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# **Alaska State Legislature**

## **Select Committee on**

### **Legislative Ethics**

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April 23, 2004

## **ADVISORY OPINION 2004-01**

RE: Use of constituent information gathered by a legislator.

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**

You have asked the following questions:

1. Can constituent information gathered by a candidate who is subsequently elected to office be used by the legislator during his or her term of office?
2. Can constituent information gathered by a legislator be used by the legislator in his or her campaign for re-election and, if so, are there any restrictions on maintaining the database using state resources?

You characterized the information referred to in the questions as:

- A. Voter information obtained from the Division of Elections for a small fee.
- B. Information obtained from public sources such as Permanent Fund recipients and corporation and business licenses databases which can be downloaded by anyone from public agency internet sites for free or for a small fee.
- C. Information gathered about individual constituents during a legislator's term, including email addresses, phone and fax numbers, and issue information.
- D. Similar constituent information as in C obtained during a candidate's campaign.

### **Discussion**

In this document

- "constituent" means a natural person residing within a legislator's district;
- "information" means contact information including name and address as well as any other information and facts known about the contact such as issues and legislation the contact is interested in;
- "database" means an organized body of related information which is in a format read by computer database programs.

1. Can constituent information gathered by a candidate who is subsequently elected to

office be used by the legislator during his or her term of office?

This question involves a legislator using, for legislative purposes, information gathered in the course of an election campaign, described in D above. This information was obtained using private resources.

There is no prohibition in the ethics code on a legislator using private resources for legislative purposes, so a legislator may use for legislative purposes information gathered during non-legislative time without the use of legislative resources.

2. Can constituent information gathered by a legislator be used by the legislator in his or her campaign for re-election and, if so, are there any restrictions on maintaining the database using state resources?

It is assumed in this answer that "information gathered by a legislator" is information collected for the legislator, described in C above, with the help of legislative staff employed to handle constituent concerns using legislative equipment. This information is being gathered for the benefit of the legislator in performing public duties. As long as the purpose is to assist the legislator in performing current legislative duties, the building and maintenance of a database containing constituent information is permitted using legislative resources. As is the case with the files maintained by a legislator's office for legislative use, a database is considered to be the confidential property of the legislator.<sup>1</sup>

There is a general prohibition against using legislative resources for non-legislative purposes:

(a) A legislator or legislative employee may not . . . (2) use public funds, facilities, equipment, services, or another government asset or resource for a nonlegislative purpose, for involvement in or support of or opposition to partisan political activity, or for the private benefit of either the legislator, legislative employee, or another person;

AS 24.60.030(a)(2). However there is an exemption for a de minimis use:

[AS 24.60.030(a)(2)] does not prohibit (A) limited use of state property and resources for personal purposes if the use does not interfere with the performance of public duties and either the cost or value related to the use is nominal or the legislator or legislative employee reimburses the state for the cost of the use;

We find that it is considered to be a de minimis use of public assets under AS 24.60.030(a)(2)(A) for a legislator to make a copy of a database created or maintained in the legislator's own office for personal or campaign use.<sup>2</sup>

In regard to voter information and other publicly available databases, the information described in A and B above, a legislator may obtain this information for legislative purposes. This information would probably be combined into the legislator's constituent database. As discussed above, a legislator can make a copy of the legislator's own database for personal or campaign purposes.

In the case of purchased databases, there may be copyright issues if a person copies a database rather than purchasing another license for separate use. If the legislator wants another copy of a commercial database, a separate license, if required, should be purchased with personal funds.

### Conclusion

For the reasons stated above, the committee finds that constituent information gathered by a candidate using private resources can be used by that person if subsequently elected to serve as a legislator, and that constituent information gathered by a legislator using legislative resources such as staff time and

equipment for legislative purposes may be copied and used for personal or campaign use by a legislator as a de minimis use of public assets under AS 24.60.030(a)(2)(A).

