

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
7250 HOUSE STATE AFFAIRS

1 (3) the identity and nature of each interest owned in any business during the
2 preceding calendar year by the person, the person's spouse or dependent child, or a nondependent
3 child of the person who is living with that person;

4 (4) the identity and nature of each interest in real property, including an option
5 to buy, owned at any time during the preceding calendar year by the person, the person's spouse
6 or dependent child, or a nondependent child of the person who is living with that person;

7 (5) the identity of each trust or other fiduciary relation in which the person, the
8 person's spouse or dependent child, or a nondependent child of the person who is living with that
9 person held a beneficial interest exceeding \$1,000 during the preceding calendar year, a
10 description and identification of the property contained in each trust or relation, and the nature
11 and extent of the beneficial interest in it;

12 (6) any loan or loan guarantee made to the person, the person's spouse or
13 dependent child, or a nondependent child of the person who is living with that person, and the
14 identity of the maker of the loan or loan guarantor and the identity of each creditor to whom the
15 person, the person's spouse or dependent child, or a nondependent child of the person who lives
16 with that person owed more than \$1,000 [\$500 OR MORE];

17 (7) a list of all contracts and offers to contract with the state or an instrumentality
18 of the state during the preceding calendar year held, bid, or offered by the person, the person's
19 spouse or dependent child, a nondependent child of the person who is living with that person,
20 a partnership or professional corporation of which the person is a member or shareholder
21 [THE PERSON'S MOTHER OR FATHER], or a corporation in which the person or the person's
22 spouse or children, or a combination of them, hold a controlling interest; and

23 (8) a list of all mineral, timber, oil, or any other natural resource lease held, or
24 lease offer made, during the preceding calendar year by the person, the person's spouse, the
25 person's dependent child, a nondependent child of the person who is living with that person,
26 [THE PERSON'S MOTHER OR FATHER.] a partnership or professional corporation of which
27 the person is a member, or a corporation in which the person or the person's spouse or children,
28 or a combination of them, holds a controlling interest.

29 • Sec. 29. AS 39.50.050(d) is amended to read:

30 (d) To facilitate the filing of reports under AS 24.45 (Regulation of Lobbying) and the
31 information required to be provided under AS 24.45.051(4) [AND (5)], the commission shall

1 publish copies of the reports required under this chapter not later than the convening of each
 2 regular session of the legislature. Copies of this publication shall be provided on request;
 3 however, the commission may make a charge for the publication that may not exceed the actual
 4 cost of printing, postage and handling.

5 * Sec. 30. AS 39.50.135 is amended to read:

6 Sec. 39.50.135. CIVIL PENALTIES [PENALTY: LATE FILING OF REQUIRED
 7 REPORTS]. A person who fails to file a properly completed and certified report within the time
 8 required by this chapter is subject to a civil penalty of not more than \$10 a day for each day the
 9 delinquency continues as the commission determines [SUBJECT TO APPEAL TO THE
 10 SUPERIOR COURT. AN AFFIDAVIT STATING FACTS IN MITIGATION MAY BE
 11 SUBMITTED TO THE COMMISSION BY A PERSON AGAINST WHOM A CIVIL
 12 PENALTY IS ASSESSED. HOWEVER, THE IMPOSITION OF THE PENALTIES
 13 PRESCRIBED IN THIS SECTION OR IN AS 39.50.060 - 39.50.130 DOES NOT EXCUSE
 14 THAT PERSON FROM FILING REPORTS REQUIRED BY THIS CHAPTER].

15 * Sec. 31. AS 39.50.135 is amended by adding new subsections to read:

16 (b) In addition to other penalties prescribed in this chapter, a person who violates a
 17 provision of this chapter other than a provision for which a penalty is prescribed in (a) of this
 18 section is subject to a civil penalty of not more than \$20,000 for each offense or twice the
 19 amount gained by the misconduct that resulted in a violation, whichever is greater, as determined
 20 by the commission. [together with the cost. of the
 investigation and the adjudication]

21 (c) An affidavit stating facts in mitigation may be submitted to the commission by a
 22 person against whom a civil penalty is assessed under this section.

23 (d) A determination of the commission under this section is subject to right of appeal to
 24 the superior court.

25 (e) The imposition of penalties prescribed in this section or elsewhere in this chapter does
 26 not excuse the person from filing reports required under this chapter.

27 * Sec. 32. AS 39.50 is amended by adding a new section to read:

28 Sec. 39.50.147. APPLICABILITY OF CHAPTER. This chapter does not apply to a
 29 municipal officer in a municipality with a population under 1,000 according to the latest United
 30 States census figures or according to population estimates that are certified correct for
 31 administrative purposes by the Department of Community and Regional Affairs.

7-LS0178P

Casey

3/7/92

FINAL

CS FOR HOUSE BILL NO. 195 ()
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVES FINKELSTEIN, Brown

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to election campaigns, regulation of lobbying, conflicts
2 of interest, and the Alaska Public Offices Commission; and providing for
3 an effective date."

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

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

6 (a) Except for a candidate who accepts contributions totaling \$1,000 or less and
7 makes expenditures totaling \$1,000 or less in seeking election and indicates, on a form
8 prescribed by the commission, an intent not to raise or spend more than \$1,000, each
9 [EACH] candidate shall make a full report, upon a form prescribed by the commission, listing
10 the date and amount of each expenditure [ALL EXPENDITURES] made by the candidate, the
11 total amount of all contributions, including all funds contributed by the candidate, and for each
12 contribution [ALL CONTRIBUTIONS] in excess of \$250 [\$100] in the aggregate a year, the
13 name, address, principal occupation, and employer of the contributor and the date and amount
14 contributed by each contributor. The report shall be filed in accordance with AS 15.13.110 and

1 shall be certified as correct by the candidate or campaign treasurer.

2 * Sec. 2. AS 15.13.040(b) is amended to read:

3 (b) Each group shall make a full report upon a form prescribed by the commission,
4 listing

5 (1) the name and address of each officer and director;

6 (2) the aggregate amount of all contributions made to it; and, for all contributions
7 in excess of \$250 [~~\$100~~] in the aggregate a year, the name, address, principal occupation, and
8 employer of the contributor, and the date and amount contributed by each contributor; and

9 (3) the date and amount of all contributions made by it and all expenditures made,
10 incurred, or authorized by it.

11 * Sec. 3. AS 15.13.040 is amended by adding a new subsection to read:

12 (g) The report of expenditures required by (a) and (b)(3) of this section need not include
13 accrued expenditures to individual payees or accounts that cumulatively total \$1,000 or less per
14 payee or account. However, after 90 days an unreported accrued expenditure becomes a
15 contribution and shall be reported under this section and AS 15.13.110.

16 * Sec. 4. AS 15.13 is amended by adding a new section to read:

17 Sec. 15.13.041. DISBURSEMENT OF CAMPAIGN ACCOUNTS. (a) If a candidate
18 or a candidate's campaign committee has unexpended and unobligated funds after the date of the
19 election, or at the time the candidate ceases to be a candidate, those funds shall, within 60 days
20 after the election or the end of the candidacy or before the end of the calendar year, whichever
21 comes first, be

22 (1) used to retire bona fide loans supported by written documentation including
23 loans made to a campaign by the candidate or a member of the candidate's immediate family
24 provided that all other outstanding loans are paid first;

25 (2) used to pay for a victory or thank-you party;

26 (3) returned on a pro rata basis to those who have made contributions in excess
27 of \$250 in the aggregate a year;

28 (4) donated to the general fund of the state or of a municipality;

29 (5) donated to one or more organizations that qualify as charitable organizations
30 under 26 U.S.C. 501(c)(3) provided that the charity is not one that is controlled by the candidate
31 or a member of the candidate's immediate family;

1 (6) transferred to a new campaign account controlled by the candidate; or
 2 [~~maximum~~ ^{+transfer language deleted} (7) transferred, by a candidate elected to the legislature, to that candidate's
 3 legislative office account for expenditures qualifying as business expenses under 26 U.S.C. 162,
 4

5
 6 [~~\$7,500 maximum retained assets deleted~~]
 7 (b) By the date on which the candidate closes a campaign account under (c) of this
 8 section, the candidate shall declare, on a form provided by the commission, each retained
 9 nonmonetary asset that has a value in excess of \$500.

10 (c) A candidate shall close each campaign account within 60 days after the election at
 11 which the candidate sought public office, or at the time the candidate transfers funds under (a)(6)
 12 of this section to a new campaign account, whichever is earlier.

13 (d) In this section,

14 (1) "funds" means cash and other nontangible liquid assets readily converted to
 15 cash, including savings accounts, checking accounts, certificates of deposit and stocks; and

16 (2) "nonmonetary assets" means tangible assets, including office equipment and
 17 furniture.

18 • Sec. 5. AS 15.13 is amended by adding new sections to read:

19 Sec. 15.13.075. PROHIBITED CAMPAIGN ACTIVITIES BY LOBBYISTS ON
 20 BEHALF OF CANDIDATES. (a) A candidate for governor, for lieutenant governor, or for the
 21 legislature may not solicit, or knowingly allow, a lobbyist to engage in activities on behalf of the
 22 candidate that are prohibited by AS 24.45.121(a)(9).

23 (b) A candidate may not seek to evade the purposes of this section by soliciting, or
 24 knowingly permitting a business entity retained to lobby or an employee of a lobbyist to perform
 25 fund-raising services.

26 (c) In this section,

27 (1) "business entity retained to lobby" means a firm, corporation, or other business
 28 entity that is retained for the primary purpose of influencing legislative or administrative action;

29 (2) "lobbyist" has the meaning given in AS 24.45.171, but does not include a
 30 person described in AS 24.45.161(a) or a representational lobbyist as defined under regulations
 31 of the commission.

1 Sec. 15.13.077. USE OF PUBLIC FUNDS PROHIBITED. The state, agencies of the
2 state, public corporations of the state, and the University of Alaska may not use public funds to
3 support or oppose the election of a candidate. A municipality may not use public funds of the
4 municipality to support or oppose a ballot proposition or the election of a candidate. This section
5 does not prohibit the expenditure of the public funds of a municipality to provide to the public
6 factual information regarding a ballot proposition.

7 * Sec. 6. AS 15.13.090 is amended to read:

8 Sec. 15.13.090. IDENTIFICATION OF COMMUNICATION. All advertisements,
9 billboards, handbills, paid-for television and radio announcements, and other communications
10 intended to influence the election of a candidate or outcome of a ballot proposition or question
11 shall have their source [BE] clearly identified. The commission may adopt regulations to
12 implement this section [BY THE WORDS "PAID FOR BY" FOLLOWED BY THE NAME
13 AND ADDRESS OF THE CANDIDATE, GROUP OR INDIVIDUAL PAYING FOR THE
14 ADVERTISING. IN ADDITION, CANDIDATES AND GROUPS MUST IDENTIFY THE
15 NAME OF THEIR CAMPAIGN CHAIRMAN].

16 * Sec. 7. AS 15.13 is amended by adding new sections to read:

17 Sec. 15.13.102. PROHIBITED USES OF CAMPAIGN FUNDS. A candidate or another
18 person on behalf of the candidate, including the candidate's campaign committee, may not

19 (1) use funds raised and designated as campaign funds for the personal benefit
20 of the candidate or another person, or for payment of attorney fees and other legal expenses
21 arising from civil, criminal, or administrative actions based on conduct not directly related to the
22 campaign or official duties;

23 (2) convert surplus campaign funds or interest earned on campaign funds to
24 personal income;

25 (3) borrow from campaign funds or loan them to another person or group;

26 (4) knowingly pay more than the fair market value for goods or services
27 purchased for the campaign;

28 (5) knowingly pay campaign funds to a member of the candidate's immediate
29 family for goods or services provided to the campaign unless the amounts paid do not exceed the
30 fair market value of the goods or services provided; or

31 ~~[prohibition against contributions to other campaigns deleted]~~
 (6) use campaign funds to pay fines or other monetary penalties or costs assessed

1 against a candidate by a court or other body, unless the fine, penalty, or cost is assessed as a
2 result of proscribed actions by a member or employee of a campaign committee or another
3 person acting on behalf of the candidate under circumstances where the candidate did not know
4 of those actions.

5 Sec. 15.13.104. TIME LIMITATIONS ON FUND RAISING FOR CANDIDATES. (a)
6 Except as provided in (d) of this section, a candidate for the legislature may not, either directly,
7 through a campaign committee, or by other means, solicit or accept a campaign contribution or
8 a promise or pledge to make a contribution except from June 1 through December 31 of the year
9 preceding the election and from June 1 of the year of the election through the date of the
10 election.

11 (b) Except as provided in (d) of this section, a candidate for governor or lieutenant
12 governor may not, either directly, through a campaign committee, or by other means, solicit or
13 accept a campaign contribution or a promise or pledge to make a contribution except from June
14 1 of the year preceding the election through the date of the election.

15 (c) Except as provided in (d) of this section, a candidate for municipal office may not,
16 either directly or through a campaign committee, or by other means, solicit or accept a campaign
17 contribution or a promise or pledge to make a contribution except from a date one year before
18 the date of the election through the date of the election.

19 (d) A candidate in an election may solicit or accept campaign contributions, pledges, or
20 promises, either directly, through a campaign committee, or by other means from a date one day
21 after the election through December 31 of the year of the election, if liabilities exceed assets in
22 the candidate's campaign treasury.

23 (e) This section applies to all candidates, including those who are defeated in an election
24 and those who withdraw their candidacies or have their names removed from the ballot before
25 the date of the election.

26 (f) Transfers of surplus campaign funds to a new campaign account under
27 AS 15.13.041(a)(6) are not subject to this section.

28 * Sec. 8. AS 15.13.110(a) is amended to read:

29 (a) Each candidate and group shall make a full report in accordance with AS 15.13.040
30 for [DURING] the period ending three days before the due date of the report and beginning on
31 the last day covered by the most recent previous report. **If the report is a first report, it shall**

1 cover the period from the beginning of the campaign to the date [, OR, IF A FIRST
 2 REPORT, ALL CONTRIBUTIONS RECEIVED AND EXPENDITURES MADE BEFORE] three
 3 days before the due date of the report. If the report is a report due February 15, it shall
 4 cover the period beginning on the last day covered by the most recent previous report or
 5 on the day that the campaign started, whichever is later, and ending on December 31 of the
 6 prior year. The report shall be filed [AT THE FOLLO WING TIMES:]

7 (1) 30 days before the election; however, this report is not required if the deadline
 8 for filing a nominating petition or declaration of candidacy is within 30 days of the election;

9 (2) one week before the election;

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

11 (4) February 15 [DECEMBER 31 OF EACH YEAR] for expenditures made and
 12 contributions received that [WHICH] were not reported during the previous [THAT] year or
 13 when no expenditures were made or contributions received during the previous year.

14 * Sec. 9. AS 15.13.110(b) is amended to read:

15 (b) Each contribution or expenditure that [WHICH] exceeds \$250 and that [WHICH]
 16 is made within nine days [ONE WEEK] of the election shall be reported to the commission by
 17 date, amount, and contributor or recipient within 24 hours of receipt or expenditure by the
 18 candidate or campaign treasurer.

19 * Sec. 10. AS 15.13.125 is amended to read:

20 Sec. 15.13.125. CIVIL PENALTIES [PENALTY: LATE FILING OF REQUIRED
 21 REPORTS]. A person who fails to file a properly completed and certified report within the time
 22 required by AS 15.13.040(e), 15.13.080, 15.13.110(a)(1), (3), (4), or 15.13.110(d) is subject to
 23 a civil penalty of not more than \$10 a day for each day the delinquency continues as determined
 24 by the commission [SUBJECT TO RIGHT OF APPEAL TO THE SUPERIOR COURT]. A
 25 person who fails to file a properly completed and certified report within the time required by
 26 AS 15.13.110(a)(2) or 15.13.110(b) is subject to a civil penalty of not more than \$50 a day for
 27 each day the delinquency continues as determined by the commission [SUBJECT TO RIGHT OF
 28 APPEAL TO THE SUPERIOR COURT. AN AFFIDAVIT STATING FACTS IN MITIGATION
 29 MAY BE SUBMITTED TO THE COMMISSION BY A PERSON AGAINST WHOM A CIVIL
 30 PENALTY IS ASSESSED. HOWEVER, THE IMPOSITION OF THE PENALTIES
 31 PRESCRIBED IN THIS SECTION OR IN AS 15.13.120 DOES NOT EXCUSE THAT PERSON

1 FROM FILING REPORTS REQUIRED BY THIS CHAPTER].

2 * Sec. 11. AS 15.13.125 is amended by adding new subsections to read:

3 (b) A person who violates a provision of this chapter other than a provision for which
4 a penalty is prescribed by (a) of this section is subject to a civil penalty of not more than \$20,000
5 for each offense or twice the amount gained by the misconduct that resulted in a violation,
6 whichever is greater, as determined by the commission. The commission may also assess a
7 person subject to a penalty under this subsection with the costs of investigating and adjudicating
8 the violation on which the penalty is based. The costs of investigation and adjudication shall be
9 determined by the commission.

10 (c) An affidavit stating facts in mitigation may be submitted to the commission by a
11 person against whom a civil penalty is assessed.

12 (d) A determination of the commission under this section is subject to right of appeal to
13 the superior court.

14 (e) The imposition of the penalties prescribed in this section or in AS 15.13.120 does not
15 excuse the person from filing reports required by this chapter.

16 * Sec. 12. AS 15.13 is amended by adding a new section to read:

17 Sec. 15.13.127. RETURN OF ILLEGAL CONTRIBUTIONS. A recipient of a
18 contribution that is made in violation of a provision of this chapter may not keep the contribution.
19 The recipient shall return the contribution to the contributor immediately after learning that the
20 contribution is illegal.

21 * Sec. 13. AS 24.45.031(b) is amended to read:

[Conforming sections related to financial disclosure deleted because unnecessary]

22 (b) The commission may

23 (1) hold hearings and conduct investigations into compliance with the provisions
24 of this chapter;

25 (2) in conjunction with (1) of this subsection, issue subpoenas, compel the
26 attendance and testimony of witnesses, administer oaths and affirmations, and require the
27 production of books, papers, records, documents, or other items material to the commission's
28 duties or powers under this chapter;

29 (3) prepare, publish, and make available to the public semi-annual [, PERIODIC,
30 BUT AT LEAST QUARTERLY AND ANNUALLY.] summaries of the statements and reports
31 received; these summaries shall list separately individual lobbyists and employers of lobbyists.

1 * Sec. 14. AS 24.45.041(e) is amended to read:

2 (e) Within 45 days after the convening of each regular session of the legislature, the
3 commission shall publish a directory of registered lobbyists, containing the information prescribed
4 in (b) of this section for each lobbyist [AND THE PHOTOGRAPH, IF ANY, FURNISHED BY
5 A LOBBYIST UNDER (c) OF THIS SECTION]. From time to time thereafter the commission
6 shall publish those supplements to the directory that in the commission's judgment may be
7 necessary. The directory shall be made available to public officials and to the public at the
8 following locations: a public place adjacent to the legislative chambers in the state capitol
9 building, [THE OFFICE OF THE LIEUTENANT GOVERNOR, THE LEGISLATIVE
10 REFERENCE LIBRARY OF] the Legislative Affairs Agency, and the commission's central
11 office.

12 * Sec. 15. AS 24.45.061(a) is repealed and reenacted to read:

13 (a) A person who employs, retains, or contracts for the services of a lobbyist shall sign
14 that portion of the lobbyist's registration statement verifying the person's employment of,
15 retention of, or contract for lobbying services with the lobbyist.

16 * Sec. 16. AS 24.45.061(b) is amended to read:

17 (b) A person who employs, retains, or who contracts for the services of one or more
18 lobbyists, whether independently or jointly with other persons, and who directly or indirectly
19 makes payments to influence legislative or administrative action shall file an annual [A
20 QUARTERLY] report containing

21 (1) the full name, complete business address, and telephone number of the person
22 making the report;

23 (2) information sufficient to identify the nature and interests of the person making
24 the report;

25 (3) the total amount of payments made to influence legislative or administrative
26 action during the period, and the name and address of each person to whom these payments have
27 been made during the period by the maker of the report, together with the date and amount;

28 (4) the date and nature of any gift exceeding \$100 in value made to any public
29 official and the full name and official position of the recipient of each gift;

30 (5) a general description of the legislative or administrative action which the
31 person making the report has attempted to influence;

1 (6) the name of each lobbyist employed or retained by the person making the
2 report, together with the total amount paid to each lobbyist and the portion of that amount, if any,
3 that [WHICH] was paid for specific purposes, including salary, fees, and reimbursement for
4 expenses; and

5 (7) a notice of termination if the person filing a report has ceased employing or
6 retaining a lobbyist registered under this chapter and if this report constitutes the final report of
7 the lobbyist's activities on behalf of the maker of the report.

8 * Sec. 17. AS 24.45.081 is amended to read:

9 Sec. 24.45.081. REPORTING PERIODS. Lobbyist reports [REPORTS] required under
10 this chapter shall be filed during the calendar month following each calendar month during any
11 part of which the legislature was in session and during the month following each calendar quarter
12 when the legislature was not in session. However, if a lobbyist registered under this chapter has
13 declared that the lobbyist seeks only to influence administrative action and not legislative action,
14 the lobbyist need only file a report required under this chapter for each calendar quarter. The
15 period covered shall be the calendar month or the calendar quarter, as applicable, and shall in any
16 event cover the period from the date of the last report filed under this chapter to the date of the
17 end of the calendar month or quarter, as applicable, for which the report is being filed. The
18 period covered shall not include any months covered in previous reports filed by the same person.
19 When total amounts are required to be reported, totals shall be stated both for the period covered
20 by the statement and for the entire calendar year to date.

21 * Sec. 18. AS 24.45.081 is amended by adding a new subsection to read:

22 (b) Annual employer reports required under this chapter shall be filed within 30 days
23 after all lobbying activities on behalf of the employer in a calendar year are terminated or, if
24 lobbying activities on behalf of the employer do not terminate before the end of a calendar year,
25 on or before January 30 of the following year.

26 * Sec. 19. AS 24.45.121(a) is amended to read:

27 (a) A lobbyist may not

28 (1) engage in any activity as a lobbyist before registering under AS 24.45.041;

29 (2) do anything with the intent of placing a public official under personal
30 obligation to the lobbyist or to the lobbyist's employer;

31 (3) intentionally deceive or attempt to deceive any public official with regard to

- 1 any material fact pertinent to pending or proposed legislative or administrative action;
- 2 (4) cause or influence the introduction of a legislative measure for the purpose
- 3 of thereafter being employed to secure its defeat;
- 4 (5) cause a communication to be sent to a public official in the name of any
- 5 fictitious person or in the name of any real person, except with the consent of that person;
- 6 (6) accept or agree to accept any payment in any way contingent upon the defeat,
- 7 enactment or outcome of any proposed legislative or administrative action;
- 8 (7) serve as a member of a state board [,] or commission [,] if the lobbyist's
- 9 employer may receive direct economic benefit from a decision of that board or commission;
- 10 (8) use state property or resources in the conduct of the lobbyist's business
- 11 unless the use is nominal and the use is available to members of the general public;
- 12 (9) serve as a campaign manager, a campaign treasurer, a deputy campaign
- 13 treasurer, or a member of a finance or fund-raising committee, if the lobbyist has registered
- 14 during the calendar year; this paragraph does not apply to a representational lobbyist as
- 15 defined in the regulations of the Alaska Public Offices Commission, and does not prohibit
- 16 a lobbyist from making personal contributions to or personally advocating on behalf of a
- 17 candidate.

