_\_\_\_\_

zero fiscal note(s) DOA

appropriation-no fiscal note

Governor's bill w/fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Tim Kelly  
Jan Fuchs

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Pat Farnsworth do pass  
Chair: Signature and Recommendation

# Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Faiks, Vice Chairman  
Sen. Al Adams  
Sen. Tim Kelly  
Sen. Rick Uehling



P.O. Box V  
State Capitol  
Juneau, Alaska 99811

907-465-3712

## Senate State Affairs Committee

### MEMORANDUM

TO: Senate State Affairs Committee Members  
FROM: Senator Pat Pourchot  
RE: Wednesday, February 7 Committee Hearing  
DATE: February 6, 1990

TELECONFERENCE: Pioneers Homes: Anchorage, Fairbanks, Juneau, Palmer  
(Due to limited bridge capacity no other sites could join)

On Wednesday, February 7 at 1:30 p.m. in the Beltz Room the Senate State Affairs Committee will hear the following bills:

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Several issues exist concerning admission criteria to the Pioneers' Homes:

1. There is currently no age requirement in law for admission to the Pioneers' Home if the applicant is "destitute". If a person is not destitute, they must be at least 65 years of age to qualify for admission.
2. Current statutes give admission priority to applicants who are technically destitute. Those who are not technically destitute and are ineligible for Medicaid, but whose income is too low to pay for nursing care, have to wait one to two years for admission.

Bill sponsors may be presenting the committee with sponsor substitutes in response to concerns outlined by the Division of Pioneers Benefits and the Department of Administration.

\*Indicates first Senate State Affairs hearing

PAT\_

We now have  
Sponsor Substitute  
for SB 389\_ .  
and new fiscal  
Note.

sb389.txt

SB 389, An Act relating to the Pioneers' Home.

NOTIFIED; \* indicates will testify

\*Senator Duncan — *Please call up first*  
\*Senator Kerttula  
\*Jim Fox: Department of Administration  
\*Barbara Bathony: Div. of Pioneers Benefits  
Pioneers Homes: Juneau

Anchorage

Fairbanks

Palmer

Sitka : Not on line

Ketchikan: Not on line

Dennis Murray: Heritage Facility, Soldotna (see written testimony in binder)

AARP: Bob Pavitt

AFN: Janice Ryan

OPAG: Rose Palmquist

OAC: Fran Toland/Connie Sipe

Senior Voice: Liz Lawson

*WARNING: She's madder than a hornet that the only lines available are at Pioneer Homes. She went to Wasilla LHO.*

Mailing List included names above + 25 individual seniors

NOTES;

Gray area: See Kerttula's letter attached to Sponsor substitute, Item 3 relating to collectibility of debt and Sec. 6 of the SS:

This recommendation came from Barbara as they are currently obligated to hand over estate to Probate. The Division's goal in including this is to clean up statutes. However, there is some concern on the bill drafter's part that after reviewing the SS, the Pioneers Home may not wish to give up the preferred claim language.

I have contacted both Barbara and the AG's office to try to find out if there is a problem with repealing those portions of the 47.25.070 statute that relates to collectibility and if the state is jeopardizing potential debt relief by eliminating the language stating that burial is first, prior and preferred claim against the estate of the Pioneers' Home resident.

The AG's office does not deal with Probate Code, I have asked Barbara to look into this to insure we are not reducing state's ability to pay for resident's debts. Barbara will be prepared to answer questions on this at the hearing.

Pat, the SS seems to be a well-written act with input from Jim Fox, Barbara Bathony and several home directors. It grandfathers in those who are currently in home, will have the most negative impact on those that are near the top of the waiting list but who are not "in need" but thought they were going to be admitted.

TELECONFERENCE:

ONLY 5 lines available  
due to heavy "hearing  
load" this afternoon.

*We tried to get more lines in but couldn't.*



# Alaska State Legislature

## SENATE

Official Business

P.O. Box V  
State Capitol  
Juneau, Alaska 99811

### M E M O R A N D U M

TO: Senator Pat Pourchot, Chairman  
Senate State Affairs Committee

FROM: Senator Jay Kerttula

SUBJ: Sponsor substitute for  
Senate Bill 389 --  
Admission to Pioneers'  
Homes.

