ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990

6677 SENATE STATE AFFAIRS

8672

1281

reflects amendments

(a) In an investigation, the ombudsman may

(1) make inquiries and obtain information considered necessary;

(2) enter without notice to inspect the premises of an agency, but only when agency personnel are present; [AND]

(3) hold private hearings; and

(4) notwithstanding other provisions of law, have access at all times to records of every state agency, including confidential records, except sealed court records, production of which can only be compelled by subpoenae.

Amendment 7

* Sec. 9. AS 24.55.170(a) is amended to read:

(a) Subject to the privileges that [WHICH] witnesses have in the courts of this state, the ombudsman may compel by subpoena, at a specified time and place, the

(1) [COMPEL BY SUBPOENA, AT A SPECIFIED TIME AND PLACE, THE] appearance and sworn testimony of a person who the ombudsman reasonably believes may be able to give information relating to a matter under investigation; and

(2) production by [COMPEL] a person of a record that [, BY SUBPOENA, TO PRODUCE DOCUMENTS, PAPERS, OR OBJECTS WHICH] the ombudsman reasonably believes may relate to the matter under investigation.

or ah? object

* Sec. 10. AS 24.55.180 is amended to read:

Sec. 24.55.180. CONSULTATION [WITH AGENCY]. Before giving an opinion or recommendation that [WHICH] is critical of an agency or person, the ombudsman shall consult with that agency or person. The ombudsman may make a preliminary opinion or recommendation available to the agency or person for review, but the preliminary opinion or recommendation is confidential and may not be disclosed to the public by the agency or person.

* Sec. 11. AS 24.55.190 is amended by adding a new subsection to read:

(c) The report provided under (a) of this section is confidential and may not be disclosed to the public by the agency. The ombudsman may disclose the report under AS 24.55.200 only after providing notice that the investigation has been concluded

(1) to the agency; and

(2) if the investigation was conducted in response to a complaint, to the complainant under AS 24.55.210.

* Sec. 12. AS 24.55.310 is amended to read:

Sec. 24.55.310. CONFLICT OF INTEREST. The ombudsman, the acting [DEPUTY] ombudsman and their professional staff are subject to AS 39.-50 (conflict of interest).

* Sec. 13. AS 24.55.320 is amended to read:

Sec. 24.55.320. MUNICIPALITIES AND SCHOOL DISTRICTS. A municipality or school district may [BY ORDINANCE] elect to become subject to the jurisdiction of the ombudsman appointed under this chapter. If a municipality or school district so elects, it shall notify the ombudsman of that election and shall thereafter be considered an agency for the purposes of this chapter. If a municipality or school district subjects itself to the jurisdiction of the ombudsman, the municipality or school district shall pay its pro rata share of the cost of the operation of the office of the ombudsman based on the number of complaints or the case load emanating from that municipality or school district, as prescribed by the ombudsman. If a municipality or school district elects to remove itself from the jurisdiction of the ombudsman, it [SHALL DO SO BY ORDINANCE,] shall notify the ombudsman of that election and shall not thereafter be considered an agency for the purposes of this chapter. A municipality that elects to become subject to the jurisdiction of the ombudsman or to remove itself from that jurisdiction must do so by ordinance. A school

district that elects to become subject to the jurisdiction of the ombudsman or to remove itself from that jurisdiction must do so by resolution.

* Sec. 14. AS 24.55.330 is amended by adding a new paragraph to read:

(4) "record" means a document, paper, memorandum, book, letter, file, drawing, map, plat, photo, photographic file, motion picture, film, microfilm, microphotograph, exhibit, magnetic or paper tape, punched card, or other item developed or received under law or in connection with the transaction of official business, but does not include an attorney's work product.

Alaska Court System
State of Alaska

303 "K" STREET
ANCHORAGE, ALASKA
99501

ARTHUR H. SNOWDEN II
ADMINISTRATIVE DIRECTOR

(907) 274-8611

(HAND DELIVERED)

February 12, 1990

Representative H. A. "Red" Boucher
Chairman, House State Affairs Committee
Room 102
Capital

Re: HB 452

Dear Representative Boucher:

After discussing with Mr. Fowler the Alaska Court System's concerns about the Ombudsman's access to court records, we have agreed that the need to maintain the confidentiality of sealed court documents can be met by amending Sec. 8, paragraph (a)(4) as follows:

> (4) notwithstanding other provisions of law, have access at all times to records of every state agency, including confidential records. Sealed court records must be subpoenaed.

Thank you for your consideration of this amendment.

Sincerely,

Jan Strandberg
Staff Counsel

c: Duncan Fowler

agency, the agency has initiated corrective action or commits itself to take corrective action substantially as recommended.

(b) If an agency does not initiate corrective action or does not commit itself to take corrective action substantially as presented in the ombudsman's recommendation or modified recommendation, the ombudsman will, in his or her discretion, after considering any response received from the agency, submit a report of the matter to the chief executive officer of the agency or to the governor, and then make a report to the legislature, to the press, or to the public, as the ombudsman considers appropriate.

(c) The provisions of (b) of this section do not limit the ombudsman from making a report on any investigation to the legislature, the press, or the public, as the ombudsman considers appropriate. (Eff. 9/16/84, Reg. 91: am 3/28/86, Reg. 97)

Authority: AS 24.55.090
AS 24.55.200

21 AAC 20.250. COMPLAINANT TO BE INFORMED. Within 15 days after receipt of an agency's acceptance or rejection of an ombudsman's recommendation or modified recommendation, the ombudsman will notify the complainant of the result of the investigation and of the action taken or proposed to be taken by the agency. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090

ARTICLE 4.
CONFIDENTIAL INFORMATION

Section
300. Disclosure of confidential information
310. Disclosure with written consent
320. Disclosure of information from public sources
330. Disclosure as statistical information
340. Disclosure to agency
350. Assertion of privacy interest by agency
360. Disclosure to the complainant
370. Disclosure to governor, legislature, or grand jury
380. Public disclosure
390. Definitions

21 AAC 20.300. DISCLOSURE OF CONFIDENTIAL INFORMATION. A confidential record provided by an agency or a person to the office of the ombudsman during the course of an ombudsman's investigation may not be disclosed by the office of the ombudsman except as provided in 21 AAC 20.310 – 21 AAC 20.390. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160
Art. I, sec. 22, Alaska Constitution

21 AAC 20.310. DISCLOSURE WITH WRITTEN CONSENT. The ombudsman will, in his discretion, disclose a confidential record if the ombudsman first obtains the written consent of the person about whom information in the confidential record relates. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160
Art. I, sec. 22, Alaska Constitution

21 AAC 20.320. DISCLOSURE OF INFORMATION FROM PUBLIC SOURCES. The ombudsman will, in his discretion, disclose a confidential record if the information contained in the record is reasonably obtainable from other public sources without the consent of the person about whom the information relates. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160
Art. I, sec. 22, Alaska Constitution

21 AAC 20.330. DISCLOSURE AS STATISTICAL INFORMATION. The ombudsman will, in his discretion, disclose information contained in a confidential record as a statistical report if the person about whom the information relates is not identifiable in the statistical report. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160
Art. I, sec. 22, Alaska Constitution

21 AAC 20.340. DISCLOSURE TO AGENCY. Except as provided in 21 AAC 20.350, the ombudsman will, in his discretion, disclose to an agency a confidential record produced by the agency or a confidential record used by the agency in the conduct of its business in order to enable the ombudsman to present a finding,

opinion, or recommendation made to the agency. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160
Art. I, sec. 22, Alaska Constitution

21 AAC 20.350. ASSERTION OF PRIVACY INTEREST BY AGENCY. If the ombudsman receives written notice from an agency which has provided a confidential record that it asserts a privacy interest in the record, the ombudsman

(1) will, in his discretion, disclose the record only to the person or persons within the agency having custody of the record; and

(2) will, in his discretion, make any other disclosure of the record only in accordance with 21 AAC 20.380. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160
Art. I, sec. 22, Alaska Constitution

21 AAC 20.360. DISCLOSURE TO THE COMPLAINANT. The ombudsman may not disclose information in a record to the complainant if federal or state law or regulation prohibits disclosure of the record to the complainant. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160
Art. I, sec. 22, Alaska Constitution

21 AAC 20.370. DISCLOSURE TO GOVERNOR, LEGISLATURE, OR GRAND JURY. If the ombudsman determines that a confidential record produced by an agency should be disclosed under AS 24.55.200 to the governor, the legislature, or a grand jury in order for the ombudsman to seek review of a finding, opinion or recommendation, the ombudsman will, in his discretion, return the record to the agency that produced it and recommend its disclosure by the agency to the governor, the legislature, or the grand jury, as applicable. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160
Art. I, sec. 22, Alaska Constitution

21 AAC 20.380. PUBLIC DISCLOSURE. (a) The provisions of this section apply to

(1) disclosure of a confidential record to a person within an agency other than the person having custody of a confidential record if that record has been provided to the ombudsman by the agency and the agency has asserted a privacy interest under 21 AAC 20.350; and

(2) public disclosure under AS 24.55.200 of a confidential record produced by an agency.

(b) Before disclosing a confidential record, the ombudsman will give written notice to the agency having custody of the record and to the person about whom information in the record

relates that the ombudsman intends to disclose the record at the expiration of a 15-day period. The period during which the agency or a person may object can be extended by the ombudsman at the request of the agency or person. In providing notice, the ombudsman will indicate the basis of the decision to disclose the record.

(c) The agency or person to whom notice is given under (b) of this section may object to disclosure of the record by filing with the ombudsman a written objection to the disclosure. The objection filed by the agency or person must identify the portion of the record that the agency or person believes should remain confidential and must state the reasons for the objections to disclosure.

(d) If objection to disclosure has not been filed with the ombudsman in accordance with (c) of this section at the end of 15 days from the date of notice, or of any extension of that period approved by the ombudsman, the ombudsman will, in his discretion, disclose the confidential record.

(e) If objection to disclosure is filed with the ombudsman in accordance with (c) of this section and if, despite the objection, the ombudsman believes that disclosure of the record is essential to obtain agency acceptance of a finding and implementation of a recommendation in order to correct an action, decision or omission of the agency that was detrimental to the complainant, the ombudsman will give written notice to the agency or to the person or persons making objection under (c) of this section that he intends to disclose the record. In his notice, the ombudsman will

(1) briefly state the reason or reasons for his decision to disclose;

(2) indicate the date on which the ombudsman expects to make public disclosure of the record, not sooner than 15 days from the date of his notice; and

(3) state that the date may be extended only by mutual agreement between the agency or person and the ombudsman.

(f) At any time before expiration of the date on which the ombudsman indicates that he will disclose the document to the public, an agency or a person to whom notice is required to be sent under (e) of this section may apply to the superior court for an order preventing the ombudsman from disclosing the record. In making a determination as to whether the ombudsman may disclose the record

(1) if the record contains both disclosable and confidential information and the confidential information cited by the agency or person objecting to disclosure of the record may be reasonably separated from confidential portions in a manner that will allow meaningful information to be disclosed, the court may determine that the confidential information identified under the authority cited by the agency or person objecting to disclosure of the information or record must be deleted and thereafter may allow the ombudsman to release the disclosable information:

(2) if the record is wholly confidential, or if the record contains both disclosable and confidential information and the confidential information cited by the agency or person objecting to disclosure of the record cannot be reasonably separated from confidential portions in a manner that will allow meaningful information to be disclosed, the court may allow the ombudsman to disclose the record if the court determines that the need for disclosure outweighs the nature and weight of the privacy interest asserted by the agency or person. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160
Art. I, sec. 22, Alaska Constitution

21 AAC 20.390. DEFINITIONS. In 21 AAC 20.300 — 21 AAC 20.390

(1) "confidential" means a record or information in a record that is nondisclosable under a valid federal or Alaska statute or regulation, or by a privilege, exemption, or principle recognized by the courts, or by an agency protective order authorized by law;

(2) "person" has the same meaning as in AS 01.10.060(7);

(3) "record" means a document, paper, memorandum, book, letter, drawing, map, plat, photo, photographic file, motion picture, film,

microfilm, microphotograph, exhibit, magnetic tape, paper tape, punched card, or other item of any other material, regardless of physical form or characteristic, developed or received under law or in connection with the transaction of official business by an agency or person, and preserved as evidence of the organization, function, policies, decisions, procedures, operations, or other activities of the agency or person or because of the informational value in them; the term also includes staff manuals and instructions to staff that directly or indirectly affect the public. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160
Art. I, sec. 22, Alaska Constitution

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: 6-2024A
PUBLISH DATE: SB 416

FISCAL NOTE

REQUEST:

Revision Date:
Title: An Act Relating to the Office of the Ombudsman
Sponsor:
Requestor: Office of the Ombudsman

Agency Affected: Legislative
BRU: Office of the Ombudsman
Components:

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	Ø	Ø	Ø	Ø	Ø	Ø

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill has no fiscal impact on the State Operating budgets

Prepared by: Duncan C. Fowler
Phone: 465-4970
Division: Ombudsman
Date: 2-7-90

Approved by Commissioner: Duncan C. Fowler
Date: 2-7-90
Agency: Ombudsman

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

Pat ___ Ombudsman bill....

One Amendment on House floor added wording at Swackhammer's request and Dept of Public Safety and prosecutors requested.

Fowler: Didn't foresee this being a problem, amendments OK.

Requests you WAIVE.

S.

OK Write me a note

(a) In an investigation, the ombudsman may

(1) make inquiries and obtain information considered necessary;

(2) enter without notice to inspect the premises of an agency, but only when agency personnel are present; [AND]

(3) hold private hearings; and

(4) notwithstanding other provisions of law, have access at all times to records of every state agency, including confidential records, except sealed court records, production of which may only be compelled by subpoena, and except for records of active criminal investigations and records that could lead to the identity of confidential police informants.

* Sec. 9. AS 24.55.170(a) is amended to read:

(a) Subject to the privileges that [WHICH] witnesses have in the courts of this state, the ombudsman may compel by subpoena, at a specified time and place, the

(1) [COMPEL BY SUBPOENA, AT A SPECIFIED TIME AND PLACE, THE] appearance and sworn testimony of a person who the ombudsman reasonably believes may be able to give information relating to a matter under investigation; and

(2) production by [COMPEL] a person of a record or object that [, BY SUBPOENA, TO PRODUCE DOCUMENTS, PAPERS, OR OBJECTS WHICH] the ombudsman reasonably believes may relate to the matter under investigation.

* Sec. 10. AS 24.55.180 is amended to read:

Sec. 24.55.180. CONSULTATION [WITH AGENCY]. Before giving an opinion or recommendation that [WHICH] is critical of an agency or person, the ombudsman shall consult with that agency or person. The ombudsman may make a preliminary opinion or recommendation available

SB 418

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER SB 418

SPONSOR DUNCAN

BILL TITLE

DATE REFERRED 1-30-90

HEARING SCHEDULED

FISCAL NOTE PREPARED

SPONSOR CONTACTED

INTERESTED PARTIES CONTACTED

PHONE MEMO

TO Susie DATE 2/6/90 TIME 12:10 AM PM

FROM Sue Flemmer AREA CODE

OF NO. 2200 EXT.

