

ALASKA LEGISLATURE COMMITTEE FILES 2007-2008 SSTA 12767

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 305(STA)
(H) Publish Date: 1/23/08

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
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							
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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
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	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 28, 2008
TO: Representative Meyer
FROM: Mike Pawlowski
RE: Changes to HB 305 in CS HB 305 (STA) [Version: 25-LS1226\K]

The amendments adopted to HB 305 made the following changes to the original bill:

Changes:

- Section 1: Deleted "candidate or individual" and inserted "legislator or legislative employee" to conform language to the existing practice of not enforcing the prohibition on fundraising during session to non-incumbents.
- Section 2: [New section 2] Inserted new subsection (j) in AS 15.13.074 prohibiting a legislator from soliciting or accepting a contribution during a legislative session to influence the outcome of an election, extending the prohibition in (d) to ballot initiatives.
- Section 3: Previous section 2 was amended to remove "legislator" from the amended subsections.
- Section 4: Added a new section prohibiting a legislator from raising money for their campaign during a legislative session unless within 90 days of the election in which they are a candidate, for another candidate in an election for municipal, state, or federal office and to influence a ballot initiative.
- Section 5: Added an immediate effective date

Conforming amendments were made to the title.



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 – LS1226\E)

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.

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MEMORANDUM

January 25, 2008

SUBJECT: Legislators who are candidates for federal office (HB 305)

TO: Representative Kevin Meyer
Attn: Mike Pawloski

FROM: Alpheus Bullard *AB*
Legislative Counsel

In a memorandum to your office dated December 13, 2007, I had advised that AS 15.13 could not be amended to include the regulation of the solicitation and acceptance of contributions for federal office, but that AS 24.60.031 could be so amended.

When I drafted the bill (that became HB 305), it was my understanding that while a state law that sought to directly regulate candidates running for federal office would be preempted, that the state had a sufficient interest in shielding its legislative processes from corruption and the appearance of corruption to allow the state to regulate the conduct of its legislators and legislative employees who might be also incidentally running for federal office. My understanding was in error.

In Tepper v. Miller, 82 F.3d 989 (1996), the United States Court of Appeals for the Eleventh Circuit affirmed an injunction against the enforcement of a Georgia law¹ that prohibited Georgia General Assembly members from accepting contributions for federal election campaigns while the General Assembly was in session, holding that the statute was preempted by the Federal Election Campaign Act of 1971 (FECA) (as amended), 2 U.S.C. § 431 et seq.

FECA includes a specific preemption provision, 2 U.S.C. § 453, which reads: "*the provisions of this Act, and of rules prescribed under this Act, supersede and preempt any provision of State law with respect to election to Federal office.*" (emphasis added) The House Committee that drafted the provision stated that the intention was "to make certain that the Federal law is construed to occupy the field with respect to elections to Federal Office and that the Federal law will be the sole authority under which such elections will

¹ The Georgia Ethics in Government Act, O.C.G.A. § 21-5-35(a), provided "[n]o member of the General Assembly or that member's campaign committee or a public officer elected statewide or campaign committee of such public officer shall accept a contribution during a legislative session."

Representative Kevin Meyer
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be regulated." See *Tepper*, 82 F.3d 989, 994 (1996), quoting from H.R. Rep. No. 1239, 93d Cong., 2d Sess. 10 (1974).

The Federal Election Commission (FEC), which is vested with "primary and substantial responsibility for administering and enforcing [FECA]" (*Buckley v. Valeo*, 424 U.S. 1, 109 (1976)), has also consistently expressed the opinion that FECA preempts state statutes limiting the time frame during which federal candidates may accept campaign contributions.²

The express language of FECA's preemption provision, the provision's legislative history, and the FEC's interpretation³ make plain that a state law operating to regulate the period in which a category of citizens can accept contributions for a campaign for federal office is preempted.

TLAB::med
08-046.med

² See Op. FEC 1994-2 (advising that FECA preempts a Minnesota statute barring lobbyists from contributing to a candidate during a regular session of the state legislature); Op. FEC 1993-25 (advising that FECA preempts a Wisconsin statute restricting the time period during which lobbyists can contribute to candidates); Op. FEC 1992-43 (advising that FECA preempts a Washington statute barring state officials from accepting campaign contributions during legislative sessions).

³ See *Orloski v. FEC*, 254 U.S. App. D.C. 111, 795 F.2d 156, 164 (D.C. Cir. 1986) (FEC interpretation of FECA should be given deference because FEC's statutory responsibility to issue advisory opinions "implies that Congress intended the Commission to fill in gaps left in the statute and to resolve any ambiguities in the statutory language").

