

ADVISORY OPINION REQUEST

Number: AO 22-06-CD
Requested By: Representative David Eastman
Prepared By: Thomas R. Lucas, Campaign Disclosure Coordinator
Date Issued: January 4, 2023
Subject: May a candidate continue to solicit and receive campaign contributions more than 45 days after an election?¹

Commission Decision:

I. FACTS

Representative David Eastman was the incumbent candidate, and subsequently won his reelection, for House District 27 in Alaska's 2022 General Election.

In late July 2022, Randal Kowalke sued Rep. Eastman and the State of Alaska, Division of Elections in Case No. 3AN-22-07404CI. The lawsuit alleged that Rep. Eastman should be disqualified from holding public office because his membership in the Oath Keepers organization violated Article XII § 4 of the Alaska Constitution. Further, the suit sought a preliminary injunction and an order declaring Rep. Eastman ineligible for public office. The suit also asked that the Division of Elections remove Rep. Eastman from the November 8 General Election ballot.²

On September 22, 2022, the court denied Plaintiff's request for an injunction, but issued a separate injunction ordering the Division to delay certifying Rep. Eastman as the winner of House District 27 pending the outcome of the case and a potential appeal.

On December 23, 2022, after a 6-day bench trial, the court found that Rep. Eastman was not disqualified from holding public office; but delayed implementation of its order pending appeal. The court also ordered the Division to delay certifying Eastman as the winner of his race pending appeal. On January 4, 2022, following Kowalke's notice to the court that no appeal would be pursued, the court lifted its order delaying Rep. Eastman's certification, and the Division began the certification process shortly thereafter.

Under AS 15.13.074(c)(3) a person or group is prohibited from contributing to a candidate later than 45 days after the election. Under AS 15.13.072 a candidate may not solicit or accept a contribution from a person not authorized by law to contribute. Alaska's

¹ Exhibit 1, Request.

² Exhibit 2, Motion for Preliminary Injunction.

2022 General Election took place on November 8, 2022. Accordingly, the last day a candidate in that election could solicit and accept contributions was December 23, 2022.

With limited exception, AS 24.60.080 prohibits a legislator from soliciting or accepting a gift worth \$250 or more. However, a political contribution that must be reported under AS 15.13 is not considered a gift for purposes of AS 24.60.080.

II. QUESTION PRESENTED

Rep. Eastman is concerned that he will not be able to continue funding a legal defense of his election without the ability to solicit and receive contributions. Is there a mechanism by which Rep. Eastman may continue to raise campaign contributions later than the 45th day after the 2022 general election, i.e., after December 23, 2022?

III. SHORT ANSWER

No.

IV. LAW AND ANALYSIS

Rep. Eastman wishes to seek financial assistance to cover legal expenses in connection with the lawsuit to disqualify him as a candidate.

The Commission addressed the issue of fundraising to cover legal fees in connection with an election in several cases—most recently in AO 12-17-CD, Barbara Bachmeier.³ In that case, Ms. Bachmeier, a registered candidate, was decertified by the Division of Elections due to a residency issue.⁴ Ms. Bachmeier asked if she could use campaign funds to pay legal expenses, and if so, how she could create a legal fund for those expenses.⁵

In its Opinion, the Commission determined that Ms. Bachmeier could pay legal expenses directly out of her campaign account because the expenses “reasonably related” to her campaign.⁶ The Opinion also addressed two other possible ways to fund legal expenses:

³ Exhibit 3, AO 12-17-CD, *Bachmeier*. See also, Exhibit 4, Tab 05 Legislative Ethics Committee Legal Defense Fund.

⁴ Ex. 3.

⁵ *Id.*

⁶ AS 15.13.112(a) [campaign contributions held by a candidate may be used to pay campaign expenses incurred that reasonably relate to election campaign activity].

- Ms Bachmeier could raise donations for a separate legal fund. Donations received would not be reported to APOC but donations over \$250 would be reported as gifts on Ms. Bachmeier’s public official financial form if she won election.⁷

- Ms. Bachmeier could close her campaign account and disburse any remaining funds to a legal fund.⁸

Here, all three options available to Ms. Bachmeier are available to Rep. Eastman. But, as Rep. Eastman points out, he is a sitting legislator subject to provisions of the Legislative Ethics Act⁹ and Ms. Bachmeier was not.¹⁰ Although in AO 12-17-CD the Commission did not limit Ms. Bachmeier on the amount she could solicit and receive as donations to a separate legal fund, Rep. Eastman by statute is subject to a strict cap on what he could accept as a donation to a separate legal fund:

(a) Except as otherwise provided in this section, a legislator or legislative employee may not

(1) solicit, accept, or receive, directly or indirectly, a gift worth \$250 or more, whether in the form of money, services, a loan, travel, entertainment, hospitality, promise, or other form, or gifts from the same person worth less than \$250 that in a calendar year aggregate to \$250 or more in value;¹¹

On the other hand, there is currently no limit on the amount an individual may contribute to a candidate campaign.¹²

Thus, Rep. Eastman asks if there is a mechanism by which his campaign may continue to accept reportable campaign contributions after the 45th day post-election deadline so that his campaign will be able to continue to pay the legal expenses that he may continue to incur in defending his election.¹³

⁷ The *Bachmeier* opinion relies on a 1987 opinion as authority for an elected official’s requirement to report gifts on an annual financial disclosure statement. In 1998 the legislature changed that requirement. As a result, legislators do not disclose information related to gifts on their financial disclosure statements. § 58 ch. 74 SLA 1996.

⁸ AS 15.13.116(a)(6) [at the end of a campaign, a candidate may distribute unused campaign funds to establish a fund for the payment of legal expenses that directly concern a challenge to the victory or defeat of the candidate in the election].

⁹ AS 24.60.010, *et seq.*

¹⁰ Ex. 1.

¹¹ AS 24.60.080

¹² *Thompson v. Hebdon*, 7 F.4th 811 (9th Cir. 2021)

¹³ Ex. 1.

First, staff notes that there is nothing in AS 15.13.072, AS 15.13.074 or APOC regulations that would provide an exception to the 45-day moratorium for a sitting legislator.

Next, staff notes that the 45-day moratorium at issue came into law in 1996 as part of the legislative response to a citizen's initiative.¹⁴ Prior to the initiative, and the passage of Senate Bill 191, there were concerns related to fundraising and gaining undue influence over campaigns and elected officials, particularly incumbents; there were no established beginning and ending dates for when campaign funds could be raised; and no restrictions on the conversion of campaign funds to personal use.¹⁵

In the Findings and Purpose clause of the Bill, the legislature found, among other things, that:

3. organized special interests are responsible for raising a significant portion of all election campaign funds and may thereby gain an undue influence over election campaigns and elected officials, particularly incumbents;
4. incumbents enjoy a distinct advantage in raising money for election campaigns, and many elected officials raise and carry forward huge surpluses from one campaign to the next, to the disadvantage of challengers;
5. because under existing laws, candidates are completely free to convert campaign funds to personal income, there is great potential for bribery and political corruption...¹⁶

The 1996 legislature's answer to these concerns was to limit the time allotted for campaign fundraising; and to limit the amounts that could be forwarded to a future campaign.¹⁷ The post-election 45-day time remains unchanged in current law; as have the amounts that may be transferred to a future campaign account.¹⁸

Here, Rep. Eastman invites the Commission to create an exception to the 45-day rule because, without one, he will have difficulty paying his legal fees. But staff believes the Commission should decline the invitation because, as the 1996 legislature recognized, there should be a finite end to the ability to raise campaign funds so that concerns about the ability

¹⁴ Exhibit 5, 95CFPO.

¹⁵ Exhibit 6, Comparison Chart.

¹⁶ Exhibit 7, Senate Bill 191.

¹⁷ See, Ex. 7, Section 11 regarding time limitations; and Section 19 regarding future campaign accounts.

¹⁸ See, AS 15.13.074(c)(3) and AS 15.13.116(a)(7), respectively.

to create “huge surpluses” and the possibility of corruption or its appearance can be ameliorated; and because it is contrary to the unambiguous language of AS 15.13.074(c)(3).

Although staff understands the plight Rep. Eastman finds himself in, staff believes that his desire to address what he sees as an inequity to sitting legislators in his situation is better addressed as a legislative response and not as an administrative agency creating an exception to a very clear, unambiguous statute.

V. CONCLUSION

The Commission should decline Rep. Eastman’s invitation to create an exception to AS 15.13.074(a)(3) for a sitting legislator defending a lawsuit to decertify his candidacy.

VI. COMMISSION DECISION

Only the Commission has the authority to approve an advisory opinion.¹⁹ The Commission will rule on staff’s proposed advice at its next regular meeting on June 13-14, 2023. The Commission may approve, disapprove, or modify the proposed advice. An advisory opinion must be approved by an affirmative vote of at least four members or it will be considered disapproved. Both staff’s proposed advice and the Commission’s final advisory opinion apply only to the specific facts and activity for which advice was requested.

If you rely on staff’s proposed advisory opinion in good faith and the Commission subsequently rejects the proposed advice, staff will take no enforcement action on your activities up to that point if you acted under the specific facts described. If you have any additional questions or would like to discuss this proposed advice, please contact me at (907) 276-4176.

CERTIFICATE OF SERVICE:

I hereby certify that on this date, I caused a true and correct copy of the foregoing to be delivered to:

Rep. David Eastman Certified Mail
1491 W. Gold Bar Road Email
Wasilla, Alaska 99654
David.eastman@gmail.com

01/04/2023

Law Office Assistant Date

9171-9690-0935-0275-9949-26

¹⁹ 2 AAC 50.840.

From: David Eastman
To: Lucas, Tom R (DOA)
Subject: Advisory Opinion Requested for Fundraising for Campaign Related Legal Expenses
Date: Friday, December 23, 2022 11:59:26 PM

CAUTION: This email originated from outside the State of Alaska mail system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I find myself in a somewhat novel situation, at least to me. I have reached 45 days after Election Day and my election has not yet been certified. Further, the legal proceeding concerning the certification of my election has not yet concluded. The decision of the court issued today in my case has determined that a winner in my race is not to be certified until the conclusion of any appeals. I believe there is a 30 day time period to file an appeal, and any appeal may take a longer period of time until it is resolved and a winner can be certified in my race. All other races have now been certified, but the court has created a different timeline specific to my race.

To add to this, as the legal proceeding has not yet concluded my campaign continues to incur expenses pursuant to that proceeding. Likewise, as the legal proceeding will be of an uncertain duration, it is difficult to predict the total expense that will be incurred. If my campaign is to be able to continue to mount a legal defense in this proceeding, I anticipate there will be a need to continue to solicit and accept funds for that purpose. If relevant statutes and regulations had been followed in my case, the election would have already been certified at this point and my ability to raise funds for my campaign would end today, the 45th day after the election. As the court has ordered that a novel timeline be followed with respect to just my election, should the 45 day deadline be waived as well?

I have reviewed [AO 12-17-CD](#). My situation is different than the situation described in this AO in that I am already an elected legislator, whereas the candidate who requested the AO in that situation had not yet been elected to the legislature. As a legislator, the ability to raise funds for use by my campaign permits me to fund my election-related expenses without running afoul of [AS 24.60.080](#). If the ability for my campaign to raise funds is removed, there does not appear to be an alternative means for me to raise the amount of funds that will be required in order to continue to defend myself legally in the current legal proceeding.

Has my status as a candidate changed, now that I am 45 days passed the date of the General Election?

Is there a mechanism by which my campaign may continue to raise funds after the 45th day so that my campaign will be able to continue to pay the legal expenses that I will continue to incur defending my 2022 election?

If such a means does not exist, there does not appear to be a means for me to raise the funds needed due to the \$250 per year contribution limit imposed on currently serving legislators and the immensity of the legal expenses that will be incurred if the appeal process does not resolve quickly.

Thank you,

Rep. David Eastman

Northern Justice Project, LLC
A Private Civil Rights Firm
406 G Street, Suite 207
Anchorage, AK 99501
Phone: (907) 308-3395; Fax: (866) 813-8645

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FILED in the TRIAL COURTS
State of Alaska Third District

AUG 29 2022

Clerk of the Trial Courts
By _____ Deputy

Attorneys for Plaintiff Randall Kowalke

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

RANDALL KOWALKE,)

Plaintiff,)

vs.)

DAVID EASTMAN, STATE OF)
ALASKA, DIVISION OF ELECTIONS,)
and GAIL FENUMIAI in her official)
capacity as Director of Elections)

Defendant.)

Case No. 3AN-22-07404 CI

② PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION

Randall Kowalke, through the Northern Justice Project, moves pursuant to Alaska Civil Rule 65 for a preliminary injunction against David Eastman, Alaska's Division of Elections, and Director Gail Fenumiai ordering the removal of David Eastman's name from the November 8, 2022 General Election ballot for House District 27. This motion is supported by the memorandum of law and affidavits filed

PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION
Randall Kowalke v. David Eastman, et al., Case No. 3AN-22-07404 CI
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Northern Justice Project, LLC
A Private Civil Rights Firm
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Phone: (907) 308-3395; Fax: (866) 813-8645

herewith.

DATED this 29th day of August, 2022

NORTHERN JUSTICE PROJECT, LLC
Attorneys for Plaintiff

By: /s/ Savannah Fletcher
James J. Davis, Jr., AK Bar No. 9412140
Savannah Fletcher, AK Bar No. 1811127

PLAINTIFFS MOTION FOR PRELIMINARY INJUNCTION
Randall Kowalke v. David Eastman, et al., Case No. 3AN-22-07404 CI
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THE STATE
of ALASKA

GOVERNOR SEAN PARNELL

Department of Administration

ALASKA PUBLIC OFFICES COMMISSION

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ADVISORY OPINION DECISION

Advisory Opinion Number: AO-12-17 CD – Bachmeier

Commission Meeting Held: September 13, 2012

Commission Decision: On July 20, 2012, APOC Staff accepted an advisory opinion request from Barbara Bachmeier relating to use of campaign contributions for legal fees associated with a residency challenge. APOC Staff labeled the advisory opinion request 12-17 CD and released its draft advisory opinion to the requestor on July 25, 2012.

The Commission considered the draft advisory opinion in 12-17 CD on September 13, 2012. At the hearing, the Commissioners took testimony and heard arguments from APOC Staff and Ms. Bachmeier. In accordance with the Commission's duties under Alaska Statute 15.13.374(d), the Commission voted 4-0 to approve the advisory opinion for the reasons noted by Staff in its report. The Commission's decision related to Advisory Opinion 12-17 CD is a final Commission decision that may be appealed to the superior court under Alaska Statute 44.62.560.

The advice in this opinion applies only to the specific activity for which the advice was requested.

BY ORDER OF THE COMMISSION ON SEPTEMBER 13, 2012.

I certify that on this date,
I emailed a true and correct copy
of the foregoing document to:

Barbara Bachmeier
ltcbachmeier@gmail.com

Heather R. Hebdon 9/19/12

Heather R. Hebdon Date
Associate Attorney II

ADVISORY OPINION REQUEST

Number: AO 12-17-CD
Requested By: Barbara Bachmeier
Prepared By: Martha Tansik, Associate Attorney II
Date Issued: July 25, 2012
Subject: Legal Fund and Campaign Contributions
Commission Decision: On September 13, 2012, the Alaska Public Offices Commission heard and approved this advisory opinion request by a vote of 4 to 0.

QUESTIONS PRESENTED

Ms. Barbara Bachmeier asked for guidance regarding the following:

1. May campaign contributions be used to pay for legal fees associated with residency challenges; and
2. May she transfer her campaign funds to a legal fund for her residency challenge?

SHORT ANSWER

Yes. Campaign funds may be spent on legal fees for campaign related challenges to residency. Alternatively, she may close out her campaign account by transferring funds to a legal fund for her residency challenge.

FACTS

Ms. Bachmeier, a registered candidate, has been decertified by the Division of Elections due to a residency issue. Ms. Bachmeier intends to challenge this determination in Superior Court. She has not yet closed out her campaign with APOC. Ms. Bachmeier wants to know if campaign funds can be used towards her legal challenge and, if so, how to create a legal fund and pay for legal services.

ANALYSIS

Campaign funds may be either used directly for legal fees related to a campaign or may be transferred to a legal fund related to a campaign legal challenge.

A candidate is someone who has filed for election to the state legislature.¹ A candidate may make expenditures for purposes reasonably related to a campaign.² These expenditures are reported on campaign reports.³ After a candidate withdraws from the election or after the election itself, any remaining funds must be disbursed. One method of disbursement is to place money in a legal fund to pay attorneys fees or costs incurred because of legal action related to the election.⁴ Such a disbursement appears on the candidate's final report to the Alaska Public Offices Commission.

¹ AS 15.13.400(1)(A).

² AS 15.13.067 and AS 15.13.112(a)

³ AS 15.13.040 and AS 15.13.110

⁴ AS 15.13.116(a)(6)

Ms. Bachmeier is a candidate for APOC purposes. APOC Staff concludes that making campaign expenditures to challenge her decertification in superior court is reasonably related to her campaign; the court decision will determine the validity of her ongoing candidacy. Staff provides the following advice to Ms. Bachmeier regarding legal funds.

1. Ms. Bachmeier Can Establish A Separate Legal Fund

First, while she did not ask about this specifically, Ms. Bachmeier could raise donations specifically for a legal fund. Contributions directly to a legal fund would not be reported to APOC. However, if Ms. Bachmeier were to win her appeal and be elected, such donations over \$250 would need to be reported as gifts on her public official financial disclosure form in 2013.⁵ This method does not preclude also using the methods below.

2. Disburse Campaign Funds to a Legal Fund

Using previously raised funds, there are two ways that legal fees could be paid. Ms. Bachmeier can wrap up her campaign account as a withdrawn candidate. In doing so, she could disburse her remaining campaign funds in accordance with AS 15.13.116(a)(6) to a legal fund. On the final report, this disbursement is a single expenditure of the lump sum transferred. If Ms. Bachmeier chooses this option, she would not be able to continue soliciting campaign contributions as the campaign account would be closed.

3. Ms. Bachmeier May Pay for Legal Expenses out of Her Campaign Account Directly

Alternatively, Ms. Bachmeier may pay for the legal fees directly out of the campaign account as an expense reasonably related to her campaign. The expenditures would then show on her APOC reports.

APOC Staff takes no position on which of the three options Ms. Bachmeier should choose.

CONCLUSION

Legal fees related to campaign challenges are costs that are reasonably related to the campaign. As such, Ms. Bachmeier may pay such fees directly from her campaign account. If she chooses to establish a legal fund, she may either disburse her campaign funds into the legal fund and/or she may raise funds for the legal fees separately.

COMMISSION DECISION

On September 13, 2012, the Alaska Public Offices Commission heard and approved this advisory opinion request by a vote of 4 to 0.

⁵ See AO 89-01-27 Snodgrass/Menard

APPLICABLE LAW

ALASKA STATUTES

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

(a) Except as provided in (g) and (l) of this section, each candidate shall make a full report, upon a form prescribed by the commission,

(1) listing

(A) the date and amount of all expenditures made by the candidate;

(B) the total amount of all contributions, including all funds contributed by the candidate;

(C) the name, address, date, and amount contributed by each contributor; and

(D) for contributions in excess of \$50 in the aggregate during a calendar year, the principal occupation and employer of the contributor; and

(2) filed in accordance with AS 15.13.110 and certified correct by the candidate or campaign treasurer.