MESSAGE SB 418 (DOA questioned where this is going? Concern: Alot of time will have to go into it = Contentious Bill

SIGNED

PHONED X CALL BACK X RETURNED CALL WANTS TO SEE YOU WILL CALL AGAIN WAS IN URGENT

OTHER

Alaska State Legislature

SENATOR JIM DUNCAN

P. O. BOX V JUNEAU, ALASKA 99811-3100

(907) 465-4766

COMMITTEES:
FINANCE
VICE CHAIR – HEALTH EDUCATION & SOCIAL SERVICES
BUDGET & AUDIT
BANKING & ECONOMIC DEVELOPMENT

TO: SENATOR PAT POURCHOT
CHAIR
STATE AFFAIRS COMMITTEE

FROM: SENATOR JIM DUNCAN

REGARDS: SENATE BILL 418

DATE: MARCH 15, 1990

ATTACHED IS MATERIAL PROVIDED BY LEGISLATIVE RESEARCH ON THE APPOINTMENT PROCESS OF PERSONNEL DIRECTORS IN OTHER STATES. THIS MATERIAL MAY SERVE AS USEFUL BACKGROUND AS THE STATE AFFAIRS COMMITTEE CONSIDERS SB 418 WHICH INCLUDES A CHANGE IN THE APPOINTMENT PROCESS OF THE DIVISION OF PERSONNEL DIRECTOR.

THE ATTACHED INFORMATION WAS GATHERED BY THE NATIONAL ASSOCIATION OF STATE PERSONNEL EXECUTIVES AND THE COUNCIL OF STATE GOVERNMENTS. I WILL PROVIDE THE FOLLOWING HIGHLIGHTS.

THE PERSONNEL DIRECTOR IS APPOINTED BY A BOARD IN FIVE STATES. THESE STATES INCLUDE ALABAMA, CALIFORNIA, IDAHO, MICHIGAN AND MISSISSIPPI.

FIVE OTHER STATES HAVE ADOPTED A SYSTEM OTHER THAN DIRECT APPOINTMENT CONTROL BY THE GOVERNOR OR A DEPARTMENT HEAD.

-IN LOUISIANA, THE CIVIL SERVICE COMMISSION APPOINTS FOLLOWING A COMPETITIVE EXAM.

-IN MASSACHUSETTS, THE CIVIL SERVICE COMMISSION SUBMITS THREE NAMES TO THE SECRETARY OF ADMINISTRATION AND FINANCE WHO THEN APPOINTS WITH THE GOVERNOR'S CONSENT.

-IN NORTH DAKOTA, CANDIDATES ARE PRESENTED BY THE PERSONNEL BOARD FOR SELECTION BY THE DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET.

-IN PENNSYLVANIA, THE DIRECTOR IS SELECTED BY COMPETITIVE EXAM.

THE GOVERNOR IS CHARGED WITH APPOINTING THE PERSONNEL DIRECTOR IN 35 STATES, ALTHOUGH THE FOLLOWING STATES APPLY RESTRICTIONS.

-IN MISSOURI, THE GOVERNOR SELECTS FROM CANDIDATES CERTIFIED BY THE PERSONNEL ADVISORY BOARD.

-In Washington, the Governor appoints from a list of three candidates recommended by the Personnel Board.

-In West Virginia, the Governor appoints from a list of candidates following a competitive exam.

I've also attached a copy of the press release issued upon introduction of Senate Bill 418 for the information of the State Affairs Committee.

STATE PERSONNEL OFFICE: ROLES AND FUNCTIONS

by

THE NATIONAL ASSOCIATION OF STATE PERSONNEL EXECUTIVES

and

THE COUNCIL OF STATE GOVERNMENTS

NASPE
National Association of State Personnel Executives

The Council of State Governments

CHAPTER 1

THE OFFICE OF STATE PERSONNEL EXECUTIVE: SELECTION, PLACEMENT, RESPONSIBILITIES, AND QUALIFICATIONS

The office of the state personnel executive varies as to method of selection, placement in state government and primary responsibilities. Table 1 contains information on state personnel executives and lists primary responsibilities of their offices. Table 2 lists the salary of each state personnel executive during the 1986 fiscal year, the minimum qualifications for the offices and the proper names of the agencies.

The State Personnel Executive

Thirty-five state personnel executives are appointed by their governors. Three of those states also require either a competitive exam (West Virginia) or certification by a personnel board (Missouri and Washington).

The personnel executive is appointed by a personnel board in five states. Six states report that the personnel executive is appointed by the head of their jurisdictional agency. In North Dakota, that appointment is made from a list of candidates selected by the personnel board. In Arkansas, the individual is selected by the department of administration director. In Massachusetts, the appointment is made from a list of candidates selected by the civil service commission. The remaining states report a variety of selection procedures.

Although not represented in the table, five states appoint personnel executives for four-year or five-year terms:

Hawaii - the executive is appointed for four years at the beginning of each governors term.

Massachusetts, Missouri and New Hampshire - the executive serves a four year term, with possibility of re-appointment.

New Jersey - the executive may serve for five years.

Table 2 indicates the annual salary, required qualifications and agency name for each personnel executive. The highest annual salary is found in the California Department of Personnel Administration, where at this writing, the salary is set at $78,209. The lowest salary was reported in North Dakota, where the salary range starts at $32,052 for the director of the Central Personnel Division of the Office of Management and Budget. The 49 states and one territory responding to this question collectively spend $2,813,976 in salaries to chief executives of personnel management systems, making the average salary $56,279.52. (The lowest salary was used for those states providing a range. Texas is not represented in these figures). In addition, Table 2 indicates the length of service of the current personnel executives. Thirty-six personnel executives have served less than five (5) years. The average length of service is four (4) years.

TABLE 1
THE OFFICE OF STATE PERSONNEL EXECUTIVE: SELECTION, PLACEMENT AND RESPONSIBLITIES

State or Jurisdiction	Method of Selection	Reports to Governor	Reports to Personnel Board	Directs Departmental Employees	Administers Policies of Personnel Board	Administers Merit Tests Establishes Qualifications for Classified Employees	Maintains Roster of State Employees, Classification & Compensation Plans	Makes Budget Recommendations to Legislature	Other
Alabama	B	---	•	•	•	•	•	•	•
Alaska	G	•	---	•	---	•	•	•	---
Arizona	D	---	---	•	---	•	•	•	•
Arkansas	D(a)	•	---	•	---	•	•	•	---
California SPB	B	---	•	•	•	•	•	•	•
DPA	G	•	---	•	---		•	•	•
Colorado	G	•	•	•	•	•	•	•	---
Connecticut	D	D	---	•	---	•	•	---	•
Delavare	G(b)	•	---	•	•	•	•	•	•
Florida	G	•	---	•	---	•	•	•	•
Georgia	G	•	---	•	•	•	•	•	•
Bavaii	G	•	---	•	---	•	•	---	•
Idaho	B	---	•	•	•	•	•	•	---
Illinois	D	•	---	•	•	•	•	---	•
Indiana	G	•	---	•	---	•	•	•	•
Iowa	G	•	---	•	---	•	•	•	---
Kansas	G	•	---	•	---	•	•	•	---
Kentucky	G(c)	---	---	•	---	•	•	•	•
Louisiana	(d)	•	•	•	•	•	•	---	---
Maine	G	•	---	•	•	•	•	•	•
Maryland	G	•	---	•	---	•	•	•	•
Massachusetts	(e)	•	---	•	---	•	•	•	---
Michigan	B	---	---	•	•	•	•	•	•
Minnesota	G	•	---	•	---	•	•	•	•
Mississippi	B	---	•	•	•	•	•	•	•
Missouri	G(f)	•	---	•	•	•	•	•	•
Montana	(g)	---	---	•	•	•	•	•	•
Nebraska	G	•	---	•	---	•	•	---	•
Nevada	G	•	•	•	•	•	•	•	•
Nev Hampshire	D	•	---	•	---	•	•	---	---
Nev Jersey	G	•	•	•	•	•	•	•	---
Nev Mexico	G	•	•	•	•	•	•	•	---
Nev York	G	•	---	•	•	•	•	•	•
North Carolina	G	•	•	•	•	•	•	•	---
North Dakota	D(h)	•	•	•	•	•	•	---	•
Ohio	G	•	---	•	•	•	•	•	---
Oklahoma	G	•	---	•	•	•	•	•	---
Oregon	D	•	---	•	---	•	•	•	•
Pennsylvania									
CSC	(i)	---	•	•	•	•	•	---	•
BP	G	•	---	•	•	•	•	•	•
Rhode Island	D	---	---	---	---	•	•	•	•
South Carulina	(j)	•	(j)	•	(j)	•	•	•	---
South Dakota	G	•	•	•	•	•	•	•	---
Tennessee	G	•	---	•	---	•	•	•	•
Texas		----------				(k)			----------
Utah	G	•	---	•	---	•	•	•	•
Vermont	G	•	---	•	---	•	•	•	•
Virginia	G	•	•	•	---	•	•	•	---
Vashington	G(l)	---	•	•		•	•	•	---
Vest Virginia	G(m)	•	•	•	•	•	•	•	---
Visconsin	G	•	---	•	•	•	•	•	---
Vyoming	G	•	---	•	---	•	•	---	---
Puerto Rico	G	----------				(n)			----------
TOTALS	D(8),G(33),B(5)	39	15	50	27	50	51	42	30

SOURCE: Information derived from survey of state personnel offices conducted by The Council of State Governments for the National Association of State Personnel Executives (NASPE)

KEY:
B Appointment by personnel board
D Appointment by department head
G Appointment by governor

FOOTNOTES:

(a) Selected by state administration director, confirmed by the governor.
(b) Reports to the governor and serves as executive secretary to the board, does not report to the board.
(c) The commissioner serves as an adviser to the board and reports to the governor and the board by Oct. 1 each year.
(d) Appointed by the Louisiana Civil Service Commission following a competitive examination.
(e) Massachusetts' Civil Service Commission submits three names to the secretary of administration and finance who appoints the personnel administrator with the governor's consent. The personnel administrator serves a four-year term.
(f) From candidates certified by the Personnel Advisory Board.
(g) Selected through procedures specified in the Montana recruitment and selection rules.
(h) Director of Office of Management and Budget makes final choice from among candidates presented by the State Personnel Board.
(i) Selected by competitive examination.
(j) Selected by and reports to State Budget and Control Board, a five-member board chaired by the governor.
(k) Decentralized personnel system.
(l) From three candidates recommended by the Personnel Board.
(m) From list of eligible candidates following competitive examination.
(n) Information not available.

(+) Other responsibilities specified.

Alabama - Appointed by employees of Personnel Board, removed for cause; secretary to Board.
Arizona - Administers personnel rules and policies.
California - (State Personnel Board). Oversees all aspects of merit employment; (Department of Personnel Administration) - Represents governor in bargaining with employee representatives; administers training, performance evaluation, benefit, labor relations and staff reduction programs.
Connecticut - Supervises affirmative action activities; conducts collective bargaining negotiations and labor management programs; administers management relations and personnel development programs, job analysis and evaluation, workers' compensation.
Delaware - Administers affirmative action programs; development and training; coordinates labor relations for the executive branch.
Florida - Represents governor in collective bargaining negotiations; supports state agency employee training programs; administers group insurance, retirement benefit programs.
Georgia - Administers health insurance plan, deferred compensation plan, flexible benefit plan; coordinates training programs; serves as secretary to Personnel Board; reviews salary payments for compliance with the Personnel Board Rules.
Hawaii - Conducts recruitment and examinations, training and safety programs, classification and compensation review, employee services, labor relations.
Illinois - Negotiates collective bargaining agreements.
Indiana - Administers affirmative action, rules, medical-dental plans for employees, training and continuing education; publishes newsletter; processes applications; performance appraisals; approves payroll; establishes new personnel programs and policies.
Maine - Administers all aspects of employee relations and collective bargaining, workers' compensation program; training and development programs.
Maryland - Administers equal opportunity employment program; adjudicates employee grievances and appeal of disciplinary actions; administers state employee training and development program and health benefits.
Michigan - Administers employee benefits, rules of employment conditions, employee development and assistance, grievance and unfair labor practices charge, technical appeals (including selections and classification issues); regulates collective bargaining system, conducts representation elections for exclusive collective bargaining agents.
Minnesota - Negotiates contracts with 16 bargaining units; represents state in labor disputes.
Missouri - Recommends pay plan revisions for approval by the Board and governor; directs central training function for all state agencies; participates in central labor relations; develops standard performance appraisal system for the state.
Montana - Collective bargaining supervisor; administers health benefits, deferred compensation, training and award programs, affirmative action.
Nebraska - Promulgates system rules and regulations; administers health and life insurance benefits; coordinates labor relations programs.
New York - Oversees agency affirmative action programs under governor's order; administers health insurance programs.
North Dakota - Administers statewide appeal mechanism.
Oregon - Maintains personnel system statewide.
Pennsylvania - (Civil Service Commission) - appoints staff; attends Commission meetings; recommends rules and amendments; investigates impact of Civil Service Act; appoints deputy; makes biennial report. (Bureau of Personnel) - Develops personnel policy for all agencies under governor's jurisdiction; reviews and evaluates personnel programs; develops and administers senior management executive programs; administers training programs; negotiates collective bargaining.
Rhode Island - Principal responsiblitiy is program planning, directing and managing the overall operation of the State's personnel management system and enforcement of the Merit System Law. This office consults with the Governor, Legislature, Labor Relations Office and department officials on personnel policy issues and practices and recommends to the chief executive or legislative body changes in personnel policies and practices. Further, this office responds to the Governor, Legislature, department officials, press and general public on relevant issues.
Tennessee - Administers provisions of Civil Service Act, rules of the Department of Personnel, inlcuding employment practices, classification, compensation, job performance planning and evaluation, attendance and leave, affirmative action, appeals and grievance procedures; acts as secretary of Civil Service Commission.
Utah - Establishes rules and regulations.
Vermont - Negotiates collective bargaining agreements; administers employee benefits, handles employee grievances.

