

**HOUSE BILL NO. 10**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

**BY REPRESENTATIVE GRUENBERG**

**Introduced: 1/16/13**

**Referred: State Affairs, Judiciary**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act authorizing state agencies to pay private legal fees and costs incurred by**  
2 **persons exonerated of alleged violations of the Alaska Executive Branch Ethics Act;**  
3 **allowing certain public officers and former public officers to accept state payments to**  
4 **offset private legal fees and costs related to defending against complaints under the**  
5 **Alaska Executive Branch Ethics Act; and creating certain exceptions to limitations**  
6 **under the Alaska Executive Branch Ethics Act on the use of state resources to provide**  
7 **or pay for transportation of spouses and children of the governor and the lieutenant**  
8 **governor."**

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

10 **\* Section 1.** AS 39.52.120(b) is amended to read:

11 (b) A public officer may not

12 (1) seek other employment or contracts through the use or attempted

1 use of official position;

2 (2) accept, receive, or solicit compensation for the performance of  
3 official duties or responsibilities from a person other than the state;

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

6 (4) take or withhold official action in order to affect a matter in which  
7 the public officer has a personal or financial interest;

8 (5) attempt to benefit a personal or financial interest through coercion  
9 of a subordinate or require another public officer to perform services for the private  
10 benefit of the public officer at any time; or

11 (6) use or authorize the use of state funds, facilities, equipment,  
12 services, or another government asset or resource for a partisan political purpose  
13 [PURPOSES]; this paragraph does not prohibit use of the governor's residence for  
14 meetings to discuss political strategy and does not prohibit use of state aircraft or the  
15 communications equipment in the governor's residence so long as there is no charge to  
16 the state for the use []; IN THIS PARAGRAPH, "FOR PARTISAN POLITICAL  
17 PURPOSES"

18 (A) MEANS HAVING THE INTENT TO  
19 DIFFERENTIALLY BENEFIT OR HARM A

20 (i) CANDIDATE OR POTENTIAL CANDIDATE  
21 FOR ELECTIVE OFFICE; OR

22 (ii) POLITICAL PARTY OR GROUP;

23 (B) BUT DOES NOT INCLUDE HAVING THE INTENT TO  
24 BENEFIT THE PUBLIC INTEREST AT LARGE THROUGH THE  
25 NORMAL PERFORMANCE OF OFFICIAL DUTIES].

26 \* **Sec. 2.** AS 39.52.120(f) is amended to read:

27 (f) Use of state aircraft for a partisan political purpose [PURPOSES] is  
28 permitted under (b) of this section only when the use is collateral or incidental to the  
29 normal performance of official duties and does not exceed 10 percent of the total of  
30 the use of the aircraft for official purposes and partisan political purposes, combined,  
31 on a single trip. A public officer who authorizes or makes any partisan political use of

1 a state aircraft under (b) of this section shall disclose the authorization and use under  
 2 AS 39.52.210 or 39.52.220 for each trip, and the person who uses the aircraft shall  
 3 reimburse the state for the proportionate share of the actual cost of the use.

4 \* **Sec. 3.** AS 39.52.120 is amended by adding new subsections to read:

5 (g) Notwithstanding (a) and (b)(1) - (5) of this section, state resources may be  
 6 used to transport or pay the cost of transporting a person who is the spouse or child of  
 7 the governor or lieutenant governor to an event. This subsection authorizes  
 8 transportation or payment of the cost of transportation of a person who is a child of the  
 9 governor or lieutenant governor if the person is a biological child, an adoptive child,  
 10 or a stepchild of the governor or lieutenant governor and is under 19 years of age or,  
 11 without regard to age, is dependent on the governor or lieutenant governor for care  
 12 because of a physical or mental disability. Under this subsection, use of state resources  
 13 is permitted if the event does not have a partisan political purpose and

14 (1) the person is transported with the governor or lieutenant governor  
 15 and the state is reimbursed for the actual cost or, if the actual cost is not reasonably  
 16 calculable, the fair market value of the person's transportation; or

17 (2) the person's attendance is a benefit to the state; under this  
 18 paragraph, a benefit to the state is presumed when

19 (A) the person's attendance at the event is required for official  
 20 action of the state;

21 (B) the event is state-sponsored and the person's attendance has  
 22 been customary at similar events;

23 (C) the person is attending as an officially designated  
 24 representative of the state; or

25 (D) the person is invited by the sponsor of the event before the  
 26 transportation occurs, the event is related to issues important to the state, the  
 27 governor or lieutenant governor attends, and

28 (i) the event is a family-oriented or youth-oriented event  
 29 at which the person's attendance is particularly appropriate; or

30 (ii) the invitation and the person's attendance have been  
 31 customary for similar events.

1 (h) In this section, "partisan political purpose"

2 (1) means a purpose intended differentially to benefit or harm a

3 (A) candidate or potential candidate for elective office; or

4 (B) political party or group;

5 (2) does not include a purpose intended to benefit the public interest at  
6 large through the normal performance of official duties.

7 \* **Sec. 4.** AS 39.52 is amended by adding a new section to article 5 to read:

8 **Sec. 39.52.470. Legal fees and costs.** (a) Notwithstanding AS 39.52.120, a  
9 state agency may pay the fees and costs of private legal representation that are  
10 incurred by a person who is a public officer or former public officer while defending  
11 against a complaint initiated or filed under AS 39.52.310 concerning conduct by the  
12 person during a period when the person was serving or employed as a public officer, if  
13 the person has been exonerated. When a complaint has alleged more than one  
14 violation against a public officer or former public officer, payments may be  
15 apportioned by alleged violation.

16 (b) A payment made under this section must be from funds that have been  
17 appropriated to a state agency and that may lawfully be used for the payment.

18 (c) Notwithstanding AS 39.52.120, a public officer or former public officer  
19 who is the subject of a complaint may accept a payment under (a) of this section.

20 (d) A public officer may not act for the state in the matter of a payment under  
21 this section if the payment is to the public officer or an immediate family member of  
22 the public officer.

23 (e) In this section,

24 (1) "exonerated" means that an allegation of a violation of this chapter  
25 has, without corrective action under AS 39.52.330, been

26 (A) dismissed under AS 39.52.310(d), 39.52.320, or  
27 39.52.370(d);

28 (B) dismissed after an appeal under AS 39.52.370(f); or

29 (C) resolved solely with a recommendation for preventive  
30 action under AS 39.52.330;

31 (2) "fees and costs of private legal representation" means reasonable

1 fees and related costs of legal representation that are necessarily incurred in defense  
2 against the allegations in the complaint and may include fees for services customarily  
3 performed by an attorney but delegated to and performed by a person working under  
4 the supervision of an attorney licensed to practice in the state.

5 \* **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to  
6 read:

7 **APPLICABILITY.** AS 39.52.470, enacted by sec. 4 of this Act, applies only to  
8 complaints under AS 39.52.310 - 39.52.390 that are initiated or filed on or after the effective  
9 date of this Act.