

Alaska State Legislature

Select Committee on Legislative Ethics

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Ethics Committee Meeting December 2, 2019 – 9:30 a.m. Anchorage LIO Denali Room

(Meeting will be teleconferenced
Anchorage Only: 563-9085
Juneau Only: 586-9085
Outside Anchorage or Juneau: 1-844-586-9085)

FULL COMMITTEE: Open Session (+) indicates background material in packet

1. CALL THE MEETING TO ORDER
2. APPROVAL OF AGENDA (+)
3. APPROVAL OF MINUTES (+)
 - a. August 14, 2019 Full Committee Meeting Minutes
 - b. August 14, 2019 House Subcommittee Meeting Minutes
4. PUBLIC COMMENT
5. ADVISORY OPINION (+)
 - a. AO 19-06 Compassionate gift exemption class of people – Waiver of confidentiality
6. REVIEW OF COMMITTEE RULES OF PROCEDURE (+)
7. CHAIR/STAFF REPORT (+)
 - a. Internship program notification under AS 24.60.080(h) and Committee Rules of Procedure Section 2(f)
 - b. National Conference of State Legislatures (NCSL) Ethics training proposal
8. STATE BENEFIT AND LOAN PROGRAM REVIEW UNDER AS 24.60.050 AND COMMITTEE RULES OF PROCEDURE SECTION 2(h) (+)
9. OTHER BUSINESS
10. ADJOURN

ALASKA STATE LEGISLATURE
SELECT COMMITTEE ON LEGISLATIVE ETHICS
AUGUST 14, 2019

Full Committee Meeting

10:40:00 AM

1. CALL THE MEETING TO ORDER

Joyce Anderson called the meeting to order at 10:41 a.m. and Jerry Anderson conducted roll call.

Roll Call

Senator John Coghill
Senator Tom Begich
Representative Louise Stutes
Deb Fancher
Lee Holmes
Conner Thomas
Skip Cook
Joyce Anderson

Quorum present.

Others present

Senator David Wilson (Alternate for Senator John Coghill)
Senator Elvi Gray-Jackson (Alternate for Senator Tom Begich)
Jerry Anderson, Administrator
Jacqui Yeagle, Administrative Assistant

Joyce Anderson declared a quorum and she introduced and welcomed new alternate public member Patrick FitzGerald. She explained that the role of the alternate member is to serve when a public member is unable to serve.

At Joyce Anderson's request, Patrick FitzGerald introduced himself. He said that he was born and raised in Alaska and he has lived in Alaska his entire life except for four years when he went to school. He said that he gotten involved in politics when he moved to Anchorage in 2016 and he loves doing the work for state and for the people. He said he is excited to be on the committee and thanked Chief Justice Joel Bolger for selecting him.

Joyce Anderson said that Patrick FitzGerald is a Republican. She added that there is a requirement in statute that disallows more than two public members of one political party on the committee.

Representative Louise Stutes joined the meeting telephonically.

Joyce Anderson said that Dan Wayne with LAA Legal, Jacqui Yeagle, Administrative Assistant, and Jerry Anderson, Ethics Committee Administrator were also in the room.

Joyce Anderson asked that for the record the committee members identify themselves before they speak. She said that the agenda for the day was full and the meeting was expected to last three hours.

2. APPROVAL OF AGENDA

Joyce Anderson said she wanted to reserve for a future meeting item 7b1, Review of Statutes and Rules of Procedure, from the agenda. She asked for a motion to approve the agenda as amended.

Lee Holmes moved to approve the agenda as amended. Senator Tom Begich seconded the motion. There was no further discussion. The motion carried.

10:44:34 AM

3. APPROVAL OF MINUTES

Joyce Anderson directed the committee's attention to the March 28, 2019 Full Committee Meeting Minutes and asked for a motion to approve the minutes of the March 28, 2019 full committee minutes.

Senator Tom Begich moved to approve the March 28, 2019 Full Committee meeting minutes. Lee Holmes seconded the motion. There was no further discussion. The motion carried.

Joyce Anderson asked for a motion to approve the March 28, 2019 House Subcommittee Meeting Minutes as presented.

Lee Holmes moved to approve the March 28, 2019 House Subcommittee Meeting Minutes. Senator Tom Begich seconded the motion. There was no further discussion. The motion carried.

10:45:32 AM

4. PUBLIC COMMENT

There were no public comments.

5. ADVISORY OPINIONS

Joyce Anderson directed the committee's attention to draft Advisory Opinion 19-03, which was requested by Senator Tom Begich who had waived confidentiality so it could be discussed by the Ethics Committee in a public session.

Joyce Anderson asked Senator Tom Begich if he wanted to speak to why he requested the advisory opinion.

Senator Tom Begich began by saying that he would be recusing himself from voting on the advisory opinion because he requested the opinion. He explained that the question stemmed from a spirited preliminary discussion by the Ethics Committee about a request that he had made on an issue that had come up during the 2018 election. There was scheduled at a location in his district a forum for candidates of all political parties and he considered it part of his role as a member of the state senate to inform the public about the forum. He was not a candidate in that election and he was not publicly supporting any of the candidates. Senator Begich received informal advice not to provide that information and he did not. After the committee discussion about the issue, he requested a formal opinion, resulting in draft Advisory Opinion 19-03.

Dan Wayne began his overview of the advisory opinion by saying that the request received through the Ethics Committee did not have a lot of facts and so he made some factual assumptions in writing the opinion. The assumptions are noted in the opinion.

Dan Wayne reviewed the statement of facts: the forum was hosted by a nonpartisan organization and the legislator publishing the newsletter is not a featured candidate at the forum, is not using the newsletter to advocate for a particular candidate, or pack attendance at the forum, or influence the outcome of the election in which the featured candidate is running; and also that the requestor desires to include information about the forum in the newsletter in order to fulfill what the legislator perceives as an obligation to inform constituents of civics matters. Dan Wayne noted that he was not sure if the word "civics" in the last sentence should be "civic" or "civics."

Senator Tom Begich offered that the word should be "civic."

Dan Wayne read from the discussion section of the advisory opinion: From this, we understand your question to be one relating to a future candidate forum. Therefore, it is likely that, at a minimum, the public would perceive the information published in the newsletter as informing constituents about an opportunity to attend an upcoming candidate forum. It is conceivable that they could also perceive the forum or the presentation of information in the newsletter as partisan political activity, depending on how it's presented – we didn't have facts about how it was going to be presented really – and what additional information is provided.

10:50 AM

Dan Wayne said that AS 24.60.030(a) provides that a legislator can't use public funds, facilities, services, or other government assets or resources for a nonlegislative purpose, for involvement in or support of or opposition to partisan political activity, or for the private benefit of the legislator... and he added that the rule does not prohibit a legislator from sending any communication in the form of a newsletter to the legislator's constituents, except a communication expressly advocating the election or defeat of a candidate.

10:51:20 AM

Representative DeLena Johnson joined the meeting.

Dan Wayne referred to the question presented: Does the Legislative Ethics Act permit a legislator to include, in the legislator's *regularly scheduled legislative newsletter*, information about a candidate forum. He said it was important to reference that phrase because the conclusion refers to and limits the opinion to regularly scheduled newsletters.

Dan Wayne continued, saying that after citing AS 24.60.030(a) and the exception in (J) in the advisory opinion, there is a brief discussion about the lack of definition in the Ethics Act of "partisan" or "non-partisan." But, he said, a definition is not necessary to answer the question as long as the information published [in the newsletter] doesn't expressly advocate for the election or defeat of a candidate and is not clearly only for the private benefit of the legislator or legislative employee because the exception in AS 24.60.030(a)(J) allows the legislator to include information in a legislative newsletter to the legislator's constituents even if it amounts to partisan political activity or if the forum itself is a partisan political activity.

Dan Wayne that other limitations in the Act might apply and cited AS 24.60.030(a)(5), "a legislator or legislative employee may not use or authorize the use of government assets or resources for the purpose of political fund raising or campaigning," which he said depending on the facts of the case could trump the AS 24.60.030(a)(J) exception.

10:53

Dan Wayne continued, saying that under AS 24.60.031 legislators and legislative employees are barred from soliciting contributions or promises or pledges to contribute to a political campaign during a 90-day period except in certain limited circumstances, on a day when a house of the legislature is in session. After reading the section in the meeting, Dan Wayne suggested changing it to read "90-day period before an election..." and he made a note to that effect.

Dan Wayne continued, saying that previous opinions of the committee – AO 13-03 and

AO 15-03 – talked about how AS 24.60.030(a)(2)(J) allows legislators to use legislative assets and resources to send legislative newsletters, but only to constituents.

Dan Wayne said that advisory opinion concludes that a legislator is permitted to include the information about a candidate forum in a regularly scheduled newsletter as long as it does not expressly advocate for the election or defeat of a candidate; it is not clearly only for the private benefit of a legislator or legislative employee; and it does not constitute political fund raising or campaigning barred by AS 24.60.030(a)(5) or a solicitation barred by AS 24.60.031. The conclusion ends with the reminder that everybody is responsible for their own compliance with the Act and that the committee will consider applicable facts in each instance and also factor in whether there is an appearance of ethical impropriety.

Senator Tom Begich clarified some of the factual points to ensure the committee's understanding. Senator Begich said that it was a nonpartisan organization that conducted the forum – the Downtown Partnership – there was no charge to the public, there was no fund raising activity, there was no political activity of any kind, the newsletter went out to all constituents and it was posted online so there was no restricted audience that would have received the newsletter. Senator Begich added that in his opinion the advisory opinion cut to the heart of the difference between what is electioneering, what is campaigning, and what is the civic duty of legislators to inform.

Joyce Anderson asked if there any discussion by committee members.

Skip Cook recommended adding the word ‘upcoming’ to the second line on page two as suggested by Dan Wayne.

Joyce Anderson recommended two changes: replace the word “do” to “does” at the end of the first line of 2 under the conclusion and to reference the statute in 1 of the conclusion.

Conner Thomas moved to adopt draft Advisory Opinion 19-03 with the proposed amendments.

Deb Fancher seconded the motion to adopt draft Advisory Opinion 19-03 with the proposed amendments.

Joyce Anderson reviewed the proposed amendments.

- Removing the “s” from the word “civics” in the Statement of Facts.
- Adding the word “upcoming” to the sentence at the top of page two to read “...that opportunity to attend an upcoming candidate forum.”
- Adding the words “before an election” after the word “period” to the sentence on page three to read, “Also, legislators and legislative employees are barred, under AS 24.60.031, from soliciting contributions or promises or pledges to contribute

to a political campaign during a 90 day period before an election except in certain limited circumstances...”

- Adding a reference to AS 24.60.030(a)(2)(J) to the second paragraph under the conclusion.
- Replacing the word “do” with “does” in the third paragraph under the conclusion.

Joyce Anderson asked if there were further discussion. Seeing none, Joyce Anderson said that a roll call was required and directed Jerry Anderson to conduct a roll call vote.

11:00:22 AM

Jerry Anderson read a summary in accordance to the Rules of Procedure, “Formal Advisory Opinion AO 19-03 advises whether a legislator may include information in a regularly scheduled legislative newsletter to the legislator’s constituents about a candidate forum. This advisory opinion states the conditions under which such information may be included in the legislative newsletter.

Roll Call Vote is to concur or not concur with the draft opinion. A vote of yes will be a vote to concur with the draft opinion as amended. A vote of no will be to not concur with the draft opinion as amended in committee discussion.

Skip Cook	Y
Conner Thomas	Y
Joyce Anderson	Y
Senator John Coghill	Y
Senator Elvi Gray-Jackson	Y
(alternate to Senator Tom Begich who recused himself)	
Representative DeLena Johnson	Y
Representative Louise Stutes	Y
Deb Fancher	Y
Lee Holmes	Y

The Ethics Committee adopted advisory Opinion 19-03 as amended with a vote of 9-0.

Joyce Anderson said that the advisory opinion will be referred back to Legislative Legal for the changes, the final advisory opinion will be sent to Jerry Anderson, distributed to committee members, added to the Ethics Committee website, and included in the next Ethics Committee newsletter.

11:02:30 AM

Word of caution language

Joyce Anderson directed the committee’s attention to the Word of Caution language for advisory opinions and asked Jerry Anderson to speak about it.

Jerry Anderson said that he proposed the word of caution language be added to the online versions of advisory opinions 18-01, 18-02, 18-04, 18-05, and 19-05 that were related to HB44, which passed in 2018, and affected by the passage of SB 89 in 2019. Jerry Anderson read the proposed language to the committee:

Word of Caution:

SB 89 became law on May 25, 2019, significantly changing AS 24.60. Prohibited Conduct and Conflicts of Interest. Based on these changes, the advice in this formal advisory opinion may no longer be applicable or appropriate. Caution is required in using this opinion in similar situations.

Jerry Anderson said that the date the language was adopted by the committee would be included in the word of caution statement. The word of caution language would appear on the website at the top of the affected advisory opinions. Jerry Anderson said he was looking for committee input on the prudence of the word of caution and the language used in the word of caution.

Senator Tom Begich asked Joyce Anderson if a motion was required prior to discussing the word of caution language.

Joyce Anderson replied that no motion was required.

Conner Thomas asked if the intent was to take a vote on the language.

Joyce Anderson replied that she did not believe a vote was needed unless the committee thinks it is necessary.

Conner Thomas said that the language was good, that he supports it, and thinks it is needed. Conner Thomas asked Jerry Anderson if he intended to include all of AS 24.60 in the word of caution language.

Jerry Anderson said he believed that the advisory opinions previously approved by the committee are impacted through that statutory section alone but it could be the Legislative Ethics Act (AS 24.60).

Conner Thomas said that the reason he asked that question is because it references Prohibited Conduct and Conflicts of Interest, which is AS 24.60.030.

Joyce Anderson suggested citing the entire act and mentioning AS 24.60.030 specifically.

Conner Thomas agreed with Joyce Anderson's suggestion and added that personally he thought that it was appropriate to be specific about AS 24.60.030.

Joyce Anderson said that she agreed and that the statement should cite both the Act and AS 24.60.030 specifically.

Senator Tom Begich asked if there were a plan to review the affected advisory opinions against the new statute to update the advisory opinions or if it would require the committee to request Legislative Legal to revise the advisory opinions.

Joyce Anderson responded that there are many advisory opinions that are no longer applicable because of statutory changes and in her memory the committee has only made changes to one advisory opinion due to a specific request from the committee. It is an option if the committee wants to request revising the advisory committee.

Senator John Coghill said he thought the language in the cautionary statement was appropriate and that the changes should be a talking point in training because they were subjects of significant conversation over the last three or four years and there are going to be lingering questions in peoples' minds.

Joyce Anderson asked if there were further discussion. Seeing none, she read the word of caution again:

Senate Bill 89 became law on May 25, 2019, significantly changing AS 24.60 Legislative Ethics Act, specifically AS 24.60.030 Prohibited Conduct and Conflicts of Interest. Based on these changes, the advice in this formal advisory opinion may no longer be applicable or appropriate. Caution is required in using this opinion in similar situations.

11:10:30 AM

6. APPROVAL OF AMENDED CONTRACT WITH OUTSIDE COUNSEL – FY 2019

Jerry Anderson said that the contract amended the amount of the contract from \$8,000 to \$10,000. The amendment was previously approved by Chair Joyce Anderson and based on a request by Legislative Legal the amendment was approved by members via an email vote with seven members approving the amendment and two members nonresponsive.

Jerry Anderson continued, saying no further expenditures were anticipated and that the reason the contract was on the agenda was to approve the amended contract in a public session. Jerry Anderson asked the committee to note that the contract had expired at the end of the fiscal year on June 30, 2019.

Joyce Anderson entertained a motion to approve the amended contract as presented.

Deb Fancher moved to approve the amended contract as presented. Lee Holmes seconded the motion.

Joyce Anderson asked if there were further discussion regarding the contract. There was no further discussion.

Joyce Anderson directed Jerry Anderson to conduct a roll call vote.

Deb Fancher	Y
Lee Holmes	Y
Senator John Coghill	Y
Senator Tom Begich	Y
Representative DeLena Johnson	Y
Representative Louise Stutes	Y
Skip Cook	Y
Conner Thomas	Y
Joyce Anderson	Y

Jerry Anderson announced that the vote approved the amended contract by a vote of 9-0.

