

# Alaska State Legislature

## Select Committee on Legislative Ethics

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**Ethics Committee Meeting**  
**Monday, January 25, 2016, 8:30 a.m.**  
House State Affairs Committee Room,  
State Capitol, Room 106, Juneau  
(Meeting will be teleconferenced – call 1-844-586-9085)

### **FULL COMMITTEE: Open Session**

(+) indicates background material in packet

1. CALL THE MEETING TO ORDER
2. WELCOME NEW PUBLIC MEMBERS
3. APPROVAL OF AGENDA
4. APPROVAL OF MINUTES
  - a. September 29, 2015 Full Committee (+)
  - b. September 29, 2015 Senate Subcommittee (+)
  - c. September 29, 2015 House Subcommittee (+)
  - d. November 12, 2015 AO Subcommittee (+)
5. PUBLIC COMMENT
6. ELECTION OF NEW 2016 COMMITTEE CHAIRS  
(Due to changes in membership)
7. CHAIR/STAFF REPORT
  - a. Informal Advice Staff Report (+)
  - b. Update: Public Member Committee Appointments (+)
  - c. 2016 Ethics Training – AS 24.60.150(a)(3) and (4)
    - i. Update 2016 training
  - d. Ethics Disclosures (+)
    - i. Entering of handwritten disclosures
    - ii. Updating the disclosures database
  - e. COGEL Conference Report (+)

- f. Update: payment for fines
- g. Statutory Publications
  - i. No Advisory Opinions published in 2015
  - ii. Standards of Conduct Handbook for 2016 will remain the same as the 2015 version.
- h. Campaign Year Oversight Activities

- 8. ANNUAL BENEFIT AND LOAN REVIEW AND DISCUSSION –
  - a. No additions or deletions to list other than those under consideration from January 2015.
  - b. Report by Rep. Vazquez and Administrator AS 24.60.050(b) (+)
- 9. BUDGET (+)
  - a. FY 16 Budget Update
  - b. FY 17 Submitted Budget Update
- 10. 2015/2016 LEGISLATION UPDATE (+)
  - a. Senator Gardner
- 11. APOC report notification under AS 24.60.220 (+)
- 12. ADVISORY OPINION 15-02 – Lunch and Learn Sessions (+)
- 13. RULES OF PROCEDURE PROPOSED CHANGES (+)
- 14. Motion to go into **EXECUTIVE SESSION** to discuss matters which by law must remain confidential.
- 15. EXECUTIVE SESSION
- 16. PUBLIC SESSION
- 17. OTHER BUSINESS
- 18. ADJOURN

ALASKA STATE LEGISLATURE  
SELECT COMMITTEE ON LEGISLATIVE ETHICS

MINUTES from September 29, 2015  
FULL COMMITTEE MEETING  
ANCHORAGE LIO AUDITORIUM

8:31:29 AM

Committee Members Present:

Skip Cook  
Janie Leask  
Gary Turner  
Conner Thomas  
Sen Stevens  
Sen Egan  
Rep Tuck  
Rep Vazquez (Joined meeting at 8:39)

Others Present:

Jerry Anderson  
Joyce Anderson  
Dan Wayne

**1. CALL THE MEETING TO ORDER**

The meeting was called to order by Chair Cook at 8:31 a.m.

**2. APPROVAL OF AGENDA:**

Motion to approve the agenda with no changes or additions by Representative Tuck. Motion passed.

**3. APPROVAL OF MINUTES:**

**a. June 16, 2105 - Full Committee**

Motion to approve with no changes or additions by Janie Leask. Motion passed.

**4. PUBLIC COMMENT:** No public comments.

**5. CHAIR STAFF REPORT**

**a. Comments from Administrator**

Administrator Jerry Anderson reviewed the supplemental materials provided to committee members. He noted

that the job posting for administrative assistant was delayed for a week due to insufficiency of the generic language. An amended posting describing confidentiality requirements, possible travel to Juneau, requirement of a background check, and variable work hours was reposted.

Other supplemental materials related to the Advisory Opinions were distributed.

The committee is receiving regular payments regarding an outstanding ethics fine. It was the only outstanding fine.

#### **b. Informal Advice Staff Report**

Informal advice from the management log was presented. Mr. Anderson explained that the log was organized by categories, and that identifying information was removed. The time frame for this report was from January to April of 2015. Previous advice could be accessed on the website based on either category or date.

Mr. Anderson noted that Rep. Vazquez joined meeting. Dan Wayne was present by teleconference as well.

The members discussed specific advice from the management log.

#### **c. 2015 Ethics Training**

Mr. Anderson reported that 602 people had completed training, either in-person or online. Everyone was in compliance.

#### **d. Ethics Disclosures**

All fines were paid except Representative Gattis. Mr. Anderson will make final contact.

Member Turner asked about late disclosures from Representative Gruenberg and Senator Micciche. Mr. Anderson stated that they had been instructed regarding time frames and they had since filed late disclosures.

Close Economic Association (CEA) disclosure numbers have decreased because of the "less than \$250" advice.



## **6. BUDGET**

### **a. FY 15 Budget Recap**

FY 15 is closed out. Ten percent was not spent. Categories have changed for 2016, and are flat except for personnel.

## **7. COGEL CONFERENCE**

The 2015 COGEL conference will be in Boston, MA, December 6-9. Mr. Anderson will attend as it provides valuable education and resources. Mr. Cook encouraged members to attend if their schedules would allow.

## **8. CONTRACT REVIEW**

### **a. Brent Cole, Outside Counsel, FY 16 Contract**

The committee was asked to consider raising the rate from \$175 per hour to \$200 per hour for attorney Brent Cole. The total contract amount of \$10,000 would remain the same. Chair Cook noted that Mr. Cole's rate has always been substantially under market value.

Mr. Thomas made a motion to raise the rate to \$200 and approve the FY 2016 contract. There were no objections and the motion passed by a unanimous vote.

### **b. Monique Rapuzzi, Investigator, FY 16 Contract**

No requested changes on the contract. A motion was made by Rep. Tuck to approve the FY 16 contract. Motion passed by a unanimous vote.

## **9. ADVISORY OPINION 15-02 - Lunch & Learn Presentations**

Mr. Anderson stated that AO 15-02 was requested by the Chair, and that confidentiality was previously waived. Supplemental materials contained AO 13-04 as a reference. Dan Wayne from Legislative Legal presented the draft advisory opinion.

Mr. Wayne noted there were two questions to be answered. (1) Does the opportunity for a person other than a legislator, to provide a free meal to legislators and legislative staff at a lunch and learn event relating to a matter of legislative concern in a state facility, create the appearance of a conflict of interest?

(2) Does the event presenter get a private benefit by providing a lunch presentation at a lunch and learn event?

#### **DISCUSSION OF AO 15-02**

Members discussed the terms "legislative purpose" vs. "legislative concern."

The members discussed private benefit in conjunction with legislative purpose or concern.

Mr. Wayne said he would list out the 3 prohibitions in AS 24.60.030(a)(2) more clearly, and then address each one, pointing out that it has a legislative purpose.

Chair Cook asked Mr. Wayne if he had enough information to work on redrafting the Opinion. Mr. Wayne replied yes, verifying that he would add sentences about publicity focusing on topics rather than a particular business, and work on the 'legislative purpose' or 'legislative concern' issues.

Chair Cook asked Mr. Wayne to take into account that there is a concern that the emphasis be on matters of legislative concern rather than the food.

#### **10. ADVISORY OPINION SUBCOMMITTEE UPDATE**

Member Leask stated that the AO Subcommittee consisted of Senator Stevens, Representative Tuck, Gary Turner, and herself. Two separate meetings had been held. There were a number of conversations between Jerry Anderson, Joyce Anderson and herself, which resulted in materials provided to the committee. This particular advisory opinion would be discussed in executive session. The committee had been provided with a number of comments by members of the AO subcommittee, which would also be taken into consideration when meeting in executive session. It was also reviewed by legislative legal, Dan Wayne, who added comments as well.

#### **11. MOTION TO GO INTO EXECUTIVE SESSION**

Motion was made by Representative Tuck to go into Executive Session to discuss items which by law must

remain confidential. No objections. The committee went into Executive Session at 10:09 a.m.

**12. EXECUTIVE SESSION**

The Committee returned to public session at 12:11 a.m.

**13. OTHER BUSINESS**

**a. Public Member Herman Walker**

Chair Cook announced that Public Member Herman Walker submitted his resignation due to his appointment as a Superior Court Judge. He was not able to join the meeting, but they desired to wish him well and to thank him for his service on the committee. Chair Cook also noted that the current committee alternate indicated that she did not wish to continue serving, or serve as Mr. Walker's replacement. It was noted that the Chief Justice would be asked to appoint both a permanent member and an alternate.

**b. Next Meeting**

A discussion regarding the next meeting date was held, and it was determined that several items needed to be discussed. The special AO Subcommittee agreed to hold a meeting prior to the end of the year. The full committee was scheduled to meet on January 25-26, 2016, in Juneau.

**c. Administrator's Evaluation**

Member Turner stated that Mr. Anderson was due to have an evaluation. Chair Cook determined that Member Leask, Ms. Anderson, Mr. Turner, and he would write the evaluation and that he would present it to Mr. Anderson in a timely manner.

- 14. Adjourn:** Member Thomas moved to adjourn the meeting. No objections. The meeting was adjourned at 12:33 pm.

12:33:34 PM

**ALASKA STATE LEGISLATURE  
SELECT COMMITTEE ON LEGISLATIVE ETHICS**

**MINUTES from September 29, 2015  
SENATE SUBCOMMITTEE  
ANCHORAGE LIO AUDITORIUM**

**Members Present:**

Skip Cook  
Conner Thomas  
Janie Leask  
Senator Stevens  
Senator Egan

**Others Present:**

Jerry Anderson

**1. CALL THE MEETING TO ORDER:**

Chair called the meeting order at 12:40 pm.

**2. APPROVAL OF AGENDA**

Motion to approve the agenda by Janie Leask. No objections. Motion passed.

**3. PUBLIC COMMENT:** No public comment.

**4. Motion to Go into EXECUTIVE SESSION - To Discuss Matters Which by Law Must Remain Confidential.**

Motion made by Member Thomas. No objections. Motion passed. The committee went into Executive Session at 12:45 p.m.

**5. EXECUTIVE SESSION**

**6. PUBLIC SESSION**

The Committee returned to public session at 1:23 p.m.

**7. ADJOURN**

Move to adjourn by Senator Stevens. No objections. Meeting adjourned at 1:25 pm.

ALASKA STATE LEGISLATURE  
SELECT COMMITTEE ON LEGISLATIVE ETHICS

MINUTES from September 29, 2015  
HOUSE SUBCOMMITTEE  
ANCHORAGE LIO AUDITORIUM

Committee Members Present:

Janie Leask  
Skip Cook  
Conner Thomas  
Representative Tuck  
Representative Vazquez

Others Present:

Jerry Anderson

**1. CALL THE MEETING TO ORDER:**

Chair Leask called the meeting to order at 1:37 p.m.

**2. APPROVAL OF AGENDA**

Motion to approve the agenda without changes or additions by Conner Thomas. Motion passed.

**3. PUBLIC COMMENT:** No public comment.

**4. Motion to Go into EXECUTIVE SESSION** to Discuss Matters Which by Law Must Remain Confidential.

Motion by Skip Cook. Motion passed. Committee entered Executive Session at 1:38 p.m.

**5. EXECUTIVE SESSION**

**6. PUBLIC SESSION**

The Committee returned to public session at 1:58 p.m. Representative Tuck noted that page 2 of the Rules of Procedure provided instructions for the dismissal of frivolous complaints.

Chair Leask asked for a vote to accept the recommendations of staff. Representative Tuck moved. Motion passed with a unanimous vote.

Next meeting to be held January 25-26, 2016.

**7. ADJOURN**

Motion to adjourn by Conner Thomas. Meeting adjourned at 2:01 pm.

**ALASKA STATE LEGISLATURE  
SELECT COMMITTEE ON LEGISLATIVE ETHICS**

**MINUTES from November 12, 2015  
AO 15-01 SUBCOMMITTEE MEETING  
ANCHORAGE LIO AUDITORIUM (Telephonic)**

Members Present:

Janie Leask  
Skip Cook  
Gary Turner  
Conner Thomas  
Senator Stevens  
Representative Tuck  
Representative Vazquez

Others Present:

Jerry Anderson  
Janice Stewart  
Dan Wayne

**1. CALL THE MEETING TO ORDER:**

Chair Janie Leask called the meeting to order at 1:06 pm.

**2. APPROVAL OF AGENDA:**

Motion to approve the agenda by Senator Stevens. No objections. Motion passed.

**3. PUBLIC COMMENT:** No public comment.

**4. Motion to go into EXECUTIVE SESSION** to discuss matters which by law must remain confidential.

Motion made by Senator Stevens. No objections. Committee went into Executive Session at 1:11 p.m.

**5. EXECUTIVE SESSION**

6. Members returned to PUBLIC SESSION at 3:12 p.m.

**7. ADJOURN:**

Representative Tuck motioned to adjourn the meeting. No objections. Meeting adjourned at 3:13 p.m.

# **ETHICS COMMITTEE MEETING**

**January 25, 2016**

**ITEM 6: Election of New 2016 Committee  
Chairs**

# **ETHICS COMMITTEE MEETING**

**January 25, 2016**

## **ITEM 7: CHAIR/STAFF REPORT**



# **ETHICS COMMITTEE MEETING**

**January 25, 2016**

## **ITEM 7a: Informal Advice Staff Report**

**STAFF REPORT  
SELECT COMMITTEE ON LEGISLATIVE ETHICS**

**May 1, 2015 through Dec 31, 2015**

Staff provides informal advice, under AS 24.60.158. Those requesting advice are told the advice, while given in good faith, is not binding on the committee unless the advice has been issued through the formal advisory opinion process. Requesters are told they may seek formal, binding advice by submitting a written request. The committee is asked to review the advice given and notify staff if any member has questions or disagrees with the advice. This report includes advice the committee may not have reviewed in the past; it does not represent all inquiries.

**BOARDS & COMMISSIONS - AS 24.60.030(f)**

**Do I as a legislative employee use the nomination date or the date of actual service on a board when filing an ethics disclosure for service on a board or commission? Is service on an advisory board a required disclosure?**

The statutory language for disclosure on a board or commission is "who serves." This implies the date of service and not the mere nomination which may be declined. You should use the date of service for filing this disclosure. A legislative employee serving on an advisory board must make a disclosure under AS 24.60.030(f). AO 13-02 includes the following definition: "board of an organization," means a group of persons having managerial, supervisory, investigatory, or advisory powers over an administrative and functional structure, such as a business, or over a group of people united for a common purpose, such as an association or society. Under this definition service on an advisory board requires disclosure.

**I as a legislative employee have previously disclosed service on a board or commission under AS 24.60.030(f). Do I have a disclosure requirement on travel and related expenses for attending a meeting of the board or commission?**

The answer is no disclosure is required for your expenses attending a board meeting paid for by the organization.

**Do I, as a legislative employee, need to disclose membership in an advisory group for a non-profit?**

Yes, see definition of "Board of an Organization" in AO 13-02, a group of persons having managerial, supervisory, investigatory or advisory powers over an administrative or functional structure.... You should file a disclosure based upon your membership in this advisory group for the non-profit.

**May a legislative employee serve on the board of a non-profit organization who receives money from the state?**

Yes, a legislative employee may serve on a non-profit organization regardless if the organization receives state money. It is possible a conflict of interest may exist regarding a particular activity the employee is required or asked to perform. Please contact the Ethics Office if this should occur.

**As a legislator do I need to file a disclosure for each year when I find out that I have inadvertently not properly disclosed service on a board of an organization for multiple years?**

A disclosure must be filed for each year of service on a board or commission under AS 24.60.030(f). You should file a separate disclosure for each calendar year of service on the board.

**I, as a legislative staffer, began my service on an ad hoc school related organization board. Do I need to disclose this service and do I use today as the appropriate start date as today is the first day I will be attending a meeting?**

You have asked whether you as a legislative staffer have to disclose service on a local school organization board. You have stated it is an ad hoc board position. This service must be disclosed under AS 24.60.030(f). This statute makes no distinction between profit and non-profit organizations. You have additionally asked if today's date is appropriate since this is your first meeting as a board member for this board. The disclosure language uses the word "serves." Given this statutory language and the fact that your service on this board begins today – September 2, 2015 - this is the appropriate date to show as the first date of service on this local school organization board.

**You have asked whether you as a legislative staffer may serve on a municipal board or commission or if there is a restriction on such service?**

There is only a restriction on service in a position that is subject to confirmation by the legislature under AS 24.60.030(f). You are therefore not restricted from such service on a municipal board or commission. There is a requirement of disclosure of such service however under the same statute.

**You as a legislative staffer have asked if a disclosure is necessary because of your role as treasurer for a non-profit organization. You have additionally stated that this position serves as part of the board of directors.**

A disclosure is required for this service. AS 24.60.030(f) makes no distinction between a non-profit organization and a for profit organization in the disclosure requirement.

**As a legislative staffer do I put an end date on a disclosure for service on a board or commission if known? Specifically the board I am serving on has elections every December.**

The disclosure for service on a board or commission should include the end date if known. If you serve for a one year period then you should show the beginning date, in this case December 2015 and the ending date in December 2016. The board or commission disclosure requires both an initial disclosure in 2015 as well as an annual disclosure in 2016 due no later than February 18, 2016. If you were to be re-elected to the board in December 2016 then you would also file another in December 2016 upon your re-election.

**May I as a legislative designee work on APOC campaign reports on a state computer on nongovernment time?**

Yes, because you have been designated as the legislator designee to assist with the electronic filing you can work on a state computer to file APOC campaign reports on nongovernment time. The committee determined at the June 14, 2012 meeting that electronic filing of a campaign report does not constitute campaigning, political fund-raising or involvement or support of partisan political activity prohibited by AS 24.60.030(a)(2) and (a)(5). As a practice tip the legislative designee should take care to perform this activity out of the public eye as it has the appearance of campaign activity.

**May I as a staffer for a legislator work on APOC campaign reports for my legislator?**

You as a staffer may work on a state computer on nongovernment time to complete APOC campaign reports if you have been designated as a "legislator designee" to file such reports by the legislator. The Committee determined at the June 14, 2012 meeting that electronic filing of a campaign report does not constitute campaigning, political fund-raising or involvement or support of partisan political activity prohibited by AS 24.60.030(a)(2) and (a)(5). As a practice tip the legislative designee should take care to perform this activity out of the public eye as it has the appearance of campaign activity. The June 14, 2012 definition of a legislative designee is "someone designated by the legislator."

**May a legislative employee file a letter of intent or become a candidate for the legislature while a state employee?**

No. See APOC v David Scott APOC Complaint 11-16-CD, AS 39.25.160 and AS 24.60.033 prohibitions on a legislative employee becoming a candidate for the legislature while a legislative employee.

**Does a candidate for state office who is not a current legislator have any ethical concerns under AS 24.60 for campaign material?**

AS 24.60 does not extend to a candidate for state office who is not currently serving as a legislator in this situation. Referred this member of the public to the Alaska Public Office Commission for further review of campaign question.

CLOSE ECONOMIC ASSOCIATION (CEA) - AS 24.60.070

**A legislator borrowed a car from another legislator for 4 1/2 days for legislative business. Is a disclosure required?**

Determined a legislator borrowed a car from another legislator for 4 1/2 days to travel in the community for legislative business and subsequently put gas into the car. The legislator estimated the value of the use of the car was approximately \$180. The legislator filed a CEA. No other type of disclosure is required. Since the value of the use of the car was less than \$250, a CEA was not required but the legislator wanted to file the disclosure.

**Is a CEA required if a legislative employee works on a legislator's campaign outside of government time and without the use of state resources for no pay?**

Informed the employee no CEA is required for volunteer work on a legislator's campaign when there is no financial relationship. If that scenario were to change and the employee would receive compensation down the road, a CEA may be required if the dollar amount is \$250 or more. The CEA would be required within 30 days of the receipt of payment.

**As a legislative staffer when do I need to file a close economic association? Do I have to file a close economic association disclosure for volunteer work?**

You have asked as a legislative staffer when is a close economic association disclosure (CEA) required. A disclosure is required when you have a substantial financial interest (defined by the Committee as being \$250 or more) with a legislative supervisor, a legislator, a public official under AS 39.50, or a registered lobbyist under AS 24.60.070(a). You have also asked if a CEA disclosure is required for volunteer work. No CEA disclosure is required for volunteer work unless subsequent payment is tendered for the volunteer services and meets the \$250 or more threshold.

**As a legislative staffer what is the amount when a close economic association is to be disclosed and where can I find the form for disclosure?**

The close economic association must be valued at \$250.00 or more and the link for disclosure is at <http://ethics.akleg.gov/disclosures.php>.

**How do I as a legislative staffer disclose a close economic association between myself and my legislator with a single transaction involving a business I operate outside of my legislative position and involving the sale of a durable good to the legislator in excess of \$250.00.? This transaction is at fair market value with no discount.**

Walked the legislative staffer through the steps to disclose on Ethics website <http://ethics.akleg.gov/disclosures.php>. The legislator should also file a CEA using their credentials for this transaction.

**CONFLICT OF INTEREST - AS 24.60.030**

**May I as a legislator attend an election night celebration for a non-partisan race while on state paid travel?**

A legislator should not be involved in partisan or campaign activities such as fundraising under AS 24.60.030(a)(2)(b) and (b). The race in question here is a non-partisan race and no fundraising activity is taking place. Subsection (b) of the statute refers to assisting in candidate activities, campaigning or fundraising. You in this instance are not involved in the preparation for the election night celebration or other campaign activities. After the polls have closed the campaign for office is essentially over. You attending this election night event is not in violation of either of these statute subsections and is permissible under the Ethics Act.

**May I as a legislator attend a birthday party for a well known political figure when I am on state paid travel?**

The answer to this question may depend on whether partisan or campaign related activities are associated with the event in question. If the invitation includes mention of campaign fundraising or other campaign or partisan activities then a legislator should not attend as this would be using state funds for such activity and is prohibited under AS 24.60.030(a)(2) and (b).

**May a legislator personally testify at review hearings related to a proposed medical facility in the legislator's district?**

You have asked whether a legislator may personally testify at review hearings related to a proposed medical facility in the legislator's district. This involves a statewide review of need for a facility of the type proposed in the district. The legislator has no personal financial stake in the project and will not financially profit from the establishment of the facility. The fact that the owner of the proposed property site contributed in the past to the legislator's election campaign does not make this an ethical concern issue. The legislator does not have a substantial interest here in a legislative, administrative or political action based on the AS 24.60.990(b) definition. This does not present any ethical issues on personal testimony by the legislator at a public hearing on this issue. The legislator can testify both in a private capacity as a person within the area of the facility and as a legislator as to the benefit for the legislative district. You should be aware of the term "administrative hearing" under AS 24.60.030(j) and as it is used in subsection (i) of that statute. The hearing you have described is not an administrative hearing as it is a review hearing under that definition.

**Does a legislator have a conflict of interest if the subject matter before the legislator, as chair of a standing committee of the legislature, directly relates to the legislator's spouse employment and actions taken by the spouse in connection to the case but not directly related to the specific matter before the committee?**

The legislator pointed out there is no 'financial interest' any longer as the issue the spouse was working on was closed. However, based on the facts presented to the administrator, the appearance of a conflict of interest was great. Suggested the co-chair of the standing committee take the appropriate action in the matter to avoid a connection that had the potential of a high appearance of a conflict of interest.

**Received a call about a hypothetical scenario and a possible conflict of interest concerning introducing legislation and the legislator receiving a substantial personal benefit from the legislation, if passed.**

Went over AO 04-02 and AO 07-01 with the caller. Both address legislation and possible conflict of interest issues on the part of the legislator. Introducing the suggested legislation would substantially benefit the legislator more so than a class of persons to which the legislator belongs and appears to directly be a conflict of interest and in violation of AS 24.60.030(g). In AO 04-01, the committee determined the introduction of legislation is voluntary. In AO 07-01, the committee requested a legislator to withdraw the legislation s/he introduced because of a conflict of interest. The legislator may certainly request an AO for additional information and clarification.

**Do I as a legislator have a conflict of interest with the purchase of stock of a publicly traded oil company operating in Alaska based upon a discussion with a stock broker at a market price?**

The purchase of publicly traded oil company stock at a market price does not present an Ethics Act conflict of interest where you are basing your decision on a discussion not involving insider or confidential information gained as a result of your service as a legislator, but rather on a review with a financial advisor as to the merits of the investment. In this case you have no particular advantage as a result of your service as a legislator and no current conflict of interest is present.

**May I as a legislator use a portion of my legislative office account to pool money with other legislators for expenditures related to caucus purposes?**

You have asked whether it is ethical to use a portion of your office account funds to contribute to a pot of money for caucus purposes. This intended use of money is different from most expenditures from an office account in that the ultimate use for the funds is unknown at the time of contribution to the pot of money. From an Ethics Act perspective this has the risk that the funds may not be ultimately spent in a manner consistent with the provisions and restrictions in the Ethics Act. You have stated the subsequent expenditure of funds that have been pooled would be for expenditures that would be consistent with the broad definition standard of reasonably related to an individual legislator's service in office but an individual legislator would have no control over the funds once pooled together with other office account funds. This risk of violation of the Ethics Act by such an expenditure with pooled funds may be very low but could be outside the control of a legislator pooling a portion of available office account funds. Additionally tracking such funds with related expenditures is more difficult with a pooling of the funds. Working with the accounting office to ensure compliance with their processes and to maximize the transparency of the transactions is suggested to avoid even the appearance of impropriety if you pursue this course of action.

**You have asked as a legislative staffer if there are any ethics issue(s) with a former legislative employee continuing access to their email account.**

This may be problematic if a private benefit or use is afforded a former employee by the use of such email account under AS 24.60.030(a)(2). A supervisor or legislator of a former legislative employee may have an ethical issue depending on what, if any, legislative purpose is being served by such continued access to a state asset and what use is being made of that email account asset as well as any specific arrangements for such use. It is not uncommon to continue the access to email of a former employee account by a different continuing legislative employee or if the former employee continues under a contract for further services. The situation you have described is not the normal situation. Internal policies restrict the type of access you are requesting advice about. The committee has no formal advisory opinions on this specific issue for guidance in this matter.

**Is it ethical as a legislative staffer to continue to provide requested information to a constituent after that constituent has stated he or she "intends to use that information in a campaign?"**

There is no provision for specific constituent requests for information under the Ethics Act as such services by a legislative office are largely discretionary. The practical answer may be to provide the information answer(s) to such an inquiry in the general format of similar responses to other constituents but there is no specific statutory or committee guidance for such a situation. There is a prohibition on various campaign activities under the Ethics Act in AS 24.60.030(a)(1), (2) and (5). These prohibited activities however do not extend to the provision of information otherwise available to constituents for non-campaign purposes. In this case the legislative staffer is not campaigning or engaged in partisan political activity but merely providing in essence, public records, reports, or information. There is no prohibition on release of such information by a legislative office.

**May a legislative office help a constituent with an issue with the Social Security Administration when the constituent is an immediate family member of the staff person who is handling constituent complaints in the legislator's office?**

Determined there would be no conflict of interest in this situation. The staff person would work on the constituent issue similar to working on other constituent issues in the office. There was to be no personal benefit to the staff person regarding the issue with the immediate family member. Suggested if any concerns come up while working on the issue, contact the Ethics Office for additional advice.

**You as a legislative staffer have asked for advice regarding a business owned by a constituent which is involved in eminent domain real estate proceedings with an executive branch state agency. You are requesting the extent of constituent assistance, if any, that can be provided through your legislative office.**

Constituent assistance is a process that is not defined in statute and therefore is not subject to concise interpretation. Generally, constituent assistance is used to help a constituent navigate the state bureaucracy and fully explore and access their options. It can also serve as a way of opening a communication line between the state agency and the constituent. Neither of these general processes appear to be in play in the situation as outlined in the email you have forwarded to me. The dispute appears to be one of contract interpretation and remedies which are being fully accessed by the constituent but not to the constituent's current satisfaction. Matters of legislative concern are very broad ranging and constituent services outside the normal processes I have outlined are not necessarily unethical. Caution is urged in this situation to avoid even the appearance of a conflict of interest by the perception of using state resources for the private benefit of a person under AS 24.60.030(a)(2) as alluded to in your email. Becoming an advocate for the constituent should also be avoided in this process but a phone call to request the current status of this situation may be a discretionary option for your office to see if some allowable constituent assistance is possible.



**You as a staffer have asked on behalf of the legislator you work for whether there is a conflict of interest or other ethical concern in the following situation. Your office has been asked to provide constituent assistance in a matter where it was determined that the legislator was related to an adverse party in a civil or administrative setting. Upon determining this relationship your office referred the constituent to another legislative office who also represents the constituent. Subsequently the constituent again requested constituent assistance from your office expressing a preference for your legislator and you have asked for advice based on this situation.**

The providing of constituent assistance is a discretionary function although a widespread practice among legislative offices. Under the legislative findings in AS 24.60.010 legislators are encouraged to promote fair and open government by avoiding conflicts of interest or even the appearance of a conflict of interest. The decision to not extend constituent assistance from your office to a situation where an adverse party is related to the legislator is one involving discretionary decision-making by the legislator but is supported by this aspirational statutory goal. The choice not to proceed with constituent assistance based upon ethical concerns is therefore supported by the Ethics Act. Ultimately the closeness of the familial relationship is only one factor in this analysis. Potential perceptions of a conflict may turn upon or change based upon whether such assistance is successful and is problematic in such situations.

**CONTRACTS/LEASES - AS 24.60.040 & BENEFITS/LOANS - AS 24.60.050(c)**

**Do I as a legislative employee need to disclose my guarantee of a loan in which my husband is the borrower which is on the list of state benefit and loan programs in Appendix C of the handbook?**

Yes. This should be disclosed under AS 24.60.050 and AS 24.60.105. Your guarantee comes under the definition of "participates" using the statutory language of AS 24.60.050. You can file this disclosure electronically using the link at the Legislative Ethics website.

**DISCLOSURES - GENERAL QUESTIONS - AS 24.60.105, AS 24.60.115, AS 24.60.260**

**Does a former House page need to file a legislative ethics disclosure if the person is now working for a state agency?**

No disclosures are required for former legislative employees. If a matter occurred during the term of service as a legislative employee that required disclosure, then a disclosure must be filed within 90 days of leaving service. This was not the case.

**Are new disclosures required if an employee moves from working directly for the legislature to one of the agencies under the legislative umbrella?**

No. The employee is still considered an employee working for the legislative branch of government. The employee had filed board disclosures. They were still applicable. Informed the employee board disclosures would be due in January as they are yearly disclosures.