18 * Sec. 20. AS 24.45.141 is amended to read:

19 Sec. 24.45.141. CIVIL PENALTIES [PENALTY: LATE REGISTRATION, FILING OF

20 REQUIRED STATEMENTS OR REPORTS)]. A person who fails to register or file the

21 properly completed and certified statement required under AS 24.45.041 within the time

22 required by this chapter is subject to a civil penalty of not more than \$50 a day for each

23 day the delinquency continues as determined by the commission. A person who fails to

24 register or to file a properly completed and certified report or statement, as applicable, other

25 than the statement required under AS 24.45.041, within the time required by this chapter is

26 subject to a civil penalty of not more than \$10 a day for each day the delinquency continues as

27 determined by the commission [SUBJECT TO RIGHT OF APPEAL TO THE SUPERIOR

28 COURT. AN AFFIDAVIT STATING FACTS IN MITIGATION MAY BE SUBMITTED TO

29 THE COMMISSION BY A PERSON AGAINST WHOM A CIVIL PENALTY IS ASSESSED.

30 HOWEVER, THE IMPOSITION OF THE PENALTIES PRESCRIBED IN THIS SECTION OR

31 IN AS 24.45.151 DOES NOT EXCUSE THE LOBBYIST OR EMPLOYER OF A LOBBYIST

1 FROM FILING STATEMENTS OR REPORTS REQUIRED BY THIS CHAPTER].

2 * Sec. 21. AS 24.45.141 is amended by adding new subsections to read:

3 (b) A person who violates a provision of this chapter other than a provision for which
4 a penalty is prescribed by (a) of this section is subject to a civil penalty of not more than \$20,000
5 for each offense or twice the amount gained by the misconduct that resulted in a violation,
6 whichever is greater, as determined by the commission. The commission may also assess a
7 person subject to a penalty under this subsection with the costs of investigating and adjudicating
8 the violation on which the penalty is based. The costs of investigation and adjudication shall be
9 determined by the commission.

10 (c) An affidavit stating facts in mitigation may be submitted to the commission by a
11 person against whom a civil penalty is assessed under this section.

12 (d) A determination of the commission under this section is subject to right of appeal to
13 the superior court.

14 (e) The imposition of penalties prescribed in this section or in AS 24.45.151 does not
15 excuse the person from filing reports required under this chapter.

16 * Sec. 22. AS 39.50.020 is amended to read: [Chapter 61 (financial disclosure) deleted]

17 Sec. 39.50.020. REPORT OF FINANCIAL AND BUSINESS INTERESTS. (a) A
18 judicial officer, commissioner, chairman or member of a state commission or board specified in
19 AS 39.50.200(b), a person hired or appointed as head or deputy head of, or director of a division
20 within, a department in the executive branch, a person appointed as assistant to the governor,
21 [AND] a municipal officer, and a legislative director shall file a statement giving income
22 sources and business interests, under oath and on penalty of perjury, within 30 days after taking
23 office as a public official. Candidates for state elective office shall file such a statement with
24 the director of elections at the time of filing a declaration of candidacy or within 30 days of the
25 filing of any nominating petition, or within 30 days of becoming a candidate by any other means.
26 Candidates for elective municipal office shall file such a statement at the time of filing a
27 nominating petition, declaration of candidacy, or other required filing for the elective municipal
28 office. Refusal or failure to file within the time prescribed shall require that the candidate's
29 filing fees, if any, and filing for office be refused or that a previously accepted filing fee be
30 returned and the candidate's name removed from the filing records. A statement shall also be
31 filed by public officials no later than April 15 or 15 days after the person files a federal income

1 tax return in each following year, whichever comes first. Persons who are [, ON OR AFTER
2 DECEMBER 11, 1974, WERE] members of boards or commissions not named in
3 AS 39.50.200(b) are not required to file financial statements.

4 (b) The governor, lieutenant governor, members of the legislature, a legislative director,
5 a judicial officer [OFFICERS], each commissioner, head or deputy head of, or director of a
6 division within, a department in the executive branch, assistant to the governor or chairman or
7 member of a commission or board required to report under this chapter, shall file the statement
8 with the Alaska Public Offices Commission. Candidates for the office of governor, lieutenant
9 governor, and the legislature shall file the statement under AS 15.25.030 or 15.25.180. Municipal
10 officers, and candidates for elective municipal office, shall file with the municipal clerk or other
11 municipal official designated to receive their filing for office. All statements required to be filed
12 under this chapter are public records.

13 * Sec. 23. AS 39.50.020 is amended by adding a new subsection to read:

14 (c) A person is not required to comply with this section to the extent that a court of
15 competent jurisdiction of the state determines that legally privileged professional relationships
16 or constitutional privacy considerations would be violated by compliance.

17 * Sec. 24. AS 39.50.030(a) is amended to read:

18 (a) Each statement shall be an accurate representation of the financial affairs of the public
19 official or candidate and shall contain the same information for each member of the person's
20 family, as specified in (b) of this section, to the extent that it is ascertainable by the public
21 official or candidate. [AN ASSET OR LIABILITY UNDER \$500, HOUSEHOLD GOODS,
22 AND PERSONAL EFFECTS NEED NOT BE IDENTIFIED.]

23 * Sec. 25. AS 39.50.030(b) is amended to read:

24 (b) Each statement filed by a public official or candidate under this chapter shall include
25 the following:

26 (1) the source of all income over \$1,000 [other than gifts (see income definition)] [\$100] during the preceding calendar
27 year, including taxable and nontaxable capital gains, received by the person, the person's spouse
28 or dependent child, or a nondependent child of the person who is living with that person; a
29 legislator, candidate for the legislature, or legislative director stating a source of income
30 received as compensation for personal services shall also state the name and address of the
31 source of the income, the nature of the services performed, and if the source of income is

1 known or reasonably should be known to have a substantial interest in legislative,
2 administrative, or political action, the amount of income received by the source;

3 (2) the identity, by name and address, of each business in which the person, the
4 person's spouse or dependent child, or a nondependent child of the person who is living with that
5 person was a stockholder, owner, officer, director, partner, proprietor, or employee during the
6 preceding calendar year;

7 (3) the identity and nature of each interest owned in any business during the
8 preceding calendar year by the person, the person's spouse or dependent child, or a nondependent
9 child of the person who is living with that person;

10 (4) the identity and nature of each interest in real property, including an option
11 to buy, owned at any time during the preceding calendar year by the person, the person's spouse
12 or dependent child, or a nondependent child of the person who is living with that person;

13 (5) the identity of each trust or other fiduciary relation in which the person, the
14 person's spouse or dependent child, or a nondependent child of the person who is living with that
15 person held a beneficial interest exceeding \$1,000 during the preceding calendar year, a
16 description and identification of the property contained in each trust or relation, and the nature
17 and extent of the beneficial interest in it;

18 (6) any loan or loan guarantee made to the person, the person's spouse or
19 dependent child, or a nondependent child of the person who is living with that person, and the
20 identity of the maker of the loan or loan guarantor and the identity of each creditor to whom the
21 person, the person's spouse or dependent child, of a nondependent child of the person who lives
22 with that person owed more than \$1,000; a legislator, candidate for the legislature, or
23 legislative director stating a loan or loan guarantee from a source with a substantial interest
24 in legislative, administrative, or political action shall also state the name and address of the
25 person making the loan or the guarantee, the amount of the loan, the terms and conditions
26 under which the loan or guarantee was given, the amount outstanding at the time of filing,
27 and whether or not a written loan agreement exists [\$500 OR MORE];

28 (7) a list of all contracts and offers to contract with the state or an instrumentality
29 of the state during the preceding calendar year held, bid, or offered by the person, the person's
30 spouse or dependent child, a nondependent child of the person who is living with that person,
31 a partnership or professional corporation of which the person is a member or shareholder

1 [THE PERSON'S MOTHER OR FATHER], or a corporation in which the person or the person's
2 spouse or children, or a combination of them, hold a controlling interest; [AND]

3 (8) a list of all mineral, timber, oil, or any other natural resource lease held, or
4 lease offer made, during the preceding calendar year by the person, the person's spouse, the
5 person's dependent child, a nondependent child of the person who is living with that person,
6 [THE PERSON'S MOTHER OR FATHER,] a partnership or professional corporation of which
7 the person is a member, or a corporation in which the person or the person's spouse or children,
8 or a combination of them, holds a controlling interest; and

9 (9) the source of a gift, other than an inheritance, received
10 during the preceding calendar year by the person, the person's spouse or dependent child,
11 or a nondependent child of the person who is living with the person, if the amount of the
12 gift exceeds

13 (A) \$100 and is received from a person who is not a member of the
14 recipient's family; or

15 (B) \$10,000 and is received from a family member of the recipient.

16 * Sec. 26. AS 39.50.030 is amended by adding a new subsection to read:

17 (d) In this section, a person has a substantial interest in legislative, administrative, or
18 political action if the person: ^[if the person is not the state or federal government, etc] (1) is not a natural person and will be directly and substantially
19 affected financially by a legislative, administrative, or political action; (2) is a natural person and
20 will be directly and substantially affected financially by a legislative, administrative, or political
21 action in a way that is greater than the effect on a substantial class of persons to which the
22 person belongs as a member of a profession, occupation, industry, or region; (3) has or seeks
23 contracts in excess of \$10,000 annually for goods or services with the legislature or with an
24 agency of the state; or (4) is required to register under AS 24.45.041 and is described under
25 AS 24.45.171(8)(A), but is not a volunteer lobbyist described in AS 24.45.161(a)(1) or a
26 representational lobbyist as defined under regulations of the Alaska Public Offices Commission.
27 For the purpose of this subsection, the state, the federal government, and an agency, corporation,
28 or other entity of or owned by the state or federal government do not have a substantial interest
29 in legislative, administrative, or political action.

30 * Sec. 27. AS 39.50.050(d) is amended to read:

31 (d) To facilitate the filing of reports under AS 24.45 (Regulation of Lobbying) and the

1 information required to be provided under AS 27.45.051(4) [AND (5)], the commission shall
2 publish copies of the reports required under this chapter not later than the convening of each
3 regular session of the legislature. Copies of this publication shall be provided on request;
4 however, the commission may make a charge for the publication that may not exceed the actual
5 cost of printing, postage and handling.

6 * Sec. 28. AS 39.50.050 is amended by adding a new subsection to read:

7 (e) The Alaska Public Offices Commission shall examine, investigate, and compare all
8 reports and statements required under AS 39.50.020.

9 * Sec. 29. AS 39.50.135 is amended to read:

10 Sec. 39.50.135. CIVIL PENALTIES [PENALTY: LATE FILING OF REQUIRED
11 REPORTS]. A person who fails to file a properly completed and certified report within the time
12 required by this chapter is subject to a civil penalty of not more than \$10 a day for each day the
13 delinquency continues as the commission determines [SUBJECT TO APPEAL TO THE
14 SUPERIOR COURT. AN AFFIDAVIT STATING FACTS IN MITIGATION MAY BE
15 SUBMITTED TO THE COMMISSION BY A PERSON AGAINST WHOM A CIVIL
16 PENALTY IS ASSESSED. HOWEVER, THE IMPOSITION OF THE PENALTIES
17 PRESCRIBED IN THIS SECTION OR IN AS 39.50.060 - 39.50.130 DOES NOT EXCUSE
18 THAT PERSON FROM FILING REPORTS REQUIRED BY THIS CHAPTER].

19 * Sec. 30. AS 39.50.135 is amended by adding new subsections to read:

20 (b) In addition to other penalties prescribed in this chapter, a person who violates a
21 provision of this chapter other than a provision for which a penalty is prescribed in (a) of this
22 section is subject to a civil penalty of not more than \$20,000 for each offense or twice the
23 amount gained by the misconduct that resulted in a violation, whichever is greater, as determined
24 by the commission. The commission may also assess a person subject to a penalty under this
25 subsection with the costs of investigating and adjudicating the violation on which the penalty is
26 based. The costs of investigation and adjudication shall be determined by the commission.

27 (c) An affidavit stating facts in mitigation may be submitted to the commission by a
28 person against whom a civil penalty is assessed under this section.

29 (d) A determination of the commission under this section is subject to right of appeal to
30 the superior court.

31 (e) The imposition of penalties prescribed in this section or elsewhere in this chapter does

1 not excuse the person from filing reports required under this chapter.

2 * Sec. 31. AS 39.50 is amended by adding a new section to read:

3 Sec. 39.50.147. APPLICABILITY OF CHAPTER. This chapter does not apply to a
4 municipal officer in a municipality with a population under 1,000 according to the latest United
5 States census figures or according to population estimates that are certified correct for
6 administrative purposes by the Department of Community and Regional Affairs.

7 * Sec. 32. AS 39.50 is amended by adding a new section to read:

8 Sec. 39.50.160. STATEMENTS AS PUBLIC RECORDS. A statement filed with the
9 Alaska Public Offices Commission under AS 39.50.020 is a public record.

10 * Sec. 33. AS 39.50.200(a) is amended to read:

11 (a) In this chapter

12 (1) "assistant to the governor" includes any executive, legislative, special,
13 administrative or press assistant to the governor, and any person similarly employed;

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

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

17 (4) "income" means assets that are received, regardless of whether they are
18 earned or unearned; inheritances and other gifts are not income;

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

22 (6) [(5)] "judicial officer" means a person appointed as a justice to the supreme
23 court or as a judge to the court of appeals, superior court, district court, or magistrate court;

24 (7) "legislative director" means the fiscal analyst of the legislative finance
25 division, the legislative auditor of the legislative audit division, the executive director of the
26 legislative affairs agency, and the directors of the divisions within the legislative affairs
27 agency;

28 (8) [(6)] "mother or father" includes a biological parent, an adoptive parent, and
29 a step-parent;

30 (9) [(7)] "municipal officer" includes a borough or city mayor, borough
31 assemblyman, city councilman, school board member, elected utility board member, city or

1 borough manager, members of a city or borough planning or zoning commission within a home
2 rule or general law city or borough, or a unified municipality;

3 (10) [(8)] "public official" means a judicial officer, a member of the legislature,
4 a legislative director, [THE FISCAL ANALYST OF THE LEGISLATIVE FINANCE
5 DIVISION, THE LEGISLATIVE AUDITOR OF THE LEGISLATIVE AUDIT DIVISION, THE
6 EXECUTIVE DIRECTOR OF THE LEGISLATIVE AFFAIRS AGENCY AND THE
7 DIRECTORS OF THE DIVISIONS WITHIN THE LEGISLATIVE AFFAIRS AGENCY,] the
8 governor, the lieutenant governor, a person hired or appointed as the head or deputy head of, or
9 director of a division within a department in the executive branch, an assistant to the governor,
10 chairman or member of a state commission or board, the executive director of the Alaska
11 Tourism Marketing Council, and each appointed or elected municipal officer;

12 (11) [(9)] "source of income" means the entity for which service is performed or
13 which is otherwise the origin of payment; if the person whose income is being reported is
14 employed by another, the employer is the source of income; but if the person whose income is
15 being reported is self-employed by means of a [SOLE PROPRIETORSHIP, PARTNERSHIP,
16 PROFESSIONAL CORPORATION, OR A] corporation in which the person, the person's spouse
17 or children, or a combination of them has [, HOLD] a controlling interest, or is self-employed
18 by means of a sole proprietorship, an interest in a partnership, or an interest in a
19 professional corporation, the "source of income" is the client or customer of the proprietorship,
20 partnership or corporation, but if the entity which is the origin of payment is not the same as the
21 client or customer for whom the service is performed, both are considered the source;

22 • Sec. 34. AS 24.45.041(c), 24.45.051(5), and 24.45.116 are repealed. ^[AS 39.50.025 deleted]

23 • Sec. 35. This Act takes effect January 1, 1993.

major concerns
minor concerns

Rep. Kubina
February 25, 1992

CSHB 195 () - SECTIONS HELD OPEN

Sections 1 & 2: concern about raising the reportable contribution level from \$100 to \$250. *keep at 100.*

Section 4: limits the use of surplus campaign funds. No specific committee concerns identified.

Section 5: concern about municipalities using public funds to support or oppose a ballot proposition.

Section 7: prohibits the use of campaign funds for non-campaign purposes and places time limits on campaign fundraising. No specific committee concerns identified.

Section 11: request to restore the language, "...together with the costs of the investigation and the adjudication."

Sections 12 - 16: general concern about the conforming language necessitated by the new financial disclosure chapter.

delete section 12, 13, 14, 15

Section 23: general concern about limiting lobbyists' involvement in campaigns. Specific concern about the statement that a lobbyist may not, "use state property or resources in the conduct of the lobbyist's business," and whether that provision would prohibit lobbyists from using a phone.

Sections 24 - 25: request to restore the language, "...together with the costs of the investigation and the adjudication."

Section 26: concern about the requirement under current law that gifts worth \$100 or more be reported as sources of income. Specific concern about the salary of a spouse who works for the Alaska Railroad being reported. Request to add the language, "...together with the costs of the investigation and the adjudication."

Section 28: same concern as identified in section 26 about listing gifts over \$100 as sources of income.

Section 31: request to restore the language, "...together with the costs of the investigation and the adjudication."

Section 32: concern about the desirability of the entire section, which exempts officers of municipalities with populations under 1,000 from conflict of interest reporting requirements.

Section 34: general desire to look at the statutes being repealed. Specific concerns about repealing AS 24.45.051(5) and AS 39.50.025.

Rep. Finkelstein
March 9, 1992

Section-by-Section Description of CSHB 195 () - 3/7/92

Section 1 raises the level of campaign contribution which candidates must identify by donor from \$100 to \$250, and exempts candidates who do not raise or spend over \$1,000 from filing APOC reports.

Section 2 mirrors section 1 for political groups.

Section 3 says candidates no longer need to include accrued expenditures of less than \$1,000 per payee in their APOC reports.

Section 4 limits the use of surplus campaign funds.

Section 5 says a candidate may not use a lobbyist to evade the restrictions in the law, and prohibits the use of government funds to support or oppose a candidate or ballot proposition.

Section 6 allows APOC to adopt more flexible regulations on the identification of advertising sources.

Section 7 prohibits the use of campaign funds for non-campaign purposes and establishes time lines for campaign fundraising.

Section 8 changes the due date for APOC year-end reports from December 31 to February 15.

Section 9 closes the two-day hole in the current campaign reporting requirements.

Section 10 and Section 11 give APOC the power to assess civil penalties for violations of the campaign finance law.

Section 12 requires candidates to return illegal contributions.

Section 13 says that APOC will publish lobbyist summaries semi-annually instead of quarterly.

Section 14 deletes obsolete language relating to the use of lobbyists' photographs in lobbying reports and the locations where the reports are available.

Section 15 requires lobbyists' employers to sign lobbyists' registration forms instead of submitting separate statements to APOC.

Section 16 requires lobbyists' employers to file reports with APOC annually instead of quarterly.

Section 17 clarifies that only lobbyists' reports, and not employers' reports, must be submitted on the stated dates.

Section 18 sets the date that lobbyists' employers' annual reports are due.

Section 19 prohibits a lobbyist from holding certain positions in campaigns, and from using state resources that are not available to the general public.

Section 20 and Section 21 give APOC the authority to assess civil penalties for violations of the lobbying statute.

Section 22 clarifies when and how legislative directors submit their COI forms.

Section 23 codifies the current APOC policy on disclosure of confidential client relationships.

Section 24 deletes unnecessary language in the conflict of interest statute.

Section 25 raises the threshold for disclosure of sources of income from \$100 to \$1,000 for all public officials. The section also requires legislators, legislative directors and legislative candidates to provide additional information about income and loans from sources with an interest in political decisions. The sources of gifts from family members must be reported if the gifts exceed \$10,000, and the sources of non-family gifts are reported if they exceed \$100.

Section 26 defines "substantial interest in legislative, administrative, or political action".

Section 27 deletes a reference to a statute that is repealed in Section 29 of CSHB 195.

Section 29 and Section 30 give APOC the power to assess civil penalties for violations of the conflict of interest statute.

Section 31 exempts officers of municipalities with populations of under 1,000 from conflict of interest reporting requirements.

Section 32 clarifies that conflict of interest statements are public.

Section 33 defines "income", "legislative director" and "source of income".

Section 34 repeals three sections of statute.

Section 35 says the bill takes effect on January 1, 1993.

MEMORANDUM**State of Alaska****ALASKA PUBLIC OFFICES COMMISSION
DEPARTMENT OF ADMINISTRATION
(907) 278-4178 FAX (907) 278-7018**

TO: Representative Finkelstein
Sponsor, CSHB 195

FROM: *Karen Boorman*
Karen Boorman
Executive Director

DATE: February 26, 1992


SUBJECT: CSHB 195 and HB 332

You have asked for clarification on the reasons for the Commission's recommended repeal of AS 24.45.051(5). Normal course of business exchanges between lobbyists and bona fide business entities owned or controlled by public officials do not necessarily constitute an element of influence. Very few, if any, lobbyists have ever reported under this requirement, and the Commission has no resources to attempt auditing or enforcing it. Retaining it in the law leaves lobbyists vulnerable to a third party complaint alleging such transactions were not reported. For example, a third party could allege in a complaint that they saw a registered lobbyist staying at the Captain Cook hotel in February, but it was not reported on the lobbyist's February report.

cc: Commission
Eileen Plate
Brooke Miles

MEMORANDUM**State of Alaska****ALASKA PUBLIC OFFICES COMMISSION**
DEPARTMENT OF ADMINISTRATION
(907) 276-4178 FAX (907) 276-7018

TO: Representative Finkelstein
Sponsor, CSHB 195

FROM: 
Karen Boorman
Executive Director

DATE: February 25, 1992

SUBJECT: CSHB 195 and HB 332

You have asked for clarification of the Commission's position on several issues that have arisen in connection with CSHB 195 and HB 332.

1. Reportability of gifts under AS 39.50 (CSHB 195 and HB 332). Current statute requires that all sources of income over \$100 be reported on Conflict of Interest Statements. 2 AAC 50.015(2) includes as sources of income "funds, goods or services donated or loaned to a public official for personal or professional use..." AS 39.50 applies to many state boards and commissions, judicial officials, named executive branch and municipal officials as well as legislators and candidates for state and municipal office. Both the Executive Branch Ethics Code and the Standards of Conduct of Legislators and Legislative Employees identify gifts that may not be accepted as they are improper or prohibited. The Legislative Standards of Conduct has gifts that may be received but must be reported and the Executive Branch Code calls for disclosure of gifts to a designated supervisor to determine the propriety.

The Commission believes that raising the threshold of sources of income to \$1,000 makes sense to reflect inflation and the time that has elapsed since the law was enacted in 1974. The Commission strongly supports providing disclosed financial information in one place, easily accessible to the public. The Commission believes that gifts over \$100 that are not prohibited under other laws are important public information and should appear on COI Statements.

2. Civil Penalty Section (CSHB 195). The Commission supports the application of civil penalties as a fair and cost effective enforcement tool for less serious violations of the three laws. The wording suggested by the Commission increases the penalty ceiling to \$20,000 and allows the Commission to determine if the most appropriate scale should be the maximum penalty or twice the amount gained by misconduct. Fines could still be reduced by the Commission based on an affidavit of mitigating circumstances. Not including the costs of the investigation and adjudication is intended to limit paperwork. Keeping track of the costs of an individual investigation is practically impossible, especially since the investigator position was eliminated last year and others have had to absorb those responsibilities in addition to their own. An alternative might be, in those cases where a hearing is requested or required under the Administrative Procedures Act, to keep track of the costs associated with the hearing: e.g., hearing officer, attorney's time, travel for staff, transcriptions, witness fees, etc.

3. AS 24.60 - Standards of Conduct (CSHB 195 and HB 332). AS 39.50.025 requires that the Commission mail by certified mail a copy of AS 24.60 to a candidate for the legislature upon receipt of a COI Statement. The deletion of this section is intended to save time and postage and perhaps, duplication. APOC has no administrative responsibility of AS 24.60 except for the mailout and must refer questions to the Legislative Ethics Committee. AS 24.60 does not apply to candidates, only to those elected to or employed by the legislature. Candidate COI Statements are no longer filed directly with APOC but are filed with the Division of Elections and forwarded to APOC. The mailing adds an additional step. Generally new legislators receive some orientation at the start of the session. If the purpose of this section is for candidates to be knowledgeable about the standards required once elected, copies could be handed out by Division of Elections when filing for office. If the intended audience is newly elected legislators, copies could be handed out when the oath of office is administered or during orientation at the start of the new session.

cc: Commission
Eileen Plate, Dept. of Administration
Brooks Miles, Administrator, Juneau APOC branch office



Alaska State Legislature

Official Business

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

TO: House State Affairs Committee
FROM: Rep. David Finkelstein
DATE: May 1, 1991

The core of HB 195 is the campaign finance provisions which were removed from the legislative ethics bill by the State Affairs Committee. The remainder of the bill consists of relatively minor adjustments to the statutes requested by the Alaska Public Offices Commission. HB 195 makes the following major changes to current law:

- restricts fundraising to the period from June 1 of the year before the election through the general election for legislative and gubernatorial candidates;
- further prohibits legislators and other elected officials who are running for the legislature, from fundraising during the legislative session;
- prohibits the use of campaign funds as personal income;
- limits the use of surplus campaign funds. House candidates and municipal candidates may transfer \$5,000, Senate candidates \$7,500, and gubernatorial candidates \$10,000, into a future campaign account.
- prohibits lobbyists from taking an active fundraising role in campaigns;
- prohibits the use of public funds to support or oppose a candidate or ballot proposition;
- gives A.P.O.C. the power to assess fines for the violation of any of their statutes, and restricts the use of campaign funds to pay fines.

