

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8792 HOUSE STATE AFFAIRS

requirement is one half)

- OK 19. Allow parties to give to party subdivisions and vice versa (the initiative bans this)
- OK 20. Expands prohibited contributions provisions to include candidates who lost the primary (technical)
- OK 21. Modify disclaimer on independent expenditures (technical)
- OK 22. Change effective date to January 1, 1997

Other

- ~~OK~~ 23. No charitable gaming money to candidates (other than raffles)
- 24. Out-of-state money allowed up to ²⁵\$20,000 (Gov. and Lt Gov.) and \$2,000 (other) ₅ 20/4/2
- Hold 25. Carry forward allowed up to \$50,000/\$5,000 ₂₂
- Hold 26. Transfer of office account for IRS-approved expenses allowed up to \$20,000/\$5,000 _{20/4/2}
- OK 27. Increase maximum contribution from party to candidates from \$50,000/\$5,000 to \$100,000/\$10,000 / _{house 15,000 Senate}
- OK 28. Increase maximum contribution from group to candidate from \$500 to \$1,000 (return to current law)
- OK 29. Allow groups to give up to \$1,000 to other groups (including parties)
- OK 30. Remove all monetary limits on ballot proposition groups 1000
- NO 31. Remove Gov. and Lt. Gov. from ban on fundraising during session _{cont. donate to campaign}
- 32. Clarify that allowable campaign expenses include travel
- 33. Limit citizens suits (amendment not yet done)

AMENDMENT

①

OFFERED IN THE HOUSE

TO: HB 368

1 Page 4, lines 6 - 7:

2 Delete "limitations, expressed in dollars, set out in AS 15.13.070 - 15.13.078 and
3 15.13.082"

4 Insert "limitations on amounts of political contributions, expressed in dollars, set
5 out in AS 15.13.070 and 15.13.072"

2

A M E N D M E N T

OFFERED IN THE HOUSE

TO: HB 368

1 Page 4, line 31, through page 5, line 6:

2 Delete

3 "Sec. 15.13.050. REGISTRATION BEFORE CONTRIBUTION OR
4 EXPENDITURE [GROUPS]. Before [EACH GROUP, BEFORE] making an
5 expenditure in support [ON BEHALF] of [,] or in opposition to [,] a candidate,
6 before making [OR] a contribution to a candidate, or before making an expenditure
7 in support of or in opposition to a ballot proposition or question, each person or
8 publicly-funded entity shall register, on forms provided by the commission, with the
9 commission."

10 Insert

11 "Sec. 15.13.050. REGISTRATION BEFORE EXPENDITURE [GROUPS].
12 Before [EACH GROUP, BEFORE] making an expenditure in support [ON
13 BEHALF] of [,] or in opposition to [,] a candidate or before making an expenditure
14 in support of or in opposition to a ballot proposition or question, each person,
15 publicly-funded entity, or group [A CONTRIBUTION TO A CANDIDATE,] shall
16 register, on forms provided by the commission, with the commission."

17 Page 5, line 14:

18 Delete "(a)"

19 Page 5, lines 16 - 19:

20 Delete all material.

A M E N D M E N T

3

OFFERED IN THE HOUSE

TO: HB 368

1 Page 7, line 9:

2 Delete "\$25"

3 Insert "\$100"

4 Page 9, line 8:

5 Delete "\$25"

6 Insert "\$100"

A M E N D M E N T

4

OFFERED IN THE HOUSE

TO: HB 368

1 Page 7, line 29, through page 8, line 13:

2 Delete all material and insert:

3 "(d) A candidate or a person who has filed with the commission the document
4 necessary to permit the person to incur election-related expenses under AS 15.13.100
5 may not solicit or accept a contribution if the legislature is convened in a regular or
6 special legislative session, and the candidate or person is

7 (1) the governor or lieutenant governor;

8 (2) a member of the legislature; or

9 (3) employed

10 (A) by the governor or lieutenant governor as a member of the
11 staff of their respective offices; or

12 (B) by a legislator or employed as a member of the legislator's
13 staff or as a member of the staff of a legislative committee."

14 Page 8, line 15:

15 Delete "or pay an honorarium"

16 Page 8, lines 15 - 16:

17 Delete "or payment of the honorarium"

18 Page 9, line 6:

19 Delete "or pay an honorarium"

20 Page 20, following line 27:

21 Insert a new section to read:

1 "Sec. 15.13.155. RESTRICTIONS ON EARNED INCOME AND
2 HONORARIA. (a) A candidate for the state legislature, for governor, or for
3 lieutenant governor, including a person campaigning as a write-in candidate for the
4 office, may not

5 (1) seek or accept compensation for personal services that involves
6 payments that are not commensurate with the services rendered taking into account
7 the higher rates generally charged by specialists in a profession; or

8 (2) accept a payment of anything of value, except for actual and
9 necessarily incurred travel expenses, for an appearance or speech; this paragraph does
10 not apply to the salary paid to the candidate for making an appearance or speech as
11 part of the candidate's normal course of employment.

12 (b) Notwithstanding (a) of this section, a candidate for the state legislature,
13 for governor, or for lieutenant governor, including a person campaigning as a write-in
14 candidate for the office, may accept a payment for an appearance or speech if the
15 appearance or speech is not connected with the person's status as a state official or as
16 a candidate."

17 Page 23, lines 9 - 16:

18 Delete all material.

19 Renumber the following paragraphs accordingly.

AMENDMENT

5

OFFERED IN THE HOUSE

TO: HB 368

1 Page 7, lines 10 - 28:

2 Delete all material and insert:

3 "(c) A person, or a person acting directly or indirectly on behalf of that
4 person, may not solicit or accept a contribution

5 (1) before the date for which contributions may be made as determined
6 under AS 15.13.074(c)(1) or (2); or

7 (2) later than the day after which contributions may not be made as
8 determined under AS 15.13.074(c)(3)."

9 Page 8, line 19, through page 9, line 5:

10 Delete all material and insert:

11 "(c) A person may not make a contribution

12 (1) to a candidate or a person who files with the commission the
13 document necessary to permit the person to incur certain election-related expenses as
14 authorized by AS 15.13.100 for an office that is to be filled at a general election
15 before the later of the following dates:

16 (A) the date the person

17 (i) becomes a candidate; or

18 (ii) files with the commission the document necessary
19 to permit the person to incur certain election-related expenses as
20 authorized by AS 15.13.100; or

21 (B) January 1 of the year of the general election;

22 (2) to a candidate or a person who files with the commission the
23 document necessary to permit the person to incur certain election-related expenses as
24 authorized by AS 15.13.100 for an office that is to be filled at a special election or

1 municipal election before the later of the following dates:

2 (A) the date the person

3 (i) becomes a candidate; or

4 (ii) files with the commission the document necessary
5 to permit the person to incur certain election-related expenses as
6 authorized by AS 15.13.100;

7 (B) is 11 months before the date of the general or regular
8 municipal election or that is before the date of the proclamation of the special
9 election at which the person seeks election to public office; or

10 (3) to any candidate later than the 45th day

11 (A) after the date of a primary election if the person

12 (i) has been nominated at the primary election or is
13 running as a write-in candidate; and

14 (ii) is not opposed at the general election; or

15 (B) after the date of the general election, or after the date of
16 a municipal or municipal runoff election, if the person was opposed at the
17 general, municipal, or municipal runoff election."

AMENDMENT

6

OFFERED IN THE HOUSE

TO: HB 368

1 Page 9, line 27, through page 11, line 9:

2 Delete all material and insert:

3 "Sec. 15.13.078. CONTRIBUTIONS AND LOANS FROM THE
4 CANDIDATE. (a) The provisions of this chapter do not prohibit the person who is
5 a candidate from giving any amount of the candidate's own money or other thing of
6 value to the campaign of the candidate. Donations made by the candidate to the
7 candidate's own campaign shall be reported as contributions in accordance with
8 AS 15.13.040 and 15.13.110.

9 (b) The provisions of this chapter do not prohibit the person who is a
10 candidate from lending any amount to the campaign of the candidate. Loans made
11 by the candidate shall be reported as contributions in accordance with AS 15.13.040
12 and 15.13.110. However, the candidate may not

13 (1) recover, under this section and AS 15.13.116(a)(5), the amount of
14 a loan made by the candidate to the candidate's own campaign that exceeds

15 (A) \$25,000, if the candidate ran for governor or lieutenant
16 governor;

17 (B) \$10,000, if the candidate ran for

18 (i) the legislature; or

19 (ii) delegate to a constitutional convention;

20 (C) \$10,000, if the candidate was a judge seeking retention;

21 (D) \$5,000, if the candidate ran in a municipal election; or

22 (2) repay a loan that the candidate has made to the candidate's own
23 campaign unless, within five days of making the loan, the candidate notifies the
24 commission, on a form provided by the commission, of the candidate's intention to
25 repay the loan under AS 15.13.116(a)(5).

1 (c) The provisions of this section apply only to the person who is a candidate,
2 as that term is defined by AS 15.13.400(1)(A), and do not apply to authorize a
3 contribution or loan under this section by a person described in the definition of the
4 term "candidate" under AS 15.13.400(1)(B)."

5 Page 15, lines 6 - 10:

6 Delete all material and insert:

7 "(5) repay loans from the candidate to the candidate's own campaign
8 under AS 15.13.078(b); or"

AMENDMENT

7

OFFERED IN THE HOUSE

TO: HB 368

1 Page 12, lines 2 - 7:

2 Delete

3 "(c) The contributor's statement shall be filed with the commission by the
4 contributor no later than 10 days after the contribution is made.

5 (d) The contributor filing the statement shall furnish a [A] copy of the
6 statement to [SHALL BE FURNISHED] the candidate or group or to the
7 candidate's or group's [,] campaign treasurer [,] or deputy campaign treasurer at the
8 time the contribution is filed with the commission [MADE]."

9
10 Insert

11 "(c) The contributor's statement shall be filed with the commission by the
12 contributor no later than 10 days after the contribution is made. [A COPY OF THE
13 STATEMENT SHALL BE FURNISHED THE CANDIDATE, CAMPAIGN
14 TREASURER, OR DEPUTY CAMPAIGN TREASURER AT THE TIME THE
15 CONTRIBUTION IS MADE.]"

AMENDMENT



OFFERED IN THE HOUSE

TO: HB 368

- 1 Page 14, line 11:
- 2 Delete "AS 15.13.074"
- 3 Insert "AS 15.13.072 or 15.13.074"

AMENDMENT

(9)

OFFERED IN THE HOUSE

TO: HB 368

1 Page 15, line 10:

2 Delete "or"

3 Page 15, line 11, after "(6)":

4 Insert "repay contributions to contributors, but only if repayment of the contributions
5 is made to all contributors pro rata in approximate proportion to the contributions made; or

6 (7)"

A M E N D M E N T

(10)

OFFERED IN THE HOUSE

TO: HB 368

1 Page 16, line 21, through page 18, line 23:

2 Delete all material and insert:

3 ** Sec. 18. AS 15.13.125 is amended to read:

4 Sec. 15.13.125. CIVIL PENALTY: LATE FILING OF REQUIRED
5 REPORTS. A person who fails to file a properly completed and certified report
6 within the time required by AS 15.13.040(f), 15.13.110(a)(1), (3), or (4), or
7 15.13.110(f) is subject to a civil penalty of not more than \$50 [\$10] a day for each
8 day the delinquency continues as determined by the commission subject to right of
9 appeal to the superior court. A person who fails to file a properly completed and
10 certified report within the time required by AS 15.13.110(a)(2) or 15.13.110(b) is
11 subject to a civil penalty of not more than \$500 [\$50] a day for each day the
12 delinquency continues as determined by the commission subject to right of appeal to
13 the superior court. An affidavit stating facts in mitigation may be submitted to the
14 commission by a person against whom a civil penalty is assessed. However, the
15 imposition of the penalties prescribed in this section or in AS 15.13.120 does not
16 excuse that person from filing reports required by this chapter.

17 * Sec. 19. AS 15.13.125 is amended by adding new subsections to read:

18 (b) When an administrative complaint has been filed under AS 15.13.120(e),
19 the commission shall give the person against whom the complaint has been filed due
20 notice and an opportunity to be heard. If, at the conclusions of the hearing, the
21 commission determines that the person against whom the complaint was filed engaged
22 in the alleged violation, the commission shall assess

23 (1) civil penalties under (a) of this section;

24 (2) the commission's costs of investigation and adjudication; and

25 (3) reasonable attorney fees.

1 (c) The commission's determination under (b) of this section may be appealed
2 to the superior court under AS 44.62 (Administrative Procedure Act).

