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Legislative History of Voting Abstention Rule

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You asked for a legislative history of Uniform Rule 34(b), which deals with abstention from voting due to a conflict of interest. Additionally, you asked about attempts to amend Rule 34(b). You also wished to know the procedures other states use to allow legislators to abstain from voting, and any experiences states may have had in which voting abstention was used to block the passage of bills.

Typically, state ethics laws—which are addressed in statute, in legislative rules, or in combinations of the two—vary in terms of how they define a conflict of interest and what legislators with conflicts are required to do. State conflict of interest definitions usually specify that a legislator may not have a personal or private interest, or gain financially, by their votes or their legislative duties. According to the National Conference of State Legislatures (NCSL), close to 50 percent of legislative chambers require lawmakers to abstain from voting in certain conflict of interest situations; however, often it is up to the legislator to determine whether or not a conflict exists. Nearly a quarter of chambers allow legislators to use their discretion to evaluate situations and to decide whether or not to vote or to recuse themselves. Legislators in the remaining 25 percent of chambers, including the Alaska House and Senate, may declare a conflict of interest, but must ask the body for permission to abstain from voting.

In Alaska, AS 24.60.030(g) prohibits legislators from voting on matters that pose a personal conflict of interest; however, in practice, legislators almost always still vote because the statute defers to the Uniform Rules.¹ Alaska Uniform Rule 34(b) (formerly 33[b] and 35[b]), which deals with abstention from voting, was first adopted in 1963 in a joint session of the Third Legislature. The rule requires every legislator present to vote unless the chamber for *special reasons* permits a member to abstain. As originally adopted, a majority vote of members present was needed to excuse a legislator from voting. The rule was amended in 1967 to require a two-thirds majority to allow a legislator to abstain from voting and, again in 1969, to require unanimous consent for this action. Rule 34(b) has not been amended since 1969. Although in 2008, 2014, and 2015, concurrent resolutions have been introduced to amend the rule in a variety of ways.

Legislative History of Uniform Rule 34(b) – Abstention from Voting

The Senate and House of the Alaska Territorial Legislature each adopted procedural rules at the beginning of each legislative session, as well as joint rules that governed the transmittal of bills between the chambers. In the Senate, Rule 20 addressed abstention from voting. A Senator who declined to vote would be required to give his or her reason, whereupon a vote would be taken without debate by the members to excuse him or her from voting. Similarly, House Rule 30 required all members present to vote unless he or she was excused for *special reasons*. The rule allowed the representative asking to be excused to make a verbal statement, followed by a vote of the members without further debate.²

¹ Alaska's Constitution requires the houses of each legislature to adopt uniform rules of procedure (Section 12, Article II). The legislature adopts the rules in a joint session at the beginning of the first regular session of each legislature; otherwise, the prior rules remain in place. Procedural rules are meant to aid legislators in conducting their business and processing legislative documents. Any rules of parliamentary procedure not covered by Alaska's uniform rules are governed by *Mason's Manual of Legislative Procedure*. The Alaska State Legislature's *Uniform Rules* can be found at <http://www.legis.state.ak.us/basis/folio.asp>.

² Alaska Territorial Legislature, *Rules of the Senate and House of Representatives including Joint Rules of the Senate and House of Representatives*, 1955, Legislative Research Library.

At statehood, the Legislative Council used the Rules of the Territorial House and Senate as the basis to draft Uniform Rules to be adopted by the First Legislature. In an undated memorandum, the author(s) recommended to Legislative Council that Senate Rule 20 be used in the Uniform Rules but amended to prevent the forcing of a vote when a member chose to abstain from voting.³ The memorandum noted that “there are many instances where a member may not desire to vote because to do so might cause him personal embarrassment or where a vote either way would be particularly objectionable to his constituents.” Nonetheless, Uniform Rule 15, which was ultimately adopted by the First Legislature in 1959, was modeled after House Rule 30, which *required* a legislator to vote if he or she was not excused by a majority of the members present.

In 1963, lawmakers adopted Uniform Rule 35, which described the voting procedure and included a subsection (b) on abstention from voting that effectively subsumed Uniform Rule 15. Rule 35(b) required every legislator present to vote unless the chamber for *special reasons* permitted a member to abstain. The rule was amended in 1967 to require a two-thirds majority to allow a legislator to abstain from voting. In 1969, the rule was further amended to reflect the current language, which requires unanimous consent for this action. Unfortunately, we cannot ascertain why lawmakers made these changes. Legislative documents from this time period are very sparse. For example, no Rules Committee minutes or House or Senate floor audio tapes are available (floor audio taping began in 1975). We reviewed the documents available, but found no mention of the reasons behind the adoption or changes to abstention from voting. In 1977, Rule 35(b) became 33(b), and in 1981, Rule 33(b) was renumbered as the current Rule 34(b).

It appears that historically, legislators rarely, if ever, received unanimous permission to abstain from voting. Alaska legislators use a number of methods to address this issue: legislators sometimes do not request to be excused and simply state their conflicts before voting, members have been known to leave the chamber if they want to avoid voting (and the appearance of a conflict of interest), and legislators may request to be excused but face an objection and are, therefore, required to vote.⁴

Alaska’s policy could be viewed as a way to take the heat off an individual legislator by not forcing him or her to make a choice about whether or not it is ethical to vote. On the other hand, advantages to Alaska’s process of requiring legislators to vote are that it may serve the public interest by assuring that constituents are represented and it forces legislators to take a public stance, which promotes transparency about an individual legislator’s position. We note that in a situation where a particular number of votes is required for a bill’s passage, abstaining has the same effect as a negative vote.

Recent Attempts to Amend Rule 34(b)

We identified no proposed legislation to amend Rule 34(b) after 1969 until 2008. During the 25th Legislature (2007-2008), five different concurrent resolutions—HCR 12, HCR 16, HCR 18, HCR 19, and SCR 12—were introduced to change Rule 34(b). Of the five, only HCR 12 received a hearing. Introduced by Representative Kevin Meyer, HCR 12 would have allowed a member to abstain from voting “if by voting the member would violate a provision of AS 24.60 (Legislative Ethics Act), or for any other reason.” If the request was made to avoid violating a specific provision of the Legislative Ethics Act, the request would be decided by a majority of the members present; otherwise, a member would be allowed to abstain only upon unanimous consent of the members present. The measure received two hearings in the House State Affairs Committee, but did not advance. The sponsor testified that his approach was modeled on the procedure used by the Anchorage Assembly, which allows members to vote on whether or not the person who declared the conflict of interest has a “substantial financial

³ The memorandum “Rules of the House and Senate,” is available in the Legislative Reference Library in Uniform Rules historical materials. We also searched Alaska Legislative Council Staff Memoranda and Reports for the early 1960s and Legislative Reporting Service documents in the relevant years.

⁴ Legislators may make an oral statement explaining why they are requesting to be excused from voting. The official Journals indicate only that a legislator moved to be excused, but not why. The oral statements are available on tapes of the legislature’s proceedings.

interest” in the matter. Several legislators expressed concerns that tying the request to abstain to the Legislative Ethics Act was too broad and as a result could lead to unintended consequences, such as politicizing the decision to allow a legislator to abstain. Others pointed out that because Alaska has a citizen legislature, conflicts may exist simply because of someone’s profession. The sponsor testified that the issue is complex and the current system may be the best one. He noted the importance of not disenfranchising voters and not making it too easy for a legislator to “duck a vote.”⁵

Also in 2008, Representative Gabrielle LeDoux introduced HCR 16, which would allow a member to abstain from voting if the member reasonably believed “that by voting the member would violate a provision of AS 24.60.030 [conflict of interest provision] that prohibits a member from voting.” In other words, it would be up to the legislator to decide whether a conflict existed.⁶ Representative Berta Gardner introduced HCR 18, which also proposed to amend Rule 34(b), but with a slightly different twist. Under HCR 18, once a member requested permission to abstain from voting and announced the specific provision of AS 24.60.030 that required the member to abstain, the respective leaders of the majority and minority caucuses would vote as to whether the member could do so. The committee substitute for HCR 18 specified that if a leader was absent, the whip for the leader’s caucus would vote in the leader’s place. The bill as introduced stated that upon a yes vote by both leaders, the member could abstain.⁷ Representative Mike Doogan introduced HCR 19, which established that the member who was declaring the conflict would not be allowed to vote on the question.⁸ Senator Bill Wielechowski introduced SCR 12, which allowed a member to abstain if the member believed his or her vote would violate the Legislative Ethics Act. Otherwise, members would be allowed to abstain only upon unanimous consent of the members present.⁹

In 2014, during the 28th Legislature, Representative Scott Kawasaki introduced HCR 20 and Senators Wielechowski and Gardner introduced a companion measure, SCR 15. These bills required a majority vote when a member requested to abstain from a vote due to a substantial conflict of interest under the Legislative Ethics Act. Neither measure received a hearing.

In 2015 (29th Legislature), Representative Kawasaki introduced HCR 12 and Senator Wielechowski introduced companion measure SCR 13. Both bills were identical to the measures introduced during the previous session.¹⁰ At the same time, Senator Wielechowski introduced SB 109, which, among other things, added language to AS 24.60.030(g) to remove the reference to the Uniform Rules and added financial interest to the statute as a reason to abstain. The bill also included a definition for “substantially benefit or harm.” In his sponsor statement, for SCR 13 and SB 109, Senator Wielechowski noted that Alaska is the only state that requires a unanimous consent of the House or Senate before a legislator with a conflict of interest can abstain from a vote.¹¹

⁵ Minutes from the January 31, 2008, House State Affairs Committee are available at <http://www.legis.state.ak.us/pdf/25/M/HSTA2008-01-310805.PDF>.

⁶ A copy of HCR 16 can be accessed at http://www.legis.state.ak.us/basis/get_fulltext.asp?session=25&bill=HCR16.

⁷ A committee substitute clarified that if both leaders voted no, the member could not abstain. Both versions of HCR 18 can be accessed at http://www.legis.state.ak.us/basis/get_fulltext.asp?session=25&bill=HCR18.

⁸ A copy of HCR 19 is available at http://www.legis.state.ak.us/basis/get_fulltext.asp?session=25&bill=HCR19.

⁹ SCR 12 is available at <http://www.legis.state.ak.us/PDF/25/Bills/SCR012A.PDF>.

¹⁰ HCR 12 is available at <http://www.legis.state.ak.us/PDF/29/Bills/HCR012A.PDF>. SCR 13 is available at <http://www.legis.state.ak.us/PDF/29/Bills/SCR013A.PDF>.

¹¹ The sponsor statement can be accessed at <http://alaskasenatedems.com/?bill=SCR13>.

The attached Table 1 is a summary of each state's voting recusal provisions as compiled by the National Conference of State Legislatures (NCSL).¹² As mentioned above, in some states lawmakers cannot vote on matters in which they have a conflict and are given the option of recusing themselves or asking for permission to abstain. The interpretation of what constitutes a conflict of interest is often left up to the personal legislator. Examples of states in which legislators may use their own discretion to vote or to abstain are Arizona, Florida Senate, Maryland, Montana, Rhode Island, and Tennessee.¹³ In most of these states, legislators choosing to abstain must declare a reason on the record. Examples of states that require legislators to recuse themselves from a vote if a conflict of interest exists, but do not require permission from the chambers are Louisiana, Oklahoma, Vermont, and Virginia. Oregon and Utah require a legislator only to disclose the conflict but otherwise, he or she must vote.¹⁴ Some of the states that require a legislator to obtain the chamber's consent before being allowed to abstain are Alaska, Hawaii, Idaho Senate, New Mexico, North Dakota, West Virginia, and Wisconsin. In Hawaii, the Senate president and House speaker decide if a conflict exists. The Idaho Senate requires a two-thirds vote to excuse voting, while in Kansas, a legislator has five minutes to explain why he or she wants to be excused and the request requires a two-thirds vote of the body to be granted.

