

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

March 20, 2007

1:08 p.m.

MEMBERS PRESENT

Representative Jay Ramras, Chair
Representative Nancy Dahlstrom, Vice Chair
Representative John Coghill
Representative Bob Lynn
Representative Ralph Samuels
Representative Max Gruenberg
Representative Lindsey Holmes

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Representative Berta Gardner

COMMITTEE CALENDAR

HOUSE BILL NO. 109

"An Act relating to the requirement for candidates, groups, legislators, public officials, and other persons to submit reports electronically to the Alaska Public Offices Commission; relating to disclosures by legislators, public members of the Select Committee on Legislative Ethics, legislative directors, public officials, and certain candidates for public office concerning services performed for compensation and concerning certain income, gifts, and other financial matters; requiring legislators, public members of the Select Committee on Legislative Ethics, legislative directors, public officials, and municipal officers to make certain financial disclosures when they leave office; relating to insignificant ownership interest in a business and to gifts from lobbyists for purposes of the Alaska Executive Branch Ethics Act; relating to certain restrictions on employment after leaving state service for purposes of the Alaska Executive Branch Ethics Act; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 109

SHORT TITLE: DISCLOSURES & ETHICS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/25/07	(H)	READ THE FIRST TIME - REFERRALS
01/25/07	(H)	STA, JUD
01/30/07	(H)	STA AT 8:00 AM CAPITOL 106
01/30/07	(H)	Heard & Held
01/30/07	(H)	MINUTE(STA)
02/03/07	(H)	STA AT 10:00 AM SPEAKER'S CHAMBER
02/13/07	(H)	STA AT 8:00 AM CAPITOL 106
02/13/07	(H)	<Postponed Pending Subcommittee Report>
02/15/07	(H)	STA AT 8:00 AM CAPITOL 106
02/15/07	(H)	<Postponed Pending Subcommittee Report>
02/20/07	(H)	STA AT 8:00 AM CAPITOL 106
02/20/07	(H)	<Postponed Pending Subcommittee Report>
02/22/07	(H)	STA AT 8:00 AM CAPITOL 106
02/22/07	(H)	Heard & Held
02/22/07	(H)	MINUTE(STA)
02/27/07	(H)	STA AT 8:00 AM CAPITOL 106
02/27/07	(H)	Heard & Held
02/27/07	(H)	MINUTE(STA)
03/01/07	(H)	STA AT 8:00 AM CAPITOL 106
03/01/07	(H)	Heard & Held
03/01/07	(H)	MINUTE(STA)
03/03/07	(H)	STA AT 10:00 AM CAPITOL 106
03/03/07	(H)	Moved CSHB 109(STA) Out of Committee
03/03/07	(H)	MINUTE(STA)
03/07/07	(H)	STA RPT CS(STA) NT 3DP 1NR 3AM
03/07/07	(H)	DP: ROSES, DOLL, LYNN
03/07/07	(H)	NR: JOHANSEN
03/07/07	(H)	AM: JOHNSON, COGHILL, GRUENBERG
03/19/07	(H)	JUD AT 1:00 PM CAPITOL 120
03/19/07	(H)	Heard & Held
03/19/07	(H)	MINUTE(JUD)
03/20/07	(H)	JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

HEIDI DRYGAS, General Counsel

Public Employees Local 71

Alaska District Council of Laborers

Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HB 109.

REPRESENTATIVE MARK NEUMAN

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 109.

BROOKE MILES, Director
Alaska Public Offices Commission (APOC)
Department of Administration (DOA)
Anchorage, Alaska

POSITION STATEMENT: Answered questions and offered comments during the hearing on HB 109.

DAVID JONES, Senior Assistant Attorney General
Opinions, Appeals, & Ethics
Civil Division (Anchorage)
Department of Law (DOL)
Anchorage, Alaska

POSITION STATEMENT: Answered questions and offered comments during the hearing on HB 109.

JOYCE ANDERSON, Ethics Committee Administrator
Select Committee on Legislative Ethics
Alaska State Legislature
Anchorage, Alaska

POSITION STATEMENT: Answered questions and offered comments during the hearing on HB 109.

ACTION NARRATIVE

CHAIR JAY RAMRAS called the House Judiciary Standing Committee meeting to order at [1:08:05 PM](#). Representatives Lynn, Holmes, Dahlstrom, Coghill, and Ramras were present at the call to order. Representatives Gruenberg and Samuels arrived as the meeting was in progress. Representative Gardener was also in attendance.

HB 109 - DISCLOSURES & ETHICS

[1:08:35 PM](#)

CHAIR RAMRAS announced that the only order of business would be HOUSE BILL NO. 109, "An Act relating to the requirement for candidates, groups, legislators, public officials, and other persons to submit reports electronically to the Alaska Public Offices Commission; relating to disclosures by legislators, public members of the Select Committee on Legislative Ethics, legislative directors, public officials, and certain candidates for public office concerning services performed for compensation

and concerning certain income, gifts, and other financial matters; requiring legislators, public members of the Select Committee on Legislative Ethics, legislative directors, public officials, and municipal officers to make certain financial disclosures when they leave office; relating to insignificant ownership interest in a business and to gifts from lobbyists for purposes of the Alaska Executive Branch Ethics Act; relating to certain restrictions on employment after leaving state service for purposes of the Alaska Executive Branch Ethics Act; and providing for an effective date." [Before the committee was CSHB 109(STA).]

CHAIR RAMRAS outlined how the committee would be proceeding with regard to public testimony, the bill, and proposed amendments.