3 (d) When an action has been filed in the superior court under
4 AS 15.13.120(d), upon proof of the violation, the court

5 (1) shall enter a judgment in the amount of three times the amount of
6 the civil penalty authorized to be collected by (a) of this section; however, if the court
7 finds that, in committing the violation, the person against whom the action was
8 brought did not act knowingly and took action to correct the violation within five days
9 after it occurred, the court may enter a judgment in the amount of the civil penalty
10 authorized by (a) of this section; and

11 (2) shall award reasonable attorney fees and costs to the prevailing
12 party.

13 (e) A person who filed a civil action under AS 15.13.120(d), upon proof of
14 the violation by the person against whom the action was filed, may execute on the
15 judgment and is entitled to half of any amount recovered as a civil penalty exclusive
16 of any attorney fees and costs awarded by the court. The remainder of any amount
17 recovered as a civil penalty shall be deposited in the state's general fund.

18 (f) If the commission or superior court finds that the violation was not a
19 repeat violation or was not part of a series or pattern of violations, was inadvertent,
20 was quickly corrected, and had no adverse effect on the campaign of another, the
21 commission or the court may

22 (1) suspend imposition of the penalties; and

23 (2) order the penalties set aside if the person does not engage in a
24 similar violation for a period of one year."

25 Renumber the following bill sections accordingly.

(11)

AMENDMENT

OFFERED IN THE HOUSE

TO: HB 368

1 Page 23, line 26, after "union":

2 Insert ";

3 (11) "political party" has the definition given the term "political party"
4 in AS 15.60.010 and, in addition, includes a subordinate unit of the organized group
5 of voters qualifying as a political party under that definition"

*Last 5 elections
for Gov - 20400-8*

AMENDMENT

12

OFFERED IN THE HOUSE

TO: HB 363

1 Page 24, line 2:

2 Delete all material and insert:

3 "(c) Campaign misconduct in the first degree is a class A misdemeanor."

4 Page 24, line 29:

5 Delete all material and insert:

6 "(c) Campaign misconduct in the second degree is a class B misdemeanor."

7 Page 25, lines 12 - 14:

8 Delete all material and insert:

9 "(b) Campaign misconduct in the third degree is a violation."

10 Page 25, line 16:

11 Delete "15.56.015(a)(4)"

12 Insert "15.56.014(a)(4)"

AMENDMENT

(13)

OFFERED IN THE HOUSE

TO: HB 368

- 1 Page 13, line 4:
- 2 Delete "or expenditure"
- 3 Insert "[OR EXPENDITURE]"

- 4 Page 13, line 6:
- 5 Delete "or recipient"
- 6 Insert "[OR RECIPIENT]"
- 7 Delete "or expenditure"
- 8 Insert "[OR EXPENDITURE]"

AMENDMENT

14

OFFERED IN THE HOUSE

TO: SSHB 317

Page 5, Line 29

Delete: "person"

Insert: "individual"

Page 6, Line 8

Delete: "perscn"

Insert: "individual"

Page 6, Line 15

Delete: "person"

Insert: "individual"

Page 7, Line 6

Delete: "A person"

Insert: "An individual"

Page 7, Line 6 after "that"

Delete: "person"

Insert: "individual"

Page 7, Line 12

Delete: "person"

Insert: "individual"

Page 7, Line 13

Delete: "person"

Insert: "individual"

Page 7, Line 15

Delete: "person"

Insert: "individual"

Page 7, Line 28

Delete: "a person"

Insert: "an individual"

Page 7, Line 29

Delete: "person"

Insert: "individual"

Page 8, Line 1

Delete: "person"

Insert: "individual"

Page 8, Line 4

Delete: "person"

Insert: "individual"

Page 8, Line 7

Delete: "a person"

Insert: "an individual"

Page 8, Line 8

Delete: "person"

Insert: "individual"

Page 8, Line 11

Delete: "person"

Insert: "individual"

Page 8, Line 14

Delete: "person"

Insert: "individual"

Page 8, Line 18

Delete: "person"

Insert: "individual"

Page 8, Line 20

Delete: "person"

Insert: "individual"

Page 8, Line 25

Delete: "person"

Insert: "individual"

Page 9, Line 16

Delete: "person"

Insert: "individual"

Page 9, Line 21

Delete: "person"

Insert: "individual"

Page 10, Line 8

Delete: "person"

Insert: "individual"

Page 10, Line 10

Delete: "person"

Insert: "individual"

Page 10, Line 26

Delete: "person"

Insert: "individual"

Page 15, Line 16

Delete: "person"

Insert: "respondent"

Page 15, Line 17

Delete: "person"

Insert: "respondent"

Page 16, Line 12

Delete: "person"

Insert: "respondent"

Page 16, Line 14

Delete: "person"

Insert: "respondent"

Page 16, Line 25

Delete: "person"

Insert: "party"

Page 16, Line 26

Delete: "person"

Insert: "party"

Page 19 Line 12

Delete: "person"

Insert: "individual"

Page 19, Line 22

Delete: "person"

Insert: "individual"

Page 19, Line 24

Delete: "person"

Insert: "individual"

Page 19, Line 28

Delete: "person"

Insert: "individual"

Page 21, Line 30

Delete: "person"

Insert: "individual!"

16
15

A M E N D M E N T

OFFERED IN THE HOUSE

TO: SSHB 317

1 Page 4, following line 22:

2 Insert a new bill section to read:

3 **** Sec. 6. AS 15.13.040(d) is amended to read:**

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

7 (1) any contribution of cash, goods, or services valued at more than
8 \$250 a year to any group or candidate; or

9 (2) unless exempted from reporting by (h) of this section, any
10 expenditure whatsoever for advertising in newspapers or other periodicals, on radio
11 or on television; or, for the publication, distribution, or circulation of brochures, flyers,
12 or other campaign material for any candidate or ballot proposition or question."

13 Renumber the following bill sections accordingly.

14 Page 4, line 23:

15 Delete "a new subsection"

16 Insert "new subsections"

17 Page 4, following line 30:

18 Insert a new subsection to read:

19 "(h) The provisions of (d)(2) of this section do not apply to one or more
20 expenditures made by an individual acting independently of any group and
21 independently of any other individual if the expenditures

22 (1) cumulatively do not exceed \$250 during a calendar year; and

1

(2) are made only for billboards, signs, or printed material concerning
a ballot proposition or question."

2

AMENDMENT

OFFERED IN THE HOUSE

TO: SSHB 317

1 Page 12, following line 3:

2 Insert a new bill section to read:

3 "* Sec. 13. AS 15.13.090 is amended by adding a new subsection to read:

4 (b) The provisions of (a) of this section do not apply when the advertisement

5 (1) is paid for by an individual acting independently of any group and
6 independently of any other individual;

7 (2) is made concerning a ballot proposition or question; and

8 (3) is made for

9 (A) a billboard or sign; or

10 (B) printed material other than an advertisement made in a
11 newspaper or other periodical."

12 Renumber the following bill sections accordingly.

17

16

AMENDMENT

OFFERED IN THE HOUSE

TO: SSHB 317

Page 22, lines 25-26

Delete all material and insert:

"(11) "publicly funded entity" means state and political subdivisions
and state-funded agencies."

AMENDMENT

(18)

17

OFFERED IN THE HOUSE

TO: SSHB 317

- 1 Page 5, line 10:
- 2 Delete "50"
- 3 Insert "33 1/3 [50]"

- 4 Page 21, line 30:
- 5 Delete "50"
- 6 Insert "33 1/3"

- 7 Page 22, line 8:
- 8 Delete "50"
- 9 Insert "33 1/3"

AMENDMENT

(19)

18

OFFERED IN THE HOUSE

TO: SSHB 317

1 Page 5, following line 17:

2 Insert a new subsection to read:

3 "(c) A political party may contribute to a subordinate unit of the political
4 party, and a subordinate unit of a political party may contribute to the political party
5 of which it is a subordinate unit."

Dist 34 Rep
Subsection
because of
Yonah
or H.D.
500 -
1,000

20

A M E N D M E N T

OFFERED IN THE HOUSE

TO: SSHB 317

1 Page 8, lines 24 - 26:

2 Delete all material and insert:

3 "(B) after the date of

4 (i) the primary election if the person was not nominated
5 at the primary election; or

6 (ii) the general election, or after the date of a municipal
7 or municipal runoff election, if the person was opposed at the general,
8 municipal, or municipal runoff election."

AMENDMENT

(21)

OFFERED IN THE HOUSE

TO: SSHB 317

Page 17, Line 22

Delete: "the candidate"

Insert: "any of the candidates for this elective office"

AMENDMENT

Rep. Finkelstein

OFFERED IN THE HOUSE
TO: SSHB 317

(2/2)

21

- 1 Page 26, line 6:
- 2 Delete all material and insert:
- 3 "* Sec. 27. This Act takes effect January 1, 1997."

23
28

AMENDMENT

OFFERED IN THE HOUSE

TO: SSHB 317

Page 22, after line 26

Sec. 21 AS 15.15.150 is amended by adding a new section to read:

(B) contribution of any portion of the net proceeds of a charitable gaming activity *cannot be given to:*

(i) a candidate for a public office of the state or a political subdivision of the state or to the candidate's campaign organization;

(ii) a political party as defined under AS 15.60;

(iii) an organization or club organized under or formally affiliated with a political party;

(iv) a political group as defined under AS 15.60; or

(v) a group as defined under AS 15.13.130, including a group that seeks to influence the opinions of voters concerning the election of a candidate for public office, a constitutional amendment, an initiative, or another ballot measure; or

Renumber all sections accordingly.

24

AMENDMENT

OFFERED IN THE HOUSE

TO: SSHB 317

Page 6, line 28 after ""contributions"

Insert: "that exceed the total sum of \$20,000 for Governor/Lt.

Governor or \$2,000 for all other races"

25

AMENDMENT

OFFERED IN THE HOUSE

TO: SSHB 317

Page 13, line 24 after "general election"

Insert: ", except that a candidate may carry forward to their next election \$50,000 for Governor/Lt. Governor or \$5,000 for all other races"

26

AMENDMENT

OFFERED IN THE HOUSE

TO: SSHB 317

Page 13. line 24 after "general election"

Insert: ", except that a candidate may transfer to their office account \$20,000 for Governor/Lt. Governor, or \$5,000 for all other races"

27

AMENDMENT

OFFERED IN THE HOUSE

TO: SSHB 317

Page 6, Line 17

Delete: "\$50,000"

Insert: "\$100,000"

Page 6, Line 19

Delete: "\$5,000"

Insert: "\$10,000"

28

25

AMENDMENT

OFFERED IN THE HOUSE

TO: SSHB 317

Page 6, Line 7

Delete: "\$500"

Insert: "\$1000"

AMENDMENT

29

OFFERED IN THE HOUSE

TO: SSHB 317

Page 6, after line 14

Insert: "A group may contribute not more than \$1,000 per year to a political party or to another group."

30

AMENDMENT

OFFERED IN THE HOUSE

TO: SSHB 317

Page 6, line 23 after "office"

Insert: "(e) Nothing in this section shall limit the amount of contributions to or expenditures by a group that is formed exclusively to support or oppose a ballot proposition."

AMENDMENT

(31)

OFFERED IN THE HOUSE

TO: SSHB 317

Page 7, Line 16

Delete all material

Page 7, Lines 19-20

Delete all material

AMENDMENT

32

OFFERED IN THE HOUSE

TO: SSHB 317

Page 12, Line 23 after "activities"

Insert: ", including local travel costs"

15

A M E N D M E N T

OFFERED IN THE HOUSE

TO: SSHB 317

1 Page 4, lines 6 - 7:

2 Delete "during the year that is five years after the calendar year of the effective
3 date of this Act and every fifth year thereafter."

4 Insert "periodically, as often as the commission may determine,"

5 Page 4, lines 10 - 11, after "during the":

6 Delete "immediately preceding five years"

7 Insert "period since the last adjustment"

250 words

Testimony on HB 368
and HB 317

Ken Waldman
Box 22498
Juneau, AK 99802
(907) 463-8753

Legislators now writing their own versions of a campaign finance reform bill, and legislators who support those efforts, just don't get it.

1) The work is wasteful duplication. A decent initiative signed by more than 32,000 Alaskans is already on the ballot this November. Supposedly busy people, don't legislators realize their time can better be spent on issues that haven't yet reached the petition stage? Or do 32,000 Alaskans continually have to sign petitions to be heard?

2) The work is cynical. After years of blocking such a measure, they're rushing forward only because it will be on the ballot. Being in touch with their constituents--a part of the job, yes?--would have revealed a large number did indeed approve the measure.

3) The work is arrogant. The official line is they'll write a "better" bill. In reality, no writing is perfect; all writing is flawed, as will their bill be, only in different ways. The real reason has got to be to take this issue out of voters' hands, silence our voices.

4) The work is absurd. Giving the legislators the benefit of the doubt, I'm reminded of a movie scene where firefighters arrive to save a town on fire. Only trouble, everything's cold rubble. The firefighters are sincere, but inept. Wanting to help, they're days late.

