

ALASKA LEGISLATURE COMMITTEE FILES 2007-2008 HSTA 12383

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

(f) The candidate is responsible for the performance of the campaign treasurer, and any default or violation by the treasurer also shall be considered a default or violation by the candidate if the candidate knew or had reason to know of the default or violation.

((1 ch 76 SLA 1974; am 16 - 19 ch 189 SLA 1975; am 1 ch 133 SLA 1977; am 35 ch 59 SLA 1982))

Administrative Code. - For campaign disclosure, see 2 AAC 50, art. 2.

NOTES TO DECISIONS

ANALYSIS

I.	General	Consideration
II.	Subsection	(C)

I. GENERAL CONSIDERATION.

Cited in

State, Alaska Pub. Offices Comm'n v. Marshall, 633 P.2d 227 (Alaska 1981); Black v. State, 76 P.3d 417 (Alaska Ct. App. 2003).

II. SUBSECTION (C).

Annotator's notes. -

Silides v. Thomas, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977), cited in the notes below, was decided under subsection (c) as it existed before the 1977 amendment. Prior to that amendment, subsection (c) read: "Each candidate shall file the name and address of the campaign treasurer with the commission no later than seven days after the date of filing his declaration of candidacy or his nominating petition. The name of the candidate may be placed on the ballot by the lieutenant governor or municipal clerk only if the candidate has complied with this subsection."

This section is not unconstitutional in that it sets up "invalid class legislation." Silides v. Thomas, 559 P.2d 80 (Alaska 1977).

The two groups classified by virtue of this section are those candidates who have complied with the law and those who have not; the failure to adhere to this section is the dividing line. Therefore, under any possible equal protection test this section passes constitutional muster. Silides v. Thomas, 559 P.2d 80 (Alaska 1977).

Statutory requirement that a candidate's designation of treasurer be filed by a specified due date is not constitutionally unreasonable. Silides v. Thomas, 559 P.2d 80 (Alaska 1977).

Subsection (c) should be strictly enforced. - Silides v. Thomas, 559 P.2d 80 (Alaska 1977).

Effect of unequal enforcement of AS 39.50.020 on enforcement of subsection (c). - Unequal enforcement of AS 39.50.020, which requires candidates to file a financial disclosure statement, did not require the conclusion that a candidate had in fact substantially complied with the filing requirements of subsection (c) where the record did not show any intentional or purposeful discrimination against the candidate. Silides v. Thomas, 559 P.2d 80 (Alaska 1977).

Subsection (c) requires candidates to "file" campaign treasurer statements within a specified time limit. Silides v. Thomas, 559 P.2d 80 (Alaska 1977).

The definition of "file" is well established in the law. It has been consistently held that a document is filed only when the proper officer has received it, and that it is not considered filed when it is deposited in the mails. Silides v. Thomas, 559 P.2d 80 (Alaska 1977).

Telephone conversation not appropriate filing. - Given the text of subsection (c), the legal meaning of the term "file" and the supreme court's adoption of the doctrine that statutory election deadlines are to be strictly enforced, a telephone conversation between the candidate's treasurer and the Alaska Public Offices Commission seven days after the declaration of candidacy was filed cannot be deemed an appropriate filing within the intentment of subsection (c). Silides v. Thomas, 559 P.2d 80 (Alaska 1977).

No regulations were necessary to implement the mandatory provisions for filing an appointment of campaign treasurer established by subsection (c) of this section. *Silides v. Thomas*, 559 P.2d 80 (Alaska 1977).

Sec. 15.13.065. Contributions.

(a) Individuals, groups, nongroup entities, and political parties may make contributions to a candidate. An individual, group, or nongroup entity may make a contribution to a group, to a nongroup entity, or to a political party.

(b) A political party may contribute to a subordinate unit of the political party, and a subordinate unit of a political party may contribute to the political party of which it is a subordinate unit.

(c) Except for reports required by AS 15.13.040 and 15.13.110 and except for the requirements of AS 15.13.050, 15.13.060, and 15.13.112 - 15.13.114, the provisions of AS 15.13.010 - 15.13.116 do not apply to limit the authority of a person to make contributions to influence the outcome of a ballot proposition. In this subsection, in addition to its meaning in AS 15.60.010, "proposition" includes an issue placed on a ballot to determine whether

- (1) a constitutional convention shall be called;
- (2) a debt shall be contracted;
- (3) an advisory question shall be approved or rejected; or

(4) a municipality shall be incorporated.

((9 ch 48 SLA 1996; am 7 ch 1 SLA 2002))

Administrative Code. - For campaign disclosure, see 2 AAC 50, art. 2.

Effect of amendments. The 2002 amendment, effective April 16, 2002, inserted references to nongroup entities in three places in subsection (a) and made minor stylistic changes.

Sec. 15.13.067. Who may make expenditures.

Only the following may make an expenditure in an election for candidates for elective office:

- (1) the candidate;
- (2) an individual;
- (3) a group that has registered under AS 15.13.050; and

(4) a nongroup entity that has registered under AS 15.13.050.

((9 ch 48 SLA 1996; am 8 ch 1 SLA 2002))

Effect of amendments. The 2002 amendment, effective April 16, 2002, added paragraph (4) and made related stylistic changes.

NOTES TO DECISIONS

Cited in *Alaska Right to Life Comm. v. Miles*, 441 F.3d 773 (9th Cir. 2006)

Sec. 15.13.070. Limitations on amount of political contributions.

(a) An individual or group may make contributions, subject only to the limitations of this chapter and AS 24.45, including the limitations on the maximum amounts set out in this section.

(b) An individual may contribute not more than

(1) \$500 per year to a nongroup entity for the purpose of influencing the nomination or election of a candidate, to a candidate, to an individual who conducts a write-in campaign as a candidate, or to a group that is not a political party;

(2) \$5,000 per year to a political party.

(c) A group that is not a political party may contribute not more than \$1,000 per year

(1) to a candidate, or to an individual who conducts a write-in campaign as a candidate;

(2) to another group, to a nongroup entity, or to a political party.

(d) A political party may contribute to a candidate, or to an individual who conducts a write-in campaign, for the following offices an amount not to exceed

(1) \$100,000 per year, if the election is for governor or lieutenant governor;

(2) \$15,000 per year, if the election is for the state senate;

(3) \$10,000 per year, if the election is for the state house of representatives; and

(4) \$5,000 per year, if the election is for

(A) delegate to a constitutional convention;

(B) judge seeking retention; or

(C) municipal office.

(e) This section does not prohibit a candidate from using up to a total of \$1,000 from campaign contributions in a year to pay the cost of

(1) attendance by a candidate or guests of the candidate at an event or other function sponsored by a political party or by a subordinate unit of a political party;

(2) membership in a political party, subordinate unit of a political party, or other entity within a political party, or subscription to a publication from a political party; or

(3) co-sponsorship of an event or other function sponsored by a political party or by a subordinate unit of a political party.

(f) A nongroup entity may contribute not more than \$1,000 a year to another nongroup entity for the purpose of influencing the nomination or election of a candidate, to a candidate, to an individual who conducts a write-in campaign as a candidate, to a group, or to a political party.

((1 ch 76 SLA 1974; am 20, 21 ch 189 SLA 1975; am 45 ch 85 SLA 1986; am 10 ch 48 SLA 1996; am 2 ch 74 SLA 1998; am 9 - 11 ch 1 SLA 2002; am 2 ch 3 SLA 2002; am 8 - 10 ch 108 SLA 2003; am 1, 2, 2006 Primary Election Ballot Measure No. 1))

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

Administrative Code. - For campaign disclosure, see 2 AAC 50, art. 2.

Effect of amendments. The 1996 amendment, effective January 1, 1997, rewrote this section.

The 1998 amendment, effective June 4, 1998, added subsection (e).

The first 2002 amendment, effective April 16, 2002, in subsection (b) inserted the language beginning "to a nongroup" and ending "of a candidate" in paragraph (1); in subsection (c) inserted ", a nongroup entity," in paragraph (2); and added subsection (f).

The second 2002 amendment, effective April 16, 2002, in subsection (b) added "for the purpose of influencing the nomination or election of a candidate or candidates" at the end of paragraph (2).

The 2003 amendment, effective September 14, 2003, increased the allowed contributions in subsections (b), (c), and (f) and made stylistic changes.

The 2006 amendment, effective December 17, 2006 rewrote subsections (b) and (c).

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

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

The \$1000 statutory limit under this section is applicable to "control groups" under former AS 15.13.130(4). Exempting such groups from the contribution limit would seriously undermine the statute's primary purpose of deterring the buying of elections and the undue influence of large contributors. June 15, 1987, Op. Att'y Gen.

NOTES TO DECISIONS

Constitutionality. - The \$500 limitation on individual contributions for electoral campaigns in Alaska set forth in subsection (b) is justified by evidence that contribution limits do not place a substantial burden on the ability of candidates to run competitive local or state election campaigns. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

Limits on individuals' contributions to groups and political parties are reasonable; preventing individuals from channeling their contributions through a group or a party, and thus avoiding the limit on individuals' contributions to candidates, is a valid purpose. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

The limitation in subsection (c), that a "group" that is not a political party may not contribute more than \$1,000 per year to a candidate, another group, or a political party, is reasonable. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

The graduated limits for political parties' contributions to candidates set forth in subsection (d) serve the State's legitimate governmental interest, and are upheld. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

The limitations in former AS 15.13.070(b)(2) on individuals' soft money contributions to political parties were constitutional under the First Amendment. *Jacobus v. Alaska*, 338 F.3d 1095 (9th Cir. 2003).

Implementation by regulations. - Alaska Admin. Code tit. 2, 50.327, which was legally promulgated and requires that political parties report soft money contributions and expenditures, implements the Campaign Disclosure Act. *Libertarian Party of Alaska, Inc. v. State*, 101 P.3d 616 (Alaska 2004).

Applied in *Vogler v. Miller*, 660 P.2d 1192 (Alaska 1983).

Cited in *State, Alaska Pub. Offices Comm'n v. Marshall*, 633 P.2d 227 (Alaska 1981)

Collateral references. Power of corporation to make political contribution or expenditure under state law. 79 ALR3d 491.

State regulation of the giving or making of political contributions or expenditures by private individuals 94 ALR3d 944.

Sec. 15.13.072. Restrictions on solicitation and acceptance of contributions.

(a) A candidate or an individual who has filed with the commission the document necessary to permit that individual to incur election-related expenses under AS 15.13.100 may not solicit or accept a contribution from

(1) a person not authorized by law to make a contribution;

(2) an individual who is not a resident of the state at the time the contribution is made, except as provided in (e) of this section;

(3) a group organized under the laws of another state, resident in another state, or whose participants are not residents of this state at the time the contribution is made; or

(4) a person registered as a lobbyist if the contribution violates AS 15.13.074(g) or AS 24.45.121(a)(8).

(b) A candidate or an individual who has filed with the commission the document necessary to permit the individual to incur election-related expenses under AS 15.13.100, or a group, may not solicit or accept a cash contribution that exceeds \$100.

(c) An individual, or one acting directly or indirectly on behalf of that individual, may not solicit or accept a contribution

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

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

(d) A candidate or an individual who has filed with the commission the document necessary to permit that individual to incur election-related expenses under AS 15.13.100 for election or reelection to the state legislature may not solicit or accept a contribution while the legislature is convened in a regular or special legislative session unless the solicitation or acceptance occurs

(1) during the 90 days immediately preceding an election in which the candidate or individual is a candidate; and

(2) in a place other than the capital city.

(e) A candidate or an individual who has filed with the commission the document necessary to permit that individual to incur election-related expenses under AS 15.13.100 may solicit or accept contributions from an individual who is not a resident of the state at the time the contribution is made if the amounts contributed by individuals who are not residents do not exceed

(1) \$20,000 a calendar year, if the candidate or individual is seeking the office of governor or lieutenant governor;

(2) \$5,000 a calendar year, if the candidate or individual is seeking the office of state senator;

(3) \$3,000 a calendar year, if the candidate or individual is seeking the office of state representative or municipal or other office.

(f) A group or political party may solicit or accept contributions from an individual who is not a resident of the state at the time the contribution is made, but the amounts accepted from individuals who are not residents may not exceed 10 percent of total contributions made to the group or political party during the calendar or group year in which the contributions are received.

(g) A candidate or an individual who has filed with the commission the document necessary to permit that individual to incur election-related expenses under AS 15.13.100 for election or reelection to the office of governor or lieutenant governor may not solicit or accept a contribution in the capital city while the legislature is convened in a regular or special legislative session.

(h) A nongroup entity may solicit or accept contributions for the purpose of influencing the nomination or election of a candidate from an individual who is not a resident of the state at the time the contribution is made or from an entity organized under the laws of another state, resident in another state, or whose participants are not residents of this state at the time the contribution is made. The amounts accepted by the nongroup entity from these individuals and entities for the purpose of influencing the nomination or election of a candidate may not exceed 10 percent of total contributions made to the nongroup entity for the purpose of influencing the nomination or election of a candidate during the calendar year in which the contributions are received.

((11 ch 48 SLA 1996; am 1 ch 14 SLA 1998; am 3, 4 ch 74 SLA 1998; am 12 ch 1 SLA 2002; am 11 ch 108 SLA 2003))

Administrative Code. - For campaign disclosure, see 2 AAC 5th part, 2.

Effect of amendments. The first 1998 amendment, effective April 21, 1998, rewrote subsection (d).

The second 1998 amendment, effective June 4, 1998, in subsection (d) added the paragraph (1) designation, added paragraph (2), and made minor stylistic changes; and added subsection (g).

The 2002 amendment, effective April 16, 2002, added subsection (h).

The 2003 amendment, effective September 14, 2003, in subsection (e) inserted "a calendar year" in three places.

NOTES TO DECISIONS

Constitutionality. - Attempting to limit outside influences in Alaska politics is a sufficiently compelling state interest to justify the restrictions on contributions by nonresidents set forth in subsections (a), (e), and (f). *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

Sec. 15.13.074. Prohibited contributions.

(a) A person, group, or nongroup entity may not make a contribution if the making of the contribution would violate this chapter.

(b) A person or group may not make a contribution anonymously, using a fictitious name, or using the name of another.

(c) A person or group may not make a contribution

(1) to a candidate or an individual who files with the commission the document necessary to permit that individual to incur certain election-related expenses as authorized by AS 15.13.100 when the office is to be filled at a general election before the date that is 18 months before the general election;

(2) to a candidate or an individual who files with the commission the document necessary to permit that individual to incur certain election-related expenses as authorized by AS 15.13.100 for an office that is to be filled at a special election or municipal election before the date that is 18 months before the date of the regular municipal election or that is before the date of the proclamation of the special election at which the candidate or individual seeks election to public office; or

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

(A) after the date of the primary election if the candidate was not nominated at the primary election; or

(B) after the date of the general election, or after the date of a municipal or municipal runoff election.

(d) A person or group may not make a contribution to a candidate or a person or group who is prohibited by AS 15.13.072(c) from accepting it.

(e) A person or group may not make a cash contribution that exceeds \$100.

(f) A corporation, company, partnership, firm, association, entity recognized as tax-exempt under 26 U.S.C. 501(c)(3) (Internal Revenue Code), organization, business trust or surety, labor union, or publicly funded entity that does not satisfy the definition of group or nongroup entity in AS 15.13.400 may not make a contribution to a candidate, group, or nongroup entity.

(g) An individual required to register as a lobbyist under AS 24.45 may not make a contribution to a candidate for the legislature at any time the individual is subject to the registration requirement under AS 24.45 and for one year after the date of the individual's initial

registration or its renewal. However, the individual may make a contribution under this section to a candidate for the legislature in a district in which the individual is eligible to vote or will be eligible to vote on the date of the election. An individual who is subject to the restrictions of this subsection shall report to the commission, on a form provided by the commission, each contribution made while required to register as a lobbyist under AS 24.45. Upon request of the commission, the information required under this subsection shall be submitted electronically. This subsection does not apply to a representational lobbyist as defined in regulations of the commission.

(h) Notwithstanding AS 15.13.070, a candidate for governor or lieutenant governor and a group that is not a political party and that, under the definition of the term "group," is presumed to be controlled by a candidate for governor or lieutenant governor may not make a contribution to a candidate for another office, to a person who conducts a write-in campaign as a candidate for other office, or to another group of amounts received by that candidate or controlled group as contributions between January 1 and the date of the general election of the year of a general election for an election for governor and lieutenant governor. This subsection does not prohibit

(1) the group described in this subsection from making contributions to the candidates for governor and lieutenant governor whom the group supports; or

(2) the governor or lieutenant governor, or the group described in this subsection, from making contributions under AS 15.13.116(a)(2)(A).