**Are there any restrictions that prohibit a former legislator from accepting a contract with the legislature?**

Determined the legislator left office in January 2014. The Act does not prohibit the activity described. Specifically, AS 24.60.020(a)(1) limits the sections of the Act applicable to a former legislator.

**Do I need to disclose a services contract with an executive branch department terminated prior to my employment as a legislative agency employee?**

No. The provisions related to disclosure under AS 24.60.040 require current participation in a state contract or lease by a legislator, legislative employee or family member.

**Do I have to file a disclosure for volunteer service work I perform at a nonprofit? It consists of 1 or 2 hours every 2 weeks.**

There is no requirement to disclose volunteer work either in a for profit or nonprofit situation. The general provisions of the Ethics Act such as those related to conflicts of interest under AS 24.60.030 and confidential information under AS 24.60.060 as examples should be observed while performing such work.

**You have asked whether you need to disclose to the ethics office the payment of money you received while a legislative employee for services provided prior to your employment as a legislative employee.**

The answer is no disclosure is required. This analysis is based upon the facts presented as one of payment for personal services at the value for these services and is therefore well within the restrictions under AS 24.60.085 [which prohibits accepting compensation for personal services that is significantly greater than the value of the services].

**You as a legislator have requested advice about representing a personal friend in a redevelopment real estate matter. The real estate matter has the same subject matter as a matter you worked on and were previously involved with as a legislator and as a legislative matter in your district. You wish to make contact with a redevelopment person whom you first became aware of as part of your earlier legislative concern matter. You have requested whether it is ethical to now contact this redevelopment person to represent and assist your friend in a personal capacity.**

It is ethical to represent your friend in a personal capacity in the redevelopment matter as long as both your friend and the redevelopment person are aware that you are representing your friend in a personal capacity and not as a legislator. You should also avoid the use of any legislative resources including staff in the representation of your friend. This would avoid even the appearance of impropriety and any potential violation under AS 24.60.030(a)(2) which prohibits using legislative resources for the private benefit of another person. You should also ensure that there is no tie between the two redevelopment projects or one project affecting the outcome of the other.

**Do I as a staffer have a conflict of interest in providing an information service to the public, legislators and lobbyists outside my working hours as a legislative staffer?**

This employment may have a conflict of interest under the Ethics Act depending on the specific provisions of your intended service. Based upon my conversation with you there are many provisions of the Ethics Act which may impact your intended business. You have stated that you do not intend to provide any confidential information that would violate AS 24.60.060. You have also stated that you do not intend to use state resources in violation of AS 24.60.030(a)(2) for the private benefit of yourself or another person. You have stated that you do not intend to receive compensation that is significantly greater than the value of the services in violation of AS 24.60.085. You have stated that you do not intend to receive any form of a gift from a lobbyist under AS 24.60.080. You have also stated that you intend to file a close economic association under AS 24.60.070 for any financial matter of \$250 or more involving a lobbyist or legislator. Other specific provisions of the Ethics Act may also be implicated depending on the business activities you intend to pursue. You should contact the Ethics Office if you have other specific activities you intend to pursue.

**You have asked as a legislative staffer whether there is an ethics issue with your intended participation in a paid focus group involving national political issues outside of your normal working hours. You have also stated that the stated pay is within a normal range of compensation for the work performed.**

Based on this limited set of facts there is no ethics issue under the Ethics Act or disclosure required with the Ethics Office.

**GIFTS - AS 24.60.075, AS 24.60.080**

**Is it permissible for a private company to give charitable event ticket to legislators valued at \$175?**

Yes. Gifts to legislators from a person who is not a lobbyist are limited to \$250 per year. In this instance no other gifts have been given by this person to any legislator and the amount falls under the restricted amount of less than \$250 in AS 24.60.030(a)(1). As a side note this event is not a charitable event sanctioned by the Legislative Council but this fact is not relevant to this analysis.

**Is it permissible for a legislator to have a person from a state department to look at a tree in the legislator's yard to determine if it is diseased?**

The activity would be considered a service and one not offered to the general public. The value may be less than \$250 but the activity has the appearance of receiving a gift due to legislative status. The legislator was leaning in this direction but wanted additional guidance from the Ethics Office.

**Is a disclosure required if a legislator received a \$50 ticket to attend the annual Resource Development Council luncheon?**

No. The value of the gift is less than \$250 which is the reporting threshold. No other gifts were received from the RDC this year.

**May a legislator accept a gift from a private company of \$100 to use as a registration fee for a golf tournament?**

A legislator may accept a gift of valued at \$250 or less from someone other than a lobbyist, an immediate family member of a lobbyist or someone representing a lobbyist. The gift of \$100 may be used for registration at a golf tournament. Suggested the legislative office inform the private company to contact APOC for any requirements or restrictions at their end.

**May a legislator accept a gift of a book valued at \$15 and if so, is a disclosure required?**

A legislator may accept a book valued at \$15 and no disclosure is required since the value of the book is less than \$250. However, suggested the office include the entry on the office gift log; name, item, value and date received.

**A legislative employee is getting married and asked questions concerning the receipt of wedding gifts.**

A legislative employee does not need to disclose any wedding gifts received from immediate family members. The receipt of gifts from immediate family members are exempt from reporting requirements under AS 24.60.080(c). Immediate family is defined in AS 24.60.080(c)(5) to mean the spouse of the person; the person's domestic partner; a child, including a stepchild and an adopted child, of the person or the person's domestic partner; a parent, sibling grandparent, aunt, or uncle of the person, the person's spouse or domestic partner; and a stepparent, stepsister, stepbrother, step-grandparent, step-aunt, or step-uncle of the person, the person's spouse or domestic partner.

Gifts received from other than immediate family members may require disclosure if the value of the gift is \$250 or more within 60 days of receipt of the gift. For purposes of this discussion, we will assume the gifts received from legislative staff do not fall in this category. Therefore, no disclosure would be required. If the value limit is reach on any other gifts, a disclosure would be required. The disclosure is confidential and not published in the Legislative Journal.

Legislative employees are prohibited from receiving any gifts from a lobbyist, an immediate family member of a lobbyist, or a person acting on behalf of a lobbyist, with a few exceptions. AS 24.60.080(a)(2). One of the exceptions, AS 24.60.080(a)(2)(C), allows you to receive a gift that is unconnected with your status as a legislative employee and is from a member of your immediate family. Receiving a wedding gift would be unconnected to your status as a legislative employee and would be permitted. Again, if the value of the gift is \$250 or more, a confidential disclosure would be required within 60 days of receipt of the gift. Immediate family in this section is defined to mean the spouse or domestic partner of the person; or a parent, child, including a stepchild and an adopted child, and sibling of the person if the parent, child or sibling resides with the person, is financially dependent on the person, or shares a substantial financial interest with the person. AS 24.60.990(a)(6).

**On behalf of my legislator may a legislator accept a gift of a ticket from a lobbyist to a 26 USC 501(c)(3) organization awards event which is not a sanctioned charitable event under AS 24.60.080(a)(2)(B)?**

No. If the event is not a sanctioned charitable event then it is prohibited under the general provisions of AS 24.60.080(a)(2) which prohibits accepting or receiving such a gift from a lobbyist.

**As a legislative staffer on behalf of your legislator you have asked whether a disclosure is required for 2 passes received as a gift from the Alaska School Activities Association valued at \$100 total for the 2 passes (or \$50 each).**

No disclosure is required for this gift of \$100. A legislator may not accept a gift \$250 or more under AS 24.60.080(a)(1) unless it falls under the many exceptions in the other sections of that statute. No disclosure is necessary for this \$100 gift but we advise your legislative office to keep a log of all gifts.

**As a legislative staffer I am asking on behalf of my legislator if (s)he can accept a gift of 2 annual passes from the Alaska School Activities Association?**

I believe after discussion that the passes would have a fair market value of \$50 each, a total of \$100. This valuation is based upon my discussion with Billy Strickland, Executive Director of ASAA and review of the pass policy which values the passes at the same rate. This would alleviate any concern about exceeding the \$250 limit as a prohibited gift under AS 24.60.080(a)(1).

**As a legislative staffer on behalf of my legislator, is a disclosure required for a gift of annual passes received from the Alaska School Activities Association?**

No disclosure is required for these tickets valued at \$50 each or a total gift of \$100 for 2 passes. Our recommendation is that a log of all gifts be kept so the prohibition against receiving gift(s) from a person totaling \$250 or more is not violated.

**You have asked as a legislative staffer whether there are ethical issues related to the transfer of a "junker" car from the legislator you work for to you. You have stated that this intended transfer is connected to your legislative status and not based on a prior long term friendship or familial relationship, as examples.**

AS 24.60.080(a)(1) prohibits a legislative employee from receiving a gift worth \$250 or more in a calendar year. Exceptions include a gift that is not connected with the recipient's legislative status. Based on your facts this is not applicable as the gift is tentatively being offered because of your position with the legislator. A transfer of the vehicle would also place it outside the exception of a gift of transportation under AS 24.60.080(c)(9).

If the vehicle is gifted then the value of the gift should be determined by the fair market value of the gift. The fair market value may be a range of values such as those found in commercial guides to vehicle values and depend on the condition of the actual vehicle at the time of the transfer, mileage on the vehicle, and age of the vehicle among many other potential items. If the value is over \$250 you may not accept the gift. See AO 03-02.

**You as a legislative staffer have asked on behalf of your legislator if there are any ethical concerns about the gift of a meal at the legislator's home given for an auction with proceeds to a charitable organization. The legislator is also not receiving any value in return for this gift of a meal at the legislator's home according to your facts. It also involves no campaigning activity associated with the gift. You additionally have asked whether it makes any difference if a family member of the legislator works at the charitable organization which will receive the auction proceeds from the gift.**

The Ethics Act has a large statutory section on gifts (AS 24.60.080). Your situation, however, involves the gifting of something of value to the charity as opposed to the receipt of a gift by the legislator which is the concern of this statutory section. This statutory section therefore has no relevance to this gift. There are no ethical concerns under AS 24.60 based on your facts. It makes no difference if a family member of the legislator works at the charitable organization which will receive the auction proceeds from the gift. This does not change the conclusion that there are no ethical concerns under your stated facts.

**You have asked as a legislator whether you are able to accept tickets for you and your spouse to a religious related organization non-sanctioned charitable event?**

You have asked as a legislator whether you are able to accept tickets for you and your spouse to a religious related organization charitable event. This event has not been sanctioned as a charitable event by the Legislative Council and the potential donor is not a lobbyist. You have stated that this potential gift of tickets is probably related to your status as a legislator. This means that the exception of not being connected with your legislator status under AS 24.60.080(c)(6) is not applicable to this potential gift. As a general rule a legislator may not accept or receive a gift of \$250.00 or more UNLESS one of the many exceptions in this statute is applicable. One of the exceptions is AS 24.60.080(c)(10) which allows a legislator to accept a ticket if it meets the definition of "charitable event" which includes sanctioning by the Legislative Council. This is not the case for this potential gift of tickets.

**As a legislative staffer what is a pre-approved charitable event?**

A charitable event may become sanctioned by the Legislative Council. The list of sanctioned events is on our website and emailed to all legislative staff employees as approved. This sanctioning process allows a legislator or legislative employee to receive a ticket to such an event. This is found at AS 24.60.080. The list of sanctioned charitable events is found at these links:

- a. <http://intranet.akleg.gov/misc/sanctioned.php> and
- b. <http://ethics.akleg.gov/documents/sanctioning.pdf>

**You have asked as a legislative staffer on behalf of your legislator whether a disclosure is required for hospitality received by a legislator at a birthday celebration for a foreign dignity in Alaska.**

No disclosure is required for a social meal or event and this activity is specifically permissible under AS 24.60.080(c)(1)(b).

**You have asked as a legislative employee whether you are able to accept an incidental gift from a non-lobbyist of a small fruit basket of oranges as a holiday gift.**

This gift is permissible under the Ethics Act and no disclosure is required for this gift of nominal value. The best practice however is to log all gifts including an incidental gift like this in your records.

**May I as a legislator use a legislative staffer on government time to prepare documents and perform other work on a potential ballot initiative issue?**

No, see AO 97-02. This activity must be done without the use of state resources, including the use of legislative staff while on government time.

**As a legislator do I have any ethical concern with co-hosting a community event in the nature of a town hall event with a local official?**

There are no ethical concerns with you as a legislator co-hosting with a local official a community event in the nature of a town hall event or with a joint attendance at such a community event as long as it does not involve a campaign related effort or fundraising event from either the legislator or local official and as long as it is reasonably related to the legislator serving in office. The listing of both names on the communication(s) would also not raise an ethical issue.

**What are the parameters for a legislator and legislative staff on helping a non-profit organization with their annual fund raising drive?**

The legislative office has been helping in various ways for the last eight years with this fund raising drive. This office has responded with detailed memos in the past on what activities are permitted and what activities are prohibited. Copies of those emails were sent to the legislator. Basically, the emails stated, "activities such as organizing and facilitating an event by legislative staff are not permitted activities under the Legislative Ethics Act. Providing ideas to the group and helping to promote the event, are activities permitted under AS 24.60.030(a)(2)(I) and AO 12-02, with limitations." The legislator also was asking about another non-profit fund raising event that would be occurring in the legislator's district. The same conditions applied.

**May a legislator purchase a political party voter database that contains vote history and use the database for a legislative purpose?**

Yes, this question has been answered previously. It is permissible to purchase and use a political party voter database for a legislative purpose which contains information on voters in the legislator's district. The legislator was going to use his office allowance account. The only caution with this scenario is that a legislator may not send out a legislative mailing to only constituents of one political party. This type of mailing would be considered to be a political party mailing and in violation of AS 24.60.030(a)(2) and (a)(5).

**May a legislator use his office allowance account to purchase a portable sign to use at events and public gatherings?**

Determined the legislator would use the sign when attending constituent events and local events where there would be a booth, for instance, for legislative purposes. The sign would contain the wording; Alaska State Legislature, state seal and legislator's name and contact information. The sign would be 2 feet long and nine inches high. The use of office allowance account funds is permitted since the sign has a legislative purpose. Cautioned the legislator that the sign could not be used for any activity connected to political campaigning or fundraising.

**May I as a legislator use my legislative office account to provide flowers to a family member of a person who has assisted the legislator's office with legislation? Can I subsequently reimburse this expense with my own funds?**

The general broad use of the office account is for expenses reasonably related to service in office. The expense you have described appears to be in that broad definition of the proper use of an office account. These questions do not involve an ethics question under AS 24.60 directly. No impropriety under the Ethics Act is present in the expenditure or intended reimbursement. This involves an accounting office procedure for the reimbursement of an expenditure from personal funds that should be addressed to the accounting office.

**You have asked on behalf of a legislator whether there is an ethical issue with a "door prize" drawing at a constituent meeting with the prize being a trip to Juneau and with a meeting there with the legislator. The person whose name is randomly drawn from those attending the constituent meeting would receive this prize. The drawing and prize details would be included in a printed mailing to all constituents with the stated goal to increase attendance at the constituent meeting. The expense for the prize would come from the office allowance account of the legislator.**

The broad definition of allowable expenses from the office allowance account is "reasonably related to service in office." The idea of a drawing with a prize to increase the legislator's interaction with constituents appears to be reasonably related to service in office. This use of legislative resources is not designed to provide a private benefit to a specific person but rather provides an equal and random chance to a large class of persons, that being the constituents of the legislator. This would appear to be in the same nature as refreshments and snacks provided at a constituent meeting which are an inducement to come and meet with a legislator. There appear to be no ethical issues under AS 24.60 with the offering and advertisement of such a prize and drawing.

#### GOVERNMENT/ETHICS AGENCIES

**I, as a legislator, am involved in audit findings for an executive branch agency. I also have a potential administrative matter before that executive branch agency. Is it a conflict of interest or ethical issue for me to release the audit findings for that agency upon public request when I have an unrelated administrative quasi-judicial matter pending before that agency? The audit report findings are now determined to be final and no further direct action or change is expected on those findings.**

The action you have described and have been requested to do is a regularly performed administrative task not normally considered discretionary. Your release of the audit matter is a purely administrative matter and is unlikely to influence the administrative matter before the agency. The release could not be determined based on the facts you have presented to lead to a private benefit or to be viewed as retribution against that agency. Your concern for the perception of the two situations occurring within the same time period is recognized as a prudent action. Following the normal process is likely the best course concerning the release of the audit materials.

#### **Who administers and is in charge of Executive Branch Ethics?**

The Department of Law, specifically headed by Jonathan Woodman, administers the Executive Branch Ethics provisions.



## LEGAL SERVICES - AS 24.60.080(c)(8)

**You have asked as a legislator whether you need to file a gift disclosure for an Amicus Brief filing in a lawsuit filed under the name of a political caucus or coalition related to a matter of legislative concern if pro bono legal services are provided by an attorney. Additionally, which is the better course in filing such a brief, as an individual, or as a group?**

If you as an individual legislator become involved in a lawsuit related to a matter of legislative concern, then pro bono legal services provided by an attorney would be considered a gift under AS 24.60.080(c)(8) and it would need to be disclosed. This is also discussed in AO 98-01. Note that such a gift with a value of \$250.00 or more would be required to be disclosed under AS 24.60.080(d) within 30 days of the gift. Note that gift filings were submitted in 2008 for a number of legislators since they entered a lawsuit in their individual capacities in Rep. Keller v. Sen. French et .al. in that year.

If, on the other hand, a request for an Amicus brief filing is brought in the name of a group, association, or organization then the individual legislators are not receiving an individual gift of attorney services subject to disclosure under the Ethics Act AS 24.60.080.

The "better course" decision is not an ethics office determination. The disclosure(s) that may need to be filed are dependent on how representation is obtained for the legal services provided.

## LEGISLATIVE COMMUNICATIONS - AS 24.60.030

**May I and fellow legislators privately fund an ad or ads on Facebook or other media regarding the special session issues?**

There are no ethical concerns with privately funded free speech communications such as you have suggested.

**May I as a legislator include instructions on how to register to vote as part of a congratulatory message to recent high school graduates?**

Yes, there is no ethical issue with such a communication as long as it does not include any campaign related or party suggestive language in the communication or recommendation on how to vote on certain issues or candidates.

**As a legislative staffer for a legislator may our office use Every Door Direct Mailing (EDDM) by the post office for our legislative newsletter?**

The use of Every Door Direct Mailing (EDDM) by a legislative office was the subject of advisory opinion AO 13-03. In that opinion the committee stated that if more than a limited number outside the district (non-constituents) newsletters are distributed using the service it is problematic. No exact number or percentage is given in that opinion or in a related complaint H 12-04. These resources should be your guide when deciding whether it is permissible to use the EDDM service.

**Is a legislative office limited in the number of legislative constituent newsletters that can be sent out of the district to nonconstituents using a service such as Every Door Direct Mail (EDDM) service from the US Postal system or through contacts in a legislative database?**

The answer is no more than a limited number of a legislative newsletter may be sent to non-constituents using EDDM (Every Door Direct Mail) service or other means. A formula has not been set by statute or the ethics committee to determine "no more than a limited number." See AO 13-03 for more discussion on this topic.

**Is there a restriction on the use by a legislator of a database of people within the legislative district which is purchased from a private company?**

There is no restriction on the use of a database of constituents within a legislative district by a legislator. A legislator may use constituent information gathered from public sources, private sources such as that contemplated by your question, and a legislator's campaign database to enhance a legislative constituent database. Advisory Opinion AO 13-03 and complaint H12-04 contain discussions of the limitations on the distribution of newsletters using a database which contains non-constituents. A person who is not a constituent may opt-in to receive newsletters from a legislative office.

**May a legislator write a letter of recommendation for the son of a constituent to be considered for a scholarship for a summer activity program?**

Yes. Additionally, the legislator knows the person well as s/he had done lots of volunteer work in the community. The scholarship was to be based on youth recognition for service to the community. The scholarship was for a considerable amount. Suggested the amount not be include in the recommendation.

**May a legislator target a specific group of people to distribute a legislative newsletter?**

Yes, as long as the group is not from one political party. Suggested groups; super voters, pro-life voters, or issue groups.

**Received a request to review a legislator's newsletter.**

Recommended language referencing a family business be removed, even though the name of the business was not stated, as the mention of the family business could be an 'implied' endorsement of a for-profit business. The legislator's business was well know in the district and, even without the name of the business, constituents would know the what and where of the business. AO 11-02 stated, "General praise of a for-profit business or its commercial products or services in a legislative newsletter is an implied endorsement. An endorsement of a for-profit business or its commercial products or services in a legislative newsletter, explicit or implied, is prohibited by AS 24.60.030(a)(2)."

**I, as a legislator, intend to use a long quote from a large corporation in a constituent newsletter with proper attribution. Is this okay?**

You as a legislator have asked whether it is okay to use a rather long quote in a constituent newsletter. You have stated the specific quote is from a publicly traded corporation ad. You have stated that you intend to give proper attribution to the source of the material and your intent is not to give any sort of benefit to the original large publicly traded corporation by this use. The quote does not promote the Corporation in any appreciable manner, does not mention their corporate name, and would not provide any private benefit to the specific Corporation by using a few lines of what is essentially a philosophy of lifestyle or mindset based upon your reading to me of the quote over the telephone. I see no ethics issue under AS 24.60. There are a few issues outside of the scope of the Ethics Act you may wish to consider. I have suggested that proper attribution by having your staff check the source using internet resources would be prudent and proper. This appears to be a "fair use" of quote issue but you may also wish to have your staff check to see if this material has trademark or copyright protection before your use by exploring the use(s) by the Corporation or others. This may affect the private benefit analysis I have stated in this email if someone has sought such legal protection and you subsequently use that quote.

**You have asked whether the legislator you work for may use state resources to file a Victim Impact Statement in a specific criminal case.**

The Victim Impact Statement that you are contemplating may involve ethics section AS 24.60.030(a)(2) including the exception under (a)(2)(A) as indicated in your facts. The motivation of the Legislator in writing such a Victim Impact Statement may be of greatest importance in such a situation. If it is written in a constituent assistance context or situation then it may be okay. There is also a limited use personal purposes exception in that statute section. These items counter the "personal benefit" that may flow to another person or family members from such a statement written by a prominent political figure under the general prohibition in AS 24.60.030(a)(2).

If the Victim Impact Statement is written to influence still developing state policy or to further state policy as written in recently enacted legislation then it has legislative purpose by the legislator and it does not go to primarily providing a private benefit.

This situation may also be a matter of a separation of powers analysis of the Alaska Court System and Alaska Legislature, a calculation and judgment beyond the scope the Ethics Act administered by the Committee and the Administrator.

**You as a legislator have asked whether there are any ethical concerns under AS 24.60 with a contemplated public service announcement (PSA) concerning a current survey on your legislative website. The survey concerns economic and fiscal issues within the state and matters of great legislative concern. As the ethics administrator I have reviewed this website and linked survey online in conjunction with and as part of my telephone conversation with you. Upon review, the survey is totally unrelated to any sort of campaigning or other prohibited use of state resources under the Ethics Act. The PSA would be designed to introduce people to the existence of the survey and encourage participation in the survey regarding matters of legislative concern.**

Based on this review there are no ethical concerns under AS 24.60 regarding the drafting or dissemination of the described PSA related to the survey on your website.

**You have asked as a legislative staffer on behalf of your legislator whether there is an ethical issue under the Ethics Act in putting an article in a legislative newsletter regarding a business in your legislative district.**

AS 24.60.030(a)(2) prohibits the use of state funds, assets or resources for the private benefit of a legislator, a legislative employee, or another person. An article about a local district business in a newsletter even with a historical focus may be construed as providing a private benefit for another person of course depending on the language and context of the article. This was one of the violations found in complaint H10-01 where it was determined that state resources were used for the private benefit of a person. The link to the full decision can be found at <http://ethics.akleg.gov/documents/H%2010-01%20DECISION.pdf>.

I would therefore recommend that you not include this article in your legislative newsletter and you indeed have stated that you intend to pull this article after my telephone discussion with you.

LOBBYIST RELATED - (Also referred to APOC if appropriate)

**Is it permissible for a legislator to accept and attend a dinner invitation at the home of a lobbyist?**

Yes, the gift exception from a lobbyist of food and drink for immediate consumption applies at the home of a lobbyist and therefore a legislator may accept and attend a dinner invitation from a lobbyist under AS 24.60.080(a)(2)(A).

**What are the prohibitions regarding gifts when dating a lobbyist?**

Determined the person is a 'registered' lobbyist. No 'Close Economic Association' disclosure is required unless the relationship is in the category of 'domestic partners'. Both of you are under certain statutory requirements and prohibitions. A legislative employee may not receive a gift from a lobbyist unless it falls in one of the five exceptions listed in AS 24.60.080 (a)(2)(A) through (E). Subsection (A) allows a legislative employee to accept food or beverage for 'immediate consumption'. There is no dollar amount limit. However, under lobbyist statutes, specifically AS 24.45.051(b), a lobbyist must report to APOC any food and beverage bought for a legislative employee that is \$15 or more in value. The lobbyist should check with APOC for reporting timeframes. The legislative employee has no reporting requirement to the Ethics office. You asked about receiving gifts that 'are not related to legislative status' from a lobbyist. Subsection (C) allows a legislative employee to receive a gift from a lobbyist which is 'not related to legislative status' only if the gift is from an immediate family member. Immediate family member is defined in AS 24.60.990.(a)(6) as the spouse or domestic partner of the person; or a parent, child, including a stepchild and an adopted child, and sibling of a person if the parent, child, or sibling resides with the person, is financially dependent on the person; or share a substantial financial interest with the person. In other words, the immediate family member of a legislative employee is a registered lobbyist – example: lobbyist sibling gives a gift to their legislative employee sister who share a residence. The other subsections in AS 24.60.080(a)(2) that permit a legislative employee to receive a gift from a lobbyist are general in nature and relate to receiving a contribution to a charity event, a recognized nonpolitical charitable organization or a compassionate gift. The statutory restrictions on receiving gifts from a lobbyist are very strict. In a dating relationship with a lobbyist, the legislative employee must pay their own way except for food and beverage for immediate consumption. These restrictions place a burden on such a relationship but the legislature tightened these requirements in 2007. Suggested the employee call for additional advice as questions arise.

**May a lobbyist invite government officials to a 501(c)(3) event as part of a purchase of a table at the event? This is not a sanctioned charitable event.**

I am referring you to the Alaska Public Offices Commission which regulates lobbyists under AS 24.45. Paul Dauphinais is the Executive Director.

## MISCELLANEOUS

**Is "bullying" addressed under the Ethics Act?**

You have asked a question that is very general in nature. Specific facts concerning the incident are still being gathered according to your recitation of the facts. The issue of bullying is not directly addressed in the ethics act. You have not described a situation of discrimination under AS 24.60.039 or a whistle-blowing situation under AS 24.60.035. You have not described a situation under AS 24.60.030(a)(4). The fact situation of a legislative staffer requesting another legislative staffer from a different office to come to that legislative staffer's office and then subjecting the other legislative staffer to intense questioning about a nonlegislative blog which is critical of certain legislative actions is not addressed in the Ethics Act. What you have described as bullying is not specifically addressed under the Act.

**What are provisions in Alaska Statutes for substantial interest in conflict of interest situations?**

In a conflict of interest situation under AS 24.60.030(g) a substantial interest is defined under AS 24.60.990(b). (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. See also discussion in AO 07-01. In a close economic association situation under AS 24.60.070 the Ethics Committee has determined that it be \$250 or more as substantial. See AO 14-01 and AO 07-01 attached.

**As a legislative staffer for a legislator how long should I retain records related to ethical disclosures from this office?**

Complaint proceedings may be brought before the ethics committee for up to five years - AS 24.60.170(a). This 5 year period should be the minimum period of retention for all documents related to the Ethics Act AS 24.60 including disclosures.

**What is the proper allocation of the car expense for a legislative member of the Ethics Committee when attending various meetings over the course of a trip.**

There is no specific guidance for this question from the Ethics Act or the Rules of Procedure. Allocation based on daily rate or percentage of hours within the day for actual meeting times would appear to be and may be an appropriate method of allocation. The accounting office may offer other suggestions for the proper allocation.

**As a legislative staffer did I receive a late disclosure filing notice and assessment?**

Yes, the notice was sent to Anchorage office in error rather than the Juneau office. It was forwarded to Juneau. This was your first late filing and no fine was assessed.

**I as a member of the public would like the legislative ethics complaint form and information about filing a complaint against a legislator.**

Attached is the complaint form and links for information about the form and complaint process. <http://ethics.akleg.gov/forms/H%20complaint.pdf> and <http://ethics.akleg.gov/complaint.php>

**As a member of the public how do I file a complaint against a sitting legislator?**

A complaint under the Ethics Act can be brought under AS 24.60.170. A complaint can be initiated by any person. The complaint must be in writing and signed under oath. The complaint must allege a violation of the Ethics Act AS 24.60. The process is confidential except to the extent that the confidentiality provisions are waived by the subject of the complaint. Other detailed provisions relating to the complaint process can be found at AS 24.60.170 and the Rules of Procedure of the Committee Sections 6c and 14 - 19 inclusive.

**OPEN MEETINGS - AS 24.60.037**

**May a chair of a standing committee of the legislature informally ask committee members, via email, for approval to move forward on an issue that ultimately requires the leader of one the houses to act?**

Determined AS 24.60.037(b), open meetings, requires that any action taken by a standing committee of the legislature must be taken after the meeting is noticed and a vote is taken in a public setting. The discussion of the issue may be in executive session if the subject matter falls under one of the allowed exceptions. Action on the issue was to be taken accordingly.

**PRESS INQUIRIES**

**A member of the press requested a copy of Advisory Opinion 15-01 draft that was to be addressed by the committee at their meeting that week.**

Informed the press the AO was requested under the "confidentiality" provision of AS 24.60.160(b). The person then asked what was the subject matter of the opinion and informed the person that information was also confidential.

**A member of the press called to ask about the AO Subcommittee meeting to be held on July 22, 2015.**

Informed the person there was no public paperwork for the meeting since it was to be held in an executive session due the provisions of AS 24.60.160(b).

**As a legislator you have asked me whether there are ethical concerns about accepting hospitality while away from home on state business - specifically staying at a home of (a) a close friend, (b) a fellow legislator or (c) an executive branch employee.**

As a legislator you have asked me whether there are ethical concerns about accepting hospitality while away from home on state business - specifically staying at the home of (a) a close friend, (b) a fellow legislator or (c) an executive branch employee. There are no legislative concerns with any of these situations based upon AS 24.60.080(c)(1) and (4). Of course, this assumes that neither the homeowner(s) or their immediate family members are lobbyists. Note that lobbyists are covered by AS 24.60.080(b)(2) which is outside of the language of AS 24.60.080(c) "Notwithstanding (a)(1) of this section,..." Other than this scenario there are no ethical concerns with staying with anyone in the categories of people you have named while on state business out of town. See AO 08-04 which includes the statement that the duration of the hospitality allowed under AS 24.60.080(c)(1) is not expressly limited by the act.

