

Minutes approved October 13, 2022.

ALASKA STATE LEGISLATURE
SELECT COMMITTEE ON LEGISLATIVE ETHICS
DECEMBER 17, 2021
9:00 AM

FULL COMMITTEE

[9:03:21 AM](#)

1. CALL THE MEETING TO ORDER:

Deb Fancher directed Jerry Anderson to call roll.

Roll Call

Senator David Wilson
Senator Tom Begich
Representative Chris Tuck - Alternate for Rep. Sara Hannan
Skip Cook
Conner Thomas
Joyce Anderson
Deb Fancher
Lee Holmes

Quorum present.

Others present

Jerry Anderson
Jacqui Yeagle
Senator Elvi Gray-Jackson

Deb Fancher asked if there were telephonic participants.
There were no telephonic participants at that time.

For the benefit of individuals on teleconference and in the audience, Deb Fancher reminded committee members and guests to identify themselves each time they speak. She announced that the meeting was expected to last about 90 minutes.

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[9:04:27 AM](#)

2. APPROVAL OF AGENDA

Deb Fancher asked for a motion to approve the agenda.

Motion made by: Lee Holmes

Second: Senator Tom Begich

Deb Fancher entertained objections or discussion. There were no objections or discussion. The agenda was approved.

3. APPROVAL OF MINUTES:

a. April 13, 2021, Full Committee meeting minutes

Deb Fancher entertained a motion to approve the [full committee meeting] minutes.

Motion made by: Senator Tom Begich

Deb Fancher entertained objections. No objections. The April 13, 2021, full committee minutes were approved.

b. April 13, 2021, Senate Subcommittee meeting minutes

Deb Fancher entertained a motion to approve the senate subcommittee meeting minutes.

Motion made by: Lee Holmes

Deb Fancher entertained objections. No objections. The April 13, 2021, senate subcommittee committee minutes were approved.

[9:05 AM](#)

4. PUBLIC COMMENT

Deb Fancher entertained public comment.

Andrée McLeod stated that she works with the Alaska Public Interest Research Group (AKPIRG) but was speaking to the

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committee members in a personal capacity. She said with the election season beginning, she is concerned about the conflict of interest related to the use of official titles for partisan political activity and unofficial legislative business.

Andrée McLeod reported that legislators have been using official titles in campaign-related activities. She added that in the campaign kick-off materials, one gubernatorial candidate listed a group of legislators using their official titles. Another example is that recently Alaska State Senator Josh Revak's name is being used in U.S. Representative Don Young's campaign materials.

Andrée McLeod asked that the committee address this conflict of interest. She reported that she had spoken with Jerry Anderson, and that he had told her that there was no formal advice about using an official title, a state asset that belongs to the state and the people. She asserted that using an official title for campaign purposes is a conflict of interest, is unethical, and should be fixed, and the committee to do so.

Senator Tom Begich thanked Andrée McLeod. He said that when he is asked to provide an endorsement, he asks that his title not be used. But sometimes titles are used against the wishes of the legislator. Senator Tom Begich asked Andrée McLeod how she might want legislators to address that, especially when they have been explicit in asking people not to [use their official titles].

Andrée McLeod suggested making public that legislators endorse candidates in their personal capacity and [their endorsement] is not related to their official positions as legislators. She believes that in doing so, the campaign industry will become aware it is not a practice that reflects well on the candidate. Further, she believes it is incumbent on the legislators to protect their titles, and to publicly say, "Don't do that". It shows the character of a candidate who continues to use [official titles] when

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asked not to do so. Senator Tom Begich thanked Andrée McLeod.

Andrée McLeod asked if a member of the public may request an official opinion from the committee and if so, how a member of the public may do so.

Joyce Anderson responded that a request for a formal opinion has to come from a legislator or legislative employee. A member of the public may not request an advisory opinion from the committee.

Joyce Anderson said that she believes the only advisory opinion addressing the question is one that allows a legislator to write a letter of reference and use their title. She added that the ethics office advises that legislators are allowed to use their titles unless doing so would violate a provision of the Ethics Act.

Deb Fancher recognized Senator Tom Begich. Senator Begich said he had called the ethics office about three years ago and asked if people were allowed to use his title on an invitation and he remembers Jerry Anderson saying that it was not allowed. Senator Begich asked Jerry Anderson to research that.

Jerry Anderson responded that he could provide the information to all of the committee members.