I look forward to working with you on this legislation.

ALASKA PUBLIC OFFICES COMMISSION
POSITION PAPER
HB 195

The Alaska Public Offices Commission has reviewed HB 195. The Commission supports this legislation which strengthens the Campaign Disclosure, Conflict of Interest and Lobbying Laws, performs some housekeeping functions and reduces or eliminates some minor reporting requirements.

Comments will be limited to those sections where the Commission has suggestions or concerns.

Section 1. AS 15.13.040(a). The Commission supports the \$1,000 reporting exemption but would suggest adding the following language which requires candidates to affirm their intent not to raise or spend over \$1,000.

A candidate who does not receive more than \$1,000 in contributions and does not expend more than \$1,000 on behalf of a campaign is not subject to the reporting requirements of this subsection, but the candidate shall indicate on the registration statement an intent not to raise or expend more than \$1,000.

The Commission suggests the \$100 contribution figure on line 10 be changed to \$250 so that it is consistent with individual contribution reporting requirements.

Section 2. AS 15.13.040(g). The Commission suggests adding the following language which requires that an unreported accrued expenditure becomes a contribution if it has not been paid after 90 days.

Accrued expenditures which in the aggregate total \$1000 or less a year per payee or account do not have to be included in the report of expenditures required under (a) and (b)(3) of this section. However, if an unreported accrued expenditure is not paid within 90 days after it is incurred, it becomes a contribution and must be reported pursuant to the requirements of AS 15.13.040 and AS 15.13.110.

Section 3. AS 15.13.041(a)(3). The Commission suggests allowing a candidate to return contributions on a pro rata basis to those who have contributed more than \$250 (rather than \$100) that year. This higher figure is consistent with the individual contribution threshold.

AS 15.13.041(a)(6)(A-C). The Commission suggests clarification of the basis of candidates' transferable funds. Is it the office recently sought or the future office which determines how much may be transferred? The following wording would properly base disbursement on the office recently sought.

(A). \$5,000 for a person most recently a candidate for the house of representatives or for a municipal office;

(B). \$7,000 for a person most recently a candidate for the senate;
or

(C). \$10,000 each for a person most recently a candidate for governor or lieutenant governor.

AS 15.13.041(b). The Commission believes 60 days may be too short a period of time to close out an active or large campaign and suggests 120 days.

The Commission would like to see the addition of a section to require that a candidate disclose those assets worth more than \$2,500 that the candidate retains at the at the close of the campaign.

Section 4. AS 15.13.077. The Commission supports this section but thinks it will create significant workload and will be difficult to enforce. It is also difficult to understand the value of assessing a fine against a state agency that is paid into the state's general fund. The Commission believes that state and local governments should not be prohibited from providing neutral information on ballot propositions.

Section 6. AS 15.13.104.(b) Line 29. Delete "gubernatorial" twice as the current wording prohibits non-incumbent candidates for the legislature from fund raising for elections that occur when there is no gubernatorial election.

Section 9. AS 15.13.125(a). Change line 3 to read:

required by AS 15.13.040(d),
15.13.080, 15.13.110(a)(1), (3)(4)
or 15.13.110(d) is subject to a
civil penalty of not more

This would assess contributors and individuals making independent expenditures a fine for late reports and place all fines for late reports in this subsection.

AS 15.13.125 (b)-(e). The Commission supports the application of civil penalties as a fair and cost effective enforcement tool for less egregious violations of the Campaign Disclosure Law. However, (b) of this section is very broad in its enforcement provisions. The Commission suggests the following wording:

(b) A person who violates a provision of this chapter other than a provision for which a penalty is

prescribed by (a) of this section is subject to a civil penalty of not more than [~~\$5,000~~] \$20,000 for each offense or twice the amount gained by the misconduct that resulted in a violation, which ever is greater, as determined by the Commission [together with the costs of the investigation and adjudication].

This wording increases the penalty ceiling but does not base assessment solely upon the interpretation of "amount gained." It allows the Commission to be flexible in assessing fines for egregious violations resulting in minimal "amount gained by the misconduct." It also removes the subjective determination of investigation and adjudication costs.

Section 18. AS 24.45.141. The Commission suggests line 26 be modified to impose a fine of \$50 a day for late lobbyist registration statements. The daily fine for late lobbyist reports would remain at \$10.

Section 19. AS 24.45.141 (b)-(e). The Commission supports the application of civil penalties as a fair and cost effective enforcement tool for less egregious violations of the Lobbying Law. However, (b) of this section is very broad in its enforcement provisions. The Commission suggests the following wording:

(b) A person who violates a provision of this chapter other than a provision for which a penalty is prescribed by (a) of this section is subject to a civil penalty of not more than [~~\$5,000~~] \$20,000 for each offense or twice the amount gained by the misconduct that resulted in a violation, which ever is greater, as determined by the Commission [together with the costs of the investigation and adjudication].

This wording increases the penalty ceiling but does not base assessment solely upon the interpretation of "amount gained." It allows the Commission to be flexible in assessing fines for egregious violations resulting in minimal "amount gained by the misconduct." It also removes the subjective determination of investigation and adjudication costs.

Section 21. AS 39.50.030(b)(1). The Commission suggests requiring disclosure of the sources of income over \$1000 rather than over \$100. Gifts over \$100, however, should be disclosed under the following language added to the end of line 24:

notwithstanding any other provisions of this section, a source of income that is a gift must be included if the value of the gift exceeds \$100.

Section 24. AS 39.50.135 (b)-(e). The Commission supports the application of civil penalties as a fair and cost effective enforcement tool for less egregious violations of the Conflict of Interest Law. However, (b) of this section is very broad in its enforcement provisions. The Commission suggests the following wording.

(b) A person who violates a provision of this chapter other than a provision for which a penalty is prescribed by (a) of this section is subject to a civil penalty of not more than [\$5,000] \$20,000 for each offense or twice the amount gained by the misconduct that resulted in a violation, which ever is greater, as determined by the Commission [together with the costs of the investigation and adjudication].

This wording increases the penalty ceiling but does not base assessment solely upon the interpretation of "amount gained." It

allows the Commission to be flexible in assessing fines for egregious violations resulting in minimal "amount gained by the misconduct." It also removes the subjective determination of investigation and adjudication costs.

Section 27. The Commission recommends the effective date for sections 1,2,4,5 and 7-26 of this Act take effect January 1, 1992 rather than immediately. This would allow time to develop and print forms, revise manuals, conduct training and draft regulations.

The attached fiscal note and narrative reflect the anticipated increased workload.

§ 24.45.010

LEGISLATURE

§ 24.45.011

Cross references. — For effect of ch. 131, SLA 1974 in the Temporary and 131, SLA 1974 on Rule 40(f) of the Alaska Special Acts.
Rules of Civil Procedure, see sec. 2, ch.

Chapter 45. Regulation of Lobbying.

Article

1. Legislative Declaration of Purpose (§ 24.45.011)
2. Administration (§§ 24.45.021 — 24.45.031)
3. Disclosure: Registration and Reports (§§ 24.45.041 — 24.45.116)
4. Enforcement (§§ 24.45.121 — 24.45.151)
5. General Provisions (§§ 24.45.161 — 24.45.181)

NOTES TO DECISIONS

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

Collateral references. — Validity and construction of state and municipal enact- ments regulating lobbying, 42 ALR3d 1046.

Article 1. Legislative Declaration of Purpose.

Section

11. Purpose

Sec. 24.45.010. [Repealed, § 1 ch 167 SLA 1976.]

Sec. 24.45.011. Purpose. The legislature finds and declares that the operation of responsible representative democracy requires that the fullest opportunity be afforded to the people to petition their government for the redress of grievances and to express freely to individual members of the legislature, to its committees, and to officials of the executive branch, their opinions on pending legislation or administrative actions; and that the people are entitled to know the identity, income, expenditures and activities of those persons who pay, are paid or reimbursed for expenses, or who make expenditures or other payments in an effort to influence legislative or administrative action. (§ 2 ch 167 SLA 1976)

Statute supplement attached.

Sec. 24.45.020. [Repealed, § 1 ch 167 SLA 1976.]

Article 2. Administration.

Section

21. Administration
31. Powers and duties

Sec. 24.45.021. Administration. (a) This chapter shall be administered by the Alaska Public Offices Commission created under AS 15.13.020(a).

(b) The commission shall adopt regulations under the Administrative Procedure Act (AS 44.62) to implement the provisions of this chapter. (§ 2 ch 167 SLA 1976)

Sec. 24.45.030. [Repealed, § 1 ch 167 SLA 1976.]

Sec. 24.45.031. Powers and duties. (a) In addition to its other duties under this chapter, the commission shall

(1) prescribe the forms for registration, reports, statements, notices and other documents required by this chapter;

(2) prepare and publish instructions setting out the methods of accounting, bookkeeping and preservation of records required to facilitate compliance with and enforcement of this chapter and explaining the duties of persons subject to the provisions of this chapter the instructions shall be updated periodically;

(3) provide assistance to persons in complying with the provisions of this chapter;

(4) prepare and publish an annual report of its activities, findings and recommendations under this chapter, which shall be made available to the governor, legislature and to the public by February 1 of each calendar year;

(5) report suspected violations of this chapter to the attorney general.

(b) The commission may

(1) hold hearings and conduct investigations into compliance with the provisions of this chapter;

(2) in conjunction with (1) of this subsection, issue subpoenas, compel the attendance and testimony of witnesses, administer oaths and affirmations, and require the production of books, papers, records, documents or other items material to the commission's duties or powers under this chapter;

(3) prepare, publish, and make available to the public, periodic, but at least quarterly and annually, summaries of the statements and reports received; these summaries shall list separately individual lobbyists and employers of lobbyists. (§ 2 ch 167 SLA 1976)

Article 3. Disclosure: Registration and Reports.

Section

41. Registration
51. Reports
61. Reports by employers of lobbyists
71. Certification of reports
81. Reporting periods

Section

91. Publication of reports
101. Public records
111. Preservation of records
116. Disclosure of contributions

Sec. 24.45.040. [Repealed, § 1 ch 167 SLA 1976.]

Sec. 24.45.041. Registration. (a) Before engaging in lobbying, a lobbyist shall file a registration statement on a form prescribed by the commission.

(b) The registration form prescribed by the commission shall include

(1) the lobbyist's full name and complete permanent residence and business address and telephone number, as well as any temporary residential and business address and telephone number in the state capital during a legislative session;

(2) the full name and complete address of each person by whom the lobbyist is retained or employed;

(3) whether the person from whom the lobbyist receives compensation employs the person solely as a lobbyist or whether the person is a regular employee performing other services for the employer which include but are not limited to the influencing of legislative or administrative action;

(4) the nature or form of the lobbyist's compensation for engaging in lobbying, including salary, fees or reimbursement for expenses received in consideration for, or directly in support of or in connection with, the influencing of legislative or administrative action;

(5) a general description of the subjects or matters on which the registrant expects to lobby or to engage in the influencing of legislative or administrative action;

(6) the full name and complete address of the person, if other than the registrant, who has custody of the accounts, books, papers, bills, receipts and other documents required to be maintained under this chapter.

(c) At the option of the registrant, the registration form may be accompanied by four two and one-half inch by two and one-half inch black and white photographs of the lobbyist. The photographs may not be more than five years old. These photographs shall be included in the directory published under (e) of this section.

(d) If a change occurs in any of the information contained in a registration statement filed under (a) of this section, or in any accompanying document, an appropriate amendment shall be filed with the commission within 10 days after the change.

(e) Within 45 days after the convening of each regular session of the legislature, the commission shall publish a directory of registered lobbyists, containing the information prescribed in (b) of this section for each lobbyist and the photograph, if any, furnished by a lobbyist under (c) of this section. From time to time thereafter the commission shall publish these supplements to the directory that in the commission's judgment may be necessary. The directory shall be made available to public officials and to the public at the following locations: a public place adjacent to the legislative chambers in the state capitol building, the office of the lieutenant governor, the legislative reference library of the Legislative Affairs Agency and the commission's central office.

(f) Each lobbyist shall renew the registration annually by filing a new registration statement together with a new authorization to act as a lobbyist before engaging in lobbying. The lobbyist also shall file any reports or statements the lobbyist has failed to file for a previous reporting period. The commission may not renew lobbying credentials until this provision is complied with. (§ 2 ch 167 SLA 1976)

Sec. 24.45.050. [Repealed, § 1 ch 167 SLA 1976.]

Sec. 24.45.051. Reports. Each lobbyist registered under AS 24.45.041 shall file with the commission a report concerning the lobbyist's activities during each reporting period prescribed in AS 24.45.081, so long as the lobbyist continues to engage in lobbying activities. The report shall be made on a form prescribed by the commission and filed in accordance with AS 24.45.071 and 24.45.081. The report also shall include any changes in the information required to be supplied under AS 24.45.041(b) and the following information for the reporting period, as applicable:

(1) the source of income, as defined in AS 39.50.200(a) and the monetary value of all payments, including but not limited to salary, fees, and reimbursement of expenses, received in consideration for or directly or indirectly in support of or in connection with influencing legislative or administrative action, and the full name and complete address of each person from whom amounts or things of value have been received and the total monetary value received from each person;

(2) the aggregate amount of disbursements or expenditures made or incurred during the period in support of or in connection with influencing legislative or administrative action by the lobbyist, or on behalf of the lobbyist by the lobbyist's employer in the following categories:

- (A) food and beverages;
- (B) living accommodations;
- (C) travel;

(3) the date and nature of any gift exceeding \$100 in value made to a public official and the full name and official position of that person;

(4) the name and official position of each public official, and the name of each member of the immediate family of any of these officials, with whom the lobbyist has engaged in an exchange of money, goods, services or anything of more than \$100 in value and the nature and date of each of these exchanges and the monetary values exchanged;

(5) the name and address of any business entity in which the lobbyist knows or has reason to know that a public official is a proprietor, partner, director, officer or manager, or has a controlling interest, and whom the lobbyist has engaged in an exchange of money, goods, services, or anything of value and the nature and date of each exchange and the monetary value exchanged if the total value of these exchanges is \$100 or more in a calendar year; and

(6) a notice of termination if the lobbyist has ceased the lobbying activity which required registration under this chapter and if this report constitutes the final report of the lobbyist's activities. (§ 2 ch 167 SLA 1976)

Sec. 24.45.060. [Repealed, § 1 ch 167 SLA 1976.]

Sec. 24.45.061. Reports by employers of lobbyists. (a) Within 15 days after employing, retaining or contracting for the employment or retention of a lobbyist, the person who employs, retains or who contracts for the services of a lobbyist shall file a statement with the commission authorizing or verifying that employment, retention or contract for lobbying services.

(b) A person who employs, retains or who contracts for the services of one or more lobbyists, whether independently or jointly with other persons, and who directly or indirectly makes payments to influence legislative or administrative action shall file a quarterly report containing

(1) the full name, complete business address and telephone number of the person making the report;

(2) information sufficient to identify the nature and interests of the person making the report;

(3) the total amount of payments made to influence legislative or administrative action during the period, and the name and address of each person to whom these payments have been made during the period by the maker of the report, together with the date and amount;

(4) the date and nature of any gift exceeding \$100 in value made to any public official and the full name and official position of the recipient of each gift;

(5) a general description of the legislative or administrative action which the person making the report has attempted to influence;

(6) the name of each lobbyist employed or retained by the person making the report, together with the total amount paid to each lobbyist and the portion of that amount, if any, which was paid for specific purposes, including salary, fees, and reimbursement for expenses; and

(7) a notice of termination if the person filing a report has ceased employing or retaining a lobbyist registered under this chapter and if this report constitutes the final report of the lobbyist's activities on behalf of the maker of the report. (§ 2 ch 167 SLA 1976)

Legislative history reports. — For citation on CS HB 522, 1976 House Journal, p. explanation of legislative intent, see re- 270.

Sec. 24.45.070. [Repealed, § 1 ch 167 SLA 1976.]

Sec. 24.45.071. Certification of reports. Every statement or report required to be filed under this chapter shall identify the full name of the person preparing it, the person's complete address and telephone number, and shall be certified as complete and correct, both by the person preparing it and by the person on whose behalf it is filed. (§ 2 ch 167 SLA 1976)

Sec. 24.45.080. [Repealed, § 1 ch 167 SLA 1976.]

Sec. 24.45.081. Reporting periods. Reports required under this chapter shall be filed during the calendar month following each calendar month during any part of which the legislature was in session and during the month following each calendar quarter when the legislature was not in session. However, if a lobbyist registered under this chapter has declared that the lobbyist seeks only to influence administrative action and not legislative action the lobbyist need only file a report required under this chapter for each calendar quarter. The period covered shall be the calendar month or the calendar quarter, as applicable, and shall in any event cover the period from the date of the last report filed under this chapter to the date of the end of the calendar month or quarter, as applicable, for which the report is being filed. The period covered shall not include any months covered in previous reports filed by the same person. When total amounts are required to be reported, totals shall be stated both for the period covered by the statement and for the entire calendar year to date. (§ 2 ch 167 SLA 1976)

Sec. 24.45.090. [Repealed, § 1 ch 167 SLA 1976.]

Sec. 24.45.091. Publication of reports. Copies of the statements and reports filed under this chapter shall be made available to the public at the commission's central office, the office of the lieutenant governor, the legislative reference library of the Legislative Affairs Agency, and at the commission's district offices prescribed in AS 16.13.020(j) as soon as practicable after each reporting period. (§ 2 ch 167 SLA 1976)

Sec. 24.45.100. [Repealed, § 1 ch 167 SLA 1976.]

Sec. 24.45.101. Public records. Statements and reports filed under this chapter are public records and shall be available for public inspection and copying during normal business hours at the expense of the person requesting copies; however, the charge for copying may not exceed actual cost to the commission. (§ 2 ch 167 SLA 1976)

Sec. 24.45.110. [Repealed, § 1 ch 167 SLA 1976.]

Sec. 24.45.111. Preservation of records. (a) A person required to register or report as a lobbyist shall preserve all accounts, bills, receipts, books, papers and documents necessary to substantiate the reports required to be made and filed under this chapter for a period of at least one year from the date of the filing of the report containing these items. These accounts, bills, receipts, books, papers and other documents shall be made available for inspection by the commission, or members of its staff, at any time. If a lobbyist is required under the terms of the lobbyist's employment contract to turn any records over to the employer, responsibility for the preservation of these records under this section rests with the employer.

(b) The commission shall preserve the statements and reports required to be filed under this chapter for a period of six years from the date of filing. If the commission's central office is not in the state capital, copies of all statements and reports filed under this chapter shall be maintained in an office established by the commission in the state capital or in the office of the lieutenant governor. (§ 2 ch 167 SLA 1976)

Sec. 24.45.116. Disclosure of contributions. Before a civic league or organization may be eligible for the benefits of AS 43.20.031(f), it must agree to comply with the requirements of this section. The civic league or organization shall report the total amount of contributions received for the reporting period and for any contribution over \$100, the name of the contributor and the amount contributed. The civic league or organization may establish a separate fund to account for receipts and expenditures arising out of activities to influence legislative action. Reports shall be made on a form provided by the commission on February 10, April 25, and July 10 of each year, listing contributions received during the period that ended 10 days earlier. (§ 5 ch 133 SLA 1977)

Revisor's notes. — Enacted as AS 24.45.121. Renumbered in 1977.
Editor's notes. — AS 43.20.031(f), referred to in this section, was repealed in 1990 by § 10, ch 1, SSSLA 1990.

Article 4. Enforcement.

<p>Section 121. Prohibitions 131. Examination of statements, reports 141. Civil penalty: Late registration, filing of required statements or reports</p>	<p>Section 151. Criminal penalties</p>
--	--

Sec. 24.45.120. [Repealed, § 1 ch 167 SLA 1976.]

Sec. 24.45.121. Prohibitions. (a) A lobbyist may not

- (1) engage in any activity as a lobbyist before registering under AS 24.45.041;
- (2) do anything with the intent of placing a public official under personal obligation to the lobbyist or to the lobbyist's employer;
- (3) intentionally deceive or attempt to deceive any public official with regard to any material fact pertinent to pending or proposed legislative or administrative action;
- (4) cause or influence the introduction of a legislative measure for the purpose of thereafter being employed to secure its defeat;
- (5) cause a communication to be sent to a public official in the name of any fictitious person or in the name of any real person, except with the consent of that person;
- (6) accept or agree to accept any payment in any way contingent upon the defeat, enactment or outcome of any proposed legislative or administrative action;
- (7) serve as a member of a state board, or commission, if the lobbyist's employer may receive direct economic benefit from a decision of that board or commission.

(b) A person may not employ for pay or any consideration, or pay or agree to pay consideration to, a person to lobby who is not registered under AS 24.45.041 unless that person registers and that person does in fact so register before engaging in lobbying. (§ 2 ch 167 SLA 1976; am § 1 ch 159 SLA 1984)

Effect of amendments. — The 1984 amendment in subsection (a), added paragraph (7) and made a series of technical changes throughout the rest of the subsection.

Sec. 24.45.130. [Repealed, § 1 ch 167 SLA 1976.]

Sec. 24.45.131. Examination of statements, reports. (a) The commission or its staff shall examine each statement or report filed under this chapter within 10 days after the date it is filed. A person required to file a statement or report under this chapter shall be notified immediately if

- (1) it appears that the person has failed to file a statement or report as required by law or that the statement or report filed does not conform to the requirements of this chapter; or
- (2) a written complaint is filed with the commission by any qualified voter alleging that a statement or report filed with the commission does not conform to the requirements of this chapter, or to the truth, or that a person subject to the provisions of this chapter has failed to file a statement or report in the manner prescribed by this chapter.

(b) The commission shall conduct an investigation, and may thereafter conduct a hearing, into an allegation under (a)(2) of this section.

(c) The commission shall report any suspected violations of this chapter to the attorney general, to a district attorney in the judicial district where the alleged violation occurred, or to a grand jury. (§ 2 ch 167 SLA 1976)

Sec. 24.45.140. [Repealed, § 1 ch 167 SLA 1976.]

Sec. 24.45.141. Civil penalty: Late registration, filing of required statements or reports. A person who fails to register or to file a properly completed and certified report or statement, as applicable, within the time required by this chapter is subject to a civil penalty of not more than \$10 a day for each day the delinquency continues as determined by the commission subject to right of appeal to the superior court. An affidavit stating facts in mitigation may be submitted to the commission by a person against whom a civil penalty is assessed. However, the imposition of the penalties prescribed in this

section or in AS 24.45.161 does not excuse the lobbyist or employer of a lobbyist from filing statements or reports required by this chapter. (§ 2 ch 167 SLA 1976)

Sec. 24.45.150. [Repealed, § 1 ch 167 SLA 1976.]

Sec. 24.45.151. Criminal penalties. (a) An individual who knowingly violates any provisions of this chapter, whether acting for oneself, on behalf of an employer or in concert with other persons, is, upon conviction, punishable by a fine of not more than \$1,000, or by imprisonment for not more than one year, or by both.

(b) An individual who knowingly causes, participates in, aids, abets, ratifies or confirms any violation of a provision of this chapter is, upon conviction, punishable by a fine of not more than \$1,000, or by imprisonment for not more than one year, or by both.