[1:10:58 PM](#)

HEIDI DRYGAS, General Counsel, Public Employees Local 71, Alaska District Council of Laborers, began by explaining that Alaska's nepotism statute, AS 39.90.020, prohibits family members from working together in a supervisory relationship. In August of 2005, the Department of Administration (DOA) promulgated a new policy, Alaska Administrative Manual (AAM) 100.050, which prohibits employees from being in an "employment relationship" with a family member. This includes conjugal relationships up to a second degree of kindred. She explained that this new policy was enacted in response to a Department of Law (DOL) memorandum issued in March of 2005 addressing how the Alaska Executive Branch Ethics Act applies when a supervisor and subordinate are in a conjugal relationship. The Attorney General's opinion was that this relationship is in violation of the Alaska Executive Branch Ethics Act. However, she argued that in promulgating the aforementioned policy, the DOA has taken this opinion and dramatically expanded its scope.

MS. DRYGAS went on to say that the DOA expanded the definition of "employment relationship," to include a number of actions that are typically completed by non-supervisory employees. This new policy, based of the DOA's interpretation of the Alaska Executive Branch Ethics Act and the DOL memorandum, has had devastating effects on Alaska's public employees, especially those living and working in rural communities. She explained the actions prohibited by this policy, pointing out that many Alaskan communities are small, and most individuals are likely to be related in some way. She opined that the impact on non-supervisory employees is substantial and unnecessary, as it

essentially prohibits both supervisory and non-supervisory relationships between family members.

MS. DRYGAS said this policy is affecting everyday working Alaskans in a way that was never intended nor implemented by the Alaska Executive Branch Ethics Act until 2006. Family members seeking to work together in a non-supervisory relationship are held to stricter standards than Legislative employees. She explained the definitions of "supervisory employee" and "supervisory functions" under regulations promulgated by the Alaska Labor Relations Agency. She reiterated that the DOA policy prohibits far more than supervisory relationships. The realignment of this policy has and will continue to prevent many Alaskans from seeking employment with the state.

MS. DRYGAS stated that the union suggests an amendment which would clarify that Alaska Executive Branch Ethics Act provisions arise in supervisory relationships between family members, and not in all employee relationships.

[Chair Ramras turned the gavel over to Vice Chair Dahlstrom.]

VICE CHAIR DAHLSTROM offered her understanding that the aforementioned amendment is currently in the drafting process.

MS. DRYGAS explained that the amendment would add a subsection (d) to AS 39.52.910. She read the proposed amendment as follows [original punctuation provided]:

"Nothing in this Act shall supersede the provisions of AS 39.90.020, nor preclude individuals from being in an employment relationship with an immediate family member where neither family member is a supervisor who has authority to act or to effectively recommend action in the interest of the public employer in one of the following supervisory functions, if the exercise of that authority is not merely routine but requires the exercise of independent judgment:

- (a) employing, including hiring, transferring, laying off, or recalling;
- (b) discipline, including suspension, discharge, demotion, or issuance of written warnings;
or
- (c) grievance adjudication, including responding to a first level grievance under a collective bargaining agreement."

MS. DRYGAS said that the union believes that this amendment would clarify the scope of the Alaska Executive Branch Ethics Act, and protect working Alaskans. It would also strike a balance by highlighting the ethical issues involved in familial supervisory relationships.

[Vice Chair Dahlstrom returned the gavel to Chair Ramras.]

[1:18:13 PM](#)

REPRESENTATIVE MARK NEUMAN, Alaska State Legislature, explained that he is a small business owner, and expressed concern regarding the possible loss of customers as a result of legislative reporting requirements. He shared his belief that those requirements would also put his competitors at an advantage, and questioned the fairness of losing business as a result of holding public office.

[1:21:35 PM](#)

BROOKE MILES, Director, Alaska Public Offices Commission (APOC), Department of Administration (DOA), explained that under current law, the defining point is not whether goods or services are offered, but how the business is conducted. She offered her understanding that Representative Neuman does not create furniture that is later sold in a store, but works independently with clients. She compared this to work done by an attorney, and reiterated that it is the way in which the business is conducted that determines how a financial disclosure statement must be completed.

REPRESENTATIVE NEUMAN commented that while he understands the importance of disclosing clients that have a connection with the government, such as a lobbyist or another legislator, he is referring to "the average customer off the street."

MS. MILES, in response to a question, explained that if a legislator owns a hotel and restaurant, he or she is not required to list each client; however, if he or she has a contract with an entity to provide rooms, and the contract is worth more than \$1000, this must be reported separately.

CHAIR RAMRAS commented that he is a hotel and restaurant owner, and explained that he must disclose the sale of a "block" of rooms to the APOC, and this then becomes part of the public record.

1:25:34 PM

REPRESENTATIVE SAMUELS asked whether the contracted price is included.

MS. MILES explained that the amount must be disclosed if the source of the amount has a substantial interest in state, political, or administrative activities.

CHAIR RAMRAS noted that the total dollar amount of the account is disclosed, but not the rate per room.

REPRESENTATIVE GRUENBERG pointed out that he is required to list the exact dollar amount for each client he sees. He offered his understanding that car sales must be reported.

MS. MILES said disclosure would be required on a fleet transaction, but not on independent sales; retail businesses are not required to report individual sales. In response to a question, she explained that historically, there has been a difference between retail and non-retail clients. This has been the case since 1974, when current law was enacted. Retail businesses are not required to report as a source each individual who makes purchases. However, each individual who buys the services of an attorney, an accountant, or a custom furniture builder, is considered to be "the source" [and must be disclosed].

REPRESENTATIVE GRUENBERG stated that he finds it difficult to justify a distinction between an individual providing services and an individual who is providing the same amount of, and receiving profit for, goods. He said he does not understand why the former is required to report this, while the latter is not.

REPRESENTATIVE NEUMAN clarified that all of his sales are retail sales. He said he feels that he should fall under the same category as the hotel owner who is not required to report a guest whose bill is over \$1,000.

MS. MILES commented that she understands these concerns; however, currently Representative Neuman is required to report clients who pay more than \$1,000 for a piece of furniture because of the way in which his business is conducted.

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REPRESENTATIVE DAHLSTROM commented that she falls into a similar category, because she and her husband own a business. She explained that her husband is a contractor, and gains business by bid. She stated that if she is required to report these jobs, his competitors could use this information. She inquired as to what is reported when an attorney is representing a minor, and questioned whether reporting this violates constitutional rules, and whether reporting puts individuals at risk.