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

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

(2) the aggregate amount of all contributions made to it; and, for all contributions in excess of \$100 in the aggregate a year, the name, address, principal occupation, and employer of the contributor, and the date and amount contributed by each contributor; for purposes of this paragraph, "contributor" means the true source of the funds, property, or services being contributed; and

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

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

(d) Every individual, person, nongroup entity, or group making an expenditure shall make a full report of expenditures, upon a form prescribed by the commission, unless exempt from reporting.

(e) The report required under (d) of this section must contain the name, address, principal occupation, and employer of the individual filing the report, and an itemized list of expenditures. The report shall be filed with the commission no later than 10 days after the expenditure is made.

(f) During each year in which an election occurs, all businesses, persons, or groups that furnish any of the following services, facilities, or supplies to a candidate or group shall maintain a record of each transaction: newspapers, radio, television, advertising, advertising agency services, accounting, billboards, printing, secretarial, public opinion polls, or research and professional campaign consultation or management, media production or preparation, or computer services. Records of provision of services, facilities, or supplies shall be available for inspection by the commission.

(g) The provisions of (a) and (l) of this section do not apply to a delegate to a constitutional convention,

a judge seeking judicial retention, or a candidate for election to a municipal office under AS 15.13.010 , if that delegate, judge, or candidate

(1) indicates, on a form prescribed by the commission, an intent not to raise and not to expend more than \$5,000 in seeking election to office, including both the primary and general elections;

(2) accepts contributions totaling not more than \$5,000 in seeking election to office, including both the primary and general elections; and

(3) makes expenditures totaling not more than \$5,000 in seeking election to office, including both the primary and general elections.

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

(1) cumulatively do not exceed \$500 during a calendar year; and

(2) are made only for billboards, signs, or printed material concerning a ballot proposition as that term is defined by AS 15.13.065(c).

(i) The permission of the owner of real or personal property to post political signs, including bumper stickers, or to use space for an event or to store campaign-related materials is not considered to be a contribution to a candidate under this chapter unless the owner customarily charges a fee or receives payment for that activity. The fact that the owner customarily charges a fee or receives payment for posting signs that are not political signs is not determinative of whether the owner customarily does so for political signs.

(j) Except as provided in (l) of this section, each nongroup entity shall make a full report in accordance with AS 15.13.110 upon a form prescribed by the commission and certified by the nongroup entity's treasurer, listing

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

(2) the aggregate amount of all contributions made to the nongroup entity for the purpose of influencing the outcome of an election;

(3) for all contributions described in (2) of this subsection, the name, address, date, and amount contributed by each contributor and, for all contributions described in (2) of this subsection in excess of \$250 in the aggregate during a calendar year, the principal occupation and employer of the contributor; and

(4) the date and amount of all contributions made by the nongroup entity, and, except as provided for certain independent expenditures in AS 15.13.135 (a), all expenditures made, incurred, or authorized by the nongroup entity, for the purpose of influencing the outcome of an election; a nongroup entity shall report contributions made to a different nongroup entity for the purpose of influencing the outcome of an election and expenditures made on behalf of a different nongroup entity for the purpose of influencing the outcome of an election as soon as the total contributions and expenditures to that nongroup entity for the purpose of influencing the outcome of an election reach \$500 in a year and for all subsequent contributions and expenditures to that nongroup entity in a year whenever the total contributions and expenditures to that nongroup entity for the purpose of influencing the outcome of an election that have not been reported under this paragraph reach

\$500.

(k) Every individual, person, nongroup entity, or group contributing a total of \$500 or more to a group organized for the principal purpose of influencing the outcome of a proposition shall report the contribution or contributions on a form prescribed by the commission not later than 30 days after the contribution that requires the contributor to report under this subsection is made. The report must include the name, address, principal occupation, and employer of the individual filing the report and the amount of the contribution, as well as the total amount of contributions made to that group by that individual, person, nongroup entity, or group during the calendar year.

(l) Notwithstanding (a), (b), and (j) of this section, for any fund-raising activity in which contributions are in amounts or values that do not exceed \$50 a person, the candidate, group, or nongroup entity shall report contributions and expenditures and supplying of services under this subsection as follows:

(1) a report under this subsection must

(A) describe the fund-raising activity;

(B) include the number of persons making contributions and the total proceeds from the activity;

(C) report all contributions made for the fund-raising activity that do not exceed \$50 a person in amount or value; if a contribution for the fund-raising activity exceeds \$50, the contribution shall be reported under (a), (b), and (j) of this section;

(2) for purposes of this subsection,

(A) "contribution" means a cash donation, a purchase such as the purchase of a ticket, the purchase of goods or services offered for sale at a fund-raising activity, or a donation of goods or services for the fund-raising activity;

(B) "fund-raising activity" means an activity, event, or sale of goods undertaken by a candidate, group, or nongroup entity in which contributions are \$50 a person or less in amount or value.

(m) [See delayed amendment note]. Information required under this chapter shall be submitted to the commission electronically, except that the following information may be submitted in clear and legible black typeface or hand-printed in dark ink on paper in a format approved by the commission or on forms provided by the commission:

(1) information submitted by

(A) a candidate for election to a borough or city office of mayor, membership on a borough assembly, city council, or school board, or any state office, who meets the requirements of (g)(1) - (3) of this section; or

(B) a candidate for municipal office for a municipality with a population of less than 15,000; in this subparagraph, "municipal office" means the office of an elected borough or city

(i) mayor; or

(ii) assembly, council, or school board member;

(2) any information if the commission determines that circumstances warrant an exception to the

electronic submission requirement.

(n) The commission shall print the forms to be provided under this chapter so that the front and back of each page have the same orientation when the page is rotated on the vertical axis of the page.

(o) Information required by this chapter that is submitted to the commission on paper and not electronically shall be electronically scanned and published on the Internet by the commission, in a format accessible to the general public, within two working days after the commission receives the information.

(p) For purposes of (b) and (j) of this section, "contributor" means the true source of the funds, property, or services being contributed

15.13.067. Who may make expenditures

Only the following may make an expenditure that is not an independent expenditure in an election for candidates for elective office:

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

15.13.110. Filing of reports

(a) Each candidate, group, and nongroup entity shall make a full report in accordance with AS 15.13.040 for the period ending three days before the due date of the report and beginning on the last day covered by the most recent previous report. If the report is a first report, it must cover the period from the beginning of the campaign to the date three days before the due date of the report. If the report is a report due February 15, it must cover the period beginning on the last day covered by the most recent previous report or on the day that the campaign started, whichever is later, and ending on February 1 of that year. The report shall be filed

- (1) 30 days before the election; however, this report is not required if the deadline for filing a nominating petition or declaration of candidacy is within 30 days of the election;
- (2) one week before the election;
- (3) 105 days after a special election; and
- (4) February 15 for expenditures made and contributions received that were not reported previously, including, if applicable, all amounts expended from a public office expense term account established under AS 15.13.116(a)(8) and all amounts expended from a municipal office account under AS 15.13.116(a)(9), or when expenditures were not made or contributions were not received during the previous year.

(b) Each contribution that exceeds \$250 and that is made within nine days of the election shall be

reported to the commission by date, amount, and contributor within 24 hours of receipt by the candidate, group, campaign treasurer, or deputy campaign treasurer. Each contribution to a nongroup entity for the purpose of influencing the outcome of an election that exceeds \$250 and that is made within nine days of the election shall be reported to the commission by date, amount, and contributor within 24 hours of receipt by the nongroup entity.

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

(d) Repealed by SLA 1994, ch. 126, § 35, eff. July 1, 1994.

(e) A group formed to sponsor an initiative, a referendum or a recall shall report 30 days after its first filing with the lieutenant governor. Thereafter each group shall report within 10 days after the end of each calendar quarter on the contributions received and expenditures made during the preceding calendar quarter until reports are due under (a) of this section.

(f) During the year in which the election is scheduled, each of the following shall file the campaign disclosure reports in the manner and at the times required by this section:

(1) a person who, under the regulations adopted by the commission to implement AS 15.13.100, indicates an intention to become a candidate for elective state executive or legislative office;

(2) a person who has filed a nominating petition under AS 15.25.140--15.25.200 to become a candidate at the general election for elective state executive or legislative office;

(3) a person who campaigns as a write-in candidate for elective state executive or legislative office at the general election; and

(4) a group or nongroup entity that receives contributions or makes expenditures on behalf of or in opposition to a person described in (1)--(3) of this subsection, except as provided for certain independent expenditures by nongroup entities in AS 15.13.135(a).

(g) An independent expenditure report required under AS 15.13.040(e) shall be filed with the commission not later than 10 days after an independent expenditure has been made. However, an independent expenditure that exceeds \$250 and that is made within nine days of an election shall be reported to the commission not later than 24 hours after the expenditure is made.

15.13.112. Uses of campaign contributions held by candidate or group.

(a) Except as otherwise provided, campaign contributions held by a candidate or group may be used only to pay the expenses of the candidate or group, and the campaign expenses incurred by the candidate or group, that reasonably relate to election campaign activities, and in those cases only as authorized by this chapter.

(b) Campaign contributions held by a candidate or group may not be

(1) used to give a personal benefit to the candidate or to another person;

(2) converted to personal income of the candidate;

- (3) loaned to a person;
- (4) knowingly used to pay more than the fair market value for goods or services purchased for the campaign;
- (5) used to pay a criminal fine;
- (6) used to pay civil penalties; however, campaign contributions held by a candidate or group may be used to pay a civil penalty assessed under this chapter if authorized by the commission or a court after it first determines that

- (A) the candidate, campaign treasurer, and deputy campaign treasurer did not cause or participate in the violation for which the civil penalty is imposed and exercised a reasonable level of oversight over the campaign; and

- (B) the candidate, campaign treasurer, and deputy campaign treasurer cooperated in the revelation of the violation and in its immediate correction; or

- (7) used to make contributions to another candidate or to a group; however, it is not a violation of this paragraph if, in circumstances in which a candidate or group participates in a shared campaign activity, the candidate or group participating in the activity

- (A) uses campaign contributions of the candidate or group for payment of

- (i) all of the shared campaign activity expense; or

- (ii) more than the candidate's or group's pro rata share of the activity expense; and

- (B) receives, within seven days after payment of the expense, complete reimbursement of the amount of campaign contributions used for payments made on behalf of another candidate or group participating in the activity.

- (c) A candidate may use up to a total of \$1,000 in campaign contributions in a year to pay the cost of

- (1) attending, or paying the cost for guests of the candidate to attend, an event or other function sponsored by a political party or subordinate unit of a political party;

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

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

15.13.116. Disbursement of campaign assets after election.

- (a) A candidate who, after the date of the general, special, municipal, or municipal runoff election or after the date the candidate withdraws as a candidate, whichever comes first, holds unused campaign contributions shall distribute the amount held on February 1 for a general election or within 90 days after a special election. The distribution may only be made to

- (1) pay bills incurred for expenditures reasonably related to the campaign and the winding up of the affairs of the campaign, including a victory or thank you party, thank you advertisements,

and thank you gifts to campaign employees and volunteers, and to pay expenditures associated with post-election fund raising that may be needed to raise funds to pay off campaign debts;

(2) make donations, without condition, to

- (A) a political party;
- (B) the state's general fund;
- (C) a municipality of the state; or
- (D) the federal government;

(3) make donations, without condition, to organizations qualified as charitable organizations under 26 U.S.C. 501(c)(3) if the organization is not controlled by the candidate or a member of the candidate's immediate family;

(4) repay loans from the candidate to the candidate's own campaign under AS 15.13.078 (b);

(5) repay contributions to contributors, but only if repayment of the contribution is made pro rata in approximate proportion to the contributions made using one of the following, as the candidate determines:

- (A) to all contributors;
- (B) to contributors who have contributed most recently; or
- (C) to contributors who have made larger contributions;

(6) establish a fund for, and from that fund to pay, attorney fees or costs incurred in the prosecution or defense of an administrative or civil judicial action that directly concerns a challenge to the victory or defeat of the candidate in the election;

(7) transfer all or a portion of the unused campaign contributions to an account for a future election campaign; a transfer under this paragraph is limited to

- (A) \$50,000, if the transfer is made by a candidate for governor or lieutenant governor;
- (B) \$10,000, if the transfer is made by a candidate for the state senate;
- (C) \$5,000, if the transfer is made by a candidate for the state house of representatives;

and

- (D) \$5,000, if the transfer is made by a candidate for an office not described in (A) - (C) of this paragraph;

(8) transfer all or a portion of the unused campaign contributions to a public office expense term account or to a public office expense term account reserve in accordance with (d) of this section; a transfer under this paragraph is subject to the following:

(A) the authority to transfer is limited to candidates who are elected to the state legislature;

(B) the public office expense term account established under this paragraph may be used only for expenses associated with the candidate's serving as a member of the

legislature;

(C) all amounts expended from the public office expense term account shall be annually accounted for under AS 15.13.110 (a)(4); and

(D) a transfer under this paragraph is limited to \$5,000 multiplied by the number of years in the term to which the candidate is elected plus any accumulated interest; and

(9) transfer all or a portion of the unused campaign contributions to a municipal office account; a transfer under this paragraph is subject to the following:

(A) the authority to transfer is limited to candidates who are elected to municipal office, including a municipal school board;

(B) the municipal office account established under this paragraph may be used only for expenses associated with the candidate's serving as mayor or as a member of the assembly, city council, or school board;

(C) all amounts expended from the municipal office account shall be annually accounted for under AS 15.13.110 (a)(4); and

(D) a transfer under this paragraph is limited to \$5,000.

(b) After a general, special, municipal, or municipal runoff election, a candidate may retain the ownership of one computer and one printer and of personal property, except money, that was acquired by and for use in the campaign. The current fair market value of the property retained, exclusive of the computer and printer, may not exceed \$5,000. All other property shall be disposed of, or sold and the sale proceeds disposed of, in accordance with (a) or (c) of this section. Notwithstanding any other provision of this chapter,

(1) a candidate may

(A) retain a bulk mailing permit that was paid for with campaign funds, and
(B) use personal funds, campaign funds, or unused campaign contributions transferred to a public office expense term account under (a)(8) of this section to pay the continuing charges for the permit after the election; money used to continue the life of the permit is not considered to be a contribution under this chapter; in addition to any other use permitted under this chapter, during the candidate's term of office, the candidate may use the bulk mailing permit for mailings associated with service in the office to which the candidate was elected; during the candidate's term of office, if the candidate files a declaration of candidacy or the document necessary to permit the candidate to incur election-related expenses under AS 15.13.100 for the same or a different elective office, the candidate may also use the bulk mailing permit in that election campaign;

(2) a candidate may retain campaign photographs and use the photographs for any purpose associated with service in the office to which the candidate was elected;

(3) a candidate may retain seasonal greeting cards purchased with campaign funds; and

(4) campaign signs prepared for an election that has already taken place have no monetary value and may be retained or disposed of at the candidate's discretion.

(c) Property remaining after disbursements are made under (a) - (b) of this section is forfeited to the

state. Within 30 days, the candidate shall deliver the property to the Department of Revenue. The Department of Revenue shall deposit any money received into the general fund and dispose of any other property in accordance with law.

- (d) After a general or special election, a candidate for the state legislature who has been elected to the state legislature in that election may, from the amount retained in the public office expense term account reserve under this subsection, transfer to a public office expense term account not more than \$5,000 each calendar year for use only for expenses associated with the candidate's serving as a member of the legislature, except that a senator serving a two-year term may transfer not more than \$10,000 each calendar year. A candidate for the senate may transfer up to \$20,000 from unused campaign contributions to a public office expense term account reserve. A candidate for the house of representatives may transfer up to \$10,000 from unused campaign contributions to a public office expense term account reserve. The public office expense term account reserve may only be used to make transfers to the public office expense term account. At the end of the candidate's term of office, a balance in the public office expense term account reserve must be disposed of as provided in (a) of this section but may not be disposed of as provided in (a)(1), (4), or (6) - (9) of this section. All amounts expended under this subsection shall be annually accounted for under AS 15.13.110 (a)(4).

15.13.374. Advisory opinion

(a) Any person may request an advisory opinion from the commission concerning this chapter, AS 24.45, AS 24.60.200--24.60.260, or AS 39.50.

(b) A request for an advisory opinion

(1) must be in writing or contained in a message submitted by electronic mail;

(2) must describe a specific transaction or activity that the requesting person is presently engaged in or intends to undertake in the future;

(3) must include a description of all relevant facts, including the identity of the person requesting the advisory opinion; and

(4) may not concern a hypothetical situation or the activity of a third party.

(c) Within seven days after receiving a request satisfying the requirements of (b) of this section, the executive director of the commission shall recommend a draft advisory opinion for the commission to consider at its next meeting.

(d) The approval of a draft advisory opinion requires the affirmative vote of four members of the commission. A draft advisory opinion failing to receive four affirmative votes of the members of the commission is disapproved.

(e) A complaint under AS 15.13.380 may not be considered about a person involved in a transaction or activity that

(1) was described in an advisory opinion approved under (d) of this section;

(2) is indistinguishable from the description of an activity that was approved in an advisory opinion approved under (d) of this section; or

(3) was undertaken after the executive director of the commission recommended a draft advisory opinion under (c) of this section and before the commission acted on the draft advisory opinion under (d) of this section, if

(A) the draft advisory opinion would have approved the transaction or activity described; and

(B) the commission disapproved the draft advisory opinion.

(f) Advisory opinion requests and advisory opinions are public records subject to inspection and copying under AS 40.25.

15.13.400. Definitions

In this chapter,

(1) “candidate”

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

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

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

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

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

(iv) the candidate's campaign committee; and

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

(2) “commission” means the Alaska Public Offices Commission;

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

(4) “contribution”

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

(B) does not include

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

(ii) ordinary hospitality in a home;

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

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

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

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

(5) "electioneering communication" means a communication that

(A) directly or indirectly identifies a candidate;

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

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

(6) "expenditure"

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

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

(ii) use by a political party;

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

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

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

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

- (7) “express communication” means a communication that, when read as a whole and with limited reference to outside events, is susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate;
- (8) “group” means
- (A) every state and regional executive committee of a political party; and
 - (B) any combination of two or more individuals acting jointly who organize for the principal purpose of influencing the outcome of one or more elections and who take action the major purpose of which is to influence the outcome of an election; a group that makes expenditures or receives contributions with the authorization or consent, express or implied, or under the control, direct or indirect, of a candidate shall be considered to be controlled by that candidate; a group whose major purpose is to further the nomination, election, or candidacy of only one individual, or intends to expend more than 50 percent of its money on a single candidate, shall be considered to be controlled by that candidate and its actions done with the candidate's knowledge and consent unless, within 10 days from the date the candidate learns of the existence of the group the candidate files with the commission, on a form provided by the commission, an affidavit that the group is operating without the candidate's control; a group organized for more than one year preceding an election and endorsing candidates for more than one office or more than one political party is presumed not to be controlled by a candidate; however, a group that contributes more than 50 percent of its money to or on behalf of one candidate shall be considered to support only one candidate for purposes of AS 15.13.070, whether or not control of the group has been disclaimed by the candidate;
- (9) “immediate family” means the spouse, parents, children, including a stepchild and an adoptive child, and siblings of an individual;
- (10) “independent expenditure” means an expenditure that is made without the direct or indirect consultation or cooperation with, or at the suggestion or the request of, or with the prior consent of, a candidate, a candidate's campaign treasurer or deputy campaign treasurer, or another person acting as a principal or agent of the candidate;
- (11) “individual” means a natural person;
- (12) “issues communication” means a communication that
- (A) directly or indirectly identifies a candidate; and
 - (B) addresses an issue of national, state, or local political importance and does not support or oppose a candidate for election to public office.
- (13) “nongroup entity” means a person, other than an individual, that takes action the major purpose of which is to influence the outcome of an election, and that
- (A) cannot participate in business activities;
 - (B) does not have shareholders who have a claim on corporate earnings; and
 - (C) is independent from the influence of business corporations.