TABLE 2
1986 PERSONNEL EXECUTIVES:
SALARY, LENGTH OF SERVICE, QUALIFICATIONS, AGENCY NAME

	Annual Salary	Length of Service	Qualifications	Agency Name
Alabama	$65,000	5	NR	Personnel Department
Alaska	$62,500/$74,472 (a)	3	(d)	Division of Personnel
Arizona	$65,858	9	NR	Personnel Division
Arkansas	$44,000	6	(d)	Office of Personnel Management
California	$78,209 (DPA)	2	NR	Department of Personnel Administration (DPA)
	$68,460 (SPB)	2	(d)	State Personnel Board (SPB)
Colorado	$64,525	4	(d)	Department of Personnel
Connecticut	$54,822/$67,019 (a)	11	(d)	State Personnel Division
Delavare	$57,500	1	NR	Office of State Personnel
Florida	$58,500	1	NR	Department of Administration
Georgia	$64,000	8	NR	Personnel Administration
Hawaii	$50,450	3	NR	Department of Personnel Services
Idaho	$52,187	2	NR	Personnel Commission
Illinois	$38,364/$59,292 (a)	5	(d)	Bureau of Personnel
Indiana	$62,000	5	(d)	Department of Personnel
Iova	$46,000	1	(d)	Department of Personnel
Kansas	$54,720	1	NR	Division of Personnel Services
Kentucky	$54,624	2	(d)	Department of Personnel
Louisiana	$50,760	3	(d)	Department of Civil Service
Maine	$53,000	5	NR	Department of Personnel
Maryland	$66,500	1	NR	Department of Personnel
Massachusetts	$73,156	3	NR	Department of Personnel Administration
Michigan	$73,800	4	(d)	Department of of Civil Service
Minnesota	$59,774	3	NR	Department of Employee Relations
Mississippi	$44,280	2	(d)	State Personnel Board
Missouri	$44,450	13	(d)	Division of Personnel
Montana	$32,900/$42,638 (a)	1	(d)	Personnel Division
Nebraska	$39,314	1	(d)	Department of Personnel
Nevada	$48,844/44,730 (a)(b)	1	(d)	Department of Personnel
Nev Hampshire	$38,918/$50,143 (a)	2	NR	Department of Personnel
Nev Jersey	$70,000	5	NR	Department of Civil Service
Nev Mexico	$45,000	2	NR	Personnel Office
Nev York	$75,445	3	NR	Department of Civil Service
North Carolina	$61,040(a)	1	NR	Office of State Personnel
North Dakota	$32,052/$47,712 (a)	1	(d)	Office of Management & Budget
Ohio	$47,000	1	NR	Personnel Division
Oklahoma	$50,000	5	NR	Office of Personnel Management
Oregon	$50,304	3	NR	Division of Personnel
Pennsylvania	$51,893 (CSC)	9	(d)	Civil Service Commission (CSC)
	$54,900 (BP)	11	(d)	Bureau of Personnel (BP)
Rhode Island	$52,000	10	(d)	Office of Personnel Administration
South Carolina	$61,450	2	NR	Division Human Resource Management
South Dakota	$43,000	2	(d)	Bureau of Personnel
Tennessee	$53,000	.5	NR	Department of Personnel
Texas	Personnel System is Decentralized			
Utah	$48,000	1	(d)	Division of Personnel Management
Vermont	$42,577.60	2	NR	Department of Personnel
Virginia	$61,480	2	NR	Department of Personnel Training
Vashington	$64,000	19	(d)	Department of Personnel
Vest Virginia	$36,500	1	(d)	Civil Service System
Visconsin	$59,440 (c)	3	NR	Department of Employee Relations
Vyoming	$58,135	12	(d)	Personnel Division
Puerto Rico	$39,500	1	NR	Central Office of Personnel Admin.

SOURCE: Information derived from survey of state personnel offices conducted by The Council of State Governments for the National Association of State Personnel Executives (NASPE).

(a) Formal qualifications or provisions.
(b) Nevada salary depends upon retirement plan selected.
(c) Wisconsin's Administrator of Merit Recruitment is paid $46,500.
(d) Other requirements specified below.

KEY: NR-No legal requirements for the position of personnel director.

FOOTNOTES:

Alaska - Three years of practical work experience in the field of personnel administration are required.
Arkansas - A bachelor's degree and six years experience are required.
California (SPB) - The State Personnel Board requires permanent civil service status and an extensive managerial and program administrative experience.
Colorado - Experience can substitute for education and or education for experience.
Connecticut - General Statutes provide that the Director of Personnel and Labor Relations/Deputy Commissioner in the Department of Administrative Services should be appointed on the basis of ability in the field of personnel administration.
Illinois - A master's degree is required as well as three years of managerial experience. Experience can be substituted for education.
Indiana - Experience can be substituted for education.
Iowa - Experience can be substituted for education.
Kentucky - A bachelor's degree and five years experience are required. Experience can be substituted for education and vice-versa.
Louisiana - Two years of professional experience in personnel at least equivalent to that of an assistant division chief is required.
Michigan - A bachelor's degree and 10 years experience required, the latter depending upon level of experience. Experience can be substituted for education.
Mississippi - A master's degree and five years of experience are required.
Missouri - A bachelor's degree and six years of experience, four at managerial level, are required.
Montana - A bachelor's degree and five years experience are required. Experience can be substituted for education and vice-versa.
Nebraska - A bachelor's degree and five years experience are required.
Nevada - A bachelor's degree is required. Education can be substituted for experience. Experience requirement determined by the Personnel Commission.
North Dakota - A bachelor's degree and five years experience are required. Education can be substituted for experience and vice-versa.
Pennsylvania (CSC) - A master's degree is required. Experience can substitute for education and vice-versa. Eight years experience, including five years in directing and managing a major personnel function are required.
Pennsylvania (BP) - A bachelor's degree and seven years experience are required. Experience can substitute for education and vice-versa.
Rhode Island - A bachelor's degree and five years experience are required.
South Dakota - Two years personnel experience is required.
Utah - A master's degree and eight years experience are required. Education can substitute for experience and vice-versa.
Washington - Must have had personnel management experience.
West Virginia - A bachelor's degree is required.
Wyoming - Five years experience is required.

Alaska State Legislature

SENATOR JIM DUNCAN

P. O. BOX V JUNEAU, ALASKA 99811-3100

(907) 465-4766

COMMITTEES:
FINANCE
VICE CHAIR – HEALTH EDUCATION & SOCIAL SERVICES
BUDGET & AUDIT
BANKING & ECONOMIC DEVELOPMENT

FOR IMMEDIATE RELEASE
JANUARY 30, 1990
CONTACT: PETE CARRAN
465-4430

STATE MERIT SYSTEM STRENGTHENED BY DUNCAN BILL

LEGISLATION INTRODUCED TODAY BY SENATOR JIM DUNCAN OF JUNEAU WOULD STRENGTHEN THE STATE OF ALASKA'S MERIT SYSTEM OF EMPLOYMENT BY EXPANDING THE PERSONNEL BOARD AND PROVIDING IT THE DUTY OF APPOINTING THE SYSTEM'S DIRECTOR.

"SINCE THE ALASKA STATE CONSTITUTION CALLS ON THE LEGISLATURE TO ESTABLISH A MERIT SYSTEM OF EMPLOYMENT WHICH IMPACTS APPROXIMATELY 13,000 STATE EMPLOYEES STATEWIDE, I FEEL IT IS OUR DUTY AS LAWMAKERS TO ENSURE THE SYSTEM IS INSULATED AS MUCH AS POSSIBLE FROM POLITICAL INFLUENCE," SENATOR DUNCAN SAYS. "MY BILL ACHIEVES THIS GOAL BY EXPANDING REPRESENTATION ON THE PERSONNEL BOARD AND CHANGING THE APPOINTMENT PROCESS OF THE DIVISION OF PERSONNEL DIRECTOR."

THE BILL PROVIDES FOR CONTINUITY IN MANAGEMENT OF THE MERIT SYSTEM, ACCORDING TO SENATOR DUNCAN, BY PROVIDING FOR APPOINTMENT OF THE DIRECTOR BY THE PERSONNEL BOARD. "THE DIRECTOR TRADITIONALLY CHANGES WITH EACH CHANGE IN ADMINISTRATION BECAUSE IT IS A DIRECT POLITICAL APPOINTMENT. WITH ADOPTION OF THIS MEASURE AN OVERLAP BETWEEN ADMINISTRATIONS IS NOT ONLY POSSIBLE BUT PROBABLE." CURRENT LAW DIRECTS THE COMMISSIONER OF ADMINISTRATION TO APPOINT THE DIRECTOR.

"THE BILL ALSO RESPONDS TO CONCERNS RAISED IN THE PAST BY MINORITY AND RURAL ALASKANS OVER THE APPLICATION AND SELECTION PROCESS FOR CLASSIFIED SERVICE JOBS BY CALLING FOR REPRESENTATION OF THESE GROUPS ON THE PERSONNEL BOARD," SENATOR DUNCAN SAYS. THE BILL EXPANDS THE PERSONNEL BOARD FROM THREE TO FIVE MEMBERS. IN ADDITION TO MINORITY ORGANIZATIONS AND RURAL ALASKA, THE OTHER SEATS ARE DESIGNATED AS MANAGEMENT, LABOR AND PUBLIC.

ANOTHER MAJOR ELEMENT OF THE BILL REQUIRES STATEWIDE PUBLIC PARTICIPATION IF A HEARING ON PROPOSED CHANGES TO THE PERSONNEL RULES IS REQUESTED. SENATOR DUNCAN DECIDED ON THIS AMENDMENT TO CURRENT LAW AFTER LEARNING A HEARING BY THE PERSONNEL BOARD IN ANCHORAGE THIS WEEK WAS NOT SCHEDULED FOR OTHER LOCATIONS. A JUNEAU TELECONFERENCE WAS SET UP AFTER A REQUEST BY SENATOR DUNCAN TO THE DEPARTMENT OF ADMINISTRATION.

SENATOR DUNCAN POINTS OUT THERE IS PRECEDENT FOR BOARD APPOINTMENT OF AN AGENCY OFFICIAL IN ALASKA GOVERNMENT. "MY

(OVER)

Alaska State Legislature

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COMMITTEES:
FINANCE
VICE CHAIR – HEALTH EDUCATION & SOCIAL SERVICES
BUDGET & AUDIT
BANKING & ECONOMIC DEVELOPMENT

TO: SENATOR PAT POURCHOT
CHAIR
STATE AFFAIRS COMMITTEE

FROM: SENATOR JIM DUNCAN

REGARDS: HEARING FOR SB 418

DATE: FEBRUARY 1, 1990

I WOULD APPRECIATE THE EARLIEST POSSIBLE HEARING FOR SENATE BILL 418 BY THE SENATE STATE AFFAIRS COMMITTEE.

THE OBJECT OF THIS MEASURE IS TO PROVIDE INSULATION FROM POLITICAL INFLUENCE FOR THE MERIT SYSTEM OF EMPLOYMENT. I FEEL THIS IS OUR RESPONSIBILITY AS LAWMAKERS SINCE ARTICLE XII, SECTION 6 OF THE ALASKA CONSTITUTION DIRECTS THE LEGISLATURE TO ESTABLISH A MERIT SYSTEM OF EMPLOYMENT. THIS GOAL IS ACCOMPLISHED THROUGH VARIOUS AMENDMENTS TO ALASKA STATUTE 39 PROPOSED IN SENATE BILL 418.

THE BILL EXPANDS REPRESENTATION ON THE PERSONNEL BOARD AND PROVIDES IT THE DUTY OF APPOINTING THE DIRECTOR, DIVISION OF PERSONNEL.

THE BOARD IS INCREASED FROM THREE TO FIVE MEMBERS. THE BILL RESPONDS TO CONCERNS RAISED IN THE PAST BY MINORITY AND RURAL ALASKANS BY DESIGNATING REPRESENTATION OF THESE GROUPS ON THE BOARD. THE OTHER SEATS ARE DESIGNATED AS MANAGEMENT, LABOR AND PUBLIC. THE BILL REQUIRES BOARD MEMBERS TO SUPPORT AND POSSESS A DEMONSTRATED INTEREST IN THE APPLICATION OF MERIT PRINCIPLES TO PUBLIC EMPLOYMENT.

SENATE BILL 418 PROVIDES FOR CONTINUITY IN MANAGEMENT OF THE MERIT SYSTEM BY PROVIDING FOR APPOINTMENT OF THE DIVISION OF PERSONNEL DIRECTOR BY THE BOARD. THE DIRECTOR TRADITIONALLY CHANGES WITH EACH CHANGE IN THE ADMINISTRATION BECAUSE IT IS A DIRECT POLITICAL APPOINTMENT. WITH ADOPTION OF THIS MEASURE AN OVERLAP BETWEEN ADMINISTRATIONS IS NOT ONLY POSSIBLE BUT PROBABLE. CURRENT LAW DIRECTS THE COMMISSIONER OF ADMINISTRATION TO APPOINT THE DIRECTOR. THIS SYSTEM IS CURRENTLY USED FOR THE APPOINTMENT OF COMMISSIONERS IN THE DEPARTMENTS OF EDUCATION AND FISH AND GAME.

CORRECTION

THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

Alaska State Legislature

SENATOR JIM DUNCAN

P.O. BOX V JUNEAU, ALASKA 99811-3100

(907) 465-4766

COMMITTEES:
FINANCE
VICE CHAIR --
HEALTH EDUCATION & SOCIAL SERVICES
BUDGET & AUDIT
BANKING & ECONOMIC DEVELOPMENT

FOR IMMEDIATE RELEASE
JANUARY 30, 1990
CONTACT: PETE CARRAN
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STATE MERIT SYSTEM STRENGTHENED BY DUNCAN BILL

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(OVER)

PROPOSAL MIRRORS THE SYSTEM USED IN THE DEPARTMENTS OF FISH AND GAME AND EDUCATION WHERE BOARDS APPOINT THE COMMISSIONERS IN ORDER TO ACHIEVE AN ADDED DEGREE OF INSULATION FROM POLITICS."

OTHER CHANGES CALLED FOR IN SENATOR DUNCAN'S BILL INCLUDE:

-REQUIRING THE DIRECTOR TO HAVE A MINIMUM OF FIVE YEARS PROFESSIONAL PERSONNEL MANAGEMENT EXPERIENCE AND ALLOWING THE PERSONNEL BOARD TO ESTABLISH OTHER QUALIFICATIONS AS NECESSARY. CURRENTLY, A DIRECTOR MUST HAVE AT LEAST THREE YEARS OF PRACTICAL PERSONNEL MANAGEMENT EXPERIENCE.

-CALLING FOR PERSONNEL BOARD MEMBERS TO SUPPORT AND POSSESS A DEMONSTRATED INTEREST IN THE APPLICATION OF MERIT PRINCIPLES TO PUBLIC EMPLOYMENT.

-REQUIRING THE DIRECTOR TO ENSURE DEPARTMENTS EMPLOY QUALIFIED PERSONNEL OFFICERS AND SUBMIT REPORTS OF EACH HIRE TO THE PERSONNEL BOARD AND AN ANNUAL REPORT TO THE LEGISLATURE.

