

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9414 HOUSE RULES

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to be called as an expert witness at trial, the subject matter on which he or she is expected to testify, and the substance of his or her testimony. In addition, you are under a duty to amend a prior response if you obtain information on the basis of which you know or have reason to know that the response was incorrect or misleading when made, or that the response, though correct when made, is no longer true, and the circumstances are such that failure to amend the response is, in substance, knowing concealment.

DEFINITIONS

The following definitions shall be controlling for the purposes of these interrogatories.

As used herein, the terms the Select Committee on Legislative Ethics refer to Plaintiff and each of your agents, executors, representatives, and attorneys, and each person acting or purporting to act on your behalf.

As used herein, the term "document" means any medium upon which intelligence or information can be recorded or from which it may be retrieved.

As used herein, the term "communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever including, but not limited to, correspondence, conversations, dialogues, discussions, interviews,

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consultations, agreements, and other understandings between or among two or more persons.

INSTRUCTION

With respect to each interrogatory, in addition to supplying the information requested, you are to identify all documents that support, refer to, or evidence the subject matter of each interrogatory and your answer thereto.

If any documents identified herein are no longer in your possession, custody or control because of destruction, loss, or any other reason, then do the following with respect to each and every document: a) describe the nature of the document (e.g., letter or memorandum), b) state the date of the document, c) identify the persons who sent and received the original and a copy of the document, d) state in as much detail as possible the contents of the document, and e) state the manner and date of the disposition of the document.

If you claim objection to any document or to any interrogatory on the grounds that it is privileged, please state a) the basis for your contention that the information is privileged, b) a means of identification of the document, c) the date of the document, d) the name, address, and relationship of the person who prepared the document, e) the name, address, and relationship to you of all persons to whom the document was addressed, given, or sent, and f) the name, address, and phone

number, place of employment, occupation, and current whereabouts in relation to of every person having possession, custody, or control of the document.

INTERROGATORY NO. 1: Please identify by name, address, and phone number each and every person who assisted in any way with the Complaint entitled H96-02 (hereinafter Complaint). This request includes but is not limited to the identity of the person or persons who signed the Complaint.

RESPONSE: The person identified as responsive to Interrogatory No. 1 is Michael E. Miller, 3457 E. 67th Ave., Anchorage, AK 99507, ph. 265-8791.

INTERROGATORY NO. 2: Please identify by place, time, and persons present each and every meeting and/or conversation of two or more people in which the Letter (which allegedly constitutes a violation) and/or Representative Sanders were discussed in any way since January 1, 1996. This interrogatory included but is not limited to any and all phone conversations or other communication between two or more persons.

For each meeting and/or conversation, please identify:

a) whether and to what extent any notice was provided, including but not limited to by whom, to whom, and in what manner the notice was provided;

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b) the authority under which the meeting/conversation was held;

c) whether and to what extent notes, diaries, minutes, or other memoranda were made at any meeting/conversation;

d) the person(s) in possession of said notes, diaries, minutes, or other memoranda identified in Interrogatory 2(c).

RESPONSE: Complainant objects to this request as it calls for material protected by attorney/client privilege and the work product doctrine. Notwithstanding said objections, complainant responds that on 3/11/96, Michael Miller brought to the office of the Select Committee on Legislative Ethics, the 3/4/96 letter from Representative Sanders to Ernest Woods, and spoke with Susan Barnett.

As is the Committee's policy when possible complaints are brought to its attention, Ms. Barnett gave Miller a form. She neither encouraged him nor discouraged him from bringing a complaint.

On 7/24/96, a House Subcommittee meeting was held concerning Mr. Miller's complaint. The members present were Margie Mac Neille, Shirley McCoy, Ed Granger, Joseph Donahue, and Cynthia Toohey. On 9/23/96, the House Subcommittee held another meeting to consider the complaint. In attendance were Margie Mac Neille, Ed Granger, Joseph Donahue, Edith Vorderstrasse and

Cynthia Toohey. The following information about these meetings is responsive to respondent's requests:

a) Public notice requirements were met. The notices of the meetings were faxed to the house clerk and senate secretary.

b) The Ethics Code covers all conversations and meetings held concerning this complaint.

c) The deliberations regarding the complaint were held in executive session and these sessions are not taped, nor are minutes kept.

d) N/A

INTERROGATORY NO. 3: Please provide the name, telephone number of each and every witness you intend to call at the trial in this matter.

RESPONSE: The witnesses identified to date are as follows:

- a) Michael E. Miller
3457 E. 67th Ave.
Anchorage, AK 99507
ph. 265-8791
- b) Carla Schofield
Legislative Affairs Agency
130 Seward Street, Ste. 313
Juneau, AK 99801-2197
ph. (907) 465-3852
- c) Ernest Woods
3457 E. 67th Ave.
Anchorage, AK 99507-2333
ph. 344-5583

- d) Linda McKay
Office Manager
Republican Party
Ph. 276-4467
- e) Representative Sanders
c/o Lester Syren
- f) Jeanne Lovell
c/o Lester Syren
- g) Jerry Ward
c/o Lester Syren
- h) Patricia Perez
c/o Lester Syren
- i) Lester Syren
c/o Lester Syren
- j) Other staff members of Representative Sanders as their
identity becomes known.
- k) Complainant reserves the right to supplement this list
as additional witnesses become known through further
discovery.

INTERROGATORY NO. 4: Please identify those witnesses whose
testimony will relate to factual issues and provide details of
their expected testimony.

RESPONSE: In response to Interrogatory No. 4, the expected
testimony, in general, of fact witnesses is as follows:

- a) Michael E. Miller:
Testimony concerning his complaint.
- b) Carla Schofield:

Testimony concerning the postage meter used to mail Representative Sander's subject 3/4/96 letter to Ernest Woods and possibly other constituents.

c) Ernest Woods:

Testimony concerning the subject 3/4/96 letter from Representative Sanders to him.

d) Linda McKay

Testimony concerning the straw poll held on 1/29/96.

e) Representative Sanders

Testimony concerning the subject 3/4/96 letter that he wrote to Ernest Woods and possibly other constituents.

f) Jeanne Lovell

Testimony concerning the subject 3/4/96 letter.

g) Jerry Ward

Testimony concerning the subject 3/4/96 letter.

h) Patricia Perez

Testimony concerning the subject 3/4/96 letter.

i) Lester Syren

Testimony concerning his involvement with the Republican Party as it relates to the instant complaint.

j) As additional witnesses are identified, the subject matter of their testimony will be disclosed in supplemental answer to Representative Sander's discovery.

INTERROGATORY NO. 5: Identify those witnesses whose testimony will relate to the issues of damages and give the details of their expected testimony.

RESPONSE: See response to Interrogatory No. 4 above. Witnesses Jeanne Lovell, Carla Schofield, and possibly other staff members of Representative Sanders, are believed to have knowledge concerning the State government resources used, and the cost to the State, in preparing and mailing the subject letter to constituents. Until complainant is able to interview Representative Sanders and his staff members, the total cost to the State is unknown.

INTERROGATORY NO. 6: Please provide the name, address and telephone number of each and every expert witness you intend to call at trial. (a) For each expert witness identified in the proceeding interrogatory, state the subject matter in which the expert is expected to testify. (b) The substance of the facts and opinions to which the expert is expected to testify, and (c) the evidence on which the expert will reply.

RESPONSE: No experts are expected to be called.

INTERROGATORY NO. 7: Please provide each expert's educational background and experience background. A copy of the expert's curriculum vita will be responsive to this response.

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RESPONSE: Not applicable.

INTERROGATORY NO. 8: For each allegation in your complaint state:

- (a) The factual basis for such allegation;
- (b) The evidence on which you intend to rely at trial to prove each allegation, and list the witnesses who will testify as to each allegation.

RESPONSE: The following is responsive to Interrogatory No. 8:

a) See 4/19/96 complaint letter from Michael Miller to the Select Committee with attached 3/4/96 letter from Representative Sanders to Ernest Woods. Susan Barnett also interviewed witnesses Mike Miller, Ernest Woods, Linda McKay, and Carla Schofield.

b) See response to Interrogatory No. 8 a) above, and response to Interrogatory No. 4 above concerning the general subject matter of the witnesses' testimony.

DATED this 7th day of October, 1996, at Anchorage, Alaska.

BOGLE & GATES, P.L.L.C.
Attorneys for the Select Committee
on Legislative Ethics

By: 

Michael R. Spaan

VERIFICATION

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)
_____)

I, Susan Burnett, being first duly sworn,
deposes and says:

1. I am the person above named.
2. I have read the foregoing and understand the contents thereof;
3. I have answered the Interrogatories and have signed said Interrogatories freely and voluntarily for the purposes set forth therein;
4. I verify that the information provided in response to these discovery requests are true and complete to the best of my knowledge and belief;
5. I verify that I have produced all the information known to me at this time and that I am under an obligation to update and supplement my responses in the future if any answer is found to be incorrect or I gain additional information which would change the answer.

DATED this 7th day of October, 1996, at Anchorage, Alaska.

By: [Signature]
Susie Burnett

SUBSCRIBED and sworn to before me this 7 day of October, 1996, at Anchorage, Alaska.

[Signature]
Notary Public in and for Alaska
My Commission Expires: 7/10/99

This is to certify that on the
____ of October, 1996, a true
and correct copy of this document
was hand delivered/mailed/faxed
to:

Lester K. Syren, Esq.
Law Offices of Lester K. Syren
1351 Huffman Road, Suite 2A
Anchorage, Alaska 99501

14-36

HOUSE SUBCOMMITTEE OF THE SELECT COMMITTEE ON
LEGISLATIVE ETHICS

ESTIMATED HEARING COSTS
November 14-15, 1996

RECEIVED
DEC 5 1996
LAW OFFICE OF
LESTER K. SYREN

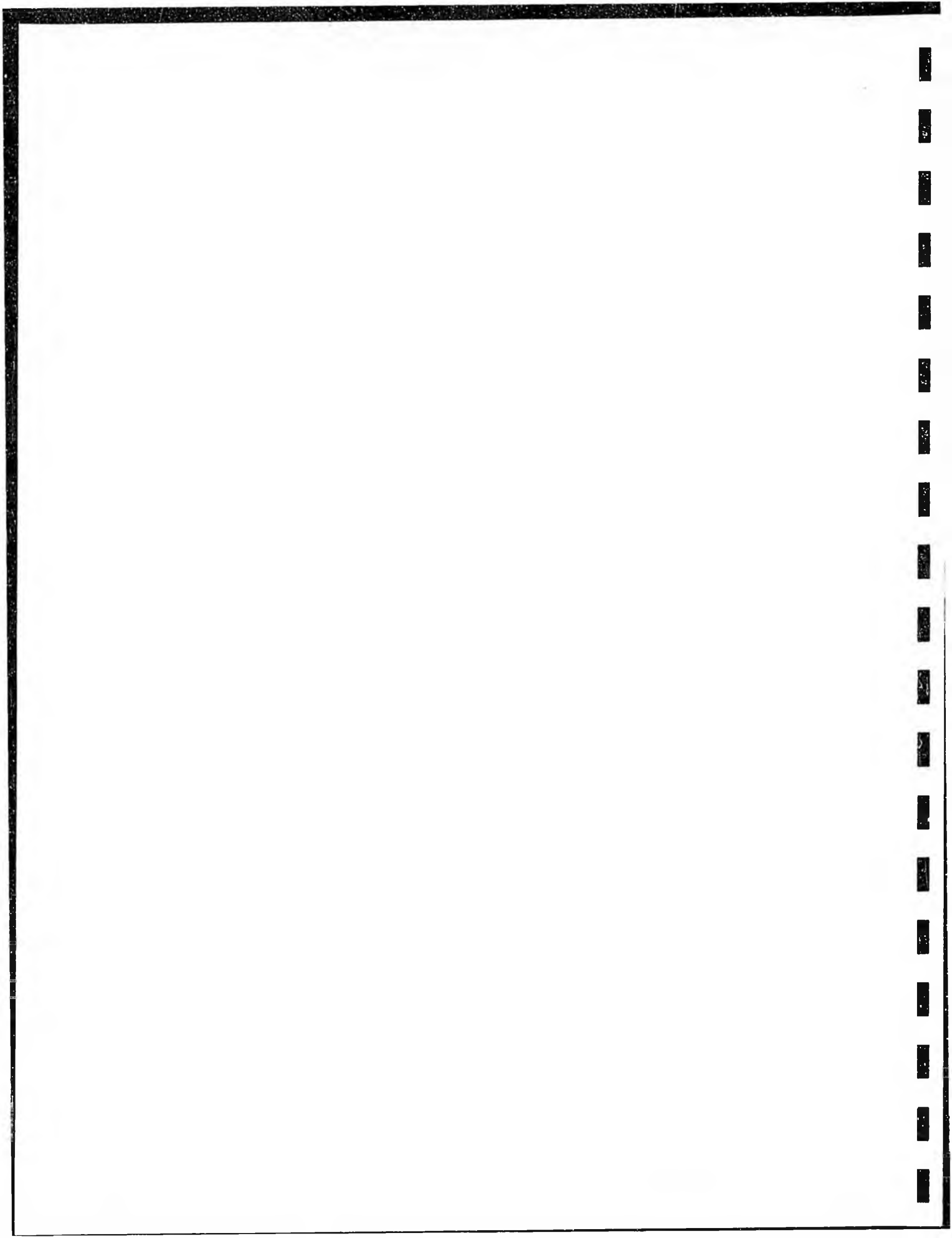
COURT REPORTER: Transcripts, PA system, recording	\$1193.00
HEARING OFFICER	\$4118.00
LEGAL COUNSEL: from point of probable cause related to public hearing	\$12,487.00
STAFF TIME from point of probable cause (above normal 50-35 hour weeks)	\$200.00
<u>ESTIMATED TOTAL</u>	<u>\$17,998.00</u>

COMMITTEE: Per Diem

*Travel not included as subcommittee needed
to meet on other matters. 3 members submitted Per Diem requests. Total
unknown at this time.*

*Legal Counsel Costs related to petition filed in Superior Court by Rep.
Sanders: \$6364.00*

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This warrant will be deemed paid when received within
two years after the date of issue for AS 37.25.700

No. 33000448

STATE OF ALASKA LONGEVITY BONUS WARRANT

DATE OF ISSUE 08/01/88

88-52/1282
NOT TO EXCEED \$792.00

DOLLARS	CENTS
[REDACTED]	

PAY

TO THE ORDER OF

|||||
[REDACTED]

NOT NEGOTIABLE

Please carefully detach at perforation

33000448

Dear Longevity Bonus Recipient;

Legislators left Juneau without performing their most basic responsibility—passing a balanced state budget. The result is a gaping \$400 million hole in the budget and cuts to vital programs, including such medical services for the elderly as eyeglasses, hearing aids and acute dental care.