Senator Tom Begich said that would be appreciated. He added that he believes there is a prohibition on legislators doing any solicitation for political purposes during session and asked Jerry Anderson to confirm that belief.

Jerry Anderson responded that Senator Begich was correct and that particular information had been distributed often in newsletters in 2021.

Senator Tom Begich asked for confirmation that the high number of newsletters that included that information was

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due to last year's extended session. Jerry Anderson confirmed.

Representative Chris Tuck said that people use other titles in campaigning. If they are a legislator, they are a legislator. He cautioned treading lightly. "Legislator" is an earned title just like "doctor" is an earned title. He added that he will review what a legislator can do during session. He knows, for example, that they can't campaign for themselves but is not sure if they can or cannot endorse other candidates while they are in office; and he does not think that they should use their legislative title during session when endorsing candidates in races other than the legislature.

Andrée McLeod cited AS 24.60.030: prohibitions related to conflicts of interest and ethical conduct, specifically (a)(2) a legislator or legislative employee may not use public funds, facilities, equipment, services, or another government asset or resource for a nonlegislative purpose, for involvement in or support of or opposition to partisan political activity, or for the private benefit of the legislator, legislative employee, or another person. She said that she thinks it makes clear that state titles are public titles, they belong to the people of Alaska, [and] they do not belong to that legislator. The people of Alaska are allowing that legislator to use the title for official action, not for unofficial action, and definitely not for endorsements.

Andrée McLeod continued saying there are advantages to being an incumbent and this is one of those advantages, and it is, in her opinion, prohibited. She said it [legislative title] is a state asset, although you can't touch it, you can't feel it, it adds a certain gravitas to an endorsement from a legislator using their state title. She thinks on balance, one would want to be careful and to err on the side of the people rather than the candidate.

Andrée McLeod added that although "doctor" is an earned title, it is a personal earned title. The title of

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representative or senator belong to the people. She ended by saying that she hopes someone on the committee would request for clarity an opinion on this and maybe move the needle a little bit. She believes the last time this question was addressed was in 2007 with regard to the use of letterhead.

Senator Tom Begich asked for the statute that Andrée McLeod cited.

Deb Fancher replied it was AS 24.60.030. She continued, saying that the way she reads and hears that section of statute, she does not hear anything about titles. It's about state assets. While reluctant to speak for Andrée McLeod, Deb Fancher believes that Andrée McLeod is referring to the titles representative and senator as a state asset.

Representative Chris Tuck stated that a doctorate is an earned title and that the university that grants that title no longer owns that title after it is conferred. The title of elected officials is an earned albeit temporary title. Representative Chris Tuck said personally when he converses with a former governor or senator, he refers to that person as governor or senator, and said that he thinks the committee needs to define what happens to those titles when someone leaves office.

Joyce Anderson directed her response to Representative Chris Tuck, saying that legislators may endorse other candidates during session but they may not be part of a fundraising event. She added that there is an advisory opinion to that effect.

Deb Fancher thanked Joyce Anderson and noted for the record that Representative DeLena Johnson had telephonically joined the meeting.

Joyce Anderson reiterated that if the committee wants to move forward with this, a written request for an advisory opinion needs to be submitted.

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Representative Chris Tuck directed a comment to Andrée McLeod, saying that her representative and senator may also request an advisory opinion. Andrée McLeod thanked Representative Chris Tuck for his comment.

Deb Fancher asked if there was any other public comment. Hearing no other public comment, Deb Fancher moved to the next agenda item.

[9:21:46 AM](#)

5. CHAIR/STAFF REPORT

Deb Fancher asked Jerry Anderson to address the chair/staff report.

a. Gift of Travel/Hospitality Disclosures

Jerry Anderson identified himself and directed the committee's attention to a list of disclosures received under the gift statute, specifically, gifts of travel/hospitality disclosures primarily for the purpose of obtaining information on matters of legislative concern. There are lots of different organizations sponsoring legislators and legislative staffers on trips. Staff follows up when there is not a clear explanation of the matter of legislative concern or an agenda item includes items such as "getting re-elected." When that happens, the discloser is alerted the trip may lack legislative concern. The purpose of including this agenda item is to make the committee aware that staff is following up on those disclosures that don't appear to have a legislative concern. No committee action is requested at this time.