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  
Senator Ben Stevens  
Dennis "Skip" Cook, public member  
Ann Rabinowitz, public member  
Marianne Stillner, public member

Member present & abstained from voting because not present for entire discussion:

Herman G. Walker, public member

BRC:mdr:lmb  
04-164.mdr

<sup>1</sup> When the legislator leaves office, the files and information belong to the legislator. A legislator's files, including information such as databases on a legislator's office computers are considered confidential.

<sup>2</sup> This opinion does not condone the unauthorized copying of copyright protected information.

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# **Alaska State Legislature**

## **Select Committee on**

### **Legislative Ethics**

716 W. 4th, Suite 230 Mailing Address:  
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**August 19, 2008**

## **ADVISORY OPINION 2008-03**

### **SUBJECT: Conflict of Interest – Use of Government Resources**

RE: Use of state resources by legislative aides working for constituents.

Note: Advisory Opinion 08-03 supersedes and is contrary to Advisory Opinion 07-04 adopted on December 12, 2007.

You are a legislative employee and therefore covered by the legislative ethics code. You have requested an advisory opinion concerning facts and circumstances that you have related in connection with three examples. You have asked the committee to provide guidance, in the form of an advisory opinion, as to whether or not the aide in each example given can provide the services described in a manner that is in compliance with restrictions on the use of state resources under the Legislative Ethics Act.<sup>1</sup>

### **Statement of Facts**

Example 1. A constituent asks a legislative aide to serve as her "personal representative" before the Alaska Workers' Compensation Board. The aide understands that this duty will require acting on behalf of the constituent in the matter by communicating with the Board and the employer, creating, typing, copying and delivering motions and hearing exhibits, and attending the hearing as the constituent's advocate. The aide undertakes and accomplishes this duty, and, when transmitting documents on the constituent's behalf, uses legislative letterhead as a coversheet listing the documents transmitted, the intended recipients of the documents, and "information regarding meetings/timeframes/etc."

Example 2. On a constituent's behalf, a legislative aide uses legislative phone lines and e-mail to communicate with the Alaska's Child Support Enforcement Division and negotiate a settlement between the constituent, the Alaska CSED, and the California CSED. The settlement may net the constituent as much as \$85,000 in child support back-payments.

Example 3. A legislative aide uses legislative letterhead and e-mail to pursue an informal appeal of the Alaska Permanent Fund Division's denial of a constituent's dividend eligibility. The denial is based on the constituent's alleged failure to meet legal requirements of Alaska residency because the constituent left the state for a time to attend a religious post-secondary school. The aide convinces the division to

reverse the denial by arguing that, because the education sought was not available at Alaska schools, the break in Alaska residency does not disqualify the constituent from eligibility.

### **Discussion**

In the examples given, a hypothetical aide uses either legislative letterhead or legislative e-mail in the course of providing assistance to a constituent. In our Advisory Opinion 07-02, we concluded that an incumbent legislator may use legislative letterhead to communicate on any matter if the matter has a legislative purpose. The same is true of any "official" means of communication used by a legislator (or the legislator's aide) for a legislative purpose. An aide's use of legislative letterhead, legislative e-mail, legislative fax, or any other mode of communication identifiable on its face as legislative is permissible if it is for a legislative purpose.

AS 24.60.030(a)(2) says, in part, that a legislative employee may not

(2) use public funds, facilities, equipment, services, or another government asset or resource for a nonlegislative purpose, for involvement in or support of or opposition to partisan political activity, or for the private benefit of either the legislator, legislative employee, or another person;

The committee notes that, while "legislative action" is defined in AS 24.60.990, "nonlegislative purpose" is not defined. Its opposite, "legislative purpose," is not defined either. The committee concludes that legislative purpose has a broader meaning than "legislative action" that could include the provision of services for constituents with problems dealing with government agencies.

The Legislative Ethics Act refers to constituent services twice in AS 24.60.030.