AS IS THE CASE IN CURRENT LAW, BOARD MEMBERS ARE APPOINTED TO SIX YEAR, STAGGERED TERMS BY THE GOVERNOR AND CONFIRMED BY THE LEGISLATURE.

-30-

Alaska State Legislature

SENATOR JIM DUNCAN

P. O. BOX V JUNEAU, ALASKA 99811-3100

(907) 465-4766

COMMITTEES:
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TO: SENATOR PAT POURCHOT
CHAIR
STATE AFFAIRS COMMITTEE

FROM: SENATOR JIM DUNCAN

REGARDS: HEARING FOR SB 418

DATE: FEBRUARY 1, 1990

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OTHER ELEMENTS OF THE BILL INCLUDE:

-INCREASING THE QUALIFICATIONS FOR THE DIRECTOR FROM THREE YEARS OF PRACTICAL PERSONNEL MANAGEMENT EXPERIENCE TO FIVE YEARS OF PROFESSIONAL EXPERIENCE AND ALLOWING THE PERSONNEL BOARD TO ESTABLISH OTHER QUALIFICATIONS.

-REQUIRING STATEWIDE PUBLIC PARTICIPATION IF A HEARING ON PROPOSED CHANGES TO THE PERSONNEL RULES IS REQUESTED.

-REQUIRING THE DIRECTOR TO ENSURE DEPARTMENTS EMPLOY QUALIFIED PERSONNEL OFFICERS AND SUBMIT REPORTS OF EACH HIRE TO THE PERSONNEL BOARD AND AN ANNUAL REPORT TO THE LEGISLATURE.

-CALLING FOR THE PERSONNEL BOARD CHAIR TO SELECT THREE MEMBERS TO SERVE ON THE PUBLIC EMPLOYEES RETIREMENT BOARD. CURRENTLY, THE ENTIRE BOARD AND TWO MEMBERS ELECTED BY PARTICIPANTS IN THE SYSTEM COMPRISE THIS BOARD. THIS AMENDMENT PROVIDES FOR CONTINUED BALANCE ON THE PUBLIC EMPLOYEES RETIREMENT BOARD.

THE PROPOSED BILL CALLS FOR AN EFFECTIVE DATE OF JANUARY 1, 1991.

YOUR CONSIDERATION OF THIS REQUEST IS APPRECIATED.

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION : SB-418
PUBLISH DATE : _____

FISCAL NOTE

REQUEST:

Revision Date: _____
Title : An Act relating or the State Personnel System and to membership*
Sponsor : Senator Duncan
Requestor : _____

Agency Affected : Department of Administration
BRU : Division of Personnel
_____
Components : _____
_____

*on the Public Employees Retirement Board.

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL	12.9	13.5	14.2	14.8	15.5	16.1
CONTRACTUAL	5.0	5.3	5.5	5.8	6.0	6.3
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	17.9	18.8	19.7	20.6	21.5	22.4
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	17.9	18.8	19.7	20.6	21.5	22.4
FEDERAL FUNDS						
OTHER						
TOTAL	17.9	18.8	19.7	20.6	21.5	22.4

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)

Prepared by : David K. F. Otto
Division : Personnel
Phone : 465-4430
Date : 2/8/90

Approved by Commissioner : Frank S. Baxter
Agency : Department of Administration
Date : 2/15/90

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

SB-418 requires the Personnel Board to hold one or more hearings when considering personnel rule changes. The bill requires that the hearings "permit public participation from around the state in person or by telephone or teleconference." This fiscal note assumes that one new board member will be appointed from Nome and one from Anchorage. It also assumes that three hearings will be needed annually to consider separate rule changes and that hearings will be held in Anchorage and Juneau to consider two of the rule changes and in Anchorage and Fairbanks for the third proposed rule change. All requests to move positions between the partially exempt and classified service will be scheduled to coincide with one of the six scheduled hearings. Public notice of the hearings will be published in six papers and three hearings will be teleconferenced to seventeen locations throughout the state. On the basis of these assumptions the cost of conducting and teleconferencing a hearing in Anchorage, Fairbanks or Juneau is shown below:

	Anchorage	Fairbanks	Juneau
Travel	1,846.00	2,552.00	2,322.00
Per Diem	566.00	560.00	560.00
Teleconference (2.5 hrs.) (17 L10 sites statewide)	1,875.00	1,875.00	1,875.00
Public Notice (6 papers)	450.00	450.00	450.00
Legal Services (10 hours)	1,100.00	1,100.00	1,100.00
TOTAL COST ONE DAY HEARING	5,831.00	6,537.00	6,307.00

$13,500 is currently budgeted for Personnel Board hearings. This amount has been subtracted from the amounts reported on this fiscal note.

An additional $17,819 will be needed in FY91 to comply with the bills requirements. The increased travel and per diem will be needed to pay for the two additional board members and to pay for the three additional hearings which are scheduled to comply with the bill's mandate that the board schedule hearings when considering rule changes. The additional $4,925.00 is needed to pay for expanded public notice and teleconferencing of the hearings which are scheduled to consider changes in the rules.

The figures shown are adjusted for inflation at a rate of 5% per year.

SENATE BILL 418
SECTIONAL ANALYSIS

SECTION 1

THIS SECTION AMENDS AS 39.25.040 BY CHANGING THE APPOINTING AUTHORITY FOR THE DIRECTOR, DIVISION OF PERSONNEL FROM THE COMMISSIONER OF ADMINISTRATION TO THE PERSONNEL BOARD.

IT ALSO CHANGES THE QUALIFICATIONS FOR THE DIRECTOR FROM THREE YEARS OF PRACTICAL PERSONNEL MANAGEMENT EXPERIENCE TO FIVE YEARS OF PROFESSIONAL PERSONNEL MANAGEMENT EXPERIENCE AND PERMITS THE PERSONNEL BOARD THE ABILITY TO ESTABLISH ADDITIONAL QUALIFICATIONS.

A SENTENCE IS ADDED STATING THAT THE DIRECTOR SERVES AT THE PLEASURE OF THE PERSONNEL BOARD.

SECTION 2

THIS SECTION ADDS A NEW SUBSECTION TO AS 39.25.050 WHICH REQUIRES THE DIRECTOR, DIVISION OF PERSONNEL TO ENSURE DEPARTMENTS COMPLY WITH MERIT PRINCIPLES IN THE HIRING OF PERSONNEL OFFICERS AND TO SUBMIT REPORTS OF EACH HIRE TO THE PERSONNEL BOARD AND AN ANNUAL REPORT EACH JANUARY 15 TO THE LEGISLATURE.

SECTION 3

THIS SECTION AMENDS AS 39.25.060(A) BY INCREASING THE MEMBERSHIP OF THE PERSONNEL BOARD FROM THREE TO FIVE. NEW LANGUAGE DESIGNATES SEATS AS MANAGEMENT, LABOR, PUBLIC, MINORITY GROUPS, AND RURAL AREAS OF THE STATE. BOARD MEMBERS ARE REQUIRED TO SUPPORT MERIT PRINCIPLES OF EMPLOYMENT AND POSSESS A DEMONSTRATED INTEREST IN PUBLIC ADMINISTRATION.

SECTION 4

THIS SECTION AMENDS AS 39.25.060(B) BY SPECIFYING THAT NOT MORE THAN THREE MEMBERS OF THE PERSONNEL BOARD MAY BE MEMBERS OF THE SAME POLITICAL PARTY. THIS AMENDMENT IS NECESSARY TO REFLECT INCREASED BOARD MEMBERSHIP.

SECTION 5

TWO AMENDMENTS ARE MADE TO AS 39.25.070 IN THIS SECTION TO REFLECT INCREASED BOARD MEMBERSHIP. PARAGRAPH FOUR REQUIRES THREE MEMBERS TO CONSTITUTE A QUORUM AND THREE AFFIRMATIVE VOTES FOR FINAL ACTION ON MATTERS COMING BEFORE THE BOARD.

SECTION 6

THIS SECTION AMENDS AS 39.25.130(A) BY CHANGING THE AUTHORITY FOR RECOMMENDATIONS ON THE EXTENSION OF THE PARTIALLY EXEMPT SERVICE

TO THE CLASSIFIED SERVICE FROM THE COMMISSIONER OF ADMINISTRATION TO THE DIRECTOR, DIVISION OF PERSONNEL.

Section 7

THIS SECTION AMENDS AS 39.25.130(C) BY CHANGING THE AUTHORITY FOR RECOMMENDATIONS ON THE EXTENSION OF THE CLASSIFIED SERVICE TO THE PARTIALLY EXEMPT SERVICE FROM THE COMMISSIONER OF ADMINISTRATION TO THE DIRECTOR, DIVISION OF PERSONNEL.

Section 8

THIS SECTION AMENDS AS 39.25.140(A) BY REQUIRING THE DIRECTOR TO SUBMIT AMENDMENTS TO THE PERSONNEL RULES TO THE PERSONNEL BOARD RATHER THAN THE COMMISSIONER OF ADMINISTRATION.

Section 9

THIS SECTION AMENDS AS 39.25.140(G) AND REQUIRES THE PERSONNEL BOARD TO CONDUCT PUBLIC HEARINGS IF REQUESTED ON PROPOSED AMENDMENTS TO THE PERSONNEL RULES. THE AMENDMENT ALLOWS PARTICIPATION BY APPEARANCE IN PERSON OR BY TELEPHONE OR TELECONFERENCE.

Section 10

THIS SECTION AMENDS AS 39.25.150(1) AND REMOVES THE POWER OF THE COMMISSIONER OF ADMINISTRATION CONCERNING THE POSITION CLASSIFICATION PLAN. THE PERSONNEL BOARD THEN RETAINS POWER TO APPROVE POSITION CLASSIFICATION PLANS.

Section 11

THIS SECTION AMENDS AS 39.25.153(D) AND GIVES THE DIRECTOR, DIVISION OF PERSONNEL RATHER THAN THE COMMMISSIONER OF ADMINISTRATION THE POWER TO APPROVE POSITION CLASSIFICATIONS BY THE DEPARTMENTS NAMED IN AS 39.25.153.(B).

Section 12

THIS SECTION AMENDS AS 39.35.030(B) AND ADDRESSES MEMBERSHIP ON THE PUBLIC EMPLOYEES RETIREMENT SYSTEM BOARD. IT PROVIDES FOR SELECTION OF THREE PERSONNEL BOARD MEMBERS DESIGNATED BY THE BOARD CHAIR TO SERVE ON THE PERS BOARD.

Section 13

THIS SECTION OUTLINES THE INITIAL TERMS OF THE TWO ADDITIONAL MEMBERS OF THE PERSONNEL BOARD.

Section 14

THIS SECTION REPEALS TWO EXISTING STATUTES. THE REPEAL OF AS 44.21.020(9) REMOVES THE ADMINISTRATION OF THE PERSONNEL SYSTEM

FROM THE LIST OF DUTIES ASSIGNED TO THE DEPARTMENT OF ADMINISTRATION. THE REPEAL OF AS 39.25.140(B) ELIMINATES THE REVIEW OF PERSONNEL RULE AMENDMENTS BY THE COMMISSIONER OF ADMINISTRATION.

Section 15

THIS SECTION PROVIDES FOR AN EFFECTIVE DATE OF JANUARY 1, 1991.

SB 435

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER SB 435

SPONSOR COGHILL

BILL TITLE Use of State or municipal funds or facilities as campaign contributions.

DATE REFERRED 2.6.90

HEARING SCHEDULED 2.21.90

FISCAL NOTE PREPARED Req: 2.15.90 ✓

SPONSOR CONTACTED ✓ Lou - 4797

INTERESTED PARTIES CONTACTED

OTHER

Senator John B. (Jack) Coghill
Alaska State Legislature

[illegible]
Juneau, Alaska 99811
(907) 465-4797

Box 55028
North Pole, Alaska 99705
(907) 488-0862

SPONSOR STATEMENT FOR SB 435

THE FUNDAMENTAL PRINCIPLE OF CONSTITUTIONAL GOVERNMENT IS THAT THE LEGISLATURE ESTABLISHES THE POLICY, DECIDES TAXATION, AND DOES THE APPROPRIATION.

THE ADMINISTRATIVE BRANCH OF GOVERNMENT ADMINISTERS THE LAW, AND SPENDS PUBLIC MONIES AS THE LEGISLATURE DIRECTS IN THE BUDGET.

THE JUDICIAL BRANCH OF GOVERNMENT RESOLVES DISPUTES, BOTH IN THE PUBLIC AND PRIVATE SECTOR.

THE ISSUE OF SB 435, IS DIRECTLY RELATED TO THE STATEMENT OF THE GOVERNOR THAT HE WOULD USE PUBLIC FUNDS FROM ALL AGENCIES TO ESTABLISH A PAC (POLIICAL ACTION COMMITTEE) TO PROMOTE HIS EDUCATIONAL ENDOWMENT. THEIR HAS NOT BEEN ANY SPECIFIC APPROPRIATION FOR THAT PURPOSE AND IF EXCESS FUNDS EXIST THEN THE LEGISLATIVE PROCESS SHOULD CLOSE THE LOOPHOLE THAT ALLOWS NON-APPRORIATED FUNDS TO BE USED BY THE GOVERNOR.

IF WE WENT TO COURT WE WOULD WIN, BECAUSE THE ACTIONS OF THE GOVERNOR WOULD VIOLATE ARTICLE 9, SECTION 6 OF THE ALASKA CONSTITUTION.

WHY SPEND THOUSANDS OF DOLLARS TO DEFEND OUR CONSTITUTIONAL RIGHTS ? THE PURPOSE OF THIS ACT IS TO MAKE IT CLEAR THAT UNLESS THE LEGISLATURE OR MUNICIPALITY APPROPRIATES FUNDS, IT IS UNLAWFUL FOR ADMINISTRATIONS TO ARBITRARILY SPEND SUCH MONIES.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

MEMORANDUM February 2, 1990

SUBJECT: Use of state or municipal funds or facilities for campaign contributions (Work Order No. 6-2108)

TO: Senator Jack Coghill

FROM: Richard A. Bradley
Legislative Counsel

I have provided you the draft as requested by Lewie Reece.

I did not want my failure to comment on the bill lead you to think that we believe that the activities described are appropriate until the enactment of this legislation. Art. IX, sec. 6, of the Alaska Constitution ("Public Purpose") may well achieve this result absent legislation.

If I may be of further assistance, please advise.

RAB:pl
WKP1/093

02 0018 Rev 10/76

STATE
of ALASKA

MEMORANDUM

TO: Randall P. Burns, Executive Director
Alaska Public Offices Commission
610 'C' Street, Suite 209
Anchorage, Alaska 99501

DATE: January 5, 1978

FILE NO: J-66-365-78

TELEPHONE NO:

FROM: AVRUM M. GROSS
ATTORNEY GENERAL

By:
Rodger W. Pegues
Assistant Attorney General

SUBJECT: Contribution of state monies to Friends of Higher Education. Your File No. 77-5.