LEGISLATIVE RESEARCH REPORT

JANUARY 23, 2008



REPORT NUMBER 08.114

STATE LAWS ON CAMPAIGN FUNDRAISING DURING A LEGISLATIVE SESSION

PREPARED FOR REPRESENTATIVE KEVIN MEYER

BY PATRICIA YOUNG, MANAGER

You asked for information on campaign fundraising during legislative sessions. Specifically, you wished to know how other states address campaign fundraising by sitting legislators running either for reelection to the legislature or for other offices.

As you know, states vary remarkably in their approaches to nearly everything. Fundraising during sessions is no exception. Some states prohibit fundraising generally; others direct the prohibitions at lobbyists and political committees; a number of states are silent upon the issue. Nevertheless, many states in some fashion restrict fundraising activities during legislative sessions.¹ The following table provides details on eight of the states that prohibit campaign fundraising during and around legislative sessions. Briefly, we found as follows:

- Laws in **Missouri**, **New Mexico**, and **Virginia** appear to ban fundraising by any legislator for any statewide elected office—which would include federal office. **New Mexico** and **Virginia** also appear to prohibit a sitting legislator from fundraising for a local office.
- The statutory language in **Georgia** and **Nevada** would have banned any member of the legislature from fundraising for any purpose; however, the Georgia law, as it applies to candidates for federal office, was held to be preempted by federal election law. An opinion from the Nevada Attorney General arrived at a similar conclusion in regard to the Nevada law.
- The ban in **Iowa** does not apply to sitting legislators seeking election to a federal office.
- The ban in **Tennessee** does not apply to sitting legislators seeking election to a local office.

¹ Peggy Kerns, director, Center for Ethics in Government, National Conference of State Legislatures. Ms. Kerns can be reached at 303 856 1447.

- **Connecticut law restricts the fundraising activity of lobbyists and their political committees on behalf of candidates, and bars candidates and political committees from accepting such contributions. The law does not apply to campaigns by legislators running for local or federal offices.**

We hope this information is helpful. Please contact us if you have questions or need additional information.

Sample of State Prohibitions on Campaign Fundraising during Legislative Sessions

State	Citation	Provision	Note
Connecticut	CGS § 9-510(e)	(During session), (1) no lobbyist or political committee established by or on behalf of a lobbyist shall make or offer to make a contribution to or on behalf of, and no lobbyist shall solicit a contribution on behalf of, (A) a candidate or exploratory committee established by a candidate for nomination or election to the General Assembly or a state office or (B) a political committee (i) established for an assembly or senatorial district, (ii) established by a member of the General Assembly or a state officer or such member or officer's agent, or in consultation with or at the request or suggestion of, any such member, officer or agent, or (iii) controlled by such member, officer or agent, to aid or promote the nomination or election of any candidate or candidates to the General Assembly or a state office, and (2) no such candidate or political committee shall accept such a contribution	For purposes of this subsection the term "state office" means the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, State Treasurer or Secretary of the State, and the term "state officer" means the Governor, Lieutenant Governor, Attorney General, State Comptroller, State Treasurer or Secretary of the State The prohibition does not apply to lobbyists making campaign contributions during sessions to state legislators who are running for local or federal office
Georgia	OCGA § 21-5-35	No member of the General Assembly or that member's campaign committee or public officer elected state wide or campaign committee of such public officer shall seek or accept a contribution or a pledge of a contribution to the member, the member's campaign committee or public officer elected state wide, or campaign committee of such public officer during a legislative session	This provision, as it applies to candidates for federal office, is preempted by the Federal Election Campaign Act. <i>Teper v. Miller</i> , 82 F.3d 989 (11th Cir. 1996)
Iowa	IC § 68A.504	A lobbyist or political committee, other than a state statutory political committee, county statutory political committee, or a national political party, shall not contribute to, act as an agent or intermediary for contributions to, or arrange for the making of monetary or in-kind contributions to the campaign of an elected state official, member of the general assembly, or candidate for state office on any day during the regular legislative session and, in the case of the governor or a gubernatorial candidate, during the thirty days following the adjournment of a regular legislative session allowed for the signing of bills. An elected state official, member of the general assembly, or candidate for state office shall not accept a contribution as prohibited in this subsection. (However, the prohibition does not apply) to receipt of contributions by an elected state official, member of the general assembly, or candidate for state office who has taken affirmative action to seek nomination or election to a federal elective office so long as the contribution is placed in a federal campaign account	The ban does not apply to elected state officials, members of the general assembly, or candidates for state office seeking nomination or election to a federal office as long as certain conditions are met.
Missouri	RSM § 130.032	Any candidate for the office of state representative, the office of state senator, or a statewide elected office shall not accept any contributions (during a legislative session). Only candidates for special election to the house of representatives, senate, or statewide elected office may, during such time, accept contributions from the date of the candidate's nomination by his or her respective political party until thirty days after the date of the election.	This ban appears to extend to sitting legislators running for federal office (a "statewide elected office") but not for local office.
Nevada	NRSA § 294A.300	It is unlawful for a member of the Legislature, the Lieutenant Governor, the Lieutenant Governor-Elect, the Governor or the Governor-Elect to solicit or accept any monetary contribution, or solicit or accept a commitment to make such a contribution for any political purpose (from 30 days before to 30 days after a regular session and from 15 days before to 15 days after a special session)	Federal election law preempts state election law, therefore, state officials delineated in subsection (1) are not prohibited from soliciting or accepting monetary contributions for a campaign for federal office before, during, or after a regular or special session of the legislature. AGO 01-04 (3-12-2001)
New Mexico	NMSA § 1-19-34.1	It is unlawful (during a regular or special session) for a state legislator or candidate for state legislator, and for the governor, or any agent on behalf of any such individuals, to knowingly solicit a contribution for a political purpose.	This provision appears to extend to sitting legislators running for any local or federal office.
Tennessee	TCA § 2-10-310	(During regular or special sessions) no member of the general assembly or a member's campaign committee or the governor or the governor's campaign committee shall conduct a fundraiser or solicit or accept contributions for the benefit of the caucus, any caucus member or member or candidate of the general assembly or governor. (Except that) a member of the general assembly who is a candidate for a local public office shall be permitted to conduct fundraising events and solicit or accept contributions for such campaign for local public office under certain conditions. (However) it shall be unlawful for any lobbyist or employer of a lobbyist to make any contribution to such member's campaign committee during such period for any purpose.	A state legislator can legally raise money for a federal race while the state legislature is in session, the prohibition on legislative fundraising does not apply to campaigns for federal office. OAG 00-185 (12/13/00) Nonlegislators [are] not barred from fund raising. OAG 97-158 (12/01/97)
Virginia	Va Code Ann § 24.2-954	No member of the General Assembly or statewide official and no campaign committee of a member of the General Assembly or statewide official shall solicit or accept a contribution for the campaign committee of any member of the General Assembly or statewide official, or for any political committee, from any person or political committee (during a regular session). No person or political committee shall make or promise to make a contribution to a member of the General Assembly or statewide official or his campaign committee (during a regular session)	This provision appears to extend to sitting legislators running for any local or federal office.