MS. MILES replied that anytime a case is sealed by the court, or if a case affects minors, the case is not required to be made public, as this would violate other laws. Those professions which are subject to the Health Insurance Portability and Accountability Act (HIPAA) can not disclose the client's name. This law overrides the APOC reporting requirements. She stated that these are huge policy decisions - balancing the public's right to know with an individual's right to privacy or right to keep trade secrets and conduct a successful business.

REPRESENTATIVE SAMUELS questioned whether he would have to disclose all block ticket sales if he owns a small portion of an airline but has no authority over the business.

MS. MILES explained that if the business is [incorporated] and the individual in question does not own a controlling interest, he/she is not required to disclose the clients of the company. If the business is a professional corporation (PC), a limited liability company (LLC), a partnership, or a sole proprietorship, the business owner is required to report client names.

CHAIR RAMRAS opined that it is important for the public to be informed of relationships between legislators and certain entities. A citizen legislator must surrender some privacy in exchange for the privilege of being a legislator. This allows legislators to be forthright regarding relationships that "may hold sway for better or for worse." He commented that the opportunity to "open the APOC book comes along ... rarely," and questioned what might be done to address Representative Neuman's concerns. He stated that while he is comfortable with his personal reporting requirements, he does not want to discourage legislative service by those who have concerns with the requirement. He requested that this be considered and discussed again at the next committee hearing.

REPRESENTATIVE NEUMAN pointed out that the APOC rules deal with individuals with "substantial political influence." He opined

that the "average Joe off the street" does not meet this requirement.

CHAIR RAMRAS closed public testimony for the day, and relayed that it would be opened up again at the bill's next committee hearing.

REPRESENTATIVE GRUENBERG referred to possible problems regarding U.S. attorney generals, and questioned whether provisions should be added to Title 39 or Title 44 to specifically address ethical rules for the attorney general in situations involving conflicts of interest.

[1:43:47 PM](#)

DAVID JONES, Senior Assistant Attorney General, Opinions, Appeals, & Ethics, Civil Division (Anchorage), Department of Law (DOL), replied that he has not considered this, but would appreciate the opportunity to do so. He surmised that these concerns should be covered by existing rules and requirements.

REPRESENTATIVE LYNN questioned whether the issues concerning U.S. attorney generals and the state attorney general are comparable.

REPRESENTATIVE GRUENBERG replied that he would like to see such issues avoided.

[1:47:13 PM](#)

CHAIR RAMRAS referred to Amendment 1, which, along with explanation language, read [original punctuation provided]:

Page 2, Line 15 & 16

Delete

Planning & zoning commissioners are not candidates, they are appointed. Although they are subject to the financial disclosure laws (AS 39.50) they do not file campaign disclosure reports (AS 15.13).

The campaign disclosure laws apply only to municipalities with a population greater than 1000. No municipalities that are subject to the campaign disclosure law have utility boards.

REPRESENTATIVE SAMUELS made a motion to adopt Amendment 1.

REPRESENTATIVE GRUENBERG objected for the purpose of discussion.

MS. MILES said that AS 15.13 is the campaign disclosure law, and applies to candidates, political groups, and ballot issues. She explained that planning and zoning commissioners are not candidates. Additionally, the campaign disclosure laws apply to municipalities with a population greater than 1,000, and no municipalities subject to the campaign disclosure law have utility boards.

REPRESENTATIVE GRUENBERG offered his understanding that this would only apply to elected utility boards, and that the Anchorage Utility Board is appointed.

MS. MILES replied that this is correct.

REPRESENTATIVE GRUENBERG removed his objection.

CHAIR RAMRAS, noting no further objection, announced that Amendment 1 was adopted.

[1:50:00 PM](#)

CHAIR RAMRAS referred to Amendment 2, labeled 25-GH1059\0.2, Wayne, 3/8/07, which read:

Page 4, lines 1 - 2:

Delete "in this paragraph, "domestic partner" has the meaning given in AS 39.50.200(a)i."

Page 4, line 8, following "commission":

Insert "[IN THIS PARAGRAPH, "DOMESTIC PARTNER" HAS THE MEANING GIVEN IN AS 39.50.200(a)]"

Page 5, line 15:

Delete "a new subsection"

Insert "new subsections"

Page 5, following line 19:

Insert new material to read:

"(e) The spouse or domestic partner of a legislator may not engage in activity as a lobbyist. This subsection does not prohibit the spouse or domestic partner from acting as a volunteer lobbyist"

under AS 24.45.161(a)(1) or a representational lobbyist, as defined in regulation by the commission.

* **Sec. 7.** AS 24.45.171 is amended by adding a new paragraph to read:

(15) "domestic partner" has the meaning given in AS 39.50.200(a)."

Renumber the following bill sections accordingly.

REPRESENTATIVE DAHLSTROM made a motion to adopt Amendment 2.

REPRESENTATIVE GRUENBERG objected for the purpose of discussion.

CHAIR RAMRAS explained that this is a "housekeeping" amendment with regard to spousal lobbying; this language was inadvertently left out of CSHB 109(STA).

[1:51:23 PM](#)

REPRESENTATIVE GRUENBERG concurred, and stated that he would be offering an amendment to "cure" a potential constitutional problem, and suggested a possible amendment to Amendment 2.

REPRESENTATIVE RAMRAS stated that he would like to move through the amendments and take up other issues as they arise.

REPRESENTATIVE GRUENBERG withdrew his objection.

REPRESENTATIVE COGHILL commented that there is a question regarding whether there is a constitutional problem in prohibiting a legislator's spouse from performing specific actions, and that there is still a concern regarding whether a legislator's spouse should be allowed to lobby.

REPRESENTATIVE GRUENBERG said that a forthcoming proposed amendment would not prohibit the spouse from doing certain things, but would prohibit legislators and employees from having any kind of official communications with the spouse.