7. REVIEW OF STATUTES AND RULES OF PROCEDURE

Review of statute AS 24.60.150(b)(1) Duties of Committee

Joyce Anderson opened a review of AS 24.60.150(b)(1) Duties of Committee. She said the Rules of Procedure states, "The committee may recommend legislation to the legislature the committee considers desirable or necessary to promote and maintain high standards of ethical conduct in government." She added that the Rules of Procedure stipulate that the committee is to discuss changes to the Legislative Ethics Act at a committee meeting and may make recommendations to the legislature.

Joyce Anderson asked if any committee members had legislative changes to propose.

Conner Thomas expressed his opinion that it might be difficult to vet changes at the current meeting and suggested that if members did have suggested changes that they be submitted and distributed and discussed at a future meeting.

Joyce Anderson agreed that changes could be considered at the next meeting, noting that the Rules of Procedure stipulate that at least on an annual basis, the committee review proposed statutory changes received from committee members, staff, and others. She directed the committee to send suggested legislative changes to Jerry Anderson for consideration at the next meeting.

11:17 AM

Review of statutes pursuant to AS 24.60.150(b)(1)

Jerry Anderson addressed the handbooks that are required under AS 24.60.150(a)(2) and required in Section 12 of the Rules of Procedure to be distributed at Ethics trainings to all

employees and in new hire packets. The word “distributed” implies a physical copy of the handbook. He said that the requirement is currently fulfilled by printing for every employee a copy of the Standards of Conduct Handbook. The vast majority of employees who attended training in 2019 declined a paper copy of the handbook leaving three full boxes of leftover handbooks. The handbook is published online and can be accessed at any time. He asked that the committee consider limiting the distribution to legislators’ offices, LIOs, and new hires.

Senator Tom Begich added that the copies of the handbooks are now useless because they contain outdated material.

Jerry Anderson agreed and added that the statutes were not updated by the publishing deadline and so they were not even included in the handbook. So, changes, for example, to HB 44 were not in the handbook, making it out of date at distribution.

Senator Tom Begich submitted that the lack of a physical copy may result in the handbook not being read so he recommended a provision allowing individuals to request a physical copy.

Joyce Anderson added that Section 12 of the Rules of Procedure requires that the handbook be distributed at the beginning of each legislative session to legislators’ offices, the LIOs, and be included in new hire packets. She opened the discussion to other committee members and Jerry Anderson.

Skip Cook suggested language saying the committee will publish yearly on the internet the Standards of Conduct Handbook and that printed copies will be distributed on request or to all first time employees and on request to others.

Conner Thomas asked for confirmation of his understanding that the committee was discussing amending the Rules of Procedure, not statute. Joyce Anderson confirmed Conner Thomas’s understanding.

Deb Fancher suggested only publishing the handbook online rather than distributing it every year to legislators’ offices and LIOs.

Senator Tom Begich said that he agrees with publishing the handbook online and appreciates wanting to reduce the number of copies printed. He agreed to distributing physical copies at training by request only – that would significantly reduce the number of handbooks to be published – but expressed concern that a physical copy continue to be distributed to legislators’ offices because not having the physical copy in the office may minimize the perception of its importance.

Senator John Coghill expressed his agreement that a physical copy be distributed to legislators’ office, new hires, and by request.

Skip Cook suggested adding cautionary language to the handbook to the effect that the handbook is updated regularly and to check the online version for the most updated information.

Conner Thomas asked what is the practice for updating the handbook regularly online.

Joyce Anderson said that it is updated yearly.

Conner Thomas suggested that the cautionary language refer to updating on an annual basis rather than regularly.

Skip Cook asked if it would be better to update regularly rather than on an annual basis.

Joyce Anderson said she thought that because it will be online it would be better to update the handbook as changes occur rather than annually. Conner Thomas agreed, as long as it is updated continuously.

Jerry Anderson said he thinks it avoids confusion to include a revision date in the online version. Joyce Anderson agreed with Jerry Anderson's comment.

Representative DeLena Johnson expressed support for distributing printed copies to legislators and on request and suggested adding a revision date to the printed copy as well so it would be easy to compare the revision dates.

Senator Tom Begich asked if a motion was required to change the Rules of Procedure. Joyce Anderson responded affirmatively.

Senator Tom Begich moved to amend the Rules of Procedure Section 12 Education by adding after the word "online" after the word "publish" in section (a)(1); adding the words "by request" after the word "attendees" in section (a)(2)(A); and including language at the beginning of the physical copy of the handbook indicating that readers should check online for regular updates and including revision dates when making online updates. Skip Cook seconded Senator Tom Begich's motion.

Joyce Anderson asked if there were further discussion.

Senator John Coghill asked for restatement of the motion. At Joyce Anderson's request, Senator Tom Begich restated the motion.

Skip Cook made a friendly amendment suggesting that (a)(2)(A) of Section 12 include language that says, "printed copies of the handbook will be distributed" instead of "the handbook will be distributed".

11:34 AM

Representative DeLena Johnson made a friendly amendment that (a)(1) of Section 12 say “the committee will publish online and printed copies.”

Senator Tom Begich advised that the language Representative DeLena Johnson proposed in her friendly amendment was the intent and did not need to be a friendly amendment.

Joyce Anderson said there was a motion with a friendly amendment on the floor and directed Jerry Anderson to conduct a roll call vote.

Lee Holmes	Y
Senator John Coghill	Y
Senator Tom Begich	Y
Skip Cook	Y
Conner Thomas	Y
Joyce Anderson	Y
Deb Fancher	Y
Representative DeLena Johnson	Y
Representative Louise Stutes	Y

The committee adopted changes to section 12 of the Rules of Procedure by 9-0.

Joyce Anderson stated that Jerry Anderson will update that section of the Rules of Procedure and distribute it to committee members.

11:35 AM

Internships

Jerry Anderson directed the committee’s attention to the list of approved internships in the packet. He said that the committee had delegated to the administrator the ability to review the material submitted to the Ethics Office for new internship programs and in consultation with the chair to approve them without full committee action.

Jerry Anderson noted that on the list there are two categories of internship programs: academic ones affiliated with educational institutions and non-academic internships affiliated with outside organizations. In some cases, interns are paid by an organization other than the legislature.

Jerry Anderson said that he has been contacted about new paid internships that may be politically oriented and would fall outside of the parameters of those on the list. He thinks the committee, not the administrator, should approve those internships.

Referring to the list of internships, Senator Tom Begich said that he believed the name of the Alaska Universities Legislative Internship Program had been changed to the Ted Stevens Legislative Internship Program. Senator Tom Begich continued by saying he

Joyce Anderson asked if there were any current interns.

Senator Tom Begich replied there were none currently but that he may in the future in his other capacity formally request that those internship programs be considered by the committee.

Joyce Anderson replied that she didn't think for discussion purposes that Senator Tom Begich had a conflict.

Skip Cook asked if the interns were paid.

Senator Tom Begich replied that yes, the interns are paid. They receive a \$15,000 stipend, which sometimes goes to the potential employer but usually to the intern for living expenses.

Joyce Anderson asked if the interns had been approved by the Ethics Office. Senator Tom Begich replied that he did not think so.

Joyce Anderson wondered if legislative offices may be unaware that they need to come through the committee and if notice to that effect should be distributed to legislators at the beginning of session. Senator Tom Begich agreed that would be a good idea.

Joyce Anderson explained that the reason the committee approves internships is to assure the sponsoring organizations do not have an ulterior motive in placing an intern in a legislative office. She reiterated her position that it would be a good idea to distribute a message to legislators at the beginning of session directing them to contact the Ethics Office.

Senator John Coghill said yes, the legislators should be made aware of the requirement and he believes there is a difference between educating interns about the legislative process and allowing advocacy activities in the legislature and the use of state resources for those advocacy issues.

Skip Cook said that as he understood, the committee approves the internship program, not approve the individual intern. He advised Senator Begich to apply for approval for his program. Senator Tom Begich agreed he would do so.

Skip Cook said that he thought both the administrator and the committee chair have authority to review and approve internship program requests and if either or both were uncomfortable doing so, the committee could do so.

Joyce Anderson agreed and asked Jerry Anderson if he had any more to add.

Jerry Anderson said that he had no problem reviewing and approving requests that fell within established parameters but was uncomfortable with those that did not.

11:49

8. CHAIR/STAFF REPORT

Management Log

Joyce Anderson directed attention to the July 31, 1019 Management Log and asked if anyone had questions for Jerry Anderson.

Conner Thomas had a question about the first question on the second page: May a legislator enter into a "scope of work" with a non-profit related to pending legislation that a legislator is promoting? He wondered if AS 24.60.030(e)(3), which references taking official action while negotiating for employment should have been included in answer to the question. Jerry Anderson and Joyce Anderson agreed to add a reference to AS 24.60.030(e)(3) in the answer.

Senator Tom Begich asked about the fifth question on page six: May my legislator accept a gift of conference fees for a group which discusses policy issues but not political or partisan issues? He said he had recently accepted gifts of travel to attend National Conference of State Legislatures forums and asked for confirmation that he should disclose those gifts. Joyce Anderson responded that yes, if the gift amount was over \$250.

11:56

Deb Fancher asked about the fourth question on the second page: May a legislator write a letter or sign onto a letter to the Attorney General urging the prosecution of an individual or individuals based on the request of a private party? She wondered if that action constitutes official action.

Lee Holmes said there is a difference between a legislator speaking to the attorney general as an individual to advocate for an issue or as a representative in an official capacity. As an individual, a legislator could speak to the attorney general but not as a representative.

Senator Tom Begich said that two co-chairs had in their official capacity requested specific information about an alleged criminal act by a member of the administration. He said he thought their actions were legitimate and that it was a legislative responsibility to ensure the law is upheld. He suggested that the question needs more discussion.

Joyce Anderson asked Jerry Anderson to explain more about the question.

Jerry Anderson said that someone believed a crime had been committed and requested prosecution of the person believed to have committed the crime. Legislators signed on to the letter asking the attorney general to prosecute. He said he had had multiple questions about this matter.

Senator Tom Begich recalled that he had been approached to sign the letter and admitted he felt conflicted about whether or not he should sign it.

Representative Stutes left the meeting.

Joyce Anderson recalled that her understanding was that if a legislator uses their title, it does not necessarily mean they are taking official action as a legislator and asked other long time committee members if her understanding was accurate.

Senator John Coghill agreed that what Joyce Anderson said sounded correct. He said the question is whether the action taken is for a private benefit. Sometimes there is a manifest injustice that a legislator wants to have examined. Asking for examination is different than advocating for it.

Lee Holmes said that he thinks the words, “urging the prosecution of an individual” seems to be crossing the bounds of ethics. A person can ask the attorney general to look at whether a law has been broken but to urge prosecution is ethically bothersome because it is not up to a legislator to determine if a law has been broken.

Senator Tom Begich responded to Lee Holmes saying that he thinks the letter requested that the attorney general reconsider the decisions made, based on additional evidence, as to whether or not the person should be prosecuted.

Joyce Anderson said based on the discussion, she thinks additional information about that question should be added to the staff report. Senator Tom Begich offered to work with Jerry Anderson to add the additional information.

Joyce Anderson directed Jerry Anderson to provide more details in the answer and send the revised answer out to committee members for review and comments.

Representative DeLena Johnson said that she agrees with the opinion in the staff report.

Senator Tom Begich pointed out that the word “day” is missing from line two on the seventh page.

Joyce Anderson added that in the fourth question on page four, the word “disclosure” should be replaced with the word “disclose.”

12:09:39 PM

Patrick FitzGerald left the meeting.

12:09:55 PM

BREAK

12:20:49 PM

Searchable database

At Joyce Anderson's direction, Jerry Anderson proposed to the committee the idea of implementing an online and searchable database of informal advice, similar to the searchable database of advisory opinions that is currently online. He said IT had developed a searchable database for his use and wanted the committee's input about making it accessible to members of the committee, legislators and their staff, and the general public.

Representative DeLena Johnson expressed interest in making the database password protected for use by legislators and legislative offices but expressed concerns about public access to the database because there is a possibility that confidential information about the requestor would be made public. She also offered that the advice should also be date-marked and carry a word of caution about the continued applicability of the advice for similar situations.

Joyce Anderson acknowledged she had not considered the possibility that a person could use the database and learn the identity of the person who asked the question. She responded to Representative DeLena Johnson's second point by referring to the second page of the related memo and reading Jerry Anderson's suggestion for word of caution:

"This informal advice is not a substitute for current informal advice from the Administrator of the Select Committee on Legislative Ethics and is not binding on the Committee. This informal advice only applies to the specific facts and activities as outlined in the communication. The advice is not applicable to a scenario under different or omitted facts."

Joyce Anderson said she would also like to add the words, "The advice was based on the statute applicable at the time of advice and has not been reviewed or updated under current statutes."

Conner Thomas said that Representative DeLena Johnson's concerns gave him cause to reconsider his initial thought that it would be great to have the database available to all and added that protecting the advice with a password would be better – with the caveat

that the advice was based on existing laws at the time the advice was given and had not been reviewed since that time.

Jerry Anderson responded to Representative DeLena Johnson's concern about dating the advice. He said that the documents would be dated by the year of the advice going back to 2011.

Representative DeLena Johnson said she thought the database would be a useful tool to help frame a question before calling the administrator for advice.

Joyce Anderson said no formal action was required and informally asked each of the members about their thoughts about a searchable database. All members agreed it was a good idea and Joyce Anderson directed Jerry Anderson to proceed in arranging for the database to be password protected and available to legislators.

Jerry Anderson offered to send to committee members the link to the document so they could review the database and make sure they are comfortable with it.

Joyce Anderson agreed, directed Jerry Anderson to do so, and asked committee members to send comments about the database to Jerry Anderson.

12:34:43 PM

COGEL conference

Joyce Anderson opened a discussion of the 2019 COGEL Conference, asking for expressions of interest in attending. Skip Cook, Conner Thomas, Senator John Coghill, Representative DeLena Johnson, and Senator Tom Begich expressed interest. Jerry Anderson recommended arranging travel early to secure the early bird price (the end of October) and space at the conference hotel.

Disclosure filing

Joyce Anderson asked Jerry Anderson to speak about electronic disclosure filing. He explained there were many more steps and time involved in processing handwritten disclosures. He directed attention to the packet documents that demonstrate the steps involved in processing handwritten disclosures and electronically filed disclosure, then asked Jacqui Yeagle to explain more fully the situation.

Jacqui Yeagle communicated a few other advantages of electronically filed disclosures – assuming no special circumstances: eliminates the need to contact the filer for review of the electronic version of the disclosure; requires no database access, which increases the chance of errors in the back-end processes and requires more knowledge on the part of the processor; and requires fewer documents submitted to the Senate Secretary's office and the Chief Clerk's office, which reduces the load on those offices.

Lee Holmes asked how committee members – who do not have computer access to file online – could get access so they could comply.

Joyce Anderson said in the past there may have been committee access.

Jacqui Yeagle said that there are cases where a person does not have the ability to file online. The proposal under discussion would not eliminate filing a handwritten disclosure, just make it easier to file online than submit a handwritten disclosure.

Conner Thomas asked what percentage of disclosures are filed by hand.

Jacqui Yeagle replied that maybe ten percent of the disclosures are filed by hand, and added that in January, February, and March when there are more than 100 disclosures filed, the time it takes to process them becomes significant. She added that the Ethics office has been encouraging filing online and there has been a noticeable increase in the number of electronically filed disclosures.

Joyce Anderson asked what Jerry Anderson suggests doing.

Jerry Anderson said the link to the disclosure documents could be disabled. Instead, if a paper disclosure is required, the filer could call the Ethics office for a disclosure to complete.

Joyce Anderson said another advantage to electronic filing is that the Ethics office receives a receipt when a disclosure is filed online.

Jerry Anderson added that the filer also gets a confirmation of filing when it is completed online.

Joyce Anderson asked if the committee approved the idea of removing the online link to paper copies of the disclosures.

There was no disagreement and Joyce Anderson asked Jerry Anderson to include information in the newsletter about the online filing requirement and ask filers with special circumstances to call the Ethics office and to inquire about login credentials for the public members.

12:48:55 PM

Ethics Training

Jerry Anderson said new employee training is ongoing via video, which includes 3 ½ hours of the sexual harassment and other forms of discrimination component conducted by Human Rights Commission staff and another 2 ½ hours of the Ethics training. Total time to complete the training is six hours and ten minutes.

Jerry Anderson said that there were two components of in-person ethics training in early 2019: ethics and the Human Rights Commission sexual harassment and other discrimination training. Ethics training was condensed somewhat in order to accommodate 3 ½ hours of the Human Rights Commission training. Returning legislators had 1 ½ hours of refresher ethics training.