Alaskans deserve better. I am urging your lawmakers to adopt my Safe Landing Budget Plan that balances the budget in 3 years and also protects your basic services.

Sincerely,
Tony Knowles
Governor

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Your Permanent Fund Dividend Program 1997 Household Application Booklet



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

P.O. Box 110071
Juneau, Alaska 99811-0071
(907) 486-2400
Fax (907) 486-2433

Dear Alaskan,

One of the best things about being Governor is this chance to send you your application for the Permanent Fund Dividend. It's a unique program that lets all of us share the benefits of our publicly owned resources. I'm especially pleased this year to join other Alaskans in celebrating the 20th anniversary of the Permanent Fund. We should all be proud of the \$19 billion we've set aside so far to help keep our economy stable in the days of declining state revenues.

I have asked the folks at the Dividend Division to find better ways to serve you in the years ahead. They are exploring taking applications by computer or telephone, and are considering other streamlining ideas. It's my commitment to make the process easier, more efficient and understandable for everyone. Please note that this booklet also contains a voter registration application. If you need to register or update your voter registration address, please take this opportunity to do so. If you have questions about any part of this booklet, contact the dividend information office nearest you (see Page 2 for telephone numbers).

Our Permanent Fund is one of the most successful public policy programs in the world today. As we mark this special anniversary, let us also reaffirm the commitment of all Alaskans to protect the Fund for future generations.

Sincerely,

Tony Knowles
Governor

15 YEARS OF PERMANENT FUND DIVIDENDS

Year	Amount	Year	Amount
1982	\$1,000.00	1990	.952.63
1983	.386.15	1991	.931.34
1984	.331.29	1992	.915.84
1985	.404.00	1993	.949.46
1986	.556.26	1994	.983.90
1987	.708.19	1995	.990.30
1988	.826.93	1996	1,130.68
1989	.873.16		

Application Deadline March 31, 1997

Think about how it looks to the public when legislative employees participate in campaigns, especially the campaign of the person for whom they work.

May a legislative employee design a campaign flyer either at work or in a private location while on government time?

No.

May a legislative employee participate in gathering signatures for a ballot initiative while on government time?

No, initiatives and referendums are not legislative duties. They are considered political activities and fall within the prohibition.

If a legislator sets a schedule that, for example, allows an employee to work for five hours, be on personal time in the afternoon and return to work for three hours in the evening, may a legislative employee participate in campaign activities on the designated personal time?

Yes, so long as the employee is not in a state building while doing campaign work.

May a legislative employee assist a legislator in completing APOC campaign disclosure statements while on government time or in a state building?

No.

MASS MAILING: USE OF STATE FUNDS

AS 24.60.030(c)

State money may not be used to print or distribute a mass mailing from or about a legislator who is a candidate for state office, during the period beginning 90 days before the primary and ending the day after the general or special election. However, a legislator's personal office allowance may be used for these mass mailings at any time. The Ethics Committee may grant exceptions to this prohibition in specific cases.

JUNEAU EMPIRE

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A new demagoguery?

The censure this week of U.S. House Speaker Newt Gingrich of Georgia and the ethics charges against State Rep. Jerry Sanders brought before the House Wednesday are indicative of how badly politics in this country, and in Alaska, has deteriorated. Paul E. Begala, an adviser to President Clinton from 1991 to 1995, recently wrote he believes we have begun to make criminals of those whose politics differ from ours.

Politics has always been a rough-and-tumble affair in America. Angry speeches, accusations, scandalous innuendo and other dirty tricks have been a part of the political landscape since the Revolution. That same unbridled political spirit has marked Alaska's politics since long before statehood. Although politicians across the decades have engaged in some bloody battles (literal as well as figurative) and often crossed the boundaries of good taste, seldom have opponents stooped so low as to make political differences a crime.

Since Watergate, Congress and various legislatures have tried to keep a little honesty in politics by creating ethics committees and writing rules to govern politicians' ethical conduct. Unfortunately, these new rules and committees apparently have become but another weapon in the politicians' bags of dirty tricks.

Newt Gingrich charged into Washington in 1992 at the head of what was called a new breed of politicians who claimed they had a Contract with America to change the way things are done in the nation's capital. Needless to say, they shook up Washington's power structure, Democrats and Republicans alike.

Gingrich stumbled along the way and now establishment politicians are extracting their revenge. He is the first Speaker of the House ever to be sanctioned for "serious ethical violations." Gingrich admits he made some errors in judgment, and yet using campaign funds to underwrite a college course he taught was once called academic freedom; now it's a serious violation of ethics.

Here in Alaska, Rep. Jerry Sanders is accused of violating legislative ethics for using state funds to send letters to his constituents, thanking them for voting in the GOP straw poll. This is a gray area in the rules; legislators have routinely used state funds in the past for similar purposes, Sanders says. If lawmakers don't believe funds should be used in this manner, they should write rules that more specifically prohibit such constituent service - and without a grandfather clause. Changing the rules in the middle of the game still is not sportsmanlike.

Sanders did make a mistake by cavalierly refusing to answer questions of the ethics committee. He should have. However, Sanders plans to tell his side of the story Monday during a hearing in the Rules Committee. We hope he is candid.

Meanwhile, one can't help but wonder if Sanders' ethics were questioned not because of any improper behavior on his part, but because he was running hard for office and, like Gingrich, making things difficult for his opponent. Have we created a new form of demagoguery where politicians are branded criminals because they dare to disagree?

1/12/97

STATE WARRANTS 07/92-12/96 BY VENDOR

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VENDORS ARE LISTED ONLY IF THEY RECEIVED \$500 OR MORE IN 95 OR 96

7/92-12/92	1993	1994	1995	1996		
			1000	200	ARTSWIRE	NEW YORK FOUNDATION FOR THE ARTS NEW YORK NY
		1000	1000		ARTSWIRE	824 SOUTH MILL AVE TEMPE AZ
		226	733		ARTURO FRIZZERA	
		1176	2074	1559	ARTWIN E SCHMIDT	
				797	ARTWORK CONVERSION, INC	1320 MISSION ST, SUITE 5
				737	ARVIDS WOODS	2820 RUCKER AVENUE
	115	396	610	147	ARVIO, INC	P O BOX 9
				5262	ARVISTA	
			800		ASA L GARL AND CATHY J ERLAND	951 CHENA HOT SPRINGS ROAD
		350	1900	2220	ASA, ALASKA CHAPTER	ALLEN E BINGHAM, TREASURER
			7878	39769	ASACARSAMIUT TRIBAL COUNCIL	P O BOX 32249
			1012	353	ASAP TECHNOLOGIES INC	
			2976		ASAY TRUCKING, INC	P O BOX 112089
	2800	866	2976	11720	ASBESTOS REMOVAL SPECIALISTS OF AK	1189 VAN HORN ROAD
307	1427	1232	4864	10978	ASCENT SOLUTIONS INC	10460 MIAMISBURG-SPRINGBORO PIK MIAMI OH
			60		ASCG, INC	213 3RD STREET, STE 101
195716	425898	92832	10393	56574	ASCG, INCORPORATED	301 ARCTIC SLOPE AVENUE, SUITE 2 ANCHORAGE AK
259350	574217	186595	138559	5070	ASCHENBRENNER LAW OFFICES INC	
			1000	1000	ASCOM HASLER MAILING SYSTEMS INC	DBA AMS-TMS
		2486	4477	3727	ASCOM HASLER MAILING SYSTEMS INC	P O BOX 895
		8050	700	8100	ASDWA - ASSOCIATION OF STATE	DRINKING WATER ADMINISTRATORS
401405	799022	796392	794116	866580	ASEA LEGAL SERVICES TRUST FUND	3111 "C" STREET, SUITE 410
2525	6025	7064	10785	7419	ASEPSIS AIR CONTROL	P.O. BOX 17261
	258	95214	289603	300395	ASHBURN & MASON	A PROFESSIONAL CORPORATION
				681	ASHGATE PUBLISHING	OLD POST ROAD
				4735	ASHLAND CHEMICAL INC	DBA DREW AMERIOD MARINE
				229658	ASHLAND CHEMICAL, INC	P O BOX 101189
					ASHLAND CHEMICAL, INC	PO BOX 2219
				4915	ASHLAND INC	DREW MARINE DIVISION
				1587	ASHMORE TRAVEL	
				672	ASHRAE INC	
			28516	1089	ASIAN ALASKAN CULTURAL CENTER	1791 TULLIE CIRCLE NW
			74016	93342	ASIST, INC	P O BOX 243032
			2550		ASKINUK CORPORATION	2900 BONIFACE PARKWAY, SUITE 100 ANCHORAGE AK
660	1881	1584	2550	1954	ASKSAM SYSTEMS	P O BOX 89
	281	1022	184	700	ASPA, AK CHAPTER	P O BOX 1428
				1150	ASPEN AERIALS, INC	P O BOX 100176
				7576	ASPEN LAND SERVICES	4303 W. 1ST STREET
					ASPEN LAWN SERVICE AND LANDSCAPING	3605 ARCTIC BLVD. #201
				1668	ASPEN PUBLISHERS INC	12700 KILLEY STREET
				6852	ASPEN PUBLISHERS, INC	P O BOX 64829
				690	ASPEN PUBLISHERS, INC	ACCOUNTS RECEIVABLE DEPT
				2771	ASPEN PUBLISHERS, INC	P O BOX 64141
				828	ASPHALT INSTITUTE	200 ORCHARD RIDGE DRIVE
				25650	ASPLUND SUPPLY INC	P O BOX 14052 RESEARCH PARK DRIVE WASHINGTON DC
				230724	ASPLUND SUPPLY, INC	4005 SPENARD RD
				816	ASCO COMMUNICATIONS, INC	P O BOX 2006
					ASSCO OF SCIENCE-TECHNOLOGY CENTERS	DBA BARROW CABLE T.V
				60003	ASSEMBLIES OF GOD	1025 VERMONT AVE, NW
				2393	ASSESSMENT SYSTEMS, INC	ALASKA DISTRICT COUNCIL
				1190	ASSET ALTERNATIVES, INC	P O BOX 8588
						180 LINDEN STREET, SUITE THREE WELLESLE MA

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1/15/97

 STATE WARRANTS 07/92-10/96
 DETAIL LISTING IN VENDOR - DATE ORDER

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WARRANT#	DATE	AMOUNT	NAME/ADDRESS	DEPT/ACCOUNT
24085608	94/08/19	25.00	ASHBURN & MASON	08 DEPT OF COMMERCE & ECONOMIC DEVELOPMENT 58735 LICENSES, FEES, PERMIT RECEIPTS - GENERAL FEES RECEIVE
24501403	95/08/11	100.00	ASHBURN & MASON	08 DEPT OF COMMERCE & ECONOMIC DEVELOPMENT 58735 LICENSES, FEES, PERMIT RECEIPTS - GENERAL FEES RECEIVE
23735374	93/10/26	258.00	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	04 DEPT OF REVENUE 73209 SPECIAL LEGAL /
23980505	94/05/25	1,300.00	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS /
24038509	94/07/14	11,295.04	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS /
24063604	94/08/03	785.00	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS /
24116380	94/09/15	60,605.34	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	24 DEPT OF TRANSPORTATION & PUBLIC FACILITIES 75150 EASEMENTS/RT OF WAY /
24150754	94/10/13	9,203.99	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS /
24160187	94/10/21	475.08	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	05 DEPT OF EDUCATION 73270 OTHER PROF SERVICES /
24166884	94/10/27	2,415.97	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS /
24191518	94/11/17	145.56	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	05 DEPT OF EDUCATION 73270 OTHER PROF SERVICES /

1/15/97

STATE WARRANTS - 07/92-10/96 -
 DETAIL LISTING IN VENDOR - DATE ORDER

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WARRANT#	DATE	AMOUNT	NAME/ADDRESS	DEPT/ACCOUNT	
24192364	94/11/17	2,104 63	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS	/
24225422	94/12/15	6,884 20	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS	/
24267591	95/01/24	177 92	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	05 DEPT OF EDUCATION 73270 OTHER PROF SERVICES	/
24285680	95/02/09	1,962 97	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS	/
24446264	95/06/26	6,548 20	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS	/
24490315	95/08/01	26,930 73	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS	/
24541207	95/09/13	69 27	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS	/
24541207	95/09/13	8,081 03	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS	/
24603718	95/11/02	24,918 97	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS	/
24603718	95/11/02	25,000 00	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS	/
24620043	95/11/17	41 52	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	06 DEPT OF HEALTH & SOCIAL SERVICES 73213 CONTRACTED LEGAL SVCS	/
24655636	95/12/21	24,133 53	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS	/

1/15/97

STATE WARRANTS 07/92 10/96
DETAIL LISTING IN VENDOR - DATE ORDER

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WARRANT#	DATE	AMOUNT	NAME/ADDRESS	DEPT/ACCOUNT
24656361	95/12/22	52,504 99	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS /
24656361	95/12/22	11,526 08		03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS /
24656361	95/12/22	107,466 82		03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS /
24656932	95/12/22	239 96	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	06 DEPT OF HEALTH & SOCIAL SERVICES 73213 CONTRACTED LEGAL SVCS /
24669967	96/01/05	6,453 00	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS /
24699138	96/01/11	136 80	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	06 DEPT OF HEALTH & SOCIAL SERVICES 73213 CONTRACTED LEGAL SVCS /
24714676	96/02/14	353 36	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	06 DEPT OF HEALTH & SOCIAL SERVICES 73213 CONTRACTED LEGAL SVCS /
24723950	96/02/22	1,697 40	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS /
24747050	96/03/14	302 67	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	06 DEPT OF HEALTH & SOCIAL SERVICES 73213 CONTRACTED LEGAL SVCS /
24748077	96/03/14	598 68	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	06 DEPT OF HEALTH & SOCIAL SERVICES 73213 CONTRACTED LEGAL SVCS /
24757062	96/03/22	7,110 20	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS /
24762359	96/03/28	15,864 49	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS /

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STATE WARRANTS - 07/92-10/96 -
DETAIL LISTING IN VENDOR - DATE ORDER