Senator Tom Begich said CSG (Council of State Governments) is a nonpartisan organization and there is no electoral activity involved. He added that he can't imagine allowing a gift for an election purpose, and at the least, travel for re-election purposes should be prohibited, and further, that even if it is only a part of the event, the entire

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expenditure should be disqualified. Senator Begich concluded by saying that gifts about a campaign should be reported to APOC.

Jerry Anderson said that when staff sees a topic like "increasing your donor base" on a disclosure or in an agenda, the discloser is told they may not accept the gift. The list represents just a sample of the gift disclosures received.

Senator Tom Begich said he thinks there should be a policy that includes a review of the agendas and if an agenda is not provided, the disclosure should not be approved.

Joyce Anderson agreed with Senator Tom Begich that a disclosure should be approved as a matter of legislative concern.

Conner Thomas asked what the current procedure is when staff receives such a disclosure.

Jerry Anderson responded that staff asks for an agenda when the legislative purpose of an activity is not clearly reported on a disclosure.

Conner Thomas asked if disclosers are told that if they don't provide adequate clarification that the disclosure won't be processed.

Jerry Anderson replied that at this time staff asks for more information for the benefit of the public because the public doesn't know what, for example, graduation from a Henry Toll Fellowship, is without the additional information.

Jerry Anderson emphasized that staff is not trying to pick on any particular conferences. That is why there a number of examples on the handout. What the committee sees on the handout is the information that was published for the public to see. Sometimes backup information is provided and sometimes not.

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Senator Wilson asked if staff works with Legislative Council on sanctioned charity events. He wondered whether some of the conferences listed may be sanctioned charity events and thus approved by Legislative Council.

Jerry Anderson replied that sanctioned charity events are filed under a sanctioned charity event disclosure and that the conferences listed are filed under AS 24.60.080(c)(4), travel and hospitality primarily for the purpose of obtaining information on matters of legislative concern. Jerry Anderson continued, saying that sanctioned charity events are addressed in a later section [of statute]. A gift of travel that falls under AS 24.60.080(c)(4) includes the conference fee, hospitality, surface transportation, and so on.

Senator David Wilson noted that he knew that Legislative Council does approve travel for CSG and NCSL conferences. Senator Wilson mentioned he assumed there was a list of those types of educational conferences.

Jerry Anderson apologized for misunderstanding Senator David Wilson's original question. Jerry Anderson clarified gifts of travel approved by Legislative Council are not a problem. Those events offered by organizations such as NCSL would be given less scrutiny than those where staff does not know the organization or the agenda. Staff is comfortable that events offered by organizations approved by Legislative Council are not going to include increasing your donor base or how to increase your visibility to your constituents.

Senator David Wilson said that he would be concerned if he a legislator went to a conference on increasing your donor base.

Deb Fancher recognized Senator Tom Begich.

Senator Tom Begich said the public's trust in elected officials has been shattered and it is their responsibility

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to hold people to the highest standard to restore that trust. For that reason, he wants Jerry Anderson to pursue formal action that will create clarity for the legislators and for the public so they know where the boundary line lies.

Deb Fancher asked Senator Tom Begich how the committee might require an agenda without putting undue burden on legislators, and what to do if an agenda is not provided?

Senator Tom Begich said he thought there should be a policy that you would not be reimbursed for the conference cost.

Deb Fancher asked Senator Begich to clarify that he was saying that if an agenda is not provided, conference costs would not be reimbursed.

Senator Tom Begich replied yes. He asked, "How hard is it to find an agenda?" Senator Begich then commented that he could find virtually any conference agenda for the last five years on a computer so there is no excuse for a legislator not to produce one. Asking for an agenda is not a burden.

Jerry Anderson said he had clear direction from the committee that an agenda is required.

Deb Fancher suggested that information be in the next Ethics Committee Advisor newsletter.

Senator David Wilson moved to require agendas for gifts of travel disclosures.

Senator Tom Begich seconded the motion.

Conner Thomas asked if the policy is that agendas must be provided or if the agenda is not provided, there is no reimbursement.

Senator David Wilson said there wouldn't necessarily be a reimbursement because the entities provide the travel and

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costs upfront for the most part. For example, NCSL has their own travel agency. He calls that travel agency and they make all the reservations on his behalf. There is no monetary transaction between himself and the entity. Other entities have reimbursable costs. The money does not come from his legislative account or any other operating fund. To avoid violation of the ethics act, an agenda should be provided.