No wonder more than 32,000 Alaskans signed the initiative. No wonder so many of us are disgusted. No wonder we need reform, and have needed it for years.

Keep at them.

Alaska State Legislature

REPRESENTATIVE
JEANNETTE JAMES
P.O. Box 56622
North Pole, Alaska 99705
(907) 488-1546
FAX (907) 488-4271



While in Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-3743
FAX (907) 465-2381

House Of Representatives

House District 34

MEMO

January 25, 1996

To: State Affairs Committee
From: Rep. Jeannette James

Campaign Reform HB 368/HB317

The Bill is the same as the initiative petition submitted for the November ballot, it has been rewritten by Legislative staff attorneys.

Enclosed is:

1. A copy of the bill
2. a sectional analysis
3. An analysis of Constitutional and legal problems with the Initiative petition/legislation.

One way or another there will be action on this issue this year. There will be a ballot vote by the people in November, or a bill that is substantially the same must be passed by the Legislature. I believe the enactment of this type of law should be open to the public via the committee process, therefore I prefer the Legislative approach.

The plan is as follows:

Hear HB 368 and HB 317 concurrently, they are nearly identical.

First meeting 1/25- Overview of where we are and how we got here
Testimony from the bill sponsors
Testimony from the initiative sponsor
Other testimony as time permits
Discussion of sections 1 through 9 if time permits

Second meeting-Discussion of sections 1 through 9
Municipalities
Reporting Requirements
Contribution Limits

Third meeting-Discussion of sections 10 through 15
Out-of-State Contributions
Fundraising Time Limits
Lobbyist Contributions
Loan Repayment Limits
Use of Campaign Funds

Fourth meeting-Discussion of sections 16 through 27
Citizen Suits
Civil Penalties
Independent Expenditures
Use of Public Funds

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

COPY

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

HB 368 Sectional
Campaign reform

MEMORANDUM

November 8, 1995

SUBJECT: Reform of the law regulating election campaign financing based on currently circulating initiative (Work Order No. 9-LS1348\A)

TO: Representative Jeannette James
Attn: Walt Wilcox

FROM: Jack Chenoweth
Legislative Counsel

This memo accompanies the draft of a bill to reform laws regulating election campaign financing. The model for the bill draft is Initiative 95CFPO, the currently-circulating initiative on the same topic. My changes to the initiative are substantial, but are offered with the intent of maintaining consistency with the requirements of the current edition of the Legislative Drafting Manual while presenting, in effect, "substantially the same measure" as has been proposed by the Initiative.

For that reason, I am providing explanation and comment.

I. Comparative treatment of sections of Initiative in the bill:

Here, then, is a summary of my handling of the Initiative material:

Location in the Initiative	Treatment in the bill draft
Sec. 1: Uncodified findings and purpose statement	-- Same --
Sec. 2: Relationship to municipal regulation	Secs. 2 and 3
Sec. 3: AS 15.13.040(g) AS 15.13.040(h)	AS 15.13.082(c), part of bill section 12 AS 15.13.040(g), set out in bill section 6

Location in the Initiative	Treatment in the bill draft
Sec. 4: AS 15.13.050(a), first sentence	AS 15.13.067, part of bill section 8
AS 15.13.050(a), second sentence	AS 15.13.135(a), part of bill section 19; definition of "contribution" in AS 15.13.400, part of bill section 19.
AS 15.13.050(b)	Reworked and set out as amendment of AS 15.13.050 in bill section 7
Sec. 5: AS 15.13.070(a), first two sentences	AS 15.13.065(a) and (b), part of bill section 8
same: third sentence	AS 15.13.072, part of bill section 10
same: fourth sentence	Implicit in the working of the bill, so not stated
same: information in block	AS 15.13.070, bill section 9
Sec. 5: AS 15.13.070(b)	AS 15.13.072(a)(2) and (3), part of bill section 10
Sec. 5: AS 15.13.070(c)	AS 15.13.074(f), part of bill section 10; amendment to AS 15.13.072(a)(14) and AS 24.45.121(a)(8)
Sec. 5: AS 15.13.070(d)	Material divided between AS 15.13.072(c), part of bill section 10, and AS 15.13.074(c) in the same bill section
Sec. 5: AS 15.13.070(e)	Material divided between AS 15.13.072(d), part of bill section 10, and AS 15.13.074(d) in the same bill section
Sec. 5: AS 15.13.070(f)	AS 15.13.078(a), part of bill section 10
Sec. 5: AS 15.13.070(g)	Material divided between AS 15.13.072(b), part of bill section 10, and AS 15.13.074(e) in the same bill section
Sec. 5: AS 15.13.070(h)	AS 15.13.082(a), part of bill section 12

Location in the Initiative	Treatment in the bill draft
Sec. 5: AS 15.13.070(i) first part second part	Material divided between AS 15.13.074(b) and AS 15.13.084(e), both part of bill section 10 AS 15.13.114, part of bill section 15
Sec. 5: AS 15.13.070(j)	AS 15.13.076, part of bill section 10; and AS 15.13.086, part of bill section 12
Sec. 5: AS 15.13.070(k)	AS 15.13.082(b), added by bill section 12
Sec. 5: AS 15.13.070(l)	AS 15.13.030(11), added by bill section 4
Sec. 6: AS 15.13.071	Made part of AS 15.13.078, part of bill section 10
AS 15.13.072	AS 15.13.112, part of bill section 15
AS 15.13.073	AS 15.13.116, part of bill section 12
AS 15.13.074 and	Reworked and set out as AS 15.13.135 -
AS 15.13.075	15.13.140, part of bill section 19
AS 15.13.076	AS 15.13.150, part of bill section 19
AS 15.13.077	AS 15.13.145, part of bill section 19
Sec. 7: AS 15.13.080	Same AS section amended, <u>see</u> bill section 11
Sec. 8: AS 15.13.110	Same AS section amended, <u>see</u> bill sections 13 and 14
Sec. 9: AS 15.13.120(a)	Repealed in bill section 23
Sec. 10: AS 15.13.120(d) and (e)	Same AS subsections amended, <u>see</u> bill sections 16 and 17
Sec. 11: AS 15.13.125	Handled in bill section 18
Sec. 12: AS 15.13.126(b)	Omitted: our statutes already contain a general severability provision (AS 01.10.030)
AS 15.13.126(a) and (c)	Handled in bill sections 24 and 25

Location in the Initiative	Treatment in the bill draft
Secs. 13 - 15: amendments	Handled in AS 15.13.400, definitions, part of bill section 19
Sec. 16: criminal violations	Handled in related Election Code criminal provisions, bill section 20
Sec. 17: license suspension	Handled in AS 15.56.018(b), part of bill section 20
Sec. 18: lobbyists	Handled as part of bill section 21

*

II. General notes and comments about the draft:

From a drafting perspective, consistent with the requirement that the bill be "substantially the same measure " as has been proposed by the Initiative, foremost of my concerns was trying to achieve more clarity through proper organization of the Initiative's material. I was particularly concerned that all of the changes proposed for insertion into what the Initiative identifies as a revised AS 15.13.070 be set out in a more understandable manner.

Please note the following:

Section 1 of the Initiative, the "Findings and Purpose" provision, is set out substantially as offered in the same-numbered section of the draft.

The material set out in section 2 of the material provided, amending the "Applicability" provision, is set out as offered. I divided the material, as I have done with drafts in previous years, between two subsections. ^{1//}

I understood the material in AS 15.13.040(g), in section 3 of the Initiative, as a limitation on expenditure of campaign contributions received in a certain manner ("cash, check, money order, or other negotiable instrument") and included the material with like matter in

^{1//} As to subsection (c) of the draft, is the last clause ("or from regulating those campaign contributions and expenditures more strictly than provided in this chapter") intended to set a floor or minimum level of regulation? If it is, it probably ought to be restated to more clearly say that.

Representative Jeannette James
November 8, 1995
Page 5

AS 15.13.082(c), "Limitations on Expenditures." The limitation, as stated, applies only to a candidate. ^{2//}

The material set out in AS 15.13.040(h) in section 3 of the material provided appears as AS 15.13.040(g) of section 6 of the draft.

In section 4 of the Initiative, new language appears as proposed AS 15.13.050(a). I inserted it as an altogether new provision, AS 15.13.067, in bill section 8 of the draft. The second part of the new language directs that, unless an "independent expenditure," the expenditures are subject to the provisions of AS 15.13.

In the same section of the Initiative, revisions of AS 15.13.050 are proposed as a new subsection (b). I reworked that material in AS 15.13.050 in bill section 7 of this draft. The section set out in the material provided was incomplete as presented. Since "Groups" was bracketed, I concluded that "groups" were not to be addressed in that section and deleted the material that was omitted altogether. ^{2//}

Note that, in this same bill section of the Initiative, it was not required that contributors to groups first register. Also, the Initiative did not require registration before making a contribution to a ballot measure campaign, and this draft follows suit.

In section 5 of the Initiative, the revision of AS 15.13.070 was, in my judgment, so long as to be unwieldy. The material in the first two sentences of subsection (a) appears, in my draft, as AS 15.13.065 as a limitation on persons who may make contributions. The material in the third sentence of (a) is carried over into AS 15.13.072(a) in my draft as a limitation on a candidate's ability to solicit and accept contributions. The fourth sentence of (a) ("No

^{2//} In this section:

It is my belief that this is a limitation that should also apply to a group and, therefore, AS 15.13.082(c) should be amended to include reference to a group.

Supplying a definition of "other negotiable instrument" would be a useful addition.

Finally, as a policy inquiry: Is there any other kind of contribution--perhaps excepting "in-kind" contributions--that would come to a candidate (or group) in a form other than in cash, a check, a money order, or a negotiable instrument? If there is not, then perhaps the definition of "contribution" at the end of the draft should be rewritten to say something about making this applicable to all contributions.

^{2//} In this section--and elsewhere in the draft--what is a "publicly-funded entity"? A definition would help.

Representative Jeannette James

November 8, 1995

Page 6

corporation, company . . . ") is implicit in the definition of who may contribute and therefore is not restated.

Having addressed these provisions, I opted to confine AS 15.13.070 to the material in the block chart set out in subsection (a) of the material provided.

Of the material set out in the remainder of AS 15.13.070 of the Initiative--subsections (b) - (k)--that was provided, I tried to collect relevant material and set it out as follows:

-- I understood subsection (b) of the material as a limitation on acceptable contributions and set it out in AS 15.13.072(a)(2) and (3);

-- Subsection (c) appears as AS 15.13.074(f) in proposed bill section 10 of this draft;

-- Subsection (d) involved both solicitations and acceptance of contributions and making contributions; to the extent the limitation was imposed on solicitation and acceptance of contributions, I reworked the language and set it out as AS 15.13.072(c); to the extent the limitation imposed the making of a contribution, it is set out in AS 15.13.074((c); ^{4//}

-- Subsection (e) of the material provided is given similar treatment, i.e. split between AS 15.13.072(d) and 15.13.074(d) of the draft;

-- Subsection (f) of the material provided appears as AS 15.13.078(a) of the draft;

-- Subsection (g) of the material, setting a \$25 limit on cash contributions, is split between AS 15.13.072(b) and 15.13.074(e);

-- Subsection (h) of the material, setting a limit of \$100 on cash expenditures without a receipt, is a limitation on expenditures, addressed in AS 15.13.082(a) of the draft;

-- The first part of subsection (i) of the material, relating to fictitious contributions and expenditures, is similarly split between AS 15.13.074(b) and 15.13.084; the balance of the material is treated with in proposed AS 15.13.114, except that I have altered "escheats to the state" to "forfeiture" of the property in question;

^{4//} In AS 15.13.072(c), it was not clear to me that the restriction imposed on solicitation is one that is to be imposed on "a person" or on "a candidate"; I treated it as one imposed on "a person".

In that same subsection, and elsewhere in the draft, reference to "letter of intent" appears as "document necessary to permit the person to incur certain election-related expenses as authorized by AS 15.13.100," for that section is, in fact, the statutory basis for letters of intent.

-- Subsection (j) of the material is addressed in AS 15.13.076 of the draft; and

-- Subsection (k) appears, with other material treating with campaign expenditures, in AS 15.13.082(b) of the draft.

Finally, before leaving AS 15.13.070 as offered in the material of the Initiative, note that I add the "revision of dollar values" provision of AS 15.13.070(l) as an additional duty of the Alaska Public Offices Commission under AS 15.13.030, in bill section 4 of the draft. ^{5//}

Section 6 of the Initiative touches on a number of matters.

-- Proposed AS 15.13.071--loans and contributions from family members--is combined with the earlier topic of "loans from the candidate to the candidate's own campaign" in proposed AS 15.13.078.

-- Proposed AS 15.13.072--prohibited uses of campaign funds--is set out substantially as presented in AS 15.13.112 of the draft.

-- Proposed AS 15.13.073--campaign asset disbursement--appears as AS 15.13.116 of the draft.