- (14) "person" has the meaning given in AS 01.10.060, and includes a labor union, nongroup entity, and a group;
- (15) "political party" means any group that is a political party under AS 15.60.010 and any subordinate unit of that group if, consistent with the rules or bylaws of the political party, the unit conducts or supports campaign operations in a municipality, neighborhood, house district, or precinct;
- (16) "publicly funded entity" means a person, other than an individual, that receives half or more of the money on which it operates during a calendar year from government, including a public corporation.

ALASKA REGULATION

2 AAC 50.840. Advisory opinion.

- (a) The commission staff shall review any request for an advisory opinion submitted under AS 15.13.374. If the staff determines that a request for an advisory opinion does not satisfy the requirements of AS 15.13.374(b), the staff shall reject the request and notify the person making the request of any deficiency. A rejected request may be corrected and refiled.
- (b) If the staff determines that a request for an advisory opinion satisfies the requirements of AS 15.13.374(b), the executive director or the executive director's designee shall prepare a recommended advisory opinion for the commission's consideration as provided in AS 15.13.374(c). The commission will consider the recommended opinion as provided in 2 AAC 50.826.
- (c) A commission member who voted with the majority approving an advisory opinion may, no later than 15 days after the vote, move for reconsideration of the opinion based on a showing of substantial procedural error, fraud, misrepresentation, material mistake of fact or law, or new evidence relevant to the advisory opinion. If at least four members vote to reconsider an advisory opinion, the opinion is vacated.
- (d) A person that requested an advisory opinion may act in reliance on the advisory opinion unless that person receives notice that the commission has reconsidered the advisory opinion. A person's good faith reliance on an advisory opinion is a complete defense to any enforcement action based on the conduct that is the subject of the advisory opinion.
- (e) Nothing in this section precludes the commission from revising a previous advisory opinion for good cause.

CERTIFICATE OF SERVICE

I hereby certify that on July 25, 2012, I certify that I e-mailed and certified mailed a true and correct copy of the Unapproved Advisory Opinion 12-17-CD to the following:

Ms. Barbara Bachmeier
ltcbachmeier@gmail.com

Martha Tansik
Associate Attorney II
Alaska Public Offices Commission

Advisory Opinion Request
Legislative Ethics Committee
Legal Defense Funds

[5]

STATE OF ALASKA

Department of Administration

Alaska Public Offices Commission

- **FRANK MURKOWSKI, GOVERNOR**

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December 27, 2005

Select Committee on Legislative Ethics
716 West 4th Avenue, Suite 230
Anchorage, AK 99501

Re: Advisory Opinion Request
Legal Defense Funds

Dear Chairman Walker
& Members of the Select Committee on Legislative Ethics:

This letter responds to your November 29, 2005 request for an advisory opinion regarding whether APOC requires "a gift to a legislator's legal defense fund, established for use in opposing a recall effort, to be reported under AS 15.13.140." Because your request concerns the activities of a third party, the Commission may not issue a formal advisory opinion. AS 15.13.374 (b) (4). However, staff offers the following answer to your question.

SHORT ANSWER

If a legislator establishes a group to oppose a recall issue, the group would be required to register before making expenditures and to file reports in accordance with AS 15.13. However, in accordance with precedent Advisory Opinions and long-standing Commission policy regarding legal fees, legal defense funds are not subject to regulation under AS 15.13, the Campaign Disclosure Law. In past cases, legislators were directed to report contributions to their legal defense funds on their annual financial disclosure statement.

FACTS

- The Select Committee on Legislative Ethics (Committee) has been asked to advise a legislator regarding fundraising to pay for the legislator's legal expenses related to a recall effort.

- The recall effort has been rejected by the Division of Elections because it failed to state sufficient legal grounds for a recall. The determination by the Division of Elections has been upheld by the Alaska Superior Court.

DISCUSSION

It is the Commission's long-standing policy that a legislator's legal expenses are not subject to the contribution limits and disclosure requirements under AS 15.13 because the spending is not for the purpose of influencing an election. In the absence of an election issue certified by the State Division of Elections to appear on a ballot in a primary, general, municipal or special election, legal defense expenditures may not be construed as intended to influence the outcome of an election.

The Committee proposes that the Commission has interpreted the law too narrowly, and that "influencing a ballot proposition or question" should include those seeking judicial decisions regarding decisions of the director of the Division of Elections not to certify an application for a recall petition. The Commission opines that APOC's regulatory authority is limited to contributions and expenditures intended to influence the outcome of an election. AS 15.13.010. We do not believe that the campaign disclosure statute was intended to compel disclosure of the legal costs of court challenges to the decisions of the Division of Elections.

The Committee has asked why a candidate is permitted to use excess campaign funds for legal expenses, but is not required to establish a new campaign account to report contribution and expenditure activity related to a recall that is not certified for the ballot. The statute permits a candidate to disburse surplus contributions at the end of a campaign to a fund to pay attorney fees or costs incurred in the prosecution or defense of an administrative or civil judicial action that directly concerns a challenge to the victory or defeat of the candidate in the election. AS 15.13.116 (a) (6).

On August 22, 2005, the Commission issued informal advice to Senator Ben Stevens regarding legal costs associated with a recall effort prior to the recall being confirmed for the ballot. We advised Senator Stevens that he could raise and expend funds for a legal challenge without regard to the requirements of AS 15.13 and that in the event the petition was certified for the ballot, he could raise and expend funds to influence the outcome of a ballot question in accordance with AS 15.13. We further advised Senator Stevens that he could use a regulated campaign account to pay for legal services because a recall could be arguably affect his candidate election campaign. However, the use of his candidate campaign account is not required by law. Candidate campaigns are subject to substantial restrictions as to the source and amount of contributions, while ballot question campaigns are not.

While the Commission understands the Committee's concerns that without APOC regulating gifts to a legislator's legal defense fund, there will be no disclosure, we are unable to reach the Committee's suggested conclusion that because legal challenges could have a direct and practical effect on what appears on a ballot, the campaign disclosure law should apply. We believe that the campaign disclosure law applies to candidates and issues that are before the public for a vote.

Commission decisions regarding legislators and legal defense funds were issued in 1982 (Representative Russ Meekins), 1987 (Senator Rick Uehling), 1989 (Representative Curt Menard) and 1993 (Senator George Jacko). All of the opinions state that legal defense funds are not subject to the campaign disclosure law, but are subject to the financial disclosure law. Unfortunately, financial disclosure reports for legislators do not include gifts. Rather, the Legislative Ethics Act limits gifts, but requires disclosure only for gifts of travel and hospitality primarily for the purpose of obtaining information on matters of legislative concern, gifts that are not connected with the recipient's legislative status, and gifts of legal services in a matter of legislative concern. If none of these categories apply, no disclosure is required under AS 24.60.

Although we cannot issue formal, binding advice under the Advisory Opinion process because the Committee's request concerns the activities of a third party, we have made our best effort to fully respond to your questions and concerns. Please let us know if you have additional questions or concerns.

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION



Brooke Miles
Executive Director

Attachments:

- Select Committee on Legislative Ethics Request
- August 22, 2005 letter of advice to Senator Ben Stevens
- December 23, 1993 letter to Senator George Jakco
- January 27, 1989 letter to John B. Snodgrass on behalf of Rep. Curt Menard
- July 20, 1987 letter to Senator Rick Uehling
- Excerpt from August 12, 1982 Commission meeting re: Legal Services Policy

Alaska State Legislature

Select Committee on Legislative Ethics

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November 29, 2005

Alaska Public Offices Commission
Brooke Miles, Executive Director
2221 East Northern Lights Blvd
Anchorage AK 99508

Ms. Miles:

The Select Committee on Legislative Ethics (the ethics committee) requests an advisory opinion under AS 15.13.374 from the Alaska Public Offices Commission (APOC) concerning the application of AS 15.13 to the following question.

Does APOC require a gift to a legislator's legal defense fund, established for use in opposing a recall effort, to be reported under AS 15.13.140?

The ethics committee has been asked for an ethics advisory opinion, and the committee's answer depends on whether APOC would require certain gifts to be reported under AS 15.13.040. The legislative ethics act provides an exemption from the general restrictions on gifts¹ in AS 24.60.080(e): "[a] political contribution is not a

¹ AS 24.60.080(a) provides:

(a) Except as otherwise provided in this section, a legislator or legislative employee may not solicit, accept, or receive, directly or indirectly, a gift worth \$250 or more, whether in the form of money, services, a loan, travel, entertainment, hospitality, promise, or other form, or gifts from the same person worth less than \$250 that in a calendar year aggregate to \$250 or more in value. Except for food or beverage for immediate consumption, a legislator or legislative employee may not solicit, accept, or receive during a legislative session a gift with any monetary value from a lobbyist or a person acting on behalf of a lobbyist.

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gift under this section if it is reported under AS 15.13.040 or is exempt from the reporting requirement under AS 15.13.040(g)."

The ethics committee has been asked to advise a legislator (Legislator X) regarding fundraising to pay for Legislator X's legal expenses related to a recall effort to remove the legislator from office. Legislator X wishes to keep the request confidential as provided in AS 24.60.160. The current status of the recall effort is that the director of elections did not certify the sponsors' application for a recall petition because the application was not substantially in the required form by reason of the failure to state factually and legally sufficient grounds for a recall petition. AS 15.45.540. The decision of the director of elections has been appealed to superior court.

Legislator X has been advised by APOC staff that APOC does not regulate fundraising and expenditures related to a recall effort until the point that a recall petition is accepted for placement on a ballot. APOC staff, citing AS 15.13.400(4) and (6), advised Legislator X that contributions and expenses relating to litigating a ballot measure are not considered subject to the campaign disclosure law because spending is not for the purpose of influencing an election.

The ethics committee asks for advice from APOC about its requirements for campaign disclosures in regard to fundraising for a legal defense fund for a recall effort, as follows:

1. The language relied upon by APOC staff is "influencing the outcome of an election." APOC staff has advised Legislator X that until a recall petition is certified² spending and fundraising are not considered to be for the purpose of influencing an election. A recall effort is properly called a ballot question.³ A contribution under AS 15.13.400(4) includes a contribution "that is made . . . in AS 15.13.010(b)⁴ for the

² The ethics committee believes that the term "certification," as used by APOC, actually refers to the point at which the director of elections determines that the recall petition is properly filed under AS 15.45.650 and the ballot is prepared for a special election on the recall ballot question.

³ AS 15.60.010(30) provides the following relevant definition for AS 15: "question" means an issue placed on the ballot to determine . . . whether a state official shall be recalled."

⁴ AS 15.13.010(b) provides:

(b) Except as otherwise provided, this chapter applies to contributions, expenditures and communications made by a candidate, group, nongroup entity, municipality or individual for the purpose of influencing the outcome of a ballot

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purpose of influencing a ballot proposition or question . . ." The ethics committee urges APOC to consider that a legal challenge to a recall effort will directly influence a ballot proposition.

Many activities, including legal challenges, will have a direct and practical effect on what appears on a ballot. It can be argued that if every ballot question were litigated, with no limit or oversight on funding, that a chilling effect on the ballot question process would result.

The statutes relied upon by commission staff do not refer to "influencing the outcome of voting in an election," which would restrict commission regulation to influencing votes, but rather the statutes speak to "influencing the outcome of an election." The language is even broader in the case of ballot questions, where the outcome of an election is not even mentioned. APOC defines a reportable contribution as one "that is made . . . for the purpose of influencing a ballot proposition or question."⁵ The ethics committee proposes that the language of AS 15.13 does not support the narrow interpretation used by APOC, and that spending and fundraising that effect the outcome of a ballot proposition, such as legal challenges to the director of elections refusal to certify an application for a recall petition, ought to be reported under AS 15.13.040, regardless of whether the ballot question has been placed on a ballot.

2. APOC staff have further advised Legislator X that while "the link to an election is too weak for the campaign disclosure law to apply, there is enough of a link that staff has concluded that use of regulated funds is not prohibited by AS 15.13.112." A legislator may therefore use excess campaign funds to pay legal expenses to challenge a recall effort. APOC acknowledges the effect that a recall effort has on a candidate, and allows excess campaign funds to be used by a legislator for litigation of a recall effort before it is on a ballot, so why not permit fundraising for the same reason? Is there some further guidance that can explain the different treatment for allowing expenditures from an existing campaign fund, versus soliciting contributions to a campaign fund set up for the same purpose?

3. If APOC declines to regulate gifts used in regard to recall efforts prior to certification there will be no public disclosure of fundraising and expenditures by either APOC or under legislative ethics laws. A legislator is not required to disclose the name of a donor of a gift of under \$250 accepted under AS 24.60.080(a). The goal of fair and

proposition or question as well as those made to influence the nomination or election of a candidate.

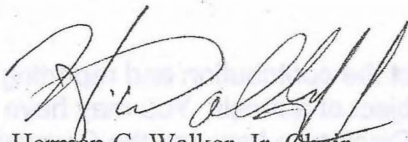
⁵ AS 15.13.400(4), emphasis added.

Page 4
November 29, 2005
Ms. Brooke Miles

open government described in AS 24.60.010(2) and the public policy of encouraging and restoring public trust in the electoral process,⁶ support complete disclosure not selective disclosure. The ethics committee is very concerned about the lack of accountability in the recall process along with the public's right to know and access financial disclosure information.

4. Legislator X's request for an ethics advisory opinion has placed the ethics committee in the position of having to construe APOC's jurisdiction over state election finance issues. The ethics committee feels that APOC reads its authority over the election process too narrowly, as argued in section one of this request. There is a substantial risk of inconsistent advice from the ethics committee and APOC in this case and in the future. This could cause inadvertent violations of both ethics laws and APOC requirements. This risk of inconsistent regulation and inadvertent violations will also have a chilling effect on public participation and the ability of those affected to contest election issues in court. The authority for campaign and election finance is delegated by statute to APOC. The legislative ethics code attempts to avoid intruding into politics and the issues of campaign and election finance by means of the exemption for "political contributions" found in AS 24.60.080(e).

Sincerely,



Herman G. Walker, Jr., Chair
On behalf of the Select Committee on Legislative Ethics

6

Findings and Purpose. . . . (b) It is the purpose of this Act to substantially revise Alaska's election campaign finance laws in order to restore the public's trust in the electoral process and to foster good government." Sec. 1, ch. 48 SLA 1996.

NOV 29 2005

4

STATE OF ALASKA

Department of Administration

Alaska Public Offices Commission

FRANK H. MURKOWSKI, GOVERNOR

2221 EAST NORTHERN LIGHTS, RM 128
ANCHORAGE ALASKA 99508-4149
PHONE: (907) 276-4176
FAX: (907) 276-7018
e-mail: *First Name_Last Name@admin.state.ak.us*

P.O.BOX 110222
JUNEAU, ALASKA 99811-0222
PHONE: (907) 465-4864
FAX: (907) 465-4832

August 22, 2005

The Honorable Ben Stevens
716 W. 4th Avenue, Suite 510
Anchorage, AK 99501

Dear Senator Stevens:

Thank you for visiting our office last week to deliver the information we requested concerning your financial disclosure reports. You have also asked about the contribution and reporting requirements regarding the recall effort against you.

It is our understanding that the recall effort is still in the verification process and signature booklets have not yet been issued by the Division of Elections. You have asked what your options are regarding accepting money from supporters for purposes of rebutting the recall effort.

Staff has identified circumstances that may affect the contribution and reporting requirements that may apply to a person who is the subject of a recall. You may have reporting requirements under the Legislative Financial Disclosure Law and the Campaign Disclosure Law depending on the option you exercise.¹ The following options are available:

- You may raise and expend funds for a legal challenge to the petition without regard to the requirements in AS 15.13 (campaign disclosure law);
- Before the petition is certified, you may raise and expend funds (for example, to persuade constituents not to sign the petition) without observing the requirements in AS 15.13 but you may also use your Senate campaign account; if you choose to use your Senate campaign account, you must observe the limitations on contributions in AS 15.13.070 -- .074; the reporting requirements in AS 15.13.040, and any other applicable requirements;
- If the division of elections certifies the petition, you may raise and expend funds to influence the outcome as provided for a ballot proposition in AS 15.13.

¹ Questions concerning reporting under the legislative financial disclosure law must be raised first with Joyce Anderson, Ethics Committee Administrator at (907) 269-0150.

Discussion

Legal expenses related to a recall petition are not covered by the contribution limits and disclosure requirements because the spending is not for the purpose of influencing an election. See AS 15.13.400(4) & (6).

Similarly, prior to the certification of a ballot proposition by the Division of Elections, the Commission does not consider spending or fundraising necessarily to be for the purpose of influencing an election. Because a recall petition is analogous to a ballot proposition, you are not required to file Campaign Disclosure reports with APOC unless you use your Senate campaign account. Likewise, the sponsors of the recall drive will not be required to report on their activity, until such time as the recall petition is certified by the Division of Elections when spending and fundraising will be considered to be for the purpose of influencing the outcome of the ballot question. This means that before certification you are not required to use an account with regulated funds. However, although the link to an election is too weak for the campaign disclosure law to apply, there is enough of a link that staff has concluded that use of regulated funds is not prohibited by AS 15.13.112. For example, because spending on the recall could arguably influence your Senate campaign, staff has concluded that you are permitted (although not required) to use your Senate campaign account. If you use your Senate campaign account, you must disclose the expenditures as you would any other spending from that account. Likewise, you may also use your Senate campaign account for legal expenses associated with the recall. However, if you use your Senate campaign account to oppose the recall drive or pay legal costs, you must disclose all transactions and will be subject to the limitations on the amount and source of contributions. For example you could only accept contributions from individuals (no businesses, unions or corporations) or registered Alaskan political groups; you could take up to \$1000 from individuals and up to \$2000 from groups other than the political party. See AS 15.13.070 & .074.

Should the recall petition drive result in a ballot question, the contribution and reporting requirements for ballot issue groups will apply. See AS 15.13.065(c). Groups supporting or opposing a ballot issue must register with APOC and file detailed reports of their contributions and expenditures. AS 15.13.072; 2 AAC 50.294. However, groups organized to support or oppose ballot questions are not subject to the limitations on the amount or source of contributions. Thus, the prohibition on acceptance of contributions from corporations, associations and other prohibited entities in AS 15.13.074 and the \$1,000 limit on contributions to a group in AS 15.13.070 do not apply.

For this reason, you may prefer to set up a separate group account to campaign against the recall petition rather than using your candidate campaign account. Assuming you form a group before certification and collect funds to support a legal challenge or to influence your constituents not to sign the petition and the recall does not become a ballot question, you would not be required to report the transactions to APOC. However, if you form a ballot group before certification that raises and spends funds pre-certification and, subsequently, uses any remaining funds to oppose the ballot question after certification, complete disclosure is required from the group's formation.

After certification, any spending related to the recall (except for legal expenses) must be reported.² To collect contributions after certification, you (or others on your behalf) must form a ballot measure group.

Because you are a seated legislator, you may be required to report payments as provided under the legislative financial disclosure requirements in AS 24.60.200 or under the requirements for reporting a gift in AS 24.60.080. For questions concerning these requirements, please contact Joyce Anderson, Ethics Committee Administrator at (907) 269-0150.

The campaign disclosure reporting requirements for you and other possible participants in a recall ballot issue are complex, and I urge you to contact me at (907) 334-1725 if you have specific questions.