A handwritten signature in black ink, appearing to read "Jay Kerttula".

DATE: February 6, 1990

Attached is a copy of my sponsor substitute for Senate Bill 389, relating to admission to the pioneers' homes. The sponsor substitute makes three basic changes to current statute:

1. The sponsor substitute eliminates the "destitute" requirement for admission to the pioneers' homes. This requirement has been left over from the era when the Sitka Pioneers' Home was a poor farm. This language is archaic today, since the homes are not meant to be equivalent to a poor farm, and nobody perceives them as such. Under the sponsor substitute, the general needs-based requirement for admission which is currently in regulation would be set in statute. Current law gives the destitute priority for admission to the homes -- the sponsor substitute provides that all in need would have equal access to the homes.

2. Under current law, those who are destitute can be admitted earlier than age 65, those who are not destitute can only be admitted after age 65. The sponsor substitute clarifies who can be admitted to the homes, and adds an age requirement of 65 for all admissions. The sponsor substitute also will allow spouses of residents of the home to be admitted, if they are not in need, if the spouse is at least age 65.

Senator Pat Pourchot  
February 6, 1990  
Page 2

3. The sponsor substitute for Senate Bill 389 also clarifies how debts of residents are collected. Under the substitute, the collectibility of debts of former residents, who are now deceased will be governed by the Probate Code. Current law provides that a past debt can be collected from a present resident, when that resident receives income in excess of \$100 per month. Sponsor substitute for Senate Bill 389 ensures that the department can not require a payment in any one month which is greater than the monthly amount for care which is set in statute, except for debts incurred under AS 47.25.070.

JK:kh

4SB389

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: "An Act relating to the  
Pioneers' Home"  
Sponsor: Sen. Kerttula  
Requestor: \_\_\_\_\_

Agency Affected: Dept. of Administration  
BRU: Pioneers' Benefits  
Components: Pioneers' Homes

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>REVENUE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**POSITIONS:**

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

**ANALYSIS : (Attach a separate page if necessary)**

Adding priority admission of persons in need of the care and benefits of the Home but who are not destitute would very slowly increase the revenues. This is very difficult to predict since the Division has very few admissions into Nursing and Assisted Living where priority now applies. Also most applicants who are destitute have some level of income.

Prepared by: Barbara Bathony *Barbara Bathony* Phone: 465-4400  
Division: Pioneers' Benefits Date: 2-7-90

Approved by Commissioner: Frank S. Baxter *Frank S. Baxter* Date: 2/7/90  
Agency: Department of Administration

**Distribution (by preparer) :**

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

BY SEN. KERTTULA, Szymanski

1 IN THE SENATE

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 389

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Pioneers' Home."

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

8 \* Section 1. AS 47.25.010(a) is amended to read:

9 (a) The state shall maintain an institution [FOR THE CARE OF  
10 NEEDY PERSONS,] known as the Alaska Pioneers' Home. The principal  
11 home shall be maintained at Sitka, and a branch may be maintained at a  
12 site or sites designated by the commissioner of administration.

13 \* Sec. 2. AS 47.25.020 is amended to read:

14 Sec. 47.25.020. ADMISSION TO HOME. (a) Every worthy person  
15 residing in the state who is 65 years of age or older, has been a  
16 resident of the state continuously for more than 15 years immediately  
17 preceding application for admission, and [WHO] is [DESTITUTE AND] in  
18 need of the aid or benefit of the home because of physical disability  
19 or other cause, is eligible for [ENTITLED TO] admission to the home  
20 under the conditions, limitations, and penalties prescribed by the  
21 regulations of the Department of Administration. The spouse of a  
22 person who is eligible for admission under other provisions of this  
23 subsection is also eligible for admission to the home under the condi-  
24 tions, limitations, and penalties prescribed by regulations of the  
25 department if the spouse is 65 years of age or older and has been a  
26 resident of the state continuously for more than 15 years immediately  
27 preceding application for admission. In this subsection, "physical  
28 disability or other cause" means inability to maintain a household  
29 without regular assistance in shopping, housekeeping, meal prepara-

*redrafting?*  
*?*

1 tion, dressing, or personal hygiene because of physical or medical  
2 impairment, infirmity, or disability [A PERSON MAY NOT BE ADMITTED AS  
3 A RESIDENT OF THE ALASKA PIONEERS' HOME UNDER THE PROVISIONS OF  
4 AS 47.25.010 - 47.25.100 IF THE SUPPORT AND MAINTENANCE OF THE PERSON  
5 IS IMPOSED BY LAW UPON A RELATIVE OR MEMBER OF THE FAMILY OF THE  
6 PERSON].