REPRESENTATIVE COGHILL clarified that he is concerned with the language prohibiting the spouse of a legislator from engaging in activity as a lobbyist. He surmised that this can be challenged.

REPRESENTATIVE SAMUELS stated that he is in agreement with Amendment 2, as presented, and would prefer to simply let it be challenged.

REPRESENTATIVE DAHLSTROM and REPRESENTATIVE LYNN agreed.

REPRESENTATIVE GRUENBERG again removed his objection.

CHAIR RAMRAS, noting that there was no further objection to Amendment 2, announced that Amendment 2 was adopted.

[1:55:13 PM](#)

CHAIR RAMRAS referred to Amendment 3, which read [original punctuation provided]:

Page 5, lines 16-19:

Delete all material and insert:

"(d) An individual may not, at any time that AS 39.52 prohibits that individual from engaging in activity as a lobbyist, register as a lobbyist under this chapter or engage in any activity as a lobbyist. This subsection does not prohibit registration or service as a volunteer lobbyist in AS 24.45.161(a)(1) or a representational lobbyist as defined in the regulations of the Alaska Public Offices Commission."

REPRESENTATIVE COGHILL made a motion to adopt Amendment 3.

REPRESENTATIVE DAHLSTROM also moved Amendment 3.

CHAIR RAMRAS announced that Representative Gruenberg objected to Amendment 3 for the purposes of discussion.

REPRESENTATIVE COGHILL explained that Amendment 3 was requested by the administration, and makes technical changes to the bill.

MR. JONES agreed. He said that it cleans up the current language, thus making it "absolutely clear" that its intent is to give the APOC the authority to refuse registration to any person the [Alaska Executive Branch Ethics Act] bars from serving as a lobbyist.

REPRESENTATIVE GRUENBERG inquired as to the difference between the current language of the bill and Amendment 3.

MR. JONES said that it is "very difficult to find any meaning in the current provision in Section 6; it just causes you to wonder

why it's there." He explained that Amendment 3 returns to the original intent, which "mirrors" the language adopted by the House State Affairs Standing Committee.

MS. MILES, in response to a question, stated that she has no objection to Amendment 3.

REPRESENTATIVE GRUENBERG removed his objection.

CHAIR RAMRAS, noting that there was no further objection to Amendment 3, announced that Amendment 3 was adopted.

[1:58:13 PM](#)

CHAIR RAMRAS referred to Amendment 4, which read [original punctuation provided but with some formatting changes]:

Intent / Explanation:

Prohibit legislators or legislative employees from receiving gifts from lobbyists at any time of the year. Also prohibit family members from receiving gifts from lobbyists. Family member as defined in AS 24.60.990(a)(6).

Brings together language in AS 24.60.080 regarding lobbyists and gifts into one section to provide clarity and ease of interpreting the gift statute.

Sec. 24.60.080. Gifts.

(a) Except as otherwise provided in this section, a legislator or legislative 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) [EXCEPT FOR FOOD OR BEVERAGE FOR IMMEDIATE CONSUMPTION, A LEGISLATOR OR LEGISLATIVE EMPLOYEE MAY NOT SOLICIT,] accept, or receive [DURING A LEGISLATIVE SESSION] a gift with any monetary value from a lobbyist or, or an immediate family member of the lobbyist, or a person acting on behalf of a lobbyist **except;**[.]

(A) for food or beverage for immediate consumption; or

(B) tickets from a lobbyist for a charity event at any time, including during a legislative session, except that tickets to or gifts received at a charity event under this paragraph are subject to the calendar year limit on the value of gifts received by a legislator or legislative employee in (a) of this section; in this paragraph, "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 involved in the charity event.

(b) [Repealed, § 42 ch 127 SLA 1992.]

(c) Notwithstanding (a)(1) of this section, it is not a violation of this section for a legislator or legislative employee to accept

(1) hospitality, other than hospitality described in (4) of this subsection,

(A) with incidental transportation at the residence of a person; however, a vacation home located outside the state is not considered a residence for the purposes of this subparagraph; or

(B) at a social event or meal;

(2) discounts that are available

(A) generally to the public or to a large class of persons to which the person belongs; or

(B) when on official state business, but only if receipt of the discount benefits the state;

(3) food or foodstuffs indigenous to the state that are shared generally as a cultural or social norm;

(4) travel and hospitality primarily for the purpose of obtaining information on matters of legislative concern;

(5) gifts from the immediate family of the person;

(6) gifts that are not connected with the recipient's legislative status;

(7) a discount for all or part of a legislative session, including time immediately preceding or following the session, or other gift to welcome a

legislator or legislative employee who is employed on the personal staff of a legislator or by a standing or special committee to the capital city or in recognition of the beginning of a legislative session if the gift or discount is available generally to all legislators and the personal staff of legislators and staff of standing and special committees; this paragraph does not apply to legislative employees who are employed by the Legislative Affairs Agency, the office of the chief clerk, the office of the senate secretary, the legislative budget and audit committee, or the office of the ombudsman;

(8) a gift of legal services in a matter of legislative concern and a gift of other services related to the provision of legal services in a matter of legislative concern;

(9) a gift of transportation from a legislator to a legislator if the transportation takes place in the state on or in an craft, boat, motor vehicle, or other means of transport owned or under the control of the donor; this paragraph does not apply to travel described in (4) of this subsection or travel for political campaign purposes;

(10) [TICKETS FROM A LOBBYIST FOR A CHARITY EVENT AT ANY TIME, INCLUDING DURING A LEGISLATIVE SESSION, EXCEPT THAT TICKETS TO OR GIFTS RECEIVED AT A CHARITY EVENT UNDER THIS PARAGRAPH ARE SUBJECT TO THE CALENDAR YEAR LIMIT ON THE VALUE OF GIFTS RECEIVED BY A LEGISLATOR OR LEGISLATIVE EMPLOYEE IN (A) OF THIS SECTION; IN THIS PARAGRAPH, "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 INVOLVED IN THE CHARITY EVENT;] or

(11) a contribution to a charity event from any person at any time; in this paragraph, "charity event" has the meaning given in [(10)] **(a)(2)B** of this subsection.