(c) A person, other than an individual, who knowingly violates any provision of this chapter, whether acting for oneself, on behalf of an employer or in concert with other persons, or who knowingly causes, participates in, aids, abets, ratifies or confirms any violation of a provision of this chapter is, upon conviction, punishable by a fine of not more than \$10,000 for each offense.

(d) A person who knowingly makes a false or misleading report or statement required under this chapter is, upon conviction, punishable by a fine of not more than \$1,000, or by imprisonment for not more than one year, or by both. (§ 2 ch 167 SLA 1976)

Article 5. General Provisions.

Section
161. Exemptions
171. Definitions

Section
161. Short title

Sec. 24.45.161. Exemptions. (a) This chapter does not apply to (1) an individual

(A) who lobbies without payment of compensation or other consideration and makes no disbursement or expenditure for or on behalf of a public official to influence legislative or administrative action other than to pay the individual's reasonable personal travel and living expenses; and

(B) who limits lobbying activities to appearances before public sessions of the legislature, or its committees or subcommittees, or to public hearings or other public proceedings of state agencies;

(2) an elected or appointed state or municipal public officer or an employee of the state or a municipality acting in an official capacity or within the scope of employment;

(3) any newspaper or other periodical of general circulation, book publisher, radio or television station (including an individual who owns, publishes or is employed by that newspaper or periodical, radio or television station) which publishes news items, editorials or other comments, or paid advertisements, which directly or indirectly urge legislative or administrative action if the newspaper, periodical, book publisher, radio or television station or individual engages in no further or other activities in connection with urging or advocating legislative or administrative action other than to appear before public sessions of the legislature, or its committees or subcommittees, or public hearings or other public proceedings of state agencies;

(4) a person who appears before the legislature or either house, or standing, special or interim committee, in response to an invitation issued under (c) of this section.

(b) Nothing in this chapter may be construed as prohibiting or affecting the rendering of professional services in drafting legislative measures or in advising clients and in rendering opinions as to the construction or effect of proposed or pending legislative or administrative action when these professional services are not otherwise connected with influencing or attempting to influence legislative or administrative action. Nor does anything in this chapter prevent members of the legislature from discussing with constituents the advisability of passing legislation then pending before, or proposed to be presented to, the legislature.

(c) Either house of the legislature by resolution, or both houses of the legislature by concurrent resolution, may invite a person to appear to speak before the legislature or either house with reference to any pending matter. A standing, special or interim committee of either house of the legislature may, upon the concurrence of a majority of its members, extend an invitation to any person to appear before the committee to give information in regard to, or explain, any matter pending before the committee.

(d) An individual exempt from this chapter under (a)(1) of this section may, at the individual's option, register and report under this chapter. (§ 2 ch 167 SLA 1976)

Legislative history reports. — For legislative intent, see report on CSHB 622, 1976 House Journal, p. 662.

Sec. 24.45.171. Definitions. In this chapter

(1) "administrative action" means the proposal, drafting, development, consideration, amendment, adoption, approval, promulgation, issuance, modification, rejection or postponement by any state agency of any rule, regulation, order, decision, determination, or any other quasi-legislative or quasi-judicial action or proceeding whether or not governed by the Administrative Procedure Act (AS 44.62);

(2) "agency" means a state department, division, commission, board, office, bureau, institution, corporation, authority, organization, committee, council or board in the executive branch, or independent of the executive branch, of state government;

(3) "gift"

(A) means any payment to the extent that consideration of equal or greater value is not received;

(B) includes but is not limited to:

(i) a loan, loan guarantee, forgiveness of a loan, payment of a loan by a third party, or an enforceable promise to make a payment except when full and adequate consideration is received;

(ii) the purchase of tickets for travel or for entertainment events; and

(iii) the granting of discounts or rebates for goods or services not extended to the public generally;

(C) does not include:

(i) informational or promotional materials, including but not limited to books, reports, pamphlets, calendars or periodicals; however, payments for travel or reimbursement for expenses may not be considered "informational material";

(ii) food and beverages consumed in places of public accommodation;

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

(5) "individual" means a natural person;

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

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

in considering, overriding or sustaining that veto and the action of the legislature in considering, confirming or rejecting an executive appointment of the governor;

(8) "lobbyist" means

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

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

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

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

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

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

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

(D) a payment, including compensation, payment or reimbursement for the services, time or expenses of an employee for or in connection with direct communication with a public official;

(E) a payment for or in connection with soliciting or urging other persons to enter into direct communication with a public official;

(F) a payment or reimbursement for expenses in the categories set out in AS 24.45.051(2);

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

(12) "public official" or "public office" means a public official or public office as defined in AS 39.60.200(a); however, it does not include a judicial officer or an elected or appointed municipal officer. (§ 2 ch 167 SLA 1976)

- Supplement -

§ 24.20.620

LEGISLATURE

§ 24.45.041

(3) conduct investigations, studies, and analyses necessary to enable the oversight council to carry out its duties under (a) of this section; and

(4) appoint advisory panels in specialized areas to include representatives of appropriate groups such as state and municipal regulatory agencies, oil spill prevention and response authorities, fishing and environmental groups, residents of areas of risk, scientists, and shippers and owners of oil and other hazardous substances produced or transported in the state. (§ 2 ch 199 SLA 1990)

Sec. 24.20.620. Cooperation by state agencies. Each agency of the executive branch of state government shall, to the extent permitted by state or federal law, cooperate fully with the oversight council by providing information and assistance, including disclosure of records relating to the agency's enforcement of laws and regulations for the prevention of and response to releases of oil and other hazardous substances. (§ 2 ch 199 SLA 1990)

Sec. 24.20.630. Definitions. In AS 24.20.600 — 24.20.630,

(1) "hazardous substance" has the meaning given in AS 46.08.900;

(2) "oil" has the meaning given in AS 46.08.900; and

(3) "oversight council" means the Citizens' Oversight Council on Oil and Other Hazardous Substances. (§ 2 ch 199 SLA 1990)

Chapter 23. Legislative Contract Procedure.

[Repealed, § 67 ch 106 SLA 1986.]

Chapter 45. Regulation of Lobbying.

Article

3. Disclosure: Registration and Reports (§§ 24.45.041, 24.45.116)

5. General Provisions (§ 24.45.171)

Article 3. Disclosure: Registration and Reports.

Section

41. Registration

116. Disclosure of contributions

Sec. 24.45.041. Registration. (a) Before engaging in lobbying, a lobbyist shall file a registration statement on a form prescribed by the commission.

(b) The registration form prescribed by the commission shall include

(1) the lobbyist's full name and complete permanent residence and business address and telephone number, as well as any temporary

residential and business address and telephone number in the state capital during a legislative session;

(2) the full name and complete address of each person by whom the lobbyist is retained or employed;

(3) whether the person from whom the lobbyist receives compensation employs the person solely as a lobbyist or whether the person is a regular employee performing other services for the employer which include but are not limited to the influencing of legislative or administrative action;

(4) the nature or form of the lobbyist's compensation for engaging in lobbying, including salary, fees or reimbursement for expenses received in consideration for, or directly in support of or in connection with, the influencing of legislative or administrative action;

(5) a general description of the subjects or matters on which the registrant expects to lobby or to engage in the influencing of legislative or administrative action;

(6) the full name and complete address of the person, if other than the registrant, who has custody of the accounts, books, papers, bills, receipts and other documents required to be maintained under this chapter.

(c) At the option of the registrant, the registration form may be accompanied by four two and one-half inch by two and one-half inch black and white photographs of the lobbyist. The photographs may not be more than five years old. These photographs shall be included in the directory published under (e) of this section.

(d) If a change occurs in any of the information contained in a registration statement filed under (a) of this section, or in any accompanying document, an appropriate amendment shall be filed with the commission within 10 days after the change.

(e) Within 45 days after the convening of each regular session of the legislature, the commission shall publish a directory of registered lobbyists, containing the information prescribed in (b) of this section for each lobbyist and the photograph, if any, furnished by a lobbyist under (c) of this section. From time to time thereafter the commission shall publish those supplements to the directory that in the commission's judgment may be necessary. The directory shall be made available to public officials and to the public at the following locations: a public place adjacent to the legislative chambers in the state capitol building, the office of the lieutenant governor, the legislative reference library of the Legislative Affairs Agency and the commission's central office.

(f) Each lobbyist shall renew the registration annually by filing a new registration statement together with a new authorization to act as a lobbyist before engaging in lobbying. The lobbyist also shall file any reports or statements the lobbyist has failed to file for a previous

reporting period. The commission may not renew lobbying credentials until this provision is complied with.

(g) An application for registration as a lobbyist under (a) of this section or for renewal of a registration under (f) of this section is subject to a fee of \$100. The commission may not accept an application for registration or renew a registration until the fee is paid. This subsection does not apply to a volunteer lobbyist under AS 24.45.161 or a representational lobbyist under regulations of the commission. (§ 2 ch 167 SLA 1976; am § 39 ch 36 SLA 1990)

Effect of amendments. — The 1990 amendment, effective May 12, 1990, added subsection (g).

Sec. 24.45.116. Disclosure of contributions. A civic league or organization shall report the total amount of contributions received for the reporting period and for any contribution over \$100, the name of the contributor and the amount contributed. The civic league or organization may establish a separate fund to account for receipts and expenditures arising out of activities to influence legislative action. Reports shall be made on a form provided by the commission on February 10, April 25, and July 10 of each year, listing contributions received during the period that ended 10 days earlier. (§ 5 ch 133 SLA 1977; am § 48 ch 14 SLA 1987)

Effect of amendments. — The 1987 amendment substituted "A" for "Before a civic league or organization may be eligible for the benefits of AS 43.20.031(f), it must agree to comply with the requirements of this section. The" at the beginning of the section.

Article 5. General Provisions.

Section 171. Definitions

Sec. 24.45.171. Definitions. In this chapter

(1) "administrative action" means the proposal, drafting, development, consideration, amendment, adoption, approval, promulgation, issuance, modification, rejection or postponement by any state agency of any rule, regulation, order, decision, determination, or any other quasi-legislative or quasi-judicial action or proceeding whether or not governed by the Administrative Procedure Act (AS 44.62);

(2) "agency" means a state department, division, commission, board, office, bureau, institution, corporation, authority, organization, committee, council or board in the executive branch, or independent of the executive branch, of state government;

(3) "gift"

(A) means any payment to the extent that consideration of equal or greater value is not received;

(B) includes but is not limited to:

(i) a loan, loan guarantee, forgiveness of a loan, payment of a loan by a third party, or an enforceable promise to make a payment except when full and adequate consideration is received;

(ii) the purchase of tickets for travel or for entertainment events; and

(iii) the granting of discounts or rebates for goods or services not extended to the public generally;

(C) does not include:

(i) informational or promotional materials, including but not limited to books, reports, pamphlets, calendars or periodicals; however, payments for travel or reimbursement for expenses may not be considered "informational material";

(ii) food and beverages consumed in places of public accommodation;

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

(5) "individual" means a natural person;

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

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

(8) "lobbyist" means

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

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

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

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

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

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

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

(D) a payment, including compensation, payment or reimbursement for the services, time or expenses of an employee for or in connection with direct communication with a public official;

(E) a payment for or in connection with soliciting or urging other persons to enter into direct communication with a public official;

(F) a payment or reimbursement for expenses in the categories set out in AS 24.45.051(2);

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

(12) "public official" or "public officer" means a public official as defined in AS 39.50.200(a); however, it does not include a judicial officer or an elected or appointed municipal officer. (§ 2 ch 167 SLA 1976; am § 39 ch 37 SLA 1986)

Effect of amendments. — The 1986 amendment in paragraph (12) substituted "officer" for "office" and deleted "or public office" following "public official."

Chapter 55. Office of the Ombudsman.

Article

1. Organization (§§ 24.55.040, 24.55.060 — 24.55.090)
2. Jurisdiction and Initiation of Investigations (§§ 24.55.130, 24.55.140)
3. Investigations (§§ 24.55.160, 24.55.170)
4. Procedure and Reports After Investigation (§§ 24.55.180, 24.55.190)
5. Miscellaneous (§ 24.55.275)
6. General Provisions (§§ 24.55.310 — 24.55.330)

5.10.180

late's re-
ation or
ndum or
olls and
director.
district
rganiza-
luty at a
present
ds a full
en from
ted and
sing re-
w board
appoint-
nmittee,
r repre-
commit-
he orga-
o party.
136 SLA
§ 34 ch

or state
ons from
review.
ensation
it to the
or shall
may be
election.
g review
r in any
f names
ee of the
t in the
100 SLA

§ 15.13.010

ELECTIONS

§ 15.13.010

Chapter 13. State Election Campaigns.

Section

- 10. Applicability
- 20. Alaska Public Offices Commission
- 30. Duties of the commission
- 40. Contributions, expenditures and supplying of services to be reported
- 45. Investigations, hearings
- 50. Groups
- 60. Campaign treasurers
- 70. Contributions and expenditures; amount and form of payment

Section

- 80. Statement by contributor
- 90. Identification of communication
- 100. Expenditures before filing
- 110. Filing of reports
- 120. Penalty; limitations on actions
- 122. Legal counsel
- 125. Civil penalty; late filing of required reports
- 130. Definitions

Collateral references. — 25 Am. Jur. 2d, Elections, §§ 4-7, 10, 280-290.

29 C.J.S., Elections, §§ 2-4, 6, 118(7), 216(1)-216(5).

Sec. 15.13.010. Applicability. (a) This chapter applies in every election for governor, lieutenant governor, a member of the state legislature, a delegate to a constitutional convention, or judge seeking electoral confirmation. It also applies to every candidate for election to a municipal office in a municipality with a population of more than 1,000 inhabitants according to the latest United States census figures or estimates of population certified as correct for administrative purposes by the Department of Community and Regional Affairs. A municipality may exempt its elected municipal officers from the requirements of this chapter if a majority of the voters voting on the question at a regular election, as defined by AS 29.71.800(20), or a special municipality-wide election called for that purpose, vote to exempt its elected municipal officers from the requirements of this chapter. The question of exemption from the requirements of this chapter may be submitted by the governing body by ordinance or by initiative election. This chapter does not prohibit a municipality from regulating by ordinance campaign contributions and expenditures.

(b) Except as otherwise provided, this chapter applies to contributions, expenditures and communications made by a candidate, group, municipality or individual for the purpose of influencing the outcome of a ballot proposition or question as well as those made to influence the nomination or election of a candidate. (§ 1 ch 76 SLA 1974; am §§ 1, 2 ch 139 SLA 1975; am § 32 ch 74 SLA 1985)

Effect of amendments. — The 1985 amendment in subsection (a) substituted "municipality" for "city or borough" in the second sentence, "a" for "any" preceding "regular election" and "AS 29.71.800(20)"

for "AS 29.78.010(14)" in the third sentence, and "governing body" for "city council or borough assembly" and "election" for "ordinance" in the next-to-last sentence.

Supplement Attached

office constituted compliance with law. — Noma is designated center for forms pursuant to both subsection (j) and AS 15.10.110, and since Noma is the central office for Senate District F, which encompasses House District 21 and therefore Kotzebue, the lieutenant governor

complied with the law by virtue of furnishing forms to the Noma regional office, even though such forms were not available in Kotzebue. *Sillides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 659 P.2d 80 (1977).

Sec. 15.13.030. Duties of the commission. The commission shall

(1) develop and provide all forms for the reports and statements required to be made under this chapter, AS 24.45 and AS 39.50;

(2) prepare and publish a manual setting out uniform methods of bookkeeping and reporting for use by persons required to make reports and statements under this chapter and otherwise assist candidates, groups, and individuals in complying with the requirements of this chapter;

(3) receive and hold open for public inspection reports and statements required to be made under this chapter and, upon request, furnish copies at cost to interested persons;

(4) compile and maintain a current list of all filed reports and statements;

(5) prepare a summary of each report filed under AS 15.13.110 and make copies of this summary available to interested persons at their actual cost;

(6) notify, by registered or certified mail, all persons who are delinquent in filing reports and statements required to be made under this chapter;

(7) report within 60 days after the election the names of all persons and groups who have failed to comply with any of the provisions of this chapter to the office of the attorney general;

(8) examine, investigate and compare all reports, statements and actions required by this chapter, AS 24.45 and AS 39.50 and to report to the attorney general the names of all persons or groups which the commission has substantial reason to believe have violated this chapter, AS 24.45 or AS 39.50;

(9) prepare and publish an annual report to the legislature concerning the activities of the commission, the effectiveness of this chapter, its enforcement by the attorney general's office, and recommendations and proposals for change;

(10) adopt regulations necessary to implement and clarify the provisions of AS 24.45, AS 39.50 and this chapter, subject to the provisions of the Administrative Procedure Act (AS 44.62). (§ 1 ch 76 SLA 1974; am § 24 ch 25 SLA 1975; am §§ 11, 12 ch 189 SLA 1975; am §§ 3 — 5 ch 167 SLA 1976)

NOTES TO DECISIONS

- I. General Consideration.
II. Regulations.

I. GENERAL CONSIDERATION.

Duty-to-notify requirement only applies to groups which have registered with commission pursuant to AS 15.13.050. *Veco Int'l, Inc. v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 3295 (File No. S-1698), 763 P.2d 703 (1988).

Applied in *Measnerl v. State*, Sup. Ct. Op. No. 2236 (File No. 4326), 626 P.2d 81 (1980).

II. REGULATIONS.

No regulations were necessary to implement the mandatory provisions for filing an appointment of campaign treasurer established by AS 15.13.060(c). *Sillides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 659 P.2d 80 (1977).

Sec. 15.13.040. Contributions, expenditures and supplying of services to be reported. (a) Each candidate shall make a full report, upon a form prescribed by the commission, listing the date and amount of all expenditures made by the candidate, the total amount of all contributions, including all funds contributed by the candidate, and for all contributions in excess of \$100 in the aggregate a year, the name, address, principal occupation, and employer of the contributor and the date and amount contributed by each contributor. The report shall be filed in accordance with AS 15.13.110 and shall be certified correct by the candidate or campaign treasurer.

(b) Each group shall make a full report upon a form prescribed by the commission, listing

(1) the name and address of each officer and director;

(2) the aggregate amount of all contributions made to it; and, for all contributions in excess of \$100 in the aggregate a year, the name, address, principal occupation, and employer of the contributor, and the date and amount contributed by each contributor; and

(3) the date and amount of all contributions made by it and all expenditures made, incurred or authorized by it.

(c) The report required under (b) of this section shall be filed in accordance with AS 15.13.110 and shall be certified as correct by the group's treasurer.

(d) Every individual, person or group making a contribution or expenditure shall make a full report, upon a form prescribed by the commission, of the following contributions or expenditures:

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

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

(e) The report required under (d) of this section shall contain the name, address, principal occupation and employer of the individual

filling the report, and an itemized list of expenditures. The report shall be filed with the commission by the contributor no later than 10 days after the contribution or expenditure is made. A copy of the report shall be furnished to the candidate, campaign treasurer or deputy campaign treasurer at the time the contribution is made.

(f) During each year in which an election occurs, all businesses, persons, or groups which furnish any of the following services, facilities, or supplies to a candidate or group shall maintain a record of each transaction: newspapers, radio, television, advertising, advertising agency services, accounting, billboards, printing, secretarial, public opinion polls, or research and professional campaign consultation or management, media production or preparation, or computer services. The records shall be maintained on the forms provided and in the manner required by the commission. The supplier shall file a report of the complete record of each transaction with all candidates or groups to whom the supplier provides services, facilities or supplies in excess of \$250 in the aggregate in accordance with AS 15.13.110. All records shall be available for public inspection. (§ 1 ch 76 SLA 1974; am § 13 ch 189 SLA 1975)

NOTES TO DECISIONS

Constitutionality. — In the case of *First Nat'l Bank v. Bellotti*, 435 U.S. 765, 98 S. Ct. 1407, 55 L. Ed. 2d 707, rehearing denied, 438 U.S. 907, 98 S. Ct. 3126, 57 L. Ed. 2d 1150 (1978), the supreme court of the United States has indicated in unmistakable terms that state disclosure laws pertaining to ballot issues are constitutional. *Messerli v. State*, Sup. Ct. Op. No. 2236 (File No. 4326), 626 P.2d 81 (1980).

When there is no showing that an individual must remain anonymous with respect to advertising as to ballot propositions because of the possibility of being subject to reprisals, economic or otherwise, the state campaign disclosure laws

are not unconstitutional as applied to a contributor hoping to influence the outcome of a ballot issue, because the objective of an informed electorate is sufficiently compelling to overcome an interest in anonymous political expression. *Messerli v. State*, Sup. Ct. Op. No. 2236 (File No. 4326), 626 P.2d 81 (1980).

The disclosure requirements of this chapter are not unconstitutionally vague or overbroad, nor do they violate the constitutional right of the people to privacy. *Veco Int'l, Inc. v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 3295 (File No. S-1598), 753 P.2d 703 (1988).

Collateral references. — Construction and application of statute regarding statement by candidate as to his expenses, or his interest in, or the financial value of

publicity through, newspapers or other publicity sources. 103 ALR 1424.

Statement by candidate regarding salary or fees of office as violation of *Corrupt Practice Act* or bribery. 106 ALR 493.

Sec. 15.13.045. Investigations, hearings. (a) The commission may issue subpoenas, administer oaths, hold hearings and conduct investigations.

(b) In conjunction with (a) of this section, the commission may compel the attendance of witnesses and production of papers, books,

records, accounts, documents, and testimony, and may have the deposition of witnesses taken in a manner prescribed by court rule or law for the taking of depositions in civil actions when consistent with the powers and duties assigned to the commission by this chapter.

(c) The commission may examine the papers, books, records, accounts and documents of any person subject to this chapter to ascertain the correctness of a report filed with the commission, or in conjunction with an investigation or inspection conducted under (a) of this section.

(d) Subpoenas may be issued and shall be served in the manner prescribed by AS 44.62.430 and court rule. The failure, refusal or neglect to obey a subpoena is punishable as contempt in the manner prescribed by law or court rule. The superior court may compel obedience to the commission's subpoena in the same manner as prescribed for obedience to a subpoena issued by the court. (§ 14 ch 189 SLA 1975)

NOTES TO DECISIONS

Cited in *Sillides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 659 P.2d 80 (1977).

Sec. 15.13.050. Groups. Each group, before making an expenditure on behalf of, or in opposition to, a candidate or a contribution to a candidate, shall register, on forms provided by the commission, with the commission. If the group intends to support or oppose only one candidate, or to contribute to or expend on behalf of, or in opposition to, one candidate 50 per cent or more of its funds, the name of the candidate shall be a part of the name of the group. Promptly upon receiving the registration, the commission shall notify the candidate of the group's organization and intent. (§ 1 ch 76 SLA 1974; am § 15 ch 189 SLA 1975)

NOTES TO DECISIONS

Disclosure requirements constitutional. — The disclosure requirements of this chapter are not unconstitutionally vague or overbroad, nor do they violate the constitutional right of the people to privacy. *Veco Int'l, Inc. v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 3295 (File No. S-1598), 753 P.2d 703 (1988).

Sec. 15.13.060. Campaign treasurers. (a) Each candidate and group shall appoint a campaign treasurer who is responsible for receiving, holding, and disbursing all contributions and expenditures, and for filing all reports and statements required by law. A candidate may be a campaign treasurer.

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

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

(d) In the case of the death, resignation or removal of a campaign treasurer, the candidate shall appoint a successor as soon as practicable and file the successor's name and address with the commission within 48 hours of the appointment. The candidate is disqualified if found to have been in wilful violation of this subsection.

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

(f) The candidate is responsible for the performance of the campaign treasurer, and any default or violation by the treasurer also shall be considered a default or violation by the candidate if the candidate knew or had reason to know of the default or violation. (§ 1 ch 76 SLA 1974; am §§ 16 — 19 ch 189 SLA 1975; am § 1 ch 133 SLA 1977; am § 35 ch 59 SLA 1982)

NOTES TO DECISIONS

- I. General Consideration.
- II. Subsection (c).

