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1942 – 2009

September 10, 2020

**Via Email and Certified Mail:** [atamagni@alaska.net](mailto:atamagni@alaska.net)

Tracking No. 7020 0090 0001 5524 0913

Alfred L. Tamagni, Sr., Chair  
Alaska Personnel Board  
7110 Oakwood Drive  
Anchorage, Alaska 99507

Re: Executive Branch Ethics Act – Sweet Complaint  
Our File: 2684-6

Dear Mr. Tamagni:

The State of Alaska Personnel Board retained the undersigned to serve as Independent Counsel in regard to a complaint made by Renata Sweet under the Executive Branch Ethics Act, AS 39.52 *et. seq.* (“Ethics Act”) involving Governor Dunleavy. Ms. Sweet’s complaint alleges that advertising paid for by the Office of the Governor of Alaska improperly advanced a political agenda using State money in violation of the Executive Branch Ethics Act.<sup>1</sup> Based upon Independent Counsel’s review of the complaint and the statutory language of the Ethics Act, it is Counsel’s opinion that a portion of this advertising campaign, both digital and in print, constitutes a violation of AS 39.52.120(b)(6). A summary of the referenced complaint and analysis under the Ethic Act is provided below.

## **I. FACTUAL BACKGROUND**

### **A. Complaint**

On July 12, 2019, Renata Sweet emailed a complaint to the Alaska Attorney General alleging that Alaska Governor Michael Dunleavy violated the Alaska Executive Branch Ethics Act by paying for a Facebook advertisement which Ms. Sweet believed advanced a political agenda.<sup>2</sup> Ms. Sweet sent an additional email to Maria Bahr, dated July 21, 2019, attaching an Anchorage Daily News article about the Governor’s ad spending and asked to add the information in the article to her original ethics complaint.<sup>3</sup> On August 15, 2019 Independent Counsel sent Ms. Sweet a letter informing her that because her complaint was not made under oath it was insufficient to meet the threshold requirements of AS

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<sup>1</sup> Exhibit A (Email from Renata Sweet to Kevin Clarkson dated July 12, 2019).

<sup>2</sup> *Id.*

<sup>3</sup> Exhibit A at 3.

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39.52.110(b). Counsel asked that Ms. Sweet provide a sworn complaint within 10 days of the receipt of the letter. Ms. Sweet provided a sworn affirmation that her previous correspondence was true on August 19, 2019,<sup>4</sup> and Independent Counsel began its investigation. Ms. Sweet was not interviewed as part of this investigation because the information upon which she based her complaint was all publicly available.

**B. Investigation**

Independent Counsel reviewed the materials provided by Ms. Sweet, the Facebook pages “Cap Government Spending,”<sup>5</sup> “Restore the PFD,”<sup>6</sup> and “Repeal SB91,”<sup>7</sup> and the ad library and ad details for those three pages. All three Facebook pages were created and are maintained by the Office of the Governor.<sup>8</sup> After a review of the complaint and Facebook advertising, Counsel determined that the complaint alleged facts that, if true, could constitute a violation of the Executive Branch Ethics Act. Therefore, in accordance with AS 39.52.310(f) Counsel sent a letter and a copy of the complaint to Governor Dunleavy on September 10, 2019. This letter informed Governor Dunleavy that he had a right to respond in writing to the complaint.

Counsel included a list of specific questions relevant to Counsel’s investigation in the September 10, 2019 letter. Independent Counsel asked whether government funds were used to pay for Facebook pages, Facebook advertising, or physical mailers and whether state time, property, or equipment was used to create, edit, distribute or otherwise work on these the pages, advertising, or mailers. Counsel also requested copies of supporting documentation.

Governor Dunleavy retained counsel and requested additional time to respond to the questioned posed by Counsel. This request for an extension was granted and the Governor provided his written response by the agreed upon deadline of December 9, 2019.<sup>9</sup> Independent Counsel reviewed the Governor’s responses as well as documents provided in support thereof and performed additional factual investigation detailed more fully below.

On January 16, 2020, Independent Counsel sent a follow-up letter to Governor Dunleavy asking questions about the material provided with Governor Dunleavy’s December 9, 2019 response letter. Counsel asked whether any group or entity other than the Office of the Governor was involved in the “Cap Government Spending,” “Restore the PFD,” and “Repeal SB91” Facebook pages. Counsel also inquired about the purpose of the “petitions” linked in some of the Facebook ads and the use of the information obtained from those “petitions.”

Governor Dunleavy provided his supplemental response on February 7, 2020 through his attorney, Brewster Jamieson, indicating that only the Office of the Governor was involved with the three

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<sup>4</sup> Exhibit B (Sworn statement of Renata Sweet dated August 19, 2019).

<sup>5</sup> <https://www.facebook.com/CapSpending>

<sup>6</sup> <https://www.facebook.com/RestorePFD>

<sup>7</sup> <https://www.facebook.com/MakeAlaskaSafe>

<sup>8</sup> Exhibit C (Letter from Brewster Jamison to John Tiemessen dated December 9, 2019) at 3.

<sup>9</sup> *Id.*

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Facebook pages and that there were no entities, organizations, or groups named “Cap Government Spending,” “Restore the PFD,” and “Repeal SB91.”<sup>10</sup> The Governor’s response also explained that the petitions were used to gather constituent information and were not used to petition the government or to advocate for policies referenced therein. Attorney Jamieson also agreed to provide screenshots of the “petitions” to Independent Counsel. Those screenshots were provided on March 5, 2020.

During the time that Independent Counsel was corresponding with Governor Dunleavy’s attorney, counsel also performed extensive legal and factual research. Legal research included a review of Legislative History of the Executive Branch Ethics Act and its companion legislation, the Legislative Ethics Act, the legislative history of the 1998 ethics case which served as a catalyst for the 1998 amendments to both Acts, past Personnel Board decision, statute, regulations, regulatory opinions, case law, and the Alaska Constitution. Counsel reviewed state training and guidance available on the State of Alaska website related to the Executive Branch Ethics act. Counsel also reviewed all of the briefing and court orders issued in the case *Recall Dunleavy v. State of Alaska, Division of Elections and Gail Fenumiai*, Case No. 3AN-19-10903 and *State of Alaska, Division of Elections and Gail Fenumiai v. Recall Dunleavy*, Supreme Court No. S-17706 (argued March 25, 2020 and awaiting decision).

For factual research, Counsel studied information about the representatives featured in the Facebook advertisements including their backgrounds, voting records, political affiliations, election filings, and similar matters. Counsel also conducted a detailed review of the Facebook pages run by the Governor’s office as well as the advertisements purchased through those pages. Counsel also searched for other similar social media accounts, communications, or advertisements created or paid for by the Office of the Governor.

Counsel reviewed all of the Facebook advertisements paid for by the Office of the Governor. These advertisements can be roughly grouped into seven categories for analysis: 1) ads requesting that the viewer contact their legislative representative; 2) ads requesting that the viewer sign a petition in support of a proposed piece of legislation or in support of a policy position; 3) ads requesting that the viewer attend an event; 4) ads thanking legislators for how they chose to vote on issues; 5) ads criticizing legislators for how they chose to vote on issues; 6) ads requesting that the viewer provide legislative testimony; and 7) ads publicizing an achievement by the Governor. In addition to the online Facebook ads, two paper mailers were sent out by the office of the Governor through the United States Postal Service thanking individual legislators for the way they voted on a number of issues. A third paper mailer was produced but never mailed.<sup>11</sup>

According to Facebook records, the Governor’s office spent \$3,312 on advertisements associated with the Cap Government Spending Facebook page,<sup>12</sup> \$8,173 on advertisements associated with the Repeal SB 91 Facebook page,<sup>13</sup> and \$18,902 on advertisements associated with the Restore the PFD Facebook page.<sup>14</sup> A total of \$30,387 was spent on Facebook ads.<sup>15</sup> The paper mailers sent out by the Governor’s

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<sup>10</sup> Exhibit D (Letter from Brewster Jamieson to John Tiemessen dated February 7, 2020).

<sup>11</sup> See Exhibit E (invoices for printing and postage).

<sup>12</sup> Exhibit F (Facebook advertising library for Cap Government Spending).

<sup>13</sup> Exhibit G (Facebook advertising library for Repeal SB 91).

<sup>14</sup> Exhibit H (Facebook advertising library for Restore the PFD).

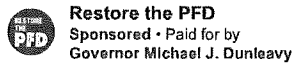
<sup>15</sup> Exhibits F, G & H.

office cost \$1,944.54, \$1,722.01, and \$1057.56.<sup>16</sup> The mailer regarding Representative Costello was printed but never distributed.<sup>17</sup> A total of \$4,724.11 was spent on mailers.

The Governor acknowledged that State of Alaska staff time was used to develop and deploy these advertising campaigns both online and in print.<sup>18</sup> According to the Governor's response to the Complaint, employees of the Office of the Governor under the direction of the Communications Director designed and posted the Facebook ads.<sup>19</sup> The Governor's Office did not keep detailed contemporaneous timesheets of time spent on this project. The Governor estimated that each original design would take up to 1-2 hours of staff time, with each subsequent modification of that design taking only a few minutes.<sup>20</sup>

A sample of the different types of Facebook Advertisements purchased by the Governor's Office are as follows:

"Contact Your Representative" Facebook Advertisements



**Restore the PFD**  
Sponsored • Paid for by  
Governor Michael J. Dunleavy

Your full \$3,000 PFD is under attack. A full PFD is essential to the rural cash economy. Contact your representative and senator right away and ask him or her to follow the law and vote for a full PFD: [www.akgov.us/cyl](http://www.akgov.us/cyl)



Contact Your Elected Officials  
Support a full PFD by sending a letter to your elected officials.  
[FS9.FORMSITE.COM](http://FS9.FORMSITE.COM)



**Restore the PFD**  
Sponsored • Paid for by Governor  
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**PFD ALERT: Legislators need to know you support a full PFD. Use this tool to contact your elected official now: <https://akgov.us/cyl>**



Contact Your Elected Officials  
Support a full PFD by sending a letter to your elected officials.  
[FS9.FORMSITE.COM](http://FS9.FORMSITE.COM)



**Restore the PFD**  
Sponsored • Paid for by Governor  
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The Senate has proposed a full \$3,000 PFD, but sadly the House Majority has proposed a \$0 PFD. With just days left in the legislative session, Alaskans need to take immediate action. Use this handy tool to tell lawmakers you want...



"Sign the Petition" Facebook Advertisements

<sup>16</sup> Exhibit E.

<sup>17</sup> *Id.* at 2.

<sup>18</sup> Exhibit C.

<sup>19</sup> *Id.* at 3.

<sup>20</sup> Exhibit C at 5.



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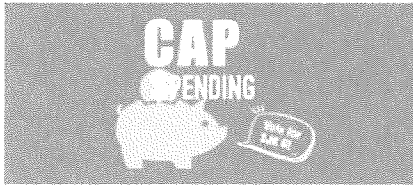
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**Cap Government Spending**  
Sponsored • Paid for by Office of  
the Governor of Alaska

Limiting the size of the state budget respects Alaskans who are fiscally-responsible with their own money. Add your name to the petition to cap government spending.

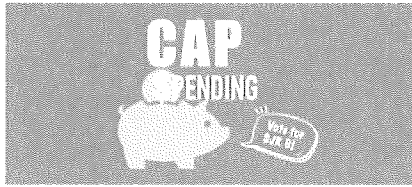


[Sign Up](#)



**Cap Government Spending**  
Sponsored • Paid for by Office of  
the Governor of Alaska

**SIGN THE PETITION:** If you believe we need to cap government spending, now is the time to tell your local officials.



[Sign the Petition](#)

[Sign Up](#)

Event Invitation Facebook Advertisements



**Restore the PFD**  
Sponsored • Paid for by Governor  
Michael J. Dunleavy

Governor Dunleavy needs your help. Join Alaskans and rally for a full \$3,000 PFD this year.



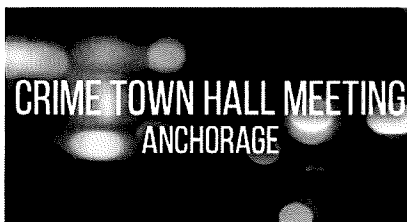
THU, JUN 6, 2019  
Rally to Restore the PFD  
Everett's  
Rally to Restore the PFD

[View Event](#)



**Repeal SB91**  
Sponsored • Paid for by Governor  
Mike Dunleavy

Join Lieutenant Governor Kevin Meyer and State of Alaska public safety professionals in Anchorage to share your story of how crime has affected your life and community.



Loussac Public Library,

[View Event](#)

“Thank You” Facebook Advertisements

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**Cap Government Spending**  
Sponsored • Paid for by Office of  
the Governor of Alaska

Thank Rep. Merrick for voting to cut the budget and keep government spending in check. She's a fighter for a permanent fiscal plan. Email [rep.kelly.merrick@akleg.gov](mailto:rep.kelly.merrick@akleg.gov) or call her office at (907) 694-8944 and say 'thank you'!

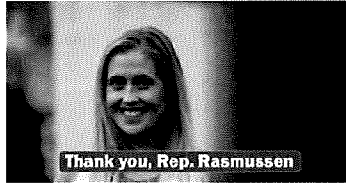


[See Ad Details](#)



**Cap Government Spending**  
Sponsored • Paid for by Office of  
the Governor of Alaska

Thank Rep. Rasmussen for voting to cut the budget and keep government spending in check. She's a fighter for a permanent fiscal plan. Email [rep.sara.rasmussen@akleg.gov](mailto:rep.sara.rasmussen@akleg.gov) or call her office at (907) 465-3892...



[See Ad Details](#)



**Cap Government Spending**  
Sponsored • Paid for by Office of  
the Governor of Alaska

Thank Rep. Revak for voting to cut the budget and keep government spending in check. He's a fighter for a permanent fiscal plan. Email [rep.josh.revak@akleg.gov](mailto:rep.josh.revak@akleg.gov) or call his office at (907) 465-3879 and say 'thank you'!



[See Ad Details](#)

Targeted Facebook Advertisements



**Restore the PFD**  
Sponsored • Paid for by  
Governor Michael J. Dunleavy

A few short years ago, Representative Tammie Wilson was a champion of the PFD. Now she wants to cut the PFD for future generations to pay for government. Contact her office at (907) 465-4797 and tell her ther...



Legislative Testimony Request Facebook Ads

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**Restore the PFD**  
Sponsored • Paid for by Governor  
Michael J. Dunleavy

Not every legislator agrees that Alaskans deserve a full PFD.... At 1:30pm tomorrow, the Senate Finance Committee is taking public testimony on Governor Dunleavy's bills to pay a full PFD. Call (907) 563-9085 to tell...



**Restore the PFD**  
Sponsored • Paid for by Governor  
Michael J. Dunleavy

Today, the House introduced HB 1005. This is a bait-and-switch bill that provides a full PFD this year, but cuts the PFD in half next year and years after. In the morning, lawmakers want to hear if the public supports this bill. At 9am, call (90...

Facebook Ads Publicizing an Achievement by the Governor



**Repeal SB91**  
Sponsored • Paid for by Governor  
Mike Dunleavy

Alaska is a much safer place now that Governor Mike Dunleavy has signed House Bill 49 and repealed the failed SB91.

Learn more at:  
<http://akgov.us/127fd>

A sample of the two mailers sent out using the US Postal Service are as follows:





## II. LAW & ANALYSIS

A complaint filed under the Executive Branch Ethics Act requires Independent Counsel retained by the Personnel Board to determine whether the conduct alleged, if true, would violate the Ethics Act.<sup>21</sup> If Independent Counsel concludes that the allegations in the complaint, if true, would not constitute a violation of the Ethics Act, Counsel must dismiss the complaint with notice to the complainant and to the subject of the complaint.<sup>22</sup> If Counsel determines that the conduct alleged would constitute a violation of the Ethics Act, Counsel will accept the complaint for investigation, and determine whether there is probable cause to believe that a knowing violation of the Ethics Act occurred and cannot be corrected.<sup>23</sup> If Counsel finds that there is probable cause to believe that a knowing violation occurred, Counsel will initiate formal proceedings.<sup>24</sup>

### A. Law and Legal Background

#### 1. Relevant Sections of the Alaska Executive Branch Ethics Act

The Ethics Act provides, in relevant part:

##### **39.52.010. Declaration of policy.**

(a) It is declared that

(1) high moral and ethical standards among public officers in the executive branch are essential to assure the trust, respect, and confidence of the people of this state;

<sup>21</sup> AS 39.52.310(d).

<sup>22</sup> *Id.*

<sup>23</sup> AS 39.52.350(a).

<sup>24</sup> *Id.*

- (2) a code of ethics for the guidance of public officers will
  - (A) discourage those officers from acting upon personal or financial interests in the performance of their public responsibilities;
  - (B) improve standards of public service; and
  - (C) promote and strengthen the faith and confidence of the people of this state in their public officers;
- (3) holding public office or employment is a public trust and that as one safeguard of that trust, the people require public officers to adhere to a code of ethics;
- (4) a fair and open government requires that executive branch public officers conduct the public's business in a manner that preserves the integrity of the governmental process and avoids conflicts of interest;
- (5) in order for the rules governing conduct to be respected both during and after leaving public service, the code of ethics must be administered fairly without bias or favoritism;
- (6) no code of conduct, however comprehensive, can anticipate all situations in which violations may occur nor can it prescribe behaviors that are appropriate to every situation; in addition, laws and regulations regarding ethical responsibilities cannot legislate morality, eradicate corruption, or eliminate bad judgment; and
- (7) compliance with a code of ethics is an individual responsibility; thus all who serve the state have a solemn responsibility to avoid improper conduct and prevent improper behavior by colleagues and subordinates.

**39.52.110. Scope of Code**

(a) The legislature reaffirms that each public officer holds office as a public trust, and any effort to benefit a personal or financial interest through official action is a violation of that trust. In addition, the legislature finds that, so long as it does not interfere with the full and faithful discharge of an officer's public duties and responsibilities, this chapter does not prevent an officer from following other independent pursuits. The legislature further recognizes that

- (1) in a representative democracy, the representatives are drawn from society and, therefore, cannot and should not be without personal and financial interests in the decisions and policies of government;
- (2) people who serve as public officers retain their rights to interests of a personal or financial nature; and



(3) standards of ethical conduct for members of the executive branch need to distinguish between those minor and inconsequential conflicts that are unavoidable in a free society, and those conflicts of interest that are substantial and material.

(b) Unethical conduct is prohibited, but there is no substantial impropriety if, as to a specific matter, a public officer's

(1) personal or financial interest in the matter is insignificant . . . ; or

(2) action or influence would have insignificant or conjectural effect on the matter.