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WARRANT#	DATE	AMOUNT	NAME/ADDRESS	DEPT/ACCOUNT
24762359	96/03/28	28,199 04		03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS
24768636	96/04/03	26,755 04	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS
24777924	96/04/10	413 37	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	06 DEPT OF HEALTH & SOCIAL SERVICES 73213 CONTRACTED LEGAL SVCS
24802583	96/05/01	20,605 87	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS
24814403	96/05/13	14,625 93	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS
24846133	96/06/10	24,955 99	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS
24862125	96/06/21	4,976 64	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS
24871389	96/06/27	8,051 33	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS
24897882	96/07/22	7,095 00	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS
24897951	96/07/22	7,899 42	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 W SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS
24914399	96/08/03	3,674 98	ASHBURN & MASON A PROFESSIONAL CORPORATION 601 W 5TH ST #505 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS

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DETAIL LISTING IN VENDOR - DATE ORDER

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WARRANT#	DATE	AMOUNT	NAME/ADDRESS	DEPT/ACCOUNT
24914399	96/08/03	3,674.98		03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS
24945175	96/08/26	52.35	ASHBURN & MASON A PROFESSIONAL CORPORATION 601 W. 5TH STE #505 ANCHORAGE AK 99501	06 DEPT OF HEALTH & SOCIAL SERVICES 73213 CONTRACTED LEGAL SVCS
24945175	96/08/26	52.35		06 DEPT OF HEALTH & SOCIAL SERVICES 73213 CONTRACTED LEGAL SVCS
24954395	96/09/04	3,836.75	ASHBURN & MASON A PROFESSIONAL CORPORATION 601 W. 5TH STE #505 ANCHORAGE AK 99501	06 DEPT OF HEALTH & SOCIAL SERVICES 73213 CONTRACTED LEGAL SVCS
24969549	96/09/16	135.29	ASHBURN & MASON A PROFESSIONAL CORPORATION 601 W. 5TH STE #505 ANCHORAGE AK 99501	06 DEPT OF HEALTH & SOCIAL SERVICES 73213 CONTRACTED LEGAL SVCS
24977250	96/09/21	49.12	ASHBURN & MASON A PROFESSIONAL CORPORATION 601 W. 5TH STE #505 ANCHORAGE AK 99501	06 DEPT OF HEALTH & SOCIAL SERVICES 73213 CONTRACTED LEGAL SVCS
25002508	96/10/11	15.25	ASHBURN & MASON A PROFESSIONAL CORPORATION 601 W. 5TH STE #505 ANCHORAGE AK 99501	06 DEPT OF HEALTH & SOCIAL SERVICES 73213 CONTRACTED LEGAL SVCS
25003968	96/10/14	42,602.91	ASHBURN & MASON A PROFESSIONAL CORPORATION 601 W. 5TH STE #505 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS
25003979	96/10/14	59.44	ASHBURN & MASON A PROFESSIONAL CORPORATION 601 W. 5TH STE #505 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS
25064432	96/12/03	42.79	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 WEST SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS
25073853	96/12/11	259.96	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 WEST SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	06 DEPT OF HEALTH & SOCIAL SERVICES 73213 CONTRACTED LEGAL SVCS
25084498	96/12/19	17,294.77	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 WEST SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS

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STATE WARRANTS 07/92-10/96 -
DETAIL LISTING IN VENDOR - DATE ORDER

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WARRANT#	DATE	AMOUNT	NAME/ADDRESS	DEPT/ACCOUNT
25090349	96/12/24	52,550 33	ASHBURN & MASON A PROFESSIONAL CORPORATION 1130 WEST SIXTH AVENUE, SUITE 100 ANCHORAGE AK 99501	03 DEPT OF LAW 73213 CONTRACTED LEGAL SVCS /

TOTAL WARRANTS PRINTED - 59

1/19/97

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WARRANT#	DATE	AMOUNT	NAME/ADDRESS	DEPT/ACCOUNT
23826790	94/01/13	9 00	ASHBURN & MASON INC	10 DEPT OF NATURAL RESOURCES 55135 PROCESSING FEE /
23846755	94/02/01	6 00	ASHBURN & MASON INC	10 DEPT OF NATURAL RESOURCES 55135 PROCESSING FEE /
24829025	96/05/27	100 00	ASHBURN & MASON INC	08 DEPT OF COMMERCE & ECONOMIC DEVELOPMENT 58735 LICENSES, FEES, PERMIT RECEIPTS - GENERAL FILES RECEIVE

TOTAL WARRANTS PRINTED = 3

1/30/97
S. Barnett for
The Select Committee on Legislative Ethics
House Subcommittee

CASE REVIEW H 96-02

April 19, 1996: The House subcommittee received complaint H 96-02, filed by Mike Miller against Rep. Sanders, on April 19, 1996. A copy was mailed to Rep. Sanders in Juneau and a copy sent to his attorney, Lester Syren, same day.

May 7, 1996: Last day of the regular legislative session.

May 8- June 6, 1996: Legislature under special session call.

May 20, 1996: Notice of June 7 House Subcommittee meeting on H 96-02. sent to Lester Syren by Michael Spaan, counsel to the subcommittee.

June 7, 1996: The subcommittee was scheduled to meet to review the complaint on June 7, 1996. The meeting was rescheduled, due to special session, to July 24, 1996.

July 24, 1996: Subcommittee adopted a Scope of Investigation/H 96-02.

July 25, 1996: A copy of the resolution was sent to Rep. Sanders and the complainant, Mike Miller.

August 5, 1996: Letter to Syren from Spaan, requesting a conversation about proceedings related to H 96-02.

August 7, 1996: Attempt by Bogle and Gates law firm to set up interviews related to investigation.

August 8, 1996: A letter was sent from Bogle and Gates to Syren related to investigation.

August 12, 1996: Syren sent a letter to subcommittee.

August 13, 1996: Syren sent the committee a discovery request.

August 15, 1996: Spaan sent letters to Syren.

August 27, 1996: Letter to subcommittee from Syren.

August 30, 1996: Spaan sent a letter to Syren.

Ex. "E"

September 4, 1996: Syren sent letter to subcommittee.

September 9, 1996: Subcommittee issued Public Notice of House Subcommittee Meeting scheduled for September 23, 1996.

September 10, 1996: Spaan sent a letter to Syren.

September 23, 1996: House Subcommittee meeting, Syren attended the open session portion. Committee went into executive session.

September 24, 1996: A copy of the formal charges faxed to Syren's office.

September 25, 1996: The formal charges with accompanying documents were sent via certified mail to Lester Syren.

September 26, 1996: US Postal Service Return Receipt shows charges were delivered on September 26, 1996.

October 1, 1996: Subcommittee sent out request to members to submit calendar information for the months of October, November and December, indicating when they would not be available for meetings.

October 7, 1996: Syren letter to subcommittee, stating objections to the formal charges and summons.

October 8, 1996: Subcommittee sent letter to Spaan and Syren indicating subcommittee's intention to seek independent counsel to serve as master on discovery and hearing officer with a list of 11 potential masters/hearing officers. Letter requested that recommendations, whether for retention or disqualification or additional names, be submitted to the office no later than noon on Friday October 11, 1996. Copy of Oct. 7 Syren letter and Oct. 8 letter and list to Syren and Spaan sent to House Subcommittee members.

October 10, 1996: Letter from Subcommittee mailed and faxed to Syren and Spaan stating that "if Representative Sanders requests a public hearing, it is the intention of the House Subcommittee of the Select Committee on Legislative Ethics to hold the public hearing on November 14 and 15, 1996 in Anchorage, Alaska. This is subject, of course, to a pre-hearing order issued by the committee master."

October 11, 1996: Syren sent letter to subcommittee at noon posing procedural questions concerning hearing officer and requesting that he be given until October 25 to respond to the list of names. Spaan sent letter recommending two people. Chair of the subcommittee reviewed the letters and the list and appointed Michael White. Letter and back up materials were given

to White with request for resolution on summons, response issue, hearing date, public documents, pre-hearing order and procedural matters. Copy of letter to White was faxed to Syren and Spaan on 10/11/96.

October 14, 1996: White sent a letter Syren and Spaan, requesting a status hearing on October 16 and requesting that both attorneys contact him to discuss scheduling. Syren sent letter to Spaan and White stating he would be unable to attend status conference, that he had not been allowed to participate in the hearing officer/master selection process and that he felt White had a conflict in the case. Syren submitted a change of judge request on Oct. 14. White forwarded the letter and request for change of judge to the subcommittee, deferring the ruling and requesting direction from the subcommittee.

October 15, 1996: Syren sent letter adding information to the conflict issue. After review of issue, Subcommittee sent letter later the same day to White clarifying that White would not be replaced as master. White issued Order #1 on this date, relating to decision not recuse hearing officer and setting a status conference. Subcommittee issued subpoena to LAA via fax and US certified mail.

October 16, 1996: White held status conference at 5:00 p.m. Syren faxed letter to White, after 5:00 p.m. but prior to status conference, commenting on various aspects of the case. White issued Order #2, post status conference, setting hearing date of November 14 and 15, addressing discovery procedures and the public documents issue. Subcommittee filed public notice with the Chief House Clerk of October 22, 1996 teleconference meeting on procedural matters related to H 96-02. Copy faxed to Syren and Spaan on October 17.

October 17, 1996: Spaan sent request Syren for scheduling depositions for Rep. Sanders and key witness.

October 18, 1996: Syren sent letter to White, objecting to aspects of Order #2. White sent letter to Syren in response and set schedule for briefs to be filed on the public documents issue. White issued Order #3, relating to extended time to file a brief on the public documents issue and Order #4, relating time to respond to discovery requests. Syren filed objection to subpoena issued by subcommittee to LAA to produce computer back up information.

October 21, 1996: White issued Order #5, setting schedule for response on subpoena issue. Syren filed Emergency Petition for Review and Request for Stay of Proceedings with the Superior Court.

October 22, 1996: House Subcommittee meeting, public session. Subcommittee reaffirmed appointment of White as Hearing Officer, and affirmed orders 1-5. Syren attended and was provided copy of tape recording of session. Judge Murphy issued an Order of Stay. No communication requested

or received by Judge Murphy from the subcomm. prior to issuing Order to Stay.

October 23, 1996: Subcommittee filed Change of Judge in Superior Court.

October 24, 1996: Syren filed opposition to Change of Judge. Subcommittee filed motion to vacate Judge Murphy's order and to Dismiss Emergency Petition.

October 28, 1996: Subcommittee receives notice that Judge Eric Sanders is appointed to case in Superior Court. Judge sets 4:30 p.m. hearing. Judge determines that Court does not have jurisdiction over Legislature in this matter.

RULES

Pres Primary
on books from
180 to 184

HB0298
HB 298
4/24/91

Referred: State Affairs, Judiciary, Finance
BY REPRESENTATIVES ULMER, Brown, Parnell, G.Phillips

"An Act establishing a presidential primary election; and providing for an effective date."
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 15.13 is amended by adding a new section to read:

Sec. 15.13.012. INAPPLICABILITY TO PRESIDENTIAL PRIMARY. The provisions of this chapter do not apply to a presidential primary election under AS 15.25.221 - 15.25.261.

* Sec. 2. AS 15.25.010 is amended to read:

Sec. 15.25.010. PROVISION FOR PRIMARY ELECTION. Candidates for the elective state executive and state and national legislative offices shall be nominated in a primary election by direct vote of the people in the manner prescribed by AS 15.25.010 - 15.25.200 THIS CHAPTER .

* Sec. 3. AS 15.25 is amended by adding new sections to read:
ARTICLE 2. PRESIDENTIAL PRIMARY ELECTION.

Sec. 15.25.221. PRESIDENTIAL PRIMARY ELECTION. (a) The lieutenant governor shall call a presidential primary election on the third Tuesday in April of a year in which the President of the United States is elected.

(b) The lieutenant governor may conduct the presidential primary election on a date other than the date set in (a) of this section if the lieutenant governor sets the different date in a proclamation issued by September 1 of the year preceding the presidential election. (c) The lieutenant governor shall prepare and distribute the ballot for the presidential primary election in the manner prescribed by AS 15.25.060.

Sec. 15.25.231. PLACEMENT OF NAMES ON THE PRESIDENTIAL PRIMARY ELECTION BALLOT. The lieutenant governor shall place on the presidential primary election ballot the name of each candidate for President of the United States who, as of the date five weeks before the election, has been certified by the Federal Election Commission under 26 U.S.C. 9036(a), and has not withdrawn the candidate's candidacy.

Sec. 15.25.241. ACCESS TO THE PRESIDENTIAL PRIMARY ELECTION BALLOT BY PETITION. (a) The name of a person who does not qualify for placement on the ballot under AS 15.25.231 may be placed on the ballot if a petition is filed on the person's behalf that contains the signatures of a number of registered voters equal to one percent of the votes cast for governor in the most recent gubernatorial election. A petition under this subsection shall be filed with the lieutenant governor no later than seven weeks before the date of the election and must

(1) contain the person's full name, the name of the political party, if any, to which the person belongs, a statement that the subscribers to the petition are qualified voters, and a statement that the subscribers request that the person's name be placed on the presidential primary election ballot; and

(2) contain the printed name and the residence address of each subscriber to the petition next to the subscriber's signature.

(b) The lieutenant governor shall immediately notify a person on whose behalf a valid petition under this section has been filed of the filing, and shall advise the person that the person may withdraw the person's name from the presidential primary ballot no later than five weeks before the date of the election. A request to withdraw under this subsection must be in writing, and may be transmitted to the lieutenant governor by facsimile transmission.

EXHIBIT F

Sec. 15.25.251. PRESIDENTIAL PRIMARY ELECTION NONBINDING. The results of the presidential primary election are not binding on the delegates selected by a political party to the national convention of that party.

Sec. 15.25.261. PROCEDURES FOR CONDUCT OF ELECTION. The provisions of this title regarding the conduct of a general election govern the conduct of the presidential primary election, except to the extent that the provisions of AS 15.25.221 - 15.25.261 are inconsistent with those provisions.

* Sec. 4. This Act takes effect July 1, 1991.

HB0298

CSHB 298(JUD)

5/15/91

Referred: Finance

Sponsor(s): REPRESENTATIVES ULMER, Brown, Parnell, G.Phillips

BY THE HOUSE JUDICIARY COMMITTEE

"An Act establishing a presidential primary election for 1992; and providing for an effective date."
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. PRESIDENTIAL PRIMARY ELECTION TO BE HELD IN 1992. (a) The lieutenant governor shall call a presidential primary election on the third Tuesday in May in 1992. (b) The lieutenant governor may conduct the presidential primary election on a date other than the date set in (a) of this section if the lieutenant governor sets the different date in a proclamation issued by September 1, 1991. (c) The lieutenant governor shall prepare and distribute the ballot for the presidential primary election in the manner prescribed by AS 15.25.060.