I. GENERAL CONSIDERATION.

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

II. SUBSECTION (C).

Editor's notes. — *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977), cited in the notes below, was decided under subsection (c) as it existed before the 1977 amendment. Prior to that amendment, subsection (c) read: "Each candidate shall file the name and address of the campaign treasurer with the commission no later than seven days after the date of filing his declaration of candidacy or his nominat-

ing petition. The name of the candidate may be placed on the ballot by the lieutenant governor or municipal clerk only if the candidate has complied with this subsection."

This section is not unconstitutional in that it sets up "invalid class legislation." *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

The two groups classified by virtue of this section are those candidates who have complied with the law and those who have not; the failure to adhere to this section is the dividing line. Therefore, under any possible equal protection test this section passes constitutional muster. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Statutory requirement that a candidate's designation of treasurer be filed by a specified due date is not constitutionally unreasonable. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Subsection (c) should be strictly enforced. — *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Effect of unequal enforcement of AS 39.50.020 on enforcement of subsection (c). — Unequal enforcement of AS 39.50.020, which requires candidates to file a financial disclosure statement did not require the conclusion that a candidate had in fact substantially complied with the filing requirements of subsection (c) where the record did not show any intentional or purposeful discrimination against the candidate. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Subsection (c) requires candidates to "file" campaign treasurer statements within a specified time limit. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

The definition of "file" is well established in the law. It has been consistently held that a document is filed only when the proper officer has received it, and that it is not considered filed when it is deposited in the mails. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Telephone conversation not appropriate filing. — Given the test of subsection (c), the legal meaning of the term "file" and the supreme court's adoption of the doctrine that statutory election deadlines are to be strictly enforced, a telephone conversation between the candidate's treasurer and the Alaska Public Offices Commission seven days after the declaration of candidacy was filed cannot be deemed an appropriate filing within the intent of subsection (c). *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

No regulations were necessary to implement the mandatory provisions for filing an appointment of campaign treasurer established by subsection (c) of this section. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Sec. 15.13.070. Contributions and expenditures; amount and form of payment. (a) A person or group, including but not limited to all political committees, businesses, corporations, and labor unions, may not contribute to or expend more than \$1,000 a year on behalf of or in opposition to the competing candidates for each elective office. Political parties and their subdivisions are not subject to the limitation prescribed in this subsection, but they are subject to the reporting requirements prescribed by AS 15.13.040(b) and 15.13.110. This chapter does not prohibit

(1) a candidate from contributing more than \$1,000 of the candidate's own money to the candidate's own campaign; or

(2) individuals or groups, including but not limited to all political committees, businesses, corporations, and labor unions, from contributing to or expending on behalf of a ballot proposition or question more than \$1,000 a year; however, these contributions and expenditures shall be reported in accordance with AS 15.13.040 and 15.13.110.

(b) A contribution over \$100 may not be made in cash or by cash payment and it may not be accepted by or on behalf of a candidate.

(c) An expenditure over \$100 may not be made in cash or by cash payment unless a written receipt is obtained and filed with the commission.

(d) A contribution may not be made, and an expenditure may not be made or incurred, directly or indirectly, anonymously, in a fictitious name, or by one person or group in the name of another, to influence the election of a candidate in an election. A contribution made by a person wishing to remain anonymous, and received by a candidate, campaign treasurer or deputy campaign treasurer, may not be used or expended, but shall be returned to the donor, if the donor's identity is known, and if no donor is found, the contribution escheats to the state if not donated by the candidate to the charity of the candidate's choice.

(e) Contributions to a candidate or a political committee may be received by, and expenditures of a candidate or political committee may be made by, only the candidate, campaign treasurer, or deputy campaign treasurer.

(f) [Repealed, § 45 ch 85 SLA 1986.]

(g) [Repealed, § 45 ch 85 SLA 1986.]

(h) No campaign expenditure of any type whatsoever shall be made by any candidate, treasurer, or group unless the source is disclosed as required by the provisions of this chapter whether or not those funds were received before May 10, 1974. (§ 1 ch 76 SLA 1974; am §§ 20, 21 ch 189 SLA 1975; am § 45 ch 85 SLA 1986)

Effect of amendments. — The 1986 amendment repealed subsections (f) and (g), concerning campaign expenditure limits and cost-of-living adjustment of campaign expenditure limitations, respectively.

Editor's notes. — In *Buckley v. Valeo*, 424 U.S. 1, 96 S. Ct. 612, 46 L. Ed. 2d 659 (1976), the supreme court held that the 1st amendment of the federal constitution required the invalidation of certain provisions of the Federal Election Campaign Act of 1971, as amended in 1974: its independent expenditure ceiling, former 18 U.S.C. § 608(e)(1), its limitation on a candidate's expenditures from his own personal funds, former 18 U.S.C. § 608(a), and its ceiling on overall campaign expenditures, former 18 U.S.C. § 608(c), since these provisions placed substantial and direct restrictions on the ability of candidates, citizens, and associations to engage in protected political expression. This holding was accepted as law in Alaska and the expenditure limits in this chapter were not enforced. See notes from the

opinion of the attorney general dated May 13, 1976, cited below.

Opinions of attorney general. — There seems to be no difference between § 608(c) of the Federal Elections Campaign Act of 1971, former 18 U.S.C. § 608(c), and subsection (f) of this section; accordingly, based on the reasons stated in *Buckley v. Valeo*, 424 U.S. 1, 96 S. Ct. 612, 46 L. Ed. 2d 659 (1976), for finding unconstitutional § 608(c) of the federal act, subsection (f) of this section is invalid as a violation of the rights and privileges protected by the 1st amendment. May 13, 1976 Op. Att'y Gen. (decided prior to the 1986 repeal of subsection (f).)

The Public Offices Commission should not undertake investigations of violations of subsection (f) of this section, and candidates or others may be advised that no implementation or enforcement of subsection (f) of this section is planned by the office of the attorney general. May 13, 1976 Op. Att'y Gen. (decided prior to the 1986 repeal of subsection (f).)

NOTES TO DECISIONS

Applied in *Vogler v. Miller*, Sup. Ct. Op. No. 2639 (File No. 6959), 660 P.2d 1192 (1983).

Cited in *State, Pub. Offices Comm'n v. Marshall*, Sup. Ct. Op. No. 2406 (File No. 6614), 633 P.2d 227 (1981).

Collateral references. — Construction and application of provisions of corrupt practices act regarding contributions by corporations. 125 ALR 1029.
Power of corporation to make political

contribution or expenditure under state law. 79 ALR3d 491.
State regulation of the giving or making of political contributions or expenditures by private individuals. 94 ALR3d 914.

Sec. 15.13.080. Statement by contributor. A person or group contributing to a candidate over \$250 or contributing goods or services to a candidate with a value of more than \$250 to influence the election of a candidate shall furnish the commission a signed statement, on a form made available by the commission. The statement shall itemize the contributions and goods and state that the contributor is not a person or group prohibited by law from contributing and that the contribution consists of funds or property belonging to the contributor and has not been given or furnished by another person or group. The contributor's statement shall be filed with the commission by the contributor no later than 10 days after the contribution is made. A copy of the statement shall be furnished the candidate, campaign treasurer, or deputy campaign treasurer at the time the contribution is made. (§ 1 ch 76 SLA 1974; am § 29 ch 185 SLA 1975)

Sec. 15.13.090. Identification of communication. All advertisements, billboards, handbills, paid-for television and radio announcements and other communications intended to influence the election of a candidate or outcome of a ballot proposition or question shall be clearly identified by the words "paid for by" followed by the name and address of the candidate, group or individual paying for the advertising. In addition, candidates and groups must identify the name of their campaign chairman. (§ 1 ch 76 SLA 1974; am § 22 ch 189 SLA 1975; am § 36 ch 100 SLA 1980)

Collateral references. — Validity and construction of state statute prohibiting anonymous political advertising. 4 ALR4th 741.

Sec. 15.13.100. Expenditures before filing. A political campaign expenditure may not be made or incurred by a person in an election or by a person or group with the person's knowledge and on the person's behalf before the date upon which the person files for nomination for the office which the person seeks, except for personal travel expenses or for opinion surveys or polls. These expenditures must be included in

the first report required under this chapter after filing for office. (§ 1 ch 76 SLA 1974; am § 23 ch 189 SLA 1975; am § 25 ch 14 SLA 1987)

Effect of amendments. — The 1987 amendment in the first sentence substituted "A" for "No" at the beginning of the section, inserted "not" following "expenditure may," and substituted "the person's" for "his" in two places and "the person" for

"he or she" and in the last sentence substituted "must" for "shall be charged against the spending limitation that applies to the office for which he subsequently files, and shall."

Sec. 15.13.110. Filing of reports. (a) Each candidate and group shall make a full report in accordance with AS 15.13.040 during the period ending three days before the due date of the report and beginning on the last day covered by the most recent previous report, or, if a first report, all contributions received and expenditures made before three days before the due date of the report. The report shall be filed at the following times:

- (1) 30 days before the election; however, this report is not required if the deadline for filing a nominating petition or declaration of candidacy is within 30 days of the election;
- (2) one week before the election;
- (3) ten days after the election; and
- (4) December 31 of each year for expenditures and contributions received which were not reported that year.

(b) Each contribution or expenditure which exceeds \$250 and which is made within one week of the election shall be reported to the commission by date, amount, and contributor or recipient within 24 hours of receipt or expenditure by the candidate or campaign treasurer.

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

(d) Within 30 days after each election, each supplier shall make a full report to the commission in accordance with AS 15.13.040. Within 60 days after each election, the commission shall prepare a summary by candidate or group of the transactions and make the summaries public.

(e) A group formed to sponsor an initiative, a referendum or a recall shall report 30 days after its first filing with the lieutenant governor. Thereafter each group shall report within 10 days after the end of each calendar quarter on the contributions received and expenditures made during the preceding calendar quarter until reports are due under (a) of this section. (§ 1 ch 76 SLA 1974; am § 24 ch 189 SLA 1975; am § 2 ch 133 SLA 1977)

NOTES TO DECISIONS

Disclosure requirements constitutional. — The disclosure requirements of this chapter are not unconstitutionally vague or overbroad, nor do they violate the constitutional right of the people to privacy. *Veco Int'l, Inc. v. Alaska Pub. Of-*

fices Comm'n, Sup. Ct. Op. No. 3205 (File No. S-1698), 763 P.2d 703 (1988). Stated in State, Pub. Offices Comm'n v. Marshall, Sup. Ct. Op. No. 2406 (File No. 6614), 633 P.2d 227 (1981).

Sec. 15.13.120. Penalty; limitations on actions. (a) A person who violates a provision of this chapter is guilty of a misdemeanor and, upon conviction, is punishable by imprisonment for not more than one year or by a fine of not more than \$5,000. A violation includes but is not limited to any of the following acts or omissions:

- (1) failing to make a statement or report required to be made under this chapter, or failing to make a statement or report at the time the statement or report is required to be made under this chapter;
- (2) making a campaign contribution that exceeds the limitations of AS 15.13.070;
- (3) making a false statement or report under this chapter;
- (4) giving or furnishing money to another person or group for the purpose of making a contribution or expenditure anonymously, in a fictitious name, or in the name of another, or contributing in violation of AS 15.13.090;
- (5) making a communication to support or defeat a candidate without identification of sponsorship, in violation of AS 15.13.090;
- (6) knowingly accepting a contribution in violation of AS 15.13.070.

(b) *[Repealed, § 6 ch 134 SLA 1982.]*

(c) Promptly after the final date for filing statements and reports, the commission shall notify all persons who have become delinquent in filing them, including contributors who failed to file a statement in accordance with AS 15.13.040, and shall make available a list of these delinquents for public inspection. The commission shall also report to the attorney general the names of all candidates in an election whose campaign treasurers have failed to file the reports required by this chapter.

(d) A person who believes a violation of this chapter has occurred may file a complaint with the commission. If the commission determines there is substantial reason to believe that a violation has occurred, it shall expeditiously make an investigation, which may also include an investigation of reports and statements filed by the complainant if the complainant is a candidate, of the matter complained of. When, in the judgment of the commission, after affording due notice and an opportunity for a hearing, a person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of a provision of this chapter, or a regulation or order issued under it, it shall promptly report the information to the attorney general for appropriate action. The commission shall report its determi-

nation and recommendation to the person who filed the complaint with the commission within 60 days of receiving the complaint — less circumstances require additional time to make an adequate investigation. The finding of the commission may be appealed to the superior court.

(e) Prosecution for violation of a provision of this chapter may not be commenced after four years have elapsed from the date of the alleged violation.

(f) If, after being sworn into office, a person who was a successful candidate or the campaign treasurer or deputy campaign treasurer of a person who was a successful candidate is convicted of a violation of this chapter, proceedings shall be held and appropriate action taken in accordance with

(1) art. II, § 12 of the state constitution, if the candidate is a candidate for the state legislature;

(2) art. II, § 20 of the state constitution, if the candidate is a candidate for governor or lieutenant governor;

(3) AS 29.20.170, if the candidate is a candidate for the borough assembly;

(4) AS 29.20.280, if the candidate is a candidate for borough mayor;

(5) AS 29.20.170, if the candidate is a candidate for city council;

(6) AS 29.20.280, if the candidate is a candidate for city mayor;

(7) the provisions of the call for the constitutional convention, if the candidate is a candidate for constitutional convention delegate;

(8) art. IV, § 10 of the state constitution, if the candidate is a candidate for judicial retention.

(g) Information developed by the commission under (d) of this section shall be considered during a proceeding under (f) of this section.

(h) When, after being sworn into office, a successful candidate or the campaign treasurer or deputy campaign treasurer of a person who was a successful candidate is charged with a violation of this chapter, the case shall be promptly tried and accorded a preferred position for purposes of argument and decision, so as to assure a speedy disposition of the matter. (§ 1 ch 76 SLA 1974; am § 25 ch 189 SLA 1975; am §§ 1, 6 ch 134 SLA 1982; am §§ 33 — 36 ch 74 SLA 1985; am § 26 ch 14 SLA 1987)

Effect of amendments. — The 1985 amendment in subsection (f) in paragraph (3) substituted "AS 29.20.170" for "AS 29.23.060(c)," in paragraph (4) substituted "AS 29.20.280" for "AS 29.23.130(f)," in paragraph (5) substituted "AS 29.20.170" for "AS 29.23.210(b)," and in paragraph (6) substituted "AS 29.20.280" for "AS 29.23.255."

The 1987 amendment in subsection (h)(2) substituted "that exceeds the limitations of AS 15.13.070" for "or expenditure

which exceeds the limitations of AS 15.13.070(f)."

Editor's notes. — In *Ruckley v. Valco*, 424 U.S. 1, 96 S. Ct. 612, 46 L. Ed. 2d 659 (1976), the supreme court held that the 1st amendment of the federal constitution required the invalidation of certain provisions of the Federal Election Campaign Act of 1971, as amended in 1974: its independent expenditure ceiling, former 18 U.S.C. § 608(e)(1), its limitation on a candidate's expenditures from his own per-

sonal funds, former 18 U.S.C. § 608(a), and its ceiling on overall campaign expenditures, former 18 U.S.C. § 608(c), since these provisions placed substantial and direct restrictions on the ability of candi-

dates, citizens, and associations to engage in protected political expression. This holding was accepted as law in Alaska and the expenditure limits in this chapter were not enforced.

NOTES TO DECISIONS

- I. General Consideration.
- II. Forfeiture Sanction.

I. GENERAL CONSIDERATION.

This section contains no scienter requirement and the court would not impose one. *State, Pub. Offices Comm'n v. Marshall*, Sup. Ct. Op. No. 2406 (File No. 5614), 633 P.2d 227 (1981).

Quoted in *Messrell v. State*, Sup. Ct. Op. No. 2236 (File No. 4326), 626 P.2d 81 (1980).

II. FORFEITURE SANCTION.

Editor's notes. — Subsection (b), which contained a forfeiture sanction for violation of AS 15.13, was repealed in 1982.

Constitutionality of forfeiture sanction. — The forfeiture sanction of subsection (b) (now repealed) does not conflict with any constitutional provision delimiting the qualifications of assembly or council members or with any provision reserving exclusive authority to determine a member's election to those local entities. *State, Pub. Offices Comm'n v. Marshall*, Sup. Ct. Op. No. 2406 (File No. 5614), 633 P.2d 227 (1981).

Even if the forfeiture sanction of subsection (b) (now repealed) may conflict with Alaska Const., art. II, § 12, insofar as

state legislative elections are concerned, it can nonetheless constitutionally apply to local elections. *State, Pub. Offices Comm'n v. Marshall*, Sup. Ct. Op. No. 2406 (File No. 5614), 633 P.2d 227 (1981).

The forfeiture sanction is valid. *State, Pub. Offices Comm'n v. Marshall*, Sup. Ct. Op. No. 2406 (File No. 5614), 633 P.2d 227 (1981).

The deadlines for filing are mandatory, and the plain meaning of this section makes the forfeiture sanction applicable. *State, Pub. Offices Comm'n v. Marshall*, Sup. Ct. Op. No. 2406 (File No. 5614), 633 P.2d 227 (1981).

The statutory forfeiture of office provision applied to the election of a city councilman and borough assemblyman whose 1980 seven-day pre-election report was not filed until well after the election. *State, Pub. Offices Comm'n v. Marshall*, Sup. Ct. Op. No. 2406 (File No. 5614), 633 P.2d 227 (1981).

The absence of regulations is not fatal to enforcement of the forfeiture sanction because they are not necessary to implement the sanction or to protect a constitutional right. *State, Pub. Offices Comm'n v. Marshall*, Sup. Ct. Op. No. 2406 (File No. 5614), 633 P.2d 227 (1981).

Sec. 15.13.122. Legal counsel. (a) The attorney general is legal counsel for the commission. The attorney general shall advise the commission in legal matters arising in the discharge of its duties and represent the commission in actions to which it is a party. If, in the opinion of the commission, the public interest warrants, the commission may request the chief justice of the supreme court to appoint a special prosecutor to represent the commission in a proceeding involving an alleged violation of this chapter and to prosecute that violation.

(b) When the public interest warrants, the commission may employ temporary legal counsel from time to time in matters in which the commission is involved. (§ 26 ch 189 SLA 1975)

Sec. 15.13.125. Civil penalty: late filing of required reports. A person who fails to file a properly completed and certified report within the time required by AS 15.13.110(a)(1), (3), (4) or 15.13.110(d) is subject to a civil penalty of not more than \$10 a day for each day the delinquency continues as determined by the commission subject to right of appeal to the superior court. A person who fails to file a properly completed and certified report within the time required by AS 15.13.110(a)(2) or 15.13.110(b) is subject to a civil penalty of not more than \$50 a day for each day the delinquency continues as determined by the commission subject to right of appeal to the superior court. An affidavit stating facts in mitigation may be submitted to the commission by a person against whom a civil penalty is assessed. However, the imposition of the penalties prescribed in this section or in AS 15.13.120 does not excuse that person from filing reports required by this chapter. (§ 6 ch 167 SLA 1976)

NOTES TO DECISIONS

Penalty cannot be obviously unreasonable. — The penalty cannot be so severe and oppressive as to be wholly disproportionate to the offense and obviously unreasonable. The standard is one of obvious unreasonableness. *Veco Int'l, Inc. v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 3295 (File No. 8-1698), 753 P.2d 703 (1988).

Statement of reasons for maximum

penalties. — A statement of reasons should be given by the commission when it imposes the maximum civil penalties under this section. *Veco Int'l, Inc. v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 3295 (File No. 8-1698), 753 P.2d 703 (1988).

Stated in State, Pub. Offices Comm'n v. Marshall, Sup. Ct. Op. No. 2408 (File No. 8614), 633 P.2d 227 (1981).

Sec. 15.13.130. Definitions. In this chapter

(1) "candidate" means a person who files for election to the state legislature, for governor, for lieutenant governor, for municipal office, for retention in judicial office, or for constitutional convention delegate, or who campaigns as a write-in candidate for any of these offices;

(2) "contribution" means purchase, payment, promise or obligation to pay, loan or loan guarantee, deposit or gift of money, goods or services for which charge is ordinarily made and which is made for the purpose of influencing the nomination or election of a candidate, and in AS 15.13.010(b) for the purpose of influencing a ballot proposition or question, including the payment by a person other than a candidate or political party, or compensation of the personal services of another person which are rendered to the candidate or political party; however, "contribution" does not include

(A) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or ballot proposition or question, but it does include professional services volunteered by individuals for which they ordinarily would be paid a fee or wage;

(B) services provided by an accountant or other person to prepare reports and statements required by this chapter;

(C) ordinary hospitality in a home;

(3) "expenditure" means a purchase or a transfer of money or anything of value, or promise or agreement to purchase or transfer money or anything of value, incurred or made for the purpose of (A) influencing the nomination or election of a candidate or of any individual who files for nomination at a later date and becomes a candidate; (B) use by a political party; (C) the payment by a person other than a candidate or political party of compensation for the personal services of another person which are rendered to a candidate or political party; or (D) influencing the outcome of a ballot proposition or question; however, "expenditure" does not include a candidate's filing fee or the cost of preparing reports and statements required by this chapter;

(4) "group" means every state and regional executive committee of a political party and, in addition, means any combination of two or more persons or individuals acting jointly who take action the major purpose of which is to influence the outcome of an election; a group that makes expenditures or receives contributions with the authorization or consent, express or implied, or under the control, direct or indirect, of a candidate shall be considered to be controlled by that candidate; a group whose major purpose is to further the nomination, election, or candidacy of only one person, or intends to expend more than 50 per cent of its money on a single candidate, shall be considered to be controlled by that candidate and its actions done with the candidate's knowledge and consent unless, within 10 days from the date the candidate learns of the existence of the group the candidate files with the commission, on a form provided by the commission, an affidavit that the group is operating without the candidate's control; a group organized for more than one year preceding an election and endorsing candidates for more than one office or more than one political party is presumed not to be controlled by a candidate; however, a group that contributes more than 50 per cent of its money to or on behalf of one candidate shall be considered to support only one candidate for purposes of AS 15.13.070, whether or not control of the group has been disclaimed by the candidate;

(5) "individual" means a natural person;

(6) [Repealed, § 88 ch 74 SLA 1985.]

(7) "person", in addition to the terms set out in AS 01.10.060, includes a labor union. (§ 1 ch 76 SLA 1974; am § 28 ch 189 SLA 1975; am § 88 ch 74 SLA 1985)

Revisor's notes. — Reorganized in amendment repealed paragraph (6), 1985 to alphabetize the defined terms. which defined "municipality."
Effect of amendments. — The 1985

NOTES TO DECISIONS

Each of three affiliated employer corporations constituted separate "group" with their respective contributing employees, where the employers actively participated in determining which candidates would receive the pool of funds from their employees. *Veco Int'l*,

Inc. v. Alaska Pub. Offices Comm'n, Sup. Ct. Op. No. 3295 (File No. 8-1598), 753 P.2d 703 (1988).

Quoted in *Measuli v. State*, Sup. Ct. Op. No. 2236 (File No. 4326), 626 P.2d 81 (1980).

Chapter 15. General Procedure for Elections.

Section	Section
10. General administrative supervision by director	250. Disposition of improperly marked ballot
20. Date of general election	260. Placing ballot in ballot box by voter
30. Preparation of official ballot	270. Prohibiting the leaving of the polling place with ballot
35. Printing of ballots and other material	280. Prohibiting the exhibition of marked ballots
40. Preparation of other election materials	290. Prohibiting the identification of ballots
50. Distribution of election materials	300. Prohibiting the count of exhibited ballots
60. Procurement of polling places and other supplies	310. Official closing of polls
70. Public notice of election required	320. Voters in line when polls close
80. Time for opening and closing polls	330. Commencement of ballot count
90. Designation of precinct polling place	340. Report, oath and vacancies of counters
100. Time off for voting	350. General procedure for ballot count
110. General duties and oath of election board and clerks	360. Rules for counting hand-marked ballots
120. Filling vacancies in election board	301. Stickers
130. Majority decision of election board	370. Completion of ballot count
140. Permitted use of unofficial ballots	380. Payment of election board members
150. Official opening of polls	390. Certifying election expenses
160. Prohibition of political discussion by election board	400. Preparation of voter list
170. Prohibition of political persuasion near election polls	410. Plural voting
180. Keeping of register	420. Duty to review the ballot counting
195. Voters on official registration list	430. Scope of the review of ballot counting
198. Voters not on official registration list	440. Dates for opening and closing state ballot counting review
210. Questioning of voters of suspect qualification	450. Certification of state ballot counting review
215. Disposition of questioned votes	460. Tie votes
220. Administration of oaths	470. Preservation of election ballots, papers, and materials
225. Voter identification at polls	480. Security of ballots
230. Providing ballot to voter	
240. Assisting voter by judge	

Collateral references. — 26 Am. Jur. 2d, Elections, § 235-233.
29 C.J.S., Elections, § 190-220.
Power to enjoin holding of an election. 33 ALR 1376; 70 ALR 733.
Quo warrants to test results of primary election. 86 ALR 246.