Sincerely,
ALASKA PUBLIC OFFICES COMMISSION

Christina L. Ellingson
Assistant Director

cc: Brooke Miles, Executive Director
Joyce Anderson, Administrator, Legislative Ethics Committee

² AS 15.13.040 (h) does provide an exception for spending by an individual that is independent of the ballot measure group and does not exceed \$500 a year and is for the purpose of a billboard or other print media.

REPLY TO:

- 2221 E. NORTHERN LIGHTS, ROOM 128
ANCHORAGE, ALASKA 99508-4149
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FAX: (907) 276-7018
- P.O. BOX 110222
JUNEAU, ALASKA 99811-0222
PHONE: (907) 465-4864
FAX: (907) 465-4832

ALASKA PUBLIC OFFICES COMMISSION

December 23, 1993

The Honorable Senator George Jacko
716 W 4th, Suite 520
Anchorage, AK 99501-2133

Dear Senator Jacko:

You have requested informal advice regarding the role of Alaska Public Offices Commission (APOC) in the establishment and oversight of a Legal Defense Fund. You have asked four questions regarding reporting and record keeping requirements for a Legal Defense Fund: 1) Is a Legal Defense Fund under the purview of APOC? 2) What reporting requirements does APOC require for contributors to a Legal Defense Fund? 3) Do any Campaign Disclosure Laws apply? and 4) Do the same reporting requirements for campaign contributions apply to lobbyists who contribute to a Legal Defense Fund? For clarity, I have restated your questions as I understand them before responding to them.

Question: **Is a Legal Defense Fund under the purview of APOC?**

Answer: A qualified yes. The usual purpose of a legal defense fund is to pay for legal costs associated with holding office rather than for campaign expenses. AS 15.13.130(2) defines contributions to include "...gifts of money...made for the purpose of influencing the nomination or election of a candidate..." If the purpose of the proposed legal defense fund is for legal costs rather than campaign expenses, there are no reporting requirements under AS 15.13, the Campaign Disclosure Law.

However, you are required to report on your Legislative Ethics Financial Disclosure Statement(LEFD) sources of gifts you receive during the previous calendar year if the gift is over \$100 and is received from a person who is not a member of your family. AS 24.60.200(4). Contributions to your legal defense fund are "gifts" under this statute and proposed regulation 2 AAC 50.715(b)(copy enclosed), and thus reportable on your LEFD. There could also be additional reporting requirements and restrictions under the Legislative Ethics Law, AS 24.60. This is a question that you should ask the Select Committee on Legislative Ethics.

Question: **What APOC reporting requirements exist for contributors to a Legal Defense Fund?**

Answer: None.

I have enclosed a copy of two advisory opinions approved by the Alaska Public Offices Commission regarding the establishment of Legal Defense Funds. Since these are from previous years and the commission considered them under different legal and factual circumstances, it might be prudent to ask for a formal advisory opinion based on the facts of your particular case.

Page Two
December 23, 1993
Senator George Jacko

Question: **Do any Campaign Disclosure Laws apply?**

Answer: No, under Campaign Disclosure Law AS 15.13. Yes, under Legislative Ethics AS 24.60.

As stated in response to question one and two, AS 15.13.130(2) defines contributions to include "...gifts of money...made for the purpose of influencing the nomination or election of a candidate..." If the purpose of the proposed legal defense fund is for legal costs there are no reporting requirements under the Campaign Disclosure Law. However, a legislator is required to report sources of gifts received during the previous calendar year of more than \$100.

Please see the enclosed advisory opinions to Representative Curt Menard and Rick Uehling.

Question: **How much may a lobbyist give to a legal defense fund and how are these gifts reported?**

Answer: Under AS 24.45.121(a)(9) and (10) a lobbyist may not offer, solicit, initiate, facilitate, or provide to or on behalf of a person covered by AS 24.60, during a legislative session, a gift, other than food or beverage for immediate consumption; make or offer a gift or a campaign contribution whose acceptance by the person to whom it is offered would violate AS 24.60. Lobbyists must report gifts over \$100 to a legislator to APOC under AS 24.45.051(3). However, AS 24.60.080 **does** impose limits and reporting requirements on your acceptance of gifts. Staff strongly recommends that you contact the Select Committee on Legislative Ethics to determine if these limits and reporting requirements would apply to donations to a legal defense fund.

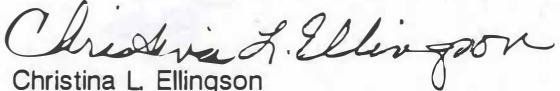
This letter is not a formal advisory opinion. It addresses only the manner in which the laws administered by the commission apply to the questions you presented. The final administrative authority for interpretation of the laws and regulations administered by this office is the commission itself, which addresses the propriety of specific activity by issuing advisory opinions (see 2 AAC 50.905, copy enclosed). Only an advisory opinion from the commission can provide the basis for staff to decline to investigate a complaint filed by a member of the public. However, staff makes its best efforts to provide correct and timely information through informal advice, and in the event of a complaint would recommend that the commission approve the advice given by staff.

Page Three
December 23, 1993
Senator George Jacko

Please contact me if you have any questions

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION



Christina L. Ellingson
Candidate Coordinator, Campaign Disclosure

cc: APOC Commission Members
Karen Boorman, Executive Director
APOC Senior Staff
Nancy Gordon, Assistant Attorney General
Susie Barnett, Select Committee Legislative Ethics

Enclosures

Sincerely,

Senator George Jacko

DC&RA, Chair
DM&VA, Chair
Revenue, Chair



Public Safety
Fish & Game
University

November 16, 1993

Karen Boorman, Director
Alaska Public Offices Commission
2221 E. Northern Lights, Rm 128
Anchorage, AK 99508-4149

Director Boorman:

Please consider this a formal request for information on the role of the Alaska Public Offices Commission on the establishment and oversight of a Legal Defense Fund.

Is a Legal Defense Fund under the purview of APOC? What reporting requirements does APOC require for contributors to a Legal Defense Fund? Do any Campaign Disclosure Laws apply? Do the same reporting requirements for campaign contributions apply to lobbyists who contribute to a Legal Defense Fund?

It is my wish to receive a response in a timely manner. I am not seeking a formal advisory opinion on this matter. Hopefully, these questions are straightforward and can be addressed without having to undergo a formal review process.

Should you need further information please contact my staff Bryce Edgmon at 258-8187. Thank you for considering this request.

Sincerely,

Senator George Jacko

District T: Adak, Alekshak, Akiak, Akutan, Aleknagik, Amchitka, Atka, Atmautluak, Ama, Belkofski, Bethel, Chefornak, Chemofski, Chignik, Chignik Lagoon, Chignik Lake, Clark's Point, Cold Bay, Dillingham, Dutch Harbor, Eek, Egegik, Ekuk, Ekwook, False Pass, Fort Glenn, Goodnews Bay, Ivanof Bay, Kasiglik, King Cove, King Salmon, Kipnuk, Koliganek, Kongiganek, Kwethluk, Kwigillingok, Levelock, Manokosak, Naknek, Napakiak, Nepeskiak, Nelson Lagoon, New Smythok, Nikolaki, Nunapituk, Oscarville, Pauloff Harbor, Pedro Bay, Perryville, Pilot Point, Platinum, Port Heiden, Port Moller, Portage Creek, Quinhagak, Sand Point, Senak, Shemya, South Naknek, Squaw Harbor, St. George Island, St. Paul Island, Togiak, Tununak, Twin Hills, Ugashik, Unalaska, Unga.

SENATOR GEORGE JACKO

716 W. 4TH AVENUE ANCHORAGE, ALASKA 99501-2133 (907) 258-8187 FAX: (907) 258-4469

COMMITTEE CHAIRMANSHIPS

- Rules, Chair
- Finance, Vice-Chair
- Finance Subcommittees
- DC&RA, Chair
- DM&VA, Chair
- Revenue, Chair



COMMITTEE MEMBERSHIPS

- Judiciary
- Legislative Council
- Finance Subcommittees
- Public Safety
- Fish & Game
- University

Date: 11/16/93

ARRIVED

NOV 16 1993

To: APOC

APOC-ANCH
PM HC FAXED

Attention: Chris

Phone Number: _____ Fax Number: 276-7018

From: Byce Edgeman (Sen. Jacko)

Phone Number: (907) 258-8187 Fax Number: (907) 258-4469

Re:

Chris - would like a written response
to questions per our conversation
yesterday. Thanks. Byce Edgeman
258-8187.

SENATOR GEORGE JACKO

STATE CAPITOL, ROOM 125 JUNEAU, ALASKA 99801-1182 (907) 465-4942 FAX: (907) 465-2997

COMMITTEE CHAIRMANSHIPS

- Rules, Chair
- Finance, Vice-Chair
- Finance Subcommittees



COMMITTEE MEMBERSHIPS

- Judiciary
- Legislative Council
- Finance Subcommittees

STATE OF ALASKA

STEVE COMPER, GOVERNOR

ALASKA PUBLIC OFFICES COMMISSION

REPLY TO:

- 2221 E. Northern Lights, Room 128
Anchorage, AK 99508
(907) 276-4176
- Juneau Branch Office
Box CO
Juneau, AK 99811-0222
(907) 465-4864

January 27, 1989

John R. Snodgrass
840 South Colony Way #250
Palmer, Alaska 99645

RE: Advisory Opinion Request

Dear Mr. Snodgrass:

At its meeting on January 17, 1989, the Alaska Public Offices Commission reconsidered its previous decision regarding your advisory opinion request dated October 18, 1988. You had asked: (1) whether the payment of attorney's fees incurred by Dr. Curt Menard as a defendant in a suit to defend his right to remain on the ballot is an expenditure within the meaning of AS 15.13.130(3); (2) whether funds raised to pay those fees would be a contribution under the campaign disclosure law, and (3) whether Dr. Menard could use the "contributions" to pay the fees.

By a vote of 4 - 1, the commission approved staff's initial advisory opinion, dated November 23, 1989, which provided that donations to Dr. Menard of funds to pay his legal fees to defend his right to remain on the ballot are not campaign contributions, but are a source of income, and therefore must be reported on his conflict of interest statement. The proposed opinion also stated that Dr. Menard may transfer any surplus from his campaign account into the defense fund, with the name of the account reported as the contributor to the fund on his conflict of interest statement.

The commission concurred with staff's rationale as set forth in the proposed advisory opinion dated November 23, 1988. The commission agrees that donations of this specific type are not intended to influence the outcome of an election, but instead are intended to help Dr. Menard pay a personal debt incurred in seeking a judicial decision.

MEMORANDUM

State of Alaska

[18]

TO : APOC Members

FROM: Karla L. Forsythe, Executive Director

DATE: January 13, 1989

SUBJ: Staff Request that Commission Reconsider Its Disapproval of Proposed Advisory Opinion to Representative Curt Menard

At the November 30, 1988 commission meeting, the commission reviewed a proposed staff advisory opinion which had been requested by Representative Curt Menard. Representative Menard had inquired how he could recover the legal expenses of defending himself in a challenge to his right to remain on the ballot. The proposed opinion stated that Representative Menard could raise funds for this purpose, and that the money raised should be reported on his conflict of interest statement rather than his campaign disclosure statement. The commission voted 3 to 2 in support of staff's proposed advisory opinion (see minutes, agenda item 1).

Under 2 AAC 50.905 (copy attached), which is the regulation governing the procedure for requesting an advisory opinion, an advisory opinion must be approved by the affirmative vote of at least four members, or the advisory opinion will be considered disapproved.

As indicated in the attached letter, staff has communicated to Representative Menard staff's interpretation of the consequences to him of the commission's vote. Although a majority of the commission approved staff's advice, under the regulation the opinion is disapproved for lack of an additional affirmative vote. In staff's opinion, this means that there is no basis for a staff-initiated investigation into this matter. However, in the event that a complaint is filed staff will be required to investigate, and to bring the question before the commission in the context of a preliminary investigation report.

STATE OF ALASKA

ALASKA PUBLIC OFFICES COMMISSION

STEVE CLARKE, GOVERNOR

REPLY TO:

- 2221 E. Northern Lights, Room 128
Anchorage, AK 99508
(907) 276-4176
- Juneau Branch Office
Box CO
Juneau, AK 99811-0222
(907) 465-4864

December 13, 1988

Mr. John R. Snodgrass, Jr.
840 South Colony Way #250
Palmer, Alaska 99645

RE: Advisory Opinion on Representative Curt Menard's
Legal Fees

Dear Mr. Snodgrass:

At its November meeting, the Alaska Public Offices Commission reviewed staff's proposed advisory opinion of November 23, 1988, in which staff took the position that funds raised by Representative Menard to pay legal fees in defending himself in District 16 Republican Party v. State of Alaska and Curt Menard should not be reported as campaign contributions but instead as a source of income to Representative Menard.

The commission voted 3 to 2 in favor of staff's proposed advice. However, under 2 AAC 50.905 (copy attached), advisory opinions require an affirmative vote of at least 4 members for approval. Consequently, staff's advisory opinion is considered disapproved under commission regulations.

Staff has decided to raise the possibility of reconsidering this matter with the commission at its January 17, 1989 meeting in Anchorage. If the commission does not wish to reconsider the matter, or if the commission reconsiders the matter but again fewer than four members vote in favor of staff's proposed advice, the proposed advisory opinion will remain disapproved.

STATE OF ALASKA

ALASKA PUBLIC OFFICES COMMISSION

STEVE COWDER, GOVERNOR

REPLY TO:

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Anchorage, AK 99508
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Box CO
Juneau, AK 99811-0222
(907) 465-4864

November 23, 1988

[12]

Mr. John R. Snodgrass, Jr.
840 South Colony Way #250
Palmer, AK 99645

Re: Proposed Advisory Opinion on Rep. Curt Menard's Legal Fees

Dear Mr. Snodgrass:

You requested an advisory opinion on behalf of Rep. Menard on whether his legal fees to defend his right to remain on the ballot are subject to the campaign disclosure law, AS 15.13. It is staff's opinion that these fees are subject to the conflict of interest law, AS 39.50, rather than the campaign disclosure law. This opinion is subject to approval by the Alaska Public Offices Commission who meet November 30 - December 1, in Anchorage. The commission may accept, reject or modify a staff proposed opinion.

I. Statement of Facts

On August 15, 1988, Rep. Curt Menard was a defendant in a law suit filed by the District 16 Republican Party which sought to have his name removed from the ballot. Rep. Menard prevailed and was subsequently re-elected to public office.

Rep. Menard now wishes to raise funds to pay for his legal costs from the case. You have asked whether these fees are a campaign expense and if campaign contributions may be raised and used to pay the fees.

II. Application of the Law

Campaign contributions include "...gifts of money...made for the purpose of influencing the nomination or election of a candidate..." AS 15.13.130(2).

The purpose of the legal defense fund is to pay Rep. Menard's legal costs incurred in this court case. We

Mr. John R. Snodgrass, Jr.
November 23, 1988
Page 2

believe contributions to the fund do not influence the outcome of an election, but pay a personal debt incurred in seeking a judicial decision. Contributions to the fund would be considered a source of income to Rep. Menard for purposes of filing the conflict of interest statement. Under 2 AAC 50.015, sources of income include "funds, goods or services donated ... to a public official for personal or professional use..." Therefore, Rep. Menard would report the names of those who contributed more than \$100 to the defense fund as a source of other income to him on the appropriate conflict of interest statement. He would not report the contributors on his campaign disclosure reports.

We also note that gifts for recount expenses are not campaign contributions under 2 AAC 50.313(1)(5). A previous commission opinion found that legal costs incurred for a recount are not subject to campaign disclosure regulation. The nature of expenditure for legal services is somewhat similar in both cases; i.e., the expenditure is made to obtain a judicial decision rather than "influencing the outcome of an election." AS 15.13.130(3). Therefore, we believe that Rep. Menard is required to report the attorney's name as a creditor on the appropriate conflict of interest statement, assuming the debt exceeded \$500. The payment of these legal fees is not reportable on the campaign disclosure reports.

You also asked whether campaign contributions can be used to pay for these legal fees. If Rep. Menard has a campaign surplus, he may transfer that surplus from his campaign account into the defense fund. 2 AAC 50.400(b)(4). The name of the campaign account would be reported as a contributor to the fund on his conflict of interest statement.

The conflict of interest law prohibits using public office for the primary purpose of financial gain and soliciting money for legislative advice or assistance. AS 39.50.090. Every effort should be made to separate fund-raising activity for the defense fund from Rep. Menard's public office and his legislative activity to avoid allegations of violating this section of the law. You may also wish to seek advice from the legislative ethics committee on any provisions of that law.

ARRIVED
NOV 23 1988
Mr. John R. Snodgrass, Jr.
November 23, 1988
Page 3

III. Summary of Advice

It is staff's opinion that Rep. Menard's legal fees were not incurred to influence the outcome of a nomination or election to office and, therefore, are not a campaign expenditure. He may seek contributions to his legal defense fund and would report those contributions as a source of (other) income on his conflict of interest statement. The debt for legal services would be reported on the statement as a debt to a creditor. If he has a campaign surplus, he may transfer the surplus to the defense fund.

This staff opinion is subject to commission review and approval. The commission may accept, reject or modify the staff advice. The members will review this advice at the November 30 - December 1 meeting in Anchorage. Please let us know if you would like to participate in the meeting and we will attempt to arrange a mutually convenient time on the agenda. Once the commission has acted on this matter, you will receive written advice on the commission's decision.

Should you have any further questions about this letter or the advisory opinion process, please contact me.

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION

Jane Barcott
Jane Barcott
Assistant Director

cc: APOC Members
Karla Forsythe, Executive Director

ARRIVED

OCT 20 1988

JOHN R. SNODGRASS, JR.

ATTORNEY AT LAW
840 SOUTH COLONY WAY #250
PALMER, ALASKA 99645
3071 745-4278

October 18, 1988

Karla Forsythe, Director
Alaska Public Offices Commission
2221 East Northern Lights Blvd., Rm. 128
Anchorage, Alaska 99508

Dear Ms. Forsythe:

I represent Dr. Curt Menard.

As you may know, the District 16 Republican Party sued Dr. Menard to remove his name for the ballot and thereby reverse the actions of the Division of Elections. Dr. Menard hired an attorney to defend his right to remain on the ballot. Dr. Menard intends to raise funds to pay his attorney's fees and costs.

Dr. Menard requests the Public Offices Commission to issue an opinion whether payment of the attorney's fees incurred in the suit would be an "expenditure" as defined in AS 15.13.130(3).

A related question is whether funds raised to pay those fees would be a "contribution" under AS 15.13.130(2). Would these payments be reportable under and subject to the limitations of AS 15.13?

Finally, if payment of these fees is not an "expenditure" is it proper for Dr. Menard to use "contributions" to pay the fees?

Sincerely,

John R. Snodgrass, Jr.

John R. Snodgrass, Jr.

JRS/rac

cc: Dr. Menard

Ms. Forsythe said legislators have expressed one of two general viewpoints regarding the commission's budget request: (1) the state budget will be decreased across the board and it is difficult to make any commitments for increasing commission resources, or (2) the price of oil is stabilizing and a budget increase may be possible. Discussions with legislators provide a positive public relations opportunity for the commission.

18. Conflict of Interest - Curt Menard Advisory Opinion
(Teleconference)

[Staff's advisory opinion to Representative Menard was considered at the November 30 - December 1, 1988 commission meeting. Although three members voted to approve staff's advice, an opinion is considered disapproved unless four members vote to approve it.]

Off Record 9:05 (waiting for Representative Menard to come to the telephone).

On Record 9:06.

Ms. FORSYTHE summarized staff's advice and action taken at the last commission meeting. Staff is requesting that the commission reconsider this matter and approve staff's advisory opinion.