* Sec. 2. PLACEMENT OF NAMES ON THE PRESIDENTIAL PRIMARY ELECTION BALLOT. The lieutenant governor shall place on the ballot for the 1992 presidential primary election established in sec. 1 of this Act the name of each candidate for President of the United States who, as of the date five weeks before the election, has been certified by the Federal Election Commission under 26 U.S.C. 9036(a), and has not withdrawn the candidate's candidacy.

* Sec. 3. ACCESS TO THE PRESIDENTIAL PRIMARY ELECTION BALLOT BY PETITION. (a) The name of a person who does not qualify for placement on the ballot under sec. 2 of this Act may be placed on the ballot if a petition is filed on the person's behalf that contains the signatures of a number of registered voters equal to one percent of the votes cast for governor in the most recent gubernatorial election. A petition under this subsection shall be filed with the lieutenant governor no later than seven weeks before the date of the election and must

(1) contain the person's full name, the name of the political party, if any, to which the person belongs, a statement that the subscribers to the petition are qualified voters, and a statement that the subscribers request that the person's name be placed on the presidential primary election ballot; and
(2) contain the printed name and the residence address of each subscriber to the petition next to the subscriber's signature.

(b) The lieutenant governor shall immediately notify a person on whose behalf a valid petition under this section has been filed of the filing, and shall advise the person that the person may withdraw the person's name from the presidential primary ballot no later than five weeks before the date of the election. A request to withdraw under this subsection must be in writing, and may be transmitted to the lieutenant governor by facsimile transmission.

* Sec. 4. PRESIDENTIAL PRIMARY ELECTION NONBINDING. The results of the presidential primary election established in sec. 1 of this Act are not binding on the delegates selected by a political party to the national convention of that party.

* Sec. 5. PROCEDURES FOR CONDUCT OF ELECTION. The provisions of AS 15 regarding the conduct of a general election govern the conduct of the presidential primary election established in sec. 1 of this Act, except to the extent that the provisions of this Act are inconsistent with those provisions.

* Sec. 6. This Act takes effect July 1, 1991.

04/22/91 962 (S) ADVANCED TO THIRD READING UNAN
 CONSENT
 04/22/91 962 (S) READ THE THIRD TIME CSSB
 191(JUD)
 04/22/91 962 (S) PASSED Y18 N- E2
 04/22/91 962 (S) EFFECTIVE DATE SAME AS PASSAGE
 04/22/91 966 (S) TRANSMITTED TO (H)
 04/24/91 923 (H) READ THE FIRST TIME -
 REFERRAL(S)
 04/24/91 924 (H) RESOURCES, JUDICIARY
 05/10/91 (H) RES AT 03:00 PM CAPITOL RM 124
 05/10/91 (H) MINUTE(RES)
 05/13/91 1313 (H) RES RPT 7DP
 05/13/91 1313 (H) (DP: DAVIDSON, FINKELSTEIN,
 LINCOLN,
 05/13/91 1313 (H) ..LEMAN, CARNEY, HUDSON, MOYER)
 05/13/91 1313 (H) -PREV SEN ZERO FN (DNR)
 4/15/91
 05/14/91 (H) JUD AT 03:30 PM CAPITOL RM 120

BILL: HB 298
 SHORT TITLE: PRESIDENTIAL PRIMARY ELECTION
 BILL VERSION:

SPONSOR(S): REPRESENTATIVE(S) ULMER, Brown, Parnell,
 G. Phillips

JRN-DATE	JRN-PG	ACTION
04/24/91	931	(H) READ THE FIRST TIME - REFERRAL(S)
04/24/91	931	(H) STATE AFFAIRS, JUDICIARY, FINANCE
05/01/91		(H) STA AT 08:30 AM CAPITOL RM 102
05/01/91		(H) MINUTE(STA)
05/02/91	1074	(H) STA RPT 2DP 3NR
05/02/91	1074	(H) (DF: KUBINA, MOYER)
05/02/91	1074	(H) (NR: BRUCKMAN, BAKER, CHOQUETTE)
05/02/91	1074	(H) -FISCAL NOTE (ELECT) 5/2/91
05/13/91		(H) JUD AT 01:30 PM CAPITOL RM 120
05/13/91		(H) MINUTE(JUD)

BILL: SB 219
 SHORT TITLE: WORKERS' COMPENSATION: MISC. CHANGES
 SPONSOR(S): LABOR & COMMERCE BY REQUEST

JRN-DATE	JRN-PG	ACTION
03/20/91	604	(S) READ THE FIRST TIME - REFERRAL(S)
03/20/91	604	(S) LABOR AND COMMERCE, THEN JUDICIARY
03/21/91	621	(S) JUD REFERRAL REMOVED
04/05/91		(S) L&C AT 03:30 PM BELTZ ROOM 211

H Comm.

5/1/91

The House State Affairs Committee meeting was called to order by Chairman Kubina at 8:49 a.m. Members present were Representatives (Reps.) Kubina, Moyer, Bruckman, and Baker.

Chairman Kubina announced that the committee would first hear HB 298 that morning. He asked REPRESENTATIVE FRAN ULMER, prime sponsor of HB 298, to join the committee at the table.

Rep. Ulmer told the committee that HB 298 would create an early April presidential primary in Alaska. It would be a "beauty contest" primary which would give the people of Alaska the opportunity to examine and consider the candidates.

Rep. Ulmer stated that this primary would be held in coordination with the States of Washington and Oregon and that it would be a regional primary. It would bring attention to the Pacific Northwest and give the candidates an opportunity to become familiar with Northwest issues.

Rep. Ulmer stated that a bill establishing a presidential primary was passed by the legislature years ago and that bill had been repealed.

Number 080

Rep. Baker asked why the previous law was repealed.

Rep. Ulmer stated that the bill called for Alaska to hold a primary by itself and that it was not practical.

Rep. Bruckman noted that Anchorage would begin holding its municipal elections on the third Tuesday of April of 1992.

Chairman Kubina asked if this might reduce the fiscal note.

Rep. Ulmer responded that if over half the voters were already going to the polls, that it would likely reduce the fiscal note. She added that the Division of Elections personnel could speak to that issue.

Rep. Choquette arrived at 8:54 a.m.

Number 125

Rep. Moyer asked if the date of the third Tuesday in April had been mutually agreed upon by all the states involved.

Rep. Ulmer stated that the Secretaries of State of Washington and Oregon had negotiated this date and that it may be open to further negotiation.

Exhibit "F"

Rep. Moyer stated that the primary being held at the same time as the Anchorage Municipal election may reduce the cost of the primary. However, it could skew the results of the primary because of an increase in the number of voters from the Anchorage area, according to Rep. Moyer.

Number 160

Rep. Baker said that he thought that a municipal election could not take place at the same time as a statewide election. He explained what had happened in previous efforts to hold simultaneous elections.

Number 200

ELIZABETH ZIEGLER, Deputy Director, Division of Elections, stated that the Division had no position on HB 298. She added that HB 298 did have a fiscal impact. She stated that she did not know if the state elections could be held at the same time as municipal elections, but she did know that the state loaned their elections equipment to the municipalities and this might cause a problem.

Rep. Ulmer asked Ms. Ziegler to find out that answer and suggested that the Municipality of Anchorage could run the presidential primary.

Ms. Ziegler stated that the efforts could be coordinated but that the Division of Elections must run a statewide election.

Chairman Kubina asked Ms. Ziegler to explain the fiscal note.

Ms. Ziegler stated that the cost of a presidential primary would be the same as any other primary.

Number 250

Rep. Bruckman asked if there would be propositions on this ballot.

Chairman Kubina asked if constitutional amendments could be placed on the ballot at the same time.

Ms. Ziegler stated that there was very little in the statutes relating to the primary elections and that these issues could be added to the bill and the title be broadened.

Number 300

Rep. Ulmer asked Ms. Ziegler how much start up time was

needed by the Division of Elections to run the presidential primary.

Ms. Ziegler stated that the Division would need at least six months in order to have the forms ordered and printed and to educate the election workers.

JOHN GAGUINE, Attorney, Legislative Legal Counsel, stated that the presidential primary proposed by HB 298 was a "beauty contest" primary. He noted that the results were not binding on the political parties and that the primary would be purely advisory of the feelings of the people of Alaska.

Mr. Gagaine added that the candidate or supporters of the candidate must take the steps necessary to place that person on the ballot.

Number 351

Chairman Kubina asked Mr. Gagaine if it would be possible to put other issues before the people at the same time.

Mr. Gagaine stated that the answer would probably be no.

Chairman Kubina stated that there were some questions raised regarding HB 298.

Rep. Ulmer suggested that those questions spoke to the fiscal note and might be better addressed by the Finance Committee.

Rep. Moyer made a motion that HB 298 be passed from committee with individual recommendations. There were no objections and it was so moved.

Number 393

HJUD 5/19/91

HB 298 - "An Act establishing a presidential primary election; and providing for an effective date."

REPRESENTATIVE FRAN ULMER advised members that the proposed legislation would establish a presidential primary election in the state of Alaska. She pointed out that Washington and Oregon had been working together to develop a Northwest primary election and had invited Alaska to join in that effort. Representative Ulmer advised members that HB 298 would authorize a "beauty contest" presidential primary in Alaska. She explained that it would not change the party process for selecting delegates, but would allow the public to express its opinion on the subject of presidential candidates.

Representative Ulmer pointed out that the bill was straight forward and simple; however, the question was whether it would make sense for Alaska to spend the money in order to participate in a regional presidential primary election.

She felt that when Alaska had considered the idea in the past, the proposal was for Alaska to hold a primary on its own, which did not make a lot of sense because it was unlikely that Alaska could attract the candidates to the state, given its small population. Representative Ulmer stated that if Alaska would join the states of Washington and Oregon in a presidential primary election, it would be possible to focus presidential candidates on Alaskan issues and get candidates to visit the region.

Representative Hanley expressed his concern about the high costs of the bill.

Representative Ulmer pointed out that someone was available from the Division of Elections to address that concern.

She stated that it was her hope that the fiscal note could be reduced, and pointed out that Alaska could participate one time to see what kind of response there would be to the primary and incur only a one time cost rather than a continuing cost.

Representative Ulmer stated that Washington and Oregon had selected May 19 as the date of the primary, and suggested that the date in the bill be changed to coincide with the date specified by Washington and Oregon.

(Chairman Donley turned the Chair over to Vice Chairman Max Gruenberg.)

Representative Parnell expressed his concern about the high fiscal note submitted by the Division of Elections.

Exhibit "F"

Vice Chairman Gruenberg pointed out that a presidential primary election would occur every four years and questioned the high cost projected for 1995.

Representative Martin MOVED to Amend HB 298, page 1, line 14, to delete the word "APRIL" and insert the word May.

There being NO OBJECTION, Amendment 1 was ADOPTED.

Vice Chairman Gruenberg asked Representative Ulmer if it was her wish that the legislation be a temporary act.

Representative Ulmer expressed that was her desire.

Representative Martin MOVED to Amend HB 298 to be a temporary act for 1992 only. There being NO OBJECTION, Amendment 2 was ADOPTED.

Vice Chairman Gruenberg pointed out that the amendment would change the fiscal note since there would only be a one time expenditure.

ELIZABETH ZIEGLER, Deputy Director, Division of Elections, advised members that they did not take a pro or con position on the proposed legislation. She expressed the division's opinion that it was up to the legislature whether a presidential primary election should be conducted in the state.

Ms. Ziegler pointed out that the numbers reflected in the division's fiscal note were based on the cost of running the 1990 primary election, inflated by 10 percent to cover other expenses. She explained that to run a presidential primary election the division would have to travel to 438 precincts around the state to conduct education for election workers and registrars and to produce election pamphlets and ballots. Ms. Ziegler noted that primary election costs the previous year for printing ballots amounted to \$170 thousand.

Vice Chairman Gruenberg requested that the Division of Elections prepare a new fiscal note with an attached analysis.

Ms. Ziegler stated that she would prepare a new fiscal note for the committee.

Vice Chairman Gruenberg advised members that HB 298 would be brought back before the committee the following day, at which time a new committee substitute and fiscal note would be available.

H S U D 5/14/91

Chairman Donley advised members they would next consider HB 298, sponsored by Representative Fran Ulmer.

HB 298 - "An Act establishing a presidential primary election; and providing for an effective date."

Chairman Donley informed members that a Judiciary committee substitute had been prepared incorporating the suggested language changes discussed during the previous meeting.

Representative Gruenberg MOVED to ADOPT CSHB 298 (JUD).

There being NO OBJECTION, CSHB 298 (JUD) was ADOPTED.

LAURIE OTTO, staff counsel, House Judiciary Committee, noted that the director of the Division of Elections, Elizabeth Ziegler, had planned to attend the hearing;

however, she had a child care problem and was not able to make the late meeting.

Ms. Otto advised members that Ms. Ziegler provided a new fiscal note, as requested by the committee, along with a position paper attached to it. Ms. Otto advised members that Ms. Ziegler did leave a phone number if the committee wished to reach her.

Ms. Otto advised members that the Judiciary committee substitute changed the date of the primary election from April to May and also made it a temporary act, so it would only be in effect in 1992.

Representative Gruenberg referenced Section 4, page 2, advising members it was his understanding that primary elections were binding, and questioned the reason for a nonbinding presidential primary election.

Chairman Donley explained that the bill provided for what is termed a "Beauty Contest" election, and pointed out that some presidential primaries were binding and others were not.

Representative Pat Parnell MOVED to Report Out of Committee CSHB 298 (JUD) with Individual Recommendations. There being NO OBJECTION, it was so ordered.

TO: HONORABLE PETE KOTT
CHAIR, HOUSE RULES COMMITTEE
FR: LESTER SYREN
ATTORNEY FOR REP. JERRY SANDERS
RE: COOPERATION ISSUE
DA: 2/4/97

I WANTED TO BRING TO YOUR ATTENTION CERTAIN FACTS WHICH ARE RELEVANT TO THE COOPERATION ISSUE AND WHICH I BELIEVE I AM IN THE BEST POSITION TO SHARE FROM MY PERSPECTIVE.

PLEASE KNOW THAT REP. SANDERS HIRED ME IMMEDIATELY UPON RECEIVING THE COMPLAINT IN APRIL, 1996, FILED BY HIS FORMER OPPONENT, MIKE MILLER. I ADVISED REP. SANDERS CONTINUALLY FROM THAT MOMENT FORWARD. FOR A LONG TIME, UNTIL THE ELECTION DREW NEAR, I HAD LITTLE OR NO ADVICE FOR JERRY SINCE THE COMMITTEE TOOK NO ACTION.