(i) A nongroup entity may not solicit or accept a contribution to be used for the purpose of influencing the outcome of an election unless the potential contributor is notified that the contribution may be used for that purpose.

((11 ch 48 SLA 1996, am 12 ch 48 SLA 1996; am 2 ch 14 SLA 1998; am 5 ch 74 SLA 1998; am 8 ch 33 SLA 1999; am 13 - 15 ch 1 SLA 2002; am 12, 13 ch 108 SLA 2003))

Revisor's notes. The amendment to (c) of this section made by 12, ch. 48, SLA 1996 took effect July 16, 1999 under 33(b) and 34, ch. 48, SLA 1996. The contingency described in 33(b), ch. 48, SLA 1996 occurred 90 days after the date of the decision in *State of Alaska v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska Opin. No. 5108, April 16, 1999). The 90 day period represents the time during which a petition for certiorari could have been filed with the U.S. Supreme Court. The State did not file a petition for certiorari, and therefore that part of the decision declaring AS 15.13.074(c) (as enacted in 11, ch. 48, SLA 1996) unconstitutional became final at the close of business July 15, 1999. Under 34, ch. 48, SLA 1996, the amendment to (c) of this section made by 12, ch. 48, SLA 1996, became effective the next day, July 16, 1999. Because it appeared to the revisor that the intervening amendments made to subsection (c) by 2, ch. 14, SLA 1998 and 5, ch. 74, SLA 1998 were inconsistent with the repeal and reenactment of subsection (c) under 12, ch. 48, SLA 1996, those 1998 amendments were not retained.

Administrative Code. - For campaign disclosure, see 2 AAC 50, art. 2.

Effect of amendments. The 1996 amendment, effective July 16, 1999, rewrote subsection (c).

The first 1998 amendment, effective April 21, 1998, in subsection (c), deleted "when the office is to be filled at a general election," preceding "before the later" in the introductory language of paragraph (1), deleted "general" preceding "election" in subparagraphs (1)(B) and (2)(B), rewrote paragraph (2), deleted "special election or" preceding "municipal election" in the introductory language of paragraph (3), and rewrote subparagraph (3)(B).

The second 1998 amendment, effective June 4, 1998, in subsection (c) added "when the office is to be filled at a general election; or" at the end of subparagraph (1)(B) and added subparagraph (1)(C), inserted "in a place other than the capital city" in the introductory language in paragraph (2), added "the date that" at the beginning of subparagraph (3)(B), rewrote the introductory language to paragraph (4), added paragraph (5), and made minor stylistic changes.

The 1999 amendment, effective May 28, 1999, made a section reference substitution at the end of paragraph (h)(2).

The 2002 amendment, effective April 16, 2002, in subsections (a) and (f) inserted references to nongroup entities; in subsection (f) inserted "entity recognized as tax-exempt under 26 U.S.C. 501(c)(3) (Internal Revenue Code)"; added subsection (i); and made related stylistic changes.

The 2003 amendment, effective September 14, 2003, rewrote paragraph (c)(3) and added the next-to-last sentence in subsection (g).

NOTES TO DECISIONS

Constitutionality. - Alaska has a substantial governmental interest in campaign finance reform that justifies some restriction on First Amendment freedoms, including the ban on contributions by a corporation, company, partnership, firm, association, organization, business trust, surety, or labor union in subsection (f). *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

The restrictions on contributions and expenditures by corporations and labor unions, considered together, are not so extreme as to constitute bans on issue advocacy. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

The ban on out-of-district lobbyist contributions in subsection (g) is narrowly tailored to further the State's compelling interest, and the restraint does not foreclose lobbyists from engaging in political speech. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

The post-election contribution limits of paragraph (c)(4) comprise a narrowly-tailored impact on associational rights to further compelling state interests, and are upheld. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

AS 15.13.074(f) is constitutional to the extent that it prohibits a corporation, company, partnership, firm, association, organization, business trust or surety, labor union, or publicly funded entity from making a contribution to a political party for the purpose of nominating or electing a candidate. The provision does not prohibit, and is unconstitutional to the extent that it prohibits, contributions by these entities to a political party for a purpose other than influencing the nomination or election of a candidate. *Jacobus v. Alaska*, 182 F. Supp. 2d 893 (D. Alaska 2001).

Soft money ban on corporate contributions to political parties under AS 15.13.074(f) is constitutional under the First Amendment. *Jacobus v. Alaska*, 338 F.3d 1095 (9th Cir. 2003).

Reporting provisions of this section and AS 15.13.040(d), (e) and (j), 15.13.082(b), 15.13.110, and 15.13.135(a) survive strict scrutiny because the state's interest in regulating campaign contributions and expenditures is significant and the requirements are not particularly onerous. *Alaska Right to Life Comm. v. Miles*, 441 F.3d 773 (9th Cir. 2006).

Pre-election contribution limits invalid. - The pre-election contribution limits of paragraphs (c)(1), (2), and (3) are invalid, and the eighteen-month contingent pre-election time limits in ch. 48 12, SLA 1996 are effective. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

Prohibition on contributions during legislative session invalid. - The prohibition against making contributions to legislative candidates, including both challengers and incumbents, during a regular legislative session, set forth in paragraph (c)(2), is not narrowly tailored to the State's compelling interest of preventing corruption or its appearance, and is therefore invalid. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

Severability. - Chapter 48, SLA 1996, which revised Alaska's election campaign finance laws, provides both a severability clause and contingent provisions to become effective if parts of the act are held invalid; thus, invalidation of some parts of the act does not undermine the structure of the whole, and legal effect can be given to the remaining provisions. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

Sec. 15.13.400. Definitions.

In this chapter,

(1) "candidate"

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

(B) when used in a provision of this chapter that limits or prohibits the donation, solicitation, or acceptance of campaign contributions, or limits or prohibits an expenditure, includes

(i) a candidate's campaign treasurer and a deputy campaign treasurer;

(ii) a member of the candidate's immediate family;

(iii) a person acting as agent for the candidate;

(iv) the candidate's campaign committee; and

(v) a group that makes expenditures or receives contributions with the authorization or consent, express or implied, or under the control, direct or indirect, of the candidate;

(2) "commission" means the Alaska Public Offices Commission;

(3) "communication" means an announcement or advertisement disseminated through print or broadcast media, including radio, television, cable, and satellite, the Internet, or through a mass mailing, excluding those placed by an individual or nongroup entity and costing \$500 or less and those that do not directly or indirectly identify a candidate or proposition, as that term is defined in AS 15.13.065(c);

(4) "contribution"

(A) means a purchase, payment, promise or obligation to pay, loan or loan guarantee, deposit or gift of money, goods, or services for which charge is ordinarily made and that is made for the purpose of influencing the nomination or election of a candidate, and in AS 15.13.010(b) for the purpose of influencing a ballot proposition or question, including the payment by a person other than a candidate or political party, or compensation for the personal services of another person, that are rendered to the candidate or political party;

(B) does not include

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political party, candidate, or ballot proposition or question;

(ii) ordinary hospitality in a home;

(iii) two or fewer mass mailings before each election by each political party describing the party's slate of candidates for election, which may include photographs, biographies, and information about the party's candidates;

(iv) the results of a poll limited to issues and not mentioning any candidate, unless the poll was requested by or designed primarily to benefit the candidate;

(v) any communication in the form of a newsletter from a legislator to the legislator's constituents, except a communication expressly advocating the election or defeat of a candidate or a newsletter or material in a newsletter that is clearly only for the private benefit of a legislator or a legislative employee; or

(vi) a fundraising list provided without compensation by one candidate or political party to a candidate or political party;

(5) "electioneering communication" means a communication that

(A) directly or indirectly identifies a candidate;

(B) addresses an issue of national, state, or local political importance and attributes a position on that issue to the candidate identified; and

(C) occurs within the 30 days preceding a general or municipal election;

(6) "expenditure"

(A) means a purchase or a transfer of money or anything of value, or promise or agreement to purchase or transfer money or anything of value, incurred or made for the purpose of

(i) influencing the nomination or election of a candidate or of any individual who files for nomination at a later date and becomes a candidate;

(ii) use by a political party;

(iii) the payment by a person other than a candidate or political party of compensation for the personal services of another person that are rendered to a candidate or political party; or

(iv) influencing the outcome of a ballot proposition or question;

(B) does not include a candidate's filing fee or the cost of preparing reports and statements required by this chapter;

(C) includes an express communication and an electioneering communication, but does not include an issues communication;

(7) "express communication" means a communication that, when read as a whole and with limited reference to outside events, is susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate;

(8) "group" means

(A) every state and regional executive committee of a political party; and

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

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

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

(11) "individual" means a natural person;

(12) "issues communication" means a communication that

(A) directly or indirectly identifies a candidate; and

(B) addresses an issue of national, state, or local political importance and does not support or oppose a candidate for election to public office.

(13) "nongroup entity" means a person, other than an individual, that takes action the major purpose of which is to influence the outcome of an election, and that

(A) cannot participate in business activities;

(B) does not have shareholders who have a claim on corporate earnings; and

(C) is independent from the influence of business corporations.

(14) "person" has the meaning given in AS 01.10.060, and includes a labor union, nongroup entity, and a group;

(15) "political party" means any group that is a political party under AS 15.60.010 and any subordinate unit of that group if, consistent with the rules or bylaws of the political party, the unit conducts or supports campaign operations in a municipality, neighborhood, house district, or precinct;

(16) "publicly funded entity" means a person, other than an individual, that receives half or more of the money on which it operates during a calendar year from government, including a public corporation.

((24 ch 48 SLA 1996; am 39 ch 21 SLA 2000; am 25, 26 ch 1 SLA 2002; am 7 ch 3 SLA 2002; am 8, 9 ch 1 TSSLA 2002; am 18, 19 ch 108 SLA 2003; am 2 ch 90 SLA 2006))

Revisor's notes. Paragraph (13) was enacted as (12) and paragraphs (3), (5), (7), and (12) were enacted as (13)-(16). Renumbered in 2002 to retain alphabetical order.

Administrative Code. - For campaign disclosure, see 2 AAC 50, art. 2.

Effect of amendments. The 2000 amendment, effective April 28, 2000, substituted "house district" for "election district" in subparagraph (10)(B).

The first 2002 amendment, effective April 16, 2002, added paragraph (13) and in paragraph (14) inserted ", nongroup entity."

The second 2002 amendment, effective April 16, 2002, in subparagraph (4)(B), in item (i) inserted "political party," and deleted ", but it does include professional services volunteered by individuals for which they ordinarily would be paid a fee or wage," from the end; deleted former item (ii), which read "services provided by an accountant or other person to prepare reports and statements required by this chapter; redesignated former item (iii) as item (ii); added present items (iii) to (v); and made a stylistic change.

The third 2002 amendment, effective June 26, 2002, added subparagraph (6)(C) and paragraphs (3), (5), (7), and (12).

The 2003 amendment, effective September 14, 2003, rewrote paragraphs (7) and (15).

The 2006 amendment, effective October 11, 2006, added subparagraph (4)(B)(iv) and made related stylistic changes.

Opinions of attorney general. The statutory limit under AS 15.13.070(a) is applicable to "control groups" under former AS 15.13.130. Exempting such groups from the contribution limit would seriously undermine the statute's primary purpose of deterring the buying of elections and the undue influence of large contributors. June 15, 1987, Op. Att'y Gen.

NOTES TO DECISIONS

Constitutionality. - Under the First Amendment, former AS 15.13.400(3)(B)(i) was unconstitutional to the extent that it limited the volunteering of professional services by individuals, but the statute was constitutional as to the ban on the provision of volunteer services by corporations. *Jacobus v. Alaska*, 338 F.3d 1095 (9th Cir. 2003).

Alaska's campaign finance law, AS 15.13.030 et seq., does not violate pro-life association's First Amendment rights because this section's definition of "electioneering communication" is not unconstitutionally vague or overbroad either facially or as applied, and the reporting and disclosure provisions are reasonable and serve a significant state interest. *Alaska Right to Life Comm. v. Miles*, 441 F.3d 773 (9th Cir. 2006).

Applied in *Jacobus v. Alaska*, 182 F. Supp. 2d 893 (D. Alaska 2001).

Quoted in *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

Cited in *Libertarian Party of Alaska, Inc. v. State*, 101 P.3d 616 (Alaska 2004).

ALASKA STATE LEGISLATURE

Interim:

600 East Railroad Avenue
Wasilla, Alaska 99654
Phone (907) 373-1842
Fax: (907) 373-4729*



Session:

State Capitol Building
Juneau, Alaska 99801-1182
Phone: (907) 465-2186
Fax: (907) 465-3818

REPRESENTATIVE WES KELLER DISTRICT 14

MEMO

To: Representative Bob Lynn, Chair
House State Affairs Committee

Fm: Jim Pound

Cc:

Date: January 15, 2008

Re: Request for hearing of HB 299

Please consider this to be a request for the House State Affairs Committee to schedule a hearing for HB 299, "An Act relating to campaign contributions made to a candidate in state elections; and providing for an effective date."

HB 299 is a change to the campaign contribution process. This change will provide eligible voters assurances that their candidates are not beholding to special interests because of large campaign contributions.

HB 299 is a strong step towards the campaign reform that our constituents are demanding and I urge your consideration of this bill before the committee and your earliest convenience. Thank you for your time and consideration. If you have any additional questions please do not hesitate to contact me.

Attachments: Sponsor Statement, HB 299, Sectional, Research Report, State v. ACLU 1999, Sections of AS 15.13 (existing language)

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 299
 () Publish Date: _____

Identifier (file name): HB299-DOA-APOC-1-18-08 Dept. Affected: Administration
 Title: "An Act relating to campaign contributions to candidates in state elections; and providing for an effective date..." RDU: AK Public Offices Commission
 Component: AK Public Offices Commission
 Sponsor: Representative Keller
 Requester: House State Affairs Component Number: 70

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required		Information				
	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES							
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

Full-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Part-time		0.0	0.0	0.0	0.0	0.0	0.0
Temporary		0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)
 This bill seeks to change the campaign disclosure law so that political groups that are not political parties may not give campaign contributions to candidates for state office. It also provides that individuals may only give campaign contributions to candidates running for the legislature, judicial retention, or municipal office in the district in which the contributor is qualified to register to vote.

Prepared by: Brooke Miles
 Division: Alaska Public Offices Commission
 Approved by: Kevin Brooks, Deputy Commissioner
Department of Administration

Phone: 907-334-1726
 Date/Time: 1/18/2008 9.26 a.m.
 Date: 1/18/2008

ALASKA STATE LEGISLATURE

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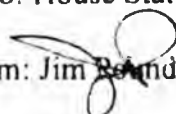
Session:

State Capitol Building
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REPRESENTATIVE WES KELLER DISTRICT 14

MEMO

To: House State Affairs Committee

Fm:  Jim Boland, Professional Staff

Cc: Rep. Wes Keller

Date: February 7, 2008

Re: Response to questions posed on HB 299

I would like to thank the Committee for hearing HB 299 and for the time involved in your review prior to the meeting to ask very informed questions. I should point out that the intent of the bill is to show the voting public, in light of the events of this past year, true accountability to the constituents.

As to the questions regarding PACs and their ability to create groups that could spend large amounts of money to oppose or support a candidate:

HB 299 does not address this issue as it is already allowable under current statute and the bill was not specifically written to make changes to that part of the law. We had considered this during the drafting process and determined attempts to limit PACs in this manner could be challenged in court under the First Amendment Right of Free Speech.

The information contained in this memo is CONFIDENTIAL and/or privileged. This memo is intended to be reviewed initially by only the individual named above. If the reader of this page is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of this memo or the information contained herein is prohibited. If you have received this memo in error, please immediately notify the sender by telephone and return this memo to the sender at the above address.

Thank you

By far the biggest concern we faced while working on this piece of legislation was the one referenced most often by the committee, the First Amendment. Based on research the language in HB 299 should pass constitutional muster.

I have spent some time reviewing several cases and find the most compelling defense is from a Supreme Court of the United States case *Buckley v. Valeo* 424 U.S. 1, 96 S.Ct. 612 (1976). While it is a 1976 case, the Supreme Court strongly upholds the *Stare decisis* in *Buckley* so I have based the review on how the court may interrupt this particular language as to its constitutionally especially based on the past year in the Alaska Legislature.

I must state for the record that I am not an attorney. The bold print in this memo is emphasis added by me.

In *Randall*, *Randall v. Sorrell* 126 S.Ct. 2479 (2006), the court is emphatic that restrictions on the process do not violate the Constitution provided it can pass the **compelling state interest** test.