Mr. RILEY moved that the commission reconsider its previous action.

Ms. HOWARD seconded the motion.

Mr. RILEY withdrew his motion and moved to suspend the rules.

Ms. HOWARD seconded Mr. RILEY's motion.

MOTION PASSES - NONE OPPOSED.

Mr. RILEY moved that the commission reconsider its previous action.

Ms. HOWARD seconded the motion.

MOTION CARRIES - NONE OPPOSED.

REPRESENTATIVE MENARD stated he incurred legal expenses because of a lawsuit brought by the District 16 Republicans challenging his candidacy. He would like to retire this debt. He received staff's advisory letter stating that he could raise the money outside of his campaign and that he would have to report it as a source of income on his conflict of interest statement. Staff also advised him that this was not a binding opinion and that it would be brought before the commission. Subsequently the commission voted 3 to 2 in favor of staff's initial advisory letter. This vote left him without clear guidance since a 4 to 1 vote was required to approve the opinion. He requested a clear decision in this matter. He noted that the Legislative Ethics Act provides that a legislator cannot receive gifts in excess of \$50.00.

Ms. GORDON concurred that the Legislative Ethics Act would limit contributions to the defense fund to \$50.00 per person.

Mr. RILEY moved to accept staff recommendations that monies raised to defray Representative Menard's legal expenses incurred during a judicial proceeding are reportable on his conflict of interest statement as sources of income.

Mr. WILSON seconded the motion.

MOTION PASSES - 4 TO 1. [Commissioner HOWARD opposed]

Off Record 9:41.

On Record 9:50.

15. Campaign Disclosure - Furhy v. Pacific Telecom Inc.
and Fink

[Staff presented for commission approval a settlement agreement between APOC and PTI negotiated after a complaint that PTI and its subsidiaries made campaign contributions in excess of statutory limits. PTI did not admit wrongdoing, but agreed to pay a \$15,000 civil penalty assessment. Staff recommended dismissal of allegations that Mayor Fink violated the law by knowingly accepting these contributions.]

Theodore Berns appeared for Pacific Telecom Inc.

Mr. HUELSMAN stated the complaint was filed in late September of 1988 by Mr. Furhy. He alleged that three corporations who were controlled by the same shareholders made excessive contributions to the Fink campaign. Staff concluded that Mayor Fink did not knowingly receive these funds, and that one of the three corporations was not controlled by the same shareholders. The balance

STATE OF ALASKA

STEVE COWPER, GOVERNOR

REPLY TO:

- 2221 E. Northern Lights, Room 128
Anchorage, AK 99508
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- Juneau Branch Office
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Juneau, AK 99811-0222
(907) 465-4864

ALASKA PUBLIC OFFICES COMMISSION

July 20, 1987

Senator Rick Uehling
3605 Arctic Blvd. HH
Anchorage, AK 99503

Dear Senator Uehling:

Enclosed is the advisory opinion approved by the Alaska Public Offices Commission at the continuation of the June meeting (teleconference of July 15).

To summarize the advice, you may fund-raise to defray the cost of legal fees from your recount election. The proceeds of the fund-raising are considered a source of other income and reportable on your future Conflict of Interest Statement(s). The proceeds are not subject to campaign disclosure regulation.

Please contact us if you need further guidance on this matter or our advice is unclear.

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION

Jane Barcott
Jane Barcott
Acting Executive Director

JB/bdc/81

Enclosure

cc: APOC Members

STATE OF ALASKA

ALASKA PUBLIC OFFICES COMMISSION

REPLY TC

- 2221 E. Northern Lights, Room 128
Anchorage, AK 99508
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Juneau, AK 99811-0222
(907) 465-4864

July 20, 1987

Senator Rick Uehling
3605 Arctic Blvd. HH
Anchorage, AK 99503

Dear Senator Uehling:

This is in response to your advisory opinion request of June 17, 1987, regarding whether attorneys fees resulting from a challenge to your 1986 election may be considered a campaign expenditure of the 1986 Senate campaign ("Friends for Rick Uehling").

I. Facts

You state that the expense was incurred as a result of an Election Contest filed in the Superior Court by your opponent and a Supreme Court Recount Appeal. You have paid the fees of approximately \$10,000 from personal funds. You are now requesting that these payments be eligible for reimbursement from your 1986 campaign. As of January 1, 1987, "Friends of Rick Uehling" engaged in post-election fund-raising to pay \$18,865 in debts to vendors and to recover \$54,409.35 in personal contributions, to be recovered through post-election fund-raising.

II. Application of Law

Staff has reviewed the laws and regulations for both Campaign Disclosure and Conflict of Interest. Initially, we were of the opinion that such legal fees could be considered a campaign expense. The definition of expenditure encompasses "...anything of value...incurred or made for the purpose of influencing the nomination or election of a candidate..." AS 15.13.130(A). It appeared to us that costs incurred as a result of defending a challenged election could be considered campaign expenditures.

A. Campaign Disclosure

Administrative Regulations clarify the circumstances under which a candidate may engage in post-election fund-raising to discharge a debt arising from a prior campaign. 2 AAC 50.401. Such debts are defined as "a candidate's personal contributions made before (emphasis added) the date of the prior election; campaign debts to others reported on the 10-day post-election disclosure statement; post-election expenditures to discharge debts; and, costs to close out the

Senator Rick Uehling
July 20, 1987
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campaign...including legal fees incurred to comply with AS 15.13." 2 AAC 50.401 (d)(1-4).

A close reading of this Regulation precludes recovery of personal expenditures for legal fees incurred after the date of the election. An exception would be when such fees resulted from defending oneself in a matter regulated by the Alaska Public Offices Commission; e.g., the filing of reports, allegations made in connection with a Commission investigation, et cetera.

We further noted that the definition of contribution specifically excludes "...a gift...or anything of value made with respect to a recount..." 2 AAC .313 (1)(5). Therefore, it is our conclusion that contributions may not be used for the purpose of defraying the costs of a recount, even in cases in which the candidate did not request the recount.

In short, the legal fees discussed herein, and their recovery, are not subject to the Campaign Disclosure Law.

B. Conflict of Interest Law

The Conflict of Interest Law requires the reporting of all sources of income over \$100 received during the prior calendar year. AS 39.50.030(b)(1). By Regulation, source of income is further defined as "funds, goods, or services donated or loaned to a public official for personal or professional use, including donations...for offices expenses..." 2 AAC 50.015.

Under the Conflict of Interest Law, a public official may accept donations to defray legal or other office expenses. The donations or funds are considered sources of personal income, reportable by donor when their value exceeds \$100.

III. Advice

It is staff's opinion that an elected official may engage in fund-raising to recover legal fees which resulted from an election challenge. Such fund-raising is not subject to the provisions of the Campaign Disclosure Law. The proceeds are considered sources of personal income reportable on the Conflict of Interest Statement. With this in mind, we will offer specific guidance on the acceptance and reporting of such funds.

A. Conflict of Interest Law Requirements

1. The Conflict of Interest Law prohibits the use of public office for the primary purpose of financial gain. AS 39.50.090(a). We interpret this to mean you should avoid tying your public office to the fund-raising efforts and avoid discussion of such whenever you are engaged in official business. We further believe that such fund-raising cannot be done using any state resources - office space, telephone, staff time, et cetera. You must use private resources.

We further noted that you should also avoid raising funds which exceed the amount of the debt to avoid allegations of the use of office for financial gain. In the event a surplus occurs, it must be taken as personal income. It may not be transferred to the Friends of Rick Uehling account, since we have previously stated such fund-raising is prohibited under the Campaign Disclosure Law. Neither may a surplus be used as a personal contribution or transferred to a future campaign, since to do so would violate the ban on expenditures before filing, to the extent that costs were incurred in raising funds from which a surplus resulted.

2. The Law also prohibits solicitation or receipt of money for legislative advice or assistance given in the course of, or relating to, an official's public employment. AS 39.50.090(b). Lobbyists are those who "are employed...for the purpose of influencing legislative or administrative action..." AS 24.45.171(8)(A). We would encourage you to exercise an abundance of caution in solicitation or acceptance of donations from registered lobbyists. If you have questions about particular donations, please contact our office. A directory of lobbyists registered in 1987 may be obtained from the Commission.

Of course, no money may be accepted from others who tie the gift to a request for assistance connected with your public office.

3. The Law also requires the reporting of each creditor to whom more than \$500 was owed in the prior year, excluding charge account debts AS 39.50.030(b)(6); 2 AAC 50.050. If you have not already done so, you must

State of Alaska
MEMORANDUM
Senator Rick Uehling
July 20, 1987
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report the debt to your attorney(s) provided more than \$500 was owed during 1986. It is reportable on your 1987 Conflict of Interest Statement and future ones, to the extent a reportable debt exists during the prior year.

B. Legislative Ethics

You may wish to seek advice from the Select Committee on Legislative Ethics regarding the application of Legislative Ethics to this activity.

This advisory opinion was adopted a unanimous vote of the APOC at a continuation teleconference on July 15, 1987.

Should you require any further assistance, please contact our office.

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION

Jane Barcott

Jane Barcott
Acting Executive Director

JB/bdc/81

cc: APOC Members
Select Committee on Legislative Ethics

MEMORANDUM

State of Alaska

MAIL STOP:

TO: APOC MEMBERS

DATE: June 19, 1987

[25]

FILE NO:

TELEPHONE NO: 276-4176

FROM: Theda Pittman *TSP*
Executive Director

SUBJECT: Uehling Advisory
Opinion Request

Staff has not prepared a proposed response to the attached advisory request from Senator Uehling due to the recent date of its submission.

We will have a staff discussion about it prior to the meeting and if it appears to be fairly direct, ask for your direction so that it can be finalized before the August meeting. If it requires a substantial amount of legal research, then we may not have a recommendation ready by next week.



Alaska State Legislature

Senate

Official Business

SENATOR RICK UEHLING

Pouch V
State Capitol
Juneau, Alaska 99811

Senate Finance
Committee

ARRIVED

JUN 17 1987

APOC-ANCH
PM HC

June 17, 1987

Alaska Public Offices Commission
2221 East Northern Lights
Anchorage, Alaska 99503

Dear Theda,

Please consider this a formal request for an advisory opinion as to whether I may include as costs against my 1986 State Senate Campaign (Friends for Rick Uehling), Attorney's Fees incurred in the Election Contest filed by Vic Fischer with the State Superior Court on December 4, 1986 and the Recount Appeal that he filed with the State Supreme Court on December 17, 1986.

I incurred the legal fees as a result of the actions taken by my opponent in both the Election Contest in State Superior Court and the Recount Appeal in State Supreme Court and have already paid them. I felt I had no choice but to be represented by Legal Counsel in order to protect the Senate Seat which I had rightfully won.

In addition, should the Commission decide against allowing me to include the Attorney's fees as a cost against the 1986 State Senate Campaign, may I set up a "Legal Defense Fund" to help recover those Attorney Fees and under what general rules may such a "Legal Defense Fund" operate?

At your request, I am including the following information for the 1986 State Senate Campaign (Friends for Rick Uehling) as of January 1, 1987. There were accrued expenditures of 18,865.00 dollars and Candidate's personal contributions of 54,409.35 dollars. I am currently raising funds to both eliminate the accrued expenditures and recover the personal contributions.

Thank you for your attention to this matter.

Cordially,


Senator Rick Uehling

STATUS OF COMPLAINTS CONT. [12 A]

NANA, Inc. v. NANA Citizens for Good Government was addressed.

Mr. HUELSMAN reviewed the status of this complaint stating that Mr. Gallahorn had paid the fine. One outstanding allegation remained concerning identification of communications. Staff recommended dismissal.

Ms. Knox MOVED to accept staff's recommendation to dismiss allegation one of the complaint.

SECONDED by Ms. Howard,

Motion passed on a unanimous voice vote.

Allegation 2 had been previously dismissed and allegation 3 required no action.

The Commission decided to reconvene its meeting on July 15, 1987 at 4:30 pm to review the advisory opinion response to Senator Rick Uehling.

Ms. Howard MOVED to go into executive session to discuss personnel matters.

SECONDED by Ms. Knox,

Motion passed on a unanimous voice vote.

On July 15, the Commission went into executive session to discuss personnel matters. The executive session was concluded at 6:10 pm.

UEHLING ADVISORY OPINION CONTINUED [25]

The Commission discussed the staff proposal. It was thought that recount costs should be considered as campaign expenses. However, regulations on contributions and post election fund-raising precluded doing so.

Ms. Knox MOVED to accept the staff proposal.

SECONDED by Mr. Riley,

Motion passed on a voice vote.

BUDGET UPDATE [20 A]

Staff provided the Commission with information of anticipated personnel savings; costs of the hire process; and, suggested personnel expenditures. The Commission was cautious about the immediate application of any anticipated savings. The members deferred on endorsing any proposal for a revised program at this time.

The meeting was adjourned at 6:50 pm.

Policy Decision Regarding Legal Services

Staff explained that Representative Russ Meekins had asked whether he could hold a fund-raiser to pay off outstanding campaign debts and legal fees he had incurred as a result of the lawsuits generated by the Hohman matter.

The Commission concluded it would be inappropriate and misleading to hold a campaign fund-raiser and use a portion of the funds raised to pay off debts incurred for other purposes.

CONFLICT OF INTEREST

Exemption Request/Cook

The Commission was informed that Mr. Jeff Cook, a member of the Board of Regents, was requesting an exemption from filing the names of the clients and customers from whom Earl Cook Realtors received in excess of \$100 during 1981. Mr. Cook owns 100 percent of the stock of this corporation and although his 1981 Statement disclosed his ownership of the corporation, 1982 is the first year staff requested the client and customer list.

Mr. Cook was requesting a blanket exemption even though during telephone conversations he had indicated that approximately 30 percent of his business was of a confidential nature. His contention was that were he required to disclose client names, his business would be adversely affected since revelation of a client's name would undermine his negotiating ability.

Staff had ruled against granting the blanket exemption because his situation had not met the criteria available to it for granting an exemption.

The Commission suggested it would be more appropriate for Mr. Cook to disclose a partial list of clients and customers and request case-by-case exemptions for those involved in confidential transactions.

Jerry White MOVED, to deny the blanket exemption request.
SECONDED by George White.

The motion PASSED with unanimous consent.

Service Area Board Exemptions

The Commission agreed to support the concept that a municipality could seek voter approval for exempting some, as opposed to all, of its municipal officials from the requirements of AS 39.50, but noted that its approval would not necessarily forestall legal challenge to the validity of such a vote. The final decision about an effort to exempt some official would rest with the municipality and its counsel.

Affidavits

Reha Ballot
Fined \$117.00; appeal accepted.

Thomas Bergstrom
Fined \$187.00; appeal accepted in part; fine reduced to 10%.

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

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

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

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

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

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

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

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

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

(h) the provisions of (a) of this section do not apply to a candidate if the candidate:

- (1) on a form prescribed by the commission, indicates an intent not to raise and not to spend more than \$1,000 in seeking election;
- (2) accepts contributions totaling \$1,000 or less in seeking election; and
- (3) makes expenditures totaling \$1,000 or less in seeking election.

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) No candidate may solicit or accept:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 15.13.080. STATEMENT BY CONTRIBUTOR. [A] An individual [PERSON OR GROUP] contributing to a candidate over \$250 or contributing goods or services to a candidate with a value of more than \$250 [TO INFLUENCE THE ELECTION OF A CANDIDATE] shall furnish the commission a signed statement, on a form made available by the commission. An individual who contributes to more than one group within ninety days of an election and whose total contributions in money, or in the value of goods and services, in aggregate to all groups exceeds \$1000 in a calendar year, shall also furnish a statement on a form made available by the commission. The statement shall identify the contributor and the candidate and all groups who received contributions, itemize the contributions and goods and state that the contributor is not [A PERSON OR GROUP] prohibited by law from contributing and that the contribution consists of funds or property belonging to the contributor and has not been given or furnished by another person or group. The contributor's statement shall be filed with the commission by the contributor no later than 10 days after the contribution is made. A copy of the statement shall be furnished the groups or candidate, or the groups' or candidate's campaign treasurer[, or deputy campaign treasurer at the time the contribution is made.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) when a provision of this chapter limits or prohibits the donation, solicitation or acceptance of campaign contributions, or limits or prohibits the expenditure of campaign funds, then "candidate" includes in addition to the individual who is the candidate, a candidate's campaign treasurer and any deputy campaign treasurer, a member of the candidate's immediate family, a person acting as agent for the candidate, the campaign or a campaign committee, and any group that makes expenditures or receives contributions with the authorization or consent, express or implied, or under the control, direct or indirect, of a candidate;

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

(4) "group" means

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

(b) any combination of two or more [PERSONS OR] individuals acting jointly who organize for the principal and major purpose to influence the outcome of one or more elections and who take action the major purpose of which is to influence the outcome of an election; a group that makes expenditures or receives contributions with the authorization or consent, express or implied, or under the control, direct or indirect, of a candidate shall be considered to be controlled by that candidate; a group whose major purpose is to further the nomination, election, or candidacy of only one person, or intends to expend more than 50 per cent of its money on a single candidate, shall be considered to be controlled by that candidate and its actions done with the candidate's knowledge and consent unless, within 10 days from the date the candidate learns of the existence of the group the

candidate files with the commission, on a form provided by the commission, an affidavit that the group is operating without the candidate's control; a group organized for more than one year preceding an election and endorsing candidates for more than one office or more than one political party is presumed not to be controlled by a candidate; however, a group that contributes more than 50 per cent of its money to or on behalf of one candidate shall be considered to support only one candidate for purposes of AS 15.13.070, whether or not control of the group has been disclaimed by the candidate.

