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SENATE CS FOR CS FOR SS FOR HOUSE BILL NO. 44(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 3/28/18

Referred: Judiciary

Sponsor(s): REPRESENTATIVES GRENN, LeDoux, Kawasaki, Tuck, Stutes, Spohnholz, Parish, Fansler, Tarr, Drummond, Gara, Ortiz, Josephson, Kreiss-Tomkins

SENATOR Wielechowski

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to campaign expenditures and contributions; relating to the per diem**
2 **of members of the legislature; relating to limiting gifts by lobbyists to legislators and**
3 **legislative employees; requiring a legislator to abstain from taking or withholding**
4 **official action or exerting official influence that could benefit or harm an immediate**
5 **family member or certain employers; requiring a legislator to request to be excused**
6 **from voting in an instance where the legislator may have a financial conflict of interest;**
7 **and providing for an effective date."**

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

9 * **Section 1.** AS 15.13.068 is amended to read:

10 **Sec. 15.13.068. Expenditures and contributions by foreign-influenced**
11 **corporations and foreign nationals. (a) A foreign-influenced corporation or**
12 foreign national may not, directly or indirectly, in connection with an election under
13 this chapter, make a contribution or expenditure or make an express or implied

1 promise to make a contribution or expenditure.

2 (b) The provisions of this section prohibit a **foreign-influenced corporation**
 3 **or** foreign national from making a contribution or expenditure in connection with a
 4 state election only to the extent

5 (1) [THAT] federal law prohibits **the foreign-influenced corporation**
 6 **or** [A] foreign national from making a contribution or expenditure in connection with
 7 a state election; and

8 (2) permitted by federal law.

9 (c) In this section,

10 (1) **"corporation" means any corporation, company, limited**
 11 **liability company, limited partnership, business trust, business association, or**
 12 **other similar entity;**

13 (2) **"covered expenditure" means an independent expenditure,**
 14 **electioneering expenditure, or express communication, but does not include a**
 15 **media communication, membership communication, shareholder**
 16 **communication, or expenditure as defined in AS 15.13.400;**

17 (3) **"election" means any state or local election, including a special**
 18 **or runoff election;**

19 (4) **"electioneering expenditure" means a purchase or transfer, or**
 20 **a promise or agreement to purchase or transfer, money or a thing of value to**
 21 **enable or facilitate the broadcast or other distribution of a communication that**

22 **(A) clearly refers to a candidate for an election under (B) of**
 23 **this paragraph;**

24 **(B) occurs in a 60-day period immediately preceding a**
 25 **general, special, or runoff election or within the 30 days preceding a**
 26 **primary or preference election, or a convention or caucus of a political**
 27 **party legally permitted to nominate a candidate for an election under this**
 28 **chapter; and**

29 **(C) may be received by 500 or more persons in the**
 30 **jurisdiction the candidate seeks to represent;**

31 (5) **"foreign-influenced corporation" means a corporation for**

which

(A) a foreign national or foreign owner holds, owns, controls, or has direct or indirect beneficial ownership of equity or voting shares in an amount equal to or greater than five percent of all corporate voting shares outstanding or all corporate equity;

(B) two or more foreign nationals or foreign owners combined hold, own, control, or have direct or indirect beneficial ownership of equity or voting shares in an amount equal to or greater than 20 percent of all corporate voting shares outstanding or all corporate equity; or

(C) a foreign national or foreign owner participates directly or indirectly in decisions relating to covered expenditures or contributions;

(6) "foreign national" means

(A) [INCLUDES (1)] an individual who is not a United States citizen or lawfully admitted for permanent residence under 8 U.S.C. 1101(a)(20);

(B) [(2)] a foreign government, every political subdivision of a foreign government, every official, agent, or representative of a foreign government, and every agency, corporation, or instrumentality of the foreign government or of a political subdivision of a foreign government;

(C) [(3)] a person outside of the United States, unless it is established that the person is an individual and a citizen of and domiciled in the United States, or that the person is not an individual and is organized under or created by the laws of the United States or of any state or other place subject to the jurisdiction of the United States and has its principal place of business in the United States; or

(D) [(4)] a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country;

