

**SENATE BILL NO. 89**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY SENATOR COGHILL

Introduced: 2/16/11

Referred: State Affairs, Judiciary

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act clarifying that a legislator or legislative employee is allowed to accept certain**  
2 **compassionate gifts; allowing legislators and legislative employees to use legislative**  
3 **mailing lists for campaign purposes and nonlegislative purposes; allowing legislators**  
4 **and legislative employees who are representing persons in an administrative hearing to**  
5 **contact hearing officers and attempt to influence the outcome of the hearing if they are**  
6 **professionals licensed in the state, and allowing legislators and legislative employees who**  
7 **are not professionals licensed in the state to contact hearing officers for the purpose of**  
8 **influencing the outcome of the hearing in certain instances; allowing legislators and**  
9 **legislative employees, in certain circumstances, to participate in partisan political**  
10 **activity while on state travel; prohibiting a public member of the Select Committee on**  
11 **Legislative Ethics from disclosing confidential information without authorization;**  
12 **clarifying the ethics disclosure requirements for tickets to or gifts in connection with**

1 **charity events; amending disclosure deadlines under the Legislative Ethics Act; relating**  
 2 **to requests to refrain from disclosure under the Legislative Ethics Act; and establishing**  
 3 **a seat for an alternate public member on the Select Committee on Legislative Ethics and**  
 4 **clarifying the requirements related to participation by alternate members in the**  
 5 **proceedings of the committee."**

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

7 \* **Section 1.** AS 24.60.030(a) is amended to read:

8 (a) A legislator or legislative employee may not

9 (1) solicit, agree to accept, or accept a benefit other than official  
 10 compensation for the performance of public duties; this paragraph may not be  
 11 construed to prohibit lawful solicitation for and acceptance of campaign contributions,  
 12 solicitation or acceptance of contributions for a charity event, as defined in  
 13 AS 24.60.080(a)(2)(B), or the acceptance of a **gift** [LAWFUL GRATUITY] under  
 14 **AS 24.60.075 or 24.60.080** [AS 24.60.080];

15 (2) use public funds, facilities, equipment, services, or another  
 16 government asset or resource for a nonlegislative purpose, for involvement in or  
 17 support of or opposition to partisan political activity, or for the private benefit of  
 18 [EITHER] the legislator, legislative employee, or another person; this paragraph does  
 19 not prohibit

20 (A) limited use of state property and resources for personal  
 21 purposes if the use does not interfere with the performance of public duties and  
 22 either the cost or value related to the use is nominal or the legislator or  
 23 legislative employee reimburses the state for the cost of the use;

24 (B) the use of **a legislator's legislative mailing list for**  
 25 **campaign purposes, or the use of** mailing lists, computer data, or other  
 26 information lawfully obtained from a government agency and available to the  
 27 general public for nonlegislative purposes;

28 (C) the legislative council, notwithstanding AS 24.05.190, from  
 29 designating a public facility for use by legislators and legislative employees for

1 health or fitness purposes; when the council designates a facility to be used by  
2 legislators and legislative employees for health or fitness purposes, it shall  
3 adopt guidelines governing access to and use of the facility; the guidelines may  
4 establish times in which use of the facility is limited to specific groups;

5 (D) a legislator from using the legislator's private office in the  
6 capital city during a legislative session, and for the 10 days immediately before  
7 and the 10 days immediately after a legislative session, for nonlegislative  
8 purposes if the use does not interfere with the performance of public duties and  
9 if there is no cost to the state for the use of the space and equipment, other than  
10 utility costs and minimal wear and tear, or the legislator promptly reimburses  
11 the state for the cost; an office is considered a legislator's private office under  
12 this subparagraph if it is the primary space in the capital city reserved for use  
13 by the legislator, whether or not it is shared with others;

14 (E) a legislator from use of legislative employees to prepare  
15 and send out seasonal greeting cards;

16 (F) a legislator from using state resources to transport  
17 computers or other office equipment owned by the legislator but primarily used  
18 for a state function;