AS 24.60.030(e)(2) says a legislator may not directly, or by authorizing another to act on the legislator's behalf,

(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;

AS 24.60.030(i) implies that the practice of using legislative resources to resolve constituents' problems in forums outside of the legislature is permitted by the Act. <sup>2</sup> AS 24.60.030(i) states:

(i) Except for supplying information requested by the hearing officer or the individual, board, or commission with authority to make the final decision in the case, or when responding to contacts initiated by the hearing officer or the individual, board, or commission with authority to make the final decision in the case, a legislator or legislative employee may not attempt to influence the outcome of an administrative hearing by directly or indirectly contacting or attempting to contact the hearing officer assigned to the hearing or the individual, board, or commission with authority to make the final decision in the case unless the

(1) contact is made in the presence of all parties to the hearing or the parties' representatives and the contact is made a part of the record; or

(2) fact and substance of the contact is promptly disclosed by the legislator or legislative employee to all parties to the hearing and the contact is made a part of the record.

We also note that the practice of using legislative resources to assist constituents with problems with

government agencies is not a requirement of legislative office, but is the choice of individual legislators.

Our intent is not to interfere with a legislator's method of performing constituent services but to provide guidelines with regard to the use of government resources for the private benefit of a person. Legislative offices are one of the viable and necessary avenues by which Alaskans can access state government to obtain or improve service for themselves.

For purposes of this opinion, the committee defines "performing constituent service" as assisting constituents in navigating state bureaucracy and developing a communication line between the state agency and the constituent. The legislative intent in performing constituent service is threefold; to move the constituent's concerns forward, to make sure everyone involved knows what they need to know and to urge the government agency to take timely action. Constituents often do not know about laws, rules or regulations governing a particular agency or it may be they just do not accept the relevant parameters.

The fact that state agency personnel are aware legislative offices are looking over their shoulders is positive. Occasionally, engaging in a constituent problem brings to light shortcomings in a law or regulation. A legislator may ask for a formal legislative review of the law or regulation or may introduce legislation to correct or clarify a statute. This type of action provides a benefit to the public in general.

But where do you draw the line when performing constituent services and the use of public resources?

The use of public resources to provide help to constituents dealing with government agencies is not prohibited under AS 24.60.030(a)(2) as a nonlegislative purpose. However, that same paragraph prohibits the use of public resources "for the private benefit of either the legislator, legislative employee, or another person . . . ."

This opinion will focus on two areas. First, there is a difference between performing constituent services as defined above and advocating for a constituent's private interest. Legislators and staff must never cross the line and involve themselves in advocating a constituent's private interest. "Advocate" is defined in Webster's New World Dictionary to mean; a person who pleads another's cause, a person who speaks or writes in support of something, or to be in favor of.<sup>3</sup> In that regard, legislative aides should not enter into ongoing litigation or administrative processes regardless of professional certification or expertise. The Act does not prohibit a legislative aide from performing these activities on personal time.

In Example 1 of this opinion, the legislative aide served as the "personal representative" for a constituent before the Worker's Compensation Board; in Example 2, the legislative aide negotiated a settlement with the Alaska Child Support Enforcement Division and an outside state agency; and in Example 3, the legislative aide pursued an appeal for a constituent and convinced a state division to repeal the denial.

All these examples fall within the realm of constituent advocacy and provide a private benefit to the constituent. The private benefit referred to does not mean the outcome is favorable to the constituent such as the award of back child support or the successful resolution of a law suit resulting in a monetary award. The amount of time spent on a constituent issue also does not factor into private benefit. The amount of time may depend on the area of the state where the constituent lives and the level of services available. This factor alone could add to the number of hours working on a constituent issue.

The private benefit received by a constituent in these examples is the free representation before the Workers Compensation Board, the free services of a negotiator on a child enforcement issue and the free services in appealing a denial. All these services are customarily performed on a fee basis.