ONCE THE COMMITTEE BEGAN ITS INVESTIGATION IN EARNEST AND ON AN UNPRECEDENTED EXPEDITED SCHEDULE JUST BEFORE THE ELECTION, I HAD PLENTY OF ADVICE FOR JERRY, AND LIKE ANYONE FACING A BRIAR PATCH OF LEGAL PROCEDURES, HE FOLLOWED MY RECOMMENDATIONS. EVERYTHING HE DID BEFORE THE COMMITTEE WAS AT MY DIRECTION.

UNDER THE ALASKA RULES OF PROFESSIONAL CONDUCT, I HAVE A DUTY TO "ZEALOUSLY ASSERT THE CLIENT'S POSITION UNDER THE RULES OF THE ADVERSARY SYSTEM." ALASKA RULES OF PROFESSIONAL CONDUCT, PREAMBLE. THUS, I WAS OBLIGATED UNDER THE BAR'S ETHICAL CODE TO MAKE SURE THAT REP. SANDERS RECEIVED FAIR TREATMENT. IT BECAME VERY CLEAR TO ME THAT REP. SANDERS WAS NOT BEING TREATED FAIRLY AT ALL.

IN THE FIRST PLACE, DUTY TO COOPERATE IS A EUPHEMISM FOR "PROVE THAT YOU ARE INNOCENT." THIS SORT OF TACTIC AMOUNTS TO MACARTHYISM, AND SHOULD NOT BE CONDONED. WHATEVER YOU DO, PLEASE DO NOT SHIFT THE BURDEN OF PROOF TO JERRY. THIS SHOULD ALWAYS REMAIN WITH THE ACCUSER, ESPECIALLY IN THIS CASE WHERE THE ACCUSER IS A FORMER POLITICAL OPPONENT.

SECOND, AS SHOWN IN THE TRANSCRIPT OF THE HEARING, THE COMMITTEE ITSELF WAS NOT COOPERATING IN THE DISCOVERY PROCESS, AND REFUSED TO ANSWER NUMEROUS DISCOVERY REQUESTS. THE HEARING MASTER ASSIGNED TO THE CASE, MICHAEL WHITE, MADE EXPEDITED RULINGS WITHOUT ALLOWING THE PARTIES AN OPPORTUNITY TO BRIEF THE ISSUES.

PLEASE DO NOT BE MISLEAD BY SOME OF THE DISTORTIONS IN THIS MATTER. IF THE COMMITTEE CLAIMS REP. SANDERS DID NOT COOPERATE, MAKE SURE THAT IT HAS VERY SPECIFIC EXAMPLES. I CAN ASSURE YOU, WHAT WAS REPORTED IN THE PAPER AND WHAT ACTUALLY HAPPENED WERE NOT ALWAYS THE SAME. FOR EXAMPLE, THE COMMITTEE REFUSED TO ALLOW JERRY TO EXERCISE HIS RIGHT TO ONE PEREMPTORY CHALLENGE OF THE HEARING MASTER. I APPEALED THIS ISSUE TO THE SUPERIOR COURT, AND BECAUSE OF THIS, THE COMMITTEE CLAIMED JERRY WAS NOT COOPERATING.

IRONICALLY, ONCE THE COMMITTEE RECEIVED AN ADVERSE DECISION FROM THE JUDGE ASSIGNED TO THE APPEAL, IT REQUESTED A DIFFERENT

JUDGE, UNDER THE VERY RULE THAT IT CLAIMED DID NOT APPLY TO JERRY. IN OTHER WORDS, THE COMMITTEE CLAIMED FOR ITSELF A RIGHT IT DENIED TO JERRY. THIS IS JUST ONE EXAMPLE OF THE DISTORTIONS ABOUT THE COOPERATION ISSUE. REP. SANDERS HAS ALREADY BROUGHT TO YOUR ATTENTION THE OTHER EXAMPLES IN THE TEN PAGE MEMO FOR STATE HOUSE RULES COMMITTEE HEARING, WHICH I INCORPORATE HERE BY REFERENCE.

I HAVE TRIED NUMEROUS CASES FOR THE PAST SEVEN YEARS, AND I CAN ASSURE YOU THAT THE LITIGATION IN THIS MATTER WAS A PICNIC COMPARED TO EVEN A STRAIGHTFORWARD PERSONAL INJURY CLAIM. THE RULES ALLOW A PARTY TO REQUEST ATTORNEY'S FEES FOR BAD FAITH OR VEXATIOUS CONDUCT BY AN OPPOSING PARTY. IT IS TELLING THAT THE COMMITTEE'S ATTORNEY MADE NO SUCH REQUEST, PRESUMABLY BECAUSE THIS WAS A NORMAL COURSE OF LITIGATION.

IF ANYTHING, CAREFUL SCRUTINY OF THE RECORD REVEALS NO ACTION BY THE COMMITTEE UNTIL THE EVE OF THE ELECTION, WHEN JERRY BEGAN RECEIVING THE TEN INCHES OF DOCUMENTS HE SHOWED THE RULES COMMITTEE AT HIS TESTIMONY. I HAVE NEVER WITNESSED A DISCOVERY MASTER ISSUE DECISIONS WITH SUCH SPEED, OR WITHOUT ALLOWING THE PARTIES THE OPPORTUNITY TO BRIEF THEM. THE MASTER EVEN WENT SO FAR AT ONE POINT TO SCHEDULE A MEETING AFTER NORMAL WORKING HOURS, AFTER REPEATED REQUESTS BY ME FOR THE COMMON PROFESSIONAL COURTESY OF ACCOMMODATING MY BUSY SCHEDULE AS A SOLE PRACTITIONER. THESE REQUESTS FELL ON DEAF EARS.

IN SHORT, JERRY'S DECISIONS REGARDING "COOPERATION" WITH THE COMMITTEE WERE AT MY DIRECTION. AS AN ATTORNEY, I TAKE MY ETHICAL OBLIGATIONS TOWARD MY CLIENT VERY SERIOUSLY, ESPECIALLY IN CASES LIKE JERRY'S, WHERE MY CLIENT IS COMPLETELY INNOCENT AND THE VICTIM OF A PARTISAN COMPLAINT FROM A FORMER POLITICAL OPPONENT. "LACK OF COOPERATION" OF COURSE DEPENDS ON WHICH ATTORNEY YOU SPEAK TO. I CAN TELL YOU AS JERRY'S ATTORNEY THAT THERE ARE TWO SIDES TO THE STORY, AND THAT THE COMMITTEE HAS NOT COME TO THE TABLE WITH CLEAN HANDS. MOREOVER, WHAT WOULD BE THE POINT OF COOPERATING WITH SOMEONE WHO HAD ALREADY CHARGED YOU WITH A CRIME, AND ALSO HAD THE FINAL SAY IN THE MATTER?

THE BOTTOM LINE IS THAT JERRY HAD NO DUTY TO COOPERATE WITH THE COMMITTEE, REGARDLESS OF WHAT THE STATUTE SAID. HIS CONSTITUTIONAL GUARANTEES TO "PRESUMED INNOCENCE" ARE CERTAINLY MORE IMPORTANT.

JERRY, LIKE ANYONE ELSE WHO IS UNFAMILIAR WITH LEGAL PROCEDURES, LISTENED TO HIS ATTORNEY. YOU MAY BLAME OUR ADVERSARIAL SYSTEM OF JUSTICE, WHICH GUARANTEES THAT BOTH SIDES WILL BE HEARD. YOU CAN'T BLAME JERRY, THOUGH, FOR FOLLOWING HIS ATTORNEY'S ADVICE.

HR
MINORITY
REPORT "IN
RE
SANDERS"

Distributed by: Reps. Kim Elton and Irene Nicholia

MINORITY REPORT ON H96-02 BY TWO MEMBERS OF HOUSE RULES COMMITTEE

THE VIOLATION

The House Subcommittee of the Select Committee on Legislative Ethics found that Rep. Jerry Sanders violated the Ethics Act by using state funds, legislative staff, state equipment and state facilities for non governmental purposes, including political purposes. During testimony before the House Rules Committee, Rep. Sanders himself admitted to a technical violation (P. 19, House Rules Committee transcript). The subcommittee recommended enhanced sanctions for the violation to the members of the Alaska House of Representatives because of two prior findings that Rep. Sanders violated the Ethics Act and because of his lack of cooperation in the review of the third violation.

I don't think that he did. If I remember correctly, he was arguing hypothetically

Five of seven members of the House Rules Committee (Chair Pete Kott, Speaker Gail Phillips, Reps. Al Vezey, Bill Williams, and Brian Porter) found Rep. Sanders did not violate the Ethics Act.

Two members of the House Rules Committee (Reps. Irene Nicholia and Kim Elton) concurred with the ethics subcommittee ruling that Rep. Sanders did violate provisions of the Ethics Act. This report is the finding of the House Rules Committee minority position on ethics report H96-02.

1) The statutory rules we established to govern legislative conduct are, in this instance, clear.

The ethics subcommittee found Rep. Sanders violated the Ethics Act by using state resources for a private benefit. That finding is predicated on AS24.60.030 (a)(2):

A legislator or legislative employees may not . . . use public funds, facilities, equipment, services, or another government resource for a non governmental purpose or for the private benefit of either the legislator, legislative employee, or another person. . .

The subcommittee noted a thank you letter to a discreet group of active Republicans in his election district during a year in which he ran for re-election did not promote government business but did have the salutary effect of enhancing his image with an active and highly partisan Republican constituency.

The Ethics Act is a recipe for appropriate legislative behavior. It does not proscribe behavior essential to the performance of legislative business. It does, however, list behaviors considered inappropriate. One of those prohibited behaviors is activity paid for by the state but which supports political party activities. The statute is clear:

"A legislative employee may not on government time assist in political party or candidate activities, campaigning, or fund raising. A legislator may not require an employee to perform an act in violation of this subsection." AS 24.60.030 (b)

Under this statutory provision, a mass-mailed thank you letter to those who participate in a Republican Party straw poll can not be construed to be normal legislative business. The ethics subcommittee defined the letter as a party-building, or political, activity. Rep. Sanders caused, by his own admission to the House rules Committee, two of his legislative employees to write a letter during office hours and using state equipment to all Republicans who voted in the straw poll in his election district. The postage was paid by a state-vouchered account.

Unlike the majority on the Rules Committee, we concur with the ethics subcommittee that the letter generated by his state-paid employees on his official letterhead and mailed through a state-paid postage account is a party-building activity and is a violation. In this case, the House Rules Committee minority position actually agrees with Rep. Sanders who, in his summation before the House Rules Committee noted that his transgression was a "\$72 technical violation". (The \$72 reference is a rough approximation of the cost of the mailing and does not include the cost of 6.5 hours of staff time.)

Further, it stretches credulity to assume that a letter to active Republicans thanking them for a party activity has anything to do with government business. We feel the only people likely to write a letter of thanks to Republican straw poll participants are Republican political candidates, potential Republican Party candidates, or Republican Party officials. Use of state employees and a state postage account is, therefore, inappropriate.

The majority on the House Rules Committee found that Rep. Sanders may not have understood this provision and his conduct (asking staff to draft a letter to very active Republicans in his election district) should therefore be excused.

The minority on the House Rules Committee finds that ignorance of the law is not an excuse for other Alaskans who violate statutes and should not be an excuse for Rep. Sanders' activity--especially when the Legislative Ethics Committee provides advisory opinions and especially when Rep. Sanders should have made a special effort to understand the ethics law after having been found guilty of two previous infractions in the past two years.

2) The ethics rules do not prohibit normal legislative business.

An argument suggested by the majority on the House Rules Committee is that there are many things a legislator feels compelled to do that a "normal" Alaskan wouldn't need to do. They suggest that the Ethics Act is flawed when it does not protect these extraordinary activities. Thank you notes, apparently, are one of those extraordinary duties the majority feels are necessary for legislators but that they feel may be prohibited.

Despite inferences otherwise, nothing in the Ethics Act that governs legislators' activities precludes thank you letters to constituents. The only criteria applied by the ethics subcommittee is that there be at least a reference to legislative business if the letter goes to partisan political groups. There was no reference to legislative business in Rep. Sanders' letter.

Further, when we write letters (or cause staff to write) to high school graduates we shouldn't write only to Republican graduates or Democratic graduates. When we write (or cause staff to write) to constituents who

clean highways or urban creeks, we shouldn't write only to Republican or Democrat volunteers. If we thank only those of one political persuasion (especially only those of *our* political persuasion in *our* election districts), we should use personal or campaign funds and not use state employees, during office time, using state equipment.

Given there was a violation, and given the House Rules Committee members in the minority do not find the Ethics Act is inadvertently flawed, we disagree with the notion Rep. Sanders' actions should be excused. We find the impulse to thank constituents is a natural and protected legislative function but the impulse to thank only active constituents of our political party in our district during an election year without referencing pertinent legislative business is not and should not be protected.

3) Without new evidence, the House should not seize the reins from the public members of the ethics subcommittee.

The evolution of the Ethics Act over the past 15 years has been to more fully involve the public. Prior to 1983, the only Alaskans who judged the ethics of legislators were other legislators. After 1983, the legislature created an ethics panel that involved one public member and a preponderance of legislators. After 1986, the legislature created an ethics panel that involved an equal number of legislators and public members. After 1992, the legislature created an ethics subcommittee that had five public members (two Republicans, two Democrats, and one undeclared) and two legislative members (one majority and one minority member).

This progression toward a panel that has more public members than legislators accomplished two purposes. First, it acknowledged that the previous legislatures recognized the difficulty of sitting in judgment of friends and colleagues. Second, previous legislatures recognized that, when politicians are on trial, Alaskans will trust the judgment of their neighbors more than they trust the judgment of other politicians.

We find, as the minority on the House Rules Committee, that reversing the decision of the public-dominated House ethics subcommittee without new compelling evidence regarding that violation, takes us back: not to the pre-1992 era when there were an equal number of public and legislative members; not to the pre-1986 era when there was only one public member; but all the way back to the pre-1983 era when there were

no public members who sat in judgment of legislators who got crosswise with ethics.

COOPERATION

As one newspaper headline writer noted after the House Rules Committee hearing: "Rep. Sanders passes ethics, but not attitude test." The minority on the House Rules Committee disagreed with the majority on the issue of the Ethics Act violation but agreed with the majority on the "bad attitude" or lack of cooperation issue.

1) Rep. Sanders' defense tactics unreasonably raised costs.

The House Subcommittee of the Select Committee on Legislative Ethics spent: \$1,193 on a court reporter; \$4,118 on a hearing officer; \$12,487 on legal council; \$200 in staff time; and \$6,364 in costs related to Rep. Sanders' failed and futile petition to the courts.

These costs do not include the costs to Rep. Sanders for his attorney.