(c) The Attorney General, designated supervisors, hearing officers, and the personnel board must be guided by this section when issuing opinions and reaching decisions.

**39.52.120. Misuse of official position**

(a) A public officer may not use, or attempt to use, an official position for personal gain, and may not intentionally secure or grant unwarranted benefits or treatment for any person.

(b) A public officer may not

\* \* \*

(3) use state time, property, equipment, or other facilities to benefit personal or financial interests;

\* \* \*

(6) use or authorize the use of state funds, facilities, equipment, services, or another government asset or resource for partisan political purposes . . . in this paragraph 'for partisan political purposes'

(A) means having the intent to differentially benefit or harm a

(i) candidate or potential candidate for elective office, or

(ii) a political party or group,

(B) but does not include having the intent to benefit the public interest at large through the normal performance of official duties.

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In this chapter, unless the context requires otherwise,

...

(3) “benefit” means anything that is to a person’s advantage or self-interest, or from which a person profits, regardless of the financial gain, including any dividend, pension, salary, acquisition, agreement to purchase, transfer of money, deposit, loan or loan guarantee, promise to pay, grant, contract, lease, money, goods, service, privilege, exemption, patronage, advantage, advancement, or anything of value;

...

(9) “financial interest” means

(A) an interest held by a public officer or an immediate family member, which includes an involvement or ownership of an interest in a business, including a property ownership, or a professional or private relationship, that is a source of income, or from which, or as a result of which, a person has received or expects to receive a financial benefit;

(B) holding a position in a business, such as an officer, director, trustee, partner, employee, or the like, or holding a position of management;

...

(10) “gain” includes actual or anticipated gain, benefit, profit, or compensation;

...

(18) “personal interest” means an interest held or involvement by a public officer, or the officer’s immediate family member or parent, including membership, in any organization, whether fraternal, nonprofit, for profit, charitable, or political, from which, or as a result of which, a person or organization receives a benefit;

### **III. ANALYSIS**

Independent Counsel reviewed all of the Facebook advertisements purchased in support of the Facebook pages titled “Cap Government Spending,” “Restore the PFD,” and “Repeal SB91” as well as the physical mailers sent by the Office of the Governor.<sup>25</sup> This advertising campaign consisted of ads advancing the Governor’s policy goals and in many cases encouraging the public to advocate for those goals as well. There are a number of ways Independent Counsel could view these advertisements under

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<sup>25</sup> All of these advertisements, both electronic and physical, will be referred to collectively herein as the “advertising campaign.”

the Executive Branch Ethics Act.<sup>26</sup> However, because this ad campaign contained a mix of advertisements some of which were non-partisan public interest ads, some of which were partisan political ads, and some of which fell somewhere in-between, Independent Counsel viewed each ad in isolation and made separate determinations as to each based on the individual content rather than consider the advertising campaign as a whole and impute intent from one ad to others.

Based on this methodology, Independent Counsel finds that six of seven categories of advertisements do not violate the Executive Branch Ethics Act. Counsel further finds that one category of advertisements as well as the physical mailers violate the Act. An analysis of these findings are divided into “non-violations” and “violations” and discussed in more detail below.

### **A. Non-Violations**

1. ***Policy Communications***: “Contact your Representative” Facebook Advertisements; Legislative Testimony Request Advertisements; Event Invitation Advertisements.

AS 39.52.120(b)(6) prohibits the use of state funds, facilities, equipment, services, or other government assets or resources for “partisan political purposes.”<sup>27</sup> According to AS 39.52.20(a)(6), for the purposes of this statute “partisan political purposes” means having an intent to benefit or harm a candidate, potential candidate, political party, or political group.<sup>28</sup> Ms. Sweet’s ethics complaint alleges that these ads have a partisan political purpose.<sup>29</sup> Governor Dunleavy argues that the purpose of these ads was to “communicate with Alaskans through a series of social media advertisements and mailers aimed at policy issues, critical to the wellbeing of every Alaskan, that were then pending before the legislature.”<sup>30</sup>

These advertisements targeted one of three issues: the Alaska Permanent Fund Dividend, Alaska’s budget, and SB91, a criminal justice reform bill. The advertisements informed constituents of the Governor’s policy agenda and asked constituents to voice their support of the Governor’s position.

While an issue or position on an issue may be associated to some degree with a particular political party or ideology, advocating in favor of or against an issue does not, without more, evidence an intent to benefit or harm a candidate, political party, or political group. One of the Governor’s responsibilities is to advocate for the adoption of policies and to see that they are implemented to the fullest extent possible during the Governor’s term. Part of this process includes communicating with constituents regarding policy goals, legislative priorities, and fiscal concerns. Independent Counsel cannot find that

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<sup>26</sup> Counsel could consider all of the advertisements, both physical and online, together as one single advertising campaign with the content and intent of each ad attributed to ad campaign as a whole; Counsel could analyze the advertisements in groups according to their associated Facebook pages, i.e. “Restore the PFD,” “Cap Government Spending,” and “Repeal SB 91”; or Counsel could examine the advertisements according to the type of message being communicated.

<sup>27</sup> AS 39.52.120(a)(6)

<sup>28</sup> AS 39.52.120

<sup>29</sup> Exhibit A.

<sup>30</sup> Exhibit C at 3.

these communications, even on “hot button” issues, are intended for “partisan political purposes” as that term is defined in AS 39.52.120(b)(6) without additional evidence of an intent to benefit or harm a specific political candidate, party, or group. Were it otherwise, any policy communication made by the Governor on government time or using government resources would constitute an Ethics Act violation. Such a reading is far too restrictive and is inconsistent with the policy goals stated in AS 39.52.010.

Independent Counsel therefore finds that as to the advertisements inviting constituents to contact their representative about a specific issue before the legislature, asking constituents to exercise their Constitutional right to testify before the legislature, or inviting constituents to an event being held to support the Governor’s position on an issue before the legislature, there is no evidence of a “partisan political purpose” and therefore these advertisements do not violate AS 39.52.120(b)(6).

**2. Policy Communications:** “Sign the Petition” Facebook Advertisements

Independent Counsel next considers a group of advertisements communicating a policy position and asking individuals to sign a “petition” in support of that position. On initial review these ads appear to communicate the Governor’s policy and allow individuals an opportunity to petition their government and offer their own opinions.<sup>31</sup> However, the Governor’s attorney’s correspondence with Independent Counsel indicates that these “petitions” were only used to gather constituent information and were not used to directly petition the legislature or to advocate for the subject policies in any manner.<sup>32</sup> Further, an excel spreadsheet disclosed by the Governor listing the ad purchases made by the Governor’s office refers to these petition ads as “lead generation.”<sup>33</sup> “Lead generation” is a business term which means “the action or process of identifying and cultivating potential customers for a business’s products or services.”<sup>34</sup> A curated lead list may have value to the Governor’s office for use in future targeted communications with self-selected groups of citizenry.

There is insufficient evidence to conclude that these “petition” ads were intended to differentially benefit or harm a candidate, potential candidate, political party, or political group.<sup>35</sup> There is also currently no indication that the resulting lead list has been sold or distributed outside of the Governor’s office or that it is being used for personal gain by any individual. Therefore, while Counsel cannot conclude that these ads violate AS 39.52.120 in this particular instance, Counsel cautions that under certain circumstances, the future *use* of the mailing lists could rise to level of a violation of AS 39.52.120(a) or (b)(6).

Counsel therefore recommends that the Governor’s office be cognizant of AS 39.52.120(b)(6) if it decides to use the lead list it generated from this advertising campaign for any future partisan political purpose. Counsel further cautions that the distribution of this lead list outside of the Office of the Governor could potentially impart an unwarranted benefit on the recipient of the list in violation of AS

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<sup>31</sup> Exhibit I (Screenshots of “petitions”)

<sup>32</sup> Exhibit D at 2.

<sup>33</sup> Exhibit M (Cap Government Spending ad spreadsheet).

<sup>34</sup> Oxford English Dictionary (2020)

<sup>35</sup> AS 39.52.120(b)(6).

39.52.120(a). Counsel directs the Governor’s office to consult with their Ethics supervisor prior to such uses.

**3. *Communications Regarding Individuals*:** Targeted Facebook Advertisements, Advertisements Publicizing Achievements by the Governor.

Independent Counsel next considers two categories of advertisements that fall somewhere in between non-partisan policy communications addressed in this section and partisan political communications discussed below. These two types of ads include ads targeting a particular legislator, such as Representative Tammie Wilson, and ads extolling the achievements of the Governor in fulfilling policy goals. “Partisan political purposes” means having intent to benefit or harm a candidate, potential candidate, political party, or political group.<sup>36</sup> Governor Dunleavy argues that the ads were communications with constituents about policy matters pending before the legislature.<sup>37</sup>

The advertisement critical of Representative Wilson regarding her position on the Permanent Fund Dividend appears to have the dual intent of advancing the Governor’s policy on the PFD while also harming through criticism a legislator who disagrees with that position. Representative Wilson was not, however, running for office at the time this advertisement was published and had not yet filed a statement of intent for the 2020 election. Therefore, Independent Counsel cannot fairly conclude that an ad targeting her specifically about her views on a policy issue had the intent to benefit or harm a candidate, potential candidate, political party, or group. Independent Counsel cautions, however, that had the facts been slightly different and had Ms. Wilson filed a letter of intent like Representatives Revak and Rasmussen (discussed further below) this analysis may have resulted in a different conclusion. However, under the facts as they presently exist, Independent Counsel finds that this ad does not evidence a “partisan political purpose” and therefore does not constitute a violation of AS 39.52.120(b)(6).

The Governor’s office also ran an advertisement which stated that “Alaska is a much safer place now that Governor Mike Dunleavy has signed House Bill 49 and repealed the failed SB91.” This ad purports to focus on the Governor’s policy but in reality, focuses as much on the Governor himself as it does on the legislation. There is very little if any public benefit in communicating in such general and conclusory terms about legislation that is already passed into law. Were this same ad paid for with public funds and run after the Governor became a candidate for office it could also constitute a violation of AS 39.52.120(b)(6). However, because there is no evidence that this ad had a “partisan political purpose” as defined by statute at the time it was published, Independent Counsel finds no violation of the Executive Branch Ethics Act. Again, counsel would advise the Governor to discuss the use of public funds with his designated ethics supervisor, the Attorney General, before spending public funds on such advertisements after declaring his candidacy.

**B. Violations**

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<sup>36</sup> AS 39.52.120

<sup>37</sup> Exhibit C at 3.



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Upon review of the law and the specific facts before Counsel, Counsel finds that one area of advertising purchased and created by the Governor’s Office constitutes a violation of the Ethics Act under AS 39.52.120(b)(6).

The Governor acknowledges that State funds as well as State employees and resources were used to create and disseminate both the Facebook advertisements and the printed mailers. Therefore the only question that remains is whether this use Government resources was done for a “partisan political purpose” in violation of the Executive Branch Ethics Act. Specifically, the question is whether the intent of these ads was to benefit a candidate for elective office. Counsel finds that, although there may have been a mixed intent by the Governor, at least a portion of the intent was to benefit declared candidates for elective office. Thus, these advertisements and mailers constitute a violation of the Ethics Act.

**1. *Communications benefitting candidates or potential candidates for state office:*** “Thank You” Facebook Advertisements.

The Facebook advertisements offering thanks and praising the recent voting record of Representatives Merrick, Revak, and Rasmussen violate AS 39.52.120(b)(6) as to at least Representatives Revak and Rasmussen. The physical mailers thanking and praising the voting record of Representatives Costello, Merrick and Revak violate AS 39.52.120(b)(6) as to Representative Revak.

AS 39.52.120(b)(6) prohibits the use of state funds, facilities, equipment, services, or other government assets or resources for partisan political purposes.<sup>38</sup> “Partisan political purposes” means having an intent to benefit or harm a candidate, potential candidate, political party, or group.<sup>39</sup> Governor Dunleavy argues that these advertisements were intended to communicate “directly with Alaskans on issues of public concern.”<sup>40</sup> He further asserts that there can be no partisan political purpose in advertising that does not occur in an election year or mention any election.<sup>41</sup> In contrast, a Legislative Services opinion drafted on May 20, 2019 asserts that these advertisements had a partisan political purpose because the House Majority Caucus constitutes a “political party” or “political group” for the purposes of AS 39.52.120.<sup>42</sup>

Counsel does not agree that either position accurately interprets the Ethics Act. The Governor’s interpretation of AS 39.52.120(b)(6) is too narrow. Candidates, potential candidates, political parties and political groups exist outside of an election year. Under the Governor’s interpretation, and action would not be a violation on December 31 but would constitute a violation on January 1 of the following year (if it was an “election year.”) Because candidates, political parties, and political groups exist outside of elections, it is possible to form the intent to benefit or harm to these individuals or groups outside of an election year and without mention of an upcoming election.

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<sup>38</sup> AS 39.52.120(a)(6)

<sup>39</sup> AS 39.52.120

<sup>40</sup> Exhibit C at 3.

<sup>41</sup> *Id.* at 5.

<sup>42</sup> Exhibit J (Legislative Counsel opinion) at 3.

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Conversely, Counsel finds that the position taken by Legislative Services Council is too broad. While under some circumstances a House caucus might constitute a political party or political group, the House Majority Caucus under these circumstances does not. Because the Executive Branch Ethics Act does not define the terms “political group” or “political party,” Counsel looks to other closely related statutes for guidance.<sup>43</sup> AS 15.80.010(26) (elections) defines a “political group” as “a group of organized voters which represents a political program and which does not qualify as a political party” and AS 15.80.010(27) (elections) defines “political party” as an organized group of voters that represents a political program...” The House Majority Caucus at the time these advertisements were run was a bipartisan body containing Republicans, Democrats and Independents. It therefore cannot be fairly characterized as representing any single political program or ideology. While Legislative Services Council reaches a contrary conclusion based on the definition of a “caucus” in the abstract, the caucus specifically at issue here does not meet the definition of either a “political party” or a “political group.”

Independent Counsel next turns to section 39.52.120(6)(A)(i) which refers to a “candidate or potential candidate for elective office.” On June 13, 2019 Representative Revak filed a letter of intent to run for office in 2020.<sup>44</sup> Similarly, on June 24, 2019 Representative Rasmussen filed a letter of intent for the 2020 election.<sup>45</sup> Letters of intent are submitted on a form which specifically states that the person filing intends to run as a candidate.<sup>46</sup> Filing a letter of intent stating that a person intends to run for office is sufficient to categorize that person as a “candidate or potential candidate” under AS 39.52.120. The ad for Representative Merrick began running on June 25, 2019 and the ad for Representative Rasmussen began running on June 24, 2019. The mailer for Representative Revak was printed and mailed on or around July 3, 2019.<sup>47</sup> Therefore these ads were circulating online and in print after these Representatives had declared their intent as candidates or potential candidates.<sup>48</sup>

The issue for analysis is whether these advertisements were intended to differentially benefit or harm these representatives. The Facebook ads and mailers highlight these candidates’ policy positions which the Governor’s Office found favorable. By publishing favorable advertising specific to these legislators, the Governor’s office is treating these Representatives different than other Representatives, even other Representatives of the same political party and Representatives with the same voting record on the subject issues.<sup>49</sup> Therefore, it is reasonable to conclude that the advertisements were at least partially

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<sup>43</sup> *Matanuska-Susitna Borough v. Hammond*, 726 P.2d 166, 180 (Alaska 1986). (“When the legislature uses the same term in two closely related statutes, we will normally presume that the legislature intended that term to mean the same thing in both cases.”)

<sup>44</sup> Exhibit K (Revak letter of intent).

<sup>45</sup> Exhibit L (Rasmussen letter of intent).

<sup>46</sup> *Id.*

<sup>47</sup> Exhibit E at 1.

<sup>48</sup> Independent Counsel acknowledges that the distinction between a “candidate or potential candidate” and a non-candidate is imprecise and may fail to include within the category of “candidate or potential candidate” every individual holding a subjective intent to run for office in the next election. Independent Counsel does not suggest that filing with APOC or the FEC is the only way to prove that a person is a “candidate or potential candidate.” However, under these circumstances and for the purposes of this analysis, APOC letters of intent provided the best and most objective evidence of a person’s intent to run for office.

<sup>49</sup> All of the individuals selected for these “Thank You” ads were Republicans all voted yea on the budget and nay on appropriations. However, other Republican Representatives voted in this same combination but did not benefit

intended to differentially benefit these specific representatives. Counsel notes, however, that there is no evidence in the record that the advertisements actually benefited these representatives approximately eighteen months before the 2020 general election.

Finally, AS 39.52.120(b)(6)(B) states that “for partisan political purposes” does not include “having the intent to benefit the public interest at large through the normal performance of official duties.” In his response to these allegations, Governor Dunleavy argues that the purpose of these ads was to “communicate with Alaskans through a series of social media advertisements and mailers aimed at policy issues, critical to the wellbeing of every Alaskan, that were then pending before the legislature.”<sup>50</sup>

Counsel finds that it is possible that these “thank you” advertisements and mailers had a *dual purpose* to both benefit the public at large and to benefit the named representatives through the expenditure of state funds. However, thanking a legislator for a vote that has already occurred does little to advance the public interest or contribute to the dialog on issues facing Alaskans without simultaneously focusing praise on particular individuals who appear to be favored by the Governor. These “thank you” ads are not sufficiently related to a public purpose to overcome their partisan political impact on declared candidates for public office. Because Independent Counsel finds that these particular ads and mailers lack an exclusive public purpose, Counsel does not reach the question of whether they were prepared in the “normal performance of official duties.”<sup>51</sup>

### **C. Governor’s Responsibility for Governor’s Office Advertising**

In his response to Independent Counsel’s investigation letter, Governor Dunleavy, through his attorney, stated that Governor Dunleavy’s personal involvement in this advertising campaign was limited to a single short meeting where he provided general guidance and direction to his communication staff and communicating a specific communication strategy. Governor Dunleavy indicated that he was otherwise uninvolved with the development and implementation of this advertising campaign. This response suggests that the Governor was not directly involved in the creation of each individual advertisement and was perhaps unaware of the specific language used in some of these ads. There is no evidence in the record to suggest that the Governor micromanaged or made edits to any of the materials at issue.

However, the Governor cannot avoid his responsibility to comply with the Ethics Act by providing a general direction or plan and then delegating the execution of that plan to subordinates and staff. Such a conclusion would make the Governor immune from Ethics Act violations unless the Governor

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from favorable advertising paid for by the Governor’s office. Only Representatives Merrick, Rasmussen, and Revak were the subject of these ads.

<sup>50</sup> Exhibit C at 3.