The majority of chambers require disclosure of conflicts of interest either before abstaining from voting, before voting, or shortly after voting.¹⁵ These disclosures are typically in addition to routine personal financial disclosure statements. Alaska does not require legislators to disclose potential conflicts before or shortly after voting on a particular bill. Although Alaska does not explicitly require this type of disclosure by law, a 2004 advisory opinion from the Select Committee on Legislative Ethics found that AS 24.60.030(g) requires a legislator to declare a substantial financial interest in a matter up for vote on the floor and to request to abstain from voting.¹⁶

Using Abstention to Block Legislation

Brenda Erickson, Program Principal, NCSL, is not aware of conflict of interest abstentions that are used to block the passage of legislation.¹⁷ In part, this is because typically a legislator must be able to show that he or she has a clear or substantial "personal or private" interest to be excused from voting. Absent a conflict of interest, most states require a legislator present in the chamber to vote; thus, Ms. Erickson notes that a more common practice to avoid voting is for members to "take a walk"—that is, to leave the chamber before a vote on a bill begins. Multiple factors, such as political pressures, the complexity and level of controversy surrounding the bill, and the legislator's background and experience may influence a decision not to vote. In some states, however, legislators may also abstain from voting without stating a reason. For example, under California Legislative Rule 104, Assembly members are required to vote, unless excused by a majority of the body; however, they may also refuse to vote. When a member refuses to vote, a note is entered in the Journal which states he or

¹² Voting recusal provisions compiled by the NCSL are available at <http://www.ncsl.org/research/ethics/50-state-table-voting-recusal-provisions.aspx>.

¹³ A recent analysis of legislative voting in Montana found that during the last four legislative sessions lawmakers announced a conflict of interest 20 times before a vote and went on to abstain from voting in only three instances. James DeHaven, "Montana Lawmakers Rarely Refrain from Voting on Personal Interests," *Independent Record*, March 27, 2016, at http://helenair.com/news/politics/state/montana-lawmakers-rarely-refrain-from-voting-on-personal-interests/article_1081de6d-48d3-5f8d-9758-e7e149899151.html.

¹⁴ Lee Davidson, "Conflict of Interest? Utah Lawmakers Must Vote Anyway," March 2, 2015, *The Salt Lake Tribune* at <http://www.sltrib.com/home/2197320-155/conflict-of-interest-utah-lawmakers-must>.

¹⁵ Definitions of conflict of interest compiled by the NCSL are available at <http://www.ncsl.org/research/ethics/50-state-table-conflict-of-interest-definitions.aspx>.

¹⁶ "Advisory Opinion 2004-02," Alaska State Legislature Select Committee on Legislative Ethics, April 23, 2004, p. 3. We include this opinion as Attachment B.

¹⁷ Ms. Erickson can be reached at 303-856-1391 or by email at Brenda.erickson@ncsl.org.

she was present but refused to vote.¹⁸ In a 2004 University of Southern California study of nonvoting by the California Legislature, some members admitted they sometimes group their abstentions together to make a statement to the bill's sponsor.¹⁹ The study found that because a non-vote has the same effect as a no vote, abstaining has had the effect of blocking the passage of a number of bills. However, some legislators pointed out that there may be political consequences to legislators who choose not to vote too often.

We hope this is helpful. If you have questions or need additional information, please let us know.

¹⁸ California Assembly Rule 104 is available at http://clerk.assembly.ca.gov/sites/clerk.assembly.ca.gov/files/2015_AppndxNo1_RulesOnly_WWW%20.pdf.

¹⁹ Meg Barclay, Bari Bendell, Emmy Rhine, and Amy Young, "Out for the Count: An Analysis of Nonvoting in the California Legislature," University of Southern California, May 2004, <http://web.calstatela.edu/faculty/kaniol/usc-study-nonvoting.pdf>.

Table 1: 50-State Summary of Abstention from Voting Provisions

State	Voting Recusal Provisions
Alabama	<p>Alabama Constitution, Section 82: A member of the legislature who has a personal or private interest in any measure or bill proposed or pending before the legislature, shall disclose the fact to the house of which he is a member, and shall not vote thereon.</p> <p>Senate Rule: none found. House Rule 32: Members can vote "in absentia."</p> <p>Alabama Code 36-25-5: A member of a legislative body may not vote for any legislation in which he or she knows or should have known that he or she has a conflict of interest. A conflict of interest involves any action, inaction, or decision by a public official in the discharge of his or her official duties which would materially affect his or her financial interest or those of his or her family members or any business with which the person is associated in a manner different from the manner it affects the other members of the class to which he or she belongs. A conflict of interest shall exist when a member of a legislative body has a substantial financial interest by reason of ownership of, control of, or the exercise of power over any interest greater than five percent of the value of any corporation, company, association or firm, partnership, proprietorship, or any other business entity of any kind or character which is uniquely affected by proposed or pending legislation; or who is an officer or director for any such corporation, company, association, or firm, partnership, proprietorship, or any other business entity of any kind or character which is uniquely affected by proposed or pending legislation.</p>
Alaska	<p>Uniform Rule 34: The chamber can permit a legislator to abstain "for special reasons." Motions to excuse a member from voting must be made before the house divides or before the call for yeas and nays. Members requesting to abstain may make brief oral statement of reasons. The question of granting permission to abstain shall be taken without further debate. A member may not be permitted to abstain except upon the unanimous consent of the membership</p> <p>Alaska Statutes 24.60.030: Unless required by the Uniform Rules of the Alaska State Legislature, a legislator may not vote on a question if the legislator has an equity or ownership interest in a business, investment, real property, lease, or other enterprise if the interest is substantial and the effect on that interest of the action to be voted on is greater than the effect on a substantial class of persons to which the legislator belongs as a member of a profession, occupation, industry, or region.</p> <p>(e) A legislator may not directly, or by authorizing another to act on the legislator's behalf,</p> <p>(1) agree to, threaten to, or state or imply that the legislator will take or withhold a legislative, administrative, or political action, including support or opposition to a bill, employment, nominations, and appointments, as a result of a person's decision to provide or not provide a political contribution, donate or not donate to a cause favored by the legislator, or provide or not provide a thing of value;</p> <p>(2) state or imply that the legislator will perform or refrain from performing a lawful constituent service as a result of a person's decision to provide or not provide a political contribution, donate or not donate to a cause favored by the legislator, or provide or not provide a thing of value; or (3) unless required by the Uniform Rules of the Alaska State Legislature, take or withhold official action or exert official influence that could substantially benefit or harm the financial interest of another person with whom the legislator is negotiating for employment.</p>

Table 1: 50-State Summary of Abstention from Voting Provisions (cont.)

State	Voting Recusal Provisions
Arizona	<p>Senate Rule 15, 29, 30: Legislators can declare a personal financial interest in a matter when they are called upon to vote. They can either abstain or vote. In either case, they must write a statement describing the matter and the nature of the potential interest as soon as they are aware of the conflict. They must give this public record to the Senate president, the chair of the ethics committee and the secretary of the Senate. If he abstains he must also state the reasons for abstaining before the body and it is recorded in the journal. If they become aware of the conflict during a committee, subcommittee, or caucus meeting, or on the floor, they can report the conflict as soon as possible after adjournment. A personal financial interest exists if it is reasonably foreseeable that an action in the discharge of his official duties will have a material financial benefit or detriment either directly or indirectly on the member, his spouse or any minor child of whom he has legal custody, except that no personal financial interest exists if the legislator or such member of his household is a member of a class of persons and it reasonably appears that a majority of the total membership of that class is to be affected by such action. A member who has a substantial interest as defined by section 38-502, Arizona Revised Statutes, shall comply with title 38, chapter 3, article 8, Arizona Revised Statutes.</p> <p>29. No member shall: 6. Participate in any action of the Senate if the member has a substantial interest as defined in section 38-502, Arizona Revised Statutes.</p> <p>House Rules 14, 35: Legislators can declare a personal financial interest in a matter when they are called upon to vote. They can either abstain or vote. In either case, they must write a statement describing the matter and the nature of the potential interest as soon as they are aware of the conflict. When a member declines to vote, the member shall be required to specify the reason. If a member declares a personal financial interest in the question and the member has failed to file a statement pursuant or if the reason given is other than a personal financial interest in the question, a vote of the body can allow him to abstain. If he abstains he must also state the reasons for abstaining before the body and it is recorded in the journal. A member who anticipates taking an action in the discharge of his official duties in which he may have a personal financial interest must prepare a statement describing the matter to be acted upon and the nature of the conflict, and file the statement with the Speaker, chair of the ethics committee and the chief clerk. If they become aware of the conflict during a committee, subcommittee, or caucus meeting, or on the floor, they can report the conflict as soon as possible after adjournment.</p> <p>A personal financial interest exists if it is reasonably foreseeable that an action in the discharge of his official duties will have a material financial benefit or detriment either directly or indirectly on the member, his spouse or any minor child of whom he has legal custody, except that no personal financial interest exists if the legislator or such member of his household is a member of a class of persons and it reasonably appears that a majority of the total membership of that class is to be affected by such action. A member who has a substantial interest as defined by section 38-502, Arizona Revised Statutes, shall comply with title 38, chapter 3, article 8, Arizona Revised Statutes.</p> <p>Arizona Revised Statutes 38-503: Any public officer (legislators are included) or employee who has, or whose relative has, a substantial interest in any decision of a public agency (legislature is included) shall make known such interest in the official records of such public agency and shall refrain from participating in any manner as an officer or employee in such decision.</p>

Table 1: 50-State Summary of Abstention from Voting Provisions (cont.)

State	Voting Recusal Provisions
Arkansas	<p>Senate Rule 24.07: A Senator can't take part in the discussion of, or vote on, a question in committee or on the floor on any matter if he knows that: He or a family member or an associated business will benefit from the legislative action to a greater extent than other member of his occupation or business or The matter will specifically relate to a business which employs the senator or in which he receives compensation as an attorney or consultant, unless the benefit accrues generally to other similar businesses, professions, occupations or groups. None of the above rules apply if the Senator discloses any financial interests he may have on the issue. Disclosure entails a written statement in the Journal, or with the staff of the appropriate interim committee. Disclosure should detail the source of compensation or financial interests held.</p> <p>House Rule 5: Each member is expected to vote unless he or she has an immediate personal interest.</p> <p>Ark. Code Ann. § 21-8-803: A legislator who is required to take an action in the discharge of his or her official duties which may affect his or her financial interest or cause financial benefit or detriment to him or her, or a business in which he or she is an officer, director, stockholder owning more than 10% of the stock of the company, owner, trustee, partner, or employee, which is distinguishable from the effects of the action on the public generally or a broad segment of the public, shall prepare a written statement describing the matter requiring action and stating the potential conflict.</p>
California	<p>Joint Rule 44: Members can't participate, by voting or other action on the floor or in committee, on matters in which they have a personal interest, except they may participate in the final vote if they first file a statement that declares the interest and states that the legislator is able to cast a fair and objective vote regardless. If a member wishes to abstain from voting on a matter in which he has a personal interest, he must tell the presiding officer before the vote starts. He shall be excused from voting without any entry in the Journal. If either house invokes the rule that everyone present must vote, the presiding officer shall order the member excused and order an entry in the Journal stating that the person was excused from voting pursuant to law. A person has an interest that is in substantial conflict if he would derive a direct monetary gain or loss because of his action. He is not considered to have an interest in substantial conflict if any benefit or detriment accrues to him as a member of a business, profession, occupation or group to no greater extent than the rest of that group.</p> <p>California Government Code 87102.5: If a member of the legislature has a financial interest in a matter, he cannot: Introduce nongeneral legislation related to that matter as a lead author; Vote in a legislative committee or subcommittee on related nongeneral legislation; Participate in a rollcall vote on the Senate or Assembly floor on related nongeneral legislation. If the member has received any earned income within the preceding 12 months from a lobbyist employer, the member cannot take action on a matter if the action will have a direct and significant financial impact on the lobbyist employer. The impact must be greater on this lobbyist employer than it would be on a significant segment of the public. If the member has appeared before a local board or agency on behalf of someone for compensation, the member cannot vote on any legislation that would affect the person who paid him if the affect would be greater to that person than it would be to a significant segment of the public.</p>

Table 1: 50-State Summary of Abstention from Voting Provisions (cont.)