Personal liability of public officer for breach of duty in respect of election or primary election laws. 163 ALR 109.

Admissibility of election ballots in quo warrants proceedings. 71 ALR2d 353.

Sec. 15.15.010. General administrative supervision by director. The director shall provide general administrative supervision over the conduct of state elections, and may adopt regulations under the Administrative Procedure Act (AS 44.62) necessary for the administration of state elections. (§ 3.01 ch 83 SLA 1960; am § 5 ch 80 SLA 1963; am § 37 ch 100 SLA 1980)

NOTES TO DECISIONS

There appears to be no legislative history pertaining particularly to this section. *Coghill v. Boucher*, Sup. Ct. Op. No. 900 (File No. 1798), 511 P.2d 1297 (1973).

The director has the option of issuing certain regulations for the administration of elections or, in the alternative, to decline to issue such regulations. *Coghill v. Boucher*, Sup. Ct. Op. No. 900 (File No. 1798), 511 P.2d 1297 (1973).

Legislative intent that Administrative Procedure Act apply mandatorily. — The presence of the clause referring to the Administrative Procedure Act (AS 44.62) in this section reflects the legislature's intention that the Administrative Procedure Act be mandatorily applied to regulations promulgated in accordance with that provision. *Coghill v. Boucher*, Sup. Ct. Op. No. 900 (File No. 1798), 511 P.2d 1297 (1973).

If the lieutenant governor (now director) elects to issue regulations under the enactment, then such regulations must be promulgated under the procedural safeguards afforded by the Administrative Procedure Act (AS 44.62). *Coghill v. Boucher*, Sup. Ct. Op. No. 900 (File No. 1798), 511 P.2d 1297 (1973).

References to Administrative Procedure Act in section and AS 15.10.030 are similar. — The wording of the reference to the Administrative Procedure Act (AS 44.62) in AS 15.10.030 is quite similar to that used in this section. *Coghill v. Boucher*, Sup. Ct. Op. No. 900 (File No. 1798), 511 P.2d 1297 (1973).

The only difference between the operational portions of AS 15.10.030 and AS 15.15.010 is that in the former, the verb "may" follows the clause referring to the Administrative Procedure Act (AS 44.62)

while in the latter, it precedes the clause referring to the Administrative Procedure Act. *Coghill v. Boucher*, Sup. Ct. Op. No. 900 (File No. 1798), 511 P.2d 1297 (1973).

Regulation upheld. — A regulation requiring independent gubernatorial candidates to submit nominating petitions signed by qualified voters equal in number to at least one percent of those voting in the previous general election, adopted pursuant to authority delegated to the director of elections by this section to govern the 1986 election, did not conflict with any statute in effect, was consistent with expressed legislative intent, and was neither unreasonable nor arbitrary. After a state supreme court decision rendered the provision of former AS 15.25.160 which governed the number of signatures required for a nominating petition null and void, the division of elections properly promulgated the regulation at issue for the administration of the 1986 election. *Denardo v. State*, Sup. Ct. Op. No. 3224 (File No. 8-1679), 741 P.2d 1197 (1987).

AS 15.15.330 to be read with requirements of this section. — See *Coghill v. Boucher*, Sup. Ct. Op. No. 900 (File No. 1798), 511 P.2d 1297 (1973).

Regulations under former "early count" provisions of AS 15.15.330 concerning the early tallying of ballots in selected precincts qualified as "regulations . . . necessary for the administration of elections to protect the interest of the voter and assure administrative efficiency . . ." within the meaning of this section. *Coghill v. Boucher*, Sup. Ct. Op. No. 900 (File No. 1798), 511 P.2d 1297 (1973).

Applied in *Hammond v. Hinkel*, Sup. Ct. Order (File Nos. 4281, 4282, 4283, 4284, 4285, 4291), 586 P.2d 256 (1978).

Supplement

§ 15.13.020

ELECTIONS

§ 15.13.020

tered voter in the precinct. (§ 2.02 ch 83 SLA 1960; am § 22 ch 100 SLA 1980; am § 5 ch 67 SLA 1989)

Effect of amendments. — The 1989 amendment, effective August 28, 1989, added subsection (b).

Chapter 13. State Election Campaigns.

Section

20. Alaska Public Offices Commission
30. Duties of the commission

Section

40. Contributions, expenditures and supplying of services to be reported

Sec. 15.13.020. Alaska Public Offices Commission. (a) There is created in the Department of Administration the Alaska Public Offices Commission consisting of five members. The governor shall appoint all members of the commission in the manner prescribed in (b) and (c) of this section, subject to confirmation by a majority of the legislature meeting in joint session.

(b) The governor shall appoint two members of each of the two political parties whose candidate for governor received the highest number of votes in the most recent preceding general election at which a governor was elected. The two appointees from each of these two parties shall be chosen from a list of four names to be submitted by the central committee of each party.

(c) The four members selected under (b) of this section shall, by a majority vote, nominate to the governor an individual to serve as the fifth member of the commission. The governor shall either appoint the nominee to the commission, or shall reject the nominee and request those four members to nominate another individual to serve as the fifth member of the commission.

(d) Members of the commission serve staggered terms of five years, or until a successor is appointed and qualifies. The terms of no two members who are members of the same political party may expire in consecutive years. A member may not serve more than one term. However, a person appointed to fill the unexpired term of a predecessor may be appointed to a successive full five-year term.

(e) A member of the commission, during tenure, may not

(1) hold or campaign for elective office;

(2) be an officer of a political party, political committee or group;

(3) permit the member's name to be used, or make any contributions whatsoever, in support of or in opposition to a candidate or proposition or question that appears on any ballot in the state including but not limited to that of a municipality; however, contributions may be made to a candidate for the office of President of the United States;

(4) participate in any way in an election campaign or participate in or contribute to any political party; or

(5) lobby, employ or assist a lobbyist.

(f) Members of the commission shall receive compensation of \$50 a day while attending commission meetings and shall be entitled to travel expenses and per diem authorized by law for members of other boards and commissions.

(g) The members shall elect a chairman. Three members of the commission constitute a quorum. A vacancy does not impair the powers of the remaining members to exercise all of the powers of the commission.

(h) A vacancy on the commission shall be filled through the appropriate appointing method for the position within 30 days after the occurrence of the vacancy. The appointee shall serve for the remaining term of the appointee's predecessor.

(i) The commission may employ an executive director and other employees it considers necessary. Neither the executive director nor an employee may have a vote.

(j) The commission shall establish an office, which may be called a regional office, in each senate district in the state to keep on file for public inspection copies of all reports filed with the commission by candidates for statewide office and by candidates for legislative office in that district; however, where one municipality contains more than one election district, only one commission office shall be established in that municipality. The regional office shall make all forms and pertinent material available to candidates. All reports shall be filed by candidates, groups and individuals directly with the commission's central district office. The commission shall ensure that copies of all reports by statewide and legislative candidates in each senate district are forwarded promptly to that district or regional office.

(k) The commission shall ensure that copies of reports filed by candidates for municipal office are made available for public inspection in the appropriate municipality. (§ 1 ch 76 SLA 1974; am § 23 ch 25 SLA 1975; am §§ 3 — 10 ch 189 SLA 1975; am E.O. No. 41 § 2 (1980); am § 24 ch 85 SLA 1988; am §§ 1 — 3 ch 14 SLA 1989)

Effect of amendments. — The 1989 amendment, effective April 14, 1989, added the second sentence in subsection (a); substituted "nominate to the governor an individual to serve as the" for "appoint the remaining" in the first sentence and

added the second sentence in subsection (c); and substituted "through the appropriate appointing method for the position within 30 days after" for "by the appropriate appointing authority within 30 days of" in the first sentence in subsection (h).

Sec. 15.13.030. Duties of the commission. The commission shall

(1) develop and provide all forms for the reports and statements required to be made under this chapter, AS 24.45 and AS 39.50;

(2) prepare and publish a manual setting out uniform methods of bookkeeping and reporting for use by persons required to make reports and statements under this chapter and otherwise assist candi-

dates, groups, and individuals in complying with the requirements of this chapter;

(3) receive and hold open for public inspection reports and statements required to be made under this chapter and, upon request, furnish copies at cost to interested persons;

(4) compile and maintain a current list of all filed reports and statements;

(5) prepare a summary of each report filed under AS 15.13.110 and make copies of this summary available to interested persons at their actual cost;

(6) notify, by registered or certified mail, all persons who are delinquent in filing reports and statements required to be made under this chapter;

(7) report within 60 days after the election the names of all persons and groups who have failed to comply with any of the provisions of this chapter to the office of the attorney general;

(8) examine, investigate and compare all reports, statements and actions required by this chapter, AS 24.45 and AS 39.50 and report to the attorney general the names of all persons or groups which the commission has substantial reason to believe have violated this chapter, AS 24.45 or AS 39.50;

(9) prepare and publish a biennial report to the legislature concerning the activities of the commission, the effectiveness of this chapter, its enforcement by the attorney general's office, and recommendations and proposals for change;

(10) adopt regulations necessary to implement and clarify the provisions of AS 24.45, AS 39.50 and this chapter, subject to the provisions of the Administrative Procedure Act (AS 44.62). (§ 1 ch 76 SLA 1974; am § 24 ch 25 SLA 1975; am §§ 11, 12 ch 189 SLA 1975; am §§ 3 — 5 ch 167 SLA 1976; am § 2 ch 134 SLA 1990)

Effect of amendments. — The 1990 "port" for "an annual report" in paragraph amendment substituted "a biennial re- (9)

Sec. 15.13.040. Contributions, expenditures and supplying of services to be reported. (a) Each candidate shall make a full report, upon a form prescribed by the commission, listing the date and amount of all expenditures made by the candidate, the total amount of all contributions, including all funds contributed by the candidate, and for all contributions in excess of \$100 in the aggregate a year, the name, address, principal occupation, and employer of the contributor and the date and amount contributed by each contributor. The report shall be filed in accordance with AS 15.13.110 and shall be certified correct by the candidate or campaign treasurer.

(b) Each group shall make a full report upon a form prescribed by the commission, listing

- (1) the name and address of each officer and director;
- (2) the aggregate amount of all contributions made to it; and, for all contributions in excess of \$100 in the aggregate a year, the name, address, principal occupation, and employer of the contributor, and the date and amount contributed by each contributor; and
- (3) the date and amount of all contributions made by it and all expenditures made, incurred or authorized by it.

(c) The report required under (b) of this section shall be filed in accordance with AS 15.13.110 and shall be certified as correct by the group's treasurer.

(d) Every individual, person or group making a contribution or expenditure shall make a full report, upon a form prescribed by the commission, of the following contributions or expenditures:

- (1) any contribution of cash, goods or services valued at more than \$250 a year to any group or candidate; or
- (2) any expenditure whatsoever for advertising in newspapers, on radio or on television; or, for the publication, distribution or circulation of brochures, flyers, or other campaign material for any candidate or ballot proposition or question.

(e) The report required under (d) of this section shall contain the name, address, principal occupation and employer of the individual filing the report, and an itemized list of expenditures. The report shall be filed with the commission by the contributor no later than 10 days after the contribution or expenditure is made. A copy of the report shall be furnished to the candidate, campaign treasurer or deputy campaign treasurer at the time the contribution is made.

(f) During each year in which an election occurs, all businesses, persons, or groups which furnish any of the following services, facilities, or supplies to a candidate or group shall maintain a record of each transaction: newspapers, radio, television, advertising, advertising agency services, accounting, billboards, printing, secretarial, public opinion polls, or research and professional campaign consultation or management, media production or preparation, or computer services. The records shall be maintained on the forms provided and in the manner required by the commission. The supplier shall file a report of the complete record of each transaction with all candidates or groups to whom the supplier provides services, facilities or supplies in excess of \$250 in the aggregate in accordance with AS 15.13.110. All records shall be available for public inspection. (§ 1 ch 76 SLA 1974; am § 13 ch 189 SLA 1975; am § 33 ch 50 SLA 1989)

Effect of amendments. — The 1989 amendment, effective May 27, 1989, substituted "\$250" for "100" in paragraph (d)(1).

Sec. 15.13.070. Contributions and expenditures; amount and form of payment.

Cross references. — For prohibition against certain campaign fund-raising by legislators, see AS 24.60.030.

Opinions of attorney general. — The \$1000 statutory limit under this section is applicable to "control groups" under AS

15.13.130(4). Exempting such groups from the contribution limit would seriously undermine the statute's primary purpose of deterring the buying of elections and the undue influence of large contributors. June 15, 1987, Op. Att'y Gen.

Sec. 15.13.130. Definitions.

Opinions of attorney general. — The \$1000 statutory limit under AS 15.13.070(a) is applicable to "control groups" under this section. Exempting such groups from the contribution limit

would seriously undermine the statute's primary purpose of deterring the buying of elections and the undue influence of large contributors. June 15, 1987, Op. Att'y Gen.

Chapter 15. General Procedure for Elections.

Section

30. Preparation of official ballot

Sec. 15.15.030. Preparation of official ballot. The director shall prepare all official ballots to facilitate fairness, simplicity, and clarity in the voting procedure, to reflect most accurately the intent of the voter, and to expedite the administration of elections. The following directives shall be followed when applicable:

- (1) The director shall determine the size of the ballot, the type of print, necessary additional instruction notes to voters, and other similar matters of form not provided by law.
- (2) The director shall number ballots in series to assure simplicity and secrecy and to prevent fraud.
- (3) The director may contract for the preparation of the ballots on a regional basis if necessary and may contract for the preparation of ballots without obtaining competitive bids.
- (4) The director may not include on the ballot as a part of a candidate's name, any honorary or assumed title or prefix but may include in the candidate's name any nickname or familiar form of a proper name of the candidate.

(5) The state general election ballot shall be printed on white paper with the names of the candidates and their party designations placed in separate sections under the office designation to which they were nominated. The party affiliation, if any, shall be designated after the name of the candidate. The lieutenant governor and the governor shall be included under the same section. Provision shall be made for voting for write-in and no-party candidates within each section. The squares appearing on the ballots shall measure 1/4 inch on each side.

(4) act as an appeals board, hold hearings at the request of an employer, employee, surviving spouse, or a beneficiary on decisions made by the administrator that relate to the deferred compensation program for state employees, and submit its findings to the administrator;

(5) prescribe the policies for the proper operation of the deferred compensation program for state employees and take other action that it considers necessary to carry out the intent and purpose of the program.

(b) In this section "administrator" means the administrator of the deferred compensation program for state employees. (§ 38 ch 146 SLA 1980)

Sec. 39.45.030. Investment authority. (a) The administrator of the state or political subdivision deferred compensation program is authorized, subject to contracts with individual employees, to invest the funds held under a deferred compensation program in

(1) fixed and variable life insurance and annuity contracts or other contracts issued by life insurance companies;

(2) shares of or deposits in insured state or federal chartered credit unions in the state;

(3) shares of or deposits in insured state or federal chartered savings and loan associations in the state;

(4) deposits in insured mutual savings banks in the state;

(5) deposits in insured state and national banks in the state; and

(6) multi-employer trusts established for investment of deferred compensation assets of state and local governments.

(b) In this section, "insured" means insured by the federal government or an agency of the federal government. (§ 1 ch 40 SLA 1973; am §§ 2, 3 ch 125 SLA 1986)

Effect of amendments. — The 1986 amendment in subsection (a) designated part of the existing language as paragraph (1). in paragraph (1) added "or other contracts issued by life insurance companies," added paragraphs (2)-(6), and added subsection (b).

Sec. 39.45.040. Additional benefits. The deferred compensation program established under this chapter exists and serves in addition to any existing retirement, pension, or benefit system established by the state or its political subdivisions and may not effect a reduction in benefits receivable under an existing system. (§ 1 ch 40 SLA 1973)

Revisor's notes. — In ch 40, SLA 1973, this section contained the phrase "may not effect a reduction." That appears to involve a typographical error, and "effect" has been changed to "effect" here.

Sec. 39.45.060. Tax deferred investments. The administrator of a deferred compensation program under this chapter shall invest only in contracts that allow for deferment of the state and federal income tax until benefits are receivable under the program and shall make appropriate withholding adjustments in each participating employee's payroll. (§ 1 ch 40 SLA 1973)

Sec. 39.45.060. Definition. In this chapter "employee" means a person, whether appointed, elected or under contract, who provides services for the state or a political subdivision of the state for which compensation is given. (§ 1 ch 40 SLA 1973)

Chapter 50. Conflict of Interest.

Section	Section
10 Findings and purpose	90 Prohibited acts
20 Report of financial and business interests	100 Enforcement by private citizens
25 Notification to candidates for legislature	110 Report of financial interests of judicial officers
30 Contents of statements	120 Report of financial interests of legislators
35 Exemptions	130 Report of financial interests of governor and lieutenant governor
40 Blind trusts	135 Civil penalty; late filing of required reports
50 Administration and inspection	145 Participation by municipalities
60 Penalty for willful violation of disclosure requirements	200 Definition
70 Failure to report by department, division, or deputy department heads	
80 Failure to report by a commission or board chairman or member	

Cross references. — For other ethics provisions applicable to the legislative branch, see AS 24.60; for other ethics provisions applicable to the executive branch, see AS 39.52; for other ethics provisions applicable to the judiciary, see the Code of Judicial Conduct in the Rules of Court.

Editor's notes. — Section 2, 1974 Initiative Proposal No. 2, provides: "Severability. If any provision of this chapter or portion of a provision is declared by a court of competent jurisdiction to be invalid, for any cause, such invalid provision or portion of it shall be considered to be non-existent and the remainder of this chapter shall continue in full force and effect." Section 3, 1974 Initiative Proposal No. 2, provides: "Repeal of Inconsistent Laws. In case of conflict between provisions of this chapter and other provisions contained in the Alaska Statutes, the provisions of this chapter shall take precedence."

Sec. 39.50.010. Findings and purpose. (a) It is declared by the people of the State of Alaska that the purposes of this chapter are:

(1) to discourage public officials from acting upon a private or business interest in the performance of a public duty;

(2) to assure that public officials in their official acts are free of the influence of undisclosed private or business interests;

- Statute supplement is attached -

(3) to develop public confidence in persons seeking or holding public office, enhance the dignity of the offices and make them attractive to citizens who are motivated to public service; and

(4) to develop accountability in government by permitting public access to information necessary to judge the credentials and performance of those who seek and hold public office.

(b) The people of the State of Alaska declare that:

(1) public office is a public trust that should be free from the danger of conflict of interest;

(2) the public has a right to know of the financial and business interests of persons who seek or hold public office;

(3) a compelling state interest requires that candidates for office and office holders disclose their personal and business financial interests;

(4) reasonable disclosure requirements do not violate an individual's right to privacy when the individual seeks or holds public office and a compelling state interest in the disclosure exists; and

(5) reasonable disclosure requirements do not have the effect of chilling the exercise of the right of a qualified person to seek or hold public office. (1974 Initiative Proposal No. 2, § 1)

NOTES TO DECISIONS

Purposes of Alaska's Conflict of Interest law as set forth in this section have been generally regarded as legitimate goals. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

The purpose of the Conflict of Interest statute is to bring to light all conflicts -- actual and potential. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

Financial disclosure laws have the purpose of promoting efficient, ethical government and preserving the integrity and fairness of the political process both in fact and in appearance. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

To determine the validity of the disclosure provisions of the Conflict of Interest law, both the nature and the extent of the privacy invasion and the strength of the state interest requiring disclosure must be considered. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

Governmental interest balanced against individual's privacy interest. -- The extent to which the governmental

interest in promoting fair and honest government would be impeded by not strictly complying with the Conflict of Interest law does not outweigh the individual's privacy interest in protecting sensitive personal information from public disclosure. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

Certain types of information communicated in the context of the physician-patient relationship fall within a constitutionally-protected zone of privacy. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

Reporting names of physician's patients. -- Until appropriate regulations are promulgated, the Conflict of Interest law may not be applied so as to require reporting the names of individual patients of a physician. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

Cited in *State Pub. Offices Comm'n v. Marshall*, Sup. Ct. Op. No. 3418 (File No. 3614), 633 P.2d 227 (1981).

Collateral references: 63A Am. 67 C.J.N., Officers & 204
Jur. 2d, Public Officers and Employees,
§§ 335 - 337, 368, 411.

Sec. 39.50.020. Report of financial and business interests.
(a) A judicial officer, commissioner, chairman or member of a state commission or board specified in AS 39.50.200(b), a person hired or appointed as head or deputy head of, or director of a division within, a department in the executive branch, a person appointed as assistant to the governor, and a municipal officer, shall file a statement giving income sources and business interests, under oath and on penalty of perjury, within 30 days after taking office as a public official. Candidates for state elective office shall file such a statement at the time of filing a declaration of candidacy or, within 30 days of the filing of any nominating petition, or within 30 days of becoming a candidate by any other means. Candidates for elective municipal office shall file such a statement at the time of filing a nominating petition, declaration of candidacy, or other required filing for the elective municipal office. Refusal or failure to file within the time prescribed shall require that the candidate's filing fees, if any, and filing for office be refused or that a previously accepted filing fee be returned and the candidate's name removed from the filing records. A statement shall also be filed by public officials no later than April 15 or 15 days after the person files a federal income tax return in each following year, whichever comes first. Persons who, on or after December 11, 1974, were members of boards or commissions not named in AS 39.50.200(b) are not required to file financial statements.

(b) The governor, lieutenant governor, members of the legislature, and candidates for these offices, judicial officers, each commissioner, head or deputy head of, or director of a division within, a department in the executive branch, assistant to the governor or chairman or member of a commission or board required to report under this chapter, shall file the statement with the Alaska Public Offices Commission. Municipal officers, and candidates for elective municipal office, shall file with the municipal clerk or other municipal official designated to receive their filing for office. All statements required to be filed under this chapter are public records. (1974 Initiative Proposal No. 2, § 1; am §§ 1, 2 ch 25 S.L.A. 1975)

Opinions of attorney general. -- A candidate for municipal office may avoid an erroneous conflict-of-interest statement prior to an election, without having his name removed from the ballot, where

the candidate appears to have timely filed a statement in good faith with the proper election official. September 9, 1985 Op. Atty. Gen.

NOTES TO DECISIONS

The proper location for the filing of the financial disclosure statement is unclear. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Subsection (b) of this section requires financial disclosure statements to be filed in the office of the Alaska Public Offices Commission in Anchorage, but the administrative practice of the lieutenant governor's office has been customarily to accept financial disclosure statements from candidates and then forward the statements to the Alaska Public Offices Commission. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Subsection (a) contemplates filing concurrent with filing of declaration of candidacy. — Subsection (a) of this section contemplates that the act of filing a financial disclosure statement by a candidate is to be carried out concurrently with the act of filing the declaration of candidacy. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

But such filing is impossible for Juneau resident. — It is "patently impossible" for a Juneau resident to have filed his financial disclosure statement at the same time he filed his declaration of candidacy, since the latter may be filed in Juneau (AS 15.25.040(c)) while the only authorized place of filing the former is Anchorage (this section). *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Collateral references. — Validity and construction of orders and enactments requiring public officers and employees or

Substantial compliance with filing requirements is sufficient. — Given the lack of clarity inherent in this section and the impossibility of compliance with this section for a would-be candidate living in Juneau who files his declaration of candidacy near the June deadline, substantial compliance with the filing requirements of this section will suffice. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

If a Juneau resident mailed his financial disclosure statement to the Alaska Public Offices Commission in Anchorage on June 1, 1976, then his name was to appear on the forthcoming primary ballot. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Effect of unequal enforcement of this section on filing requirements of AS 15.13.060(c). — Unequal enforcement of this section did not require the conclusion that a candidate had in fact substantially complied with the filing requirements of AS 15.13.060(c) where the record did not show any intentional or purposeful discrimination against the candidate. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Applied in *Falke v. State*, Sup. Ct. Op. No. 3038 (File No. S-605), 717 P.2d 369 (1986).