Further, in Example 1, legislative letterhead was used to pursue an informal appeal for a constituent before the Worker's Compensation Board. Advocating a constituent's position with the use of legislative letterhead, a state resource, is also not a permitted use of state resources. In this instance,

there is an appearance of impropriety in that the legislator is attempting to influence the outcome of an issue with a government agency to be in favor of the constituent. AS 24.60.010 states, ". . . 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; . . . . "

Secondly, state resources should not be used for activities such as obtaining records from a medical doctor, picking up records from a facility, creating and typing reports or listings of items requested by a state agency, to name a few. This type of preparation work is the responsibility of the constituent. State resources used for these activities would constitute a private benefit. Further, allowing these activities to be performed with the use of state resources would open the door to equal access of state resources for all individuals. As stated earlier, the role of legislative staff is to be the conduit between the constituent and the government agency. Keep in mind, a legislative aide is certainly not prohibited from providing assistance to a constituent if a roadblock occurs, for example, obtaining requested documents.

### **Conclusion**

It is an established legislative practice to use legislative aides, as part of regular duties, to provide assistance to constituents on issues with government agencies. This creates a rebuttable presumption that an aide who does so is performing a service that has a legislative purpose. Providing assistance to constituents as defined in this opinion does not provide a private benefit to the constituent. The volume of public resources that may be expended to provide constituent assistance is not considered to be a private benefit. The volume of public resources expended is dependent upon the facts of the particular case. Performing constituent services does not include advocating for the constituent's private interest and/or preparation work to present the issue to the government agency. It is understood that a constituent may receive a private benefit such as a monetary award for a favorable solution to an issue which in and of itself is not considered a private benefit under AS 24.60.030. -

Adopted by the Select Committee on Legislative Ethics on August 19, 2008.

A unanimous vote of the Committee.

Members present and concurring with this opinion were:

Herman G. Walker, Jr., Chair  
 Senator Gary Stevens  
 Senator Con Bunde  
 Representative Bob Roses  
 Representative Berta Gardner  
 Dennis (Skip) Cook, public member  
 Ann Rabinowitz, public member  
 H. Conner Thomas, public member  
 Gary J. Turner, public member

Drafted by: Ethics Staff

DCW:lmb  
 08-208.lmb

<sup>1</sup> This opinion treats the three examples given as hypothetical, and, as requested, reviews them only for compliance with Legislative Ethics Act provisions relating to the use of state resources. Other laws may apply. For example, a person may not engage in the practice of law in the state unless the person is a

licensed and active member of the Alaska Bar. AS 08.08.210. There is no special exception from this prohibition for constituent advocacy by a legislator or legislative aide. The unauthorized practice of law is a misdemeanor. AS 08.08.230. The "practice of law," as defined in Alaska Bar Rule 63, includes:

(b) either (i) representing another before a court or governmental body which is operating in its adjudicative capacity, including the submission of pleadings, or (ii) for compensation, providing advice or preparing documents for another which affect legal rights or duties.

<sup>2</sup> Advisory Opinion 05-01, legislative contacts with administrative decision makers, further clarifies the prohibitions and requirements of AS 24.60.030(i).

<sup>3</sup> Webster's New World Dictionary of the American Language, 1968, pages 20-21.

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## Alaska State Legislature

### Select Committee on Legislative Ethics

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May 27, 2010

### ADVISORY OPINION 10-01

#### **SUBJECT: Conflict of Interest – Use of State Resources**

RE: Conflict of Interest – State Paid Travel and Collateral Campaign Activities

Note: This advisory opinion was rescinded at the June 14, 2010 Ethics Committee meeting. Refer to the August 19, 2008 letter to the Alaska Public Offices Commission for guidance in this area. (The letter is attached as an addendum to this opinion.)

This opinion was initiated by the Select Committee on Legislative Ethics.

#### **Question Presented**

In an August 19, 2008 letter to the Alaska Public Offices Commission, this Committee held that a legislator who travels on legislative business using state resources may not engage in political campaigning or other partisan political party activities during the trip. In reaching this decision, the Committee examined the restrictions imposed upon legislators under AS 24.60.030(a)(2)<sup>1</sup> and 24.60.030(a)(5)<sup>2</sup>, as well as the legislative purposes set out in AS 24.60.010. The committee, at their February 17, 2010 meeting, asked for a review of this position.