State	Voting Recusal Provisions
Colorado	<p>Colorado Constitution Art 5, Sec. 43: A member of the General Assembly who has a "personal or private interest" in pending legislation must disclose the fact of such interest and may not vote on the legislation.</p> <p>Senate Rule 17, 41: Senators shall not vote on bills in which they have personal or private interests. If this is the case, they must disclose those interests before being excused. A senators is considered to have personal or private interests in measures if he:</p> <ul style="list-style-type: none"> Has substantial economic interests in the measure distinct from those held generally by members of the same occupation or business, of if a close relative has such an interest, Has an interest in an enterprise that would be affected by the proposed legislation differently from like enterprises, Has a close relative or a close economic association with someone who has a financial interest in an enterprise that would be affected differently from others, Has a close economic association with, or has a relative who is, a lobbyist or lobbyist employer who is influencing legislation on which the legislator would be expected to vote, Accepts a gift, loan, service or other economic opportunity from someone who would be affected by or has interest in an enterprise that would be affected by the legislation. This provision applies when close relatives of a senator accept the same. <p>Senators are always allowed to vote for something that would adversely affect their personal or private interests.</p> <p>House Rule 21: A request by a member to be excused from voting shall be made before the call for the ayes and noes has begun; any member desiring to be excused from voting on a question shall make a brief statement of the reasons therefor, and the question shall be put without further debate. A member who has an immediate personal or financial interest in any bill or measure proposed or pending before the General Assembly shall disclose the fact to the House, and shall not vote upon such bill or measure.</p> <p>Colorado Revised Statutes 24-18-107: Ethical principles for members of the general assembly. ... In deciding whether or not he has a personal or private interest, a member shall consider, among other things, the following:</p> <ul style="list-style-type: none"> (a) Whether the interest impedes his independence of judgment; (b) The effect of his participation on public confidence in the integrity of the general assembly; and (c) Whether his participation is likely to have any significant effect on the disposition of the matter. <p>An interest situation does not arise from legislation affecting the entire membership of a class. If a member of the general assembly elects to disclose the interest, he shall do so as provided in the rules of the house of representatives or the senate, but in no case shall failure to disclose constitute a breach of the public trust of legislative office.</p>
Connecticut	<p>Senate Rule 15: No member who is interested in the decision of any question in such a manner that he cannot vote thereon may stay in the Senate when the question is discussed or decided.</p> <p>House Rule 40: The speaker has authority to excuse someone from voting who is present in the chamber.</p> <p>Connecticut General Statutes Sec. 1-85: A public official, (legislators are public officials) who has a substantial conflict may not take official action on the matter.</p> <p>A substantial conflict occurs when a public official has reason to believe or expect that he, his spouse, a dependent child, or a business with which he is associated will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his official activity. It is not considered a substantial conflict if the benefit or detriment accrues to him, his spouse, a dependent child, or a business with which he, his spouse or such dependent child is associated as a member of a profession, occupation or group to no greater extent than any other member of such profession, occupation or group.</p>

Table 1: 50-State Summary of Abstention from Voting Provisions (cont.)

State	Voting Recusal Provisions
Delaware	<p>Senate Rules: None found.</p> <p>House Rule 16: Members with personal or private interests in measures can't vote on them or take part in related discussion, and must disclose their interests. Non-voting members may answer questions about the bill, though, and may correct wrong information. A member is considered to have a personal or private interest in a measure if: He or a close relative would receive benefit or harm to a greater extent than other members of the same class or group of people.</p> <p>He or a close relative has a financial interest (more than \$5000 interest) in an enterprise that would benefit or be hurt to a greater degree than similar enterprises.</p> <p>A lobbyist who is a close relative of the legislator is acting to influence passage of the bill.</p> <p>Delaware Code Annotated 1002: A legislator who has a personal or private interest in any measure or bill pending in the General Assembly shall disclose the fact to his chamber and shall not participate in the debate nor vote thereon; provided, that upon the request of any other member, a legislator who has such a personal or private interest may respond to questions concerning any such measure. A personal or private interest in a measure or bill is an interest which tends to impair a legislator's independence of judgment in the performance of his or her legislative duties with respect to that measure or bill. A member is considered to have a conflict that impairs his judgment in the same situations laid out in House Rules above.</p>
Florida	<p>Senate Rule 1.20, 1.39: A Senator is not disqualified from voting when, in the Senator's judgment, a conflict of interest is present. However, a Senator shall disclose any personal, private, or professional interest in a matter that would inure to that Senator's special private gain or the special gain of any principal to whom the Senator is obligated. Such disclosure concerning a vote during a session shall be filed with the Secretary for reporting in the Journal immediately following the record of the vote. Such disclosure may explain the logic of voting or of his or her disqualification. Disclosure concerning a vote that was not cast during a session should be filed pursuant to section 112.3143(2), Florida Statutes.</p> <p>House Rule 3.1: Members cannot vote on measures that would inure to that members special private gain. The member must disclose the interest that is keeping him from voting. Members must also disclose interests in measures at hand of family members or principals by whom the legislator or his family members are retained or employed.</p> <p>Florida Statutes 112.3143: A state public officer may not vote on any matter that the officer knows would inure to his or her special private gain or loss. Any state public officer who abstains from voting in an official capacity upon any measure that the officer knows would inure to the officer's special private gain or loss, or who votes in an official capacity on a measure that he or she knows would inure to the special private gain or loss of any principal by whom the officer is retained or to the parent organization or subsidiary of a corporate principal by which the officer is retained other than an agency as defined in s. 112.312(2); or which the officer knows would inure to the special private gain or loss of a relative or business associate of the public officer, shall make every reasonable effort to disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes. If it is not possible for the state public officer to file a memorandum before the vote, the memorandum must be filed with the person responsible for recording the minutes of the meeting no later than 15 days after the vote.</p> <p>A member of the Legislature may satisfy the disclosure requirements of this section by filing a disclosure form created pursuant to the rules of the member's respective house if the member discloses the information required by this subsection....If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.</p>

Table 1: 50-State Summary of Abstention from Voting Provisions (cont.)	
State	Voting Recusal Provisions
Georgia	<p>Senate Rule 5-1.8: Members can't vote on measures if they, or members of their immediate family, have a direct pecuniary interest that is distinct, unique or peculiar to them.</p> <p>House Rule 134: "... every member within the chamber shall vote unless the member is immediately and particularly interested therein, or unless the member is excused by the house."</p> <p>No additional provisions found in statutes that apply to legislators.</p>
Hawaii	<p>Senate Rule 71: Members with conflicts of interest shall be excused from voting. Situations considered conflicts of interest include those involving monetary interests in the matter at hand; those involving the behavior of the member; and those in which the member's right to a seat in the Senate will be affected by the outcome. Members who believe they have conflicts shall rise and disclose their interests to the Senate president who will rule on whether there is a conflict.</p> <p>House Rule 60.5: Members who believe they have a conflict of interest with the matter at hand shall disclose the interest prior to a vote. Situations considered to be conflicts are the same as those in the Senate. The speaker will rule on whether he thinks the member has a substantial enough conflict to be excused from voting.</p> <p>A conflict of interest means that the legislation affects the member's direct personal familial or financial interest except if a member or relative is part of a class of affected people.</p> <p>No additional provisions found in statute.</p>
Idaho	<p>Senate Rule 39: Senators must disclose any conflicts of interest, he must disclose this conflict to the presiding officer in writing, or to the body. The senator may vote on the issue, or may ask to abstain. A 2/3 vote is necessary to be excused from voting.</p> <p>House Rule 38: If a Senator has a conflict of interest under applicable law, the conflict must be disclosed to the presiding officer in writing or to the body. Upon disclosure of any such conflict, the Senator may vote upon any question or issue to which the conflict relates, unless the Senator requests to be excused.</p> <p>Idaho Code 59-704: A public official shall not take any official action or make a formal decision or formal recommendation concerning any matter where he has a conflict of interest and has failed to disclose such conflict as provided in this section. Disclosure of a conflict does not affect an elected public official's authority to be counted for purposes of determining a quorum and to debate and to vote on the matter, unless the public official requests to be excused from debate and voting at his or her discretion.</p> <p>Legislative public officials who have real or potential conflicts shall disclose the nature of the conflict of interest and/or be subject to the rules of the body of which he/she is a member and shall take all action required under such rules prior to acting on the matter. If a member requests to be excused from voting on an issue which involves a conflict or a potential conflict, and the body of which he is a member does not excuse him, such failure to excuse shall exempt that member from any civil or criminal liability related to that particular issue.</p>

Table 1: 50-State Summary of Abstention from Voting Provisions (cont.)

State	Voting Recusal Provisions
Illinois	<p>No rules found.</p> <p>5 ILCS 420/Sec 3-202: When a legislator must take official action on a legislative matter as to which he has a conflict situation created by a personal, family, or client legislative interest, he should consider the possibility of eliminating the interest creating the conflict situation. If that is not feasible, he should consider the possibility of abstaining from such official action. In making his decision as to abstention, the following factors should be considered;</p> <p>whether a substantial threat to his independence of judgment has been created by the conflict situation;</p> <p>the effect of his participation on public confidence in the integrity of the legislature; whether his participation is likely to have any significant effect on the disposition of the matter;</p> <p>the need for his particular contribution, such as special knowledge of the subject matter, to the effective functioning of the legislature.</p> <p>He need not abstain if he decides to participate in a manner contrary to the economic interest which creates the conflict situation. f he does abstain, he should disclose that fact to his respective legislative body.</p> <p>Sec 3-203: When, despite the existence of a conflict situation, a legislator chooses to take official action on a matter, he should serve the public interest, and not the interest of any person.</p>
Indiana	<p>Senate Rule 4, 89, 90: Senators may request to be excused from voting if they have direct personal or pecuniary interests in the matter. A senator who has a direct personal or pecuniary interest in a piece of legislation which is so substantial as to affect the Senator's independent legislative judgment can participate in committee and floor debate on the legislation if the senator publicly proclaims that interest. Rules also provide guidelines senators should look to when deciding whether to request to be excused from voting: 1. Whether the Senator's interest in the legislation is so substantial as to affect the Senator's independence of judgment with respect to the legislation. 2. To what extent the Senator's interest in the legislation mirrors the interest of the citizenry to which the Senator is directly responsible. 3.The effect of the Senator's participation in the voting on the legislation on public confidence in the integrity of the legislature. 4. The need of the Senator's particular contribution, such as special knowledge of the subject matter, to the effective functioning of the legislature. 5. Whether the legislation would have a unique, direct, and material effect on the nonlegislative income of the Senator, a member of the Senator's immediate family or those of a partnership, corporation, or business in which the Senator holds a legal or equitable interest.</p> <p>House Rule 47: Members who are immediately and particularly interested in a measure shall ask to be excused and shall not vote on it. Members requesting recusal may make a brief statement, but the question is to be considered without debate.</p> <p>No additional provisions relating to legislators found in statutes.</p> <p>House Code of Ethics: No member of the House of Representatives shall sponsor or case a vote on any legislative matter, except budget or general revenue bills, that might reasonable be expected to directly result in a substantial increase of his or her non-legislative income. Any member of the House of Representatives not voting for this reason shall be considered present for the purpose of determining a quorum. If a significant number of members are so affected, the House of Representatives or a committee thereof, as the case may be, may, by a vote of two-thirds of those voting, permit such members to vote.</p>

Table 1: 50-State Summary of Abstention from Voting Provisions (cont.)