Jerry Anderson said there was a change in Human Rights Commission leadership and all of the 2019 presenters have left the organization so new arrangements for that component of training need to be made. He asked the committee for direction regarding the length of time and delivery method for each of the components.

Joyce Anderson said to Jerry Anderson that she recalled that he had said he thought the number of phone calls received this year had increased and that he had suggested that may have been the result of the condensed training for legislators.

Jerry Anderson said that HB 44 issues had dominated the training for returning legislators, and that SB 89 would alleviate some of the questions around that topic. He affirmed Joyce Anderson's memory that he had ventured that the amount of time spent on returning legislator training may have resulted in an increase in the number of questions received by the ethics office.

Joyce Anderson asked for clarification about why the ethics committee was charged with mandating and providing the sexual harassment prevention training.

Skip Cook said that the reason the training was required was due to the behavior of some legislators.

Joyce Anderson responded that she still did not understand why the ethics office was charged with mandating and providing the training when the ethics office cannot answer questions about the topic and why the Legislative Council, for example, could not make it mandatory.

Deb Fancher said that her memory is that the Ethics Committee was charged with it because the committee had "teeth".

Senator John Coghill recalled that the committee had been reluctant to take it on. Conner Thomas agreed and said that there had been a long debate about it. Senator John Coghill added that legislative leadership thought that the training was necessary and the committee had the only leverage point to make it mandatory and that it could not be severed without a mandate to personnel and that has not happened.

Senator Elvi Gray-Jackson said ethics training was valuable, especially for new legislators and staff. She had personally benefitted from the training.

12:57 PM

Senator John Coghill said that he had noticed in both the legislator and legislative employee training that discussion had dominated and that had impacted the ability to get through the training agenda. He said that ethics training was important because that is the arena in which legislators and legislative employees worked all the time. He suggested that personnel training and ethics training have some overlap, they are also unique. He personally found it difficult to transition between the two parts of training and would prefer separate trainings.

Senator Tom Begich said he thought one part of the training dominated the discussion. He would prefer shorter, more effective separate trainings on separate days.

Senator John Coghill said he did not think there was a statutory requirement to provide the personnel training.

Joyce Anderson agreed with Senator John Coghill's statement.

Skip Cook said that he had learned that the Human Rights Commission had been conducting their training for years to state employees. He questioned why the state mandate and training for all employees could not be extended to legislators and legislative employees.

Representative DeLena Johnson said that now may be a good time to hand off the sexual harassment prevention training so that it does not detract from ethics training and requested that investigation be conducted and discussed at the next meeting, perhaps including Skiff Lobaugh at that meeting.

Senator Tom Begich suggested assembling a small subcommittee to develop a proposal and return it to the full committee for debate.

Senator John Coghill recalled that Skiff Lobaugh, the Legislative Council chair, and Legislative Legal were involved in the discussion about mandating the personnel training. He suggests a hardline proposal going forward.

Skip Cook suggesting involving the Human Rights Commission in the discussion as well.

Joyce Anderson suggested internal discussion first and asked other member's thoughts.

Senator John Coghill said that would be okay as long as Skiff Lobaugh was involved because he would be one to make further contact.

Joyce Anderson directed Jerry Anderson to set up the meetings and to notify the committee about the details in case they are interested in participating.

1:11:46 PM

9. 2019 LEGISLATION UPDATE

Senator John Coghill said that in the beginning of the legislative session everybody agreed that HB 44 needed changes and it took almost 100 days to agree on how to change the law. SB 89 is still less than perfect and there are questions left that will be just as tough to resolve.

Senator Tom Begich offered that Senator John Coghill had much patience in getting through the process in spite of the number of nuances and opinions involved and that without Senator John Coghill's involvement, the bill would never have gotten through.

Deb Fancher commented that the comparison document prepared on May 6, 2019 by Chad Hutchison was helpful and valuable and asked if there was an updated version of the document.

Chad Hutchison directed the committee's attention to two documents on BASIS: a comparison sheet and a list of bullet points that gives details about analyzing the changes incorporated into SB 89.

Joyce Anderson thanked Chad Hutchison and asked Jerry Anderson to locate the documents and forward them to the committee.

Senator Tom Begich asked when the bill was signed and ceremonialized.

Joyce Anderson said the bill had been signed on May 25, 2019. Chad Hutchison confirmed the signing date and said there had been no signing ceremony.

10. OTHER BUSINESS

Joyce Anderson said that Jerry Anderson had received a compassionate gift request from Legislative Council for three legislative employees. Joyce Anderson read from the statute that refers to a compassionate gift request:

... [is to] intended to aid or comfort a recipient or a member of the recipient's immediate family in contending with a catastrophe, a tragedy, or a health-related emergency.

Joyce Anderson continued that the compassionate gift request did not identify the gift or the reason for the gift as it had been in the past. Joyce Anderson proposed calling the chair of the Legislative Council and ask for the information and solicited the committee's thoughts about that action. There were no comments from the committee.

Jerry Anderson initiated a discussion about the date of the next meeting and asked if the committee wanted to wait until January. Joyce Anderson proposed an earlier meeting, perhaps by teleconference if there were only a few items. The committee discussed dates

and Joyce Anderson asked Jerry Anderson to work with committee members to find an agreeable date.

11. ADJOURN

Joyce Anderson asked for a motion to adjourn the meeting.

Lee Holmes moved to adjourn the meeting.

Joyce Anderson adjourned the meeting at 1:23 p.m.

1:23:46 PM

DRAFT

ALASKA STATE LEGISLATURE
SELECT COMMITTEE ON LEGISLATIVE ETHICS
AUGUST 14, 2019

House Subcommittee Meeting

[1:38:00 PM](#)

1. CALL THE MEETING TO ORDER

Lee Holmes called and meeting to order at 1:38 p.m. Jerry Anderson conducted roll call.

Roll Call

Representative DeLena Johnson
Skip Cook
Conner Thomas
Joyce Anderson
Deb Fancher
Lee Holmes

Representative Louise Stutes was absent.

Quorum present.

Others present

Jerry Anderson, Administrator
Jacqui Yeagle, Administrative Assistant

2. APPROVAL OF THE AGENDA

Lee Holmes asked if there were changes to the agenda. No changes.

Conner Thomas moved to approve the agenda.

Deb Fancher seconded the motion.

Lee Holmes asked if there was discussion.

No discussion. Motion approved.

3. PUBLIC COMMENT

No public comment.

- 4. Motion to go into EXECUTIVE SESSION** *to discuss matters which by law must remain confidential under AS 24.60.160, Uniform Rule 22(b) regarding executive sessions, and Rules of Procedure Section 5: Executive Sessions and discussion of matters, the immediate knowledge of would adversely affect the finances of a governmental unit, and discussion of subjects that tend to prejudice the reputation and character of a person.*

Lee Holmes entertained a motion to move into executive session.

Skip Cook made a motion to move into executive session. Joyce Anderson seconded the motion.

No discussion. Motion approved.

5. EXECUTIVE SESSION

Lee Holmes called the House Subcommittee meeting back to order at 1:56 p.m.

6. PUBLIC SESSION

No public comment.

7. OTHER BUSINESS

No other business.

8. ADJOURN

Lee Holmes entertained a motion to adjourn the meeting of the House Subcommittee.

Deb Fancher made a motion to adjourn.

Lee Holmes asked if there were objections to adjourning the meeting.

No objections.

Lee Holmes adjourned the House Subcommittee meeting at 1:57 p.m.

[1:57:02 PM](#)

November 14, 2019

DRAFT ADVISORY OPINION 19-06

RE: Compassionate Gifts under AS 24.60.075

- 1. What persons are entitled to make a request for a compassionate gift exemption under AS 24.60.075(b) and (e)? Is this class of persons limited to the "recipient or a member of the recipient's immediate family"?*
- 2. What is the full extent of persons entitled to be a "recipient" of a compassionate gift exemption under AS 24.60.075(e)? Does the term "recipient" refer to the actual person who has incurred the qualifying catastrophe, tragedy, or health-related emergency?*
- 3. What information is required in a request for a compassionate gift exemption under AS 24.60.075(b)?*

Statement of Facts

The Select Committee on Legislative Ethics has requested this advisory opinion.

Discussion

AS 24.60.075 reads:

Sec. 24.60.075. Compassionate gift exemption.

(a) Notwithstanding AS 24.45.121 and AS 24.60.080, a person may give a compassionate gift to a legislator or legislative employee, and a legislator or a legislative employee may solicit, receive, or accept a compassionate gift from a person, subject to the limitations in (b) - (e) of this section.

(b) A compassionate gift may not be solicited, accepted, or received unless a written request has been approved in writing by the chair of the legislative council, and the committee chair or vice-chair has approved in writing the decision of the chair of the legislative council.

(c) A legislator or legislative employee who receives a compassionate gift, directly or indirectly, shall disclose to the committee the name of the gift's source and the value of the gift within 30 days after receipt.

(d) In this section, the value of a gift shall be determined by the fair market value of the gift, to the extent that the fair market value can be determined.

(e) In this section, "compassionate gift" means a solicited or unsolicited gift intended to aid or comfort a recipient or a member of the recipient's immediate family in contending with a catastrophe, a tragedy, or a health-related emergency.

1. What persons are entitled to make a request for a compassionate gift exemption under AS 24.60.075(b) and (e)? Is this class of persons limited to the "recipient or members of the recipient's immediate family"?

AS 24.60.075 is an exception to AS 24.45.121,¹ a limitation on gifts a lobbyist can give to legislators or legislative employees, and to AS 24.60.080, a limitation on gifts a

¹ AS 24.45.121(a) provides, in part, that a lobbyist may not

...

(9) offer, solicit, initiate, facilitate, or provide to or on behalf of a person covered by AS 24.60 a gift, other than food or a nonalcoholic beverage for immediate consumption under AS 24.60.080(a)(2)(A), or a compassionate gift under AS 24.60.075; however, this paragraph does not prohibit a lobbyist from providing

(A) a gift to a legislator or legislative employee who is a member of the lobbyist's immediate family as defined in AS 24.60.990(a), if the gift is unconnected to the recipient's legislative status;

(B) tickets to a charity event described in AS 24.60.080(a)(2)(B);
or

(C) a contribution to a charity event under AS 24.60.080(c)(10);

(10) make or offer a gift or a campaign contribution whose acceptance by the person to whom it is offered would violate AS 24.60

...

legislator or legislative employee may solicit or receive from any person, including a lobbyist.² Under AS 24.60.075(a), only a legislator or legislative employee may solicit (request) a compassionate gift. Under AS 24.60.075(e) a compassionate gift means a gift "intended to aid or comfort a recipient or a member of the recipient's immediate family in contending with a catastrophe, a tragedy, or a health-related emergency." Although "recipient" is not defined by AS 24.60, in the context of AS 24.60.075 we interpret "recipient" to mean a legislator or legislative employee who receives a compassionate gift under AS 24.60.075.

As 24.60.075 allows a legislator or legislative employee to request a compassionate gift for herself or for another legislator or legislative employee. This does not allow a recipient or member of a legislator's immediate family to request a compassionate gift, unless the recipient or family member is also a legislator or legislative employee. Based on our interpretation of "recipient," the recipient of a compassionate gift is always a legislator or legislative employee, whether the gift was intended to aid or comfort a recipient directly, or intended to aid or comfort a recipient indirectly — by aiding and comforting a member of the recipient's immediate family.

2. What is the full extent of persons entitled to be a "recipient" of a compassionate gift exemption under AS 24.60.075(e)? Does the term "recipient" refer to the actual person who has incurred the qualifying catastrophe, tragedy, or health-related emergency?

As discussed in our response to question 1, above, in the context of AS 24.60.075 we interpret "recipient" to mean a legislator or legislative employee who receives a

² AS 24.60.080 is a long and complicated statute including many limitations and exceptions. For example, AS 24.60.080(a) provides, in part, that a legislator or legislative employee may not

(2) solicit, accept, or receive a gift with any monetary value from a lobbyist, an immediate family member of a lobbyist, or a person acting on behalf of a lobbyist, except

...

(E) a compassionate gift under AS 24.60.075.

compassionate gift. A member of a legislator's or legislative employee's immediate family may not solicit or receive a compassionate gift unless they are also a legislator or legislative employee; however, they may receive aid and comfort from a compassionate gift when they are a member of the immediate family of a legislator or legislative employee who receives the compassionate gift.³

3. What information is required in a request for a compassionate gift exemption under AS 24.60.075(b)?

Under AS 24.60.075(b), a compassionate gift request must be made in writing. In order for a written request to satisfy the requirements of AS 24.60.075, it should at a minimum contain (1) the identity of the legislator or legislative employee requesting the compassionate gift; (2) the identity of the legislator or legislative employee who is the recipient of the gift;⁴ (3) the identity of the person who is the source of the gift, if known;⁵ (4) a description of the gift; (5) the fair market value of the gift, to the extent its fair value can be determined;⁶ and, (6) a description of how the gift will aid or comfort the recipient or a member of the recipient's immediate family in contending with a catastrophe, a tragedy, or a health-related emergency.⁷

As it is our duty to administer the Legislative Ethics Act, including AS 24.60.075, we may from time to time adopt procedures to aid in that administration.⁸ For example, in

³ AS 24.60.075(e).

⁴ As noted above, AS 24.60.075 allows only legislators and legislative employees to solicit or receive a compassionate gift, although the gift may aid and comfort a member of a legislator's or legislative employee's immediate family.

⁵ AS 24.60.075(c).

⁶ AS 24.60.075(c) and (d).

⁷ AS 24.60.075(e). The information provided must be sufficient to form the basis for a decision by the legislative council under AS 24.60.075(b).

⁸ AS 24.60.140 and 24.60.150.

order to facilitate the request procedure, we may require that requests for compassionate gifts be submitted on a form that we design.

Conclusion

For the reasons stated above, the committee finds that

1. Legislators and legislative employees are the only persons entitled to request a compassionate gift exemption under AS 24.60.075.

2. A member of a legislator's or legislative employee's immediate family may not solicit (request) a compassionate gift unless they are also a legislator or legislative employee; however, they may receive aid and comfort from a compassionate gift when they are a member of the immediate family of a legislator or legislative employee who receives the compassionate gift.

3. In order for a written request to satisfy the requirements of AS 24.60.075, it should at a minimum contain (1) the identity of the legislator or legislative employee requesting the compassionate gift; (2) the identity of the legislator or legislative employee who is the recipient of the gift; (3) the identity of the person who is the source of the gift, if known; (4) a description of the gift; (5) the fair market value of the gift, to the extent its fair value can be determined; and, (6) a description of how the gift will aid or comfort the recipient or a member of the recipient's immediate family in contending with a catastrophe, a tragedy, or a health-related emergency.

Adopted by the Select Committee on Legislative Ethics on **

Members present and concurring in this opinion were:

Members dissenting from this opinion were:

Members absent were:

LIST OF MEMBERS OF THE COMMITTEE

Joyce Anderson, Chair/Public member	yes	no	absent
Representative Louise Stutes	yes	no	absent
Representative DeLena Johnson	yes	no	absent
Representative Sara Hannan, alternate	yes	no	absent
Representative Colleen Sullivan-Leonard, alternate	yes	no	absent
Senator Elvi Gray-Jackson, alternate	yes	no	absent
Senator John Coghill	yes	no	absent
Senator David Wilson, alternate	yes	no	absent
Senator Tom Begich	yes	no	absent
Dennis "Skip" Cook, public member	yes	no	absent
H. Conner Thomas, public member	yes	no	absent
Lee Holmes, public member	yes	no	absent
Deborah Fancher, public member	yes	no	absent
Patrick Fitzgerald, alternate public member	yes	no	absent

DCW:mjt

19-351.mjt

Supplemental materials

Sec. 24.60.075. Compassionate gift exemption.

(a) Notwithstanding [AS 24.45.121](#) and [AS 24.60.080](#), a person may give a compassionate gift to a legislator or legislative employee, and a legislator or a legislative employee may solicit, receive, or accept a compassionate gift from a person, subject to the limitations in (b) (e) of this section.

(b) A compassionate gift may not be solicited, accepted, or received unless a written request has been approved in writing by the chair of the legislative council, and the committee chair or vice-chair has approved in writing the decision of the chair of the legislative council.

(c) A legislator or legislative employee who receives a compassionate gift, directly or indirectly, shall disclose to the committee the name of the gift's source and the value of the gift within 30 days after receipt.

(d) In this section, the value of a gift shall be determined by the fair market value of the gift, to the extent that the fair market value can be determined.