Cited in *State, Pub. Offices Comm'n v. Marshall*, Sup. Ct. Op. No. 2408 (File No. 5614), 633 P.2d 227 (1981).

candidates for office, to disclose financial condition, interests, or relationships. 22 ALR4th 237.

Sec. 39.50.025. Notification to candidates for legislature. On receipt of a statement under AS 39.50.020 from a candidate for the legislature the commission shall mail, by certified mail, a copy of AS 24.60 (Standards of Conduct) to the candidate at the address shown on the report. (S 3 ch 36 S.L.A. 1984)

Sec. 39.50.030. Contents of statements. (a) Each statement shall be an accurate representation of the financial affairs of the public official or candidate and shall contain the same information for each member of the person's family, as specified in (b) of this section, to the extent that it is ascertainable by the public official or candidate. An asset or liability under \$500, household goods, and personal effects need not be identified.

(b) Each statement filed by a public official or candidate under this chapter shall include the following:

(1) the source of all income over \$100 during the preceding calendar year, including taxable and nontaxable capital gains, received by the person, the person's spouse or dependent child, or a nondependent child of the person who is living with that person;

(2) the identity, by name and address, of each business in which the person, the person's spouse or dependent child, or a nondependent child of the person who is living with that person was a stockholder, owner, officer, director, partner, proprietor, or employee during the preceding calendar year;

(3) the identity and nature of each interest owned in any business during the preceding calendar year by the person, the person's spouse or dependent child, or a nondependent child of the person who is living with that person;

(4) the identity and nature of each interest in real property, including an option to buy, owned at any time during the preceding calendar year by the person, the person's spouse or dependent child, or a nondependent child of the person who is living with that person;

(5) the identity of each trust or other fiduciary relation in which the person, the person's spouse or dependent child, or a nondependent child of the person who is living with that person held a beneficial interest during the preceding calendar year, a description and identification of the property contained in each trust or relation, and the nature and extent of the beneficial interest in it;

(6) any loan or loan guarantee made to the person, the person's spouse or dependent child, or a nondependent child of the person who is living with that person, and the identity of the maker of the loan or loan guarantor and the identity of each creditor to whom the person, the person's spouse or dependent child, or a nondependent child of the person who lives with that person owed \$500 or more;

(7) a list of all contracts and offers to contract with the state or an instrumentality of the state during the preceding calendar year held, bid, or offered by the person, the person's spouse or dependent child, a nondependent child of the person who is living with that person, the person's mother or father, or a corporation in which the person or the person's spouse or children, or a combination of them, hold a controlling interest; and

(h) a list of all mineral, timber, oil, or any other natural resource lease held, or lease offer made, during the preceding calendar year by the person, the person's dependent child, a nondependent child of the person who is living with that person, the person's mother or father, a partnership or professional corporation of which the person is a member, or a corporation in which the person or the person's spouse or children, or a combination of them, holds a controlling interest.

(c) *[Repealed, § 26 ch 25 SLA 1975.]* (1974 Initiative Proposal No. 2, § 1, am §§ 3, 4, 26 ch 25 SLA 1976)

Opinions of attorney general - It is the opinion of the attorney general that it is not unethical for an attorney who is a public official to disclose the names of clients, including the clients of the firm, in valid and

legally supportable, and disclosure of such names does not violate any constitutional or professional privileges. February 15, 1985 Op. Atty Gen.

NOTES TO DECISIONS

To determine the validity of the disclosure provisions of the Conflict of Interest law, both the nature and the extent of the privacy invasion and the strength of the state interest requiring disclosure must be considered. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

Certain types of information communicated in the context of the physician-patient relationship fall within a constitutionally-protected zone of privacy. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

Patient of a physician is a client for medical services and falls within the scope of this chapter. *Falcon v. Alaska*

Pub. Offices Comm'n, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

And source of income. - The Conflict of Interest law encompasses a physician's individual patients as sources of income. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

Reporting individual names of physician's patients. - Until appropriate regulations are promulgated, the Conflict of Interest law may not be applied so as to require reporting the names of individual patients of a physician. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

Applied in *Warren v. Thomas*, Sup. Ct. Op. No. 1484 (File No. 2919), 568 P.2d 400 (1977).

Sec. 39.50.035. Exemptions. A person subject to this chapter is not exempt from any of its provisions except to the extent state courts determine that legally privileged professional relationships preclude complete compliance. (§ 5 ch 25 SLA 1975)

NOTES TO DECISIONS

This section applies only to legal privileges, not ethical mandates. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

Fact that a physician is subject to

professional discipline for revealing the names of patients does not create a "legal privilege." *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

Sec. 39.50.040. Blind trusts. (a) A public official may transfer all or a portion of the official's assets to a blind trust for the duration of service in public office. The original assets placed in the blind trust shall be listed by the official in the statement required to be filed under this chapter. The instrument creating the blind trust must be included with the statement.

(b) For a trust to qualify under this section,

(1) assets transferred to the trust shall be marketable;

(2) the trustee shall be a bank or other institutional fiduciary;

(3) the trustee shall have full authority to manage the trust, including the purchase, sale, and exchange of its assets in accordance with fiduciary principles;

(4) information regarding the identity and the nature of its assets shall be confidential from the trustor for the duration of the trust;

(5) the trustee shall be required to report any known breach of confidentiality or the termination of the trust to the office where the trustor is required to file statements under this chapter; and

(c) *[Repealed, § 26 ch 25 SLA 1975.]* (1974 Initiative Proposal No. 2, § 1; am §§ 6, 26 ch 25 SLA 1975)

NOTES TO DECISIONS

Cited in *Warren v. Thomas*, Sup. Ct. Op. No. 1484 (File No. 2919), 568 P.2d 400 (1977).

Sec. 39.50.050. Administration and inspection. (a) The Alaska Public Offices Commission created under AS 15.13.020(a) shall administer the provisions of this chapter. The commission shall prepare and keep available for distribution, standardized forms on which the reports required by this chapter shall be filed.

(b) The commission shall adopt regulations to implement and interpret the provisions of this chapter. Regulations or interpretation shall be within the intent and purpose of this chapter and are subject to judicial review under the Administrative Procedure Act (AS 44.62).

(c) Reports filed under this chapter shall be kept on file for at least six years and are public records.

(d) To facilitate the filing of reports under AS 24.45 (Regulation of Lobbying) and the information required to be provided under AS 24.45.051(4) and (5), the commission shall publish copies of the reports required under this chapter not later than the convening of each regular session of the legislature. Copies of this publication shall be provided on request; however, the commission may make a charge for the publication that may not exceed the actual cost of printing, postage and handling. (1974 Initiative Proposal No. 2, § 1; am §§ 7, 8 ch 25 SLA 1975; am § 7 ch 167 SLA 1976)

Opinions of attorney general. The commission's power to investigate violations of AS 39.50.090 derives from AS 39.50.050, which authorizes the commission to administer AS 39.50 and promulgate regulations to implement the chapter. In carrying out this responsibility, the

commission staff should immediately notify the chief prosecutor whenever commission records, files, and inquiries reveal a possible criminal violation of AS 39.50.090. November 26, 1984 (Op. Atty. Gen.)

NOTES TO DECISIONS

This section requires the commission to promulgate regulations to implement and interpret the provisions of the Conflict of Interest law. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

Scope of regulations. — The commission may well wish to promulgate regula-

tions which apply to relationships other than that of physician-patient. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

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

Sec. 39.50.060. Penalty for willful violation of disclosure requirements. (a) A person required to file a report of financial or business interests under this chapter who refuses or knowingly fails to disclose required information within the time required in this chapter, or who provides false or misleading information, knowing it to be false or misleading, is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000, or by imprisonment for a period of not more than six months, or by both.

(b) Any person failing or refusing to comply with the requirements of this chapter, in addition to the penalties prescribed, shall forfeit nomination to office and may not be seated or installed in office if the person has not complied. Nominated, hired, or appointed officials, commissioners, chairmen or members of commissions or boards specified in AS 39.50.200(b) may not be confirmed by the legislature if compliance has not been made. In the case of elected officials, the lieutenant governor, or other certifying authority, may not certify a person's nomination for office or the person's election to office if compliance was not made within the time required. The nomination to office or election to office shall be certified to the highest vote getter for that nomination for that office or election to that office who has complied within the times required and who shall be declared nominated or elected. (1974 Initiative Proposal No. 2, § 1; am § 9 ch 25 SLA 1975)

NOTES TO DECISIONS

Applied in *Warren v. Thomas*, Sup. Ct. Op. No. 1484 (File No. 2919), 568 P.2d 400 (1977).

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

Sec. 39.50.070. Failure to report by department, division, or deputy department heads. A person hired or appointed as the head or deputy head of, or director of a division within, a department in the executive branch who refuses or fails to file a report of financial interests required under this chapter when due may not hold office, and the person's name may not be submitted to the legislature for confirmation until the person complies. The person may not be confirmed, hired, or appointed, and the person forfeits and may not be paid any salary, per diem, or travel expenses until the person complies. If, after installation as the head or deputy head of, or director of a division within, a department, the person refuses or fails to file the required statement when due, the person is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000 and shall be removed from office if compliance is not made within 30 days after the due date of the report. (1974 Initiative Proposal No. 2, § 1; am § 10 ch 25 SLA 1975)

NOTES TO DECISIONS

Applied in *Warren v. Thomas*, Sup. Ct. Op. No. 1484 (File No. 2919), 568 P.2d 400 (1977).

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

Sec. 39.50.080. Failure to report by a commission or board chairman or member. A person hired or appointed as a commissioner, chairman or member of a state commission or board specified in AS 39.50.200(b) who fails to file a report of financial interests required under this chapter when due may not hold office, and the person's name may not be submitted to the legislature until the person complies. The person may not be confirmed, and the person forfeits and may not be paid any salary, per diem or travel expenses until the person complies. If, after being seated as commissioner, chairman or member of such a commission or board the person refuses or fails to file the required statement when due, the person is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000 and shall be removed from office if compliance is not made within 30 days after the due date. (1974 Initiative Proposal No. 2, § 1; am § 11 ch 25 SLA 1975)

NOTES TO DECISIONS

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

Sec. 39.50.090. Prohibited acts. (a) A public official may not use the official position or office for the primary purpose of obtaining personal financial gain or financial gain for a spouse, child, mother, father, or business with which the official is associated or in which the official owns stock.

(b) A person may not offer or pay to a public official, and a public official may not solicit or receive money for legislative advice or assistance, or for advice or assistance given in the course of the official's public employment or relating to the public employment. However, this prohibition does not apply to a chairman or member of a state commission or board or municipal officer if the subject matter of the legislative advice or assistance is not related directly to the function of the commission, board, or municipal body served by the municipal officer; this exception from the general prohibition does not apply to one whose service on a state commission or board constitutes the person as a full-time state employee under AS 39.

(c) A public official may not represent a client before a state agency for a fee. However, this prohibition does not apply to a municipal officer, or chairman or member of a state commission or board except with regard to representation before that commission or board; this exception from the general prohibition does not apply to one whose service on the commission or board constitutes the person as a full-time state employee under this title.

(d) A municipal officer may not represent a client for a fee before the municipal body the officer serves.

(e) Violation of this section is a misdemeanor, punishable upon conviction by a fine of not less than \$500 nor more than \$2,000, by imprisonment up to one year, or by both.

(f) In this section, "public official" includes, in addition to the persons specified in AS 39.50.200(a), chairmen and members of all commissions and boards created by statute or administrative action as agencies of the state. (1974 Initiative Proposal No. 2, § 1; am § 12 ch 25 SLA 1975; am § 1 ch 40 SLA 1975; am §§ 2, 3 ch 211 SLA 1975)

Opinions of attorney general. - Subsection (f) of this section does not cover a municipal officer or employee who, as part of his official duties, represents his department before boards, committees, or the assembly of the same government. The rule which forbids the simultaneous holding of incompatible offices would, however, prohibit a person from being both an employee-advocate of a municipal department and a member of the municipal assembly evaluating the advocate's position. November 26, 1984 (Op. Atty. Gen.)

An official may be in violation of the

common law of conflict of interests even though he is not in violation of this section. November 26, 1984 (Op. Atty. Gen.)

The commission's power to investigate violations of this section derives from AS 39.50.050, which authorizes the commission to administer AS 39.50 and promulgate regulations to implement the chapter. In carrying out this responsibility, the commission staff should immediately notify the chief prosecutor whenever commission records, files, and inquiries reveal a possible criminal violation of this section. November 26, 1984 (Op. Atty. Gen.)

NOTES TO DECISIONS

Activity protected by Alaska Const., art. II, § 6. - Actions of senate finance chairman in acquiring property while promoting its sale to the state at a purchase price which would result in his receiving substantial profits and in using his influence as a legislator to secure an appropri-

ation for the purchase by the state in the governor's proposed budget were clearly legislative and therefore within the immunity granted in art. II, § 6 of the state constitution. *State v. Dankworth*, Sup. Ct. App. Op. No. 308 (File No. 7543), 672 P.2d 148 (1983).

Sec. 39.50.100. Enforcement by private citizens. A qualified Alaska voter may bring a civil action to enforce any of the sections of this chapter. (1974 Initiative Proposal No. 2, § 1)

Sec. 39.50.110. Report of financial interests of judicial officers. Each judicial officer as defined in AS 39.50.200(a) shall file reports of financial and business interests required by this chapter. A judicial officer who refuses or fails to file a report when it is due forfeits and may not be paid salary, per diem, or travel expenses after the due date, until compliance, and is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000. The indicted officer may not be appointed by the governor or other authority until compliance. Upon failure or refusal to comply within 30 days of the due date, the judicial officer forfeits office and shall be removed from office. (1974 Initiative Proposal No. 2, § 1; am § 13 ch 25 SLA 1975)

NOTES TO DECISIONS

Cited in State. Pub. Officers Comm'n v. Marshall, Sup. Ct. Op. No. 246 (File No. 5614), 633 P.2d 227 (1981).

Sec. 39.50.120. Report of financial interests of legislators. Each legislator shall file the reports of financial or business interests required by this chapter. A legislator who refuses or fails to file the report when due forfeits and may not be paid salary, per diem, or travel expenses after the due date until compliance and is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000. (1974 Initiative Proposal No. 2, § 1; am § 14 ch 25 SLA 1975)

Sec. 39.50.130. Report of financial interests of governor and lieutenant governor. The governor and lieutenant governor shall each file a report of financial interests required by this chapter. If the governor or lieutenant governor fails to file the report when due, salary, per diem, and travel expenses after the due date are forfeited and may not be paid until compliance, and the person is guilty of a misdemeanor and upon conviction is punishable by a fine of not less

than \$100 nor more than \$1,000. (1974 Initiative Proposal No. 2, § 1; am § 15 ch 25 SLA 1975)

Sec. 39.50.135. Civil penalty: Late filing of required reports. A person who fails to file a properly completed and certified report within the time required by this chapter is subject to a civil penalty of not more than \$10 a day for each day the delinquency continues as the commission determines subject to appeal to the superior court. An affidavit stating facts in mitigation may be submitted to the commission by a person against whom a civil penalty is assessed. However, the imposition of the penalties prescribed in this section or in AS 39.50.060 — 39.50.130 does not excuse that person from filing reports required by this chapter. (§ 8 ch 167 SLA 1976)

Sec. 39.50.140. Accepting bribe. [Repealed, § 26 ch 25 SLA 1975]

Sec. 39.50.145. Participation by municipalities. A municipality may exempt its municipal officers from the requirements of this chapter if a majority of the voters voting on the question at a regular election, as defined by AS 29.71.800(20), or a special municipality-wide election, vote to exempt its municipal officers from the requirements of this chapter. The question of exemption from the requirements of this chapter may be submitted by the city council or borough assembly by ordinance or by initiative election. (§ 16 ch 25 SLA 1975; am § 1 ch 211 SLA 1975; am § 62 ch 74 SLA 1985)

Effect of amendments. — The 1985 amendment in the first sentence substituted "a" for "any" preceding "regular election" and "AS 29.71.800(20)" for "AS 29.78.010(14)" and at the end of the section substituted "election" for "ordinance".

Sec. 39.50.150 Initial filing date for public officials. [Repealed, § 60 ch 21 SLA 1985]

Sec. 39.50.200. Definitions. (a) In this chapter

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

(2) "child" includes a biological child, an adoptive child, and a step-child.

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

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

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

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

(7) "municipal officer" includes a borough or city mayor, borough assemblyman, city councilman, school board member, elected utility board member, city or borough manager, members of a city or borough planning or zoning commission within a home rule or general law city or borough, or a unified municipality;

(8) "public official" means a judicial officer, a member of the legislature, the fiscal analyst of the legislative finance division, the legislative auditor of the legislative audit division, the executive director of the Legislative Affairs Agency and the directors of the divisions within the Legislative Affairs Agency, the governor, the lieutenant governor, a person hired or appointed as the head or deputy head of, or director of a division within, a department in the executive branch, and assistant to the governor, chairman or member of a state commission or board, and each appointed or elected municipal officer;

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

(b) In this chapter "state commission or board" means the

(1) Agricultural Revolving Loan Fund Board (AS 03.10.050);

(2) Alaska State Council on the Arts (AS 44.27.010);

(3) Alcoholic Beverage Control Board (AS 04.06.010);

(4) State Assessment Review Board (AS 43.56.040);

(5) [Repealed, § 1 ch 54 SLA 1981]

(6) Board of Education (AS 14.07.075);

(7) Alaska Public Broadcasting Commission (AS 44.21.256);

(8) Alaska Public Offices Commission (AS 15.13.020);

(9) Employment Security Advisory Council (AS 23.20.025);

(10) Alaska Commercial Fisheries Entry Commission (AS 16.43.020);

(11) Fishermen's Fund Advisory and Appeals Council (AS 23.35.010);

(12) Alaska State Building Authority (AS 18.55.020);

(13) State Commission for Human Rights (AS 18.60.010);

- (14) *[Repealed, § 86 ch 59 SLA 1982.]*
 (15) Alaska Judicial Council (art. IV, § 8, Alaska Constitution);
 (16) Commission on Judicial Conduct (art. IV, § 10, Alaska Constitution);
 (17) Governor's Commission on the Administration of Justice (AS 44.19.110);
 (18) Local Boundary Commission (AS 44.47.565);
 (19) Occupational Safety and Health Review Board (AS 18.60.057);
 (20) Board of Parole (AS 33.16.020);
 (21) State Personnel Board (AS 39.25.060);
 (22) *[Repealed, § 20 ch 110 SLA 1981.]*
 (23) Public Employees Retirement Board (AS 39.35.030);
 (24) Alaska Public Utilities Commission (AS 42.05.010);
 (25) University of Alaska Board of Regents (AS 14.40.120);
 (26) Alaska Royalty Oil and Gas Development Advisory Board (AS 38.06.020);
 (27) *[Repealed, § 86 ch 59 SLA 1982.]*
 (28) *[Repealed, § 86 ch 59 SLA 1982.]*
 (29) Alaska Teachers' Retirement Board (AS 14.25.035);
 (30) *[Repealed, 1983 Initiative Proposal No. 2, § 6.]*
 (31) Workers' Compensation Board (AS 23.30.005);
 (32) Alaska Commission on Postsecondary Education (AS 14.42.015);
 (33) Alaska Municipal Bond Bank Authority (AS 44.85.020);
 (34) *[Repealed, § 1 ch 54 SLA 1981.]*
 (35) Alaska Medical Facility Authority (AS 18.26);
 (36) Alaska Oil and Gas Conservation Commission (AS 31.05);
 (37) Alaska Housing Finance Corporation (AS 18.56.010 — 18.56.900);
 (38) Alaska Coastal Policy Council members and their alternates (AS 44.19.155);
 (39) *[Repealed, § 1 ch 75 SLA 1979.]*
 (40) Board of Fisheries (AS 16.05.221(a));
 (41) Board of Game (AS 16.05.221(b));
 (42) Board of Trustees and executive director of the Alaska Permanent Fund Corporation (AS 37.13.040);
 (43) *[Repealed, § 69 ch 14 SLA 1987.]*
 (44) Alaska Seafood Marketing Institute (AS 16.51.010);
 (45) Council on Domestic Violence and Sexual Assault (18.66.010);
 (46) Alaska Power Authority public directors (AS 44.83.030);
 (47) Alaska Resources Corporation (AS 37.12.010); and
 (48) Guide Board (AS 08.54.010). (1974 Initiative Proposal No. 2, § 1; am §§ 18, 19 ch 25 SLA 1975; am § 3 ch 79 SLA 1975; am § 2 ch 170 SLA 1975; am § 18 ch 263 SLA 1976; am § 2 ch 67 SLA 1977; am § 2 ch 141 SLA 1978; am § 2 ch 158 SLA 1978; am § 9 ch 167 SLA 1978; am § 2 ch 66 SLA 1979; am § 3 ch 75 SLA 1979; am § 37 ch 3

SLA 1980; am § 28 ch 12 SLA 1980; am § 8 ch 18 SLA 1980; am §§ 39 — 43 ch 94 SLA 1980; am § 5 ch 148 SLA 1980; am E.O. No. 44 § 2 (1980); am § 1 ch 54 SLA 1981; am § 2 ch 101 SLA 1981; am § 5 ch 106 SLA 1981; am § 20 ch 110 SLA 1981; am § 86 ch 59 SLA 1982; am 1983 Initiative Proposal No. 2, § 6; am § 107 ch 6 SLA 1984; am § 1 ch 52 SLA 1984; am § 63 ch 74 SLA 1985; am § 5 ch 88 SLA 1985; am § 26 ch 71 SLA 1986; am § 69 ch 14 SLA 1987)

Revisor's notes. — Subsection (a) was reorganized in 1984 to alphabetize the defined terms.

Effect of amendments. — The first 1984 amendment added paragraphs (46) and (47) to subsection (b).

The second 1984 amendment inserted "the fiscal analyst of the legislative finance division, the legislative auditor of the legislative audit division, the executive director of the Legislative Affairs Agency and the directors of the divisions within the Legislative Affairs Agency" in paragraph (a)(8).

The first 1985 amendment repealed

paragraph (b)(30), concerning the Alaska Transportation Commission.

The second 1985 amendment in paragraph (a)(7) substituted "or" for "including but not limited to" and deleted "under AS 29.04" at the end of the paragraph.

The third 1985 amendment in paragraph (b)(20) deleted "State" preceding "Board" and substituted "AS 33.16.020" for "AS 33.15.010."

The 1986 amendment added paragraph (b)(48).

The 1987 amendment repealed subsection (b)(43), which read "Alaska Energy Center (AS 46.12)"

NOTES TO DECISIONS

Purpose of the Conflict of Interest law is to bring to light all conflicts — actual and potential. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

Patent of a physician is a client for medical services and falls within the scope of this chapter. *Falcon v. Alaska*

Pub. Offices Comm'n, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

And source of income. — The Conflict of Interest law encompasses a physician's individual patients as sources of income. *Falcon v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

Chapter 51. Miscellaneous Provisions.

Sec. 39.51.010. Misuse of confidential information [Repealed, § 21 ch 166 SLA 1978. For current law see AS 11.56.860.]

Secs. 39.51.020, 39.51.030. [Renumbered as AS 39.90.010 and AS 39.90.020.]

"(1) surviving spouse; or, if there is none surviving,
"(2) surviving children in equal parts; or, if there is none surviving,

"(3) surviving parents in equal parts; or, if there is none surviving,
"(4) elected public officer's estate."

Chapter 50. Conflict of Interest.

Section	Section
20 Report of financial and business interests	200 Definitions

Sec. 39.50.020. Report of financial and business interests.