At the commission's request, you have asked whether a state agency, here the University of Alaska, may contribute to a private group to influence the outcome of an election. We had previously been asked, in regard to the same subject, whether the University of Alaska (or other state agencies) could expend state money to influence bond propositions.

The law on campaign contributions and expenditures applies to political parties, persons, individuals, candidates and groups. With respect to your question, which focuses on groups, "groups" are defined as being comprised of "persons or individuals". AS 15.13.130(3). The latter is described as a "natural person". AS 15.13.130(5). And a "person" is defined as, in addition to the terms set out in AS 01.10.060(7), including a labor union. AS 15.13.130(7). The definition of "person" in Title 1 includes corporations, partnerships, firms, associations, and the like but it does not include the state or its agencies. Thus, it appears that the law has no application to contributions made by a state agency.

Moreover, we are not at all certain that the so-called "Friends of Higher Education," constitutes a group within the meaning of the law. Given the university's complete control of the organization, its own official's serving as the organization's treasurer, and its funding of the organization's activities, the Friends of Public Higher Education appears to be an agent of the university. As indicated above, a combination of persons as a part of the state government is not covered by the law. Thus, there is a substantial question that the law even applies to this organization. Assuming that it does, it plainly does not apply to contributions from a state agency, because the latter is not covered by the act.

We concur with the staff's recommendation that no

action be taken on this one. If asked to do so, the university and its "Friends" will undoubtedly make full reports. If the commission believes that the university or other state agencies should be covered by the act or that they should be prohibited from spending state funds for campaign purposes, it is peculiarly within its authority, and indeed, among its duties, to make recommendations for a change in the law. AS 15.13.030(9).

RWP/pjg

Alaska State Legislature

Legislative Research Agency

P.O. Box Y
Juneau, AK 99811-3100
Phone: (907) 465-3991
Fax: (907) 463-3351

February 16, 1990

MEMORANDUM

TO: Senator Jack Coghill

FROM: Maureen Weeks MW
Legislative Analyst

RE: Article IX, Section 6, Alaska Constitution
Research Request 90.236

You asked this office to search the journals and proceedings of the Alaska Constitutional Convention to learn what delegates intended when they wrote the public purpose clause of the finance and taxation article (Article IX, Section 6).

Delegates to the convention appear to have spent very little time discussing this section. Notes from meetings of the Committee on Finance and Taxation show that the wording of Section 6 in the Constitution today is almost unchanged from the first version, dated November 22, 1955:

November 22, 1955: "No tax shall be levied, or appropriation of public money or property made, nor shall the public credit be used, directly or indirectly, except for a public purpose."

Final version: "No tax shall be levied, or appropriation of public money made, or public property transferred, nor shall the public credit be used, except for a public purpose."

A sectional analysis written on December 16, 1955, indicates that delegates saw the public purpose clause as a necessary and perfunctory part of a constitution. "Public purpose clauses are common to most constitutions," the analysis says, "and are included to prevent appropriation of public funds for private purposes." In presenting Article IX to the convention on January 16, 1956, Delegate Leslie Nerland said the public purpose clause was included to "take care of the fact that no public monies, public property, or public credit should be used except for a public purpose." The section was brought up only twice on the floor.

Copies of committee notes on Article IX and relevant copies of convention proceedings are attached to this memorandum. Also attached are two informal Attorney General opinions which refer to public purpose. Finally, the attachments include references to appelate court decisions pertaining to Article IX Section 6, as well as a copy of the comments on this section found in *Alaska's Constitution: A Citizen's Guide*, published by the Institute of Social and Economic Research.

I hope this information is helpful to you.

Attachments

STATE OF ALASKA

STEVE COWPER, GOVERNOR

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

ALASKA PUBLIC OFFICES COMMISSION

February 12, 1990

Senator Pat Pourchot
Pouch V
Juneau, Alaska 99811

Dear Senator Pourchot:

I am writing with regard to SB 435, a bill which has been referred to the Senate State Affairs Committee and which relates to the use of state or municipal funds or facilities as campaign contributions.

The Alaska Public Offices Commission reviewed this measure at a teleconferenced meeting on February 9, 1990 (Commissioners Annie Laurie Howard, Jane Behlke, Rodman Wilson and Winston Burbank participating).

This bill provides that without specific authority, public funds may not be contributed to a candidate, or used to urge adoption or rejection of a ballot proposition. It further provides that public facilities cannot be used to prepare campaign materials.

The commission is concerned that this language is not sufficiently specific to give guidance to public officials, nor would it give necessary guidance to the commission in administering the law. The commission suggests that the committee consider adopting a law similar to that adopted in Washington state (copy attached), which defines public facilities and which establishes criteria for determining when an unauthorized use of public funds has occurred.

The commission further suggests that the committee consider adopting a specific penalty for violation of this section. 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

treble penalty structure has been proposed for licensees or permittees who violate alcoholic beverage laws (see CSSB 157).

The commission has submitted a fiscal note describing the fiscal impact of this measure.

Thank you for the opportunity to comment. If questions arise, please let me know.

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION

Karla L. Forsythe
Executive Director

Attachment

cc: Senator Coghill
Senator Fischer
Senator Frank
Senator Jones
Senator Halford
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.

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION : SB 435
PUBLISH DATE : 2/6/90

FISCAL NOTE

REQUEST:

Revision Date:
Title : An act relating to the use of state or municipal funds ... .
Sponsor : Senator Coghill
Requestor :

Agency Affected : Dept. of Administration
BRU : Alaska Public Offices Commission

Components :

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	120.4	124.3	127.9	131.9	136.0	140.2
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	8.6	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	129.0	124.3	127.9	131.9	136.0	140.2
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	129.0	124.3	127.9	131.9	136.0	140.2
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	129.0	124.3	127.9	131.9	136.0	140.2

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

SEE ATTACHED

Prepared by : Karla L. Forsythe, Executive Director
Phone : 276-4176
Division : Alaska Public Offices Commission
Date : 2/12/90
Approved by Commissioner : Annie Laurie Howard, Acting Chair
Date : 2/12/90
Agency : Alaska Public Offices Commission

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

SB 435

NARRATIVE

Administration of this bill would create substantial new responsibilities for the commission. The executive director of the Washington State Disclosure Commission, which is responsible for administering a similar law, indicates that a substantial part of his agency's activities are devoted to issues involving unauthorized use of local funds, particularly at the local level. He states that without question, the provision of law that prohibits the use of public facilities to assist in election campaigns has generated more work than all of the rest of the law combined. 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. In addition to complaint investigation, a great deal of time is spent providing training and information to localities to help them avoid running afoul of the law.

Although it is difficult to quantify the potential workload impact on APOC, it is anticipated that complaints and advisory requests will increase significantly, perhaps by as much as 50%. At current staffing levels there are delays in completing investigations, and minimal outreach activity. Existing commission staff cannot absorb additional investigative and outreach duties.

To administer this law, the commission would require funding for a Range 16 paralegal investigator to investigate additional complaints, a Range 16 research analyst II (who would provide advice, assistance, and training, and would help revise APOC manuals and regulations), a Range 10 secretary (since the commission is currently staffed with only one secretary who cannot absorb additional duties,) and with funds necessary to provide

equipment for these positions. Even if this law became effective immediately, staff could not be hired until July, so no costs are anticipated for FY 90.

Position	Salary and Benefits
Range 16 Paralegal	$44,382
Range 16 Research Analyst II	$44,382
Range 10 Secretary	$31,645

Equipment:

1 Personal Computer, laser printer	$3993
1 Personal Computer, dot matrix printer	$2440
2 Desks/Chairs	$1750
Moveable Partitions	$ 400

CROWELL & MORING

MEMORANDUM

From Coghill— Not in Comm. Packet.

TO: Broadcast Clients

FROM: Crowell & Moring

DATE: March 26, 1986

SUBJECT: FCC Rules On Political Broadcasting

Political activity in 1986 promises to be heavy. All of the 435 seats in the House of Representatives and one-third of the 100 seats in the Senate will come up for election. Voters in 40 states will elect new governors. Independent political action committees are likely to be active. Now is the time for station personnel who will deal with candidates' requests for airtime to review the political broadcasting rules.

The FCC's 1978 "Primer," The Law of Political Broadcasting and Cablecasting, provides a generally comprehensive explanation of the FCC's rules and policies concerning political broadcasting. (If you do not have a copy, we will send you one.) Since the Primer was published, however, a number of important decisions have been issued by the FCC and the courts that either refine or change some of these rules and policies. Broadcasters should be aware of those decisions, and of how they affect what can or cannot be done with respect to political broadcasting. This memorandum is a general review of the current political broadcasting rules, and includes the most recent court and FCC decisions.

The Communications Act and the Commission's Rules place many requirements on broadcasters relating to political broadcasts. There are four basic purposes for these requirements: 1) to prevent broadcast licensees from discriminating among competing candidates for public office; 2) to ensure that candidates are allowed to speak freely without censorship; 3) to guarantee rates for political time at least as favorable as those broadcasters offer their most favored commercial advertisers; and 4) to ensure that candidates for federal office are given or sold reasonable amounts of time for their campaigns. Keeping these purposes in mind will help you understand and apply the rules.

A. THE EQUAL OPPORTUNITIES RULE

The "equal opportunities" rule is designed to prevent discrimination among competing candidates for public office. Under the rule, once a "legally qualified candidate" for public office "uses" a station during his or her campaign, the station must grant "equal opportunities" to all other legally qualified candidates for the same office.

1. Legally Qualified Candidates

Generally, a person is a legally qualified candidate for a particular office only if he or she (a) has publicly announced an intention to run for the office, (b) is qualified under the applicable federal, state or local law to hold the office, and (c)

has qualified for a place on the ballot or made a "substantial showing" that he or she is a bona fide candidate.

For example, in 1979 the Commission held that Ronald Reagan was not a legally qualified candidate for President even though he had consented to the formation of a campaign committee, the committee had filed with the Federal Election Commission (FEC), and he had not responded to an FEC notice that he would be deemed a candidate absent a response within 30 days. The decisive factor was that Mr. Reagan had not made a public announcement of his candidacy. The Commission noted, however, that a person might be considered a legally qualified candidate, even in the absence of a formal declaration of candidacy, if he "engage[s] to a substantial degree in activities commonly associated with political campaigns." These activities include making campaign speeches, distributing campaign literature, issuing press releases, maintaining a campaign committee and establishing campaign headquarters.

A station can confirm that a person who has publicly announced his or her candidacy is a legally qualified candidate by contacting the local, county or state board of elections.

2. Use By A Candidate

A legally qualified candidate "uses" a station if he appears in a recognizable manner, either by voice or picture, in any program or announcement. Regardless of what the candidate speaks about (if anything), any such appearance is a "use" entitling the person's opponents to equal opportunities on the station.

Moreover, the equal opportunities rule is triggered even if the candidate appears in a network or syndicated show, rather than in a program originated by the station.

Thus, for example, once a film star such as Ronald Reagan becomes a legally qualified candidate for public office, a station airing one of his movies must give equal opportunities to his opponents. Similarly, if a person who appears in a commercial for his own business is a legally qualified candidate, his appearance is a use. And, because "use" is so broadly defined, stations with regularly identifiable on-air employees such as disc jockeys and announcers who become legally qualified candidates must either remove the employee from on-air duties for the duration of his or her candidacy, or be prepared to afford equal opportunities to opposing candidates.

Exceptions: There are, nonetheless, several well-recognized exceptions to the general rule that any "use" by a candidate triggers a station's equal opportunities obligations. Each of these exceptions will be discussed briefly below.

a. News Interview Programs

A candidate does not "use" a station when he or she appears as part of a newscast, news interview, news documentary, or on-the-spot coverage of a news event. To determine whether a particular program falls within this exception, the Commission considers (a) whether the program is regularly scheduled, (b) how long it has been broadcast, (c) whether the broadcaster produces and

controls it, and (d) whether the selection of interviewees and topics is based on the broadcaster's journalistic judgment and on their newsworthiness.

For many years, the Commission drew a rough line between news interview shows such as "Meet the Press", which it held exempt from the equal opportunities doctrine, and talk shows such as "Tomorrow", which it held non-exempt. Over the last few years, however, the Commission has broadened the news program exception. For example, in 1982 the Commission held that the "Donahue" show was not a bona fide news interview program because it found that the host did not maintain full control over the show's content, and that the selection of topics and interviewees was not clearly based on newsworthiness. Three years later, however, the Commission reversed this decision. It concluded that Mr. Donahue's interviewing techniques, which allowed some level of audience participation, constituted sufficient control over content. It then found that because the program included regularly scheduled news interviews, the fact that some segments did not discuss politics or current events did not undermine the exempt status of the news interview segments.

Other programs which have been held exempt from the equal opportunities doctrine under a similar analysis include "American Parade," "The Constitution: That Delicate Balance," and "Summer Sunday USA."

The Commission has also recently modified its position on the exempt status of news interview programs that premier during a

federal campaign. In the past, the Commission had held that such programs were not exempt from the equal opportunities doctrine because they were not "regularly scheduled" programs. In 1984, however, Commission staff concluded that a news interview program should not automatically be excluded from exempt status simply because it is scheduled to begin during an election season. Rather, as long as the program otherwise qualifies for the news program exception, exempt status will be granted unless it appears that the program is designed as a vehicle to promote a particular candidacy.

b. Candidate Debates

In the past, under the so-called "Aspen" doctrine, the broadcast of a candidate debate was considered a bona fide news event (and thus not a candidate "use") only if the debate was arranged by an outside party (such as the League of Women Voters), took place outside the broadcaster's studio, was broadcast live and in its entirety, and was covered because of the broadcaster's reasonable, good faith judgment that it was newsworthy.

The Aspen doctrine was recently modified, however, by the Commission. Under the new ruling, a station may itself arrange and sponsor a debate without triggering equal opportunities obligations as long as the debate is a bona fide news event, i.e., has genuine news value and is not designed to advance the candidacy of any particular individual.

The Commission's ruling also now permits stations to broadcast or rebroadcast debates and other bona fide news events more than one day after the event without incurring equal opportunities obligations. The event, however, must have occurred in the "reasonably recent" past, and its delayed broadcast or rebroadcast must be intended in good faith by the broadcaster to inform the public, not to favor or disfavor any candidate.

c. Press Conferences

Opponents of incumbent candidates have argued unsuccessfully that the equal opportunities rule should apply to press conferences, which would otherwise give unfair advantages to an incumbent. The Commission has held that as long as the station decides, prior to coverage, that the press conference would be newsworthy, and does not cover the conference in order to favor one candidate over another, the conference will not be considered a "use" of the station, even if it is used for clearly political purposes.

d. Fleeting Uses

As noted above, the general rule is that any appearance by a legally qualified candidate on a broadcast station constitutes a "use" for equal opportunities purposes. The so-called "fleeting use" exception, however, permits a station to air certain de minimus candidate appearances without triggering equal opportunity obligations.