NOTES: For the purposes of this table, we have truncated descriptions of the time period around a legislative session, which vary considerably.
SOURCES: The LEXIS on-line database of state statutes

Alaska State Legislature

**Select Committee on
Legislative Ethics**

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Mailing Address:
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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

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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.

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(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

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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

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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 ban 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	JOHN	From	BROOKS
Cc	J	Cc	APDC
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 24.60.450. 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-freeing" 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.

HB

317

SENATE COMMITTEE REPORT

DATE: 2/1/08

FURTHER:

DATE TURNED
IN TO OFFICE: _____

State Affairs Committee considered HOUSE BILL NO. 317

HB 317 COMPASSIONATE GIFT EXEMPTION

"An Act eliminating the limit on compassionate gifts that a legislator or legislative employee may solicit, accept, or receive under the Legislative Ethics Act; and providing for an effective date."

and recommends:

- be replaced with SCS or CS _____ (_____)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:
 Same Title
 New Title

HOUSE BILL:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
LAA	01/29/08			✓	

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	STREIBER	✗			
Linda Green	Green	✓			
	Sundt	✓			
CHAIR:	McBure	✓			

ALASKA STATE HOUSE OF REPRESENTATIVES

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Session

**(907)-465-3719
FAX# (907)-465-3754
State Capitol
Room 214**

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**

GIFTS – COMPASSIONATE REASON

- Compassionate gifts may be received from anyone (including a lobbyist) as long as the aggregate amount does not exceed \$250 in a calendar year from the same person.
 - Compassionate gift requirements apply to legislator, legislative employee and immediate family member
 - Compassionate gift: intended to aid or comfort in contending with a catastrophe, tragedy or health-related emergency
 - Pre-approval required by Legislative Council and Ethics Committee

***** DISCLOSURES *****

AS 24.60.105 and AS 24.60.115

The requirement to file a disclosure applies to legislators, staff to legislators, LAA staff, other legislative staff, employees of the Office of the Ombudsman and Office of Victims' Rights.