(d) A legislator or legislative employee who accepts a gift under (c)(4) of this section that has a value of \$250 or more shall disclose to the committee, within 30 days after receipt of the gift, the name and occupation of the donor and the approximate value of the gift. A legislator or legislative employee who

accepts a gift under (c)(8) of this section that the recipient expects will have a value of \$250 or more in the calendar year shall disclose to the committee, within 30 days after receipt of the gift, the name and occupation of the donor, a general description of the matter of legislative concern with respect to which the gift is made, and the approximate value of the gift. The committee shall maintain a public record of the disclosures it receives relating to gifts under (c)(4) and (8) of this section and shall forward the disclosures to the appropriate house for inclusion in the journal. The committee shall forward to the Alaska Public Offices Commission copies of the disclosures concerning gifts under (c)(4) and (8) of this section that it receives from legislators and legislative directors. A legislator or legislative employee who accepts a gift under (c)(6) of this section that has a value of \$250 or more shall disclose to the committee annually on or before March 15 the name and occupation of the donor and a description of the gift. The committee shall maintain disclosures relating to gifts under (c)(6) of this section as confidential records and may only use, or permit a committee employee or contractor to use, a disclosure under (c)(6) of this section in the investigation of a possible violation of this section or in a proceeding under AS 24.60.170 . If the disclosure under (c)(6) of this section becomes part of the record of a proceeding under AS 24.60.170, the confidentiality provisions of that section apply to the disclosure.

(e) A political contribution is not a gift under this section if it is reported under AS 15.13.040 or is exempt from the reporting requirement under AS 15.13.040 (g). The use of a bulk mailing permit owned by a legislator's campaign committee or used in a legislator's election campaign is not a gift to that legislator under this section.

(f) Notwithstanding (a) of this section, a legislator or legislative employee may accept a gift of property worth \$250 or more, other than money, from another government or from an official of another government if the person accepts the gift on behalf of the legislature. The person shall, within 60 days after receiving the gift, deliver the gift to the

legislative council, which shall determine the appropriate disposition of the gift. In this subsection, "another government" means a foreign government or the government of the United States, another state, a municipality, or another jurisdiction.

(g) Notwithstanding (a) of this section, a legislator or legislative employee may solicit, accept, or receive a gift on behalf of a recognized, nonpolitical charitable organization.

(h) A legislator, a legislative committee other than the Select Committee on Legislative Ethics, or a legislative agency may accept

(1) a gift of volunteer services for legislative purposes so long as the person making the gift of services is not receiving compensation from another source for the services; or

(2) the services of a trainee who is participating in an educational program approved by the committee if the services are used for legislative purposes. The committee shall approve training under a program of the University of Alaska and training under 29 U.S.C. 2801 - 2945 (Workforce Investment Act of 1998). A legislative volunteer or educational trainee shall be considered to be a legislative employee for purposes of compliance with this section, AS 24.60.030 - 24.60.039, 24.60.060, 24.60.085, 24.60.158 - 24.60.170, 24.60.176, and 24.60.178. If a person believes that a legislative volunteer or educational trainee has violated the provisions of one of those sections, the person may file a complaint under AS 24.60.170 . The provisions of AS 24.60.170 apply to the proceeding.

(i) A legislator or legislative employee who knows or reasonably should know that [A] an immediate family member as defined in AS 24.60.990(a)(6) has received a gift because of the family member's connection with the legislator or legislative employee shall report the receipt of the gift by the family member to the committee if the gift would have to be reported under this section if it had been received by the legislator or legislative employee. If receipt of the gift by a legislator or legislative employee would be prohibited

under this section then receipt by an immediate family member is also prohibited.

(j) In this section, the value of a gift shall be determined by the fair market value of the gift to the extent that the fair market value can be determined.

(k) In [THIS] subsection (c)(6), "immediate family" [OR "FAMILY MEMBER"] means

- (1) the spouse of the person;
- (2) the person's domestic partner;
- (3) a child, including a stepchild and an adoptive child, of the person or of the person's domestic partner;
- (4) a parent, sibling, grandparent, aunt, or uncle of the person;
- (5) a parent, sibling, grandparent, aunt, or uncle of the person's spouse or the person's domestic partner; and a stepparent, stepsister, stepbrother, step-grandparent, step-aunt, or step-uncle of the person, the person's spouse, or the person's domestic partner.

REPRESENTATIVE DAHLSTROM made a motion to adopt Amendment 4.

REPRESENTATIVE SAMUELS objected for the purposes of discussion.

REPRESENTATIVE DAHLSTROM explained that Amendment 4 contains clarifying language intended to restrict [legislators] and immediate family members from receiving gifts from lobbyists throughout the year, rather than just the legislative session. It also prohibits legislative employees and immediate family members from accepting such gifts. She stated that her intent is to bring transparency to government and the inner workings of the legislature. She opined that these changes are necessary in order to avoid the perception of improper influence.

REPRESENTATIVE HOLMES pointed out an error in subsection (k). She explained that this section should reference (c)(5). She offered this as an amendment to Amendment 4. There being no objection, Amendment 1 to Amendment 4 was adopted.

REPRESENTATIVE GRUENBERG, referring to subsection (c)(7) of Amendment 4, offered Amendment 2 to Amendment 4, to add "the Office of Victims' Rights" following "Legislative Budget and Audit Committee".

REPRESENTATIVE DAHLSTROM characterized this as a "friendly amendment." Therefore, Amendment 2 to Amendment 4 was accepted.