-- Proposed AS 15.13.074 and 15.13.075 appear as AS 15.13.135, 15.13.137, and 15.13.140 of the draft.

-- Proposed AS 15.13.076--election educational activities--is AS 15.13.150 in the bill draft.

-- AS 15.13.077--use of "public funds" prohibited--is AS 15.13.145 of the draft. ^{6//}

Bill section 11 of the draft revises AS 15.13.080 substantially as the Initiative directs.

Bill sections 13 and 14 of the draft revise AS 15.13.110 in line with the Initiative's proposed changes, and bill sections 16 and 17 of the draft similarly address the changes sought to be made in AS 15.13.120.

^{5//} On this point, please understand that there are other dollar limitations expressed in AS 15.13 that, because of the way this is drafted, the Alaska Public Offices Commission would not have authority to change.

^{6//} In drafting the bill out of the Initiative, I don't have a clue as to what may be intended by a "public fund" but I did my best to pin it down to "money held by" the state and its political subdivisions. I readily admit that, both as offered and as drafted, there is a lot of room for argument and disagreement.

Representative Jeannette James
November 8, 1995
Page 8

In bill section 18 of the draft, I overhaul the "civil penalties" provision. Here, I am concerned that the revision inserts criminal law sentencing concepts--"aggravating and mitigating circumstances"--into what is essentially intended to operate as a non-criminal process, but, while that may be poor policy or bad drafting, it is, in and of itself, not necessarily a fatal flaw. In addition, I stumbled my way through the differential statutes of limitations--two years for the civil and administrative actions brought by private persons, but four years for the commission review--and tried to harmonize them as best I could.²¹¹

I ignored a portion of section 12 of the Initiative. We don't need a severability provision--see AS 01.10.030. The remainder is made part of the bill, sections 24 and 25, but I think it is arguable that these provisions don't particularly add anything that won't be otherwise developed by the courts.

As to sections 13 - 15 of the Initiative, please note that I opted to restate the definitions applicable to this chapter in their entirety as a new section, AS 15.13.400, while repealing the existing provision, AS 15.13.130.

AS 15.13 is part of the Alaska Election Code. See AS 15.60.020. The Code already contains some criminal provisions. See AS 15.56. I incorporate the criminal provisions identified in bill section 16 of the Initiative in AS 15.56 rather than in AS 11. Note that much of the material in AS 15.56.012 - 15.56.019 is in current law. There are some constitutional issues concerning current law which will be addressed in a separate memo.

*

Here are some questions that are left on the table:

In the matter of loans, AS 15.13.078 in the draft: May others besides the candidate's family make loans to a candidate? I could not answer that question from the Initiative, but I think the answer, in context, is "no." However, whether the answer to that question is "yes" or "no," something should be stated to that effect.

In the matter of receipt of contributions and making of expenditures in the 30 day period following the final election, as this is drafted, there is no time limit for the candidate who is

²¹¹ The distinction between the two is somewhat indefensible and should be replaced by a period of limitations that is common to both actions.

Further as to this approach, the opportunity to decide whether to go before the Alaska Public Offices Commission or to go to court is left to the complainant. As written, one could, I think, move back and forth between the two available remedies. That, it seems to me, could be criticized as an unnecessary redundancy and a misapplication of scarce resources.

Representative Jeannette James

November 8, 1995

Page 9

unopposed in the general election--who does not face a write-in. We've limited the operation of the law, in both instances, to a candidate who has been opposed at that election, but not if the candidate was unopposed. It seems to me that something should be done with that.

The Initiative makes no reference to court rule changes. I have also not noted court rule changes for intervention (last sentence of AS 15.13.120(d) in bill sec. 16) or attorney's fees (AS 15.13.125(1)(2) in bill sec. 18), so that if this bill passes, the court rules will remain unaffected.

JBC:pl

95-184.plm

Enclosure

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

HB 368 Campaign Reform

MEMORANDUM

November 8, 1995

SUBJECT: Constitutional/legal problems with Initiative 95CFPO (Work Order No. 9-LS1348\A)

TO: Representative Jeannette James
Attn: Walt Wilcox

FROM: Jack Chenoweth
Legislative Counsel

Initiative 95 CFPO, relating to election campaigns, election campaign financing, and the Alaska Public Offices Commission, is in circulation.^{1/} This is a review of the constitutional problems that attend the Initiative.

The Initiative does not affect elections for President and Vice-President of the United States or the contests for seats in the United States Congress.^{2/} In elections to decide public offices, the races for governor/lieutenant governor, for the state legislature, judicial retention elections, constitutional convention delegate contests, and municipal elections would be covered.

^{1/} The petition application for the Initiative was submitted to the Lieutenant Governor on April 3, 1995, and the application certified on April 20. Petition booklets were distributed to the initiative committee on May 11. Completed signature books are due not later than May 11, 1996 (that day being a Saturday, the deadline is extended to Monday, May 13, 1996). AS 15.45.140. However, if the measure is win a place on the November, 1996, general election ballot, the completed signature books must be returned not later than 10 a.m., Monday, January 8, 1996. AS 15.45.190.

^{2/} Under 2 U.S.C. 453, the provisions of the Federal Election Campaign Act "supersede and preempt any provision of State law with respect to election to Federal office."

Constitutional questions:

I

Limitations on expenditures in behalf of and on contributions to the campaigns of candidates:
The Initiative's proposed amendment of AS 15.13.050(a) [section 4] limits the making of expenditures related to the election of a candidate. Those expenditures may be made only by the candidate, by individuals, and by groups. The amended definition of a "group" includes only political parties and combinations of individuals "organiz[ed] for the principal and major purpose to influence the outcome of one or more elections and who take action the major purpose of which is to influence the outcome of an election" AS 15.13.130(4)[(B)] [section 14]. There is an exception that allows groups to continue to make "independent expenditures," ^{2/} AS 15.13.050(a) [first clause of second sentence, section 4] and AS 15.13.075(a) and (b) [part of the Initiative's section 6].

The Initiative's proposed amendment of AS 15.13.070(a) [section 5] limits the making of contributions. Only individuals would be able to make contributions to a group, and only individuals and groups would be able to make contributions to candidates. Candidates could not solicit and accept contributions from entities other than individuals and groups. Corporations, companies, partnerships, firms, unions, associations, and similar organizations could participate in the electoral process only by first qualifying as "groups."

The Initiative's proposed amendment of AS 15.13.070(b) sets a limitation on a candidate's acceptance of contributions from individuals and groups. Candidates may not accept contributions from individuals and groups that are not residents of the state when the contribution is made. The Initiative's proposed amendment of AS 15.13.070(c), specifically addressing contributions of lobbyists, adds a further restriction: a lobbyist may not contribute to a state legislative race except for a race in a state house election district or state senate district in which the lobbyist lives.

In summary, under the Initiative, many existing organizations that support campaigns with non-cash, in-kind contributions would be constrained to continue the practice and would appear to be first required to establish separate "groups" organized specifically for the purpose of participating in election campaign financing. Non-residents' participation in the

^{2/} Proposed AS 15.13.130(11), part of the Initiative's section 15, would define "independent expenditure" as

an expenditure that is made without the direct or indirect consultation or cooperation with, or at the suggestion or the request of, or with the prior consent of, a candidate, a candidate's campaign treasurer or deputy campaign treasurer, or any other person acting as a principal or agent of the candidate;

Representative Jeannette James

November 8, 1995

Page 3

financing of election campaigns would also be eliminated, and lobbyists could not contribute to legislative races outside the lobbyist's district of residence.

Taken altogether, these restrictions and limitations on campaign contributions and expenditures implicate the rights of speech and association guaranteed by the First Amendment to the United States Constitution that are made applicable to states by the Fourteenth Amendment of the United States Constitution, and implicate comparable rights of free speech that are guaranteed by article I, section 5 of the Alaska Constitution and of the right to assemble guaranteed by article I, section 6 of the Alaska Constitution.

The leading decision in this area, Buckley v. Valeo, 424 U.S. 1, 46 L.Ed.2d 659, 96 S.Ct. 612 (1975), has been supplemented by a series of subsequent decisions that particularly bear on troublesome questions of expenditure limitations allowable under the First Amendment.

Because legislated limitations on expenditures "impose direct and substantial restraints on the quantity of political speech," Buckley, 424 U.S. at 39, the federal constitutional test of expenditure limitations is one of strict scrutiny, the toughest standard. Generally, because regulation of campaign finances burden First Amendment rights of free speech and association, they will survive strict scrutiny only if it is shown that they serve a compelling governmental interest and have been narrowly drawn. State regulation of campaign finances can be sustained if the state demonstrates a sufficiently important interest and employs means chosen to avoid unnecessary abridgment of first amendment rights. Buckley, 424 U.S. at 25. In Buckley, the Court recognized that there was a compelling state interest in regulating campaign financing to prevent corruption or the appearance of corruption. The Court further distinguished between restrictions on contributions, finding that these pose a lesser threat to the First Amendment, and restrictions on campaign expenditures, which the Court found as directly burdening speech. Buckley considered and generally sustained limitations imposed by the Federal Election Campaign Act of 1971, as amended, on campaign contributions and other election campaign reforms, but set aside, as violative of the First Amendment, (1) limitations on **contributions** to, or, more accurately, in point of fact, **expenditures** by, a candidate's own campaign that are made by the candidate and the candidate's family, and (2) limitations on **expenditures** made by others relative to a candidate (that is, limitations on "indirect contributions" or, more precisely, "indirect expenditures" made apart from the contributions given directly to a candidate).

Buckley is not the last word in this area. The United States Supreme Court has periodically revisited the topic of constitutionally permissible restraints on campaign expenditures and drawn out the topic. Subsequent decisions have taken the discussion of permissible expenditure restrictions further.

In First National Bank of Boston v. Bellotti, 435 U.S. 765, 55 L.Ed.2d 707, 98 S.Ct. 1407 (1978), the Supreme Court invalidated a Massachusetts statute prohibiting corporations

Representative Jeannette James

November 8, 1995

Page 4

operating in the state from making contributions or expenditures to influence the outcome of a referendum question apart from a question that materially affected the corporation's interests. The question in Bellotti turned on participation in the debate over a public issue. The court left open the question of whether, and to what extent, the speech of a corporation, that is, the financial support that a corporation might contribute, could be made subject to restrictions when the question was one of candidacy for public office.

In Federal Election Commission v. National Conservative Political Action Committee, 470 U.S. 480, 84 L.Ed.2d 455, 105 S.Ct. 1459 (1985), commonly referred to as NCPAC, the Supreme Court invalidated, as a violation of the First Amendment's guarantees of free speech and association, a provision of federal law that made it a criminal offense for an independent political committee to expend more than a pre-set amount in its efforts to support a presidential candidate. The court based its decision on the right of contributors--chiefly persons making small contributions--to join together and to use the device of a political action committee to serve as a vehicle of expression for its views.

Finally, the court has reached different conclusions in its disposition of the question of how a corporation may make use of corporate funds to make election campaign contributions. In Federal Election Commission v. Massachusetts Citizens for Life, 479 U.S. 238, 93 L.Ed.2d 539, 107 S.Ct. 616 (1986), the court struck down a requirement of the Federal Election Campaign Act that prevented a Massachusetts nonprofit corporation that opposed abortion from using its money to make expenditures in connection with an election for public office by limiting the making of those expenditures to those drawn from a separate fund financed from voluntary contributions. Four years later, in Austin v. Michigan Chamber of Commerce, 494 U.S. 652, 108 L.Ed.2d 652, 110 S.Ct. 1391 (1990), the court found that a similar restriction in the Michigan Campaign Finance Act that prevented use of corporate money to make expenditures in conjunction with state candidate elections did not constitute a First Amendment violation, defending the restriction as both justified by a compelling state interest and sufficiently narrowly tailored to meet that interest without foreclosing the corporation's participation in the electoral and political process.

Bellotti protects a corporation's ability to make contributions and expenditures relating to ballot propositions, but inferentially leaves open the possibility of expenditure regulation when election campaigns concern a choice of candidates. NCPAC protects the right of persons to come together under the umbrella of a political action committee to make expenditures in support of one or more candidates who support the members' common views. Austin generally recognizes the authority to lawmakers to regulate the involvement of corporations in candidates' campaigns. Out of these decisions, the Initiative's sponsors and supporters have drawn a proposal relating to campaign expenditures that is calculated to survive First Amendment scrutiny.

The series of decisions that have followed Eucklev may support the sponsors' efforts. Additionally, though these matters are subject to the tests established for First Amendment

Representative Jeannette James
November 8, 1995
Page 5

questions, even if the relevant provisions of the Initiative survive First Amendment scrutiny, examination by the Alaska Supreme Court under the comparable state constitutional provisions may yield a different result.