NEW REPORTING REQUIREMENTS

- **ALL DISCLOSURES** are now due within 30 days
 - of the association
 - or receipt of certain gifts
- **Annual disclosures:** “*association*” disclosures are due annually within the first 30 days of session
- **Final Day of Service disclosures:** any disclosures not previously reported are due within 90 days after final day of service

Please review the information below to determine if you need to file a disclosure under the new provisions of the Legislative Ethics Act. The ethics web site, found on the Legislature’s home page by clicking on “Ethics” and then “Disclosures,” will show an updated list of current disclosures.

ASSOCIATION DISCLOSURES

- **Membership on a Board of Directors - AS 24.60.030(f)** – Are you an officer or board member of any organization?
NEW – all board memberships must be reported. New board memberships must be disclosed within 30 days of appointment.
ACTION REQUIRED: Complete a disclosure by August 7 of all boards you currently serve on or have served on since April 10, 2007.
- **Participation in Certain State Benefit and Loan Programs - AS 24.60.050(c)(d)** - Do you presently have an outstanding benefit or loan amount administered through the state?

funds? Always due within 30 days of receipt of the gift.

- **Gift Received by Family Member Because of Legislative Connection – AS 24.60.080(i) -**
Did an immediate family receive a gift worth \$250 or more because of your legislative connection? For example, did a family member accompany you to a conference and some or all of the costs associated with the conference were paid for by an organization/entity. Always due within 30 days of receipt of the gift.
- **Gift of Legal Services Related to Legislative Matters - AS 24.60.080(c)(8) –** Did you receive a gift of legal services related to legislative matters worth \$250 or more? Monetary gifts to be used for legal services must not exceed the gift limit of \$250. In-kind gifts, i.e., reduced rates, pro- bono services, etc. that is more than \$250 in value must be disclosed. Always due within 30 days of receipt of the gift.
- **Gift for Compassionate Reasons - AS 24.60.075 - (NEW Disclosure)**
Compassionate gifts must be pre-approved by Legislative Council and the Ethics Committee. Compassionate gifts requirements apply to a legislator, legislative employee and immediate family member. A compassionate gift is intended to aid or comfort in contending with a catastrophe, tragedy or health-related emergency. Contact the Ethics Office for more information if this exemption applies to you or an immediate family member.

Gift from Another Government – AS 24.60.080(f) – Have you received a gift from another government or official from another government worth \$250 or more? Must be delivered to Legislative Council within 60 days.

IMPORTANT: Fines are levied for late disclosures. The fine is \$2.00 per day up to a maximum of \$100. Committee policy has been to allow for one late disclosure before levying fines. A late disclosure is a “one time only” waiver.

- **NEW** forms for all disclosures are on the ethics website. Discard old forms.
- Please give the Ethics Office a call if you have questions about what to disclose.

When completing disclosures, please keep in mind:

1. **PLEASE PRINT CLEARLY OR TYPE YOUR DISCLOSURE INFORMATION.**
Remember, the Ethics Office and the Senate Secretary or House Clerk must be able to read the information on your disclosure form.
2. **An original copy of the disclosure is not required. A fax copy is acceptable. Keep the original in your Ethics file for future reference if needed.**
3. **Please complete all required information. Remember, these are public disclosures and the public has a right to know.**
4. **Under the ‘address’ section for the discloser, keep in mind if you list your home address, your home address will be printed in the Legislative Journal. It is appropriate to list your legislative office address.**

bill, testimony indicated that this provision was designed to permit legislators to report promptly to their constituents on special legislative sessions held after the regular session and before the next state primary or general election.

Section 21 of the bill would require legislators and legislative employees to disclose to the Select Committee every board of an organization on which they serve. Current law requires disclosure only of service on boards of organizations that regularly have substantial interest in the legislator's or legislative employee's legislative activities. A person affected by this disclosure requirement might claim that it violates the right of privacy under art. I, sec. 22 of the Alaska Constitution and similar protections under the United States Constitution. Article I, sec. 22 provides, in part, that "[t]he right of the people to privacy is recognized and shall not be infringed."

The outcome of a constitutional challenge to the disclosure provision on these grounds is uncertain. Although a challenge might succeed, we believe we could defend that provision in good faith.

Section 22 of the bill would require publication of legislators' and legislative employees' disclosures of their own and immediate family members' interests in state contracts and leases. The disclosures would be published in the appropriate journal or supplemental journal not later than the next regularly scheduled publication of ethics disclosures.

Section 23 of the bill would require that disclosures of legislators' and legislative employees' participation in state programs or loans also be published in the appropriate supplemental journal not later than the next regularly scheduled publication of ethics disclosures. The Select Committee could keep any part of a disclosure confidential if the committee determined that making the entire disclosure public would unjustifiably invade personal privacy.