We find that an early attempt to remedy the issue, defined by Rep Sanders in his testimony when he admitted to the House Rules Committee he committed a "technical violation", would have reduced costs and not lead to sanctions. We further find his lack of cooperation led to enhanced sanctions that would not otherwise have been contemplated by the ethics subcommittee. (See P.6 of the ethics subcommittee report on H96-02.)

2) The defense tactics slandered Alaskans.

Members of the House Rules Committee rejected any notion that a political conspiracy drove the decision the ethics subcommittee made on H96-02. Further, the minority on the House Rules Committee emphatically rejects any characterization that the subcommittee is a "kangaroo court".

Unfortunately, during the course of the review process, the defense erroneously suggested:

a) the chair of the ethics subcommittee was out to get Rep. Sanders because he voted against her appointment, because her husband has contracts with the state (and has had under the Cowper, Hickel and Knowles' administrations), and because she was a Democrat;

b) the hearing officer was tainted because he is a member of a law firm that has contributed to Democrats (and, reportedly, to Republicans); and

c) the Superior Court judge was in cahoots with the Democrats (the judge was randomly suggested and could have been recused by Rep. Sanders or Rep. Sanders' attorney).

The minority of the House Rules Committee is outraged by any suggestion that an ethics subcommittee composed of five public members--two registered Democrats, two registered Republicans, and one undecided--and one Republican legislator (guided by the counsel of an attorney whose previous experience includes service as U.S. attorney in a Republican administration) were part of any conspiracy to ruin Rep. Sanders.

3) **Attacking the accuser is inappropriate.**

During the hearings before the House Rules Committee, there was a suggestion that the ethics complaint was filed by a "political opponent". Well, that is true, the complainant in this case did oppose Rep. Sanders in the 1994 general election. But our acknowledgment that the complaint was filed by a political opponent doesn't get to the issue of whether the complaint is false.

First, any notion that friends and colleagues file complaints as frequently as political opponents is flawed. Rep. Newt Gingrich filed ethics charges against former U.S. House Speaker Jim Wright. The ethics violations sustained against Rep. Gingrich were first filed by a candidate who opposed him. The fact that complaints were filed by political opponents didn't diminish the truth of the allegations.

Second, all complaints accepted by the Select Committee on Legislative Ethics are filed under oath. Each complaint form notes (prominently, in large type):

"I understand that a person commits the crime of false accusation if the person knowingly or intentionally files a false complaint with the Select Committee on Legislative Ethics" (AS11.56.805).

We, the minority of the House Rules Committee, believe that if the majority truly feels the accuser is at fault and the ethics subcommittee was duped through the filing of complaint H96-02 there is legal recourse against the accuser and they should try to book him under the false accusation statute.

4) Rep. Sanders use of the Fifth Amendment to the U.S. Constitution may have been misused.

When invoking fifth amendment protections against self-incrimination, a witness must have a "reasonable" fear that the testimony could lead to a criminal case. That is the only legal basis for invocation of "the Fifth". Rep. Sanders told the House Rules Committee the reason he didn't want to testify before the ethics subcommittee was because of "flaws" in the ethics statute and because of the political agenda of some people involved in the subcommittee process.

At *no* time did Rep. Sanders testify to the House Rules Committee that he feared criminal prosecution. He simply indicated he did not cooperate because, as he testified to the House Rules Committee, "I believe the select committee's actions are corrupted by the conflict of interest and perennial revenge interests" of the chair.

If Rep. Sanders invoked "the Fifth" for the reasons he stated under oath, both he and his attorney abused one of our most important constitutional privileges.

We, the minority, suggest the reasons for taking "the Fifth" were obstructive in nature instead of fear of criminal prosecution.

5) Legal advice provided Rep. Sanders was questionable.

While not attempting to be overly critical of either Rep. Sanders or his attorney, Lester Syren, the minority would like to offer the following observations:

a) the bar association's Rule of Professional Conduct 3.7 says a lawyer should not advocate in a trial in which the lawyer may be a material witness, yet the attorney who represented Rep. Sanders is probably the same person who started the chain of events that lead to the "technical violation" because: Mr. Syren probably provided the list of Republicans to Rep. Sanders; he picked up the list from the Republican Party; and he is the District 19 Republican party chair;

b) the bar association's Rule of Professional Conduct 1.7 says a lawyer should not represent multiple clients in the same proceeding when the interests of the clients may conflict, yet Mr. Syren represented the legislator accused in H96-02 while also representing two material

witnesses who could have established a violation. One of those other clients is an at-will employee of Rep. Sanders and the other is a former at-will employee who hoped to be rehired by Rep. Sanders. Either of Mr. Syren's two other clients could have established the fact that the letter in question was written during office time, implicating Rep. Sanders. Mr. Syren advised both other clients--who depend upon Rep. Sanders' good will for employment--to take "the Fifth" and also advised his other client, Rep. Sanders to take "the Fifth".

Because Mr. Svren represented multiple clients whose interests before the ethics subcommittee were not parallel, the minority of the House Rules Committee is unable to determine whether all clients were ably represented by Mr. Svren and unable to determine whether the issue of a violation ultimately could have been settled at the ethics subcommittee level.

SANCTIONS

The minority finds the violation was not egregious and was done without thought rather than done in purposeful contravention of the Ethics Act. Outside the context of the lack of cooperation, and outside the context of the previous violations, the appropriate sanction would have been sanction #3 recommended by the ethics Subcommittee:

Rep. Sanders shall reimburse the legislative affairs agency for the \$76.48 postage and 8 hours compensation for one range 21, step A, employee (\$207.44). This is obviously not an exact equivalent of the labor cost of Rep. Sanders' employees' work on the letter, but it is intended to represent that cost.

Given the previous violations over the past two years, and given the lack of cooperation and the "nuclear" defense tactics, the minority of the House Rules Committee feels the other sanctions recommended by the ethics committee also are appropriate, including: no committee chairmanship during this term, no travel outside the state during this term, taking the "unaccountable" option on office allowances, and an apology.

ETHICS CHANGES

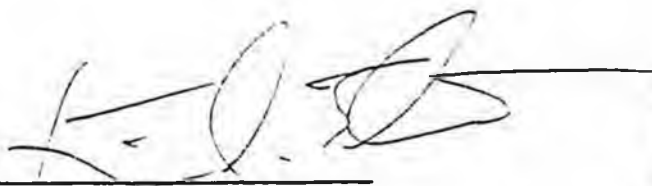
The minority on the House Rules Committee urges caution on precipitous changes to the Ethics Act. There is an appearance over the past

couple of weeks that the statutes were on trial rather than the behavior of members.

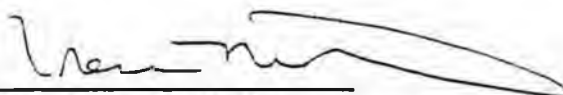
As a result of the House Rules Committee hearing, the only statutory change suggested by the minority on the House Rules Committee is that appeals from the ethics subcommittee to any other committee or subcommittee of the House or Senate should be appeals "on the record". In other words, the only evidence considered when ethics subcommittee reports are forwarded should be evidence that was admitted at the ethics subcommittee level unless new evidence is discovered subsequent to the issuance of an ethics subcommittee opinion.

This statutory change would eliminate the possibility that a member or legislative employee could circumvent the process by stonewalling at the ethics subcommittee level (where public members clearly dominate) to be judged by friends and colleagues serving in the House or Senate.

Finally, any review of changes to the Ethics Act should be initiated at the Select Committee on Legislative Ethics level. Those recommendations can be forwarded to each body and each body can address recommended changes through the regular committee process. Generating changes, as suggested, through the Legislative Council gives the appearance that any changes are political since the council is comprised of 12 Republicans and two Democrats.



Rep. Kim Elton



Rep. Irene Nicholia

February 5, 1997

REPORT

HOUSE

RULES:

SANDERS

2-4-97

Alaska State Legislature

House of Representatives



State Capitol, Rm. 204
Juneau, Ak 99801-1182
(907) 465-3764

Official Business

COMMITTEE ON RULES

FEB 04 1996⁷

REPORT OF THE RULES COMMITTEE ON IN RE SANDERS (H 96-02)

I BACKGROUND

On April 19, 1996, a complaint was filed with the Select Committee on Legislative Ethics concerning Representative Jerry Sanders. The Committee determined that it was in proper form and contained allegations which, if true, articulate violations of the Ethics Act. Thereafter, on July 24, 1996, the Committee issued a resolution defining the scope of its investigation against Representative Sanders.

On September 23, 1996, the Committee found probable cause to believe Representative Sanders violated the Ethics Act and issued formal charges, alleging violations of AS 24.60.030(a)(2), AS 24.60.030(a)(5), and AS 24.60.030(b). Representative Sanders was served with a copy of the charges, along with a Summons requiring him to file an Answer within 10 days. Representative Sanders elected to not file an Answer.

The Committee held public hearings concerning Representative Sanders' case on November 14, 1996 and November 15, 1996. Mr. Michael White was the Hearing Officer, and the Committee was represented by counsel. Representative Sanders was represented by Mr. Lester Syren. Representative Sanders appeared telephonically, but on numerous occasions, when asked about the details of the case, asserted his rights under the Fifth Amendment.

On November 15, 1996, the Committee issued a formal written opinion, finding that Representative Sanders violated the aforementioned sections of the Ethics Act and recommending a total of seven sanctions.

II THE ETHICS COMMITTEE'S FACTUAL FINDINGS

The Ethics Committee's findings of fact may be summarized as follows: On January 29, 1996, the Republican Party conducted a Presidential Straw Poll in Alaska. Subsequently, Representative Sanders sent a letter to approximately 239 constituents who had participated in the poll.

The letter in question stated as follows:

I would like to take this opportunity to thank you for your participation in the first presidential straw poll to be held in Alaska. Not only have we broken new ground historically, politically we have gained prestige on the national level.

It was exciting to learn that District 19's participation was among the strongest areas to go out and cast a vote for a presidential candidate. With the inclement weather to deal with, I really appreciate the interest shown by my fellow Republicans.

Seeing a lot of you in the halls of the polling station within my district was indeed a pleasure. If I didn't get a chance to talk with you, please accept my apology.

I have always held in high regard those people who will go that "extra mile" to do what is needed. Taking the time out of your busy schedule to fulfill your civic duty is greatly appreciated.

The mailing was made with the assistance of Representative Sanders' staff and required \$76.48 in postage, which was charged to his Juneau Mailroom Account. This account was funded by transfers from Representative Sanders' accountable office account. As stated in its written decision: "The Committee finds that the act of preparing and sending the letter used public funds (the accountable office allowance) for postage; used public facilities and equipment (the state computer in his office) and used public resources (the staff time of his employees)."

III
THE ETHICS COMMITTEE'S CONCLUSION OF LAW

With respect to Count 1, the Committee found as follows:

The Committee finds, by clear and convincing evidence, that this letter does not have a legislative purpose. It concerns a function of a political party on a national level, the effort to influence the choice of the Republican nominee for President. It was sent to active members of Rep. Sanders' political party, in his district, in a year he was running for election. Legislators may use public funds, facilities and staff to communicate with constituents if that communication has a connection to a legislative purpose. This letter has a political, not a legislative purpose. The Committee finds that Rep. Sanders' use of public funds, facilities and equipment and staff time was for a nongovernmental purpose, and for his private benefit (campaign good will) and for the benefit of another person (the Republican Party). Under AS 24.60.030(a)(2), any one of these purposes is a violation." (emphasis in original).

With respect to Count 2, the Committee found that, although the letter was not for the purpose of political fundraising, it was for the purpose of political campaigning. Accordingly, the Committee determined that AS 24.60.030(a)(5) was violated.

With respect to Count 3, the Committee determined that Representative Sanders required his staff to perform duties related to producing and mailing the letter, which it found was a political party or campaign activity. The Ethics Committee therefore concluded that Representative Sanders violated AS 24.60.030(b).

IV
THE ETHICS COMMITTEE'S RECOMMENDATIONS

Having determined that Representative Sanders was guilty of violating AS 24.60.030(a)(2), AS 24.60.030(a)(5), and AS 24.60.030(b), the Ethics Committee then determined that Representative Sanders had not been cooperative and considered the issue of sanctions. With respect to the issue of whether or not Representative Sanders cooperated, the Ethics Committee stated:

"...[T]he Committee finds, upon reviewing the pleadings and correspondence in the case since the probable cause

determination, a pattern of delaying and obstructing tactics (including lack of compliance with the Hearing Officer's orders) which constitutes a lack of cooperation which was inappropriate."

The recommended sanctions are summarized as follows:

- (1) That Representative Sanders be stripped of any committee chair positions he may hold; and
- (2) That he be required to elect a "non-accountable" option for his office account; and
- (3) That he be required to reimburse LAA \$76.48 in postage and 8 hours compensation for a Range 21 employee (\$207.44); and
- (4) That he be required to make a full, complete, and public apology on the floor of the House; and
- (5) That he adopt and file in his office a written policy for his employees concerning the use of government time; and
- (6) That he attend ethics training with his staff; and
- (7) That he be restricted from using legislative funds for out-of-state travel.

V

THE RULES COMMITTEE'S FINDINGS OF FACT

The House Rules Committee concurs with the Ethics Committee's factual findings in a number of respects. Specifically, the Rules Committee finds as follows: First, on January 29, 1996, the Republican Party held a presidential Straw Poll in Alaska. Second, on March 5, 1996, Representative Sanders caused a letter to be sent to approximately 239 people in his House District who participated in the Straw Poll. Third, this letter was on Representative Sanders' letterhead and was marked "official business". Fourth, the letter was prepared in Representative Sanders' legislative office in Juneau with the assistance of his legislative staff during normal working hours. Fifth, the content of the letter is as set forth above. Sixth, the mailing utilized postage charged to Representative Sanders' postage account at the Capitol Building, which account was funded by transfers from Representative Sanders' accountable office account. Seventh, the actual cost of postage for this mailing was \$76.48.

In addition to the above findings of fact, the Rules Committee, *after having had the advantage of hearing Representative Sanders' testimony first hand*, makes the following findings of fact: First, on all relevant dates, Representative Sanders was not a declared candidate for reelection. Second,

on all relevant dates, Representative Sanders had not commenced normal and usual campaign or election related activities. Third, on all relevant dates, Representative Sanders had not decided whether or not to stand for reelection. Fourth, the letter in question was not intended by Representative Sanders as a campaign tool or as a mechanism for personal benefit, or for the benefit of any other person. Fifth, the letter in question was motivated by a desire to complement his constituents for participating in the public process, as well as a desire to encourage future participation in the public process.