In an August 1, 1994, memo to former Lieutenant Governor Jack Coghill supplementing an earlier analysis, the attorney general's office concluded that the Initiative's efforts to regulate campaign expenditures are "in a constitutional grey area." That strikes me as a reasonable conclusion.

Eliminating nonresidents' contributions^{4/} and setting particular restrictions on lobbyists' contributions^{5/} to candidates in legislative races:

Here the Initiative appears to break new ground.

A handful of states require special handling of the reporting of contributions from out-of-state sources,^{6/} but none, so far as I have been able to determine, has barred nonresidents' contributions altogether.

^{4/} See AS 15.13.070(b) of the Initiative's section 5.

^{5/} See AS 15.13.070(c) of the Initiative's section 5.

^{6/} According to the National Clearinghouse of the Federal Election Commission, Iowa, Kansas, and Oregon make special provision for the handling of nonresidents' contributions.

Iowa Code sec. 56.5(5) imposes special disclosure requirements on every committee or organization not domiciled in Iowa which makes a contribution to a candidate's committee or political committee domiciled in Iowa, unless the committee or organization makes disclosure under applicable federal law or the law of the state in which the committee or organization is domiciled.

Kansas Stat. sec. 25-4172 requires that certain nonresident entities--groups of at least three individuals and persons that are not individuals (other than political parties, corporations, or unions)--making election campaign contributions at the same time file special disclosure reports.

Oregon Rev. Stat. sec. 260.045 prohibits a candidate from accepting political campaign contributions of more than \$50 from an out-of-state political committee without meeting special disclosure requirements.

Representative Jeannette James

November 8, 1995

Page 6

Similarly, there are few examples of restrictions placed on lobbyists' contributions.^{2/}

Surely the Initiative's proposals in these two related areas are dependent upon the greater latitude that the United States Supreme Court has given with respect to regulating election campaign contributions in contrast to expenditures. Of particular relevance is that portion of the Buckley decision that examined restrictions on contributions. While finding some marginal curtailment of the freedoms of expression and association, the court nevertheless concluded that the government had valid interests in limiting campaign contributions by individuals and groups to specific dollar amounts. Following Buckley, the Court has upheld provisions of the Federal Election Campaign Act setting limits on the amount that an individual or an unincorporated association might make to candidate political action committees. The court would sustain these limits against a First Amendment-based challenge when the court could find that the state had first demonstrated a conflict of interests sufficient to justify a deterrent effort, that the state's reasons for addressing the matter by abridging or curtailing the constitutional right was compelling, and that the abridgment or curtailment had been accomplished in the least restrictive manner possible.^{3/}

As to the constraints placed on lobbyists' contributions, while there are a handful of examples in which states have successfully prohibited certain classes of persons engaged in particular vocations from contributing to political parties or to candidates for public office, Schiller Park Colonial Inn, Inc. v. Berz, 349 N.E.2d 61 (Ill. 1976) (liquor licensees precluded from contributing to election campaign funds), Petition of Soto, 565 A.2d 1088 (N.J. Super. App. Div. 1989), cert. den. 496 U.S. 937, 110 S.Ct. 3216, 110 L.Ed.2d 664 (U.S. 1990) (casino key employee prohibited from making campaign contributions), efforts to extend similar campaign contribution prohibitions to lobbyists^{2/} have not been successful. So, for instance,

^{2/} Wisconsin restricts lobbyists' contributions to candidates in legislative races, allowing contributions from lobbyists only after conclusion of the annual legislative session. Wisc. Stat. sec. 13.625(c).

^{3/} See, for example, the Court's decision in California Medical Association v. Federal Election Commission, 453 U.S. 182, 69 L.Ed.2d 567, 101 S.Ct. 2712 (1982). The Court's decision in California Medical buttressed the earlier analysis to the end that strict scrutiny would not be applied to limitations on contributions to candidates.

^{2/} There is ample authority to conclude that the government has an interest in regulating the activity of lobbying and those who engage in it. United States v. Hariss, 347 U.S. 612, 98 L.Ed. 989, 74 S.Ct. 808 (1954) (lobbyist regulation under the Federal Regulation of Lobbying Act, Minnesota State Ethical Practices Board v. National Rifle Assn., 761 F.2d 509 (8th Cir. 1985) (same under Minnesota Ethics in Government Act), Fritz v. Gordon, 517 P.2d 911 (Wash. 1974), app. dismissed 417 (continued...)

Representative Jeannette James
November 8, 1995
Page 7

in what is apparently the leading decision, Fair Political Practices Commission v. Superior Court of Los Angeles Cty., 599 P.2d 46 (Cal. 1989), cert. den. 444 U.S. 1049, 62 L.Ed.2d 736, 100 S.Ct. 740 (1980), a total prohibition against lobbyists' contributions to political campaigns was struck down as a violation of the associational freedom guaranteed by the First Amendment because the court determined that the statute had not been closely drawn to avoid unnecessary abridgment of associational freedoms. More recently, in Barker v. State of Wisconsin Ethics Board, 841 F.Supp. 255 (W.D. Wisc. 1993), the United States District Court invalidated, as not sufficiently narrowly tailored, a Wisconsin law that interfered with a lobbyist's right to volunteer unpaid personal services to a candidate for elective office.

My reading of these decisions is that the states retain some latitude in setting limitations on the facet of political activities represented by election campaign contributions. Whether that latitude is sufficient to allow a state absolutely to prohibit nonresidents' election campaign contributions and to bar lobbyists from making out-of-district campaign contributions in legislative contests¹⁰⁷ is problematical. The courts may readily conclude that either or both does not employ the requisite means closely drawn to avoid an unnecessary abridgment of the freedom of association. At the very least, these two provisions, relating to nonresidents' contributions and to lobbyists' contributions, should engender lively constitutional argument should the Initiative become law.

II

The Initiative's AS 15.13.070(i) precludes the giving and acceptance of anonymous campaign contributions. The provision implicates the United States Supreme Court's recent decision in McIntyre v. Ohio Elections Commission, 63 U.S.L.W. 4279 (April 19, 1995), declaring unconstitutional, as a First Amendment violation, an Ohio law prohibiting the distribution of anonymous campaign literature that is intended to influence the decision of voters in an election. I am not able to say with certainty that the provision in the Initiative barring anonymous campaign contributions would also be found unconstitutional as a First Amendment violation. In point of fact, the provision may well survive First Amendment scrutiny, for the Supreme Court's opinion in McIntyre does discuss and distinguish campaign financing requirements under the Buckley and Bellotti decisions and concludes that the decisions in Buckley and Bellotti are not controlling. 63 U.S.L.W. at 4284 - 4285. That discussion implies that cases relating to the regulation of contributions to finance election campaigns, as indicia of indirect speech, are not necessarily dispositive of laws regulating

(...continued)

U.S. 902, 41 L.Ed.2d 208, 94 S.Ct. 2596 (1974).

¹⁰⁷ In addition, as to lobbyists, there is a probable violation of constitutional provisions bearing on equal protection under the Fourteenth Amendment to the United States Constitution and under article I, section 1 of the Alaska Constitution.

distribution of election campaign materials as pure speech. I make no effort to resolve the issue, but only note the potential question presented.

III

Disposition of civil penalties:

The Initiative's AS 15.13.125 provides for recovery of "civil penalties" for violations. Those civil penalties may be imposed by the superior court or by the Alaska Public Offices Commission, depending upon the forum before which the complaint was taken. When the violation is heard and disposed of before the superior court, then

. . . A complaining citizen may execute on the judgment and is entitled to 50% of any sums recovered after reimbursement of any attorney's fees and costs awarded by the court. The remaining 50% of any sums recovered shall be delivered to the Department of Revenue for deposit in the state's general fund.

Since the "civil penalty" is, in fact, penal in nature, ^{11/} my sense is that the amount of the penalty imposed would be treated as the equivalent of a fine due the state, hence fully payable to the court or the agency imposing the levy for transmittal to the state general fund. In terms of constraints imposed by the state constitution, there is a some likelihood, in my judgment, that the attempt to shift a portion of the payment due in order to allow recovery of a portion of the civil penalty by the "complaining citizen" would be found to violate article IX, section 6, precluding transfer of public property except for a public purpose, and article IX, section 7 with its prohibition against dedicated funds.

^{11/} I take a "civil penalty" to be a financial exaction, imposed by an authority that has the power to impose it, by way of punishment for an offense. For programs for which it is responsible, the Alaska Public Offices Commission already enjoys authority to levy and collect civil penalties. See AS 15.13.125 (civil penalty imposable for late filing of campaign disclosure report), AS 24.45.141 (civil penalty imposable for certain registration violations relating to regulation of lobbying), AS 39.50.135 (civil penalty imposable for late filing of financial disclosure reports). The ability of an administering agency to levy a civil penalty is not at issue.

Disposition of a portion of a civil penalty is not the same as ordering restitution.

Representative Jeannette James
November 8, 1995
Page 9

It is also arguable, I suppose, that the civil penalty disposition provisions might be found to be inconsistent with the provisions of article XI, section 7 of the state constitution insofar as it is used to "dedicate revenue" or to "prescribe [court] rules." ^{12/}

JBC:glc:pl
95-423.glc

^{12/} Under the first sentence of article XI, section 7 of the state constitution,

The initiative shall not be used to dedicate revenues, make or repeal appropriations, create courts, define the jurisdiction of courts or prescribe their rules, or enact local or special legislation. . . .

The "dedication of revenue" concern in this section arises from the same basis as the prospective claim that the disposition of civil penalties provision violates article IX, section 7. The "court rule prescription" concern of this section would be implicated should the courts determine that substantive legal changes proposed in an Initiative that have the effect of amending a court rule may be set aside. On this particular point, the Initiative's directive that a complainant "is entitled to" recover a portion of "any sums recovered" from imposition of the civil penalty might be found by the courts to intrude upon a rule of practice or procedure or to establish a new rule of practice or procedure, either in violation of the prohibition described in article XI, section 7.

Campaign Finance Reform -- Now!

2224 Turnagain Parkway
Anchorage, Alaska 99517
274-CFRN

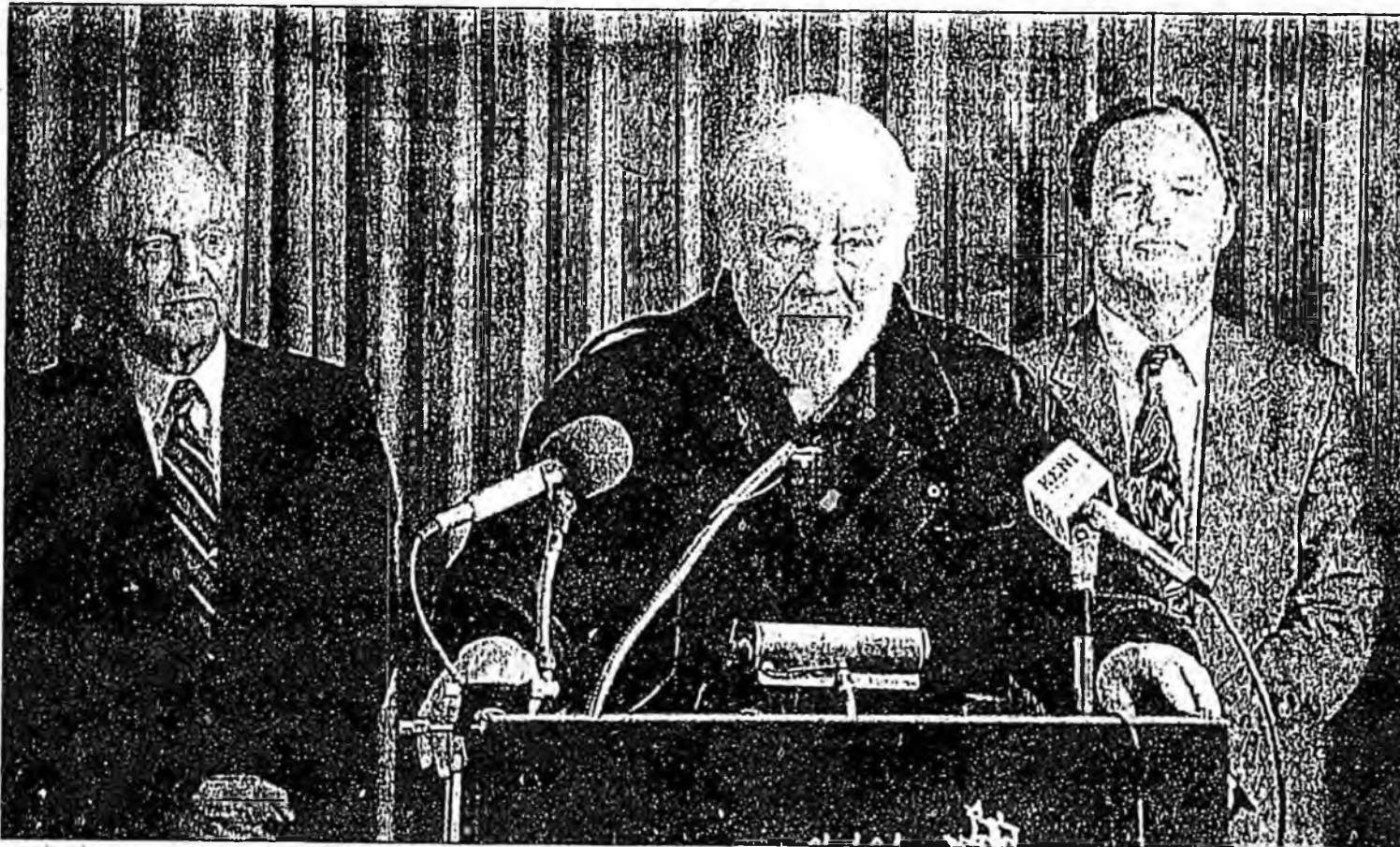
Oct. 25

Rep. James:

Thank you for your interest in
the initiative. If you have any questions
about it, please feel free to call me.