State	Voting Recusal Provisions
Iowa	<p>Senate Rule 23: Senators may abstain from voting by disclosing a personal interest in the matter at hand when called upon to vote. The Senate code of ethics provides guidelines for senators in deciding whether to vote on an issue. The senator should consider, among other things, whether his participation would effect public confidence in the integrity of the legislature and the legislatures' need for the senator's particular special knowledge. A senator with a conflict may participate in floor discussion after he discloses his conflict.</p> <p>House Rule 75, 76: House can excuse a member from voting for special reasons as long as the member asks to be excused before the question is put to a vote. No member shall vote on any question in which the member or the member's immediate family member, as defined in chapter 68B of the Code, has a direct financial interest different from other similarly situated persons or classes of persons of the general public.</p> <p>Iowa Code 68B.2A: If a public servant holds any outside employment or activity that is subject to the official control, inspection, review, audit, or enforcement authority of the person during the performance of the person's duties of office or employment, the public servant shall either cease the outside employment or activity or publicly disclose it and refrain from taking any official action or performing any official duty that would detrimentally affect or create a benefit for the outside employment or activity.</p>
Kansas	<p>Senate Rule 19: Any senator who is directly interested in a question may be excused from voting even though there is a call of the Senate. The member has five minutes to explain why he requests to be excused. Request is granted with 2/3 vote.</p> <p>House Rule 2508: Any member who is directly interested in a question may be excused from voting when there is a call of the House. The member has five minutes to explain why he requests to be excused. Request is granted with 2/3 vote.</p> <p>No additional provisions found in statute or constitution.</p>
Kentucky	<p>No rules found</p> <p>Kentucky Constitution, Section 57: A member who has a personal or private interest in any measure or bill proposed or pending before the General Assembly, shall disclose the fact to the House of which he is a member, and shall not vote thereon upon pain of expulsion.</p> <p>Kentucky Revised Statutes 6.761: A legislator shall not intentionally participate in the discussion of a question in committee or on the floor, vote, or make a decision in his official capacity on any matter: In which he, a family member, or the legislator's business associate will derive a direct monetary gain or suffer a direct monetary loss as a result of his vote or decision; or Which relates specifically to a business in which he owns or controls an interest of \$10,000 or more, or more than 5%.</p> <p>A legislator may participate and vote on a matter if any benefit or detriment which accrues to him as a member of a business, profession, occupation, or other group, or to a member of his family or a business interest specified above is of no greater extent than the benefit or detriment which accrues generally to other members of the business, profession, occupation, or other group. A member shall disclose his interest by filing a disclosure statement with the clerk or by a verbal announcement to the body. The right of legislators to represent their constituencies, however, is of such major importance that legislators should be barred from voting on matters of direct personal interest only in clear cases and if the matter is particularly personal.</p>

Table 1: 50-State Summary of Abstention from Voting Provisions (cont.)

State	Voting Recusal Provisions
Louisiana	<p>Senate Rule 12.1, 13.60, 13.87: Any member may recuse himself from all committee and floor proceedings related to a measure in which he believes he has a conflict of interest. The Senate can excuse members for "reasons assigned," both on the floor and in committee.</p> <p>House Rule 10.1, 14.9: Any member may recuse himself from all committee and floor proceedings related to a measure in which he believes he has a conflict of interest. Members who recuse themselves are allowed to give a written explanation.</p> <p>Louisiana Revised Statutes §1120 and §1112: If any elected official would be required to vote on a matter which vote would be a violation of R.S. 42:1112, he shall recuse himself from voting. Recusing members can participate in discussion and debate if they disclose the conflict or potential conflict prior to doing so. No public servant, except as provided in R.S. 42:1120, shall participate in a transaction involving the governmental entity in which to his actual knowledge, any of the following persons has a substantial economic interest: members of his immediate family; persons with whom the public servant has a close economic association; prospective employers; persons with whom he is an officer, director, trustee, partner, or employee; persons who are a party to an existing contract with such public servant; or legal entities with whom the member controls or owns interest.</p> <p>A "substantial economic interest" is one that is of greater benefit to the public servant or other person than to a general class or group of persons.</p>
Maine	<p>Joint Rule 104: A member may not vote on any question in committee when that question immediately involves that member's private right, as distinct from the public interest.</p> <p>Senate Rule 401: Every Senator who is present shall vote unless excused by the Senate, or excluded by interest.</p> <p>House Rule 401: A member may not vote on any question before the House when that question immediately involves that member's private right as distinct from the public interest. A member who is in the House when a question is put shall vote, unless the presiding officer for reasons excuses that member...A member may not vote on any question before the House when that question immediately involves that member's private right as distinct from the public interest.</p> <p>Maine Revised Statutes Annotated, Title 1, 1014: A Legislator engages in a violation of legislative ethics if that Legislator votes on a question in connection with a conflict of interest in committee or in either body of the Legislature or attempts to influence the outcome of that question unless a presiding officer in accordance with the Joint Rules of the Legislature requires a Legislator to vote or advises the Legislator that there is no conflict in accordance with section 1013, subsection 2, paragraph K. Many situations fall under the state's definition of conflict of interest in section 1014, including, when a legislator or a member of his immediate family has a direct substantial personal financial interest, distinct from that of the general public, in an enterprise which would be financially benefited by proposed legislation, or derives a direct substantial personal financial benefit from close economic association with a person known by the Legislator to have a direct financial interest in an enterprise affected by proposed legislation.</p>
Maryland	<p>Senate Rule 93: A member may not vote on a measure in which he has an immediate personal of financial interest. Members who recuse themselves are noted in the Journal as excused.</p> <p>House Rule 93: A member may not vote on a measure in which he has an immediate personal of financial interest. Members who recuse themselves are noted in the Journal as excused.</p> <p>Maryland Code 15-501: An official may not participate in a matter if he or a qualifying relative has an interest in the matter and knows of that interest. This statute contains a long list of other situations that constitute a conflict serious enough to warrant recusal. Officials must disclose the nature and circumstances of the conflict and may participate or act if: the disqualification would leave a body with less than a quorum capable of acting; the disqualified official or employee is required by law to act; or the disqualified official or employee is the only individual authorized to act.</p>

Table 1: 50-State Summary of Abstention from Voting Provisions (cont.)

State	Voting Recusal Provisions
Massachusetts	<p>Senate Rules 10A: No member of the Senate shall act on a matter before a committee or vote on any question in which his private right is immediately concerned, distinct from the public interest.</p> <p>House Rule 16A: No member shall serve on any committee or vote on any question in which his/her private right is immediately concerned, distinct from the public interest.</p> <p>General Laws of Massachusetts Chapter 268A, Section 6A: Any public official who in the discharge of his official duties would be required knowingly to take an action which would substantially affect such official's financial interests, unless the effect on such an official is no greater than the effect on the general public, shall file a written description of the required action and the potential conflict of interest with the state ethics commission.</p>
Michigan	<p>Senate Rule 1.306: A senator having a personal, private or professional interest in a bill, of which he or she has knowledge, shall not vote on the bill and shall disclose in writing to the Secretary of State his or her interest in the bill. Such an interest is defined as one that would particularly benefit the senator or an individual or entity to whom the senator is financially or legally obligated, or personally related. If a senator votes on a bill in which it may appear that he has a conflict of interest, he may submit a statement explaining his reasons for voting.</p> <p>House Rule 13, 31: A member may abstain from voting because of a potential conflict of interest by rising, announcing his intent not to vote and reserving the right to explain the abstention. The member has the right to have an explanatory statement of at most 100 words printed in the Journal.</p> <p>No additional provisions found in statute or constitution.</p>
Minnesota	<p>Senate Rule 41.1., 41.2, 56.4: Every member shall vote on a roll call vote unless excused by the Senate. A member wishing to be excused from voting may make a brief statement of the reason for making the request. The question on the motion to excuse must be taken without further debate. Members of the Senate shall disclose potential conflicts of interest in the discharge of senatorial duties as provided in Minnesota Statutes, section 10A.07.</p> <p>House Rule 2.05: A member who has an immediate interest in a question must not vote on it. Every other member present before the result of a vote is declared by the presiding officer must vote for or against the matter before the House, unless the House excuses the member from voting. But a member is not required to vote on any matter concerning a memorial resolution. A member who does not vote when the member's name is called must state reasons for not voting. After the vote has been taken but before the presiding officer has announced the result of the vote, the presiding officer must submit to the House the question: "Shall the member, for the reasons stated, be excused from voting?" The question must be decided without debate. After the question is decided, the presiding officer must announce the result of the vote, after which other proceedings about the nonvoting member may take place.</p> <p>Minnesota Statutes 10A.07: A public official who would be required to take an action that would substantially affect the official's financial interests or those of an associated business, unless the effect is no greater than on other members of the official's business classification, profession, or occupation, must prepare a written statement describing the matter requiring action and the nature of the potential conflict of interest and deliver a copy to the presiding officer. If there is insufficient time to comply with this, the public official must orally inform the official body or committee.</p>
Mississippi	<p>Senate Rule 124: No senator shall act in committee or vote on a question in which his private interest, distinct from the public interest, is immediately concerned.</p> <p>House Rule 26: No member shall vote on any question, the result of which he is pecuniarily interested.</p> <p>No additional provisions found in statute.</p>

Table 1: 50-State Summary of Abstention from Voting Provisions (cont.)

State	Voting Recusal Provisions
Missouri	<p>Senate Rules: None found.</p> <p>House Rule 89: Every member shall vote on each question put unless he has a direct personal or pecuniary interest in such question.</p> <p>Missouri Revised Statutes 105.461: Any member of the general assembly who has a substantial personal or private interest in any measure before the general assembly, shall, before such official passes on the measure, bill, order or ordinance, file a written report of the nature of the interest with the chief clerk of the house of representatives or the secretary of the senate and such statement shall be recorded in the appropriate journal. If the legislator has filed his annual financial disclosure statement, which discloses the basis for the official's substantial personal or private interest or interests that the official may have therein, and that statement is current, this statement is not necessary. Statements may be amended to disclose any subsequently acquired substantial interest at any time before the person passes on any measure, bill, order or ordinance.</p> <p>Missouri Revised Statutes § 105.452: No elected or appointed official or employee of the state or any political subdivision thereof shall: (4) Favorably act on any matter that is so specifically designed so as to provide a special monetary benefit to such official or his spouse or dependent children, including but not limited to increases in retirement benefits, whether received from the state of Missouri or any third party by reason of such act. For the purposes of this subdivision, "special monetary benefit" means being materially affected in a substantially different manner or degree than the manner or degree in which the public in general will be affected or, if the matter affects only a special class of persons, then affected in a substantially different manner or degree than the manner or degree in which such class will be affected. In all such matters such officials must recuse themselves from acting and shall not be relieved by reason of the provisions of section 105.460, except that such official may act on increases in compensation subject to the restrictions of section 13 of article VII of the Missouri Constitution.</p>
Montana	<p>Joint Rule 10-60: A member who has a personal or private interest in any measure or bill proposed or pending before the Legislature shall disclose the fact to the house to which the member belongs.</p> <p>No Senate Rule found.</p> <p>House Rule H50-200: (4) A member who is present shall vote unless the member has disclosed a conflict of interest to the House.</p> <p>Montana Code Ann 2-2-112: A legislator concerned with the possibility of a conflict may briefly present the facts to the committee of that house that is assigned the determination of ethical issues. The committee shall advise the legislator as to whether the legislator should disclose the interest prior to voting on the issue pursuant to the provisions of subsection. A legislator may, subject to legislative rule, vote on an issue on which the legislator has a conflict, after disclosing the interest. When a legislator must take official action on a matter as to which he has a conflict created by a personal or private interest that would directly give rise to an appearance of impropriety as to the legislator's influence, benefit, or detriment in regard to the legislative matter, the legislator shall disclose the interest prior to participating in the official action.</p> <p>In making a decision as to whether to take official action, the legislator shall consider:</p> <ul style="list-style-type: none"> whether the conflict impedes the legislator's independence of judgment; the effect of the legislator's participation on public confidence in the integrity of the legislature; whether the legislator's participation is likely to have any significant effect on the disposition of the matter; and whether a pecuniary interest is involved or whether a potential occupational, personal, or family benefit could arise from the legislator's participation. <p>A conflict situation does not arise from legislation or legislative duties affecting the membership of a profession, occupation, or class. A legislator who is a member of a profession, occupation, or class affected by legislation is not required to disclose an interest unless the class contained in the legislation is so narrow that the vote will have a direct and distinctive personal impact on the legislator.</p>

Table 1: 50-State Summary of Abstention from Voting Provisions (cont.)