19 (G) use by a legislator of photographs of that legislator;

20 (H) reasonable use of the Internet by a legislator or a legislative  
21 employee except if the use is for election campaign purposes;

22 (I) a legislator or legislative employee from soliciting,  
23 accepting, or receiving a gift on behalf of a recognized, nonpolitical charitable  
24 organization in a state facility;

25 (J) a legislator from sending any communication in the form of  
26 a newsletter to the legislator's constituents, except a communication expressly  
27 advocating the election or defeat of a candidate or a newsletter or material in a  
28 newsletter that is clearly only for the private benefit of a legislator or a  
29 legislative employee; or

30 (K) full participation in a charity event approved in advance by  
31 the Alaska Legislative Council;

1 (3) knowingly seek, accept, use, allocate, grant, or award public funds  
2 for a purpose other than that approved by law, or make a false statement in connection  
3 with a claim, request, or application for compensation, reimbursement, or travel  
4 allowances from public funds;

5 (4) require a legislative employee to perform services for the private  
6 benefit of the legislator or employee at any time, or allow a legislative employee to  
7 perform services for the private benefit of a legislator or employee on government  
8 time; it is not a violation of this paragraph if the services were performed in an  
9 unusual or infrequent situation and the person's services were reasonably necessary to  
10 permit the legislator or legislative employee to perform official duties;

11 (5) use or authorize the use of state funds, facilities, equipment,  
12 services, or another government asset or resource for the purpose of political fund  
13 raising or campaigning; this paragraph does not prohibit

14 (A) limited use of state property and resources for personal  
15 purposes if the use does not interfere with the performance of public duties and  
16 either the cost or value related to the use is nominal or the legislator or  
17 legislative employee reimburses the state for the cost of the use;

18 (B) the use of **a legislator's legislative mailing list, or the use**  
19 **of** mailing lists, computer data, or other information lawfully obtained from a  
20 government agency and available to the general public for nonlegislative  
21 purposes;

22 (C) storing or maintaining, consistent with (b) of this section,  
23 election campaign records in a legislator's office;

24 (D) a legislator from using the legislator's private office in the  
25 capital city during a legislative session, and for the 10 days immediately before  
26 and the 10 days immediately after a legislative session, for nonlegislative  
27 purposes if the use does not interfere with the performance of public duties and  
28 if there is no cost to the state for the use of the space and equipment, other than  
29 utility costs and minimal wear and tear, or the legislator promptly reimburses  
30 the state for the cost; an office is considered a legislator's private office under  
31 this subparagraph if it is the primary space in the capital city reserved for use

1 by the legislator, whether or not it is shared with others; or

2 (E) use by a legislator of photographs of that legislator.

3 \* **Sec. 2.** AS 24.60.030(i) is amended to read:

4 (i) A [EXCEPT FOR SUPPLYING INFORMATION REQUESTED BY THE  
5 HEARING OFFICER OR THE INDIVIDUAL, BOARD, OR COMMISSION WITH  
6 AUTHORITY TO MAKE THE FINAL DECISION IN THE CASE, OR WHEN  
7 RESPONDING TO CONTACTS INITIATED BY THE HEARING OFFICER OR  
8 THE INDIVIDUAL, BOARD, OR COMMISSION WITH AUTHORITY TO MAKE  
9 THE FINAL DECISION IN THE CASE, A] legislator or legislative employee may  
10 not attempt to influence the outcome of an administrative hearing by directly or  
11 indirectly contacting or attempting to contact the hearing officer assigned to the  
12 hearing or the individual, board, or commission with authority to make the final  
13 decision in the **matter** [CASE] unless [THE]

14 (1) **the legislator or legislative employee is representing another**  
15 **person for compensation subject to AS 24.60.100 and as a professional who is**  
16 **licensed in the state;**

17 (2) **the** contact is made in the presence of all parties to the hearing or  
18 the parties' representatives **while the legislator or legislative employee is acting as a**  
19 **party or a witness in the matter or responding to a question asked of the**  
20 **legislator or legislative employee by the hearing officer, individual, board, or**  
21 **commission** and the contact is made a part of the record; or

22 (3) **the contact is inadvertent and ex parte and the** [(2)] fact and  
23 substance of the contact **are** [IS] promptly disclosed by the legislator or legislative  
24 employee to all parties to the hearing and [THE CONTACT IS] made a part of the  
25 record.