Mike Frank

Ex-governors back campaign finance initiative



Former Govs. Wally Hickel, Jay Hammond and Steve Cowper threw their support behind a campaign financing reform initiative Tuesday. Former Gov. Bill Sheffield also backed the ballot effort, which would change state law.

FRAN DURNER / Anchorage Daily News

10/25/95
Supporters aim to get proposal on 1996 ballot

By STAN JONES
Daily News reporter

The four men who governed Alaska from 1974 to 1994 teamed up Tuesday to push for a measure that would outlaw many of the campaign contributions they used to get themselves elected.

The ex-governors were Republicans Wally Hickel and Jay Hammond and Democrats Steve Cowper and Bill Sheffield. The measure is a ballot initiative they hope will be before the voters in next year's statewide election.

If approved, the new law would ban contributions from corporations and unions, traditionally two big bankrollers of Alaska elections. It would eliminate most contributions

Please see Back Page,
INITIATIVE

from lobbyists and all contributions from Outside. And it would sharply reduce the amount of money that political parties and political action groups could take in and pass out.

Individuals could still contribute, but the cap on donations would drop from \$1,000 to \$500.

The ex-governors — except for Sheffield, who was home sick — showed up at Hickel's offices in the Hotel Captain Cook to sign a petition for the initiative and tell reporters why they liked it. Hickel and Cowper wore business suits to the photo opportunity, while Hammond turned up in the same Bush-pilot garb as when he was governor, from 1974-1982.

Hammond said the initiative was needed to bring average people back into the political process.

"Campaigns have become in many respects meaningless," Hammond said. "I think this goes a long way to improving the process."

Cowper recalled trying to get his own bill to reform campaign finance through the Legislature when he was governor in the late 1980s. His would have allowed only individuals to make contributions and would have reined in lobbyists.

"Of course that was treated with the expected amount of enthusiasm from the Legislature," Cowper said. "This (the citizen initiative) is the only way any of these reforms are going to take place."

Hickel also harkened back to his days in office — from 1990-1994. He talked of his owner-state concept, which sees Alaska as different from other states because it holds title to so many of the natural resources within its borders. The problem, Hickel said, is that the citizen-owners don't have enough say over what happens to those resources.

"The owners really don't have lobbyists," Hickel said. "The people that I talk to in Alaska, the constituents, they don't feel like they're important."

Sheffield said later by phone that he supports the initiative. Like some of the other ex-governors, he said the initiative might put pressure on the Legislature to take up campaign finance reform. If lawmakers pass a substantially similar bill in the upcoming session, the reform initiative could be pulled off the ballot.

And Alaska's current chief executive? Gov. Tony Knowles declined an interview request, but did pass along a comment via aide David Ramseur. "I'm supportive of campaign reform generally and I applaud the efforts of those who are pushing this in front of the public," Ramseur said. Knowles said.

“You may eliminate corporations from contributing, but you won't eliminate them from the process.”

— Ashley Reed, lobbyist

So is Knowles for the initiative or against it?

"Without taking a look at the numerous provisions of the initiative, he's disinclined to say whether he's definitely on board on this one or not," Ramseur said.

Mike Frank, the Anchorage lawyer who organized the effort, said Tuesday that over 20,000 signatures have already been collected. About 22,000 are needed to get it on the ballot, but Frank hopes to get a total of 28,000 before submitting it to the Division of Elections because some signatures may be disqualified.

Don Valesko, business manager of Public Employees Local 71, said he favors the initiative, even if it would ban contributions from his and other unions. That, with the ban on corporate contributions, might level the political playing field, he said.

"There's no way we can match oil companies," Valesko said.

Spokesmen for Arco Alaska and for the Alliance — an oil-industry support group — said they hadn't had time to study the initiative and form a position on it.

The text of the initiative has been available since April.

Ashley Reed, one of the state's top lobbyists, said he expected the initiative to be adopted. He thinks it will change politics a little, but lobbyists and the other big players will still be in the game.

"You may eliminate corporations from contributing, but you won't eliminate them from the process," he said.

He said special interests might themselves use the initiative process to get what they want, or channel their money into advertising and other forms of advocacy rather than campaign contributions.

He said he welcomes the reform and its ban on lobbyist contributions.

"I'll quite honestly be able to save a lot of money, probably," Reed said. "Whatever the rules are, you just have to be capable of adapting."

□ Daily News reporter Ralph Thomas contributed to this story.

"A1. Initiative relating to election campaign financing and the Alaska Public Offices Commission; and providing for an effective date."

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

* Section 1. FINDINGS AND PURPOSE. The people of the State of Alaska find that under existing laws:

- (a) Campaigns for elective public office last too long, are often uninformative, and are too expensive;
- (b) Highly qualified citizens are dissuaded from running for public office due to the high cost of campaigns;
- (c) Organized special interests are responsible for raising a significant portion of all campaign funds, and may thereby gain an undue influence over campaigns and elected officials, particularly incumbents;
- (d) Incumbents enjoy a distinct advantage in raising campaign funds, and many elected officials raise and carry forward huge surpluses from one campaign to the next, to the disadvantage of challengers;
- (e) Because under current laws candidates are completely free to convert campaign funds to personal income, there is great potential for bribery and political corruption; and
- (f) Penalties for violations of the existing campaign finance laws are far too lenient to deter misconduct.

Therefore, it is the purpose of this Act to substantially reform Alaska's campaign finance laws in order to restore the public's trust in the electoral process and to foster good government.

* Sec. 2. AS 15.13.010(a) is amended to read:

(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, or from doing so more strictly than provided by this chapter.

* Sec. 3. AS 15.13.040 is amended by adding new subsections (g) and (h) to read:

(g) If the contribution is made in cash, check, money order or other negotiable instrument and must be reported to the commission under this chapter, a candidate may neither spend it nor in the case of a negotiable instrument convert it to cash until the name, address, principal occupation, and employer of the contributor and the date and amount of the contribution are recorded for inclusion in any reports which must be filed with the commission.

(h) the provisions of (a) of this section do not apply to a candidate if the candidate:
(1) on a form prescribed by the commission, indicates an intent not to raise and not to spend more than \$1,000 in seeking election;
(2) accepts contributions totaling \$1,000 or less in seeking election; and
(3) makes expenditures totaling \$1,000 or less in seeking election.

* Sec. 4. AS 15.13.050(a) and (b) are amended to read:

Sec. 15.13.050. [GROUPS] WHO MAY MAKE EXPENDITURES. (a) Only the candidate, an individual or a group may make an expenditure concerning the election of the candidate. Unless the expenditure is an independent expenditure, an individual or group

expenditure is a contribution to the candidate subject to the limitations and prohibitions of this chapter.

(b) Each [GROUP] person and publicly funded entity, before making an expenditure [ON BEHALF OF, OR IN OPPOSITION TO] in support of or in opposition to a ballot proposition or question or in support of or in opposition to a candidate shall register, on forms provided by the commission, with the commission.

* Sec. 5. AS 15.13.070 is repealed and reenacted to read:

Sec. 15.13.070. DIRECT CONTRIBUTIONS AND EXPENDITURES; TIMING, AMOUNT AND FORM OF PAYMENT. (a) Only an individual may make contributions to a group. Only individuals and groups may make contributions to a candidate. A candidate may not solicit or accept a contribution from any other person. No corporation, company, partnership, firm, labor union, association, organization, business trust or surety, or publicly funded entity which does not satisfy the definition of group in AS 15.13.130(4)(b) may make a contribution to a candidate. Subject to the other limitations of this section and AS 15.13 and AS 24.45, individuals and groups may make contributions only as follows:

	to a candidate for the legislature, for a municipal office, for constitutional convention delegate, or for retention in judicial office, or to any one who campaigns as a write-in candidate for any of these offices↓	to a candidate for governor or lieutenant governor, or to any one who campaigns as a write-in candidate for either of these offices↓	to a group↓	to a political party↓
(1) An individual may contribute→→	not more than \$500 per year.	not more than \$500 per year.	not more than \$250 per year.	not more than \$5,000 per year.
(2) A group which is not a political party may contribute →→	not more than \$500 per year.	not more than \$500 per year.	(contributions prohibited)	(contributions prohibited)
(3) A political party may contribute→→	not more than \$5,000 per year.	not more than \$50,000 per year.	(contributions prohibited)	(contributions prohibited)

(b) A candidate may not accept a contribution from an individual who is not a resident of the state of Alaska at the time the contribution is made. A candidate may not accept a contribution from a group organized under the laws of another state, resident of another state, or whose participants are not residents of the state of Alaska at the time the contribution is made.

(c) An individual required to register as a lobbyist under AS 24.45 may not make a contribution to a candidate for the legislature at any time the individual is subject to the registration requirement under AS 24.45 and for one year after the date of initial registration or its renewal, except that the individual may make a contribution under this section to a candidate for the legislature in a district in which the individual is or will be entitled to vote on the date of the election. An individual subject to the restrictions of this subsection must separately report to the commission, on a form provided by the commission, each contribution made while required to register under AS 24.25. A representational lobbyist, as defined in 2 AAC 50.511(a), is not subject to the limitations or requirements of this subsection.

(d) No candidate, or any other person acting directly or indirectly on the candidate's behalf, may solicit, contribute to, or accept a campaign contribution:

(1) more than 11 months before the general or municipal election in which the candidate intends to seek election to a public office;

(2) before the date upon which the candidate files for nomination for a specified elective public office, or files a letter of intent with the commission to run for a specified elective public office, or files a declaration of candidacy with the lieutenant governor to run for a specified elective public office; and

(3) more than 30 days after the general or municipal election in which the candidate runs against another candidate, or more than 30 days after a primary election if the candidate is not opposed in the general election.

(e) No candidate may solicit or accept:

(1) a campaign contribution or an honorarium during a special or regular session of the legislature or during a constitutional convention if the candidate is a member of the legislature, a delegate to the constitutional convention, the governor, the lieutenant governor, or a member of the governor's, lieutenant governor's or a legislator's staff; or

(2) an honorarium at any time after the candidate files for nomination for a specified elective public office, files a letter of intent with the commission to run for a specified elective public office, or files a declaration of candidacy with the lieutenant governor to run for a specified elective public office.

No person may give a campaign contribution or honorarium in violation of this subsection.

(f) This chapter does not prohibit a candidate from contributing any sum of the candidate's own money or other thing of value to candidate's own campaign. The candidate must report these contributions in accordance with AS 15.13.040 and 15.13.110.

(g) An individual may not make a contribution in cash or by cash payment in an amount over \$25. A candidate or group may not accept a contribution in cash or by cash payment in an amount over \$25.

(h) A candidate or group may not make an expenditure in cash or by cash payment in an amount over \$100 unless a written receipt is obtained and filed with the commission.

(i) No person may make a campaign contribution or incur a campaign expenditure, directly or indirectly, anonymously, in a fictitious name, or in the name of another. A candidate or group receiving a prohibited contribution shall return it to the contributor immediately upon discovery that the contribution is prohibited. If the contribution cannot be returned in the same form, the equivalent value of the contribution shall be returned. An anonymous contribution escheats to the state unless the contributor is identified within 5 days of its receipt. Any moneys which escheat to the state shall be delivered immediately to the Department of Revenue for deposit in the general fund.

(j) Contributions to a candidate or group may be received only by, and expenditures may be made on behalf of the candidate or group only by, the candidate, or the candidate's or group's campaign treasurer or deputy campaign treasurer.

(k) No campaign expenditure of any type whatsoever shall be made by any candidate or group, or their campaign treasurer or deputy campaign treasurer, unless the source is disclosed as required by the provisions of this chapter.

(l) Five years after the effective date of this act, and every five years thereafter, the commission shall review the dollar limitations in this section and may adjust them to reflect any significant net inflation or deflation which has occurred during the immediately preceding five years. Any adjustment shall be adopted by regulation. In reviewing the dollar limitations, the commission shall use a recognized governmental index for measuring the occurrence of inflation or deflation in the purchase of consumer goods.