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

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

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

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

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

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

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

Sec. AS 11.56.870. A person who

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

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

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

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

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

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

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

(a) A lobbyist may not

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

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

SB

191

HFIN

FILE

CURRENT LAW	INITIATIVE	CS DATED 2/28/96
Contributions from Individuals \$1000/yr. limit; No limits to political parties or groups.	\$500/yr. to a candidate \$250/yr. to a group \$5,000/yr. to a political party	Same as initiative.
Contributions from Parties No limits	\$5,000/yr. to legislative candidate \$50,000/yr. to Gov. or Lt. Gov. candidate	\$10,000/yr. to House cand.; \$15,000 to Senate; \$5,000/yr. to others; \$100,000/yr. to Gov./Lt. Gov. cand.
Contributions not from Individuals (i.e. corps, unions) \$1,000/yr. contrib. limit. Unlimited to groups or parties.	Prohibited.	Same as initiative.
Contributions from groups of individuals \$1,000/yr. to a candidate	\$500/yr. to a candidate	\$1,000/yr. to a candidate.
Lobbyists No special restrictions on contributions	A for-profit lobbyist could contribute only to a legislative candidate running in the lobbyist's district of residence	Same as initiative
When money can be raised No starting or ending point	A candidate could not accept a contribution 11 months before, or more than 30 days after the election.	June 1 to 45 days after the election for legislative candidates; Jan. 1 to 45 days after the election for Gov./Lt. Gov. Others: 5 mo. prior to 45 days after.
Personal use of campaign funds No restrictions. Unlimited funds may be converted to pers. income.	Prohibited	Transfer of \$5,000 (House) or \$10,000 (Senate) to office account allowed.
Carryforward of campaign surpluses Unlimited surplus funds may be carried over to future campaigns.	Prohibited.	Transfer of \$5,000 (House), \$7,500 (Senate), or \$50,000 (Gov./Lt. Gov.) to next campaign allowed.
Out-of-state contributions No special restrictions	Prohibited	Out-of-state contributions allowed up to \$2,000 (House), \$3,000 (Senate) or \$20,000 (Gov./Lt. Gov.)
Independent expenditures No restrictions	Only individuals, political groups and political parties could make "independent" expenditures	Same as initiative.
Public funds No clear restrictions	Use of public funds for campaigns involving candidates is prohibited.	Same as initiative.
Serious violations All minor misdemeanors	Intentional violations would be Class C felonies, and knowing violations would be Class A misdemeanors.	Penalties would be reduced by one step so the most severe penalty would be a Class A misdemeanor.
Civil penalties Min. civil penalty is \$10/violation	Civil penalties increase depending on significance and length of a violation	Civil penalty maximums would increase.
Power to enforce Only a state agency, APOC, can enforce the campaign finance and disclosure laws	Both APOC and citizens could sue in Superior Court for injunctive relief and civil penalties	Citizen suits allowed only after complaint to APOC

SEC.	SUBJECT--INITIATIVE	SENATE--CSSB 191(STA) (3/20-VERSION K)	HOUSE--CSHB 308(JUD) (3/27-VERSION K)
1	Findings and Purpose Findings: six Purpose: reform campaign finance laws.	(Uncodified) Similar to initiative (Uncodified) Similar to initiative	Bills are similar or same. Bills are similar or same.
2	Municipal Regulation Municipalities can regulate elections "more strictly" than in this chapter.	(NEW 15.13.010(e)) Similar to initiative	Bills are similar or same.
3	Contribution Requirements Candidate must have name, address, occupation and employer of contributor. Exemption=campaigns of \$1000 or less.	(AMENDED 15.30.040(a)) Similar to initiative (NEW 15.13.040(g)) Exemption=\$2500 or less	Bills are similar or same. Bills are similar or same.
4	Who May Make Expenditures Candidate, individual or group may expend re: the candidate unless expenditure is independent. Expendor must register. Ballot proposition expendor must register	(NEW 15.13.067) Similar to initiative (AMEND 15.13.050) Registration before expenditure, NOT contribution registration. Reduces naming requirement from 50% to 33 1/3%	Bills are similar or same. Bills are similar or same.
5	Direct Contributions and Expenditures; Timing, Amount and Form of Payment Individual may contribute to group Individuals and groups may contribute to candidate No solicitation from company, union, trust, business that is not a group To legislative, judicial, municipal candidates individual may give up to \$500, group may give up to \$500, party may give up to \$5000 To governor or lt governor candidates individual may give up to \$500, group may give up to \$500, party may give up to \$50,000 To a group individual may give up to \$250, prohibits group to group contributions, prohibits party to group contributions	(NEW 15.13.065) Individual may contribute to group or party. Individual, group or party may contribute to candidate. Party may contribute to sub unit and vice versa (NEW 15.13.074(h)) Companies, unions, trusts, etc may not contribute To legislative, judicial, municipal candidates individual may give up to \$500, group may give up to \$1000, party may give up to \$10,000 to House, \$15,000 to Senate, \$5000 to other candidates To governor or lt governor candidates individual may give up to \$500, group may give up to \$1000, party may give up to \$100,000 To a group individual may give up to \$250, group may give up to \$1000, party may give up to \$1000	Bills are similar. individual or group may contribute to group or party. Individual, group or party may contribute to candidate. Party may contribute to sub unit and vice versa. No similar language Bills are similar or same. Bills are similar or same Bills are similar or same

SEC.	SUBJECT--INITIATIVE	SENATE--CSSB 191(STA) (3/20-VERSION K)	HOUSE--CSHB 368(JUD) (3/27-VERSION K)
	To political party: individual may give up to \$5000; prohibits group to party contributions, prohibits party to party contributions	To political party: Individual may give up to \$5000, group may give up to \$1000, allows party to party contributions	Bills are similar or same.
	Non-resident Contributions Prohibited	(NEW 15 30 072(a)(b) Limited to: \$20,000 for governor, Lt. governor, \$4000 Senate, \$2000 House.	Bills are similar... \$20,000 for governor, Lt governor; \$3000 Senate; \$2000 House, municipal or other candidates
	Lobbyist's Contributions Prohibited outside of lobbyist's district	(NEW 15 13 074(f) Similar to initiative.	Bills are similar or same.
	When Contributions Can Be Accepted Candidate can accept money 11 months before, and 30 days after, election.	(NEW 15 13 074) Shortens fund-raising prior to election: governor=Jan. 1 of election year; legislature=June 1 of election year, others=5 months before election. Lengthens to 45 days after election.	Bills are similar or same.
	Honoraria, Contributions, Sessions Prohibits contributions or honoraria during sessions. No honoraria after filing	(NEW 15 13 155) Honoraria language modified (NEW 15 13 074(c) Allows governor and Lt governor to raise funds during sessions (NEW 15 13 072(e) No solicitation during sessions for legislative incumbents	Bills are similar or same Bills are similar or same Bills are similar or same
	Miscellaneous Provisions Re: Contributions and Expenditures Candidate can contribute "any sum" to candidate's own campaign	(NEW 15 13 078(a) Similar to initiative.	Bills are similar or same
	No cash contributions over \$25	(NEW 15 13 074(e) No cash contributions over \$100	Bills are similar or same
	No similar provision.	NEW 15 13 074(g) Candidates for governor, Lt governor may not contribute to other candidates from Jan. 1 through general election	No similar provision
	No cash expenditures over \$100 unless written receipt is obtained for APOC	(NEW 15 13 082(a) Similar to initiative.	Bills are similar or same
	No anonymous contributions, expenditures. Immediate return	(NEW 15 13 074 & 084) Similar to initiative. NEW 15 13 114) Similar to initiative	Bills are similar or same Bills are similar or same
	Contributions can be received and expenditures made only by candidate, treasurer or deputy	(NEW 15 13 086) Similar to initiative. (NEW 15 13 076) Similar to initiative	Bills are similar or same.

SEC.	SUBJECT-INITIATIVE	SENATE--CSSB 191(STA) (3/20-VERSION K)	HOUSE--CSHB 368(JUD) (3/27-VERSION K)
	<p>Every expenditure must be disclosed.</p> <p>APOC to index every 5 years.</p>	<p>(NEW 15.13.082(b) Similar to initiative</p> <p>Deleted.</p>	<p>Bills are similar or same.</p> <p>Deleted.</p>
6	<p>Loans From Family or Candidate Family loan up to \$1000 is not a contribution and need not be repaid. Over \$1000 is contribution.</p> <p>No similar provision.</p> <p>Prohibited Use of Funds Personal benefit, personal income, loans, fines, other candidates, exceed FMV.</p> <p>Disbursement of Assets After Election To pay bills; \$500 for thank you party, donation to political party, G.F., federal government, charity, repay loans; legal fees, runoffs. Property retained may not exceed \$2500. No carry forward of funds.</p> <p>Independent Expenditures Regarding Ballot Propositions Permitted in accordance with law.</p> <p>Independent Expenditures For or Against Candidates Permitted for individual or group. Must be reported. Limited in what contributions can be accepted. Disclaimer required.</p> <p>Educational Activities Permitted in accordance with law.</p> <p>Use of Public Funds Prohibited re. candidates. Allowed for ballot propositions if specifically appropriated or for non-partisan information. Must report.</p>	<p>(NEW 15.13.078) Candidate can give or loan any amount, reported as contribution. Limited recovery.</p> <p>(NEW 15.13.078(c) No personal contribution of more than \$5000 at end of campaign.</p> <p>(NEW 15.13.112) Similar to initiative</p> <p>(NEW 15.13.116) Similar to initiative but authorizes pro rata repayment to contributors, carry forward of \$50,000 for governor, \$10,000 Senate, \$5000 House or other candidates; transfer to office use of \$5000 House, \$20,000 Senate. Property retained may not exceed \$2500 plus computer.</p> <p>(NEW 15.13.140) Similar to initiative</p> <p>(NEW 15.13.135 & 137) Similar to initiative</p> <p>(NEW 15.13.150) Similar to initiative</p> <p>(NEW 15.13.145) Similar to initiative</p>	<p>Bills are similar or same.</p> <p>Bills are similar or same.</p> <p>Bills are similar or same.</p> <p>Bills are similar... HB 368 limits Senate carry forward to \$7500; limits Senate transfer to office use to \$10,000. No computer reference.</p> <p>Bills are similar or same.</p> <p>Bills are similar or same.</p> <p>Bills are similar or same.</p> <p>Bills are similar or same.</p>

SEC.	SUBJECT--INITIATIVE	SENATE--CSSB 191(STA) (3/20-VERSION K)	HOUSE--CSHB 368(JUD) (3/27-VERSION K)
7	Contributor's Statement Mandatory for \$1000 aggregate in last 90 days of election. Copy to candidate.	(AMEND 15.13.010) Maintains \$1000 but deletes copy to candidate.	Bills are similar or same.
8	Reports to APOC Clarifies that group and deputy must report like candidate.	(AMEND 15.13.110 (b)(c) Similar to initiative but removes requirement that expenditures be reported on 24-hour reports.	Bills are similar or same.
9	Penalty for Violation Misdemeanor penalty repealed	Repealed in Sec. 27.	Bills are similar or same.
10	Citizen Suits Any person (including APOC) may sue in superior court within 2 years or file complaint with APOC within 4 years	(R & R 15.13.120(d) Person must file complaint with APOC first. APOC has 60 days to respond.	Bills are similar. APOC has 90 days to initiate and 120 days to respond.
11	Civil Penalties Establishes sliding scale tier to aggravating and mitigating factors. Increases penalties over existing law. Allows treble penalties, fees and costs to be assessed.	(AMEND 15.13.125) Omits sliding scale and raises dollar penalties. (NEW 15.13.125(b-f) Sets out penalty-assessment instructions.	Bills are similar or same. Bills are similar or same.
12	Other Laws and Severability Construe to avoid federal conflict. Each word-section is severable If court says persons other than individuals can contribute, this chapter still binds.	(Sec. 28 Uncodified) Similar to initiative. (Sec. 30 Uncodified) Similar to initiative. (Sec. 29 Uncodified) Similar to initiative.	Bills are similar or same. Bills are similar or same. Bills are similar or same.
13	Definition of "Candidate" Candidate=treasurer, deputy, family, agent, group, etc.	(NEW 15.13.400) Similar to initiative	Bills are similar or same.
14	Definition of "Group" Includes any combination of individuals <u>organizing</u> or acting to influence election	(NEW 15.13.400) Similar to initiative	Bills are similar or same.
15	Definitions Added to Sec. .130 Defines: Commission, Honorarium, Immediate Family, Independent Expenditure, Political Party	(NEW 15.13.400) Defines all 11 items except Honorarium. Adds 'Publicly Funded Entity'. Adds 'Minor Party,' 'Subordinate Unit' and 'Affiliated Organization' to definition of Political Party.	Bills are similar. HB 368 adds 'Group' to definition of person; omits 'affiliated organization' in definition of Political Party.

SEC.	SUBJECT-INITIATIVE	SENATE--CSSB 191(STA) (3/20-VERSION K)	HOUSE--CSHB 368(JUD) (3/27-VERSION K)
16	Serious Violations 'Intentional' violation becomes Class C felony, 'knowing' becomes Class A misdemeanor, 'reckless' becomes \$1000 maximum.	(NEW 15.56) Reduces felony penalties by one level from initiative so that most severe penalty is Class A misdemeanor for 'intentional,' B for 'knowing.'	Bills are similar. HB 368 rewords section at request of Dept. of Law.
17	Loss of Business License Violation means loss of business license plus possible other penalties.	(NEW 15.56.018) Similar to initiative.	Bills are similar. HB 368 rewords section at request of Dept. of Law.
18	For-Profit Lobbyists May not deliver or raise funds.	(AMEND 24 25 121(A)(8) Similar to initiative.	Bills are similar or same.
19	Effective Date Immediate if enacted by legislature Determined by Constitution if approved by voters (NOTE: AS 15.45 220 says an initiative becomes law 90 days after certification)	January 1, 1997 !	Bills are similar. HB 368 makes July 1, 1996 the effective date for 15 13.112(b)(1 & 2) personal use of campaign funds.
NA	Printed Material Disclaimer for Ballot Proposition Initiative silent.	(AMEND 15.13 040'd) Exempts from reporting printed-material expenditures less than \$250 re ballot propositions. Result of <u>McIntyre v. Ohio Elections Commission</u>	Bills are similar or same.
NA	Disclaimer for Independent Expenditures Initiative silent.	(NEW 15 13 090(b) Adds exemption due to <u>McIntyre</u> as noted above	Bills are similar or same.
NA	Contribution Between Political Party and Subordinate Unit Party to party contributions prohibited.	(NEW 15 13 065) Contributions between political party and subordinate unit are authorized.	Bills are similar or same.
NA	Deadline for Candidates Losing Primary to Receive and Expend Funds Initiative silent.	(NEW 15 13 074(c)(4)(B) Allows losing primary candidates to receive and expend 45 days after primary.	Bills are similar or same.
NA	Charitable Gaming Initiative silent.	(AMENDS 05 15 150(a) Only proceeds from raffles can support campaigns, parties, groups	Bills are similar or same.
NA	Conditional Effect Initiative silent.	(Uncodified) Either the bill or the initiative may become law, not both	Bills are similar or same.

HOUSE CS FOR CS FOR SENATE BILL NO. 191(FIN) am H

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 5/5/96

Offered: 5/4/96

Sponsor(s): SENATORS KELLY, Phillips

REPRESENTATIVES James, Kohring, Therriault, B.Davis

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to election campaigns, election campaign financing, the
2 oversight and regulation of election campaigns, the activities of lobbyists that
3 relate to election campaigns, the definitions of offenses of campaign misconduct,
4 and to the use of the net proceeds of charitable gaming activities in election
5 campaigns; and providing for an effective date."

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * **Section 1.** FINDINGS AND PURPOSE. (a) The legislature finds that, under existing
8 laws,

9 (1) campaigns for elective public office last too long, are often uninformative,
10 and are too expensive;

11 (2) highly qualified citizens are dissuaded from running for public office due
12 to the high cost of election campaigns;

13 (3) organized special interests are responsible for raising a significant portion

1 of all election campaign funds and may thereby gain an undue influence over election
2 campaigns and elected officials, particularly incumbents;

3 (4) incumbents enjoy a distinct advantage in raising money for election
4 campaigns, and many elected officials raise and carry forward huge surpluses from one
5 campaign to the next, to the disadvantage of challengers;

6 (5) because, under existing laws, candidates are completely free to convert
7 campaign funds to personal income, there is great potential for bribery and political
8 corruption; and

9 (6) penalties for violations of the existing campaign finance laws are far too
10 lenient to deter misconduct.

11 (b) It is the purpose of this Act to substantially revise Alaska's election campaign
12 finance laws in order to restore the public's trust in the electoral process and to foster good
13 government.

14 * **Sec. 2.** AS 05.15.150(a) is amended to read:

15 (a) The authority to conduct the activity authorized by this chapter is
16 contingent upon the dedication of the net proceeds of the charitable gaming activity
17 to the awarding of prizes to contestants or participants and to political, educational,
18 civic, public, charitable, patriotic, or religious uses in the state. "Political, educational,
19 civic, public, charitable, patriotic, or religious uses" means uses benefiting persons
20 either by bringing them under the influence of education or religion or relieving them
21 from disease, suffering, or constraint, or by assisting them in establishing themselves
22 in life, or by providing for the promotion of the welfare and well-being of the
23 membership of the organization within their own community, or through aiding
24 candidates for public office or groups that support candidates for public office, or by
25 erecting or maintaining public buildings or works, or lessening the burden on
26 government, but does not include

27 (1) the direct or indirect payment of any portion of the net proceeds of
28 a bingo or pull-tab game to a lobbyist registered under AS 24.45; [OR]

29 (2) the erection, acquisition, improvement, maintenance, or repair of
30 real, personal, or mixed property unless it is used exclusively for one or more of the
31 permitted uses; or

1 (3) the direct or indirect payment of any portion of the net
2 proceeds of a charitable gaming activity, except the proceeds of a raffle and
3 lottery,

4 (A) to aid candidates for public office or groups that
5 support or oppose candidates for public office;

6 (B) to a political party or to an organization affiliated with
7 a political party; or

8 (C) to a group, as that term is defined in AS 15.13.400, or
9 a political group, as that term is defined in AS 15.60, that seeks to
10 influence the outcome of an election.

11 * **Sec. 3.** AS 15.13.010(a) is amended to read:

12 (a) This chapter applies

13 (1) in every election for governor, lieutenant governor, a member of the
14 state legislature, a delegate to a constitutional convention, or judge seeking electoral
15 confirmation;

16 (2) [. IT ALSO APPLIES] to every candidate for election to a
17 municipal office in a municipality with a population of more than 1,000 inhabitants
18 according to the latest United States census figures or estimates of population certified
19 as correct for administrative purposes by the Department of Community and Regional
20 Affairs **unless the municipality has exempted itself from the provisions of this**
21 **chapter; a** [. A] municipality may exempt its elected municipal officers from the
22 requirements of this chapter if a majority of the voters voting on the question at a
23 regular election, as defined by AS 29.71.800(20), or a special municipality-wide
24 election called for that purpose, **votes** [VOTE] to exempt its elected municipal officers
25 from the requirements of this chapter; **the** [. THE] question of exemption from the
26 requirements of this chapter may be submitted by the governing body by ordinance or
27 by initiative election. [THIS CHAPTER DOES NOT PROHIBIT A MUNICIPALITY
28 FROM REGULATING BY ORDINANCE CAMPAIGN CONTRIBUTIONS AND
29 EXPENDITURES.]

30 * **Sec. 4.** AS 15.13.010 is amended by adding new subsections to read:

31 (c) This chapter does not prohibit a municipality from regulating by ordinance

1 election campaign contributions and expenditures in municipal elections, or from
2 regulating those campaign contributions and expenditures more strictly than provided
3 in this chapter.

4 (d) This chapter does not limit the authority of a person to make contributions
5 to influence the outcome of a voter proposition submitted to the public for a vote at
6 a municipal election. In this subsection, in addition to its meaning under
7 AS 15.13.065(c), "proposition" means a municipal reclassification, proposal to adopt
8 or amend a home rule charter, a unification proposal, a boundary change proposal, or
9 the approval of an ordinance when approval by public vote is a requirement for the
10 ordinance.

11 * **Sec. 5.** AS 15.13.040(a) is amended to read:

12 (a) **Except as provided in (g) of this section, each** [EACH] candidate shall
13 make a full report, upon a form prescribed by the commission, listing the date and
14 amount of all expenditures made by the candidate, the total amount of all
15 contributions, including all funds contributed by the candidate, and for all contributions
16 in excess of \$100 in the aggregate a year, the name, address, principal occupation, and
17 employer of the contributor and the date and amount contributed by each contributor.
18 The report shall be filed in accordance with AS 15.13.110 and shall be certified correct
19 by the candidate or campaign treasurer.

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

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

24 (1) any contribution of cash, goods, or services valued at more than
25 \$250 a year to any group or candidate; or

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

30 * **Sec. 7.** AS 15.13.040 is amended by adding new subsections to read:

31 (g) The provisions of (a) of this section do not apply if a candidate

1 (1) indicates, on a form prescribed by the commission, an intent not to
2 raise and not to expend more than \$2,500 in seeking election to office, including both
3 the primary and general elections;

4 (2) accepts contributions totaling not more than \$2,500 in seeking
5 election to office, including both the primary and general elections; and

6 (3) makes expenditures totaling not more than \$2,500 in seeking
7 election to office, including both the primary and general elections.

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

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

12 (2) are made only for billboards, signs, or printed material concerning
13 a ballot proposition as that term is defined by AS 15.13.065(c).