<sup>51</sup> It is possible that one or more of these advertisements or mailers violate Article IX, Section 6 of the Alaska Constitution, violate Alaska Campaign Finance Laws (AS 15.13.010 *et seq*), or violate the Legislative Branch Ethics Act. However, Counsel need only examine these violations if it is necessary to consider the second part of the exception in AS 39.52.120(b)(6)(B). Because no such analysis was necessary for Independent Counsel to reach its conclusion, this question was not considered. Further, Independent Counsel was not retained to investigate violations of laws (or individuals) outside of the Executive Branch Ethics Act and therefore makes no findings as to these other laws.

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personally shepherded a violative course of action from start to finish. This Procrustean interpretation of the Ethics Act is too narrow.

AS 39.52.010(7) states that “compliance with a code of ethics is an individual responsibility; thus all who serve the state have a solemn responsibility to avoid improper conduct and prevent improper behavior by colleagues and subordinates.”<sup>52</sup> While AS 39.52.010 is a statement of policy and not a substantive prohibition, the clear intent of the Ethics Act is that executive officeholders are responsible for their actions that violate the Act, even if some of those actions are ultimately executed by subordinates.

In addition, AS 39.52.120(b)(6) states that a government official may not “use or **authorize the use** of state funds, facilities, equipment, services, or another government asset or resource for partisan political purposes.” Even if a subordinate, acting on behalf of and at the direction of the Governor created the advertising campaign without the Governor’s direct input, it was ultimately the Governor who authorized the use of state funds for this advertising campaign. When approving funds for the purpose of this campaign, the Governor was obligated to ensure that pursuant to AS 39.52.120(b)(6) he was not authorizing the use of funds for advertising which had an improper partisan political purpose.

Governor Dunleavy, through counsel, also argues that he did not commit a ‘knowing’ violation of AS 39.52.120(b)(6) because the development and implementation of the advertising campaign was performed by his staff without his direct input. This argument assumes, however, that AS 39.52.120(b)(6) requires a violation to be “knowing.” It does not. Throughout the Executive Branch Ethics Act a required mental state is articulated in sections where the legislature found it appropriate to do so.<sup>53</sup> AS 39.52.120(b)(6) does not include a specific mental state element in its initial prohibition; it simply states that a government official may not “**use or authorize the use...**” As written, even an inadvertent or negligent use of state funds in an improper manner would violate this section.<sup>54</sup>

The only two places in the Alaska Executive Branch Ethics Act where the mental element of “knowing” is required is in AS 39.52.190 which prohibits “knowingly” aiding another in a violation, and in AS 39.52.350, where a knowing violation of the Ethics Act is one of three separate bases for the initiation of formal proceedings.<sup>55</sup> AS 39.52.350(a) states that:

if the attorney general determines that there is probable cause to believe a knowing violation of this chapter or a violation that cannot be corrected under AS 39.52.330 has occurred, **or** that the subject of a complaint failed to comply with a

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<sup>52</sup> AS 39.52.010(7) (emphasis added).

<sup>53</sup> See e.g. AS 39.52.120(a) (“intentionally”); AS 39.52.130(f) (“knows or reasonably ought to know”); AS 39.52.190 (“knowing”).

<sup>54</sup> One may argue that AS 9.52.120(b)(6)(A) states a mental element of “intent.” However, this mental element describes the criteria used for determining whether a purpose is a partisan political purpose, not whether state funds were used or authorized for that purpose.

<sup>55</sup> AS 39.52.250(a).

recommendation for corrective or preventative action, the attorney general shall initiate formal proceedings...<sup>56</sup>

A knowing violation of the ethics act is one basis for formal proceedings, but is it not a prerequisite for all formal proceedings.<sup>57</sup> The use of the disjunctive “or” in AS 39.52.350 signals the legislature’s intent that all three bases stated therein operate in the alternative; each sufficient on its own to warrant a formal hearing.

Therefore, the question of whether a violation occurred “knowingly” is only relevant in determining whether a matter should be advanced to a full ethics hearing under AS 39.52.350.<sup>58</sup> Under these circumstances and as explained in section E below, Independent Counsel does not believe that the conduct discussed herein currently warrants a hearing under AS 39.52.350. The initiation of formal, public proceedings is the last step in a process designed to discover and remedy ethical violations. At this stage, and as explained more fully below, Independent Counsel believes resolution of this matter is appropriate under AS 39.52.330. Therefore the mental state element of “knowingly” is not relevant to this analysis.

#### **D. Executive Branch Ethics Act**

The purpose of this opinion is two-fold: 1) to investigate and identify potential violations of the Ethics Act; and 2) to assist the State of Alaska in preventing violations or even close calls in the future. At multiple points in this opinion, counsel notes that consultation with designated ethics supervisors and advisory opinions from the Attorney General may have identified potential violations and Counsel directed the Office of the Governor toward a more solid Ethics Act footing.

Many public office holders and their staff are familiar with and comfortable with using social media to communicate with the public. Social media campaigns are inexpensive, do not require the use of advertising professionals, and allow virtually real time communication with the public. However, many of the advantages of social media communications (speed, ease of use, familiarity of the platform for personal, campaign and official communications) make them vulnerable to hasty and ultimately ill-advised communications. The Ethics Act has a built in “pause” button that all persons subject to the Act should consider – the ethics supervisor report and advisory opinion process.

By way of example, had the Governor or his staff asked for an advisory opinion and the Attorney General advised the Office of the Governor to use private funds and outside personnel to fund and design this ad campaign, Counsel’s analysis would have been greatly simplified and there almost

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<sup>56</sup> AS 39.52.350(a) (emphasis added).

<sup>57</sup> *Id.*

<sup>58</sup> AS 39.52.350 states that: “(a) if the attorney general determines that there is probable cause to believe a knowing violation of this chapter or a violation that cannot be corrected under AS 39.52.330 has occurred, or that the subject of a complaint failed to comply with a recommendation for corrective or preventative action, the attorney general shall initiate formal proceedings...” In this statute, a “knowing” violation is one of three possible criteria sufficient to justify the initiation of formal proceedings. However it is not, as the Governor suggests, a mental state required for every violation advanced to formal proceedings.



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certainly would be no violation found. The problem with the violation wasn't the content, it was the fact that public funds were spent producing it. Indeed, had the Governor consulted the Attorney General and the AG recommended the Governor's course of action that actually occurred, the analysis would remain the same but the Governor's actions would have likely been immunized under AS 39.52.240(d) because he was following the advice of the Attorney General advisory opinion. Accordingly, to assist the State of Alaska in preventing these sorts of problems in the future, counsel makes the following observations and recommendations:

The Executive Branch Ethics Act is somewhat Byzantine by design. Any law that walks the fine line between legislating acceptable and unacceptable political actions and speech necessarily will be subject to interpretation. Such interpretation is however incorporated into the Act itself and available to State employees and Executive Branch officials, including the Governor.

The Executive Branch Ethics Act provides that Ethics Supervisors may request a written advisory opinion interpreting the Ethics Act from the Attorney General. These opinions are confidential.<sup>59</sup> The Attorney General is also authorized to offer oral advice if a delay would cause substantial inconvenience or detriment to the requesting party.<sup>60</sup> Versions of opinions without identifying information may be made available to the public.<sup>61</sup>

The Ethics Supervisor for the Governor (with the exception of gift disclosures) is the Attorney General. The Ethics Supervisor for the office of the Governor is Shawn Henderson, Director of Administrative services. When issuing an opinion in this role, the Attorney General is not acting as the supervisor's or the employee's attorney, but as (in the case of the Governor) an Ethics Supervisor or (in the case of an employee of the office of the governor) an ethics advisor to the employee's Ethics Supervisor under the Act.

The Executive Ethics Act makes consultations about Ethics Act issues with the Attorney General confidential, but not attorney-client privileged. The Act specifically immunizes an employee from liability if they are relying on an advisory opinion from the Attorney General (provided there was full disclosure of relevant facts). AS 39.52.240(d).

In the future, Independent Counsel would advise the Governor and the employees of the Office of the Governor to consult with their Ethics Supervisor when faced with a potential application of the Executive Ethics Act. Such consultation may be requested using the form found at: [http://law.alaska.gov/pdf/ethics/FORM\\_EthicsDetermination.pdf](http://law.alaska.gov/pdf/ethics/FORM_EthicsDetermination.pdf). Counsel recommends that individuals consulting their Ethics Supervisor refrain from taking any official action until they have received advice.

***F. Remedy for Violation***

Independent Counsel finds that the "thank you" Facebook advertisements regarding Representatives Revak and Rasmussen as well as the physical mailer regarding Representative Revak are in violation of

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<sup>59</sup> AS 39.52.240(g).

<sup>60</sup> AS 39.52.240(b).

<sup>61</sup> AS 39.52.240(h).

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AS 39.52.120(b)(6). However, Counsel does not believe that these violations were intentional but rather were the result of quick decisions, a nimble social media platform and lack of appropriate staff ethics awareness and supervision. These violations were also caused by the failure of staff to recognize that their actions were perilously close to, and in at least two cases all the way over, the ethical line drawn by the Ethics Act. Counsel does not believe that this conduct warrants a hearing under AS 39.52.360 and instead makes recommendations for action pursuant to AS 39.52.330.<sup>62</sup> Therefore, Counsel recommends that the remedy for this violation consist of reimbursement of the public expenses associated with the violating advertisements.

The precise amount of the expenditure is unknown. Documents provided by the Governor's office and public information made available by Facebook indicate that somewhere between \$2322 and \$3220 is attributable to the violative content. The "Cap Government Spending" web campaign ran the two violating "thank you" ads. Facebook estimates that the Revak ad cost \$500-\$999, and the Rasmussen ad cost \$100-\$499. The Revak mailer cost \$1,722.01 to print and mail according to the invoice disclosed by the Governor. The use of staff time and resources is *de minimus*.

Independent Counsel recommends that the remedy for this violation consist of a rounded average of **\$2,800** reimbursement to the State of Alaska by Governor Dunleavy. Independent Counsel also recommends that the Governor, as well as all employees of the Office of the Governor, study the State of Alaska Department of Law "Ethics Information for Public Employees" website at <http://law.alaska.gov/doclibrary/ethics/EthicsInfo.html> as well as the Self-Guided Ethics Training Power Point Presentation found at <http://law.alaska.gov/doclibrary/ethics.html>. They should certify by e-mail to the Personnel Board that they have done so within sixty days of distribution of this opinion. As noted above, this recommendation is not intended to be punitive; it is intended to provide individuals in the Office of the Governor with a more thorough understanding of the Act than a cursory read would impart.

A settlement agreement reflecting these recommendations has been prepared and signed by the Governor to demonstrate his intent to comply with these recommendations.<sup>63</sup>

#### **IV. CONCLUSION**

Independent Counsel finds that the "thank you" Facebook advertisements regarding Representatives Revak and Rasmussen as well as the physical mailer regarding Representative Revak are in violation of AS 39.52.120(b)(6). Counsel finds no additional violations of the Executive Branch Ethics Act in Governor Dunleavy's advertising campaign that is the subject of Ms. Sweet's ethics complaint. Independent Counsel recommends that Governor Dunleavy reimburse the State of Alaska in the amount of \$2,800 and that both the Governor and his staff review the State of Alaska ethics training materials and certify to the Personnel Board that they have done so within sixty days of the date of distribution of this opinion. .

This investigation is confidential under AS 39.52.340.

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<sup>62</sup> AS 39.52.330.

<sup>63</sup> Exhibit N (Draft Agreement)

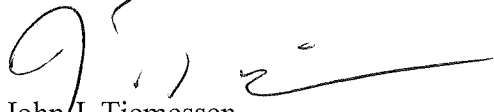
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Please do not hesitate to call with questions or concerns.

Sincerely yours,



John J. Tiemessen

*Direct Line: (907) 479-7707*

*Email: [jjt@cplawak.com](mailto:jjt@cplawak.com)*

Potential Ethics Violation Governor Michael J Dunleavy

Randi Sweet <randisweet252@gmail.com>  
To: attorney.general@alaska.gov

Fri, Jul 12, 2019 at 12:09 PM

Dear Mr. Clarkson:

I am writing to you because you are identified as the Governor's ethics supervisor.

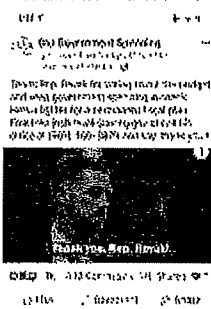
Last night, apparently there was a posting via a Facebook ad by Cap Government Spending indicating it was paid by the Office of the Governor of Alaska. This ad was reposted by a colleague. It is attached for your review.

Ethics concern: The Governor works for all the people of Alaska. He may hold whatever view he wishes. However, state funds should not be used to advance a political agenda, nor should they be used to pay a third party to advance that agenda.

Please review this matter to determine that it is factual and if it is, evaluate it for ethics breach and needed action. I await your determination on this matter.

Thank you,

Renata "Randi" Sweet  
PO Box 804  
Seldovia AK 99663-0804  
907.360.1459



Cap Government Spending FB Ad 2019.07.12.jpg  
56K

1:16

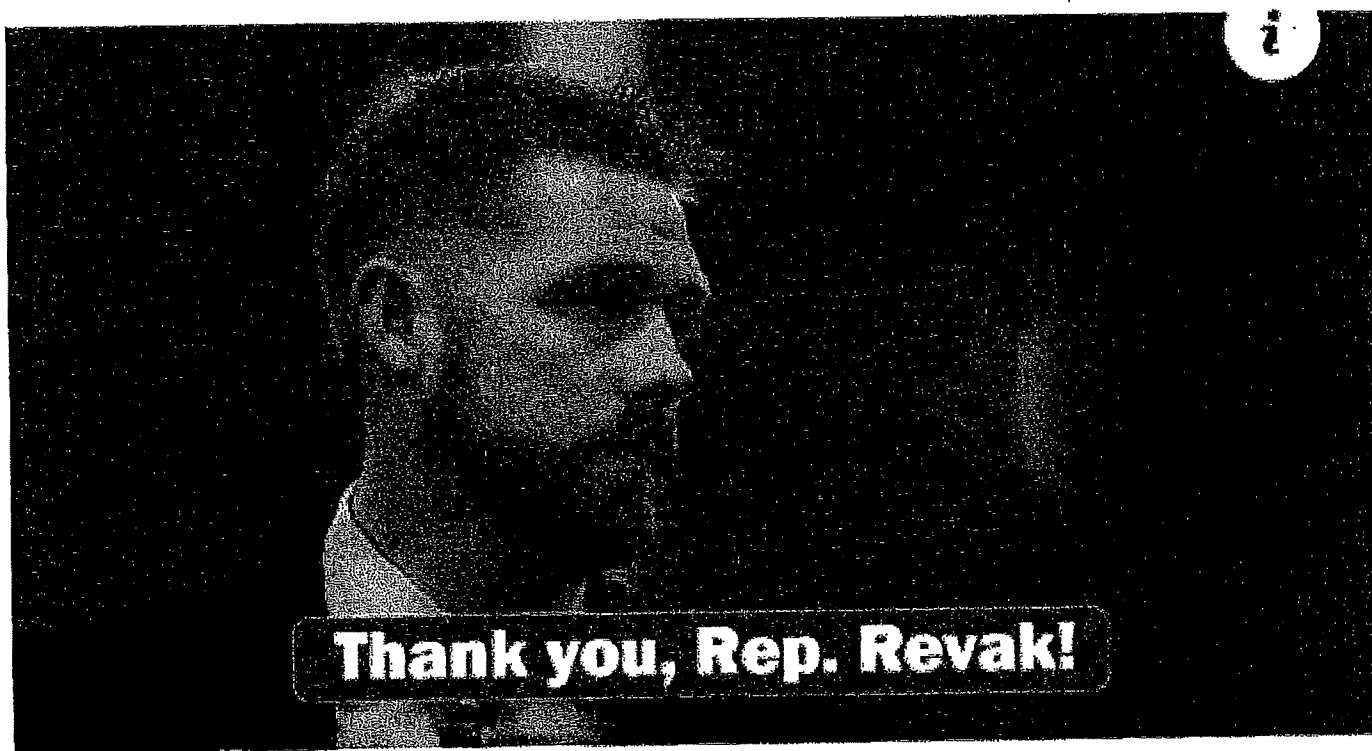


# Cap Government Spending



Sponsored · Paid for by Office of the Governor of Alaska ·

Thank Rep. Revak for voting to cut the budget and keep government spending in check. He's a fighter for a permanent fiscal plan. Email [rep.josh.revak@akleg.gov](mailto:rep.josh.revak@akleg.gov) or call his office at (907) 465-3879 and say 'thank you'!



1.1K 432 Comments 118 Shares

Like Comment Share





Randi Sweet <randisweet252@gmail.com>

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## Potential Ethics Violation Governor Michael J Dunleavy

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Randi Sweet <randisweet252@gmail.com>  
To: "Bahr, Maria Pia L (LAW)" <maria.bahr@alaska.gov>

Sun, Jul 21, 2019 at 1:48 PM

Dear Date Ethics Attorney Bahr:

Have not heard from independent counsel. Can help expedite this matter, given the seriousness of this issue so that an investigation is done promptly and the personnel board is called for a meeting.

In today's Anchorage Daily News on the front page and continued on A-4, article entitled Governor's political ad spending tops \$35,000, there are additional items of concern identified as follows:

- Since February Governor's Office spending on Facebook. \$30,387
- The page "Repeal SB 91" has spent \$8,173
- The page "Cap Government Spending" has spent \$3,312
- "Restore the PFD" has spent \$18,902
- Paper mailers to district represented by Rep Revak and Sen Costello
- Targeting Rep Tammie Wilson and Sen Cathy Glessel.

Please add the information in the ADN article to my original ethics complaint.

Thank you for your assistance.

Randi Sweet  
907.360.1459

[Quoted text hidden]



Randi Sweet <randisweet252@gmail.com>

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**Potential Ethics Violation Governor Michael J Dunleavy**

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Randi Sweet <randisweet252@gmail.com>

Sun, Jul 21, 2019 at 1:53 PM

To: "Bahr, Maria Pia L (LAW)" <marla.bahr@alaska.gov>

Link to article

<https://www.adn.com/politics/2019/07/21/governors-advertising-spending-tops-35000-to-boost-supporters-and-confront-rivals/>

Randi Sweet

[Quoted text hidden]

# ANCHORAGE DAILY NEWS

## Politics

### Governor's spending on ads to boost supporters and confront rivals surpasses \$35,000

✍ Author: James Brooks ⓘ Updated: July 20 📅 Published July 20

JUNEAU — Alaska Gov. Mike Dunleavy has spent more than \$35,000 this year on an online and print advertising campaign to promote his agenda, encourage allies in the Legislature and criticize opponents, according to advertising disclosures by Facebook and figures provided by the governor's office. Earlier this year, the governor's office spent more than \$9,000 on radio ads to encourage public testimony in step with his position on Permanent Fund dividends.