* Sec. 6. AS 15.13 is amended by adding new sections to read:

Sec. 15.13.071. LOANS/CONTRIBUTIONS FROM FAMILY MEMBERS. (a) Loans to a candidate's campaign from a member of a candidate's immediate family are not contributions if in the aggregate the loans do not exceed \$1000 in a calendar year, are not given to the family member by another person under an agreement that they be loaned or donated to the candidate's campaign, and are documented in writing as loans at the time made. A loan under this section may not be repaid unless the candidate first files an authentic copy of the loan document with the commission. A loan document filed with the commission is a public record. If a loan or loans from a family member exceeds \$1,000 in the aggregate in a calendar year, the amount in excess of \$1000 is a contribution subject to the limitations and reporting requirements governing contributions of this chapter.

(b) A candidate may not repay a loan or contribution the candidate makes to the candidate's own campaign unless within five days of making the loan or contribution the candidate notifies the commission, on a form it provides, of the candidate's intention to repay the loan or contribution from campaign funds.

(c) Repayments under this section must be consistent with AS 15.13.073.

Sec. 15.13.072. PROHIBITED USES OF CAMPAIGN FUNDS. Contributions may only be used to pay candidate and campaign expenses reasonably related to campaign activities. Contributions may not otherwise be:

- (1) used to give a personal benefit to the candidate or any other person;
- (2) converted to personal income of the candidate;
- (3) loaned to any person;
- (4) knowingly used to pay more than the fair market value for goods or services purchased for the campaign;
- (5) used to pay a criminal fine;
- (6) used to pay civil penalties, except that civil penalties assessed under this chapter may be paid with campaign funds if authorized by a court or the commission after it first determines
 - (a) the candidate, campaign treasurer, and deputy campaign treasurer did not cause or participate in the violation and exercised a reasonable level of oversight over the campaign, and
 - (b) the candidate, campaign treasurer, and deputy campaign treasurers cooperated in the revelation of the violation and in its immediate correction; or
- (7) used to make contributions to another candidate or to a group.

Sec. 15.13.073. DISBURSEMENT OF CAMPAIGN ASSETS AFTER ELECTION. (a) A candidate with campaign funds remaining after the date of the general or municipal election or after the date the candidate withdraws as a candidate, whichever comes first, must distribute the funds within sixty days, but only as follows:

- (1) to pay any bills incurred for expenditures reasonably related to the campaign and the winding up of the affairs of the campaign, and to pay expenditures associated with post-election fund raising which may be needed to raise funds to pay off campaign debts;
- (2) to pay for a victory or a thank-you party costing less than \$500, or to give a thank you gift of a value of less than \$50 to a campaign employee or volunteer;
- (3) to make donations, without condition, to a political party as defined in AS 15.60.0101(20), to the state's general fund, to a municipality of the state, or to the federal government;
- (4) to make donations, without condition, to organizations qualified as charitable organizations under 26 U.S.C. § 501(c)(3), provided the organization is not controlled by the candidate or a member of the candidate's immediate family;
- (5) to repay loans from immediate family members made under AS 15.13.071, or to repay loans or contributions from the candidate to the candidate's own campaign in the amount of not more than \$5,000 for a municipal office campaign, \$10,000 for a legislative, judicial retention, or constitutional convention delegation campaign, or \$25,000 for a gubernatorial campaign; or
- (6) to establish a fund for, and to pay attorney's fees or costs incurred in, the prosecution or defense of an administrative or civil judicial action which directly concerns a challenge to the victory or defeat of the candidate in the election.

(b) A candidate may spend campaign funds raised in a general, municipal or special election campaign in the candidate's runoff election campaign following the election in which the winner was not decided.

(c) After a general, municipal, special or runoff election, a candidate may retain the ownership of personal property, except moneys, which was acquired by and for use in the campaign, such as office furniture, files, campaign literature, and the like. The total value of the property retained may not exceed \$2500. All other property must be disposed of, or sold and the sale proceeds disposed of, in accordance with (a) of this section.

(d) Any property remaining after disbursements are made under this section automatically escheats to the state. Within 30 days the candidate must deliver the property to the Department of Revenue, and the department will deposit any moneys received into the general fund and dispose of any other property in accordance with state law.

Sec. 15.13.074. EXPENDITURES FOR OR AGAINST BALLOT PROPOSITION OR QUESTION. This chapter does not prohibit any person, or a publicly funded entity, from making independent expenditures in support of or in opposition to a ballot proposition or question. Such expenditures must be reported in accordance with AS 15.13.040 and 15.13.100 - 15.13.110 and other requirements of this chapter, and otherwise be consistent with AS 15.13.077.

Sec. 15.13.075. INDEPENDENT EXPENDITURES FOR OR AGAINST CANDIDATES. (a) Only an individual or group may make independent expenditures supporting or opposing a candidate for election to public office. Such expenditures must be reported in accordance with AS 15.13.040 and 15.13.100 - 15.13.110 and other requirements of this chapter.

(b) An individual who makes an independent expenditure supporting or opposing a candidate may not accept a contribution to help pay for the expenditure from any other individual or group in excess of the amount an individual may contribute to a group under AS 15.13.073.

(c) In addition to complying with AS 15.13.090, an individual or group who makes independent expenditures for a mass mailing, for distribution of campaign literature of any sort, for a television, radio, newspaper or magazine advertisement, or any other communication which supports or opposes a candidate for election to public office must place the following statement in the mailing, literature, advertisement or other communication so that it is readily and easily discernible: "This NOTICE TO VOTERS is required by Alaska law. (I/we) certify that this (mailing/literature/advertisement) is not authorized, paid for, or approved by the candidate."

Sec. 15.13.076. ELECTION EDUCATIONAL ACTIVITIES. Nothing in this chapter is intended to prohibit any person from engaging in educational election-related communications and activities, such as the publication of the date and location of an election, the education of students about voting and elections, the sponsorship of open candidate debate forums, participation in get out the vote or voter registration drives that do not favor any particular candidate, political party, or political position, or the equal dissemination of the views of all candidates running for a particular office.

Sec. 15.13.077. USE OF PUBLIC FUNDS PROHIBITED. (a) No person, the state, its agencies, and its corporations, the University of Alaska and its Board of Regents, municipalities, school districts and regional educational attendance areas, or any other political subdivision of the state may use public funds to influence the outcome of the election of a candidate to a state, municipal, or federal office.

(b) Public funds may be used to influence the outcome of an election concerning a ballot proposition or question but only if the funds are specifically appropriated for that purpose by a statute or a municipal ordinance.

(c) Public funds may be used to disseminate information about the time and place of an election and to hold an election. Public funds may be used to provide the public with nonpartisan information about a ballot proposition or question or about all the candidates seeking election to a particular public office.

(d) A public entity, and any other person, which spends public funds seeking to influence the outcome of an election must report the expenditures to the commission in the same manner as an individual under AS 15.13.040.

* Sec. 7. AS 15.13.080 is amended to read:

Sec. 15.13.080. STATEMENT BY CONTRIBUTOR. [A] An individual [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. An individual who contributes to more than one group within ninety days of an election and whose total contributions in money, or in the value of goods and services, in aggregate to all groups exceeds \$1000 in a calendar year, shall also furnish a statement, on a form made available by the commission. The statement shall identify the contributor and the candidate and all groups who received contributions, 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 groups or candidate, or the groups' or candidate's campaign treasurer[,] or deputy campaign treasurer at the time the contribution is made.

* Sec. 8. AS 15.13.110(b) and (c) are amended to read:

(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 group, candidate or campaign treasurer or deputy campaign treasurer.

(c) [THE REPORTS OF CANDIDATES SHALL BE FILED WITH THE COMMISSION'S CENTRAL OFFICE.] All reports required by this chapter shall be filed with the commission's central office and shall be kept open to public inspection. Within 30 days after each election, the commission shall prepare a summary of each report which shall be made available to the public at cost upon request. Each summary shall use uniform categories of reporting.

* Sec. 9. AS 15.13.120(a) is repealed.

* Sec. 10. AS 15.13.120(d) and (e) are repealed and readopted to read:

(d) Any person who believes a violation of this chapter or a regulation adopted under this chapter occurred or is occurring may file an action in superior court seeking injunctive relief and civil penalties under AS 15.13.125, or may file a complaint with the commission under (e) of this section. No action may be commenced under this subsection after two years have elapsed from the date of the alleged violation. The plaintiff in a superior court action shall serve the Attorney General and the commission with a copy of the Summons and Complaint. The commission, represented by the Attorney General, shall have the right to intervene in any such action.

(e) A member of the commission, the commission's director, or any other person who believes a violation of a provision of this chapter or a regulation adopted under it has occurred, may file an administrative complaint with the commission. The commission shall expeditiously make an investigation of the complaint. If a member of the commission has filed the complaint, then the member shall not participate as a commissioner in any proceedings of the commission with respect to the complaint. After affording a person due notice and an opportunity for a hearing, if the commission finds that the person has engaged in or is about to engage in an act or practice which constitutes or will constitute a violation of a provision of this chapter or a regulation adopted under it, the commission shall enter an order requiring the violation to cease and to be remedied, and shall assess civil penalties under AS 15.13.125. No action may be commenced by the commission under this subsection after four years have elapsed from the date of the alleged violation. The commission's exercise of jurisdiction under this subsection is not exclusive. A person who files a complaint under this subsection may withdraw it at any time and proceed under (d) of this section.

* Sec. 11. AS 15.13.125 is repealed and readopted to read:

Sec. 15.13.125. CIVIL PENALTIES. (a) A person who violates a provision of this chapter or a regulation adopted under this chapter is subject to a minimum civil penalty of

- (1) not less than \$1 nor more than \$10 per day for the 1st through the 10th day of a violation,
- (2) not less than \$10 nor more than \$50 per day for the 11th through the 20th day of a violation, and
- (3) not less than \$50 per day for each day a violation continues more than 20 days.

A person who violates a provision of this chapter or a regulation adopted under this chapter which continues more than 20 days is subject to a maximum civil penalty for each negligent or reckless violation of not more than \$250 per violation per day, and for each knowing or intentional violation of not more than \$500 per violation per day. Penalties assessed under this subsection (a) may be trebled under (d) of this section.

(b) In establishing the appropriate level of penalties under subsection (a), the commission or superior court may consider

- (1) as aggravating factors, whether the violator recklessly, knowingly or intentionally caused or participated in the violation, whether the violation was part of a series or pattern of violations in the same or past campaigns, and whether the violation may have caused any damage to the election campaign of another; and
- (2) as mitigating factors, whether the violator corrected the violation within 5 days after it occurred, and the violator's remedial conduct, if any, taken to correct the violation before the election and taken to prevent future violations.

If the commission or superior court finds that the violation was not a repeat violation or part of a series or pattern of violations, was inadvertent, was quickly corrected, and had no adverse effect on the campaign of another, it may suspend imposition of the penalties and forgive them if there are no similar violations for a period of one year.

(c) The commission, after the filing of an administrative complaint by any citizen under AS 15.13.120(d), by a member of the commission, or by the director of the commission, and after giving a respondent due notice and an

opportunity to be heard, shall upon proof of the complaint against a respondent assess civil penalties under (a) of this section, the commission's costs of investigation and adjudication, and reasonable attorney's fees. Any final administrative decision made by the commission under this subsection may be appealed to the superior court within 30 days.

(d) A superior court, upon the proof of a violation of this chapter in an action brought by a citizen under AS 15.13.120(d), shall adjudge against the defendant civil penalties under this section, which penalties shall be trebled, and shall award reasonable attorney's fees and costs to the prevailing party. The superior court may elect not to treble the civil penalties only upon proof that the violator did not knowingly cause the violation and corrected it within five days after it occurred. A complaining citizen may execute on the judgment and is entitled to 50% of any sums recovered, after reimbursement of any attorney's fees and costs awarded by the court. The remaining 50% of any sums recovered shall be delivered to the Department of Revenue for deposit in the state's general fund.

* Sec. 12. AS 15.13 is amended to add a new section to read:

Sec. AS 15.13.126 OTHER LAWS; SEVERABILITY. (a) Each provision of this Act shall be construed to avoid conflicts with any federal law that might otherwise prevail under the U.S. Constitution, Art. VI (Supremacy Clause).

(b) Each word, sentence, paragraph and subparagraph, section and subsection of this act is severable. If a court of competent jurisdiction determines that a particular word, sentence, paragraph, subparagraph, section or subsection of this act is invalid, such determination shall not affect the validity of any other word, sentence, paragraph, subparagraph, section or subsection.

(c) In the event that a court determines that the federal or state constitution requires that persons other than individuals be allowed to contribute to candidates or groups, the requirements, monetary limitations and restrictions of this chapter shall nonetheless bind such other persons.