(e) In this section, compassionate gift means a solicited or unsolicited gift intended to aid or comfort a recipient or a member of the recipient's immediate family in contending with a catastrophe, a tragedy, or a health-related emergency.

SECTION 2 DISCLOSURES

(e) **COMPASSIONATE GIFT APPROVAL:** A compassionate gift may not be solicited, accepted, or received unless a written request has been received. The requirements for requesting a compassionate gift under AS 24.60.075 are outlined in Advisory Opinion 19-05. ~~[APPROVED IN WRITING BY THE CHAIR OF THE LEGISLATIVE COUNCIL, AND THE COMMITTEE CHAIR OR VICE-CHAIR HAS APPROVED IN WRITING THE DECISION OF THE CHAIR OF THE LEGISLATIVE COUNCIL. AS 24.60.075]~~

(1) Upon receipt of the request and written approval from the chair of the legislative council, the committee chair or vice-chair shall immediately review the request to verify the requirements of AS 24.60.075(e) were met.

(2) The chair or vice-chair shall consult with the chair of the legislative council if necessary and issue a letter to the requester either approving or denying the request. ~~[A COPY OF THE LETTER WILL BE SENT TO THE CHAIR OF THE LEGISLATIVE COUNCIL.]~~ An explanation of AS 24.60.075 and the reporting requirements will be included with the letter. A copy of the letter will be sent to the chair of the legislative council.

RATIONALE: Added new language referencing AO 19-05 (requested by the Committee and will be heard at the December meeting). The AO will clarify the request process and define who is eligible to request a compassionate gift. Added based on discussion at the August committee meeting.

ETHICS DISCLOSURE FORMS

Disclosure of receipt of

GIFT FOR COMPASSIONATE REASONS

Name of Discloser: first last

Address: State Capitol, Juneau, AK 99801

Phone Number: 269-0150

Employer: Legislative Ethics

REPORTING DEADLINES: AS 24.60.075(c)

- Within 30 days of receipt.

EXPLANATION

A legislator or legislative employee or immediate family member may solicit, receive, or accept a gift or gifts from the same person with an aggregate total of less than \$250 in a calendar year for a compassionate reason regardless of whether they have already received a gift or gifts from the same person, which were connected to legislative status. The prohibitions relating to lobbyists gifts under AS 24.45.121 and AS 24.60.080 do not apply. Immediate family member is defined as a spouse (or domestic partner) or a dependent parent, sibling, or child.

Disclosure of receipt of a compassionate gift, in accordance with AS 24.60.075(c)

Legislative Council -- Date of Approval / /

Ethics Committee -- Date of Approval / /

Name of donor:

Occupation of donor (if any):

State address of donor:

City, State, ZIP of donor: ,

☐ ☐ ☐ Description of gift (i.e., money, item, services, etc.): Money Item Services

Note: If other than money, please provide a detailed description.

Reason for compassionate gift: Health Related

If gift is for Immediate Family Member (specify):

Approximate value of gift(s):

Date gift received: / /

The above is a true and accurate representation of the compassionate gift(s) received,
in accordance with AS 24.60.075(c).

Electronic Signature, Please type your name

Signature: Date: November 21, 2019

Disclosure of receipt of
GIFT FOR COMPASSIONATE REASONS

NAME OF DISCLOSER: _____

Please Print

ADDRESS: _____

PHONE NUMBER (Daytime): _____

EMPLOYER: (if legislative employee) _____

**Disclosure of receipt of a compassionate gift,
in accordance with AS 24.60.075(c)**

Legislative Council Date of Approval _____

Ethics Committee Date of Approval _____

Name of donor: _____

Occupation of donor (if any): _____

Address of donor: _____

Description of gift (i.e., money, item, services, etc.): _____

Reason for compassionate gift: _____

If gift is for Immediate Family Member (specify): _____

Approximate value of gift(s): _____

Date(s) of receipt of gift(s): _____

The above is a true and accurate representation of the compassionate gift(s) received,
in accordance with AS 24.60.075(c)

Signature_____
Date

REPORTING DEADLINE: AS 24.60.075(c)

Within 30 days of receipt

EXPLANATION

A legislator or legislative employee or immediate family member may solicit, receive or accept a gift or gifts from the same person with an aggregate total of less than \$250 in a calendar year for a compassionate reason regardless of whether they have already received a gift or gifts from the same person which were connected to legislative status. The prohibitions relating to lobbyists gifts under AS 24.45.121 and AS 24.60.080 do not apply. Immediate family member is defined as a spouse (or domestic partner) or a dependent parent, sibling, or child.

ALASKA STATE LEGISLATURE SELECT COMMITTEE ON LEGISLATIVE ETHICS

R U L E S O F P R O C E D U R E

These procedures were developed to supplement the Ethics Statutes and provide a “road map” for operations.

The original procedures were adopted in 1993 and have been amended numerous times.

The latest revision was in [January 2016] December 2, 2019.

All actions were taken in open meetings.

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Anchorage, AK 99509-0251
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E-Mail: ethics.committee@akleg.gov
Web Site: <http://ethics.akleg.gov>

**ALASKA STATE LEGISLATURE
SELECT COMMITTEE ON LEGISLATIVE ETHICS
COMMITTEE RULES OF PROCEDURE**

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ALASKA STATE LEGISLATURE
SELECT COMMITTEE ON LEGISLATIVE ETHICS
COMMITTEE RULES OF PROCEDURE

SECTION 1 SCOPE

- (a) These publicly adopted rules of procedure are intended to supplement the statutory procedures set forth in AS 24.60 and must be read in conjunction with those statutory procedures.
- (b) Committee rules of procedure may be modified, amended or repealed by a majority vote of the committee.
- (c) The term ‘committee’ [AS 24.60.990(a)(3)] means Select Committee on Legislative Ethics and includes, when appropriate, the senate and house subcommittee.

SECTION 2 ADMINISTRATIVE POLICIES

- (a) **AUTHORIZATION:** Any authority delegated to the Chair, may be re-delegated to the Vice-Chairs. The Chair may authorize or delegate authority: to approve travel/per diem for members, staff time sheets; ability to incur and be reimbursed for expenses, and purchases less than \$2,000 [~~\$1,000~~]; to negotiate with and retain professional service contractors; issue and sign subpoenas; and to approve/disapprove payment of professional contract invoices.

RATIONALE: Committee raised the amount to \$2,000 at the January 31, 2019 committee meeting.

(b) **COMMUNICATION:**

- (1) The chair is the official spokesperson for the full committee and is responsible for communication, both verbal and written, which is shared with those covered by the Ethics Act, the public, the press, and other interested parties. The chair of the Senate Subcommittee and the chair of the House Subcommittee are responsible for communication with respect to these committees. The chairs may delegate this responsibility as necessary.
- (2) Committee members are not precluded from talking to the public, the press, and other interested parties on matters of which they have a personal opinion unless prohibited under confidentiality provisions. Committee members are not authorized to issue informal Ethics advice or act as the official spokesperson for the committee unless delegated to do so by the chair or vice chair.
- (3) Staff is authorized to communicate with the public, the press and other interested parties at any time on informational and procedural matters. With permission of

the chair, staff may communicate on all issues considered public relating to the committee.

- (4) Staff is authorized by provisions in AS 24.60 **and Rules of Procedure, Section 9 Informal Advice**, to communicate with those covered by the Ethics Act at any time and provide informal advice when requested under AS 24.60.158.

RATIONALE: Referenced Section 9 as additional guidance is provided.

(c) **CONTRACTS:** Contracts with the committee must receive approval, in a public meeting, of a majority of the members of the full committee if it is an issue under the jurisdiction of the full committee or a majority of the members of the subcommittee if it is an issue under the jurisdiction of the subcommittee. Members of the full committee and members of the subcommittees delegate authority to the chair of the appropriate committee or subcommittee to serve as Project Director for approved contracts. The chair may approve extensions of contracts until the next meeting after notification to committee members and majority approval. The extended contract shall then be placed on the appropriate committee agenda in a public meeting for a majority vote of the full committee.

(d) **PUBLIC MEMBER VACANCIES:** The nomination process for vacancies on the committee for public members is dictated by AS 24.60.130. The committee establishes the following policy for notification of vacancies on the committee:

- (1) By November 1 of the year prior to the vacancy, a notice will be placed on the committee website announcing the vacancy or vacancies.
- (2) Notices will also be sent to all legislators and Legislative Information Offices for posting.
- (3) Other means of notification may be utilized as well.

(e) **COMPASSIONATE GIFT APPROVAL:** A compassionate gift may not be solicited, accepted, or received unless a written request has been **received. The requirements for requesting a compassionate gift under AS 24.60.075 are outlined in Advisory Opinion 19-05.** ~~[APPROVED IN WRITING BY THE CHAIR OF THE LEGISLATIVE COUNCIL, AND THE COMMITTEE CHAIR OR VICE CHAIR HAS APPROVED IN WRITING THE DECISION OF THE CHAIR OF THE LEGISLATIVE COUNCIL. AS 24.60.075]~~

(1) Upon receipt of the request and written approval from the chair of the legislative council, the committee chair or vice-chair shall **immediately** review the request to verify the requirements of AS 24.60.075(e) were met.

(2) The chair or vice-chair shall consult with the chair of the legislative council if necessary and issue a letter to the requester either approving or denying the request. ~~[A COPY OF THE LETTER WILL BE SENT TO THE CHAIR OF THE LEGISLATIVE COUNCIL.]~~ An explanation of AS 24.60.075 and the reporting requirements will be included with the letter. **A copy of the letter will be sent to the chair of the legislative council.**

RATIONALE: Added new language referencing AO 19-05 (requested by the Committee and will be heard at the December meeting). The AO will clarify the request process and define who is eligible to request a compassionate gift. Added based on discussion at the August committee meeting.

(f) **INTERNSHIP PROGRAM APPROVAL:** On June 26, 2009, the committee granted authority to the Administrator to approve educational and government agency internship programs under AS 24.60.080(h).

(1) The Administrator will review all documentation provided and consult with the Chair prior to approving the internship program. Committee members will be notified as soon as possible of all internship programs approved. Backup materials will be available upon request.

(2) Educational and government agency internship programs will be evaluated based on the requirements set out in AS 24.20.062(2) and/or Advisory Opinion 94-03. Interns will be notified of the requirement to attend Ethics training.

(3) The administrator will send an informational letter to legislative offices, LAA offices, Office of the Ombudsman, Office of Victims' Rights and Office of Legislative Budget and Audit at the beginning of each legislative session outlining the intern program application process and procedures.

RATIONALE: Added this section based on discussion at the August committee meeting.

(g) **PROCEDURE TO ADDRESS PROPOSALS FOR STATUTORY CHANGES:** Pursuant to AS 24.60.150(b)(1), "The committee may recommend legislation to the legislature the committee considers desirable or necessary to promote and maintain high standards of ethical conduct in government."

(1) The committee will consider suggestions and recommendations in written format only.

(2) On at least an annual basis, the committee will review proposals for statutory changes received from committee members, committee staff, and others.

(3) After reviewing the proposals, the committee will forward recommendations for statutory changes to the speaker, senate president, and rules chairs prior to the beginning of the regular legislative session with an explanation of why the committee believes these changes would meet the provisions of AS 24.60.150(b)(1).

(h) **BENEFIT AND LOAN ANNUAL REVIEW:** The committee shall review all state benefit and loan programs and state loans on an annual basis pursuant to the requirements of AS 24.60.050.

(1) A letter shall be sent to all state departments in ~~[MID]~~ October asking for a review of programs and loans to determine if there were any changes to eligibility requirements or if any new programs and loans were introduced the previous year that meet reporting requirements or if any were removed or became inactive.

RATIONALE: Allows the letters to be sent at any time during the month of October which has traditionally been the practice.

(2) A report shall be submitted to the committee for review. The committee must approve all significant changes to the list.

(3) The committee shall publish a list of programs and loans requiring disclosure in the yearly Standards of Conduct Handbook distributed to all legislative offices at the beginning of the legislative session and post the list on the committee's web site.

SECTION 3 GUIDELINES

(a) **AUTHORITY:** The committee may issue guidelines other than those statutorily mandated.

(b) **DEFINITION:** Guidelines are defined as those interpretations of the Ethics Law formally made and adopted by the committee for use by covered employees and legislators in making a judgment or determining a policy or course of action under this law.

(c) **BINDING/PUBLICATION:** Guidelines, as well as any amendments or deletions of guidelines, adopted by the committee will be published on the same schedule as the Advisory Opinions and will be considered binding after publication.

SECTION 4 MEETINGS/NOTICE

(a) **SESSION:** Meetings during session will be held in Juneau, unless the committee agrees to another location.

(b) **NOTICE:** Notice providing date, time, and place of the committee meeting along with an agenda will be sent to the House clerk for House subcommittee meetings, the Senate Secretary for Senate subcommittee meetings, to the clerk and secretary for full committee matters, a minimum of 5 days in advance. It is the committee's preference to provide notice as far in advance as possible. Agendas will also be posted on the committee website a minimum of 5 days in advance.

(c) **RULE 23(a):** The committee is subject to the notification requirements in Rule 23(a) of the Uniform Rules of the Alaska State Legislature during session.

(d) **MOTIONS:**

(1) **Motions:** Motions must be stated in the positive.

(2) **Vote:** A vote of a majority of the members appointed to the committee or a subcommittee is required for official action. AS 24.60.130(i)

(3) Reconsideration of a Vote:

- (A) A motion for reconsideration may only be given by a member who voted on the prevailing side in the original vote.
- (B) A motion for reconsideration must be made prior to adjournment on the day the vote was taken or in the case of a multi-day meeting, prior to adjournment.
- (C) There may be but one reconsideration.
- (D) Once the question is called for, the previous vote is suspended.

SECTION 5 EXECUTIVE SESSIONS

(a) **GENERAL GUIDELINES:** Under AS 24.60.037(b) of the Open Meetings Guidelines, the Alaska State Legislature Uniform Rules control the procedure for conducting executive sessions.

(b) **LIMITATIONS:**

- (1) Attendance at executive sessions will be limited to members of the committee, legal counsel, and essential Ethics personnel as determined by the committee. Exceptions to this subsection are listed in (c).
- (2) During deliberations and voting, no one other than the committee's legal counsel and essential Ethics personnel as determined by the committee will be allowed in executive session.

(c) **EXCEPTIONS** to (b)(1) Limitations:

- (1) Legislators:
 - a. Under AS 24.60.170(l), "All [complaint] meetings of the committee before the determination of probable cause are closed to . . . legislators who are not members of the committee.
 - b. Legislators requesting to be an observer in an executive session will be bound by the prohibitions and penalties outlined in AS 24.60.060, confidential information, and the Ethics Committee confidentiality standards.
- (2) Witness: A legislator, legislative employee, or other individual who is a witness and is requested to be present at the executive session by the committee;
- (3) Person providing clarifying information: A person requested by the committee to provide clarifying information concerning the issue before the committee.
- (4) Subject of a complaint: The subject of the complaint pursuant to the requirements and stipulations outlined in AS 24.60.170(d). The subject may choose to be accompanied by legal counsel or another person who may also present arguments before the committee pursuant to AS 24.60.170(r).
- (5) Requester of a confidential advisory opinion: A legislator, legislative employee, ethics committee public member, or a newly elected legislator may

present the request to the committee and answer questions by committee members.

(d) **RECORDING OF EXECUTIVE SESSIONS:** Executive sessions will not be tape-recorded. The Ethics Administrator's notes will be kept on file for five years.

SECTION 6 TELECONFERENCE

(a) **NON-CONFIDENTIAL:** Use of teleconference or [Grab your reader's attention with a great quote from the document or use this space to emphasize a key point. To place this text box anywhere on the page, just drag it.]

telephonic equipment to communicate with off-site members or persons designated by the committee is permitted for non-confidential business.

(b) **ADVISORY OPINIONS:** During discussion of confidential advisory opinions in executive session, which may require off-site communication with a legal advisor, a committee member, essential personnel, a person providing clarifying information, or the requester of the opinion, the committee and caller must verify that no one else can listen in and the teleconference connection is secure.

(c) **COMPLAINTS:**

- (1) Use of teleconference or telephonic equipment is only permitted for the initial review of the complaint and/or discussion of the Scope of Investigation unless the subject of the complaint, in written form, waives the in-person participation requirement by committee members in advance of the meeting.
- (2) Rules under (b) of this subsection are adhered to when a teleconference occurs.
- (3) Committee deliberations and voting must be conducted in person for the decision phase of the complaint process.
- (4) Within 20 days after receiving the decision, the subject of a complaint has the right to request a confidential in-person meeting or teleconference meeting with the committee at which time the committee shall explain the reasons for the decision.