The spending, which is paid for from the accounts of the governor's office, has outraged some lawmakers who contrast the governor's spending with his decision to veto \$444 million from the state's operating budget, citing budget troubles. At least one of the Republican lawmakers targeted for praise from Dunleavy asked the governor's office to take down the ad.

"He's literally taking food and life-saving medicine away from seniors, claiming that we can't afford it, at the same time using public money for political ads," said Rep. Zack Fields, D-Anchorage.

In response to questions about the advertising campaign, Dunleavy press secretary Matt Shuckerow said the ads are intended to inform Alaskans and encourage them to get involved with the state's political process.

"These forms of communication all represent an effort to inform Alaskans on the issues of the day and how best to remain engaged on items of critical importance, including issues such as crime and public safety, the budget, the Permanent Fund Dividend, and a permanent fiscal plan for Alaska," he wrote by email.

*[Earlier coverage: Gov. Mike Dunleavy targets political opponents with state-funded advertising campaign]*

Lawmakers have a different view. They say the ads, which appear to support legislators aligned with the governor's views of the budget, are unprecedented action by a sitting governor.

"Have you ever seen anything like it, Bryce?" asked Senate President Cathy Giessel, R-Anchorage, in a May interview with the Daily News.

"No, not anything like this at all," replied House Speaker Bryce Edgmon, I-Dillingham, in the same interview. "(As) somebody who worked in the Capitol throughout the '90s, and I've been a legislator for well over a decade — I've never seen an administration employ tactics like this, and especially, apparently using state funding to do it."

*[Legislative legal memo challenges legality of governor's political ad]*

Since February, the governor's office has operated three Facebook pages that have spent a combined \$30,387, according to Facebook's advertising disclosure system:

- The page "Repeal SB 91" has spent \$8,173;
- The page "Cap Government Spending" has spent \$3,312;
- and "Restore the PFD" has spent \$18,902.

In an ad that ran through June 24, the PFD page run by the governor's office said, "Lawmakers need to know you support a full PFD this year. Use this tool to contact your elected official now."

The ad linked to a legislative-contact system set up by the governor's office. While Dunleavy has said he supports a dividend paid using the traditional formula in state law, a majority of the Alaska Legislature has voted for a lesser dividend at various points in the year. There remains no agreement on the amount of this year's dividend.

Earlier this year, ads negatively mentioned the dividend stances of Rep. Tammie Wilson, R-North Pole, and Sen. Cathy Giessel, R-Anchorage. Other ads criticized legislation introduced by Wilson that would have required a future change to the Permanent Fund dividend formula in order to pay a traditional dividend this year.

In a series of ads published shortly before Dunleavy announced his budget vetoes, his "Cap Government Spending" Facebook page urged Alaskans to thank Rep. Sara Rasmussen, R-Anchorage; Rep. Josh Revak, R-Anchorage; and Rep. Kelly Merrick, R-Eagle River, for their stances on the state budget.

All three are members of the House Republican minority, and their support is thought to be necessary to undo the governor's vetoes because for any such measure to pass, it would require some members of the minority to vote in favor.

"What an outrageous waste of public money," Fields said. "Clearly there are almost zero Alaskans who support the governor's budget, so he's resorting to spending public money on these misleading ads."

Shuckerow, writing on behalf of the governor's office, said, "The Office of the Governor places a great deal of priority on scarce financial resources, particular in the face of budget deficits, but believes dollars allocated to inform Alaskans are well-spent and are in-line with other efforts and actions taken by Governor's offices."

Merrick said she was not aware of the ads. Revak did not respond to requests for comment through the House minority press secretary or by cellphone.

Rasmussen said, "I was told about it, and I actually messaged (Dunleavy's) chief of staff, and I said I really appreciated their support but it didn't make sense given the state's financial situation."

She said she asked the governor's office to take down the ads, and according to Facebook, they were.

After the vetoes, the governor's office began sending paper mailers to voters in the district represented by Revak and the district by Sen. Mia Costello, R-Anchorage.

The mailers were first reported by Jeff Landfield of the political blog The Alaska Landmine. Images of the mailers show they urge voters to call Costello and Revak to thank them for voting for a "full PFD" and "a smaller budget" among other things.

"The printed communications represent only one small part of the Governor's Office outreach to Alaskans. This form of communication was used in a limited capacity to measure whether or not it was an effective way to communicate with Alaskans," Shuckerow wrote.

Costello said she was not aware of the mailers. Asked whether she believes that kind of advertising is appropriate, she said, "I'm not really able to comment on that right now."

#### About this Author

#### James Brooks

James Brooks covers state government, the Alaska Legislature and general assignments for the Daily News. He previously reported and edited for the Juneau Empire, Kodiak Daily Mirror and Fairbanks Daily News-Miner.

### Comments

August 19, 2019

John J. Tiemessen  
Independent Counsel,  
State of Alaska Personnel Board  
411 4<sup>th</sup> Avenue  
Suite 300  
Fairbanks, Alaska 99701

RE: Potential Ethics Violations – Dunleavy [Your file number 2684-6]  
Response to Request for Sworn Statement  
Letter of Transmittal and Attachments

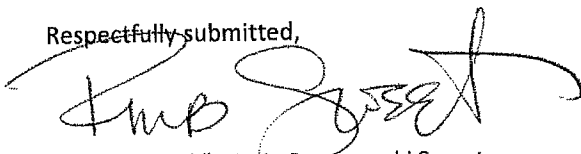
This is in response to your letter dated August 15, 2019 sent via email by Ms. Becky LaPointe. Attached: sworn statement to Notary Public that information contained herein is true with all emails sent to and from State of Alaska ethics supervisors from initiation of complaint through 8.16.19.

- 2019.07.12 Message from me, Randi Sweet, to Attorney General Clarkson identifying potential ethics violation. This email included an attachment of the Facebook post by Cap Government Spending indicating that the sponsored post was paid by the Office of the Governor of Alaska.
- 2019.07.15 Message from State Ethics Attorney Maria Bahr to Randi Sweet explaining routing of complaint.
- 2019.07.15 Message from me, Randi Sweet, thanking State Ethics Attorney Bahr.
- 2019.07.21 Message to State Ethics Attorney Bahr, from Randi Sweet asking about status, timeline, convening of personnel board and enumeration of additional potential ethics violations identified in the Anchorage Daily news.
- 2019.07.21 Message to State Ethics Attorney Bahr from Randi Sweet with a link to the news article.
- 2019.07.22 Message from State Ethics Attorney providing status to Randi Sweet and conveying request to forward amended complaint directly to Kate Sheehan Director Division of Personnel.
- 2019.07.22 Message from Randi Sweet to Director Sheehan responding to request for information and a request to have expected timeline of the potential ethics violations investigation, review and adjudication process.
- 2019.08.01 Message from Randi Sweet to Director Sheehan requesting confirmation of receipt of requested letter and a request to have questions regarding timeline, review and adjudication process answered.
- 2019.08.02 Message from Director Sheehan indicating forwarded to outside counsel and that she would be following up with them on this date.

- 2019.08.15 Request from Randi Sweet to Director Sheehan on status update with outside counsel and expected timeline of potential ethics violations investigation, review and adjudication process.
- 2019.08.15 Message from Becky LaPointe, Legal Secretary with Clapp, Peterson, Tiemessen, Thorsness and Johnson transmitting letter from John J. Tiemessen requesting a sworn statement regarding truthfulness of potential Dunleavy ethics violations complaint.
- 2019.08.15 Message from Randi Sweet to Becky LaPointe requesting assistance.
- 2019.08.16 Message from Randi Sweet to Becky LaPointe requesting assistance.

I spoke with Ms. LaPointe and the Office Manager in Fairbanks to get guidance. And, did contact your office in Anchorage to see if there was a way to get the statement to you via your system but determined it would be more easily done via US mail or FedEx.

Respectfully submitted,



Renata "Randi" Maria Baranowski Sweet  
Alaska Driver License 0632238  
PO Box 804  
Seldovia, Alaska 99663-0804  
[randisweet252@alaskan.com](mailto:randisweet252@alaskan.com)  
907.360.1459

State of Alaska

3RD Judicial District

The within document, Ethics Complaint  
(document description)

Was subscribed and sworn (or affirmed) to before me on this 19 day of August, 2019  
(date) (month) (year)

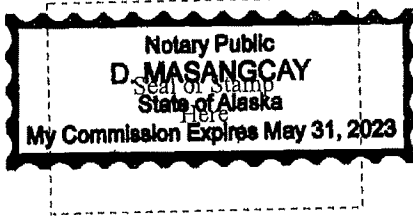
by Renata Maria Baranowski-Sweet  
(name of individual)

Dated: 08/19/2019

(Signature of Notary)

Notary Public for the State of Alaska

My Appointment Expires: May 31st 2023







BREWSTER H. JAMIESON  
907.264.3325  
jamiesonb@lanepowell.com

December 9, 2019

**VIA ELECTRONIC MAIL**

John J. Tiemessen, Esq.  
Clapp, Peterson, Tiemessen, Thorsness, LLC  
411 Fourth Avenue, Suite 300  
Fairbanks, AK 99701-4711

Re: Randi Sweet Complaint

Dear Mr. Tiemessen:

On behalf of Governor Dunleavy, we provide herewith the following information in response to your letter of September 10, 2019.

Your letter references a complaint made by Renata “Randi” Sweet, in which she complains about a Facebook ad posted by “Cap Government Spending,” and paid for by the Office of the Governor. Your September 10, 2019 letter does not limit your inquiry solely to this ad, but also references Facebook ads posted by “Repeal SB 91” and “Restore PFD.”<sup>1</sup> This letter is intended to respond to Ms. Sweet’s complaint, as well as to the broader questions you posed in your letter.

**A. Legal Framework**

**1) AS 39.52.120(b)(6)—Executive Branch Ethics**

Although the complaint does not cite a specific statute, we believe that it is based on an alleged violation of AS 39.52.120(b)(6). For the governor to violate that provision, he would have to “use or authorize the use of state funds . . . for partisan political purposes.” “Partisan political purposes” has a specific statutory definition:

[I]n this paragraph, “for partisan political purposes”

(A) means having the intent to differentially benefit or harm a

(i) candidate or potential candidate for elective office; or

(ii) political party or group;

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<sup>1</sup> It is possible that I don’t have every version of Ms. Sweet’s complaint, and later versions of her complaint may have identified ads from other groups as well.

(B) but does not include having the intent to benefit the public interest at large through the normal performance of official duties.

AS 39.52.120(b)(6).

## 2) Personnel Board and Attorney General Opinions

Because of the seriousness of the Ethics Act's penalties, any complaint must pass the high bar of proving actual intent: "a violation of one of the substantive provisions of the Ethics Act must be accompanied by the mental state of 'knowledge' that a material violation has occurred." *In re Ethics Complaint dated Sept. 1, 2008*, at 16. Construing AS 39.52.120(b)(4), which prohibits a public officer from acting in a matter in which he has a personal or financial interest, the Board explained, "When it comes to public debate and discourse about matters of policy, however, the Act is not implicated unless the private or personal interest is directly at issue." *Id.* at 21.

The Board, through counsel, has previously dismissed a complaint that a governor violated AS 39.52.120(b)(6) through the placement of an advertisement. *See Ethics Complaint of Sigurd D. Rutter* at 4. That complaint alleged that Governor Palin violated the statute by placing full-page advertisements featuring her photographs in fishermen's trade publications "to sell herself to a constituent group." The context and timing of the ad in question was a key consideration. The decision to run the ads was made early in the governor's term before her selection as a vice presidential candidate. *Id.* at 3. The Board's outside counsel concluded that the ads were not for a partisan political purpose. Rather, "the purpose of the ads was to use Sarah Palin's status as a high profile fisherman and governor to benefit the seafood industry and the marketing of Alaska's seafood." Counsel noted that the governor was not a candidate for any elective office when the decision to run the ads was made and that any announcement on reelection was likely two years away. Counsel further concluded that the ads' purpose "was to benefit the public interest at large." *Id.* at 4.

"Opinions of the attorney general, while not controlling on matters of statutory interpretation, are entitled to some deference." *Carney v. State Bd. of Fisheries*, 785 P.2d 544, 548 (Alaska 1990). Before the legislature enacted AS 39.52.120(b)(6), the attorney general noted:

It is extremely difficult to distinguish between official and campaign activities of an incumbent. As statewide officeholders, the governor or lieutenant governor typically make personal appearances across the state, hold news conferences for the broadcast and print media, and respond to matters raised by constituents. **In a nonelection year, no one disputes the official nature of these activities.** However, in an election year these same activities are viewed by some in a new light.

Alaska Op. Att'y Gen. (Inf.) 17 (1986) (emphasis added). The attorney general then opined that "the clear meaning of the Ethics Act is that public employees or property may not be used to advance a public officer's interest in obtaining a partisan political office." *Id.* Pointing to an earlier version of 2 AAC 50.375(a), the attorney general reasoned that "a communication

by an incumbent is campaign-related only if the communication “specifically and expressly advocates” a candidacy or ballot issue. The verb “advocate” means to support or recommend publicly. *Advocate*, Webster’s Third New International Dictionary 32 (1976). So long as communications by an incumbent do not constitute advocacy, the cost is not a reportable campaign expenditure and is within the scope of official duties.” Alaska Op. Att’y Gen. (Inf.) 17 (1986).

As explained below, Governor Dunleavy did not violate the letter or spirit of this statute when he authorized his office to communicate with Alaskans through a series of social media advertisements and mailers aimed at policy issues, critical to the wellbeing of every Alaskan, that were then pending before the legislature. Far from constituting a violation of law, these communications were well within the normal performance of duties by any governor.

**B. AS 39.52 et. seq. Does Not Prohibit the Governor’s Policy Communications With Alaskans During the Legislative Session**

Governor Dunleavy, like all governors before him, sought to communicate directly to Alaskans on issues of public concern. In discussions with his communications staff, Governor Dunleavy approved a communications strategy directed at issues being addressed during the 2019 legislative session. This strategy included communications through public appearances, email, regular mail, and social media. Governor Dunleavy’s direction to his communications staff was general in nature, but he did specifically direct that this strategy be carried out in accordance with all laws, and, where needed, with input from the Department of Law.

From mid-March to mid-July of 2019, during the Regular and Special Legislative Sessions, the governor’s office paid for a series of social media advertisements related to the budget, the Permanent Fund Dividend, passage of a spending cap, and the repeal/modification of crime legislation known as SB 91. All of these issues were subjects of intense interest to the governor, the legislature, and many individual Alaskans. Details of these Facebook ads are contained publicly-available Facebook Ad Libraries (Exhibits A, B, and C)<sup>2</sup> additionally, attached are spreadsheets drawn from Facebook data showing additional information regard.

In early July, 2019, the governor’s office created postcards thanking Representatives Revak, Costello, and Merrick for their votes on the PFD, the budget, school funding, and reduced government. All three mailers—substantially identical—were designed by the governor’s office.<sup>3</sup> The printing and mailing of these postcards was done by a private

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<sup>2</sup> Attached as Exhibits D, E, and F are excel spreadsheet files drawn from Facebook’s data, and which are responsive to your specific requests for information contained below.

<sup>3</sup> In the course of responding to this complaint, Governor Dunleavy has learned that on June 13, Rep. Revak filed a letter of intent with APOC to run for election in the House of Representatives, and on June 24, Rep. Rasmussen filed a letter of intent with the Alaska Public Offices Commission (APOC) to run for unspecified office. At the time, neither actually had declared their candidacy for office. On or around July 12, 2019, after learning of these early filings, the Office of the Governor notified the APOC that it had designed and paid for the mailers. APOC has taken no action against the Office of the Governor.



contractor. *See*, invoices attached as Exhibits G, H, and I. The postcards thanking Representative Merrick were not actually sent. By mid-July, governor's office discontinued all of the Facebook ads, and produced no additional mailers.

None of the communications identified in this complaint describe communications intending to benefit or harm a "candidate or potential candidate" or a "political party or group,"<sup>4</sup> and none of them reference any election. Rather, all of these communications occurred during the 2019 Legislative Session or Special Legislative Sessions, and all were aimed at garnering or shoring up support for the governor's budgetary and other legislative priorities. And, it is beyond dispute that all the communications were aimed at issues fundamentally important to every Alaskan.

For instance, urging budget restraint was and is intended to "benefit the public interest at large," and sharing credit with like-minded lawmakers during a rancorous policy debate is one of many tools governors use in the normal performance of their official duties. There simply is nothing illegal—under AS § 39.52 or any other statute—about using state resources to communicate to Alaskans, in the middle of a hard-fought policy battle, the governor's appreciation for what he believes is a responsible fiscal approach by lawmakers in the performance of their legislative duties.

Likewise, in the context of a heated legislative battle over pending legislation, publicly communicating to citizens about the inconsistent positions taken by legislators and urging constituents to contact them to support the governor's policy agenda is, once again, something well within the governor's official duties. It is not illegal under AS § 39.52 and every bit as legal as the publicly funded statements legislators routinely make in favor of and in opposition to the governor's publicly stated policy positions.<sup>5</sup>

The conduct complained of—communications with Alaskans about issues of universal concern—is precisely what every good governor does and should constantly do. The governor's role is to persuade—through reasoning, praise, and if needed criticism—the public and their representatives in the legislature to enact laws in keeping with the policy agenda that resulted in his election in the first instance.

The governor routinely expends state funds by traveling throughout the state to contact voters and urge support for his legislative priorities. Whether doing so in person, or more cost-effectively through social media, communicating with Alaskans about critical and ongoing legislative disputes, is essential to any governor's "normal performance of official duties."

The timing, context, and content of all of these communications show that they were not intended for "partisan political purposes" as that term is defined by AS 39.52.120(b)(6).

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<sup>4</sup> AS 39.52.120 does not define the term "candidate or potential candidate for elective office," nor does it define "political party or group."

<sup>5</sup> *See generally*, <https://www.alaskasenate.org/2020/> and <https://akhouse.org/> containing numerous statements on pending legislation, the Governor's vetoes, and other issues of public concern.

None of the communications was made during an election year or mentioned any election, and all of them referenced fiscal and other policy issues that were then pending before the legislature, and otherwise being publicly debated. As such, using the resources of the Office of the Governor for these communications was not prohibited.