**How does a legislator determine the proper allocation of expenses related to a travel and hospitality disclosure for bus travel at a fact finding industrial site?**

The allocation or determination of the appropriate expense related to a fact finding trip does not have a universal formula. The total costs of the bus travel divided by the number of passengers on that bus would however be one reasonable and appropriate way of determining the expense for disclosure purposes under AS 24.60.080(c)(4) and (d).

**A legislator is traveling to a City in the district and the municipality is supplying the use of a car. Is a disclosure required?**

No. The travel with the use of the car will only be approximately 20-30 miles. After using the state mileage rate to determine costs associated with the travel, the use of the car will not exceed the \$250 reporting threshold.

**Is a legislator required to disclose a gift of travel when visiting a local mine?**

No. The trip was valued at \$200. The legislator has the option to disclose the trip even if less than \$250. This was the legislator's first trip this year to the mine.

**Is a disclosure required if a legislator travels to the North Slope for legislative business and the trip is paid for by a state agency?**

Yes, all gifts of travel/hospitality paid for other than by the legislature must be disclosed to the Ethics Office. There are basically two areas where the public can look for travel/hospitality costs; the Ethics Office and LAA Accounting. The trip would also include lodging in Anchorage prior to the trip to the North Slope. The lodging must also be disclosed.

**Is it permissible for me as a staffer to accept a gift of travel and hospitality for an international legislative trip?**

You have stated that the purpose of the trip is to promote international business ties with Alaska which falls under the broad definition of legislative concerns. You should disclose the expenses provided for this trip in accordance with AS 24.60.080 and AS 24.60.105.

**You as a legislative staffer have asked on behalf of your legislator whether a disclosure to the ethics office is necessary for expenses paid from an office account related to a NCSL conference.**

No disclosure is necessary for the conference travel expenses paid from a legislative office account. Typical disclosures from the NCSL conference are when some of the travel and hospitality expense is picked up another party and not paid from a state account.

**Do I as a legislator have to disclose a travel gift of \$149.95 related to a matter of legislative concern?**

No. The disclosure is only required where the gift is \$250 or more. The ethics office recommends that you keep a log of all gifts in the event that additional gift(s) total \$250 or more from the same person.

**You have asked as a legislative staffer on behalf of your legislator if an ethics disclosure is required if the Legislative Council paid for the expense of your legislator attending the NCSL conference.**

The answer is no disclosure is required since no gift of travel and hospitality occurred under AS 24.60.080 as the expenses were paid for with state funds.



# **ETHICS COMMITTEE MEETING**

**January 25, 2016**

## **ITEM 7b: Public Member Committee Appointments**

# **ETHICS COMMITTEE MEETING**

**January 25, 2016**

## **ITEM 7c: Ethics Training**

# **ETHICS COMMITTEE MEETING**

**January 25, 2016**

## **ITEM 7d: Ethics Disclosures**

## Disclosures Filed: Jan 1 - Dec 31, 2015

TYPE OF DISCLOSURE	SENATE	HOUSE	JOINT	TOTALS
<b>Gifts of Travel and/or Hospitality</b>				
Legislator	46	132	0	178
Legislative Staff	21	21	3	45
Total	67	153	3	223
<b>Gifts of Travel and/or Hospitality - Family Member</b>				
Legislator	1	5	0	6
Legislative Staff	0	0	0	0
Total	1	5	0	6
<b>Gift Related to Sanctioned Charity Event</b>				
Legislator	1	1	0	2
Legislative Staff	0	0	0	0
Total	1	1	0	2
<b>Gift Related to Sanctioned Charity Event - Family Member</b>				
Legislator	1	1	0	2
Legislative Staff	0	0	0	0
Total	1	1	0	2
<b>Membership on a Board of Directors</b>				
Legislator	33	42	0	75
Legislative Staff	37	51	34	122
Total	70	93	34	197
<b>Close Economic Association</b>				
Legislator	11	29	0	40
Legislative Staff	16	17	4	37
Total	27	46	4	77
<b>Close Economic Association - Lobbyist</b>				
Legislator	0	0	0	0
Legislative Staff	2	1	1	4
Total	2	1	1	4
<b>State Contracts, Leases &amp; Grants &gt; \$5,000</b>				
Legislator	4	3	0	7
Legislative Staff	2	0	1	3
Total	6	3	1	10
<b>State Benefit &amp; Loan Programs</b>				
Legislator	0	3	0	3
Legislative Staff	0	2	5	7
Total	0	5	5	10
Total number of disclosures filed by legislators	97	216	n/a	313
Total number of disclosures filed by legislative staff	78	92	48	218
<b>GRAND TOTALS</b>	175	308	48	531

## Disclosures filed: Jan 1 - Dec 31, 2014

TYPE OF DISCLOSURE	SENATE	HOUSE	JOINT	TOTALS
<b>Gifts of Travel and/or Hospitality</b>				
Legislator	40	86	n/a	126
Legislative Staff	17	19	3	39
Total	57	105	3	165
<b>Gifts of Travel and/or Hospitality-Family Member</b>				
Legislator	7	12	n/a	19
Legislative Staff	0	0	0	0
Total	7	12	0	19
<b>Membership on a Board of Directors</b>				
Legislator	12	24	n/a	36
Legislative Staff	27	36	31	94
Total	39	60	31	130
<b>Close Economic Associaton</b>				
Legislator	18	49	n/a	67
Legislative Staff	26	36	7	69
Total	44	85	7	136
<b>State Contracts, Leases, &amp; Grants &gt; \$5,000</b>				
Legislator	2	5	n/a	7
Legislative Staff	0	1	2	3
Total	2	6	2	10
<b>State Benefit &amp; Loan Programs</b>				
Legislator	0	2	n/a	2
Legislative Staff	0	2	6	8
Total	0	4	6	10
Total number of disclosures filed by legislators	79	178	n/a	257
Total number of disclosures filed by legislative staff	70	94	49	213
<b>GRAND TOTALS</b>	<b>149</b>	<b>272</b>	<b>49</b>	<b>470</b>

## Disclosures Filed: 2012 - 2015

TYPE OF DISCLOSURE	2012	2013	2014	2015
<b>Gifts of Travel and/or Hospitality</b>				
Legislator	171	215	126	178
Legislative Staff		95	39	45
Total	171	310	165	223
<b>Gifts of Travel and/or Hospitality - Family Member</b>				
Legislator		13	19	6
Legislative Staff		0	0	0
Total		13	0	6
<b>Gift Related to Sanctioned Charity Event</b>				
Legislator				2
Legislative Staff				0
Total				2
<b>Gift Related to Sanctioned Charity Event - Family Member</b>				
Legislator				2
Legislative Staff				0
Total				2
<b>Membership on a Board of Directors</b>				
Legislator		36	36	75
Legislative Staff		92	94	122
Total		128	130	197
<b>Close Economic Association</b>				
Legislator		62	67	40
Legislative Staff		70	69	37
Total		132	136	77
<b>Close Economic Association - Lobbyist</b>				
Legislator				0
Legislative Staff				4
Total				4
<b>State Contracts, Leases &amp; Grants &gt; \$5,000</b>				
Legislator		3	7	7
Legislative Staff		15	3	3
Total		18	10	10
<b>State Benefit &amp; Loan Programs</b>				
Legislator		0	2	3
Legislative Staff		4	8	7
Total		4	10	10
Total number of disclosures filed by legislators	415	329	257	313
Total number of disclosures filed by legislative staff		276	213	218
<b>GRAND TOTALS</b>	<b>415</b>	<b>605</b>	<b>470</b>	<b>531</b>

# **ETHICS COMMITTEE MEETING**

**January 25, 2016**

## **ITEM 7e: COGEL Conference Report**

# The 2015 Boston COGEL Conference Review

## by Jerry D. Anderson

I have marked in yellow the sessions I attended at the conference.



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## SUNDAY, DECEMBER 6, 2015

8:00 am - 5:00 pm Conference Registration

9:30 am - 11:00 am Tech Toolbox: What You Should Know

11:00 am - 12:30 pm Tech Toolbox II: Shiny New Toys—Unveiling New Technologies of COGEL Members

12:30 pm - 1:30 pm Lunch on Your Own

1:30 pm - 3:00 pm Local Agency Roundtable: Wisdom from the Trenches

1:30 pm - 3:00 pm Enforcement Update: Investigations & Enforcement Actions in the Spotlight

1:30 pm - 3:00 pm Kay Williams First Timers Session & Conference Preview

3:15 pm - 4:45 pm The Honest Truth About Dishonesty

3:15 pm - 4:45 pm Speed Mentoring Roundtables: Learn from the Best!

3:15 pm - 4:45 pm Certifiably COGEL: Exploring a COGEL Certification Program

3:15 pm - 4:45 pm Original Sins: A Hitchhiker's Guide to Federal Anti-Corruption Efforts in the Era of Manifest Destiny

5:30 pm - 7:00 pm Welcome Reception: COGEL Outstanding Service Award

Dinner - On Your Own

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## MONDAY, DECEMBER 7, 2015

7:30 am - 8:30 am Breakfast - Table Topics

8:45 am - 10:15 am Plenary Session with Ambassador Norm Eisen "Why Critics of Transparency Are Wrong: How Openness Prevents Corruption and Back-Room Deals"

10:25 am - 11:55 am Ethics Update I: Be in the Know on Ethics Legislation, Litigation, & Advisory Updates

10:25 am - 11:55 am Open Government & The Gadfly: Balancing Transparency with Overly Zealous Requestors

10:25 am - 11:55 am Technology in the Voting Process: How to Develop Meaningful Standards

10:25 am - 11:55 am Help Them Grow or Watch Them Go: Developing Millennials into Future Leaders

10:25 am - 11:55 am Campaign Finance Update I – The "Must Know" Campaign Finance Litigation of 2015

12:00 pm - 1:30 pm Plenary Session with Pulitzer Prize Winning Reporter Jeff Gottlieb "Corruption on Steroids: A Reporter's Behind-the-Scenes View" 2015 COGEL Award

1:45 pm - 3:15 pm Corruption on Steroids II: Keeping City Hall Accountable--Lessons Learned from the Bell Corruption Scandal

1:45 pm - 3:15 pm Riding the Rapids: The Rapidly Changing Maze of New Technology & FOI

1:45 pm - 3:15 pm Navigating the Social Media Minefield: Regulating & Advising in a Digital Age

1:45 pm - 3:15 pm A Code to Live By: Codes of Conduct for Lobbyists

1:45 pm - 3:15 pm A Good Election, or a Bad One? Considering Electoral Standards Beyond your Election

3:30 pm - 4:45 pm Hardwired for Narrative: The Art of Story Telling

3:30 pm - 4:45 pm Big Ideas, Little \$\$: Innovative, Clever & Inexpensive Hacks Your Agency Will Want to Use

3:30 pm - 4:45 pm What Conflict of Interest? I'm an Ethical Person!

3:30 pm - 4:45 pm Campaign Finance II – Legislative & Regulatory Trends Voter Fraud—Fact or Fiction?

3:30 pm - 4:45 pm Voter Fraud—Fact or Fiction?

Dinner - On Your Own

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## TUESDAY, DECEMBER 8, 2015

7:30 am - 8:45 am Breakfast - Table Topics

9:00 am - 10:00 am Plenary Session with Dr. Victoria Farrar-Myers "The Appearance of Corruption: Why It Matters & Why We Must Address It"

10:15 am - 11:45 am Super PAC Potluck: Coordination, Scam PACs & Super PAC Pop-Ups

10:15 am - 11:45 am Requests, Responses & Retention: Exploring the Ethics of FOI

10:15 am - 11:45 am Trust is Everything: Building a Long-Lasting Culture of Trust, One Brick at a Time

10:15 am - 11:45 am	Lobbying Update: The Ins & Outs of Lobbying Legislation, Regulations & Litigation
10:15 am - 11:45 am	Elections Update: Significant Developments & Noteworthy Controversies
11:45 am - 1:30 pm	Lunch - On Your Own
1:45 pm - 3:15 pm	Meet the Press (with Confidence!) – Effective Strategies & Tips When Dealing with the Media
1:45 pm - 3:15 pm	Ethics Update II: Enforcement Updates, Organizational Changes, & New Initiatives
1:45 pm - 3:15 pm	Preparing the Case I: The Nuts & Bolts of Thorough Investigations
1:45 pm - 3:15 pm	Freedom of Information Update: Surveying the Legislation & Litigation Landscape
1:45 pm - 3:15 pm	Dark Money: A View from the States
3:30 pm - 4:30 pm	Plenary Session with Gary Dixon "Lessons from Kermit the Frog, Albert Einstein, and George Washington: How Your Values Make a Difference"
4:30 pm - 6:00 pm	Bonus "Mix and Mingle" Reception
	Dinner - On Your Own

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## WEDNESDAY, DECEMBER 9, 2015

8:00 am - 9:00 am	Breakfast - Plenary Session; Annual COGEL Business Meeting
9:15 am - 10:30 am	Freedom of Information Roundtable
9:15 am - 10:30 am	Preparing the Case II: The Art of Locking in the Evidence
9:15 am - 10:30 am	Stronger Parties, Stronger Democracies: Rethinking Campaign Finance Reform
9:15 am - 10:30 am	The Mojo in the Metrics: Measuring the Success of an Election
10:45 am - 12:00 pm	Rocking the Youth Vote – Coming to a City Near You!
10:45 am - 12:00 pm	Running into the Hatch Act: Political Activity Restrictions for Public Employees
10:45 am - 12:00 pm	I'm All About the Disclosure: All the Right Transparency in All the Right Places
10:45 am - 12:00 pm	Are there Shades of Grey in a House of Cards?



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## Dr. Victoria A. Farrar-Myers



Professor

Department of Political Science

Date Inducted: 2011

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Syllabus:   [Syllabus](#)

Victoria A. Farrar-Myers, Ph.D. is a Professor of Political Science at the University of Texas at Arlington. She specializes in the American presidency, presidential-congressional relations, separation of powers, and campaign finance reform. Among her many publications, Dr. Farrar-Myers is the author of *Scripted for Change: The Institutionalization of the American Presidency* (Texas A&M Press), the co-author of *Legislative Labyrinth: Congress and Campaign Finance Reform* (CQ Press) and *Limits and Loopholes: The Quest for Money, Free Speech and Fair Elections* (CQ Press), and the co-editor of *Corruption and American Politics* (Cambria Press). Her research has been published in such journals as *Political Research Quarterly*, *Congress & the Presidency*, and *White House Studies*, and been supported by a grant from the Dirksen Congressional Center.

During 1997-1998, she served as an American Political Science Association Congressional Fellow, working on the legislative staff of Rep. Christopher Shays (CT). From 2005-2007, Dr. Farrar-Myers served as the coordinator for developing UT Arlington's Quality Enhancement Plan, a campus-wide initiative designed to enhance student learning at the University, and prior to that was Associate Dean of the UT Arlington's Honors College. Among her many teaching honors, she was the recipient of the 2001 University of Texas at Arlington's Chancellor's Council Award for Excellence in Teaching, the 2005 Arlington Star-Telegram Service Learning Award and the 2007 Honors College Faculty Award, and was named the Texas Faculty Member of the Year in 2007 by the Texas Association of College and University Student Personnel Administrators. She regularly provides commentary for local and national media outlets.

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## How Bell Broke

### L.A. Times Reporter Tells Urban Politics Class Story of a Scandal

By [Mimi Ko Cruz](#)

In their reports on the 2.5-square-mile city of Bell, *Los Angeles Times* reporters Jeff Gottlieb and Cal State Fullerton alumnus Ruben Vives revealed that city officials had allegedly bilked its residents of millions of dollars while paying themselves some of the highest salaries in the nation.

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How they broke the story was the subject of a special March 15 lecture by Gottlieb in Raphael J. Sonershein's Urban Politics class at Cal State Fullerton.

Last summer, Gottlieb and Vives had been writing about the city of Maywood, another small Los Angeles County working-class community, and its plans to lay off all its employees, disband its police department and turn over municipal operations to a neighbor, when they learned about "high salaries" in Bell, Gottlieb explained.



Jeff Gottlieb said he was shocked to find out how much the city manager of Bell got paid. Photo by Karen Tapia

Gottlieb said he was asking the district attorney about Maywood investigations when he learned about Bell. He was told there was an investigation about high salaries. So, Gottlieb and Vives — who have since won a number of journalism awards for their Bell stories — went to the city in June, asking to speak to then-City Manager Robert Rizzo, who refused to see them. They asked the city clerk for the minutes of meetings and records about Bell's expenses and contracts, and made a Public Records Act request for the material. The city clerk told them they would get the records in 10 days.

The scene didn't sit well for Gottlieb, who years ago as a reporter for the San Jose Mercury News had uncovered a similar story in East Palo Alto's Sanitary District. The district's board and staff, he said, had been "spending all kinds of money taking trips across the country, staying in fancy hotels, eating at fancy restaurants.... So, I figured there has to be more going on in Bell than just these high salaries."

What Gottlieb and Vives uncovered was the city's alleged misappropriation of more than \$5 million, salaries so high that they ignited community anger and calls for resignations. Most of the council members were earning nearly \$100,000 for part-time work; far exceeding the \$400-a-month stipend recommended for a city of its size, and a population of 40,000. Los Angeles County District Attorney Steve Cooley has called the Bell scandal "corruption on steroids."

Three days after Gottlieb's talk on campus, six former Bell city council members pleaded not guilty to charges of misappropriating public funds. Separately, ex-City Administrator Robert Rizzo and his assistant, Angela Spaccia, were ordered to stand trial on charges of misappropriation of public funds related to more than \$5 million in salaries and loans.



Primary Source

# Audit: FEC still in 'significant' danger of hacking

New revelations follow Center for Public Integrity report of Chinese infiltration

By Dave Levinthal [Twitter](#) [Email](#) 1:24 pm, December 30, 2013 Updated: 12:19 pm, May 19, 2014

[Comment](#) [E-mail](#) [Print](#)

The Federal Election Commission's computer and IT security continues to suffer from "significant deficiencies," and the agency remains at "high risk," according to a **new audit** of the agency's operations.

"FEC's information and information systems have serious internal control vulnerabilities and have been penetrated at the highest levels of the agency, while FEC continues to remain at high risk for future network intrusions," independent auditor Leon Snead & Company of Rockville, Md., writes.

The audit, released today, comes less than two weeks after a **Center for Public Integrity investigation** that revealed Chinese hackers infiltrated the FEC's IT systems during the initial days of October's government shutdown — an incursion that the agency's new leadership has vowed to swiftly address.

The Chinese hacking attack is believed by FEC leaders and Department of Homeland Security officials to be the most serious act of sabotage in the agency's 38-year history.

Leon Snead & Company's new 34-page audit further reveals separate security breaches it discovered this year while auditing the FEC, which has **in recent years endured** shrinking budgets and staffing levels and historically high levels of gridlock.

The most notable security breach came in May 2012, when an unspecified "advanced persistent threat" broke into an unnamed FEC commissioner's computer user account.

For eight months, the report states, the commissioner's computer contained malware that gave hackers "potential" access to a variety of sensitive documents, including subpoenas, unpublicized



Sarah Whitmire/Center for Public Integrity

Primary Source



Primary Source dove into developments in the post-Citizens United world of money in politics.

Stories in this series



**Sarah Palin's PAC, like her TV career, on the wane**

By Dave Levinthal July 28, 2015



**Senators resist the Internet, leave voters in the dark**

By Michael Beckel July 20, 2015

investigations into political groups and "sensitive personal identifiable information."

Auditors acknowledge that they were unable to determine whether such material "was actually accessed by the intrusion," but "the opportunity did exist," they wrote.

In another incident, an FEC employee gained "unauthorized access to personnel-related files, labor management files and administrative law files," auditors write.

The new audit generally criticizes the FEC for not implementing various government IT security standards, from which FEC officials have maintained the agency is exempt.

Auditors also admonish the FEC for not heeding its IT security recommendations from a separate audit conducted in 2012, stating they were "advised by FEC officials that the agency had not yet implemented any significant portion" of that earlier audit's forewarning.

"Our analysis indicates that if FEC had implemented government-wide minimum best practice IT security controls, these intrusions and breaches may have prevented and/or more timely detected," auditors write.

Among its latest recommendations, auditors are asking the FEC to "provide sufficient budgetary and personnel resources ... to ensure that actions are properly accomplished." They further recommend that the FEC change all of its computer account passwords within the next 60 days.

In its official response to the audit's security-related recommendations, the FEC states that it is "moving as quickly as possible on the recommendations" and that "several of the recommendations have been implemented."

In an interview earlier this month about the Chinese hacking incident, incoming FEC Chairman Lee Goodman, a Republican, and incoming Vice Chairwoman Ann Ravel, a Democrat, both **described** the fixing of the agency's IT woes as a "top priority."

The FEC is in the process of hiring new IT security specialists and diverting resources to reinforce systems, Goodman added.

The new Leon Snead & Company audit covered the FEC's 2013 fiscal year, which ended Sept. 30, meaning it did not materially address the October's Chinese hacking incident.



Republican presidential hopefuls: the Uber super users

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How Washington starves its election watchdog

By Dave Levinthal December 17, 2013



But the report did acknowledge that an "intrusion was detected on the agency's website in early fiscal year 2014" following a less severe hacking incident in August, which forced the FEC to temporarily disable portions of FEC.gov. The agency's website contains millions of records that provide the public with information about federal elections and the finances of candidates, committees and parties participating in them.

An FEC spokeswoman referred questions about the new audit to the agency's commissioners, who couldn't immediately be reached for comment.

White House officials, who have this month **refused comment** on the FEC's problems, also could not immediately be reached.

#### More stories about

Federal Election Commission, Ann M. Ravel, Computer security, Audit, E-commerce

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**STATE ETHICS COMMISSION**  
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**FORMAL ADVISORY OPINION – CONFIDENTIALITY WAIVED**

February 13, 2015

Ms. Joal H. Broun, Lobbying Compliance Director  
Department of the Secretary of State  
Lobbying Compliance Division  
Raleigh, NC 27626-0622

Re: Sexual Favors or Sexual Acts as a Gift or "Thing of Value"  
AO-L-15-001

Dear Ms. Broun:

This is in response to your request for a formal advisory opinion submitted on behalf of the North Carolina Secretary of State ("the Secretary"). You have asked whether consensual "sexual favors or sexual acts" between a lobbyist and a designated individual constitute a gift or "thing of value" that would trigger the gift ban and reporting requirements of the Lobbying Law and whether those activities would fall within the definition of "goodwill lobbying" and trigger the Lobbying Law's registration obligation. You have made this request in a general and largely hypothetical context, with little or no supporting facts. This response must therefore be likewise limited.

This opinion was adopted by the State Ethics Commission at its February 13, 2015, meeting.<sup>1</sup>

Section 120C-303(a)(1) of the Lobbying Law restricts a registered lobbyist from giving a gift to a designated individual unless a gift ban exception applies. "Gift" is defined as "[a]nything of monetary value given or received without valuable consideration...." G.S. 138A-3(15). A lobbyist must report certain "reportable expenditures," defined to include gifts and "things of value" greater than \$10 per day given to a designated individual or immediate family member.

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<sup>1</sup> Please see the enclosure entitled "Formal Advisory Opinions Issued by the State Ethics Commission." The Secretary has waived confidentiality and requested that this opinion be published in unredacted form. For purposes of context and brevity, the Secretary's request is incorporated by reference.

Consensual sexual relationships do not have monetary value and therefore are not reportable as gifts or “reportable expenditures made for lobbying” for purposes of the Lobbying Law’s expenditure reporting provisions. See G.S. 120C-402 and G.S. 120C-403.<sup>2</sup> However, a lobbyist or lobbyist principal’s provision of paid prostitution services by a third party to a designated individual could constitute a gift or thing of value, albeit an illegal one, depending on the particular facts. You have not provided any information that this is an issue in this situation.

You have also asked whether consensual sexual relationships between a person and a designated individual could constitute “goodwill lobbying” and would thereby trigger the lobbyist registration requirements of the Lobbying Law, G.S. 120C-200. It is unclear why you have asked this question, because in the scant factual assumptions provided, you state that your question concerns a relationship between a “lobbyist” and a designated individual, so presumably the person in question is already registered. Indeed, if there were no lobbyist involved, there would be no need to even consider the application of the Lobbying Law’s gift ban or expenditure reporting requirements. However, in order to avoid the need to further address these issues, the Commission will respond to your question.

G.S. 120C-200 requires the registration of a “lobbyist,” which is defined as an “individual who engages in lobbying” and is employed by the lobbyist principal or receives payment for lobbying. G.S. 120C-100(a)(10). “Lobbying” includes both direct lobbying and “developing goodwill through communications or activities, including the building of relationships, with a designated individual ... with the intention of influencing current or future legislative or executive action.” G.S. 120C-100(a)(9). Thus, if the lobbyist does not receive payment from the lobbyist principal for engaging in the sexual relationship which you reference, which the Commission presumes to be the case here, those activities would not constitute goodwill lobbying and would therefore not trigger a registration requirement.

In your December 15, 2014, request for a formal advisory opinion, you requested that the Commission publish this opinion in an unredacted form; thus you have waived confidentiality as provided for in N.C.G.S. § 120C-102(d).<sup>3</sup>

Please do not hesitate to call the Commission’s staff if you have any questions about the foregoing formal advisory opinion.

---

<sup>2</sup> This interpretation does not address the legal, moral, or other ramifications of two adults not married to one another engaging in consensual sexual relations with one another. Such considerations are beyond both the scope of this request and the Commission’s jurisdiction. This is solely an interpretation and application of the Ethics Act and Lobbying Law based on extremely limited information.

<sup>3</sup> An individual, State agency, or governmental unit who requests advice or receives advice, including a formal opinion, may authorize the release to any other person, the State, or any governmental unit of the request, the advice, or any supporting documents. N.C.G.S. § 120C-102(d).

**Formal Advisory Opinions of the State Ethics Commission**  
**Issued Pursuant to the Lobbying Law**

**CONFIDENTIALITY WAIVED**

Upon the written request of any person, State agency, or governmental unit affected by G.S. Chapter 120C ("the Lobbying Law"), G.S. 120C-102(a1) authorizes the State Ethics Commission ("Commission") to issue formal advisory opinions "on the meaning and application" of the Lobbying Law and "that person's, State agency's or any other governmental unit's compliance therewith." All opinions have prospective application only and must relate to real or reasonably anticipated fact settings or circumstances. G.S. 120C-102(a). Formal advisory opinions confer limited civil immunity upon a requester who follows the advice given. G.S. 120C-102(a1).

Once issued by the Commission, formal advisory opinions are normally published in an edited format on the Commission's website within 30 days of issuance. G.S. 120C-102(c). Requests for advisory opinions, the opinions themselves, and all materials related to the opinions are normally confidential and are not public records. G.S. 120C-102(d). However, requesters, like the Secretary here, may waive confidentiality and permit or direct that the advice and any related documents or other non-privileged information be made public. G.S. 120C-102(d).

The Commission is required to send an unedited copy of each formal advisory opinion to the Secretary of State's Office at the time the formal advisory opinion is issued to the requester, and the Secretary of State is required to treat the formal advisory opinion as confidential and not a matter of public record. G.S. 120C- 102(d1). In addition, Commission staff is specifically authorized to share all information and documents related to requests for formal advisory opinions with the Secretary of State's Office. The Secretary of State's Office is normally required to treat any such information and documents in its possession as confidential and not a matter of public record G.S. 120C-102(d1), but the Secretary is the requester here and has waived confidentiality as noted above.

Specifically, the Secretary has requested that the Commission's advisory opinion be published in unredacted form. *See* the Secretary's December 15, 2014, request letter, Conclusion, citing G.S. 120C-102(d). Therefore, confidentiality has been waived, and the Commission will act accordingly.

# COGEL



# BOSTON 2015

COGEL Blue Book  
2015 Ethics Update

## LEGAL SUMMARY & NOTES

### *ETHICS UPDATE - PART 1*

Prepared by  
Paul M. Nick, Executive Director, Ohio Ethics Commission  
Steve Berlin, Executive Director, City of Chicago Board of Ethics

## LEGISLATIVE UPDATES

### **States, Provinces, Federal Governments:**

- Alabama [Fair Campaign Practice Act now under its jurisdiction]
- California Fair Political Practices Commission:
  - SB704 [appointed, non-elected officials are not financially interested in contracts if they recuse themselves]
  - SB 21 [requires nonprofits that regularly organize and host travel to disclose the names of donors who donated money and who traveled with the elected officials, and requires who receive gifts of travel to report this on their SEI]
- Delaware [creation of a lobbyist Ethics Study Group]
- Illinois EEC granted authority over procurements made by Governor's agencies, with 4 CPO's, etc for each agency
- Indiana: legislature followed IG's recommendations; significant changes were made to ethics statutes, eff. 7/1/15
- Kentucky Legislative Ethics Commission [new lobbyist restrictions, including "no cup of coffee provision"]
- Mississippi Ethics Commission: [Public Records Act amended to give EC authority to holding hearings, issue order and impose penalties]
- Montana Commissioner of Political Practices ["Disclose Act," reporting of election related communications made within 60 days of election]
- Ohio reports two laws: (i) tightening regulations on charter school, which the EC monitored; (ii) involving lethal injection, requiring the EC to confirm or deny the existence of a conflict of interest between the persons providing drugs and the Department of Rehabilitation and Corrections
- Pennsylvania: amendment further providing for definitions and restricted activities, prescribing penalties [a ban on receipt of cash as gifts]
- Texas: SB 20 adds revolving door for former state personnel who participated in a procurement or contract negotiation, from accepting employment with the person for 2 years, effective on an after 9/1/15
- Ontario Office Integrity Commissioner: passage of the Public Sector and MPP Accountability Act, giving IC and Lobbyist Registrar investigative powers, and enhancing what must be disclosed

- Office of the Senate Ethics Officer : revised conflict of interest code, broadening the mandate to "ethics" from "conflicts of interest."