Section 24 of the bill would eliminate an exception to the Legislative Ethics Act's requirements for reporting close economic associations. Legislators and legislative employees currently must disclose their close economic associations with public officials unless the officials are appointed municipal officers. Section 24 of the bill would eliminate that exception.

Section 25 of the bill would make changes to conform to sec. 16's lobbying prohibition on spouses and domestic partners of legislators and legislative employees.

Section 26 of the bill would create an exemption from gift restrictions in the Legislative Ethics Act for "compassionate gifts." The exemption would allow gifts to a legislator or legislative employee to aid or comfort the recipient or a member of the recipient's immediate family because of a catastrophe, tragedy, or health-related emergency. The exemption would apply only if the chair of the Legislative Council and the chair or vice-chair of the Select Committee approved in writing a written request for approval of the gift. The gifts would also be subject to a value limit: the cumulative, fair market value of an individual's compassionate gifts to a particular legislator or legislative employee during a calendar year would be required to be less than \$250.

What is a “compassionate gift?”

“... a solicited or unsolicited gift intended to aid or comfort a recipient or a member of the recipient’s immediate family in contending with a catastrophe, a tragedy, or a health-related emergency.”

AS 24.60.075

adn.com

Anchorage Daily News

Print Page

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Gift of kidney to ailing lawmaker against the rules**ETHICS LAW: Legislative aide wants to donate organ to Nome legislator Richard Foster.**By SEAN COCKERHAM
scockerham@adn.com

(01/25/08 00:24:53)

JUNEAU -- Nome Rep. Richard Foster is famous at the state Capitol for his love of machine guns and the weekly "Foster Night" musical jam parties he used to host in his Capitol office.

Now Foster is hurting, badly, and his many friends at the state Capitol want to do more than send flowers. A half-dozen offered to donate their kidneys to the ailing legislator. Sue Stancliff, an aide to Fairbanks Rep. Mike Kelly, appears to be a match.

Here's the problem: It appears to be against state ethics law for Stancliffe to give Foster a kidney.

Alaska lawmakers tightened the ethics laws last year following the FBI raids on legislative offices and the criminal charges against former legislators. The changes included stricter limits on the gifts that state legislators can receive.

The Legislature did insert a "compassionate gift" exemption into the law to cover items meant as comfort in times of tragedy or a health emergency. But even those gifts can't be worth more than \$250, and donating a kidney is figured to be worth more than that.

That's why North Pole Rep. John Coghill has introduced House Bill 317, which would eliminate the dollar limit on a compassionate gift to a legislator or legislative employee. The gift recipient would still have to disclose the gift within 30 days.

Coghill said the legislative ethics committee approached him and let him know it could be a problem for Stancliff to give Foster her kidney. Coghill said he wants to make sure there are no legal questions.

There would still be the question of whether Foster, who has had heart problems as well as the kidney disease, is strong enough for the procedure.

Foster, 61, suffered a mild stroke on Friday and is undergoing treatment at a Seattle hospital. The stroke left him with some speech and mobility problems, according to his staff, but he is improving.

Dillingham Rep. Bryce Edgmon, Foster's former staffer and longtime friend, said Foster is undergoing a two-week intensive therapy session and is responding well.

He has a two-week, excused absence from the Legislature, and other lawmakers have been assigned to take over his budget subcommittees until he is ready to return.

Even before his latest hospitalization, Foster had to go to a Juneau hospital for dialysis three times a week. The process would leave him dehydrated and drained of energy.

But friends said he was still able to crack cornball jokes.

Foster, a retired air taxi operator first elected to the House in 1988, is a colorful character in the old Alaskan style.

His official legislative Web site lists his interests as "Enjoying the country, Music by Spunk The Dog."

Foster also likes guns, a lot. He faced federal charges in 1991 of illegal possession of unregistered automatic weapons. His stash included two AKs, a German MG 42 from World War II, two British World War II-style Sten guns and a Soviet 50 mm mortar.

The jury in Nome, where Foster was born, quickly found him not guilty on all counts.

Foster is also known for jokes that can crack up somber House floor sessions.

"He'll make you smile on a dark day in this building when smiles are hard to come by," said Stancliff, the legislative aide who wants to give Foster one of her kidneys.

Stancliff, who lives in Tok when the Legislature isn't in session, is the finance committee aide for Fairbanks Republican Rep. Kelly. Foster, a Democrat who aligns with the Republican-led majority, has a seat on the finance committee.

She said Foster would have a newspaper with a hole cut out of it in the finance committee. Then he'd pick up the newspaper and look at her through it, just to make her laugh.

Stancliff said the hope is to do the kidney transplant sometime this spring after the legislative session is over.

"The good Lord gave me two healthy kidneys and my faith is very, very strong," she said.