Thus, for example, the Commission has held that the 2-3 second appearances of legally qualified candidates on Time magazine covers, shown during commmercisl advertisements for the magazine, would not be considered "uses" of the station. Similarly, a four-second appearance in which the candidate was seen at long range in a crowd of 100 persons did not fall within the scope of the equal opportunities doctrine.

3. Equal Opportunities

Once a "legally qualified candidate" "uses" a station, the station must grant "equal opportunities" to all other legally qualified candidates for the same office. During the pre-nomination period, only those candidates seeking nomination for the same office by the same party are deemed opposing candidates entitled to equal opportunities.

"Equal opportunities" does not mean simply equal time. The broadcaster must make equal time available to opposing candidates in periods that normally have comparable audiences, at equal rates and under equal terms and conditions. Indeed, in one recent case, the FCC held that comparable treatment extends to promotional announcements as well. If a station promotes an upcoming program in which a candidate makes an appearance, the opposing candidate may be entitled to comparable promotion of his subsequent use.

A station need not, however, provide identical opportunities in order to satisfy its equal opportunities obligations. In 1984, for example, the Commission dismissed a complaint filed by the

Independent Democrats for LaRouche against CBS, NBC and ABC. The complaint alleged that the networks had failed to provide equal opportunities to Lyndon LaRouche when they sold Ronald Reagan simultaneous 30-minute time slots, but refused to sell Mr. LaRouche comparable simultaneous time slots. The Commission held that the Reagan time slots resulted from good faith negotiations by his campaign committee, and not from favorable treatment by the networks. Thus, each network fulfilled its equal opportunity obligations by offering LaRouche a 30-minute prime time slot to air his broadcast, even though it was not simultaneous with those offered by the other networks.

A station does not have an obligation to inform a candidate that an opponent's "use" of the station has triggered his equal opportunities rights. Rather, to be entitled to equal opportunities, the candidate himself must make a request within seven days of his opponent's "use" of a station. In part because of this requirement, the obligation of stations to maintain current, publicly available records of requests for time by candidates (discussed below at page 21) is very important.

B. CENSORSHIP

Broadcasters are expressly prohibited from censoring in any way a "use" by a legally qualified candidate, even if the use contains patently libelous remarks. Indeed, the Commission has made it clear that a station may not (1) refuse a political spot because of its content, (2) edit a political spot because of its

content, or (3) impose requirements that have a "chilling effect" on a candidate's freedom to use his political time as he or she sees fit. Stations may, however, ask for an advance script or tape of a proposed "use" in order to review it for compliance with sponsorship identification requirements and broadcast technical standards.

Because broadcasters are prohibited from censoring candidate "uses", they are granted immunity from defamation actions based on such uses. They are also not subject to fairness doctrine or personal attack rule obligations as a result of the uses. However, the protection against censorship (and the corresponding immunity) applies only to appearances made by legally qualified candidates, and not to statements made by their supporters or by independent political action committees where the candidate does not appear by voice or picture.

C. RATES FOR POLITICAL BROADCASTS

The rate that a station is permitted to charge a political candidate for an individual spot or program may never exceed the charge it would make to any commercial advertiser for the same amount, class and period of time. In addition, candidates are entitled to a station's "lowest unit charge" -- including volume discounts even if only a single spot is purchased -- during the 45 days preceding a primary or primary runoff election and during the 60 days preceding a general or special election. The lowest unit charge rule also applies to the 45-day period preceding a party

caucus which nominates a candidate, if members of the public may participate in the caucus. A recent federal court decision held that states may not lengthen the 45- or 60-day periods to provide candidates with lower rates for longer periods of time.

Under the lowest unit charge rule, legally qualified candidates must be given all discounts, based on volume, frequency or any other factor, that are offered to the station's most favored commercial advertiser for the same class and amount of time during the same period, regardless of how few spots or programs the candidate buys. The station must offer rates actually given to commercial advertisers or, if they are lower, rates published on the station's rate card. In short, candidates are entitled to the lowest real end rate (considering both national and local rates) that a broadcaster charges or offers. Note, however, that the lowest unit charge provision applies only to the "use" of a station (personal appearance on the air) by a candidate in connection with his campaign, and only during the pre-election time periods mentioned above.

If a candidate purchases time directly from the station and not through an agency, the lowest unit charge must exclude the amount usually paid for the agency commission. Sales commissions to sales representatives may, however, be included.

The lowest uni. charge rule entitles candidates to run-of-schedule ("ROS") spots when those spots are offered to commercial advertisers, but any ROS time purchased by a candidate is subject to all of the same scheduling unpredictability as ROS time

purchased by a commercial sponsor. Thus, for example, if one candidate's ROS spots happen to include prime time, and his opponent's ROS spots end up running late-night because of the normal operation of the station's ROS scheduling, equal opportunities will have been provided.

The lowest unit charge rule does not apply to barter and trade-out agreements, because the effective charge for the ads covered by such agreements is difficult to determine. The rule also does not apply to "per inquiry" advertising, in which the charge for an ad is based on the number of responses to it that the station receives from its audience, because the effective rate for per inquiry ads is hard to predict.

A station may require political candidates to pay in advance for time purchased, even if it extends credit to commercial advertisers. If, however, the station extends credit to a candidate, it cannot then require opposing candidates to pay in advance.

The Commission has made it clear in recent cases that it continues to take the lowest unit charge rule seriously. It has imposed forfeitures of several thousand dollars each on stations for violations, and has required refunds to all candidates who were not given the proper rate. A station will not be excused from liability simply because it misunderstands the lowest unit charge rule.

D. REASONABLE ACCESS

Broadcasters must allow legally qualified candidates for federal elective office "reasonable access" to their stations. Should a station willfully or repeatedly fail to afford such access, its license may be revoked by the Commission. The reasonable access rule does not apply to candidates for state or local office.

"Reasonable access" may require a station to preempt spots or even programs in order to make room for political broadcasts. How much access is reasonable depends on a number of factors, including station size, coverage and viewing areas, as well as the number of elections and candidates within the viewing area. Generally, the Commission will rely on the reasonable, good faith judgment of a licensee as to what constitutes reasonable access under all of the circumstances.

Some guidelines, however, have been developed. (1) A station is not required to provide a federal candidate free time to meet its reasonable access obligations, as long as it makes time available for purchase. (2) Both commercial and non-commercial stations must make available program time during prime time or drive time if requested by a federal candidate, unless unusual circumstances exist. (3) Commercial stations must also make prime-time or drive-time spot announcements available to federal candidates. (4) Broadcasters may not adopt a policy that flatly bans federal candidates from access to any of the types, lengths, or classes of

time that they sell to commercial advertisers. (5) Broadcasters also may not have a blanket policy prohibiting political ads by federal candidates more than a certain number of days before an election. (6) Because the right to reasonable access is personal to the federal candidate, independent political action committees have no right to demand such access.

Although the statutory reasonable access rule applies only to candidates for federal office, the FCC considers political broadcasting one of the most important services a station can provide to the public. Accordingly, it expects stations to allocate reasonable amounts of time to state and local political races as well. It will generally defer to the licensee's good-faith judgment as to which state and local races the station will cover, and as to the forms, amounts and classes of time that will be made available for the races to be covered. Once a station decides to provide time for a particular race, however, all of the usual equal opportunities, non-censorship and lowest unit charge requirements will apply.

If a station fails to make <u>any</u> time available for state and local races, the Commission will examine the practice in light of the station's public interest responsibilities, including that of fostering an informed electorate. The Commission has implied in recent decisions that it would not approve a blanket refusal to sell time to non-federal candidates.

E. POLITICAL EDITORIALS AND PERSONAL ATTACKS

If a station broadcasts an editorial endorsing one candidate in a race, it must notify all opposing candidates of the editorial within 24 hours of the time of broadcast and offer them or their supporters an opportunity to respond. The same notice and offer must be given to any candidate opposed by a station editorial. If the editorial is broadcast within 72 hours of the election, the station must notify the candidate or candidates in advance of its broadcast.

Should the honesty, character or integrity of a person or group be attacked during discussion of a controversial issue of public importance, the Commission's "personal attack rule" requires the station to notify the individual or group attacked within one week of the broadcast at issue, and offer them a reasonable opportunity for rebuttal. The personal attack rule does not apply, however, to attacks by candidates (or their associates) on other candidates (or their associates), to attacks that occur during "uses" by candidates, or to attacks made during newscasts, news interviews or on-the-spot coverage of news events. The news exemption includes commentary or analysis broadcast as part of an exempt news program, but not station editorials or news documentaries.

The Commission has proposed repealing the political editorial and personal attack rules. Until the Commission takes further action, however, the rules remain in effect.

F. FAIRNESS DOCTRINE

The fairness doctrine requires that broadcasters address controversial issues of public importance and provide a reasonable balance among different opinions on those issues. The fairness doctrine should not be confused with equal opportunities requirements, which apply to appearances by candidates, not issues.

Although the fairness doctrine generally does not cover issues raised in "uses" by candidates, it may apply where the "use" occurs in a news-type interview or similar program exempted from the equal opportunities requirements.

1. The Quasi Equal Opportunities Doctrine

The Commission will employ the fairness doctrine in a way similar to the equal opportunities rule in one specific situation. Under the so-called "Zapple" or "quasi equal opportunities" doctrine, a station that provides time to supporters of a legally qualified candidate who urge that candidate's election, discuss campaign issues, or criticize an opponent must provide comparable time to supporters of opposing legally qualified candidates, even though the broadcast does not qualify as a "use" by the candidate because he does not personally appear. Supporters of all candidates must be treated equally, so if free time was given to the first group of supporters, free time would have to be given to the second group as well. However, the lowest unit charge rule does

not apply, and time for both appearances may be sold at full commercial rates.

The quasi equal opportunities doctrine does not apply to programs exempt from the equal opportunities rule, that is, newscasts, news interview programs or documentaries, and coverage of news events. The Commission has held, for example, that CBS did not err when it refused during the 1982 Congressional elections to grant the Democratic National Committee quasi equal opportunities rights to respond to a political speech in which President Reagan supported various Republican Congressional candidates. The Commission held that because CBS had made a good faith determination that the President's speech would be a bona fide news event, the quasi equal opportunities doctrine did not apply.

2. The Cullman Doctrine

One aspect of the fairness doctrine that usually does not apply to political broadcasting is the so-called Cullman doctrine. Under this doctrine, broadcasters may be required to provide free time to proponents of one side of an issue if no paid sponsor can be found to balance disproportionate coverage of the other side of the issue. The Commission has held that political spots occurring during campaign periods (not just the 45-day or 60-day pre-election periods) do not trigger any Cullman obligations. However, when political spots are provided outside campaign periods by groups or by individuals who are not yet legally qualified candidates, broadcasters may have to provide free response time

under the Cullman doctrine. For these purposes, a campaign period begins when there is a legally qualified candidate.

3. Current Status Of The Fairness Doctrine

In a recent report, the Commission concluded that the fairness doctrine is no longer a necessary or appropriate means of ensuring that broadcast audiences will have access to diverse sources of information concerning controversial issues of public importance. The Commission found that diverse viewpoints are provided by the multiplicity of voices in the marketplace, and that the fairness doctrine, if anything, restricts the journalistic freedom of broadcasters and actually inhibits the presentation of controversial issues.

Notwithstanding these conclusions, the Commission stated that it would not eliminate the fairness doctrine, in part because it was unsure that it had the legal authority to do so. Rather, given the intense legislative interest in the doctrine, the Commission decided that it would defer to the courts or to Congress to take any such action.

Broadcasters thus remain subject to the doctrine, despite the Commission's criticism of it. Indeed, in 1984 the Commission held that a Syracuse television station violated its fairness doctrine obligatic when it broadcast numerous commercial spots advocating the construction of a nuclear plant but failed to carry spots opposing construction. The Commission found that the station did not provide a reasonable opportunity for the presentation of

contrasting viewpoints on an issue that the Commission held was controversial in the station's community. The station has appealed the Commission's decision to the courts. In addition, the Radio-Television News Directors Association has challenged the constitutionality of the fairness doctrine generally.

G. POLITICAL ACTION COMMITTEES

It is likely that political action committees ("PACs") will spend millions of dollars in support of candidates during the 1986 elections. Because PACs are, by definition, independent from any candidate, they are treated differently from candidates under the political broadcasting rules. These differences are described briefly below.

1. PACs and the Equal Opportunities Doctrine

A PAC spot triggers the equal opportunities doctrine only if it includes an appearance of the candidate, by voice or picture, that constitutes a "use" of the station. If the spot is not a "use", the candidate's opponents are not entitled to equal opportunities. Many PAC spots, nonetheless, may invoke the "quasi equal opportunities" doctrine because they are presented by supporters of a particular candidate. In such a case, the station must provide comparable time to supporters of opposing candidates.

On occasion, a PAC spot will not only be presented by supporters of a candidate but will also include an appearance by the candidate that becomes a use. If, in response to such a spot,

both the candidate and his supporters exercise their respective rights to request equal or quasi equal opportunities, the station need only provide the time requested by the candidate.

A special problem is raised by a PAC spot which attacks, rather than supports, a legally qualified candidate, and which includes an appearance, by voice or picture, of the attacked candidate. Under a literal interpretation of the equal opportunities rule, such an appearance would constitute a "use" that entitles the candidate's opponents to equal opportunities. The Commission's staff, however, has conceded that it would be nonsensical to allow a group attacking a candidate to gain "response" time to that candidate simply by including an appearance of the attacked candidate in one of their own spots.

Senator Danforth (R-Mo.) has introduced legislation that would require stations to provide free response time to opponents of candidates endorsed by PAC's, as well as to candidates who are the targets of "negative" political advertising. Congress has taken no action on his proposal.

2. PACs and the No-Censorship Rule, the Lowest Unit Charge Rule and the Reasonable Access Rule

PACs, "independent committees" and other persons not authorized by candidates are not entitled to the no-censorship, lowest unit charge, and reasonable access protections of the Communications Act. These rights are intended to benefit the candidates themselves, and are therefore personal to them.

Thus, for example, PACs are not entitled to a station's lowest unit rate. It should be noted, however, that if a PAC spot constitutes a "use" by a candidate which triggers his opponent's equal opportunities rights, any response time requested would have to be offered at the station's lowest unit charge. In contrast, if the spot does not include an appearance by a candidate, the supporters of candidates opposing the one endorsed by the PAC could be charged at the full rate for their response time.

Of course, a station is free to refuse a PAC's request to purchase time in the first place. Only legally-qualified candidates for federal office have a right of reasonable access to broadcast stations; PACs do not. Similarly, PACs generally do not have the right to insist that a station not censor any material in their spots, because the no-censorship rules applies only to legally-qualified candidates.