SECTION 7 COMMITTEE MATERIALS/CORRESPONDENCE

(a) **CONFIDENTIAL DOCUMENTS:**

- (1) **IDENTIFICATION:** All confidential documents will be marked "confidential. Copies of confidential documents may be conspicuously marked using notations (such as pre-assigned numbers) identifying the recipients.
- (2) **DISTRIBUTION:** Confidential documents distributed to committee members will be contained in sealed folders or envelopes, which distinguish them from other committee materials. Confidential documents, other than those delivered to committee members, will be hand delivered and signed for, or delivered by a receipted process. Confidential documents will not be faxed unless absolutely

necessary and the sender first faxes a cover letter while on the phone with the designated recipient, who confirms that the fax is being received properly.

(3) **SECURITY:**

- (A) Committee staff, members and contractors will store confidential documents in locked receptacles. All outstanding copies of confidential documents must be returned to the Ethics Committee staff at the conclusion of the relevant meeting, unless the committee authorizes continued possession or personal destruction by the committee member. The staff will dispose of unnecessary copies by shredding.
- (B) Before anyone other than a committee member is authorized to handle confidential documents, his or her name must first be submitted to the committee. The individual must also sign a statement that he or she is aware of the laws and procedures governing access to confidential information. An exception would be if a subpoena were served on the committee (see Section 16).

(b) **RECEIPT:** If a committee member receives the original complaint letter or advisory opinion request, s/he will send the original, without making any copies, to the Ethics Committee staff, who will record it in the log and make any necessary copies.

(c) **CLOSURE:**

- (1) See Sec. 10(j) for closure of advisory opinion files.
- (2) A complaint file is considered closed upon completion of proceedings under AS 14.60.170. All originals and copies of confidential information, including those of legal counsel and investigators, are to be returned to the committee office, logged in and scheduled for destruction.
 - (A) Copies may be destroyed at any time.
 - (B) Destruction of the originals of closed confidential materials under this section will be scheduled for 5 years and 6 months from the date of final committee action.
- (3) See Sec 9(e) for closure of informal advice files.
- (4) Legal opinion documents shall be kept on file permanently.
- (5) Meeting agenda, minutes and tape recordings shall be kept on file permanently.
- (6) See Sec 11(f) for closure of disclosure records.

(d) **REQUESTS FOR COMMITTEE MATERIALS/CORRESPONDENCE:**

- (1) Public decisions and advisory opinions are considered public documents per statute and are available upon request at any time.
- (2) Committee meeting packets are available to the public five days prior to a committee meeting or two days after mailing to committee members if the mailing is within five days of the meeting unless staff receives a request from a committee member(s) indicating a particular item should remain confidential until the meeting. (Approved December 2, 2003 by a majority of committee members.)
- (3) Publication of Committee Meeting Minutes:

- a. **Draft Minutes:** Draft committee meeting minutes will be reviewed by the committee with changes made as necessary and subsequently posted on the website with a notation *draft* superimposed on all pages. Draft minutes will also be available to the public upon request. Draft minutes will also contain the following statement: *Draft* minutes are not the official record of committee proceedings and are for informational purposes only.
 - b. **Approved Minutes:** Draft minutes approved by the committee at the next regularly scheduled committee meeting are the official record of committee proceedings and will be posted on the Ethics website the following work day.
- (4) Documents determined confidential by statute or by the committee at a public meeting and noted in the committee's Rules of Procedure are not available for public inspection. Confidential documents may only be released upon receipt of a subpoena if required by statute to be confidential, as noted in AS 24.60 or by a majority vote of the committee if the committee has made the document confidential.

SECTION 8 ATTORNEY-CLIENT PRIVILEGE

All communications between the committee, its members, and the committee's legal counsel are protected by the attorney-client privilege.

SECTION 9 INFORMAL ADVICE

(a) **CONFIDENTIALITY:** Informal advice, other than a summary described in (b) below, is considered confidential unless waived, in writing, by the person requesting the informal advice or compelled by statute or subpoena to release.

(b) **REVIEW BY COMMITTEE:** A brief summary of informal advice, whether given verbally or in writing, given by committee staff will be provided in the STAFF REPORT presented at committee meetings. The staff report does not represent all inquiries; i.e., inquiries of a routine nature or inquiries previously answered. The committee reviews the advice and notifies committee staff if any member has questions or disagrees with the advice. The request and advice presented in the STAFF REPORT is cleansed of identifying information.

(c) **DISCLAIMER:** Those requesting informal advice are informed:

- (1) Pursuant to AS 24.60.158, informal advice, while given in good faith, is not binding on the committee unless the advice has been issued through the formal advisory opinion process pursuant to AS 24.60.160.
- (2) The informal advice only applies to the specific facts and activities as outlined in the communication. If the nature of the request or any facts has been misrepresented or omitted in the communication, the requester should contact committee staff immediately for amended advice.

- (3) Pursuant to AS 24.60.165, the committee may not bring a complaint against a person based upon information voluntarily given to the committee by the person in connection with a good faith request for advice under AS 24.60.158, and may not use that information against the person in a proceeding under AS 24.60.170. This section does not preclude the committee from acting on a complaint concerning the subject of a person's request for advice if the complaint is brought by another person, or if the complaint arises out of conduct taking place after the advice is requested, and does not preclude the committee from using information or evidence obtained from an independent source, even if that information or evidence was also submitted with a request for advice.

(d) **SEEKING INFORMAL ADVICE FOR SOMEONE ELSE:** The Ethics Administrator does not provide informal advice when someone is requesting advice regarding the actions of another.

(e) **CLOSURE:** All information related to the request shall be considered closed after the informal advice is received by the requester. STAFF REPORTS, which are public documents, shall be kept on file permanently.

SECTION 10 ADVISORY OPINIONS

(a) **FORMAT:** A request for an advisory opinion by a person eligible to make a request, or by the Ethics Committee and the Alaska Public Offices Commission under AS 24.60.160, may be filed with the committee in any written form, including electronic transmission. The committee will provide written guidelines to each person making a request.

(b) **CONFIDENTIALITY:**

(1) The requester and, if applicable, anyone else named in the request must waive confidentiality pursuant to AS 24.60.160(b) for the request to be heard in a public session.

(2) When confidentiality is not waived, the request will be heard in executive session under the requirements of Section 5, Executive Sessions.

(3) When off-site communication is required during an Executive Session, the communication shall be conducted under the requirements of Section 6, Teleconference.

(c) **RESPONSE:** The committee's sixty-day period to respond begins upon receipt at the committee office. The document will be dated and marked confidential, unless the requester waives confidentiality in writing.

If the request is clearly answerable in statute and does not require a formal opinion, a letter will be sent to the requester outlining the statutory response. The requester may either withdraw the request or maintain the request, after receipt of the statutory response letter.

If the facts presented are not sufficient to allow the committee to render an opinion, a letter will be sent requesting additional information, noting the timeline and, if necessary, requesting an extension for response.

The committee will send a confidential copy of the inquiry and a letter requesting a draft advisory opinion to LAA Legal Counsel. If LAA Legal Counsel is unable to or has a conflict in drafting the opinion, committee staff or outside legal counsel will draft the opinion.

(d) **REQUEST FOR EXTENSION:** The committee will send a letter to the requester acknowledging receipt of the request, requesting an extension if the full committee is not able to meet within the sixty-day period or if the period prior to the meeting does not allow adequate time to prepare a draft opinion. The requester will be advised when the committee is scheduled to meet to discuss the opinion.

(e) **REQUEST TO WITHDRAW:** The requester may withdraw the request at any point prior to the committee's rendering of an opinion.

(f) **EXTENSION DENIAL:** If the requester does not grant an extension, at the discretion of the committee chair, a draft advisory opinion may be prepared and provided to all members of the committee. Members will be asked to concur or not concur in writing including counterpart. If a quorum of members who acknowledged receipt of the draft concurs, the draft is adopted as a tentative advisory opinion of the committee, which does not bind the committee unless formally adopted at a committee meeting. A copy of the tentative advisory opinion shall be made available to the requester, with an accompanying letter explaining the tentative status. If any member, who acknowledged receipt of the draft, objects to the adoption of the draft, the committee shall meet to discuss the opinion request.

(g) **DELIBERATIONS/VOTING ON ADVISORY OPINIONS:** Unless the requester has waived confidentiality, discussion and deliberations on advisory opinions are to be conducted in executive session. Upon completion of deliberations, the committee will reconvene in open session and the chair will announce the advisory opinion number and the general topic. The committee will vote to concur or not concur with the draft advisory opinion. The published opinion will reflect the vote.

(h) **ISSUANCE OF ADVISORY OPINIONS:** Opinions are issued under guidelines set forth in AS 24.60.150(a)(2) and AS 24.60.160(b).

(1) Opinions released to the public must contain sufficient deletions to prevent disclosing the identity of the person or persons involved.

(2) If the requester did not waive confidentiality, the public opinion may be a summary of the confidential opinion released to the requester.

(3) Confidential opinions may contain additional information and clarifying statements. A confidential opinion is not a public document and may not be released by the committee. However, the requester may waive confidentiality and release the opinion.

(i) **SUMMARY/PUBLICATION:** The committee shall publish on-line and printed copies of [ITS] advisory opinions on an annual basis ~~[RENDERED IN THE PRIOR PERIOD]~~ as specified in AS 24.60.150(a)(2). The advisory opinions, along with [COMMITTEE WILL ALSO PREPARE] a letter of transmittal, ~~A COVER PAGE IDENTIFYING COMMITTEE MEMBERS AND CONTENTS, AND A TABLE OF CONTENTS~~ will be sent on an annual basis at the beginning of the legislative session to the House Clerk and Senate Secretary to be officially read into the legislative journal. ~~[COPIES WILL BE PREPARED BY THE LEGISLATIVE PRINT SHOP. THE COMMITTEE WILL DISTRIBUTE THE OPINIONS.]~~ The committee will summarize advisory opinions~~[, WHEN APPROPRIATE,]~~ in the bi-monthly newsletter.

RATIONALE: Added language to allow for AO's to be published on-line and printed copies by request. Also added language clarifying AO's will be officially read into the legislative journal. (A current practice that should be stated in the Rules of Procedure.)

(j) **CLOSURE:** All information concerning the request, with the exception of the publishable advisory opinion, shall be designated "closed" upon adoption of a formal advisory opinion and scheduled for destruction 5 years and 6 months thereafter. LAA Legal Services will destroy their copies of any confidential documents related to the opinion in accordance with their destruction policies.

SECTION 11 DISCLOSURES

(a) **FORMS:** The committee will provide and approve forms for each type of disclosure. The committee will accept electronic forms and signatures.

(b) **REVIEW OF DISCLOSURES:** Committee staff is authorized to request additional information for the purpose of clarification and compliance with the Ethics Act.

(c) **RECORD:** The committee will maintain a public record and log of those disclosures that are not confidential by law and a confidential record and log of those which fall under AS 24.60.080(c)(6). Committee staff will mark the date of disclosure on all disclosure reports received. The date of disclosure is considered the date the form is faxed, sent via email through the on-line filing system, sent as a PDF attachment to an email, postmarked for mailing, pouched, or hand delivered.

(d) **PUBLICATION:** During session, a copy of public disclosures requiring publication will be sent to the clerk of the appropriate body following a schedule mutually agreed upon by the clerks of both bodies and committee staff. During the interim, the record will be kept by the committee and sent to the clerk of the appropriate body the first week of the legislative session. A listing of disclosures will be posted on the committee website. The list will be updated monthly during session and as needed during the interim.

Committee staff will send copies of disclosures to the Alaska Public Offices Commission as required under AS 24.60.080.

(e) REVIEW OF CONFIDENTIAL DISCLOSURES AND A REQUEST TO REFRAIN FROM MAKING A DISCLOSURE: The Chair and the Ethics Administrator shall review confidential disclosures and requests to refrain from making a disclosure filed under the requirements of AS 24.60.080(c)(6) and (d) and AS 24.60.105(d) on a quarterly basis. If the chair and Ethics Administrator are unable to determine that the disclosure or request meets statutory requirements, the matter will be referred to the Full Committee for consideration in an executive session.

(f) CLOSURE: The public disclosure files may be destroyed 5 years and 6 months after the end of the legislature in which they were filed and published. The disclosures under AS 24.60.080(c)(6) are not considered closed until 5 years and 6 months from date of receipt by the committee, at which time they will be destroyed.

(g) LATE DISCLOSURES: Committee staff will mark as “late” disclosures received more than 5 days late.

- (1) First Late Disclosure: The Ethics Administrator will send a letter notifying the discloser of receipt of the late report and alerting the discloser of a future monetary fine if any subsequent reports are late. Letter will include an offer for the discloser to explain lateness. Staff will keep a list of late disclosures including the name, type of disclosure, date disclosure received, number of days late, date of letter of notification and any other clarifying information.
- (2) Subsequent Late Disclosures: Upon receipt of a subsequent late disclosure report from an individual on the list described in subsection (g)(1), the Ethics Administrator will notify the committee chair of intent to impose a fine and send a letter notifying the discloser of the fine due pursuant to AS 24.60.260(c) and Section (h). A break in service does not invalidate a “first late disclosure.” The letter will include a statement notifying legislators and legislative employees a fine may be appealed before the Full Committee. Fines will begin on the 6th day after the due date. Letter will explain payment is to be made to LAA but sent to the Ethics Committee for recording. Staff will forward the payment to LAA Finance. Late filers will be noted in the Staff Report which is presented at committee meetings and recorded in the minutes.

(h) LATE DISCLOSURE FINES – Pursuant to AS 24.60.260(c):

- (1) Fines: The committee chair and Ethics Administrator are authorized to determine the appropriate fine for late disclosures.
 - A. Late Disclosure: A person may be fined \$2.00 a day for a maximum of \$100 per late disclosure.

- B. Inadvertent Late Disclosure: A person may be fined a maximum of \$25 if the committee chair determines the late disclosure was inadvertent.
- C. Willful Late Disclosure: A person may be fined \$100 a day for a maximum of \$2,500 if the committee chair determines the late disclosure was willful.
- (2) Unpaid Fines: **If fines are not paid within 30 days after notification, committee staff will mail a certified letter to those individuals with unpaid fines. If the fine is not paid within 30 days from date the certified letter is received, committee staff will notify the committee chair to determine the next step; a second certified notification or a referral** ~~**WILL AUTOMATICALLY REFER THE MATTER**~~ to the Attorney General's office for collection. The names of those late in payment or those who refuse to make payment will be listed in the following month's Ethics Committee newsletter along with the notation the matter has been referred to the Attorney General's office for collection.

RATIONALE: New language added clarifying the time frame for payment of fines and the procedure for failure to pay a fine.

(i) **REQUIREMENTS AFTER LEAVING OFFICE OR EMPLOYMENT WITH THE LEGISLATURE:** Within 90 days after leaving service or employ with the Legislature (includes a public member of the committee), a final disclosure report(s) is required for the period that begins on the last day of the last period for which the person filed a report and ends on the date of the person's last day of service. AS 24.60.210(a).

- (1) Legislators: The Ethics office shall notify legislators within 30 days after leaving office of the requirement to file final disclosures. The letter will contain a listing of all disclosures filed for the current calendar year along with a copy of the actual disclosures. ~~**Blank disclosure forms will be included in the packet.**~~ **and instructions for accessing blank disclosure forms available on the Ethics website.**

RATIONALE: Blank disclosure forms can be accessed online; hence, paper forms do not need to be sent.

- (2) Legislative Employees: The Legislative Personnel Office or other hiring agency within the legislature shall notify legislative employees, whether terminating employment or going on lay-off status, of the requirement to file final disclosures. The Ethics office shall provide the Legislative Personnel Office, or other hiring agency within the legislature, a standardized letter that informs employees leaving legislative employment of the requirement to file final disclosures. The letter shall be updated annually by the Ethics office. The letter shall be included with the employee's last paycheck per LAA Personnel internal policies.

SECTION 12 EDUCATION

(a) **HANDBOOK:**

(1) The committee will publish online and print copies of a Standards of Conduct Handbook. The handbook will include a copy of the Legislative Ethics Act; question and answer guidelines for each section of the Act, a copy of other applicable laws, a recap of the previous year's advisory opinions, example copies of disclosure forms and deadlines; and information about the complaint process and a sample complaint form.