26 \* **Sec. 3.** AS 24.60.030 is amended by adding a new subsection to read:

27 (j) Notwithstanding the limitations under (a)(2), (a)(4), and (c) of this section  
28 and subject to other laws of the state or the United States, a legislator or legislative  
29 employee who is on state travel may participate in partisan political activity, including  
30 campaign activity, if the legislator or the legislative employee does not use or  
31 authorize the use of state resources to pay for the activity and if the legislator or

1 legislative employee does not participate in the activity

2 (1) during a normal workday between 8:00 a.m. and 5:00 p.m.,  
3 excluding meal breaks;

4 (2) on a state or municipal election day;

5 (3) during the 30 days immediately preceding an election in which the  
6 participating legislator or the legislator for whom the participating employee works is  
7 a candidate for elective office; or

8 (4) by fund raising for a political party or campaign.

9 \* **Sec. 4.** AS 24.60.031 is amended by adding a new subsection to read:

10 (d) Notwithstanding the limitations under (a) and (b) of this section and  
11 subject to other laws of the state or the United States, a legislator or legislative  
12 employee who is on state travel may participate in partisan political activity, including  
13 campaign activity, during the state travel if the legislator or the legislative employee  
14 does not use or authorize the use of state resources to pay for the activity and if the  
15 legislator or legislative employee does not participate in the activity

16 (1) during a normal workday between 8:00 a.m. and 5:00 p.m.,  
17 excluding meal breaks;

18 (2) on a state or municipal election day;

19 (3) during the 30 days immediately preceding an election in which the  
20 participating legislator or the legislator for whom the participating employee works is  
21 a candidate for elective office; or

22 (4) by fund raising for a political party or campaign.

23 \* **Sec. 5.** AS 24.60.060(a) is amended to read:

24 (a) A legislator, [OR] legislative employee, or public member of the  
25 committee may not knowingly make an unauthorized disclosure of information that is  
26 made confidential by law and that the person acquired in the course of official duties.  
27 A person who violates this section is subject to a proceeding under AS 24.60.170 and  
28 may be subject to prosecution under AS 11.56.860 or another law.

29 \* **Sec. 6.** 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 (1) solicit, accept, or receive, directly or indirectly, a gift worth \$250  
 2 or more, whether in the form of money, services, a loan, travel, entertainment,  
 3 hospitality, promise, or other form, or gifts from the same person worth less than \$250  
 4 that in a calendar year aggregate to \$250 or more in value;

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

8 (A) food or beverage for immediate consumption;

9 (B) a contribution to a charity event, [FROM ANY PERSON  
 10 AT ANY TIME, AND] tickets to [FOR] a charity event, and [AT ANY TIME,  
 11 EXCEPT THAT TICKETS TO OR] gifts received in connection with [AT] a  
 12 charity event; however, tickets to a charity event and gifts received in  
 13 connection with a charity event that are not included in the price of the  
 14 ticket that may be received under this subparagraph are subject to the  
 15 calendar year limit on the value of gifts received by a legislator or legislative  
 16 employee in (1) of this subsection; in this subparagraph, "charity event" means  
 17 an event the proceeds of which go to a charitable organization with tax-free  
 18 status under 26 U.S.C. 501(c)(3) and that the Alaska Legislative Council has  
 19 approved in advance; the tickets may entitle the bearer to admission to the  
 20 event, to entertainment, to food or beverages, or to other gifts or services in  
 21 connection with [INVOLVED IN] the charity event;

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

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

27 (E) a compassionate gift under AS 24.60.075.

28 \* **Sec. 7.** AS 24.60.080(c) is amended to read:

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

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

1 subsection,

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

5 (B) at a social event or meal;

6 (2) discounts that are available

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

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

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

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

15 (5) gifts from the immediate family of the person; in this paragraph,  
16 "immediate family" means

17 (A) the spouse of the person;

18 (B) the person's domestic partner;

19 (C) a child, including a stepchild and an adoptive child, of the  
20 person or of the person's domestic partner;

21 (D) a parent, sibling, grandparent, aunt, or uncle of the person;

22 (E) a parent, sibling, grandparent, aunt, or uncle of the person's  
23 spouse or the person's domestic partner; and

24 (F) a stepparent, stepsister, stepbrother, step-grandparent, step-  
25 aunt, or step-uncle of the person, the person's spouse, or the person's domestic  
26 partner;

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

28 (7) a discount for all or part of a legislative session, including time  
29 immediately preceding or following the session, or other gift to welcome a legislator  
30 or legislative employee who is employed on the personal staff of a legislator or by a  
31 standing or special committee to the capital city or in recognition of the beginning of a

1 legislative session if the gift or discount is available generally to all legislators and the  
 2 personal staff of legislators and staff of standing and special committees; this  
 3 paragraph does not apply to legislative employees who are employed by the  
 4 Legislative Affairs Agency, the office of the chief clerk, the office of the senate  
 5 secretary, the legislative budget and audit committee, the office of victims' rights, or  
 6 the office of the ombudsman;

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

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

15 (10) a contribution to a charity event, **a ticket to a charity event, or a**  
 16 **gift in connection with a charity event** [FROM ANY PERSON AT ANY TIME]; in  
 17 this paragraph, "charity event" has the meaning given in (a)(2)(B) of this section.

18 \* **Sec. 8.** AS 24.60.080(d) is amended to read:

19 (d) A legislator or legislative employee who accepts a gift under (c)(4) **of this**  
 20 **section that has a value of \$250 or more or a ticket to a charity event or gift in**  
 21 **connection with a charity event under (c)(10)** of this section that has a value of \$250  
 22 or more shall disclose to the committee, within **60** [30] days after receipt of the gift,  
 23 the name and occupation of the donor and the approximate value of the gift. A  
 24 legislator or legislative employee who accepts a gift under (c)(8) of this section that  
 25 the recipient expects will have a value of \$250 or more in the calendar year shall  
 26 disclose to the committee, within 30 days after receipt of the gift, the name and  
 27 occupation of the donor, a general description of the matter of legislative concern with  
 28 respect to which the gift is made, and the approximate value of the gift. The committee  
 29 shall maintain a public record of the disclosures it receives relating to gifts under  
 30 (c)(4), (c)(8), **(c)(10)**, and (i) of this section and shall forward the disclosures to the  
 31 appropriate house for inclusion in the journal. The committee shall forward to the

1 Alaska Public Offices Commission copies of the disclosures concerning gifts under  
 2 (c)(4), (c)(8), **(c)(10)**, and (i) of this section that it receives from legislators and  
 3 legislative directors. A legislator or legislative employee who accepts a gift under  
 4 (c)(6) of this section that has a value of \$250 or more shall, within 30 days after  
 5 receiving the gift, disclose to the committee the name and occupation of the donor and  
 6 a description of the gift. The committee shall maintain disclosures relating to gifts  
 7 under (c)(6) of this section as confidential records and may only use, or permit a  
 8 committee employee or contractor to use, a disclosure under (c)(6) of this section in  
 9 the investigation of a possible violation of this section or in a proceeding under  
 10 AS 24.60.170. If the disclosure under (c)(6) of this section becomes part of the record  
 11 of a proceeding under AS 24.60.170, the confidentiality provisions of that section  
 12 apply to the disclosure.