H. MISCELLANEOUS POLITICAL BROADCASTING RULES

1. Documentation of Political Broadcasts

Stations must maintain a political file as part of their public inspection files. In this file, a station must record all requests for time made by or on behalf of political candidates, as well as the outcome of the request. If the program or spot is broadcast, the file must reveal when it aired and what charges, if any, were made by the station. All requests must be recorded, regardless of whether they are granted or denied, or whether the

stati[illegible] received payment for them. Free time granted to candida[illegible] ether requested or not, must also be documented. The documentation must be kept in the public file for two years.

The actual contracts for sales of political time need not be placed in the public file, so long as all necessary information is recorded. All records of requests for time or gifts or sales of time must be entered in the political file as soon as possible, so that opposing candidates can exercise their equal opportunities right to request time within seven days of the first candidate's "use." In a recent decision, the Commission reprimanded a station for updating its political file only once a week, concluding that this practice was "clearly inconsistent with the purpose and spirit" of the record-keeping rules.

When a political broadcast is paid for or furnished by a corporation, committee, or another entity, the station must obtain a list of the chief executive officers, members of the executive committee or board of directors of such entity and maintain it in the station's public inspection file (along with the other required information) for two years. For political broadcasts originated by a network, however, the lists may be retained at the network's headquarters. Commission staff has held that a radio "rep network," a group of stations whose time is sold collectively by a national sales representative, may be considered a "network" for the purpose of the political documentation requirements, thus relieving individual stations from the obligation to keep certain documentation. Stations must still, however, keep in their own

political files information concerning the candidate's name, the office sought, and the nature and length of the broadcast.

2. Sponsorship Identification

A station must announce at the time a political program or spot is broadcast that it has been paid for and by whom it has been paid for. Even if the broadcast is not paid for, such a sponsorship announcement must be made if broadcast material is provided for free, or if a service, such as use of a camera crew, is provided by the candidate to help the station air the political material.

On occasion, a station may be challenged about the "real" sponsor of certain political advertisements. When confronted with such a challenge or with other grounds for doubting the validity of the sponsor identification, the station need not conduct a full-scale investigation. Rather, it is enough if the station makes inquiries to the party paying for the spots, and then accepts its plausible representations that it is the real party in interest.

Several states have enacted statutes which impose stricter sponsorship identification requirements for state and local political spots than those required by federal law. A federal court held in 1983 that these statutes are constitutional and are not preempted by federal regulations. Broadcasters should therefore familiarize themselves and comply with the applicable state sponsorship identification requirements for political broadcasts.

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SPONSOR STATEMENT FOR SB 435

THE FUNDAMENTAL PRINCIPLE OF CONSTITUTIONAL GOVERNMENT IS THAT THE LEGISLATURE ESTABLISHES THE POLICY, DECIDES TAXATION, AND DOES THE APPROPRIATION.

THE ADMINISTRATIVE BRANCH OF GOVERNMENT ADMINISTERS THE LAW, AND SPENDS PUBLIC MONIES AS THE LEGISLATURE DIRECTS IN THE BUDGET.

THE JUDICIAL BRANCH OF GOVERNMENT RESOLVES DISPUTES, BOTH IN THE PUBLIC AND PRIVATE SECTOR.

THE ISSUE OF SB 435, IS DIRECTLY RELATED TO THE STATEMENT OF THE GOVERNOR THAT HE WOULD USE PUBLIC FUNDS FROM ALL AGENCIES TO ESTABLISH A PAC (POLIICAL ACTION COMMITTEE) TO PROMOTE HIS EDUCATIONAL ENDOWMENT. THEIR HAS NOT BEEN ANY SPECIFIC APPROPRIATION FOR THAT PURPOSE AND IF EXCESS FUNDS EXIST THEN THE LEGISLATIVE PROCESS SHOULD CLOSE THE LOOPHOLE THAT ALLOWS NON-APPRORIATED FUNDS TO BE USED BY THE GOVERNOR.

IF WE WENT TO COURT WE WOULD WIN, BECAUSE THE ACTIONS OF THE GOVERNOR WOULD VIOLATE ARTICLE 9, SECTION 6 OF THE ALASKA CONSTITUTION.

WHY SPEND THOUSANDS OF DOLLARS TO DEFEND OUR CONSTITUTIONAL RIGHTS ? THE PURPOSE OF THIS ACT IS TO MAKE IT CLEAR THAT UNLESS THE LEGISLATURE OR MUNICIPALITY APPROPRIATES FUNDS, IT IS UNLAWFUL FOR ADMINISTRATIONS TO ARBITRARILY SPEND SUCH MONIES.

P.2d 508 (Alaska 1988).

Land leased from government and buildings subsequently constructed leased back. — Where taxpayer has leased land on an air force base from the federal government and has leased back to the government the housing project taxpayer constructed on the land, taxpayer's leasehold interest as well as its interest in the buildings are subject to taxation. Ben Lomond, Inc. v. Fairbanks N. Star Borough Bd. of Equalization, 760 P.2d 508 (Alaska 1988).

Section 6. Public Purpose.

Opinions of attorney general. — The use of public resources for a partisan election campaign is not per se prohibited by the public purpose doctrine. However, the power of state officials to expend state money or use state property in support of a partisan position in an election campaign must be narrowly construed. April 15, 1986 Op. Att'y Gen.

NOTES TO DECISIONS

Determination of public purpose. — Use of state aid for reimbursement of a guarantor who has had to pay a hospital construction loan did not violate the public purpose clause of this section. Lake Otis Clinic, Inc. v. State, 650 P.2d 388 (Alaska 1982).

Customer telephone equipment. — Anchorage Telephone Utility's lease, rental, and sale of customer telephone equipment is not an unlawful use of public funds in violation of this section. Marketing of customer telephone equipment fulfills a public purpose; the Municipality of Anchorage's providing telephone services through the utility promotes access and convenience and fulfills a need for reliability. Comtec, Inc. v. Municipality of Anchorage, 710 P.2d 1004 (Alaska Ct. App. 1985).

Quoted in Meiners v. Bering Strait School Dist., 687 P.2d 287 (Alaska 1984).

Section 7. Dedicated Funds.

Cross references. — For an exception to the prohibition against dedicated funds, see § 15 of this article which establishes the permanent fund.

Opinions of the attorney general. — The practice of appropriating to a separate fund an amount to be ascertained by reference to receipts from a specified source does not violate the dedication prohibition of the constitution. November 30, 1982 Op. Att'y Gen.

Language of this section prohibiting dedication of proceeds of any state tax or license must be read as embodying certain implied exceptions, specifically, pension contributions, proceeds from bond issues, sinking fund receipts, revolving fund receipts, contributions from local government units for state-local cooperative programs, and tax receipts which the state might collect on behalf of local government units. November 30, 1982 Op. Att'y Gen.

There is no unlawful dedication involved in the return to a revolving loan fund of principal payments on loans. The initial appropriation would suffice to authorize the use of that money for other loans until the legislature reappropriates the unobligated assets of the fund or abolishes the fund. November 30, 1982 Op. Att'y Gen.

For discussion of issues involved in question of whether dedication prohibition applies to interest or other income earned by money appropriated to revolving funds and other funds and accounts, see November 30, 1982 Op. Att'y Gen.

The provisions of AS 16.43.310 and 16.43.320, which authorize the Commercial Fisheries Entry Commission to establish and administer a buy-back program, offend the state constitutional prohibition

government, state, county, or municipal, and does not relieve those in whose favor such exemption exists from the obligation to pay special assessments for local improvements which are charged upon property on the theory that such property is specially benefited thereby. 1966 Op. Att'y Gen., No. 10.

Special assessments are usually distinguished from general taxation. Special assessments are levied for improvements which benefit particular individuals or property and are levied with reference to, and in proportion to, the special benefit conferred. General taxes, on the other hand, are imposed for the purpose of raising monies to be expended for governmental purposes without regard to special benefits conferred on a particular group or class of persons or property. 1966 Op. Att'y Gen., No. 10.

Third sentence of section authorizes exemptions similar to exemptions granted to state. — The third sentence of this section authorizes the legislature to grant exemptions similar to the exemptions granted to the state by the first sentence of this section. Such exemptions may thus be for both real and personal property. City of Nome v. Block No. H, Lots 5, 6 & 7, Sup. Ct. Op. No. 839 (File No. 1652), 502 P.2d 124 (1972).

Thus, AS 44.59.300 is constitutional. — AS 44.59.300, according an exemption to the Alaska State Development Corporation, has been upheld as constitutional under the third sentence of this section. City of Nome v. Block No. H, Lots 5, 6 & 7, Sup. Ct. Op. No. 839 (File No. 1652), 502 P.2d 124 (1972).

When the legislature chose to exempt the Alaska State Development Corporation from "all taxes and assessments," it meant to draw upon its full powers under the third sentence of this section, and thereby to grant ASDC an exemption for both its real and personal property. City of Nome v. Block No. H, Lots 5, 6 & 7, Sup. Ct. Op. No. 839 (File No. 1652), 502 P.2d 124 (1972).

Alaska State Development Corporation held exempt. — Where actions of the Alaska State Development Corporation to keep a foreclosed property saleable by continuing operation of its hotel-restaurant-bar complex were in conformance with the ASDC's powers and in furtherance of the valid public purpose of the ASDC and therefore constituted use of the property for a public purpose, the ASDC did not lose its tax exemption. City of Nome v. Block No. H, Lots 5, 6 & 7, Sup. Ct. Op. No. 839 (File No. 1652), 502 P.2d 124 (1972).

Section 5. Interests in Government Property. Private leaseholds, contracts, or interests in land or property owned or held by the United States, the State, or its political subdivisions, shall be taxable to the extent of the interests.

Taxation of leaseholds by cities. — This section does not say in so many words that leaseholds shall be taxable by cities. But neither has that power been specifically denied to cities. City of Anchorage v. Baker, Sup. Ct. Op. No. 113 (File No. 210), 376 P.2d 482 (1962).

Section 6. Public Purpose. No tax shall be levied, or appropriation of public money made, or public property transferred, nor shall the public credit be used, except for a public purpose.

This section is a general measure and expresses a very definite policy. Matthews v. Quinton, Sup. Ct. Op. No. 31 (File No. 48), 362 P.2d 932 (1961), cert. denied, 368 U.S. 517, 82 S. Ct. 530, 7 L. Ed. 2d 522 (1962).

Its proscription is against the appropriation of "any public money." Matthews v. Quinton, Sup. Ct. Op. No. 31 (File No. 48), 362 P.2d 932 (1961), cert. denied, 368 U.S. 517, 82 S. Ct. 530, 7 L. Ed. 2d 522 (1962).

The phrase "public purpose" represents a concept which is not capable of precise definition. DeArmond v. Alaska State Dev. Corp., Sup. Ct. Op. No. 116 (File No. 285), 376 P.2d 717 (1962); Walker v. Alaska State Mtg. Ass'n, Sup. Ct. Op. No. 353 (File No. 669), 416 P.2d 245 (1966).

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It would be a disservice to future generations for the supreme court to attempt to define "public purpose." Wright v. City of Palmer, Sup. Ct. Op. No. 605 (File No. 1192), 468 P.2d 326 (1970).

It is a concept which will change as changing conditions create changing public needs. DeArmond v. Alaska State Dev. Corp., Sup. Ct. Op. No. 116 (File No. 285), 376 P.2d 717 (1962); Walker v. Alaska State Mtg. Ass'n, Sup. Ct. Op. No. 353 (File No. 669), 416 P.2d 245 (1966); Wright v. City of Palmer, Sup. Ct. Op. No. 605 (File No. 1192), 468 P.2d 326 (1970).

Determination of public purpose. — Whether a public purpose is being served must be decided as each case arises and in the light of the particular facts and circumstances of each case. DeArmond v. Alaska State Dev. Corp., Sup. Ct. Op. No. 116 (File No. 285), 376 P.2d 717 (1962); Walker v. Alaska State Mtg. Ass'n, Sup. Ct. Op. No. 353 (File No. 669), 416 P.2d 245 (1966); Wright v. City of Palmer, Sup. Ct. Op. No. 605 (File No. 1192), 468 P.2d 326 (1970).

The technique used by most courts is that of looking to the entire factual and governmental context to determine whether a particular plan of action serves a public purpose. Wright v. City of Palmer, Sup. Ct. Op. No. 605 (File No. 1192), 468 P.2d 326 (1970).

Depends upon character of use. — The test of whether a public purpose is being served does not depend on the religious or nonreligious nature of the agency that will operate property leased from city, but upon the character of the use to which the property will be put. Lien v. City of Ketchikan, Sup. Ct. Op. No. 146 (File No.275), 383 P.2d 721 (1963).

It is not essential that the entire community or any particular number of persons should benefit from remedial legislation in order that a public purpose be served. Suber v. Alaska State Bond Comm., Sup. Ct. Op. No. 344 (File No. 651), 414 P.2d 546 (1966).

Court will not set aside finding of legislature. — Where the legislature has found that a public purpose will be served by the expenditure or transfer of public funds or the use of the public credit, the court will not set aside the finding of the legislature unless it clearly appears that such finding is arbitrary and without any reasonable basis in fact. DeArmond v. Alaska State Dev. Corp., Sup. Ct. Op. No. 116 (File No. 285), 376 P.2d 717 (1962); Walker v. Alaska State Mtg. Ass'n, Sup. Ct. Op. No. 353 (File No. 669), 416 P.2d 245 (1966).

The courts will not interfere with the exercise of legislative discretion unless it is clearly shown that the legislative determination that a public purpose will be served by the means chosen is arbitrary and without any reasonable basis in fact. Suber v. Alaska State Bond Comm., Sup. Ct. Op. No. 344 (File No. 651), 414 P.2d 546 (1966).

Industrial development. — It is recognized that the location of an industry in a particular community may have widespread economic benefits and that these do fulfill the public purpose and the general welfare of the community, broadly conceived. Wright v. City of Palmer, Sup. Ct. Op. No. 605 (File No. 1192), 468 P.2d 326 (1970).

The test which the supreme court must apply is whether a plan for the development of industry within a municipality is so unreasonable as to transgress the limitations of the Alaska Constitution. Wright v. City of Palmer, Sup. Ct. Op. No. 605 (File No. 1192), 468 P.2d 326 (1970).

A general obligation bond issue for the purpose of encouraging industrial development within a municipality was held valid in Wright v. City of Palmer, Sup. Ct. Op. No. 605 (File No. 1192), 468 P.2d 326 (1970).

Relief and support of the poor has long been recognized as an obligation of government and a public purpose. Suber v. Alaska State Bond Comm., Sup. Ct. Op. No. 344 (File No. 651), 414 P.2d 546 (1966).