Read Sean Cockerham on our politics blog: adn.com/alaskapolitics.

PALIN IN VOGUE: The February issue of the fashion magazine is out, and Alaska's governor is in it. She's not wearing glasses.

adn.com/alaskapolitics

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FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 317
 (H) Publish Date: 1/30/08

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 Coghill, Chenault, Johnson..." Component: Select Committee on Legislative
 Requester: House State Affairs Component Number: Ethics
 Component Number: 2321

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2008	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 ()								
-------------------------------	--	--	--	--	--	--	--	--

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

HB

351

ALASKA STATE HOUSE OF REPRESENTATIVES



Session

Contact:

Interim Address:

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

**(907)-465-3719
FAX# (907)-465-3258
State Capitol
Room 214**

REPRESENTATIVE JOHN COGHILL

SPONSOR STATEMENT

CSHB 351(JUD)

“An Act relating to submission of fingerprints by applicants for a concealed handgun permit; and providing for an effective date.”

Because of changes in the way the Department of Public Safety processes fingerprint cards, it is now possible to notify the Alaska Automated Fingerprint Identification System and the Federal Bureau of Investigation from one fingerprint card.

HB 351 will amend the requirements in AS 18.65.700(a)(4) from submitting two sets of fingerprint cards to submitting one set for individuals applying for a concealed handgun permit. Additionally changing the requirement of the format that the fingerprint cards are submitted on will allow the Department of Public Safety to use the most efficient means available as technology changes, without the need to come back to the Legislature for an amendment to statute.

The benefits of this legislation are savings in cost and effort for those that provide fingerprinting for concealed handgun permit applicants. Additionally the State no longer has to handle and ultimately dispose of the extra fingerprint card, and may decide on the most efficient format.

HB 351(25-LS1411E)

ALASKA STATE HOUSE OF REPRESENTATIVES



Contact:

Interim Address:

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

Session

**(907)-465-3719
FAX# (907)-465-3258
State Capitol
Room 214**

REPRESENTATIVE JOHN COGHILL

SECTIONAL

CSHB 351(JUD)

"An Act relating to submission of fingerprints by applicants for a concealed handgun permit; and providing for an effective date."

Section 1: AS 13.65.700 Permit to Carry a Concealed Handgun.

(a) The department shall issue a permit to carry a concealed handgun to a person who

(4) submits one [two] complete set [sets] of fingerprints in the format approved by the department [on a Federal Bureau of Investigation approved fingerprint] card [cards] that is [are]

HB351(25-LS1411)(E)

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 351(JUD)
 (H) Publish Date: 2/13/08

Identifier (file name): HB351-DPS-R&I-02-08-08 Dept. Affected: Public Safety
 Title: "An Act relating to submission of fingerprints by applicants for a concealed handgun permit." RDU: Statewide Support
 Sponsor: Representative Coghill Component: Records & Identification
 Requester: House Judiciary Committee Component Number: 1190

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)
 The changes in this bill would reduce, from two to one, the number of complete sets of fingerprints a person who is applying for a concealed handgun permit is required to provide to the department. The department does not expect this bill to have any fiscal impact.

Prepared by: David Schade, Director
 Division: Statewide Services
 Approved by: Walt Monegan, Commissioner
Department of Public Safety

Phone (907) 269-0202
 Date/Time 2/8/08 4:27 PM
 Date 1/22/2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 351(JUD)
 (H) Publish Date: 2/29/08

Identifier (file name): HB351-DOC-OC-2-15-08 Dept Affected: Corrections
 Title: "An Act relating to submission of fingerprints by applicants
for a concealed handgun permit, and providing for an effective date." RDU: Administration and Operations
 Sponsor: Representatives Coghill & Dahlstrom Component: Office of the Commissioner
 Requester: House Finance Component Number: 694

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								
-----------------------------	--	--	--	--	--	--	--	--

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	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
Part-time	0	0	0	0	0	0	0	0
Temporary	0	0	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Passage of this legislation should have no fiscal impact on the Department of Corrections.