VI
RULES COMMITTEE CONCLUSIONS OF LAW

A
Count 1

Count 1 alleges a violation of AS 24.60.030(a)(2), which states, in relevant part, as follows:

"A legislator or legislative employee may not...(2) use public funds, facilities, equipment, services, or another government asset or resource for a nongovernmental purpose or for the private benefit of either the legislator, legislative employee, or another person..."

A strict and literal reading of this statute indicates that a prima facie case for violating AS 24.60.030(a)(2) includes the following elements:

1. The alleged perpetrator must be a legislator or legislative employee; and
2. There must be the use of public funds, facilities, equipment, services, or another government asset; and
3. There must be:
 - a. A nongovernmental purpose; or
 - b. Private benefit of the alleged perpetrator or another person.

All three elements must be satisfied by clear and convincing evidence before the statute is violated.

In this case, there is no question that elements 1 and 2 are satisfied by clear and convincing evidence. The third element, however, is much more problematic. As indicated above, it can be satisfied in one of two ways---if there is a nongovernmental purpose, or if there is private benefit of either the actor or another. Each of these alternatives will be examined in turn. What

complicates analysis is the utter lack of definitions for such key terms as "nongovernmental" and "benefit".

Was there a nongovernmental purpose? The word "purpose", in this context, is synonymous with "intent" or "motive". In the opinion of the Rules Committee, and it so finds, there is insufficient evidence from which it can be concluded that there was a nongovernmental purpose. As indicated above, the Rules Committee found that the purpose of the letter, and Representative Sanders' motive, was to honor and encourage participation in the public process. This is a governmental purpose and is entirely proper.

The Ethics Committee characterized the letter as having a political and not a legislative purpose. It based this conclusion on several facts: First, it concerned the activities of a political party. Second, it was sent to active members of Representative Sanders' political party. Third, it was sent to people in his district in an election year. With all due respect, the Rules Committee draws a different conclusion with respect to Representative Sanders' purpose, or motive.

As admitted by counsel for the Ethics Committee in his final argument at the conclusion of Representative Sanders' ethics hearing:

"Representative Sanders was given every opportunity to tell his side, to tell us what happened, why he sent that letter, what was his intent, what was the official or the legitimate legislative purpose to send that letter? You're going to have to infer that now, because I can't tell you what his purpose was, what was in his mind and he wouldn't tell you and his staff wouldn't tell you, so you're going to have to draw the inferences from the evidence or the lack of the evidence... (emphasis added)

And when you review the evidence, look at the exhibits. Look at Exhibit 6, that's the letter. That's the letter. Read that letter and say, what's the legitimate State purpose for that letter."

Thus, the Ethics Committee had no direct evidence concerning Representative Sanders' motive in sending the letter. It was limited to the inferences that could be drawn from the letter itself. While it was entirely permissible for the Ethics Committee to draw inferences from the letter, its ability to assess motive was not enhanced by any direct evidence. The Rules Committee was not similarly handicapped, and consequently, as previously discussed, the Rules Committee found that Representative Sanders' motive was to advance a governmental purpose. Accordingly, the Rules Committee specifically finds that Representative Sanders did not violate AS 24.60.030(a)(2) by having a nongovernmental purpose in sending the letters.

The Ethics Committee also found that AS 24.60.030(a)(2) was violated because Representative Sanders realized a private benefit, which it characterized as "campaign good will". The Rules Committee rejects this conclusion. As indicated, Representative Sanders, at the time in question, was not a declared candidate, was not engaging in normal campaign activities, and had not even decided whether he was going to run in the next election. There was no campaign to which "good will" could attach.

The Rules Committee notes that "good will" is to be expected when legislators do a good job. To avoid good will, legislators would have to shun their responsibilities and neglect their constituents. Good will is, quite simply, a normal byproduct of the conscientious discharge of our duties, the very duties that were entrusted to us by our constituents. Furthermore, discharging these duties oftentimes requires a significant expenditure of public resources, well outside the statutory exceptions pertaining to nominal investments.

The Rules Committee rejects any construction of AS 24.60.030(a)(2) which equates the private "benefit" of legislators to "good will". If we can not do our jobs; if we can not help our constituents; and, if we can not uphold the trust that was placed in us for fear that we might incur some "good will", we might as well fold up our tents and go home. Such a construction of the statute yields ludicrous results. It therefore follows that the Rules Committee wholly rejects the Ethics Committee's conclusion that AS 24.60.030(a)(2) was violated on the theory that Representative Sanders' letter generated campaign good will, or any other type of good will.

The Ethics Committee also found that Representative Sanders' letter violated AS 24.60.030(a)(2) because it was for the private benefit of a third person, the Republican Party. The Ethics Committee's decision on this issue was articulated summarily, without an adequate specification of its rationale or the specific benefit flowing to the Republican Party. The Rules Committee rejects this conclusion. After having examined the evidence, it does not find from even a preponderance of evidence, let alone by clear and convincing evidence, that the Republican Party realized any benefit from the letter.

In summary, with respect to Count 1, the Rules Committee finds that Representative Sanders acted with a governmental purpose, that he did not realize a private benefit, and that no private party realized a benefit. Therefore, Representative Sanders did not violate AS 24.60.030(b)(2).

B
Count 2

In Count 11, the Ethics Committee determined that Representative Sanders' violated AS 24.60.030(a)(5). This statute reads as follows:

"A legislator or legislative employee may not...(5) use or authorize the use of state funds, facilities, equipment, services or another government asset or resource for the purpose of political fund raising or campaigning..."

The Ethics Committee determined that Representative Sanders' letter constituted the use of state resources for the purpose of campaigning, in violation of the statute. The Rules Committee does not agree. As noted, Representative Sanders had not yet commenced his campaign. Also, as noted, his purpose was to encourage participation in the public process. Specifically, he was not motivated by a desire to advance his then nonexistent personal campaign, nor that of the Republican Party. He did not act with that purpose, and thus, Representative Sanders did not violate AS 24.60.030(a)(5).

C
Count 3

The Ethics Committee found, by clear and convincing evidence, that Representative Sanders violated AS 24.60.030(b) by requiring his staff to participate in political party activities and campaigning. AS 24.60.030(b) states:

"A legislative employee may not on government time assist in political party or candidate activities, campaigning, or fund raising. A legislator may not require an employee to perform an act in violation of this subsection."

Again, the Rules Committee disagrees. The letter in question was not campaigning, and it was not a political party activity. It was an effort by Representative Sanders to encourage participation in the public process. Representative Sanders did not violate AS 24.60.030(b).

VII
RULES COMMITTEE'S RECOMMENDED SANCTIONS WITH RESPECT TO
ALLEGED VIOLATIONS CONTAINED IN COUNTS 1, 2, AND 3

Having determined that Representative Sanders did not violate the statutes he was formally charged with violating, there is no occasion for the imposition of sanctions with respect to *those* charges.

VIII
RULES COMMITTEE'S CONCLUSION REGARDING REPRESENTATIVE
SANDERS' COOPERATION WITH THE ETHICS COMMITTEE

AS 24.60.170(k) provides, in relevant part, as follows:

Following the hearing, the committee shall issue a decision stating whether or not the subject of the complaint violated this chapter, and explaining the reasons for the determination. The committee's decision may also indicate whether the subject cooperated with the committee in its proceedings. If the committee finds a violation, or lack of cooperation by the subject, the decision shall recommend what sanctions, if any, the committee believes are appropriate." (emphasis added)

The Rules Committee construes this statute as creating an independent legal duty to cooperate with the Ethics Committee, the violation of which may be grounds for the imposition of sanctions, regardless of the disposition of the original charges. The Ethics Committee determined that Representative Sanders did not cooperate with it. The Rules Committee concurs with that assessment. Accordingly, appropriate sanctions may, but need not, be assessed for failure to cooperate.

In articulating this conclusion, the Rules Committee is troubled by the lack of statutory guidance as to what constitutes a lack of cooperation. In that regard it must be emphasized that it is not the Rules Committee's position that mounting a vigorous defense constitutes a lack of cooperation. Similarly, representation by counsel and good faith procedural or evidentiary tactics do not constitute a violation of this statutory duty. In addition, the good faith exercise of constitutional rights may not be construed as a "lack of cooperation".

IX
RULES COMMITTEE'S RECOMMENDATIONS
REGARDING APPROPRIATE SANCTIONS

The Rules Committee makes the following observations: First, the sanctions recommended by the Ethics Committee, for the most part, were predicated upon a finding that Representative Sanders improperly used state money and resources to improperly benefit himself or for improper purposes; and, the sanctions were specifically tailored to punish this specific type of offense and to act as a prophylactic measure to ward off future violations of this type. Second, those specific offenses are no longer relevant to determining proper sanctions. Third, any assessment of sanctions must specifically pertain to the violation actually committed by Representative Sanders---a failure to cooperate with the Ethics Committee. That is to say, there must be a logical nexus between the offense of failure to cooperate and the sanction or sanctions assessed by the House against Representative Sanders. Fourth, taking into consideration Representative Sanders' beliefs about the weaknesses of the Ethics Committee and the Ethics Code, as well as the natural pressures and concerns generated by all political campaigns, the Rules Committee understands, *but does not excuse or condone*, Representative Sanders' actions with respect to the Committee. Finally, sanctions may properly relate to the twin goals of deterring Representative Sanders from failing to cooperate with the Ethics Committee in the future, as well as deterring others from committing this violation. With these considerations in mind, the Rules Committee makes the following recommendations to the full House concerning sanctioning Representative Sanders for failure to cooperate.

- (1) It is recommended that the Ethics Committee's recommendations concerning sanctions not be adopted. As noted, they relate to three alleged violations which did not occur.
- (2) Representative Sanders should be ordered to pay a \$1,000 fine to LAA before the end of the current legislative session; and
- (3) Representative Sanders should not be permitted to travel out of Alaska utilizing state funds during the 1997 calendar year; and
- (4) Representative Sanders should be ordered to utilize the nonaccountable office account procedure; and
- (5) Representative Sanders should be ordered to attend ethics training if he has not already done so; and

- (6) Representative Sanders should be ordered to post a copy of the Ethics Act in his legislative offices.

X
CONCLUSION

The Ethics Committee recommends that Representative Sanders be sanctioned as discussed in the previous section. In addition, it must be noted that, although the Rules Committee disagrees with the conclusions reached by the Ethics Committee, this disagreement is based on factual and legal considerations. This opinion is not based upon a finding that any member of the Ethics Committee acted other than honorably. The Rules Committee had the benefit of evidence not before the Ethics Committee, and its disagreement concerning the law is just that, an intellectual disagreement, which is something which occurs in courts thousands of times a day among honorable people. Nevertheless, the Rules Committee does disagree with the Ethics Committee's findings and recommendations and respectfully urges the full House to act consistent with the recommendations contained herein.

Finally, it may be noted that, during the course of reviewing In Re Sanders, H 96-02, the Rules Committee identified a number of troublesome issues concerning the Ethics Act. The Rules Committee determined that resolution of these issues is outside the scope of the task assigned to it. However, the Rules Committee also concluded that it would be remiss if it failed to inform the full House of its concerns. Accordingly, attached hereto is a short document outlining areas which the Committee believes warrant study. It is recommended that this document be forwarded to an appropriate body for consideration.

Dated this ____ day of February, 1997 in Juneau, Alaska.

Representative Pete Kott
Chair
House Rules Committee

Representative Gail Phillips

Representative Brian Porter

Representative Al Vezey

Representative Bill Williams

Representative Kim Elton

Representative Irene Nicholia

Alaska State Legislature

House of Representatives



Official Business

COMMITTEE ON RULES

State Capitol, Rm. 204
Juneau, Ak 99801-1182
(907) 465-3764

RULES COMMITTEE'S CONCERNS REGARDING THE ETHICS ACT

The Rules Committee, in evaluating the Ethics Committee's recommendations in In Re Sanders, H 96-02, identified a number of issues concerning the Ethics Act which it concluded warrant additional study. As stated in the body of its written recommendations to the full House regarding In Re Sanders, the Rules Committee does not purport to resolve these very difficult and complex issues, but rather seeks to apprise the full House of its concerns. It is recommended that this matter be referred to an appropriate body for further action. With that in mind, the issues are as follows:

1. Are key terms in the Act sufficiently defined?
2. Does a lack of definitions make it difficult for people governed by the Act to know what conduct is prohibited? If so, is the Act subject to challenge on Due Process grounds?
3. Does a lack of definition of "cooperated with the committee" act to chill the right to mount a full, vigorous, and robust defense to charges?
4. Generally does a lack of definitions make the act so vague as to chill the right to freedom of speech?
5. Is the Act so broad as to sweep within its coverage speech which is constitutionally protected?
6. At ethics hearings, should the Committee be required to call as witnesses those individuals who file ethics complaints?
7. Constitutional considerations aside, is the Act good public policy?
 - (a) Does it prohibit conduct which properly may be performed by legislators?
 - (b) Are there sufficient safeguards in place as to encourage confidence that the Ethics Committee will generate fair and unbiased decisions?

- (c) Are there adequate provisions to guard against actual conflicts of interest?
 - (d) Should the Act contain additional provisions to foster public and legislative confidence in the process by guarding against the appearance of impropriety?
 - (e) Should normal rules of procedure and evidence govern proceedings before the Ethics Committee?
 - (f) At the Ethics Committee level, should there be more of a separation of the traditional functions of the police, prosecutor, judge, and jury? Alternatively, is fairness and due process guaranteed through legislative review of the decisions of the Ethics Committee?
 - (g) Is the Ethics Committee too vulnerable to being used as a political football, and if so, should there be some sort of moratorium on the acceptance of complaints during defined periods before elections?
- (8) Such recommendations and concerns as the Ethics Committee has or may articulate.

SELECT
COMMITTEE
DECISION
J. SANDERS
11/15/96



Alaska State Legislature

House of Representatives

State Capitol, Rm 214
Juneau, AK 99801-1182
(907) 465-3725
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Official Business

Office of the Chief Clerk

January 22, 1997

MEMORANDUM

TO: Representative Pete Kott
Chairman, Rules Committee

FROM: Suzi Lowell 
Chief Clerk

SUBJECT: Select Committee on Legislative Ethics - Decision H 96-02

Attached is a copy of Decision H 96-02 by the Select Committee on Legislative Ethics regarding Representative Sanders. The decision was referred today to the Rules Committee for consideration.

Attachment as noted.

Alaska State Legislature

Select Committee on Legislative Ethics

HOUSE SUBCOMMITTEE

In re: Representative Jerry Sanders

DECISION: H 96-02

The House Subcommittee of the Select Committee on Legislative Ethics (Committee) finds that Representative Jerry Sanders violated the Ethics Act by using state funds, legislative staff, state equipment and state facilities for nongovernmental purposes, including political purposes. The Committee reached this decision based on clear and convincing evidence and did not find it necessary to make inferences from those witnesses who exercised the privilege against self-incrimination.