(a) A judicial officer, commissioner, chairman or member of a state commission or board specified in AS 39.50.200(b), a person hired or appointed as head or deputy head of, or director of a division within, a department in the executive branch, a person appointed as assistant to the governor, and a municipal officer, shall file a statement giving income sources and business interests, under oath and on penalty of perjury, within 30 days after taking office as a public official. Candidates for state elective office shall file such a statement with the director of elections at the time of filing a declaration of candidacy or within 30 days of the filing of any nominating petition, or within 30 days of becoming a candidate by any other means. Candidates for elective municipal office shall file such a statement at the time of filing a nominating petition, declaration of candidacy, or other required filing for the elective municipal office. Refusal or failure to file within the time prescribed shall require that the candidate's filing fees, if any, and filing for office be refused or that a previously accepted filing fee be returned and the candidate's name removed from the filing records. A statement shall also be filed by public officials no later than April 15 or 15 days after the person files a federal income tax return in each following year, whichever comes first. Persons who, on or after December 11, 1974, were members of boards or commissions not named in AS 39.50.200(b) are not required to file financial statements.

(b) The governor, lieutenant governor, members of the legislature, judicial officers, each commissioner, head or deputy head of, or director of a division within, a department in the executive branch, assistant to the governor or chairman or member of a commission or board required to report under this chapter, shall file the statement with the Alaska Public Offices Commission. Candidates for the office of governor, lieutenant governor, and the legislature shall file the statement under AS 15.25.030 or 15.25.180. Municipal officers, and candidates for elective municipal office, shall file with the municipal clerk or other municipal official designated to receive their filing for office. All statements required to be filed under this chapter are public records. (1974 Initiative Proposal No. 2, § 1; am §§ 1, 2 ch 25 SLA 1975; am § 32 ch 67 SLA 1989)

Effect of amendments. — The 1989 amendment, effective August 28, 1989, inserted "with the director of elections" in the second sentence in subsection (a); deleted "and candidates for those offices" before "judicial officers" in the first sentence in subsection (b); and added the second sentence in subsection (b).

Sec. 39.50.090. Prohibited acts.

NOTES TO DECISIONS

This section does not abrogate the common law. *Carney v. State*, 785 P.2d 844 (Alaska 1990).

Sec. 39.50.200. Definitions. (a) In this chapter

- (1) "assistant to the governor" includes any executive, legislative, special, administrative or press assistant to the governor, and any person similarly employed;
- (2) "child" includes a biological child, an adoptive child, and a step-child;
- (3) "commission" means the Alaska Public Offices Commission created under AS 15.13.020(a);
- (4) "instrumentality of the state" means a state department or agency, whether in the legislative, judicial, or executive branch, including such entities as the University of Alaska and the Alaska State Housing Authority;
- (5) "judicial officer" means a person appointed as a justice to the supreme court or as a judge to the court of appeals, superior court, district court, or magistrate court;
- (6) "mother or father" includes a biological parent, an adoptive parent, and a step-parent;
- (7) "municipal officer" includes a borough or city mayor, borough assemblyman, city councilman, school board member, elected utility board member, city or borough manager, members of a city or borough planning or zoning commission within a home rule or general law city or borough, or a unified municipality;
- (8) "public official" means a judicial officer, a member of the legislature, the fiscal analyst of the legislative finance division, the legislative auditor of the legislative audit division, the executive director of the Legislative Affairs Agency and the directors of the divisions within the Legislative Affairs Agency, the governor, the lieutenant governor, a person hired or appointed as the head or deputy head of, or director of a division within a department in the executive branch, an assistant to the governor, chairman or member of a state commission or board, the executive director of the Alaska Tourism Marketing Council, and each appointed or elected municipal officer;
- (9) "source of income" means the entity for which service is performed or which is otherwise the origin of payment; if the person whose income is being reported is employed by another, the employer

is the source of income; but if the person is self-employed by means of a sole proprietorship, partnership, professional corporation, or a corporation in which the person, the person's spouse or children, or a combination of them, . . . holding interest, the "source" is the client or customer of the proprietorship, partnership or corporation, but if the entity which is the origin of payment is not the same as the client or customer for whom the service is performed, both are considered the source;

- (b) In this chapter "state commission or board" means the
- (1) Agricultural Revolving Loan Fund Board (AS 03.10.050);
 - (2) Alaska State Council on the Arts (AS 44.27.040);
 - (3) Alcoholic Beverage Control Board (AS 04.06.010);
 - (4) State Assessment Review Board (AS 43.56.040);
 - (5) [Repealed, § 1 ch 54 SLA 1981.]
 - (6) Board of Education (AS 14.07.075);
 - (7) Alaska Public Broadcasting Commission (AS 44.21.256);
 - (8) Alaska Public Offices Commission (AS 16.13.020);
 - (9) Employment Security Advisory Council (AS 23.20.025);
 - (10) Alaska Commercial Fisheries Entry Commission (AS 16.43.020);
 - (11) Fishermen's Fund Advisory and Appeals Council (AS 23.35.010);
 - (12) Alaska State Housing Authority (AS 18.55.020);
 - (13) State Commission for Human Rights (AS 18.80.010);
 - (14) [Repealed, § 86 ch 59 SLA 1982.]
 - (15) Alaska Judicial Council (art. IV, § 8, Alaska Constitution);
 - (16) Commission on Judicial Conduct (art. IV, § 10, Alaska Constitution);
 - (17) Governor's Commission on the Administration of Justice (AS 44.19.110);
 - (18) Local Boundary Commission (AS 44.47.565);
 - (19) Occupational Safety and Health Review Board (AS 18.60.057);
 - (20) Board of Parole (AS 33.16.020);
 - (21) State Personnel Board (AS 39.25.060);
 - (22) [Repealed, § 20 ch 110 SLA 1981.]
 - (23) Public Employees Retirement Board (AS 39.35.030);
 - (24) Alaska Public Utilities Commission (AS 42.05.010);
 - (25) University of Alaska Board of Regents (AS 14.40.120);
 - (26) Alaska Royalty Oil and Gas Development Advisory Board (AS 38.06.020);
 - (27), (28) [Repealed, § 86 ch 59 SLA 1982.]
 - (29) Alaska Teachers' Retirement Board (AS 14.25.035);
 - (30) [Repealed, 1983 Initiative Proposal No. 2, § 6.]
 - (31) Workers' Compensation Board (AS 23.30.005);
 - (32) Alaska Commission on Postsecondary Education (AS 14.42.015);

- (33) Alaska Municipal Bond Bank Authority (AS 44.85.020);
- (34) [Repealed, § 1 ch 54 SLA 1981.]
- (35) Alaska Medical Facility Authority (AS 18.26);
- (36) Alaska Oil and Gas Conservation Commission (AS 31.05);
- (37) Alaska Housing Finance Corporation (AS 18.56.010 — 18.56.900);
- (38) Alaska Coastal Policy Council members and their alternates (AS 44.19.155);
- (39) [Repealed, § 1 ch 75 SLA 1979.]
- (40) Board of Fisheries (AS 16.05.221(a));
- (41) Board of Game (AS 16.05.221(b));
- (42) Board of Trustees and executive director of the Alaska Permanent Fund Corporation (AS 37.13.040);
- (43) [Repealed, § 69 ch 14 SLA 1987.]
- (44) Alaska Seafood Marketing Institute (AS 16.51.010);
- (45) Council on Domestic Violence and Sexual Assault (18.66.010);
- (46) Alaska Energy Authority public directors (AS 44.83.010);
- (47) [Repealed, § 38 ch 168 SLA 1990.]
- (48) Big Game Commercial Services Board (AS 08.54.300); and
- (49) Alaska Tourism Marketing Council (AS 44.33.700);
- (50) Alaska Commission on Children and Youth (AS 44.19.521);
- (51) Hazardous Substance Spill Technology Review Council (AS 46.13.110). (1974 Initiative Proposal No. 2, § 1; am §§ 18, 19 ch 25 SLA 1975; am § 3 ch 70 SLA 1975; am § 2 ch 170 SLA 1975; am § 18 ch 263 SLA 1976; am § 2 ch 67 SLA 1977; am § 2 ch 141 SLA 1978; am § 2 ch 158 SLA 1978; am § 9 ch 167 SLA 1978; am § 2 ch 66 SLA 1979; am § 3 ch 75 SLA 1979; am § 37 ch 3 SLA 1980; am § 28 ch 12 SLA 1980; am § 8 ch 18 SLA 1980; am §§ 39 — 43 ch 94 SLA 1980; am § 5 ch 148 SLA 1980; am E.O. No. 44 § 2 (1980); am § 1 ch 54 SLA 1981; am § 2 ch 101 SLA 1981; am § 5 ch 106 SLA 1981; am § 20 ch 110 SLA 1981; am § 86 ch 59 SLA 1982; am 1983 Initiative Proposal No. 2, § 6; am § 107 ch 6 SLA 1984; am § 1 ch 52 SLA 1984; am § 63 ch 74 SLA 1985; am § 5 ch 88 SLA 1985; am § 26 ch 71 SLA 1986; am § 69 ch 14 SLA 1987; am §§ 3, 4 ch 78 SLA 1988; am § 10 ch 37 SLA 1989; am §§ 12, 17 ch 16 SLA 1990; am § 38 ch 168 SLA 1990; am § 6 ch 190 SLA 1990)

Effect of amendments. — The 1985 amendment, effective July 1, 1984, inserted "the executive director of the Alaska Tourism Marketing Council" in subsection (a)(1) and added subsection (b)(9).

The 1989 amendment, effective May 12, 1989, rewrote subsection (b)(46) which read "Guide Board AS 08.54.010."

The first 1990 amendment, effective

July 1, 1990, added paragraph (b)(50).

The second 1990 amendment, effective June 30, 1990, repeals paragraph (b)(50).

The third 1990 amendment, effective June 22, 1990, repealed subsection (b)(47), which read "Alaska Resources Corporation (AS 37.12.010)."

The fourth 1990 amendment added paragraph (b)(51).

AMENDMENT (version 1)

Page 13

Delete lines 1 - 2
Delete line 4

Page 15, line 27

After, "source of income that is a gift"
Insert ", other than a gift from an immediate family member of
the recipient,"

Gift not more than \$10,000

other than a gift

AMENDMENT

Page 4, line 14

After "oppose":

Insert: "a ballot proposition or"

After "candidate."

Add "This section does not prohibit the expenditure of the public funds of a municipality to provide to the public neutral information regarding a ballot proposition."

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE FINKELSTEIN

TO: CSHB 195 ()

Page 7, line 23 - page 8, line 30:

Delete all material.

Renumber the following bill sections accordingly.

Page 12, line 23 - page 15, line 14:

Delete all material.

Insert new bill sections to read:

** Sec. 21. AS 39.50.020 is amended to read:

Sec. 39.50.020. REPORT OF FINANCIAL AND BUSINESS INTERESTS. (a) A judicial officer, commissioner, chairman or member of a state commission or board specified in AS 39.50.200(b), a person hired or appointed as head or deputy head of, or director of a division within, a department in the executive branch, a person appointed as assistant to the governor, [AND] a municipal officer, and a legislative director shall file a statement giving income sources and business interests, under oath and on penalty of perjury, within 30 days after taking office as a public official. Candidates for state elective office shall file such a statement with the director of elections at the time of filing a declaration of candidacy or within 30 days of the filing of any nominating petition, or within 30 days of becoming a candidate by any other means. Candidates for elective municipal office shall file such a statement at the time of filing a nominating petition, declaration of candidacy, or other required filing for the elective municipal office. Refusal or failure to file within the time prescribed shall require that the candidate's filing fees, if any, and filing for office be refused or that a previously accepted filing fee be returned and the candidate's name removed from the filing records. A statement shall also be filed by public officials no later than April 15 or 15 days after the person files a federal income tax return in each following year, whichever comes first. Persons who are [, ON OR AFTER

DECEMBER 11, 1974, WERE] members of boards or commissions not named in AS 39.50.200(b) are not required to file financial statements.

(b) The governor, lieutenant governor, members of the legislature, a legislative director, a judicial officer [OFFICERS], each commissioner, head or deputy head of, or director of a division within, a department in the executive branch, assistant to the governor or chairman or member of a commission or board required to report under this chapter, shall file the statement with the Alaska Public Offices Commission. Candidates for the office of governor, lieutenant governor, and the legislature shall file the statement under AS 15.25.030 or 15.25.180. Municipal officers, and candidates for elective municipal office, shall file with the municipal clerk or other municipal official designated to receive their filing for office. All statements required to be filed under this chapter are public records.

* Sec. 22. AS 39.50.020 is amended by adding a new subsection to read:

(c) A person is not required to comply with this section to the extent that a court of competent jurisdiction of the state determines that legally privileged professional relationships or constitutional privacy considerations would be violated by compliance."

Renumber the following bill sections accordingly.

Page 15, line 24, following "income":

Insert "other than gifts."

Page 15, lines 26 - 27:

Delete "except that a source of income that is a gift shall be included if the value of the gift exceeds \$100"

Insert "a legislator, candidate for the legislature, or legislative director stating a source of income received as compensation for personal services shall also state the name and address of the source of the income, the nature of the services performed, and if the source of income is known or reasonably should be known to have a substantial interest in legislative, administrative, or political action, the amount of income received by the source"

Page 16, line 16, following "\$1,000":

Insert "a legislator, candidate for the legislature, or legislative director stating a loan or loan guarantee from a source with a substantial interest in legislative, administrative, or political

amount of the loan, the terms and conditions under which the loan or guarantee was given, the amount outstanding at the time of filing, and whether or not a written loan agreement exists"

Page 16, line 22:

Delete "and"

Insert "[AND]"

Page 16, line 28, following "interest":

Insert "and

(9) the source of a gift received during the preceding calendar year by the person, the person's spouse or dependent child, or a nondependent child of the person who is living with the person if the amount of the gift exceeds \$100 .

Page 16, after line 28:

Insert a new bill section to read:

"* Sec. 25. AS 39.50.030 is amended by adding a new subsection to read:

(d) In this section, a person has a substantial interest in legislative, administrative, or political action if the person is not the state or federal government or an agency of

the state or federal government, and

(1) is not a natural person and will be directly and substantially affected financially by a legislative, administrative, or political action;

(2) is a natural person and will be directly and substantially affected financially by a legislative, administrative, or political action in a way that is greater than the effect on a substantial class of persons to which the person belongs as a member of a profession, occupation, industry, or region;

(3) has or seeks contracts in excess of \$10,000 annually for goods or services with the legislature or with an agency of the state; or

(4) is required to register under AS 24.45.041 and is described under AS 24.45.171(8)(A), but is not a volunteer lobbyist described in AS 24.45.161(a)(1) or a

representational lobbyist as defined under regulations of the Alaska Public Offices Commission."

Renumber the following bill sections accordingly.

Page 17, after line 4:

Insert a new bill section to read:

"* Sec. 27. AS 39.50.050 is amended by adding a new subsection to read:

(e) The Alaska Public Offices Commission shall examine, investigate, and compare all reports and statements required under AS 39.50.020."

Renumber the following bill sections accordingly.

Page 17, after line 31:

Insert a new bill section to read:

"* Sec. 31. AS 39.50 is amended by adding a new section to read:

Sec. 39.50.160. STATEMENTS AS PUBLIC RECORDS. A statement filed with the Alaska Public Offices Commission under AS 39.50.020 is a public record."

Renumber the following bill sections accordingly.

Page 18, lines 1 - 10:

Delete all material and insert:

"* Sec. 32. AS 39.50.200(a) is amended to read:

(a) In this chapter

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

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

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

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

(5) "judicial officer" means a person appointed as a justice to the supreme court

or as a judge to the court of appeals, superior court, district court, or magistrate court;

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

(7) "legislative director" means the fiscal analyst of the legislative finance division, the legislative auditor of the legislative audit division, the executive director of the legislative affairs agency, and the directors of the divisions within the legislative affairs agency;

(8) "municipal officer" includes a borough or city mayor, borough assemblyman, city councilman, school board member, elected utility board member, city or borough manager, members of a city or borough planning or zoning commission within a home rule or general law city or borough, or a unified municipality;

(9) [(8)] "public official" means a judicial officer, a member of the legislature, a legislative director, [THE FISCAL ANALYST OF THE LEGISLATIVE FINANCE DIVISION, THE LEGISLATIVE AUDITOR OF THE LEGISLATIVE AUDIT DIVISION, THE EXECUTIVE DIRECTOR OF THE LEGISLATIVE AFFAIRS AGENCY AND THE DIRECTORS OF THE DIVISIONS WITHIN THE LEGISLATIVE AFFAIRS AGENCY,] the governor, the lieutenant governor, a person hired or appointed as the head or deputy head of, or director of a division within a department in the executive branch, an assistant to the governor, chairman or member of a state commission or board, the executive director of the Alaska Tourism Marketing Council, and each appointed or elected municipal officer;

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

AMENDMENT /

OFFERED IN THE HOUSE
TO: HB 195

BY REPRESENTATIVE FINKELSTEIN

Page 5, following line 3:

Insert a new subsection to read:

"(d) A candidate for municipal office who is not a legislator may not, either directly, through a campaign committee, or by other means, solicit or accept either a campaign contribution, or a promise or pledge to make a campaign contribution, except during the period beginning one year before the date of the election in which the candidate is running and ending on the date of the election."

Reletter the following subsections accordingly.

Rep. Finkelstein
March 9, 1992

Section-by-Section Description of CSHB 195 () - 3/7/92

Section 1 raises the level of campaign contribution which candidates must identify by donor from \$100 to \$250, and exempts candidates who do not raise or spend over \$1,000 from filing APOC reports.

Section 2 mirrors section 1 for political groups.

Section 3 says candidates no longer need to include accrued expenditures of less than \$1,000 per payee in their APOC reports.

Section 4 limits the use of surplus campaign funds.

Section 5 says a candidate may not use a lobbyist to evade the restrictions in the law, and prohibits the use of government funds to support or oppose a candidate or ballot proposition.

Section 6 allows APOC to adopt more flexible regulations on the identification of advertising sources.

Section 7 prohibits the use of campaign funds for non-campaign purposes and establishes time lines for campaign fundraising.

Section 8 changes the due date for APOC year-end reports from December 31 to February 15.

Section 9 closes the two-day hole in the current campaign reporting requirements.

Section 10 and Section 11 give APOC the power to assess civil penalties for violations of the campaign finance law.

Section 12 requires candidates to return illegal contributions.

Section 13 says that APOC will publish lobbyist summaries semi-annually instead of quarterly.

Section 14 deletes obsolete language relating to the use of lobbyists' photographs in lobbying reports and the locations where the reports are available.

Section 15 requires lobbyists' employers to sign lobbyists' registration forms instead of submitting separate statements to APOC.

Section 16 requires lobbyists' employers to file reports with APOC annually instead of quarterly.

Section 17 clarifies that only lobbyists' reports, and not employers' reports, must be submitted on the stated dates.

Section 18 sets the date that lobbyists' employers' annual reports are due.

Section 19 prohibits a lobbyist from holding certain positions in campaigns, and from using state resources that are not available to the general public.

Section 20 and Section 21 give APOC the authority to assess civil penalties for violations of the lobbying statute.

Section 22 clarifies when and how legislative directors submit their COI forms.

Section 23 codifies the current APOC policy on disclosure of confidential client relationships.

Section 24 deletes unnecessary language in the conflict of interest statute.

Section 25 raises the threshold for disclosure of sources of income from \$100 to \$1,000 for all public officials. The section also requires legislators, legislative directors and legislative candidates to provide additional information about income and loans from sources with an interest in political decisions. The sources of gifts from family members must be reported if the gifts exceed \$10,000, and the sources of non-family gifts are reported if they exceed \$100.

Section 26 defines "substantial interest in legislative, administrative, or political action".

Section 27 deletes a reference to a statute that is repealed in Section 29 of CSHB 195.

Section 29 and Section 30 give APOC the power to assess civil penalties for violations of the conflict of interest statute.

Section 31 exempts officers of municipalities with populations of under 1,000 from conflict of interest reporting requirements.

Section 32 clarifies that conflict of interest statements are public.

Section 33 defines "income", "legislative director" and "source of income".

Section 34 repeals three sections of statute.

Section 35 says the bill takes effect on January 1, 1993.

AMENDMENT

Page 4, line 14

After "oppose":

Insert: "a ballot proposition or"

After "candidate."

Add "This section does not prohibit the expenditure of the public funds of a municipality to provide to the public [neutral] information regarding a ballot proposition."

factual

AMENDMENT 1:

Page 1, line 6, after "election,"
Insert "and indicates, on a form prescribed by the commission,
an intent not to raise or spend more than \$1,000,"

AMENDMENT 2-A:

Page 1, line 10, after "excess of"
Delete "\$100"
Add "\$250"

AMENDMENT 2-B:

AS 15.13.040(b) is amended to read:

- (b) Each group shall make a full report upon a form prescribed by the commission, listing
- (1) the name and address of each officer and director;
 - (2) the aggregate amount of all contributions made to it; and, for all contributions in excess of \$250 [\$100] in the aggregate a year, the name, address, principal occupation, and employer of the contributor, and the date and amount contributed by each contributor; and
 - (3) the date and amount of all contributions made by it and all expenditures made, incurred, or authorized by it.

AS 15.13.070(b) is amended to read:

(b) A contribution over \$250 [\$100] may not be made in cash or by cash payment and it may not be accepted by or on behalf of a candidate.

AS 15.13.070(c) is amended to read:

(c) An expenditure over \$250 [\$100] may not be made in cash or by cash payment unless a written receipt is obtained and filed with the commission.

AMENDMENT 3:

Page 2, line 16, after "excess of"
Delete "\$100"
Add "\$250"

AMENDMENT 4:

Page 2, line 23, after "\$5,000 for"

Insert "a person most recently"

Page 2, line 25, after "\$7,500 for"

Insert "a person most recently"

Page 2, line 26, after "\$10,000 for"

Insert "a person most recently"

AMENDMENT 5:

Page 2, line 8, after "within"

Delete "60"

Add "120"

Page 2, line 27, after "within"

Delete "60"

Add "120"

AMENDMENT 6:

Page 2, following line 29

Add a new subsection to read

"(c) Within 120 days of the election at which a candidate sought public office, or at the time the candidate transfers funds under (a)(6) of this section to a new campaign account, whichever is earlier, the candidate shall, on a form prescribed by the commission, describe those assets valued over \$2,500 and obtained with campaign funds, which the candidate retains after the close of the campaign account."

AMENDMENT 7:

Page 3, line 16, after "election of a candidate"
Delete "or a ballot proposition"

AMENDMENT 8:

Page 3, line 16, after "candidate."
Add "This section does not prohibit the expenditure of the public funds of a municipality to provide to the public neutral information regarding a ballot proposition."

AMENDMENT 9:

Page 4, line 29, after "before the"
Delete "gubernatorial"

Page 4, line 29, after "date of the"
Delete "gubernatorial"

AMENDMENT 10:

Page 5, following line 3:

Insert a new subsection to read:

"(d) A candidate for municipal office who is not a legislator may not, either directly, through a campaign committee, or by other means, solicit or accept either a campaign contribution, or a promise or pledge to make a campaign contribution, except during the period beginning one year before the date of the election in which the candidate is running and ending on the date of the election."

AMENDMENT 11:

Page 6, line 3, after "required by"

Insert "AS 15.13.040(d), AS 15.13.080,"

AMENDMENT 12:

Page 6, line 16, after "not more than"

Delete "\$5,000"

Insert "\$20,000"

Page 6, line 18, after "whichever is greater,"

Insert "as determined by the commission"

Delete "together with the costs of the investigation and adjudication"

Page 10, line 4, after "not more than"

Delete "\$5,000"

Insert "\$20,000"

Page 10, line 6, after "whichever is greater,"

Insert "as determined by the commission"

Delete "together with the costs of the investigation and adjudication"

Page 12, line 16, after "not more than"

Delete "\$5,000"

Insert "\$20,000"

Page 6, line 17, after "whichever is greater,"

Insert "as determined by the commission"

Delete "together with the costs of the investigation and adjudication"