The *Buckley* Court recognized,

inter alia, that such limits, unlike expenditure limits, "involv[e] little direct restraint on" the contributor's speech, 424 U.S., at 21, 96 S.Ct. 612, and are permissible as long as the government demonstrates that they are "**closely drawn**" to match a "**sufficiently important interest**," *id.*, at 25, 96 S.Ct. 612. It found that the interest there advanced, "prevent[ing] corruption" and its "appearance," was "sufficiently important" to justify the contribution limits, *Id.*, at 25-26, 96 S.Ct. 612, and that those limits were "closely drawn."

Further Justice Breyer concluded:

They do restrict "one aspect of the contributor's freedom of political association," namely, the contributor's ability to support a favored candidate, but they nonetheless "permi[t] the symbolic expression of support evidenced by a contribution," and they do "not in any way infringe the contributor's freedom to discuss candidates and issues." *Id.*, at 21, 24, 96 S.Ct. 612.

Consequently, the Court wrote,

contribution limitations are permissible as long as the Government demonstrates that the limits are "closely drawn" to match a "sufficiently important interest." *Id.*, at 25, 96 S.Ct. 612. It found that the interest advanced in the case, "prevent[ing] corruption" and its "appearance," was "sufficiently important" to justify the statute's contribution limits. *Id.*, at 25-26, 96 S.Ct. 612.

Even Alaska's Supreme Court has reviewed Campaign Finance Reform in *State v. A.C.L.U.* 978 P.2d 597 Alaska (1999) finding that the stricter limits met a "real harm test."

Real harm test for First Amendment analysis of campaign finance limitations does not require exhaustive proof of corruption, but merely empirical support or at least sound reasoning in favor of the measures defended.

I would suggest that based on the past year of activity by law enforcement at the federal level, that this legislation most certainly is "closely drawn" to the needs of the state and that corruption or the appearance of corruption will be greatly reduced by passage of this or similar language. The Courts, especially the federal courts would find it very difficult to rule that it violates or restricts the first or fourteenth amendments; again I reference our Supreme Court in *State* from a suit filed after the 19th Legislature passed SB 191:

The State asserts here, as it did below, that SB 191 was a response to the initiative and to public concerns about actual and apparent corruption in Alaska politics. The Act recited these legislative findings:

(3) organized special interests are responsible for raising a significant portion of all election campaign funds and may thereby gain an undue influence over election campaigns and elected officials, particularly incumbents ...

There is of course an opposing point of view as found in *VanNatta, VanNatta v. Keisling 151 F.3d 1215 C.A.9 (Or.), 1998* which more closely reviews a similar piece of legislation under a different set of circumstances. In *VanNatta* the Ninth Circuit invalidated the concept of out of district "donations" stating that "out-of-district contributions lead to the sort of corruption discussed...". Since preventing corruption and the appearance of corruption is the only justification which has been found to justify infringing on the First Amendment freedom...the court found that a complete ban on out-of-district contributions was not closely drawn to serve this goal.

Our State Supreme Court looks at it a little differently in *State*:

Statute prohibiting a registered lobbyist from contributing to legislative candidates in districts outside the district in which the lobbyist is eligible to vote was narrowly tailored to further State's compelling interest, thus satisfying the First Amendment; evidence supported State's assertion that lobbyists' contributions were especially susceptible to creating an appearance of corruption, the out-of-district ban drew a logical compromise between lobbyists' private rights and their professional obligations, and the restraint did not foreclose lobbyists from engaging in political speech.

While the particular issue here is lobbyist, corporations and groups often use lobbyist, professional or not to get their point of view in front of individual legislators

Once again I must stress a review of the events of the past year that a federal court would find it difficult not to find in favor of this legislation based on corruption.

The U.S. Courts have also been clear on the legislature's ability to legislate in this area. The Ninth referred to *Holt, Holt Civic Club v. City of Ypsilanti 439 U.S. 60, 99 S.Ct. 383 (1978)* which offers some interesting insight to the separation of power, especially between the legislative and judicial branches.

The *Holt* Court separates those powers:

- (a) A government unit may legitimately restrict the right to participate in its political processes to those who reside within its borders. Various voting qualification decisions on which appellants rely in support of their contention that the denial of the franchise to them, can stand only if justified by a compelling state interest are inapposite.

It further acknowledges that it has not traditionally determined how a sovereign state determines its political process, and not the courts place to determine government units.

No decision of this Court has extended the "one man, one vote" principle to individuals residing beyond the geographic confines of the governmental entity concerned, be it the State or its political subdivisions. On the contrary, our cases have uniformly recognized that a government unit may legitimately restrict the right to participate in its political processes to those who reside within its borders. See, e. g., *Dunn v. Blumstein*, 405 U.S. 330, 343-344, 92 S.Ct. 995, 1003-1004, 31 L.Ed.2d 274 (1972), *Evans v. Cornman*, *supra*, 398 U.S. at 422, 90 S.Ct. at 1754; *Kramer v. Union Free School Dist.*, 395 U.S. at 625, 89 S.Ct. at 1888; *Carrington v. Rash*, 380 U.S. 89, 91, 85 S.Ct. 775, 777, 13 L.Ed.2d 675 (1965), *Pope v. Williams*, 193 U.S. 621, 24 S.Ct. 573, 48 L.Ed. 817 (1904).

Conclusion

I hope this answers the questions of Constitutionality brought up by the Committee. If there are any other questions please feel free to contact me or Representative Keller. Again we would like to thank the committee members for their interest in the concept and their diligence during the hearing.

HB

305

LEGAL SERVICES

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

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FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

January 22, 2008

SUBJECT: Changes in CSHB 305(STA) (Work Order No. 25-LS1226\K)

TO: Representative Bob Lynn
Chairman of the House Committee on State Affairs
Attn: Nancy Manly

FROM: Alpheus Bullard *A for AB*
Legislative Counsel

This memorandum accompanies the Committee Substitute you requested.

The requested Committee Substitute for HB 305 changed "candidate or individual" to "a legislator or legislative employee" at page 1, line 5 of 25-LS1226\E. The attached Committee Substitute includes this change. Please note, that such a change creates an overlap with the bill's sec 15.13.072(d)(2), page 2, lines 3 - 12 of CSHB 305(STA) (25-LS1226\K). The phrase "who is a legislator or legislative employee" at the beginning of sec. 15.13.070(d)(2) should be deleted since the introductory language of (d) is now limited to those people. But even if that were done, there would still be a conceptual overlap because "state office" includes the office of state legislator, which is covered in (d)(1). There also is an overlap with AS 15.13.074(j), added by bill sec. 2 and its companion provision, AS 24.60.031(c), added by bill sec. 4. The next committee may want to review these provisions.

If you have any questions, or if I can be of further assistance, please do not hesitate to contact me.

TLAB:med
08-033.med

Enclosure

AMENDMENT

OFFERED IN THE HOUSE

TO: HB 305

HOUSE STATE AFFAIRS
COMMITTEE
Amendment # 1

To Bill Number HB 305

Sponsor: Johnson

Date: 1-22-08 Logged By: IVM

1 Page 1, line 2, following "session":

2 Insert "; and providing for an effective date"

3

4 Page 2, line 4, following "contribution":

5 Insert "for the legislator or legislative employee's own campaign"

6

7 Page 2, line 7:

8 Delete "candidate or individual"

9 Insert "legislator or legislative employee"

10

11 Page 2, line 11, through page 3, line 7:

12 Delete all material and insert:

13 **** Sec. 2.** AS 15.13.074 is amended by adding a new subsection to read:

14 (j) While the legislature is convened in a regular or special legislative session,
15 a legislator may not solicit or accept a contribution to be used for the purpose of
16 influencing the outcome of an election under this chapter unless

17 (1) it is an election in which the legislator is a candidate;

18 (2) the solicitation or acceptance occurs during the 90 days
19 immediately preceding that election; and

20 (3) the solicitation or acceptance occurs in a place other than the
21 capital city or a location in which the legislature is convened in a regular or special
22 session if the location is other than the capital city.

23 *** Sec. 3.** AS 24.60.031(a) is amended to read:

1 (a) A [LEGISLATOR OR] legislative employee may not

2 (1) on a day when either house of the legislature is in regular or special
3 session, solicit or accept a contribution or a promise or pledge to make a contribution
4 for a campaign for municipal, state, or federal office [THE STATE
5 LEGISLATURE]; however, a [LEGISLATOR OR] legislative employee may, except
6 in the capital city or in the location in which the legislature is convened in regular
7 or special session if the location is other than the capital city, solicit or accept a
8 contribution, promise, or pledge for a campaign for municipal, state, or federal
9 office [THE STATE LEGISLATURE] that occurs during the 90 days immediately
10 preceding the [AN] election for that office; or

11 (2) accept money from an event held on a day when either house of the
12 legislature is in regular or special session if a substantial purpose of the event is to
13 raise money on behalf of the [MEMBER OR] legislative employee for [STATE
14 LEGISLATIVE] political purposes; however, this paragraph does not prohibit a
15 [LEGISLATOR OR] legislative employee from accepting money from an event held
16 in a place other than the capital city or a location in which the legislature is
17 convened in regular or special session if the location is other than the capital city
18 during the 90 days immediately preceding an election for public office in which the
19 legislative employee is a candidate [; OR

20 (3) IN A CAMPAIGN FOR THE STATE LEGISLATURE, EXPEND
21 MONEY THAT WAS RAISED ON A DAY WHEN EITHER HOUSE OF THE
22 LEGISLATURE WAS IN A LEGISLATIVE SESSION BY OR ON BEHALF OF A
23 LEGISLATOR UNDER A DECLARATION OF CANDIDACY OR A GENERAL
24 LETTER OF INTENT TO BECOME A CANDIDATE FOR PUBLIC OFFICE;
25 HOWEVER, THIS PARAGRAPH DOES NOT APPLY TO MONEY RAISED IN A
26 PLACE OTHER THAN THE CAPITAL CITY DURING THE 90 DAYS
27 IMMEDIATELY PRECEDING AN ELECTION].

28 * Sec. 4. AS 24.60.031 is amended by adding a new subsection to read:

29 (c) A legislator may not

30 (1) on a day when either house of the legislature is in regular or special
31 session, solicit or accept a contribution or a promise or pledge to make a contribution

1 (A) for the legislator's own campaign for public office, unless
2 the solicitation, acceptance, promise, or pledge occurs in a place other than the
3 capital city or a location in which the legislature is convened in regular or
4 special session if the location is other than the capital city during the 90 days
5 immediately preceding the election in which the legislator is a candidate;

6 (B) for another candidate in an election for municipal, state, or
7 federal office; or

8 (C) to influence a state ballot proposition or question;

9 (2) accept money from an event held on a day when either house of the
10 legislature is in regular or special session if a substantial purpose of the event is to
11 raise money on behalf of the legislator's campaign for public office; however, this
12 paragraph does not prohibit a legislator from accepting money from an event held in a
13 place other than the capital city or a location in which the legislature is convened in
14 regular or special session if the location is other than the capital city during the 90
15 days immediately preceding an election in which the legislator is a candidate; or

16 (3) in a campaign for municipal, state or federal office, expend money
17 that was raised on a day when either house of the legislature was in a legislative
18 session by or on behalf of a legislator under a declaration of candidacy or a general
19 letter of intent to become a candidate for public office; however, this paragraph does
20 not apply to money raised in a place other than the capital city or a location in which
21 the legislature is convened in regular or special session if the location is other than the
22 capital city during the 90 days immediately preceding an election in which the
23 legislator is a candidate.

24 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c)."

Alaska State Legislature

Chairman
State Affairs Committee

Vice-Chairman
Economic Development, Trade & Tourism
Committee

Member
Judiciary Committee
Joint Armed Services Committee

Finance Subcommittees
Corrections
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety



A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

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716 W. 4th Ave., #650
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FAX

To: Legal Services

Fax #: 2029

From: Nancy Manly x2794
Alaska State Capitol, room 104
Juneau, AK 99801-1182

of Pages (including cover): 4

Phone: 907-465-4931

Fax: 907-465-4316

Re: HB 305 - CAMPAIGN FUND RAISING DURING SESSIONS

1/22/08

HB 305 passed out of the House State Affairs committee this morning with two amendments.
Please draft a final CS

Amendment #1 (Johnson)
25-LS1226/E.2 (see attached)

Amendment #2 (Coghill)
Page 1 Line 5 ~~delete~~ A candidate or an individual inset a legislator or legislative employee

Amendment #3 (Coghill) withdrawn

AMENDMENT

OFFERED IN THE HOUSE

TO: HB 305

1 Page 1, line 2, following "session":

2 Insert "; and providing for an effective date"

3

4 Page 2, line 4, following "contribution":

5 Insert "for the legislator or legislative employee's own campaign"

6

7 Page 2, line 7:

8 Delete "candidate or individual"

9 Insert "legislator or legislative employee"

10

11 Page 2, line 11, through page 3, line 7:

12 Delete all material and insert:

13 "* Sec. 2. AS 15.13.074 is amended by adding a new subsection to read:

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15 a legislator may not solicit or accept a contribution to be used for the purpose of
16 influencing the outcome of an election under this chapter unless

17 (1) it is an election in which the legislator is a candidate;

18 (2) the solicitation or acceptance occurs during the 90 days
19 immediately preceding that election; and

20 (3) the solicitation or acceptance occurs in a place other than the
21 capital city or a location in which the legislature is convened in a regular or special
22 session if the location is other than the capital city.

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2 (1) on a day when either house of the legislature is in regular or special
3 session, solicit or accept a contribution or a promise or pledge to make a contribution
4 for a campaign for municipal, state, or federal office [THE STATE
5 LEGISLATURE]; however, a [LEGISLATOR OR] legislative employee may, except
6 in the capital city or in the location in which the legislature is convened in regular
7 or special session if the location is other than the capital city, solicit or accept a
8 contribution, promise, or pledge for a campaign for municipal, state, or federal
9 office [THE STATE LEGISLATURE] that occurs during the 90 days immediately
10 preceding the [AN] election for that office; or

11 (2) accept money from an event held on a day when either house of the
12 legislature is in regular or special session if a substantial purpose of the event is to
13 raise money on behalf of the [MEMBER OR] legislative employee for [STATE
14 LEGISLATIVE] political purposes; however, this paragraph does not prohibit a
15 [LEGISLATOR OR] legislative employee from accepting money from an event held
16 in a place other than the capital city or a location in which the legislature is
17 convened in regular or special session if the location is other than the capital city
18 during the 90 days immediately preceding an election for public office in which the
19 legislative employee is a candidate [; OR

20 (3) IN A CAMPAIGN FOR THE STATE LEGISLATURE, EXPEND
21 MONEY THAT WAS RAISED ON A DAY WHEN EITHER HOUSE OF THE
22 LEGISLATURE WAS IN A LEGISLATIVE SESSION BY OR ON BEHALF OF A
23 LEGISLATOR UNDER A DECLARATION OF CANDIDACY OR A GENERAL
24 LETTER OF INTENT TO BECOME A CANDIDATE FOR PUBLIC OFFICE;
25 HOWEVER, THIS PARAGRAPH DOES NOT APPLY TO MONEY RAISED IN A
26 PLACE OTHER THAN THE CAPITAL CITY DURING THE 90 DAYS
27 IMMEDIATELY PRECEDING AN ELECTION].

28 * Sec. 4. AS 24.60.031 is amended by adding a new subsection to read:

29 (c) A legislator may not

30 (1) on a day when either house of the legislature is in regular or special
31 session, solicit or accept a contribution or a promise or pledge to make a contribution

1 (A) for the legislator's own campaign for public office, unless
2 the solicitation, acceptance, promise, or pledge occurs in a place other than the
3 capital city or a location in which the legislature is convened in regular or
4 special session if the location is other than the capital city during the 90 days
5 immediately preceding the election in which the legislator is a candidate;

6 (B) for another candidate in an election for municipal, state, or
7 federal office; or

8 (C) to influence a state ballot proposition or question;

9 (2) accept money from an event held on a day when either house of the
10 legislature is in regular or special session if a substantial purpose of the event is to
11 raise money on behalf of the legislator's campaign for public office; however, this
12 paragraph does not prohibit a legislator from accepting money from an event held in a
13 place other than the capital city or a location in which the legislature is convened in
14 regular or special session if the location is other than the capital city during the 90
15 days immediately preceding an election in which the legislator is a candidate; or

16 (3) in a campaign for municipal, state, or federal office, expend money
17 that was raised on a day when either house of the legislature was in a legislative
18 session by or on behalf of a legislator under a declaration of candidacy or a general
19 letter of intent to become a candidate for public office; however, this paragraph does
20 not apply to money raised in a place other than the capital city or a location in which
21 the legislature is convened in regular or special session if the location is other than the
22 capital city during the 90 days immediately preceding an election in which the
23 legislator is a candidate.

24 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c)."

HOUSE BILL NO. 305

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES MEYER, Chenault, Fairclough, Olson, Neuman, Ramras

Introduced: 1/15/08
Referred: State Affairs

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to campaign fund raising by a legislator, legislative employee, or
2 candidate for election to the legislature during a regular or special legislative session."