State	Voting Recusal Provisions
Nebraska	<p>No rules found.</p> <p>Nebraska Revised Statutes 49-1499: A member of the Legislature who would be required to take any action that may cause financial benefit or detriment to him or her, a member of his or her immediate family, or a business with which he or she is associated, which is distinguishable from the effects of such action on the public generally or a broad segment of the public, shall disclose information about the conflict in this manner. He shall prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict, and if he or she will not abstain from voting, deliberating, or taking other action on the matter, the statement shall state why, despite the potential conflict, he or she intends to vote or otherwise participate. The statement should be delivered to the ethics commission and the speaker of the legislature.</p> <p>The member of the Legislature may abstain from voting, deliberating, or taking other action on the matter on which the potential conflict exists, in which case he or she may have the reasons for the abstention recorded in the journal or minutes of the Legislature.</p>
Nevada	<p>Senate Rule 23 and Assembly Rule 23: 8. In determining whether a Legislator has a conflict of interest, the Legislator should consider whether the independence of judgment of a reasonable person in his or her situation upon the matter in question would be materially affected by the Legislator's: (a) Acceptance of a gift or loan; (b) Private economic interest; or (c) Commitment to a member of his or her household or immediate family. In interpreting and applying the provisions of this subsection, it must be presumed that the independence of judgment of a reasonable person in the Legislator's situation would not be materially affected by the Legislator's private economic interest or the Legislator's commitment to a member of his or her household or immediate family where the resulting benefit or detriment accruing to the Legislator, or if the Legislator has a commitment to a member of his or her household or immediate family, accruing to those other persons, is not greater than that accruing to any other member of the general business, profession, occupation or group that is affected by the matter.</p> <p>9. Except as otherwise provided in subsection 10, if a Legislator knows he or she has a conflict of interest pursuant to subsection 8, the Legislator shall make a disclosure of the conflict of interest on the record in a meeting of a committee or on the floor of the Senate, as applicable. Such a disclosure must be entered: (a) If the Legislator makes the disclosure in a meeting of a committee, in the minutes for that meeting. (b) If the Legislator makes the disclosure on the floor of the Senate, in the Journal.</p> <p>10. If, on one or more prior occasions during the current session of the Legislature, a Legislator has made a general disclosure of a conflict of interest on the record in a meeting of a committee or on the floor of the Senate, the Legislator is not required to make that general disclosure at length again regarding the same conflict of interest if, when the matter in question arises on subsequent occasions, the Legislator makes a reference on the record to the previous disclosure.</p> <p>11. In determining whether to abstain from voting upon, advocating or opposing a matter concerning which a Legislator has a conflict of interest pursuant to subsection 8, the Legislator should consider whether: (a) The conflict impedes his or her independence of judgment; and (b) His or her interest is greater than the interests of an entire class of persons similarly situated.</p> <p>12. The provisions of this Rule do not under any circumstances and regardless of any conflict of interest: (a) Prohibit a Legislator from requesting or introducing a legislative measure; or (b) Require a Legislator to take any particular action before or while requesting or introducing a legislative measure.</p>

Table 1: 50-State Summary of Abstention from Voting Provisions (cont.)

State	Voting Recusal Provisions
<p>Nevada (cont.)</p>	<p>13. If a Legislator who is a member of a committee declares on the record when a vote is to be taken by the committee that he or she will abstain from voting because of the requirements of this Rule, the necessary quorum to act upon and the number of votes necessary to act upon the matter is reduced as though the Legislator abstaining were not a member of the committee.</p> <p>14. Except as otherwise provided in the Joint Standing Rules, the standards and procedures set forth in this Rule which govern whether and to what extent a Senator has a conflict of interest, should disclose a conflict of interest or should abstain from voting upon, advocating or opposing a matter concerning which the Senator has a conflict of interest pursuant to subsection 8:</p> <p>(a) Are exclusive and are the only standards and procedures that apply to Senators with regard to such matters; and</p> <p>(b) Supersede and preempt all other standards and procedures with regard to such matters.</p> <p>15. For purposes of this Rule, "immediate family" means a person who is related to the Legislator by blood, adoption or marriage within the first degree of consanguinity or affinity.</p>
<p>New Hampshire</p>	<p>Senate Rule 2-21, 6-25: No member who was present when the question was put shall abstain from voting unless by reason of a conflict pursuant to Rule 6-25 or unless excused by the Senate for a special reason. In all instances every member shall act in conformance with the duly adopted Ethical Guidelines and Opinions of the New Hampshire General Court.</p> <p>House Rule 107: At each legislative committee meeting, final action on any bill or resolution shall be by roll call. All roll call votes shall appear in the records of the committee as otherwise provided in these rules. In all roll call votes the names of the members voting for the motion, the names of the members voting against the motion, and the names of members not participating because of a conflict of interest, or absent shall be recorded. If a member is present when the question is put, he or she must vote when called unless the member is not participating pursuant to the New Hampshire General Court Ethics Guidelines.</p> <p>General Court's Ethics Guidelines and Procedural Rules, Sections 4 and 5: Legislators shall not become involved in any official activity without complying with the conflict of interest procedure set forth in this document. A conflict of interest declaration is not required if no benefit or detriment could be reasonably expected to accrue to the member or a family member, to a greater than any other member of his or her business, profession, occupation or group, and provided that a disclosure is made via the requirements of the financial disclosure form. A "group" is limited to one that is generally recognized and of a substantial size. When a legislator becomes aware that a conflict of interest exists or may exist and the conditions set forth in paragraph I are not met, the legislator shall declare that the legislator will not participate in any official activity associated with the issue or that the legislator intends to participate in the official activity and will provide a description of the conflict of interest including: names of all entities, both public and private, which might be affected; the nature of any benefit which may accrue to the legislator or legislator's family member; the nature of any financial interest in the issue; the nature of any relationship which existed, exists or may exist between the legislator and any person or entity which might be affected. Additional information may be required. The declaration shall be publicly announced prior to the legislator's initial participation in the official activity. The information required shall be filed with the clerk of the member's respective body within 24 hours of the time of the official activity and be made available for public inspection during normal business hours.</p> <p>Principle Of Independent Objective Judgment. Legislators should employ independent objective judgment in performing their duties, deciding all matters on the merits free from conflicts of interest and both real and apparent improper influences.</p> <p>New Hampshire Revised Statutes, Title 1, 15A: Legislators must disclose areas of potential conflicts on their financial disclosure forms. If their participation in an official activity creates a conflict of interest not disclosed by the information on the form, they must complete and file a Declaration of Intent Form in accordance with section 5 of the Ethics Guidelines. See section 5 of the Ethics Guidelines for information regarding particular conflicts of interest you may have. Even if they disclose a financial interest on this form, they may still have to file a separate Declaration of Intent Form on a particular bill.</p>

Table 1: 50-State Summary of Abstention from Voting Provisions (cont.)

State	Voting Recusal Provisions
New Jersey	<p>No provisions found in rules.</p> <p>New Jersey Statutes Annotated 52:13D-18: No member of the Legislature shall participate by voting or any other action, on the floor of the General Assembly or the Senate, or in committee or elsewhere, in the enactment or defeat of legislation in which he has a personal interest.</p> <p>A member is considered to have a personal interest in legislation if, by reason of his participation in the enactment or defeat of any legislation, he or a member of his immediate family, will derive a direct monetary gain or suffer a direct monetary loss. It is not considered a personal interest if no benefit or detriment could reasonably be expected to accrue to him, or a member of his immediate family, as a member of a business, profession, occupation or group, to any greater extent than any such benefit or detriment could reasonably be expected to accrue to any other member of such business, profession, occupation or group.</p>
New Mexico	<p>Senate Rule 7-5, 7-6: Every senator shall vote on each question unless he has a direct personal or pecuniary interest in the event of such a question. A senator desiring to be excused from voting may, when his name is called, make a brief statement for no more than five minutes explaining his reasons. The senate must vote on whether to excuse him.</p> <p>House Rule 7-5, 7-6: Every member of the house shall vote on each question or motion coming up before the house, unless excused by a majority vote. A member who wishes to be excused from voting may make a brief explaining his reasons. Full disclosure of real or potential conflicts of interest shall be a guiding principle for determining appropriate conduct of the members. The code of conduct is in House Rule 26-1.</p>
New York	<p>Senate Rules IX: Every senator shall vote on each question unless he has a direct personal or pecuniary interest in the event of such a question. Senators wishing to be excused may make a brief statement as to their reasons when they are called upon to vote. The excuse must be approved by 2/3 of the body.</p> <p>Assembly Rule V, Part 2: A member may abstain from a vote only on the grounds that it would constitute a conflict of interest.</p> <p>No additional provisions in statute pertain to legislators voting in conflict of interest situation, but New York Consolidated Laws Chapter 32, Article 4, Section 74 says no member of the legislature should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation which is in substantial conflict with the proper discharge of his duties in the public interest. Substantial conflict is not defined.</p>

Table 1: 50-State Summary of Abstention from Voting Provisions (cont.)