(2) Printed copies will be available:

- (A) at all Ethics training courses to attendees by request
- (B) at the beginning of each legislative session to legislator's offices in Juneau
- (C) to LIO offices throughout the state; and
- (D) be included in the 'new hire' packet distributed by the Legislative Personnel Office or other hiring agency within the legislature; the employee will be required to sign a form acknowledging receipt of the handbook and responsibility for complying with the Act.

(b) **TRAINING:** The committee administrator and/or committee members will participate in training legislators, public members of the committee and legislative staff by administering a legislative ethics course that teaches compliance with the Legislative Ethics Act and is designed to give an understanding of the Act under AS 24.60.010.

(1) The committee shall within 10 days of the first day of each regular session, and at other times determined by the committee, administer two types of legislative ethics courses as defined in AS 24.60.150(a)(4).

(A) Returning legislators, committee members, or legislative employees shall attend a refresher course which includes a review of compliance issues.

(B) First-time legislators, committee members, or legislative employees shall attend a course offering a fundamental understanding of the Act and how to comply with it.

(2) If a person takes office or begins employment after the 10th day of the first regular session, the person shall complete the course within 30 days after the person's first day of service. The committee may grant a person additional time to complete the course.

(A) The committee will provide a variety of methods to accomplish this requirement which may include a course administered by Ethics staff.

(3) If the course is not administered by Ethics staff, the person will be required to ~~[SIGN A FORM ACKNOWLEDGING REVIEW OF A LEGISLATIVE ETHICS COURSE PROVIDED BY THE COMMITTEE. THE FORM WILL BE KEPT ON FILE IN THE ETHICS OFFICE.]~~ complete the on-line course within seven days after notification by Ethics Staff. Upon completion, an internal electronic notification will be sent to Ethics staff.

(4) Legislative leadership or agency department heads, whichever is appropriate, will be notified of any person required to take training who has not completed the course within the 30-day statutory requirement.

RATIONALE: New language adding an online Ethics course, the timeframe to complete the course and automatic notification to Ethics staff when completed.

(c) **INFORMATION:** The committee will provide the leadership of both legislative bodies a list of requirements and deadlines, for general announcement and distribution, to all legislators and their staff at the beginning of each legislative session.

(d) **COMMUNICATION:** Public decisions and advisory opinions rendered by the committee will be communicated to legislative members and legislative staff as soon as possible. Communication may be in the form of a newsletter, memo, or other informal presentation.

(e) **NEWSLETTER:** The committee will issue a bi-monthly newsletter which *highlights* applicable sections of the Ethics Code based on current events, contains upcoming reporting deadlines and provides other information of value to legislators and legislative employees. The committee may issue additional newsletters as needed.

SECTION 13 POTENTIAL COMPLAINTS

(a) **ANONYMOUS INFORMATION:** Anonymous information concerning potential violations received by the committee will be treated confidentially, except as provided in (c) below.

(1) Anonymous information provided only verbally will not be considered, except as provided in (c) below. Committee staff or members will provide information on the complaint process and requirements to the caller.

(2) If anonymous information is received concerning a potential violation and a complaint based on that information is not received within 30 days, committee staff and the appropriate committee chair will review anonymous tangible information as to credibility, seriousness and jurisdiction.

(A) If the information is found to be sufficient, it will be forwarded to the appropriate committee for review. Copies of the information will not be made available to the subject unless a complaint is filed.

(B) If the committee determines not to consider the anonymous information, the matter will be considered closed and scheduled for destruction two years and six months from the date of receipt of the information or at a later date if the committee specifically designates.

(b) **INFORMATION FROM A KNOWN SOURCE:** The committee will treat all material information received concerning potential violations of the Ethics Act as confidential, except as provided in (c) below.

(1) Information provided only verbally will not be considered, except as provided in (c) below. Committee staff or members will provide information on the complaint process and requirements to the known source.

(2) If information from a known source is received concerning a potential violation and a complaint is not received within 30 days, committee staff and the appropriate committee chair will review the tangible information as to credibility, seriousness, and jurisdiction.

(A) If the information is found to be sufficient, it will be forwarded to the appropriate committee.

(i) The committee will review the information and make a determination as to whether to return the information to the source, with or without a recommendation to file a complaint.

(ii) The committee may retain the information as support documentation.

(iii) The source of the information will be notified, when possible, if a complaint has otherwise been initiated. The source will not receive a copy of the complaint or any other confidential information.

(B) If the committee determines not to consider the information, it will be considered closed and scheduled for destruction two years and six months from the date of receipt of the information or at a later date if the committee specifically designates.

(c) INFORMING THE SUBJECT OF INFORMATION PROVIDED UNDER (a) OR (b) ABOVE: The committee authorizes committee staff to contact the subject of the written or verbal information received under (a) or (b) above. The contact may occur at any point after receipt of the information and prior to a formal complaint being filed if the information appears to allege a possible violation of the Ethics Act.

(1) Whether the action has already occurred or whether it is for a future action, there is no confidential provision in the Act that precludes Ethics staff from taking proactive steps, if they feel it is necessary, to promote compliance with the Act.

(A) The purpose of the contact would be to inform the subject there exists a perception by an unnamed source a violation has occurred. Staff will clarify to the subject the purpose of the contact is limited to alerting the subject of the existence of the perception, that a violation of the Act may occur or has occurred, and the call itself has no effect on whether or not a complaint may be filed.

(B) Staff has no statutory investigatory authority under this subsection and therefore information and/or documentation provided by the subject of the inquiry is voluntary.

(C) The contact does not obligate the subject to take any action, remedial or otherwise; however, corrective action will be strongly recommended if there may be validity to the allegations.

(2) The identity of the person providing the information, if known, will be kept confidential.

(A) The person making the inquiry, if known, will be notified of action taken by the subject of the inquiry, if any.

- (B) The person has the option to file a complaint or may indicate the issue has been explained and/or resolved. Staff should neither advocate for or against filing a complaint.
- (3) Staff is authorized to conduct a preliminary examination of the factual scenario(s) and present findings to the committee as outlined in (a) and (b) of this section.
- (4) This procedure will be called the “Heads Up Policy.” Legislators and staff will be apprised of this policy during mandatory Ethics training classes held pursuant to AS 24.60.150 and AS 24.60.155.

SECTION 14 COMPLAINTS

(a) **PROCESS:** The committee shall furnish forms to any person upon request. A complaint may be filed in any written form as long as it is signed under oath, pursuant to AS 24.60.170(b).

- (1) Complaints improperly submitted will be returned, with all accompanying materials, with instructions for proper filing, and, without reference to the specifics of the complaint. The committee will retain only the cover letter.
- (2) Invalid complaints will be returned to the complainant without action. A complaint is considered invalid if an alleged violation is not specified, if an alleged violator is not identified, if the committee lacks jurisdiction over the allegation or if the allegation does not allow the committee to act.
- (3) Complaints dismissed for lack of jurisdiction, due to insufficient credible information that could be uncovered to warrant further investigation, as frivolous on its face or if the allegation, even if true, would not constitute a violation of the Act, that are re-filed by the same complainant containing substantially the same allegations and information, will be returned to the complainant without action.
- (4) Complaints filed, during a campaign period, against a candidate for state office will be processed as specified in AS 24.60.170(o).
- (5) Complaints against a candidate for state office which are pending at the beginning of a campaign period will be processed as specified in AS 24.60.170(p).
- (6) Committee staff will immediately, upon receipt of a complaint, notify the complainant of the provisions in AS 24.60.170(l).

(b) **RECEIPT:** Upon receipt of a sworn valid complaint, the committee staff will mark the document "confidential", log in the complaint, assign a control number and file the complaint with the appropriate committee chair. Staff will transmit a copy to the subject of the complaint by certified mail and restricted delivery with a return receipt to be signed by the subject. Staff will notify the complainant via letter that the complaint has been received.

(c) LEGAL REPRESENTATION:

(1) Under AS 24.60.170(r) the subject of the complaint may choose to be represented by legal counsel or another person. The choice of counsel or another person is not subject to review and approval or disapproval by the committee. This choice does not constitute a waiver of any confidentiality provisions outlined in AS 24.60.

(2) When the subject of the complaint is represented by legal counsel or another person, all correspondence shall be sent to both the representative and the subject of the complaint. Communication regarding the complaint process and procedures shall be directed to the representative.

RATIONALE:

(c)(1) Added language pursuant to AS 24.60.170(r). This provision should be stated in the Rules of Procedure as legal counsel/representative is mentioned in other sections.

(c)(2) Added language stating all correspondence should be sent to both the subject and the subject's representative. By sending to both parties, the committee is assured the subject is aware of committee actions/requests in the event the attorney/representative is unavailable.

Verbal communication should be directed to the attorney or representative. (Attorneys on the committee: please comment on this section. When a person is represented by an attorney, usually all correspondence and verbal communication is only through the attorney. However, we can set our own policy.)

(d) PRELIMINARY EXAMINATION OF COMPLAINT: Before the committee considers a complaint, staff will conduct a preliminary examination of the complaint to determine and make a recommendation to the committee as to whether, based on the information and evidence on hand:

- (1) the act(s) complained of is within the jurisdiction and time limitation of the committee under AS 24.60 and;
- (2) advise the committee whether the allegations, if true, constitute a violation of AS 24.60 and a proceeding is warranted. AS 24.60.170(c).
- (3) there is specific and credible information to indicate that an investigation is warranted.

RATIONALE: Added (d)(2) to reflect additional statutory language in AS 24.60.170(c).

(e) WAIVER OF CONFIDENTIALITY BY SUBJECT OF COMPLAINT:

(1) General Information. Under the complaint provisions outlined in AS 24.60.170, the subject of a complaint may waive confidentiality of proceedings at any point in the proceedings under AS 24.60.170 or at the close of the proceedings.

(A) The committee reserves discretion to determine which documents are subject to public inspection. The committee will not release

investigative files, notes from deliberations held in confidential sessions or documents produced by legal counsel, protected by attorney-client privilege, unless the committee reviews the materials, removes any information that would infringe upon the constitutional right of privacy of an individual and formally adopts a motion to release the identified materials.

- (B) The subject may not waive the committee's duty of confidentiality under AS 24.60.170. The subject of a complaint may waive confidentiality only for those materials and proceedings pertaining to him or her. The subject may not waive confidentiality for others, including those involved or assisting in the committee's investigation of the complaint.

RATIONALE: The language in (e)(1)(a) was taken from the end of this subsection to provide a better flow to the information. Also created three subsections under (e) to allow for easier reading.

(2) Types of Confidentiality Waivers.

- (A) Express Waiver – The subject of a complaint shall be provided with a Waiver of Confidentiality form explaining the nature and extent of the right to confidentiality of the complaint process. The form shall also include an express waiver statement indicating the subject freely and voluntarily waives the right to confidentiality proceedings and would like all further proceedings to be conducted in a public forum. If the subject chooses to expressly waive confidentiality, the waiver statement must be signed and dated.
- (B) Implied Waiver – The Waiver of Confidentiality form will contain information explaining an implied waiver of confidentiality. An implied waiver is a course of conduct which evidences an intention to waive confidentiality provisions or is inconsistent with any other intention than a waiver. To prove an implied waiver, there must be clear, direct, unequivocal conduct indicating a purpose to abandon or waive confidentiality. The committee shall investigate all occurrences of this nature to determine if the conduct supports a finding of an implied waiver.

(3) Waiver of Confidentiality Before or After a Decision by the Committee.

(A) Confidentiality Waived Prior to a Decision by the Committee.

- (1) The committee will treat any proceedings related to the complaint consistent with the provisions of AS 24.60.170(m) in that meetings of the committee be public, and documents presented at the meeting and motions filed in connection with the meeting are subject to public inspection.

- (2) ~~[UNDER A WAIVER OF CONFIDENTIALITY, DELIBERATIONS OF THE COMMITTEE WILL BE CONDUCTED IN CLOSED SESSION. WITH THE STATEMENT OF THE MOTION AND VOTE HELD IN PUBLIC SESSION.]~~ After deliberations in executive session, the committee will reconvene in public session. The motion approved

in executive session stating a probable cause violation(s) of AS 24.60 or a dismissal of the charge(s) will be read. The statement will include an affirmation indicating the decision was by a majority vote of the committee.

- (3) ~~THE SUBJECT MAY NOT WAIVE, IN WHOLE OR IN PART, THE COMMITTEE'S CONFIDENTIALITY OBLIGATIONS AS SET FORTH IN AS 24.60.170.] Reason: See (1)(A) and (B).~~**

RATIONALE:

(e)(3)(a)(2) Cleaned up the language to clarify no public vote is required to issue a complaint decision. No public individual vote is consistent with past practice since the 1990's.

(e)(3)(a)(3) Already Explained in (e)(1)(a) and (b).

- (B) ~~[IF] Confidentiality [IS] Waived After a Decision by the Committee. The committee will release copies of all the following documents contingent upon the confidentiality conditions outlined in (e)(1)(A) and (e)(1)(B). [AFTER ENSURING RELEASE OF DOCUMENTS WILL NOT INFRINGE UPON AN INDIVIDUAL'S CONSTITUTIONAL RIGHT TO PRIVACY,]~~** including:
- 1) Public documents which are part of the investigative file e.g. reports filed with the Alaska Public Offices Commission.
 - 2) Materials submitted to the committee by the subject of the complaint.
 - 3) The formal complaint, with deletions if necessary, accompanying documents and correspondence from the complainant.
 - 4) The resolution identifying the Scope of ~~[THE]~~ Investigation.
 - 5) Correspondence from the committee to the subject of the complaint and/or the complainant.
 - 6) **The public decision previously issued by the committee.** ~~[A STATEMENT OF THE MOTION AND RECORD OF THE VOTE TAKEN TO REACH THE FINAL DECISION.]~~

RATIONALE: Clarified that documents shall only be released under the confidentiality conditions set out in E(1)(a) and (b) --- more detailed than the language deleted in this subsection. Subsection (6) language is deleted as the decision has already been publicly issued. Further, the public decision is not a confidential document.

~~[THE COMMITTEE RESERVES DISCRETION TO DETERMINE WHICH DOCUMENTS ARE SUBJECT TO PUBLIC INSPECTION. THE COMMITTEE WILL NOT RELEASE INVESTIGATIVE FILES, NOTES FROM DELIBERATIONS HELD IN CONFIDENTIAL SESSIONS OR DOCUMENTS PRODUCED BY LEGAL COUNSEL, PROTECTED BY ATTORNEY-CLIENT PRIVILEGE, UNLESS THE COMMITTEE REVIEWS THE MATERIALS, REMOVES ANY INFORMATION THAT WOULD INFRINGE UPON THE~~

~~CONSTITUTIONAL RIGHT OF PRIVACY OF AN INDIVIDUAL AND FORMALLY ADOPTS A MOTION TO RELEASE THE IDENTIFIED MATERIALS.]~~

RATIONALE: Moved to (e)(1)(a)

(f) RESPONSE BY THE SUBJECT OF A COMPLAINT: The committee may invite, via written correspondence, the subject of a complaint to appear before the appropriate committee or representatives of the committee, to meet with the assigned investigator and/or to respond in writing at any time after receipt of the complaint. Acknowledgement of receipt of the correspondence by the subject, and the subject's representative if appropriate, is required.

- (1) The committee is not limited to one response from the subject of a complaint; request for information may be on-going.
- (2) Pre-investigative contact with the subject may be made for the purposes of defining the scope of the investigation.

RATIONALE: Added language requiring an invite by the committee to appear before the committee must be via written correspondence. A paper trail (so to speak) is necessary. Further, added language requiring acknowledgement of the correspondence to avoid any misinterpretation of this important step in the complaint process.

(g) COMPLAINT AGAINST A REHIRED EMPLOYEE: The committee may consider a complaint filed against a person previously employed by the legislative branch of government who has been rehired in the legislative branch, within the time limitations specified in AS 24.60.170(a).

(h) COMMITTEE RESTRICTIONS: Committee members should avoid ex parte communication with the committee's counsel, the subject of the complaint, the subject's counsel and others providing information on the merits of the matter.

DISCUSSION ITEM: Should Ethics staff be included in (h) Committee Restrictions and also avoid ex parte communication with the listed parties?

SECTION 15 COMPLAINTS – INVESTIGATIONS

(a) SCOPE OF INVESTIGATION RESOLUTION:

- (1) The committee adopts a resolution defining the Scope of Investigation.

The resolution ~~[DEFINING THE SCOPE OF THE INVESTIGATION]~~ will include steps to follow, whenever possible.