Prepared by: Sharleen Griffin, Director
 Division: Administrative Services
 Approved by: Dwayne Peoples, Deputy Commissioner
Department of Corrections

Phone: (907) 465-3339
 Date/Time: 2/15/08 2:01 PM
 Date: 2/8/2008

HB

366

SENATE COMMITTEE REPORT

DATE: 4/8/08

FURTHER: Finance

DATE TURNED
IN TO OFFICE: _____

State Affairs Committee considered HOUSE BILL NO. 366 am

HB 366 PFD: EXECUTION /DISCLOSURE OF APPROPS

"An Act relating to an exemption from public disclosure of certain appropriations from the dividend fund; relating to execution upon permanent fund dividends by civilian process servers using electronic procedures; amending Rule 89, Alaska Rules of Civil Procedure; and providing for an effective date."

and recommends:

- be replaced with SCS or CS _____ (_____)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____


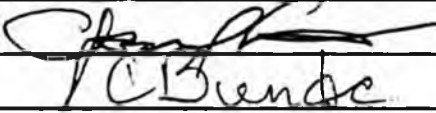
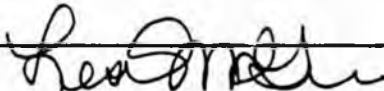
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
CORR	3/31/08			✓	
REV	3/17/08			✓	

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	NO REC	AMEND
	French	✓			
	Bunde	✓		X	
CHAIR: 	McClure	✓			

FISCAL NOTE

**STATE OF ALASKA
2008 LEGISLATIVE SESSION**

Fiscal Note Number: _____
 Bill Version: HB366
 () Publish Date: _____

Identifier (file name): HB366-REV-CSSD-3-17-08 Dept. Affected: Revenue
 Title: Disclosure: Appropriations From PFD Fund RDU: Child Support Services Division
 Component: Child Support Services Division
 Sponsor: Rep Crawford
 Requester: House State Affairs Component Number: 111

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	0.0
CAPITAL EXPENDITURES								
CHANGE IN REVENUES ()								

FUND SOURCE (Thousands of Dollars)

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

Last fall we estimated that 10,188 individuals would have received a 2007 dividend, had it not been for conviction or incarceration as a felon or multiple misdemeanor.

1,499 were sentenced felons

8,689 were incarcerated convicted felons and/or incarcerated convicted multiple misdemeanants

Analysis continued on page 2

Prepared by: John Mallonee
 Division: Child Support Services Division
 Approved by: Jerry Burnett
 Department of Revenue

Phone 907 269-6801
 Date/Time 3-17-2008 2:00pm
 Date 3/17/2008

FISCAL NOTE

**STATE OF ALASKA
2008 LEGISLATIVE SESSION**

BILL NO. HB 366

ANALYSIS CONTINUATION

An amount equal to what would have been paid to these individuals as dividends is appropriated to the Departments of Corrections and Public Safety each year to offset the cost of incarceration and to provide for programs for victims of crimes. House Bill 366 would add grants to the children of incarcerated parents to the permitted uses of what are commonly called "PFD Felon Funds."

There are approximately 5,000 individuals incarcerated that owe child support for their children. Most of these people have a \$50 per month child support order on which they pay very little. Unlike other citizens of Alaska, these incarcerated individuals can not apply for a Permanent Fund Dividend which Child Support Services Division would garnish and provide to the custodial parent and child. Therefore these families receive very little in the way of child support while the non-custodial parent is incarcerated.

This bill would have no impact on the number of individuals eligible to apply for the dividend nor to the amount of the dividend.

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB366-DOC-IHC-02-21-08
 () Publish Date: _____

Identifier (file name): HB366-DOC-IHC-02-21-08 Dept. Affected: Corrections
 Title: "An act relating to an exemption from public disclosure of
certain appropriations from the dividend fund; and providing ..." RDU: Inmate Health Care
 Sponsor: Representatives Crawford, Gardner Component: Inmate Health Care
 Requester: House State Affairs Component Number: 705

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	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
Part-time	0	0	0	0	0	0	0
Temporary	0	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Passage of this legislation should have no fiscal impact on the Department of Corrections.

Prepared by: Sharleen Griffin, Director
 Division: Administrative Services
 Approved by: Dwayne Peoples, Deputy Commissioner
Department of Corrections

Phone (907) 465-3339
 Date/Time 2/21/08 2:00 PM
 Date 2/21/2008

Heather Beaty

From: drobbins@gci.net on behalf of Doris Robbins [drobbins@gci.net]
Sent: Sunday, March 30, 2008 2:13 PM
To: Rep. Mary Nelson, Rep. Reggie Joule; Rep. Les Gara; Rep. Harry Crawford; Rep. Bill Thomas; Rep. Mike Kelly; Rep. Mike Hawker; Rep. John Harris; Rep. Bill Stoltze; Rep. Kevin Meyer; Rep. Mike Chenault
Subject: HB 366 Approp. from PF for Minor Children of Incarcerated
Attachments: Doris Robbins vcf

Representative Chenault,
Representative Meyer,
Representative Stoltze,
House Finance Committee,

First, thank you Representative Crawford, for sponsoring this legislation which recognizes the children and family of those in prison. Thank you also for the other co-sponsors! So often, no one thinks of the rest of the family. I'm all for getting "the bad guys" and hopefully providing for their reform with counseling and education, but no one thinks about the kids when they lock up "the bad guys." If I had transportation I would go down to the LIO and voice my wishes, but since I can't, please consider this with the same vigor as you would a live testimony.