**C. Responses to Specific Questions**

In your September 10, 2019 letter, you have asked a number of very specific questions. Below we attempt to address the substance of these questions as they relate to the legal framework discussed above. Complete precision, however, is not possible without having the Office of the Governor expend significant time. That said, if you need more specificity on any particular issue, please advise:

- 1) Has the Office of the Governor used government funds to pay for advertisements on behalf of, for the benefit of, or otherwise related to the Facebook pages “Repeal SB 91,” “Cap Government Spending,” or “Restore PFD”? If so, please identify the subject of the advertising, the period of time the advertising was purchased, the cost of the advertising, and the specific source of funds used to pay for the advertising. Please include any documentation that supports your response.

**RESPONSE:** Please see discussion *supra* at B, and Exhibits A-F.

- 2) Has any State of Alaska employee in the Office of the Governor used State time, property, equipment or other facilities to create, edit, distribute or otherwise work on any advertising on behalf of, for the benefit of, or otherwise related to the Facebook pages “Repeal SB 91,” “Cap Government Spending,” or “Restore PFD” while on State time? If so, please identify the subject of the advertising, the period of time the advertising was purchased, an estimate of the number of hours spent, and identify the State of Alaska employee(s) involved with the advertising, including name, job title, and contact information.

**RESPONSE:** Employees under the direction of the Communications Director designed and posted the Facebook ads shown in Exhibits A-C. The amount of time spent on each is difficult to estimate, but an original design might take up to 1-2 hours, with modifications of any particular design taking less time, perhaps only a few minutes each.

- 3) Has the Office of the Governor used government funds to create or maintain the Facebook pages “Repeal SB 91,” “Cap Government Spending,” or “Restore PFD”? If so, please identify the costs associated with each Facebook page and the specific source of funds used to pay for each Facebook page. Please include any documentation that supports your response.

**RESPONSE:** Please see Exhibits A-C, and response to No. 1 and 2, above.



John J. Tiemessen, Esq.  
December 9, 2019  
Page 6

- 4) Has any State of Alaska employee in the Office of the Governor used State time, property, equipment or other facilities to create, edit, maintain, or otherwise work on the Facebook pages "Repeal SB 91," "Cap Government Spending," or "Restore PFD" while on State time? If so, please identify the employee(s) involved with the Facebook page(s), including name, job title, and contact information.

**RESPONSE:** Please see Exhibits A-C, and response to No. 1 and 2, *supra*.

- 5) Has the Office of the Governor used government funds to purchase, create or distribute any paper mailers related to specific legislators or legislation? If so, please identify the subject of the paper mailers, the scope of distribution of the mailers, the time period the mailers were distributed, all costs associated with the mailers, and the specific source of funds used to pay for the mailers. Please include any documentation that supports your response.

**RESPONSE:** Please see discussion at B, *supra*, and Exhibits G-I. See also the response to No. 1, above.

- 6) Has any State of Alaska employee in the Office of the Governor used State time, property, equipment or other facilities to create, edit, distribute, or otherwise work on any paper mailers while on State time? If so, please identify the subject of the paper mailers, the scope of distribution of the mailers, the time period the mailers were distributed, and the State of Alaska employee(s) involved with the advertising, including name, job title, and contact information.

**RESPONSE:** Please see discussion at B, *supra*, and Exhibits G-I. See also the response to No. 1, above. Employees under the direction of the Communications Director designed three mailers. It is difficult to estimate the amount of time needed to design them, but the first might have taken up to 1-2 hours. Because all three were substantially identical, the other two would have required only a few minutes to customize the original design to change the name, gender, and contact information.

We trust the foregoing provides you with the information you seek. Please do not hesitate to contact me if you have any further questions.

Very truly yours,

LANE POWELL LLC



Brewster H. Jamieson

cc: Governor Michael J. Dunleavy



BREWSTER H. JAMIESON  
907.264.3325  
jamiesonb@lanepowell.com

February 7, 2020

**CONFIDENTIAL**

**VIA ELECTRONIC/REGULAR MAIL**

John J. Tiemessen, Esq.  
Clapp, Peterson, Tiemessen, Thorsness, LLC  
411 Fourth Avenue, Suite 300  
Fairbanks, AK 99701-4711

Dear Mr. Tiemessen:

This letter, on behalf of Michael J. Dunleavy, is in response to your second letter of January 16, 2020, seeking information about the Facebook pages. As I have previously advised, I do not represent the Office of the Governor, but I have made inquiry of that office on several occasions to provide you the information you have been seeking in this matter.

Below is my best attempt to respond to your bullet-point questions in order:

**Are "Repeal SB91" "Restore the PFD" and "Cap Government Spending" organizations, groups, partnerships, or entities or are they solely the name given to Facebook pages.**

RESPONSE: These are solely names given to the Facebook pages. As it was explained to me, Facebook requires a name for any separate page that was created. These are not separate organizations, groups, partnerships, or entities, and the names do not refer to any separate organization, group, partnership or entity.

**Were any of these three pages created, maintained, or used to advance the interests of an individual, group, organization, or entity other than the Governor's office.**

RESPONSE: No. The interests advanced were those of all Alaskans; we believe this is clear from the topics that each page addressed.

John J. Tiemessen, Esq.  
February 7, 2020  
Page 2

**The Facebook advertisements you provided have links to petitions. Please provide a copy of all petitions which were linked to the advertisements contained in your Exhibits A-C.**

RESPONSE: I have asked for images of these links. I will forward upon receipt. I am advised that each link brings up field for a person desiring to support the petition to provide their name, address and other contact information.


**For what purpose was information gathered by petition(s)? What was actually done with the information obtained? Has the information obtained through these petitions been preserved in a database or any other form? Was the information gathered from these petitions shared, sold, or otherwise distributed to any other department, group or organization?**

RESPONSE: Petition responses were understood to be a demonstration of interest and support for the proposition addressed by each petition. The level of support for each petition was informative to the Office of the Governor and its policy and communications teams. The information derived from the petition responses was used to engage with the petition signers on the issues addressed in the petitions. The response information was preserved in one or more databases by the Office of the Governor, and has not been shared, sold, or otherwise distributed to any other department, group or organization.

The information above was provided to me at different times by various personnel in the Office of the Governor and its communications team. This information was not provided to me by Michael J. Dunleavy, who, as we have previously stated, had no individual involvement in the details of these communications.

Very truly yours,

LANE POWELL LLC



Brewster H. Jamieson

cc: Governor Michael J. Dunleavy





www.greatoriginals.com

Great Originals, Inc.  
360 E, International Airport Road, #6  
Anchorage, AK 99518

Phone: 907-561-8922 Fax: 907-562-5098  
greatoriginals.com / greatos@alaskan.com

Counter Service: M-F 8am-5pm Web: 24/7

**INVOICE**

No: **114524**

Date: 7/3/19

Cust. PO:

**TNT**

Bill & Ship To: Cust.#: 1597

Austin McDniel  
State of Alaska - Dept of the Gov.  
550 W 7th Ave, Suite 1700  
Anchoeage AK 99501  
Phone: 269-3034

HC PROOF  
PDF PROOF  
FAX PROOF  
NO PROOF

Nuvara 1000s WF(E) WF(M)  
Mach5 Sticker Button Tabs  
Bind Only ( ) Pre-Press ZUND

E-Mail: austin.mcdaniel@alaska.gov

Taken by: Phil

Quantity	Description	Amount
2,410	Thank You Josh Revak PC, 4up, 4-4, Bleeds (603 shts), 5.5 x 8.5 White 100# Xerox Card Smooth, laser on 2 sides, 4 Up Trim Out Card Weight Stock	\$ 1,086.26
2,408	Mail Processing & Stand Bulk Rate Postage Postcard Address Processing, Addressing & Bar Coding Bulk Rate Postage Charges 2399 pcs mailed on 20190703	\$ 163.58 \$ 635.11

Account Type: Charge  
Customer Acceptance Signature:

Customer Discount -\$ 162.94

SUBTOTAL \$ 1,722.01

**TNT**

DEPOSITS \$ 0.00

TOTAL \$ 1,722.01

Date \_\_\_\_\_

Wanted By:  
Fri 7/5/19 2:00 PM

Please Print Name

Contacted:

BALANCE DUE Exhibit E \$ 1,722.01

Open Account Terms Are Net 30 Days.



www.greatoriginals.com

Great Originals, Inc.  
360 E, International Airport Road, #6  
Anchorage, AK 99518

Phone: 907-561-8922 Fax: 907-562-5098  
greatoriginals.com / greatos@alaskan.com

**INVOICE**

No: **114560**

Date: 7/9/19

Cust. PO:

Bill & Ship To: Cust.#:1597

Austin McDniel  
State of Alaska - Dept of the Gov.  
PO Box 110018  
Juneau AK 99811-0018  
Phone: 269-3034

Counter Service: M-F 8am-5pm Web: 24/7

**TNT**

HC PROOF

Nuvara 1000s WF(E) WF(M)

PDF PROOF

Mach5 Sticker Button Tabs

FAX PROOF

Bind Only ( ) Pre-Press ZUND

NO PROOF

E-Mail: austin.mcdaniel@alaska.gov

Taken by: Phil

Quantity	Description	Amount
2,704	Costello PC, 4up, 4-4, BLeeds, 8.5 x 5.5 White 110# Satin Card Smooth, laser on 2 sides, 4 Up	\$ 1,233.98
	Trim Out Card Weight Stock	
	Postcard Address Processing, Addressing & Bar Coding	\$ 182.57
	Bulk Rate Postage Charges 2697 pcs mailed on 20190708	\$ 713.09

Account Type: Charge  
Customer Acceptance Signature:

Customer Discount -\$ 185.10

SUBTOTAL \$ 1,944.54

**TNT**

DEPOSITS \$ 0.00

TOTAL \$ 1,944.54

Wanted By:  
Mon 7/8/19 2:00 PM

Please Print Name

Contacted:

BALANCE DUE Exhibit E \$ 1,944.54

Open Account Terms Are Net 30 Days.



www.greatoriginals.com

Great Originals, Inc.  
 360 E, International Airport Road, #6  
 Anchorage, AK 99518

Phone: 907-561-8922 Fax: 907-562-5098  
 greatoriginals.com / greatos@alaskan.com

Counter Service: M-F 8am-5pm Web: 24/7

**INVOICE**

No: **114629**

Date: 7/9/19

Cust. PO:

**Delivery**

Bill & Ship To: Cust.#: 1597

Austin McDniel  
 State of Alaska - Dept of the Gov.  
 PO Box 110018  
 Juneau AK 99811-0018  
 Phone: 269-3034

HC PROOF

PDF PROOF

FAX PROOF

NO PROOF

Nuvara 1000s WF(E) WF(M)

Mach5 Sticker Button Tabs

Bind Only ( ) Pre-Press ZUND

E-Mail: austin.mcdaniel@alaska.gov

Taken by: Devin

Quantity	Description	Amount
2,726	Merrick PC, 4up, 4-4, BLeeds, 8.5 x 5.5 White 110# Satin Card Smooth, laser on 2 sides, 4 Up  Trim Out Card Weight Stock	\$ 1,244.19

Account Type: Charge  
 Customer Acceptance Signature:

Customer Discount -\$ 186.63

SUBTOTAL \$ 1,057.56

**Delivery**

DEPOSITS \$ 0.00

TOTAL \$ 1,057.56

Please Print Name

Contacted:

BALANCE DUE Exhibit E \$ 1,057.56

Open Account Terms Are Net 30 Days.

Cap Government Spending



Cap Government Spending

@CapSpending

Community 157 likes

Page transparency

Page created Mar 28, 2019

Page name has not changed

Primary country location for people who manage this Page includes: United States (1)

Total spent by Page on ads about social issues, elections or politics

May 2018 - Nov 30, 2019  
United States

\$3,312

See spend details

Recently spent by Page on ads about social issues, elections or politics

7 days • Nov 24 - Nov 30, 2019  
United States

\$0

34 results

Showing ads from Cap Government Spending.

View:

All Ads

Issue, Electoral or Political

Filter By:

United States

Active and Inactive

All Impressions

All Platforms

Keyword

Launched June 2019

Inactive

Started running on Jun 25, 19  
ID: 398175211044547

Inactive

Started running on Jun 24, 19  
ID: 321438618781960

Inactive

Started running on Jun 24, 19  
ID: 1490390457767332

Exhibit F

Page 1 of 5

Ad Library

Log In



Cap Government Spending Sponsored • Paid for by Office of the Governor of Alaska

Thank Rep. Merrick for voting to cut the budget and keep government spending in check. She's a fighter for a permanent fiscal plan. Email rep.kelly.merrick@akleg.gov or call her office at (907) 694-8944 and say 'thank you'!



See Ad Details



Cap Government Spending Sponsored • Paid for by Office of the Governor of Alaska

Thank Rep. Rasmussen for voting to cut the budget and keep government spending in check. She's a fighter for a permanent fiscal plan. Email rep.sara.rasmussen@akleg.gov or call her office at (907) 465-3892...



See Ad Details



Cap Government Spending Sponsored • Paid for by Office of the Governor of Alaska

Thank Rep. Revak for voting to cut the budget and keep government spending in check. He's a fighter for a permanent fiscal plan. Email rep.josh.revak@akleg.gov or call his office at (907) 465-3879 and say 'thank you'!



See Ad Details

Launched April 2019

Inactive Apr 24, 2019 - Apr 30, 2019 ID: 420829321827752

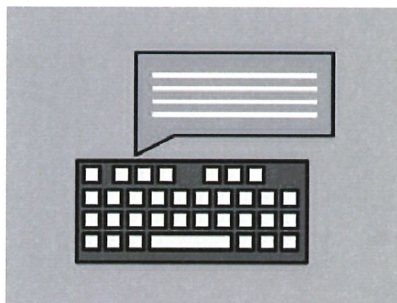
About social issues, elections or politics

This ad has multiple versions.



Cap Government Spending Sponsored • Paid for by Office of the Governor of Alaska

Use this handy tool to send a letter to your local officials telling them you support a cap on government spending.



Contact Your Officials Use this tool to email your officials. CONTACT YOUR OFFICIALS

Contact Us

Inactive Apr 24, 2019 - Apr 30, 2019 ID: 390402291513692

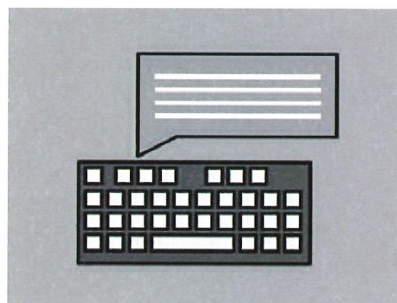
About social issues, elections or politics

This ad has multiple versions.



Cap Government Spending Sponsored • Paid for by Office of the Governor of Alaska

Use this handy tool to send a letter to your local officials telling them you support a cap on government spending.



Contact Your Officials Use this tool to email your officials. CONTACT YOUR OFFICIALS

Contact Us

Inactive Apr 24, 2019 - Apr 30, 2019 ID: 2780070758686357

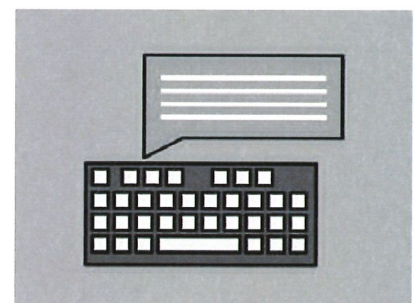
About social issues, elections or politics

This ad has multiple versions.



Cap Government Spending Sponsored • Paid for by Office of the Governor of Alaska

Use this handy tool to send a letter to your local officials telling them you support a cap on government spending.



Contact Your Officials Use this tool to email your officials. CONTACT YOUR OFFICIALS

Contact Us

Exhibit F

Page 2 of 5



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4

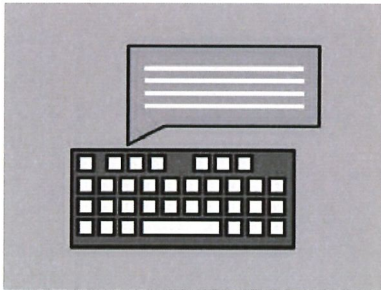
Inactive  
Apr 11, 2019 - Apr 19, 20  
ID: 295849307975660

About social issues,  
elections or politics



Cap Government  
Spending  
Sponsored • Paid for by Office  
of the Governor of Alaska

Use this easy tool to write your  
local officials about supporting a  
cap on government spending.



Contact Your Officials  
Use this easy tool to email  
your officials.  
WWW.AKGOV.US/CYO

Contact Us

See Ad Details

3

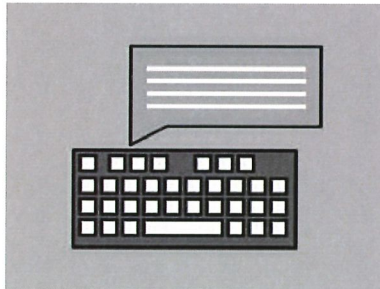
Inactive  
Apr 11, 2019 - Apr 19, 20  
ID: 411638939661264

About social issues,  
elections or politics



Cap Government  
Spending  
Sponsored • Paid for by Office  
of the Governor of Alaska

If you believe we need to cap  
government spending, now is the  
time to tell your local officials. Use  
this quick and easy tool.



Contact Your Officials  
Use this easy tool to email  
your officials.  
WWW.AKGOV.US/CYO

Contact Us

See Ad Details

4

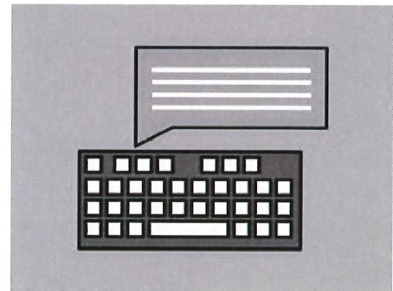
Inactive  
Apr 11, 2019 - Apr 19, 20  
ID: 1000163153521515

About social issues,  
elections or politics



Cap Government  
Spending  
Sponsored • Paid for by Office  
of the Governor of Alaska

Use this tool to easily send a letter  
to your local officials. Government  
doesn't need to take your PFD or  
impose taxes; it needs to spend  
less.



Contact Your Officials  
Use this easy tool to email  
your officials.  
WWW.AKGOV.US/CYO

Contact Us

See Ad Details

4

Inactive  
Apr 11, 2019 - Apr 19, 20  
ID: 1144517112389831

About social issues,  
elections or politics



Cap Government  
Spending  
Sponsored • Paid for by Office  
of the Governor of Alaska

Use this handy tool to send a  
letter to your local officials telling  
them you support a cap on  
government spending.

4

Inactive  
Apr 11, 2019 - Apr 19, 20  
ID: 2250701158301915

About social issues,  
elections or politics



Cap Government  
Spending  
Sponsored • Paid for by Office  
of the Governor of Alaska

Government doesn't need to take  
your PFD or impose taxes; it  
needs to spend less. Use this tool  
to easily send a letter to your local  
officials.