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

4 * Section 1. AS 15.13.072(d) is amended to read:

5 (d) A candidate or an individual who has filed with the commission the
6 document necessary to permit that individual to incur election-related expenses under
7 AS 15.13.100

8 (1) for election [OR REELECTION] to the state legislature may not
9 solicit or accept a contribution while the legislature is convened in a regular or special
10 legislative session unless the solicitation or acceptance occurs

11 (A) [(1)] during the 90 days immediately preceding an election
12 in which the candidate or individual is a candidate; and

13 (B) [(2)] in a place other than the capital city or a location in
14 which the legislature is convened in a regular or special session if the

1 location is other than the capital city;

2 (2) who is a legislator or legislative employee and who is seeking
 3 election to state office or to municipal office may not solicit or accept a
 4 contribution while the legislature is convened in a regular or special legislative
 5 session unless the solicitation or acceptance occurs

6 (A) during the 90 days immediately preceding an election in
 7 which the candidate or individual is a candidate; and

8 (B) in a place other than the capital city or a location in
 9 which the legislature is convened in regular or special session if the
 10 location is other than the capital city.

11 * Sec. 2. AS 24.60.031(a) is amended to read:

12 (a) A legislator or legislative employee may not

13 (1) on a day when either house of the legislature is in regular or special
 14 session, solicit or accept a contribution or a promise or pledge to make a contribution
 15 for a campaign for municipal, state, or federal office [THE STATE
 16 LEGISLATURE]; however, a legislator or legislative employee may, except in the
 17 capital city or in the location in which the legislature is convened in regular or
 18 special session if the location is other than the capital city, solicit or accept a
 19 contribution, promise, or pledge for a campaign for municipal, state, or federal
 20 office [THE STATE LEGISLATURE] that occurs during the 90 days immediately
 21 preceding the [AN] election for that office:

22 (2) accept money from an event held on a day when either house of the
 23 legislature is in regular or special session if a substantial purpose of the event is to
 24 raise money on behalf of the member or legislative employee for [STATE
 25 LEGISLATIVE] political purposes; however, this paragraph does not prohibit a
 26 legislator or legislative employee from accepting money from an event held in a place
 27 other than the capital city or a location in which the legislature is convened in
 28 regular or special session if the location is other than the capital city during the 90
 29 days immediately preceding an election for public office in which the legislator or
 30 legislative employee is a candidate; or

31 (3) in a campaign for municipal, state, or federal office [THE

1 STATE LEGISLATURE], expend money that was raised on a day when either house
2 of the legislature was in a legislative session by or on behalf of a legislator under a
3 declaration of candidacy or a general letter of intent to become a candidate for public
4 office; however, this paragraph does not apply to money raised in a place other than
5 the capital city or a location in which the legislature is convened in regular or
6 special session if the location is other than the capital city during the 90 days
7 immediately preceding an election.

Do not #1 passed

*Johnson, moved
Lynn B. ...
...*

25-LS1226E.2
Bullard
1/21/08

AMENDMENT

OFFERED IN THE HOUSE
TO: HB 305

HOUSE STATE AFFAIRS
COMMITTEE
Amendment # 1
To Bill Number HB 305
Sponsor Johnson
Date: 1-22-08 Logged By: DM

1 Page 1, line 2, following "session":

2 Insert "; and providing for an effective date"

4 Page 2, line 4, following "contribution":

5 Insert "for the legislator or legislative employee's own campaign"

7 Page 2, line 7:

8 Delete "candidate or individual"

9 Insert "legislator or legislative employee"

11 Page 2, line 11, through page 3, line 7:

12 Delete all material and insert:

13 **** Sec. 2.** AS 15.13.074 is amended by adding a new subsection to read:

14 (j) While the legislature is convened in a regular or special legislative session,
15 a legislator may not solicit or accept a contribution to be used for the purpose of
16 influencing the outcome of an election under this chapter unless

17 (1) it is an election in which the legislator is a candidate;

18 (2) the solicitation or acceptance occurs during the 90 days
19 immediately preceding that election; and

20 (3) the solicitation or acceptance occurs in a place other than the
21 capital city or a location in which the legislature is convened in a regular or special
22 session if the location is other than the capital city.

23 *** Sec. 3.** AS 24.60.031(a) is amended to read:

1 (a) A [LEGISLATOR OR] legislative employee may not

2 (1) on a day when either house of the legislature is in regular or special
3 session, solicit or accept a contribution or a promise or pledge to make a contribution
4 for a campaign for municipal, state, or federal office [THE STATE
5 LEGISLATURE]; however, a [LEGISLATOR OR] legislative employee may, except
6 in the capital city or in the location in which the legislature is convened in regular
7 or special session if the location is other than the capital city, solicit or accept a
8 contribution, promise, or pledge for a campaign for municipal, state, or federal
9 office [THE STATE LEGISLATURE] that occurs during the 90 days immediately
10 preceding the [AN] election for that office; or

11 (2) accept money from an event held on a day when either house of the
12 legislature is in regular or special session if a substantial purpose of the event is to
13 raise money on behalf of the [MEMBER OR] legislative employee for [STATE
14 LEGISLATIVE] political purposes; however, this paragraph does not prohibit a
15 [LEGISLATOR OR] legislative employee from accepting money from an event held
16 in a place other than the capital city or a location in which the legislature is
17 convened in regular or special session if the location is other than the capital city
18 during the 90 days immediately preceding an election for public office in which the
19 legislative employee is a candidate [: OR

20 (3) IN A CAMPAIGN FOR THE STATE LEGISLATURE, EXPEND
21 MONEY THAT WAS RAISED ON A DAY WHEN EITHER HOUSE OF THE
22 LEGISLATURE WAS IN A LEGISLATIVE SESSION BY OR ON BEHALF OF A
23 LEGISLATOR UNDER A DECLARATION OF CANDIDACY OR A GENERAL
24 LETTER OF INTENT TO BECOME A CANDIDATE FOR PUBLIC OFFICE;
25 HOWEVER, THIS PARAGRAPH DOES NOT APPLY TO MONEY RAISED IN A
26 PLACE OTHER THAN THE CAPITAL CITY DURING THE 90 DAYS
27 IMMEDIATELY PRECEDING AN ELECTION].

28 * Sec. 4. AS 24.60.031 is amended by adding a new subsection to read:

29 (c) A legislator may not

30 (1) on a day when either house of the legislature is in regular or special
31 session, solicit or accept a contribution or a promise or pledge to make a contribution

1 (A) for the legislator's own campaign for public office, unless
2 the solicitation, acceptance, promise, or pledge occurs in a place other than the
3 capital city or a location in which the legislature is convened in regular or
4 special session if the location is other than the capital city during the 90 days
5 immediately preceding the election in which the legislator is a candidate;

6 (B) for another candidate in an election for municipal, state, or
7 federal office; or

8 (C) to influence a state ballot proposition or question;

9 (2) accept money from an event held on a day when either house of the
10 legislature is in regular or special session if a substantial purpose of the event is to
11 raise money on behalf of the legislator's campaign for public office; however, this
12 paragraph does not prohibit a legislator from accepting money from an event held in a
13 place other than the capital city or a location in which the legislature is convened in
14 regular or special session if the location is other than the capital city during the 90
15 days immediately preceding an election in which the legislator is a candidate; or

16 (3) in a campaign for municipal, state, or federal office, expend money
17 that was raised on a day when either house of the legislature was in a legislative
18 session by or on behalf of a legislator under a declaration of candidacy or a general
19 letter of intent to become a candidate for public office; however, this paragraph does
20 not apply to money raised in a place other than the capital city or a location in which
21 the legislature is convened in regular or special session if the location is other than the
22 capital city during the 90 days immediately preceding an election in which the
23 legislator is a candidate.

24 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c)."



REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

Sponsor Statement for House Bill 305

"An Act relating to campaign fund raising by a legislator, legislative employee, or candidate for election to the legislature during a regular or special legislative session."

In 1998, the Legislature changed AS 24.60.031(b) to allow a legislator to raise campaign funds during a legislative session as long as the funds were not for a legislative campaign. This enabled sitting members to raise money for a gubernatorial, federal or municipal campaign. House Bill 305 reverses this change and prohibits any fundraising by a legislator during a legislative session.

If the goal of the Legislative Ethics Act (AS 24.60) is to set ethical guidelines for legislators, it seems inconsistent to allow fundraising during a session for some offices but not others. HB 305 will bring consistency to the Legislative Ethics Act's guidelines on fundraising and ensure that a legislative session remains a forum for policy debates rather than an opportunity to fundraise for future elected office.

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 305
 () Publish Date: _____

Identifier (file name): HB305-DOA-APOC-1-18-08 Dept. Affected: Administration
 Title: "An Act relating to campaign fund raising by a legislator..." RDU: AK Public Offices Commission
 Component: AK Public Offices Commission
 Sponsor: Representative Meyers
 Requester: House State Affairs Component Number: 70

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()								
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

Full-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Part-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

Section 1 of this bill amends the campaign disclosure law to restrict any candidate for legislative office from soliciting or accepting campaign contributions during a legislative session in any location in which the legislature is convened. This section of law is not enforceable by the Public Offices Commission, under the ruling of the Alaska Supreme Court in *State v. Alaska Civil Liberties Union (ACLU)*, No. 5108, 199 WL 21944 (Alaska April 16, 1999). See Attorney General's Opinion 661-99-0513, June 22, 1999. This bill will not increase the operating costs for APOC.

Prepared by: Brooke Miles Phone 907-334-1726
 Division: Alaska Public Offices Commission Date/Time 1/18/2008 9:16 a.m.
 Approved by: Kevin Brooks, Deputy Commissioner Date 1/18/2008
Department of Administration



REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

MEMORANDUM

DATE: January 10, 2008
TO: Representative Kevin Meyer
FROM: Mike Pawlowski
RE: Sectional Analysis for HB 305
(Version No. 25 - LS1226E)

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

Section 1. Amends AS 15.13.072(d), State Election Campaigns, to prohibit fundraising in the capital city or a location where the legislature is convened unless it is within 90 days of an election for legislative or municipal office.

Section 2. Amends AS 24.60.031(a), Legislative Ethics Act, to prohibit a legislator or legislative employee from fundraising for statewide, municipal or federal office during a legislative session unless it is within 90 days of the applicable election.

Alaska State Legislature

**Select Committee on
Legislative Ethics**

716 W. 4th, Suite 230
Anchorage, AK
(907) 258-8172
FAX: 258-2106

Mailing Address:
P.O. Box 101468
Anchorage, AK
99510

January 24, 1994

ADVISORY OPINION 94-04

Subject: Campaigning During Session

RE: May a legislator who is a candidate for a statewide elective office engage in fund raising activities for that office during the legislative session?

You are a legislator, covered by the Legislative Code of Ethics. You have filed a general letter of intent and you have announced that you are running for Lieutenant Governor in the next election. You ask whether you may engage in fund raising activities concerning that campaign during the legislative session.

Discussion

To begin with, the committee notes that campaign contributions that you report as required by law are excluded from the provisions concerning gifts by AS 24.60.080(e).¹

Under AS 24.60.031, a legislator's fund raising activities are restricted during the legislative session. The section states:

Sec. 24.60.031. RESTRICTIONS ON FUND RAISING. (a) A legislator or legislative employee may not

(1) while the legislature is in regular or special session, solicit or accept a contribution or a promise or pledge to make a contribution for a state legislative campaign:

¹ AS 24.60.080(e) states:

(e) A political contribution that is reported under AS 15.13.040 is not a gift under this section.

(2) accept money from an event held during a legislative session if a substantial purpose of the event is either to raise money on behalf of the member or legislative employee for campaign purposes or to raise money for state legislative political purposes; or

(3) expend money in a state legislative campaign that was raised by or on behalf of a legislator during a legislative session under a general letter of intent to become a candidate for public office.

(b) In this section, "contribution" has the meaning given in AS 15.13.130.

Under paragraph (1) of subsection (a), legislators are prohibited from soliciting or accepting contributions during the legislative session for state legislative campaigns. Under paragraph (3), legislators may not spend money in a state legislative campaign that was raised during the session. The scope of paragraph (2) is not clearly limited to "state legislative campaigns." That paragraph prohibits legislators from accepting money raised at events held during the session if the event was to raise money on behalf of the legislator for campaign purposes or for state legislative political purposes. Unlike the other two paragraphs, this paragraph does not, on its face, limit the prohibition related to "campaign purposes" to "state legislative campaigns."

The committee believes that the language of the statute should be interpreted as it is written. Accordingly, a legislator running for statewide office may solicit and accept contributions for that office during the legislative session (as permitted by paragraph (1) of 24.60.031(a)) and a legislator who has filed a general letter of intent to become a candidate for public office may spend money raised during the session on a campaign for statewide office (as permitted by paragraph (3)). However, under paragraph (2), a legislator may not accept money from an event held during the legislative session if the purpose of the event was to raise money for the legislator's campaign for any elective office. The committee recognizes that this result appears inconsistent, but the committee believes that any change from this result should be made by amendment to the statute, not by interpretation of it.

Conclusion

For the reasons discussed above, the committee finds that the prohibition contained in AS 24.60.031(a)(2), concerning accepting money from an event held during the legislative session, applies to statewide campaigns, including your campaign for lieutenant governor. Therefore, you may not accept money raised during the session at fundraising events.

Adopted by the Select Committee on Legislative Ethics on January 24, 1994. Members present and concurring in this opinion were:

Joseph P. Donahue, Chair
Ed Granger, Vice-Chair
Senator Drue Pearce

Margie MacNeille
Representative Brian Porter
Shirley A. McCoy
Senator Jay Kerttula

Members absent were:

Edith Vorderstrasse
Representative Jerry Mackie

TC:gc
94-038.glc

LEGAL SERVICES

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

(907) 465-657 or 465-2450
FAX (907) 465-2029
Mail Stop 01

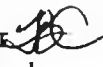
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 23, 1999

SUBJECT: Effect of the court's decision in State v. ACLU on AS 24.60.031

TO: Shirley McCoy, Chair
Select Committee on Legislative Ethics
Attn: Susie Barnett, Professional Assistant

FROM: Teresa B. Cramer 
Legislative Counsel

You have asked for an opinion from this office regarding the interplay of the state supreme court's recent decision in State v. ACLU, -- P.2d -- (Alaska) (Alaska Supreme Court Opinion No. April 16, 1999) and the ethics law regarding the prohibition on fund raising during session (AS 24.60.031(a)).

Short answer: The answer to your question is not clear. Having said that, it seems to me somewhat more likely than not that the ban on accepting contributions during session contained in the ethics code would survive a challenge under the reasoning in the ACLU case.

1. AS 24.60.031.

In 1992, the legislature substantially revised the legislative ethics code. The ban on accepting contributions during the legislative session was part of that legislation. As enacted, AS 24.60.031(a) read:

Sec. 24.60.031 RESTRICTIONS ON FUND RAISING. (a) A legislator or legislative employee may not

(1) while the legislature is in regular or special session, solicit or accept a contribution or a promise or pledge to make a contribution for a state legislative campaign;

(2) accept money from an event held during a legislative session if a substantial purpose of the event is either to raise money on behalf of the member or legislative employee for campaign purposes or to raise money for state legislative political purposes; or

(3) expend money in a state legislative campaign that was raised by or on behalf of a legislator during a legislative session under a general letter of intent to become a candidate for public office.

(b) In this section, "contribution" has the meaning given in AS 15.13.130.

AS 24.60.031 was amended in 1996 by the campaign reform legislation that formed the basis for the ACLU case, but only to conform the citation to the definition of "contribution" in subsection (b) to the new statute number in AS 15.13. (Sec. 27, chapter 48, SLA 1996.)

In the last legislative session, AS 24.60.031(a) was amended to allow fund raising during the 90 days before elections, except in Juneau. The statute now reads:

Sec. 24.60.031. Restrictions on fund raising. (a) A legislator or legislative employee may not

(1) on a day when either house of the legislature is in regular or special session, solicit or accept a contribution or a promise or pledge to make a contribution for a campaign for the state legislature; however, a legislator or legislative employee may, except in the capital city, solicit or accept a contribution, promise, or pledge for a campaign for the state legislature that occurs during the 90 days immediately preceding an election;

(2) accept money from an event held on a day when either house of the legislature is in regular or special session if a substantial purpose of the event is to raise money on behalf of the member or legislative employee for state legislative political purposes; however, this paragraph does not prohibit a legislator or legislative employee from accepting money from an event held in a place other than the capital city during the 90 days immediately preceding an election; or

(3) in a campaign for the state legislature, expend money that was raised on a day when either house of the legislature was in a legislative session by or on behalf of a legislator under a declaration of candidacy or a general letter of intent to become a candidate for public office; however, this paragraph does not apply to money raised in a place other than the capital city during the 90 days immediately preceding an election.