- Canada (Federal) Office of the Conflict on Interest and Ethics Commissioner: major amendment to the Conflict of Interest Code for Members of the House of Commons [lowering gift threshold, requiring disclosure of sponsored travel; allowing the Commissioner to comment on reasons for not pursuing an investigation, and prohibiting Members from commenting publicly on their requests for investigation until the Commissioner confirms that the subject has received a copy of the complaint]

#### **Cities/Counties:**

- Charter amendments guaranteeing existence and independence:  
Oakland, San Diego [pending], Chicago Legislative IG [pending]

- Amendments requiring training:  
Miami-Dade, Los Angeles MTA

- Creation of Employee Handbook/Honor Code/Code of Conduct:  
Miami-Dade, Buffalo

- General revisions submitted:  
NYC COIB, Buffalo, District of Columbia

- Lobbyist ballot measure:  
San Francisco

- General revisions passed:  
Chicago [including loosening of financial interest re public stock, revisions to reverse revolving door]

#### **ADVISORY OPINION UPDATES**

##### **States, Provinces, Federal Governments:**

###### **Connecticut:**

- State legislator's outside employment, including interaction with Governor and staff on behalf of outside employer, was not a per se conflict
- Attorney/legislator can participate in appointment/reappointment of Chief Justice unless he has a case pending before the Court
- Attorney/legislator who practices in family court or serves as guardian ad litem can take official action on bill titled "An Act Concerning Family Court Proceedings or subsequent versions"

###### **Louisiana:**

- Act 307: allows Ethics Board to object to a candidacy on grounds that person is in violation of RS:421113A(1)(b)(i)

Minnesota CF + PD Board:

- opinion that legislator's outside employment as ED of an association that was represented by a lobbyist was not a per se conflict of interest

NC Ethics Commission:

- In artfully worded entry, it issued an opinion addressing whether "sexual favors or sexual acts" between a lobbyist and a designated individual constitute a gift or "thing of value" that would trigger the gift ban and reporting requirements of the Lobbying Law and whether those activities would fall within the definition of "goodwill lobbying" and trigger the Lobbying Law's registration obligation. This opinion generated some interest both in and out of North Carolina.

Rhode Island:

- Head of Office of Revenue Analysis could accept travel from Pew Charitable Trusts to participate in rounding table discussion, since Pew doesn't have a direct financial interest in the Dept's decisions, but it must be disclosed on annual SFI.

Texas EC:

- Legislator not residing in Travis County could use political \$ to pay for assessments for condo owned in Austin to extent it's used for political purposes

- Officer or employee of political subdivision cannot use letterhead created by City staff or with city resources or city's logo and slogan designed with city funds, to write and distribute political advertising

US OGE:

- Issue legal advisory regarding employees' personal social media activities, focusing on issues like when an employee can reference title or a personal social media account, and personal fundraising on social media.

New Brunswick:

- Issued advisory on gifts

Ontario Office of the COI Commissioner:

- Opinion addressing whether rules and laws applied when an employee was on paid leave of absence, with respect to conflict of interests and outside employment

Cities:

Honolulu:

- Issued opinion regarding a city's officer's financial interest in property, the value of which could be affected by a permit issuance. He was prohibited from appearing before the city permitting agency to oppose the request for a permit

Chicago:



- Opinion holding that the 4 pension funds are not City agencies, thus investment firms doing business with them are not subject to City's campaign contribution limitations by virtue of those contracts
- Opinion that labor unions are not subject to campaign financing limitations
- opinion that alderman's spouse, a real estate agent, should forego representing a developer on a large project in his ward
- Opinion advising incoming alderman how to handle ongoing law practice
- also adopted policy of waiting 3 months before posting a redacted opinion unless it's of general interest

Anne Arundel County

- Follow up on police secondary employment issue.

NYC COIB

- Issued opinion on gifts to supervisors and peers
- Issue opinion prohibiting use of City letterhead for reference letter for fellow employee, unless it's for a report, or writer is otherwise authorized

### LITIGATION

**Trends include challenges to jurisdiction and authority, and disclosure enforcement and requirements, conflicts of interest re property ownership, and "intangible political gain"**

#### **States, Provinces, Federal Governments:**

CA FAIR POLITICAL PRACTICES COMM'N:

- *ProtectMarriage.Com et al. v. Bowen et al.*

Challenge to constitutionality of campaign contribution disclosures for ballot initiatives was rejected.

- *Board of Pilot Commissioners for the Bays of San Francisco, San Pablo & Suisun v. Fair Political Practices Commission*

Following an administrative the Commission found that the Port Agent should be designated in the Board of Pilot Commissioners' conflict of interest code under Section 87300. The Board of Pilot Commissioners challenged the decision. On September 25, 2015, the superior court decided in favor of petitioner and ordered the Commission not to take action on the Board of Pilot Commissioners' conflict of interest code

- *Frank J. Burgess v. Fair Political Practices Commission*

Burgess filed a writ of mandate in Riverside Superior Court on September 4, 2015

seeking relief from the Commission's decision. The Commission found that Burgess violated Section 87100 of the Act and imposed a \$5,000 fine July 7, 2015. Mr. Burgess challenges that decision as an excess of the Commission's jurisdiction, an abuse of discretion, and a denial of due process rights. The court has scheduled a status conference for November 3, 2015.

• *Fair Political Practices Commission v. Cathy Prazma*

On June 19, 2014, the Commission found that Respondent, a Board Member of the Descanso Community Planning Group, failed to file a 2011 annual Statement of Economic Interests by the April 2, 2012 deadline, in violation of Government Code Section 87203 (1 count). The Commission ordered Prazma to file and pay a \$5,000 administrative penalty. The Enforcement Division filed a Summons and Complaint for a Permanent Injunction, ordering Prazma to comply. Respondent subsequently filed, and the case was dismissed

DELAWARE PUBLIC INTEGRITY COMM'N

• It was a conflict for a Town Commissioner (now Mayor) to participate in a decision on an ordinance which was made retroactive to affect only one landowner when a developer had personally sued her in Federal Court alleging, among other things that she had a conflict of interest because of her ownership of properties across from where he planned to develop. The ordinance, among other things, created a legal defense for her against the law suit. The Commission also found she had a conflict because of her ownership of properties across the street. Case is now on appeal.

HAWAII STATE ETHICS COMM'N

• The Court of Appeals remanded a lower court decision, directing it to affirm State Ethics Commission decision regarding charter school employee determined to have violated two conflicts of interest provisions on 20 occasions and the \$10,000 fine.

IN STATE ETHICS COMM'N

• Indiana Sup Ct reaffirmed Commission's role as ultimate authority in interpreting Code of Ethics, finding that Commission had sufficient evidence to find that former agency leader had violated Code of Ethics despite dismissal of criminal charges stemming from the events giving rise to the ethical violation.

KY LEGISLATIVE ETHICS COMM'N

• State Senator and two others filed suit in U.S. District Court, challenging the constitutionality of several provisions of the Code of Legislative Ethics, including a provision prohibiting legislators from accepting anything of value from a lobbyist or employer of a lobbyist; and a provision prohibiting lobbyists from giving campaign contributions to legislators or legislative candidates.

LA STATE ETHICS COMM'N - *Gregory S. Fontenot, et al. v. Louisiana Board of Ethics, et al.*,

• What is a "public employee" as defined by the Ethics Code? Plaintiffs contract with parish governmental entity as insurance consultant and received commission from companies that sought to provide and provided insurance coverage for the parish.

Charges were filed by Board of Ethics with Ethics Adjudicatory Board (EAB). The EAB granted Fontenot's motion for summary judgment finding that he and company were not public employees. Board appealed ruling, but appeals court affirmed the EAB's decision.

The Board of Ethics has the statutory authority to object to an individual's candidacy if he falsely certifies on his qualification form that he does not owe any outstanding fines to the Board of Ethics. In connection with the October 24, 2015 primary election, 14 objections to candidacy were filed, resulting in 11 candidates being disqualified.

#### MT COMMISSIONER OF POLITICAL PRACTICES

- COPP filed 9 enforcement actions in state court against candidates for public office. Cases proceeded through jurisdictional litigation (including 4 Montana Supreme Court Decisions) and are now going to trial. Two default trials were held and first contested trial is set. One order has been issued from the default trials and that found quid pro quo corruption, fined the candidate \$54,000 and barred him from future candidacy until his campaign practice reports were corrected and filed with the COPP.

#### NE ACCOUNTABILITY & DISCLOSURE COMM'N

- Two employees of Northwest Public Power District (a governmental entity) found by Commission to have used district funds to campaign against election of candidate to the district board. They appealed to District Court, which overturned the decision. On appeal, the Nebraska Supreme Court reversed the District Court decision and remanded. In July 2015, District Court upheld Commission's original order. In settlement agreement, Commission reduced civil penalty for each from \$2,000 to \$1,500 in exchange for agreement from the respondents to cease all further appeals.

#### NEVADA COMM'N ON ETHICS

- Pending litigation before Supreme Court regarding limitations of the Commission's jurisdiction to investigate allegations against Legislator who asserts Legislative Privilege and Immunity protections. While the case was pending in District Court, Legislature passed a bill during 2015 Legislative Session (on last day, Session as emergency measure) to extend Privilege and make it retroactive. The District Court's order limits the Commission's ability to engage in any fact-finding to determine the applicability of the privilege to the alleged conduct.

#### NJ JOINT LEGISLATIVE COMMITTEE ON ETHICAL STDS

- Brennan v. Joint Legislative Comm. on Ethical Stds, 2013 N.J. Super. Unpub. LEXIS 1965.

#### OHIO ETHICS COMM'N

- On September 4, 2015, Relator McKibben filed a petition in the Ohio Supreme Court asking "to resolve the ambiguity as to whether financial disclosure filers need to disclose the names of the individual stock and bond holdings within their mutual fund investments. This case was dismissed upon motion of the defendants.

## OKLAHOMA ETHICS COMM'N

- Ethics Commission sued in federal court by Democratic Party re 2 rules prohibiting political fundraising on state property and posting political material on state property. Commission ceased enforcement of the rules and is amending Rules.

## PENNSYLVANIA ETHICS COMM'N

- *Commonwealth v. Veon*, 109 A.2d 754 (Pa. Super. 2015), Court held that state conflict of interest law not unconstitutionally vague on its face or as applied because it defined prohibited conduct with sufficient specificity, and defendant, a state representative, failed to show how his use of public funds for personal benefit was protected speech. Additionally, term "private pecuniary gain" found to include intangible political gain and benefits under reasoning that political gain costs money. Supreme Court will determine whether conflict of interest law is unconstitutionally vague on its face, and whether as applied in this case the trial court improperly expanded the definition of "private pecuniary interest" to include "intangible political gain." The Pennsylvania State Ethics Commission anticipates filing an Amicus.

## Cities/Counties

### CHICAGO BOARD OF ETHICS

- *Khan v. Emanuel, et al.* Suit filed in October 2014 by Legislative Inspector General alleging deliberate and illegal underfunding of his agency dismissed. Currently before City Council are two proposals: one to strengthen the LIG, the other to transfer its responsibilities to IG

### ANNE ARUNDEL COUNTY ETHICS COMMISSION

- *Dvorak v. Anne Arundel County Ethics Commission* was concluded after 10 years; it established that two former county officials, by filing and pursuing a class action suit against county, had violated the post-employment provisions. One, former county attorney, received a 20% reduction in attorneys' fees as sanction for his ethics violation. The other, former cabinet level officer, was denied all compensation for his role as a consultant and expert witness in underlying case.

### PHILADELPHIA BOARD OF ETHICS

- *Cozen O'Connor v. City of Philadelphia Board of Ethics, et al.*

What is a political contribution? Is forgiveness of \$450,000 invoice for legal services to a Mayoral candidate?

- *Clark v. City of Philadelphia Board of Ethics, et al.*

A City Commissioner asked for a declaratory judgment against the Board, arguing that the Executive Director did not have the authority to initiate or prosecute an Administrative Enforcement Proceeding against him. The suit arose out of a Board administrative enforcement action for violating conflict of interest and mandatory cooperation. The case was settled, with respondent admitting to 3 violations, and the suit was dropped.

# **ETHICS COMMITTEE MEETING**

**January 25, 2016**

**ITEM 8:      State Benefit & Loan Review**

# Alaska State Legislature

## Select Committee on Legislative Ethics

716 W 4<sup>th</sup> Street, Ste. 217  
Anchorage, AK 99501  
PH (907) 269-0150  
FAX (907) 269-0152  
Email: [ethics.committee@akleg.gov](mailto:ethics.committee@akleg.gov)

Mailing Address:  
P. O. Box 101468  
Anchorage, AK 99510-1468

November 5, 2015

«First\_Name» «Last\_Name», «Title»  
«Department»  
«Dept\_II»  
«Address»  
«City\_», «State» «Zip»

RE: STATE BENEFIT AND LOAN PROGRAMS under AS 24.60.050

Dear «Title» «Last\_Name»:

The Select Committee on Legislative Ethics is required to review the state of Alaska Benefit Programs and Loan programs, under AS 24.60.050, for disclosure of participation by legislators, legislative employees, and others affected by the Legislative Ethics Act. Participation in state programs which do not meet certain standards and have a certain degree of discretion in the awarding process must be disclosed.

Attached is a list of benefit and loan programs which were previously determined as “not meeting the following standards”:

1. generally available to members of the public;
2. subject to fixed, objective eligibility standards; and
3. minimal in discretion in determining qualification

Please review the list. If you have a *new* program to add or have *changes* to make to an existing program, please fill out the attached 2016 BENEFIT OR LOAN REVIEW FORM and return to us.

If you *do not* have a new program to add or do not have changes to make, simply send us an e-mail stating just that. Our email address is [ethics.committee@akleg.gov](mailto:ethics.committee@akleg.gov).

If you wish to *remove* a program from the list, please fill out the enclosed 2016 BENEFIT OR LOAN REVIEW FORM and return to us. Please note that if you are removing a program you must provide **documentation** showing us one of the following:

1. The standards have changed; or
2. The program no longer exists; or
3. The program has been transferred to another department

Remember, this is to protect your employees from any potential undue legislative influence.

Regardless of the type of action you are taking, please respond to us by

**December 7, 2015.**

This will allow us ample time to update the list for distribution to legislators and legislative staff on January 4, 2016.

If you have any questions, please contact the Ethics Committee office.

Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in blue ink that reads "Jerry D. Anderson". The signature is fluid and cursive, with the first name "Jerry" being more prominent and the last name "Anderson" following in a similar style.

Jerry Anderson  
Administrator

Attachments: 2016 State Benefit and Loan Programs Review Form  
2015 Benefit and Loan Programs List

**Alaska State Legislature**  
**Select Committee on Legislative Ethics**  
P. O. Box 101468, Anchorage, AK 99510-1468  
(907) 269-0150\*\*\*FAX (907) 269-0152  
[ethics.committee@akleg.gov](mailto:ethics.committee@akleg.gov)

**2016 BENEFIT OR LOAN REVIEW FORM**  
AS 24.60.050

DEPARTMENT: \_\_\_\_\_ DIVISION: \_\_\_\_\_  
AGENCY: \_\_\_\_\_  
Contact person: \_\_\_\_\_ Phone : \_\_\_\_\_

NAME OF (*NEW* or *EXISTING*) STATE BENEFIT OR LOAN PROGRAM (*ADDING* or *CHANGING*):

\_\_\_\_\_

PURPOSE: \_\_\_\_\_  
\_\_\_\_\_

METHOD FOR APPLICATION TO RECEIVE BENEFIT OR LOAN: \_\_\_\_\_  
\_\_\_\_\_

ELIGIBILITY REQUIREMENTS: \_\_\_\_\_  
\_\_\_\_\_

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

The (New or Existing) Program **does not meet** one or more of the following standards: (Check all that apply)

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

NAME OF STATE BENEFIT OR LOAN PROGRAM YOU ARE ***REMOVING*** (*if applicable*):

\_\_\_\_\_

If removing a program, please check applicable reason:

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

\_\_\_\_\_; OR

- ☐ The program no longer exists; OR

- ☐ The program has been transferred to another department. PLEASE PROVIDE  
NAME OF DEPT: \_\_\_\_\_

NAME

TITLE

DATE



## APPENDIX C

### 2015 Alaska State Benefit and Loan Programs under AS 24.60.050(c)

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

#### Department of Administration Programs

##### Violent Crimes Compensation Board:

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

#### Department of Commerce, Community and Economic Development Loans

(NOTE: A new loan under this department is under consideration by the Ethics Committee; results will be determined at the committee meeting in January, 2016. Please contact the Ethics office for clarification.)

##### Division of Economic Development:

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

##### Alaska Industrial Development and Export Authority and Alaska Energy Authority:

AIDEA Loans  
ASSETS (Alaska Sustainable Strategy for Energy Transmission & Supply) Loan Program  
Development Finance Program

#### Department of Commerce, Community & Economic Development Programs

(NOTE: Removal of existing loans under this department is under consideration by the Ethics Committee; results will be determined at the committee meeting in January, 2016. Please contact the Ethics office for clarification.)

##### Alcoholic Beverage Control Board:

Liquor License

##### Alaska Railroad Corporation:

Real Estate Lease - Negotiated

Sale of Surplus Property - Negotiated  
Railroad Permit  
Rail Transportation Contract – Negotiated  
Division of Banking and Securities:  
Deferred Deposit Advances  
Approval of Articles of Incorporation, Bank Charters, and Certificates of Authority  
for: State Chartered Banks, Mutual Savings Banks,  
Savings Associations, and Credit Unions  
License to Engage in the Business of Making Loans  
Premium Finance Company License  
Business Industrial Development Corporation License

#### Department of Environmental Conservation

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

#### Department of Health and Social Services Programs

Various Divisions:  
Licensing of Health Care Facilities

#### Department of Military and Veterans Affairs

Alaska Aerospace Development Corporation:  
Scholarship Program

#### Department of Natural Resources Programs

Division of Forestry:  
Timber Sales – Negotiated  
Personal Use Permits  
Division of Mining, Land and Water:  
Preference Right Land Sales AS 38.05  
Agricultural Land Lottery Sale Program  
Additional Non-competitive Land Leases - Negotiated  
Approving Easement Vacations in the Unorganized Borough and Certain  
Other Areas  
Exchange of State Land  
Homesite Entry Program  
Homestead Entry Program  
Land Use Permit  
Material Sale - Negotiated  
Upland, Tideland, or Grazing Lease - Negotiated  
Right-of-Way or Easement  
Water Authorizations  
Trapping Cabin Permit  
Offshore Prospecting Permit  
Coal Prospecting Permit  
Mining Reclamation Plan Approval  
Coal Surface Mining Reclamation Program

- Mineral Discovery Bonus
- Exploration Incentive Credits
- Substantial Compliance Determination (re: Mining Locations)
- State Pipeline Coordinator's Office:
  - Pipeline Right-of-Way Lease
- Division of Oil and Gas:
  - In-Kind Royalty Gas or Oil Sale
  - Exploration Incentive Credits
- Division of Parks and Outdoor Recreation:
  - Free Disabled Veterans State Park Camping Permit

#### Department of Natural Resources Loans

- Division of Agriculture:
  - Agricultural Revolving Loan Fund

#### Department of Transportation and Public Facilities Programs

- Division of Design and Engineering:
  - Disposal of Excess Right-of-Way Land
  - Right-of-Way Acquisition
  - Right-of-Way Permit
    - Encroachment, Driveway or Airspace Permit
    - Utility Permit on State Right-of-Way
  - Right-of-Way Rental

#### University of Alaska

- Land Management Division
  - Real Property Transactions – Negotiated Non-Competitive

**Select Committee on  
Legislative Ethics**

907-269-0150  
ethics.committee@akleg.gov

# Memo

**To:** Select Committee on Legislative Ethics  
**From:** Representative Liz Vazquez  
Jerry D. Anderson  
**cc:** Kevin Anselm  
Jan Stewart  
**Date:** December 28, 2015  
**Re:** State Benefit and Loan Program Review of Specific Programs

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## **BACKGROUND:**

On January 21, 2015, the Select Committee on Legislative Ethics met in Juneau to consider Committee business including the annual review of State Benefit and Loan programs as agenda item 8 as required by AS 24.60.050(b). The Department of Commerce, Community and Economic Development requested that 5 programs be deleted from the list of programs requiring disclosure if a state legislator or legislative employee participates in those programs. Kevin Anselm, the Director of the Division of Banking and Securities in the Department participated telephonically in the Committee meeting on this subject.

After discussion, public member Skip Cook proposed that Representative Vazquez review the DCCED programs and report back to the Committee. Representative Vazquez agreed to review the programs to determine whether these specific programs should continue to be on the list of State Benefit and Loan Programs under AS 24.60.050(b), hereinafter referred to as "the List."

On February 12, 2015, Kevin Anselm delivered to the Ethics Office a two page letter and accompanying materials covering the programs requested to be deleted from the List. This letter and the "Summary Description of Banking and Securities Licenses Currently Included on the AS 24.60.050(c) List" are included as attachments to this memo.

## **THE REVIEW:**

AS 24.60.050 provides that a legislator or legislative employee may, without disclosure to the Ethics Committee, participate in a state benefit program or receive a loan from the state if the program or loan is generally available to members of the public, is subject to fixed objective eligibility standards, AND requires

minimal discretion in determining qualification. If a state benefit program or loan program does not meet these standards, then a legislator or legislative employee must disclose participation in that program. The list of state benefit and loan programs is reviewed annually by the committee. This memo analyzes the following programs under the AS 24.60.050 standards.

### **Deferred Deposit Advances (payday loans)**

In order to obtain a license for a deferred deposit advance (payday loans) business, an applicant must fill out information on Business Operation, Loan Information, Advertising and Marketing as well as information contained on Form A. Questions include whether the officers or owners have any history of criminal activity, breaches of fiduciary duty, suspension, revocation or removal from participation in conducting a business, or investigations by a governmental agency. The form also permits the DCCED to gather background information including criminal history, credit records, education, employment history, professional references, and any other pertinent information related to the application for a Deferred Deposit Advance license.

AS 06.50.020 requires an applicant to "demonstrate the financial responsibility, financial condition, business experience, character and general fitness that reasonably warrant the department's belief that the applicant's business will be conducted lawfully and fairly," and that "the department may review" a list of items.<sup>1</sup> The application forms and underlying statutes therefore point to more than a minimal amount of discretion and a subjective determination of fitness in an investigation that is to be completed within 60 days.

In summary, a review shows many discretionary criteria in the application process. Therefore, this program involves more than a minimal amount of discretion and is not limited to fixed, objective eligibility standards. The recommendation to the Select Committee on Legislative Ethics is that this program continue on the List under AS 24.60.050(b).

### **Approval of Articles of Incorporation of a Financial Institutions**

In order to obtain an Approval of Articles of Incorporation of a financial institution an applicant must fill out information on an "Individual Affidavit." This form consists of five pages and includes a "Disciplinary/Investigation Information section" which explores pending litigation, outstanding judgments, filing of a bankruptcy petition, criminal history, and being charged with misrepresentation or a fraudulent act in transaction or any kind of character" among other items. This form includes an attachment checklist of numerous explanations related to fitness of an applicant.

AS 06.15.040 Qualification of incorporators provides that each incorporator shall be an individual ... that the Department finds to be of financial responsibility and good character" when determining suitable Mutual Savings Bank Act applicants. The Credit Union Act similarly provides under AS 06.45.030 that the commissioner shall determine the general character and fitness of the subscribers and the economic advisability of establishing the proposed credit union."

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<sup>1</sup> Included in this list is "an act, an omission, or a practice that constitutes a breach of fiduciary duty" and, "the competence, experience, integrity, and financial ability of the applicant."

This program involves more than a minimal amount of discretion and is not limited to fixed objective eligibility standards. The recommendation to the Select Committee on Legislative Ethics is that this program continue on the List under AS 24.60.050(b).

### **License to Engage in the Business of Making Small Loans**

The Alaska Small Loans Act in AS 06.20 requires a license and an investigation under the provisions of AS 06.20.060 which involves an investigation within 60 days of filing of "the financial responsibility, experience, character, and general fitness of the applicant" (and officers, and directors if applicable). The Statute also requires a determination of whether these "are such to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purposes of this chapter..." The standards in the investigation include whether the location "will provide accessibility and convenience for borrowers of money."

This program involves more than a minimal amount of discretion and is not limited to fixed, objective eligibility standards. The recommendation to the Select Committee on Legislative Ethics is that this program continue on the List under AS 24.60.050(b).

### **Premium Finance Company License**

In order to obtain a license for a Premium Finance Company license an applicant must fill out information contained on Form A. Form A questions include whether the officers or owners have any history of criminal activity, breaches of fiduciary duty, suspension, revocation or removal from participation in conducting a business, or investigations by a governmental agency. The form also permits the DCCED to gather background information including criminal history, credit records, education, employment history, professional references, and any other pertinent information related to the application for a Deferred Deposit Advance license.

AS 06.40.070 requires an applicant to be "competent, trustworthy, and intends to act in good faith in the capacity involved by the license applied for." In addition, the applicant is required to have "a good business reputation, and has had experience, training, or education so as to be qualified in the business for which the license is applied." The application forms and underlying statutes therefore point to more than a minimal amount of discretion and a subjective determination of fitness in an investigation.

This program involves more than a minimal amount of discretion and is not limited to fixed, objective eligibility standards. The recommendation to the Select Committee on Legislative Ethics is that this program continue on the List under AS 24.60.050(b).

### **Business and Industrial Development Corporation (BIDCO) License**

The provisions of the Alaska BIDCO Act are found at AS 10.13. AS 10.13.050 provide a list of criteria for directors, officers, and controlling persons for a BIDCO. The license can only be issued if the department determines that each director, officer, and controlling person of the applicant is of "good character and sound financial standing," and is "competent to perform applicable functions." Moreover, the department is also required to find whether "when considered collectively with other directors, officers, and controlling persons, adequate to manage the business of the applicant as a BIDCO."

The department may determine that a director, officer or controlling person of an applicant is not of good character. It includes specific bases such as being convicted of a crime involving fraud or dishonesty. In addition, "the department may determine that it is not reasonable to believe that an applicant would comply with this chapter if licensed. Bases the department may use to make that determination include proof that the applicant has been convicted of a crime involving fraud or dishonesty, including a conviction based on a guilty plea or plea of nolo contendere.

The application process includes an "Individual Affidavit." This form consists of five pages and includes a "Disciplinary/Investigation Information section" which explores pending litigation, outstanding judgments, filing of a bankruptcy petition, criminal history, and being charged with misrepresentation or a fraudulent act in transaction or any kind of character" among other items. This form includes an attachment checklist of numerous explanations related to the fitness of an applicant. The application forms and underlying statutes therefore point to more than a minimal amount of discretion and a subjective determination of fitness in an investigation.

This program involves more than a minimal amount of discretion and is not limited to fixed, objective eligibility standards. The recommendation to the Select Committee on Legislative Ethics is that this program continue on the List under AS 24.60.050(b).

# Summary Description of Banking and Securities Licenses Currently Included on the AS 24.60.050 (c) List

2/12/2015

		Applications Received						Approval Process Summary
		(Approved in ( ) if less than received)						
Regulated Business	General License Description (please see noted statute/regulation for details)	2010	2011	2012	2013	2014	2015	
Deferred Deposit Advance (Pay Day) Lenders AS 06.50/3 AAC 11	Deferred Deposit Advance (Pay Day Loan) lenders provide short term loans of up to \$500 to Alaskans for at least 14 days, and generally up to 30 days with the possibility of two extensions. The loan fees may not exceed a \$5 origination fee and \$15 per \$100 borrowed. AS 60.50 is not an Alaska State loan program, but a means for an entity to obtain a license to offer these loans to consumers. The entity must be licensed by the State of Alaska under AS 06.50. The rates, terms, and other loan conditions for operation are set by the Alaska Statute and Regulations. The Division periodically examines the licensee to ensure compliance with the statutes and regulations and does not approve loans, but examines to ensure loans are properly issued. Examiners address complaints from borrowers and initiate enforcement actions when necessary. At CFE 2014 there were 25 licensees, most located out of state.	3	3 (2)	2	2	6 (2)	0	
Premium Finance Companies AS 06.40/3 AAC 07	Premium Finance Companies lend money to individuals or businesses to fund insurance premiums for insurance sold in Alaska or for insurance to cover risks located in Alaska. AS 60.40 is not an Alaska State loan program, but a means for an entity to obtain a license to lend to entities that finance insurance premiums on stated terms. The Division periodically examines the licensee to ensure compliance with the statutes and regulations and does not approve loans, but examines to ensure loans are properly issued. Examiners address complaints from borrowers and initiate enforcement actions when necessary. At CFE 2014 there were 27 licensed premium finance companies regulated under AS 06.40. Most licensees are located outside the State of Alaska.	2	3	3	0	0	1	
Business and Industrial Development Companies (BIDCOs) AS 10.13	The stated purpose of the BIDCO Act is to allow three or more Alaska residents to form an industrial development corporation for the purpose of promoting, developing and advancing the prosperity and economic welfare of Alaska. The BIDCO may borrow funds from its members, the Small Business Administration, other federal agencies, and use those funds to make loans to Alaska businesses that have been turned down by a financial institution. A BIDCO must be licensed, files reports with and is examined annually by Division. Additionally, a BIDCO must file annual reports with the Legislature including statistics regarding its financial assistance to businesses, financing assistance to minority and women-owned businesses and estimates of jobs created or retained. There is one BIDCO in the state of Alaska (only one ever licensed). AS 10.13 is not an Alaska State loan program, but allows a properly licensed BIDCO to lend money that it secures to firms that may not otherwise qualify for traditional lending avenues. Note: AS 37.17.510 authorizes an Alaska BIDCO fund to be established in the general fund. A record search through the Departments of Commerce, Community and Economic Development, Revenue and Law shows that no fund was established.	0	0	0	0	0	0	
Small Loan Companies AS 06.20/3 AAC 12	Small Loan Companies are licensed to engage in the business making loans of \$25,000 or less. Small loan Companies do not offer State of Alaska loan programs. The Division periodically examines the licensee to ensure compliance with the statutes and regulations and does not approve loans, but examines to ensure loans are properly issued. Examiners address complaints from borrowers and initiate enforcement actions when necessary. Currently, there is one Small loan Company licensed in Alaska.	0	0	0	0	0	0	
Banks, Mutual Savings Banks and Credit Unions AS 06.01, AS 06.05, AS 06.15, AS 06.45 Savings Associations AS 06.30 (Repealed in 1993)	These statutory sections do not relate to loan or benefit programs offered by the State of Alaska to individuals or businesses, but instead provide the requirements for an entity to obtain a certificate of authority to operate as a state chartered financial institution which may then allow the financial institutions to make loans to individuals or businesses from the institutions' own resources. It is conceivable that a financial institution may administer or service a State of Alaska loan program according to that program's guidelines. The Division is not aware of any such program at this time. In addition to the substantial information required for the Division's review, these entities must also submit to the jurisdiction of federal insurers including the Federal Depositary Insurance Corporation (FDIC) and National Credit Union Association (NCUA). Both the Division and the federal insurer must approve the entity before it may be chartered. The Division and federal examiners regulate the financial institutions after chartering to ensure compliance with the statutes and regulations and that the deposits are insured by either the FDIC or NCUA. Examiners address complaints and violations of laws and regulations to ensure the institution operates in a safe and sound manner. Alaska currently has three state chartered banks, one Mutual Savings Bank and one state chartered credit union. The last newly chartered state financial institution was Northern Bank in 1990.	0	0	0	0	0	0	





THE STATE  
of **ALASKA**  
GOVERNOR BILL WALKER

Department of Commerce, Community,  
and Economic Development

DIVISION OF BANKING AND SECURITIES

550 West Seventh Avenue, Suite 1850  
Anchorage, Alaska 99501  
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February 12, 2015

Mr. Jerry Anderson, Administrator  
The Select Committee on Legislative Ethics  
P.O. Box 101468  
Anchorage, AK 99510-1468

HAND-DELIVERED

Dear Mr. Anderson,

I am pleased to provide the materials in response to your February 6, 2015 request for additional information relating to Banking and Securities Division licenses currently included on the list of Alaska Benefit Programs and Loan Programs covered by Alaska Statute 24.60.050(c) including a spreadsheet with a short explanation of each program; applications received, approved or denied; and an approval process summary including the appeal process. Additionally, I have included hard copies of applications, bond forms, related statutes and regulations as well as other items that may be of interest in separately marked folders to hopefully make the review process a bit easier.

You also asked who makes the final licensing decision and an explanation if no applications have been received. I will cover each of those topics briefly below.

Final Licensing Decision. The "Department" or the "Commissioner" is generally named in the statutes as the ultimate deciding authority. In practice, the decision is delegated to the Director of the Division of Banking and Securities. Typically, if a licensing decision is routine, and based on readily available information, an examiner has the authority to approve a license. Sometimes as examiners review applications and ask for clarifying or additional information, the applicant withdraws or abandons the application during the review process (that's the primary reason you see no denials on the spreadsheet). However, if there are any disciplinary issues or negative information, the Director is involved in the situation and determines what additional information or action is necessary. If denial is warranted, the Director ensures the appropriate notification and appeal rights are provided. This is the process for all of the licensing/registration applications the division receives, not just the ones covered in this correspondence.

No applications. The Division has received no applications for three license/charter types. The explanations that I can provide are only from the Division's perspective of the marketplace. Please do not attribute what amounts to my musings to anyone besides me personally.

BIDCO – Since BIDCO type organizations were established in the 1980s and 1990s, the securities markets have changed substantially, allowing larger scale lenders to provide some of the same funding mechanisms, but through private offerings with less government oversight. One of the reasons for private funding is that public funding of BIDCOs has diminished. For instance, here in Alaska, the Alaska BIDCO Fund was set up, but not funded in 2004. (Please see the attached email and bill analysis, included with permission of

Mr. Jerry Anderson, Administrator  
February 12, 2015

the Attorney General's Office that explains the establishment and the apparent decision not to fund the Alaska BIDCO Fund.)

Small Loan Companies – The division had more licensees in this category in the past, but with the changing financial marketplace, small loans through other financial entities are more accessible (credit unions, banks, credit cards, etc.). The current licensee has been licensed since June 1993.

Banks, Mutual Savings Banks, Credit Unions – Nationally and worldwide, the financial institution industry has seen substantial consolidation including mergers between institutions, and recently (2008 -2010) a number of failed institutions. The Federal Reserve Bank and federal insurers report few 'de novo' or new bank charter requests. While the western region of the contiguous United States is seeing a few requests for new charters, the profit margins have been quite low in banking over the last decade or so and the capital required to open a bank is consequential, investors have not favored new banks.

I included a hard copy of the 2014 Alaska Directory of Banks and Financial Institutions. It is also available on our website and is updated regularly. The last few pages contain a list of changes in Banks, Savings and Loans and Credit Unions in Alaska. The most recent change, as you may recall, is the Northrim Bank acquisition of the Alaska Pacific Bank.

Based upon the review of the programs and related statutes, it appears that the Committee may have grounds to remove the five listed programs from the State Benefit and Loan programs list published pursuant to AS 24.60.050(b).

If I may answer additional questions or address concerns, please feel free to contact me directly.

Sincerely,



Kevin Anselm

Director

Alaska Division of Banking and Securities

(907) 269-4157

[kevin.anselm@alaska.gov](mailto:kevin.anselm@alaska.gov)

**1. ANNUAL BENEFIT AND LOAN REVIEW--AS 24.60.050(b) :**

(Was Item 8) 9:05:28 AM Ethics Administrator Jerry Anderson referred members to ITEM 8, green pages in their packets, stating that this was an annual review of state benefit and loan programs that are subject to disclosure. Mr. Anderson explained that letters were mailed to the departments listed regarding their programs. A response was received from the Department of Commerce Community and Economic Development (DCCED) requesting that a new loan program be added to the list and that it be placed under the Alaska Energy Authority as the "Emerging Energy Technology Fund".

Mr. Anderson also stated that DCCED requested that several of their programs be removed from the list. Mr. Anderson announced that Ms. Kevin Anselm, Director of the Division of Banking Securities, would be available shortly via teleconference to answer questions regarding this request.

Members discussed adding the new loan program to the list. Senator Stevens stated that he did not see how a legislator would be able to utilize the "Emerging Energy Technology Fund", and asked members why it would be added to the list of programs.

Chair Turner stated that it could apply if someone were to set up a private business.

Member Thomas added that it would not only apply to legislators but legislative staff and/or anyone subject to the Legislative Ethics Act.

Member Thomas motioned to add the Emerging Energy Technology Fund to the list of programs that must be disclosed if applicable. There were no objections. Program added.

**Members moved on to ITEM 5 until Ms. Anselm became available to testify.**

**Members returned to ITEM 4 Annual State Benefit & Loan Review**

9:22:01 AM Ms. Kevin Anslem introduced herself via teleconference and stated that Assistant Attorney General Renee Wardlaw was also on teleconference.

Mr. Anderson stated that the committee had discussed each program by name only, and asked her to explain briefly her reasoning for requesting that each one be deleted from the list of State Benefit and Loans.

Ms. Anslem provided a review of each of the six programs stating that the Deferred Deposit Advances are payday loans; the Bank Charters, Mutual Savings Banks, Credit Unions, etc., are all governed under Alaska Statute and require that anyone involved in these entities meet certain requirements. These requirements are the same for both the public as for everyone else. It doesn't seem that these particular licenses or charters should be included in the current list. Ms. Anslem also stated that they were unable to find out when these programs started to become included on this list and stated that if certain licenses are included, a number of other licenses would need to be included as well. It doesn't make sense for them to be on the list.

Chair Turner thanked Ms. Anslem and provided her an update on the approval of adding "Emerging Energy Technology Fund" to the list of programs and loans.

Mr. Anderson stated that the committee also has no history as to when the programs were added, but that they have been on this list for a long, long time. What the committee wants to know is if these programs meet the standards outlined in statute and stated on the sample letter in today's packet:

1. generally available to members of the public;
2. subject to fixed, objective eligibility standards; and
3. minimal in discretion in determining qualification

Representative Josephson asked Ms. Anslem how the current five items came to be on the list, stating that someone exercised wisdom and put them there, noting that he had a follow-up question for her after this one.

Ms. Anslem replied that she agreed with him in that at some point, someone must've thought they should be on the list, but she did not know why. They have not been able to determine when they came on the list.

Chair Turner interjected stating that Ms. Anderson, former Ethics Administrator may have some background information and may be able to answer some of these questions.

9:27:03 AM Ms. Joyce Anderson stated in 1992, there was legislation passed that created this particular committee. In 1992 and 1993, from records in the office, there was a massive study that was done with all state departments. At that time, a committee that was set up went through all those programs and loans. She stated that she did not have a copy of the analysis of the study, but after reviewing all of the programs and loans, this particular committee made a recommendation to the Ethics Committee of all loans and benefit programs they felt should be on the list and those that should not be on the list. The Ethics Committee approved the list. The reason that the benefit and loan programs are on the list is because there is no fixed criteria and minimal discretion when approving them.

When legislation passed in 1992, the committee felt that legislators and legislative employees would disclose this information in case there was any type of preference given because s/he was a legislator or legislative employee. It is likely that the programs were added to the list in 1993; the criteria has not changed from then until now. There have not been changes to any sections of that particular statute.

Representative Josephson asked Ms. Anslem if it was her position that because there's objective criteria for qualification, there's sort of a built in protection of fairness, so there's no need to report this.

In response to Rep Josephson's question, Ms. Anslem stated that it goes beyond that. Anytime you're dealing with financial issues, we can go pretty far back into background and then also examine all of these entities so that if there is some sort of anomaly or problem they're able to pick that up. She stated that she would be interested in understanding the protection that the committee might be looking for here that isn't being offered under the statute. Obviously, this is something that the committee needs to determine if they want these holdings reported, and if so, there might be other licenses that would be similar. For instance, you have mortgage broker licenses or insurance company licenses. Some of these might fall in the same sort of category.

Representative Josephson asked Ms. Anslem how this came before her; this was not an imposition on her department, it was an imposition on the holder of one of these benefits.

Ms. Anslem stated that the list was sent to all of the directors in their department this year, for the first time in a very

long time, which is what brought it to their attention. They're interested in making sure that people don't have additional requirements that don't appear to have a reason for them. Upon looking at these particular programs and all of the other ones the DCCED deals with, they thought that this might be something that could come off the list.

Mr. Anderson explained that the Ethics office annually mails out letters. This year's letter specifically went to the director of the DCCED, which in turn went down to all of the directors, this time. The actual letter was addressed to Jeanne Mungle, director of DCCED, as you can see on the sample letter in the packet. It then went down to those divisions, which is how Ms. Anslem became involved in the process.

Member Thomas asked Mr. Anderson if he or anyone else has analyzed what the discretion is that the department has in awarding these licenses.

Mr. Anderson stated that the only research that has been done was through the website for this particular division, where we downloaded the applications that were related to each of these programs. Some were very extensive and some were very short. From that, one could determine if there was minimal discretion involved in qualification. Some of those appeared to him to have discretion involved in awarding those programs. However, stated Mr. Anderson, he was unfamiliar with each of the programs beyond just looking at that website. Questions like yours could be properly addressed to Ms. Anslem.

Member Thomas asked Mr. Anderson upon his review, which programs he thought might not meet the criteria.

Mr. Anderson stated that he did not review them individually, rather he looked at them as a whole. It was difficult to make a determination with just looking at the application what is the actual process behind the review. Without going through the process and filling out the paperwork you didn't necessarily get the full flavor of what is the discretion involved in actually getting a loan or benefit under those programs.

#### 9:34:25 AM

Representative Liz Vazquez, alternate Committee Member for Rep Millett, stated that she agreed with Mr. Anderson's assessment. She stated that she has an extensive regulatory background, in that she started her career with the United States Control of the Currency which was a regulatory agency, and then went on



to the General Counsel's Office, Department of Treasury, and the Department of Law, etc. Representative Vazquez stated that the applications are not a straight, fill out the form process; in fact, they usually are not; there are several levels of review and several levels of discretion. She stated that when she was in the United States Control of the Currency, they regulated national banks and they were not allowed to have any loans issued by a national bank, credit cards issued by a national bank, or a mortgage issued by a national bank because they did not want any assumption that any influences were used to obtain funds or privileges. She stated that she would tend to lean on the stricter side for the reason of perception. Perception in the world of politics and public service is a reality.

Member Thomas stated that it would be difficult for the committee to make a decision to exclude these before knowing specifically what discretion might be available to the department for each one. They can't be lump all together either because it sounds like they're not all the same. Member Thomas further stated that he did not have enough information to vote on removing any of the programs at this time.

Member Cook stated the he felt that someone needs to take a look at this and asked Rep Vazquez if she would be willing to review the DCCED programs and report back to the committee in May.

Representative Vazquez agreed to Member Cook's proposal and asked the committee for a guideline and contact person. Chair Turner stated that Rep Vazquez would be working with Mr. Anderson and Ms. Anslem.

Member Thomas motioned not to remove the five programs from the list and requested that Rep Vazquez review what discretion the department has in granting the licenses.

There were no objections.

# **ETHICS COMMITTEE MEETING**

**January 25, 2016**

**ITEM 9:      FY 16 and FY17 Budget Update**





Last Refreshed 1/4/16 9:06 AM

## IFIN2001 IRIS Available Balance by AR Group

Report Name	IFIN2001 IRIS Available Balance by AR G			
Report User	285173			
Report Date	12/31/2015			
Budget Year	2016			
Department Code	30			

## Legislative Council

### Select Committee on Ethics

Appropriation Group Code	Object Type Code	Expend Current Budget	Encumbrances	Expenditures	Available Expenditure Budget
L3LC	1000	\$199,500.00	\$0.00	\$87,474.83	\$112,025.17
L3LC	2000	\$25,000.00	\$0.00	\$4,562.06	\$20,437.94
L3LC	3000	\$30,800.00	\$0.00	\$260.99	\$30,539.01
L3LC	4000	\$1,800.00	\$0.00	\$912.29	\$887.71
		<b>257,100.00</b>	<b>0.00</b>	<b>93,210.17</b>	<b>163,889.83</b>

IFIN2001 IRIS Available Balance by AR Group

## Select Committee on Legislative Ethics FY 16 Budget

Category	Budget Amt	Exp. To 12/31	Budget Remaining	% Remaining
Personnel	\$199,500.00	\$87,474.83	\$112,025.17	56.15%
Travel	\$25,000.00	\$4,562.06	\$20,437.94	81.75%
Services	\$30,800.00	\$260.99	\$30,539.01	99.15%
Commodities	\$1,800.00	\$912.29	\$887.71	49.32%
FY 16 Totals	\$257,100.00			

# Component Summary (1078)

DRAFT

## Legislature

Results Delivery Unit/ Component	FY2015 Final Authorized (12770)	FY2015 Actuals (12769)	FY2016 Conference Committee (12459)	FY2016 Authorized (12506)	FY2016 Management Plan (12513)	FY2017 Budget Development (12633)
<b>Budget and Audit Committee</b>						
Legislative Audit	5,774.5	5,773.5	7,009.1	7,009.1	7,009.1	6,786.3
Legislative Finance	6,452.7	6,452.0	8,000.7	8,000.7	8,000.7	7,844.4
Committee Expenses	800.3	799.3	2,456.6	2,456.6	2,456.6	2,446.1
<b>RDU Total:</b>	<b>13,027.5</b>	<b>13,024.8</b>	<b>17,466.4</b>	<b>17,466.4</b>	<b>17,466.4</b>	<b>17,076.8</b>
<b>Legislative Council</b>						
Salaries and Allowances	7,338.3	7,337.8	7,619.8	7,619.8	7,619.8	7,619.8
Administrative Services	13,413.6	13,402.4	9,176.0	9,176.0	9,221.0	9,063.2
Council and Subcommittees	940.4	740.4	1,034.6	1,233.3	1,233.3	1,014.3
Legal and Research Services	4,715.7	4,715.2	4,266.2	4,266.2	4,266.2	4,157.8
Ethics Committee	227.5	227.2	257.1	257.1	257.1	252.4
Office of Victims Rights	900.3	900.0	989.6	989.6	989.6	988.3
Ombudsman	1,100.7	1,100.2	1,296.4	1,296.4	1,296.4	1,269.7
LEG State Facilities Rent	4,965.2	4,964.7	5,576.6	5,576.6	5,531.6	5,531.6
<b>RDU Total:</b>	<b>33,601.7</b>	<b>33,387.9</b>	<b>30,216.3</b>	<b>30,415.0</b>	<b>30,415.0</b>	<b>29,877.1</b>
<b>Information and Teleconference</b>						
Information and Teleconference	0.0	0.0	3,481.2	3,481.2	3,481.2	3,404.1
<b>RDU Total:</b>	<b>0.0</b>	<b>0.0</b>	<b>3,481.2</b>	<b>3,481.2</b>	<b>3,481.2</b>	<b>3,404.1</b>
<b>Legislative Operating Budget</b>						
Legislative Operating Budget	11,176.1	11,175.6	12,604.5	12,604.5	12,604.5	12,310.1
Session Expenses	9,953.0	9,951.8	10,282.7	10,282.7	9,436.7	9,265.7

# Component Summary (1078)

## Legislature

DRAFT

Results Delivery Unit/ Component	FY2015 Final Authorized (12770)	FY2015 Actuals (12768)	FY2016 Conference Committee (12459)	FY2016 Authorized (12506)	FY2016 Management Plan (12513)	FY2017 Budget Development (12633)
<b>Legislative Operating Budget</b>						
Special Session/Contingency	0.0	0.0	220.0	220.0	1,066.0	1,066.0
<b>RDU Total:</b>	<b>21,129.1</b>	<b>21,127.4</b>	<b>23,107.2</b>	<b>23,107.2</b>	<b>23,107.2</b>	<b>22,641.8</b>
<b>Unrestricted General (UGF):</b>	67,302.4	67,095.6	73,397.9	73,596.6	73,596.6	72,126.6
<b>Designated General (DGF):</b>	66.4	64.4	63.4	63.4	63.4	63.4
<b>Other:</b>	389.5	380.1	809.8	809.8	809.8	809.8
<b>Federal:</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>Total Funds:</b>	<b>67,758.3</b>	<b>67,540.1</b>	<b>74,271.1</b>	<b>74,469.8</b>	<b>74,469.8</b>	<b>72,999.8</b>
<b>Permanent Full Time:</b>	262	262	262	262	255	255
<b>Permanent Part Time:</b>	298	298	297	297	293	293
<b>Non Permanent:</b>	0	0	0	0	0	0
<b>Total Positions:</b>	<b>560</b>	<b>560</b>	<b>559</b>	<b>559</b>	<b>548</b>	<b>548</b>

# **ETHICS COMMITTEE MEETING**

**January 25, 2016**

**ITEM 10: 2015/2016 Legislation Update**

**SENATE BILL NO. 24**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY SENATOR GARDNER

Introduced: 1/21/15

Referred: State Affairs, Judiciary

**A BILL****FOR AN ACT ENTITLED**

1 "An Act relating to the applicability of the Legislative Ethics Act to legislative interns,  
2 legislative volunteers, consultants, independent contractors, sole proprietorships, and  
3 other legal entities."

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

5 \* Section 1. AS 24.60.112 is repealed and reenacted to read:

6 Sec. 24.60.112. Applicability to legislative interns, volunteers, consultants,  
7 and independent contractors. (a) A legislative intern or legislative volunteer is a  
8 legislative employee for purposes of compliance with AS 24.60.030 - 24.60.039,  
9 24.60.060, 24.60.080, 24.60.085, 24.60.155 - 24.60.170, 24.60.176, and 24.60.178.

10 (b) A legislative consultant or legislative independent contractor is a  
11 legislative employee for purposes of compliance with AS 24.60.030(a)(1) and (3),  
12 24.60.031(a), 24.60.033, 24.60.060, 24.60.080(a), (c)(1) - (6), (g), and (j), 24.60.158 -  
13 24.60.170, 24.60.176, and 24.60.178.

14 (c) If a person believes that a legislative intern, legislative volunteer,

1 legislative consultant, or legislative independent contractor has violated a provision of  
 2 this chapter that is made applicable by this section, the person may file a complaint  
 3 under AS 24.60.170.

4 \* Sec. 2. AS 24.60.134(c) is amended to read:

5 (c) A person under contract to provide personal services to the committee who  
 6 does so as [IS] part of a sole proprietorship, corporation, [OR] partnership, or other  
 7 legal entity that includes individuals who will not be participating directly in the work  
 8 performed by the entity for the committee may request the committee to exclude  
 9 members of the entity from some or all of the provisions of this section. The  
 10 committee may grant the request if it finds that

11 (1) doing so will not lead to the appearance that the committee is  
 12 subject to undue political influence; and

13 (2) [IF] there is no appearance of impropriety.

14 \* Sec. 3. AS 24.60.990(a)(11) is amended to read:

15 (11) "legislative employee" means a public member of the  
 16 committee, a staff member of the committee, and a person, other than a legislator,  
 17 who is compensated by the legislative branch in return for providing regular or  
 18 substantial personal services, regardless of the person's pay level or technical status as  
 19 full time or part time; except where expressly provided otherwise by this chapter,  
 20 "legislative employee" [A FULL-TIME OR PART-TIME EMPLOYEE,  
 21 INDEPENDENT CONTRACTOR, OR CONSULTANT; IT INCLUDES PUBLIC  
 22 MEMBERS AND STAFF OF THE COMMITTEE; IT] does not include legislative  
 23 interns, legislative volunteers, legislative consultants, legislative independent  
 24 contractors, individuals who perform functions that are incidental to legislative  
 25 functions, and other employees designated by the committee;

**SENATE BILL NO. 109**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-NINTH LEGISLATURE - FIRST SESSION**

**BY SENATORS WIELECHOWSKI, Gardner, Egan, Ellis**

**Introduced: 4/13/15**

**Referred: State Affairs, Judiciary**

**A BILL**

**FOR AN ACT ENTITLED**

1   **"An Act requiring a legislator to abstain from voting on questions affecting an**  
2   **enterprise if the legislator or member of the legislator's immediate family has a**  
3   **substantial financial interest in the enterprise, and requiring a legislator to refrain from**  
4   **taking or withholding official action or exerting official influence in certain matters in**  
5   **which the legislator's action or influence could benefit or harm another person; adding a**  
6   **definition of 'financial interest' to the Legislative Ethics Act; making this Act**  
7   **conditionally effective; and providing for an effective date."**

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

9    **\* Section 1.** AS 24.60.030(e) is amended to read:

10           (e) A legislator may not directly, or by authorizing another to act on the  
11           legislator's behalf,

12                   (1) agree to, threaten to, or state or imply that the legislator will take or  
13           withhold a legislative, administrative, or political action, including support for or



1 opposition to a bill, employment, nominations, and appointments, as a result of a  
 2 person's decision to provide or not provide a political contribution, donate or not  
 3 donate to a cause favored by the legislator, or provide or not provide a thing of value;

4 (2) state or imply that the legislator will perform or refrain from  
 5 performing a lawful constituent service as a result of a person's decision to provide or  
 6 not provide a political contribution, donate or not donate to a cause favored by the  
 7 legislator, or provide or not provide a thing of value; or

8 (3) except as provided in (g) of this section or while participating  
 9 in a public discussion or debate [UNLESS REQUIRED BY THE UNIFORM  
 10 RULES OF THE ALASKA STATE LEGISLATURE], take or withhold official  
 11 action or exert official influence that could substantially benefit or harm the financial  
 12 interest of another person

13 (A) by [WITH] whom the legislator is employed;

14 (B) with whom the legislator is negotiating for employment;

15 or

16 (C) from whom the legislator has received more than  
 17 \$10,000 of income within the immediately preceding 12-month period.

18 \* Sec. 2. AS 24.60.030(g) is amended to read:

19 (g) A [UNLESS REQUIRED BY THE UNIFORM RULES OF THE  
 20 ALASKA STATE LEGISLATURE, A] legislator may not vote on a question if the  
 21 legislator or a member of the legislator's immediate family has a financial [AN  
 22 EQUITY OR OWNERSHIP] interest in a business, investment, real property, lease, or  
 23 other enterprise if the interest is substantial and the effect on that interest of the action  
 24 to be voted on is greater than the effect on a substantial class of persons to which the  
 25 legislator or the family member, whichever one has the financial interest, belongs  
 26 as a member of a profession, occupation, industry, or region. However,  
 27 notwithstanding (e)(3) of this section and the limitations of this subsection, a  
 28 legislator may vote on an appropriation bill that meets the requirements of  
 29 AS 37.07.020(a) or 37.07.100 (Executive Budget Act).

30 \* Sec. 3. AS 24.60.030(j) is amended to read:

31 (j) In this section,

1                   **(1)** "administrative hearing" means a quasi-judicial hearing before an  
 2 agency; "administrative hearing" does not include an informal conference or review  
 3 held by an agency before a final decision is issued or a rate-making proceeding or  
 4 other nonadjudicative public hearing;

5                   **(2)** "**substantially benefit or harm**" means the effect on the  
 6 **person's financial interest is greater than the effect on the financial interest of a**  
 7 **substantial class of persons to which the person belongs as a member of a**  
 8 **profession, occupation, industry, or region.**

9       \* **Sec. 4.** AS 24.60.990(a) is amended by adding a new paragraph to read:

10                   (17) "financial interest" means ownership of an interest or an  
 11 involvement in a business, including a property ownership, or a professional or private  
 12 relationship, that is a source of income, or from which, or as a result of which, a  
 13 person has received or expects to receive a financial benefit.

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

16                   **CONDITIONAL EFFECT.** This Act takes effect only if Rule 34(b), Uniform Rules of  
 17 the Alaska State Legislature, is amended to require a member to request to abstain from  
 18 voting when the member reasonably believes that casting a vote would violate AS 24.60  
 19 (Legislative Ethics Act), and allowing a member's abstention to be approved by a majority  
 20 vote.

21       \* **Sec. 6.** If, under sec. 5 of this Act, this Act takes effect, it takes effect on the later of the  
 22 effective date of the amendment made to Rule 34(b), Uniform Rules of the Alaska State  
 23 Legislature, as described in sec. 5 of this Act or on the date described in AS 01.10.070(c).

**HOUSE BILL NO. 195**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-NINTH LEGISLATURE - FIRST SESSION**

**BY REPRESENTATIVE KAWASAKI**

**Introduced: 4/13/15**

**Referred: State Affairs, Judiciary**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act requiring a legislator to abstain from voting on questions affecting an  
2 enterprise if the legislator or member of the legislator's immediate family has a  
3 substantial financial interest in the enterprise, and requiring a legislator to refrain from  
4 taking or withholding official action or exerting official influence in certain matters in  
5 which the legislator's action or influence could benefit or harm another person; adding a  
6 definition of 'financial interest' to the Legislative Ethics Act; making this Act  
7 conditionally effective; and providing for an effective date."

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

9 \* **Section 1.** AS 24.60.030(e) is amended to read:

10 (e) A legislator may not directly, or by authorizing another to act on the  
11 legislator's behalf,

12 (1) agree to, threaten to, or state or imply that the legislator will take or  
13 withhold a legislative, administrative, or political action, including support for or

1 opposition to a bill, employment, nominations, and appointments, as a result of a  
 2 person's decision to provide or not provide a political contribution, donate or not  
 3 donate to a cause favored by the legislator, or provide or not provide a thing of value;

4 (2) state or imply that the legislator will perform or refrain from  
 5 performing a lawful constituent service as a result of a person's decision to provide or  
 6 not provide a political contribution, donate or not donate to a cause favored by the  
 7 legislator, or provide or not provide a thing of value; or

8 (3) except as provided in (g) of this section or while participating  
 9 in a public discussion or debate [UNLESS REQUIRED BY THE UNIFORM  
 10 RULES OF THE ALASKA STATE LEGISLATURE], take or withhold official  
 11 action or exert official influence that could substantially benefit or harm the financial  
 12 interest of another person

13 (A) by [WITH] whom the legislator is employed;

14 (B) with whom the legislator is negotiating for employment;

15 or

16 (C) from whom the legislator has received more than  
 17 \$10,000 of income within the immediately preceding 12-month period.

18 \* Sec. 2. AS 24.60.030(g) is amended to read:

19 (g) A [UNLESS REQUIRED BY THE UNIFORM RULES OF THE  
 20 ALASKA STATE LEGISLATURE, A] legislator may not vote on a question if the  
 21 legislator or a member of the legislator's immediate family has a financial [AN  
 22 EQUITY OR OWNERSHIP] interest in a business, investment, real property, lease, or  
 23 other enterprise if the interest is substantial and the effect on that interest of the action  
 24 to be voted on is greater than the effect on a substantial class of persons to which the  
 25 legislator or the family member, whichever one has the financial interest, belongs  
 26 as a member of a profession, occupation, industry, or region. However,  
 27 notwithstanding (e)(3) of this section and the limitations of this subsection, a  
 28 legislator may vote on an appropriation bill that meets the requirements of  
 29 AS 37.07.020(a) or 37.07.100 (Executive Budget Act).

30 \* Sec. 3. AS 24.60.030(j) is amended to read:

31 (j) In this section,

1                   **(1)** "administrative hearing" means a quasi-judicial hearing before an  
 2 agency; "administrative hearing" does not include an informal conference or review  
 3 held by an agency before a final decision is issued or a rate-making proceeding or  
 4 other nonadjudicative public hearing;

5                   **(2)** "**substantially benefit or harm**" means the effect on the  
 6 **person's financial interest is greater than the effect on the financial interest of a**  
 7 **substantial class of persons to which the person belongs as a member of a**  
 8 **profession, occupation, industry, or region.**

9       \* **Sec. 4.** AS 24.60.990(a) is amended by adding a new paragraph to read:

10                   (17) "financial interest" means ownership of an interest or an  
 11 involvement in a business, including a property ownership, or a professional or private  
 12 relationship, that is a source of income, or from which, or as a result of which, a  
 13 person has received or expects to receive a financial benefit.

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

16                   **CONDITIONAL EFFECT.** This Act takes effect only if Rule 34(b), Uniform Rules of  
 17 the Alaska State Legislature, is amended to require a member to request to abstain from  
 18 voting when the member reasonably believes that casting a vote would violate AS 24.60  
 19 (Legislative Ethics Act), and allowing a member's abstention to be approved by a majority  
 20 vote.

21       \* **Sec. 6.** If, under sec. 5 of this Act, this Act takes effect, it takes effect on the later of the  
 22 effective date of the amendment made to Rule 34(b), Uniform Rules of the Alaska State  
 23 Legislature, as described in sec. 5 of this Act or on the date described in AS 01.10.070(c).

**SPONSOR SUBSTITUTE FOR SENATE BILL NO. 4**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-NINTH LEGISLATURE - FIRST SESSION**

**BY SENATORS GIESSEL, Gardner**

**Introduced: 1/26/15**

**Referred: State Affairs, Judiciary**

**A BILL**

**FOR AN ACT ENTITLED**

1   **"An Act relating to financial disclosures required of legislators, legislative directors,**  
2   **public members of the Select Committee on Legislative Ethics, and public officials."**

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

4    \* **Section 1.** AS 24.60.210(a) is amended to read:

5           (a) A person required to file a disclosure statement under AS 24.60.200 shall  
6           file an annual report with the Alaska Public Offices Commission, covering the  
7           previous calendar year, containing the disclosures required by AS 24.60.200, on or  
8           before May [MARCH] 15 of each year, except that a person appointed as a legislator  
9           under AS 15.40, a public member of the committee, or a legislative director must file  
10          within 30 days after the person's appointment. In addition, a person subject to this  
11          subsection shall, within 90 days after leaving service as a legislator, legislative  
12          director, or public member of the committee, file a final report containing the  
13          disclosures required of the person by AS 24.60.200 for the period that begins on the  
14          last day of the last period for which the person filed a report required by that section

1 and ends on the date of the person's last day of service.

2 \* **Sec. 2.** AS 24.60.250(a) is amended to read:

3 (a) In addition to the sanctions described in AS 24.60.260, if the Alaska Public  
4 Offices Commission finds that a candidate for the legislature who is an incumbent  
5 legislator has failed to file a report under AS 24.60.200 by a deadline established in  
6 AS 24.60.210 [MARCH 15], the commission shall notify the candidate that the report  
7 is late. If the candidate fails to file the report within 30 days after it is due,

8 (1) the commission shall notify the lieutenant governor;

9 (2) the candidate shall forfeit nomination to office and may not be  
10 seated in office;

11 (3) the lieutenant governor may not certify the person's nomination for  
12 office or election to office; and

13 (4) nomination to the office shall be certified as provided in  
14 AS 39.50.060(b).

15 \* **Sec. 3.** AS 39.50.020(a) is amended to read:

16 (a) A public official other than the governor or the lieutenant governor shall  
17 file a statement giving income sources and business interests, under oath and on  
18 penalty of perjury, within 30 days after taking office as a public official. Candidates  
19 for state elective office other than a candidate who is subject to AS 24.60 shall file the  
20 statement with the director of elections at the time of filing a declaration of candidacy  
21 or a nominating petition or becoming a candidate by any other means. Candidates for  
22 elective municipal office shall file the statement at the time of filing a nominating  
23 petition, declaration of candidacy, or other required filing for the elective municipal  
24 office. Refusal or failure to file within the time prescribed shall require that the  
25 candidate's filing fees, if any, and filing for office be refused or that a previously  
26 accepted filing fee be returned and the candidate's name removed from the filing  
27 records. A statement shall also be filed by public officials not [NO] later than May  
28 [MARCH] 15 in each following year. On or before the 90th day after leaving office, a  
29 former public official shall file a final statement covering any period during the  
30 official's service in that office for which the public official has not already filed a  
31 statement. Persons who are members of boards or commissions not named in

1

AS 39.50.200(b) are not required to file financial statements.



**CS FOR HOUSE BILL NO. 65(JUD)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-NINTH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered: 3/6/15**

**Referred: Rules**

**Sponsor(s): REPRESENTATIVE HAWKER**

**A BILL**

**FOR AN ACT ENTITLED**

1   **"An Act relating to the disclosure of financial information by persons who are subject to**  
 2   **the Legislative Ethics Act and by certain public officers, public employees, and**  
 3   **candidates for public office."**

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

5    \* **Section 1. AS 15.13.040(m) is amended to read:**

6           (m) Information required under this chapter shall be submitted to the  
 7           commission electronically, except that the following information may be submitted in  
 8           clear and legible black typeface or hand-printed in dark ink on paper in a format  
 9           approved by the commission or on forms provided by the commission:

10                   (1) information submitted by

11                           (A) a candidate for election to a borough or city office of  
 12                   mayor, membership on a borough assembly, city council, or school board, or  
 13                   any state office, who

14                                   (i) meets the requirements of (g)(1) - (3) of this section;

1 or

2 (ii) does not have reasonable access to the technology  
3 necessary to file electronically; in this sub-subparagraph, a candidate is  
4 considered not to have reasonable access to the technology necessary to  
5 file electronically if the candidate does not own a personal computer or  
6 does not have broadband Internet access at the candidate's residence; in  
7 this sub-subparagraph, "broadband Internet access" means high-speed  
8 Internet access that is always on and that is faster than traditional dial-  
9 up access; or

10 (B) a candidate for municipal office for a municipality with a  
11 population of less than 15,000 according to the latest figures of the United  
12 States Bureau of the Census or other population data that the Department  
13 of Commerce, Community, and Economic Development determines is  
14 reliable; in this subparagraph, "municipal office" means the office of an  
15 elected borough or city

16 (i) mayor; or

17 (ii) assembly, council, or school board member;

18 (2) any information if the commission determines that circumstances  
19 warrant an exception to the electronic submission requirement.

20 \* Sec. 2. AS 24.60.210(a) is amended to read:

21 (a) A person required to file a disclosure statement under AS 24.60.200 shall  
22 file an annual report with the Alaska Public Offices Commission, covering the  
23 previous calendar year, containing the disclosures required by AS 24.60.200, on or  
24 before May [MARCH] 15 of each year, except that a person appointed as a legislator  
25 under AS 15.40, a public member of the committee, or a legislative director must file  
26 within 30 days after the person's appointment. In addition, a person subject to this  
27 subsection shall, within 90 days after leaving service as a legislator, legislative  
28 director, or public member of the committee, file a final report containing the  
29 disclosures required of the person by AS 24.60.200 for the period that begins on the  
30 last day of the last period for which the person filed a report required by that section  
31 and ends on the date of the person's last day of service.

1 \* Sec. 3. AS 24.60.250(a) is amended to read:

2 (a) In addition to the sanctions described in AS 24.60.260, if the Alaska Public  
3 Offices Commission finds that a candidate for the legislature who is an incumbent  
4 legislator has failed to file a report under AS 24.60.200 by a deadline established in  
5 AS 24.60.210 [MARCH 15], the commission shall notify the candidate that the report  
6 is late. If the candidate fails to file the report within 30 days after it is due,

7 (1) the commission shall notify the lieutenant governor;

8 (2) the candidate shall forfeit nomination to office and may not be  
9 seated in office;

10 (3) the lieutenant governor may not certify the person's nomination for  
11 office or election to office; and

12 (4) nomination to the office shall be certified as provided in  
13 AS 39.50.060(b).

14 \* Sec. 4. AS 39.50.020(a) is amended to read:

15 (a) A public official other than the governor or the lieutenant governor shall  
16 file a statement giving income sources and business interests, under oath and on  
17 penalty of perjury, within 30 days after taking office as a public official. Candidates  
18 for state elective office other than a candidate who is subject to AS 24.60 shall file the  
19 statement with the director of elections at the time of filing a declaration of candidacy  
20 or a nominating petition or becoming a candidate by any other means. Candidates for  
21 elective municipal office shall file the statement at the time of filing a nominating  
22 petition, declaration of candidacy, or other required filing for the elective municipal  
23 office. Refusal or failure to file within the time prescribed shall require that the  
24 candidate's filing fees, if any, and filing for office be refused or that a previously  
25 accepted filing fee be returned and the candidate's name removed from the filing  
26 records. A statement shall also be filed by public officials not [NO] later than May  
27 [MARCH] 15 in each following year. On or before the 90th day after leaving office, a  
28 former public official shall file a final statement covering any period during the  
29 official's service in that office for which the public official has not already filed a  
30 statement. Persons who are members of boards or commissions not named in  
31 AS 39.50.200(b) are not required to file financial statements.

1     \* **Sec. 5.** AS 39.50.035 is amended to read:

2             **Sec. 39.50.035. Exemptions.** A person subject to this chapter is not exempt  
3             from any of its provisions except

4                     (1) as may be allowed by an exemption under AS 39.50.145;

5                     (2) as the commission may approve under (b) of this section; or

6                     (3) to the extent state courts determine that legally privileged  
7             professional relationships preclude complete compliance.

8     \* **Sec. 6.** AS 39.50.035 is amended by adding new subsections to read:

9             (b) A person may submit a written request for relief from a disclosure  
10            requirement of this chapter if the disclosure would

11                    (1) violate state or federal law, including the Constitution of the United  
12            States or the Constitution of the State of Alaska;

13                    (2) violate a rule, adopted formally by a trade or profession, that state  
14            or federal law requires the person to follow; or

15                    (3) reveal proprietary information treated by the person as confidential  
16            for business purposes, and the disclosure would be reasonably likely to materially  
17            diminish the commercial value of the information to the person or adversely affect the  
18            competitive position of the person.

19            (c) The commission shall approve or deny a request made under (b) of this  
20            section or may require further justification from the person making the request. At the  
21            request of the commission or a person authorized to act on behalf of the commission, a  
22            person who seeks relief from making a disclosure under this section shall provide the  
23            commission with justification in writing, and the commission shall review the written  
24            justification to determine whether it is sufficient. Before approving or denying a  
25            request made under (b)(3) of this section, the commission shall consider whether the  
26            state's interest in the disclosure is outweighed by the harm the disclosure would be  
27            reasonably likely to cause to the person seeking relief from the disclosure requirement.

28     \* **Sec. 7.** AS 39.50.050(a) is amended to read:

29            (a) The Alaska Public Offices Commission created under AS 15.13.020(a)  
30            shall administer the provisions of this chapter. The commission shall prepare and keep  
31            available for distribution standardized forms on which the reports required by this

chapter shall be filed. The commission shall print the forms provided under this section so that the front and back of each page have the same orientation when the page is rotated on the vertical axis of the page. The commission shall require that the information required under this chapter be submitted electronically but may, when circumstances warrant an exception, accept the [ANY] information on paper if the information [REQUIRED UNDER THIS CHAPTER THAT] is typed in clear and legible black typeface or hand-printed in dark ink [ON PAPER] in a format approved by the commission or on forms provided by the commission; however, regardless of the circumstances, a [AND THAT IS FILED WITH THE COMMISSION. A] municipal officer for a municipality with a population of less than 15,000 according to the latest figures of the United States Bureau of the Census or other population data that the Department of Commerce, Community, and Economic Development determines is reliable shall submit the information [REQUIRED UNDER THIS CHAPTER] either electronically or typed or hand-printed in the manner described in this subsection.

\* Sec. 8. AS 39.50.145 is repealed and reenacted to read:

**Sec. 39.50.145. Participation by municipalities; exemptions.** (a) The municipal officers of a municipality with a population of less than 1,000 are exempt from the requirements of this chapter unless the municipality elects to subject its municipal officers to the requirements of this chapter. A municipality with a population of less than 1,000 that has elected to subject its municipal officers to the requirements of this chapter may change that election and exempt its municipal officers from the requirements.

(b) A municipality with a population of 1,000 or more may elect to exempt its municipal officers from the requirements of this chapter. A municipality with a population of 1,000 or more that has elected to exempt its municipal officers from the requirements of this chapter may change that election and subject its municipal officers to the requirements.

(c) The question of election to be subject to, or exempt from, the requirements of this chapter

(1) may be submitted to the voters by the city council or borough

1 assembly by ordinance or by initiative election; and

2 (2) shall be decided by a majority of the voters voting on the question  
3 at a regular election, as defined in AS 29.71.800, or a special municipality-wide  
4 election.

5 (d) If a municipality votes to terminate an exemption, the municipality's  
6 municipal officers shall be subject to the requirements of this chapter beginning 30  
7 days after the certification of the election.

8 (e) Population of a municipality under this section shall be determined based  
9 on the latest figures of the United States Bureau of the Census or other population data  
10 that the Department of Commerce, Community, and Economic Development  
11 determines is reliable.

# **ETHICS COMMITTEE MEETING**

**January 25, 2016**

## **ITEM 11: APOC Report Notification**

**Sec. 24.60.220. Administration of AS 24.60.200 - 24.60.260.**

**The Alaska Public Offices Commission shall**

- (1) adopt regulations to implement and interpret the provisions of AS 24.60.200 - 24.60.260;
- (2) prepare standardized forms on which the statements required by AS 24.60.200 shall be filed;  
and
- (3) examine, investigate, and compare all reports and statements required under AS 24.60.200, and report all possible violations of this chapter it discovers to the committee. (§ 31 ch 127 SLA 1992)





THE STATE  
of **ALASKA**  
GOVERNOR BILL WALKER

**Department of Administration**

ALASKA PUBLIC OFFICES COMMISSION

2221 E. Northern Lights Blvd., Rm. 128  
Anchorage, AK 99508-4149  
Main: 907.276.4176  
Fax: 907.276.7018  
[www.doa.alaska.gov/apoc](http://www.doa.alaska.gov/apoc)

November 10, 2015

Via U.S. Mail and Email

Senator Lesil McGuire  
2022 Kimberly Lynn Circle  
Anchorage, AK 99515  
[lesilmcguire@yahoo.com](mailto:lesilmcguire@yahoo.com)

and  
716 W. 4<sup>th</sup> Avenue #200  
Anchorage, AK 99501

Re: Complaint 15-08-LFD, *APOC Staff v. Senator Lesil McGuire*

Dear Senator McGuire:

APOC Staff has completed its staff report regarding the complaint filed against you, alleging violations of AS 24.60, Alaska's legislative financial disclosure law. Please find the staff report and its exhibits with this letter.

As the Respondent, you have the right to file a response to the staff report within 10 days of this notification as per 2 AAC 50.875(d). Your response is a public document.

The date when this matter will be heard by the Commission has yet to be determined and is subject to the legislative immunity accorded you when the legislature is in session. You will receive notification of the time and place when this matter will be heard.

If you have any questions, please contact us. Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Dauphinais".

Paul Dauphinais  
Executive Director

Enclosures: Staff Report for Complaint 15-08-LFD  
2 AAC 50.875

cc: Mary Lynn Macsalka, Assistant Attorney General

## **2 AAC 50.875. Investigation**

- (a) The staff shall undertake an investigation of a complaint that the staff or the commission determines meets the criteria in [2 AAC 50.870\(c\)](#). The staff shall initiate an investigation if the commission or staff obtains information that, if true, would constitute a substantial violation of [AS 15.13](#), [AS 24.45](#), [AS 24.60.200](#) - 24.60.260, [AS 39.50](#), or this chapter. If the staff initiates an investigation, the staff shall promptly (1) prepare a written notice, setting out the facts, allegations, and law involved; and (2) provide the written notice and a copy of the complaint and supporting documentation to the respondent and the commission.
- (b) The staff may conduct an investigation as provided in [AS 15.13.045](#), and may (1) request written and sworn statements from a party, witness, or other person; (2) request the assistance of the Alaska State Troopers; and (3) contract with a private investigator.
- (c) When the staff completes an investigation, but no later than 30 days after accepting a complaint, staff shall prepare an investigation report. The investigation report must include a summary of the staff's findings, and a recommendation (1) that a hearing be held and penalties assessed if the staff concludes that the evidence shows a violation of the law; (2) that the matter be dismissed if the staff concludes that the evidence does not support a violation; or (3) that the commission approve a consent agreement, if the respondent and the staff have agreed to a resolution in compliance with [2 AAC 50.885](#).
- (d) The staff shall provide a copy of the investigation report to the complainant, the respondent, and the commission. No later than 10 days after the staff mails or delivers the investigation report to the respondent, the respondent may file an answer or an amended answer to the investigation report.
- (e) The commission will consider an investigation report at its next regularly scheduled meeting unless, in its discretion, the commission schedules the matter for a special meeting. The commission will give notice of the date, time, and place of the meeting to the complainant and the respondent. After considering the recommendation, the commission will (1) schedule the matter for hearing; (2) dismiss the complaint or investigation; or (3) consider any consent agreement as provided in [2 AAC 50.885](#).

BEFORE THE ALASKA PUBLIC OFFICES COMMISSION

Alaska Public Offices Commission,

Complainant

vs.

Lesil McGuire,

Respondent

Case No. 15-08-LFD

CERTIFICATE OF SERVICE

I hereby certify that on this date, I caused a true and correct copy of the Staff Report to be delivered as indicated to the following:

Senator Lesil McGuire 2022 Kimberly Lynn Circle Anchorage, AK 99515 716 W. 4 <sup>th</sup> Avenue #200 Anchorage, AK 99501 <a href="mailto:lesilmcguire@yahoo.com">lesilmcguire@yahoo.com</a>	<input checked="" type="checkbox"/> Certified Mail <input checked="" type="checkbox"/> Email
--	---

9171-9690-0935-0096-9837-03

9171-9690-0935-0096-9837-10

Michael S. Schwahr 10-11-2015  
Signed Date  
Alaska Public Offices Commission



THE STATE  
of **ALASKA**  
GOVERNOR BILL WALKER

**Department of Administration**

ALASKA PUBLIC OFFICES COMMISSION

2221 E. Northern Lights Blvd., Rm. 128  
Anchorage, AK 99508-4149  
Main: 907.276.4176  
Fax: 907.276.7018  
[www.doa.alaska.gov/apoc](http://www.doa.alaska.gov/apoc)

TO: APOC Commissioners  
DATE: November 4, 2015  
FROM: Paul Dauphinais, Executive Director  
SUBJECT: Staff Report  
15-08-LFD, APOC v. Senator Lesil McGuire

**SUMMARY**

Senator McGuire failed to meet her reporting obligations. Senator McGuire filed her annual LFD on March 13, 2015. While Senator McGuire met the filing deadline of March 16, 2015, she failed to file a complete report by not reporting the income or interests (business, beneficial, or property) of her spouse. She did report a permanent fund dividend for her spouse and children.<sup>1</sup> She did not request an exemption from reporting this information and did not provide evidence of a good faith effort to obtain the information from her spouse until after this complaint was filed.<sup>2</sup>

This report is delivered to Senator McGuire after the 30 day deadline noted in 2 AAC 50.875 due to the Legislative Immunity afforded respondent in AS 24.40.010.

**BACKGROUND**

Senator McGuire reported on her 2015 LFD that her spouse is Jason Skala. Mr. Skala is an attorney practicing in Anchorage, Alaska.<sup>3</sup> Legislators are required to provide information concerning income received by themselves, their spouse or domestic partner, dependent children, and non-dependent children living with them if the income is in excess of \$1,000 from a single source during the calendar year.<sup>4</sup> For that income, the amount, the name and address of the source and recipient, how the income was earned, the dates and approximate number of hours worked to earn the income, and a description sufficient to make clear to a person of ordinary understanding the nature of the service performed is required.<sup>5</sup>

<sup>1</sup> Exhibit 1, Senator McGuire's 2015 LFD.

<sup>2</sup> Exhibit 2, 2 AAC 50.775, process to request an exemption from specific reporting requirements, and 2 AAC 50.690, good faith effort requirements

<sup>3</sup> Exhibit 3, See <http://www.lawyer.com/jason-skala-1045801.html> .

<sup>4</sup> AS 24.60.200.

<sup>5</sup> AS 24.60.200(2)

APOC staff took notice of this discrepancy during a routine audit conducted on April 4, 2015. However, because of Legislative Immunity, staff did not contact Senator McGuire until June 15, 2015, after the end of the extended legislative session which ended June 11, 2015.<sup>6</sup>

## FACTS

Senator McGuire is required to file an annual Legislative Financial Disclosure statement under AS 24.60.200. While her report was filed on time, it was incomplete.

Senator McGuire was contacted six separate times in an effort to resolve this issue informally between June 15, 2015, and September 21, 2015, prior to staff filing this complaint.

Senator McGuire was first informed of this discrepancy on June 15, 2015, via an e-mail sent at 11:10 AM that day in an attempt to resolve the matter informally.<sup>7</sup> Senator McGuire responded via e-mail on June 20, 2015 at 7:56 AM.<sup>8</sup> Based on her reply to this initial e-mail she was then aware of the issue that is the basis for this complaint. She was informed of potential ways to comply with the reporting requirement via e-mails on June 22, 2015, at 7:57 AM and again on July 6, 2015 at 6:59 AM.<sup>9</sup> Senator McGuire was then sent a letter dated July 21, 2015, regarding her LFD.<sup>10</sup> In the July 21, 2015, letter Senator McGuire was informed about the possibility of a complaint being filed if the disclosure statement was not amended or she did not provide documentation concerning a good faith effort to obtain the required information from her spouse.

On August 24, 2015, Senator McGuire was sent a first notice of missing statement.<sup>11</sup> Senator McGuire has not signed for any certified mail sent to her in this matter; however, all e-mails sent to her show that they have been received. As noted earlier, she indicated an awareness of this issue on June 20, 2105.

On September 1, 2015, Senator McGuire called APOC and spoke with the executive director about her LFD and the missing information among other topics. The information contained in the several e-mails and letters previously sent was reiterated to her including the process regarding a good faith effort to obtain the required information. Her report was not amended nor was evidence of a good faith effort provided. On September 21, 2015, Senator

---

<sup>6</sup> AS 24.40.010 notes immunities. Specifically, "A legislator may not be held to answer before any other tribunal for any statement made in the exercise of legislative duties while the legislature is in session. A member attending, going to, or returning from legislative sessions is not subject to civil process and is privileged from arrest except for felony or breach of the peace. The immunities provided in this section extend to a legislator attending, going to, or returning from a meeting of an interim standing or special committee of the legislature of which the legislator is a member. For the purposes of going to and returning from a session or meeting, the immunities provided extend to a legislator for a period of five days immediately preceding and following the legislator's attendance at the session or meeting."

<sup>7</sup> Exhibit 4, E-mail from Paul Dauphinais to Senator McGuire of June 15, 2015 11:10 AM.

<sup>8</sup> Exhibit 5, E-mail from Senator McGuire to Paul Dauphinais of June 20, 2015 at 7:56 AM.

<sup>9</sup> Exhibits 6a and 6b, E-mails from Paul Dauphinais to Senator McGuire of June 22, 2015 at 7:57AM and July 6, 2015 at 6:59AM.

<sup>10</sup> Exhibit 7, Letter from Paul Dauphinais to Senator McGuire dated July 21, 2015.

<sup>11</sup> Exhibit 8, Notice of Missing Statement dated August 24, 2015.



McGuire was sent a second notice of missing statement and again she was asked to either amend her report or provide evidence of a good faith effort to obtain the information from her spouse.<sup>12</sup>

Finally, on October 7, 2015, because APOC had received neither an amended report nor documentation regarding a good faith effort, staff filed a complaint against Senator McGuire.

On October 15, 2015, Senator McGuire e-mailed APOC staff letters to show that she had made a good faith effort to get the information required by statute from her husband.<sup>13</sup> On October 23, 2015, Senator McGuire responded to the complaint.<sup>14</sup>

In her response to the complaint Senator McGuire notes that her spouse has declined to provide information each year and that the reasons why “are clearly stated in his letter of response each year”. It may well be true that Mr. Skala refused to provide the required information each year; however, only in 2013 did Mr. Skala provide a letter in response to a good faith effort by the filer.<sup>15</sup> That letter clearly indicates that the material was for the reporting year 2012.<sup>16</sup> Senator McGuire did not report her spouse’s income on her 2014 LFD covering calendar year 2013 and no good faith effort to obtain the information or reason for not providing that information is on file. This is because the author of this report audited her 2014 filing and failed to notice the lack of income reported. This was a staff error.

## **LAW & ANALYSIS**

Financial disclosure by members of the legislature is required by AS 24.60.200. The information to be reported under AS 24.60.200 includes information from “the discloser’s spouse or domestic partner”. The information is the same as required under AS 39.50.030 except for income received for personal services, a loan, or gifts.<sup>17</sup> As per AS 39.50.030 all sources of income over \$1,000 earned during the previous calendar year must be reported to include the source of the income, the recipient of the income, the amount of the income, how the income was earned, unless required by law to be kept confidential a description of the work performed, the identity of the source of income. Disclosure of real property interests, trusts, and natural resource leases is also required.<sup>18</sup>

Annual disclosures are due on or before March 15 of each year, or the first business day after that date if March 15 falls on a weekend or holiday.<sup>19</sup> Senator McGuire’s report was filed prior to that deadline. Her report listed income for herself as the filer and PFDs for her, her spouse, and one child. Her report did not include income, business interests, or real property interests of her spouse.

<sup>12</sup> Exhibit 9, Second Notice of Delinquency dated September 21, 2015.

<sup>13</sup> Exhibit 10, 2013 Good Faith Effort documents re Senator McGuire.

<sup>14</sup> Exhibit 11, Good Faith Effort documents dated October 7, 2015 and October 14, 2015. Exhibit 11, Response to Complaint.

<sup>15</sup> Exhibit 10, 2013 Good Faith Effort documents re Senator McGuire.

<sup>16</sup> Ibid.

<sup>17</sup> AS 24.60.200.

<sup>18</sup> AS 39.50.030(b).

<sup>19</sup> AS 39.50.020(a).

Regulation 2 AAC 50.690 provides guidance on providing a good faith effort to get information from a spouse, domestic partner, or child. When staff finally spoke to Senator McGuire in September she noted that she had provided a good faith effort for her 2013 LFD filing. This is true; however, that good faith effort was specific to the 2012 calendar year reported in 2013.

In her response to the complaint Senator McGuire notes that there has been significant emotional turmoil in her life.<sup>20</sup> Staff is very empathetic to her issues.

As a matter of clarification staff wishes to briefly address Mr. Skala's claim that there is a tie between the attorney/client privilege and reporting clients and the income he receives from them. First, there are numerous POFD/LFD filers who are attorneys and report their clients in different ways. The Alaska Rules of Court (2015-2016 edition), Alaska Rules of Professional Conduct specifically address the attorney client privilege and more specifically the secrets and confidences of clients in Rule 1.6. The secrets and confidences of clients as discussed in rule 1.6 are not requested in a POFD/LFD filing. While Mr. Skala, in his 2013 letter to Senator McGuire, notes that he does not want to disclose the terms of any settlements, the POFD form does not ask for that information. The form asks for Mr. Skala's income, not the specifics of any settlements or the amount awarded to any client, only the income earned by Mr. Skala, or others in a similar situation. More specifically, Rule 1.6(b)(6) notes that it is permissible to reveal certain information to comply with other law or a court order. Also, Rule 7.2 specifically notes that attorneys may provide the names of clients regularly represented, with the clients' consent, and the basis of fees, in advertising.

APOC Regulation 2 AAC 50.775 provides that a legislative branch filer may request an exemption from the requirement to report the name of a source of income and the amount of income regarding an individual who received legal services provided by an attorney under certain circumstances. Senator McGuire has not requested an exemption from reporting her husband's income or sources of income under 2 AAC 50.775, and Mr. Skala has not asserted that any of the circumstances specified in that regulation applies to his clients.

What the statute requires is that a filer, spouse, or dependent child reports the sources of income, the amount, of income from each source, and a brief statement that would enable a person of ordinary understanding to determine how that income was earned. With this in mind, the client's name, the amount earned—in a range as provided on the form--, and a description such as "Legal Services Rendered" would meet the requirements of the statute.

## **CONCLUSIONS**

Senator McGuire's 2015 annual LFD was incomplete in that it did not contain the income and interests of her spouse or in the place of that information an approved exemption from reporting it or a good faith effort to obtain the information.

A good faith effort was provided on October 15, 2015, making her report compliant with AS 24.60.200 in response to the complaint filed on October 7, 2015.

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<sup>20</sup> Exhibit 12 Response to Complaint.

Her report was uncompliant for 204 days; from March 16, 2015 to October 7, 2015, the date the complaint was filed.

### **RECOMMENDATION**

The incomplete report was required to be submitted by March 16, 2015, the complaint was filed October 7, 2015, and the good faith effort was not provided until October 15, 2015. The penalty extends from March 16, 2015 to October 7, 2015, for a total of 204 days late for a maximum penalty of \$2,040. However the filer was not notified until June 15, 2015, due to an extended legislative session making the good faith effort 114 days late for a maximum penalty of \$1,140.

Senator McGuire has a good filing history dating to 2001.

Staff notes the repeated requests made to Senator McGuire to make her report compliant via either an amendment or providing a good faith effort as a possible aggravating factor.

As Senator McGuire was not notified of the matter until June 15, it is not reasonable to start any penalties before then and the maximum penalty that could be assessed should start at \$1,140. Because she has had a good filing history for over a decade and staff failed to notify her of the same issue in 2014, a further 50% reduction in the penalty, to \$570.00, may be appropriate. Finally, based on the issues noted in her response to the complaint, staff considers those circumstances to be a catastrophic circumstance and recommends a further reduction to \$285.00.

Based on that information, staff recommends a penalty of \$285.00. Staff does not consider a complete waiver appropriate considering the number of times this matter was brought to the attention of Senator McGuire and that staff was not informed of her father's illness until just prior to her filing a response to the complaint. Had staff known the entire background of matters facing Senator McGuire, and the timing of those matters, it may have been able to deal with the non-compliant filing in a different manner.

Staff spent approximately 15 hours attempting to contact Senator McGuire and writing the complaint and staff report. At \$42.50 per hour the cost is approximately \$637.50. Staff does not recommend charging any party for staff time.





# Alaska Public Offices Commission



## COMPLAINT

FILING A COMPLAINT <i>To be accepted, complaint must include</i>		APOC LAWS ALLEGEDLY VIOLATED <i>Specify section of law or regulation</i>		APOC case name/number/date
1. Complainant's name + contact info	Campaign Disclosure Law Public Official Financial Disclosure Legislative Financial Disclosure Lobbying Regulation	<input type="checkbox"/> AS 15.13	15-08-LFD	
2. Respondent's name + contact info		<input type="checkbox"/> 2 AAC 50.250-405		
3. Laws, regulations allegedly violated		<input type="checkbox"/> AS 39.50		
4. Description of allegations		<input type="checkbox"/> 2 AAC 50.010-200		
5. Basis of knowledge of alleged facts		<input checked="" type="checkbox"/> AS 24.60		
6. Documentation to support allegations		<input type="checkbox"/> 2 AAC 50.705-890		
7. Notarized signature of the complainant		<input type="checkbox"/> AS 24.45		
8. Proof that complaint and all supporting documents were served on respondent		<input type="checkbox"/> 2 AAC 50.505-545		
<i>If complaint meets requirements for acceptance, APOC will investigate the allegations and notify the respondent of the right to respond. APOC will notify Complainant and Respondent when APOC accepts or rejects a complaint.</i>				
<input checked="" type="checkbox"/> APOC <input type="checkbox"/> Person <input type="checkbox"/> Party <input type="checkbox"/> Group	COMPLAINANT		RESPONDENT <i>Person or group allegedly violating law</i>	
	APOC Staff		<input checked="" type="checkbox"/> Person <input type="checkbox"/> Party <input type="checkbox"/> Group Senator Lesil McGuire	
Address City / Zip	2221 E. Northern Lights Blvd., Rm. 128 Anchorage, AK 99508		2022 Kimberly Lyn Circle Anchorage, AK 99515	
Phone/Fax	(907) 276-4176 / (907) 276-7018		(907) 351-8060	
E-mail	apoc@alaska.gov		lesilmcguire@yahoo.com	
COMPLAINANT'S REPRESENTATIVE			RESPONDENT'S REPRESENTATIVE	
<i>If complainant or respondent is political party or group, list contact person. If complainant or respondent is represented by attorney, list name + contact info</i>				
Name/Title	Mary Lynn Macsalka, Assistant Attorney General			
Address	1031 W. 4 <sup>th</sup> Avenue, Suite 200 Anchorage, AK 99501			
Phone/Fax	(907) 269-5100			
E-mail	MaryLynn.Macsalka@alaska.gov			
DESCRIPTION or SUMMARY of ALLEGED VIOLATION		Use extra pages if needed	<input checked="" type="checkbox"/> SUPPORTING DOCUMENTS – DESCRIBE: 1. Complaint Memorandum with accompanying exhibits.	
Violation of AS 24.60.200. Senator McGuire has not filed a complete LFD to date as the information regarding her spouse has not been provided and no good faith effort to obtain that information has been made. 2 AAC 50.680, 2 AAC 50.690				
<b>PROOF of SERVICE ATTACHED:</b> <input type="checkbox"/> Fax – receipt confirmation <input type="checkbox"/> Certified mail – signed receipt <input type="checkbox"/> Process server – return of service <input type="checkbox"/> E-mail – delivery/read receipt <input type="checkbox"/> Other:				
COMPLAINANT'S SWORN STATEMENT: To the best of my knowledge and belief, these statements are true				
Signature:		Title: Executive Director		Date: 10-7-15
Subscribed and sworn to or affirmed by me at Anchorage, Alaska		Title: Law Office Assistant		Date: 10.7.15
Signature:				
APOC COMPLAINTS, RESPONSES, INVESTIGATION REPORTS, AND APOC ACTIONS ARE PUBLIC DOCUMENTS				
APOC ANCHORAGE		APOC JUNEAU		APOC COMPLAINT PROCESS: 2 AAC 50.870 - 895
2221 E. NORTHERN LIGHTS #128	240 MAIN STREET #500	FILING COMPLAINTS: 2AAC 50.870   ANSWERING COMPLAINTS: 2AAC 50.880		
ANCHORAGE, AK 99508	P.O. BOX 110222	APOC CRITERIA for ACCEPTING COMPLAINTS: 2 AAC 50.870		
907-276-4176 / FAX 907-276-7018	JUNEAU, AK 99811	INVESTIGATIONS & HEARINGS: 2 AAC 50.875 - 891		
TOLL-FREE 800-478-4176	465-4864 / FAX 465-4832	RULES for REQUESTING EXPEDITED CONSIDERATION: AS15.13.380(c)		
WEB: <a href="http://doa.alaska.gov/apoc/">http://doa.alaska.gov/apoc/</a>	APOC FORMS: <a href="http://doa.alaska.gov/apoc/forms_all.html">http://doa.alaska.gov/apoc/forms_all.html</a>		APOC LAWS: <a href="http://doa.alaska.gov/apoc/apoclaws.html">http://doa.alaska.gov/apoc/apoclaws.html</a>	



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**Department of Administration**

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[www.doa.alaska.gov/apoc](http://www.doa.alaska.gov/apoc)

TO: APOC Commissioners

DATE: October 7, 2015

FROM: Paul Dauphinais, Executive Director, Public Official Financial Disclosure Coordinator

RE: Senator Lesil McGuire's Violations of AS 24.60, Legislative Financial Disclosure Law

---

**I. BACKGROUND**

Senator Lesil McGuire is an incumbent state senator who is required to file a Legislative Financial Disclosure (LFD) under AS 24.60. A routine audit of Senator McGuire's 2015 filing showed that she did not disclose information regarding her spouse's income or business interests. She neither requested an exemption from filing this information nor filed evidence of a good faith effort to obtain the information.

Staff notified Senator McGuire of the missing information multiple times after the close of the extended legislative session and requested corrective action with no results. Staff now files this complaint and believes the facts will show a violation of Legislative Financial Disclosure law.

**II. SUMMARY OF ALLEGED VIOLATION**

**A. Failure to File a Complete and Accurate Annual Financial Disclosure**

Senator McGuire failed to meet her reporting obligations. Senator McGuire filed her annual LFD on March 13, 2015. While Senator McGuire met the filing deadline of March 16, 2015 she failed to file a complete report by not reporting income, interests (business, beneficial, or property), or any loans and debts of her spouse. She did report a permanent fund dividend for her spouse and children.<sup>1</sup> She did not request an exemption from reporting this information and did not provide evidence of a good faith effort to obtain the information from her spouse.<sup>2</sup>

Senator McGuire reported on her 2015 LFD that her spouse is Jason Skala. Mr. Skala is an attorney practicing in Anchorage, Alaska. Legislators are required to provide information concerning income received by themselves, their spouse or domestic partner, dependent children, and non-dependent children living with them if the income is in excess of \$1,000 from a single

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<sup>1</sup> Exhibit 1, Senator McGuire's 2015 LFD.

<sup>2</sup> Exhibit 2, 2 AAC 50.775, process to request an exemption from specific reporting requirements; 2 AAC 50.690, good faith effort requirements

source during the calendar year. For that income the amount, the name and address of the source and recipient, how the income was earned, the dates and approximate number of hours worked to earn the income, and a description sufficient to make clear to a person of ordinary understanding the nature of the service performed is required.<sup>3</sup>

APOC staff took notice of this discrepancy during a routine audit conducted on April 4, 2015. However, because of Legislative Immunity, staff did not contact Senator McGuire until after the end of the extended legislative session which ended June 11, 2015.<sup>4</sup> Staff has contacted Senator McGuire on multiple occasions after the extended legislative session and has made her aware of the situation and the need to amend her report.

To date Sentaor McGuire has not amended or otherwise remedied the lack of information of her 2015 annual LFD.

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<sup>3</sup> AS 24.60.200

<sup>4</sup> AS 24.40.010 notes immunities. Specifically, "A legislator may not be held to answer before any other tribunal for any statement made in the exercise of legislative duties while the legislature is in session. A member attending, going to, or returning from legislative sessions is not subject to civil process and is privileged from arrest except for felony or breach of the peace. The immunities provided in this section extend to a legislator attending, going to, or returning from a meeting of an interim standing or special committee of the legislature of which the legislator is a member. For the purposes of going to and returning from a session or meeting, the immunities provided extend to a legislator for a period of five days immediately preceding and following the legislator's attendance at the session or meeting."

## POFD FORM

**COMPLETED**Submission Date: **03/13/2015**

## FILER INFORMATION

First Name: **LESIL**  
 Last Name: **MCGUIRE**  
 Address: **2022 Kimberly Lyn Circle**  
 City, State Zip: **Anchorage, Alaska 99515**  
 Contact Phone: **9073518060**  
 Alternate Phone: **Nothing to Report**  
 Fax (Optional): **Nothing to Report**  
 Email: **lesilmcguire@yahoo.com**  
 Partner Type: **Spouse**  
 Spouse/Domestic Partner Name: **Jason Skala**  
 Dependent Children: **2**  
 Non-Dependent Children: **0**  
 Names of Non-Dependent Children living with filer:

## PURPOSE OF FILING

Report Year: **2015**Report Dates: From **01/01/2014** Through **12/31/2014**Filing As: **Office Holder**Branch: **Legislative**Position: **Senator**Report Type: **Annual**

## INCOME

Owner	Type	Detail	Description	Amount
Filer	Salaried	State of Alaska State Capitol Room 121 Juneau, Alaska 99801 Full-time From: 01/01/2014 Through 12/31/2014 Time Worked:	State Senator	\$50,000 - \$100,000
Filer	Dividend or Interest	Permanent Fund Dividend		\$1,000 - \$2,000
Spouse	Dividend or Interest	Permanent Fund Dividend		\$1,000 - \$2,000
Child	Dividend or Interest	Permanent Fund Dividend		\$1,000 - \$2,000
Child	Dividend or Interest	Permanent Fund Dividend		\$1,000 - \$2,000

## INTERESTS

Owner	Type	Detail	Description	Interest
Filer	Business	Business Name: Brain Injury Network 801 B Street Anchorage, Alaska 99518	Board Member	Position / Type: Non-Profit/Board Member
Filer	Business	Business Name: Pacific Northwest Economic Region (PNWER) World Trade Center West 2200 Alaskan Way Suite 460 Seattle, Washington 98121	Past President/Promoting economic development in the Pacific Northwest	Position / Type: Non-Profit/Past President
Filer	Business	Business Name: Special Olympics of Alaska 3200 Mountain View Drive Anchorage, Alaska 99501	Board of Directors/Advocate for Alaskan Athletes	Position / Type: Non-Profit/Board of Directors
Filer	Real Property	2022 Kimberly Lyn Circle Anchorage, Alaska 99515	Ownership Interest: Home owner	
Filer	Beneficial	Managed By: State Retirement PERS	Diversified	Ownership: 100%
Filer	Beneficial	Managed By: Smith Barney	Bright Start College Savings Smith and Barney Mutual Funds Class A Funds	Ownership: 100%

## LOANS AND DEBTS

Owner	Type	Name
Filer	Lender	Wells Fargo Mortgage
Address: 2022 Kimberly Lyn Circle Anchorage, Alaska 99515	Original Loan Amount: \$209,000.00 Balance Amount: \$157,000.00 Interest Rate: 4.625%	

## LEASES

Owner	Type of Lease	Lease/Contract ID	Interest	Status	Description
No Leases / Nothing to Report					

## CLOSE ECONOMIC ASSOCIATIONS

Person Disclosing Association	Associated Person	Description
No Associations / Nothing to Report		

## LOBBYIST PARTNER EMPLOYERS

Name	Address	Compensation
No Lobbyist Partner Employers / Nothing to Report		





## **2 AAC 50.690. Good faith effort to obtain information**

In a disclosure statement required by AS 24.60.200 or AS 39.50.020 , a legislative branch filer, public official, or candidate shall report the information that the legislative branch filer, public official, or candidate knows after making a good faith effort to ascertain the information. A good faith effort includes a written request to each family member of the legislative branch filer, public official, or candidate, or to the person in charge of a business in which the legislative branch filer, public official, candidate, or family member of the legislative branch filer, public official, or candidate held an interest in the reporting period

(1) asking for the information required under AS 39.50.030 and 2 AAC 50.680 - 2 AAC 50.740; and

(2) informing the recipient of the written request that the legislative branch filer, public official, or candidate

(A) is required to provide the information under oath and penalty of perjury; and

(B) may be subject to the penalties or other remedies set out in the applicable provisions of AS 24.60.240 - 24.60.260, AS 39.50.060 - 39.50.080, 39.50.110, 39.50.130, or 39.50.135 for failure to provide the information.

**History: Eff. 12/22/2011, Register 200**

**Authority:** AS 15.13.030 AS 24.60.200 AS 24.60.220 AS 39.50.020 AS 39.50.030 AS 39.50.050

## **2 AAC 50.775. Exemption from reporting sources of income**

(a) A legislative branch filer, public official, or candidate required under AS 24.50.200 or AS 39.50.020 to file a disclosure statement may, for any reason set out in this section, request an exemption from the requirement to report the name of an individual who was a source of income, the amount of income, or any other information required under AS 39.50.030 or 2 AAC 50.680 - 2 AAC 50.740. An exemption request must comply with 2 AAC 50.821. The person requesting any exemption has the burden of proving each fact necessary to show that an exemption available under this section is applicable.

(b) A legislative branch filer, public official, or candidate may request an exemption from the requirement to report the name of a source of income, the amount of income, or any other information required under AS 39.50.030 or 2 AAC 50.680 - 2 AAC 50.740 regarding an individual who received

(1) mental health services provided by a mental health practitioner including a psychiatrist, psychologist, or therapist;

(2) medical services and the source of income was

(A) an individual who received medical services related to abortion, contraception, reproductive health, a sexual disorder, or a terminal illness;

(B) a minor who received medical services without the knowledge of a parent or legal guardian if a reasonable person in the situation of the minor would experience substantial concern, anxiety, or embarrassment from publication of the minor's name as a source of income;

(C) a married individual who received medical services without the knowledge of the individual's spouse if a reasonable person in the situation of the individual would experience substantial concern, anxiety, or embarrassment from publication of the individual's name as a source of income; or

(D) an individual who received medical services of any nature if at least 67 percent of the patients of a self-employed legislative branch filer, public official, candidate, or family member were individuals described in (A) - (C) of this paragraph; or

(3) legal services provided by an attorney and the source of income was

(A) a minor who received legal services without the knowledge of a parent or legal guardian if a reasonable person in the situation of the minor would experience substantial concern, anxiety, or embarrassment from publication of the minor's name as a source of income;

(B) a married individual who received legal services without the knowledge of the individual's spouse if a reasonable person in the situation of the individual would experience substantial concern, anxiety, or embarrassment from publication of the individual's name as a source of income;



(C) an individual who received legal services of any nature if at least 67 percent of the clients of a self-employed legislative branch filer, public official, candidate, or family member were individuals described in (A) or (B) of this paragraph.

(c) A legislative branch filer, public official, or candidate may request an exemption if

(1) the legislative branch filer, public official, or candidate is prohibited by law or court-ordered settlement from reporting the name of a source of income, the amount of income, or any other information required under AS 39.50.030 or 2 AAC 50.680 - 2 AAC 50.740;

(2) the legislative branch filer, public official or candidate believes reporting the name of a source of income, the amount of income, or any other information required under AS 39.50.030 or 2 AAC 50.680 - 2 AAC 50.740, would violate rights of the source under state or federal statutes or constitutions;

(3) the legislative branch filer, public official, or candidate believes that reporting the name of a source of income would disclose protected health information that the filer is prohibited from disclosing under 42 U.S.C. 1320d - 1320d-9 (Health Insurance Portability and Accountability Act (HIPAA) of 1996).

(d) A legislative branch filer, public official, or candidate may request a personal security exemption from reporting the name of a minor that is a source of income, the amount of income, or any other information required under AS 39.50.030 or 2 AAC 50.680 - 2 AAC 50.740 that exposes the public official, candidate, or a family member to a personal security threat.

(e) A legislative branch filer, public official, or candidate may request an exemption from reporting the name of a source of income, the amount of income, or any other information required under AS 39.50.030 or 2 AAC 50.680 - 2 AAC 50.740 if a state or federal law or court order requires the name of the source or the other information to be kept confidential.

(f) Notwithstanding any other provision of this section, a legislative branch filer, public official, or candidate may request an exemption from reporting the name of a source of income, the amount of income, or any other information required under AS 39.50.030 or 2 AAC 50.680 - 2 AAC 50.740, if the public official or candidate demonstrates that the right to privacy of the information outweighs the compelling state interest in disclosing the information.

**History:** Eff. 7/20/95, Register 135; am 1/1/2001, Register 156; am 2/20/2005, Register 173; am 12/22/2011, Register 200

**Authority:** AS 15.13.030 AS 24.60.200 AS 24.60.220 AS 24.60.230 AS 39.50.020 AS 39.50.030 AS 39.50.035 AS 39.50.050

# **ETHICS COMMITTEE MEETING**

**January 25, 2016**

**ITEM 12: Draft Advisory Opinion 15-02**

January 14, 2015

## DRAFT ADVISORY OPINION 2015-02

### Questions Presented

The Select Committee on Legislative Ethics asks the following questions:

**Question (1):** *Does a lunch and learn event held in a state-owned facility at the request of a legislator provide a private benefit to the event presenter, under AS 24.60.030(2), if the presenter is someone other than a legislator or a legislative employee?*

**Question (2):** *Does the opportunity of a person other than a legislator to provide a free meal to legislators and legislative staff, at a lunch and learn event in a state facility, raise ethical concerns under the Legislative Ethics Act?*

### Statement of Facts

The committee relies on the following facts:

Lunch and learn events during legislative sessions have become increasingly popular in the Capitol since 2007.<sup>1</sup> Attendees are provided with a free presentation on one or more topics, in a state facility. The presenter generally also provides attendees with a free meal, but the presentation, not the meal, is the main purpose of the event. The presenter is not charged a fee to use the state facility for the lunch and learn event.

Lunch and learn events in the Capitol are typically set up by a request from a legislator to the appropriate Rules Committee chairperson, through Rules Committee staff. The events are listed in the legislature's public daily meeting calendar, and sometimes advertised on flyers posted in the Capitol and possibly other state facilities. A sampling of flyers reviewed by the committee in this instance indicates that typically, for lunch and learn events in the Capitol, all legislators and legislative session staff are the target

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<sup>1</sup> A list of lunch and learn events held during the period of March 12, 2015 -- March 25, 2015, is attached to provide examples.

audience, regardless of partisan political alignment. A presentation at a lunch and learn event may be teleconferenced.<sup>2</sup>

### **Discussion**

**Question (1):** *Does a lunch and learn event held in a state-owned facility at the request of a legislator provide a private benefit to the event presenter, under AS 24.60.030(2), if the presenter is someone other than a legislator or a legislative employee?*

Three separate uses of legislative assets and resources are prohibited under AS 24.60.030(a)(2). They are (1) use for a nonlegislative purpose, (2) use for a partisan political purpose, or (3) use for the private benefit of any person.<sup>3</sup> Within AS 24.60.030(a)(2) there are several exceptions to these prohibitions, although some may not apply to all three. The prohibitions and the relevant exception read:

Sec. 24.60.030. Prohibited conduct and conflicts of interest.

(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 the legislator, legislative employee, or another person; this paragraph does not prohibit

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<sup>2</sup> Sample flyers that encourage attendance at particular lunch and learn events are attached.

<sup>3</sup> See *also* AO 13-04.

(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. . . .

In AO 09-03 we considered whether the weekly use of a legislative committee room in the Capitol by an informal, faith-based group of legislators and staff was prohibited by AS 24.60.030(a)(2). We determined as follows:

The meetings held by the informal group of current legislators and staff, as well as the participation of individual legislators and legislative employees in those meetings, have a personal and nonlegislative purpose, but as described (in AO 09-03) they do not interfere with the performance of public duties, and the cost to the legislature is nominal. For these reasons we determine that the limited personal use exception in AS 24.60.030 applies. The group's use of the Capitol facility is permissible under the exception in AS 24.60.030(a)(2)(A).

A legislator who sets up a lunch and learn event as described, for another person to present information about a matter of legislative concern, confers a private benefit on the presenter by creating an opportunity for the presenter to have access to legislators and legislative employees, and providing the presenter with free and convenient use of space for that purpose. Nevertheless, a legislator or legislative employee may attend as long as the event does not interfere with the legislator's or legislative employee's legislative duties, and the cost to the state for facilitating the event is nominal, the "personal use" exception under AS 24.60.030(a)(2)(A) applies.

Generally lunch and learn events as described meet the requirements of AS 24.60.030(a)(2)(A) because they result in only a nominal cost to the state, they occur during a period designated for a meal break, and they do not require the state to expend additional resources. However, in some instances, depending on additional applicable

facts, a lunch and learn event's use of space in the Capitol might interfere with the duties of legislators or legislative employees by displacing them from the space at a time their duties require them to have access to it, or by causing a delay in the carrying out of a legislative duty. Likewise, in some instances an event's use of space might be on a scale that results in more than a nominal cost to the state. In either of these instances we may find that setting up a lunch and learn event violates the prohibition, under AS 24.60.030(a)(2) or (a)(5), against using government assets or resources for the private benefit of a person, depending on the facts before us.

**Question (2):** *Does the opportunity of a person other than a legislator to provide a free meal to legislators and legislative staff, at a lunch and learn event in a state facility, raise ethical concerns under the Legislative Ethics Act?*

The answer is yes, depending on the nature of additional facts. For example, AS 24.60.030(a)(1) prohibits legislators and legislative employees from soliciting, agreeing to accept, or accepting a benefit other than official compensation for the performance of public duties, but also contains an exception for "the acceptance of a gift under . . . AS 24.60.080." The free meal provided at a lunch and learn event is a gift. The Act provides that legislators and legislative employees are allowed to receive gifts worth less than \$250.00. AS 24.60.080(a)(1) provides that legislators and legislative employees may:

(1) solicit, accept, or receive, directly or indirectly, a gift worth \$250 or more, whether in the form of money, services, a loan, travel, entertainment, hospitality, promise, or other form, or gifts from the same person worth less than \$250 that in a calendar year aggregate to \$250 or more in value. . . .

This dollar limit raises a concern that in some cases a legislator or legislative employee might receive meals and other gifts from a person that in a calendar year aggregate to \$250 or more in value. However, an exception in the Act, under AS 24.60.080(c)(4),

applies to a free meal provided at a lunch and learn event if the provider of the meal is not a lobbyist<sup>4</sup> and the legislator or legislative employee accepts the meal for the purpose of obtaining information on matters of legislative concern.<sup>5</sup> AS 24.60.080(c)(1)(B) provides a further exception to the limits, in AS 24.60.080(a)(1), on gifts from non-lobbyists.

The legislature has drawn a clear distinction between gifts from lobbyists and gifts from other persons, and has imposed stricter limitations on gifts from lobbyists. Therefore, even if a meal is accepted as a gift primarily for the purpose of obtaining information on a matter of legislative concern, the (c)(4) exception does not apply if the provider of the meal is a lobbyist, an immediate family member of a lobbyist, or acting on behalf of a lobbyist; exceptions under AS 24.60.080(c) apply only to AS 24.60.080(a)(1), not to the prohibition on gifts from lobbyists and their family members or agents under AS 24.60.080(a)(2). However, a separate exception, AS 24.60.080(a)(2)(A), allows legislators and legislative employees to receive from a lobbyist a gift of "food or beverage for immediate consumption," and that exception would apply to receipt of a free meal from a lobbyist at a lunch and learn event.

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<sup>4</sup> AS 24.60.080(c)(4) reads:

(c) Notwithstanding (a)(1) of this section, it is not a violation of this section for a person who is a legislator or legislative employee to accept

....

(4) travel and hospitality primarily for the purpose of obtaining information on matters of legislative concern . . . .

AS 24.60.080(d) requires disclosure of gifts of travel and hospitality under this exception, within 30 days, if the value exceeds \$250. AS 24.60.080(j) requires that value, under AS 24.60.080, be determined by calculating fair market value.

<sup>5</sup> The topics presented at the lunch and learn events advertised on the attached flyers -- the capital budget, tribal sovereignty, education, criminal recidivism, enriching and empowering communities, and children's justice -- are all examples of topics that are matters of legislative concern.

There are other lunch and learn event scenarios that might raise concerns under the Act. For example, if the event has a partisan political or campaign purpose, we may determine that setting it up or participating in it is prohibited by the provisions related to partisan political activity or campaigning under AS 24.60.030(a)(2), (a)(4), or (a)(5). The personal use exceptions under AS 24.60.030(a)(2)(A) and (a)(5)(A) apply only to personal use of government assets or resources, not to partisan political or campaign use.

Finally, any time legislators or legislative employees are provided a gift, including hospitality, with an expectation that they will do something in return for it, that may raise an issue under the Legislative Ethics Act. AS 24.60.010(1) and (2) provide:

- (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. . . .

These principles do not require the committee to find that receipt of a free meal at a lunch and learn event creates an appearance of a conflict of interest, or that a resulting appearance of a conflict of interest in this context would necessarily violate the Act. However, they inspire the committee to weigh all relevant facts when considering a complaint that has come before it.

### **Conclusion**

For the reasons stated above, the committee finds:



(1) A lunch and learn event as described in the facts before us -- relating to a matter of legislative concern, held in the Capitol or another state-owned facility at the request of a legislator, open to legislators and legislative session staff regardless of their partisan political alignment, and presented by another person -- provides a private benefit to the presenter, under AS 24.60.030(a)(2). However, under the personal use exception in AS 24.60.030(a)(2)(A) a legislator or legislative employee may promote or facilitate the event, and use state resources in doing so, if the state's cost of facilitating the event is nominal and the event does not interfere with the legislator's or legislative employee's legislative duties.

(2) Some instances in which a legislator or legislative employee facilitates the hosting of a lunch and learn event in the Capitol or other state facility by a person who is not a legislator or legislative employee may create a conflict of interest under the Legislative Ethics Act, or the appearance of one, depending on the applicable facts. We think it is important, for example, in order to avoid the appearance of impropriety, that flyers and other messages promoting the events emphasize the learning opportunity more prominently than the free meal or the name of the entity that provides or prepares it. However, specifically with respect to prohibitions on gifts under AS 24.60.080, we find that a legislator or legislative employee who attends a lunch and learn event primarily for the purpose of obtaining information on a matter of legislative concern may receive the gift of a free meal at the event under the exception in AS 24.60.080(c)(1)(B) or (c)(4), if the gift is from a person who is not a lobbyist, or under the exception in AS 24.60.080(a)(2)(A), if the gift is from a lobbyist.

Adopted by the Select Committee on Legislative Ethics on \*\*

Members present and concurring in this opinion were:

Members dissenting from this opinion were:

Members absent were:

# Reference Materials for AO 15-02

# Alaska State Legislature

## Select Committee on Legislative Ethics

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November 19, 2009

### ADVISORY OPINION 2009-03

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

**RE: Limitations on the use of a public facility under the Legislative Ethics Act.**

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

#### Question Presented

Does the weekly use of a legislative committee room in the Capitol by an informal, faith-based group of current legislators and staff:

1. violate the prohibition on the use of state resources and facilities for a nonlegislative purpose and/or for the private benefit of the legislator, legislative employee or another person?
2. constitute a permitted use of state resources for personal purposes?

#### Statement of Facts

The Capitol, including the parts of the Capitol operated by the legislature, is a public facility. An informal group of current legislators and legislative staff hold a weekly religious faith-based meeting during legislative sessions in a legislative committee room in the Capitol. The meetings are held at an early morning time that does not conflict with scheduled meetings of the legislature. The group notifies prospective participants in advance of each meeting but the meetings are also open to the public. Among those notified ahead of time of the meetings are current and former legislators, staff, current and former public officers of the state's executive branch, and lobbyists.

In earlier advisory opinions, we have discussed the Legislative Ethics Act's prohibition on the use of a public resource for a nonlegislative purpose and in doing so have focused on a threshold question of whether or not a particular use has a legislative purpose. In one instance, preparations by legislators and legislative employees for a National Conference of State Legislatures (NCSL) meeting in a public facility had a legislative purpose, but (arguably) also conferred a benefit on NCSL. In Advisory Opinion 96-04, February 20, 1996, we reached the following conclusion:

The committee cannot say that preparations for the legislature to host a conference of a committee of the National Conference of State Legislatures constitute a nongovernmental purpose. Having made that

determination, the committee finds that the ethics code does not prohibit using legislative office space, staff, and other resources to solicit contributions to host a meeting of the executive committee of the National Conference of State Legislatures.

In Advisory Opinion 95-03, November 7, 1995, we reviewed facts in which a group, made up of legislators and members of the executive branch, proposed to donate exercise equipment to the legislature for establishment of an exercise room in the basement of the Capitol for the donors' exclusive use. We determined that it was permissible for the legislature to establish its own exercise room in the Capitol if it was not exclusive but was made available to legislators generally.

The matter before us boils down to a question of whether the usage described in the facts presented fall within a narrow exception for limited personal use of public facilities operated by the legislature.

AS 24.60.030(a) says, in part,

(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; . . . .

This statute prohibits a legislator or a legislative employee from using the capitol facility for a personal or nonlegislative purpose.<sup>1</sup> However, a subparagraph within it, AS 24.60.030(a)(2)(A), contains an exception, sometimes called the "personal use exception," which allows

... 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.

The meetings held by the informal group of current legislators and staff, as well as the participation of individual legislators and legislative employees in those meetings, have a personal and nonlegislative purpose, but as described they do not interfere with the performance of public duties, and the cost to the legislature is nominal. For these reasons we determine that the limited personal use exception in AS 24.60.030 applies. The group's use of the Capitol facility is permissible under the exception in AS 24.60.030(a)(2)(A).

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<sup>1</sup> The terms "legislative purpose" and "nonlegislative purpose" are not defined in the Act.

### **Conclusion**

We find that the exception for limited personal use in AS 24.60.030(a)(2)(A) applies to the use of a public facility operated by the legislature as described in the facts that are before us. For this reason, we find that the use does not violate the Legislative Ethics Act and is therefore a permissible use.

Adopted by the Select Committee on Legislative Ethics on: November 19, 2009.

Members present and concurring in this opinion were:

Representative Berta Gardner

Representative Carl Gatto, alternate member

Senator Gary Stevens

Herman G. Walker, Jr., public member

H. Conner Thomas, public member

Dennis "Skip" Cook, public member

Members present and dissenting from this opinion were:

Gary J. Turner, Chair

Members absent were:

Senator Tom Wagoner, present for discussion but absent for the vote

Ann Rabinowitz, public member

DCW:ljw:plm

09-339.ljw

# **Alaska State Legislature**

## **Select Committee on Legislative Ethics**

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## **HOUSE SUBCOMMITTEE COMPLAINT H 12-02**

### **DETERMINATION OF PROBABLE CAUSE**

The House Subcommittee (committee) hereby finds there is probable cause to believe that Karen Sawyer, chief of staff to former Representative Carl Gatto and now staff to Representative Shelley Hughes, violated the Legislative Ethics Act, AS 24.60.030(a)(2), Prohibitions related to conflicts of interest and unethical conduct.

The House Subcommittee investigated allegations contained in complaint H 12-02 and determined:

1. The House Subcommittee received a properly filed complaint dated February 23, 2012.
2. The complaint alleged the following:
  - a.) Ms. Sawyer allowed state resources to be used for a "nonlegislative purpose" and for the "private benefit" of Mr. David Heckert, Alaska Regional Director of the organization, Stop Islamization of America (SIOA) Alaska Chapter, in violation of AS 24.60.030(a)(2).
    - Ms. Sawyer allowed Mr. Heckert to use the Wasilla Legislative Information Office (LIO), equipment and services over several months for work related to SIOA.
  - b.) Ms. Sawyer allowed state resources to be used for a "nonlegislative purpose" and for the "private benefit" of SIOA in violation of AS 24.60.030(a)(2).

- Ms. Sawyer allowed SIOA to use state equipment and services for activities related to at least two meetings of the organization held at the Wasilla LIO under the guise of a legislative meeting for House Bill 88, Use of Foreign Law.
  - Ms. Sawyer provided a key to the Wasilla LIO to Mr. Heckert which allowed him unlimited access and use of a state facility.
- c.) Ms. Sawyer performed “nonlegislative” work on government time with the use of state resources and for her “private benefit” and that of SIOA all of which were in violation of AS 24.60.030(a)(2).
- Ms. Sawyer assisted Mr. Heckert with activities he performed at the Wasilla LIO related to SIOA including helping organize and facilitate meetings. These meetings were advertised as a discussion of HB 88 but in reality were recruitment meetings where funds were solicited for the organization.

### **SCOPE OF INVESTIGATION:**

The House Subcommittee met on the following dates: September 27, 2011, February 23, 2012, and November 20, 2012. The length of time to process the complaint was due to Ms. Sawyer’s schedule and other contributing factors.

On February 23, 2012, the committee adopted a Scope of Investigation focusing on AS 24.60.030(a)(2), Prohibitions related to conflicts of interest and unethical conduct.

*AS 24.60.030(a)(2) A legislator or a legislative employee may not use public funds, facilities, equipment, services, or another government asset or resource for a nonlegislative purpose, . . . or for the private benefit of the legislator, legislative employee, or another person;*

*AS 24.60.990(a)(2) “benefit” includes all matters, whether tangible or intangible, that could reasonably be considered to be a material advantage, or material worth, use or service to the person to whom it is conferred; the terms are intended to be interpreted broadly and encompass all matters that the recipient might find sufficiently desirable to do something in exchange for.*

The committee conducted an investigation, and on November 20, 2012, the committee reviewed and analyzed the following materials:

- Above named statutes.
- Ms. Sawyer's written response to Complaint H 12-02 and H 12-03.
- Transcript of the August 3, 2011 meeting held at the Wasilla LIO.
- Handouts from the August 3, 2011 meeting held at the Wasilla LIO.
- National and Alaska SIOA web site pages.
- Internet pages noticing interim meetings of HB 88 and Alaska SIOA meetings.
- HB 88 and the packet of materials provided for Legislative Committee Meetings from the Legislature's BASIS web site.
- HB 88 committee meeting minutes from the 2011 House State Affairs meetings of March 17 and 24, and the House Judiciary meetings of March 30 and April 1.
- Transcripts and/or summaries of six interviews.
- Ms. Sawyer's emails related to HB 88 and SIOA.
- Legislature Personal Information and Materials Receipt Form; Use of Legislative Affairs Agency Equipment, Space and Staff Policy; Legislative Affairs Agency Application for Keys; and Legislative Affairs Agency Keys, Parking Permits and Other Accountable Property Policy.
- Other applicable background materials.

### **FINDING OF PROBABLE CAUSE**

The House Subcommittee finds that, after a thorough investigation, the actions of Ms. Sawyer as outlined in 2(a), 2(b), and 2(c), were in violation of AS 24.60.030(a)(2).

The committee determined that Ms. Sawyer lost sight of the purpose of HB 88 and became personally and obsessively involved with SIOA and its mission. In at least three emails from March 2011, the authors stressed that the bill was about "protecting constitutional rights" and not about Sharia law. One email in particular from a national non-profit, non-partisan, national security organization stated, "... ease up on the Sharia/Islam angle." Even Ms. Sawyer seemed to be cognizant of her obsession as she stated in a March 2011 email, "My co-workers wonder if I'm getting obsessed with Sharia." SIOA supported HB 88 but the committee determined that their main mission appeared to be promoting their organization and its mission with HB 88 as a validation point.

Ms. Sawyer allowed Mr. Heckert to work for several months or longer at the Wasilla LIO. He was there almost every day for at least several hours and at times all day. Ms. Sawyer provided Mr. Heckert with her personal laptop and internet card to use while at the LIO. She also provided a cell phone number for SIOA



using her family plan. The committee was unable to determine exactly what activities Mr. Heckert performed while at the LIO. However, Ms. Sawyer inferred that Mr. Heckert was performing research for HB 88 and working on slide presentations. The committee concluded the slide presentation at the August 3, 2011, meeting was one such presentation.

Ms. Sawyer acknowledged that she occasionally accessed the SIOA Yahoo account from her state computer. Investigative materials show that Ms. Sawyer, during the regular work day, used state equipment to help plan activities related to an October, 2011, SIOA conference. Ms. Sawyer acknowledged that she allowed Mr. Heckert to use the Wasilla LIO projector for several presentations outside of the Wasilla LIO. Evidence showed that Ms. Sawyer allowed Mr. Heckert access to the key to the Wasilla LIO for approximately two weeks which allowed him unlimited access and use of a state facility. Ms. Sawyer was out of town during this time period.

The committee determined that the August 3, 2011 meeting held at the Wasilla LIO was in actuality an SIOA meeting. The participant sign-in sheet was an SIOA sign-in sheet. Mr. Heckert asked for donations of money and airline miles for an SIOA conference planned for October. Cupcakes and cookies were available for participants that had a symbol on them that reflected SIOA philosophy. The slide presentation ended with a picture of a man holding a sign that was political in nature. HB 88 was only briefly mentioned twice during the approximately two hour meeting. No staff from former Representative Carl Gatto's office attended the meeting which is customary when a legislative office holds an interim meeting. Mr. Heckert opened and closed the Wasilla LIO building with Ms. Sawyer's key.

### **RECOMMENDATION**

The committee, under authority of AS 24.60.178(b)(4), is recommending that Ms. Sawyer be terminated effective immediately. The committee also recommends that Ms. Sawyer never be reemployed by the Legislature again. A copy of this decision will be placed permanently in Ms. Sawyer's personnel file with the Legislative Affairs Agency.

The committee will notify Ms. Sawyer's appointing authority, Representative Hughes, of this decision and recommended sanction. Under AS 24.60.176(a), the appointing authority may not question the committee's findings of fact. Representative Hughes may act on the committee's recommendation or impose a different sanction pursuant to AS 24.60.176(a). Representative Hughes may request the House Rules Committee to act on her behalf under the provisions of AS 24.60.176(b)(5).

The committee acknowledges that termination of a legislative employee is serious. Based on the investigation, the committee determined that Ms. Sawyer was unable to distinguish where the bright line should be drawn between promoting HB 88 and

activities related to SIOA's agenda to promote their organization and its mission. Many of Ms. Sawyer's emails contained statements that related to both SIOA activities and HB 88 in the same email. Additionally, some emails Ms. Sawyer sent from her legislative email address contained SIOA contact information and her personal cell phone number. The committee determined the two became interchangeable in Ms. Sawyer's eyes. Ms. Sawyer was advised on August 15, 2011, by Ethics Committee staff, to separate activities related to HB 88 from activities related to SIOA. However, written documentation showed that she continued to use state resources for activities related to SIOA and combined legislative business with SIOA activities. In addition, the committee was concerned about Ms. Sawyer's lack of candor and cooperation during the investigation and her unwillingness to acknowledge the ethical issues raised by her actions.

The committee recognized that Ms. Sawyer was out of town due to a family emergency when the August 3, 2011 meeting was held. However, the meeting had already been scheduled and according to Ms. Sawyer the format was to be similar to previous meetings held. The committee concluded, based on Ms. Sawyer's interview and written response to the complaint, that she blamed everyone else for what occurred at the August 3, 2011 meeting but herself.

Further, based on investigative interviews, the committee concluded that Ms. Sawyer did not regularly update former Representative Gatto on activities related to HB 88 and SIOA; particularly Mr. Heckert's activities while at the Wasilla LIO and the purpose/agenda of multiple meetings and presentations set up by Ms. Sawyer.

The committee noted that Ms. Sawyer was first hired as a legislative employee in 2002 and had attended numerous ethics training sessions over the years; and, therefore was very much aware of the fact state resources could not be used for nonlegislative purposes or for the private benefit of anyone. The committee finds that Ms. Sawyer could have avoided this situation by exercising good judgment and/or contacting the Ethics Office for advice when the above stated activities became intertwined and ultimately questionable.



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Herman G. Walker, Jr., Chair

Adopted this 19th day of November 2012  
by a majority of the House Subcommittee

**Members Participating**

**Herman G. Walker, Jr. Chair**

**Dennis (Skip) Cook**

**Antoinette "Toni" Mallott**

**H. Conner Thomas**

**Gary J. Turner**

**Representative Craig Johnson**

**Representative Chris Tuck**

# Alaska State Legislature

## Select Committee on Legislative Ethics

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June 14, 2012

### ADVISORY OPINION 12-02

**SUBJECT: Conflict of Interest – Use of State Resources-Charitable Contributions**

**RE: Use of State Resources for soliciting charitable contributions**

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

#### Questions Presented

The committee has posed the following hypothetical: A legislator solicits charitable contributions and conducts fundraising activities on behalf of a recognized, nonpolitical, charitable organization to which the Legislature does not belong. For purposes of this opinion, it is assumed that there is no “legislative purpose” for this activity as this term is traditionally used.<sup>1</sup>

If the legislator engages in the following activities, do they constitute violations under the Legislative Ethics Act?

- Use of the legislator’s legislative office in Juneau or interim office for conducting these activities.
- Use of other state facilities such as a Legislative Information Office conference room to hold meetings with or for the charitable organization.
- Use of the Legislative Affairs Agency Print Shop for printing needs.
- Use of the legislator’s staff to organize the meeting and facilitate activities connected to fundraising.

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<sup>1</sup> While this term is not defined in the statutes, its use generally involves a determination of whether the activity is necessary to allow a legislator to perform official duties. AS 24.60.030.

- Use of the Legislative Affairs Agency staff and equipment and services for meeting and teleconference functions.
- Use of the legislator's office allowance account to pay for expenses associated with the activity such as meeting luncheon costs.
- Use of any other government assets associated with the above functions.

## DISCUSSION

The general rules for analyzing ethical conduct in the Alaska legislative arena are codified in AS 24.60.030(a). In particular to the facts of this case, the applicable statute states as follows: "A legislator or legislative employee may not 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).

In 1998, the Legislature amended AS 24.60.030 to exclude from this general tenet, among other things, a legislator from soliciting, accepting, or receiving a gift on behalf of a recognized, nonpolitical charitable organization. This language was considered to be a codification of Advisory Opinions 94-6 and 96-4.

In Advisory Opinion 94-6, the committee considered whether a volunteer could solicit contributions or pledges outside of working hours and outside of government buildings on behalf of a nonpolitical, nonprofit organization. The committee determined that even though on its face, AS 24.60.080(a) appeared to prohibit the solicitation of gifts, that a contribution solicited by a legislator to a charitable organization should be exempted when made to a recognized charitable organization. While cautioning about the potential for an appearance of impropriety, the committee also determined that a legislator could solicit a lobbyist for a donation to a recognized charitable organization even during the legislative session.

Subsequently, the committee was faced with whether a legislative employee would be in violation of the ethics code if he or she solicited donations (money, goods, and services) from businesses and individuals for a meeting of the executive committee of the National Conference of State Legislatures in Anchorage. In Advisory Opinion 96-4, the committee found that solicitations from businesses or employees for this purpose did not violate the legislative ethics code citing Advisory Opinion 94-6. In a rather unfortunate use of language, the committee went on to find that the "... ethics code did not prohibit using legislative office space, staff, and other resources to solicit contributions to host a meeting of the executive committee of the National Conference of State Legislatures." In drawing this conclusion, the committee wrote "[t]he committee cannot say that preparations for the legislature to host a conference of a committee of the National Conference of State Legislatures constitute a nongovernmental purpose."<sup>2</sup> The

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<sup>2</sup> The term "nongovernmental" in AS 24.60.030(a)(2) was changed to "nonlegislative" with the passage of Senate Bill 105 in 1998, effective January 1, 1999.

implication of this statement could be interpreted to allow the use of legislative resources for any charitable endeavor.

It is our opinion that this is too broad a reading of Advisory Opinion 96-4. The facts of Advisory Opinion 96-4 are unique and stand for the proposition that a meeting of the executive committee of the National Conference of State Legislatures has a clear "governmental purpose" and is not in conflict with ethical constraints. AS 24.60.030(a)(2) prohibits the use of "public funds, facilities, equipment, services, or another government asset or resource for a nonlegislative purpose." The use of public resources was justified in this opinion because the committee determined the use was for a "governmental purpose," not because the cause was related to a recognized, nonpolitical charitable organization.

In 2001, the Legislature enhanced the exception to the general rule by allowing the solicitation, acceptance or receiving of gifts "in a state facility." The testimony offered in support of the bill noted that this subsection was designed to address the annual Betty Fahrenkamp Golf Tournament held in the capitol "and make it clear that the legislature has no objection to this use of the capitol and state resources." (Testimony of Joe Balash at the State Affairs Committee meeting on February 27, 2001.) Again in 2006, the Legislature expanded the exception under AS 24.60.030(a)(2)(I) to include not only legislators but also legislative employees. The testimony offered in support of the bill noted that legislative employees more than likely sent out letters soliciting donations for the Betty Fahrenkamp Golf Tournament, organized by the legislature and held in the capitol building, and "if we want to allow the activity then it ought to be clear that it's allowed." (Testimony of Senator Gene Therriault at the Senate State Affairs Committee meeting on March 21, 2006.)

Although there are limited advisory opinions addressing this issue, the language in Advisory Opinion 11-02 appears to support this limited reading of Advisory Opinion 96-4. The committee was asked to determine if use of legislative newsletters and press releases to acknowledge and thank for-profit businesses and their agents for donating to charitable programs was ethically permissible.<sup>3</sup> While holding that a mere acknowledgment and thanking a for-profit business for charitable contributions was not a "benefit" subject to ethical scrutiny, the committee emphasized that newsletters or press releases by legislators were state resources that could not be used for the purpose of political fundraising or campaigning.<sup>4</sup>

With these principles in mind, and noting the specific facts of this request, which include a reference to a legislator who is soliciting charitable contributions and conducting fundraising activities on behalf of recognized, nonpolitical, charitable organizations to which the Legislature does not belong,<sup>5</sup> we address the inquiries below:

- 1. Use of a Legislative Office in Juneau or Interim Office to Conduct Such Activities.**

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<sup>3</sup> AO 11-2 at p. 1.

<sup>4</sup> AO 11-2 at p. 3.

<sup>5</sup> The propriety of this conduct is controlled by Advisory Opinions 94-6 and 96-4, and the specific language that appears in AS 24.60.030(a)(2)(I) and AS 24.60.080(g).

This issue is governed by the provisions in AS 24.60.030(a)(2), AS 24.60.030(a)(2)(A), AS 24.60.030(a)(2)(D) and AS 24.60.030(a)(2)(I).

AS 24.60.030(a)(2) A legislator or legislative employee may not 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; this paragraph 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; . . .

(D) a legislator from using the legislator's private office in the capital city during a legislative session, and for the 10 days immediately before and the 10 days immediately after a legislative session, for nonlegislative purposes if the use does not interfere with the performance of public duties and if there is no cost to the state for the use of the space and equipment, other than utility costs and nominal wear and tear, or the legislator promptly reimburses the state for the cost; and office is considered a legislator's private office under this subparagraph if it is the primary space in the capital city reserved for use by the legislator, whether or not it is shared with others; . . .

(I) a legislator or legislative employee from soliciting, accepting, or receiving a gift on behalf of a recognized, nonpolitical charitable organization in a state facility;

The language of AS 24.60.030(a)(2) does not allow the use of a legislator's office to solicit contributions absent an exception found in Section (A), Section (D), or Section (I). Use of the legislative office (a state resource) to conduct the stated activities would be for a non-legislative purpose in violation of AS 24.60.030(a)(2). The question remains, are there statutory exceptions to this apparent ethical violation? We conclude there are two recognized exceptions which would allow this activity: AS 24.60.030(a)(2)(D) which allows limited use of a legislative office during session, and shortly before and after session, so long as it does not interfere with the legislator's performance of legislative duties; and AS 24.60.030(a)(2)(I) which allows a legislator to solicit charitable contributions in a state facility.

The exception found in AS 24.60.030(a)(2)(A) only applies to "limited use of state property and resources for *personal purposes* . . ." (Emphasis added.) Since the use of the legislative office would not be for personal purposes, this exception would not apply to these facts. On the other hand, the exceptions found in AS 24.60.030(a)(2)(D) and (I) do appear to apply to allow this conduct. For instance, AS 24.60.030(a)(2)(D) permits an exception to the general rule of not

using state resources for non-legislative purposes by allowing the use of a legislator's private office in Juneau during the session, and ten days before and after the session, for non-legislative purposes. This activity is allowed "if the use does not interfere with the performance of public duties and if there is no cost to the state for the use of space and equipment, other than utility costs and minimal wear and tear, or the legislator promptly reimburses the state for the cost."<sup>6</sup> The use of a legislator's office shortly before, during, and shortly after the legislative session for purposes of soliciting charitable contributions on behalf of a recognized, nonpolitical, charitable organization appears to fall within the terms of this exception.

Likewise, AS 24.60.030(a)(2)(I), exempts the activities of a legislator who *solicits*, accepts, or receives a gift on behalf of a recognized, nonpolitical charitable organization *in a state facility*. The language of this exception also appears to support use of a legislator's office for soliciting charitable contributions. Under the language of either statute, it appears that it would not be a violation of the Legislative Ethics Act to use a legislator's legislative office for soliciting charitable contributions within the restraints noted above.

## **2. Use of the Legislative Affairs Agency Print Shop for Printing Needs to Assist in Such Activities.**

The use of the Legislative Affairs Agency Print Shop for printing needs related to soliciting charitable contributions would constitute a use of "public funds, facilities, equipment, services for a nonlegislative purpose."<sup>7</sup> As such, it would constitute a violation of the Legislative Ethics Act unless there was a noted exception. There are no statutory exemptions found in AS 24.60.030 that would allow the use of the Legislative Affairs Agency resources for soliciting charitable contributions.

The language of AS 24.60.030(a)(2)(I) only exempts the stated activities of a legislator or a legislative employee from soliciting, accepting, or receiving a gift, but does not apply to the use of other state resources. We do not read the language of AS 24.60.030(a)(2)(I) as allowing the use of state resources for non-legislative purposes and find no support for this reading in the legislative history of the statute.

## **3. Use of the Legislator's Staff to Organize the Meeting and Facilitate Activities Connected to the Fundraising.**

Next, we are asked whether the use of a legislator's staff to organize a meeting and facilitate activities connected to fundraising for charitable contributions violates the Legislative Ethics Act. While a legislator's staff employee could be considered a state resource under certain circumstances, we do not take that position in this opinion for two reasons. First, both AS 24.60.030 and AS 24.60.080 talk in terms of "legislators or legislative employees" in identifying prohibited activities. Second, AS 24.60.030(a)(2) does not reference staff in the types of things that constitute government assets or resources. ("A legislator or legislative employee may not...use *public funds, facilities, equipment, services or another government asset or*

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<sup>6</sup> AS 24.60.030(a)(2)(D).

<sup>7</sup> AS 24.60.030(a)(2).



resource...") (*Emphasis added.*) These references lead us to believe that a legislator's staff should not be considered a state resource.<sup>8</sup>

Because it is not unethical under the Act for a legislator or legislative employee to solicit a gift, the answer to this question is whether organizing or facilitating activities connected with fund-raising constitutes 'soliciting' under the statute. A narrow interpretation of this term might preclude such activity while a broader interpretation would arguably allow such conduct. Merriam Webster's dictionary defines 'solicit' as "to approach with a request or plea."

We interpret the term 'solicit' literally and narrowly under these circumstances. The first stated purpose of the Legislative Ethics Act is high moral and ethical standards among public servants.<sup>9</sup> Additionally, there is a substantial interest in seeing 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.<sup>10</sup> Clearly the Legislature has approved legislators and staff asking for gifts for recognized, nonpolitical charitable organizations. But any activities beyond merely asking for gifts or accepting or receiving gifts on behalf of a charitable organization gives the perception at least of conflicts of interest and impugns the integrity of the legislative process and should be avoided. Therefore, while it is permissible to actually solicit or ask for contributions on behalf of recognized, nonpolitical charitable organizations, we conclude more than that is not ethically permissible.

**4. Use of the Legislative Affairs Agency Staff and Equipment and Services for Meeting and Teleconference Functions.**

See analysis in Sections 2 and 3 above.

**5. Use of the Legislator's Staff and Equipment and Services for Meeting and Teleconference Functions.**

See analysis in Sections 2 and 3 above.

**6. Use of the Legislator's Office Allowance Account to Pay for Expenses Associated with the Activity Such As Meeting Luncheon Costs.**

See analysis in Section 2 above.

**7. Use of any Other Government Asset Associated with any of the Above Functions.**

See analysis in Section 2 above.

## **CONCLUSION**

While the general rule under AS 24.60.030(a)(2) continues to prohibit the use of state resources for nonlegislative purposes, there are recognized exceptions for the use of a legislator's office

<sup>8</sup> Legislative staff are still required to abide by the Legislative Ethics Act. See AS 24.60.

<sup>9</sup> AS 24.60.010(1).

<sup>10</sup> AS 24.60.010(2).

during the 10 days before, during and the 10 days after session. One example would be soliciting charitable contributions on behalf of a recognized, nonpolitical, charitable organization. Additionally, a legislator and staff are allowed to solicit gifts on behalf of recognized, nonpolitical charitable organizations without violating Alaska's Legislative Ethics Act. But we interpret the term 'solicit' narrowly under these circumstances. Any activities beyond asking for gifts or accepting or receiving gifts on behalf of charitable organizations are not permitted. On the other hand, soliciting, accepting, and receiving contributions for a meeting of a nonprofit organization that has a clear "legislative purpose" are permitted. As noted in prior advisory opinions, care should be taken to avoid appearances of impropriety even if conduct is not prohibited by the ethics code.<sup>11</sup> Similar admonitions are applicable in the situations outlined in this opinion.

BRC/ksg

Adopted by the Select Committee on Legislative Ethics on June 14, 2012

Members present and concurring in this opinion were:

Herman G. Walker, Jr., Chair  
Representative Craig Johnson  
Representative Chris Tuck  
Senator Gary Stevens  
Senator Donny Olson (alternate for Senator John Coghill)  
Dennis (Skip) Cook  
Antoinette (Toni) Mallott  
H. Conner Thomas  
Gary J. Turner

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<sup>11</sup> AO 94-6 at p. 5 ("The committee notes that the potential for appearance of impropriety is high when legislators and legislative employees request favors of lobbyists, even on behalf of worthwhile organizations. The committee therefore urges you to use caution in making a decision about whether to approach a lobbyist, especially during a legislative session."). AO 96-4 at p. 3. (As the committee noted in Advisory Opinion 94-6, care should be taken in requesting donations from lobbyists. Although the logical conclusion of this opinion does not prohibit requesting lobbyists to contribute to the conference, the particular interest that a lobbyist may have in securing the good will of a legislative office suggests that soliciting a lobbyist for donations may give rise to the appearance of impropriety even if the solicitation is not prohibited by the ethics code.")

# **Alaska State Legislature**

## **Select Committee on Legislative Ethics**

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### **HOUSE SUBCOMMITTEE COMPLAINT H 07-07**

#### **DETERMINATION OF PROBABLE CAUSE**

The House Subcommittee hereby finds that there is probable cause to believe that Representative Mike Kelly violated the Ethics Code.

The House Subcommittee investigated allegations contained in complaint H 07-07 and determined that:

1. The House Subcommittee received a properly filed complaint against Representative Mike Kelly dated June 28, 2007. The complaint fell within the two-year statute of limitations.
2. The complaint alleged the following:
  - That Representative Kelly used his legislative email address and state resources to send an email on February 27, 2007, to twenty-three Republican House members and eleven Republican Senate members encouraging them to make a donation to a web site advocating to "Vote Yes for Marriage" on the April 3, 2007, state-wide advisory vote question in violation of AS 24.60.030(a)(5).

#### **SCOPE OF INVESTIGATION:**

The House Subcommittee met on the following dates: April 17, 2007, June 28, 2007 and September 28, 2007.

- On June 28, 2007 the subcommittee adopted a Scope of Investigation focusing on AS 24.60.030(a)(5), prohibitions related to the use of public funds, facilities, equipment, services, or another government asset or resource.

*AS 24.60.030(a)(5) A legislator or legislative employee may not use public funds, facilities, equipment, services, or another government asset or resource for the purpose of political fund raising or campaigning;*

The subcommittee reviewed and analyzed the following:

- AS 24.60.030(a)(5) Prohibitions related to conflicts of interest and unethical conduct
- Email of February 27, 2007 from Representative Kelly to thirty-four legislators
- Written statement from Representative Kelly dated July 20, 2007

#### **DETERMINATION OF PROBABLE CAUSE**

The House Subcommittee finds the actions of Representative Kelly, use of his legislative email address to solicit donations for a state-wide advisory vote question, violated AS 24.60.030(a)(5) in that state resources were used for the purpose of political fund raising and campaigning.

#### **RECOMMENDATION:**

In light of Representative Kelly's letter acknowledging the email communication was inappropriate and should have been sent from a non-state email account and computer and his statement indicating this type of action will not occur in the future, the subcommittee determined no further corrective action was required.



Herman G. Walker, Jr., Chair

Adopted this 28th day of September 2007  
by a majority of the House Subcommittee

#### **Members Participating**

Herman G. Walker, Jr., Chair  
Dennis "Skip" Cook  
Ann Rabinowitz  
H. Conner Thomas  
Gary J. Turner  
Representative Bob Roses

#### **Member Absent**

Representative Berta Gardner

# Alaska State Legislature

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TO: Senator Hollis French  
Chair, Senate Judiciary Committee

FROM: Joyce Anderson, Administrator

DATE: April 24, 2007

RE: Amendment to HB 109

The House Subcommittee on Legislative Ethics met on April 17, 2007 and discussed the subject of conflict of interest in regard to political fund raising and campaigning. The subcommittee determined language in AS 24.60.030(a)(5)(C) "telephone or facsimile use that does not carry a special charge" should be deleted.

Further, in AS 24.60.030(a)(2) the same exception is stated in (C) and should be removed. This section prohibits the use of state resources for a nonlegislative purpose, for involvement in or support of or opposition to a partisan political activity, or for the private benefit of either the legislator, legislative employee, or another person but does not prohibit the use of the telephone or fax that does not carry a special charge.

The rationale for the change is as follows.

1. The language in AS 24.60.030(a)(5)(C) and AS 24.60.030(a)(2)(C) allows for an exception to the use of the phone and fax and does not place a 'de minimis' restriction on the use.
2. By removing the language in (C) in both sections the use of the phone or fax would fall within the 'de minimis' use of state funds, facilities, equipment, services, or another asset or resource as stated in AS 24.60.030(a)(2)(A) and AS 24.60.030(a)(5)(A).
3. By deleting the language in AS 24.60.030(a)(5)(C) and AS 24.60.030(a)(2)(C), the use of state resources would be applied consistently across the board.

The subcommittee suggested an amendment be drafted to be introduced when HB 109 is heard in the Senate.

Attached are the relevant statutes. Please give me a call if you have questions.



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## Limited Capital Budget? Options to Offer Constituents



**Time:** Noon

**Date:** March 14, 2014

**Place:** Finance Room #519

Join us for lunch on Friday, March 14th, for a discussion of capital projects on a limited budget. You don't want to just say "no" to constituents asking for capital funding so here is some advice you can share. We will talk about ways to reduce project costs and find additional sources of funding. A panel of Alaskan funders will talk about what they are seeing in project funding plans and the future of their capacity to fund projects.

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Chris Kowalczewski: 907 747-0590 [ckowalczewski@forakergroup.org](mailto:ckowalczewski@forakergroup.org)

**Presenter:** Chris Kowalczewski, The Foraker Group

**Panel Participants:**

Diane Kaplan: Rasmuson Foundation

Jeff Jessee: Alaska Mental Health Trust Authority

Elizabeth Ripley: Mat-Su Health Foundation

**Catering By:** Abby's Kitchen



Senator McGuire invites you to

# **A Lunch and Learn Presentation**

on Child Maltreatment in Alaska &  
Translating Research into Action



by Alaska Children's Justice Act Task Force  
Beltz Room 105, TSLOB  
February 5, 2015  
12 – 1 p.m.



# Common Core Lunch n' Learn

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This is an opportunity for all to come learn about the four pillars of Common Core:

- Standards
- Assessments
- Data Systems
- School Accountability

Representative Reinbold will be discussing how the Common Core impacts Alaska education.

Lunch is provided!

**Please Join Us:**  
**This Wednesday,**  
**February 18**  
**12:00-1:00 PM**  
**State Capitol, Rm. 106**



Distributed By: Representative Reinbold





## **Legislative Lunch & Learn**

# **Arts and Humanities Enriching and Empowering Alaska Communities**

**NOON | Wednesday, January 28, 2015**

**Butrovich-Fahrenkamp Room, State Capitol**

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The Alaska State Council on the Arts  
Alaska Historical Society  
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Museums Alaska  
Representative Muñoz



# Partners Reentry Center

## **You're invited to a Lunch & Learn** **Sponsored by Representatives Keller and LeDoux**

**When:** Monday, February 23<sup>rd</sup> 2015

**Time:** 12:00 - 1:00pm

**Where:** Capitol 106

- Learn about the Partners Reentry Center's success with reentry
- Join us for a discussion on **"Reducing Recidivism in Alaska"** including:
  - How to rethink reducing recidivism
  - How our program is financially impactful
  - Getting a glimpse at who we are helping
  - See what is new in Reentry

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# LUNCH & LEARN: TRIBAL SOVEREIGNTY AND CRIMINAL JURISDICTION

**Thursday, March 12th  
12:00-12:45 in the Beltz  
Free Lunch from  
*Abbey's Kitchen!***

The problems of domestic violence, alcohol abuse, and sexual assault are pervasive in rural Alaska Native communities. National coverage of this epidemic has prompted calls for reform to give Alaska Natives additional sovereignty to combat these problems.

**Come eat FREE LUNCH from Abby's Kitchen on March 12th from 12:00-12:45 in the Beltz and learn about what the Alaska State Legislature can do to help.**

Samuel Gottstein, an Academic Law Fellow at the Clough Center for the Study of Constitutional Democracy, will discuss how granting limited criminal jurisdiction to Alaska Native communities would be most-effective, avoid federal overreach, and make rural Alaska Native communities safer. Be sure to bring questions and an appetite!

Sponsored by: Senators Ellis, Gardner, Wielechowski

# **ETHICS COMMITTEE MEETING**

**January 25, 2016**

## **ITEM 13: Rules of Procedure Proposed Changes**

ALASKA STATE LEGISLATURE  
SELECT COMMITTEE ON LEGISLATIVE ETHICS

**COMMITTEE RULES OF PROCEDURE**

SECTION 1 SCOPE

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

SECTION 2 ADMINISTRATIVE POLICIES

(a) **AUTHORIZATION:** Any authority delegated to the Chair, may be re-delegated to the Vice-Chairs. The Chair may authorize or delegate authority: to approve travel/per diem for members, staff time sheets; ability to incur and be reimbursed for expenses, and purchases less than \$400; to negotiate with and retain professional service contractors; issue and sign subpoenas; and to approve/disapprove payment of professional contract invoices.

**Commented [JA1]:** The current delegation to the Administrator is \$1,000.00. A change to \$1,000.00 from \$400 would harmonize actual practice with this Rule of Procedure amount.

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(b) **COMMUNICATION:**

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



is within five days of the meeting unless staff receives a request from a committee member(s) indicating a particular item should remain confidential until the meeting. (Approved December 2, 2003 by a majority of committee members.)

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

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## SECTION 8 ATTORNEY-CLIENT PRIVILEGE

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

## SECTION 9 INFORMAL ADVICE

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

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

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

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

- (2) **DISTRIBUTION:** Confidential documents distributed to committee members will be contained in sealed folders or envelopes, which distinguish them from other committee materials. Confidential documents, other than those delivered to committee members, will be hand delivered and signed for, or delivered by a receipted process. Confidential documents will not be faxed unless absolutely necessary and the sender first faxes a cover letter while on the phone with the designated recipient, who confirms that the fax is being received properly.

(3) **SECURITY:**

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

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

(c) **CLOSURE:**

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

Commented [JA2]: The correct reference should be 10(i)

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Commented [JA3]: The correct reference should be Sec 9(e)

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Commented [JA4]: The correct reference should be Sec 11(f)

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

- (1) Public decisions and advisory opinions are considered public documents per statute and are available upon request at any time.
- (2) Committee meeting packets are available to the public five days prior to a committee meeting or two days after mailing to committee members if the mailing