Inactive  
Apr 3, 2019 - Apr 5, 2019  
ID: 1005875509609919

About social issues, elections  
or politics

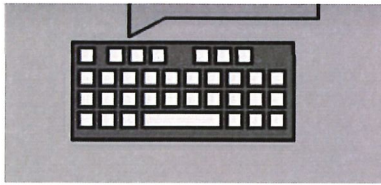


Cap Government Spending  
Sponsored • Paid for by Office  
of the Governor of Alaska

Limiting the size of the state budget  
respects Alaskans who are fiscally-  
responsible with their own money.  
Add your name to the petition to  
cap government spending.

Ad Library

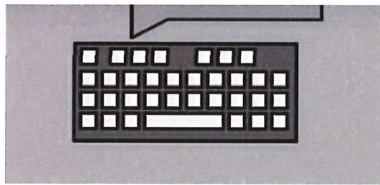
Log In



Contact Your Officials  
Use this easy tool to email  
your officials.  
WWW.AKGOV.US/CYO

Contact Us

See Ad Details



Contact Your Officials  
Use this easy tool to email  
your officials.  
WWW.AKGOV.US/CYO

Contact Us

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Sign the Petition

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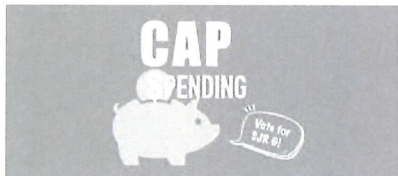
● Inactive  
Apr 3, 2019 - Apr 4, 2019  
ID: 336232997031680

About social issues, elections  
or politics



**Cap Government Spending**  
Sponsored • Paid for by Office of  
the Governor of Alaska

Limiting the size of the state budget  
respects Alaskans who are fiscally-  
responsible with their own money.  
Add your name to the petition to  
cap government spending.



Sign the Petition

Sign Up

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● Inactive  
Apr 3, 2019 - Apr 5, 2019  
ID: 2214769675406866

About social issues, elections  
or politics



**Cap Government Spending**  
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the Governor of Alaska

SIGN THE PETITION: If you  
believe we need to cap government  
spending, now is the time to tell  
your local officials.



Sign the Petition

Sign Up

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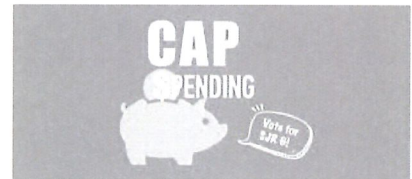
● Inactive  
Apr 3, 2019 - Apr 5, 2019  
ID: 407544496710493

About social issues, elections  
or politics



**Cap Government Spending**  
Sponsored • Paid for by Office of  
the Governor of Alaska

If you believe we need to cap  
government spending, now is the  
time to tell your local officials.



Sign the Petition

Add your name today.

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● Inactive  
Apr 3, 2019 - Apr 5, 2019  
ID: 653548618437915

About social issues, elections  
or politics



**Cap Government Spending**  
Sponsored • Paid for by Office of  
the Governor of Alaska

If you believe we need to cap  
government spending, now is the

● Inactive  
Apr 3, 2019 - Apr 5, 2019  
ID: 406904333441485

About social issues, elections  
or politics



**Cap Government Spending**  
Sponsored • Paid for by Office of  
the Governor of Alaska

Alaska lawmakers should be  
responsible with taxpayer money by

● Inactive  
Apr 3, 2019 - Apr 5, 2019  
ID: 2148711451886572

About social issues, elections  
or politics



**Cap Government Spending**  
Sponsored • Paid for by Office of  
the Governor of Alaska

Government doesn't need to take  
your PFD or impose taxes; it needs

Exhibit F

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Ad Library

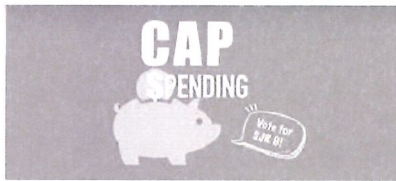
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Sign the Petition

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Sign the Petition to Cap Government Spending

Sign Up

See Ad Details



Sign the Petition

Sign Up

See Ad Details

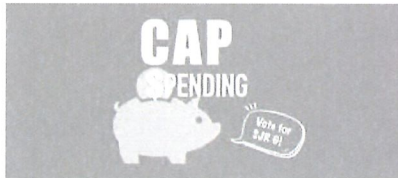
Inactive  
Apr 3, 2019 - Apr 4, 2019  
ID: 654500428317635

About social issues, elections or politics



Cap Government Spending Sponsored • Paid for by Office of the Governor of Alaska

Add your name to the petition if you believe government doesn't need to take your PFD or impose taxes -- it needs to live within its means and spend less.



Cap Government Spending

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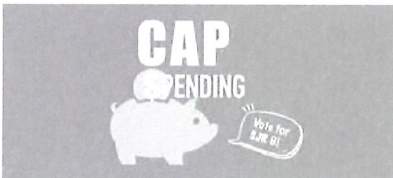
Inactive  
Apr 2, 2019 - Apr 4, 2019  
ID: 2524299930955825

About social issues, elections or politics



Cap Government Spending Sponsored • Paid for by Office of the Governor of Alaska

Add your name to the petition if you believe government doesn't need to take your PFD or impose taxes -- it needs to live within its means and spend less.



Cap Government Spending

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Report a Problem Privacy Terms Cookies

Facebook © 2019 | English (US)



Repeal SB91



Repeal SB91

@MakeAlaskaSafe

Community 1,565 likes

**Page transparency**

Page created **Mar 14, 2019**

Page name has not changed

Primary country location for people who manage this Page includes: **United States (2)**

**Total spent by Page on ads about social issues, elections or politics**

May 2018 - Nov 30, 2019  
United States

**\$8,173**

[See spend details](#)

**Recently spent by Page on ads about social issues, elections or politics**

7 days • Nov 24 - Nov 30, 2019  
United States

**\$0**

**12 results**

Showing ads from Repeal SB91.

**View:**

All Ads

Issue, Electoral or Political

**Filter By:**

United States

Active and Inactive

All Impressions

All Platforms

Keyword

**Launched July 2019**

Inactive

Jul 10, 2019 - Jul 16, 2019

ID: 377955726413065

Exhibit G

Page 1 of 5

Ad Library



**Repeal SB91**  
Sponsored • Paid for by Governor  
Mike Dunleavy

Alaska is a much safer place now that Governor Mike Dunleavy has signed House Bill 49 and repealed the failed SB91.

Learn more at:  
<http://akgov.us/127fd>

SB91 Repealed

[See Ad Details](#)

**Launched May 2019**

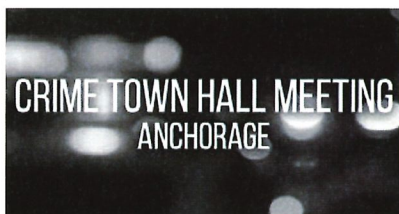
- Inactive  
May 12, 2019 - May 12, 20  
ID: 382267149056410

About social issues, elections or politics



**Repeal SB91**  
Sponsored • Paid for by Governor  
Mike Dunleavy

Join Lieutenant Governor Kevin Meyer and State of Alaska public safety professionals in Anchorage to share your story of how crime has affected your life and community.



MON, MAY 13, 2019  
Anchorage Crime Town  
Hall Meeting  
Wilda Marston Theater, Z.J.  
Loussac Public Library,

[View Event](#)

See Ad Details

Launched April 2019

Inactive  
Apr 25, 2019 - May 5, 2019  
ID: 1232977476883098

About social issues, elections or politics

**REPEAL SB91**  
Repeal SB91  
Sponsored • Paid for by Governor Mike Dunleavy

Repeal SB91, Sign the Petition →  
<http://akgov.us/RepealSB91>

The Legislature has been in Juneau for over 100 days, and neither the House nor Senate have passed a bill to deal with the out of control...

Inactive  
Apr 23, 2019 - Apr 27, 2019  
ID: 345185276356375

About social issues, elections or politics

**REPEAL SB91**  
Repeal SB91  
Sponsored • Paid for by Governor Mike Dunleavy

The Legislature needs to act on Governor Mike Dunleavy's crime legislation, so Alaskans can feel safe in every corner of our state.

Repeal SB91, Sign the Petition →  
<http://akgov.us/RepealSB91>

2  
Inactive  
Started running on Apr 4, 2019  
ID: 353046625339869

About social issues, elections or politics

**REPEAL SB91**  
Repeal SB91  
Sponsored • Paid for by Governor Mike Dunleavy

Crime is up 26% since 2013. Governor Mike Dunleavy has proposed legislation that will repeal SB 91 and replace it with common sense crime laws that will help make Alaska the safest state in the country.

SIGN THE PETITION >>> Sign Up

No More Games. Pass the Crime Bills.

Alaskans Want our Crime Bills

See Ad Details

See Ad Details

See Ad Details

2  
Inactive  
Started running on Apr 4, 2019  
ID: 400826437365162

About social issues, elections or politics

**REPEAL SB91**  
Repeal SB91  
Sponsored • Paid for by Governor Mike Dunleavy

2  
Inactive  
Started running on Apr 4, 2019  
ID: 620248748440609

About social issues, elections or politics

**REPEAL SB91**  
Repeal SB91  
Sponsored • Paid for by Governor Mike Dunleavy

Inactive  
Apr 3, 2019 - May 2, 2019  
ID: 2265035713734722

About social issues, elections or politics

**REPEAL SB91**  
Repeal SB91  
Sponsored • Paid for by Governor Mike Dunleavy

Exhibit G

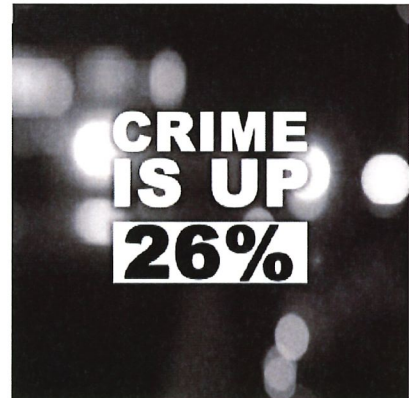
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proposed legislation that will repeal SB 91 and replace it with common sense crime laws that will help make Alaska the safest

proposed legislation to protect Alaskans from this scourge.

to make Alaska safer.



SIGN THE PETITION >>> Sign Up

SIGN THE PETITION >>> Sign Up

Repeal SB91  
Community  
1,565 people like this

Like Page

See Ad Details

See Ad Details

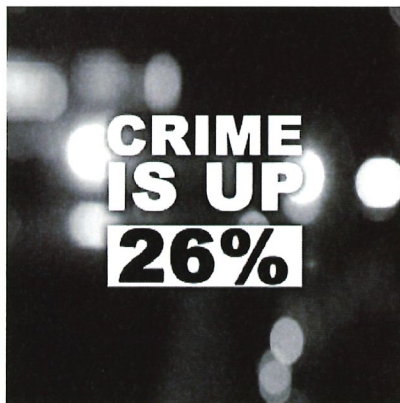
See Ad Details

● Inactive  
Apr 3, 2019 - May 2, 2019  
ID: 445085446284098

About social issues, elections or politics

**REPEAL SB91**  
**Repeal SB91**  
Sponsored • Paid for by Governor Mike Dunleavy

For a safer Alaska, the legislature must Repeal and Replace SB 91. Join our team of Alaskans working to make Alaska safer.



Repeal SB91  
Community  
1,565 people like this

Like Page

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[Report a Problem](#) [Privacy](#) [Terms](#) [Cookies](#)

Facebook © 2019 |  
English (US)

Restore the PFD



Restore the PFD

@RestorePFD

Community 3,343 likes

Page transparency

Page created Feb 22, 2019

Page name has not changed

Primary country location for people who manage this Page includes: United States (2)

Total spent by Page on ads about social issues, elections or politics

May 2018 - Nov 30, 2019  
United States

\$18,902

See spend details

Recently spent by Page on ads about social issues, elections or politics

7 days • Nov 24 - Nov 30, 2019  
United States

\$0

54 results

Showing ads from Restore the PFD.

View:

All Ads

Issue, Electoral or Political

Filter By:

United States

Active and Inactive

All Impressions

All Platforms

Keyword

Launched June 2019

9

Inactive

Started running on Jun 24, 2019  
ID: 336761643937618

Inactive

Started running on Jun 23, 2019  
ID: 680963969013890

Inactive

Started running on Jun 12, 2019  
ID: 827265150978856

Exhibit H

Page 1 of 10



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**Restore the PFD**  
Sponsored • Paid for by Governor Michael J. Dunleavy

Lawmakers need to know you support a full PFD this year. Use this tool to contact your elected official now: <https://akgov.us/cyl>



**CONTACT YOUR OFFICIALS**

Contact Your Elected Officials  
Support a full PFD by sending a letter to your elected officials.  
FS9.FORMSITE.COM

[See Ad Details](#)



**Restore the PFD**  
Sponsored • Paid for by Governor Michael J. Dunleavy

Alaskans need to take immediate action. Use this handy tool to tell lawmakers you want a full \$3,000 PFD – and nothing less. Act now to save your PFD: [www.akgov.us/cyl](http://www.akgov.us/cyl)



**CONTACT YOUR OFFICIALS**

[Restore the PFD](#)      [Learn More](#)

[See Ad Details](#)



**Restore the PFD**  
Sponsored • Paid for by Governor Michael J. Dunleavy

Sign Governor Dunleavy's petition for a full \$3,000 PFD this year.

[Sign the PFD Petition](#)      [Sign Up](#)

[See Ad Details](#)



Inactive  
Started running on Jun 12, 19  
ID: 489309811806682

About social issues, elections or politics



**Restore the PFD**  
Sponsored • Paid for by Governor Michael J. Dunleavy

Stop lawmakers from cutting the Permanent Fund Dividend. Sign Governor Dunleavy's petition for a full \$3,000 PFD this year.

2



Inactive  
Started running on Jun 12 019  
ID: 455257741905267

About social issues, elections or politics



**Restore the PFD**  
Sponsored • Paid for by Governor Michael J. Dunleavy

Lawmakers are once again trying to take your PFD. Sign Governor Dunleavy's petition for a full \$3,000 PFD this year.

2



Inactive  
Started running on Jun 12 019  
ID: 2345176312386721

About social issues, elections or politics



**Restore the PFD**  
Sponsored • Paid for by Governor Michael J. Dunleavy

PFD ALERT: Sign Governor Dunleavy's petition for a full \$3,000 PFD this year.

Sign the PFD Petition

Sign Up

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6

Inactive

Started running on Jun 5, 19  
ID: 2212458168851168

About social issues,  
elections or politics



**Restore the PFD**

Sponsored • Paid for by  
Governor Michael J. Dunleavy

Lawmakers are once again trying  
to take your PFD. Sign Governor  
Dunleavy's petition to support a  
full PFD.

Sign the PFD Petition

Sign Up

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2

Sign the PFD Petition

Sign Up

See Ad Details

3

Inactive

Jun 2, 2019 - Jun 4, 2019  
ID: 2358266967762018

About social issues,  
elections or politics



**Restore the PFD**

Sponsored • Paid for by  
Governor Michael J. Dunleavy

Your full \$3,000 PFD is under  
attack. A full PFD is essential to  
the rural cash economy. Contact  
your representative and senator  
right away and ask him or her to  
follow the law and vote for a full  
PFD: [www.akgov.us/cyl](http://www.akgov.us/cyl)



Contact Your Elected Officials  
Support a full PFD by sending a letter to  
your elected officials.  
[FS9.FORMSITE.COM](http://FS9.FORMSITE.COM)

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2

Sign the PFD Petition

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Inactive

Jun 2, 2019 - Jun 5, 2019  
ID: 673880863070225

About social issues, elections  
or politics



**Restore the PFD**

Sponsored • Paid for by Governor  
Michael J. Dunleavy

Governor Dunleavy needs your  
help. Join Alaskans and rally for a  
full \$3,000 PFD this year.



THU, JUN 6, 2019  
Rally to Restore the PFD  
Everett's  
Rally to Restore the PFD

View Event

See Ad Details



About social issues, elections or politics



**Restore the PFD**  
Sponsored • Paid for by Governor Michael J. Dunleavy

Lawmakers are once again trying to take your PFD. Sign Governor Dunleavy's petition to support a full PFD.



**SIGN NOW**

Sign the PFD Petition  
Support a full \$3,000 Permanent Fund Dividend.

Sign Up

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About social issues, elections or politics



**Restore the PFD**  
Sponsored • Paid for by Governor Michael J. Dunleavy

PFD ALERT: Legislators need to know you support a full PFD. Use this tool to contact your elected official now: <https://akgov.us/cyl>



Contact Your Elected Officials  
Support a full PFD by sending a letter to your elected officials.  
FS9.FORMSITE.COM

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**Launched May 2019**



Inactive  
Started running on May 30, 19  
ID: 2359510961005348

About social issues, elections or politics



**Restore the PFD**  
Sponsored • Paid for by Governor Michael J. Dunleavy

Lawmakers are once again trying to take your PFD. Sign the petition to support a full PFD.



Inactive  
Started running on May 30, 19  
ID: 656102671496100

About social issues, elections or politics



**Restore the PFD**  
Sponsored • Paid for by Governor Michael J. Dunleavy

Lawmakers are once again trying to take your PFD. Sign the petition to support a full PFD.



Inactive  
Started running on May 30, 19  
ID: 2499395930092564

About social issues, elections or politics

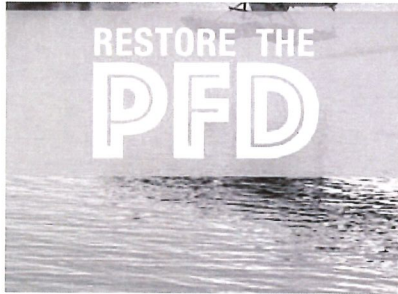


**Restore the PFD**  
Sponsored • Paid for by Governor Michael J. Dunleavy

Lawmakers are once again trying to take your PFD. Sign the petition to support a full PFD.

Ad Library

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Sign the PFD Petition  
Support a full \$3,000 Permanent Fund Dividend. [Sign Up](#)

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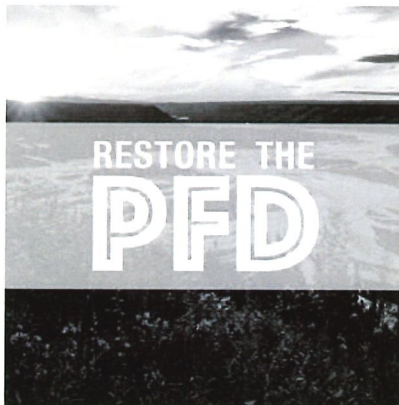
● Inactive  
Started running on May 30, 2019  
ID: 618937421905889

About social issues, elections or politics



**Restore the PFD**  
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Lawmakers are once again trying to take your PFD. Sign the petition to support a full PFD.