14 * **Sec. 8.** AS 15.13.050 is amended to read:

15 Sec. 15.13.050. **REGISTRATION BEFORE EXPENDITURE** [GROUPS].

16 **(a) Before** [EACH GROUP, BEFORE] making an expenditure **in support** [ON
17 BEHALF] of [,] or in opposition to [,] a candidate or **before making an expenditure**
18 **in support of or in opposition to a ballot proposition or question, each person**
19 **other than an individual** [A CONTRIBUTION TO A CANDIDATE] shall register,
20 on forms provided by the commission, with the commission.

21 **(b) If a** [THE] group intends to support [OR OPPOSE] only one candidate, or
22 to contribute to or expend on behalf of [, OR IN OPPOSITION TO,] one candidate
23 **33 1/3** [50] percent or more of its funds, the name of the candidate shall be a part of
24 the name of the group. **If the group intends to oppose only one candidate, or to**
25 **contribute its funds in opposition to or make expenditures in opposition to a**
26 **candidate, the group's name must clearly state that it opposes that candidate by**
27 **using a word such as “opposes”, “opposing”, “in opposition to”, or “against”, in**
28 **the group's name.** Promptly upon receiving the registration, the commission shall
29 notify the candidate of the group’s organization and intent.

30 * **Sec. 9.** AS 15.13 is amended by adding new sections to read:

31 Sec. 15.13.065. CONTRIBUTIONS. (a) Individuals, groups, and political

1 parties may make contributions to a candidate. An individual or group may make a
2 contribution to a group or to a political party.

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

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

- 12 (1) a constitutional convention shall be called;
- 13 (2) a debt shall be contracted;
- 14 (3) an advisory question shall be approved or rejected; or
- 15 (4) a municipality shall be incorporated.

16 Sec. 15.13.067. WHO MAY MAKE EXPENDITURES. Only the following
17 may make an expenditure in an election for candidates for elective office:

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

21 * **Sec. 10.** AS 15.13.070 is repealed and reenacted to read:

22 Sec. 15.13.070. LIMITATIONS ON AMOUNT OF POLITICAL
23 CONTRIBUTIONS. (a) An individual or group may make contributions, subject only
24 to the limitations of this chapter and AS 24.45, including the limitations on the
25 maximum amounts set out in this section.

26 (b) An individual may contribute not more than

- 27 (1) \$500 per year to a candidate, to an individual who conducts a write-
28 in campaign as a candidate, or to a group that is not a political party;
- 29 (2) \$5,000 per year to a political party.

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

- 32 (1) to a candidate, or to an individual who conducts a write-in

1 campaign as a candidate; or

2 (2) to another group or to a political party.

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

5 (1) \$100,000 per year, if the election is for governor or lieutenant
6 governor;

7 (2) \$15,000 per year, if the election is for the state senate;

8 (3) \$10,000 per year, if the election is for the state house of
9 representatives; and

10 (4) \$5,000 per year, if the election is for

11 (A) delegate to a constitutional convention;

12 (B) judge seeking retention; or

13 (C) municipal office.

14 * **Sec. 11.** AS 15.13 is amended by adding new sections to read:

15 Sec. 15.13.072. RESTRICTIONS ON SOLICITATION AND ACCEPTANCE
16 OF CONTRIBUTIONS. (a) A candidate or an individual who has filed with the
17 commission the document necessary to permit that individual to incur election-related
18 expenses under AS 15.13.100 may not solicit or accept a contribution from

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

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

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

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

27 (b) A candidate or an individual who has filed with the commission the
28 document necessary to permit the individual to incur election-related expenses under
29 AS 15.13.100, or a group, may not solicit or accept a cash contribution that exceeds
30 \$100.

31 (c) An individual, or one acting directly or indirectly on behalf of that

1 individual, may not solicit or accept a contribution

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

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

6 (d) A candidate or an individual who has filed with the commission the
7 document necessary to permit that individual to incur election-related expenses under
8 AS 15.13.100 may not solicit or accept a contribution if the legislature is convened in
9 a regular or special legislative session, and the candidate or individual is a member of
10 the legislature, or employed as a member of the legislator's staff or as a member of
11 the staff of a legislative committee.

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

17 (1) \$20,000, if the candidate or individual is seeking the office of
18 governor or lieutenant governor;

19 (2) \$5,000, if the candidate or individual is seeking the office of state
20 senator;

21 (3) \$3,000, if the candidate or individual is seeking the office of state
22 representative or municipal or other office.

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

28 Sec. 15.13.074. PROHIBITED CONTRIBUTIONS. (a) A person or group
29 may not make a contribution if the making of the contribution would violate this
30 chapter.

31 (b) A person or group may not make a contribution anonymously, using a

1 fictitious name, or using the name of another.

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

3 (1) to a candidate for governor or lieutenant governor or an individual
4 who files with the commission the document necessary to permit that individual to
5 incur certain election-related expenses as authorized by AS 15.13.100 for governor or
6 lieutenant governor, when the office is to be filled at a general election, before the
7 later of the following dates:

8 (A) the date the individual

9 (i) becomes a candidate; or

10 (ii) files with the commission the document necessary
11 to permit the individual to incur certain election-related expenses as
12 authorized by AS 15.13.100; or

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

14 (2) to a candidate for the state legislature or an individual who files
15 with the commission the document necessary to permit that individual to incur certain
16 election-related expenses as authorized by AS 15.13.100 for the state legislature, when
17 the office is to be filled at a general election, while the legislature is convened in its
18 regular legislative session and before the later of the following dates:

19 (A) the date the individual

20 (i) becomes a candidate; or

21 (ii) files with the commission the document necessary
22 to permit the individual to incur certain election-related expenses as
23 authorized by AS 15.13.100; or

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

25 (3) to a candidate or an individual who files with the commission the
26 document necessary to permit that individual to incur certain election-related expenses
27 as authorized by AS 15.13.100 for an office that is to be filled at a special election or
28 municipal election before the later of the following dates:

29 (A) the date the individual

30 (i) becomes a candidate; or

31 (ii) files with the commission the document necessary

1 to permit that individual to incur certain election-related expenses as
2 authorized by AS 15.13.100;

3 (B) is nine months before the date of the general or regular
4 municipal election or that is before the date of the proclamation of the special
5 election at which the candidate or individual seeks election to public office; or

6 (4) to any candidate later than the 45th day

7 (A) after the date of a primary election if the candidate

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

10 (ii) is not opposed at the general election;

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

13 (C) after the date of the general election, or after the date of a
14 municipal or municipal runoff election, if the candidate was opposed at the
15 general, municipal, or municipal runoff election.

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

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

19 (f) A corporation, company, partnership, firm, association, organization,
20 business trust or surety, labor union, or publicly funded entity that does not satisfy the
21 definition of group in AS 15.13.400 may not make a contribution to a candidate or
22 group.

23 (g) An individual required to register as a lobbyist under AS 24.45 may not
24 make a contribution to a candidate for the legislature at any time the individual is
25 subject to the registration requirement under AS 24.45 and for one year after the date
26 of the individual's initial registration or its renewal. However, the individual may
27 make a contribution under this section to a candidate for the legislature in a district in
28 which the individual is eligible to vote or will be eligible to vote on the date of the
29 election. An individual who is subject to the restrictions of this subsection shall report
30 to the commission, on a form provided by the commission, each contribution made
31 while required to register as a lobbyist under AS 24.45. This subsection does not

1 apply to a representational lobbyist as defined in regulations of the commission.

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

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

12 (2) the governor or lieutenant governor, or the group described in this
13 subsection, from making contributions under AS 15.13.116(a)(3)(A).

14 Sec. 15.13.076. AUTHORIZED RECIPIENTS OF CONTRIBUTIONS. A
15 contribution to a

16 (1) candidate may be received only by

17 (A) the candidate; or

18 (B) the candidate's campaign treasurer or a deputy campaign
19 treasurer;

20 (2) group may be received only by the group's campaign treasurer or a
21 deputy treasurer.

22 Sec. 15.13.078. CONTRIBUTIONS AND LOANS FROM THE CANDIDATE.

23 (a) The provisions of this chapter do not prohibit the individual who is a candidate from
24 giving any amount of the candidate's own money or other thing of value to the campaign
25 of the candidate. Donations made by the candidate to the candidate's own campaign
26 shall be reported as contributions in accordance with AS 15.13.040 and 15.13.110.

27 (b) The provisions of this chapter do not prohibit the individual who is a
28 candidate from lending any amount to the campaign of the candidate. Loans made by
29 the candidate shall be reported as contributions in accordance with AS 15.13.040 and
30 15.13.110. However, the candidate may not

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

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

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

4 (i) the legislature; or

5 (ii) delegate to a constitutional convention;

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

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

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

12 (c) On and after the date determined under AS 15.13.110 as the last day of the
13 period ending three days before the due date of the report required to be filed under
14 AS 15.13.110(a)(1) and until the date of the election for which the report is filed, a
15 candidate may not give or loan to the candidate's campaign the candidate's money or
16 other thing of value of the candidate in an amount that exceeds \$5,000.

17 (d) The provisions of this section apply only to the individual who is a
18 candidate, as that term is defined by AS 15.13.400(1)(A), and do not apply to authorize
19 a contribution or loan under this section by an individual described in the definition of
20 the term "candidate" under AS 15.13.400(1)(B).

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

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

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

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

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

2 (A) after the date of a primary election if the candidate

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

5 (ii) is not opposed at the general election;

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

8 (C) after the date of the general election, or after the date of a
9 municipal or municipal runoff election, if the candidate was opposed at the
10 general, municipal, or municipal runoff election.

11 * Sec. 13. AS 15.13.080 is amended to read:

12 Sec. 15.13.080. STATEMENT BY CONTRIBUTOR. (a) Each of the
13 following shall file statements as required by this section:

14 (1) an individual who contributes to a candidate

15 (A) more than [A PERSON OR GROUP CONTRIBUTING TO
16 A CANDIDATE OVER] \$250; or

17 (B) [CONTRIBUTING] goods or services [TO A CANDIDATE]
18 with a value of more than \$250;

19 (2) an individual who, during the period between the 90th day before
20 an election and the date of the election, contributes to more than one group and
21 whose aggregate contributions to all groups, in money or in the value of goods and
22 services, or both, exceed \$1,000 per year [TO INFLUENCE THE ELECTION OF A
23 CANDIDATE SHALL FURNISH THE COMMISSION A SIGNED STATEMENT, ON
24 A FORM MADE AVAILABLE BY THE COMMISSION].

25 (b) An individual required to file a contributor's statement under (a) of this
26 section shall file on a form made available by the commission. The statement must

27 (1) identify the contributor and the candidate and all groups
28 receiving contributions;

29 (2) [SHALL] itemize the contributions and goods; and

30 (3) state that the contributor is not [A PERSON OR GROUP] prohibited
31 by law from contributing and that the contribution consists of funds or property
32 belonging to the contributor and has not been given or furnished by another person or

1 group.

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

7 * Sec. 14. AS 15.13 is amended by adding new sections to read:

8 Sec. 15.13.082. LIMITATIONS ON EXPENDITURES. (a) A candidate or
9 group may not make an expenditure in cash that exceeds \$100 unless the candidate, or
10 the campaign treasurer or deputy campaign treasurer, obtains a written receipt from the
11 person to whom the expenditure is made.

12 (b) A candidate or group may not make an expenditure unless the source of the
13 expenditure has been disclosed as required by this chapter.

14 (c) If a candidate receives a contribution in the form of cash, check, money
15 order, or other negotiable instrument and is subject to being reported to the commission
16 under this chapter, the candidate may neither expend the contribution nor, in the case of
17 a negotiable instrument, convert it to cash unless the candidate, campaign treasurer, or
18 deputy campaign treasurer first records the following information for disclosure to the
19 commission:

20 (1) the name, address, principal occupation, and employer of the
21 contributor; and

22 (2) the date and amount of the contribution.

23 Sec. 15.13.084. PROHIBITED EXPENDITURES. A person may not make an
24 expenditure

25 (1) anonymously, unless the expenditure is

26 (A) paid for by an individual acting independently of any group
27 and independently of any other individual;

28 (B) made to influence the outcome of a ballot proposition as that
29 term is defined by AS 15.13.065(c); and

30 (C) made for

31 (i) a billboard or sign; or

32 (ii) printed material, other than an advertisement made in

1 a newspaper or other periodical;
2 (2) using a fictitious name or using the name of another.

3 Sec. 15.13.086. AUTHORIZED MAKERS OF EXPENDITURES. An
4 expenditure

5 (1) authorized by or in behalf of a candidate may be made only by
6 (A) the candidate; or
7 (B) the candidate's campaign treasurer or a deputy campaign
8 treasurer;

9 (2) authorized by AS 15.13.067(3) by or in behalf of a group may be
10 made only by the group's campaign treasurer.

11 * **Sec. 15.** AS 15.13.090 is amended by adding a new subsection to read:

12 (b) The provisions of (a) of this section do not apply when the advertisement
13 (1) is paid for by an individual acting independently of any group and
14 independently of any other individual;

15 (2) is made to influence the outcome of a ballot proposition as that term
16 is defined by AS 15.13.065(c); and

17 (3) is made for
18 (A) a billboard or sign; or
19 (B) printed material other than an advertisement made in a
20 newspaper or other periodical.

21 * **Sec. 16.** AS 15.13.110(a) is amended to read:

22 (a) Each candidate and group shall make a full report in accordance with
23 AS 15.13.040 for the period ending three days before the due date of the report and
24 beginning on the last day covered by the most recent previous report. If the report is a
25 first report, it shall cover the period from the beginning of the campaign to the date three
26 days before the due date of the report. If the report is a report due February 15, it shall
27 cover the period beginning on the last day covered by the most recent previous report
28 or on the day that the campaign started, whichever is later, and ending on December 31
29 of the prior year. The report shall be filed

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

1 (2) one week before the election;
2 (3) 10 days after the election; and
3 (4) February 15 for expenditures made and contributions received that
4 were not reported during the previous year, **including, if applicable, all amounts**
5 **expended from a legislative office account established under AS 15.13.116(a)(9) and**
6 **all amounts expended from a municipal office account under AS 15.13.116(a)(10),**
7 or when expenditures were not made or contributions were not received during the
8 previous year.

9 * **Sec. 17.** AS 15.13.110(b) is amended to read:

10 (b) Each contribution [OR EXPENDITURE] that exceeds \$250 and that is made
11 within nine days of the election shall be reported to the commission by date, amount, and
12 contributor [OR RECIPIENT] within 24 hours of receipt [OR EXPENDITURE] by the
13 candidate, **group,** [OR] campaign treasurer, **or deputy campaign treasurer.**

14 * **Sec. 18.** AS 15.13.110(c) is amended to read:

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

21 * **Sec. 19.** AS 15.13 is amended by adding new sections to read:

22 Sec. 15.13.112. USES OF CAMPAIGN CONTRIBUTIONS HELD BY
23 CANDIDATE OR GROUP. (a) Except as otherwise provided, campaign contributions
24 held by a candidate or group may be used only to pay the expenses of the candidate or
25 group, and the campaign expenses incurred by the candidate or group, that reasonably
26 relate to election campaign activities, and in those cases only as authorized by this
27 chapter.

28 (b) Campaign contributions held by a candidate or group may not be

- 29 (1) used to give a personal benefit to the candidate or to another person;
30 (2) converted to personal income of the candidate;
31 (3) loaned to a person;
32 (4) knowingly used to pay more than the fair market value for goods or

1 services purchased for the campaign;

2 (5) used to pay a criminal fine;

3 (6) used to pay civil penalties; however, campaign contributions held by
4 a candidate or group may be used to pay a civil penalty assessed under this chapter if
5 authorized by the commission or a court after it first determines that

6 (A) the candidate, campaign treasurer, and deputy campaign
7 treasurer did not cause or participate in the violation for which the civil penalty
8 is imposed and exercised a reasonable level of oversight over the campaign; and

9 (B) the candidate, campaign treasurer, and deputy campaign
10 treasurers cooperated in the revelation of the violation and in its immediate
11 correction; or

12 (7) used to make contributions to another candidate or to a group.

13 Sec. 15.13.114. DISPOSITION OF PROHIBITED CONTRIBUTIONS. (a) A
14 candidate or group that receives and accepts a contribution given in violation of
15 AS 15.13.072 or 15.13.074 shall immediately, upon discovery that the contribution is
16 prohibited, return it to the contributor. A candidate or group that receives and accepts
17 a contribution in excess of the limitation on contributions set out in AS 15.13.070 shall
18 immediately, upon discovery of the prohibited excess contribution, return the excess to
19 the contributor. If the contribution or excess amount cannot be returned in the same
20 form, the equivalent value of the contribution or excess amount shall be returned.

21 (b) An anonymous contribution is forfeited to the state unless the contributor
22 is identified within five days of its receipt. Money that forfeits to the state under this
23 subsection shall be delivered immediately to the Department of Revenue for deposit
24 in the general fund.

25 Sec. 15.13.116. DISBURSEMENT OF CAMPAIGN ASSETS AFTER
26 ELECTION. (a) A candidate who, after the date of the general, special, municipal,
27 or municipal runoff election or after the date the candidate withdraws as a candidate,
28 whichever comes first, holds unused campaign contributions shall distribute the amount
29 held within 90 days. The distribution may only be made to

30 (1) pay bills incurred for expenditures reasonably related to the
31 campaign and the winding up of the affairs of the campaign, and to pay expenditures
32 associated with post-election fund raising that may be needed to raise funds to pay off

1 campaign debts;

2 (2) pay for a victory or a thank you party costing less than \$500, or to
3 give a thank you gift of a value of less than \$50 to a campaign employee or volunteer;

4 (3) make donations, without condition, to

5 (A) a political party;

6 (B) the state's general fund;

7 (C) a municipality of the state; or

8 (D) the federal government;

9 (4) make donations, without condition, to organizations qualified as
10 charitable organizations under 26 U.S.C. 501(c)(3), provided the organization is not
11 controlled by the candidate or a member of the candidate's immediate family;

12 (5) repay loans from the candidate to the candidate's own campaign
13 under AS 15.13.078(b);

14 (6) repay contributions to contributors, but only if repayment of the
15 contribution is made pro rata in approximate proportion to the contributions made
16 using one of the following, as the candidate determines:

17 (A) to all contributors;

18 (B) to contributors who have contributed most recently; or

19 (C) to contributors who have made larger contributions;

20 (7) establish a fund for, and from that fund to pay, attorney fees or
21 costs incurred in the prosecution or defense of an administrative or civil judicial action
22 that directly concerns a challenge to the victory or defeat of the candidate in the
23 election;

24 (8) transfer all or a portion of the unused campaign contributions to an
25 account for a future election campaign; a transfer under this paragraph is limited to

26 (A) \$50,000, if the transfer is made by a candidate for governor
27 or lieutenant governor;

28 (B) \$10,000, if the transfer is made by a candidate for the state
29 senate;

30 (C) \$5,000, if the transfer is made by a candidate for the state
31 house of representatives; and

1 (D) \$5,000, if the transfer is made by a candidate for an office
2 not described in (A) - (C) of this paragraph;

3 (9) transfer all or a portion of the unused campaign contributions to a
4 legislative office account; a transfer under this paragraph is subject to the following:

5 (A) the authority to transfer is limited to candidates who are
6 elected to the state legislature;

7 (B) the legislative office account established under this
8 paragraph may be used only for expenses associated with the candidate's
9 serving as a member of the legislature;

10 (C) all amounts expended from the legislative office account
11 shall be annually accounted for under AS 15.13.110(a)(4); and

12 (D) a transfer under this paragraph is limited to \$5,000
13 multiplied by the number of years in the term to which the candidate is elected;
14 and

15 (10) transfer all or a portion of the unused campaign contributions to
16 a municipal office account; a transfer under this paragraph is subject to the following:

17 (A) the authority to transfer is limited to candidates who are
18 elected to municipal office, including a municipal school board;

19 (B) the municipal office account established under this
20 paragraph may be used only for expenses associated with the candidate's
21 serving as mayor or as a member of the assembly, city council, or school
22 board;

23 (C) all amounts expended from the municipal office account
24 shall be annually accounted for under AS 15.13.110(a)(4); and

25 (D) a transfer under this paragraph is limited to \$5,000.