Children of the incarcerated become double XX victims. That is the best expression I can use. They have a bad behaving parent, the parent is not there for any support, and there is no monetary fund available for the courts to get at to use for the kids.

In addition to the stigma of a jailed parent the kids have no positive role model in that parent. These kids need a lot of help to be set on a right path. The remaining parent, most often a woman, finds it difficult to provide ordinary needs for the child/children on her income.

With HB 366 allowing the Department of Revenue to provide grants to minor children of incarcerated individuals there is some measure of help. In doing so, this bill ensures that minor children of incarcerated individuals do not lose out on the child support they depend on.

In addition, they need more support in school; and after school they need help from someone like Big Brothers/Sisters for a role model.

Please pass this bill!

Doris Robbins

drobbins@gci.net
1281 Overhill Drive
Fairbanks AK 99709
(907) 374 0597

HB

368

SENATE COMMITTEE REPORT

DATE: 4/6/08

FURTHER:

DATE TURNED
IN TO OFFICE: _____

State Affairs Committee considered CS FOR HOUSE BILL NO. 368(FIN) am

HB 368 ETHICS: LEGISLATIVE & GOV/LT GOV

"An Act amending the Legislative Ethics Act to modify the limitation on political fund raising by legislators and legislative employees during legislative sessions, to allow legislators and legislative employees to accept certain gifts from lobbyists, to clarify the Legislative Ethics Act as it relates to legislative volunteers and educational trainees, to reduce the frequency of publication of summaries by the Select Committee on Legislative Ethics, and to revise procedures and fines related to the late filing of disclosures required by the Legislative Ethics Act."

and recommends:

- be replaced with SCS or CS HB 368 (STA)
- adopt previous SCS or CS _____
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____


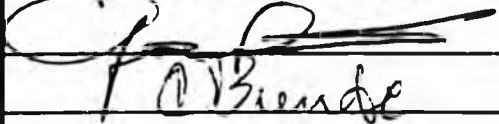
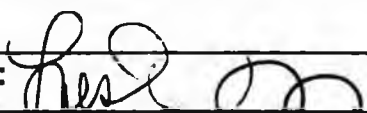
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
LEG	4/3/08			✓	

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	French			✓	
	Biende			 	
CHAIR: 	McBire	✓		 	

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

Session:

Alaska State Capitol
Juneau, AK 99801-1182

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Fax: (907) 465-4316

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Interim:

716 W. 4th Ave., #650

Anchorage, AK 99501-2133

Phone: (907) 269-0205

Fax: (907) 269-0207

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

CSHB 368(FIN) am: Legislative Ethics **Sponsor Statement for Version 25-LS1326\N.A**

No longer can a lobbyist blame the Legislature for not being allowed to buy their spouse a diamond ring!

Seriously, House Bill 368 makes common-sense changes to the state's ethics laws for gifts to and from legislators, legislative employees and lobbyists who are immediate family members.

This bill allows a legislator or legislative employee to accept a gift worth \$250 or more in value from anyone in a calendar year; and a gift of any monetary value from a lobbyist, an immediate family member of a lobbyist, or a person acting on behalf of a lobbyist if:

"the gift is unconnected with the recipient's legislative status and is from a member of the legislator's or legislative employee's immediate family."

HB 368 also adds language to include other existing gift exemptions in one section of code.

This bill also allows a legislator to raise or spend campaign funds during a special session held during the 90 days immediately preceding an election if the district for which the legislator has filed for office is in the municipality where the special session occurs.

Other proposed changes within HB 368 include:

- Modifying the restrictions on the location where legislators and legislative employees who are candidates for the state legislative can raise campaign funds when the legislature is in session;
- Establishing the fine for late disclosure filings that are "willful" at \$100 for each day to a maximum of \$2,500; and
- Allowing the Select Committee on Legislative Ethics to publish official summaries of decisions and advisory opinions on an annual basis.

Most of the sections in HB 368 are based on recommendations from the Select Committee on Legislative Ethics.

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FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CS HB368 (FIN)
 () Publish Date: _____

Identifier (file name): CSHB368(FIN)-LEG-ETH-04-03-08 Dept. Affected: Legislature
 Title: "An Act amending the Legislative Ethics Act to modify the limitation on political fund raising by legislators..." RDU: Legislative Council
 Sponsor: House State Affairs Committee Component: Select Committee on Leg Ethics
 Requester: House Finance Committee Component Number: 2321

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

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Legislative Affairs Agency

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