Sign the PFD Petition  
Support a full \$3,000 Permanent Fund Dividend. [Sign Up](#)

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● Inactive  
Started running on May 29, 2019  
ID: 379282976043917



Sign the PFD Petition  
Support a full \$3,000 Permanent Fund Dividend. [Sign Up](#)

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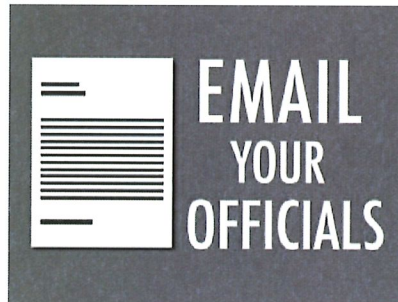
● Inactive  
Started running on May 30, 2019  
ID: 2043312152457660

About social issues, elections or politics



**Restore the PFD**  
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PFD ALERT: Legislators need to know you support a full PFD. Use this tool to contact your elected official now: <https://akgov.us/cyl>



Contact Your Elected Officials  
Support a full PFD by sending a letter to your elected officials.  
[FS9.FORMSITE.COM](https://fs9.formsite.com)

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● Inactive  
Started running on May 29, 2019  
ID: 599458450576220



Sign the PFD Petition  
Support a full \$3,000 Permanent Fund Dividend. [Sign Up](#)

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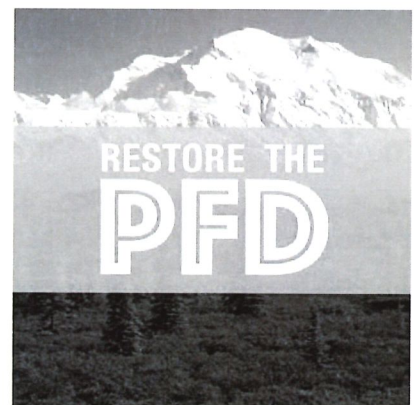
● Inactive  
Started running on May 29, 2019  
ID: 313441989547811

About social issues, elections or politics



**Restore the PFD**  
Sponsored • Paid for by Governor Michael J. Dunleavy

Lawmakers are once again trying to take your PFD. Sign the petition to support a full PFD.



Sign the PFD Petition  
Support a full \$3,000 Permanent Fund Dividend. [Sign Up](#)

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● Inactive  
Started running on May 29, 2019  
ID: 1051659818352335

Exhibit H  
Page 5 of 10



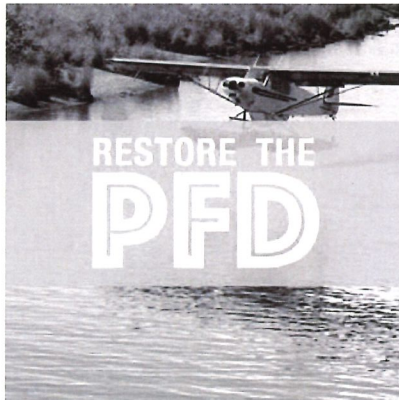
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**Restore the PFD**  
Sponsored • Paid for by Governor Michael J. Dunleavy

Lawmakers are once again trying to take your PFD. Sign the petition to support a full PFD.



Sign the PFD Petition  
Support a full \$3,000 Permanent Fund Dividend. [Sign Up](#)

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2



Inactive  
May 22, 2019 - May 25, 2019  
ID: 294034291506461

About social issues, elections or politics



**Restore the PFD**  
Sponsored • Paid for by Governor Michael J. Dunleavy

A few short years ago, Representative Tammie Wilson was a champion of the PFD. Now she wants to cut the PFD for future generations to pay for government. Contact her office at (907) 465-4797 and tell her ther...

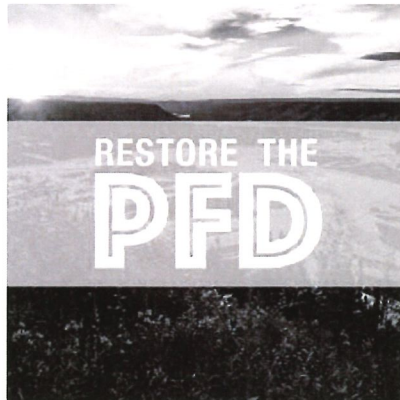


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May 21, 2019 - May 22, 2019  
ID: 678578772556103

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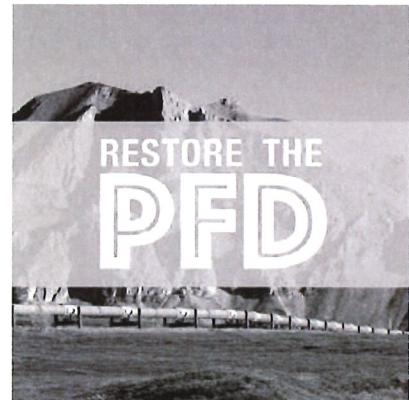
Today, the House introduced HB 1005. This is a bait-and-switch bill that provides a full PFD this year, but cuts the PFD in half next year and years after. In the morning, lawmakers want to hear if the public supports this bill. At 9am, call (90...

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**Restore the PFD**  
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Lawmakers are once again trying to take your PFD. Sign the petition to support a full PFD.



Sign the PFD Petition  
Support a full \$3,000 Permanent Fund Dividend. [Sign Up](#)

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Inactive  
May 14, 2019 - May 14, 2019  
ID: 381883772413509

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The Senate has proposed a full \$3,000 PFD, but sadly the House Majority has proposed a \$0 PFD. With just days left in the legislative session, Alaskans need to take immediate action. Use this handy tool to tell lawmakers you want...

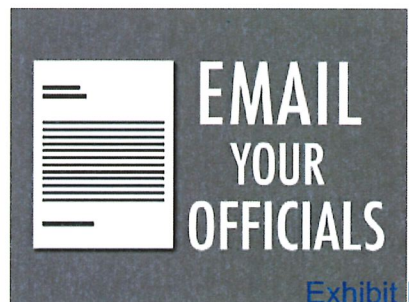


Exhibit H

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● Inactive  
May 6, 2019 - May 7, 2019  
ID: 2328743087449338

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or politics



**Restore the PFD**  
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Michael J. Dunleavy

Not every legislator agrees that  
Alaskans deserve a full PFD.... At  
1:30pm tomorrow, the Senate  
Finance Committee is taking public  
testimony on Governor Dunleavy's  
bills to pay a full PFD.  
Call (907) 563-9085 to tell...

Senator Giessel on the PFD

See Ad Details

**Launched March 2019**

● Inactive  
Mar 18, 2019 - Mar 25, 201  
ID: 335590433756431

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**Restore the PFD**  
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Michael J. Dunleavy

Sign the PFD Back-Pay petition to  
show your support for Governor  
Dunleavy's bill to restore the PFD

● Inactive  
Mar 18, 2019 - Mar 25, 201  
ID: 372356886685097

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**Restore the PFD**  
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Sign the PFD Back-Pay petition to  
show your support for Governor  
Dunleavy's bill to restore the PFD

● Inactive  
Mar 18, 2019 - Mar 25, 201  
ID: 386473845239072

About social issues, elections  
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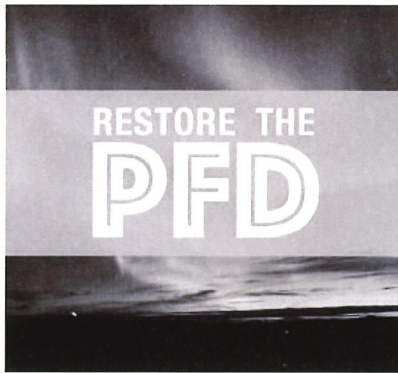
**Restore the PFD**  
Sponsored • Paid for by Governor  
Michael J. Dunleavy

Sign the PFD Back-Pay petition to  
show your support for Governor  
Dunleavy's bill to restore the PFD



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Sign the PFD Back-Pay Petition  
Support Governor Dunleavy's Senate Bill 23. [Sign Up](#)

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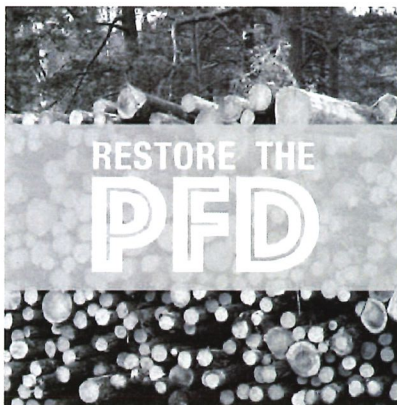
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Mar 18, 2019 - Mar 25, 201  
ID: 1003223809887412

About social issues, elections or politics

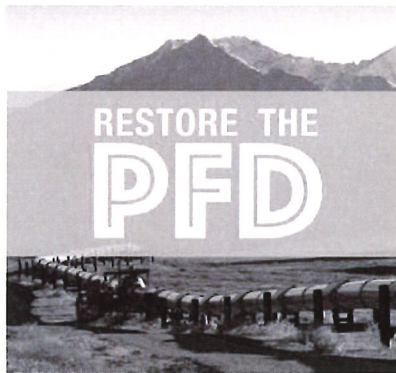


**Restore the PFD**  
Sponsored • Paid for by Governor Michael J. Dunleavy

Sign the PFD Back-Pay petition to show your support for Governor Dunleavy's bill to restore the PFD and pay back what Alaskans are owed.



Sign the PFD Back-Pay Petition  
Support Governor Dunleavy's Senate Bill 23. [Sign Up](#)



Sign the PFD Back-Pay Petition  
Support Governor Dunleavy's Senate Bill 23. [Sign Up](#)

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ID: 320481101986856

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Sign the PFD Back-Pay Petition  
Support Governor Dunleavy's Senate Bill 23. [Sign Up](#)



Sign the PFD Back-Pay Petition  
Support Governor Dunleavy's Senate Bill 23. [Sign Up](#)

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● Inactive  
Mar 14, 2019 - Mar 19, 201  
ID: 390358118419837

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Sign the PFD Back-Pay petition to show your support for Governor Dunleavy's bill to restore the PFD and pay back what Alaskans are owed.



Sign the PFD Back-Pay Petition  
Support Governor Dunleavy's Senate Bill 23. [Sign Up](#)

Exhibit H

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Sign the PFD Back-Pay Petition  
Support Governor Dunleavy's Senate Bill 23. [Sign Up](#)

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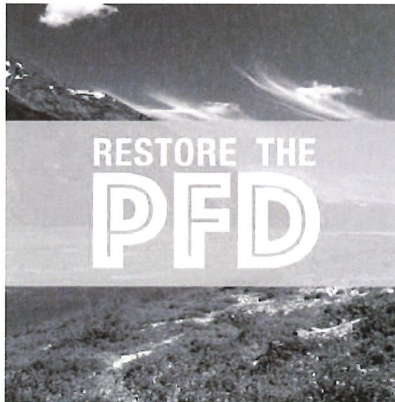
● Inactive  
Mar 14, 2019 - Mar 19, 201  
ID: 442918783118445

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Sign the PFD Back-Pay petition to show your support for Governor Dunleavy's bill to restore the PFD and pay back what Alaskans are owed.



Sign the PFD Back-Pay Petition  
Support Governor Dunleavy's Senate Bill 23. [Sign Up](#)

[See Ad Details](#)

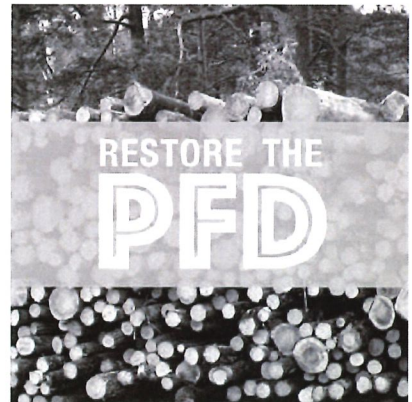
● Inactive  
Mar 14, 2019 - Mar 19, 201  
ID: 446004552605847

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Sign the PFD Back-Pay Petition  
Support Governor Dunleavy's Senate Bill 23. [Sign Up](#)

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● Inactive  
Mar 14, 2019 - Mar 19, 201  
ID: 812044745796273

About social issues, elections or politics

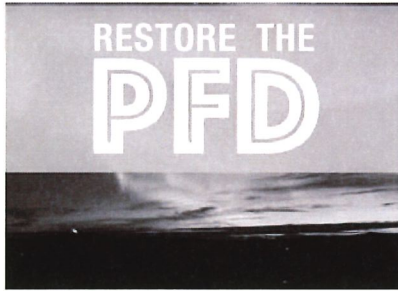


**Restore the PFD**  
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Sign the PFD Back-Pay petition to show your support for Governor Dunleavy's bill to restore the PFD and pay back what Alaskans are owed.

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Petition  
Support Governor Dunleavy's  
Senate Bill 23.

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Facebook © 2019 |  
English (US)





## Sign the Petition to Cap Government Spending

On January 30th, Governor Campbell introduced a bill (SB 68) to cap government spending and create a savings plan.

Add your name to the petition if you believe government should need to take your PFD or imposed taxes... if needed to live within its means and spend less.

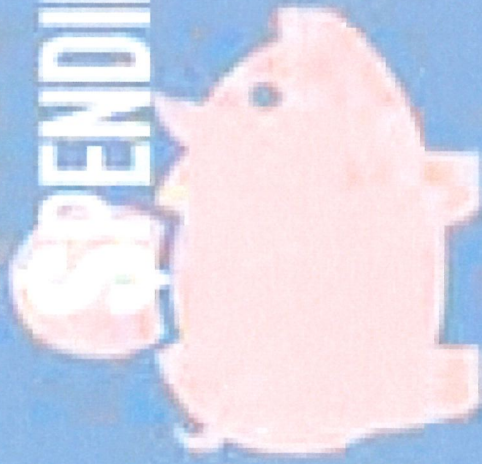
### Sign by providing your info below

Email	<input type="text" value="Enter your address"/>
First name	<input type="text" value="Enter your address"/>
Last name	<input type="text" value="Enter your address"/>
ZIP code	US <input type="text" value="Enter your address"/>
Phone number	US + 1 <input type="text" value="Enter your address"/>





# GAP SPENDING



## Terms and Conditions for Cap Government Spending

By clicking Submit, you agree to send your info to Cap Government Spending who agrees to use it according to their privacy policy. Facebook will also use it subject to our Data Policy including to auto-fill forms for ads. [View Facebook Data Policy](#). [View Privacy Policy](#)

[Back](#)

Exhibit I

Page 2 of 41

[Submit](#)



# SIGN NOW

## Sign the PFD Petition

Sign Governor Ducey's petition supporting a full \$1,000 PFD this year.

### Add Your Name

First name	<input type="text"/>
Last name	<input type="text"/>
Email	<input type="text"/>
Phone number	US +1 <input type="text"/>
ZIP code	US <input type="text"/>







# SIGN NOW

## Terms and Conditions for Restore the PFD

By clicking Submit, you agree to lend your info to Restore the PFD who agreed to use it according to their privacy policy. Facebook will also use it subject to our Data Policy, including its advertising terms for ads. [View Facebook Data Policy](#). [View Restore the PFD's Privacy Policy](#)

# LEGAL SERVICES

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

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

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


## MEMORANDUM

May 20, 2019

**SUBJECT:** Executive Branch Ethics Act restrictions on use of funds for partisan political purpose (Work Order No. 31-LS1006)

**TO:** Representative Zack Fields  
Attn: Tristan Walsh

**FROM:** Daniel C. Wayne  
Legislative Counsel



You have asked whether the governor's recent posting of a paid advertisement on Facebook.com violates ethics law regarding the use of public funds for paid advertising for partisan political purposes. I have attached a copy of the ad you provided to this office with your request.

The applicable ethics law is the Executive Branch Ethics Act (AS 39.52). As a preliminary matter, our advice is not binding on a finder of fact in a matter investigated under AS 39.52. Any person may report a potential ethics violation under AS 39.52.230, or file an ethics complaint under AS 39.52.310(b). Reports of potential ethics violations, under AS 39.52.230, are investigated by a public officer's designated ethics supervisor, who, for the governor, is the Attorney General.<sup>1</sup> However, if an ethics complaint is filed against the governor under AS 39.52.310, the personnel board appoints an outside special counsel to investigate the complaint and recommend findings to the personnel board, and the personnel board makes the final determination.<sup>2</sup>

The governor is a public officer.<sup>3</sup> If a complaint were filed against the governor based on the attached ad, the special counsel and the personnel board would probably consider AS 39.52.120(b), which provides in relevant part:

(b) A public officer may not

...

---

<sup>1</sup> AS 39.52.960(8).

<sup>2</sup> AS 39.52.310(c).

<sup>3</sup> AS 39.52.960(22).

(6) use or authorize the use of state funds, facilities, equipment, services, or another government asset or resource for partisan political purposes; . . . in this paragraph, "for partisan political purposes"

(A) means having the intent to differentially benefit or harm a

(i) candidate or potential candidate for elective office; or

(ii) political party or group;

(B) but does not include having the intent to benefit the public interest at large through the normal performance of official duties.

The top of the ad proclaims "Sponsored - Paid for by Governor Michael J. Dunleavy." This suggests that state funds were used to pay for the ad; if so, two questions remain: (1) is the ad "for partisan political purposes;" and, (2) does the ad have "the intent to benefit the public interest at large through the normal performance of official duties."

**(1) Is the ad for a partisan political purpose?**

The body of the ad reads:

The Senate has proposed a full \$3,000 PFD, but sadly *the House Majority* has proposed a \$0 PFD. With just days left in the legislative session, Alaskans need to take immediate action. Use this handy tool to tell lawmakers you want YOUR full \$3,000 PFD - and nothing less. Act now to save your PFD: [www.akgov.us/cyl](http://www.akgov.us/cyl)<sup>4</sup>

Although "political party or group" is not defined under AS 39.52, because the house majority is a caucus, the independent counsel and the personnel board may determine that it is a political group.

When terms are undefined in statute, AS 01.10.040(a) directs that they be construed "according to their common and approved usage." The Alaska Supreme Court has said:

Dictionaries provide a useful starting point for determining what statutory terms mean, as they provide the common and ordinary meaning of words. When a popular or common word is used in a statute, but is not defined, the word should be given its common meaning.<sup>5</sup>

---

<sup>4</sup> Emphasis added. The online address "[www.akgov.us/cyl](http://www.akgov.us/cyl)," listed in the Facebook.com ad is for a webpage that prompts users to enter personal identifying information for the apparent purpose of generating an electronic letter to legislators.