26 (b) After a general, special, municipal, or municipal runoff election, a candidate
27 may retain the ownership of one computer and one printer and of personal property,
28 except money, that was acquired by and for use in the campaign. The current fair
29 market value of the property retained, exclusive of the computer and printer, may not
30 exceed \$2,500. All other property shall be disposed of, or sold and the sale proceeds
31 disposed of, in accordance with (a) or (c) of this section.

32 (c) Property remaining after disbursements are made under (a) - (b) of this

1 section is forfeited to the state. Within 30 days, the candidate shall deliver the property
2 to the Department of Revenue. The Department of Revenue shall deposit any money
3 received into the general fund and dispose of any other property in accordance with law.

4 * **Sec. 20.** AS 15.13.120(d) is repealed and reenacted to read:

5 (d) A member of the commission, the commission's executive director, or a
6 person who believes a violation of this chapter or a regulation adopted under this chapter
7 has occurred or is occurring may file an administrative complaint with the commission
8 within four years of the date of the alleged violation. If a member of the commission
9 has filed the complaint, that member may not participate as a commissioner in any
10 proceeding of the commission with respect to the complaint. If the commission accepts
11 the complaint and opens a preliminary investigation, it shall do so within 90 days of the
12 filing date of the complaint and shall investigate the complaint. After affording the
13 respondent notice and an opportunity to be heard, if the commission finds that the
14 respondent has engaged in or is about to engage in an act or practice that constitutes or
15 will constitute a violation of this chapter or a regulation adopted under it, the commission
16 shall enter an order requiring the violation to be ceased or to be remedied, and shall
17 assess civil penalties under AS 15.13.125. A commission order may be appealed to the
18 superior court by either the complainant or respondent within 30 days. The commission
19 or the commission's executive director shall promptly report to the attorney general
20 concerning any acts or practices that may constitute violations of this chapter or
21 regulations adopted under this chapter, or concerning the violation of any order of the
22 commission.

23 * **Sec. 21.** AS 15.13.120(e) is repealed and reenacted to read:

24 (e) If the commission does not open a preliminary investigation within 90 days
25 of the filing date of the complaint or complete action on the complaint within 180 days
26 of the filing, the complainant may file a complaint in superior court alleging a violation
27 of this chapter by a respondent in the administrative complaint. The complainant may
28 provide copies of the complaint filed in the superior court to the commission and the
29 attorney general. The state may intervene in a timely manner. A complaint may not be
30 filed in superior court under this subsection if more than two years have elapsed from
31 the date of the alleged violation. This subsection does not create a private cause of
32 action against the commission.

1 * **Sec. 22.** AS 15.13.125 is amended to read:

2 Sec. 15.13.125. CIVIL PENALTY: LATE FILING OF REQUIRED REPORTS.

3 A person who **fails to register when required by AS 15.13.050(a) or who** fails to file
4 a properly completed and certified report within the time required by **AS 15.13.040(d) -**
5 **(f), 15.13.060(b) - (d), 15.13.080(c)** [AS 15.13.040(f)], 15.13.110(a)(1), (3), or (4), **(e),**
6 **or (f)** [OR 15.13.110(f)] is subject to a civil penalty of not more than **\$50** [\$10] a day
7 for each day the delinquency continues as determined by the commission subject to right
8 of appeal to the superior court. A person who fails to file a properly completed and
9 certified report within the time required by AS 15.13.110(a)(2) or 15.13.110(b) is subject
10 to a civil penalty of not more than **\$500** [\$50] a day for each day the delinquency
11 continues as determined by the commission subject to right of appeal to the superior
12 court. **A person who violates a provision of this chapter, except a provision**
13 **requiring registration or filing of a report within a time required as otherwise**
14 **specified in this subsection, is subject to a civil penalty of not more than \$50 a day**
15 **for each day the violation continues as determined by the commission, subject to**
16 **right of appeal to the superior court.** An affidavit stating facts in mitigation may be
17 submitted to the commission by a person against whom a civil penalty is assessed.
18 However, the imposition of the penalties prescribed in this section or in AS 15.13.120
19 does not excuse that person from **registering or** filing reports required by this chapter.

20 * **Sec. 23.** AS 15.13.125 is amended by adding new subsections to read:

21 (b) When an administrative complaint has been filed under AS 15.13.120(d), the
22 commission shall give the respondent due notice and an opportunity to be heard. If, at
23 the conclusion of the hearing, the commission determines that the respondent engaged
24 in the alleged violation, the commission shall assess

- 25 (1) civil penalties under (a) of this section;
26 (2) the commission's costs of investigation and adjudication; and
27 (3) reasonable attorney fees.

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

30 (d) When an action has been filed in the superior court under AS 15.13.120(e),
31 upon proof of the violation, the court shall enter a judgment in the amount of the civil
32 penalty authorized to be collected by (a) of this section.

1 (e) If the commission or superior court finds that the violation was not a repeat
2 violation or was not part of a series or pattern of violations, was inadvertent, was quickly
3 corrected, and had no adverse effect on the campaign of another, the commission or the
4 court may

5 (1) suspend imposition of the penalties; and

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

8 (f) A party who has filed a civil action under AS 15.13.120(e)

9 (1) is not entitled to trial by jury on the civil action;

10 (2) is not entitled to be represented by legal counsel at public expense.

11 * **Sec. 24.** AS 15.13 is amended by adding new sections to read:

12 Sec. 15.13.135. INDEPENDENT EXPENDITURES FOR OR AGAINST
13 CANDIDATES. (a) Only an individual or group may make an independent
14 expenditure supporting or opposing a candidate for election to public office. An
15 independent expenditure supporting or opposing a candidate for election to public
16 office shall be reported in accordance with AS 15.13.040 and 15.13.100 - 15.13.110
17 and other requirements of this chapter.

18 (b) An individual or group who makes independent expenditures for a mass
19 mailing, for distribution of campaign literature of any sort, for a television, radio,
20 newspaper or magazine advertisement, or any other communication that supports or
21 opposes a candidate for election to public office

22 (1) shall comply with AS 15.13.090; and

23 (2) shall place the following statement in the mailing, literature,
24 advertisement, or other communication so that it is readily and easily discernible:

25 This NOTICE TO VOTERS is required by Alaska law. (I/we)
26 certify that this (mailing/literature/advertisement) is not authorized, paid
27 for, or approved by the candidate.

28 Sec. 15.13.140. INDEPENDENT EXPENDITURES FOR OR AGAINST
29 BALLOT PROPOSITION OR QUESTION. (a) This chapter does not prohibit a
30 person from making independent expenditures in support of or in opposition to a ballot
31 proposition or question.

32 (b) An independent expenditure for or against a ballot proposition or question

1 (1) shall be reported in accordance with AS 15.13.040 and 15.13.100 -
2 15.13.110 and other requirements of this chapter; and

3 (2) may not be made if the expenditure is prohibited by AS 15.13.145.

4 Sec. 15.13.145. MONEY OF THE STATE AND ITS POLITICAL
5 SUBDIVISIONS. (a) Except as provided in (b) and (c) of this section, each of the
6 following may not use money held by the entity to influence the outcome of the
7 election of a candidate to a state or municipal office:

8 (1) the state, its agencies, and its corporations;

9 (2) the University of Alaska and its Board of Regents;

10 (3) municipalities, school districts, and regional educational attendance
11 areas, or another political subdivision of the state; and

12 (4) an officer or employee of an entity identified in (1) - (3) of this
13 subsection.

14 (b) Money held by an entity identified in (a)(1) - (3) of this section may be
15 used to influence the outcome of an election concerning a ballot proposition or
16 question, but only if the funds have been specifically appropriated for that purpose by
17 a state law or a municipal ordinance.

18 (c) Money held by an entity identified in (a)(1) - (3) of this section may be
19 used

20 (1) to disseminate information about the time and place of an election
21 and to hold an election;

22 (2) to provide the public with nonpartisan information about a ballot
23 proposition or question or about all the candidates seeking election to a particular
24 public office.

25 (d) When expenditure of money is authorized by (b) or (c) of this section and
26 is used to influence the outcome of an election, the expenditures shall be reported to
27 the commission in the same manner as an individual is required to report under
28 AS 15.13.040.

29 Sec. 15.13.150. ELECTION EDUCATIONAL ACTIVITIES NOT
30 PROHIBITED. This chapter does not prohibit a person from engaging in educational
31 election-related communications and activities, including

- 1 (1) the publication of the date and location of an election;
- 2 (2) the education of students about voting and elections;
- 3 (3) the sponsorship of open candidate debate forums;
- 4 (4) participation in get-out-the-vote or voter registration drives that do
- 5 not favor a particular candidate, political party, or political position;
- 6 (5) the dissemination of the views of all candidates running for a
- 7 particular office.

8 Sec. 15.13.155. RESTRICTIONS ON EARNED INCOME AND
9 HONORARIA. (a) A candidate for the state legislature, for governor, or for
10 lieutenant governor, including an individual campaigning as a write-in candidate for
11 the office, may not

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

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

19 (b) Notwithstanding (a) of this section, a candidate for the state legislature, for
20 governor, or for lieutenant governor, including an individual campaigning as a write-in
21 candidate for the office, may accept a payment for an appearance or speech if the
22 appearance or speech is not connected with the individual's status as a state official or
23 as a candidate.

24 Sec. 15.13.400. DEFINITIONS. In this chapter,

25 (1) "candidate"

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

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

1 limits or prohibits an expenditure, includes

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

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

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

6 (iv) the candidate's campaign committee; and

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

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

11 (3) "contribution"

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

20 (B) does not include

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

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

28 (iii) ordinary hospitality in a home;

29 (4) "expenditure"

30 (A) means a purchase or a transfer of money or anything of
31 value, or promise or agreement to purchase or transfer money or anything of

1 value, incurred or made for the purpose of

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

5 (ii) use by a political party;

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

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

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

13 (5) "group" means

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

16 (B) any combination of two or more individuals acting jointly
17 who organize for the principal purpose to influence the outcome of one or more
18 elections and who take action the major purpose of which is to influence the
19 outcome of an election; a group that makes expenditures or receives
20 contributions with the authorization or consent, express or implied, or under the
21 control, direct or indirect, of a candidate shall be considered to be controlled
22 by that candidate; a group whose major purpose is to further the nomination,
23 election, or candidacy of only one individual, or intends to expend more than
24 50 percent of its money on a single candidate, shall be considered to be
25 controlled by that candidate and its actions done with the candidate's
26 knowledge and consent unless, within 10 days from the date the candidate
27 learns of the existence of the group the candidate files with the commission,
28 on a form provided by the commission, an affidavit that the group is operating
29 without the candidate's control; a group organized for more than one year
30 preceding an election and endorsing candidates for more than one office or
31 more than one political party is presumed not to be controlled by a candidate;

1 however, a group that contributes more than 50 percent of its money to or on
2 behalf of one candidate shall be considered to support only one candidate for
3 purposes of AS 15.13.070, whether or not control of the group has been
4 disclaimed by the candidate;

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

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

12 (8) "individual" means a natural person;

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

15 (10) "political party" means

16 (A) an organized group of voters that represents a political
17 program and that nominated a candidate for governor who received at least
18 three percent of the total votes cast at any one of the last five preceding general
19 elections for governor; and

20 (B) a subordinate unit of the organized group of voters
21 qualifying as a political party under (A) of this paragraph if, consistent with the
22 rules or bylaws of the political party, the unit conducts or supports campaign
23 operations in a municipality, neighborhood, election district, or precinct;

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

27 * **Sec. 25.** AS 15.56 is amended by adding new sections to read:

28 Sec. 15.56.012. CAMPAIGN MISCONDUCT IN THE FIRST DEGREE. (a)
29 Except as provided in AS 15.56.014 and 15.56.016, a person commits the crime of
30 campaign misconduct in the first degree if the person knowingly engages in conduct
31 that violates a provision of AS 15.13 or a regulation adopted under authority of

1 AS 15.13.

2 (b) Violation of this section is a corrupt practice.

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

4 Sec. 15.56.014. CAMPAIGN MISCONDUCT IN THE SECOND DEGREE.

5 (a) A person commits the crime of campaign misconduct in the second degree if the
6 person

7 (1) knowingly circulates or has written, printed or circulated a letter,
8 circular, or publication relating to an election, to a candidate at an election, or an
9 election proposition or question without the name and address of the author appearing
10 on its face;

11 (2) except as provided by AS 15.13.090(b), knowingly prints or
12 publishes an advertisement, billboard, placard, poster, handbill, paid-for television or
13 radio announcement or other communication intended to influence the election of a
14 candidate or outcome of a ballot proposition or question without the words "paid for
15 by" followed by the name and address of the candidate, group or individual paying for
16 the advertising or communication and, if a candidate or group, with the name of the
17 campaign chair;

18 (3) knowingly writes or prints and circulates, or has written, printed and
19 circulated, a letter, circular, bill, placard, poster or advertisement in a newspaper, on
20 radio or television

21 (A) containing false factual information relating to a candidate
22 for an election;

23 (B) that the person knows to be false; and

24 (C) that would provoke a reasonable person under the
25 circumstances to a breach of the peace or that a reasonable person would
26 construe as damaging to the candidate's reputation for honesty, integrity, or the
27 candidate's qualifications to serve if elected to office.

28 (b) Violation of this section is a corrupt practice.

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

30 Sec. 15.56.016. CAMPAIGN MISCONDUCT IN THE THIRD DEGREE. (a)

31 A person commits the crime of campaign misconduct in the third degree if

1 (1) the person violates a provision of AS 15.13 or a regulation adopted
2 under AS 15.13; or

3 (2) during the hours the polls are open and after election judges have
4 posted warning notices as required by AS 15.15.170 or at the required distance in the
5 form and manner prescribed by the chief municipal elections official in a local
6 election, the person is within 200 feet of an entrance to a polling place, and

7 (A) violates AS 15.15.170; or

8 (B) circulates cards, handbills, or marked ballots, or posts
9 political signs or posters relating to a candidate at an election or election
10 proposition or question.

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

12 Sec. 15.56.018. APPLICABILITY OF CAMPAIGN MISCONDUCT
13 PROVISIONS. (a) For purposes of AS 15.56.012(a) and 15.56.016(a)(1), each day
14 a violation continues constitutes a separate offense.

15 (b) When a person is convicted of violating AS 15.56.012, in addition to
16 imposition of a sentence as authorized by AS 12.55.015, notwithstanding
17 AS 12.55.015(c), the court shall order suspension, for a period of one year, of any
18 license held by the defendant that allows the defendant to do business in the state.

19 Sec. 15.56.019. DEFINITION. In AS 15.56.012 - 15.56.018, the term
20 "knowingly" has the meaning given in AS 11.81.900(a).

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

22 (a) A lobbyist may not

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

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

27 (3) intentionally deceive or attempt to deceive any public official with
28 regard to any material fact pertinent to pending or proposed legislative or
29 administrative action;

30 (4) cause or influence the introduction of a legislative measure solely
31 for the purpose of thereafter being employed to secure its passage or its defeat;

1 (5) cause a communication to be sent to a public official in the name
2 of any fictitious person or in the name of any real person, except with the consent of
3 that person;

4 (6) accept or agree to accept any payment in any way contingent upon
5 the defeat, enactment, or outcome of any proposed legislative or administrative action;

6 (7) serve as a member of a state board, or commission, if the lobbyist's
7 employer may receive direct economic benefit from a decision of that board or
8 commission;

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

19 (9) offer, solicit, initiate, facilitate, or provide to or on behalf of a
20 person covered by AS 24.60, during a legislative session, a gift, other than food or
21 beverage for immediate consumption;

22 (10) make or offer a gift or a campaign contribution whose acceptance
23 by the person to whom it is offered would violate AS 24.60.

24 * **Sec. 27.** AS 24.60.031(b) is amended to read:

25 (b) In this section, "contribution" has the meaning given in **AS 15.13.400**
26 [AS 15.13.130].

27 * **Sec. 28.** AS 15.13.120(a), 15.13.130; AS 15.56.010, and 15.56.020 are repealed.

28 * **Sec. 29.** CONSTRUCTION AND APPLICATION. Each provision of this Act shall be
29 construed to avoid a conflict with any federal law that, under the United States Constitution,
30 prevails over the state provision.

31 * **Sec. 30.** APPLICABILITY OF AS 15.13 TO PERSONS OTHER THAN INDIVIDUALS.

1 If a court determines that, under the federal or state constitutions, persons who are not
2 individuals must be allowed to contribute to candidates or groups, then the requirements,
3 monetary limitations, and restrictions of AS 15.13 are applicable to those persons.

4 * **Sec. 31.** SEVERABILITY. Under AS 01.10.030, if any provision of this Act, or the
5 application thereof to any person or circumstance, is held invalid, the remainder of this Act
6 and the application to other persons or circumstances is not affected thereby.

7 * **Sec. 32.** CAMPAIGN ASSET BALANCE HELD ON EFFECTIVE DATE OF THIS
8 SECTION. A person who was a candidate as that term is defined by AS 15.13.400, added
9 by sec. 24 of this Act, and who, on the effective date of this section, holds unused campaign
10 contributions obtained while the person was a candidate and before the effective date of this
11 section may, notwithstanding AS 15.13.116, added by sec. 19 of this Act, retain those unused
12 campaign contributions for a future election campaign. The person's use of the campaign
13 contribution balance in a future election campaign makes those unused campaign contributions
14 subject to the provisions of AS 15.13.010 - 15.13.400 relating to the use of campaign
15 contributions, including AS 15.13.116, added by sec. 19 of this Act, relating to disbursement
16 of campaign assets after election at the conclusion of that future election campaign.

17 * **Sec. 33.** TAKING EFFECT OF ACT MADE CONDITIONAL. (a) Sections 1 - 32 of
18 this Act take effect only if, under art. XI, sec. 4, Constitution of the State of Alaska, and
19 AS 15.45.210, the lieutenant governor determines that secs. 1 - 32 of this Act are substantially
20 the same as the law proposed to be enacted by the Initiative entitled "An Initiative relating to
21 election campaign financing and the Alaska Public Offices Commission; and providing for an
22 effective date," identified by the division of elections as Initiative Petition 95 CFPO, filed with
23 the lieutenant governor by the Initiative sponsors under AS 15.45.140 on December 15, 1995.

24 (b) In addition to the requirements of (a) of this section, sec. 12 of this Act takes
25 effect only if a court order is entered and becomes final declaring that the dates set out in
26 AS 15.13.074(c), as enacted by sec. 11 of this Act, as the dates before which campaign
27 contributions may not be accepted, are unconstitutional.

28 * **Sec. 34.** If sec. 12 of this Act takes effect, it takes effect on the day after the date a court
29 order described in sec. 33(b) of this Act becomes final.

30 * **Sec. 35.** If secs. 1 - 11 and 13 - 32 of this Act take effect, they take effect January 1,
31 1997.

1 * **Sec. 36.** Section 33 of this Act takes effect immediately under AS 01.10.070(c).