(7) "foreign owner" means a person for whom a foreign national

holds, owns, controls, or otherwise has directly or indirectly acquired beneficial ownership of equity or voting shares in a corporation in an amount equal to or greater than 50 percent of all corporate voting shares outstanding or all corporate equity;

(8) "media communication" means a

(A) communication in a news story, commentary, or editorial distributed through the facilities of a radio station, television station, cable television system, or satellite system, newspaper, magazine, or other periodical publication, unless the facilities are owned or controlled by a political party, political committee, or candidate; or

(B) communication that constitutes a public debate or forum that includes at least two opposing candidates for an office or one advocate and one opponent of an issue, or that solely promotes such a debate or forum and is made by or on behalf of the person sponsoring the debate or forum, provided that the staging organization

(i) is a charitable organization that does not make other covered expenditures and does not otherwise support or oppose any political candidate, political party, ballot propositions or questions, or initiative proposals or is a newspaper, radio station, television station, cable television system, or satellite system, newspaper, magazine, or other periodical publication, or other recognized news medium; and

(ii) does not structure the debate to promote or advance one candidate or issue position over another;

(9) "membership communication" means a direct and private communication between a membership organization or union and one or more members of the organization or union, if the membership organization or union

(A) has members with authority to administer the membership organization or union;

(B) expressly states the qualifications and requirements for membership in articles, bylaws, or other formal organizational

documents; and

(C) is not organized primarily for the purpose of making covered expenditures or influencing elections, ballot propositions, ballot questions, or ballot initiative proposals;

(10) "shareholder communication" means a direct and private communication between a corporation and shareholders, executives, or administrative personnel of the corporation.

* Sec. 2. AS 15.13.068 is amended by adding new subsections to read:

(d) Notwithstanding (a) of this section, a foreign-influenced corporation may make a contribution to a person who makes covered expenditures or contributions if that person segregates contributions from foreign nationals and foreign-influenced corporations into a separate bank account that may not be used, directly or indirectly, to finance covered expenditures or contributions.

(e) In this section, when determining the percentage of a corporation's shares outstanding or equity owned by two or more foreign nationals,

(1) ownership in a mutual or pension fund that holds securities is not a form of ownership or control in such securities unless the foreign national or foreign owner can exercise control or participate in the management of the fund;

(2) for privately held corporations, a corporation shall determine its percentage of foreign ownership at the time it obligates funds to make covered expenditures or contributions;

(3) a publicly held corporation shall determine whether it is a foreign-influenced corporation based on its aggregate foreign ownership percentage at the close of trading on the last business day of the calendar quarter preceding the date the corporation makes or obligates funds to make a covered expenditure or contribution, unless the corporation has actual knowledge of its foreign ownership percentage at the time it makes or becomes obligated to make the covered expenditure or contribution; for the purposes of this paragraph, the corporation shall rely on facts, including information

(A) in the corporation's shareholder register;

(B) in possession of the United States Securities and Exchange

Commission or another governmental agency that is available to the general public;

(C) known to the corporation as a result of litigation, financing transactions, or proxies voted at annual or other meetings; and

(D) known to the corporation from another source.

* **Sec. 3.** AS 24.10.120(a) is amended to read:

(a) Salaries, per diem, travel expenses, relocation expenses, and additional allowances for members of the legislature shall be paid as approved by the legislative fiscal officer. The legislative fiscal officer may not approve payment for a member's travel outside the United States unless the member first provides a report establishing that the travel has a legislative purpose. The legislative fiscal officer shall provide a form on which a report under this section must be submitted.

* **Sec. 4.** AS 24.10.130(b) is amended to read:

(b) Legislators and officers and employees of the legislative branch of government may be entitled to a per diem allowance; however, if a bill that fully funds an operating budget has not, within the first 121 consecutive days of a regular legislative session, including the day the legislature first convenes in that regular session, been passed by the legislature, a member of the legislature is not entitled to a daily per diem allowance for a day the legislature is in session after that 121-day period until the first day after a bill that fully funds an operating budget is passed by the legislature or the first day of the next regular legislative session, whichever occurs earlier. In this subsection, "passed by the legislature" has the meaning given in AS 01.10.070.

* **Sec. 5.** AS 24.10.130(c) is amended to read:

(c) The Alaska Legislative Council shall adopt a policy in accordance with (b) of this section and AS 39.23.540(d) regarding reimbursement for moving expenses [APPLICABLE TO ALL LEGISLATORS] and payment of a [AN APPLICABLE] per diem allowance [POLICY]. The policy must set conditions for the reimbursement for moving expenses and payment of per diem and prescribe the amounts of reimbursement adapted to the special needs of the legislative branch as determined by

1 the council.

2 * **Sec. 6.** AS 24.45.121(a) is amended to read:

3 (a) A lobbyist may not

4 (1) engage in any activity as a lobbyist before registering under
5 AS 24.45.041;

6 (2) do anything with the intent of placing a public official under
7 personal obligation to the lobbyist or to the lobbyist's employer;

8 (3) intentionally deceive or attempt to deceive any public official with
9 regard to any material fact pertinent to pending or proposed legislative or
10 administrative action;

11 (4) cause or influence the introduction of a legislative measure solely
12 for the purpose of thereafter being employed to secure its passage or its defeat;

13 (5) cause a communication to be sent to a public official in the name of
14 any fictitious person or in the name of any real person, except with the consent of that
15 person;

16 (6) accept or agree to accept any payment in any way contingent upon
17 the defeat, enactment, or outcome of any proposed legislative or administrative action;

18 (7) serve as a member of a state board or commission, if the lobbyist's
19 employer may receive direct economic benefit from a decision of that board or
20 commission;

21 (8) serve as a campaign manager or director, serve as a campaign
22 treasurer or deputy campaign treasurer on a finance or fund-raising committee, host a
23 fund-raising event, directly or indirectly collect contributions for, or deliver
24 contributions to, a candidate, or otherwise engage in the fund-raising activity of a
25 legislative campaign or campaign for governor or lieutenant governor if the lobbyist
26 has registered, or is required to register, as a lobbyist under this chapter, during the
27 calendar year; this paragraph does not apply to a representational lobbyist as defined
28 in the regulations of the Alaska Public Offices Commission, and does not prohibit a
29 lobbyist from making personal contributions to a candidate as authorized by AS 15.13
30 or personally advocating on behalf of a candidate;

31 (9) offer, solicit, initiate, facilitate, or provide to or on behalf of a

1 person covered by AS 24.60 a gift, other than food or a nonalcoholic beverage for
 2 immediate consumption under AS 24.60.080(a)(2)(A), or a compassionate gift under
 3 AS 24.60.075; however, this paragraph does not prohibit a lobbyist from providing

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

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

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

11 (10) make or offer a gift or a campaign contribution whose acceptance
 12 by the person to whom it is offered would violate AS 24.60 or AS 39.52.

13 * **Sec. 7.** AS 24.60.030(e) is amended to read:

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

16 (1) agree to, threaten to, or state or imply that the legislator will take or
 17 withhold a legislative, administrative, or political action, including support **for** or
 18 opposition to a bill, employment, nominations, and appointments, as a result of a
 19 person's decision to provide or not provide a political contribution, donate or not
 20 donate to a cause favored by the legislator, or provide or not provide a thing of value;

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

25 (3) except as provided in (g) of this section or while participating
 26 in a public discussion or debate [UNLESS REQUIRED BY THE UNIFORM
 27 RULES OF THE ALASKA STATE LEGISLATURE], take or withhold official
 28 action or exert official influence that could substantially benefit or harm the financial
 29 interest of a [ANOTHER] person

30 (A) who is a member of the legislator's immediate family;

31 (B) by [WITH] whom the legislator or a member of the

1 legislator's immediate family is employed;

2 (C) with whom the legislator is negotiating for employment;

3 (D) from whom the legislator or a member of the
 4 legislator's immediate family has, in the immediately preceding 12-month
 5 period, received more than \$10,000 of income.

6 * Sec. 8. AS 24.60.030(g) is amended to read:

7 (g) Unless otherwise required by the Uniform Rules of the Alaska State
 8 Legislature, a legislator shall declare a conflict of interest before voting [MAY
 9 NOT VOTE] on a question before a committee of the legislature, and shall request
 10 to be excused from voting on a question before a house of the legislature, if the
 11 legislator or a member of the legislator's immediate family has a financial [AN
 12 EQUITY OR OWNERSHIP] interest in a business, investment, real property, lease, or
 13 other enterprise if the interest is substantial and the effect on that interest of the action
 14 to be voted on is greater than the effect on the general public of the state. However,
 15 notwithstanding (e)(3) of this section and the limitations of this subsection, a
 16 legislator may vote on an appropriation bill that meets the requirements of
 17 AS 37.07.020(a) or 37.07.100 (Executive Budget Act) [A SUBSTANTIAL CLASS
 18 OF PERSONS TO WHICH THE LEGISLATOR BELONGS AS A MEMBER OF A
 19 PROFESSION, OCCUPATION, INDUSTRY, OR REGION].

20 * Sec. 9. AS 24.60.030(j) is amended to read:

21 (j) In this section,

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

26 (2) "substantially benefit or harm" means the effect on the
 27 person's financial interest is greater than the effect on the financial interest of the
 28 general public of the state.

29 * Sec. 10. AS 24.60.080(a) is amended to read:

30 (a) Except as otherwise provided in this section, a legislator or legislative
 31 employee may not

(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;

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

(A) food or nonalcoholic beverage for immediate consumption

(i) with a value of \$15 or less; or

(ii) provided as part of an event that is open to all legislators or legislative employees;

(B) a contribution to a charity event, tickets to a charity event, and gifts to which the tickets may entitle the bearer; however, under this subparagraph a legislator or legislative employee may not solicit, accept, or receive from the same lobbyist, an immediate family member of the lobbyist, or a person acting on behalf of the lobbyist, tickets to a charity event, gifts to which the tickets may entitle the bearer, or both, that in a calendar year aggregate to \$250 or more in value; in this subparagraph, "charity event" means an event the proceeds of which go to a charitable organization with tax-free status under 26 U.S.C. 501(c)(3) and that the Alaska legislative council has approved in advance; the tickets may entitle the bearer to admission to the event, to entertainment, to food or beverages, or to other gifts or services in connection with the charity event;

(C) a gift that is unconnected with the recipient's legislative status and is from a member of the legislator's or legislative employee's immediate family;

(D) a gift delivered on the premises of a state facility and accepted on behalf of a recognized nonpolitical charitable organization; or

(E) a compassionate gift under AS 24.60.075.

* **Sec. 11.** AS 24.60.990(a) is amended by adding a new paragraph to read:

(17) "financial interest" means ownership of an interest or an

involvement in a business, including a property ownership, or a professional or private relationship, that is a source of income, or from which, or as a result of which, a person has received or expects to receive a financial benefit.

* **Sec. 12.** AS 39.23.540(d) is amended to read:

(d) The commission shall make available to the governor and presiding officers of each house of the legislature a final report of its findings and recommendations as to the rate and form of compensation, benefits, and allowances for legislators, the governor, the lieutenant governor, and each principal executive department head during the first 10 days of a legislative session. Subject to AS 24.10.130(b) and (g) of this section, and unless a bill disapproving all the recommendations for all officers listed in this section is enacted into law within 60 days after the recommendations are submitted to the governor and presiding officers of each house of the legislature, a recommendation as to the compensation, benefits, and allowances for

(1) a legislator has the force of law and becomes effective on the first day of the next regular legislative session; and

(2) the governor, the lieutenant governor, and each principal executive department head has the force of law and becomes effective on the first day of the fiscal year following the fiscal year in which the recommendation is submitted.

* **Sec. 13.** AS 24.45.051(b) is repealed.

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

REGULATIONS. The Alaska Public Offices Commission shall adopt regulations necessary to implement secs. 1 and 2 of this Act. The regulations are subject to AS 44.62 (Administrative Procedure Act). Regulations adopted under this section may not take effect before the effective date of the law being implemented by the regulation.

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

SEVERABILITY. Under AS 01.10.030, if any provision of this Act, or the application of a provision of this Act to any person or circumstance, is held invalid, the remainder of this Act and the application to other persons or circumstances are not affected.

- 1 * **Sec. 16.** Section 14 of this Act takes effect immediately under AS 01.10.070(c).
- 2 * **Sec. 17.** Except as provided in sec. 16 of this Act, this Act takes effect July 1, 2018.