(b) In this section, "contribution" has the meaning given in AS 15.13.400.

The legislative ethics code applies to legislators and legislative employees. (AS 24.60.020) It does not apply to candidates for the legislature unless they are incumbent legislators running for reelection or for election to a different legislative office. (AS 24.60.020(a)(2)) Therefore, when the ban on accepting campaign contributions during session in AS 24.60.031 was first enacted in 1992, the prohibition did not apply to challengers who were not themselves legislators. This circumstance is important given the supreme court's reasoning in ACLU.

2. The ACLU decision on fund raising during sessions.

The 1996 amendment to election campaign laws enacted AS 15.13.074(c), which limits the time when persons and groups may make contributions to candidates. (Section 11, Ch. 48, SLA 1996.) Under AS 15.13.074(c)(2) as it read when the ACLU suit was filed, contributions to legislative candidates, both incumbents and challengers, may not be made during a regular legislative session. (In footnote 194 of the ACLU opinion, the court notes that AS 15.13.074(c)(2) and AS 15.13.072(d) were both amended in 1998 to permit candidates for the legislature to solicit and accept contributions during the 90 days immediately preceding the election in which they are competing, except in Juneau. The court does not discuss this loosening of the restrictions on campaign fund raising.)

The court acknowledges that the state may impose restraints on the exercise of First Amendment free speech rights in order to prevent corruption or the appearance of corruption. Id. at 82. The court also notes that the receipt of contributions by incumbents is relevant to the appearance of impropriety. Id. at 82. The court distinguishes this factual situation from the receipt of contributions by challengers, and finds that there is not a comparable justification for prohibiting challengers from accepting contributions during legislative sessions. Because of this finding, the prohibition against accepting contributions during sessions is not narrowly tailored to the State's compelling interest: it is invalid as to non-incumbents. Id. at 83. The court finds that invalidating the ban only as to challengers (and leaving the ban in place as to incumbent legislators) "would fundamentally unbalance a restriction which the legislature clearly intended to apply to incumbents and challengers alike, and would defeat the legislature's clear intention as to this prohibition." Id. at 83. The court therefore invalidates the ban on accepting contributions during sessions both as to challengers and as to legislators. Id. at 83.

3. Application of the ACLU holding to AS 24.60.031.

The reasons for the court's holding in the ACLU case do not apply to the Ethics Code prohibition against accepting contributions for legislative races during the session. As discussed in the first part of this opinion, AS 24.60.031, the Ethics Code prohibition against legislators' accepting contributions during sessions, was enacted without a comparable prohibition imposed on non-incumbent challengers. Therefore, there is no basis for saying that the legislature's intent with respect to AS 24.60.031 requires that the ban be applied equally to challengers and incumbents. The court in ACLU acknowledged that preventing corruption or the appearance of corruption is a compelling state interest and that prohibiting incumbent candidates from accepting contributions during a session is relevant to that interest. Therefore, the court is not likely to find that the ban against legislators accepting contributions during session fails as an infringement of legislators' First Amendment Rights. It appears to me that the court, under the reasoning expressed in ACLU, would uphold the provisions of AS 24.60.031 at least as the ban applies to legislators.

There is another basis on which the legislature's placing of a prohibition on its members might be upheld. Under art. 2, sec. 12, each house of the legislature is the judge of the

Shirley McCoy
April 23, 1999
Page 4

qualifications of its members. AS 24.60.031 can be viewed as an exercise of that power and, if so, a court might decline to intervene in a matter that was within the unique jurisdiction of the legislative branch of government.

The ethics code prohibition against campaign fund raising during sessions applies to both legislators and legislative employees. The court in the ACLU case was not asked to examine the role of employees in the legislative process. The evidence cited by the court in support of the need for campaign fund-raising restrictions with respect to legislators describes the public response, expectations of lobbyists, and perceptions of elected officials with respect to legislators only. *Id.* at 6 - 7, 40 - 41, 53 - 56, and 74 - 76. The ACLU decision cannot, therefore, be directly applied to legislative employees.

The courts generally have permitted restraints on the right of public employees to participate actively in political campaigns because of the government's interest in enforcing the law and executing programs without bias or favoritism for or against political parties, in avoiding the appearance of political favoritism, and in using or appearing to use a government workforce as a political machine. United States Civil Service Commission v. National Association of Letter Carriers, 413 U.S. 548, at 565, 93 S.Ct. 2880, 37 L.Ed.2d 796 (1973). The case arose in the context of Executive Branch employees, but at least the last argument applies equally to Legislative Branch employees. In any case, it indicates that the court has recognized the importance of separating the political campaigning process from governmental functions. The interest of the government in prohibiting fund raising by employees as well as by legislators during session furthers this goal. It seems to me likely that the court would uphold the prohibition as it applies to employees.

TC:pl
99-054.plm

Memorandum

State of Alaska

Department of Law

TO: Karen Boorman
Executive Director
Alaska Public Offices Comm'n

DATE: June 22, 1999

FILE NO: 661-99-0513

TEL. NO: 269-5135

FROM: Jan Hart DeYoung
Assistant Attorney General

SUBJECT: Questions following *State v. Alaska Civil Liberties Union*

You have asked a number of questions about the decision of the Alaska Supreme Court in *State v. Alaska Civil Liberties Union (ACLU)*, No. 5108, 1999 WL 219443 (Alaska April 16, 1999). In that decision the Court upheld most of the campaign finance law reforms adopted in 1996. However, the Court did invalidate as unconstitutional two provisions: the bans on nonelection year contributions in AS 15.13.074(c)(1) and on contributions to legislative candidates during the legislative session in AS 15.13.074(c)(2). You have several questions about how the Court's decision affects other sections of the law that the Court did not address.

Summary: our opinion is that the deadline for making contributions in AS 15.13.074(c) is 45 days after the date of the election; candidates for the legislature may raise funds during the legislative session unless barred by the legislative ethics law in AS 24.60.130, and candidates for statewide office may not solicit or accept contributions in Juneau during the legislative session under AS 15.13.072(g). Your questions and our analysis follow.

1. What effect does invalidating the ban on nonelection year contributions in AS 15.13.074(c)(1) have on AS 15.13.074(c)(4) and (5), which address post election contributions and contributions to statewide candidates in Juneau during the legislative session?

The answer depends on whether the provision is compatible with the delayed repeal and reenactment of AS 15.13.074(c).

When the legislature adopted the 1996 campaign finance reforms, it set time limits on fund raising. AS 15.13.074(c), as it was enacted in 1996, prohibited persons or groups from making contributions except during an allowed period, generally, from January 1 of the year of the election to 45 days following the election. The legislature also adopted a contingent provision that would take effect only if the Court found "the dates before which campaign contributions may not be accepted" unconstitutional. Sec. 12, ch. 48, SLA 1996 (contingent provision); sec. 33(b), ch. 48, SLA 1996 (setting out contingency that causes contingent provision in section 12 to become effective). This contingent provision ("section 12") would allow campaign contributions to be made earlier -- 18 months before the election.

Post-It™ brand fax transmittal memo 7571		# of pages = 2
To: JOHNSON	From: BROOKS	
Co: J	Co: APRIL	
Dept:	Phone #	
Fax # 269-0150	Fax #	

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In *State v. ACLU*, the Court did find "the dates before which campaign contributions may not be accepted" unconstitutional. The Court held that prohibiting contributions in nonelection years significantly interfered with the constitutional right of association because the time period for contributions was relatively short without appearing to address the State's interests of preventing corruption or its appearance. 1999 WL 219443, at *28, slip op. at 78-79. The Court expressly invalidated AS 15.13.074(c)(1), (2), and (3) and noted that its action caused the contingency in section 12 to take effect. 1999 WL 219443, at *28 & n. 192, slip op. at 79 & n. 192.

However, in 1998 (after the ACLU filed its lawsuit but before the Court's decision), the legislature amended AS 15.13.074. Sec. 5, ch. 74, SLA 1998. First, it amended AS 15.13.074(o)(4) to expand the period for contributions from 45 days to 60 days following the election or to December 31, whichever came first. Second, it added AS 15.13.074(c)(5) to prohibit contributions to statewide candidates in Juneau during the legislative session. Sec. 5, ch. 74, SLA 1998. When adopting the amendments, the legislature apparently overlooked the contingent provision; the legislature did not amend section 12 of the 1996 reforms to conform to the changes it made to AS 15.13.074.

Section 12 purports to repeal all of AS 15.13.074(c).¹ Because section 12 was not amended to increase the time for postelection contributions or to ban contributing in Juneau

¹ The complete text of section 12 follows:

*Sec. 12. AS 15.13.074(c) is repealed and reenacted to read:

(c) A person or group may not make a contribution

- (1) to a candidate or an individual who files with the commission the document necessary to permit that individual to incur certain election-related expenses as authorized by AS 15.13.100 when the office is to be filled at a general election before the date that is 18 months before the general election;
- (2) to a candidate or an individual who files with the commission the document necessary to permit that individual to incur certain election-related expenses as authorized by AS 15.13.100 for an office that is to be filled at a special election or municipal election before the date that is 18 months before the date of the regular municipal election or that is before the date of the proclamation of the special election at which the candidate or individual seeks election to public office; or
- (3) to any candidate later than the 45th day
 - (A) after the date of a primary election if the candidate
 - (i) has been nominated at the primary election or in running as a write-in candidate; and
 - (ii) is not opposed at the general election;

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during the legislative session, applying section 12 literally would repeal the 1998 amendments and reinstate parts of the earlier version of AS 15.13.074(c). The result would be to return the postelection deadline to 45 days and to extinguish the restrictions on contributing in Juneau.

However, a rule of statutory construction allows intervening amendments to survive repeal when a delayed enactment takes effect. The rule appears in the principal treatise on statutory construction, Norman J. Singer, *Sutherland Statutory Construction* § 23.29 (5th ed. 1993):

The reenactment of a statute is a continuation of the law as it existed prior to the reenactment as far as the original provisions are repeated without change in the reenactment. Consequently, an intermediate statute which has been superimposed upon the original enactment as a modification of its provisions is likewise not repealed by the reenactment of the original statute, but is construed to be in force to modify the reenacted statute as it modified the original enactment. However, this immunity from repeal is extended only to those provisions of intermediate acts which are consistent with the reenactment; any provisions in the intermediate act which are inconsistent with the reenactment are repealed.

This rule is applied in Alaska. It was applied in Alaska before statehood, *U.S. Smelting Refining & Mining Co., v. Lowe*, 11 Alaska 429, 74 F. Supp. 917, 921, 922 (D. Alaska Terr. 1947),² and the Legislative Affairs Agency has incorporated the rule into the state's legislative drafting manual:

If a statutory amendment is to be delayed, the following question may arise: Do intervening amendments to the same AS section survive once the delayed amendment takes effect. The general rule is that intervening amendments will survive unless incompatible with the delayed

-
- (B) after the date of a primary election if the candidate was not nominated at the primary election; or
 - (C) after the date of the general election, or after the date of a municipal or municipal runoff election.

² *U.S. Smelting Refining & Mining Co. v. Lowe*, 11 Alaska 429, 74 F. Supp. 917, 921, 922 (D. Alaska Terr. 1947), *aff'd* *Lowe v. United States Smelting Refining & Mining*, 175 F.2d 486, 489 (9th Cir. 1949) ("Enough to say that repeals by implication are regarded with disfavor; but where the latest legislative word on a subject is so incompatible with a previous enactment that the two can not exist together the courts have not hesitated to hold the earlier enactment repealed insofar as it is in conflict with the later"), *and vacated on other grounds*, 338 U.S. 954, 70 S.Ct. 493 (1950).

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amendment. See *U.S. Smelting, Refining & Mining Co. v. Lowe*, 12 Alaska 423 (9th Cir. 1949) and the discussion in the same case at 11 Alaska 429 (D. Alaska 1947). If intervening amendments are to be allowed, it is best to draft the delayed amendment as an amendment rather than a repeal and reenactment. If intervening amendments are to be wiped out once the delayed amendment takes effect, it is best to draft the delayed amendment as a repeal and reenactment and include an intent section stating that intervening amendments are not to be carried forward once the repeal and reenactment takes effect. [Legislative Affairs Agency, Manual of Legislative Drafting 21 (1999).]

The preferred practice is for the legislature to state when it enacts legislation with a delayed effective date whether it intends intervening amendments to survive the reenactment. According to the manual, delayed legislation that does not extinguish intervening amendments should be in the form of an amendment. On the other hand, delayed legislation that repeals intervening amendments should be in the form of a repeal and reenactment with a statement of intent that intervening amendments are not carried forward. In adopting section 12 in 1996, the legislature did not follow this practice. It used the form of the delayed repeal and reenactment but did not state any intention about the survival of intervening amendments. Because the legislature did not declare its intention, we apply the rule of construction, which carries intervening amendments forward unless they are incompatible with the delayed enactment, and because the intervening amendments are incompatible, conclude that the amendments do not carry forward.

a. Because postelection fund raising deadlines of 60 days and 45 days following the election are in direct conflict, the longer deadline in the intervening amendment is not carried forward and does not survive reenactment.

The 1996 campaign finance law reforms established a deadline for post election fund raising of 45 days following an election. AS 15.13.074(c)(4), sec. 11, ch. 48, SLA 1996. This 45-day deadline also appears in the contingent provision, section 12. AS 15.13.074(c)(3), sec. 12, ch. 48, SLA 1996. In 1998 the legislature amended AS 15.13.074(c)(4), expanding the deadline to 60 days following the election or December 31, whichever came first. Sec. 5, ch. 74, SLA 1998. The deadlines in the intervening amendment and the reenacted AS 15.13.074(c) are in direct conflict and cannot be reconciled. Because the intervening amendment is inconsistent with the reenactment of AS 15.13.074(c), under the rule of construction, the 1998 amendment to AS 15.13.074(c)(4) may not carry forward and is repealed. Thus, the postelection deadline for contributing returns to 45 days following the election.³

³ During the 1999 legislative session following the issuance of *ACLU v. State*, the legislature considered a bill that would have expanded the post election deadline for making contributions to the earlier of 60 days following the election or December 31 of the year of the

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b. Because prohibiting contributions to candidates for statewide office in Juneau during the legislative session is incompatible with section 12, it does not survive reenactment.

In 1998 the legislature added a new provision, AS 15.13.074(c)(5), which prohibits contributions in Juneau to statewide candidates during a legislative session, thereby expanding the circumstances in AS 15.13.074(c) in which "a person or group may not make a contribution." Sec. 5, ch. 74, SLA 1998. Whether banning some contributing in Juneau is compatible with the delayed enactment of section 12 provides a more difficult question than the expanded postelection deadline in AS 15.13.074(c)(4), discussed in the previous section.

Other legislative session contribution limits preceded the Juneau ban in AS 15.13.074(c)(5). AS 15.13.074(c)(2) banned contributions during the session to all candidates for legislative office.⁴ In addition, during the legislative session, legislators and legislative staff may not raise campaign funds regardless of the political office they are seeking under AS 24.60.031. This prohibition in the legislative ethics law handicaps those legislators seeking elective office against an opponent not subject to the prohibition. By adopting the Juneau ban in AS 15.13.074(c)(5), the legislature narrowed the opportunities for candidates not otherwise restricted by the legislative ethics law to raise campaign funds during the legislative session. It thereby helped level the playing field for legislators and legislative staff running for statewide office.

Applying the rule of construction, we must examine the compatibility of the Juneau ban in AS 15.13.074(c)(5) with section 12. Section 12 was intended to expand the time period for preelection contributions if the Alaska Supreme Court found the time period in AS 15.13.074(c)(1) too restrictive. The legislature stated, "if a court order is entered and becomes final declaring that the dates set out in AS 15.13.074(c), as enacted by sec. 11 of this Act, as the dates before which campaign contributions may not be accepted, are unconstitutional," then section 12 takes effect. Sec. 33(b), ch. 48, SLA 1996. The legislature obviously intended section 12 to fill the void created if a court invalidated the short preelection contributions period and to cure any constitutional deficiency by expanding the time for contributing. On the other hand, the Juneau ban narrows, rather than expands, opportunities for fund raising. Retaining the Juneau ban in AS 15.13.074(c)(5) also seems inconsistent with the repeal of AS 15.13.074(c)(2). The legislative session ban in AS 15.13.074(c)(2) banned contributions to all candidates for the

election. House Bill 225, §1, 21st Legislature, First Session (1999). The bill was not enacted during the first session. 1999 House Journal 1635, 1672 (5/18-19/99) (unfinished business).