#### **Discussion**

While we note the prohibitions in the statute above, we also believe that a practical solution exists which ensures compliance with the statutes, provides a practical solution to the issue presented, and incorporates other provisions of AS 24.60 to ensure compliance. In short, we believe that the nature of the business rather than whether it is paid for with state resources should be the governing standard in determining whether an ethical violation has occurred. A statement signed by a legislator designating the primary nature and purpose of the business rather than whether it is paid for by state resources should suffice to govern whether or not collateral activities can or cannot occur. Violations or false statements made in this designation can be enforced pursuant to AS 24.60.030(3)<sup>3</sup>. If a legislator gives as his or her primary or sole purpose for taking the trip as engaging in political campaigning or partisan political activity, then he or she would not be entitled to state paid travel expenses. On the other hand, if the legislator gives as his or her primary purpose traveling to and from the Legislative session, visiting constituents, or engaging in other legislative business, then they should not be barred from engaging in

other incidental activities like political campaigning or partisan political activity during the trip. While this requires reliance on the “honor system,” legislators are held to similar standards in soliciting, accepting or receiving gifts.<sup>4</sup>

As has been explained to us, this issue arises primarily in the context of travel by legislators and how it affects different legislators from around the state in different ways. Some legislators are not required to use any state funds to travel to and from the session or to service their constituents. Other legislators use state funds to travel back and forth to Juneau for the session and/or to meet with their constituents.

Issues have arisen about whether it is appropriate to engage in other types of activities when State funds have been used to pay for travel expenses in ether context.

Previous discussions have cited AS 24.60.030(a)(2) and (5) for the proposition that if any travel expenses are paid by the State of Alaska to cover or reimburse travel costs, it is a violation of the ethics statute to engage in any activities which are characterized as political campaigning or other partisan political activity. These arguments are based upon the specific language in the statute and also on the limited exceptions set out in the accompanying statutory language<sup>5</sup>. While facially sound, this argument creates significant differences in how different legislators must conduct their affairs in the performance of their duties. For example, all out of town legislators who are compensated for traveling to and from their home towns to Juneau at the beginning of the session would never be able to engage in political campaigning or other partisan political activity before the session began or after it expired. Arguably, a violation could also be alleged if a legislator returned home at the state expense and promptly engaged in political campaigning or other partisan political activity. Neither of these scenarios is faced by legislators who incur no travel costs for attending the Legislative session in Juneau. Additionally, many legislators’ representation districts are vast in size and require significant travel expenses in order to properly represent their constituents. If a legislator accepts state money to pay for travel costs to visit his or her constituents, they cannot then engage in any activities characterized as political campaigning or other partisan political activity during the trip. Again, this is not an issue for legislators who do not have to incur travel costs to visit their constituents.

We believe this argument blurs the distinction between direct costs and indirect costs associated with travel by legislators. Another way to look at indirect costs is that they are incidental costs.<sup>6</sup> Because of the nature of the expense, travel costs can either be a direct or indirect expense of a particular endeavor. If a legislator incurs travel expenses for the sole purpose of engaging in non-legislative purposes, or partisan political activity, or for his or her private benefit, then use of state funds to facilitate those activities would not be appropriate or permitted. But when a legislator engages in multiple activities – legitimate legislative business and other activities which may have specific prohibitions in statute – while traveling, it is the primary purpose of the trip that dictates when state funds can be used to cover travel expenses. The tenor of AS 24.60.030 is to preclude direct use of public funds for non-legislative purposes and it is not clear that travel expenses for mixed activities was intended to be prohibited. The primary harm that this subsection prevents is the use of state resources for the direct purpose of political campaigning or partisan political party activity.

Additionally, this argument ignores the prohibitory language found in AS 24.60.030(a)(3). This statute makes it an ethical violation for a legislator or legislative employee to “...make a false statement in connection with a request, or application for compensation, reimbursement, or travel allowance from public funds.” Legislators are currently required to fill out a pre authorization travel form naming their purpose for engaging in the proposed travel.<sup>7</sup> This “statement” could be challenged or evaluated in light of the legislator’s actual activities at a later time. Certainly, if a legislator made a false statement in this context, he or she would be in violation of AS 24.60.030(a)(3). These statements are a part of the public record and can and may be scrutinized by citizens who could file a complaint based upon the actual

activities of the legislator. This Committee would then be called upon to make a determination of whether a violation has occurred under AS 24.60.170.