Relieving economic distress. — It is a public purpose to expend public moneys to relieve economic distress by aiding those persons in the state who have suffered a substantial financial burden as a result of a natural disaster. Suber v. Alaska State Bond Comm., Sup. Ct. Op. No. 344 (File No. 651), 414 P.2d 546 (1966).

The issuance of the debenture certificates by Alaska State Development Corporation does not constitute a transfer of public funds and the use of public credit for other than a public purpose. DeArmond v. Alaska State Dev. Corp., Sup. Ct. Op. No. 116 (File No. 285), 376 P.2d 717 (1962).

The expenditure of state money in the construction of a hospital operated by a religious nonprofit group under the terms and conditions imposed by the federal government under the Hill-Burton

Act is a public purpose and not prohibited by the constitution or laws of the state. 1959 Op. Att'y Gen., No. 19.

The Utility Reimbursement Law is constitutional. 1961 Op. Att'y Gen., No. 12.

Alaska Mortgage Adjustment Program and SLA 1964, Sp. Sess., chs. 1, 2 and 3, held constitutional. — See Suber v. Alaska State Bond Comm., Sup. Ct. Op. No. 344 (File No. 651), 414 P.2d 546 (1966).

The purpose of the Alaska Mortgage Adjustment Program is no less public because its benefits may be limited by circumstances to a comparatively small part of the public. Suber v. Alaska State Bond Comm., Sup. Ct. Op. No. 344 (File No. 651), 414 P.2d 546 (1966).

Alaska State Development Corporation. — The announced purpose of the act creating the Alaska State Development Corporation (AS 44.59.430) has a sound basis in fact and the dominant purpose is a public one. DeArmond v. Alaska State Dev. Corp., Sup. Ct. Op. No. 116 (File No. 285), 376 P.2d 717 (1962).

Alaska State Mortgage Association. — Since the Alaska State Mortgage Association (AS 44.83.010 — 44.83.240) was created for a public purpose within the meaning of this section, the use of public grants and loans is constitutionally permissible. Walker v. Alaska State Mtg. Ass'n, Sup. Ct. Op. No.353 (File No. 669), 416 P.2d 245 (1966).

The purposes for which the Alaska State Mortgage Association 44.83.010 — 44.83.240) was created are public purposes within the ambit of this section. Walker v. Alaska State Mtg. Ass'n, Sup. Ct. Op. No. 353 (File No. 669), 416 P.2d 245 (1966).

Ketchikan hospital. — The moneys used to construct the Ketchikan hospital were spent for a public purpose, since a community hospital serves the general welfare. That purpose does not become nonpublic when the hospital is turned over to a charitable, nonprofit corporation for operation, rather than being operated by the city itself. The public purpose remains unchanged. Lien v. City of Ketchikan, Sup. Ct. Op. No. 146 (File No. 275), 383 P.2d 721 (1963).

Quoted in City of Juneau v. Hixson, Sup. Ct. Op. No. 93 (File No. 201), 373 P.2d 743 (1962).

Cited in Ault v. Alaska State Mtg. Ass'n, Sup. Ct. Op. No. 179 (File No. 366), 387 P.2d 698 (1963).

ALR2d reference. — Validity, construction and effect of statutes authorizing public funds for urban redevelopment by private enterprise, 44 ALR2d 1420, 1431.

Quoted in Sheldon Jackson College v. State, Sup. Ct. Op. No. 1916 (File Nos. 3978, 4002), 599 P.2d 127 (1979).

Section 7. Dedicated Funds. The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska [Amendment effective February 21, 1977].

Effect of amendment. — The amendment effective February 21, 1977 (9th Legislature's HJR 39) inserted "as provided in section 15 of this article or" in the first sentence.

Reasons for section. — Among the reasons such a prohibition, as is found in this section, was recommended are the following: (1) flexibility of budgeting; (2) financial control; and (3) lack of relationship between the tax and purpose. 1959 Op. Att'y Gen., No. 7.

Delegates to the constitutional convention were desirous of eliminating dedications so that the legislature would have the greatest flexibility in allocating tax revenues on a basis of need. 1959 Op. Att'y Gen., No. 7.

This section had two interrelated purposes: (1) to prevent any future dedication of revenues for special purposes, and (2) to prevent the creation of new special funds separate from the general fund. May 2, 1975, Op. Att'y Gen.

What dedication encompasses. — A dedication encompasses (1) proceeds or part of the proceeds of a tax or license (2) set aside at a certain rate (3) for a particular purpose. 1959 Op. Att'y Gen. No. 7.

litigation over the definition of "nonprofit religious, charitable, cemetery or educational purposes" by property owners seeking to qualify for the various exemptions.

Section 5. Interests in Government Property

> **Private leaseholds, contracts, or interests in land or property owned or held by the United States, the State, or its political subdivisions, shall be taxable to the extent of the interests.**

This section says that if a private person leases government land (to build a house on or to run a business from, for example) the value of the lease may be taxed even though the land is otherwise not taxable because the government retains ownership.

Section 6. Public Purpose

> **No tax shall be levied, or appropriation of public money made, or public property transferred, nor shall the public credit be used, except for a public purpose.**

This is a traditional constitutional safeguard that is, on its face, reasonable and understandable. The question is, however, what is a "public purpose"? Like the concept of the public interest, it seems to change with the times. The contemporary notion of public purpose in Alaska—which includes loan programs for private businesses and various other subsidies, welfare payments, and "longevity bonuses" (cash payments to old-timers)—is undoubtedly much broader than the view held fifty or a hundred years ago. Courts have generally given the legislature wide latitude to define public purpose. These points have been stated clearly by the state supreme court:

> *. . . the phrase "public purpose" represents a concept which is not capable of precise definition. We believe that it would be a disservice to future generations for this court to attempt to define it. It is a concept which will change as changing conditions create changing public needs. . . . Where the legislature has found that a public purpose will be served by the expenditure or transfer of public funds or the use of public credit, the court will not set aside the finding of the legislature unless it clearly appears that such finding is arbitrary and without any reasonable basis in fact. (DeArmond v. Alaska State Development Corp., 376 P.2d 717; 1962).*

Section 7. Dedicated Funds

> **The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska.**

Convention delegates prohibited the dedication, or "earmarking," of funds for specific purposes so that the legislature would not tie its own hands in providing for the public needs of the day. The phrase "as provided in section 15 of this article" in the second sentence was added by an amendment in 1976 to allow creation of the Alaska Permanent Fund (see Section 15). Two exceptions to the prohibition against earmarking were allowed by the convention delegates. One exception is a dedicated fund that was already in existence, such as the school fund of A.S. 43.50.130, which receives proceeds from the tobacco tax for use of school repair and construction. The other exception allows new earmarking when it is required by federal law to participate in a federal revenue-sharing program. This is the case with the fish and game fund of A.S. 16.05.100, to which sport hunting and license fees are dedicated.

One legislature cannot bind a future legislature (only the constitution can), especially with respect to the fundamental power to appropriate money. The problem with a statutory dedication of money is that a governor's veto could block a future legislature's effort to repeal the dedication. Also, a statutorily created fund tends to be perpetuated, since the money involved is usually "off-budget" and the finance committees do not review the annual appropriations involved.

Legal debate has surrounded the meaning of the phrase "proceeds of any state tax or license," in the first sentence. Did the authors of the constitution use the phrase to mean all state revenue, or did they want to exclude from the prohibition against dedication those state revenues that are not derived from a tax or license? The question became important when Alaska began to receive substantial income from oil lease bonuses and royalties, which are not proceeds from a tax or license.

An opinion of the attorney general of an early administration said that oil lease royalty income was outside the prohibition against earmarking in this section. A later opinion reversed this interpretation and held that the historical record of the convention made it clear that the delegates intended to bar the dedication of *all* state revenue, whether or not they derive strictly from a tax or license. Consequently, a constitutional amendment was required to create the Alaska Permanent Fund.

In 1982 the state supreme court held that the phrase "proceeds of any state tax or license" should be construed broadly to include all sources of public revenue (State v. Alex 646 P.2d 203; 1982). Still unsettled, however, is whether the framers of the constitution intended there to be certain exceptions, such as pension contributions, proceeds from bond issues, revolving fund receipts, and sink-

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM February 20, 1990

SUBJECT: State or municipal funds/ facilities used as campaign contributions (SB 435)

TO: Senator Jack Coghill

FROM: Richard A. Bradley
Legislative Counsel

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

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

Section 1 of the bill adds a new subsection to AS 15.13.070 ("contributions and expenditures"). The section provides that "public funds of the state or of a municipality may not be contributed to the support of a political campaign or used to urge the adoption or rejection of a ballot question or ballot proposition". [Sec. 15.13.070(i)(1)]. It also provides that "public facilities of the state or of a municipality may not be used for the preparation of materials that will be used . . . in a political campaign . . . or . . . to urge the adoption or rejection of a ballot issue or question". [Sec. 15.13.070(i)(2)]. I note that the phrase "ballot issue" should be replaced with "ballot proposition"; see the definitions of "ballot proposition" and "ballot question" under AS 15.60.010(23) and (26).

The bill would permit the legislature or the municipal governing body to provide otherwise by law.

Section 2 of the bill establishes an immediate effective date.

If I may be of further assistance, please advise.

RAB:pl
WKP2/066

Constitutional Convention
November 22, 1955
Finance/

Memorandum
Finance Committee

The committee has tentatively adopted the following:

1. No tax shall be imposed by the state upon any lands or other property now owned or hereafter acquired by the United States except insofar as Federal Law may allow, ~~and~~ such immunity to taxation shall extend to all property owned by natives which may be held in trust by the United States, or over which the United States has complete jurisdiction, BUT IT ~~Such immunity~~ does not apply to property of individual natives when held in fee without restrictions on alienation. (Kodiak lands ?)

2. The debts and liabilities of the Territory of Alaska shall be assumed and paid by the State of Alaska and debts owed to the Territory of Alaska shall be collected by the State.

3. The lands and other property belonging to citizens of the United States ~~residing without~~ NOT RESIDENTS OF the State of Alaska, shall never be taxed at a higher rate than the lands and other property belonging to residents ~~thereof~~. OF ALASKA

4. The power of taxation shall never be surrendered, and shall never be suspended or contracted away except as herein provided.

5. No tax shall be levied, or appropriation of public money or property made, nor shall the public credit be used, directly or indirectly, except for a public purpose.

6. The property of the State, municipal corporations, and other political subdivisions, both real and personal, and such other property used exclusively for non-profit religious, charitable, cemetary or educational purposes is hereby exempt from taxation. Exemption from taxation may be granted only by general laws. Until otherwise provided by law, all exemptions from taxation now in existance shall be continued.

~~Exemption from taxation may be altered, altered or repealed.~~

Barrie M. White, Jr., Sec.

Constitutional Convention
XI/Finance & Taxation
December 9, 1955

Preliminary Draft

ARTICLE ON FINANCE AND TAXATION

Taxing Power

Section 1. The power of taxation shall never be surrendered, and shall never be suspended, or contracted away, except as provided herein.

Taxation of Nonresidents

Section 2. The lands and other property belonging to citizens of the United States residing without the State shall never be taxed at a higher rate than the lands and other property belonging to residents.

Assessment and taxation of property

Section 3. The legislature shall ~~provide for the method of~~ establish the standards for assessment of all real property assessed locally or by the state. ~~according to the same standard of value.~~

Exemptions

Section 4. ~~The property of the State, municipal corporations, and other political subdivisions, both real and personal,~~ and all or any portion of other property used exclusively for non-profit religious, charitable, or educational purposes as defined by law, is exempt from taxation. Other exemptions may be granted by general law; and until otherwise provided by law, all exemptions from taxation validly granted are extended.

Taxation of U. S. property prohibited

Section 5. No tax shall be imposed upon any lands or other property owned or acquired by the United States, except as ~~permitted~~ allowed by Federal Law. Immunity to taxation extends to all property owned by natives, which

is held in trust by the United States, or over which the United States has complete jurisdiction. Immunity to taxation does not apply to property of individual natives when held in fee without restrictions on alienations.

Taxation of interests in U. S. property.

Section 6. ~~Persons~~ holding leaseholds, contracts, or other interests in land ~~of~~ owned or held by the United States shall be taxable to the extent of ~~their respective~~ the interests.

Taxation for public purpose

Section 7. No tax shall be levied or appropriation of public money or property ~~made~~ made, nor shall the public credit be used, except for a public purpose.

Earmarking Restricted

Section 8. Unless state participation in Federal programs will thereby be denied, all tax revenues shall be deposited in ~~a general fund.~~ This provision shall not prohibit the continuance of any special fund for special purposes existing upon the date of ratification of this Constitution by the people of Alaska.

Debt

Section 9. No debt shall be contracted by or in behalf of the state unless such debt shall be authorized by law for a single capital improvement distinctly specified therein; and no such law shall, except for the purpose of repelling invasion, supressing insurrection, defending the state in war, meeting natural catastrophes, or redeeming the indebtedness of the state outstanding at the time this constitution becomes effective, take effect until it shall

have been submitted to the qualified voters and have received a favorable majority of all votes cast upon such question; ~~except that~~ the state may by law borrow money to meet appropriations for any fiscal year in anticipation of the collection of the revenues of that year, but all debts so contracted shall be paid within one year; ~~and except that~~ the state may create in any fiscal year liabilities of the state, which together with any previous liabilities shall not exceed at any time _____ percent of the total amount appropriated by the last general appropriation law, provided that such liabilities shall be discharged within five years.

The provisions of this section shall not apply to indebtedness incurred under revenue bond statutes by a public enterprise of the state or political subdivision, or by a public corporation, when the only security for such indebtedness is the revenues of such enterprise or public corporation, or to indebtedness incurred under special improvement statutes when the only security for such indebtedness is the properties benefited or improved or the assessments thereon.

Governor's Budget

Section 1D. ~~Within~~ such time ~~prior to the opening of each regular session~~ as may be prescribed by law, the governor shall submit to the legislature a budget setting forth a complete plan of proposed expenditures and anti-

cipated income of all departments, offices and agencies of the state for the next ensuing fiscal year. At the time of submitting the budget to the legislature, the governor shall also submit a general appropriation bill to authorize all proposed expenditures set forth in the budget. At the same time he shall submit to the legislature a bill or bills covering all recommendations in the budget for new or additional revenues.

Legislative Post-audit

Section 14. The legislature shall appoint an auditor, who ~~shall be~~ a certified public accountant and who shall serve during its pleasure. It ~~shall be~~ the duty of the auditor to conduct such (scope) as may be prescribed by law post-audits ~~in the manner provided by the legislature~~ and to report to the governor and the legislature.

Territorial debt assumed

Section 15. The debts and liabilities of the Territory of Alaska shall be assumed and paid by the State of Alaska and debts owed to the Territory of Alaska shall be collected by the State.

Constitutional Convention
XI/Finance & Taxation
December 9, 1955

Preliminary Draft

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