⁴ In addition, all candidates for legislative office at the time the Juneau ban in AS 15.13.074(c)(5) was adopted were prohibited from soliciting or accepting contributions during the legislative session under AS 15.13.072(d).

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legislature during the legislative session. The Court found the legislative session ban unconstitutional in *State v. ACLU*, 1999 WL 219443, at *28-29, slip op. at 81-83, due to its impact on the right of association through making contributions to nonincumbent candidates. The legislative session ban was then repealed through the repeal and reenactment of AS 15.13.074(c) in section 12 when the Court found the date contributions could begin unconstitutional. Sec. 33(b), ch. 48, SLA 1996. Because the legislature intended the repeal of the legislative session ban in AS 15.13.074(c)(2) when AS 15.13.074(c) was repealed and reenacted, it probably would not intend to carry forward even a partial legislative session ban. Thus, we conclude that carrying forward the Juneau legislative session ban is inconsistent with section 12. Moreover, we have reservations about the constitutionality of AS 15.13.074(c)(5) after *State v. ACLU*.⁵ Because carrying forward AS 15.13.074(c)(5) is inconsistent and incompatible with the goals of expanding opportunities for fund raising and responding to a Court's decision that the time period was unconstitutionally restrictive, it does not meet the test of the rule of construction. We therefore conclude that the ban on contributions to candidates for statewide office in the capital city during the legislative session should not carry forward.

2. **What effect does invalidating the ban on contributing during the legislative session in AS 15.13.074(c)(2) have on AS 15.13.072(d), which prohibits candidates from soliciting or accepting contributions while the legislature is in session?**

The effect is to invalidate AS 15.13.072(d). Making a contribution is not a meaningful expression of association if the candidate may not accept the contribution.

Alaska's campaign finance laws set contribution limits in two ways: they impose limits on the makers of contributions in AS 15.13.074 and they limit the candidates' ability to solicit and accept contributions in AS 15.13.072. In *State v. ACLU*, the Court found certain

⁵ The constitutionality of the Juneau ban in AS 15.13.074(c)(5) after *State v. ACLU* provides a close question. The Court did not address AS 15.13.074(c)(5) in the decision. But a rule prohibiting contributing in Juneau during the legislative session (AS 15.13.074(c)(5)), resembles a rule prohibiting contributions to legislative candidates during the session (AS 15.13.074(c)(2)), which the Court found unconstitutional. Like the legislative session ban in AS 15.13.074(c)(2), the Juneau ban in AS 15.13.074(c)(5) limits the opportunities for expressing support for candidates and thereby encroaches on the right of association of contributors. The key is whether the Juneau ban succeeds in combating corruption and its appearance where the legislative session ban in AS 15.13.074(c)(2) did not. Because the prohibition in AS 15.13.074(c)(5) is much narrower — it only applies to candidates for statewide office and in the capital city — it can be distinguished from the legislative session ban found unconstitutional. Thus, while *State v. ACLU* raises a question about the constitutionality of AS 15.13.074(c)(5), it does not compel the answer. See Court's discussion of the legislative session ban, 1999 WL 219443, at *28-29, slip op. at 81-83.

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limits unconstitutional but in doing so addressed only the limits in AS 15.13.074 on persons or groups making the contribution. It did not address the closely related limits on the candidates in AS 15.13.072. This omission is not surprising because the Court's focus was the constitutional rights of the contributors. Nevertheless, the omission is confusing and raises the question whether requiring a candidate to refuse a contribution infringes on the contributors' constitutional right to associate with the candidate by making a contribution. The Court found that prohibiting contributions to candidates during the legislative session interfered with a contributor's right of association with nonincumbent candidates without promoting the government's interest in preventing corruption or its appearance. The contribution and act of association, however, would be pointless if the candidate could not accept the contribution. Based on the Court's decision in *State v. ACLU*, we believe the Court would conclude that prohibiting the solicitation and acceptance of contributions interferes with the constitutional right of association without promoting a governmental interest. Although the Court did not expressly invalidate the prohibition in AS 15.13.072(d), we believe it would find the prohibition on legislative candidates' soliciting or accepting contributions during the legislative session to be unconstitutional and unenforceable.

Please note that this opinion and the Court's decision in *State v. ACLU* should not affect the validity of the ban on fund raising during the legislative session in the legislative ethics law, AS 24.60.130. That section applies only to legislators and legislative staff. It was not at issue in *State v. ACLU* and remains effective. See opinion of the legislative counsel, Mem. from T. Cramer, Legislative Counsel, to Select Comm. Legislative Ethics (4/23/99).

3. Does *State v. ACLU* invalidate AS 15.13.072(g), which prohibits candidates for statewide office from soliciting or accepting contributions in the capital city while the legislature is in session?
No. AS 15.13.072(g) remains valid.

Earlier in this memorandum we determined that *State v. ACLU* and the consequent repeal of AS 15.13.074(c) by section 12 repealed the prohibition in AS 15.13.074(c)(5) against contributions to candidates for statewide office in Juneau during the legislative session. Your question is whether the parallel prohibition in AS 15.13.072(g) against candidates soliciting or accepting such contributions is now also invalid.

Our earlier determination that AS 15.13.074(c)(5) had been repealed followed the application of the rule of construction for delayed enactments. The 1996 legislation, however, did not contain a section comparable to section 12 that would repeal parts of AS 15.13.072, which limits candidates' solicitation or acceptance of contributions. The rule of construction for intervening amendments therefore does not apply. Moreover, we cannot say that prohibiting contributions in Juneau during the legislative session is unconstitutional. Although we have reservations about the constitutionality of legislative session limits on contributions to nonlegislative candidates following *State v. ACLU*, we believe the limits in AS 15.13.072(g) are distinguishable from the limits that the Court found unconstitutional. See discussion in note 5.

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While we have doubts about the constitutionality of AS 15.13.072(g), we cannot conclude that it is unconstitutional. Despite these doubts, because the rule of construction does not apply to make AS 15.13.072(g) ineffective, the limits in AS 15.13.072(g) on soliciting or accepting such contributions in the capital city remain valid.

I hope this discussion is helpful. If the foregoing discussion failed to answer your questions, please do not hesitate to contact me for clarification.

JHD:jv

State v. Alaska Civil Liberties Union, 978 P.2d 597, 631 (Alaska 1999):

The court case did overrule the prohibition against making contributions during the legislative session. Here is the text from the opinion if you are interested:

b. Ban on contributions during the legislative session; AS 15.13.074(c)

[24] Alaska Statute 15.13.074(c)(2) prohibits making contributions to legislative candidates, including both challengers and incumbents, during a regular legislative session. (FN194)

AkCLU argues that this ban severely constrains effective campaign advocacy by legislative candidates. "Given the length of the Alaska legislative session, fundraising [under the ban] is limited to a two-month period before a primary election and [to] two and one-half [additional] months before a general election." (FN195) Moreover, AkCLU claims the associational rights of potential contributors are severely restricted during the legislative session.

The State argues that this ban "addresses the perception that contributions are made to influence the conduct of elected officials during the session." It also contends that "the prohibition frees sitting legislators from the fund-raising treadmill and allows them to focus on the public's business during the legislative session." The State claims that this interest is compelling enough to support the ban. The Josephson Report survey, in which about sixty percent of legislators stated they believed fundraising during the legislative session needed to be regulated, supports this contention to a limited extent.

Considered in isolation, the "legislator-freing" rationale is not sufficiently compelling to justify this restriction. In *Rosenstiel v. Rodriguez*, the Eighth Circuit held that freeing legislators to deal with issues was only relevant as a by-product of corruption-fighting measures. (FN196) In other cases cited by the State, the interest was found sufficient

----- 978 P.2d 631 -----

only to promote a speech-enhancing measure. (FN197)

Preventing corruption or its appearance is a compelling interest justifying narrowly-tailored restraints on First Amendment rights. But the very circumstance most relevant to the appearance of corruption—receipt of contributions by incumbent candidates during the session—does not imply that in-session contributions to challengers also give the appearance of corruption. The ban is therefore not narrowly tailored to the State's compelling interest, and is invalid as to non-incumbents. But invalidating the ban only as to challengers would fundamentally unbalance a restriction which

the legislature clearly intended to apply to incumbents and challengers alike, and would defeat the legislature's clear intention as to this prohibition. We therefore decline to invalidate only part of this ban while upholding it with respect to incumbent candidates.

Accordingly, we affirm the decision holding these provisions invalid.

REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

MEMORANDUM

DATE: January 16, 2008

TO: Representative Bob Lynn, Chairman
House State Affairs Committee

FROM: Representative Kevin Meyer *K.*

RE: Hearing Request for House Bill 305 *Campaign Fundraising During Sessions*

Please schedule HB 305 *Campaign Fundraising During Sessions* for a hearing in the House State Affairs Committee at your earliest convenience.

HB 305 amends the legislative ethics act to prohibit fundraising during a legislative session for any political office.

Included in this packet:

- HB 305 25-LS1126/E
- Sponsor Statement
- Sectional Analysis
- Backup Information
 - Select Committee on Legislative Ethics Advisory Opinion 94-04
 - Legislative Legal Services Memorandum, April 23, 1999
 - Alaska Department of Law Memorandum, June 22, 1999

Thank you for your consideration of this request. If you have any questions, please feel free to contact me or my staff, Mike Pawlowski at x4945.

HB

309

ALASKA STATE LEGISLATURE



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Kodiak, AK 99615
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Representative Gabrielle LeDoux

MEMO

DATE: 1/25/2008

TO: HOUSE STATE AFFAIRS
REPRESENTATIVE BOB LYNN

FROM: REPRESENTATIVE GABRIELLE LEDOUX *GL*

RE: HEARING REQUEST FOR HB 309, "AN ACT REQUIRING A LEGISLATOR TO ABSTAIN FROM VOTING ON QUESTIONS AFFECTING AN ENTERPRISE IF THE LEGISLATOR OR A MEMBER OF THE LEGISLATOR'S IMMEDIATE FAMILY HAS AN EQUITY OR OWNERSHIP INTEREST IN THE ENTERPRISE THAT IS SUBSTANTIAL, AND REQUIRING A LEGISLATOR TO ABSTAIN FROM TAKING OR WITHHOLDING OFFICIAL ACTION OR EXERTING OFFICIAL INFLUENCE IN CERTAIN MATTERS IN WHICH THE LEGISLATOR'S ACTION OR INFLUENCE COULD BENEFIT OR HARM THE FINANCIAL INTEREST OF A PERSON BY WHOM THE LEGISLATOR OR A MEMBER OF THE LEGISLATOR'S IMMEDIATE FAMILY IS EMPLOYED OR WITH WHOM THE LEGISLATOR OR A MEMBER OF THE LEGISLATOR'S IMMEDIATE FAMILY IS NEGOTIATING FOR EMPLOYMENT; MAKING THE ACT CONDITIONALLY EFFECTIVE; AND PROVIDING FOR AN EFFECTIVE DATE."

I respectfully request that House Bill 309 be scheduled for a hearing in the House State Affairs.

Attached you will find:

- HB 309
- Sponsor Statement
- My staff member assigned to this legislation is Suzanne Hancock, direct line 465-4230.

ALASKA STATE LEGISLATURE



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Representative Gabrielle LeDoux

SPONSOR STATEMENT FOR HB 309

"An Act requiring a legislator to abstain from voting on questions affecting an enterprise if the legislator or a member of the legislator's immediate family has an equity or ownership interest in the enterprise that is substantial, and requiring a legislator to abstain from taking or withholding official action or exerting official influence in certain matters in which the legislator's action or influence could benefit or harm the financial interest of a person by whom the legislator or a member of the legislator's immediate family is employed or with whom the legislator or a member of the legislator's immediate family is negotiating for employment; making the Act conditionally effective; and providing for an effective date."

This act would help reduce conflicts of interest among legislators when voting. Currently, when a member of the House or Senate declares a conflict of interest on a bill and asks to abstain from voting, any other member can object, and the member has to vote. This act would require legislators with conflicts of interest to abstain.

This act would require a member to abstain if the legislation affects an enterprise in which the legislator or an immediate family member has a substantial equity or ownership interest. Abstaining would also be required if the action would affect someone with whom the legislator or a family member is employed, or is seeking employment.

There are many issues that come before the Legislature where a member could have a conflict of interest. This includes fishermen, trial lawyers, pilots, doctors, and many other occupations and businesses. It is important that those members with conflicts participate in the debate on the floor, so their expertise is not wasted in a citizens' Legislature. However, in order to restore the public's trust in our Legislature, we should amend the rules to restrict those with clear conflicts from voting.

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 309
 () Publish Date: _____

Identifier (file name): HB309-LEG-SES-03-14-08 Dept. Affected: Legislature
 Title: "An Act requiring a Legislator to abstain from voting on
questions affecting an enterprise if the Legislator or a member of the... RDU: Legislative Council
 Sponsor: Representative LeDoux Component: Session Expenses
 Requester: House State Affairs Component Number: 782

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information					
		FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES							
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES							
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CHANGE IN REVENUES ()							
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

This legislation has zero fiscal impact on the Legislative Affairs Agency.

Prepared by: Karla Schofield, Deputy Director Phone: 465-6626
 Division: Legislative Affairs Agency Date/Time: 3/14/08 11:47 AM
 Approved by: Pamela Varni, Executive Director Date: 3/14/2008
Legislative Affairs Agency

HB

313

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: January 16, 2008

FURTHER REFERRALS: Finance

Date of Committee Action: 1-22-08

The STATE AFFAIRS Committee considered:

HB 313

HOUSE BILL NO. 313

G.O. BONDS FOR CRIME LAB

"An Act providing for and relating to the issuance of general obligation bonds for the purpose of paying the cost of a scientific crime detection laboratory; and providing for an effective date."

Recommends it be replaced with | | HCS or | | CS for _____ (_____)
 or Senate Bills with new title: / / Technical Title / / New Title: HCR _____ | | Same Title | | New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of
Abbrev
for
Depts.:

- ADM
- CEC
- COR
- CRT
- EED
- DEC
- DFG
- GOV
- HSS
- LWF
- LAW
- LEG
- MVA
- DNR
- DPS
- REV
- DOT
- UA

NEW FISCAL NOTES				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet	Zero

PREVIOUS FISCAL NOTES				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
DOG		X		

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	Johnson			X	
	JOHANSEN			X	
	Rose	X			
	Cochran			✓	
	DeB	X			
Chair:		X			
Chair:					

Nancy Manly

From: Rice, Lauren (DPS) [lauren.rice@alaska.gov]
Sent: Tuesday, January 22, 2008 7:42 AM
To: Nancy Manly
Subject: List for House State Affairs Committee

Morning Nancy:

A list for you of those who will be testifying...

Over the Telephone:

Tom Livingston: Livingston and Sloan Architecture

Matt Tanaka: Engineer (DOT)

Orin Dim: Crime Lab Supervisor (DPS)

In person:

John Glass: Deputy Commissioner of DPS

Jerry Burnett. Director of Admin of Revenue

Lauren Rice
Legislative Liaison/Special Assistant to Commissioner Walt Monegan
Department of Public Safety
(w) 907.269.5591
(c) 907.351.2722



State of Alaska
Department of
Public Safety

Sarah Palin, Governor
Walt Monegan, Commissioner

Sponsor Statement
HB 313

The Department of Public Safety is seeking funding through statewide general obligation bonds to build a "state of the science" crime lab that will serve the needs of Alaska's citizens and law enforcement agencies for at least the next 40 years.

The Department started accepting evidence for analysis in 1978 with 2 chemists, 2 latent examiners and one explosives expert. In 1986, the current crime lab was built. Its 18,000 square feet were designed as a workplace for six scientists and support staff. The number of analysis has increased tremendously since that time. Over the last 30 years, both the types of evidence analysis and the number of cases submitted by law enforcement for assistance from the crime lab have increased tremendously.

The crime lab has managed to provide an excellent level of assistance to law enforcement during this time of growth. However, in the past five years, the growing demand for lab services has exceeded the capacity of the lab. This results in unavoidable delays in analyzing evidence. Large backlogs now exist. In order to preserve the quality of work, the crime lab had to reduce the quantity of case work coming in; thus, some services were outsourced while others were discontinued.

Forensic science continues to improve. New technology and added analysis are expanding the importance of forensic science in criminal justice investigations; examples include arson analysis equipment, laser examination equipment, vacuum metal deposition chamber examination equipment, trace evidence examinations, space and equipment examinations, toxicology and question document analysis. Additionally, expanded processing space is necessary to examine evidence from small items such as drug baggies and blood stained clothing to larger items such as entire vehicles. The new crime lab will have sufficient space to accommodate such improvements.