REPRESENTATIVE GRUENBERG, referring to subsection (d) of Amendment 4, offered Amendment 3 to Amendment 4, to change "relating to gifts under (c)(4) and (8)" to read "relating to gifts under (c)(4), (c)(8), and (i)". [Amendment 3 to Amendment 4 was treated as adopted.]

REPRESENTATIVE GRUENBERG, referring to subsection (d) of Amendment 4, offered Amendment 4 to Amendment 4, to delete "March 15", and insert "within 30 days of receipt of the gift".

CHAIR RAMRAS noted that Amendment 4 to Amendment 4 is a "friendly amendment," and was therefore accepted.

[Amendment 4 to Amendment 4 was later treated as not accepted.]

REPRESENTATIVE DAHLSTROM commented that Amendment 4 is currently being drafted into legal form by Legislative Legal and Research Services.

[2:04:33 PM](#)

REPRESENTATIVE GRUENBERG, referring to subsection (d) of Amendment 4, offered Amendment 5 to Amendment 4, to delete "annually on or before March 15", and insert "within 30 days of receipt of the gift".

CHAIR RAMRAS noted that Amendment 5 to Amendment 4 is a "friendly amendment," and was therefore accepted.

REPRESENTATIVE GRUENBERG, referring to subsection (d) of Amendment 4, offered [Amendment 6 to Amendment 4], to change "copies of the disclosures concerning gifts under (c)(4) and (8)" to "copies of the disclosures concerning gifts under (c)(4), (c)(8), and (i)".

REPRESENTATIVE DAHLSTROM noted that this is a "friendly amendment." Therefore, [Amendment 6 to Amendment 4] was accepted.

REPRESENTATIVE GRUENBERG, referring to subsection (i) of Amendment 4, offered [Amendment 7 to Amendment 4], as follows: following "legislator or legislative employee shall", delete "report" and insert "disclose for publication under (d) of this section".

REPRESENTATIVE DAHLSTROM noted that this is a "friendly amendment." Therefore, [Amendment 7 to Amendment 4] was accepted.

REPRESENTATIVE GRUENBERG, referring to subsection (i) of Amendment 4, offered [Amendment 8 to Amendment 4] as follows: following "if the gift would have to be", delete "reported" and insert "disclosed".

REPRESENTATIVE DAHLSTROM accepted this as a "friendly amendment." Therefore, [Amendment 8 to Amendment 4] was accepted.

REPRESENTATIVE GRUENBERG, in response to a question, stated that he had no objection to Amendment 4, as amended.

REPRESENTATIVE SAMUELS removed his objection.

CHAIR RAMRAS objected for discussion purposes.

[2:10:21 PM](#)

JOYCE ANDERSON, Ethics Committee Administrator, Select Committee on Legislative Ethics, Alaska State Legislature, explained that Amendment 4 would prohibit legislators and legislative employees from receiving gifts from lobbyists at any time during the year. Currently, legislators and legislative employees are prohibited from receiving gifts during the legislative session; however, during the interim, [they can receive] gifts worth up to \$250 in a calendar year. She explained that Amendment 4 divides AS 24.60.080(a) into two subsections. This "cleans up" the language and offers further clarification. Additionally, all lobbyist requirements and prohibitions are included in one section. Amendment 4 also changes subsection (i) to include the language "If receipt of the gift by a legislator or legislative employee would be prohibited under this section then receipt by an immediate family member is also prohibited".

MS. ANDERSON went on to say that subsection (a)(2) adds language prohibiting legislators and legislative employees from accepting or receiving a gift of any monetary value from a lobbyist or the immediate family member of a lobbyist.

REPRESENTATIVE DAHLSTROM said, "We've not gone as far as the executive branch in doing this; we still have a full prohibition

on all gifts, we still have our \$250 rule in place, with the exception of food and beverage."

CHAIR RAMRAS removed his objection.

REPRESENTATIVE GRUENBERG objected for the purpose of discussion. He pointed out that subsection (i) of Amendment 4 uses the phrase "immediate family member." However, it then refers to the definition in AS 24.60.990(a)(6), which defines "immediate family." He surmised that this will require a technical amendment to AS 24.60.990(a)(6) to state that "immediate family" or "immediate family member" has this definition. [This was treated and adopted as Amendment 9 to Amendment 4.]

REPRESENTATIVE GRUENBERG then removed his objection.

REPRESENTATIVE DAHLSTROM pointed out that in subsection (a)(2) of Amendment 4, following the word "lobbyist", the word "or" is used twice but should only be used once. [This was treated and adopted as Amendment 10 to Amendment 4.]

MS. ANDERSON, with regard to the definition of "immediate family," explained that the definition included AS 24.60.080 is "very broad." The definition of "immediate family" included in AS 24.60.990 is a "more narrow definition," and only includes a person's spouse, domestic partner, child, or parents.

[2:17:51 PM](#)

CHAIR RAMRAS, noting that there were no further objections to Amendment 4, as amended, announced that Amendment 4, as amended, was adopted.

CHAIR RAMRAS referred to Amendment 5, labeled 25-GH1059\0.8, Wayne, 3/19/07, which read:

Page 1, lines 4 - 5:

Delete "**restricting representation of others by legislators and legislative employees;**"

Page 13, lines 11 - 25:

Delete all material and insert:

"* **Sec. 16.** AS 24.60.100 is amended to read:

Sec. 24.60.100. Representation. A legislator or legislative employee who represents another person for compensation before an agency, board, or commission of the state shall disclose the name of the person

represented, the subject matter of the representation, and the body before which the representation is to take place to the committee. The disclosure shall be made by the deadline [DEADLINES] set out in AS 24.60.105. The committee shall maintain a public record of a disclosure under this section and forward the disclosure to the respective house for inclusion in the journal. A legislator or legislative employee may not represent another person for compensation before an agency, committee, or other entity of the legislative branch."

REPRESENTATIVE DAHLSTROM made a motion to adopt Amendment 5.

CHAIR RAMRAS objected for discussion purposes.