Deb Fancher recognized Skip Cook.

Skip Cook said he thinks it should be required to provide more than just an agenda. It should also include a requirement that a determination be made that it served a legislative purpose. How would that happen? Would it be up to Jerry?

Joyce Anderson said that Senator David Wilson was saying that sometimes when legislators go to conferences, their expenses are paid upfront. Sometimes they submit to the organization a reimbursement request. The question then becomes if it is determined that a particular conference was not strictly for a legislative purpose, does that legislator or staff person have to pay back the organization. She thinks that if it is determined that a particular conference was not strictly for a legislative purpose, the legislator or legislative staff person should have to reimburse the organization for expenses paid.

Senator Tom Begich agreed with Joyce Anderson, and he added that in that case the gift should not be accepted.

Deb Fancher said that there was a motion on the floor and she entertained a friendly amendment that added teeth to the motion.

Senator David Wilson asked to remove his motion and make a new motion that legislators must provide documentation.

Senator Tom Begich proposed a motion to say that legislators must provide an agenda or other documentation

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that shows that the conference or event attended does meet a legislative and non-elective purpose.

Senator David Wilson agreed with Senator Begich's language in the proposed motion. Senator Begich seconded Senator Wilson's motion.

Deb Fancher entertained further discussion. There was no further discussion.

Deb Fancher asked Jerry Anderson to conduct a vote.

Roll call vote

Representative Chris Tuck	Y
Representative DeLena Johnson	Y
Skip Cook	Y
Conner Thomas	Y
Joyce Anderson	Y
Deb Fancher	Y
Lee Holmes	Y
Senator David Wilson	Y
Senator Tom Begich	Y

The motion was approved.

Joyce Anderson said that considering this is a change in policy, she proposes that Jerry Anderson send a draft to the committee to make sure everyone is on the same page.

Deb Fancher agreed it was a good idea and asked Jerry Anderson if he would send a draft to the committee in the next week.

[9:40 AM](#)

b. 2022 Standards of Conduct Handbook

Deb Fancher directed Jerry Anderson to continue his review of the agenda items.

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Jerry Anderson drew the committee's attention to the review of the state benefit and loan programs requiring disclosure under AS 24.60.050(c) and listed in Appendix C in the Standards of Conduct Handbook. He said that the committee reviews the list on an annual basis and there were a number of changes requested.

Jerry Anderson informed the committee that to date in 2021, six legislative employees had filed a total of 12 state benefit and loan program disclosures. No legislators had filed state benefit and loan program disclosures.

Jerry Anderson reviewed the requested changes. The first request was to list the Violent Crimes Compensation Program under the Department of Public Safety from the Department of Administration. The change is reflected in the list provided.

Jerry Anderson stated that the second change request, from the Department of Natural Resources, is more extensive. They propose removing from the list all of the programs in the Division of Mining, Land, and Water because those programs meet the criteria for non-disclosure. He directed the committee's attention to the draft 2022 list for Appendix C, in which those Department of Natural Resources programs were removed, subject to the committee's approval.

Senator Tom Begich asked if historically the number of disclosures filed is a small number. Jerry Anderson confirmed that was the case.

Senator Tom Begich asked what has fundamentally changed that would prompt this change.

Jerry Anderson suggested they should never have been on the list. A letter is sent to each department asking for review of their programs currently on the list.

Senator Tom Begich directed a question to Committee Member Joyce Anderson. He asked if, in her experience as past

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administrator and with working with the various entities, she had a thought about the proposed changes.

Joyce Anderson said the state benefit and loan program started before her time as administrator. She stated that she had a question similar to Senator Begich's. She continued saying that a statement from the Department of Natural Resources that says, "there is discretion in terms of using the authorization, but not in determining qualifications." She explained that to her it sounds like the benefit and loan program does not eliminate anyone based on the qualifications that they have, so she doesn't understand what they mean by "there is discretion in terms of using the authorization". She questions if that means there is someone who has discretion in terms of determining who is participating in these programs. That is the intent of the benefit and loan statute, to not allow that type of discretion based on who you are, whether you are advantaged or disadvantaged because of who you are.

Conner Thomas remarked that in past reviews, somebody from the department wanting to make a change was available to speak to the changes requested. He asked Jerry Anderson if there was information other than what was provided in the packet regarding how these programs were administered.