EXAMPLE: Did Senator Q accept a campaign contribution during the ~~[199-]~~ legislative session?

- If Senator Q did accept the contribution, was it kept or was it returned within a reasonable period of time per APOC?
- If the contribution was kept, who made the contribution, date, and amount?
- Did Senator Q take any legislative, administrative or political actions during the [200-] session on behalf of the contributor?
- Did Senator Q require an employee to assist in any part of the contribution activity?

(2) A copy of the Scope of Investigation is sent to the subject of the complaint, and the subject's representative if applicable, and complainant pursuant to AS 24.60.170(d). Acknowledgement of receipt of the Scope of Investigation by the subject of the complaint, and the subject's representative if appropriate, is required.

RATIONALE: Changed the title to “Scope of Investigation Resolution” to better reflect this subsection. Added language confirming procedures required by AS 24.60.170(d) and acknowledgement of the correspondence for consistency throughout the Rules.

(b) INVESTIGATIVE PLAN: ~~[AFTER THE COMMITTEE ADOPTS A RESOLUTION DEFINING THE SCOPE OF THE INVESTIGATION.]~~ The committee will set an investigative plan to include the following:

- (1) Who will coordinate the investigation? Committee chair, vice-chair, legal services contractor, other.
- (2) Will the investigation be conducted by one firm or person or will portions be conducted by several persons; such as APOC reports reviewed by staff, interviews with Senator Q and Contributor Z conducted by attorney.
- (3) Specific identification of those involved in the investigation: Professional investigator, staff, or others
- (4) Determination as to when and whether findings are to be reported verbally, in writing or both.

(c) INVESTIGATIVE INTERVIEWS: Pursuant to AS 24.60.170 all complaint investigations are confidential.

- (1) **CONFIDENTIALITY:** Interviews conducted during the course of an investigation shall be conducted in a confidential setting. All parties will be informed of the confidentiality provisions in statute and in the Rules of Procedure concerning complaint investigations.
- (2) **LEGAL REPRESENTATION:** All parties interviewed shall be informed that they have the right to legal counsel.
- (3) **TELEPHONIC INTERVIEWS:** If the interview is being conducted through the use of telephonic equipment, the person being interviewed and any legal representative, shall verify for the record no one else is present or on a conference call line.

(d) **INVESTIGATIVE MATERIALS:** An investigative report and any attorney or investigator work products related to the investigation, either prepared on behalf of the committee or disclosed to it as part of the investigation are required to be kept confidential. The committee will request all original products generated by an investigator at the close of the investigation and will require the investigator to destroy all copies in his or her possession.

SECTION 16 SUBPOENAS

(a) **ISSUANCE OF SUBPOENAS:** Under AS 24.60.150(b)(2), the committee has the authority to issue subpoenas at any point during the formal complaint process. Section 2 of Committee Procedures authorizes the chair or the vice chair to sign subpoenas. Legal counsel will be consulted on all subpoenas for proper format. Subpoenas may be issued to appear and/or produce documents.

(b) **RECEIPT OF SUBPOENAS:**

- (1) When a subpoena is served on the committee administrator, committee chair, or an individual member of the committee, the chair and legal counsel will be consulted immediately.
- (2) Requirement to release documents confidential by statute has been addressed by the U.S. District Court of Alaska in *In re Grand Jury Subpoena*, 198 F. Supp. 2d1113 (Alaska 2002). The Supremacy Clause of the U.S. Constitution requires compliance with a subpoena from a federal grand jury despite state law to the contrary. June 2005 legal counsel letter on file in the committee office.
- (3) Requests for documents must be reviewed by legal counsel prior to release. Documentation of the documents released must be kept on file for two years.
- (4) Notes between staff and committee members, notes of executive meetings and voting records and written notes by staff regarding materials are judged to be non-responsive to the request and will be so noted on the letter accompanying the documents.
- (5) Legal counsel will accompany staff and/or members of the committee if compelled to testify.

SECTION 17 COMPLAINTS – DECISIONS

(a) **COMMITTEE MEETINGS** - Subject of the Complaint:

- (1) A letter shall be sent notifying the subject of the complaint, and the subject's representative, of the committee meeting date, time, and location along with a brief outline of the committee process and a copy of the subject's interview transcript. Acknowledgement of receipt of the correspondence by the subject of the complaint, and the subject's representative if appropriate, is required.

- (2) Pursuant to the provisions of AS 24.60.170(d), the committee shall afford the subject of the complaint an opportunity to explain the conduct alleged to be a violation of AS 24.60.
- (A) The subject may appear in person at a time set by the committee or may choose to provide a written statement.
 - (B) The subject may choose to be accompanied by legal counsel or another person who may also present arguments before the committee pursuant to AS 24.60.170(r).

RATIONALE: Added language similar to previous subsections for conformity.

(b) PUBLIC DECISIONS AND ORDERS:

- (1) After deliberations in executive session, the committee will reconvene in a public session. (Exception: subsection (c) Dismissal Prior to Investigation.) The motion approved in executive session stating a probable cause violation(s) of AS 24.60 or a dismissal of the charge(s) will be read. The statement will include an affirmation indicating the decision was by a majority vote of the committee.**
- (2) ~~[REPORTS ON]~~ Decisions will include the names of committee members in attendance and state the motion was approved by a majority vote of the committee. ~~[THE VOTE ON THE SPECIFIC DECISION]~~ if publicly determined.**
- (3) Decisions requiring public release will be transmitted in the fastest mode possible in the ~~[FOLLOWING]~~ order listed below. A phone call to the subject of the complaint, and the subject's representative, is recommended followed by transmittal of the written decision. Acknowledgement of receipt of the Public Decision and Order by the subject of the complaint or the subject's representative, Speaker of the House and Senate President (or designated staff) and complainant is required prior to informing the media.**
 - (A)** Subject of the complaint.
 - (B)** Speaker of the House and Senate President
 - (C)** Members of the committee
 - (D)** Complainant
 - (E)** Media request list

RATIONALE:

- (b)(1) Added an "exception" to reconvening in public session pursuant to AS 24.60.170(c). See subsection (c) for a similar statement.**
- (b)(1) and (2) Added language to be consistent with previous subsections.**
- (b)(3) Clarified steps in the notification process for releasing a complaint decision. Added language requiring acknowledgement by certain parties prior to public release.**

~~A FORMAL COPY WILL BE SENT ON AN ANNUAL BASIS TO THE SENATE SECRETARY, SENATE PRESIDENT, AND HOUSE CLERK, AND SPEAKER OF THE HOUSE VIA POUCH OR MAIL.~~

RATIONALE: Deleted this section and added to Section 17(f) which addresses publication of public decisions.

(c) **DISMISSAL PRIOR TO INVESTIGATION:** Complaints dismissed after a preliminary investigation under AS 24.60.170(c) for lack of jurisdiction, due to insufficient credible information that could be uncovered to warrant further investigation, as frivolous on its face or if the allegation, even if true, would not constitute a violation of the Act, will not be made public. Therefore, the committee will not reconvene in public session to affirm the committee's decision. However, the subject of the complaint has the right to waive confidentiality under the provisions of Section 14(d). The committee will only notify the complainant and the subject of the complaint and the subject's representative, if applicable, of the committee's decision. The notification will only contain the determination that the complaint is dismissed based on the grounds as stated above.

RATIONALE: Added clarifying language to confirm current practice for a dismissal prior to investigation. Added uniform language about the subject's representative to provide consistency throughout.

(d) **DISMISSAL FOR LACK OF PROBABLE CAUSE:**

- (1) If the committee determines, after investigation, that there is not probable cause to believe the subject has violated the Ethics Act, the committee shall issue a dismissal order and decision dismissing the complaint for lack of probable cause explaining the dismissal under AS 24.60.170(f). The dismissal order and decision shall identify the subject of the complaint and the allegations made against the subject. ~~[THE DISMISSAL ORDER AND DECISION SHALL BE SENT TO THE SUBJECT OF THE COMPLAINT AND THE COMPLAINANT.]~~
- (2) The committee will publicly issue a dismissal order and decision for lack of probable cause under the distribution provisions outlined in (b) of this section. ~~[FOLLOWING DELIVERY OF A COPY TO THE SUBJECT OF THE COMPLAINT AND THE COMPLAINANT, THE DISMISSAL ORDER AND DECISION SHALL BE OPEN TO INSPECTION AND COPYING BY THE PUBLIC.]~~

RATIONALE:

(d)(1) and (2) Deleted language spelled out in another section. Referenced the public decision distribution subsection.

(e) **DETERMINATION OF PROBABLE CAUSE:**

- (1) If the committee finds probable cause, the committee shall issue a written decision explaining the finding of probable cause under AS 24.60.170(g). The decision shall identify the subject of the complaint and the allegations made against the subject.
- (2) The **committee will publicly issue a finding of probable cause under the distribution provisions outlined in (b) of this section.** ~~[DECISION SHALL BE SENT TO THOSE IDENTIFIED IN (A) OF THIS SECTION.]~~
- (3) In cases under AS 24.60.170(g) where the committee finds probable cause of a violation and recommends corrective action(s), the following information will be included with the recommendation in the public decision:
 - (A) An explanation of the subject's right to request, within 20 days after receiving the decision, a confidential in-person meeting or teleconference meeting with the committee at which the committee shall explain the reasons for the decision.
 - (B) Requirement for the subject to submit a letter to the committee, within 20 days from the date of receipt of the public decision, either accepting the corrective actions or requesting a public hearing.
 - (C) If the subject accepts the recommended corrective actions, the letter must also contain a statement acknowledging the violation.
 - (D) Each recommended corrective action must include a date by which the action must be accomplished or a statement specifying the period of time that the corrective action remains in effect. (e.g. if the action is a commitment to file timely disclosures, the decision would include a statement "for as long as the subject serves in the legislature").
 - (E) The public decision must state when and how compliance with the recommendations will be reviewed. (e.g. the committee will review the status of the recommended actions by (date) or the committee authorizes the chair to review the status by (date) and to report any non-compliance to members.)
 - (F) The public decision may also include the statement; "If the actions have not been completed as specified, the committee may issue formal charges on the complaint".
- (4) ~~[THE COMMITTEE WILL PUBLICLY ISSUE A DECISION OF PROBABLE CAUSE FOLLOWING NOTIFICATION TO THE SUBJECT OF THE COMPLAINT AND THE COMPLAINANT. THE DECISION SHALL BE OPEN TO INSPECTION AND COPYING BY THE PUBLIC.]~~

RATIONALE:

(e)(2) Referenced the public decision distribution subsection.

(e)(4) Deleted language already spelled out in (17)(b)(3).

(f) ~~[ANNUAL]~~ **SUMMARY/PUBLICATION:** The committee will publish **on-line and printed copies of all** public decisions on an annual basis. **All public decisions, along with a transmittal letter, will be sent on an annual basis at the beginning of the**

legislative session to the Senate Secretary and House Clerk to be officially read into the legislative journal. The committee will summarize complaint decisions in the bi-monthly newsletter.

RATIONALE: Added language to be consistent with Section 9(i), Summary/Publication of Advisory Opinions.

(g) **WAIVER OF CONFIDENTIALITY:** See Section 14(d), COMPLAINTS, concerning waiver of confidentiality.

(h) REFERRAL OF COMPLAINT TO OTHER AGENCIES – AS 24.60.170(l):

- (1) Criminal Activity: If, in the course of an investigation or probable cause determination, the committee finds evidence of probable criminal activity, the committee shall transmit a statement and factual findings limited to that activity to the appropriate law enforcement agency.
- (2) Campaign Activity: If the committee finds evidence of a probable violation of AS 15.13, State Election Campaigns, the committee shall transmit a statement to that effect and factual findings limited to the probable violation to the Alaska Public Offices Commission.
- (3) Statement and Factual Findings: All materials to be forwarded shall be reviewed by the committee's legal counsel for compliance with the confidentiality provisions in AS 24.60.170.

SECTION 18 COMPLAINTS - HEARING PROCEDURES

(a) GENERAL:

- (1) A person, who is subject to charges under AS 24.60.170(h) or findings of probable cause with corrective action under AS 24.60.170(g), is entitled to a hearing in accordance with AS 24.60.170(j).**
- (2)** The intent of these procedures is to provide due process to people charged under the Ethics Law and to protect the privacy and rights of the victims, complainants and the public in the process. Every effort has been made to make these procedures consistent with and parallel to those for State Administrative Hearings pursuant to AS 44.62.330-630, Alaska Bar Rule 22 Procedure and the Commission on Judicial Conduct Rule 10 Subpoenas.
- (3)** These procedures are applicable to all hearings of the Select Committee on Legislative Ethics pursuant to AS 24.60.170(g)(h)(j)(m). These procedures are adopted under AS 24.60.150(a)(1).
- (4) No waiver of confidentiality is required by the subject of the complaint at the public hearing stage of the complaint process.**

RATIONALE: Divided this section into four subsections. Added new language to provide clarity. Moved first sentence in (b) to (a)(1) of this section. Added subsection (3) clarifying no waiver of confidentiality is required at this stage of the complaint process as it is open to the public.

(b) ~~COUNSEL REPRESENTATION AT HEARING: A PERSON, WHO IS SUBJECT TO CHARGES UNDER AS 24.60.170(h) OR FINDINGS OF PROBABLE CAUSE WITH CORRECTIVE ACTION UNDER AS 24.60.170(g), IS ENTITLED TO A HEARING IN ACCORDANCE WITH AS 24.60.170(i).~~

The subject of the probable cause determination or the charge shall be entitled to be represented by counsel in all pre-hearing and hearing matters. The committee shall designate its own counsel to present the evidence supporting the violations alleged in the probable cause findings. Pursuant to AS 24.60.170(i), the committee may appoint an individual to present the case against the person charged if that individual does not provide and has not provided legal advice to the committee except in the course of presenting cases under AS 24.60.170.

(c) COMMITTEE RESTRICTIONS:

- (1) In order to assure a separation between the determination of probable cause and the hearing, committee members shall confine themselves to the evidence presented at the hearing.
- (2) Following a finding of probable cause, committee members should avoid any ex parte discussions with the committee counsel, subject of the complaint, the subject's counsel and others providing information on the merits of the matter.

(d) TIMELINES:

- (1) A hearing will be scheduled no sooner than 20 days and no later than 90 days from the date of service of charges or probable cause findings on the person subject to the charges, unless the committee schedules a later hearing or the conditions in Committee Procedures Sec. 4(a) apply.
- (2) If the complainant prevents the hearing from starting before the 90-day deadline passes and a quorum of the committee determines by vote of a majority of committee members the delay is not supported by a compelling reason or will result in the person charged being deprived of a fair hearing, the committee may dismiss the complaint with prejudice or enter some other order the committee determines is appropriate.
- (3) Upon summons and notice of hearing, the person subject to the charges pursuant to AS 24.60.170(h) shall have 10 days to admit to the charges or request a hearing.

(e) DISCOVERY:

- (1) The subject and/or the counsel for the subject shall have the right to reasonable discovery, under Section 19 in these Procedures.
- (2) The counsel for the committee, in a manner consistent with the Alaska Civil Rules of Procedure, shall have rights of discovery and production of documents relating to the hearing once a hearing has been requested and scheduled.

(f) PRE-HEARING PROCEDURES:

- (1) The committee may issue a pre-hearing order including such items as: time limits on opening statements, presentation of evidence and closing arguments and

deadlines for submitting witness lists, exhibit lists and any motions raising issues resolvable prior to the beginning of the hearing. Pre-trial motions should be submitted to the committee at least one week prior to the hearing.

- (2) Counsel for the committee and the person subject to charges or their counsel, are encouraged to stipulate prior to hearing, as to any matters including evidentiary matters or undisputed facts.

(g) **CONDUCT OF HEARING:** The hearing shall be in front of the appropriate committee of the Select Committee on Legislative Ethics and presided over by the chair of that committee.

- (1) **Hearing Officer:** The committee may appoint an impartial Hearing Officer to facilitate and expedite procedural aspects of the hearing. Both the committee counsel and the counsel for the person charged or the person charged, will be provided a list of the final candidates for the Hearing Officer position and may submit recommendations to the chair for selection or disqualification of any candidate. The committee's chair decision is final.

RATIONALE: Clarified the decision is made by the committee chair and not the full committee.

teleconference; on admission and exclusion of evidence; advise the chair on matters of law; and control the conduct of participants and the time allotments to participants. Decisions on all procedural matters will be made by the Hearing Officer, subject to a right to appeal to the chair of the committee. The committee may overrule a determination by the Hearing Officer. The chair and the members may question the witnesses and the person charged or ask clarifying question of either counsel, the person charged or the hearing officer.