[2:18:42 PM](#)

REPRESENTATIVE GRUENBERG explained that Amendment 5 would amend Section 16 of the bill, which he opined is "too broad." He stated that a legislator or legislative employee should be able to provide representation in "quasi-judicial" actions, but not in "quasi-legislative" actions.

CHAIR RAMRAS disagreed, and said he maintains his objection.

REPRESENTATIVE COGHILL pointed out that Section 16 prohibits a legislator or legislative employee from representing another person for compensation before a municipal, legislative, or executive branch.

REPRESENTATIVE GRUENBERG, in response to a question, said:

Let us say that ... you're representing a homeowner. You practice property law, and you're representing a homeowner before the Municipal Planning and Zoning Commission on a variance. That has no relation to your legislative duties as a state legislator. Or you're representing someone who is in an appeal for denial of their permanent fund dividend. ... Or in a purely private dispute for child support. Most of the child support actions occur before the [Child Support Enforcement Division (CSED)]. Not that many go to court. They're generally before a hearing officer, or an employee of the [CSED]. And that is strictly a factual question ... it has nothing at all to do with your legislative [responsibilities].

REPRESENTATIVE COGHILL surmised, then, that Amendment 5 would allow a legislator to represent an individual before the Workers' Compensation Board. He then stated his objection to Amendment 5.

[2:22:44 PM](#)

REPRESENTATIVE SAMUELS asked if "represent" is a legal term.

MR. JONES indicated that he interprets it to be so. He shared his belief that if an individual who is not a lawyer were to "represent" someone for compensation, there may be a risk of practicing law without a license.

REPRESENTATIVE SAMUELS said:

So, if my staff - that's a legislative employee - if my staff runs a campground during the summertime ... and she is asked by her employer, "Can you walk across the street and talk to [the Department of Environmental Conservation (DEC)] about a water discharge permit for me on your lunch hour?" ... Can she go talk to DEC about something like that?

MR. JONES replied that he is not sure whether this would qualify as "representation."

REPRESENTATIVE SAMUELS opined that if a legislator is representing an individual before the Workers' Compensation Board and is voting on issues related to workers' compensation, there is a problem. He stated that if "representation" is referring to legal representation, he is in agreement with the current language. However, he commented that there is a "gray area" regarding what constitutes "representation."

REPRESENTATIVE HOLMES opined that both Amendment 5 and the language contained in the bill are "over broad." She stated that court proceedings are "long and drawn out and expensive," adding that many things are done before boards, commissions, and agencies. She stated that this would "hamstring" the ability of persons covered by this statute to practice law during the interim in order to earn a living.

[2:26:31 PM](#)

REPRESENTATIVE SAMUELS said:

The problem with the amendment, then, is the person you are talking to knows that you're going to vote on their budget. They know you are. You cannot get away from the politics of that. And that's ... the more I think about it, the more I like the way that it's written in the bill now. Because, you cannot help it. You walk before any body and they all know who we all are. They know it. They know who you are, they know what you do for a living, and they know you have inordinate more influence than another attorney from the outside coming in. And the perception of swaying that decision will weigh heavy. In every lawsuit, somebody loses. Whoever loses is going to think "Well, I'll go hire myself a legislator next time."

REPRESENTATIVE GRUENBERG stated that hearing officers and administrative law judges are "virtually bound by the same canons of ethics as a judge." He said: "You might as well prohibit lawyers from practicing in court, because we vote on the court budget, too. ... If there is a threat of your voting on a budget, than a person owns a hotel, or is a contractor, or a realtor, or anybody, they should be absolutely prohibited from having any business dealings with the government." He stated that he would prepare an amendment to prohibit all persons in the legislature from dealing with "any government, at any level."

REPRESENTATIVE COGHILL stated that the question is whether "to disclose" or "to prohibit." He opined that the bill prohibits representation for compensation in areas where legislators would carry significant influence. He compared this to previous concerns brought up by Representative Neuman, and questioned whether disclosing this information makes a difference. He opined that disclosure may become a way for individuals to use this information as "the whipping tool." He shared his belief that the prohibition, for the public process, is better.

REPRESENTATIVE HOLMES, with regard to whether individuals will be influenced by the legislators, opined that this is true in areas outside of the government. She said "So, to suggest that it's simply a lawyer going in front of an agency, that those people are going to be worried about retaliation, and that the same does not hold true for people who are not lawyers, I think is a false distinction." She stated that she is not 100 percent convinced by Amendment 5; however, if the amendment fails, she would return with an amendment that is "more in the middle."

She shared her belief that [the current language] would hinder an individual's ability to "have a normal life," adding that it is unfair to target one profession over others.

[2:32:17 PM](#)

A roll call vote was taken. Representatives Holmes and Gruenberg voted in favor of Amendment 5. Representatives Dahlstrom, Coghill, Samuels, Lynn, and Ramras voted against it. Therefore, Amendment 5 failed by a vote of 2-5.

CHAIR RAMRAS referred to Amendment 6, labeled 25-GH1059\0.5, Wayne, 3/16/07, which read:

Page 14, line 29, following "a":
Insert "final"

Page 14, line 30, following "serving":
Insert ", unless the person previously disclosed the matter and, for that reason, the matter is no longer subject to disclosure"

REPRESENTATIVE DAHLSTROM made a motion to adopt Amendment 6.

CHAIR RAMRAS objected for discussion purposes. He explained that this is a "housekeeping amendment," which will address disclosure after a person's final day of service.

REPRESENTATIVE GRUENBERG pointed out that as written, [Amendment 6] could require an individual to go back 20 years, which is not the intent. He then explained the intent. He said:

For example, let's say somebody no longer serves after the ... [25th legislature]. The last report [he/she will do] is on March 15, 2008. They'll be out of office January 15, 2009. The intent of this provision is to require that by April 15, 2009, 90 days after they leave office, they will file a report covering January 1, 2008 through January 15, 2009. Not going back 20 years. And we're technically having it drafted to do it. This language doesn't do it now.