13 \* **Sec. 9.** AS 24.60.105(a) is amended to read:

14 (a) When a legislator or legislative employee is required to file a disclosure  
 15 under this chapter and a date by which the disclosure must be filed is not otherwise set  
 16 by statute, the deadline for filing the disclosure shall be **60** [30] days after the  
 17 commencement of the matter or interest or the date the legislator or legislative  
 18 employee first becomes subject to this chapter, whichever comes later.

19 \* **Sec. 10.** AS 24.60.105(c) is amended to read:

20 (c) In addition to the filing requirements under (a) and (b) of this section, the  
 21 disclosures under (b) of this section shall be made annually, in a report filed with the  
 22 committee within **60** [30] days after the first day of the regular legislative session.

23 \* **Sec. 11.** AS 24.60.105 is amended by adding a new subsection to read:

24 (d) A person may submit a written request to refrain from making a disclosure  
 25 that is required by this chapter if making the disclosure would violate the United  
 26 States Constitution, the Constitution of the State of Alaska, or other state or federal  
 27 law. The committee shall approve or deny the request, or require further justification  
 28 from the person making the request. At the request of the committee or a person  
 29 authorized to act on behalf of the committee, a person who seeks to refrain from  
 30 making a disclosure under this subsection shall provide the committee with  
 31 justification in writing, and the committee may review the written justification to

1 determine whether it is sufficient.

2 \* **Sec. 12.** AS 24.60.130(n) is amended to read:

3 (n) **A member who participates at the commencement of a proceeding**  
 4 **under AS 24.60.170 shall participate for the duration of the proceeding unless**  
 5 **disqualified or unable to continue participating for any reason; however,**  
 6 **provision shall be made for service by alternate members on the committee or on**  
 7 **a subcommittee, as follows:**

8 (1) **when** [WHEN] appointing members of the legislature to serve on  
 9 the committee, the speaker of the house or the president of the senate, as appropriate,  
 10 shall appoint an alternate member for each regular member; **an** [. AN] alternate must  
 11 have the same qualifications as the regular member for whom the alternate stands as  
 12 alternate and is subject to confirmation as required for the regular member;

13 (2) **when selecting public members to serve on the committee, the**  
 14 **Chief Justice of the Alaska Supreme Court shall also select one alternate public**  
 15 **member; the alternate public member's selection is subject to ratification as**  
 16 **required for selection of the regular public members;**

17 (3) **if, except as to a proceeding under AS 24.60.170,** [. IF] a regular  
 18 [LEGISLATIVE] member of the committee or a subcommittee is unable to  
 19 **participate in** [ATTEND] a meeting, the chair of the committee or a subcommittee  
 20 shall designate the regular member's alternate to **participate** [SERVE] in place of the  
 21 regular member at the meeting, and the designated alternate, **unless for any reason**  
 22 **unable to participate,** shall **participate for the duration of that meeting; if**  
 23 [SERVE UNLESS UNABLE TO SERVE FOR ANY REASON. IF] a regular  
 24 [LEGISLATIVE] member of the committee or a subcommittee is disqualified under  
 25 (h) of this section from **participating in** [SERVING ON THE COMMITTEE OR  
 26 THE SUBCOMMITTEE CONCERNING] a proceeding under AS 24.60.170 or if the  
 27 regular member is unable to **participate** [ATTEND], the chair of the committee or a  
 28 subcommittee shall designate the regular member's alternate to **participate** [SERVE]  
 29 in place of the regular member **for the duration of** [IN] the proceeding unless the  
 30 alternate is [ALSO] disqualified **or is for any reason unable to participate; the**  
 31 [FROM SERVING. THE] designation shall be treated as confidential to the same

1 extent that the identity of the subject of a complaint is required to be kept confidential.

2 \* **Sec. 13.** AS 24.60.990(a) is amended by adding a new paragraph to read:

3 (17) "state travel" means travel with transportation or overnight

4 lodging that is provided or paid for with state resources.