Additionally, DNA has created an entirely new area of testing and the number of cases involving DNA submitted to the crime lab is increasing steadily. DNA testing work includes current cases and many older "cold" cases. The design of the proposed new crime lab incorporates all the elements necessary to expand the use of DNA evidence as a crucial tool for solving crimes, providing justice to victims and ensuring Alaska is on the leading edge for implementing effective criminal justice tools.

The new crime lab will provide eighty-three thousand square feet with room for future expansion. The design of the proposed new crime lab incorporates all the elements necessary to expand the use of forensic evidence as a crucial tool for solving crimes, providing justice to victims and ensuring Alaska is on the leading edge for implementing effective criminal justice tools.

"Public Safety through Public Service"

Office of the Commissioner
5700 E. Tudor Road – Anchorage, AK 99507 – Voice (907) 269-5086 – Fax (907) 269-4543
Juneau Office – Voice (907) 465-4322 – Fax (907) 465-4362

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 313
(H) Publish Date: 1/16/08

Identifier (file name): 0043-OOG-DOE-1-4-08 Dept. Affected: OOG
Title A bill providing for the issuance of general obligation bonds RDU Elections
for paying the cost of a scientific detection laboratory Component Elections
Sponsor Rules Committee
Requester Governor Component Number 21

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services								
Travel								
Contractual	1.5							
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING	1.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()								
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FUND SOURCE (Thousands of Dollars)

	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
1002 Federal Receipts							
1003 GF Match							
1004 GF	1.5						
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	1.5	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

The passage of this bill would require the general obligation bond question to appear on the 2008 general election ballot. The cost of providing information about the bonds in the Official election Pamphlet, as required by AS 15.58 is \$1 5. Should the addition of this question require printing an 8-1/2 by 18 inch ballot, the cost will increase to \$22 0.

Prepared by: Gail Fenumiai, Director
Division Division of Elections
Approved by: Linda J. Perez, Administrative Director
Division of Administrative Services

Phone 465-2644
Date/Time 1/4/08, 3:40pm
Date 1/4/2008

SARAH PALIN
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



P.O. BOX 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 15, 2008

The Honorable John Harris
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Harris:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill providing for and relating to the issuance of general obligation bonds for the purpose of paying the cost of a scientific crime detection laboratory.

This revenue would be utilized for the construction of a "state of the science" crime lab that will serve the needs of Alaska's citizens and law enforcement agencies for at least the next 40 years.

Over the last 30 years, both the types of evidence analysis and the number of cases submitted by law enforcement for assistance from the crime lab have increased tremendously. Currently, the crime lab provides expert assistance in the areas of fingerprints, biological screening, hair analysis, trace screening, blood alcohol content, drug analysis, DNA, crime scene investigations, shoe prints, and firearm/toolmark ballistics.

Forensic science continues to improve. New technology and added analysis are expanding the importance of forensic science in criminal justice investigations; examples include arson analysis equipment, laser examination equipment, vacuum metal deposition chamber examination equipment, trace evidence examinations, space and equipment examinations, toxicology, and question document analysis. Additionally, expanded processing space is necessary to examine evidence from small items such as drug baggies and blood stained clothing to larger items such as entire vehicles. The new crime lab will have sufficient space to accommodate such improvements.

The Honorable John Harris
January 15, 2008
Page 2

The crime lab has managed to provide an excellent level of assistance to law enforcement during this time of growth. However, in the past five years, the growing demand for lab services has exceeded the capacity of the lab to provide all the services needed by Alaskans. Alaska needs a new crime lab. The new crime lab will provide 80 thousand square feet with room for future expansion.

Section 1 of the bill adds a new section to the uncodified law of the state authorizing the issuance and sale of state general obligation bonds in the principal amount of not more than 100 million, if ratified by a majority of the qualified voters of the state who vote on the question. The full faith, credit, and resources of the state would be pledged to the payment of the principal of and interest and redemption premium, if any, on the bonds.

Section 2 of the bill adds a new section to the uncodified law of the state establishing the "scientific crime detection laboratory project fund" if the voters ratify the issuance of the bonds, to which shall be credited the proceeds of the sale of the bonds except for the accrued interest and premiums.

Section 3 of the bill adds a new section to the uncodified law of the state appropriating 100 million from the scientific crime detection laboratory project fund and up to 6 million in anticipated investment earnings to the Department of Public Safety to be allocated to the design and construction of a state scientific crime detection laboratory in Anchorage.

Section 4 of the bill adds a new section to the uncodified law of the state appropriating from the general fund to the state bond committee \$500,000 or as much of that amount as is found necessary to carry out the provisions of this bill and to pay expenses incident to the sale and issuance of the bonds.

Section 5 of the bill adds a new section to the uncodified law of the state providing that the amount withdrawn from the public facility planning fund (AS 35.10.135) for the purpose of advance planning for the capital improvements financed under this bill shall be reimbursed from the proceeds of the sale of the bonds.

Section 6 of the bill adds a new section to the uncodified law of the state providing that the unexpended and unobligated balance of the appropriation made in sec. 3 lapses and is appropriated to the state bond committee to redeem bonds sold under this bill. Further, sec. 6 provides that amounts expended from the general fund to pay the principal, interest, and redemption premium on the bonds shall be

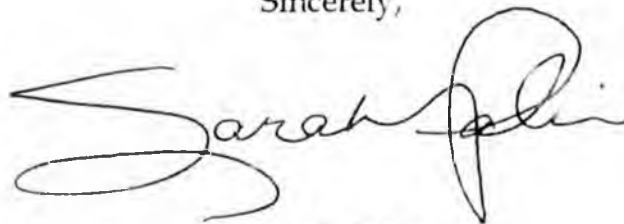
The Honorable John Harris
January 15, 2008
Page 3

reimbursed from this appropriation to the extent that the money is not needed to redeem the bonds.

Section 7 of the bill amends the uncodified law of the state to add a new section directing the submittal to the voters for ratification at the next general election the question of whether the state shall issue its general obligation bonds in the principal amount of not more than 100 million for the purpose of paying the cost of design and construction of a scientific crime detection laboratory.

I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in cursive script that reads "Sarah Palin". The signature is fluid and stylized, with a large initial "S" and a distinct "P" for "Palin".

Sarah Palin
Governor

Enclosure



State of Alaska
Department of
Public Safety

Sarah Palin, Governor
Walt Monegan, Commissioner

January 17, 2008

Representative Bob Lynn, Chair House State Affairs Committee
State Capitol, Room 104
Juneau, AK 99801-1182

Dear Representative Lynn:

Please find the attached House Bill 313, "An Act providing for and relating to the issuance of general obligation bonds for the purpose of paying the cost of a scientific crime detection laboratory; and providing for an effective date", transmittal letter and fiscal note. House Bill 313 provides a mechanism to place a proposed new crime lab on the November 2008 ballot. I would appreciate a hearing in your committee as soon as possible.

Letters of support, design and construction details and pictures of our current crime lab are forthcoming.

For specific questions regarding the bill proposal or any other items related to the proposed crime lab, please contact Deputy Commissioner John Glass (242.5879) or our Legislative Liaison Lauren Rice (351.2722).

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to be "Walt Monegan".

Walt Monegan
Commissioner of Public Safety

Handwritten notes, possibly a list or a set of instructions, located in the center of the page. The text is very faint and difficult to read, but appears to be organized into several lines or paragraphs.

Rice, Lauren (DPS)

From: Rice, Lauren (DPS)
Sent: Tuesday, January 22, 2008 7:42 AM
To: Manly, Nancy S (LAA)
Subject: List for House State Affairs Committee

Morning Nancy.

A list for you of those who will be testifying...

Over the Telephone:

Tom Livingston: Livingston and Silan Architecture

Matt Tanaka: Engineer (DOT)

Orin Dim: Crime Lab Supervisor (DPS)

In person:

John Glass: Deputy Commissioner of DPS

Jerry Burnett: Director of Admin of Revenue

3 Annie C. DeLaw.

Lauren Rice
Legislative Liaison/Special Assistant to Commissioner Walt Monegan
Department of Public Safety
(w) 907.269.5591
(c) 907.351.2722

Rice, Lauren (DPS)

From: Rice, Lauren (DPS)
Sent: Tuesday, January 22, 2008 7:42 AM
To: Manly, Nancy S (LAA)
Subject: List for House State Affairs Committee

Morning Nancy:

A list for you of those who will be testifying...

Over the Telephone:

Tom Livingston: Livingston and Sloan Architecture

Matt Tanaka: Engineer (DOT)

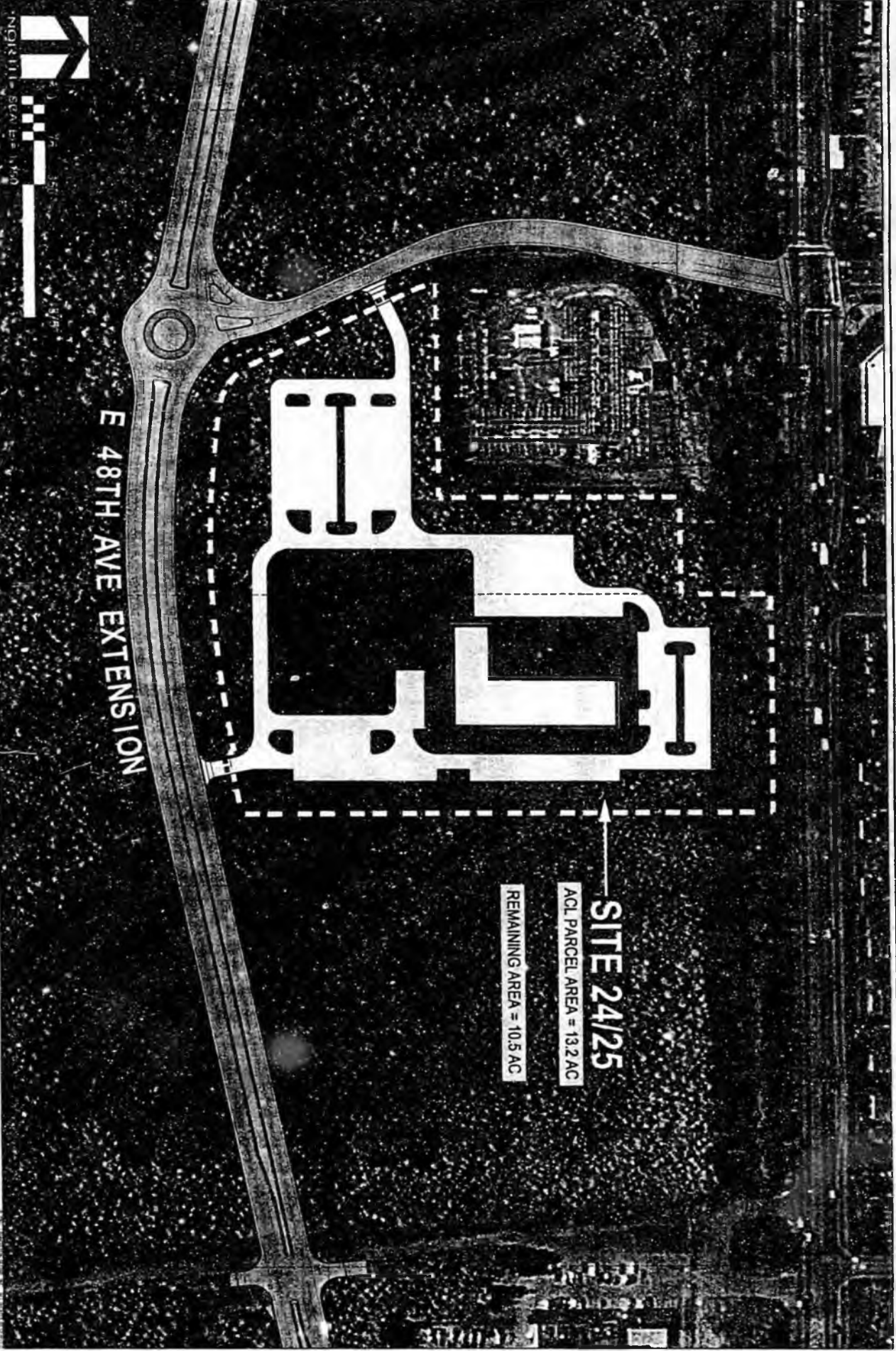
Orin Dim: Crime Lab Supervisor (DPS)

In person:

John Glass: Deputy Commissioner of DPS

Jerry Burnett: Director of Admin of Revenue

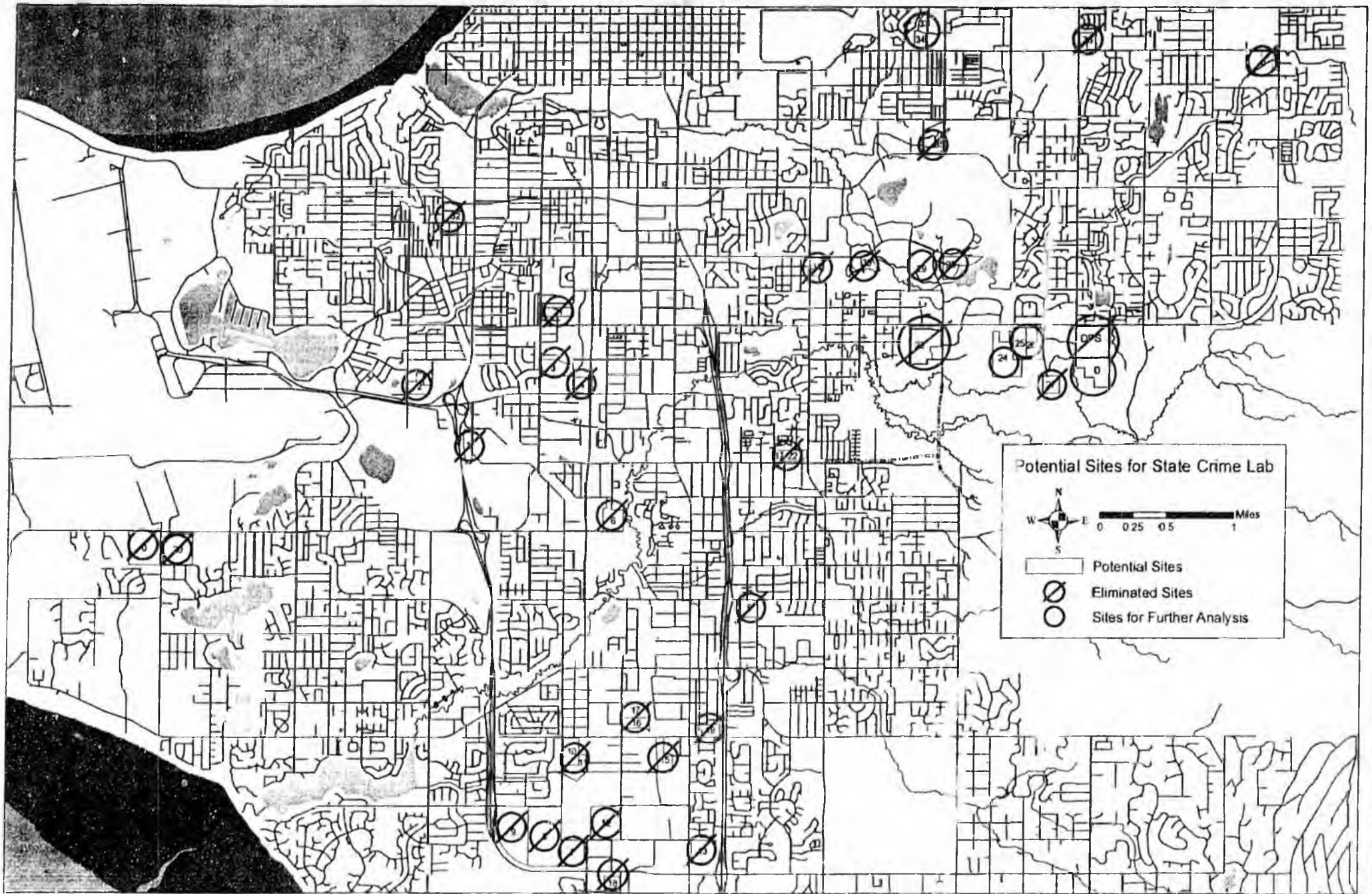
Lauren Rice
Legislative Liaison/Special Assistant to Commissioner Walt Monegan
Department of Public Safety
(w) 907.269.5591
(c) 907.351.2722

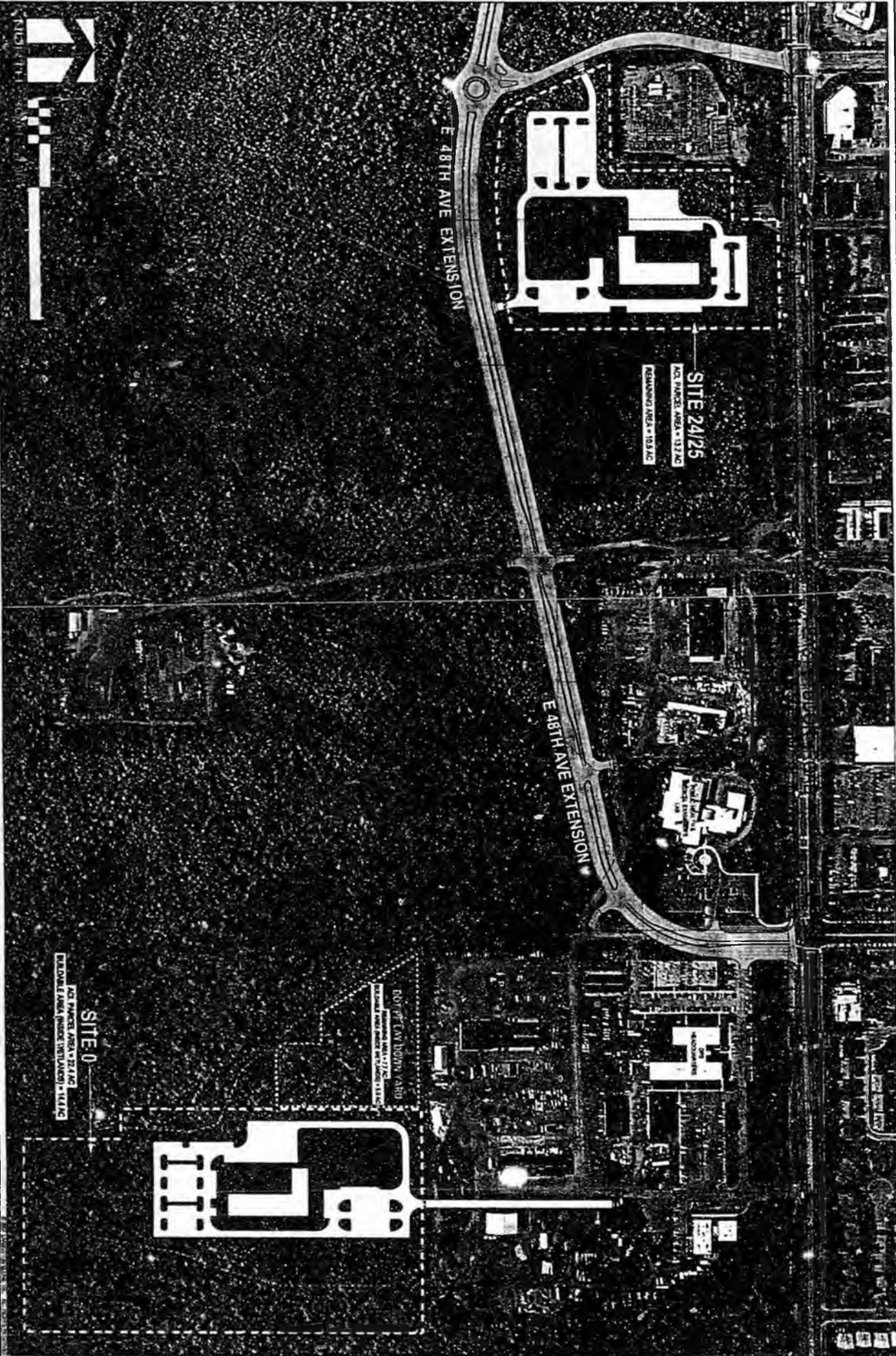


**LIVINGSTON
STONE** Incorporated

PRELIMINARY
JUNE 5, 2007

STATE OF ALASKA DEPARTMENT OF PUBLIC SAFETY
STATEWIDE SERVICES CRIME LABORATORY
SITE SELECTION STUDY

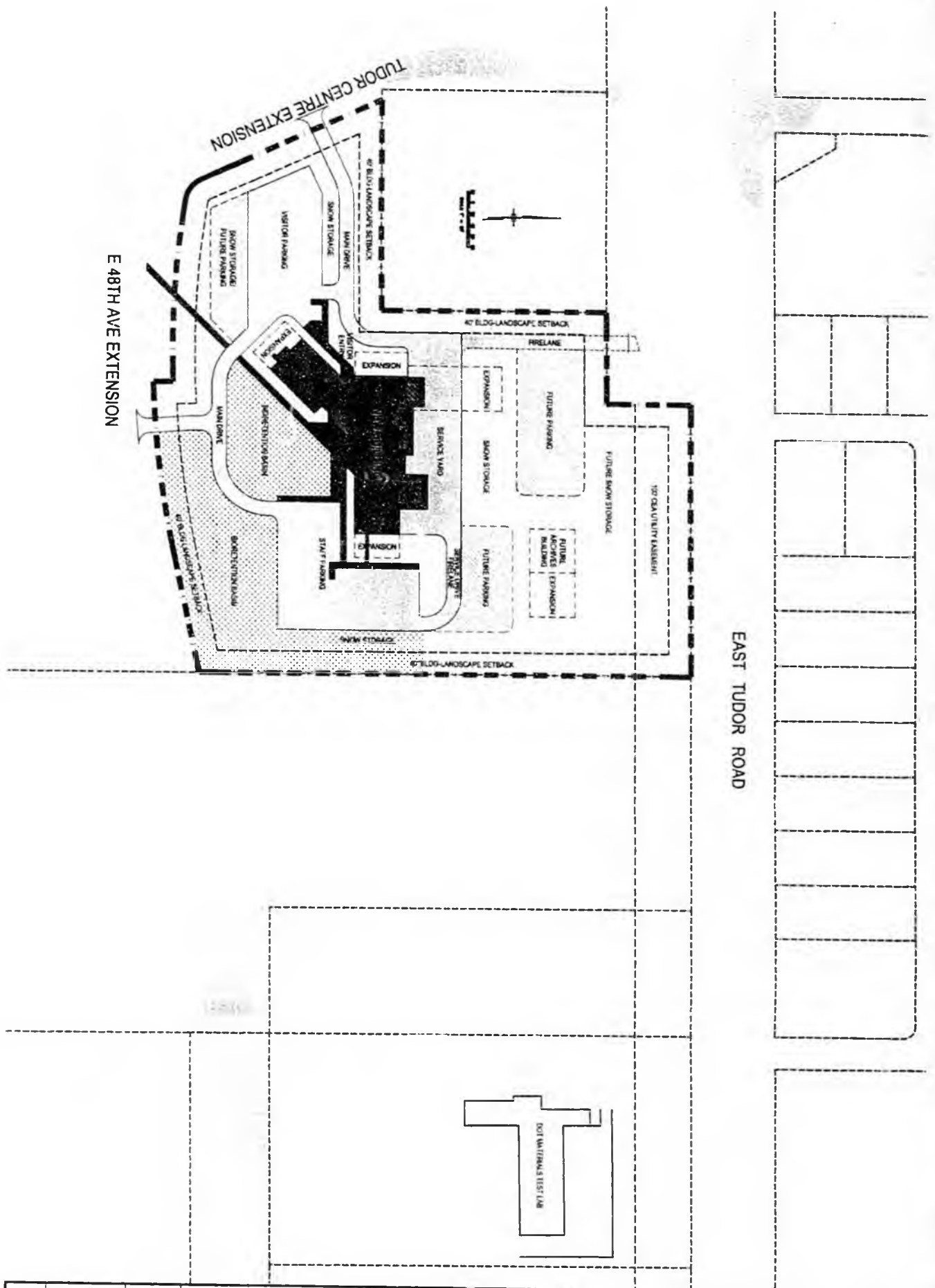




LIVINGSTON STONE Incorporated

PRELIMINARY
 JUNE 5, 2007

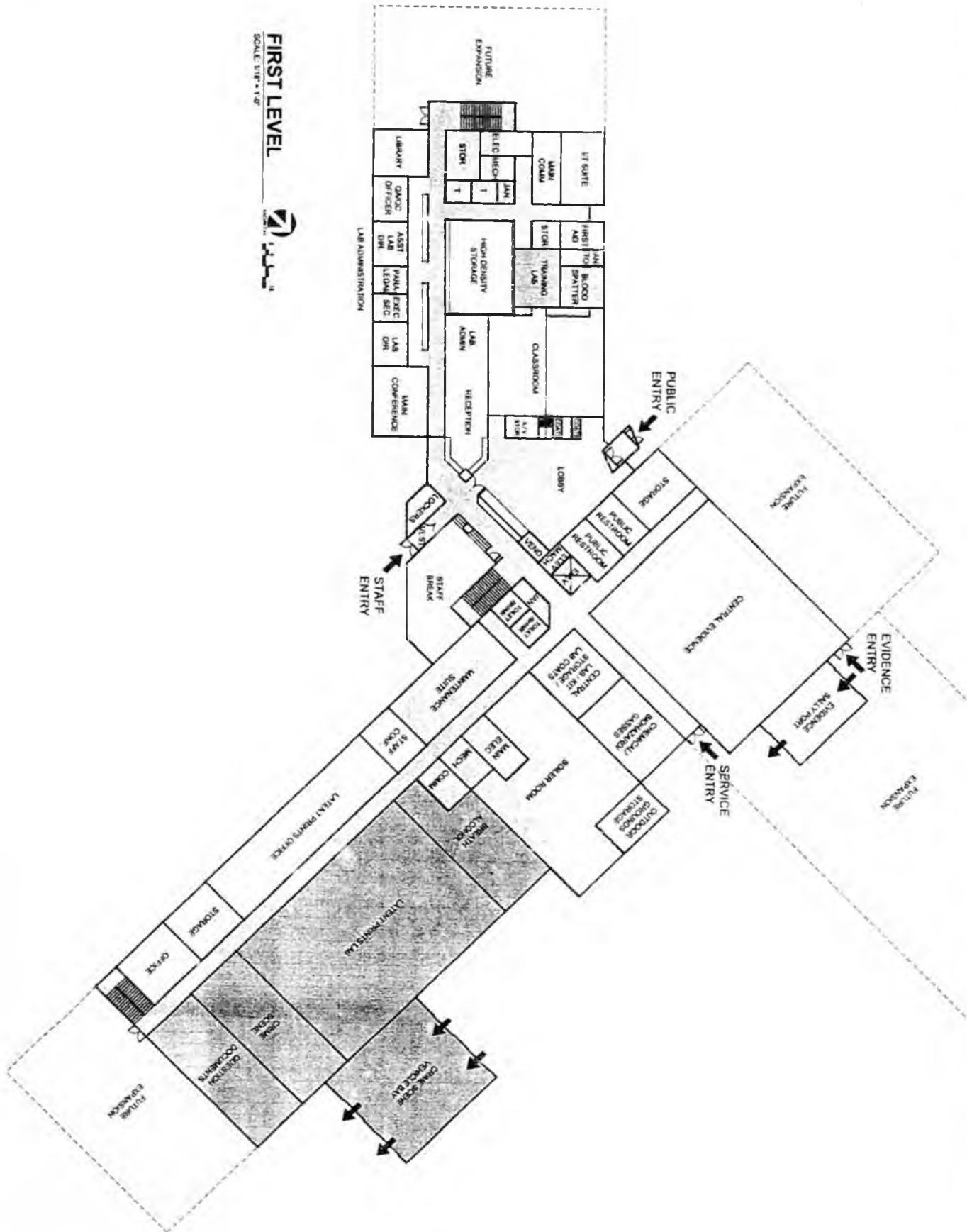
STATE OF ALASKA DEPARTMENT OF PUBLIC SAFETY
 STATEWIDE SERVICES CRIME LABORATORY
 SITE SELECTION STUDY



E 48TH AVE EXTENSION

EAST TUDOR ROAD

SHEET NO. C1	CONCEPTUAL DESIGN CIVIL SITE PLAN	PROJECT NO. 081130	PLANS DEVELOPED BY LIVINGSTON SLOANE, INC. 2800 ARCTIC BOULEVARD SUITE 301 ANCHORAGE, ALASKA 99503-5750 TEL: 907 567 2954 FAX: 907 561 4528	STATE OF ALASKA DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES DEPARTMENT OF PUBLIC SAFETY - STATEWIDE SERVICES NEW CRIME LABORATORY ANCHORAGE, ALASKA
		DRAWN BY ONE		



FIRST LEVEL
SCALE: 1/8" = 1'-0"

SHEET NO. A1	TITLE FIRST LEVEL FLOOR PLAN	PROJECT NO. (SHEET NO.) DRAWN BY: LJS DATE: DECEMBER 14, 2007	PLANS DEVELOPED BY LIVINGSTON SLOANE, INC. 3900 ARCTIC BOULEVARD SUITE 201 ANCHORAGE, ALASKA 99503-5180 TEL: 907.562.7056 FAX: 907.561.4521	STATE OF ALASKA DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES DEPARTMENT OF PUBLIC SAFETY - STATEWIDE SERVICES NEW CRIME LABORATORY ANCHORAGE, ALASKA
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HB

317

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB317
 () Publish Date: _____

Identifier (file name): HB317-LEG-ETH-01-29-08 Dept. Affected: Legislature
 Title: "An act eliminating the limit on compassionate gifts that a legislator or legislative employee..." RDU: Legislative Council
 Sponsor: "Representative Coghil, Chenault, Johnson..." Component: Select Committee on Legislative Ethics
 Requester: House State Affairs Component Number: 2321

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()								
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

This legislation has zero fiscal impact on the Legislative Affairs Agency.

Prepared by: Karla Schofield, Deputy Director
 Division: Legislative Affairs Agency
 Approved by: Pamela Varni, Executive Director
Legislative Affairs Agency

Phone: 465-6626
 Date/Time: 1/29/08 3 24 PM
 Date: 1/29/2008

ALASKA STATE HOUSE OF REPRESENTATIVES



Session

(907)-465-3719

FAX# (907)-465-3258

**State Capitol
Room 214**

Contact:

Interim Address:

**3340 Badger Road
North Pole, AK 99705
(907)-488-5725
Fax# (907)-488-4271**

REPRESENTATIVE JOHN COGHILL

HB 317 - COMPASSIONATE GIFTS

SPONSOR STATEMENT

This legislation was requested by the Select Committee on Legislative Ethics as a fix to an unintended consequence of HB 109, the Governor's ethics bill passed by the Legislature last year. An amendment offered to the Ethics Bill on the House Floor by Representative Dahlstrom allowing for compassionate gifts of less than \$250 from the same person in a calendar year was passed unanimously.

After numerous inquiries from legislative staffers during the interim concerning organ donations and frequent flyer miles, Joyce Anderson, administrator for the Select Committee on Legislative Ethics approached me about repealing the \$250 limit from AS 24.60.075(c). She said the limit did prevent a legislative staffer from donating an organ to another legislative staffer or legislator and it prevented either from donating frequent flyer miles to the other.

One safeguard already in place is the requirement that the chair of the Legislative Council or the chair or vice-chair of the Select Committee on Legislative Ethics must approve the compassionate gift exemption before a legislator or legislative staff can accept compassionate gifts.

The question of donating leave came up during mandatory ethics training. AS 39.30.245(b) already allows an officer or employee of the State to donate accrued personal or annual leave to another officer or employee "only for use as leave for medical reasons".

HB 317 eliminates the less than \$250 limit on compassionate gifts from AS 24.60.075(c) and allows unlimited compassionate contributions, including organ and frequent flyer donations. Mandatory reporting of the compassionate gifts is still required.

**SELECT COMMITTEE ON LEGISLATIVE ETHICS
Alaska State Legislature**

THE ADVISOR

July 2007

Committee Members: Chair Dennis "Skip" Cook, Senator Gary Stevens, Senator Con Bunde, Representative Bob Roses, Representative Berta Gardner, H. Conner Thomas, Ann Rabinowitz, Gary J. Turner and Herman G. Walker Jr.

Alternate Legislative Members: Senator Hollis French, Senator Gary Wilken, Representative Carl Gatto and Representative Lindsey Holmes.

Staff: Joyce Anderson

QUOTE OF THE MONTH: "Always do the right thing. It will gratify some and astonish the rest."

Mark Twain

IMPORTANT NEWS:

Governor Palin signed HB 109, the omnibus Ethics Bill, on Monday, July 9, 2007. Changes to the Legislative Ethics Act became effective Tuesday, July 10, 2007.

This newsletter will highlight some of the areas that require your immediate attention. (See areas in RED.) The Ethics Office is available to answer any questions you may have concerning the changes and will work with you to determine the ethical parameters regarding specific situations.

NEW GIFT REQUIREMENTS and PROHIBITIONS:

AS 24.60.075 and AS 24.60.080

A gift is defined as: money, services, loans, travel, entertainment, hospitality, promise or other form.

Gifts exceeding \$250 in value fall into two categories:

- 1. allowed but must be disclosed**
- 2. prohibited**