MS. ANDERSON explained that this is "somewhat true." Most disclosures are filed either on March 15 or up until 30 days prior to the end of session. Therefore, the disclosure period is through January 15. With regard to Amendment 6, she expressed concern with the language "unless the person

previously disclosed the matter." She stated that a final report is needed to ensure that there were not any additional changes. This can either be re-reporting what was already reported, or a final reporting stating that there were no changes. She relayed her belief that this would be true for the APOC with regard to financial disclosure.

CHAIR RAMRAS withdrew Amendment 6.

[2:37:26 PM](#)

CHAIR RAMRAS referred to Amendment 7, labeled 25-GH1059\0.9, Wayne, 3/19/07, which read [original punctuation provided]:

Page 15, line 23:
Delete "part"
Insert "members"

Page 15, line 26:
Delete "part"
Insert "a member"

REPRESENTATIVE DAHLSTROM made a motion to adopt Amendment 7.

REPRESENTATIVE HOLMES objected for discussion purposes.

REPRESENTATIVE GRUENBERG explained that this is a technical amendment which clarifies that a person is a "member" of the majority.

REPRESENTATIVE HOLMES withdrew her objection.

CHAIR RAMRAS, noting that there was no further objection, announced that Amendment 7 was adopted.

MS. ANDERSON, referring to Section 20, suggested that the word "organizational" be added before the word "caucus", thus changing it to read "majority organization caucus" and "minority organizational caucus". She explained that the term "organizational caucus" is used in the Uniform Rules.

REPRESENTATIVE SAMUELS made a motion to adopt Amendment 8, to add the word "organizational" before "caucus", thus changing the term to "majority organization caucus" and "minority organizational caucus".

REPRESENTATIVE GRUENBERG objected for discussion purposes. He asked whether this would only apply to Section 20.

MS. ANDERSON replied that it would only apply to Section 20.

REPRESENTATIVE GRUENBERG withdrew his objection.

CHAIR RAMRAS, noting that there was no further objection, announced that Amendment 8 was adopted.

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CHAIR RAMRAS referred to Amendment 9, which read [original punctuation provided]:

Page 21, line 21:
Delete "\$5,000"
Insert "\$1,000"

Page 21, line 31:
Delete "if the income was earned by the hour,"

Page 22, line 1, following "worked":
Insert "to earn the income"

Page 22, line 10:
Delete "\$5,000"
Insert "\$1,000"

Page 22, line 17:
Delete "\$5,000"
Insert "\$1,000"

Page 22, line 20:
Delete "\$5,000"
Insert "\$1,000"

Page 22, line 24:
Delete "\$5,000"
Insert "\$1,000"

Page 22, line 27:
Delete "\$5,000"
Insert "\$1,000"

CHAIR RAMRAS, in response to a request from Representative Samuels, stated that Amendment 9 would be tabled until a future time.

CHAIR RAMRAS then referred to Amendment 10, labeled 25-GH1059\0.10, Wayne, 3/19/07, which read:

Page 23, line 1, following "partnership":
Insert ", limited liability company,"

Page 23, line 6, following "partnership":
Insert ", limited liability company,"

Page 23, following line 9:
Insert a new bill section to read:

*** Sec. 32.** AS 39.50.030(h) is amended to read:

(h) In this section,

(1) [REPEALED

(2)] "close economic association" means a financial relationship that exists between a public official required to disclose a close economic association under (d) of this section and some other person or entity, including a relationship where the public official serves as a consultant or advisor to, is a member or representative of, or has a financial interest in an association, partnership, limited liability company, business, or corporation;

(2) [(3)] "lobbyist" has the meaning given in AS 24.60.990(a);

(3) [(4)] "public officer" has the meaning given in AS 39.52.960. "

Renumber the following bill sections accordingly.

Page 25, following line 24:
Insert a new bill section to read:

*** Sec. 35.** AS 39.50.200(a)(10) is amended to read:

(10) "source of income" means the entity for which service is performed or that is otherwise the origin of payment; if the person whose income is being reported is employed by another, the employer is the source of income; but if the person is self-employed by means of a sole proprietorship, partnership, limited liability company, professional corporation, or a corporation in which the person, the person's spouse or domestic partner, or the person's dependent children, or a combination of them, hold a

controlling interest, the "source" is the client or customer of the proprietorship, partnership, limited liability company, or corporation, but, if the entity that is the origin of payment is not the same as the client or customer for whom the service is performed, both are considered the source."

Renumber the following bill sections accordingly.

Page 27, line 29:

Delete "sec. 36"

Insert "sec. 38"

Page 27, line 30:

Delete "sec. 36"

Insert "sec. 38"

Page 27, line 31:

Delete "sec. 37"

Insert "sec. 39"

Page 28, line 3:

Delete "sec. 37"

Insert "sec. 39"

Page 28, line 4:

Delete "sec. 38"

Insert "sec. 40"

Page 28, line 8:

Delete "sec. 38"

Insert "sec. 40"

Page 28, line 10:

Delete "sec. 33"

Insert "sec. 34"

Page 28, line 11:

Delete "secs. 42 and 43"

Insert "secs. 44 and 45"

REPRESENTATIVE DAHLSTROM made a motion to adopt Amendment 10.

CHAIR RAMRAS objected for discussion purposes.

REPRESENTATIVE GRUENBERG explained that this cleans up changes made by the House State Affairs Standing Committee. Amendment

10 adds "limited liability company" to the list of financial and business interests that must be reported. He explained that [the original] statute was drafted prior to the adoption of limited liability company (LLC) legislation.

CHAIR RAMRAS removed his objection, and, after ascertaining that there was no further objection, announced that Amendment 10 was adopted.

CHAIR RAMRAS outlined how the committee would be proceeding with regard to public testimony, the bill, and proposed amendments during the next meeting of the House Judiciary Standing Committee.

[CSHB 109(STA), as amended, was held over.]

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:43 p.m.