This opinion is consistent with committee decisions addressing similar issues. For instance, in Advisory Opinion 96-05, a legislator requested an advisory opinion about whether it is appropriate to accept payment for the costs of a trip on which the legislator conducted both legislative business and personal business. The Select Committee issued the following opinion:

The ethics committee cannot comment on whether you have complied with legislative policy with regard to travel and per diem allowances.

Legislative Council is the body which sets those policies, and which is, together with the House and Senate leadership and the chair of legislative committees, responsible for interpreting and implementing that policy.

The ethics committee notes that in approving a request for travel funds, the individual entrusted with approval authority is responsible for reviewing the purpose of the proposed trip and determining that the use of travel money is a valid use of public funds.

Id., at p. 1. The opinion goes on to state:

It is permissible under the legislative ethics code for a legislator to accept state payment for the costs of a trip on which he or she conducted governmental business. As noted above, the committee does not have authority, in the context of advisory opinions, to use its judgment in lieu of a legislator's judgment in determining what is necessary state business or how much state business is necessary to justify accepting state payment for a trip.

The committee also cautions that if a legislator or legislative employee were to intentionally use a facade of legislative business to obtain a government-paid trip but were to fail to conduct any governmental business to justify governmental payment, the committee might well find a violation of AS 24.60.030(a)(2).

Id., at p. 2.

### **Conclusion**

In short, the enforcement provisions under AS 24.60.030(a)(3) provide sufficient protection against improper use of state funds for transportation costs.<sup>8</sup>

Adopted by the Select Committee on Legislative Ethics on May 27, 2010.

Members present and concurring in this opinion were:

Senator John Coghill

Senator Gary Stevens (via teleconference)

Representative Les Gara (alternate member)

Representative Craig Johnson (alternate member)

Antoinette "Toni" Mallott

Members dissenting from this opinion were:

H. Conner Thomas, Chair  
Gary J. Turner, public member  
Dennis "Skip" Cook, public member

Member absent:

Herman G. Walker, Jr., public member

BRC:jma

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## Alaska State Legislature

### Select Committee on Legislative Ethics

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August 19, 2008

Holly Hill, Executive Director  
Alaska Public Offices Commission  
2221 East Northern Lights, Rom 128  
Anchorage AK 99508-4149

Ms. Hill:

The Select Committee on Legislative Ethics (Committee) is writing in regard to a request (from the former executive director, Brooke Miles) for input concerning regulations to be drafted by the Alaska Public Offices Commission in 2008 on the subject of paid state travel and collateral campaign activity.

Review and discussion of Advisory Opinion 06-03-CD issued by the Alaska Public Offices Commission on October 31, 2006 occurred at four committee meetings; December 12, 2007, January 16, 2008, May 12, 2008, and August 19, 2008.

The Committee looked at the restrictions imposed by AS 24.60, the Legislative Ethics Act, on a legislator or legislative employee who while traveling on legislative business using legislative resources engages in political campaigning or other partisan political activity.

A legislative resource, including money provided by the legislature to cover or reimburse costs incurred by a legislator or legislative employee while traveling on legislative business, is a government asset or

resource. A government asset or resource may not be used by a legislator or legislative employee for involvement in or support of or opposition to partisan political activity. AS 24.60.030(a)(2). More specifically, a legislator or legislative employee may not use or authorize the use of a government asset or resource for the purpose of political fund raising or campaigning. AS 24.60.030(a)(5). (Partisan political activity, political fund raising and campaigning are herein referred to as "partisan political activity.")