<sup>5</sup> *Alaskans For Efficient Government, Inc. v. Knowles*, 91 P.3d 273, 276 n. 4 (Alaska 2004), quoting 2A Norman J. Singer, *Sutherland Statutory Construction* § 47.28 (6th ed. 2000).

The common meaning of "caucus," according to one dictionary, is "a private meeting of leaders or a committee of a political party or faction to decide on policy, pick candidates, etc., esp. prior to a general, open meeting."<sup>6</sup> In this context, which involves a majority caucus of a house of the legislature, the independent counsel and the personnel board may look to the definition of "caucus" under the Legislative Ethics Act (AS 24.60), although they are not necessarily bound by that definition. The Legislative Ethics Act defines "caucus" as "a group of legislators who share a political philosophy, or have a common goal, and who organize as a group."<sup>7</sup> Either of these two definitions would support a finding that the house majority is a political group.

**(2) Is the ad intended to benefit the public interest at large through the normal performance of official duties?**

Although one purpose of the ad may be to benefit the public interest at large, through a permanent fund dividend, does an intention to benefit the public interest supersede the AS 39.52.120(b)(6) prohibition on partisan political use of public funds? And, if so, is use of public funds to pay for a political ad on Facebook.com a normal performance of official duties? As noted in an Attorney General opinion,

[U]nder article IX, section 6 of the Alaska Constitution, "no appropriation of public money [may be] made, or public property transferred . . . except for a public purpose." The use of public resources for a partisan election campaign is not per se prohibited by the public purpose doctrine. However, this office has in past opinions narrowly construed the power of state officials to expend state money or use state property in support of a partisan position in an election campaign. We advised that there are two barriers to those expenditures. In 1980 we wrote,

[t]he first [barrier to the expenditure of public money or property] is that there must be clear and explicit statutory authority to expend public money in support of partisan position . . . . The second barrier is the rule that public funds may be expended on political activities only if the government's involvement is fair and neutral.<sup>8</sup>

---

<sup>6</sup> *Webster's New World Dictionary of the American Language, Second College Edition.*

<sup>7</sup> AS 24.60.037(g)(1).

<sup>8</sup> 1994 *Inf. op. Att'y Gen. (Jan. 1; 663 94 0147)* citing 1980 *Inf. Op. Att'y Gen. (June 11; Pegues)*.

Representative Zack Fields  
May 20, 2019  
Page 4

Applying this interpretation of the constitutional "public purpose" requirement, the use of public funds for a partisan political purpose is unconstitutional, and therefore not a normal performance of official duties.

**Conclusion**

Based on the foregoing, if a complaint were filed against the governor related to the attached ad, the special counsel and the personnel board may determine that producing and paying for the ad constitutes a prohibited use of state funds by a public officer, under AS 39.52.120(b)(6) of the Executive Branch Ethics Act.


DCW:mjt  
19-243.mjt

Attachment



AT&T LTE

5:30 PM

14% 

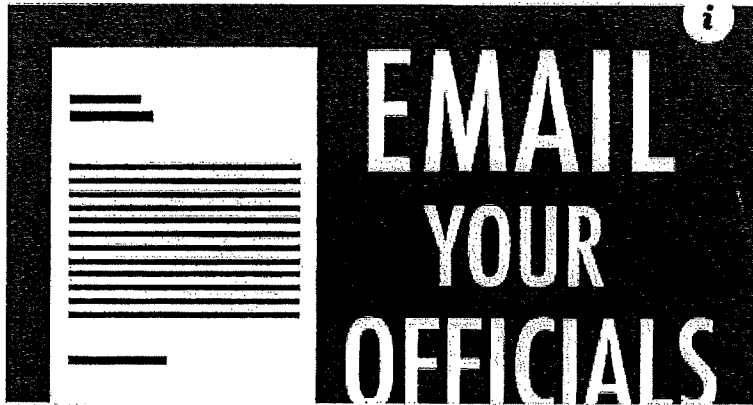


### Restore the PFD

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The Senate has proposed a full \$3,000 PFD, but sadly the House Majority has proposed a \$0 PFD. With just days left in the legislative session, Alaskans need to take immediate action. Use this handy tool to tell lawmakers you want YOUR full \$3,000 PFD - and nothing less. Act now to save your PFD:

[www.akgov.us/cyl](http://www.akgov.us/cyl)



FS9.FORMSITE.COM

Contact Your Elected Officials

Support the PFD back-pay bills by sending a letter t...



2



LETTER OF INTENT

**AMENDED**

**COMPLETED**

Submission Date: **06/13/2019**

Filer First Name: **Joshua**

Filer Middle Name: **C**

Filer Last Name: **Revak**

Election: **2020 - State Primar Election**

Office T pe: **House**

CANDIDATE INFORMATION

Election Year: **2020**

Candidate Displa Name:

Candidate Legal First Name:

Candidate Legal Last Name:

---

Campaign Mailing Address:

Cit , State Zip: , **Alaska**

Phone:

Email:

Fax (Optional): **Did Not Report**

LETTER OF INTENT

**COMPLETED**

Submission Date: **06/24/2019**  
Filer First Name: **Sara**  
Filer Middle Name:  
Filer Last Name: **Rasmussen**  
Election: **2020 - State Primary Election**  
Office Title: **Did Not Report**

CANDIDATE INFORMATION

Election Year: **2020**  
Candidate Display Name: **Sara Rasmussen**  
Candidate Legal First Name: **Sara**  
Candidate Legal Last Name: **Rasmussen**

---

Campaign Mailing Address: **5751 Katahdin Dr**  
City, State Zip: **Anchorage, Alaska 99502**  
Phone: **9072233522**  
Email: **Sararasmussenak@gmail.com**  
Fax (Optional): **Did Not Report**

Campaign ID	Campaign Name	Campaign : Ad Set Time Start	Ad Set Time Stop	Ad Name	Title	Body
cg:2384322920 8150506	Lead Generation	PAUSED 4/3/2019 22:40	4/5/2019 22:29	Cap Government Spending v1	Cap Government Spending	<p>Add your name to the petition if you believe government doesn't need to take your PFD or impose taxes -- it needs to live within its means and spend less.</p> <p>Limiting the size of the state budget respects Alaskans who are fiscally-responsible with their own money. Add your name to the petition to cap government spending.</p> <p>Limiting the size of the state budget respects Alaskans who are fiscally-responsible with their own money. Add your name to the petition to cap government spending.</p> <p>Government doesn't need to take your PFD or impose taxes; it needs to spend less. Add your name today.</p> <p>Alaska lawmakers should be responsible with taxpayer money by reducing spending, capping government growth, and creating a savings plan.</p> <p>If you believe we need to cap government spending, now is the time to tell your local officials. Add your name to the petition today.</p> <p>If you believe we need to cap government spending, now is the time to tell your local officials.</p> <p>SIGN THE PETITION: If you believe we need to cap government spending, now is the time to tell your local officials.</p> <p>ADD YOUR NAME TO THE PETITION: If you believe we need to cap government spending, now is the time to tell your local officials.</p>
cg:2384322920 8150506	Lead Generation	PAUSED 4/4/2019 16:30	4/6/2019 22:29	Cap Government Spending v2	Sign the Petition	<p>Limiting the size of the state budget respects Alaskans who are fiscally-responsible with their own money. Add your name to the petition to cap government spending.</p> <p>Limiting the size of the state budget respects Alaskans who are fiscally-responsible with their own money. Add your name to the petition to cap government spending.</p>
cg:2384322920 8150506	Lead Generation	PAUSED 4/3/2019 22:40	4/5/2019 22:29	Cap Government Spending v2	Sign the Petition	<p>Limiting the size of the state budget respects Alaskans who are fiscally-responsible with their own money. Add your name to the petition to cap government spending.</p> <p>Limiting the size of the state budget respects Alaskans who are fiscally-responsible with their own money. Add your name to the petition to cap government spending.</p>
cg:2384322920 8150506	Lead Generation	PAUSED 4/4/2019 16:30	4/6/2019 22:29	Cap Government Spending v3	Sign the Petition	<p>Government doesn't need to take your PFD or impose taxes; it needs to spend less. Add your name today.</p> <p>Alaska lawmakers should be responsible with taxpayer money by reducing spending, capping government growth, and creating a savings plan.</p> <p>If you believe we need to cap government spending, now is the time to tell your local officials. Add your name to the petition today.</p> <p>If you believe we need to cap government spending, now is the time to tell your local officials.</p> <p>SIGN THE PETITION: If you believe we need to cap government spending, now is the time to tell your local officials.</p> <p>ADD YOUR NAME TO THE PETITION: If you believe we need to cap government spending, now is the time to tell your local officials.</p>
cg:2384322920 8150506	Lead Generation	PAUSED 4/4/2019 16:30	4/6/2019 22:29	Cap Government Spending v4	Sign the Petition to Cap Government Spending	<p>Limiting the size of the state budget respects Alaskans who are fiscally-responsible with their own money. Add your name to the petition to cap government spending.</p> <p>Limiting the size of the state budget respects Alaskans who are fiscally-responsible with their own money. Add your name to the petition to cap government spending.</p>
cg:2384322920 8150506	Lead Generation	PAUSED 4/4/2019 16:30	4/6/2019 22:29	Cap Government Spending v5	Sign the Petition	<p>Limiting the size of the state budget respects Alaskans who are fiscally-responsible with their own money. Add your name to the petition to cap government spending.</p> <p>Limiting the size of the state budget respects Alaskans who are fiscally-responsible with their own money. Add your name to the petition to cap government spending.</p>
cg:2384322920 8150506	Lead Generation	PAUSED 4/4/2019 16:30	4/6/2019 22:29	Cap Government Spending v6	Sign the Petition	<p>Limiting the size of the state budget respects Alaskans who are fiscally-responsible with their own money. Add your name to the petition to cap government spending.</p> <p>Limiting the size of the state budget respects Alaskans who are fiscally-responsible with their own money. Add your name to the petition to cap government spending.</p>
cg:2384322920 8150506	Lead Generation	PAUSED 4/4/2019 16:30	4/6/2019 22:29	Cap Government Spending v7	Sign the Petition	<p>Limiting the size of the state budget respects Alaskans who are fiscally-responsible with their own money. Add your name to the petition to cap government spending.</p> <p>Limiting the size of the state budget respects Alaskans who are fiscally-responsible with their own money. Add your name to the petition to cap government spending.</p>
cg:2384322920 8150506	Lead Generation	PAUSED 4/25/2019 17:09	5/1/2019 20:00	Cap Spending (Best Performing)	Cap Government Spending	<p>Limiting the size of the state budget respects Alaskans who are fiscally-responsible with their own money. Add your name to the petition to cap government spending.</p> <p>Limiting the size of the state budget respects Alaskans who are fiscally-responsible with their own money. Add your name to the petition to cap government spending.</p>
cg:2384323259 9060506	Contact Your Legislator	PAUSED 4/25/2019 16:33	5/1/2019 16:20	CYL (Best Performing)	Contact Your Officials	<p>Use this handy tool to send a letter to your local officials telling them you support a cap on government spending.</p> <p>Use this handy tool to send a letter to your local officials telling them you support a cap on government spending.</p>
cg:2384323259 9060506	Contact Your Legislator	PAUSED 4/25/2019 16:28	5/1/2019 16:20	CYL (Best Performing)	Contact Your Officials	<p>Use this handy tool to send a letter to your local officials telling them you support a cap on government spending.</p> <p>Use this handy tool to send a letter to your local officials telling them you support a cap on government spending.</p>
cg:2384323259 9060506	Contact Your Legislator	PAUSED 4/25/2019 16:35	5/1/2019 16:20	CYL (Best Performing)	Contact Your Officials	<p>Use this handy tool to send a letter to your local officials telling them you support a cap on government spending.</p> <p>Use this handy tool to send a letter to your local officials telling them you support a cap on government spending.</p>





cg:2384338259 9060506	Contact Your Legislator	PAUSED	4/5/2019 14:51	4/8/2019 11:00	CYL v5	Contact Your Officials	<p>If you believe we need to cap government spending, now is the time to tell your local officials. Use this quick and easy tool.</p> <p><a href="https://business.facebook.com/2109316425853875/posts/2121173054668212?business_id=304499466863636">https://business.facebook.com/2109316425853875/posts/2121173054668212?business_id=304499466863636</a></p>
cg:2384338259 9060506	Contact Your Legislator	PAUSED	4/11/2019 9:12	4/20/2019 10:17	CYL v5	Contact Your Officials	<p>If you believe we need to cap government spending, now is the time to tell your local officials. Use this quick and easy tool.</p> <p>Thank Rep. Merrick for voting to cut the budget and keep government spending in check. She's a fighter for a permanent fiscal plan. Email <a href="mailto:rep.kelly.merrick@akleg.gov">rep.kelly.merrick@akleg.gov</a> or call her office at (907) 694-8944 and say 'thank you'!</p>
cg:2384338255 4340506	Thank You!	PAUSED	6/26/2019 14:43		Merrick Ad		<p>Thank Rep. Rasmussen for voting to cut the budget and keep government spending in check. She's a fighter for a permanent fiscal plan. Email <a href="mailto:rep.sara.rasmussen@akleg.gov">rep.sara.rasmussen@akleg.gov</a> or call her office at (907) 465-3892 and say 'thank you'!</p>
cg:2384338255 4340506	Thank You!	PAUSED	6/25/2019 14:59		Rasmussen Ad		<p>Thank Rep. Revak for voting to cut the budget and keep government spending in check. He's a fighter for a permanent fiscal plan. Email <a href="mailto:rep.josh.revak@akleg.gov">rep.josh.revak@akleg.gov</a> or call his office at (907) 465-3879 and say 'thank you'!</p>



**BEFORE THE ALASKA PERSONNEL BOARD**

**In re Ethics Complaint of July 12, 2019; July 22, 2019; and  
August 18, 2019**

**SETTLEMENT AGREEMENT**

This settlement agreement is entered into between Governor Michael J. Dunleavy (“Governor”) and the Alaska Personnel Board through its Independent Counsel (“Independent Counsel”). This settlement resolves the above-described Complaint. The Complaint alleges that the Office of the Governor used State funds to make communications through online and printed advertising (“Communications”) for partisan political purposes in violation of the Alaska Executive Branch Ethics Act.

WHEREAS certain Communications advocated for policy by urging Alaskans to contact their representatives, testify before the legislature, and attend events, and the parties agree these Communications were not for partisan political purposes and did not violate the Alaska Executive Branch Ethics Act;

WHEREAS certain Communications referred to specific officeholders, and the parties agree these Communications nonetheless were permissible because the officeholders referred to had not yet manifested an intent to run for reelection or further office;

WHEREAS certain Communications urged individuals to sign online “petitions” which were used to gather constituent contact information, but the parties agree that there is insufficient evidence to conclude that these Communications were for a partisan political purpose and further agree that the resulting lead lists have not been used or distributed in violation of the Alaska Executive Branch Ethics Act;

WHEREAS certain Communications refer to two officeholders who had, at the time the Communications circulated, filed regulatory paperwork indicating an intent to run for reelection, and the Independent Counsel finds the circumstances support an inference that these Communications were for a “partisan political purpose” as that term is defined by the Executive Branch Ethics Act;

WHEREAS the Independent Counsel recognizes that the partisan political purpose he attributes to certain Communications is owed to quick decision-making and inadequate education into the mandates of the Executive Branch Ethics Act, rather than improper intent;

WHEREAS State employees dedicated relatively little time to preparing Communications to which a partisan political purpose has been attributed by Independent Counsel;

WHEREAS the precise cost of advertisements containing Communications to which a partisan political purpose could be attributed is difficult to determine but is more likely than not about \$2,800;

WHEREAS the Governor approved a general communications strategy that included outreach to Alaskans through online and print advertising, as well as other means, instructed communications staff in the Office of the Governor to carry out the strategy in accordance with all laws, and, where needed, with input from the Department of Law, but otherwise provided communications staff in the Office of the Governor with only general direction as to communications content;

WHEREAS the parties disagree as to the proper interpretation of the definition of “partisan political purposes” under the Executive Branch Ethics Act, and whether the Governor can be found liable under the Executive Branch Ethics Act for violations committed by employees of the Office of the Governor done without his knowledge or approval;

WHEREAS the Independent Counsel interprets the Executive Branch Ethics Act to require a governor to ensure that the actions of his or her staff comply with law and interprets the Act to make the Governor strictly liable for actions taken by his staff that violate the Act, irrespective of the intent of the Governor;

WHEREAS the Governor disagrees with the Independent Counsel’s interpretation, and does not believe that the Executive Branch Ethics Act imposes strict liability on the Governor for actions of staff taken without his knowledge or approval;

WHEREAS the parties wish to resolve the issues raised by the Complaint voluntarily, cooperatively, and in the best interest of the State;

IT IS AGREED THAT:

1. The Governor shall within sixty days reimburse the State \$2,800, and this amount shall not be considered a fine or penalty. This is reimbursement for the estimated amount of public funds that the Independent Counsel believes should have been paid from a non-public source.

2. The Governor shall remind members of his staff to study the Department of Law’s self-guided ethics training available at <http://law.alaska.gov/doclibrary/ethics.html> and shall, on or before September 30, 2020, certify to the Personnel Board that all of his staff members have completed this study.

3. The Governor shall make terms of this agreement public by posting a link to this document on the Office of the Governor’s website together with the following statement:

I recently resolved a complaint under the Alaska Executive Branch Ethics Act. The complaint concerned communications my office made to Alaskans through print and online advertising. Most of the communications complained of did not violate the Alaska Executive Ethics Act. But some of these communications referred to two legislators who, unbeknownst to my staff at the time, had filed a notice of intent to run for reelection. I did not know about these communications before they were sent, and had no personal role in drafting, designing, publishing, reviewing, or approving the advertisements. I never intended for State resources to support a partisan political purpose, and I don't believe I violated the Alaska Executive Ethics Act. Nevertheless, I believe it is in the best interests of the State to resolve these complaints, and, for this reason, I am reimbursing the State for the cost of these advertisements and ensuring that my staff undergoes all appropriate ethics training. I am also taking this opportunity to remind the devoted public servants in my office of the very high ethical standards that Alaskans rightly demand..

4. Nothing in this agreement constitutes an admission of wrongdoing, nor may any admission of wrongdoing be inferred by virtue of the execution of this agreement.

Dated this 4<sup>th</sup> day of September, 2020.

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Governor Michael J. Dunleavy

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John J. Tiemessen  
Independent Counsel  
State of Alaska Personnel Board

Approved as to form and content:

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Brewster H. Jamieson  
Attorney for Governor Michael J. Dunleavy

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