7 (b) Every person admitted to the Pioneers' Home [, EXCEPT A  
8 PERSON ADMITTED UNDER AS 47.25.030,] who receives income from any  
9 source in excess of \$100 per month may be required by the Department  
10 of Administration to pay the excess to the Department of Administra-  
11 tion immediately upon receipt of the money in payment, or part pay-  
12 ment, of the cost of the person's maintenance. However, the depart-  
13 ment may not require in any month the payment of an amount greater  
14 than the monthly rate set under AS 47.25.030(b) except to satisfy an  
15 indebtedness incurred under AS 47.25.070.

16 (c) At the end of each month the payments made under (b) of this  
17 section shall be transmitted to the commissioner of revenue [TOGETHER  
18 WITH THE NAMES OF THE PERSONS MAKING THEM AND THE AMOUNT PAID BY  
19 EACH]. The Department of Administration may pay to a resident without  
20 funds the sum of \$100 per month.

21 (d) The money received by the commissioner of revenue under this  
22 section shall be deposited in the general fund. The commissioner of  
23 administration shall separately account for money deposited under this  
24 section. The annual estimated balance in the account may be used by  
25 the legislature to make appropriations to the Department of Adminis-  
26 tration to carry out the purposes of AS 47.25.010 - 47.25.100.

27 \* Sec. 3. AS 47.25.030(a) 's amended to read:

28 (a) A person eligible for admission under AS 47.25.020 [CITIZEN  
29 OF THE UNITED STATES OVER 65 YEARS OF AGE WHO IS A RESIDENT OF THE

1 STATE AND HAS BEEN A RESIDENT FOR NOT LESS THAN 15 YEARS CONTINUOUSLY  
2 IMMEDIATELY PRECEDING APPLICATION, BUT WHO IS NOT DESTITUTE,) may on  
3 application be admitted to the home upon agreement to pay to the state  
4 a sum for each month [DAY] as the Department of Administration consid-  
5 ers sufficient to compensate the state for the cost of care and sup-  
6 port of the person at the home. When this agreement is entered into  
7 the Department of Administration may receive [THE] security for the  
8 payments that [, WHICH] it considers expedient.

9 \* Sec. 4. AS 47.25.030(b) is amended to read:

10 (b) The Department of Administration shall adopt regulations  
11 establishing a [DAILY OR] monthly rate for the compensation a resident  
12 is to be charged under (a) of this section. The rate charged need not  
13 fully compensate the state for the cost of care and support. The  
14 commissioner of administration shall review the rate each year.

15 \* Sec. 5. AS 47.25.035 is amended to read:

16 Sec. 47.25.035. EXCEPTION TO ADMISSION CRITERIA. An applicant  
17 for admission to the home who has been a resident of the state for 30  
18 years and is otherwise qualified for admission under AS 47.25.020 [OR  
19 47.25.030] may not be disqualified for admission because of absence  
20 from the state if the commissioner of administration determines the  
21 absence was reasonable and admission is consistent with the intent of  
22 AS 47.25.010 - 47.25.100 [THIS CHAPTER].

23 \* Sec. 6. AS 47.25.070(a)(3), 47.25.070(a)(6), 47.25.070(b), 47.25.-  
24 070(c), 47.25.070(d), and 47.25.070(e) are repealed.

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Administration  
 Title: An Act relating to requirements for admission to the Pioneers' Home BRU: Pioneers' Benefits  
 Sponsor: Senator Duncan Components: Pioneers' Home  
 Requestor: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

The average age of applicants to the Pioneers' Home is about 85-90 years old. Increasing the minimum age to 65 years old for admission will have very little effect on the Homes' budget.

Prepared by: Barbara Bathony Phone: 465-4400  
 Division: Pioneers' Benefits Date: 01/29/90  
 Approved by Commissioner: Frank S. Baxter Date: 1/31/90  
 Agency: Department of Administration

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