- (2) **Person Charged:** The person charged shall have the right to appear personally before the committee at the hearing. The hearing will proceed with or without the appearance of the person charged.
- (3) **Witnesses:** Both counsel or the person charged if counsel is not used, have the right to subpoena witnesses. All witnesses shall testify under oath. In the event of problems in travel arrangements, especially for witnesses not subject to subpoena; depositions or affidavits may be used in lieu of live testimony. If agreed to by both parties, a witness may participate via teleconference. The Hearing Officer will decide the issue if agreement is not reached. The opposing party must have been offered the opportunity to participate in any deposition or to refute any affidavit which is admitted.
- (4) **Order of Proceedings:** The person charged and the committee counsel will have the opportunity to make opening and closing statements. Each party will have the right to examine and cross-examine witnesses and present evidence in his or her behalf. One opportunity for redirect for each witness will be allowed. The entire proceeding will be recorded and evidence will be secured and preserved.
- (5) **Decorum in the Hearing Room:** All persons will be required to conduct themselves in an orderly manner consistent with courtroom protocol. Failure to do so or disruption of the hearing may result in removal from the hearing room and

charges of disturbing the peace in a public place. If the person charged is disruptive, that lack of cooperation will be considered during deliberations on any sanctions recommended. Media personnel will be provided a designated place and will not be allowed to move freely throughout the hearing room.

- (6) **Teleconference:** In the interest of the public, the proceedings of the hearing shall be teleconferenced ~~[ON A LISTEN ONLY BASIS, WITH THE EXCEPTION OF WITNESSES WHO HAVE BEEN SCHEDULED TO PARTICIPATE.]~~ if available.

RATIONALE: Clarified the hearing will be teleconferenced, if available. Deleted language regarding witnesses as their testimony is spelled out in another section.

(h) **POST-HEARING:**

- (1) At the end of the hearing and prior to committee deliberations, the Hearing Officer will provide to the chair, a summary of the rulings and issues unresolved. Only committee members will participate in the deliberations and those deliberations shall be confidential as required by AS 24.60.170(m).
- (2) After deliberations in executive session, the committee will reconvene [ISSUE,] in a public session. The motion approved in executive session stating a violation(s) of AS 24.60 based on clear and convincing evidence or a dismissal of the charge(s) will be read. The statement will include an affirmation indicating the decision was by a majority vote of the committee.
- (3) Decisions will include the names of committee members in attendance and state the motion was approved by a majority vote of the committee. The committee will subsequently issue a written public decision under the distribution provisions outlined in Section 17(b). [EITHER FINDING A VIOLATION(S) OF AS 24.60, BASED ON CLEAR AND CONVINCING EVIDENCE, OR DISMISS THE CHARGE.]
- (4) If the committee finds that a violation occurred or the subject did not cooperate, [IF] the committee will make a written recommendation of sanctions to the appropriate body of the legislature.

RATIONALE: Added language to be consistent with previous sections outlining the process for issuing a public decision after an executive session. Clear and Convincing is the standard of proof at this stage and is so stated in (h)(2).

SECTION 19 COMPLAINTS - DISCOVERY PROCESS – PUBLIC HEARING OR FORMAL CHARGES

RATIONALE: ADDED CLARIFYING LANGUAGE TO THE TITLE AS “DISCOVERY” ONLY OCCURS DURING THE PUBLIC HEARING STAGE OR WHEN FORMAL CHARGES ARE ISSUED.

(a) **DISCOVERY BY SUBJECT:** A person against whom a complaint has been filed is entitled to engage in discovery in a manner consistent with the Alaska Rules of Civil Procedure, subject to reasonable restrictions imposed by the committee for the time of discovery and the materials that may be discovered. When allowing discovery, the committee will take into consideration the potential for public distribution of materials, under AS 24.60.170(i).

(1) **TIMEFRAME FOR DISCOVERY AT THE PUBLIC HEARING STAGE OR WHEN FORMAL CHARGES ARE ISSUED:** The subject of a complaint may request discovery at any time after the subject requests a public hearing or after the committee has formally charged the subject under AS 24.60.170(h).

- (A) When the discovery request is made after the subject requests a public hearing or the committee issues formal charges, but before the committee has scheduled the public hearing, the committee shall have 30 days to respond to the discovery request. The committee shall set a date for the public hearing not fewer than 30 days after serving its responses to the discovery request.
- (B) When a discovery request is made by the subject after the committee has set the date for the public hearing, the committee shall make all reasonable efforts to respond fully to the request prior to the public hearing but is not obligated to do so and is not obligated to postpone the hearing.
- (C) Under AS 24.60.170(p), the discovery process may continue during a campaign period if the committee has formally charged the subject prior to the beginning of the campaign period. The committee's actions must remain confidential.

(2) **TIMEFRAME FOR DISCOVERY AT AN EARLIER STAGE:**

- (A) The committee is authorized but not required, to allow discovery at an earlier stage of the proceeding.
- (B) The subject of the complaint may request discovery after the determination of probable cause but before making a decision as to whether or not to comply with the decision or to request a public hearing. If the committee authorizes the chair to allow early discovery, the committee shall have 20 days to respond to this discovery request. The subject of the complaint remains obligated to respond to the committee under the conditions set out in the decision and order.

(3) **MATERIALS:** The committee must produce to the subject of the complaint any materials relevant to the subject matter involved in the pending investigation that is not privileged material, in accordance with subsections (b), (c), (d) and (e) of this section. Such material includes the names and addresses of persons known to have knowledge or relevant facts, their written or recorded statements, any reports or statements of experts, books, papers, documents, photographs or tangible objects relevant to the probable cause determination.

(b) **DUTY TO SUPPLEMENT:** The committee has an on-going duty to supplement produced materials.

(c) **CONFIDENTIALITY:** The subject is required by law to keep confidential all materials discovered in this process, unless the subject who was formally charged under AS 24.60.170(h) provides written notification to the committee that he or she is not restricted under the provisions in AS 24.60.170(i) and attaches supporting evidence. The committee cannot make materials subject to public inspection unless produced at a public hearing.

(d) **DISCOVERABLE DOCUMENTS:** Materials or information subject to the attorney-client privilege or the work-product doctrine shall not be discoverable. This privilege shall extend to the work-product of investigators or others concerning work supervised by the committee's attorneys. Documents produced or discovered during the committee's investigation shall remain confidential and are not subject to public inspection unless produced at a public hearing. The subject of an investigation, however, may exercise his or her limited rights to waive confidentiality under AS 24.60.170(1). Unless the entire confidentiality is waived, the subject may not release the confidential documents per AS 24.60.060. See Sec. 14 COMPLAINTS, subsection (d) for additional information on waiver of confidentiality.

(e) **RESTRICTIONS:** The committee is authorized to issue protective orders under AS 24.60.170(i)(1). A legislator or legislative employee who makes an unauthorized disclosure of information under a protective order is in violation, under AS 24.60.060(b). Materials obtained during the course of investigation that will not be used in deliberations on specific allegations may be discoverable by the subject of the complaint. The committee may place reasonable restrictions on the material's discoverability in order to protect the privacy of individuals not under investigation or for any other reasonable, legitimate purpose. Such restrictions may include providing for "in camera" review of the materials, providing copies of the materials with the names of people mentioned therein deleted, or denying discovery altogether. The committee, or the person authorized by the committee, will review all information, prior to release for discovery by the subject. If the committee has not reviewed the irrelevant materials, production of such materials may be denied in total. The principle of fundamental fairness will be applied to discovery decisions.

(f) DEPOSING COMMITTEE MEMBERS/STAFF:

- (1) Committee members are not subject to deposition by the subject of the complaint, or the subject's counsel, unless a member has personal, first-hand knowledge relevant to the case and is considered a potential witness. A member who has personal, first-hand knowledge relevant to the case is recused from participation in matters related to the complaint and may be subject to deposition. A member whose knowledge of information relevant to the case is based solely upon information gathered from the complainant, the complaint or the investigation of the complaint does not have "personal,

firsthand knowledge” and may not be deposed on matters relating to the complaint.

- (2) Committee staff is not subject to deposition by the subject of the complaint, or the subject’s counsel, unless the staff person has personal first-hand knowledge relevant to the case or if the staff person is performing investigative duties related to the case. A staff person who is performing investigative duties may not be deposed until after the investigation is complete.
- (3) Depositions taken under this subsection are subject to all attorney work product privileges and other applicable privileges and must be kept confidential.

Sec. 24.60.050. State programs and loans.

(a) A legislator or legislative employee may, without disclosure to the committee, participate in a state benefit program or receive a loan from the state if the program or loan is generally available to members of the public, is subject to fixed, objective eligibility standards, and requires minimal discretion in determining qualification.

(b) The committee shall review state benefit programs and state loans and annually publish a list of programs and loans, designating which ones do not meet the standards of (a) of this section.

(c) A legislator or legislative employee who participates in a program or receives a loan that is not exempt from disclosure under (a) of this section shall file with the committee by the date required under [AS 24.60.105](#) a disclosure stating the amounts of the loans outstanding or benefits received during the preceding calendar year from nonqualifying programs. If the committee requests additional information necessary to determine the propriety of participating in the program or receiving the loan, it shall be promptly provided. The committee shall maintain the disclosure as a public record and promptly forward the information contained in the disclosure to the presiding officer of each house who shall have it published in the supplemental journals on or before the next regularly scheduled publication of ethics disclosures. If a legislator or legislative employee asks the committee to keep any part of the disclosure confidential and a quorum of the committee determines by vote of a majority of committee members that making the entire disclosure public would cause an unjustifiable invasion of personal privacy, the committee may elect to publish only the fact that a person has participated in the program and the amount of benefit that the unnamed person received. The committee shall maintain the disclosure of the name of the person as confidential and may only use the disclosure in a proceeding under [AS 24.60.170](#). If the disclosure becomes part of the record of a proceeding under [AS 24.60.170](#), the disclosure may be made public as provided in that section.

(d) If loan proceeds or other program benefits are received from nonqualifying programs or loans after the end of a calendar year, the legislator or legislative employee shall file a statement with the committee within 30 days after the beginning of participation in the state program or receipt of proceeds from the state loan or by the date required under [AS 24.60.105](#), whichever is later. If the committee receives the statement while the legislature is in session, it shall promptly forward the statement to the chief clerk of the house or the secretary of the senate, as appropriate, who shall cause it to be published in the supplemental journal. If the committee receives a statement while the legislature is not in session, it shall forward the statement to the chief clerk of the house or the secretary of the senate for publication when the legislature next convenes.

(e) If the committee determines that a legislator or legislative employee received a

state benefit or loan as a result of unfair or improper influence, the committee may initiate a complaint or take other appropriate action. In addition, the committee shall refer the matter to the attorney general for action under other civil or criminal laws.

(f) The committee shall annually recommend to the Legislative Budget and Audit Committee the programs and loans to be audited by the division of legislative audit during the following year, including the scope of the audit. The records of the relevant state agencies shall be made available to the division of legislative audit. The division of legislative audit shall prepare a report to the Legislative Budget and Audit Committee on its findings. The report is confidential until it is released by the Legislative Budget and Audit Committee.

APPENDIX C

2019 Alaska State Benefit and Loan Programs under AS 24.60.050(c)

Participation in the following State Benefit and Loan Programs during the *preceding* year and for the *current* year must be reported. Disclosure forms are available in Appendix B.

Department of Administration Programs

Violent Crimes Compensation Board:

Violent Crimes Compensation (please reference Advisory Opinion 94-07 for an explanation of disclosure requirements)

Department of Commerce, Community and Economic Development Loans

Division of Economic Development:

Alaska Capstone Avionics Revolving Loan Fund
Commercial Fishing Revolving Loan Fund
Fisheries Enhancement Revolving Loan Fund
Rural Development Initiative Fund
Small Business Economic Development Revolving Loan Fund
Mariculture Loan Fund
Microloan Loan Fund
Alternative Energy Conservation Loan Fund
Commercial Charter Fisheries Loan Fund

Alaska Industrial Development and Export Authority and Alaska Energy Authority:

AIDEA Loans
ASSETS (Alaska Sustainable Strategy for Energy Transmission & Supply) Loan Program
Development Finance Program
Arctic Infrastructure Development Program
Business and Export Assistance Program
New Markets Tax Credit Assistance Guarantee and Loan Program

Department of Commerce, Community & Economic Development Programs

Alcoholic & Marijuana Control Office:

Liquor License
Marijuana License

Alaska Railroad Corporation:

- Real Estate Lease - Negotiated
- Sale of Surplus Property - Negotiated
- Railroad Permit
- Rail Transportation Contract – Negotiated

Division of Banking and Securities:

- Deferred Deposit Advances
- Approval of Articles of Incorporation, Bank Charters, and Certificates of Authority for:
 - State Chartered Banks, Mutual Savings Banks, Savings Associations, and Credit Unions
- License to Engage in the Business of Making Loans
- Premium Finance Company License
- Business Industrial Development Corporation License

Department of Environmental Conservation

- Alaska Clean Water Revolving Loan Fund
- Alaska Drinking Water Revolving Loan Fund

Department of Health and Social Services Programs

Various Divisions:

- Licensing of Health Care Facilities

Department of Natural Resources Programs

Division of Forestry:

- Timber Sales – Negotiated
- Personal Use Permits

State Pipeline Coordinator's Office:

- Pipeline Right-of-Way Lease

Division of Oil and Gas:

- In-Kind Royalty Gas or Oil Sale
- Exploration Incentive Credits

Division of Parks and Outdoor Recreation:

- Free Disabled Veterans State Park Camping Permit

Division of Mining, Land and Water:

- Preference Right Land Sales AS 38.05
- Agricultural Land Lottery Sale Program
- Additional Non-competitive Land Leases - Negotiated
- Approving Easement Vacations in the Unorganized Borough and Certain Other Areas
- Exchange of State Land
- Homesite Entry Program
- Homestead Entry Program
- Land Use Permit
- Material Sale - Negotiated
- Upland, Tideland, or Grazing Lease - Negotiated
- Right-of-Way or Easement
- Water Authorizations
- Trapping Cabin Permit
- Offshore Prospecting Permit
- Coal Prospecting Permit
- Mining Reclamation Plan Approval
- Coal Surface Mining Reclamation Program
- Mineral Discovery Bonus
- Exploration Incentive Credits
- Substantial Compliance Determination (re: Mining Locations)

Department of Natural Resources Loans

Division of Agriculture:

- Agricultural Revolving Loan Fund

Department of Transportation and Public Facilities Programs

Division of Design and Engineering:

- Disposal of Excess Right-of-Way Land
- Right-of-Way Acquisition
- Right-of-Way Permit
 - Encroachment, Driveway or Airspace Permit
 - Utility Permit on State Right-of-Way
- Right-of-Way Rental

Alaska State Legislature
Select Committee on Legislative Ethics
P. O. Box 90251, Anchorage, AK 99509-0251
PHONE (907) 269-0150 FAX (907) 269-0152
ethics.committee@akleg.gov

2019 BENEFIT OR LOAN REVIEW FORM
AS 24.60.050

DEPARTMENT: UA Land Management DIVISION: Statewide
AGENCY: University of Alaska
Contact person: Tina Thomas Phone: 907 786 7791

ADD OR CHANGE A STATE BENEFIT OR LOAN PROGRAM

NAME: Land Purchase Financing

PURPOSE:

METHOD FOR APPLICATION TO RECEIVE BENEFIT OR LOAN:

ELIGIBILITY REQUIREMENTS:

TERMS: (minimum/maximum amounts, interest rates, assumable loan, collateral required, maximum term, fees, etc.)

The (new or existing) program **does not meet** one or more of the following standards: (Check all that apply)

- ☐ The benefit program or loan is generally available to members of the public; OR
- ☐ Is subject to fixed, objective eligibility standard; OR
- ☐ Requires minimal discretion in determining qualification

REMOVE A STATE BENEFIT OR LOAN PROGRAM

NAME: Land Purchase Financing

If removing a program, please check applicable reason:

- ☐ The standards have changed. EXPLAIN & PROVIDE DOCUMENTATION:


_____ ; OR

- ☒ The program no longer exists; OR

The University discontinued offering purchasers the option for owner financing.

- ☐ The program has been transferred to another department.

NAME OF NEW DEPT: _____

	Senior Property Manager	October 1, 2019
NAME	TITLE	DATE