In this decision, the Committee sets out the procedural history of the complaint, the reasons for its determination, including a review of the evidence presented at the public hearing held November 14th and 15th 1996, and recommendations to the House of Representatives for sanctions to be imposed on Representative Sanders.

A. Procedural History

A complaint was filed with the Committee against Rep. Sanders on April 19, 1996. Following the requirements of AS 24.60.170, the Committee determined that the complaint was in the proper form and contained allegations, which if true, would constitute violations of the Ethics Act, and issued a resolution defining the scope of investigation into the complaint on July 24, 1996. An investigation was conducted. After reviewing the results of the investigation, on September 23, 1996, the Committee found probable cause to believe Rep. Sanders had committed violations of the Ethics Act that might require sanctions instead of, or in addition to, corrective action and therefore issued formal charges.

Rep. Sanders was served with the charges but did not choose to answer them. Therefore the Committee scheduled a hearing on the charges for November 14th and 15th, 1996. The Committee appointed Michael N. White as its Hearing Officer to address pre-hearing issues and preside over the hearing. On October 28, 1996, Rep. Sanders sought relief in Superior Court in Anchorage on several pre-hearing issues. His case was dismissed because the Superior Court found it did not have jurisdiction over the internal affairs of the Legislature.

The Committee held a public hearing on the charges on November 14th and 15th, 1996. Members of the Committee present (Rep. Cynthia Toohey and the public members: Joseph Donahue, Ed Granger, Margie Mac Neille, Shirley McCoy and Edith Vorderstrasse) heard testimony presented by the Committee's counsel Michael Spaan and staff. Rep. Sander's attorney, Lester Syren, cross-examined Committee witnesses but elected not to present any witnesses. At the conclusion of the public hearing, the Committee began its deliberations, using only the evidence admitted during the hearing. After determining that violations had occurred, the Committee reviewed the public record of pleadings and correspondence which had been received after the probable cause determination.

Rep. Sanders, a member of his staff and an ex-employee claimed their 5th Amendment right not to testify in response to numerous questions at the hearing.¹ Although the Committee is permitted, as a matter of law, to draw inferences from their doing so, it did not do so in making its findings or reaching its decision. Unfortunately, the witnesses' exercise of their privilege may have deprived the committee of information which could have explained, or made less serious, the violations which the evidence presented demonstrated. The Committee regrets that it has never heard Rep. Sanders' side of the story, although he has been given every opportunity to tell it. However, the Committee must deal with the evidence before it. The Committee will not be referring this matter to any other authority under AS 24.60.170(1).

B. Reasons for determination

The Committee finds, as alleged in Charge I of the formal charges,

That Rep. Sanders used public funds, facilities, equipment, services or another government asset or resource for a non-governmental purpose or for his own private benefit or the benefit of another person by producing or mailing, to one or more people, a letter dated March 4, 1996 concerning participation in the Republican Party's presidential straw poll, in violation of AS 24.60.030(a)(2).

On January 29, 1996, the Republican Party of Alaska held a Presidential Straw Poll. (Testimony of Linda McKay) People participating in the straw poll in District 19, Rep. Sanders' district, wrote their names and addresses on sign-in forms. (Ex. 5)

Earnest Woods, who attended the Republican Straw Poll for District 19, subsequently received a letter. (Ex. 6) The letter is on the letterhead of Rep. Jerry Sanders, which indicates he serves as Chairman of the Economic Development Committee of the Alaska State Legislature, includes the seal of the state of Alaska and is marked "Official Business". The letter is dated March

¹ They declined to testify on the advice of their attorney on the grounds that their testimony might subject them to criminal prosecution.

4, 1996; its envelope bears the return address "Representative Jerry Sanders, State Capitol, Room 13, Juneau, Alaska 99801-1182" and a Juneau postmark of March 5, 1996. The letter is signed "Jerry". Under the typed signature line, "Representative Jerry Sanders", the initials "JS:jl" appear. (Testimony of Earnest Woods, Exs. 5 & 6)

The text for this letter and a mailing list containing 265 names corresponding to names on the District 19 Republican Straw Poll sign-in forms were found, under the file names "strawpoll" and "poll", in a computer located in Rep. Sanders' office and used by his employee, Jeanné Lovell. File information from that computer shows that one document was last modified on March 4, 1996 at 10:38 am and the other was last modified at 10:43 am that day. (Exs. 11 and 12)

March 4th, 1996 was a Monday during the legislative session and it was not a holiday. Rep. Sanders' office employees during the legislative session included Jeanne Lovell and Patricia Perez. (Exs. 8 & 9) Ms. Lovell's time cards for the period indicate that she did not file any leave slips for March 4th or 5th (or any at all for the period from January 29th through March 5th.) (Ex. 7) Ms. Perez did not recall doing any project that wasn't "with the job". (Testimony of Patricia Perez) Ms. Perez told the Committee's investigator, Susan Barnett, that she printed out, folded and mailed the March 4 letter to Republican Straw Poll participants, assisting Jeanne Lovell in the project. (Testimony of Susan Barnett, Ex. 15) The Committee determined that the tasks related to the letter were completed while the employees were on government time.

On March 5, 1996, \$76.48 was charged to the Juneau Mailroom Account maintained for Rep. Sanders by Legislative Services, reflecting the mailing of 239 pieces of mail. (Ex. 10) That account was funded by transfers, of \$100 on January 16, 1996 and \$250 on March 7, 1996, from Rep. Sanders' "accountable" office account. (Ex. 4) Legislators receive an office allowance of \$6000 per year from the Legislature. They may choose to take this allowance in cash, after payroll and income tax deductions, or they may leave it on account with the Legislative Affairs Agency. If they choose this option, they may only submit for payment business-related expenses, substantiated by receipts. No taxes are paid on money disbursed under this account. (Exs. 1 & 3). Rep. Sanders chose the "accountable" office allowance plan. (Ex. 4) The Committee determined that funds held in the "accountable" office account are public funds, not to be used for personal purposes.

The Committee finds that there is clear and convincing evidence Rep. Sanders sent this letter as part of a mass mailing on March 5th. It was on his stationary, prepared and mailed from his office by his employees, and its signature matches the signature on his office allowance form. (Ex. 4) The Committee finds that the act of preparing and sending the letter used public funds (the accountable office allowance) for postage; used public facilities and equipment (the state computer in his office) and used public resources (the staff time of his employees).

The text of the letter is as follows :

I would like to take this opportunity to thank you for your participation in the first presidential straw poll to be held in Alaska. Not only have we broken new ground historically, politically we have gained prestige on the national level.

It was exciting to learn that District 19's participation was among the strongest areas to go out and cast a vote for a presidential candidate. With the inclement weather to deal with, I really appreciate the interest shown by my fellow Republicans.

Seeing a lot of you in the halls of the polling station within my district was indeed a pleasure. If I didn't get a chance to talk with you, please accept my apology.

I have always held in high regard those people who will go that "extra mile" to do what is needed. Taking the time out of your busy schedule to fulfill your civic duty is greatly appreciated.

The Committee finds, by clear and convincing evidence, that this letter does not have a legislative purpose. It concerns a function of a political party on a national level, the effort to influence the choice of the Republican nominee for President. It was sent to active members of Rep. Sanders' political party, in his district, in a year he was running for election. Legislators may use public funds, facilities and staff to communicate with constituents if that communication has a connection to a legislative purpose. This letter has a political, not a legislative purpose. The Committee finds that Rep. Sanders' use of public funds, facilities and equipment and staff time was for a nongovernmental purpose, and for his private benefit (campaign good will) and for the benefit of another person (the Republican Party). Under AS 24.60.030(a)(2), any one of these purposes is a violation.

AS 24.60.030(a)(2)(A) does not prohibit limited use of public funds, facilities and equipment or resources for personal purposes if the use does not interfere with the performance of public duties and the cost or value related to the use is nominal. The Committee finds that this exception does not apply in this case. Ms. Perez told Ms. Barnett that she and Ms. Lovell worked on the production and mailing of the letter for about a day, with other legislative duties being done in between. (Testimony of Ms. Barnett, Ex. 15). Ms. Donna Daniels, a skilled legal secretary, recreated the letter and a mailing list from the District 19 sign-in forms, printed them, folded them, stuffed them in envelopes and ran them through a postage meter in 6 1/2 hours. (Testimony of Donna Daniels) Unless Rep. Sanders' employees had no public duties to perform (an assumption the Committee is unwilling to make), the tasks related to the letter interfered by necessity with their public duties for that period. The Committee finds the cost of producing the mass mailing is not nominal.

The Committee finds, as alleged in Charge II.

That Rep. Sanders used or authorized the use of state funds, facilities, equipment, services or another governmental asset or resource for the purpose of political fundraising or campaigning by producing and mailing, to one or more people, a letter dated March 4, 1996 concerning participation in the Republican Party's presidential straw poll, in violation of AS 24.60.030(a)(5).

Under Charge I above, the Committee has already found that Rep. Sanders used state funds, facilities and equipment, and resources (staff time) to produce the letter dated March 4th. Under this section of the Ethics Act, the issue is whether the letter was for the purpose of political fundraising or campaigning. The Committee, by clear and convincing evidence, finds that the letter was not for political fundraising but that it was for the purpose of political campaigning, for the Republican Party generally and Rep. Sanders individually. (Ex. 6)

Under AS 24.60.030(5), just as under AS 24.60.030(a)(2), limited use of state property and resources for personal purposes is permitted if the use does not interfere with the performance of public duties and the cost is nominal. As in Charge I, the Committee finds this exception does not apply.

The Committee finds, as alleged in Charge III,

That Rep. Sanders required an employee to assist in political party or candidate activities, campaigning or fundraising while on government time, by requiring a legislative employee to perform duties related to the production and mailing of a letter, to one or more people, dated March 4, 1996 concerning participation in the Republican Party's presidential straw poll, in violation of AS 24.60.030(b).

The Committee finds, by clear and convincing evidence, that Rep. Sanders did so violate AS 24.60.030(b). Rep. Sanders' initials and signature appear on the letter Mr. Woods received, indicating that he generated the letter. It is highly improbable to the Committee that the mass mailing took place without his directing his employees to carry it out. Legislators are responsible for the activities of their employees while the employees are on government time. As discussed in Charge II above, the letter constituted a political party activity and campaigning (but not fundraising).

C. Cooperation of Representative Sanders

Under AS 24.60.170(k), the Committee's decision following a public hearing may indicate whether the subject cooperated with the Committee in its proceedings. Rep. Sanders did not cooperate with the Committee in this case. In several areas, Rep. Sanders' view of the applicable law is different than that

of the committee's, specifically whether the judicial branch of state government has jurisdiction over the Ethics Committee and whether one person can claim the 5th Amendment privilege against self-incrimination to avoid testimony that might incriminate another person. A subject does not have to agree with the Committee to be considered cooperative, and the committee does not hold these differences of opinion against Rep. Sanders. However, these issues aside, the Committee finds, upon reviewing the pleadings and correspondence in the case since the probable cause determination, a pattern of delaying and obstructing tactics (including lack of compliance with the Hearing Officer's orders) which constitutes a lack of cooperation which was inappropriate.

D. Recommended Sanctions

Since the Committee has found both violations of the Ethics Act and a lack of cooperation by the subject, it must recommend to the House the sanctions it deems appropriate. In making these recommendations the Committee considered several factors.

First, the offenses must be looked at in light of the spectrum of possible violations. A considerable amount of legislative staff time, \$76 in postage, and the official state letterhead were used for partisan political purposes. Although significant, the offenses are not the most serious.

Second, the Committee has found probable cause to believe that Rep. Sanders violated the Ethics Act twice before and has required corrective action. Although the second offense was minor, both violations involved using state resources for personal or political benefit. It does not appear that the corrective actions required by the Committee in the past have had the desired positive effect on Rep. Sanders' conduct in this area.

Third, state resources are entrusted to the legislators for their use in performing their legislative functions. The public has the right to expect that these resources will not be diverted to other purposes. Public trust in the legislature depends on the assurance that a legislator will not use these resources in partisan efforts or for personal benefit.

The Committee and the Legislature must take a strong stand when misuse of public resources occurs. The Committee has increased the sanctions recommended because of the prior findings of probable cause that Rep. Sanders violated the Ethics Act and because of his lack of cooperation.

The sanctions recommended by the Committee for imposition by the House are:

1. Rep. Sanders shall be stripped of any committee chairmanships he may hold for his next term. Being a committee chair places additional state

7

resources at a legislator's disposal and the use of committee resources in this violation has demonstrated that Rep. Sanders cannot use those resources appropriately.

2. Rep. Sanders shall be required to choose the "non-accountable" option for office accounts, receiving his \$6000 office allowance in cash, net of appropriate taxes. Under the legislature's rules, he may then use the money as he wishes, avoiding any future issues of inappropriate claims of legislative business expense against an office account.

3. Rep. Sanders shall reimburse the Legislative Affairs Agency for the \$76.48 postage and 8 hours compensation for one Range 21 Step A employee. (\$207.44) This is obviously not an exact equivalent of the labor cost of Rep. Sanders' employees' work on the letter, but it is intended to represent that cost.

4. Rep. Sanders shall make a public apology to the members of the House and the public on the floor of the house during session for his misuse of state assets. The apology shall be full and complete and must include accepting responsibility before the legislature for actions taken in his office, even if he wishes to avoid directly saying he participated in order to protect his 5th Amendment right against self-incrimination. The Committee believes that legislators as a group properly use the public resources entrusted to them and comply with the requirements of the Ethics Act. Actions like Rep. Sanders' reflect poorly on the other legislators who act responsibly.

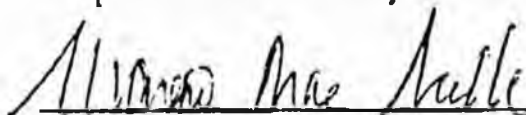
5. Rep. Sanders shall adopt, file with the Committee and post in his office a written policy for his employees on the use of government time for government functions, requiring the use of leave time, properly documented, for personal, political or other nongovernmental activities.

6. Rep. Sanders shall complete corrective actions called for in earlier Committee decisions, specifically, attending Ethics training with his staff.

7. Rep. Sanders shall not be allowed to use legislative funds for out-of-state travel during his next term.

Recommendations 2,3,4,5 and 6 are to be completed within 20 days of the date sanctions are imposed by the House.

Adopted on the 15th day of November, 1996



Margie Mac Neille, Chair

House Subcommittee

Select Committee on Legislative Ethics