The legislature may wish to revisit the absolute restriction in AS 24.60 in view of the vast difference between urban and rural areas in our state. Legislative districts vary greatly in the land mass encompassing a district. Both cost and time expended to visit areas within a district also vary greatly. Travel for a matter of legislative concern or for partisan political activity can be quite costly and time consuming. The extreme example of traveling to a remote area of the state for legislative business and then returning to the legislator's home base and again traveling to the same area for partisan political activity was discussed.

Based on these factors, the Committee looked at de minimis use of state resources as a possible solution. However, de minimis use of a legislative resource for partisan political activity is prohibited under AS 24.60. To allow de minimis use of state resources for partisan political activity would require a legislative change in AS 24.60. Currently the only exception for de minimis use of state resources is for personal reasons if there is no cost to the state or the cost is promptly reimbursed.

If the legislature adopted an exception to AS 24.60.030 to permit partisan political activity that required the legislator to reimburse the state for pro-rated costs of such activity then the use might be considered de minimis. A legislator or legislative employee could then attend an event, for example, that had the overtones of being campaign related or was actually campaign related while on a legislative business trip if the primary purpose of the trip was for a matter of legislative concern. Committee members very strongly stated that a legislative trip should not be planned or scheduled around a campaign activity and further underscored no additional expenses to the state must be incurred when conducting the partisan political activities.

Under a de minimis use exception, the allocation formula allowed under Executive Branch ethics and outlined in AO 06-03-CD is the method the Committee feels is most equitable and fair. The allocation of state funds would be determined based on the percentage of time spent on state business and the percentage of time spent on partisan political activity. The percentage of time spent on a partisan political activity would be used to determine the allocated cost for reimbursement to the state.

After considerable debate, the committee determined travel to and from the legislator's home district to attend a legislative session should be exempt from the requirement of allocating costs for partisan political activity.

We hope our comments will be helpful to the Commission in preparing draft regulations on this subject. I am available to answer any questions.

Sincerely,

Herman G. Walker, Jr.  
Chair, Select Committee on Legislative Ethics

Cc: Ethics Committee Members

<sup>1</sup> In pertinent part, AS 24.60.030(a)(2) states, “A legislator or legislative employee may not ... use public funds, facilities, equipment, services, or another government asset or resource for a non-legislative purpose, for involvement in or support of or opposition to partisan political activity, or for the private benefit of the legislator, legislative employee, or another person...”

<sup>2</sup> In pertinent part, AS 24.60.030(a)(5) makes it unethical to” use or authorize the use of state funds, facilities, equipment, services, or another government asset or resource for the purpose of political fund raising or campaigning...”

<sup>3</sup> AS 24.60.030(a)(3) makes it an ethical violation for a legislator or legislative employee to “...make a false statement in connection with a request, or application for compensation, reimbursement, or travel allowance from public funds.”

<sup>4</sup> Under AS 24.60.080 only four types of gifts require disclosure. Legislators are held to the “honor system” in determining how to identify other gifts received. A gift log is no longer required by statute but recommended. *See also* AS 24.60.010 (7)“compliance with a code of ethics is an individual responsibility...”

<sup>5</sup> AS 24.60.030 has a number of noted exceptions to the general rules that state resources may not be used for partisan political activity or political campaigning. *See* AS 24.60.030(a)(2)(A)-(K), AS 24.60.030(a)(5)(A)-(E), AS 24.60.030(d) and AS 24.60.030(h).

<sup>6</sup> AS 24.60.030(h) allows incidental campaign activities during the employee’s workday while on government time. If the activity is more than incidental the employee shall take leave time. A similar analogy could be made regarding legislative travel.

<sup>7</sup> Each legislator must complete a Senate, House, Finance Committee or Legislative Council Pre Travel Authorization Form prior to travel for legislative business and a Legislative Affairs Agency Travel Claim form to request reimbursement after travel has been completed. Additionally, the Senate and House each year approve guidelines for travel and per diem for legislators. Legislative Council has also a travel and per diem policy for both legislators and legislative employees.

<sup>8</sup> The Committee recommends that the Legislature consider amending AS 24.60.030 to clarify this matter.

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