* Sec. 13. AS 15.13.130(1) is amended to read.

Sec. 15.13.130. DEFINITIONS. In this chapter,
(1) "candidate"

(a) 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 for any of these offices;

(b) when a provision of this chapter limits or prohibits the donation, solicitation or acceptance of campaign contributions, or limits or prohibits the expenditure of campaign funds, then "candidate" includes in addition to the individual who is the candidate, a candidate's campaign treasurer and any deputy campaign treasurer, a member of the candidate's immediate family, a person acting as agent for the candidate, the campaign or a campaign committee, and any 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;

* Sec. 14. AS 15.13.130(4) is amended to read:

(4) "group" means

(a) every state and regional executive committee of a political party and [, IN ADDITION, MEANS]

(b) any combination of two or more [PERSONS OR] individuals acting jointly who organize for the principal and major purpose to influence the outcome of one or more elections and 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.

* Sec. 15. AS 15.13.130 is amended by adding new paragraphs to read:

(8) "commission" means the Alaska Public Office Commission;

(9) "honorarium" means a payment of money or anything of value by any person to a public official or to any other individual as consideration for an appearance, speech, or article made in connection with the duties of the public official or because of the individual's candidacy for a public office; "honorarium" does not include the payment of a salary or an expense reimbursement to which the recipient might otherwise be entitled as an employee of the person;

(10) "immediate family" means the spouse, parents, children, including a stepchild and an adoptive child, and siblings of an individual;

(11) "independent expenditure" means an expenditure that is made without the direct or indirect consultation or cooperation with, or at the suggestion or the request of, or with the prior consent of, a candidate, a candidate's campaign treasurer or deputy campaign treasurer, or any other person acting as a principal or agent of the candidate;

(12) "political party" has the meaning given in AS 15.60.010(20);

* Sec. 16. AS 11.56 is amended to add a new section to read:

Sec. AS 11.56.870. A person who

(1) intentionally violates a provision of AS 15.13, or a regulation adopted under AS 15.13 is guilty of a Class C felony.

(2) knowingly violates a provision of AS 15.13 or a regulation adopted under AS 15.13 is guilty of a Class A misdemeanor.

(3) recklessly or negligently violates a provision of AS 15.13 or a regulation adopted under AS 15.13 is subject to a minimum penalty in the amount of \$300 but not more than \$1,000 per violation.

For the purposes of this subsection, each day a violation continues constitutes a separate offense.

* Sec. 17. AS 12.55.015 is amended by adding a new subsection to read:

(d) Upon the judgment of conviction of a person under AS 11.56.870 for an intentional violation of a provision of AS 15.13 or a regulation adopted under it, the person shall forfeit any license to do business in the State of Alaska for a period of one year in addition to other penalties which may be imposed by law.

* Sec. 18. AS 24.45.121(a)(8) is amended to read:

(a) A lobbyist may not

(8) serve as a campaign manager or director, serve as a campaign treasurer or deputy campaign treasurer on a finance or fund-raising committee, host a fund-raising event, directly or indirectly collect contributions for, or deliver contributions to, a candidate, or otherwise [ACTIVELY] engage in the fund-raising activity of a legislative campaign or campaign for governor or lieutenant governor if the lobbyist has registered or is required to register during the calendar year; this paragraph does not apply to a representational lobbyist as defined in the regulations of the Alaska Public Offices Commission, and does not prohibit a lobbyist from making personal contributions in conformance with AS 15.13 or personally advocating on behalf of a candidate;

* Sec. 19. If enacted by the Legislature, this Act shall take effect immediately. If enacted by the vote of the people in a statewide election in accordance with article XI, section 6 of the Alaska Constitution, then this Act's effective date shall be determined in accordance with article XI, section 6 of the Alaska Constitution.

Alaska State Legislature



State Capitol
Juneau, Alaska 99801-1182
(907) 465-3720
(907) 465-2689

Official Business
Fax : (907) 465-3472

Speaker of the House of Representatives

January 10, 1996

RECEIVED
JAN 16 1996
Rep. Jeannette James

Mr. Len Karpinski
Alaska LP Chair
3030 Balchen Drive
Anchorage, AK 99517

Dear Mr. Karpinski:

Thank you for your letter regarding the campaign finance reform initiative which may be on the 1996 general ballot. Senator Kelly and Representative James have introduced legislation which is similar to the initiative in most ways (SB 191 and HB 368), and I will forward your comments on to them and to their respective State Affairs Committees to have them included in the committees bill packets when the bills are scheduled to be heard.

Again, I appreciate you sharing your concerns over this issue. When I can be of help in the future, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Gail Phillips".

Gail Phillips
SPEAKER OF THE HOUSE

GP:jmj

cc with enc: Senator Bert Sharp, Chair, Senate State Affairs Committee
Representative Jeannette James, House State Affairs Committee



Alaska Libertarian Party

"Is someone looking for a third party?"

3030 Balchen Drive - Anchorage, Alaska 99517
Meeting times 1(907)566-1235 - Voice 1(907)223-5103
Fax 1(907)248-4367 - Free info 1(800)682-1776

12/18/95

Rep. Gail Phillips
PO Box 3304
Homer, Alaska 99603

Dear Rep. Phillips:

I am concerned about what is known as the "campaign finance reform" initiative that will be on the 1996 Alaska general ballot. This is being sold as being a boon to the "little guy" by trying to keep the "big money" out of political campaigns. Well, the Libertarian Party is one of the "little guys" who will be profoundly hurt if this initiative becomes law. In fact, we would most definitely sue if it becomes law in its present form. And, we have a good record of winning such suits.

What we take exception to the most is the part of it that would change AS 15.13.070 to change contribution limits. This section sets different limits for political parties recognized by the state and those which are not. For example, the maximum amount an individual could contribute per year to one of the anointed political parties would be 5000 dollars. But, should that individual choose to contribute to a party which is not recognized by the state (such as the Libertarian Party at the moment), he would face a far different annual limit - 250 dollars per year. Unanointed parties such as the LP would face similar discriminatory limits when it came to contributing to their own candidates for state office - 500/year against Democrats, and Republicans' limit of 5000/year. I spend over 250 dollars a year easily out of personal cash to help the LP.

"Political party" is defined in AS 15.60.010(20) basically as a party that ran a candidate for governor in the last governor's election who got 3% or more of the total vote. Thus, it can be seen that the window of opportunity to become one of the recognized parties opens once every four years (and then only narrowly!). Maybe you can see why we view this initiative as an unconstitutional attempt by the big parties to keep competition out. Why else would all our living governors support it? All the talk about making a level playing field is useless happy talk when people who want to play are locked out of the field.

Further, we do not subscribe to the naive viewpoint that the "big money" will vaporize if the initiative becomes law. People who have much money have enough of it to hire

smart people to tell them how to get around any law. That's why rich people often pay no income tax. Anyone who does not see this is either a fool or has some vested interest in seeing this initiative pass in its present form. But I digress. Let's go to our suggestion to make the initiative more palatable to us:

Alaska is one of only 12 states in which there is no petition (or registration) procedure for a new party to attain "recognized" status. In 38 states, a group which wants to become a recognized party can do so at any time (instead of once every four years) by circulating a petition. Alaska is unique in that it has what are known as "limited political parties" organized only for the purpose of electing president and vice-president. Yet we do not have a similar procedure for creating a regular political party that is recognized by the government. If Alaska had such a procedure, then the proposed "campaign reform" initiative would be fairer to alternative parties. That limit on political parties that are not recognized by the government is unrealistically low. As it stands, the initiative is horribly discriminatory towards parties such as my own, and the Libertarian Party would most definitely sue against the initiative, as written, should it become law when the government's definition of "political party" is as it is.

If someone introduces a "substantially similar" bill in the Legislature, and it becomes law, then the initiative would not appear on the November ballot. Please consider introducing a bill which is substantially similar to the "campaign finance reform" initiative which would amend the section on "limited political parties", that is, AS 15.60.010(20), to take out the word "limited," and just provide that the 1% petition procedure could be used to create a fully-qualified party in general. Then, we could accept the remainder of the initiative becoming law. As it stands, we will fight it with all legal weapons at our command.

Please write back with your views on this subject.

For liberty,

A handwritten signature in black ink, appearing to read "L. Karpinski". The signature is fluid and cursive, with the first name "L." and last name "Karpinski" clearly distinguishable.

Len Karpinski
Alaska LP chair
Without Prejudice U.C.C. 1-207

Alaska State Legislature

716 W. 4TH AVE, SUITE 240-A
ANCHORAGE, ALASKA 99501-2133
258-8190 FAX: 258-8171



WHILE IN SESSION:
STATE CAPITOL
JUNEAU, ALASKA 99801-1182
465-2435 FAX: 465-2864

Representative David Finkelstein

SPONSOR STATEMENT

HB 317

A bill relating to campaign finance reform.

Citizens are tired of campaigns that last too long, are uninformative and expensive. The high cost of running an election dissuades many qualified candidates from running for office. Under the current campaign financing system the opportunities for abuse abound. Candidates are free to convert campaign funds to personal income at any time. Alaska law allows corporations and other special interest groups to make direct political contributions, including unlimited amounts to political action committees and political parties.

HB 317 provides much needed reform to our current campaign financing laws. It limits contribution amounts and bans the personal use of campaign funds. HB 317 attempts to limit the role special interests play in politics by banning out-of-state contributions and contributions from corporations and trade associations. The bill will help to reduce the length of campaign seasons by limiting the time when campaign contributions can be solicited. Finally, HB 317 provides for more enforcement and penalties for violations of campaign financing laws.

HB 317 will strengthen the credibility of the campaign financing system and help restore citizens faith in elected officials.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 7, 1996

SUBJECT: "Political party" definition in CSHB 368() (Work Order No. 9-LS1348\C)

TO: Representative David Finkelstein
Representative Jeannette James
Representative Brian Porter

FROM: Jack Chenoweth
Legislative Counsel

I find that I simply don't know enough about the relationship between the central political parties and their associated or affiliated groups to properly prepare language.

Two choices are presented--both as starting points for any suggestions or instructions you may have. In amendment C.1, I propose to define "political party" to mean the main party, its associated district or precinct committees, and any organization that becomes affiliated with the main political party. In amendment C.2, that last group is left out of the definition of "political party" and inserted in the definition of "group." If there are any other suggestions you may have, please let me know. Also, I'll take any suggested language changes that would make the descriptions of each of these more understandable.

In the existing bill, "group" includes "every state and regional executive committee of a political party." That material derives from the Initiative, but does anyone know why the political party's executive is given the status of a separate group? Just curious, but it may warrant attention depending on what happens with this material.

JBC:glc
96-153.glc

Enclosure

*Please tell JJ that
C.1 make sense - Ask
Walt to tell Jack E*

HB

369

Alaska State Legislature

REPRESENTATIVE
JEANNETTE JAMES

P.O. Box 56622
North Pole, Alaska 99705
(907) 488-1546
FAX (907) 488-9006



While in Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-3743
FAX (907) 465-2381

House of Representatives

House District 34

SPONSOR STATEMENT

HB 369 Procurement preferences for the disabled

January 17, 1996

This Bill will allow 100% disabled owned corporations and partnerships to be eligible for disabled bidder preferences.

Current law allows disabled owned sole proprietorships to take advantage of the disabled bidder preference.

Equal protection under the law requires all like situations to be treated fairly and equally. Current law discriminates against disabled owned corporations and partnerships, it does allow sole proprietorships

The Bill has a zero fiscal note.

The Bill is supported by the Departments of Education and Administration.

HB 369 is the same as HB 288 from last session. HB 288 passed both the House and the Senate and was subsequently vetoed by the Governor due to last minute riders tacked on in the Senate by the Governor's staff. The Governor's office apologized and said the bill will be supported this time.

The intent of this legislation is to create fairness.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 369

Revision Date: _____
 Title: "An Act extending to certain partnerships and corporations the 10 percent procurement preference . . ."
 Sponsor: Rep. James
 Requestor: _____

Department Affected: Administration
 BRU: General Services
 Component: Purchasing

COMPONENT SERIAL NO. 60

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 95) cost: \$ _____

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill extends the 10% bid evaluation preference for an Alaska bidder who is a sole proprietor with a disability to partnerships if each partner has a disability and to corporations if wholly owned by individuals with disabilities. The 10% evaluation preference is in addition to other preferences the bidders qualify for. Under this bill, agency personnel evaluating quotes, bids, or RFPs must calculate the 10% preference for the additional entities if they appear on the disabled vendor list maintained by the Department of Education, Division of Vocational Rehabilitation.

Prepared by: Dugan Petty, Director
 Division: General Services

Phone: 465-2250
 Date: _____

Approved by Commissioner: Mark Boyer
 Agency: Department of Administration

Date: 4/15/96

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information, call the Governor's Legislative Office