State	Voting Recusal Provisions
North Carolina	<p>Senate Rule 29: Any senator may move to be excused from voting at any time on any matter. If the senator is excused, he may not debate the bill or any amendments. The senator may make a brief oral or written statement as to his reasons. Rules are silent regarding conflicts of interest.</p> <p>House Rule 24.1A: Any member shall, upon request, be excused from the deliberations and voting on a particular bill. The member may make a brief oral or written statement of the reasons for making the request. The member may make a brief oral statement of the reasons for making the request and shall do so if required by the State Government Ethics Act. The member may provide to the Principal Clerk, on a form provided by the Clerk, a concise written statement of the reason for the request, and the Clerk shall include this statement in the Journal. The member excused shall not debate the bill or any amendment that is related to his conflict, though the House can allow the member to debate unrelated amendments.</p> <p>North Carolina General Statutes 138A-37: Except as permitted under G.S. 138A-38, no legislator shall participate in a legislative action if the legislator knows the legislator or a person with which the legislator is associated may incur a reasonably foreseeable financial benefit from the action, and if after considering whether the legislator's judgment would be substantially influenced by the financial benefit and considering the need for the legislator's particular contribution, including special knowledge of the subject matter to the effective functioning of the legislature, the legislator concludes that an actual financial benefit does exist which would impair the legislator's independence of judgment. Legislator must submit in writing to the principal clerk of the house of which the legislator is a member the reasons for the abstention from participation in the legislative matter. If the legislator has a material doubt as to whether the legislator should act, the legislator may submit the question for an advisory opinion to the State Ethics Commission in accordance with G.S. 138A-13 or the Legislative Ethics Committee in accordance with G.S. 120-104.</p> <p>North Carolina General Statutes 138A-38: A covered person may participate in an official action or legislative action under any of the following circumstances except as specifically limited: (1) The only interest or reasonably foreseeable benefit or detriment that accrues to the covered person, the covered person's extended family, business with which the covered person is associated, or nonprofit corporation or organization with which the covered person is associated as a member of a profession, occupation, or general class is no greater than that which could reasonably be foreseen to accrue to all members of that profession, occupation, or general class. (2) When an official or legislative action affects or would affect the covered person's compensation.</p> <p>(3) Before participating in the legislative action, the covered person requested and received from the Commission or Committee a written advisory opinion that authorized the participation. (4) Before participating in an official action, a public servant made full written disclosure to the public servant's employing entity which then made a written determination that the interest or benefit would neither impair the public servant's independence of judgment nor influence the public servant's participation in the official action. The employing entity shall file a copy of that written determination with the Commission. (5) When action is ministerial only and does not require the exercise of discretion. (6) When needed for a quorum, the legislator maybe be only be counted for quorum purposes. If a legislator is employed or retained by, or is an independent contractor of, a governmental unit, and the legislator is the only member of the house elected from the district where that governmental unit is located, then the legislator may take legislative action on behalf of that governmental unit provided the legislator discloses in writing to the principal clerk the nature of the relationship with the governmental unit prior to, or at the time of, taking the legislative action.</p> <p>Notwithstanding G.S. 138A-37, if a legislator is employed or retained by, or is an independent contractor of, a governmental unit, and the legislator is the only member of the house elected from the district where that governmental unit is located, then the legislator may take legislative action on behalf of that governmental unit provided the legislator discloses in writing to the principal clerk the nature of the relationship with the governmental unit prior to, or at the time of, taking the legislative action.</p>

Table 1: 50-State Summary of Abstention from Voting Provisions (cont.)

State	Voting Recusal Provisions
North Dakota	<p>Joint Rule 1002: In striving to maintain ethical standards, each member should recognize the importance of complying with all other rules relating to ethics, including Senate and House Rules 321 regarding disclosure of personal or private interest when voting.</p> <p>Senate and House Rule 321: Any member who has a personal or private interest in a bill shall disclose that fact to the Senate and may not vote thereon without the consent of the Senate. A personal or private interest is one that affects the member directly, individually, uniquely and substantially.</p> <p>No additional provisions found in statute.</p>
Ohio	<p>Senate Rule 58, 61: No senator shall vote upon any question in contravention of the Legislative Code of Ethics or in violation of section 102.031 of the Revised Code. Any senator requesting to be excused from voting may briefly explain the reason for such request, and the Senate shall pass upon the request without debate.</p> <p>House Rule 57: A request to be excused from voting shall be accompanied by a brief written statement of the reasons for making such request, which shall be acted upon by the House without debate. Rules are silent regarding conflicts of interest.</p> <p>Legislative Code of Ethics, Section 4: A member who has a substantial personal interest in legislation may request permission of the chair to abstain from voting on the legislation and may state the member's reason for the request. The request shall be granted by the chair or the member's respective chamber of the General Assembly pursuant to the rules of that chamber. The request and permission to abstain shall be entered in the Journal.</p> <p>Legislative Code of Ethics/Ohio Revised Code 102.031: No member of the General Assembly shall vote on any legislation that is then being actively advocated by a lobbyist who is (1) an employee, (2) a business associate, or (3) a person, other than an employer who is hired under contract to perform certain services and such position involves a substantial and material exercise of administrative discretion in the formulation of public policy.</p>
Oklahoma	<p>Oklahoma Constitution, Article V, Section 24: A member of the Legislature, who has a personal or private interest in any measure shall disclose the fact to the House of which he is a member, and shall not vote thereon.</p> <p>Senate Rule: none found.</p> <p>House Rule 4.2: A member who has a personal or private interest in any bill or resolution, proposed or pending before the House, shall disclose that fact to the House, and shall not vote on that bill or resolution, as required by Article V, Section 24 of the Oklahoma Constitution.</p> <p>Oklahoma statutes, 257:20-1-7: Votes, deliberations, and discussions by legislators or statewide elective officers. (a) A legislator or statewide elective officer shall not introduce or cause to have introduced, request the introduction of, promote, or vote on any legislation if the statewide elective officer or legislator or a child adopted child, step-child or spouse of the officer or legislator or a business or entity with which the legislator or officer or a member of the immediate family of the legislator or officer is associated has: (1) a pecuniary interest in; or (2) a reasonably foreseeable benefit from the legislation.</p>

Table 1: 50-State Summary of Abstention from Voting Provisions (cont.)

State	Voting Recusal Provisions
Oregon	<p>Senate Rule 3.33: When involved in a potential conflict of interest as defined by ORS 244.020, a member shall announce, on the Senate floor or in the committee meeting, the nature of the potential conflict prior to voting on the issue giving rise to the potential conflict. The member's announcement shall be recorded in the Journal or in the committee minutes. In addition, the member may file a statement with his chamber. If a member suspects that another member is not disclosing a conflict, he may file a complaint and an investigation will ensue.</p> <p>House Rule 3.21: When involved in an actual or potential conflict of interest, as defined by ORS 244.020, a member shall announce, on the floor or in the committee meeting, the nature of the potential conflict prior to voting on the issue giving rise to the potential conflict. The member's announcement of an actual or potential conflict of interest shall be recorded in the Journal or in the committee minutes. In addition, the member may file in writing a statement of the nature of the potential conflict with the Chief Clerk or the committee assistant by 5 pm the next business day following the vote.</p> <p>Oregon Revised Statutes 244.120: When met with an actual or potential conflict of interest, a member of the Legislative Assembly shall announce publicly, pursuant to rules of the house of which the public official is a member, the nature of the conflict before taking any action thereon in the capacity of a public official.</p> <p>Oregon Revised Statutes 244.020: "Actual conflict of interest" means any action, decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or the person's relative or any business with which the person or a relative of the person is associated unless the pecuniary benefit or detriment arises out of circumstances described in subsection (11) of this section.</p> <p>Subsection (11) "Potential conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which could be to the private pecuniary benefit or detriment of the person or the person's relative, or a business with which the person or the person's relative is associated, unless the pecuniary benefit or detriment arises out of an interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position; any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or the person's relative or business with which the person or the person's relative is associated, is a member or is engaged; or membership in or membership on the board of directors of a nonprofit corporation that is tax-exempt under section 501(c) of the Internal Revenue Code.</p>

Table 1: 50-State Summary of Abstention from Voting Provisions (cont.)

State	Voting Recusal Provisions
Pennsylvania	<p>Pa. Constitution, Article 3, Section 13: A member who has a personal or private interest in any measure or bill proposed or pending before the General Assembly shall disclose the fact to the House of which he is a member, and shall not vote thereon.</p> <p>Senate Rule 16, 20: ...no member of a committee shall be required or permitted to vote on any questions immediately concerning that member's direct personal, private or pecuniary interest. A Senator desiring to be excused from voting due to a direct, personal, private or pecuniary interest in any question or bill proposed or pending before the Senate, shall seek a ruling from the presiding officer. Senators who seek a ruling on whether they have a direct, personal, private or pecuniary interest in any question or bill proposed or pending before the Senate shall, after the Senator is recognized by the presiding officer, make a brief statement of the reasons for making the request and ask the presiding officer to decide whether or not the Senator must vote. The question shall be decided by the presiding officer without debate.</p> <p>House Rule 65: A member who has a personal or private interest in any measure or bill proposed or pending before the House shall disclose the fact to the House and shall not vote thereon.</p> <p>Pennsylvania Consolidated Statutes, Title 65, Part II, Chapter 11, 1103: Where voting conflicts are not otherwise addressed by the constitution of Pennsylvania or by any law, rule, regulation, order or ordinance, the following procedure shall be employed. Any public official who in the discharge of his official duties would be required to vote on a matter that would result in a conflict of interest shall abstain from voting and, prior to the vote being taken, publicly announce and disclose the nature of his interest as a public record in a written memorandum filed with the person responsible for recording the minutes of the meeting at which the vote is taken, except that if a quorum is not present once the person with the conflict recuses himself, he is permitted to vote as long as the conflict is properly disclosed.</p>
Rhode Island	<p>Senate Rules: None found.</p> <p>House Rule 32, 33: No member shall vote on any question of private property in the event of which he or she is immediately and particularly interested. No member shall speak or vote, unless within the bar of the House and at his or her seat, except as hereinafter provided. Every member who shall be in his or her seat in the House Chamber when the question is put, shall give his or her vote, unless prior thereto the Speaker shall have excused him or her in accordance with the provisions of the Code of Ethics statute (RIGL 36-14-</p> <p>Members must file a written request for recusal and the journal shall reflect such recusal with the letter "R."</p> <p>Rhode Island General Laws 36-14-6: Legislators who are required to take an action, make a decision, or refrain therefrom that will or can reasonably be expected to directly result in an economic benefit to the person, or spouse (if not estranged), or any dependent child, business associate or any business by which the person is employed or which the person represents, shall file a sworn statement describing the conflict and file it with the ethics commission and the presiding officer. If the legislator does not request to be excused from voting, he shall state why he can participate fairly and in the public interest despite the conflict.</p>
South Carolina	<p>Senate Rules: None found.</p> <p>House Rules 3.1: No member shall be permitted to vote on any question immediately concerning his private rights as distinct from the public interest.</p> <p>South Carolina Code 8-13-700: A public official who, in the discharge of his official responsibilities, is required to take an action or make a decision which affects an economic interest of himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated shall file with the presiding officer a statement describing the matter and the nature of the conflict of interest. The presiding officer shall excuse the member from participating in the matter.</p>
South Dakota	<p>Joint Rule 12-1: Either body may excuse a member from voting.</p> <p>No additional provisions found in statute or constitution.</p>

Table 1: 50-State Summary of Abstention from Voting Provisions (cont.)

State	Voting Recusal Provisions
Tennessee	<p>Senate Rule 13: When a member of this body arises to address himself to a bill, section thereof, or amendment in which he has a personal interest, he shall state to the Speaker and members of the body "that it may be considered that I have a degree of personal interest in the subject matter of this bill, but I declare that my argument and my ultimate vote answer only to my conscience and to my obligation to my constituents and the citizens of the State of Tennessee."</p> <p>Senate Code of Ethics: Article 2, Section 2: (a) No Senator shall vote on or influence any legislation before a committee or on the floor of either House, if the Senator has a personal interest that conflicts with the proper discharge of his or her duties (as defined by Section 1) unless the Senator declares, either orally or in writing filed with the Chief Clerk, "It may be considered that I have a degree of personal interest in the subject matter of this legislation, but I declare that my argument and my ultimate vote answer only to my conscience and my obligation to my constituents and the citizens of the State of Tennessee."</p> <p>(b) No Senator shall violate the provisions of T.C.A. Sections 2-10-123, 3-6-304, 3-6-305, or 39-16-102, nor shall any Senator otherwise misuse the Senator's office for personal financial gain.</p> <p>(i) No Senator shall use the Senator's office either to grant or to obtain special privilege, exemption, or preferential treatment to or for him or herself.</p> <p>House Rules: None found.</p> <p>No additional provisions found in statute.</p>
Texas	<p>Texas Constitution Article 3, Section 22: A member who has a personal or private interest in any measure or bill, proposed, or pending before the Legislature, shall disclose the fact to the House, of which he is a member, and shall not vote thereon.</p> <p>Senate Rules: None found.</p> <p>House Rule 5, Part E, Section 42: Any member who has a personal or private interest in any measure or bill shall disclose the fact and not vote thereon.</p> <p>Texas Government Code 572.0531: Before introducing, sponsoring or voting on a bill on a subject area in which a lobbyist who is the legislator's spouse or first degree relative, the legislator must file a disclosure statement.</p> <p>Texas Government Code 572.053: A member of the legislature may not vote on a measure or a bill, other than a measure that will affect an entire class of business entities, that will directly benefit a specific business transaction of a business entity in which the member has a controlling interest. "Controlling interest" includes: an ownership interest or participating interest by virtue of shares, stock, or otherwise that exceeds 10 percent; membership on the board of directors or other governing body of the business entity; or service as an officer of the business entity.</p>

Table 1: 50-State Summary of Abstention from Voting Provisions (cont.)

State	Voting Recusal Provisions
Utah	<p>Joint Rule 6-1-102 and -201: While in session, members of the Senate and House shall disclose any conflict of interest on any legislation or legislative matter. If a legislator reasonably believes he may have a conflict of interest, that legislator should, before the vote, orally declare to the committee or body before which the matter is pending that the legislator may have a conflict of interest and what that conflict is. This declaration of conflict of interest shall be noted in the minutes of any committee meeting or in the Journal. A legislator shall file a Declaration of Conflict of Interest form with the Secretary of the Senate if the legislator is a Senator or with the Chief Clerk of the House of Representatives if the legislator is a Representative. This form shall include the general legislative areas in which the legislator may have a conflict of interest. A "conflict of interest" is defined below. This form satisfies that legislator's disclosure of any conflicts of interest as required by the first paragraph and Utah Code Annotated Section 76-8-109. The legislator may then vote on the matter. The rule specifies that any such disclosure shall not prevent legislators from voting on any legislation or legislative matter.</p> <p>Senate Rule 2-3-10, 4-7-103: Immediately preceding or during the roll call or when casting a roll call vote, a senator may, upon recognition of the presiding officer, make a brief statement explaining any conflict of interest.</p> <p>House Rule 2-3-101: See Joint Rule above. House rules specify that if a legislator does not speak on legislation or a legislative matter, and has already disclosed conflicts on his financial disclosure form, he does not need to orally disclose the conflict.</p> <p>Joint Rule 6-1-201 and Utah Code 76-8-109: If a legislator must vote on a matter in which he has actual knowledge of a conflict of interest which is not stated on his conflict of interest form, he shall declare this conflict to the body. The declaration shall be noted in the minutes or the Journal. Legislators must also file a declaration of conflict of interest form with the secretary of the senate or chief clerk of the house.</p> <p>Conflict of interest means legislation or action by a legislator that the legislator reasonably believes may cause direct financial benefit or detriment to him, a member of the legislator's immediate family, or a business in which the legislator is associated, and that benefit or detriment is distinguishable from the effects of that action on the public or on the legislator's profession, occupation, or association generally.</p>
Vermont	<p>Senate Rule 71: No senator shall be permitted to vote upon any question in which he or she is directly or immediately interested.</p> <p>House Rule 75: Members shall not be permitted to vote upon any question in which they are immediately or directly interested.</p> <p>No additional provisions found in statutes or constitution.</p>
Virginia	<p>Senate Rule 20, 36: A Senator who has a personal interest in a transaction, as defined in § 30-101 of the Code of Virginia, before the entire Senate or a committee, shall neither vote nor be counted upon it, and he shall withdraw, or invoke this rule not to be counted, prior to the division and the fact shall be recorded on the voting machine. If a Senator invokes this rule, the Senator shall not participate, directly or indirectly, in the matter wherein the rule is invoked.</p> <p>House Rules 69: No member who has an immediate and personal interest in the result of the question shall either vote or be counted upon it.</p> <p>Code of Virginia 30-108: A legislator who has a personal interest in a transaction shall disqualify himself from participating in the transaction. Unless otherwise prohibited by the rules of his house, the disqualification requirement of this section shall not prevent any legislator from participating in discussions and debates, provided (i) he verbally discloses his personal interest at the outset of the discussion and (ii) he does not vote on the transaction.</p>

Table 1: 50-State Summary of Abstention from Voting Provisions (cont.)

State	Voting Recusal Provisions
Washington	<p>Washington Constitution Article II, Section 30: A member who has a private interest in any bill or measure proposed or pending before the legislature, shall disclose the fact to the house of which he is a member, and shall not vote thereon.</p> <p>Senate Rule 22: No senator shall be allowed to vote upon any question upon which he or she is in any way personally or directly interested (See also Art. 2, Secs. 27 and 30, State Constitution.). A member not voting by reason of personal or direct interest may explain the reason for not voting by a brief statement not to exceed fifty words in the journal.</p> <p>House Rule 19: No member shall vote on any question which affects that member privately and particularly. A member who has a private interest in any bill or measure proposed or pending before the legislature shall disclose the fact to the house of which he is a member, and shall not vote thereon. (Art. II § 30).</p>
West Virginia	<p>Senate Rule 43: Every member within the Senate Chamber, when a question is put, shall vote unless he or she is immediately and particularly interested therein, meaning an interest that affects the member directly and not as one of a class, or the Senate excuses him or her. All motions to excuse a member from voting must be made by the member requesting to be excused before the Senate divides, or before the call of the yeas and nays is commenced, and it shall be decided without debate, except that the member making the motion to be excused from voting may briefly state the reason why it ought to be adopted.</p> <p>House Rule 49: When a question is put, any member having a direct personal or pecuniary interest therein should announce this fact and request to be excused from voting. The disqualifying interest must be such as affects the member directly and not as one of a class.</p> <p>West Virginia Statutes 6B-2-5: (i) Members of the Legislature required to vote. -- Members of the Legislature who have asked to be excused from voting or who have made inquiry as to whether they should be excused from voting on a particular matter and who are required by the presiding officer of the House of Delegates or Senate of West Virginia to vote under the rules of the particular house shall not be guilty of any violation of ethics under the provisions of this section for a vote so cast.</p>
Wisconsin	<p>Senate Rule 73, Assembly Rule 77: Either body may excuse a member from voting by "special cause."</p> <p>Wisconsin Statutes 19.46: No state public official may take any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a substantial financial interest.</p>

Table 1: 50-State Summary of Abstention from Voting Provisions (cont.)

State	Voting Recusal Provisions
Wyoming	<p>Senate Rule 12-2: A member who has a personal or private interest in any bill shall disclose the fact to the Senate members at the time of initial consideration during the committee of the whole or at the time of introduction during the budget session. If the status of the conflict changes during the legislative process, the member shall disclose the change in the status of the conflict. Disclosures of a conflict of interest shall be entered in the Daily Journal. If a member is uncertain about a conflict, he can request a ruling from the rules committee and the rules committee shall rule by majority vote if the member should or should not vote on the bill in question.</p> <p>House Rule 12-3: A member who has a personal or private interest in any bill shall disclose the fact to the house members at the time of initial consideration during committee of the whole or at the first time the conflict becomes apparent to the declarer, or at the time of introduction during the budget session and shall not vote thereon. On general appropriation and recodification bills a member who has declared a conflict of interest on a section or an amendment to a section shall not vote on that section, but may vote on the entire bill. Such disclosures will be entered into the journal.</p> <p>"Personal or private interest" means the member shall receive or incur a direct financial gain or loss if the measure or bill is enacted. "Personal or private interest" does not include a financial gain or loss which shall be received or incurred by a member if the gain or loss shall also be received or incurred by a substantial class of persons. If a member is uncertain about a conflict, he can request a ruling from the rules committee and the rules committee shall rule by majority vote if the member should or should not vote on the bill in question.</p> <p>Wyoming Statutes 9-13-106: A public official shall not make an official decision or vote on an official decision if he has a personal or private interest in the matter. In determining whether he has a personal or private interest in a matter, the public official shall recognize the importance of his right to represent his constituency and shall abstain from voting only in clear cases of a personal or private interest as defined in this subsection. A public official or public member shall not vote to give money or any direct financial benefit to himself except for tax reductions affecting the general public. For the purposes of this section, a personal or private interest must (i) be direct and immediate as opposed to speculative and remote; and (ii) provide the public official, public employee or public member a greater benefit or a lesser detriment than it does for a large or substantial group or class of persons who are similarly situated. A public official shall abstain from voting on the decision and from making any official decision in the matter. The public official's abstention from voting must be recorded in the governmental entity's official records.</p>

Table 1: 50-State Summary of Abstention from Voting Provisions (cont.)

State	Voting Recusal Provisions
Wyoming (cont.)	Wyoming Statutes 16-6-118: Unlawful interest of officeholders in public contracts or works; exception. It is unlawful for any person, now or hereafter holding any office, either by election or appointment, under the constitution or laws of this state, to become in any manner interested, either directly or indirectly, in his own name or in the name of any other person or corporation, in any contract, or the performance of any work in the making or letting of which the officer may be called upon to act or vote. It is unlawful for any officer to represent, either as agent or otherwise, any person, company or corporation, in respect of any application or bid for any contract or work in regard to which the officer may be called upon to vote or to take or receive, or offer to take or receive, either directly or indirectly, any money or other thing of value, as a gift or bribe, or means of influencing his vote or action in his official character. Any contracts made and procured in violation of this subsection are null and void and the person violating this subsection may be removed from office. If any person is interested in any public contract or shall represent any person, company or corporation, but shall disclose the nature and extent thereof to all the contracting parties concerned therewith and shall absent himself during the considerations and vote thereon and not attempt to influence any of the contracting parties and not act directly or indirectly for the governing body in inspection, operation, administration or performance of any contract, then the acts are not unlawful under this section. This section does not apply as to the operation, administration, inspection or performance of banking and deposit contracts and relationships after the selection of a depository.
Source: National Conference of State Legislatures: Voter Recusal Provisions at http://www.ncsl.org/research/ethics/50-state-table-voting-recusal-provisions.aspx	

Alaska State Legislature

Select Committee on Legislative Ethics

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April 23, 2004

ADVISORY OPINION 2004-02

RE: You have asked the committee to advise you in regard to the following:

1. Whether there are any restrictions under the legislative ethics code on a legislator with a financial interest in legislation who takes the following actions in regard to that legislation: introducing, sponsoring, amending a bill, chairing a committee considering a bill, discussing and voting on the bill while in committee, and then finally voting on the bill on the floor of the House or Senate?
2. Whether a legislator has a conflict under the legislative ethics code if the legislator is employed in the private sector, is a member of a Native corporation, is a board member of a for profit or non-profit corporation that receives government funds or holds a natural resources lease, or receives an Alaska Permanent Fund Dividend?
3. How should teachers, fishermen, businessmen, lawyers, real estate agents, loggers, doctors, etc., deal with legislation that may present potential conflicts?
4. If Alaska truly has a citizen legislature, is it not advantageous to have resident experts in various fields actively participating in legislation?

You are a legislator and therefore covered by the legislative ethics code. You have requested an advisory opinion concerning facts and circumstances that you have related. The committee relies on facts that you have described in answering your questions. You have waived your right to confidentiality under AS 24.60.160(b).

Statement of Facts

In the first question you state that you have a financial interest in a piece of legislation. This financial interest is not described any further. In the second question you describe several types of financial interests: employment in the private sector, membership in a Native corporation, board member of a for-profit or non-profit corporation that receives government funds or holds a natural resources lease, receiving an Alaska Permanent Fund Dividend. In the third question you provide several professions for consideration: teacher, fisherman, businessman, lawyer, real estate agent, logger or doctor. The fourth question, regarding the advantages of a citizen legislature, is rhetorical.

Discussion

Uniform Rule 34(b)

As a legislator, one of your tasks is to introduce, discuss, and vote on legislation. The Uniform Rules of the Legislature require all legislators present to vote on final passage of a bill unless the house allows the legislator to abstain from a vote.¹ Uniform Rule 34(b). While a member may request to abstain from voting, commonly for a declared conflict of interest, the custom is for the body not to allow an abstention. Without the body's unanimous consent to abstention, the legislator must vote on a bill or resolution under the Uniform Rules. Note that while Uniform Rule 34(b) clearly applies to votes before the full body, committees typically adhere to the Uniform Rules to the extent the Rules can apply in the less formal committee situation.

AS 24.60.030(g)

The legislative ethics code requires a legislator not to vote if the legislator has a substantial interest in a "business, investment, real property, lease or other enterprise" and if "the effect on that interest of the action to be voted on is greater than the effect on a substantial class of persons to which the legislator belongs as a member of a profession, occupation, industry, or region."² AS 24.60.030(g). This subsection requires a fact specific inquiry in each case to consider the effect of a bill and compare the legislator's interest with the interests of a substantial class of persons to which the legislator belongs.³

Each fact situation will be different depending on the kind and extent of interest held by the legislator and the particular bill up for a vote. If you think that you have a substantial interest in an enterprise and that your interest is different and more substantial than a large class of persons to which you belong, the ethics code prohibits a vote unless the Uniform Rules require a vote. If you have a substantial interest in regard to a bill the proper procedure would be to ask the house or committee for permission to abstain from voting, briefly describing the fact situation leading to your conclusion that AS 24.60.030(g) prohibits you from voting. If the body does not permit you to abstain, then you must vote, and you will not have violated AS 24.60.030(g). If you do not ask for an abstention, and you do have a substantial interest described in AS 24.60.030(g), you could be found to have violated that portion of the ethics code.

Further guidance to distinguish between a "financial interest" which does not trigger the application of AS 24.60.030(g) and a "substantial interest" is found in AS 24.60.990(b) which states:

(b) A person has a substantial interest in legislative, administrative, or political action if the person

(1) is not a natural person and will be directly and substantially affected financially by a legislative, administrative, or political action;

(2) is a natural person and will be directly and substantially affected financially by a legislative, administrative, or political action in a way that is greater than the effect on a substantial class of persons to which the person belongs as a member of a profession, occupation, industry, or region;

(3) has or seeks contracts in excess of \$10,000 annually for goods or services with the legislature or with an agency of the state; or

(4) is a lobbyist.

For the purpose of this subsection, the state, the federal government, and an agency, corporation, or other entity of or owned by the state or federal government do not have a substantial interest in legislative, administrative, or political action.

Paragraph (1) refers to corporations or other entities that are not actual human beings, so will not apply to you as a legislator. As you can see, paragraph (2) mirrors the language used in AS 24.60.030(g) to determine whether a significant interest exists. Paragraph (3) sets a bright-line standard, if a legislator has a contract for goods or services in excess of \$10,000 with the legislature or a state agency, the legislator would be considered to have a substantial interest in related legislation. Paragraph (4) states that lobbyists are always considered to have substantial interest in legislation; since a legislator cannot be a lobbyist, this is not relevant.

Another provision of the legislative ethics code might apply when a legislator has a financial interest in regard to legislative actions by the legislator under the ethics code. AS 24.60.030(e)(1)⁴ states that "a legislator may not directly . . . agree to . . . take or withhold legislative action . . . including support or opposition to a bill as a result of . . . [another] person's decision to . . . provide . . . a thing of value [to the legislator]." "A thing of value" can include payment of a salary.⁵ A person accepting a salary from an employer can be considered to have accepted a thing of value from that employer.

In order to find a violation of this subsection there must also be evidence that, in return for the thing of value, the legislator is agreeing to influence legislation. There must be direct or indirect evidence of wrongful motivation of the legislator. The legislator's acceptance of a salary or other thing of value is not sufficient. Proving a specific intent to do something wrong is difficult but not impossible. Specific intent is a common element in proving the commission of a crime and must be supported by evidence. In the event that the committee found evidence of a legislator's wrongful intent to influence legislation when accepting a thing of value, that legislator could be found to have violated the legislative ethics code under AS 24.60.030(e)(1).

Based on the above general discussion, each separate question you raise will be considered.

1. Whether there are any restrictions under the ethics code on a legislator with a financial interest in legislation who takes the following actions in regard to that legislation: introducing, sponsoring, amending a bill, chairing a committee considering a bill, discussing and voting on the bill while in committee, and then finally voting on the bill on the floor of the House or Senate.

AS 24.60.030(g)

The general discussion above describes the procedure to use in regard to voting on legislation where a financial interest you hold and a particular bill presents you with a substantial conflict or appearance of a conflict of interest between your duties as a legislator and your personal financial interest. The ethics code requires taking action to avoid voting only where the

legislator has a substantial interest in an enterprise and the effect of the legislation would be greater on the legislator than the effect on others also holding a financial interest in the enterprise. The committee finds that AS 24.60.030(g) requires a legislator to declare a substantial financial interest in a matter up for vote on the floor of either chamber, and to request to abstain from a vote. If the legislator is required to vote by the body under the Uniform Rules, then there will be no violation of AS 24.60.030(g).

Application of AS 24.60.030(g) to actions other than voting

The committee finds that AS 24.60.030(g) should not be applied to legislative actions other than voting. The language of AS 24.60.030(g) only mentions voting, and does not include "introducing, sponsoring, amending a bill, chairing a committee considering a bill, [and] discussing . . . the bill while in committee." This opinion will not apply that subsection to any actions other than voting. If the legislature wishes to expand this prohibition beyond voting, it may change the language of AS 24.60.030(g) to more be more expansive.

Application of AS 24.60.030(g) to voting in committee

The committee also finds for purposes of this opinion that AS 24.60.030(g) should not be applied to voting in committees.⁶ AS 24.60.030(g) requires a legislator not to vote on a matter unless required to vote by the Uniform Rules. The committee finds the application of this subsection to be limited to voting situations where the Uniform Rules are being strictly used. As discussed below, the committee finds that the practice of legislative committees is to not follow Uniform Rule 34(b) when a member declares a conflict. Rather than going through the process of asking to be excused from voting, committee members typically vote after declaring a conflict. If the committee found that AS 24.60.030(g) applied to voting in committees, its effect would be to impose application of Uniform Rule 34(b) on the committee process. The committee finds that the Select Committee on Legislative Ethics is not the appropriate forum to determine which Uniform Rules apply or do not apply to legislative committees.

Uniform rules of procedure are required to be adopted by both houses at the beginning of each legislative session.⁷ The Alaska State Legislature Uniform Rules provide that in the event the Uniform Rules do not cover a situation, Mason's Manual of Legislative Procedure shall apply.⁸ While the application of Uniform Rule 34(b) is regularly and uniformly applied on the floor, in committee discussion it became apparent that its application is not uniform in committees. Mason's Manual of Legislative Procedure provides in section 632 that the rules of procedure in committees are the same as the rules of the body insofar as conditions permit, but that the rules limiting debate should be relaxed.⁹

It is the practice in committee, to require members to vote, despite notice that a member has a conflict described in AS 24.60.030(g). It is also the practice not to require a committee member to make a formal motion to be excused from voting under Uniform Rule 34(b) every time a vote is about to be taken. The legislative members of the committee stated that once a conflict is stated, it was not the practice to require a member to restate the conflict and ask to be excused from voting on every subsequent vote and in every subsequent committee. Requiring the strict application of AS 24.60.030(g) and Uniform Rule 34(b) to votes in committee would alter current committee practice.

Considering current practice, and the language of AS 24.60.030(g) which does not clearly apply to committees, the committee declines to extend the application of AS 24.60.030(g) to voting in committees.

AS 24.60.030(e)(1)

AS 24.60.030(e)(1) prohibits a legislator from taking legislative action such as supporting or opposing a bill in exchange for something of value. Support or opposition to a bill would include voting on a bill on the floor as well as, introducing, sponsoring and amending a bill, chairing a committee considering a bill, discussing and voting on a bill while in committee.

Any financial interest accepted with the intent to influence legislation is prohibited under AS 24.60.030(e)(1). But other than accepting something of value in exchange for agreeing to influence legislation, there are no prohibitions in the legislative ethics code¹⁰ on a legislator, other than voting on the floor under AS 24.60.030(g), against introducing, carrying or taking other actions to support or oppose legislation in which a legislator has a financial interest.

2. In the second question you describe several types of financial interests: employment in the private sector, membership in a native corporation,¹¹ board member of a for profit or non-profit corporation that receives government funds or holds a natural resources lease, receiving an Alaska Permanent Fund Dividend.

Because AS 24.60.030(a) prohibits acceptance of any benefit other than official compensation for performing your legislative duties, you should strictly separate the work that you are otherwise compensated for in your private life from your actions as a public official.

The previous general discussion and the discussion in regard to question one should provide you with general guidance. Each of these personal financial interests may be the same as "a substantial class of persons to which the legislator belongs as a member of a profession, occupation, industry, or region" and therefore will not trigger the prohibition found in AS 24.60.030(g) on voting. Without specific facts the committee cannot advise you in regard to the application of the ethics code to a particular situation.

3. In the third question you provide several professions for consideration: if a legislator is a teacher, fisherman, businessman, lawyer, real estate agent, logger or doctor how would the legislator act in regard to potential conflicts.

If a legislator is a doctor, for example, and if in regard to a particular bill, the legislator's interest is no more specific or different from all other doctors, then the legislator would not seem to be subject to the ethical restriction on voting imposed by AS 24.60.030(g). If a legislator/doctor's specialty as a naturopath is particularly affected by a bill, such as a bill not allowing naturopaths to practice, then it is possible that AS 24.60.030(g) requires the legislator to abstain from any legislative action supporting or opposing the bill. See the general discussion and previous answers to questions you have asked.

4. The fourth question is rhetorical question regarding the advantages of a citizen legislature.

Because this does not ask an ethics question, it will not be responded to in this opinion. The committee notes that AS 24.60.010 does state that the public has committed to a part-time citizen legislature and that legislators are expected and permitted to earn outside income, but also finds that:

(1) high moral and ethical standards among public servants in the legislative branch of government are essential to assure the trust, respect, and confidence of the people of this state;
(2) a fair and open government requires that legislators and legislative employees conduct the public's business in a manner that preserves the integrity of the legislative process and avoids conflicts of interest or even appearances of conflicts of interest.

Preserving the integrity of the legislative process and avoiding even the appearance of a conflict of interest is the function of the ethics code found in AS 24.60.

Conclusion

For the reasons stated above, the committee finds that if, in regard to a question being put to a vote, you have a substantial interest in an enterprise and your interest is different and more substantial than that of a large class of persons to which you belong, the ethics code prohibits you from voting on the floor on a question unless the Uniform Rules require a vote. AS 24.60.030(g) In such a case you should ask the body for permission to abstain from voting, briefly describing the fact situation leading to your conclusion that AS 24.60.030(g) prohibits you from voting. If the body does not permit you to abstain, then you must vote, and you will not have violated AS 24.60.030(g). If you do not ask for an abstention, and you do have a substantial interest described in AS 24.60.030(g) you could be found to have violated that portion of the ethics code.

AS 24.60.030(g) does not prohibit a legislator with a conflict from taking other legislative actions such as introducing, sponsoring, amending a bill, chairing a committee considering a bill, and discussing and voting on the bill while in committee. AS 24.60.030(e)(1) does not allow a legislator to take legislative action such as support for or opposition to a bill in exchange for a thing of value. Because AS 24.60.030(a) prohibits acceptance of any benefit other than official compensation for performing your legislative duties, you should strictly separate the work that you are otherwise compensated for in your private life from your actions as a public official.

Adopted by the Select Committee on Legislative Ethics on April 23, 2004

Members present and concurring in this opinion were:

H. Connor Thomas, Chair
Representative Mary Kapsner

Representative Norman Rokeberg
Senator Kim Elton
Dennis "Skip" Cook, public member
Ann Rabinowitz, public member
Marianne Stillner, public member
Herman G. Walker, public member

Member absent for the vote, but present for discussion was:

Senator Ben Stevens