Jerry Anderson responded that the packet contained what was received back after the department's review.

Conner Thomas said he didn't think the committee had enough information to make a decision to remove the programs. He agrees with Joyce Anderson, the sentence she referred to had also caught his eye.

Lee Holmes said that a disclosure is needed if the program is not generally available to members of the public; subject to fixed, objective eligibility standards; and minimal discretion in determining qualification. He thinks that a blanket statement without backup information is insufficient, and asked that Jerry seek documentation to support the changes requested. He said he did not think the

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committee could agree to the changes without the documentation.

Jerry Anderson said that a contact within the department had agreed to be available to answer questions from the committee. However, Jerry Anderson continued, given the number of different programs involved, the contact may not be able to speak in any detail about individual programs. As there will be a review of the list again in 2022, if the committee is inclined to keep the programs on the list, someone knowledgeable about each of the programs could be requested to appear before the committee to answer questions.

Senator Tom Begich agreed with Jerry Anderson, otherwise, he said, he would have to vote no on removing them from the list because he can't see removing them without a rationale.

Senator David Wilson reminded the committee about the change to the Violent Crimes Compensation Board.

Jerry Anderson said that it being a separate issue, the committee might want to agree to that change request.

Senator Tom Begich moved to list the Violent Crimes Compensation Board under the Department of Public Safety. Lee Holmes seconded.

Deb Fancher asked for other discussion. Hearing none, she directed Jerry Anderson to conduct a roll call vote on the question.

Roll call vote

Joyce Anderson	Y
Deb Fancher	Y
Lee Holmes	Y
Senator David Wilson	Y
Senator Tom Begich	Y
Representative Chris Tuck	Y
Representative DeLena Johnson	Y

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Skip Cook Y
Conner Thomas Y

The motion passed 9-0.

[9:50 AM](#)

d. 2022 Ethics Training

Deb Fancher directed Jerry Anderson to report on the 2022 ethics training.

Jerry Anderson reported that in 2022 only video training would be available, using the same videos as were used throughout the year in 2021 for new employees. He added that IT is working with the ethics office on a different delivery method that it is hoped will better track attendance. In 2022, only new employees are required to complete training. If there is a larger group of new employees than anticipated, and based on COVID protocols in the capitol, there is a possibility that the current plan would be changed to include in person training sessions.

c. 2022 Standards of Conduct Handbook

Deb Fancher stated that she had missed item C, the 2022 Standards of Conduct Handbook. She said approval or discussion is sought from the committee.

Jerry Anderson said that a change is needed to Appendix C before wider distribution to reflect the decision by the committee not to approve eliminating all the requested programs.

Jerry Anderson said that the handbook is available online and that to minimize waste, the plan is to provide one copy of the handbook to each of the legislative offices and to each of the LIOs, and have available a limited number of copies if anyone wants one.

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Deb Fancher asked Jerry Anderson if a motion was required. Jerry Anderson replied that no motion was required.

Joyce Anderson asked Jerry Anderson if he wanted to add anything about the lists of advisory opinions.

Jerry Anderson replied that there were no advisory opinions in 2021 so there are no changes to the list and there are no legislative changes.

[9:56:02 AM](#)

6. CONTRACT REPORT

Deb Fancher asked Jerry Anderson to report on the outside counsel and investigator contracts.

a. Outside Counsel

Jerry Anderson said that Legislative Legal is drafting an outside counsel contract that will be put forward to the committee when it is ready. The draft contract is with Brent Cole for \$5,000 - \$225 per hour.

b. Investigator

Jerry Anderson said the ethics office was also looking at an extension of the current investigator contract to cover the time period between the end of 2021 and the end of the fiscal year. The contract is with Monique Rapuzzi, at \$115 per hour.

Senator Tom Begich asked why the amount of the contract with outside counsel was \$5,000 when the hourly rate is \$225. Five thousand dollars is not evenly divisible by \$225.

Jerry Anderson responded that \$5,000 is a round number.

7. OTHER BUSINESS

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Deb Fancher asked if there were any other business to discuss.

Joyce Anderson reminded the public member requirement to file APOC disclosures in January.

Lee Holmes reminded everyone to file annual ethics disclosures as well.

8. ADJOURN

Deb Fancher entertained a motion to adjourn.

Motion made by: Senator Tom Begich

There were no objections. The meeting was adjourned.

[9:58:27 AM](#)

ADJOURN: